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TOP CHALLENGES FOR SCIENCE AGENCIES: REPORTS FROM THE INSPECTORS GENERAL (PART I AND PART II)

HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

THURSDAY, FEBRUARY 28, 2013
and
THURSDAY, MARCH 14, 2013

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CONTENTS

Thursday, February 28, 2013

	Page
Witness List	2
Hearing Charter	3

Opening Statements

Statement by Representative Paul C. Broun, Chairman, Subcommittee on Oversight, Committee on Science, Space, and Technology, U.S. House of Representatives	6
Written Statement	7
Statement by Representative Dan Maffei, Ranking Minority Member, Subcommittee on Oversight, Committee on Science, Space, and Technology, U.S. House of Representatives	8
Written Statement	10

Witnesses:

Mr. Paul K. Martin, Inspector General, National Aeronautics and Space Administration (NASA), Office of Inspector General	
Oral Statement	13
Written Statement	16
Ms. Allison C. Lerner, Inspector General, National Science Foundation (NSF), Office of Inspector General	
Oral Statement	22
Written Statement	24
Mr. David Smith, Deputy Inspector General, U.S. Department of Commerce (DOC), Office of Inspector General	
Oral Statement	32
Written Statement	34
Discussion	39

Appendix I: Answers to Post-Hearing Questions

Mr. Paul K. Martin, Inspector General, National Aeronautics and Space Administration (NASA), Office of Inspector General	54
Ms. Allison C. Lerner, Inspector General, National Science Foundation (NSF), Office of Inspector General	60
Mr. David Smith, Deputy Inspector General, U.S. Department of Commerce (DOC), Office of Inspector General	68

Appendix II: Additional Material for the Record

Letter submitted by Representative Dan Maffei, Ranking Minority Member, Subcommittee on Oversight, Committee on Science, Space, and Technology, U.S. House of Representatives	86
Washington Post article, submitted by Representative Dan Maffei, Ranking Minority Member, Subcommittee on Oversight, Committee on Science, Space, and Technology, U.S. House of Representatives	92

Page

Office of Personnel Management's 2012 Federal Employee Viewpoint Survey Results, submitted by Representative Dan Maffei, Ranking Minority Member, Subcommittee on Oversight, Committee on Science, Space, and Technology, U.S. House of Representatives 94

Page

CONTENTS

Thursday, March 14, 2013

Page

Witness List 128

Hearing Charter 129

Opening Statements

Statement by Representative Paul C. Broun, Chairman, Subcommittee on Oversight, Committee on Science, Space, and Technology, U.S. House of Representatives 132

Written Statement 133

Statement by Representative Dan Maffei, Ranking Minority Member, Subcommittee on Oversight, Committee on Science, Space, and Technology, U.S. House of Representatives 134

Written Statement 135

Witnesses:

Mr. Gregory H. Friedman, Inspector General, U.S. Department of Energy, Office of Inspector General

Oral Statement 137

Written Statement 139

Mr. Arthur A. Elkins, Jr., Inspector General, U.S. Environmental Protection Agency, Office of Inspector General

Oral Statement 150

Written Statement 152

Ms. Mary L. Kendall, Deputy Inspector General, U.S. Department of the Interior, Office of Inspector General

Oral Statement 161

Written Statement 163

Discussion 168

Appendix I: Answers to Post-Hearing Questions

Mr. Gregory H. Friedman, Inspector General, U.S. Department of Energy, Office of Inspector General 184

Mr. Arthur A. Elkins, Jr., Inspector General, U.S. Environmental Protection Agency, Office of Inspector General 190

Ms. Mary L. Kendall, Deputy Inspector General, U.S. Department of the Interior, Office of Inspector General 196

TOP CHALLENGES FOR SCIENCE AGENCIES: REPORTS FROM THE INSPECTORS GENERAL (PART I)

THURSDAY, FEBRUARY 28, 2013

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OVERSIGHT
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY,
Washington, D.C.

The Subcommittee met, pursuant to call, at 10:01 a.m., in Room 2318 of the Rayburn House Office Building, Hon. Paul Broun [Chairman of the Subcommittee] presiding.

LAMAR S. SMITH, Texas
CHAIRMAN

EDDIE BERNICE JOHNSON, Texas
RANKING MEMBER

Congress of the United States
House of Representatives
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
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Subcommittee on Oversight

Top Challenges for Science Agencies:
Reports from the Inspectors General – Part 1

Thursday, February 28, 2013
10:00 a.m. to 12:00 p.m.
2318 Rayburn House Office Building

Witnesses

Mr. Paul K. Martin, Inspector General, National Aeronautics and Space Administration, Office of Inspector General

Ms. Allison C. Lerner, Inspector General, National Science Foundation, Office of Inspector General

Mr. David Smith, Deputy Inspector General, U.S. Department of Commerce, Office of Inspector General

U.S. House of Representatives
Committee on Science, Space, and Technology
Subcommittee on Oversight

HEARING CHARTER

Top Challenges for Science Agencies:
Reports from the Inspectors General
Part 1

Thursday, February 28, 2013
10:00 a.m. – 12:00 p.m.
2318 Rayburn House Office Building

Purpose

At 10:00 a.m. on February 28, 2013, the Subcommittee on Oversight will hold a hearing titled "Top Challenges for Science Agencies: Reports from the Inspectors General - Part 1." This is the first of two such hearings planned prior to the Committee's review of the Administration's FY 2014 budget requests of these agencies. The hearing will provide Members of the Subcommittee the opportunity to receive testimony on the most serious performance and management challenges facing the National Aeronautics and Space Administration (NASA), the National Science Foundation (NSF), and the Department of Commerce (DOC) from the perspective of the Inspectors General of the respective agency.

Witnesses

- **Mr. Paul K. Martin**, Inspector General, National Aeronautics and Space Administration, Office of Inspector General
- **Ms. Allison C. Lerner**, Inspector General, National Science Foundation, Office of Inspector General
- **Mr. David Smith,** Deputy Inspector General, U.S. Department of Commerce, Office of Inspector General

Overview

Public Law 106–531 (the Reports Consolidation Act of 2000), requires agency Inspectors General (IG) to file annual reports that identify the most serious management and performance challenges facing their agencies.[1] These reports also assess agencies' progress in their efforts to resolve the issues identified by the IGs.

[1] Public Law 106-351, "Reports Consolidation Acts of 2000," available at: http://www.gpo.gov/fdsys/pkg/PLAW-106publ531/html/PLAW-106publ531.htm.

The NASA IG's report states, "In deciding whether to identify an issue as a top challenge, we consider the significance of the issue in relation to the Agency's mission; its susceptibility to fraud, waste, and abuse; whether the underlying causes are systemic in nature; and the Agency's progress in addressing the challenge."[2] The report identifies the following issues at NASA:[3]

- The Future of U.S. Human Space Flight
- Project Management
- Infrastructure and Facilities Management
- Acquisition and Contract Management
- Information Technology Security and Governance

The NSF IG's report states, "In accordance with the Reports Consolidation Act of 2000, I am submitting our annual statement summarizing what the Office of Inspector General considers to be the most serious management and performance challenges facing the National Science Foundation (NSF). We have compiled this list based on our audit and investigative work, general knowledge of the agency's operations and evaluative reports of others, including the Government Accountability Office and NSF's various advisory committees, contractors, and staff."[4] The NSF IG lists the following issues:[5]

- Establishing Accountability over Large Cooperative Agreements
- Improving Grant Administration
- Strengthening Contract Administration
- Ensuring Proper Stewardship of ARRA [American Recovery and Reinvestment Act] funds
- Managing the U.S. Antarctic Program
- Implementing Recommendations to Improve Workforce Management and the Workplace Environment
- Encouraging Ethical Conduct of Research
- Managing Programs and Resources in Times of Budget Austerity

According to the DOC IG's report, "The Department plays a pivotal role in implementing the President's initiatives for economic recovery and job creation and, like other federal agencies, faces significant financial uncertainties in the upcoming year. The report identifies what we consider, from our oversight perspective, to be the most significant management and performance challenges facing the Department,"[6] specifically, to:[7]

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[2] *2012 Report on NASA'S Top Management and Performance Challenges*, November 8, 2012, available at: http://oig.nasa.gov/NASA2012ManagementChallenges.pdf.
[3] Ibid.
[4] *Management Challenges for NSF in FY 2013*, October 15, 2012, available at: http://www.nsf.gov/oig/2013MgmtChallenges.pdf.
[5] Ibid.
[6] *Top Management Challenges Facing the Dept. of Commerce*, November 9, 2012, available at: http://www.oig.doc.gov/Pages/Top-Management-Challenges-FY-2013.aspx.
[7] Ibid.

- Stimulate economic growth in key industries, increase exports, and enhance stewardship of marine fisheries.
- Increase oversight of resources entrusted by the public and invest for long-term benefits.
- Strengthen security and investments in information technology.
- Implement framework for acquisition project management and improve contracts oversight.
- Reduce risks of cost overruns, schedule delays, and coverage gaps for NOAA's [National Oceanic and Atmospheric Administration] satellite programs.

Chairman BROUN. The Subcommittee on Oversight will come to order.

Good morning, everyone. I am glad Ms. Lerner finally got through security and got here. I was worried about you, but welcome.

In front of you are the packets containing the written testimony, the biographies, and Truth in Testimony disclosures for today's witness panels. I will recognize myself for an opening statement for five minutes.

Good morning, everyone. The title of today's hearing is: "Top Challenges for Science Agencies: Reports from the Inspectors General, Part 1," Part 2 to follow. This is the first of two hearings where we will hear from witnesses from the Offices of Inspectors General representing the agencies within this Committee's jurisdiction. The object of the hearing is to learn about the major performance and management challenges facing each agency from the perspective of each of the Offices of Inspector General.

Today we will hear from the IG offices with jurisdiction over the National Aeronautics and Space Administration, the National Science Foundation and the U.S. Department of Commerce. It is my hope that this information will help inform our colleagues—on both sides of the aisle—about the issues at the agencies over which we have the responsibility to conduct thorough and appropriate oversight. With the President's budget expected shortly, this hearing will help us as an authorizing Committee, to coordinate with the Appropriations Committee, by identifying for that Committee programs, projects and activities that work as opposed to those that need to be modified or perhaps eliminated.

There is no shortage of issues. This Committee has a history of probing NASA, especially in the area of information technology security where last year we held a hearing on that topic. Unfortunately, some of the issues that I raised back then are still outstanding today. In addition to the revelation that NASA needs to do more to protect sensitive information from going out the back door through cyber intrusions and lax protocols, I am increasingly concerned about the possibility of sensitive information going out the front door, possibly with tacit approval from research centers. The National Aeronautics and Space Act has the dual responsibility of providing "the widest practical dissemination of information concerning its activities and results" as well as establishing "such security requirements, restrictions and safeguards as the Administrator deems necessary in the interest of national security." Similarly, the Act also gave NASA broad authority to enter into agreements outside of the normal federal acquisition process. Originally meant to support smaller-scale projects, it is increasingly being used for larger, multimillion-dollar procurements.

NASA is not the only agency that has this authority. The NSF has roughly $11 billion tied up in other transaction authorities such as Cooperative Agreements which, like NASA's Space Act Agreements, do not carry the same oversight and transparency requirements as contracts.

The Department of Commerce, which includes bureaus such as NOAA, which in turn houses the National Weather Service, has been the focus of this Committee since over a year ago when we

started hearing claims about financial mismanagement and Antideficiency Act violations. That culminated in a September 12, 2012, hearing for which we still have not received agency responses to questions that we submitted for the record, and I hope they will be forthcoming very soon but we still haven't heard back from them. And I can't talk about NOAA without mentioning its satellite programs, which are of great concern to this Committee, particularly in light of potential gaps in future coverage. These are symptoms of what I perceive to be larger management challenges within NOAA.

This exercise of deliberating over a program's performance and challenges is a particularly timely one because as you all know, starting tomorrow, federal agencies will do the exact opposite and implement across-the-board, indiscriminate funding cuts as a result of the sequester. The House of Representatives on more than one occasion has tried to offer a solution to prevent these cuts from taking place but we have hit a wall with the Senate and with the Administration. And I know I don't always see eye to eye with my friends on the other side of the aisle, but I respect them and believe that we share the same goal regardless of which side of the room we sit in, and that is to serve our respective constituencies in the best manner possible. To that end, I urge my colleagues, Republicans and Democrats alike, to take advantage of the opportunity this hearing presents and question the witnesses about the agencies within their jurisdiction.

[The prepared statement of Mr. Broun follows:]

PREPARED STATEMENT OF CHAIRMAN PAUL C. BROUN

Good morning. The title of today's hearing is "Top Challenges for Science Agencies: Reports from the Inspectors General – Part 1." This is the first of two hearings where we will hear from witnesses from the Offices of Inspectors General representing agencies within this Committee's jurisdiction. The object of the hearing is to learn about the major performance and management challenges facing each agency from the perspective of each Office of the Inspector General.

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Chairman BROUN. Now I recognize the Ranking Member, the gentleman from New York, for an opening statement for five minutes. You are recognized.

