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Description of document: Department of Commerce records provided to Senator Charles E. Grassley and Senator Tom Coburn concerning the independence of Inspectors General necessary to promote efficiency and prevent fraud, waste and abuse in agency programs, in response to the Senators' inquiry, 2011-2012

Requested: 15-April-2012

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Source of document: FOIA Officer
Office of Inspector General
U.S. Department of Commerce
1401 Constitution Avenue, N.W., Room 7892
Washington, DC 20230,
Fax: 202.501.7335
Email: FOIA@oig.doc.gov
[Online FOIA Request Form](#)

Note: This is one of several files on the same subject for various agencies available on governmentattic.org. See: <http://www.governmentattic.org/6docs/GrassleyCoburn.htm>

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UNITED STATES DEPARTMENT OF COMMERCE
Office of Inspector General
Washington, D.C. 20230

May 21, 2012

This is in response to your Freedom of Information Act (FOIA) request to the Office of Inspector General (OIG), in which you seek a copy of each biannual response to Senators Grassley and Coburn regarding their April 8, 2010 request to the Commerce Department Office of Inspector General to provide a summary of OIG's non-public management advisories and closed investigations.

A search of records maintained by the OIG has located 43 pages that are responsive to your request. We have reviewed these pages under the terms of FOIA and have determined that all 43 pages may be released in their entirety. Copies of these 43 pages are enclosed.

If you have any questions, please contact Meghan Chapman at (202) 482-5992.

Sincerely,

A handwritten signature in dark ink, appearing to read "Wade Green, Jr.", with a long, sweeping horizontal line extending to the right.

Wade Green, Jr.
Counsel to the Inspector General

Enclosure



UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

June 15, 2010

The Honorable Charles E. Grassley
Ranking Member
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Tom Coburn
Ranking Member
Committee on Homeland Security and Governmental Affairs,
Permanent Subcommittee on Investigations
United States Senate
340 Dirksen Senate Office Building
Washington, D.C. 20510

Via Electronic Transmission

Dear Senators Grassley and Coburn:

This letter is in response to your April 8, 2010, request for information. The OIG has not experienced situations since October 1, 2008, where the Department or an operating unit resisted or objected to OIG oversight in a significant manner. Offices of Inspectors General operate in environments where a certain tension inherently exists between them and the agencies they oversee. The Department of Commerce Office of Inspector General (OIG) is not immune to this tension. From time to time, agency operating units may "filter" OIG access to information such as when an agency liaison becomes involved to a point where communications do not flow freely between OIG staff and individual agency staff. Also, an agency may delay providing access to OIG staff until after meeting with the Inspector General or other OIG principal. The OIG recognizes these potential obstacles and addresses them appropriately as they arise.

Although the OIG has not experienced significant resistance or objection to its oversight recently, in late 2008 the OIG was continuing to experience certain information access issues involving the Census Bureau. The OIG and Census resolved these issues by December 2008. We alerted the Committee on Homeland Security and Governmental Affairs to these issues. Chairman Lieberman, Ranking Member Collins, Senator Carper, and Senator Coburn sent a letter to the Census Director on September 16, 2008, which was helpful in resolving the issues. Enclosed please find a copy of the Committee's letter (see enclosure 1).



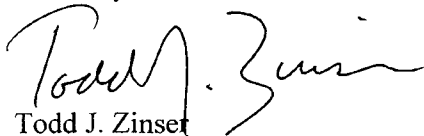
For some time prior to December 2008, Census prohibited OIG staff from removing Title 13 information from Census facilities or otherwise accessing that information outside of Census facilities. Census cited its guidelines and policy concerning safeguarding of Title 13 information as the reason it restricted the OIG to on-site only access. The OIG was also experiencing delays in Census's response to OIG requests for meetings and information. Although Census's restrictions did not pose significant, immediate problems, we anticipated that the restrictions would become particularly problematic given our oversight responsibilities for the upcoming 2010 Decennial Census. Census has since amended its guidelines and policies to provide OIG staff greater access and has also made efforts to better manage OIG requests and improve its responsiveness. This included providing the OIG a stand-alone data access terminal in OIG offices in the main Commerce Building. I also note that, at the initiation of Census Director Groves, conference calls among the OIG, GAO, Census Director and Deputy Census Director are being held twice weekly to discuss ongoing operations and issues identified by our oversight of the decennial. These calls provide unprecedented access to the Census Director, enabling the parties to address—in real time—problems the OIG and GAO are finding.

Per your request, enclosed are summaries of all OIG investigations, evaluations, and audits that have not been previously publicly disclosed (see enclosure 2). This information is being provided for matters that were closed from January 1, 2009, through April 30, 2010.

In your letter, you also request a courtesy copy of the OIG's reply to the Ranking Member of the House Committee on Oversight and Government Reform regarding outstanding OIG recommendations that have not been fully implemented. Enclosed please find a copy of our response (see enclosure 3).

If you have any questions or require additional information, please do not hesitate to contact me at (202) 482-4661.

Sincerely,



Todd J. Zinset

Enclosures (3)

cc: The Honorable Gary Locke, Secretary of Commerce

Enclosure 1

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN

CARL LEVIN, MICHIGAN	SUSAN M. COLLINS, MAINE
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MICHAEL L. ALEXANDER, STAFF DIRECTOR
BRANDON L. MILHORN, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

September 16, 2008

The Honorable Steven Murdock
Director
U.S. Department of Commerce
Bureau of the Census
Washington, DC 20233

Director Murdock:

In view of well-known information technology contracting issues and other challenges confronting the 2010 Census, we are troubled to learn that there are ongoing concerns about the working relationship between the Census Bureau and the Department of Commerce Inspector General (IG) and the Government Accountability Office (GAO).

In particular, we understand that in June 2006, the Census Bureau circulated a memorandum to both the Commerce IG and the GAO regarding certain statutory protections governing sensitive census data. Although the Census Bureau indicated that this memorandum was simply a reminder of existing policy, both the IG and the GAO view the memorandum as a departure from established practice. The IG and the GAO have also indicated that the restrictions on data access outlined in the memorandum could impede their ability to conduct important oversight.

We understand that the Bureau is properly concerned about protecting sensitive data provided as part of the census process, but are disappointed to learn of restrictions placed on the IG's and the GAO's efforts to provide thorough oversight of the Bureau's activities. Our concerns are heightened by the serious problems the Bureau has been facing in its preparations for the 2010 Census, most notably the concerns with the Field Data Collection Automation program. Such problems increase the need for effective oversight by both the IG and the GAO to ensure the quality of the census data. Other agencies that deal with sensitive data have resolved similar disputes. For example, the Internal Revenue Service (IRS) has entrusted confidential taxpayer information to the Treasury Inspector General for Tax Administration (TIGTA) and the GAO for limited and temporary use off IRS grounds. We expect the Census Bureau can reach similar satisfactory agreements with the Commerce IG and the GAO.

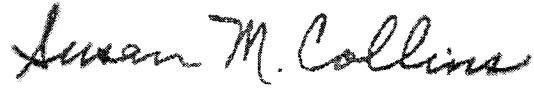
Accordingly, we urge the Bureau to do all it can to facilitate the work of the IG and the GAO and to quickly complete any reviews of applicable law necessary to expeditiously resolve this matter. This review should help establish reasonable safeguards to ensure that the Commerce IG and the GAO can effectively perform their vital duties while also protecting sensitive data from improper disclosure.

We would appreciate your prompt response to these concerns. If you have any questions regarding this matter, please have your staff contact Kristine Lam or Lisa Nieman, staff members of the Committee on Homeland Security and Government Affairs, at (202) 224-8539 or (202) 224-9296, respectively.


Sincerely,




Joseph I. Lieberman
Chairman



Susan M. Collins
Ranking Member



Thomas R. Carper
Chairman
Subcommittee on
Federal Financial Management



Tom A. Coburn
Ranking Member
Subcommittee on
Federal Financial Management

Enclosure 2

**Summaries of Closed, Non-public Matters of the Office of Audit and Evaluation
(Matters Closed from January 1, 2009 through April 30, 2010)**

- The OIG completed audits of several Manufacturing Extension Partnerships (MEP) during the applicable period. Some of the MEP reports were not publicly released, but were released in “abstract” only. The four MEP reports released in abstract are: Florida Manufacturing Extension Partnership Award No. 70NANB3H2002 (ATL-18568); Massachusetts Manufacturing Extension Partnership Award No. 70NANB5H1144 (DEN-18135); The University of Texas at Arlington Manufacturing Extension Partnership Award No. 70NANB5H1005 (DEN-18573); and State of Ohio Department of Development MEP Award No. 70NANB5H1188 (DEN-18604). These abstracts are attached hereto for reference.
- The OIG engaged KPMG to conduct financial statement audits of the Department of Commerce and two of its bureaus during the applicable period. These audit reports were not publicly released, but were released in “abstract” only. The three reports released in abstract are: FY 2009 Financial Statement Audit, U.S. Patent and Trademark Office (FSD-19650); FY 2009 Financial Statement Audit, U.S. Census Bureau (FSD-19651); and FY 2009 Financial Statement Audit, Department of Commerce (FSD-19652). These abstracts are attached hereto for reference.
- The OIG completed a review of the National Oceanic and Atmospheric Administration’s Environmental Satellite Processing Center pursuant to the Federal Information Security Management Act of 2002 (FISMA). This report (OAE-19730) was not publicly released, but was released in “abstract” only. This abstract is attached hereto for reference.