Mr. MAFFEI. Mr. Chairman, I thank you very much. I too share your concerns about NOAA's response to the Committee, but on this, I want to welcome the three witnesses. Inspector Generals, sometimes called IGs, carry an unusual mandate and a heavy burden, Inspector Generals stand on the front line of accountability and work to improve government and protect taxpayer interests. As the kind of the cop on the beat in agencies, they function not just as another executive office but also as Congress's eyes and ears in those agencies. This is why IGs have a statutory responsibility to quickly inform Congress of any significant wrongdoing at their agencies.

While some IGs have tried to morph their role into that of a management consultant to agency leadership, and that is fine, it is still extremely important, though, and Congress expects Inspector Generals to view themselves as watchdogs first and foremost.

IGs have enormous discretion to go with their great responsibility. Within the limits of the law, they can decide what they will and will not pursue, how they will structure their offices, who they will hire and fire, and how they will spend their budgets. The agencies they overlook are in no position to second-guess their actions as that would undermine the IG's necessary independence.

However, this independence combined with large budgets outside the control of any other office leaves open the possibility that a bad Inspector General may abuse that position. Inspector Generals are a classic example of the old question, who will watch the watchmen. With no authority over them in their agencies, serving at the pleasure of the President, but a President who stands in great distance, and often keeping information about their activities secret from the public and even Congress, the job of ensuring that an IG who is not doing their job would be identified and removed can fall through the cracks.

The Chairman's purpose in holding this hearing, it is my understanding, is to explore what three IGs from NASA, NSF and Commerce have accomplished in the last year and hopes to take on next, and I applaud the Chairman for holding this hearing.

I have no reason to doubt that the two Inspector Generals before us have been doing good work and are raising important questions, and I welcome your testimony. The Subcommittee staff, however, and Members of the news media have reported serious and pressing concerns in the Office of Department of Commerce Inspector General, and yet, Mr. Chairman, Mr. Zinser, the Commerce Inspector General, has decided not to appear before us or in staff briefings before the hearing.

Now, Mr. Smith, I do sincerely appreciate your time and attention. I hope you can understand why the Committee Members might be disappointed that we don't have direct access to the Department of Commerce IG. It is nothing about your work, you are a fine public servant, but we want to make sure we have direct access to an IG.

So Mr. Chairman, the Committee was first alerted to one serious concern when staff discovered that the Inspector General, Mr. Zinser, let NOAA investigate itself regarding criminal financial misconduct. The explanations he offered to the staff back in August to Members in September and then written responses to questions for the record are contradictory and his office has refused to provide records Members requested to better understand what happened. Then in December, the Washington Post reported that Mr. Zinser, along with his Principal Assistant for Investigations and his General Counsel, compelled senior employees to resign and sign nondisclosure agreements that would bar them from disclosing information about the operation of his office to either the Office of the Special Counsel, which is the whistleblower protection office in the Federal Government, or even to Congress itself.

Now, why would the IG compel senior officials to relinquish their statutory and, in fact, constitutional right of redress? The conduct reported in the Post should be shocking to conduct for any federal official, let alone an Inspector General. And if we find an Inspector General who we would hope would listen to whistleblowers, not silence them, is engaged in gag orders, that is not acceptable conduct.

The recent Federal Best Places to Work survey brings up other concerns that show that the Department of Commerce IG Office was ranking 291 out of 292 places polled, making it among the worst places to work, according to the survey. In this survey, 50 percent of the staff said they were going to look for another job in the next year, and almost half were unsure or felt unsafe in telling senior leadership if they find violations of the law, regulation or policy. So according to this survey, the Inspector General staff are afraid to report violations of law. I should add that our staff has begun to receive information from former employees at Commerce Department of Inspector General, and some of the allegations are very serious.

So for all these reasons, Mr. Chairman, Ms. Johnson, Ms. Wilson, Ms. Bonamici and I have sent a letter to GAO. We have asked that they open an investigation into the management and conduct of the

IG at the Department of Commerce. At a time when we face the possibility of large-scale, arbitrary cuts to both domestic and military programs, I believe that any charges of wasting taxpayer dollars or using them to run an ineffective office must be investigated. Congress has the responsibility and authority to hold IGs accountable, and we have to ensure money has not been wasted or ineffectively protected, and that laws have not been broken in the name of enforcement. If indeed Mr. Zinser or any Inspector General has allowed his office to be abused or become ineffective, then we in Congress have the responsibility to bring that to light.

And Mr. Chairman, I would like to ask if the article in the Post, the letter from Mrs. Johnson, Ms. Wilson, Ms. Bonamici and I and the other supporting materials be included after this statement in the record.

[The prepared statement of Mr. Maffei follows:]

PREPARED STATEMENT OF RANKING MINORITY MEMBER DAN MAFFEI

Mr. Chairman, I thank you very much. I too share your concerns about NOAA's response to the Committee. But on this I want to welcome the three witnesses.

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At a time when we face the possibility of large scale arbitrary cuts, to both domestic and military programs, I believe that any charges of wasting taxpayer dollars, or using them to run an ineffective office, must be investigated. Congress has the responsibility and authority to hold IGs accountable, and we have to ensure money has not been wasted or ineffectively protected, and that laws have not been broken in the name of enforcement. If indeed Mr. Zinser or any Inspector General has allowed his office to be abused, or become ineffective, then we in Congress have the responsibility to bring that to light. Now Mr. Chairman, I would like to ask if the article of the Post, the letter from Ms. Johnson Ms. Wilson Ms. Bonamici and I and other supporting materials be included after this statement in the record.

Thank you Mr. Chairman.

Chairman BROUN. Hearing no objection, so ordered.

[Submitted materials appear in Appendix II:]

Mr. MAFFEI. Thank you, Mr. Chairman.

Chairman BROUN. Thank you, Mr. Maffei.

Part 2 of this hearing, this series that we are doing, will feature the IGs from DOE, EPA and DOI. At that hearing, the EPA IG also had a conflicting schedule, so this is not unique for a Deputy to come and testify, and I appreciate the Deputy from the Department of Commerce coming. The Committee is working with all the IGs within our jurisdiction. We are trying to get everybody here that we possibly can, and I assure you that this is not unique. We have made compromises like this previously and we will have to in the future as we go forward, Mr. Maffei. I know you haven't been on this Committee very long but we welcome you and are glad to have you here, and I know that you and I are going to continue to work very strongly together through this process, but I am as interested as you are in getting to the bottom of all this, because nobody wants to see fraud, waste and abuse, and we have to count upon the IGs to make sure that that doesn't happen, so that is what this is, my objective in doing these hearings and trying to find out what is going on in these agencies and I want to have a strong IG system.

Mr. MAFFEI. That is my concern too, Mr. Chairman.

Chairman BROUN. Thank you, and I know we both have that same desire so just understand that this is not a unique situation today, and I thank you, Mr. Smith for being here.

If there are Members who wish to submit additional opening statements, your statements will be added to the record at this point.

At this time I would like to introduce our first panel of witnesses. Our first witness is Mr. Paul Martin, who has been before us before——

Mr. MAFFEI. Mr. Chairman?

Chairman BROUN. Yes, sir.

Mr. MAFFEI. I haven't been on this Subcommittee, this Committee very long or the Subcommittee very long but my understanding is, it is the usual to swear in the witnesses, is it not?

Chairman BROUN. We have done so in the past, and we can do that.

Mr. MAFFEI. I would ask that we do, if it a usual thing, given that we are an oversight——

Chairman BROUN. It is my plan to do so, and we—just sit tight.

Mr. MAFFEI. Absolutely. Sorry.

Chairman BROUN. Just sit tight.

Mr. MAFFEI. As you say, I am new.

Chairman SMITH OF TEXAS. Will the chairman yield just for a second?

Chairman BROUN. Absolutely. The Committee Full Chair, Mr. Smith.

Chairman SMITH OF TEXAS. I just want to kind of explain what our overall policy is. It was my feeling that we didn't need to do so for two reasons. One, under House rules, all witnesses are assumed to be under oath, and two, in the letters to the witnesses, I believe they are—I want to get the gentleman's attention just to make those points.

Chairman BROUN. If the minority Counsel will listen, please as you all talk?

Chairman SMITH OF TEXAS. That is all right. He is not listening.

Chairman BROUN. He is listening.

Chairman SMITH OF TEXAS. Let me make my two points. One, under House rules, witnesses are assumed to be under oath, so I thought it was a little bit redundant to have to swear them in. Second of all, I believe that the letters that the witnesses get inviting them to testify remind them of that fact as well, so we feel like we have got it covered. If the gentleman wants to make an exception to that general rule, that is fine with me, but I just want to reassure him that the witnesses are reminded that they are under oath, one way or the other, whether it is verbally or in writing.

Chairman BROUN. Thank you, Mr. Chairman.

Chairman SMITH OF TEXAS. Sure.

Chairman BROUN. We will——

Mr. MAFFEI. Mr. Chairman, if you would yield?

Chairman BROUN. Mr. Maffei.

Mr. MAFFEI. My understanding, and this could be mistaken, but my understanding is that in the past years, the Committee did—this Subcommittee did administer an oath, whether to remind or whether to reaffirm, for whatever reason, and my concern is if we don't do it, and I admit that I didn't know these rules when we did our first Subcommittee hearing, but if we don't do it now and consistently, we don't want to imply that it is necessary at any par-

ticular time for the witnesses. So whatever we normally do, we should decide that and just normally follow the same rules. And I want to thank the distinguished Chairman of the Full Committee for his comment.

Chairman BROUN. I am entertaining a unanimous consent request from Mr. Maffei that witnesses take an oath. Hearing no objection, so ordered.

Mr. MAFFEI. Thank you.

Chairman BROUN. Our first witness today is Inspector General of the National Aeronautics and Space Administration, as I already mentioned, is Mr. Paul Martin, who has been here before this Committee before, and I appreciate your coming, Mr. Martin. Our second witness is Ms. Allison Lerner, the Inspector General of the National Science Foundation. Our third witness will be Mr. David Smith, Deputy Inspector General of the U.S. Department of Commerce.

As our witnesses should know, spoken testimony is limited to five minutes each, and please, because we have votes shortly coming, so if you would, try to maintain within that 5-minute window, and then each Member will have five minutes to ask questions. Your written testimony will be included in the record of this hearing.

It is the practice of this Subcommittee on Investigations and Oversight to receive testimony under oath. If you now would all please stand and raise your right hand, unless you have an objection to taking an oath. Do you solemnly swear to affirm to tell the whole truth and nothing but the truth, so help you God? Thank you. You may be seated. Let the record reflect that all the witnesses participating have taken the oath, and Mr. Maffei, I like that too, and I wanted to do this myself.

We now recognize our first witness, Mr. Martin, to present your testimony. Sir, you have five minutes.

TESTIMONY OF MR. PAUL K. MARTIN, INSPECTOR GENERAL, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA), OFFICE OF INSPECTOR GENERAL

Mr. MARTIN. Thank you, Mr. Chairman, Ranking Member Maffei, Chairman Smith and Members of the Subcommittee.

The successful landing of the Curiosity over on the surface of Mars in August energized the public about NASA's activities in a way not seen since the final Space Shuttle flight. Another highlight this past year was the first commercial resupply mission to the International Space Station by SpaceX in October. However, NASA also faced significant challenges including the need to reprogram funds to address cost overruns in the James Webb Space Telescope. This shift contributed to delays in several ongoing projects and cancellation of several others including one with the European Space Agency for planned science missions to Mars. At the same time, NASA is busy developing a new rocket, capsule, and related launch infrastructure to enable crewed missions to an asteroid or Mars—expensive and technically complex undertakings in an increasingly austere budget environment.

Along with the rest of the Federal Government, NASA is poised to tumble over the "fiscal cliff" tomorrow with $894 million in sequestration cuts. Indeed, from our perspective, declining budgets and fiscal uncertainties present the most significant external challenge to NASA.

My written statement discusses our complete list of management and performance challenges. This morning, I plan to briefly highlight three.

First, project management. Over its 50-year history, NASA has been at the forefront of science and space exploration. However, in addition to their achievements, many NASA projects share another less positive trait—they cost significantly more to complete and take much longer to launch than originally planned. Last September, the OIG issued a report that identified four primary challenges facing NASA as it seeks to achieve project cost, schedule and performance goals: the Agency's culture of optimism, underestimating technical complexity, funding instability and limited opportunities for project managers' development.

Second, NASA's aging infrastructure. Eighty percent of NASA's 4,900 buildings are more than 40 years old and beyond their design life. However, NASA has not been able to fully fund required upkeep costs and estimates its deferred maintenance expenses at $2.3 billion. One way NASA could reduce these costs is to reduce the amount of unneeded infrastructure in its inventory. To be successful, NASA must move beyond its historic "keep it in case we need it" mindset. In an audit we issued earlier this month, the OIG identified 33 facilities including wind tunnels, test stands, airfields, and launch-related infrastructure that NASA was neither fully utilizing nor had a future mission need. These facilities cost the agency more than $43 million to maintain in fiscal 2011 alone.

And finally, information technology security. One year ago, I sat behind this same table and testified alongside NASA's Chief Information Officer about the state of IT security at NASA. Among other things, I mentioned that at the time only one percent of NASA's laptop computers were fully encrypted compared to a government-wide rate of 54 percent. Eight months later, an unencrypted NASA laptop computer containing personally identifiable information on more than 40,000 individuals was stolen from the vehicle of a NASA employee. Agency officials estimate that credit monitoring and other expenses related to the theft could cost NASA up to $850,000. Following that incident, the NASA Administrator accelerated the timetable for encrypting the hard drives on all Agency laptops, and as of two weeks ago the Agency reported an encryption rate for its laptops of 99 percent. Our audits and investigations continue to identify recurring weaknesses in NASA's IT security program, and we anticipate making additional recommendations as we complete an audit examining the Agency's IT governance structure. Reexamination of NASA's overall approach to IT is particularly timely given that the Agency is currently seeking a new CIO.

In closing, the National Research Council recently concluded that there is, and I quote, "a significant mismatch between the programs to which NASA is committed and the budgets that have been provided or anticipated." In other words, too many programs

are chasing too few dollars. I hope that the NRC's, report together with the ongoing work of the OIG and GAO, will contribute to a dialogue about NASA's future priorities and lead to enactment of a realistic budget that will enable the Agency to accomplish its multifaceted mission. Thank you.

[The prepared statement of Mr. Martin follows:]

Testimony before the Subcommittee on Oversight,
House Committee on Science, Space, and Technology

U.S. House of Representatives

For Release on Delivery
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Top Challenges for Science Agencies: Report from the Inspectors General – Part 1

Statement of

Paul K. Martin

Inspector General

National Aeronautics and Space Administration

Chairman Broun, Ranking Member Maffei, and Members of the Subcommittee:

The Office of Inspector General (OIG) is committed to providing independent, aggressive, and objective oversight of the National Aeronautics and Space Administration (NASA), and we welcome this opportunity to discuss the major challenges facing the Agency.

The successful landing of the Curiosity rover on the surface of Mars in August energized the public about NASA's activities in a way not seen since the final Space Shuttle flight. Similarly, the first commercial resupply mission to the International Space Station (ISS) in October by Space Exploration Technologies Corporation's (SpaceX) Dragon spacecraft marked a milestone toward NASA's goal of fostering development of a commercial space transportation capability to low Earth orbit.

The past year was not without its challenges, however, including the need to reprogram funds from several Agency initiatives to accommodate cost overruns in the James Webb Space Telescope (JWST) and other projects. This shift contributed to developmental delays in several ongoing projects and cancellation of others, including a joint project with the European Space Agency for planned missions to Mars in 2016 and 2018.

Moreover, receipt of less than half its requested budget extended the earliest date that NASA expects to obtain commercial crew transportation services to the ISS to 2017 – a date uncomfortably close to the Station's currently scheduled 2020 retirement. At the same time, NASA is moving forward with development of a new rocket, capsule, and related launch infrastructure to enable crewed missions to an asteroid, the Moon, or Mars – expensive and technically complex undertakings in an increasingly austere budget environment.

Declining budgets and fiscal uncertainties present the most significant external challenges to NASA's ability to successfully move forward on its many projects and programs. NASA began the current fiscal year under a 6-month continuing resolution that funds the Agency at last year's level of $17.8 billion. Along with the rest of the Federal Government, NASA is poised to tumble over the "fiscal cliff" on March 1, with sequestration cuts that reduce its spending authority by $894 million.

Against this bleak budgetary backdrop, Agency managers continue to face significant challenges managing NASA's diverse portfolio of science, exploration, and aeronautics projects. Specifically, each year we identify the Top Management and Performance Challenges facing NASA and our most recent list highlighted the following five issues:

- The Future of U.S. Human Space Flight;
- Project Management;
- Infrastructure and Facilities Management;
- Acquisition and Contract Management; and
- Information Technology Security and Governance

A detailed description of these challenges and the ongoing and completed work by our office examining them is contained in the Top Challenges document appended to this statement.

In my testimony this morning, I will highlight three issues: 1) project management; 2) NASA's aging infrastructure; and 3) information technology (IT) security.

Project Management

Over its 50-year history NASA has been at the forefront of science and space exploration and rightly takes credit for numerous scientific and technological discoveries and innovations. However, in addition to their significant achievements, many NASA projects share another less positive trait – they cost significantly more to complete and take much longer to launch than originally planned.

Last September, the OIG issued a report that examined NASA's project management practices to identify the primary challenges to achieving its cost, schedule, and performance goals. Cost and schedule increases on large projects like the JWST can have a cascading effect on NASA's entire portfolio. To illustrate, in fiscal year (FY) 2012 NASA moved $156 million from other Science Mission Directorate projects and its Cross Agency Support account to cover cost increases in the JWST project. In addition, the Wide-Field Infrared Survey Telescope and several other missions have been postponed to make funding available for JWST. Moreover, as previously noted, NASA has pulled out of an agreement with the European Space Agency on two future Mars missions and is reevaluating its Mars exploration strategy to accommodate a more restricted funding profile.

Our project management review identified four factors that present the greatest challenges to successful project outcomes at NASA: 1) the Agency's Culture of Optimism; 2) Underestimating Technical Complexity; 3) Funding Instability; and 4) Limited Opportunities for Project Managers' Development. The September audit report and the 2012 Management Challenges document discuss each of these factors in detail.

One of NASA's largest ongoing project is its new "heavy-lift" rocket known as the Space Launch System or SLS. The NASA Authorization Act of 2010 set a goal for the Agency to achieve operational capability for the SLS and the accompanying Multi-Purpose Crew Vehicle (MPCV) by December 31, 2016. NASA's current plan is to launch an uncrewed test flight of the SLS and MPCV in 2017, followed by the first crewed flight in 2021.

Establishing realistic long-term budgets for the SLS, MPCV, and associated ground support programs is difficult, as illustrated by an August 2011 independent cost assessment for the program that concluded NASA's estimates are reasonable for near-term budget planning but do not support establishment of long-term budgets or detailed baselines. Constrained budgets also impact the pace of NASA's development efforts. For example, because the MPCV program is anticipating a "flat" budget profile for at least the next 10 years, NASA has adopted an incremental developmental approach that concentrates on systems needed to meet specific mission objectives for each test flight rather than an approach under which work on all MPCV systems progresses concurrently. The OIG is currently examining NASA's efforts to develop the MPCV and will continue to focus resources on NASA's launch and crew transportation development efforts in the years to come.

NASA's Aging Infrastructure

NASA is the ninth largest Federal Government property holder, controlling approximately 4,900 buildings and structures with an estimated replacement value of more than $30 billion. In addition, more than 80 percent of the Agency's facilities are 40 or more years old and beyond their design life. Under its current policy, NASA is required to maintain these facilities either in an operational status or, if they are not being used, in sufficient condition that they do not pose a safety hazard. However, NASA has not been able to fully fund required maintenance costs for its facilities and in 2012 estimated its deferred maintenance costs at $2.3 billion.

One way NASA could reduce its facilities maintenance costs is to reduce the amount of unneeded infrastructure in its inventory. To be successful in this effort, NASA must move beyond its historic "keep it in case we need it" approach of managing its facilities. In an audit we issued earlier this month, the OIG identified 33 wind tunnels, test stands, thermal vacuum chambers, airfields, and launch-related facilities that NASA was not fully utilizing or for which Agency managers could not identify a future mission use. These facilities cost the Agency more than $43 million to maintain in FY 2011 alone.

We found that NASA's efforts to reduce its underutilized facilities have been hindered by several longstanding and interrelated challenges: 1) fluctuating and uncertain strategic requirements; 2) Agency culture and business practices; 3) political pressure; and 4) inadequate funding. To its credit, NASA is undertaking a series of initiatives aimed at "rightsizing" the Agency's real property footprint. However, we noted that many of these efforts are in the early stages and may ultimately be insufficient to overcome the cultural and political obstacles that have impeded past efforts to reduce unneeded infrastructure. Accordingly, an independent outside process similar to the Department of Defense's Base Realignment and Closure Commission may be necessary.

Leasing offers NASA another means to help address maintenance costs associated with its aging and underutilized facilities. However, Federal law and policy prohibit NASA from leasing facilities for which it has no current or future mission-related use. For these facilities, the Agency should consider other options, such as demolition or reporting the property to the General Services Administration for sale or transfer to another entity. The challenge for NASA is to use leasing when appropriate to generate revenue to offset facilities operations and maintenance costs while not using it as a way to hold on to facilities it does not need.

Information Technology Security

One year ago today, I sat behind this same witness table and testified alongside NASA's Chief Information Officer (CIO) about the state of IT security at NASA. Among other things, I mentioned that at the time only 1 percent of NASA's laptop computers were fully encrypted compared to a Government-wide rate of 54 percent.

On October 31, 2012, a NASA laptop containing the Social Security numbers and other personally identifiable information (PII) for more than 40,000 individuals was stolen from the vehicle of a Headquarters employee. Although the laptop was password protected, neither the laptop itself nor the individual files were encrypted. As a result of this theft, NASA contracted

with a company to provide credit monitoring to the affected individuals and the Agency estimates that these services could cost up to $850,000.

Following the October 31 theft, the NASA Administrator accelerated the timetable to encrypt the hard drives of the Agency's laptop computers. As of February 15, NASA reported that it had encrypted 99.4 percent of Agency laptops identified as requiring encryption, had exempted 1,636 laptops from the requirement, and was determining whether another 2,947 laptops required encryption or also would be exempted.

NASA's portfolio of information technology assets includes more than 550 information systems that control spacecraft, collect and process scientific data, and enable NASA personnel to collaborate with colleagues around the world. Hundreds of thousands of NASA personnel, contractors, academics, and members of the public use these IT systems daily and NASA depends on them to carry out its essential operations. Overall, NASA spends more than $1.5 billion annually on its IT-related activities, $58 million of that for IT security.

NASA remains a target of cyber intruders both because of the large size of its networks and because of the technical and scientific information it maintains. Over the years, NASA has increasingly become a target of a sophisticated form of cyber attack known as advanced persistent threats (APTs). The individuals or nations behind these APTs are typically well organized and well funded.

Our investigation of a series of APT attacks at the Jet Propulsion Laboratory (JPL) involving Chinese-based Internet protocol addresses between November 2011 and February 2012 confirmed that cyber attackers were successful in achieving control over much of JPL's network for several weeks and used this access to steal or attempt to steal NASA-funded data. While data theft appears to be the primary motive, the level of access gained by the intruders positioned them to have caused significant operational disruption had that been their goal.

Through our audits and investigations, we have identified systemic and recurring weaknesses in NASA's IT security program that adversely affect the Agency's ability to protect the information and information systems vital to its mission. In particular, the CIO's inability to ensure that NASA's mission computer networks implement key IT security controls continues to put these critical IT assets at risk of compromise. For example, the Agency has not yet implemented two recommendations from a May 2010 OIG audit report to monitor its mission networks for the presence of critical software patches and technical vulnerabilities.

Achieving the Agency's IT security goals will require sustained improvements in NASA's overarching IT management practices. Effective IT governance is the key to accommodating the myriad interests of internal and external stakeholders and making decisions that balance compliance, cost, risk, and mission success. Effective IT governance also helps ensure that public funds are efficiently spent by coordinating spending across NASA when purchasing IT products and services.

We are completing a review examining NASA's IT governance structure and anticipate making several recommendations for improvement. Such a reexamination is particularly timely given that NASA is currently seeking a new CIO.

Conclusion

The National Research Council (NRC) recently concluded that there is a "significant mismatch between the programs to which NASA is committed and the budgets that have been provided or anticipated." In other words, too many programs are chasing too few dollars. I am hopeful that the NRC's report, together with the ongoing work of the OIG and Government Accountability Office, will contribute to a dialogue between the Administration and the Congress about NASA's future priorities and lead to enactment of a realistic budget that will enable the Agency to accomplish its multifaceted missions.

We look forward to continuing our cooperative working relationship with NASA, this Subcommittee, and other congressional committees as we conduct audits and investigations that focus on the Agency's top management and performance challenges.

Chairman BROUN. Thank you, Mr. Martin.

Now, Ms. Lerner, you are recognized for five minutes.

TESTIMONY OF MS. ALLISON C. LERNER,
INSPECTOR GENERAL,
NATIONAL SCIENCE FOUNDATION (NSF),
OFFICE OF INSPECTOR GENERAL

Ms. LERNER. Thank you. Mr. Chairman and Members of the Subcommittee, I appreciate this opportunity to discuss the work of the National Science Foundation Office of Inspector General to safeguard federal tax dollars awarded by the Foundation and to protect the integrity of NSF programs and operations. My statement will focus on accountability of cooperative agreements for NSF's large facility construction projects, grants management and contract monitoring, three management challenges that have a direct impact on NSF's ability to carry out its mission of advancing scientific research by funding external awardees. I will also address NSF's efforts to encourage the ethical conduct of research, another top management challenge.

Over the past two years, my office has issued several audits that have raised serious questions about NSF's accountability over cooperative agreements for high-risk, high-dollar projects. NSF currently has 685 open cooperative agreements totaling nearly $11 billion. Thirty-eight of these are valued at over $50 million each and comprise $5–1/2 billion of the total amount of such agreements.

In September of 2012, we issued an alert memorandum to NSF management outlining serious weaknesses in the Foundation's cost surveillance measures for awarding and managing high-risk, high-dollar cooperative agreements. At the pre-award phase of such projects, appropriate controls should include conducting audits of awardees' proposed budgets and accounting systems to ensure that awardees cost estimates are fair and reasonable and that their accounting systems are adequate to bill the government properly and to manage funds in accordance with federal requirements. While such audits are not required by law or regulation for cooperative agreements, obtaining such information at the pre-award stage of high-risk, high-dollar cooperative agreements is especially important as the proposed budget once approved by NSF creates the basis upon which awardees can draw down advanced funds over the course of the award. NSF does not regularly obtain such audits.