**Summaries of Closed, Non-public Matters of the Office of Investigations
(Matters Closed from January 1, 2009 through April 30, 2010)**

Below is a list of unreported investigative cases closed during the period from January 1, 2009 through April 30, 2010. The OIG identified thirty-four (34) responsive cases. The OIG identified twelve (12) additional cases closed during that period that had been reported in the OIG's semiannual reports to Congress. The cases summarized below are indexed by case number. The OIG can provide further information about specific cases if referenced by the case number.

- 1) 18638: A National Oceanic and Atmospheric Administration (NOAA) contractor was alleged to have engaged in possible contract fraud. Case was closed without actionable findings.
- 2) 19462: An allegation that the National Telecommunications and Information Administration (NTIA) mishandled consumer data. Case was closed without actionable findings.
- 3) 19307: A NOAA contractor was alleged to have engaged in possible contract fraud. Case was closed without actionable findings.
- 4) 19054: A National Institute of Standards and Technology (NIST) grantee was alleged to have misused grant funds. Case was closed without actionable findings.
- 5) 19020: An International Trade Administration (ITA) employee was alleged to have forged a supervisor's signature. Result was an administrative reprimand in April 2009.
- 6) 19007: NTIA grantees reported being contacted by an unknown person or entity soliciting proprietary information and falsely claiming a contractual affiliation with NTIA. Subject was never identified. Case was closed without actionable findings.
- 7) 18999: An Office of the Secretary (OS) employee was alleged to have altered a leave and earnings statement on behalf of another employee to facilitate a credit report. Case was closed without actionable findings.
- 8) 18949: A NOAA employee was alleged to have exceeded his official authority. Case was closed without actionable findings.
- 9) 18931: A NOAA employee was alleged to have used his work computer to access child pornography. Child pornography was not found. Case was closed without actionable findings.
- 10) 19749: A NOAA grantee was alleged to have misused grant funds. Case was closed without actionable findings.
- 11) 18718: An OIG employee was alleged to have received transit subsidies while also receiving a Department of Commerce-paid parking space. Employee resigned while under investigation.
- 12) 18411: A Census Bureau employee was alleged to have misreported time and attendance. Case was closed without actionable findings.

- 13) 18538: GAO reported various Department of Commerce employees had been identified as possibly having abused transit subsidies. Closed without actionable findings. Note: if an individual allegation was identified as having merit it was opened as a separate case and would have been reported as such.
- 14) 18603: Patent and Trademark Office (PTO) budget officials were alleged to have violated the Antideficiency Act in handling a transition between fiscal years. Case was closed without actionable findings.
- 15) 18403: A PTO employee was alleged to have engaged in improper hiring and contracting practices. The employee resigned while under investigation in June 2008.
- 16) 18314: A NOAA employee was alleged to have engaged in a conflict of interest with regard to a training contract. The employee resigned while under investigation in June 2007.
- 17) 18305: An allegation was received that various NOAA and Economic Development Administration (EDA) grants may have been within the scope of a broader array of improper earmarks allegedly made by a member of Congress and being investigated by the FBI. Case was closed without actionable findings.
- 18) 18162: A NOAA employee was alleged to have improperly disposed of surplus property. Case was closed without actionable findings.
- 19) 18392: An ITA Foreign Service National (FSN) employee in Iraq was alleged to have engaged in corrupt business practices. Case was closed without actionable findings.
- 20) 19755: A NOAA employee was alleged to have misused various government computers, databases and records. Case was closed without actionable findings.
- 21) 19508: A NOAA employee was alleged to have stolen a piece of shipboard equipment. Case was closed without actionable findings.
- 22) 17526: A seafood company was alleged to have conspired to control the purchase price of a shipment of fish seized for regulatory reasons by NOAA. Case was closed without actionable findings.
- 23) 19545: A Minority Business Development Agency (MBDA) employee was alleged to have engaged in a conflict of interest. Case was closed without actionable findings.
- 24) 19539: A NOAA grantee was alleged to have misused grant funds. Case was closed without actionable findings.
- 25) 18092: A Census Bureau employee was alleged to have fraudulently used a non-government credit card to pay for local parking tickets in Washington, DC. Result was an administrative termination for unacceptable conduct in March 2007.
- 26) 15728: A NIST grant was alleged to have involved a conflict of interest. Case was closed without actionable findings.
- 27) 17836: A Census Bureau employee was alleged to have engaged in workers compensation fraud. Case was closed without actionable findings.

- 28) 10-0005*: A NOAA employee was alleged to have made threatening remarks about fishing industry entities that cooperated with the OIG during a review of NOAA enforcement practices. Case was closed without actionable findings.
- 29) 10-0003: A NOAA employee was alleged to have engaged in a conflict of interest. Result was that NOAA and the Office of General Counsel made a restatement of policy regarding appropriate recusals in February 2010.
- 30) 10-0091: A Census Bureau employee was alleged to have engaged in workers compensation fraud. Result was an administrative bill of collection, issued for \$1564 in January 2010.
- 31) 10-0166: A NOAA employee was alleged to have engaged in fraud regarding HUD housing benefits for their residence. Case was closed without actionable findings.
- 32) 10-0173: A computerized Department contracting database was alleged to have deficiencies in security certifications. Case was closed without actionable findings.
- 33) 10-0165: An EDA grantee was alleged to have misused grant funds. Case was closed without actionable findings.
- 34) 10-0007: An NTIA American Recovery and Reinvestment Act broadband grant applicant was alleged to have been solicited for a bribe by an individual purporting to be an insider to the award process. This individual was never identified. Case was closed without actionable findings.

*In October 2009, the OIG Office of Investigations changed its case numbering convention, so all cases closed between October 2009 and April 2010 have case number formats that differ from older cases.

The following are cases closed during the applicable period that were previously reported in a Semiannual Report to Congress:

- 1) 18106: NOAA – employee purchase credit card misuse; March 2007 Semiannual, p.63
- 2) 18207: NOAA – theft by a contractor; March 2007 Semiannual, p.62
- 3) 16910: NIST – theft by an employee; March 2009 Semiannual, p.50
- 4) 16590: NIST – misuse of computers/pornography; March 2004 Semiannual, p.44
- 5) 17975: NOAA – fleet card and vehicle misuse by employee; September 2006 Semiannual, p.49
- 6) 16011: NOAA – misuse of computers/child pornography; March 2006 Semiannual, p.51
- 7) 17466: NOAA – permanent change of duty station reimbursement fraud by employee; March 2006 Semiannual, p.50
- 8) 18443: NOAA – employee purchase credit card misuse; March 2008 Semiannual, p.26
- 9) 18607: OS – employee transit benefits misuse; March 2009 Semiannual, p.49
- 10) 18754: NOAA – purchase credit card fraud; September 2008 Semiannual, p.42
- 11) 18836: NOAA – grant fraud; March 2009 Semiannual, p.50

U.S. Department of Commerce
Office of Inspector General

Enclosure 2

- 12) 19291: ITA – violation of security regulations by employee; September 2009
Semiannual, p.37



Report In Brief

U.S. Department of Commerce Office of Inspector General

March 2009



Why We Did this Review National Institute of Standards and Technology

The Florida Manufacturing Extension Partnership (MEP) received a NIST cooperative agreement in 2003 that, as amended, funded the operations of its MEP center for approximately 4 years (August 2003-June 2007). Total budgeted costs for the project were \$17.1 million. The federal share was capped at \$5.8 million.

We audited the MEP to determine whether its claimed costs were allowable under the terms of the agreement and whether the recipient had complied with all other MEP operating guidelines, award terms, and conditions. We also examined the costs submitted by eight entities ("subrecipients") that received cooperative agreement funding from the Florida MEP to provide related services and two third parties that made in-kind contributions to the program.