Post-award controls for high-risk, high-dollar projects should include incurred costs of submissions and audits to ensure that costs claimed are allowable. As with pre-award audits, incurred cost submissions and audits are not required for cooperative agreements by law or regulation, and we are not recommending that NSF obtain them for every agreement. However, such submissions and audits are critical tools for ensuring accountability in high-risk, high-dollar cooperative agreements. Simply stated, these are reasonable and prudent steps to protect taxpayer funds.

In December 2012, the NSF Director charged the senior advisor in his office with conducting a major assessment of policies and procedures governing NSF-supported large facilities to address these and other matters. We are optimistic that this process will

yield more robust oversight and monitoring for NSF's large cooperative agreements.

With respect to grants management, oversight and management of awards that is sufficient to safeguard federal funds invested in scientific research has been an ongoing challenge for NSF as grants recipients request payments as an aggregate amount and are not required to present supporting documentation such as invoices and receipts to receive payments. In the face of these oversight challenges, my office is using automated techniques to supplement traditional audit tools and help us improve our ability to identify high-risk awardees, expand our audit coverage to examine more transactions, and better focus our limited resources on questionable expenditures.

In the area of contract monitoring, we continue to recommend that NSF obtain incurred cost audits for cost-reimbursable contracts and that it obtain cost accounting disclosure statements from contractors and ensure that they are audited and an approved in a timely manner. Incurred cost audits enable management to assess a contractor's compliance with the financial terms and conditions of a contract and approved disclosure statement is essential to establish how the contractor classifies and bills costs to the government.

With respect to the responsible conduct of research, pursuing allegations of research misconduct by NSF-funded researchers continues to be a focus of our investigative work. In recent years, we have seen a significant rise in the number of substantive allegations of such misconduct associated with NSF proposals and awards. It is imperative to the integrity of research funded with taxpayer dollars that we ensure that NSF principal investigators carry out their projects with the highest ethical standards.

Finally, we are continuing our efforts with the IG community to combat fraud in the Small Business Innovation Research and Small Business Technology Transfer programs. We will continue to target our work on areas that pose the highest risk of misuse of taxpayer dollars and to do our utmost to ensure that misused funds are returned to the government.

This concludes my statement, and I will be happy to answer questions.

[The prepared statement of Ms. Lerner follows:]

Statement of Allison C. Lerner

Inspector General

National Science Foundation

Committee on Science, Space, and Technology

Subcommittee on Investigations and Oversight

United States House of Representatives

"Top Challenges for Science Agencies: Reports from the Inspectors General-Part 1"

February 28, 2013

Mr. Chairman and Members of the Subcommittee, I appreciate this opportunity to discuss the Office of Inspector General's (OIG) work to promote the efficiency and effectiveness of the National Science Foundation's (NSF) programs and operations and to safeguard their integrity. My office is committed to providing rigorous, independent oversight of NSF, and I welcome the chance to discuss my office's work.

The OIG is an independent entity and reports directly to Congress and the National Science Board. Our mission is to conduct independent audits and investigations of National Science Foundation programs and operations and to recommend policies and corrective actions to promote effectiveness and efficiency and prevent and detect waste, fraud, and abuse. Consistent with our statutory mandate, the OIG has an oversight role and does not determine policy or engage in management activities involving the Foundation or program operations. Thus, my office is not responsible for managing any NSF programs, nor do we attempt to assess the scientific merit of research funded by the Foundation.

My office has identified eight top management challenges facing NSF. My testimony will focus on accountability over cooperative agreements for NSF's large facility construction projects, grant administration, and contract monitoring. These oversight issues have a direct impact on NSF's ability to carry out its mission of advancing scientific research, which is accomplished primarily through funding external awardees. I will also address the ethical conduct of research, another top management challenge.

Accountability over Cooperative Agreements

Over the past two years, my office has issued several audits that have raised serious questions about NSF's accountability over Cooperative Agreements (CAs) for high-risk, high-dollar projects. NSF currently has 685 open cooperative agreements, totaling nearly $11 billion. Thirty-eight of these CAs are for over $50 million each and comprise $5.5 billion of the total amount of CAs. Among other things, NSF uses CAs for the construction, operation, and maintenance of its large facility research projects.

A CA is not subject to the same rigor and reporting mechanisms as a contract, and does not have the same level of transparency over expenditures as a contract. Since NSF has chosen to use CAs for the construction, operation and maintenance of high-risk, high-dollar large facility projects, it is imperative that it exercise strong cost surveillance controls over the lifecycle of such projects. In September of 2012 we issued an alert memo to NSF management outlining serious weaknesses in NSF's management of high-risk, high-dollar CAs.

At the pre-award phase of such projects, appropriate controls should include conducting audits of awardees' proposed budgets and accounting systems to ensure that awardees' cost estimates are fair and reasonable and that their accounting systems are adequate to bill the government properly and to manage funds in accordance with federal requirements. Although they are not required for CAs by law or regulation, such audits provide essential information that NSF can use to ensure that it funds only costs that are allowable and can be supported by adequate documentation. Obtaining such information at the pre-award stage of high-risk, high-dollar CAs is especially important as the proposed budget, once approved by NSF, creates the basis upon which awardees can draw down advanced funds over the course of the award for specific cost items.

NSF does not regularly obtain pre-award audits for its high-risk, high-dollar projects. Over the last two years, however, my office commissioned Defense Contract Audit Agency audits of the proposed construction budgets for three large facility awards valued at $1.1 billion -- the Ocean Observatories Initiative, the Advanced Solar Technology Telescope, and the National Ecological Observatory Network. The findings were dramatic and underscored the need for such oversight. Specifically, DCAA questioned approximately $305 million (almost 28 percent) in unallowable or unsupported costs, including $223 million in unallowable contingency costs, including over $54 million in Recovery Act funds.

It is worth pointing out that of the three proposal audits we commissioned, two of the awardees' proposals were initially found to be unacceptable for audit. After much work, one of the proposals was ultimately audited; the auditors rendered an adverse opinion, finding that the proposal did not constitute an acceptable basis for the negotiation of a fair and reasonable price. The auditors found that the accounting system used to prepare the second proposal was inadequate; therefore, that proposal remains unaudited. NSF needs a much more robust process to ensure that it obtains better cost information before funding its major CAs. Inadequate proposals that contain large amounts of unallowable and unsupported costs undermine NSF's ability to serve as a proper steward of NSF funds.

As we worked with NSF to resolve the recommendations contained in the DCAA audits, we identified weaknesses in NSF's post-award monitoring processes for high-risk projects that compound our concern that unallowable costs could be charged to awards. In particular, we found that NSF does not routinely obtain incurred cost submissions or audits of direct or indirect costs claimed on its largest CAs to determine their allowability.

As with pre-award audits, incurred cost submissions and audits are not required for CAs by law or regulation, and we are not recommending that NSF obtain them for every CA. However, such submissions and audits are essential tools for ensuring accountability in high-risk, high-dollar projects. In their absence, unallowable costs charged to these awards may go undetected because

NSF lacks sufficient visibility over incurred costs. The failure to regularly obtain incurred cost submissions also has a negative impact on our office's ability to conduct incurred cost audits.

We have recommended that NSF, using a risk-based approach, develop end-to-end cost surveillance policies and procedures for its high-dollar, high-risk CAs to ensure adequate stewardship over federal funds. We have also recommended specific cost surveillance measures that could be undertaken at the pre-and post-award stages and that, at a minimum, NSF implement increased monitoring of CAs valued at over $50 million.

As mentioned, DCAA found significant amounts of unallowable contingency amounts in the proposed budgets for the large facility projects it reviewed. Given the amount of funds involved and the recurring nature of this finding, we decided to gain a deeper insight into how contingencies were actually used in construction projects by auditing NSF's EarthScope award, a closed construction project. We found that proposed contingency amounts were not consistent with OMB cost principles, there was a lack of visibility over contingency expenditures, and NSF approved the use of contingencies for non-contingent events. The significant internal control problems made it all but impossible for us to determine if contingency amounts were ultimately used to purchase unallowable items or to hide cost or schedule overruns. The lack of visibility also deprived NSF of the ability to routinely ensure the appropriate use of contingency funds. Accordingly, NSF risked not having funds available for true contingencies when the need arose and forfeited the use of those funds for other important projects.

The work my office has done clearly demonstrates that NSF is faced with a much bigger problem than contingency alone. Given the results of our proposal audits and the lack of incurred cost submissions and audits, it is clear that there are significant weaknesses in NSF's cost surveillance measures for awarding and managing CAs. Until those processes are strengthened, the Foundation cannot ensure that it is not overpaying for large construction projects.

We are optimistic that NSF is moving in the right direction to address the systemic problems relating to oversight of cooperative agreements. In December 2012 the NSF director charged a senior advisor in his office with coordinating a major assessment of processes, policies, and mechanisms for supporting large research facilities from conception to construction to operation and sun-setting. The stated goal of this endeavor is to create a vision and framework with recommendations, pathways and timelines for NSF to foster the best research infrastructure for decades to come. The advisor's final report is supposed to be completed in March of 2013, and the charge includes interim milestones.

Some of the analysis conducted by the senior advisor will touch on issues raised in our alert memorandum on CAs and our contingency-focused audits. Among other things, the charge specifically states the importance of ensuring that the processes used to estimate and support costs associated with large facility projects are robust, and ascertaining that NSF has strong methods for continuously ensuring that funds provided for these projects are used in accordance with NSF and federal requirements. It further states that the analysis and recommendations should address, among other things, the impacts of existing NSF policies and whether modifications or new policies are needed (including the potential need for process improvements

to enable informed funding decisions and to ensure accountability of funds through post-award monitoring and incurred cost audits). In light of this focus, it is likely that the outcome of this review process will significantly impact how our recommendations are resolved. Accordingly, my office is paying close attention to NSF's progress in this endeavor and providing feedback, as appropriate, based on our recommendations. Because NSF uses CAs to fund its riskiest and most costly large facility projects, strengthening controls in this arena will have a profound and beneficial effect on the agency's ability to act as a strong steward of federal funds.

Grants Management

NSF makes more than 11,000 awards annually, valued at approximately $7 billion, to about 2,000 institutions. Because NSF accomplishes its mission primarily through grants to individual researchers and institutions, robust oversight of grants management is essential for proper accountability over federal tax dollars intended to advance the progress in science. Undertaking such oversight can be challenging: unlike contractors, grant recipients request payments as an aggregate dollar amount and are not required to present supporting documentation, such as invoices and receipts, to receive payment from the agency.

Oversight and management of awards that is sufficient to safeguard federal funds invested in scientific research has been an ongoing challenge for NSF. The Foundation's FY 2011 financial statement audit noted several areas of concern about its processes for awarding and administering grants, including a lack of follow-up to determine whether awardees acted to correct problems identified in desk reviews and delays in resolving open audit recommendations. The FY 2012 audit stated that while improvements had been made in this area, improvements in internal controls over processing grant transactions were necessary and follow-up remained a concern. Previously, NSF has indicated that staffing constraints have caused it to reduce the number of site visits to monitor high-risk awardees and that increased workload has hampered its ability to resolve audit recommendations in a timely manner, but the agency reported that it completed the 30 site visits it planned to conduct in FY 2012.

For our part, in the face of these oversight challenges, the OIG is using automated techniques, which enhance our oversight and permit us to:

- Better identify high-risk awardees
- Expand audit coverage to 100 percent of expenditures
- Focus our limited audit resources on questionable expenditures.

Using automated techniques enables us to obtain data from multiple financial and program databases, which we can compare and analyze to identify anomalies in cost data and in award-expenditure patterns. These techniques provide a level of transparency over recipient spending well beyond that available from traditional methods. Examples of some of the data sources we can now use include funding payments, the System for Award Management (formerly the Excluded Parties List System), NSF award data, and general ledger data. Because these techniques are relatively new to the university community and to NSF, we have communicated extensively with NSF and with the university audit community about how we are using these tools in our work.

It is important to note that automated techniques are a starting point, not an end point and that they *complement, but do not replace,* traditional audit techniques. We will continue to use traditional audit tools including interviews, request for support for transactions, and discussions to request additional material as we conduct our work.

Our recent audit of a university which is among the top 30 largest NSF award recipients shows the impact of our new approach in that job. Analytics allowed us to look at more than 280,000 transactions posted to the 604 NSF awards the university had during our 3-year audit period. We also used analytics tools to cross check data from financial records and NSF data systems and to merge those two databases into a single database we could use for analysis.

Using this approach, university records told us, among other things, when equipment was purchased and how much was charged so we could identify whether items were allowable under the award and had been purchased after the grant expired. We also were able to quickly identify additional items for testing or new areas to perform tests as items came to our attention during audit work. We ultimately identified over $6 million in questionable expenditures. Our findings illustrate the value of using these techniques to provide a higher level of accountability over the billions of dollars in NSF awards.

Our audits of NSF awards have repeatedly questioned costs as result of internal control deficiencies such as unsupported cost sharing, unallowable labor costs, and charges for expenses unrelated to the NSF award, among other things. Automated techniques have significantly expanded our oversight capacity and given us a more robust method to determine whether awardees are using funds appropriately. It is important for NSF to take prompt action to address recommendations and to act swiftly to recover funds when they are found to be unallowable.

Contract Monitoring

Cost reimbursement (CR) contracts are inherently risky because the government assumes much of the risk that poor performance on the part of the contractor will result in cost overruns. In FY 2012, NSF obligated $402 million for all contracts. Of that amount, $282 million was for CR contracts, including $123 million in advance payments issued before work was done.

The OIG evaluates NSF's contracting practices primarily through the annual audit of the Foundation's Financial Statements. The FY 2010 financial statement audit repeated the FY 2009 findings of a significant deficiency in NSF's monitoring of cost reimbursement contracts. The FY 2010 financial statement audit contained seven recommendations focused on contracts, including that NSF continue to obtain incurred cost audits for cost reimbursable contracts, and that it obtain Cost Accounting Standards (CAS) disclosure statements from contractors and ensure that they are audited and approved in a timely manner. An incurred cost audit is an important tool which enables management to assess a contractor's compliance with the financial terms and conditions of a contract. An approved CAS disclosure statement is essential to establish how the contractor classifies and bills its costs and is a critical tool for conducting an incurred cost audit.

While NSF's most recent financial statement audit for FY 2012 no longer cited monitoring of cost reimbursement contracts as a significant deficiency as a result of strengthened procedures, it

stated that NSF management must continue to implement corrective actions to ensure that it maintains adequate control over such contracts. The FY 2012 audit noted two primary areas of ongoing concern with regard to monitoring of cost reimbursable contracts.

The first concern pertained to delays in completing incurred cost audits and the lack of approved CAS disclosure statements. The audit recommended that NSF continue to identify cost reimbursable contracts for incurred cost audits in order to ensure that costs billed to NSF are valid. The second concern cited incomplete oversight procedures with regard to the timely receipt of incurred cost submissions and the adequacy of contractors' accounting systems as well as the need to fully implement the recent changes to its Acquisition Manual. The audit made several recommendations to address these issues.

Ethical Conduct of Research

Research misconduct (defined as fabrication, falsification, or plagiarism at the federal level) damages the scientific enterprise, is a misuse of public funds, and undermines the trust of citizens in science and in government. For these reasons, pursuing allegations of research misconduct by NSF-funded researchers continues to be a focus of our investigative work. In recent years, we have seen a significant rise in the number of substantive allegations of misconduct associated with NSF proposals and awards. It is imperative to the integrity of research funded with taxpayer dollars that we ensure that NSF Principal Investigators carry out their projects with the highest ethical standards.

At a time when opinion surveys indicate that an increasing number of Americans are becoming distrustful of science, it is more important than ever that the conduct of scientific research not be tainted by instances of misrepresentation or cheating. Recent surveys suggest that 75% of high school students and 50% of college students admit to cheating, and 30% of researchers admit to engaging in questionable research practices. Consistent with these survey results, OIG has seen a dramatic increase in substantive allegations of plagiarism and data fabrication, especially with respect to junior faculty members and graduate students. Over the past 10 years, the number of allegations received by our office has more than tripled, as has the number of findings of research misconduct NSF has made based on OIG investigation reports.

Our research misconduct investigations follow NSF's Research Misconduct regulation, which is based on the government wide policy promulgated by the Office of Science and Technology Policy. Within our office, investigative scientists with Ph.Ds in chemistry, biology, and other scientific disciplines conduct these highly technical, complex investigations.

When we receive a research misconduct allegation, we first conduct a confidential inquiry to establish whether the allegation is substantive. This inquiry often involves confidential communication between our office and the accused subject and does not involve the subject's institution. If the subject provides an adequate explanation to dispel the allegation, our inquiry closes and only the subject is aware that the matter was brought to our attention. This protects the subject's reputation from being unjustly tarnished by frivolous or minor allegations.

If the allegation appears to have substance, we move into the investigation phase, which normally involves referring the case to the subject's institution for investigation. If the institution receives the allegation in the first instance, it conducts an inquiry and notifies OIG if it

determines an investigation is warranted. The institution conducts an investigation and provides us with its investigation report, which we review for fairness, accuracy, and completeness. If the institution's report is thorough and adequate for our purposes, we use it as the basis for our independent investigation; if the university did not fully address all of the issues, we conduct additional investigation ourselves.

Based on the university's report and any additional investigation on our part, if we conclude that the subject committed research misconduct under NSF's definition, we write an investigation report and provide the subject an opportunity to comment on our assessment of the evidence and recommended actions. After reviewing the subject's comments, we finalize the report and send it to NSF's Deputy Director for adjudication. If the Deputy Director concludes that the subject committed research misconduct and imposes actions, the subject can appeal the decision to NSF's Director, whose decision is final.

Research misconduct investigations can take anywhere from a year to several years. A number of factors, such as whether we have to refer the matter to a university, how long the university takes to complete its investigation, and the adequacy of that investigation, affect how long it takes to complete an investigation. Currently, we have 110 open cases and six staff, and we are seeing an increase in cases each month.

Since 2003, our investigations have resulted in 120 findings of research misconduct, more than 80 percent of which found plagiarism. Eighty nine percent of plagiarism allegations involved faculty while only 11 percent involved graduate students/post docs. In contrast, 53 percent of falsification/fabrication allegations involved graduate students/post docs, and 47 percent involved faculty. In the past two years, we have had 24 allegations of data manipulation involving students and post docs, which is equal to the number of similar allegations received from 2003-2010.

While NSF has been responsive to the recommendations contained in our research misconduct investigation reports, the actions it takes address incidents after the fact. Extrapolating the number of allegations OIG has received across the 45,000 proposals NSF receives annually, suggests 1300 proposals could contain plagiarism and 450-900 proposals could contain problematic data. Affirmative steps are necessary to counter the trends of increasing integrity-related violations. Since NSF funds research in virtually every non-medical research discipline, the agency is in a unique position to lead the government response to addressing these disturbing trends at all levels of education.

Congress passed the America COMPETES Act in 2007 to increase innovation through research and development, and to improve the competitiveness of the United States in the world economy. For NSF, the Act mandates new requirements to advance the professional and ethical development of young scientists, such as mentoring plans for all postdoctoral positions, and plans to provide training on the responsible conduct of research to undergraduates, graduate students, and postdoctoral researchers funded by NSF. NSF responded to the America COMPETES Act by instituting requirements that grantees submit mentoring plans for all NSF-supported "post-docs" and have RCR training plans for NSF-funded students. The NSF guidance

as to what these plans should consist of was limited and offered great flexibility to grantee institutions to develop plans tailored to their needs.

Our staff have observed a great deal of variety in grantee RCR programs, which range from high quality mentoring programs to ones that simply refer students to web-based or computer-based training. In addition, information collected from our site visits and investigations suggests that some institutions are not taking these requirements seriously, thereby potentially undermining the public's confidence in the research enterprise and placing NSF funds at risk. Accordingly, our office is developing a process to examine how awardees have established RCR training programs now that sufficient time has passed for the research community to implement the America COMPETES RCR requirements. We plan to assess institutions' commitment to the program (including resources) and how expectations for the program are communicated to faculty and students. We also plan to examine, among other things, course structure and content, participation requirements and options, faculty participation, and oversight. We are currently working with the Office of Management and Budget to obtain approval to begin this review in FY 2013.

Conclusion

My office values, and is firmly committed to, its mission to detect and prevent fraud, waste, and abuse within NSF or by those who receive NSF funding. These are challenging times to be in federal public service. Yet every day I witness the commitment of OIG auditors, investigators, and others to doing work that leads to recommendations to improve NSF's ability to exercise strong stewardship over the taxpayer dollars intended to advance scientific research.

Taxpayers expect government managers to be prudent custodians of agency funds in both good times and bad, but expectations are even higher when federal deficits are large and budgets are tight. We will continue to target our work and to direct our resources to areas that pose the highest risk of misuse of taxpayer dollars and can lead to funds used inappropriately being returned to the government. Our work reflects my office's sustained commitment to helping NSF be an effective steward of taxpayer dollars and benefits from the support of NSF management across the Foundation. We look forward to our continued partnership with NSF and the Congress to this end.

This concludes my statement; I would be happy to answer any questions.

Chairman BROUN. Thank you, Ms. Lerner.

And now, Mr. Smith, you are recognized for five minutes. Thank you.

TESTIMONY OF MR. DAVID SMITH,
DEPUTY INSPECTOR GENERAL,
U.S. DEPARTMENT OF COMMERCE (DOC),
OFFICE OF INSPECTOR GENERAL

Mr. SMITH. Thank you. Chairman Broun, Ranking Member Maffei, Committee Chairman Smith, and Members of the Subcommittee, I appreciate the opportunity to testify today about the Department of Commerce's top management challenges in fiscal year 2013.

The Department plays a pivotal role in implementing the President's initiatives for economic recovery and job creation. Like other federal agencies, Commerce faces significant financial uncertainty this year. I will describe five top management challenges which we have identified from our oversight perspective to be the most significant management and performance challenges facing the Department of Commerce.

First, stimulate economic growth in key industries, increase exports and enhance stewardship of marine fisheries. The Department has many government-wide initiatives to implement the President's priorities. Successful implementation could have a profound impact on the Nation's economy. However, it requires focused attention by senior management, close coordination with the private sector and other federal agencies, and sustained Congressional support.

Second, increase oversight of resources entrusted by the public and invest for long-term benefits. In this era of constrained budgets, there is a greater risk that management will take shortcuts, loosen internal controls and deemphasize oversight to devote resources to other requirements. Therefore, attention to internal controls is critical.

Third, strengthen security and investments in information technology. Our recent audits of bureau IT systems confirmed the urgency of fixing the Department's security weaknesses. While we support senior management's recent actions to strengthen the Chief Information Officer's authority, it is too early to judge their effectiveness.

Fourth, implement a framework for acquisition project management and improved contract oversight. In fiscal year 2011, the Department obligated approximately $2.4 billion on contracts for goods and services. To maximize these funds, Commerce needs to strengthen its acquisition and contract management practices. While it has made some progress, we continue to find weaknesses in how the Department plans, administers, and oversees its contracts. For example, our recent audit of contract award fees and award terms found more than $100 million in questioned costs and funds that could have been put to better use.

Fifth, reduce the risks of cost overruns, schedule delays, and coverage gaps for NOAA's satellite programs. Satellite programs remain the Department's largest investment. They encompass almost 20 percent of Commerce's budget. Top-level management attention

will continue to be needed to prevent cost overruns and minimize the impact of satellite coverage gaps. We recently issued a report on the Joint Polar Satellite System program and are completing work on an audit of the Geostationary Operational Environmental Satellite-R Series program.

Over the past several years, the Department has experienced many challenges in the areas I have discussed here. To its credit, top-level management is working diligently to address its management challenges. Commerce leadership must continue to show the way forward to establish a culture of accountability—this is perhaps their greatest challenge of all.

Again, we appreciate the opportunities to appear before the Subcommittee today, and I will be pleased to respond to any questions you may have. Thank you.

[The prepared statement of Mr. Smith follows:]

Testimony of

David Smith
Deputy Inspector General

U.S. Department of Commerce

before the

House Committee on Science, Space, and Technology

Subcommittee on Oversight

Top Challenges for Science Agencies:
Reports from the Inspectors General, Part I

February 28, 2013

Chairman Broun, Ranking Member Maffei, and Members of the Subcommittee:

I appreciate the opportunity to testify today about the Department of Commerce's top management challenges in FY 2013. The Department plays a pivotal role in implementing the President's initiatives for economic recovery and job creation and, like other federal agencies, faces significant financial uncertainties in the upcoming year. Our Top Management Challenges report identifies what we consider, from our oversight perspective, to be the most significant management and performance challenges facing the Department.

We identified five major challenges that represent cross-cutting issues with a focus on the President's most important goals and longstanding departmental management concerns.

1. Stimulate Economic Growth in Key Industries, Increase Exports, and Enhance Stewardship of Marine Fisheries

The Department is at the center of the federal government's efforts to stimulate economic and job growth in key industries and promote exports, while at the same time regulating exports and maintaining the delicate balance between promoting and regulating the commercial use of marine fisheries. These efforts require the Department to work effectively with interagency partners and the private sector as well as to marshal and integrate Commerce resources. We have identified three areas for management attention:

- stimulate economic growth in manufacturing, intellectual property, and wireless industries
- promote and regulate exports
- protect and promote marine fisheries

2. Increase Oversight of Resources Entrusted by the Public and Invest for Long-Term Benefits

The Joint Select Committee on Deficit Reduction was tasked with seeking $1.5 trillion in government-wide savings over the next 10 years. The Committee did not agree on spending reductions, resulting in a potential sequestration that will trigger across-the-board budget cuts beginning in March 2013. Departmental programs will be deeply affected. As the Department prepares for this extended period of tighter budgets and decreased spending, it is more important than ever to understand the risks associated with making trade-offs in allocating resources between the implementation of programs and the oversight of those programs.