Background

Congress established the Manufacturing Extension Program in 1988 to provide manufacturers with technical and business management assistance aimed at improving their profitability, productivity, and global competitiveness.

Today there is at least one center in every state and a total of 59 MEP centers located across the country.

Florida Manufacturing Extension Partnership Award No. 70NANB3H2002 (ATL-18568)

What We Found

The Florida Manufacturing Extension Partnership claimed costs totaling \$19.1 million for the period July 2005 through March 2007, and received federal reimbursements of \$5 million. We questioned \$12.6 million of the claimed costs. The bulk of this amount—\$11.4 million—represents costs submitted by eight subrecipients without documentation to show that the expenditures were directly incurred as part of their MEP-funded work.

We questioned an additional \$742,782 for, among other things, unsubstantiated consultant fees, duplicative services, unallowable lobbying activities, unreasonable travel expenses, and unreasonable rent and supply costs, as well as \$386,133 in indirect costs related to these expenditures.

We also questioned \$99,738 in improperly valued and inadequately documented donated services and personnel time. The bulk of this amount—\$85,738—represented expenses incurred by two third-party contributors for their own day-to-day business operations rather than in services directly supporting the MEP.

Finally, we found that the financial status reports the MEP filed during the period of our audit were erroneous: the MEP reported having excess program income, which was not the case, and incorrectly characterized these funds as "unrestricted net assets," meaning they could be used without federal restrictions or oversight.

What We Recommended

We recommended that NIST take the following actions:

1. Disallow \$12,623,477 in questioned costs.
2. Recover \$2,868,393 of excess federal funds.
3. Require the Florida MEP to correct and refile financial status reports to show that all earned program income was used to meet the MEP's cost-share requirement.



Report In Brief

U.S. Department of Commerce Office of Inspector General

March 2009



Why We Did this Review

The Massachusetts Manufacturing Extension Partnership (MEP) received a NIST cooperative agreement in September 2005 to continue operating an MEP center it had established in 1998 with NIST funding. The September 2005 award, as amended, provided funding for 1 year (July 2005-June 2006). Total estimated costs of the project were \$7.1 million. The federal share was capped at \$2.4 million (33 percent) of allowable costs.

We audited the MEP to determine whether its claimed costs were allowable under the terms of the agreement and whether the recipient had complied with all other MEP operating guidelines, award terms, and conditions. We also examined the costs submitted by entities ("sub-recipients") that received cooperative agreement funding from the MEP to provide related services.

Background

Congress established the Manufacturing Extension Program in 1988 to provide manufacturers with technical and business management assistance aimed at improving their profitability, productivity, and global competitiveness.

Today there is at least one center in every state and a total of 59 MEP centers located across the country.

National Institute of Standards and Technology

Massachusetts Manufacturing Extension Partnership Award No. 70NANB5H1144 (DEN-18135)

What We Found

The Massachusetts Manufacturing Extension Partnership claimed costs totaling \$9.4 million for the period July 2005 through June 2006, and received federal reimbursements of \$2.4 million. We questioned \$5.1 million of its claimed costs, as follows:

- \$4,167,430 claimed by two subrecipients who could not document that their costs were incurred as part of their MEP-funded work.
- \$908,823 for contract services that did not accomplish NIST cooperative agreement objectives.
- \$10,745 in consultant fees and associated costs for services provided prior to the award's start date.

In addition, we found that the MEP's reported earned program income for the year ended June 30, 2006, exceeded its nonfederal matching share expenditures by \$1.1 million. But the MEP did not seek required NIST approval to apply the additional income to nonfederal expenditures incurred in subsequent award periods and should therefore have used this amount to reduce the federal share of the MEP's expenditures, in accordance with cooperative agreement terms and conditions and federal regulations.

Because of the questioned costs and excess program income, Massachusetts MEP ultimately received \$1.3 million in excess federal funding.

What We Recommended

We recommended that NIST disallow \$5.1 million in questioned costs, and recover \$1.3 million in excess federal funds.



Report In Brief

U.S. Department of Commerce Office of Inspector General

June 2009



Why We Did this Review

The University of Texas at Arlington (UTA) received a NIST cooperative agreement in March 2005 to continue operating the Texas Manufacturing Assistance Center—a network of seven centers operating throughout the state. The award, as amended, provided funding for 33 months (December 2004–August 2007). Total estimated costs of the project were \$42 million. The federal share was capped at \$14 million (33 percent) of allowable costs.

We audited the MEP to determine whether its claimed costs were allowable under the terms of the agreement and whether the recipient had complied with all other MEP operating guidelines, award terms, and conditions. We also examined costs submitted to UTA by two “subrecipients”—Texas Engineering Extension Service and Southwest Research Institute—that received cooperative agreement funding from the MEP to operate centers.

Background

Congress established the Manufacturing Extension Program in 1988 to provide manufacturers with technical and business management assistance aimed at improving their profitability, productivity, and global competitiveness.

Today there is at least one center in every state and a total of 59 MEP centers located across the country.

National Institute of Standards and Technology

The University of Texas at Arlington Manufacturing Extension Partnership (MEP) Award No. 70NANB5H1005 (DEN-18573)

What We Found

The University of Texas at Arlington claimed costs totaling \$21 million for the period September 2005 through March 2007, and received federal reimbursements of \$6.6 million. We questioned \$1,619,280 of these costs, as follows:

- \$1,533,055 in costs submitted to UTA by subrecipient Texas Engineering Extension Service (TEEX) for, among other things, services from contractors that the contracting firms provided as part of their normal course of business, not as a result of their MEP association; activities the extension service could not document as having been incurred as part of MEP-funded work; and indirect costs that exceeded the approved budget.
- \$86,225 in direct and indirect costs UTA incurred for unallowable lobbying and related hotel expenses.

We also found that TEEX used \$238,338 budgeted for indirect costs to cover direct costs claimed from September 1, 2005, through August 31, 2006, without prior approval from NIST or UTA, and reported incorrect program income for its subrecipients.

Finally, we found that subrecipient Southwest Research Institute erroneously claimed certain indirect costs, totaling \$63,412, as in-kind contributions.

What We Recommended

We recommended that NIST disallow \$1,619,280 in questioned costs and recover \$94,120 in excess federal funds.



Report In Brief

U.S. Department of Commerce Office of Inspector General

March 2010



Why We Did this Review

The objective of our audit was to determine whether the State of Ohio Department of Development (ODOD) reported Manufacturing Extension Partnership (MEP) costs to the National Institute of Standards and Technology (NIST), including costs incurred by subrecipients, that were reasonable, allocable, and allowable in accordance with applicable federal cost principles, cooperative agreement terms and conditions, and NIST policy, including *MEP Operating Plan Guidelines*.

Background

In September 2005, NIST awarded an MEP cooperative agreement to ODOD to continue operating an existing MEP center. The award funded the period July 1, 2005, through June 30, 2006, and was later extended through June 30, 2007. Total estimated project costs for the 24-month award period were \$27,272,502.

In May 2007, we initiated an audit of the agreement to determine whether the recipient complied with award terms and conditions and NIST operating guidelines for MEP centers. The audit covered the period July 1, 2005, through March 31, 2007, during which time the recipient claimed project costs of \$20,269,989 and received federal reimbursements totaling \$6,517,538.

We examined the costs the recipient claimed to have incurred as well as the cost claims of two grant subrecipients, MAGNET and TechSolve, Inc.

National Institute of Standards and Technology

State of Ohio Department of Development MEP Award 70NANB5H1188 (DEN-18604)

What We Found

Our audit questioned \$6,781,041 in costs claimed by ODOD and its subrecipients, Manufacturing Advocacy and Growth Network (MAGNET) and TechSolve, Inc. The costs in question pertained to contractual claims, salaries and other personnel costs, invalid travel-related claims, and various indirect costs.

We found that the subrecipients did not report program income generated under their subawards to ODOD; consequently, ODOD did not report this information to NIST. The two subrecipients also generated program income in excess of what was permissible under the cooperative agreement. We analyzed MAGNET's and TechSolve's accounting records for the period July 1, 2005, through June 30, 2006, and found the two subrecipients had generated a combined program income of \$1,424,266 in excess of what was required to pay the nonfederal share of project costs.

As a result of the questioned costs and excess program income, ODOD received \$2,057,121 more than it should have in federal funds.

What We Recommended

We recommended the chief of NIST's Grants and Agreement Management Division

- disallow \$6,781,041 in questioned costs;
- deduct \$1,424,266 in excess program income from total accepted project costs from ODOD's subrecipients; and
- recover \$2,057,121 of excess federal funds from ODOD.



Report In Brief

U.S. Department of Commerce, Office of Inspector General

December 3, 2009



Why We Did This Review U.S. Patent and Trademark Office (USPTO)

USPTO's financial statements are audited in conjunction with the annual audit of the Department of Commerce's consolidated financial statements, which is required by law.

FY 2009 Financial Statement Audits (FSD-19650)

What We Found

KPMG's audit found that USPTO's financial statements were fairly presented in all material respects and in conformity with U.S. generally accepted accounting principles. KPMG found no instances of material noncompliance with laws, regulations, or contracts. The audit results indicate that USPTO's internal control structure facilitates the preparation of reliable financial and performance information.

Background

The Office of Inspector General engaged KPMG, an independent public accounting firm, to audit USPTO's FY 2009 financial statements. The audit included an assessment of USPTO's IT controls supporting its financial management systems.

The IT review found that while USPTO has taken positive steps to correct previous findings, there are still several weaknesses in its IT environment. These weaknesses combine to form a significant deficiency in USPTO's IT controls.

KPMG conducted the financial statement audit in accordance with U.S. generally accepted government auditing standards and Office of Management and Budget Bulletin 07-04, Audit Requirements for Federal Financial Statements, as amended, and measured USPTO's IT controls against the five criteria in GAO's Federal Information System Controls Audit Manual.

We defined the scope of work for the audits, oversaw their performance and delivery, and reviewed the final reports.

What We Recommend

The results of KPMG's IT audit have been summarized in a limited distribution report. We requested that USPTO provide us an audit action plan by January 9, 2010, to address the report's findings and delineate the actions it plans to take to fix its IT vulnerabilities. We also asked that USPTO provide its rationale or the legal basis behind its decision should it choose not to implement KPMG's recommendations.



Report In Brief

U.S. Department of Commerce, Office of Inspector General

December 3, 2009



Why We Did This Review U.S. Census Bureau

The U.S. Census Bureau's financial statements were audited in conjunction with the annual audit of the Department of Commerce's consolidated financial statements, which is required by law.

FY 2009 Financial Statement Audits (FSD-19651)

What We Found

KPMG's audits found that Census's balance sheet was fairly presented in all material respects and in conformity with U.S. generally accepted accounting principles. KPMG found no instances of material noncompliance with laws, regulations, or contracts. The audit results indicate that Census's internal control structure facilitates the preparation of reliable financial and performance information.

Background

The Office of Inspector General engaged KPMG, an independent public accounting firm, to audit the Census's FY 2009 balance sheet, including an assessment of the IT controls supporting its financial management systems.

The IT review found that while Census has taken positive steps to correct previous IT findings, there are still weaknesses related to IT controls supporting the bureau's financial management systems. These weaknesses are not considered a significant deficiency in Census's IT controls.

KPMG conducted the audit in accordance with U.S. generally accepted government auditing standards and Office of Management and Budget Bulletin 07-04, Audit Requirements for Federal Financial Statements, as amended, and measured Census's IT controls against the five criteria in GAO's Federal Information System Controls Audit Manual.

We defined the scope of work for the audits, oversaw their performance and delivery, and reviewed the final reports.

What We Recommend

The results of KPMG's IT audit have been summarized in a limited distribution report. We requested that Census provide us an audit action plan by January 9, 2010, to address the report's findings and delineate the actions it plans to take to fix the IT vulnerabilities. We also asked that Census provide the rationale or legal basis behind its decision should it choose not to implement KPMG's recommendations.



Report In Brief

U.S. Department of Commerce, Office of Inspector General

December 3, 2009



Why We Did This Review Department of Commerce

The Government Management Reform Act of 1994 amended the requirements of the Chief Financial Officers Act of 1990 by requiring annual preparation and auditing of the Department of Commerce's financial statements.

Background

The Office of Inspector General engaged KPMG, an independent public accounting firm, to audit the Department of Commerce's FY 2009 consolidated and special-purpose financial statements, including an assessment of the IT controls supporting its financial management systems.

KPMG conducted the financial statement audit in accordance with U.S. generally accepted government auditing standards and Office of Management and Budget Bulletin 07-04, Audit Requirements for Federal Financial Statements, as amended, and measured the Department's IT controls against the five criteria in GAO's Federal Information System Controls Audit Manual.

We defined the scope of work for the audits, oversaw their performance and delivery, and reviewed the final reports.

FY 2009 Financial Statement Audits (FSD-19652)

What We Found

KPMG's audit found that the Department's consolidated financial statements were fairly presented in all material respects and in conformity with U.S. generally accepted accounting principles. KPMG found one instance of material noncompliance with laws, regulations, or contracts: the National Oceanic and Atmospheric Administration did not comply with the Anti-Deficiency Act. Another concern related to Anti-Deficiency Act compliance at the National Telecommunications and Information Administration will be referred to the Department's Office of General Counsel.

KPMG found that while the Department has taken positive steps to correct previous findings, there are still vulnerabilities related to various controls over the Department's financial management systems. These weaknesses combine to form a significant deficiency in Commerce's IT controls.

KPMG also audited the Department's special-purpose financial statements and determined its compliance with the financial reporting requirements in the Treasury Financial Manual. The Treasury Department uses the audited statements to prepare its Financial Report of the U.S. Government. In its unqualified opinion on the special-purpose statements, KPMG reported no material weaknesses in internal controls and no instances of noncompliance.

What We Recommend

KPMG's audit has been summarized in a limited distribution report. We requested that the Department provide us an audit action plan by January 9, 2010, to address the report's findings and delineate the actions the Department plans to take to fix the IT deficiency. We also asked that the Department provide the rationale or legal basis behind its decision should it choose not to implement KPMG's recommendations.



Report In Brief

U.S. Department of Commerce, Office of Inspector General

January 2010



Why We Did This Review

The Federal Information Security Management Act of 2002 (FISMA) requires federal agencies to identify and provide security protection of information collected or maintained by them or on their behalf. Inspectors general are required to annually evaluate agencies' information security programs and practices. Such evaluations must include testing of a representative subset of systems and an assessment, based on that testing, of the entity's compliance with FISMA and applicable requirements.

This review covers our evaluation of NOAA's ESPC, which is one of a sample of systems we assessed in FY 2009.

Background

ESPC is NOAA's primary processing system for the nation's environmental satellite data. ESPC ingests, processes, distributes, and archives data from two environmental and meteorological satellite systems.

C&A is a process by which security controls for IT systems are assessed to determine their overall effectiveness. Understanding the remaining vulnerabilities identified during the assessment is essential in determining the risk resulting from the use of the system to the organizations's operations and assets, to individuals, to other organizations, and to the nation. Continuous monitoring is a critical post-accreditation aspect of this process.

National Oceanic and Atmospheric Administration (NOAA)

FY 2009 FISMA Assessment of the Environmental Satellite Processing Center (ESPC) (OAE-19730)

What We Found

Our objectives for this review were to determine whether (1) implemented controls adequately protected the system and its information, (2) continuous monitoring is keeping the authorizing official sufficiently informed about the operational status and effectiveness of security controls, and (3) the certification and accreditation (C&A) process produced sufficient information about remaining system vulnerabilities to enable the authorizing official to make a credible, risk-based accreditation decision.

We found that the National Environmental Satellite, Data, and Information Service has not followed the required process for C&A of ESPC. The lack of proper security planning undermined the effectiveness of the system's security certification, hindering the authorizing official in making a credible risk-based accreditation decision. The system's plan of action and milestones for remediating vulnerabilities is ineffective.

What We Recommend

We recommend that NOAA complete security planning activities, conduct appropriate security control assessments, and address system deficiencies. Until these activities have been completed, NOAA should revise the system's accreditation status to an interim authorization to operate.

In its response to our draft report, NOAA disputed our findings and concurred with only two of our recommendations. NOAA does agree that ESPC's security posture must improve. We have asked NOAA to reconsider its response based on our comments in this report and craft its action plan, due in 60 days, accordingly.

Enclosure 3



UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

April 14, 2010

The Honorable Darrell Issa
Ranking Member
Committee on Oversight and Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Mr. Issa:

In response to your request of March 24, 2010, we are providing current information on our office's open and unimplemented recommendations (see enclosure 1). We have no open or unimplemented recommendations with potential monetary benefits. As requested, we also identify what our office considers to be the three most important unimplemented recommendations (see enclosure 2).

In your letter you also solicited our opinion about improving the Inspector General Act of 1978. We are providing our response under separate cover.

If you have any questions or require additional information, you or your staff may contact me at (202) 482-4661 or Judith J. Gordon, Associate Deputy Inspector General, at (202) 482-2754.