Also, after experiencing significant cost increases in the last decennial (from $8.2 billion to $12.8 billion between 2000 and 2010 decennials), the Census Bureau—a Departmental component—has vowed to contain cost of the 2020 decennial by making critical design decisions by the end of FY 2014. However, it has already encountered significant challenges in achieving this goal. While the nation is facing significant financial

hardship, the Department and Census Bureau simply cannot afford to repeat the cost growth experienced over prior decennials. We have identified three areas for management attention during a period of funding uncertainty:

- increase internal controls and oversight of Departmental operations under a constrained budget
- invest for efficiencies and long-term benefits
- implement bold design changes to contain 2020 decennial costs while maintaining enumeration quality

3. Strengthen Security and Investments in Information Technology

In FY 2012, the Department planned to invest $2.4 billion in IT. This is about 25 percent of its annual budget and one of the highest percentages devoted to IT among all civilian agencies. The Department and its constituent bureaus rely on IT to support major mission activities, such as producing the constitutionally mandated decennial census; releasing vital economic statistics (e.g., the gross domestic product and consumer spending); granting patents and trademarks; issuing severe weather alerts; and operating weather satellites. However, we have identified major concerns in the Department's IT security posture and fragmented IT governance. While the Department's Chief Information Officer has taken steps to strengthen IT governance, we continue to find significant security vulnerabilities in bureau systems, which could lead, and already have led, to service disruptions and loss of sensitive information. We have identified four areas for management attention:

- continue improving the Department's IT security posture by addressing persistent security weaknesses
- develop resilient incident response and recovery capabilities with increased monitoring of Internet traffic
- manage the Department's IT portfolio with enhanced governance structure
- strengthen oversight of IT investments

4. Implement Framework for Acquisition Project Management and Improve Contracts Oversight

In FY 2011, the Department obligated approximately $2.4 billion on contracts for goods and services, including satellite acquisitions, intellectual property protection, broadband technology opportunities, management of coastal and ocean resources, information technology, and construction and facilities management. To maximize these funds, the Department needs to strengthen its acquisition and contract management practices. While it has made some progress—such as reorganizing the Office of Acquisition

Management to more directly address major acquisition initiatives and implementing an Acquisition Center of Excellence, which will consolidate acquisition support for the Department's smaller bureaus, our audits continue to find weaknesses in how the Department plans, administers, and oversees its contracts. We have identified four areas for management attention:

- implementing the planned framework for acquisition project management
- overseeing high-risk contracts
- maintaining an acquisition workforce that holds bureau officials accountable
- implementing an effective suspension and debarment program

5. Reduce Risks of Cost Overruns, Schedule Delays, and Coverage Gaps for NOAA's Satellite Programs

Managing risks in the acquisition and development of the next generation of environmental satellites is a continuing challenge for the Department. The two most prominent programs, the Joint Polar Satellite System (JPSS) and the Geostationary Operational Environmental Satellite-R series (GOES-R), together account for one-third of NOAA's FY 2013 budget request. They are also the largest investments in the Department, comprising nearly 20 percent of the Department's budget. The satellites will provide data and imagery for weather forecasting—including severe-storm tracking and alerting—and the study of climate change. Operating environmental satellites and weather forecasting are designated as primary mission-essential functions of the Department because they help lead and sustain the nation in the event of a catastrophe. Yet, because of cost overruns, schedule delays, and the aging of NOAA's current constellation of satellites, NOAA is confronting coverage gaps for these critical assets.

Strong program management and close oversight of these programs are needed to manage risks that inevitably lead to cost overruns, schedule delays, and coverage gaps for the critical capabilities these programs will provide. Based on our work with these programs, we have identified four areas for management attention:

- communicating with stakeholders to define JPSS capabilities, schedule, and cost baselines
- ensuring adequate leadership and governance structure over JPSS development
- developing a plan to support NOAA weather forecasting capabilities during coverage gaps
- reducing program risks associated with GOES-R development

This concludes my prepared statement, and I will be pleased to respond to any questions you or the other Subcommittee members may have.

Chairman BROUN. Thank you, Mr. Smith. Excellent job by all our witnesses staying within your time constraints, and I trust that all Members on both sides are very pleased with our witnesses' testimony, and I appreciate you all's testimony, you all being available for questioning today.

Reminding Members that Committee rules limit questioning to five minutes, the Chair at this point will open the round of questions. The Chair recognizes himself for five minutes.

"Other Transaction Authority," may sound like a mundane term, but agencies are increasingly relying on this obscure acquisition tool. Normally, agencies must comply with federal contracting law but oftentimes Congress gives agencies other mechanisms in which to enter agreements outside of the law. In the instance of NASA, they were provided the Space Act Agreement, which is authority given in 1958 when the agency was created in order to advance NASA's mission and programs by cooperating with outside entities. The NSF authority was granted by 31 U.S.C. Section 3605. Initially designed to only fund small projects, this is a serious concern for this Committee. NASA used Space Act Agreements to fund $750 million development of the Commercial Orbital Transportation System, and NSF has over 685 Open Cooperative Agreements totaling nearly $11 billion to fund the construction of its major research facilities. The NASA IG just initiated an audit of the NASA Space Act Agreements on Monday. I appreciate you all doing that. But it was initiated on Monday and the NSF IG issued an alert memo on Cooperative Agreements last September, and thank you also.

Mr. Martin and Ms. Lerner, to the best of your knowledge, how has this Other Transactional Authority implemented—how is this Other Transactional Authority implemented by the agency that you oversee? Ms. Lerner will start first. Ladies first.

Ms. LERNER. NSF, as we noted, has 685 Cooperative Agreements. Thirty-eight of those are over $50 million, so the area of greatest concern to my office obviously is the high-dollar, high-risk Cooperative Agreements, and the concern that we have based on the work that we have done is that there aren't adequate oversight controls in place to ensure that the funds that are directed to those types of awards are properly stewarded and subject to the same sort of accountability that you would expect in these lean budget times. We have conducted several audits and provided a great deal of feedback to the agency in that area.

Chairman BROUN. Thank you very much. If you will please let this Committee know what we need to do to try to rectify that.

Mr. Martin?

Mr. MARTIN. NASA has three types of Space Act Agreements it has entered into. There are over 700 reimbursable Space Act Agreements, approximately 500 non-reimbursable Space Act Agreements, and three or four what they call funded Space Act Agreements. As you indicated in the preface to your question, earlier this week we initiated an audit looking at all three of these types of Space Act Agreements focusing in particular on reimbursable Space Act Agreements to ensure that NASA is getting and the taxpayer is getting its appropriate funding.

Chairman BROUN. Okay. I am going to ask a series of questions, both of you all, if you would answer this. Is the agency required to provide advance notice of solicitation? How do the agencies ensure fair competition? Are they required to make a public list of all agreements and amounts in a transparent manner? And are there sufficient controls to prevent waste, fraud and abuse as well as mismanagement? Mr. Martin?

Mr. MARTIN. You have raised a lot of the questions that are the focus of our ongoing audit now. The GAO looked at the issue of Space Act Agreements in the last 2 or three years, did some high-level work of checking on sort of broad internal controls. The IG's office at NASA is going to do a deep dive and get into the details of these agreements.

Chairman BROUN. Very good. Ms. Lerner?

Ms. LERNER. I do believe that NSF requires advance notice of solicitation or competition for all of its large cooperative agreements, and certainly, as I noted earlier, our office does have real concerns about whether there are sufficient controls in place to prevent fraud, waste and abuse.

Chairman BROUN. Well, please make sure that this Committee is notified because we want to be sure that there is transparency as well as to prevent waste, fraud and abuse.

Mr. Martin, this Committee is reviewing allegations related to ITAR violations at the Ames Research Center, and there seem to be very grave allegations there as far as mismanagement there. It is our understanding that your office has already reviewed these allegations. In order to assist our oversight, please provide the Committee with all records relating to your office's review of these allegations. I appreciate your doing so. Thank you. Is that an assurance that we can get those?

Mr. MARTIN. Yes, we are actually having a conversation tomorrow with a staffer from your Committee as well as Mr. Wolf's committee to go over some of these issues related to the concerns about export control matters at Ames Research Center.

Chairman BROUN. Well, there are just tremendous allegations there of tremendous waste, fraud and abuse in that instance, so I hope that you all will look into them very strongly and look at those allegations.

My time is up. Now I recognize Mr. Maffei for five minutes.

Mr. MAFFEI. Thank you very much, Mr. Chairman.

Mr. Smith, are you aware of any investigations of suspected Anti-Deficiency Act violations happening in the Commerce Inspector General's Office during Mr. Zinser's tenure?

Mr. SMITH. Yes, sir.

Mr. MAFFEI. You are aware? Can you enlighten us as to any details about that suspected violation and how it was investigated?

Mr. SMITH. I want to make sure I understand your question. Are you referring to investigations——

Mr. MAFFEI. I am referring to an investigation of a suspected Anti-Deficiency Act violation within the IG's Office itself. In other words, the IG's Office may or may not have but there is an allegation that it violated the Act.

Mr. SMITH. No, sir, I am not.

Mr. MAFFEI. Okay. You are not. Okay. Given that you have been about eight weeks at your job?

Mr. SMITH. I think I am into my third month—my first trimester. Yes, sir.

Mr. MAFFEI. So am I. So anyway, I respect that, but also I want to point out to the Committee that Mr. Smith wouldn't necessarily know even if there was. At this point he hasn't been there very long.

The law does require that an Anti-Deficiency Act violation can only be declared as having happened officially through a decision in the agency's general counsel office. Do you know if Mr. Zinser's office has ever had to refer a suspected Anti-Deficiency Act violation on his own office to the Department of Commerce General Counsel?

Mr. SMITH. No, sir.

Mr. MAFFEI. Of course. No, you don't know?

Mr. SMITH. I don't know.

Mr. MAFFEI. Okay. Just trying to figure out how this would all work. I want to ask Mr. Martin and Ms. Lerner, what would happen if there was a suspected Anti-Deficiency Act violation within an IG office? In other words, if the IG's office spends money improperly, who would investigate that? Would the IG himself or herself?

Mr. MARTIN. If it is an allegation against the Inspector General him or herself, there is an overarching organization called CIGIE made up of Inspectors General. There is an integrity committee as part of CIGIE and the allegation of misconduct would go to that committee.

Mr. MAFFEI. Ms. Lerner, you agree with that?

[Nonverbal response]

Mr. MAFFEI. Okay. Thank you very much.

Mr. Smith, I just ask if you could look into it just to see if there was any suspected Anti-Deficiency Act violation. These things could represent real waste. They could also just be a technical issue, so if you wouldn't mind checking and providing that information for this Committee?

Mr. SMITH. Yes, sir. I would ask to get together with your staff to find out any further details, so I could better do that.

Mr. MAFFEI. That would be very good for us.

Mr. SMITH. Thank you.

Mr. MAFFEI. Now, we have gotten a report the Inspector General specifically advertised for investigative staff in the State of Arizona and hired an investigator based in Arizona and now pays for that employee to spend up to three weeks every month in the DC. area. Now, if that is true, it would represent real waste of taxpayer money as you have to pay the base pay, of course, but as well as temporary duty pay for the time they spend in Washington, and this could be several thousand dollars each month. Do you know how many employees at the Commerce IG's Office, employees who are put on regular TDY status for more than a week a month?

Mr. SMITH. I know of one investigator we currently have on staff who is working out of our Denver office on investigations he is conducting out in that area.

Mr. MAFFEI. Do you know how much time he spends in Washington every month?

Mr. SMITH. No, sir, I don't have that information available.

Mr. MAFFEI. Could you find out, and also whether there are any other employees that are on this TDY status for more than a week a month——

Mr. SMITH. Yes, sir.

Mr. MAFFEI. —on a regular or semiregular basis? Do you have any idea how much—well, let us leave it at that.

Obviously, Mr. Chairman, I am worried that these issues with this office could extend to waste in management of the taxpayer funds by the IG himself. These are things that the Committee staff here has had multiple sources on. So I would like to at least see if we can't get the Commerce IG's Office to sort of address them. Some of them are obvious. If there is an employee that lives in Arizona and spends lots of time in Washington, D.C., those are facts. We can find that out. So I would like to make sure that the IG's office is willing to provide us with that information. We do rely on the Inspector Generals to be the watchdog on everyone else, so it is one of those things that we want to make sure that they are careful stewards of taxpayer money themselves for their own operation, and then we will also look into the—what is it called? CIGIE? We will also look into CIGIE.

So thank you very much, Mr. Chairman. I yield back the remaining three seconds of my time.

Chairman BROUN. Thank you, Mr. Maffei.

What is CIGIE? What is that an acronym for?

Mr. MARTIN. This is one of the worst acronyms in government. Council of the Inspectors General on Integrity and Efficiency.

Chairman BROUN. Okay. Thank you very much. I just wanted that for edification.

I now recognize the Chairman of the full Committee, Mr. Smith from Texas, for five minutes.

Chairman SMITH OF TEXAS. Thank you, Mr. Chairman.

Mr. Martin, thank you for your testimony. We appreciate the good job you have been doing over the years as well. You mentioned James Webb in your testimony a few minutes ago having been behind schedule and over cost. Has that generally been corrected, to your knowledge? I happen to have spoken to the Administrator of NASA yesterday, and he seemed to think that James Webb was going to be fully funded and on schedule—get back on schedule. Do you see it that way too?

Mr. MARTIN. I do. And in fact, I was at the Johnson Space Center on Tuesday of this week, and they have a thermal vacuum chamber they are retrofitting, built in the 1960s, and they are going to put James Webb Space Telescope in there and ice it down.

Chairman SMITH OF TEXAS. I expect to be there in March, and I will double-check, so that is good news.