Sincerely,

Todd J. Zinser

Enclosures (2)

cc: The Honorable Edolphus Towns, Chairman



Open and Unimplemented Recommendations Since 2007*
(As of March 31, 2010)

Calendar Year	Recommendations Made	Recommendations Still Open	Recommendations Still Unimplemented	Recommendations Implemented since Jan 5, 2009
2007	187	0	49	17
2008	143	0	8	107
2009	100	0	68	32
2010 (as of 3/31)	20	0	16	4
Total	450	0	141	160

*The chart was compiled by reviewing all performance audit, evaluation, and inspection reports issued by Commerce OIG during the period of January 1, 2007, through March 31, 2010. We consider an "open" recommendation to be an OIG recommendation that a bureau has not accepted, and an "unimplemented" recommendation to be a recommendation that a bureau has accepted but has not yet implemented. We have not reported on classified or sensitive non-public recommendations, recommendations in financial statement audits, or those addressed to specific non-federal entities in connection with audits of financial assistance awards.

Top Three Unimplemented Recommendations

1. 2010 Census: *Quarterly Report to Congress* (OIG-19791-1), August 2009

Our review found serious limitations to effective management and oversight of the 2010 Census including lack of integration of schedule activities and budget plan/expenditures, an unreliable cost estimate for the decennial census, delayed risk management activities, and lack of transparency in monthly status reports. We made the following set of recommendations for improving 2020 Census planning and oversight:

- Complete the schedule development process earlier in the 2020 decennial life-cycle. Utilize the bureau's project management software to integrate cost and schedule activities of bureau and contractor operations to allow Census managers to better track the status of available funds, forecast impending underruns and overruns so that funds can be reallocated promptly, and improve the transparency of decennial decisions to Census stakeholders.
- Develop a transparent decision documentation strategy to account for 2020 Census program and spending decisions.
- Strengthen and implement a risk management strategy and relevant contingency plans prior to the start of 2020 decennial census operations.

a) Status of Recommendation: Census has agreed with our recommendations. Planning for the 2020 Census is under way.

b) Estimated Cost Savings: The cost savings cannot be projected. However, the total cost of the 2010 Census is projected to be \$14.7 billion, which includes cost growth estimated to exceed \$3 billion. Improved planning, management, oversight, and transparency are critical to containing cost and avoiding similar overruns in the 2020 Census.

c) Whether agency plans to implement the recommendation in the near future: According to the bureau, a small core team at Census has begun early planning and is focused on establishing planning and program management processes to ensure a foundation for designing the 2020 Census.

2. Commerce Should Take Steps to Strengthen Its Information Technology Security Workforce (CAR-19569-1), September 2009

IT security weaknesses have been sufficiently serious that the Secretary of Commerce has reported this issue as a material weakness in the annual *Performance and Accountability Report* since FY 2001, pursuant to the Federal Managers' Financial Integrity Act of 1982. Based on our reviews, we have attributed the persistence of the material weakness, in part, to weaknesses in the IT security workforce and have recently completed an audit in which we found that the Department needs to devote more attention to the professional development and guidance of the IT security personnel who protect the Department's sensitive computer systems and information.

We made a number of recommendations for improving the IT security workforce including to enhance the professional development of personnel with significant IT security responsibilities. In particular, we noted that the only federal job classification specifically targeted toward IT security does not require a college degree and recommended that the Department develop and implement a requirement for professional certifications for key IT security personnel.

a) Status of Recommendation: The Department agreed with our recommendation and has developed an implementation plan.

b) Estimated Cost Savings: The cost savings cannot be projected. However, implementation of the recommendation not just for the Department of Commerce but for all civilian agencies would substantially improve the capacity of the IT security workforce and thus the security of sensitive government information and systems. Recognizing a similar need, the Department of Defense began implementing a professional certification requirement for its IT security workforce in 2004 with a goal of full compliance by 2011.

c) Whether agency plans to implement the recommendation in the near future: The Department is developing a policy that will require noncertified personnel in roles requiring certification to work with their supervisors to establish a development plan leading to successful accomplishment of an appropriate certification. Certification will also be required for new employees in designated roles.

3. *Successful Oversight of GOES-R Requires Adherence to Accepted Satellite Acquisition Practices (OSE-18291), November 2007*

In 2005, the Department and NOAA assumed oversight and management responsibility for the entire Geostationary Operational Environmental Satellite (GOES-R) program, which is now projected to cost \$7.7 billion. This represents a \$1.5 billion increase from the original estimate. For the first time, 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. While this change was positive overall, these new roles added risk to an already highly complex undertaking. Our review found that the Department lacked a workable oversight structure not just for GOES-R but for all major acquisitions. Accordingly, we made the following recommendation:

- Complete and implement the Department's major system acquisition policy. For satellite programs, ensure the policy incorporates the key decision points in NPR 7120.5D and requires comprehensive independent reviews at all key decision points. (NPR 7120.5D is a NASA policy that NOAA has adopted for its satellite acquisition activities.)

a) Status of Recommendation: The Department agreed to develop a major systems acquisition policy by the third quarter of FY 2008 but stated that in creating the policy, a key decision point structure would be considered, along with other approaches. This deadline was not met. The current Deputy Secretary has convened a steering committee to develop a Department-wide major investment oversight policy.

b) Estimated Cost Savings: The cost savings cannot be projected. However, with an estimate of nearly \$20 billion to be spent on two critical environmental satellite systems over their life cycle and \$2.6 billion in major IT investments in FY 2010 alone, the Department must have an effective oversight program in place.

c) Whether agency plans to implement the recommendation in the near future: The Department has not provided a specific date as to when the recommendation will be implemented. As noted above, it is actively working this issue at the direction of the Deputy Secretary.



UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

January 14, 2011

The Honorable Charles E. Grassley
Ranking Member
Committee on Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Tom Coburn
Ranking Member
Committee on Homeland Security and Governmental Affairs,
Permanent Subcommittee on Investigations
United States Senate
Washington, D.C. 20510

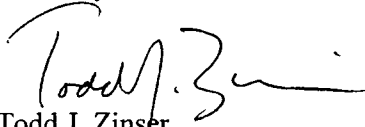
Via Electronic Transmission

Dear Senators Grassley and Coburn:

This letter responds to your April 8, 2010 request for biannual reports on certain OIG matters. The enclosed summary report lists all OIG investigations, evaluations, and audits that have not been previously publicly disclosed (see enclosure 1). As you requested, this information is provided for matters that were closed from May 1, 2010 through September 30, 2010.

If you have any questions or require additional information, please do not hesitate to contact me at (202) 482-4661.

Sincerely,


Todd J. Zinser

Enclosures (1)

cc: The Honorable Gary Locke, Secretary of Commerce



**Summary of Closed, Non-public Matters of the Office of Audit and Evaluation
(Matters Closed from May 1, 2010, through September 30, 2010)**

- The OIG completed an audit of the California Manufacturing Technology Consulting MEP Award 70NANB5H1181 (DEN-18572) during the applicable period. The full report was not released publicly due to ongoing litigation at the time, as well as concern regarding disclosure of potentially proprietary information. The MEP report was released in abstract form, and is attached hereto for reference.



Report In Brief

U.S. Department of Commerce Office of Inspector General

July 2010



Why We Did this Review

The objective of our audit was to determine whether California Manufacturing Technology Consulting (CMTC) reported Manufacturing Extension Partnership (MEP) costs to the National Institute of Standards and Technology (NIST), including costs incurred by CMTC's subrecipient, that were reasonable, allocable, and allowable in accordance with applicable federal cost principles, cooperative agreement terms and conditions, and NIST policy, including the *MEP Operating Plan Guidelines*.

Background

In September 2005, NIST awarded an MEP cooperative agreement to CMTC to continue operating an existing MEP center. The award funded the period of July 1, 2005, through December 15, 2005, and was later extended through June 30, 2007. Total estimated project costs for the 24-month award period were \$59,946,418.

In April 2007, we initiated an audit of the agreement to determine whether the recipient complied with award terms and conditions and NIST operating guidelines for MEP centers. The audit covered the period July 1, 2005, through March 31, 2007, during which time the recipient claimed project costs of \$46,070,804 and received federal reimbursements totaling \$15,355,400.

We examined the costs CMTC claimed to have incurred, as well as the cost claims of one subrecipient, Cerritos College, and five third-party in-kind contributors.

National Institute of Standards and Technology

California Manufacturing Technology Consulting MEP Award 70NANB5H1181 (DEN-18572)

What We Found

In our opinion, CMTC's claims included unallowable costs. Our audit questioned \$11,384,182 in costs claimed by CMTC and its subrecipient, Cerritos College:

- We questioned \$4,800,000 claimed for Cerritos College, for which the college could not document actual costs incurred under its subaward. Instead, the college based its claim on estimates of the costs incurred by its eligible programs. This practice violated the terms of the cooperative agreement between CMTC and NIST.
- We also questioned \$6,584,182 in claimed in-kind contributions from five outside organizations for which CMTC could not provide evidence that the contributions met minimum MEP requirements. None of the claims were for donations of goods and services to CMTC; rather, they represented costs incurred by the third-party organizations in the course of their regular activities. Also, none of the claims met the minimum requirements for in-kind contributions specified in the terms and conditions of CMTC's cooperative agreement. Furthermore, portions of the claims were related to activities that occurred prior to the MEP award period.

What We Recommended

We recommended the chief of NIST's Grants and Agreement Management Division disallow \$11,384,182 in questioned costs and recover \$3,794,349 in excess federal funds.

**Summary of Closed, Non-public Matters of the Office of Investigations
(Matters Closed from May 1, 2010, through September 30, 2010)**

Below is a list of unreported investigative cases closed during the period from May 1, 2010, through September 30, 2010. The OIG identified fourteen (14) responsive cases. The cases were not reported individually in the Semiannual Report because they were either unsubstantiated or did not meet the threshold for individual public reporting. The cases summarized below are indexed by case number; upon request, the OIG can provide further information about specific cases if referenced by the case number.

- 1) 10-0002: BIS employee was alleged to have improperly altered a legal document without management authorization. Subject was administratively removed for reasons independent of the OIG investigation. Case was closed.
- 2) 10-0020: MBDA employee was alleged to have viewed pornography on a government computer. Subject retired while under investigation and prior to any administrative action. No evidence of criminal activity was found. Case was closed.
- 3) 10-0021: NOAA employee was alleged to have viewed pornography on a government computer. Subject retired while under investigation and prior to any administrative action. No evidence of criminal activity was found. Case was closed.
- 4) 10-0026: NOAA grantee was alleged to have misused grant funds. Insufficient evidence was found to support criminal prosecution. The matter was transferred to the OIG Office of Audit for consideration of potential audit issues. Case was closed.
- 5) 10-0075: The OIG was involved in multiple joint cases in connection with DOJ civil litigation over defective materials in ballistic vests issued to law enforcement and military personnel by government agencies. This case was closed in order to consolidate continuing efforts in this regard to a single OIG case, which remains open at this time.
- 6) 10-0097: NIST researchers mishandled radioactive material resulting in a safety incident. A joint investigation with NRC led to the 2009 resignation of a NIST official, the 2010 levy of a \$10,000 administrative fine against NIST and the 2010 implementation of corrective actions to enhance radiation safety. Case was closed.
- 7) 10-0171: NOAA contractor was alleged to have mischarged for services and components. No evidence of misconduct was found. Contract extension options were not exercised and the contract was terminated for performance reasons independent of the OIG investigation. Case was closed.
- 8) 10-0172: OGC employee was alleged to have viewed pornography on a government computer. Allegation was found unsubstantiated. Case was closed without actionable findings.

- 9) 10-0317: NOAA employee was alleged to have brought narcotics into the workplace and threatened co-workers. Employee was arrested by DOC security police and removed from service. The OIG presented a portion of the case for potential criminal prosecution but prosecution was declined. Case was closed.
- 10) 10-0591: PTO employee was alleged to have violated the PTO hoteling policy by giving an unauthorized paid presentation for an outside entity. Subject served an administrative suspension in 2008 as a result. Case was closed.
- 11) 10-0592: Multiple CEN laptop computers were found to be missing in 2006. Most were found to be missing due to administrative error. One was determined to be in the hands of a former employee who refused to return it. OIG recovered this computer from the individual's residence. A criminal prosecution of this individual was declined. Case was closed.
- 12) 10-0623: Allegations that a private company published unauthorized advertisements purporting to be participating in the NTIA converter box program. No financial loss to NTIA was identified, and NTIA's controls on the program were found effective. Case was closed.
- 13) 10-0906: Media reports alleged that contracts were being improperly issued by Cook County, IL officials using CEN funds. No CEN funds were in fact found to be involved. The OIG case was closed, given the lack of a nexus to DOC funds and the fact that Cook County internal oversight officials were actively investigating the matter.
- 14) 10-1214: A CEN payroll clerk was found to have falsely claimed approximately 260 hours of supposed work time. The individual had already resigned from CEN prior to the initiation of the investigation. Criminal prosecution was declined. CEN withheld funds from the individual's final paycheck to mitigate the financial loss to the government. Case was closed.



UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

June 21, 2011

The Honorable Charles E. Grassley
Ranking Member
Committee on Judiciary
United States Senate
Washington, DC 20510

The Honorable Tom Coburn
Ranking Member
Committee on Homeland Security and Governmental Affairs
Permanent Subcommittee on Investigations
United States Senate
Washington, DC 20510

Via Electronic Transmission

Dear Senators Grassley and Coburn:

This letter responds to your April 8, 2010 request for biannual reports on closed OIG investigations, evaluations, and audits conducted by this office that were not disclosed to the public. We provided you information for prior reporting periods on June 15, 2010 and January 14, 2011. The enclosed information is provided for matters that were closed from October 1, 2010 through March 31, 2011.

If you have any questions or require additional information, please do not hesitate to contact me at (202) 482-4661.

Sincerely,

Todd J. Zinser

Enclosure

cc: The Honorable Gary Locke, Secretary of Commerce



**Summary of Closed, Non-public Matters of the Office of Audit and Evaluation
(Matters Closed from October 1, 2010 through March 31, 2011)**

- OIG completed an audit of IT general controls over the Department's major financial management systems and supporting network infrastructure, using GAO's Federal Information System Controls Audit Manual (FISCAM) during the applicable period. Although the report was not publicly released, a summary was included in the publicly available Department of Commerce *FY 2010 Performance and Accountability Report* (PAR). The OIG has provided a brief summary of our findings and recommendations below.

 - Despite continued progress by the Department in strengthening information security practices and addressing known weaknesses, OIG identified weaknesses in IT access and configuration management controls during the FY 2010 audit. OIG found that access controls needed improvement at all bureaus and the Department level. In addition, OIG noted that improvements were needed in areas that include: management of user accounts; financial application, database, and network access; stronger user passwords; restricting data center access; monitoring user actions through audit trails; preventing the use of shared accounts and passwords; and stronger remote-access controls.
 - The OIG recommended that the Department monitor bureau actions to ensure effective implementation of OIG's specific recommendation. The Department has responded to the report and is in the process of finalizing plans to address the audit recommendations.
- OIG also completed a review of the Department's Suspension and Debarment Program during the applicable period. The memorandum to the Acting Deputy Secretary detailing the results of the review was not publicly released. In summary, the memorandum stated that:

 - The OIG identified significant weaknesses in the Department of Commerce suspension and debarment program. Based on discussions with Departmental officials, it has been at least 15 years since the Department has suspended or debarred any parties (e.g., contractors or individuals) from receiving federal contracts and grants. Although the Department has suspension and debarment policies and procedures in place, it appears reluctant to apply them against parties whose actions provide grounds for suspension or debarment. For example, the Department was slow to act on two recent cases that were referred from the OIG Office of Investigations (OI). In one case, a company officer for a Census Bureau contractor was convicted of a crime in December 2007. We notified Census of this conviction in January 2008 and issued a formal referral to the Office of Acquisition Management (OAM) in April 2009. However, OAM's notice proposing debarment came December 20, 2010, almost 21 months after our formal referral.

U.S Department of Commerce
Office of Inspector General

- Because reluctance to pursue suspension and debarment puts the Department and the government at risk of doing business with irresponsible parties, we recommended that the Department take the following actions: require its operating units to implement procedures for suspending or debarring irresponsible contractors or grantees; clarify that operating units are to recommend appropriate suspension or debarment actions or, in writing, justify why actions are not warranted; improve the process's timeliness; and adopt ways to identify potential suspension and debarment cases in addition to referrals from OIG.

**Summary of Closed, Non-public Matters of the Office of Investigations
(Matters Closed from October 1, 2010 through March 31, 2011)**

Below is a list of unreported investigative cases closed during the period from October 1, 2010, through March 31, 2011. The OIG identified 20 responsive cases. The cases were not reported individually in the Semiannual Report because they were either unsubstantiated or did not meet the threshold for individual public reporting. The cases summarized below are indexed by case number; upon request, the OIG can provide further information about specific cases if referenced by the case number.