Ms. Lerner, you referred to questionable expenditures. We have heard about grant problems—you mentioned those as well—research misconduct and so forth. I don't know that you have got much into the way of solutions, if you want to mention a couple of solutions, but I would also ask you just for a rough estimate as to how many colleges or universities sort of had been suspected of—

I am not going to find them guilty right now—but have been allegedly engaged in some of these questionable practices. So two questions. How many universities, colleges do you think need a second look at their expenditures, and two, do you have some solutions?

Ms. LERNER. In terms of the first question, the large facilities that we are interested in are often run not by colleges and universities but by consortiums of nonprofits.

Chairman SMITH OF TEXAS. I know. I was asking about a subset because they have been getting some attention.

Ms. LERNER. Exactly. So I don't have precise numbers on that. We can certainly try and get back to you on that.

Chairman SMITH OF TEXAS. Great. And I would actually like the names as well.

Ms. LERNER. Okay.

Chairman SMITH OF TEXAS. Okay.

Ms. LERNER. We will do what we can there. On the issue of research misconduct, and that is defined as fabrication, falsification and plagiarism at the federal level, over the last ten years, we had approximately 850 allegations of plagiarism and 150 approximately allegations of fabrication or falsification of data. Those are allegations. We have had 120 findings of research misconduct.

Chairman SMITH OF TEXAS. Which represents an increase, I understand, over the past few years.

Ms. LERNER. Exactly. We are seeing a particular increase in the area of data manipulation. In the last two years, we have gotten 24 allegations of data manipulation, and that is the same amount as we got in the previous seven years.

Chairman SMITH OF TEXAS. Now, what do you do when you see evidence, of this getting to the idea of solutions, do you call it to their attention? Do you have oversight? Do you threaten? What do you do?

Ms. LERNER. We absolutely call it to their attention. NSF, as with other science funding agencies, has a regulation for how you investigate research misconduct, and we play an integral part in that process at NSF. All allegations of research misconduct are supposed to be brought to the IG's attention. We do an initial inquiry to try and see if it looks like there is substance to the allegation. If there is, then we refer the matter to the university for investigation. When we send the matter to the university for investigation, we examine the procedures that they have in place for conducting those investigations. We look at the people who are going to participate in the panel that does the investigation to see if——

Chairman SMITH OF TEXAS. Now, are you generally satisfied with the subsequent actions taken by university officials?

Ms. LERNER. For the most part, yes.

Chairman SMITH OF TEXAS. Being corrected and so forth?

Ms. LERNER. Exactly, and if they don't do it right, then we fix it when it comes to us.

Chairman SMITH OF TEXAS. Okay. Thank you.

Mr. Smith, is it true that Inspector General staff was prohibited by NOAA from attending some of the program management council meetings?

Mr. SMITH. Yes, sir.

Chairman SMITH OF TEXAS. And why is it important for Inspector General staff to attend those meetings?

Mr. SMITH. To give you one example, we received the notes and minutes from a meeting, which said a decision had been made based on discussions that had occurred during the meeting. We were not privy to those discussions so we do not know what management's thought process was. Therefore, we cannot opine on that nor can we provide any information that may benefit them.

Chairman SMITH OF TEXAS. Would you object if I sent a letter today to NOAA insisting that they allow Inspector General staff to attend such meetings?

Mr. SMITH. I would thank you very much, sir.

Chairman SMITH OF TEXAS. Okay. Consider it done.

Thank you, Mr. Chairman. Yield back.

Mr. POSEY. [Presiding] Thank you. Mr. Peters, you are recognized for questions.

Mr. PETERS. Thank you, Mr. Chairman.

I have a question for Mr. Smith. On December 3, 2012, the Washington Post published a story about how the Commerce Inspector General, Mr. Todd Zinser, forced departing senior investigative staff into signing nondisclosure agreements, which barred those four members of his staff from approaching either the Office of Special Counsel, which exists to protect whistleblowers, or Congress to discuss what they had witnessed in Mr. Zinser's office, and Mr. Smith, I assume you saw that story.

Mr. SMITH. Yes, sir.

Mr. PETERS. Have you asked for an explanation about what would be the reason to do that either from Mr. Zinser or Mr. Beitel, who is the Principal Assistant Inspector General for Investigations and whistleblower protections, or Wade Green, the General Counsel?

Mr. SMITH. In answer to your question, sir, I would say that I am aware of the circumstances behind that, and we, as the Office of Inspector General, disagree with the characterization that appeared in the press.

Mr. PETERS. Okay. In what respect?

Mr. SMITH. We do not believe that the interpretation that was provided—that those were gag orders—is correct. We actually used the definition of disparage within the EEOC website, which is the "telling of falsehoods and lies with reckless regard to the truth." That is the connotation that was used. In addition, we have been working with OSC and through the Merit Systems Protection Board, and they have requested through the arbitrator that we submit a joint motion to dismiss the stay as well the protective order. The last we heard from OSC, was that they consider through the additional language that we submitted on those nondisclosure agreements as well as the Whistleblower Enhancement Act that was passed, that the concern about enforcing the separation agreements the stay and protective order were meant to prevent is no longer an issue.

Mr. PETERS. Has the Committee been provided copies of those agreements?

Mr. SMITH. I believe they have, sir.

Mr. PETERS. I am sorry. I haven't seen those. I guess I would express to you a concern that there be any kind of inhibition placed on what people might say because even if—I guess what you are saying is that the limitation was confined to what would be considered disparaging remarks?

Mr. SMITH. Yes, sir, lies, falsehoods.

Mr. PETERS. Okay. I guess I would like to see for my own purpose, and I will look at those agreements. In the context of open government, which is particularly important in California and we think works pretty well, that when people make statements, whether they are lies or not, are the kinds of things that can shake out in the sunshine and that we don't want to ever intimidate people from making statements about what is going on because they are afraid that they are going to be in some sort of litigation or be accused of lying or telling a falsehood. That in itself can be intimidating. So I must say that I will wait to see the result of what OSC says but it raises a great concern that anyone would be asked to sign anything that inhibits their ability to talk in the context of the whistleblower law that has been provided for our protection and for the protection of taxpayers.

And I realize you are new and that this preceded you. I guess you and Mr. Maffei and I are kind of all on the same timeline. But I found that—and I understand we are in politics. We know that everything you read in the press isn't necessarily always 100 percent accurate but I will say that this is extremely—was something of great concern when I heard about it, and I look forward to following up on it in the future.

Mr. SMITH. Yes, sir. If I may, I actually understand that kind of intimidation and fear if employees disclose things. I myself had to sign a nondisclosure agreement when I left the employment of the House and was warned on numerous occasions not to discuss any of the work that I had done here.

Mr. PETERS. Well, unless it is classified material, I think that that is inappropriate, and so I would say the notion that we would do that, I think, is equally inappropriate unless it is classified, so I guess I would take that not as justification but something we ought to look into ourselves.

Maybe I will ask Ms. Lerner or Mr. Martin, are you aware of any instances in which your agencies, your IGs might have asked people to sign these kinds of nondisclosure agreements?

[Nonverbal response]

Mr. PETERS. Mr. Martin is giving me a no, and Ms. Lerner. I can see that even without their microphones on, so I would ask the record to reflect that, and again I express my deep concern about this kind of behavior. I hope it does not remain the norm.

Thank you, Mr. Chairman. I yield back.

Mr. POSEY. Thank you. The Chair will now recognize the Chair for five minutes.

Mr. Martin, you issued a report a couple weeks ago on NASA's management and infrastructure standards, and in that report, you use the term "political intervention", and I want to ask you about three examples of political intervention. Number one, the Arc Jet facility at Johnson, the platform for the A3 test stand at Stennis, and of course, the Constellation. On your report, page 21, you men-

tion a letter signed by 30 Members of Congress, most of them from Texas, opposed to the closing of the Arc Jet facility at Johnson. I am informed that the Arc Jet facility was needed to test Orion's Constellation crew capsule, still going to be used by the way, their heat shield, so I can understand why Members of Congress oppose closing down the Arc Jet facility because it could jeopardize the upcoming SLS. That is number one.

Number two, the A3 test stand at Stennis. Your report on page 22 also flagged the A3 test stand as political intervention. The test stand was intended to test the J–2X engines for Constellation. As you know, Congress included language in the 2010 NASA Authorization Act instructing NASA to complete the test stand, which NASA wanted to mothball. You note that the stand was already 65 percent complete and taxpayers had spent $292 million but your report fails to mention that the test stand was canceled because the Administration canceled Constellation. I think that is correct. Both Democrat and Republican Congresses had endorsed Constellation as a replacement for the space shuttle or the successor program. Why do you interpret actions by Members of Congress, including a law passed by Congress and signed by the President, as political interference, but don't consider the cancellation of Constellation as political interference?

Mr. MARTIN. I think that what we were attempting to do in that report, and I thought we were effective in doing so, was pointing out the many obstacles that stand in NASA's way to reducing its aged infrastructure, but one of the things we pointed out was the interest of Members of Congress to retain certain infrastructure and capabilities at centers within their States or within their districts. A lot of the other problem that NASA has with handling its infrastructure is the fact that it is sort of changing programs or changing directions, and as you pointed out the cancellation of the Constellation was a major shift in the approach for manned space flight.

Mr. POSEY. I don't mean to interrupt you but we are on a very tight time schedule here. Did the Administration have a right to cancel the program put into law by Congress?

Mr. MARTIN. I don't believe that is a question that an Inspector General at an agency is appropriate to answer. Did they have a legal right to do so?

Mr. POSEY. Yeah. Is that appropriate? I think you are supposed to tell us if we are operating according to good standards, and I think that is a significant question that demands an answer, which nobody has really been willing to step up and talk about. You have a Congressional program in place and an Administration that unilaterally cancels the program. Nine billion dollars flushed down the toilet, and you don't think that ought to be on the radar screen?

Mr. MARTIN. It certainly is on Congress's radar screen and the Administration's. In the NASA Authorization Act of 2010, Congress worked with the Administration and came up with a new direction for moving forward. You mentioned the SLS and the MPCV. It is not an Inspector General's role to say whether that is good policy or bad policy. It is the Inspector General's role to follow the money.

Mr. POSEY. Well, these instances that you mentioned in your report I think were directly linked to and inextricably entwined with those decisions, and like I said, I am new on this Committee.

Mr. MARTIN. Right.

Mr. POSEY. And I don't have all the background, but during the review that I have done, I hadn't seen that issue addressed, and I think it would be significant and I think maybe some other Members of the Committee would have an interest in knowing that too.

Mr. MARTIN. Again, we were pointing out those significant pressures on NASA of multiple kinds including political pressures, when it is attempting to address an issue of how to handle its aging infrastructure.

Mr. POSEY. I see my time is expired. Mr. Schweikert, you are recognized.

Mr. SCHWEIKERT. Thank you, Mr. Chairman.

Ms. Lerner, you actually had a couple things in your testimony that I found interesting. First one. You were saying you were starting to do some—forgive me for paraphrasing—data mining to find bad acts. Can you share with me first what you are doing within that modeling and how effective you are finding it?

Ms. LERNER. What we are doing is augmenting our traditional approach to auditing by using data analytics, and data analytics enable us to better target. If we do 20 or 30 audits in a year, that is all that we can do, so we have to, when NSF makes thousands of awards a year, be very careful of where we go and do our audit work. Data analytics enables us to better target our limited resources to the right places where risk looks to be high, and when we get to the institution, then we are able to instead of looking at two or three awards that have NSF money and 20 to 30 transactions in each, we can look at all of the awards and all of the transactions under them and identify anomalies that warrant further review. It is a starting point, not an endpoint, but it greatly enhances what we can see and how we can do our work.

Mr. SCHWEIKERT. And Mr. Chairman and Ms. Lerner, I am actually a big fan of that. I am actually married to someone who one of her specialties was accounting models and—accounting data in the statistical models and trying to find those anomalies, and it gives you a chance to be able to look at huge data sets and find the center, and I hope actually from up and down the auditing world out there that we are seeing more of this.

I am going to commit one of my sins here, and you also touched on that you have found some fraud and some bad acts. Real quickly, would you tell me anecdotal—of something you consider outrageous and how it was conducted?

Ms. LERNER. You mean using the new data——

Mr. SCHWEIKERT. No, no, just anything that was found.

Ms. LERNER. We certainly see situations with NSF awards, where the work is completed but funding remains and then, long after the award is done, costs from other projects are transferred to it to use up the awards, that don't have anything to do with the reason that the award was provided in the first place.

Mr. SCHWEIKERT. Mr. Chairman, Ms. Lerner, so what you are saying is, where a university or institution may have multiple——

Ms. LERNER. Awards.

Mr. SCHWEIKERT. —awards, they run their fund dry and they start to do transfer of costs?

Ms. LERNER. Yes. We can see that now with these new techniques.

Mr. SCHWEIKERT. And the data mining also will—is to get enough to look for all those types of silos?

Ms. LERNER. Absolutely. It is amazing what we can see, and it enables us to have a much stronger set of evidence when we go to the agency with better support for the costs that we are questioning.

Mr. SCHWEIKERT. Mr. Chairman, Ms. Lerner, not that I don't love the rest of you but this one interests me. Do you also end up finding—using the data auditing mechanics on also how awards are given out, not only how they are performing? Because over the years we have had, even on a personal basis, lots of noise on how National Science Foundation ultimately does their awards and sometimes how certain personalities of people with great writing skills. Is there a data metric to sort of audit why and where those awards are going?