- 1) 10-0125: ITA employee sold approximately \$1,200 in unused MetroChecks. The case was declined for criminal prosecution. The matter was referred administratively to ITA for information and action as appropriate. The case was closed.
- 2) 10-0751: Bid rigging alleged on the part of NY Census officials for contracted partnership activities. Investigation did not substantiate these allegations. The case was closed.
- 3) 10-0072: Qui tam involving inflation on cost-plus contracts by a contractor with multiple government agencies including NOAA. No DOC funds were found to be involved in the cost-plus contracts in question. The case was closed.
- 4) 10-0076: Company with grants from multiple government agencies including NIST alleged to have falsified supporting documentation. The case was declined for criminal prosecution and the investigation established that no DOC funds were involved in the alleged fraud. The case was closed without further action.
- 5) 10-0526: IRS identified an EDA grantee as being under investigation for tax fraud. No fraud relating to DOC funds or programs was revealed by OIG investigation and the case was closed without further action.
- 6) 10-0014: International price fixing alleged by Australian and South American orange growers. The OIG investigation did not substantiate allegations. The DOJ Antitrust Division closed their case and the supporting OIG case was also closed.
- 7) 10-1060: A NOAA fisheries enforcement attorney was accused of unprofessional behavior and statements. These allegations were not substantially supported by investigative findings. The agency took administrative action and the case was closed.
- 8) 10-0074: Qui tam false claims alleged by NOAA contractor. The investigation did not substantiate the allegations and the case was closed.
- 9) 10-0066: NOAA hurricane relief grant funds alleged to have been misused. The investigation did not substantiate the allegations and the case was closed.

U.S Department of Commerce
Office of Inspector General

- 10) 10-0940: Census managers allegedly falsified data to expedite Decennial Census non-response follow-up phase. The agency took administrative action. The case was declined for criminal prosecution and was closed.
- 11) 10-0016: Qui tam false claims alleged by NOAA contractor. The investigation did not substantiate the allegations and the case was closed.
- 12) 10-0391: NOAA attorney alleged to have claimed travel reimbursement for time spent on personal international travel. The investigation did not substantiate the allegations and the case was closed.
- 13) 10-0122: EDA grantee alleged to have commingled grant funds with other agency grants, used grant money earmarked for particular purposes for unauthorized purposes, hired relatives as consultants in a conflict/nepotism kind of arrangement, and embezzled funds. The investigation did not substantiate allegations; no loss to the Government was established. The case was closed.
- 14) 10-0011: DOC contractor alleged to have made false statements, engaged in improper influence, and had conflicts of interest. The company was allegedly partly owned by a government official. The investigation did not substantiate allegations. The case was closed.
- 15) 10-0012: A NIST contractor's primary subcontractors claimed nonpayment and the billing of claims to NIST for progress payments that included expenses related to subcontracting expenses they never paid. The investigation did not substantiate the allegations. The case was declined by the U.S. Attorney's Office and was closed.
- 16) 10-0177: A joint case with multiple OIGs involving several companies, one of which had contracts with NOAA, resulted in a 2007 guilty plea and debarment that were not reported in any DOC Semi-annual Report. DOJ subsequently closed their investigation. The case was closed.
- 17) 10-0162: DOC OIG was invited to join a multiagency investigation into allegations that a NOAA contractor violated the False Claims Act by conspiring to defraud the U.S. by retaining rather than returning unused funds to respective federal agencies and by billing agencies other unapproved costs. Contractor went bankrupt and ceased operations, and DOC was found to be ineligible to file a further claim against the contractor. The case was closed.
- 18) 10-0317: A NOAA employee was alleged to have brought marijuana-laced brownies into work and indulged in other disruptive behavior around the workplace. The case was resolved on the petty offense docket of a federal court through "collateral forfeiture," which did not result in a conviction. The employee was also removed. The case was closed.

U.S Department of Commerce
Office of Inspector General

- 19) 10-0342: NOAA contractor employees were alleged to have altered claim and reimbursement documents. The investigation established that there was no loss to the Government. The case was closed.
- 20) 10-1046: Census Decennial employees were alleged to have falsified and otherwise mishandled official documents. The investigation did not substantiate allegations. The case was closed.



UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

January 11, 2012

The Honorable Charles E. Grassley
Ranking Member
Committee on Judiciary
United States Senate

The Honorable Tom Coburn
Ranking Member
Committee on Homeland Security and Governmental Affairs
Permanent Subcommittee on Investigations
United States Senate

VIA Electronic Transmission

Dear Senators Grassley and Coburn

This letter responds to your April 8, 2010 request for biannual reports on closed OIG investigations, evaluations, and audits conducted by this office that were not disclosed to the public. We provided information for prior reporting periods on June 15, 2010, January 14, 2011 and June 21, 2011. The enclosed information is provided for matters that were closed from April 1, 2011 through September 30, 2011.

If you have any questions or require additional information, please do not hesitate to contact me at (202) 482-4661.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd J. Zinser".

Todd J. Zinser

Enclosure

Cc: The Honorable John Bryson, Secretary of Commerce



**Summary of Closed, Non-Public Matters of the Office of Audit and Evaluation
(Matters Closed from April 1, 2011 through September 30, 2011)**

Interim Audit of Contract Awarded to Pacific States Marine Fisheries Commission

On June 10, 2011, OIG issued a report on an interim audit of Contract No. AB133F-04-CQ-0011, awarded to the Pacific States Marine Fisheries Commission (Portland, Oregon), to the director of the Western Region Acquisition Division of the National Oceanic and Atmospheric Administration (NOAA).

Our review of this contract was one of three audits we conducted of Commission operations. We also audited two cooperative agreements and the Commission's indirect cost rate proposals for the period July 1, 2001, through December 31, 2008. These two reports are on the OIG website:

- OIG-11-025-A, Audit of Indirect Cost Plans and Rates, Pacific States Marine Fisheries Commission, Portland, Oregon, issued May 19, 2011
- OIG-11-026-A, Audit of NOAA Cooperative Agreements to the Pacific States Marine Fisheries Commission, Portland, Oregon, issued June 10, 2011

The audit report on the contract was not cleared for public release, but we provide a brief summary of our recommendations. We recommended that the NOAA Contracting Officer:

- Disallow and recover \$17,598 in questioned indirect costs.
- Direct that the Commission comply with the recommendations in OIG's indirect cost report and cooperative agreement audit report.
- Suspend payment of indirect costs under all current contracts and prohibit recovery for future contracts until the Commission develops and negotiates acceptable indirect cost rates.
- Review the balance of time-and-materials task order contracts between NOAA and the Commission to identify any additional indirect costs on materials claimed using unsupported and unaccepted rates, and recover unallowable overhead costs paid to the Commission.
- Require the Commission to consistently follow appropriate travel policies, procedures, and controls.

Interim Memo to USPTO Concerning System's IT Security Controls, dated March 25, 2011

OIG evaluated the contractor owned and operated Pre-Grant Publication Classification Services system as part of our FY 2011 FISMA audit. During our assessment of the system's IT security controls, we uncovered evidence of potentially suspicious activity that warranted USPTO's immediate attention. An identified system computer authenticated twice to the corporate web-based e-mail account of a foreign company. E-mail services for the foreign company are provided by a third-party company.

In an interim memo to USPTO, we recommended that USPTO immediately:

- (1) Determine if any malicious or inappropriate activity was conducted by the individual assigned to an identified computer;
- (2) Determine whether the Pre-Grant Publication Classification Services system has been infected by malicious software; and
- (3) Ensure that appropriate security controls are in place to prevent system administrators from accessing unauthorized web pages.

USPTO's Response, dated April 25, 2011

- (1) A forensic evaluation of the computer and associated network access did not reveal specific evidence of malicious activity. The communication may be considered outside of appropriate use policies for employees performing under contract for USPTO.
- (2) The forensic review of the laptop did not indicate an infection by malicious software.
- (3) A review of this specific laptop indicates that the user installed software of a non-business nature, including file sharing, and messaging software that does not appear to be necessary to facilitate USPTO business.

USPTO will request from the contractor a review of cybersecurity policies and request a plan of action to mitigate potential risk to USPTO information. This plan should specifically address:

1. Controls that will be implemented to ensure unauthorized software is not downloaded and installed on systems that process USPTO information.
2. Controls that will be implemented to monitor and restrict access to web sites that may contain malicious, suspicious, or inappropriate content that might cause risk to USPTO interests.
3. A review and assessment of contractor policies and update if necessary to ensure they align with USPTO "Rules of the Road" and "Acceptable Use" policies when work is being performed under USPTO contract.

Summary of Closed, Non-public OIG Investigations
(Closed from April 1, 2011 through September 30, 2011)

Below is a list of 50 cases closed from April 1, 2011, through September 30, 2011, which were not reported individually in the Semiannual Report because they were either unsubstantiated or did not warrant individual public reporting. The cases summarized below are indexed by case number and presented by issue or allegation raised and the disposition. Upon request, the OIG can provide further information about specific cases if referenced by the case number.

1. 10-0015: Reported improprieties involving a National Marine Fisheries Service grant. *Disposition:* Substantiated and findings referred to NOAA for administrative action.
2. 10-0017: Census employee reportedly used government email to engage in drug trafficking. *Disposition:* Unsubstantiated.
3. 10-0018: PTO employee reportedly viewed child pornography on a PTO computer. *Disposition:* Unsubstantiated.
4. 10-0021: NOAA employee reportedly viewed pornography on a NOAA computer. *Disposition:* Substantiated (adult pornography); findings provided to NOAA management for administrative action.
5. 10-0023: NOAA employee reportedly viewed pornography on a NOAA computer. *Disposition:* Substantiated (adult pornography); findings provided to NOAA management for administrative action.
6. 10-0039: Reported supervisory abuses, mismanagement and fraud at the Alaska Fisheries Science Center in Seattle, Washington. *Disposition:* Substantiated and findings referred to NOAA for administrative action.
7. 10-0059: Permanent government employees reportedly did the work of contractors. *Disposition:* Unsubstantiated.
8. 10-0119: Staff of Foreign Commercial Service office in Ukraine reportedly engaged in visa fraud. *Disposition:* Unsubstantiated, but recommendations made to FCS leadership to strengthen visa referral process.
9. 10-0129: ITA official reportedly viewed child pornography images on government computers. *Disposition:* Investigation found adult pornography only; findings referred to ITA for administrative action.
10. 10-0133: Chinese company reportedly made false statements to ITA. *Disposition:* Substantiated and findings referred to ITA for administrative action.
11. 10-0207: Government representatives reportedly violated the Magnuson-Stevens Act by receiving pay from both the government and a Fisheries Council to which they were assigned. *Disposition:* Partially substantiated and findings referred to NOAA for administrative action.

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12. 10-0252: NOAA OLE agent reportedly provided false information in his affidavit for an arrest warrant for an assault against him. *Disposition:* Unsubstantiated.
13. 10-0260: Officials in NOAA's Office for Law Enforcement (OLE) reportedly shredded documents during OIG investigation of OLE. *Disposition:* Substantiated and findings referred to NOAA for administrative action.
14. 10-0405: Allegations that Bering Sea crab crewmen have lost large volumes of harvest quota shares due to unjust actions by a particular class of permit holders; and have lost jobs due to creation of the Rationalization Program. *Disposition:* Following consultation with DOJ, OIG determined that complainant's allegations arise from disagreement with legislative provisions, over which OIG has no jurisdiction.
15. 10-0427: NOAA contractor reportedly committed fraud. *Disposition:* Unsubstantiated.
16. 10-0468: Company reportedly made false statements and willful omissions in its ARRA contract bid submission. *Disposition:* Unsubstantiated.
17. 10-0615: Entity reportedly solicited funds as a "retainer" for assisting clients in obtaining ARRA grants from EDA. *Disposition:* Determined that subject entity was claiming to provide assistance with obtaining funds from the Texas Department of Economic Development, not EDA. Referred to Texas Attorney General for action as appropriate.
18. 10-0704: County commissioner reportedly made coercive statements while attempting to direct an EDA grant award to a local firm. *Disposition:* Substantiated and findings provided to EDA for any administrative action.
19. 10-0990: Reported hiring improprieties by BIS officials. *Disposition:* Unsubstantiated.
20. 10-1084: NIST official reportedly committed bribery and other serious misconduct. *Disposition:* Unsubstantiated.
21. 10-1189: Census clerk reportedly terminated after falsifying time and attendance and mileage reimbursement claims. *Disposition:* Termination verified and former clerk reimbursed Census approximately \$480.
22. 10-1196: NOAA OLE official reportedly committed ethics violations. *Disposition:* Substantiated, with findings referred to NOAA for administrative action.
23. 10-1199: NOAA senior meteorologist reportedly committed several ethics violations. *Disposition:* Substantiated in part, with findings referred to NOAA for administrative action.
24. 10-1220: Two Census enumerators reportedly committed fraud and improperly released information. *Disposition:* Unsubstantiated.
25. 10-1260: Census Bureau employee reportedly was indicted for a financial crime unrelated to his Census Bureau employment. *Disposition:* Unsubstantiated.
26. 10-1305: NOAA employee reportedly used government computers to distribute pornographic materials. *Disposition:* Unsubstantiated.

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27. 10-1311: NOAA employee reportedly viewed child pornography on a personal computer using NOAA networks. *Disposition:* Investigation found adult, but not child, pornography accessed. Referred to NOAA for administrative action.
28. 10-1331: NIST physicist reportedly improperly transferred NIST property to a non-NIST entity. *Disposition:* Substantiated and findings referred to NIST management for administrative action.
29. 10-1340: Entity reportedly did not comply with NTIA contracting requirements. *Disposition:* Unsubstantiated.
30. 10-1364: Private company reportedly obtained contracts, including ARRA-funded ones, by falsely designating itself as a woman-owned small business. *Disposition:* Determination that the potential false statements were made over five years ago, placing them outside the statute of limitations.
31. 10-1373: Two foreign-based airlines reportedly leased and purchased aircraft from the U.S. in violation of a U.S. embargo. *Disposition:* Referred to BIS due to lack of jurisdiction.
32. 11-0006: DOC contract specialist reportedly forged contracting officer's signature on procurement documents obligating funds. *Disposition:* Substantiated; findings referred to DOC for administrative action.
33. 11-0022: Request from Education IG to investigate NOAA employee who reportedly falsified information to obtain student aid. *Disposition:* Unsubstantiated.
34. 11-0029: DOC official reportedly accepted gift of monetary value (approx. \$1,500) from contractor. *Disposition:* Substantiated; findings referred to DOC for administrative action.
35. 11-0030: Regional planning council reportedly committed fraud by billing hours to an EDA grant but instead spent time on non-grant projects. *Disposition:* Unsubstantiated.
36. 11-0039: Census worker reportedly assaulted a private citizen during an attempt to collect Census information. *Disposition:* Unsubstantiated.
37. 11-0061: NIST official reportedly intimidated and harassed employees into approving contractor invoices on an ARRA contract that had been terminated and was the subject of litigation at the time. *Disposition:* Substantiated in part; prior administrative action taken by NIST.
38. 11-0102: National Marine Fisheries Services supervisor reportedly misused a government vehicle. *Disposition:* Unsubstantiated.
39. 11-0122: Former Census Bureau employee reportedly submitted falsified time sheets. *Disposition:* Substantiated and findings referred to Census Bureau for administrative action.
40. 11-0135: Census Bureau senior field representative reportedly falsified survey data. *Disposition:* Unsubstantiated.
41. 11-0180: DOC surplus property reportedly stolen. *Disposition:* Unsubstantiated, but programmatic recommendations made to DOC management.

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42. 11-0206: NOAA employee reportedly stored child pornography on NOAA computer. *Disposition:* Unsubstantiated.
43. 11-0216: NOAA grant recipient reportedly double-billed for services. *Disposition:* Unsubstantiated.
44. 11-0260: NIST contractor reportedly used substandard materials in violation of contract terms. *Disposition:* Substantiated; findings referred to NIST for administrative action.
45. 11-0322: Official in NOAA's Office of the Chief Information Officer (OCIO) reportedly had a conflict of interest with a NOAA contractor. *Disposition:* Unsubstantiated.
46. 11-0341: Foreign entity reportedly gave fraudulent check to NIST as payment for supplies. *Disposition:* Substantiated, but no loss to NIST as order for supplies was never filled.
47. 11-0377: Several companies and individuals reportedly made false statements by certifying themselves as Service-Disabled Veteran-Owned Small Businesses (*qui tam* complaint). *Disposition:* Unsubstantiated and DOJ declined to intervene in the litigation.
48. 11-0472: DOC official seal reportedly improperly used by U.S. entity operating in Russia. *Disposition:* Substantiated, but the company ceased using the seal during the investigation.
49. 11-0558: BIS managers reportedly retaliated against an employee who previously filed a grievance. *Disposition:* Unsubstantiated; determined that the action leading to the complaint was the result of an administrative oversight rather than a retaliatory act.
50. 11-0560: Reported whistleblower reprisal for cooperating with OIG-FBI BTOP investigation. *Disposition:* Complainant did not meet whistleblower eligibility criteria under ARRA provisions.