Ms. LERNER. We haven't established metrics in that area but certainly if the data exists, it is something that could be done. The question is coming up with the right business rules to put into the system to surface the anomalies.

Mr. SCHWEIKERT. I think there was some chart going around last year showing how certain institutions seem to dominate in collection—obtaining the awards where a lot of—so if you look sort of the bell curve, it is sort of going to just sort of a handful of institutions. Am I off base on that?

Ms. LERNER. I sincerely doubt that you are.

Mr. SCHWEIKERT. In my last couple seconds to our other gentlemen, data mining being used in your areas of specialty?

Mr. SMITH. Sir, the data mining is not necessarily being used at the Department of Commerce but when I did work at the Defense Finance and Accounting Service, we used it extensively. In fact, the gentleman behind me, Mr. Brett Baker, was in charge of that whole project and we found discrepancies within the purchase card program within the charges billed by transportation companies for military household moves as well as many, many other things.

Mr. SCHWEIKERT. And I am over time, but Mr. Martin?

Mr. MARTIN. The same thing. We have done audits of credit cards, purchase cards, also SBIR audits, Small Business Innovation Research grants that NASA awards.

Mr. SCHWEIKERT. I am over time, but Mr. Chairman, thank you for your patience, but when we ask multibillion-dollar programs to be, you know, if we were private sector, there would be hundreds and hundreds of auditors for things that big. Maybe data is actually part of the future of how we find bad acts.

Chairman BROUN. Thank you. All of us, Mr. Schweikert, are very interested in doing this, and people have to be held responsible and accountable.

We are going to have votes in about somewhere between 10 and 15 minutes from now, so we are going to go to a second round of questions for two minutes each, so if you could, just make sure that

your answers are real tight and short if you could so that we can get as much done here before we have to go for votes.

Conducting oversight on NOAA took up a disproportionate amount of this Subcommittee's time last year, or in the last Congress, actually. One of the recurring weaknesses that we encountered was the poor financial management of the agency. We have seen numerous Anti-deficiency Act violations: the solicitation of a magician for training purposes, an independent review team's description of CFO's oversight of the JPSS program as "dysfunctional", a fisheries enforcement accounting system that incentivized corruption and a budget development process that is no longer tied to requirements. Mr. Smith, given the gross negligence that we uncovered in Congress last year, what work are you planning for the coming year tied to NOAA financial oversight? And before you answer, let me just tell you, Mr. Martin, Ms. Lerner, I hope you all are looking in these same sorts of things, but I am focused on Mr. Smith and NOAA at this point. Mr. Smith?

Mr. SMITH. We currently continue to receive hotline complaints concerning the NOAA reprogramming. We are very glad that NOAA has brought on Grant Thornton to review their budget books. We are continuing to talk to NOAA officials. We are very glad to see that they brought on a permanent CFO to review this matter. In addition, we just finished an audit of the JPSS program and are currently doing an audit of the GOES–R program, so we are still actively involved in the high-risk areas and the known problems within NOAA.

Chairman BROUN. Is it appropriate for Grant Thornton to be overlooking this since it reports to the person who is involved in all this?

Mr. SMITH. Yes, sir, I believe it is because they are an independent entity that may not be tainted by the culture that we found there said, the reason reprogrammings were done was to succeed with the mission.

Chairman BROUN. To use a trite phrase, the fox watching the henhouse is not appropriate and I hope you all look into that.

My two minutes is up. Now Mr. Maffei for two minutes.

Mr. MAFFEI. Thank you very much, Mr. Chairman.

I was interested in this Office of Personnel Management-sponsored employee viewpoint survey. In 2012, it showed, Deputy Inspector General Smith, the office that you work in was next to last as the worst place to work in federal offices, 291 out of 292 offices, and over half of the staff in the Commerce IG's Office said they would try to leave the office in the next year. Did you know about this before you took your position?

Mr. SMITH. No, sir. The results did not come out until late December.

Mr. MAFFEI. Well, I thank you for your service. The bottom line is, the survey suggests that the staff is almost evenly split between those who feel safe reporting violations of laws, rules, regulations to the Inspector General and those who are uncertain or expect retaliation for such reporting. That sounds like a highly dysfunctional environment, at least according to this survey. I am going to assume you don't find that acceptable. Are there any programs that

are going to put in place to kind of improve that workplace atmosphere?

Mr. SMITH. Yes, sir, there is. In fact, I have been designated to be in charge of that. I have already initiated several employee working groups and they have met. We are trying to get to the reasons behind the survey results. I also would like to point out the fact that even though the difference between the positive and the neutral and negative may not be where we want it to be, it is encouraging to see that the number of negative responses from last year's survey has actually decreased for almost every question, and I do consider that progress.

Mr. MAFFEI. Okay. Well, I am going to remain very, very interested in that, and also just to echo what Congressman Peters said earlier, obviously there might be reasons for nondisclosure in the case of a lawyer-client privilege, privacy of a particular person or national security or other kind of sensitive information, but otherwise the appearance of some sort of a problem is certainly there whenever these sort of nondisclosure agreements are signed, so I would hope that in the future the Commerce IG's Office would recognize that.

Thank you. My time is up.

Mr. SMITH. Sir, if I may just respond to that one, we have discontinued the use of those nondisclosure agreements.

Mr. MAFFEI. I am glad to hear it, Mr. Smith. Thank you.

Chairman BROUN. The gentleman's time is expired. Now Mr. Posey, you are recognized for two minutes.

Mr. POSEY. Thank you, Mr. Chairman.

Back to Mr. Martin. I want to be sure we show him some love too. Hopefully this will just be yes or no. The NASA IG report from August 9, 2012, highlights that NASA acknowledges the need to clarify the criteria centers should use to determine if underutilized property has a current or future mission-related use. That is under roman numeral page six of the report. Would it be fair to say that in regards to undeveloped land, not structures in the ground or infrastructure in the ground, but undeveloped land at a center that has never been designated for future use in any plan is a potential candidate for excess property, i.e., leasing, conveying, enhanced use agreements? Is that fair to say?

Mr. MARTIN. Based on your question, I would think so, yes.

Mr. POSEY. Thank you very much, Mr. Chairman.

Chairman BROUN. Thank you, Mr. Posey.

I don't think we have time to go into another round of questioning. I want to thank the witnesses for you all's valuable testimony today. The Members of the Committee may have additional questions for you, and we will ask you to respond to those in writing. Please do that very expeditiously. As I mentioned in my opening statement, we have asked for some reports or answers to questions that have not been produced thus far, and I am very disappointed in the Administration for not providing those answers to the questions from this whole Committee from both sides, but I hope, and I trust, that you all will answer those very expeditiously. The record will remain open for two weeks for additional comments and written questions from Members.

The witnesses are excused. Thank you all so much. We are now adjourned.

[Whereupon, at 11:12 a.m., the Subcommittee was adjourned.]

Appendix I

Answers to Post-Hearing Questions

ANSWERS TO POST-HEARING QUESTIONS

Responses by Mr. Paul K. Martin

Subcommittee on Oversight
House Committee on Science, Space, and Technology
U.S. House of Representatives

Questions for the Record

"Top Challenges for Science Agencies: Reports from the Inspectors General- Part 1"

Thursday, February 28, 2013
10:00 a.m.
Room 2318 Rayburn House Office Building

Paul K. Martin, Inspector General
National Aeronautics and Space Administration

Questions submitted by Dr. Paul Broun, Chairman

Information and Cyber Security

1) **At a hearing before this Committee last February, NASA's Chief Information Officer said that the agency would be able to implement all 18 of the NASA IG's recommendations related to information security by June 2013. Since that hearing, NASA once again experienced a high-profile IT security breach when an employee lost an unencrypted laptop that they took out of a NASA facility. Given the ongoing issues associated with NASA IT Security, is NASA on track to comply with your office's recommendations?**

Answer: No. The 18 recommendations noted by the NASA Chief Information Officer (CIO) in her February 2012 testimony were made in 7 IG reports issued over the past 5 years. Unfortunately, NASA has made limited progress on these recommendations, implementing only 4 in the past year. The four recommendations NASA has implemented are:

- one recommendation for improving controls over the process of incident detection, response, and reporting;
- one recommendation for establishing controls for effective vulnerability scanning and configuration management; and
- two recommendations for improving continuous monitoring practices.

The remaining 14 recommendations remain open and relate to the following issues:

- incident detection, response, and reporting;

- asset management;
- vulnerability scanning and configuration management; and
- continuous monitoring.

NASA had planned to implement these recommendations by June 2013; however, it has delayed implementation until September 2013.

2) **During a hearing this Committee held last year on Information Technology (IT) and cyber security issues at NASA, the Chief Information Officer (CIO) identified poor execution of security practices as one of the greatest threats facing NASA information security. What has been done in the last year to remedy this situation?**

Answer: According to the NASA Office of the Chief Information Officer (OCIO), within the past year NASA has developed an action plan to remedy weaknesses in its IT security program. This plan includes:

- Implementing a risk-based approach to cyber security to better align and demonstrate the business and mission enhancement gained by implementing effective IT security practices and leveraging IT security solutions across the Agency;
- Improving visibility into Agency mission networks and systems (including JPL) and practices for building and operating secure web applications;
- Ensuring that NASA mission IT personnel integrate security into the system development life cycle as well as their day-to-day operations for mission IT capabilities;
- Expanding collaboration within and external to NASA to continuously develop and incorporate innovative security solutions effectively ensuring that the set of risks associated with the cost, schedule, and technical performance criteria includes information security as a principal ingredient for mission success; and
- Increasing collaboration efforts between CIO and Mission Directorates in support of IT-related initiatives.

However, the OIG is pessimistic about the success of these initiatives because the OCIO plan does not address the decentralization of authority and related cultural issues raised in the CIO's testimony. We have an ongoing review examining whether NASA's IT governance structure appropriately aligns authority and responsibility in support of the Agency's overall mission. Specifically, we are reviewing whether NASA's OCIO has the organizational, budgetary, and regulatory framework needed to effectively meet the Agency's varied missions, including IT security. We expect to issue this report in May 2013.

Space Act Agreements (SAA)

3) **What are the pros and cons of using SAAs to form NASA's public-private partnerships in order to address facilities maintenance backlogs?**

Answer: In February 2013, we initiated an audit of NASA's management of Space Act Agreements that will examine (1) NASA's processes for identifying costs, billing, and collecting payment on reimbursable agreements, (2) NASA's ability to evaluate and track benefits to ensure receipt of fair and reasonable return, and (3) NASA's adherence to export control laws when entering into such agreements. Once this review is completed, we will be in better position to assess the pros and cons of Space Act Agreements with regards to helping address the backlog of NASA facilities maintenance projects.

4) **What is your opinion of the use of SAAs instead of Federal Acquisition Regulation (FAR) based contracts in connection with commercial crew vehicles? Understanding that NASA has moved some SAAs to FAR-based contractors, has NASA adequately addressed the concerns voiced by Congress and the Aerospace Safety Advisory Panel about the Agency's continued reliance on SAAs?**

Answer: We currently have ongoing reviews of the commercial crew program and, as discussed above, of NASA's management of its Space Act Agreements. While Space Act Agreements should not be used in lieu of a FAR-based contract for acquisition of a spaceflight system, NASA is not actually acquiring these systems but rather is using its Space Act authority to partner with private companies to help develop a commercial space industry for cargo and crew transportation to the International Space Station (ISS). In its commercial cargo program, NASA has transitioned from Space Act Agreements to fixed-price FAR-based contracts with two companies – Space Exploration Technologies (SpaceX) and Orbital Sciences Corporation – for 20 resupply missions to the ISS.

In the commercial crew program, NASA intended to transition last August to a FAR-based contract for the integrated design phase but changed course and continued to use Space Act agreements citing an expected $1 billion shortfall in funding requirements by 2014. Similar to our forthcoming review of NASA's commercial cargo program, the OIG has an on-going review of the Agency's commercial crew program which we expect to complete by early summer.

Small Business Innovation Research (SBIR)

5) **What overarching safeguards would you recommend that NASA implement in its Small Business Innovation Research program to prevent fraud, waste, and abuse?**

Answer: Our audit work has resulted in several recommendations designed to improve NASA's internal controls in its SBIR program. Two audit reports (Review of NASA's Management of Its Small Business Innovation Research Program (IG-11-010-R) and NASA's Management of Small Business Innovation Research and Small Business

Technology Transfer Contracts Funded by the Recovery Act (IG-12-009-R)) made a total of 15 such recommendations. To date, NASA has implemented 12 of those recommendations.

One of the open recommendations called for implementation of virtual site visits to contractor facilities. Virtual site visits use Internet-based meeting software with visual and voice telecommunication. The visits would enable NASA officials to view contractors' research facilities, compare actual contractor personnel to proposed personnel, assess contractor progress, and ensure that contractors are complying with requirements without incurring the cost and time associated with traveling to the contractors' physical locations. Our investigations of SBIR allegations have disclosed several instances where the contractor, despite representations to the contrary, did not have the facilities, equipment, or qualified staff needed to successfully perform the SBIR contract. The number and geographic dispersion of SBIR recipients makes it preferable but fiscally challenging to physically visit contractor locations to confirm that the facility and personnel purported to be working on the award actually have the capability to perform the work. This virtual visit was implemented on Recovery Act Phase II awards and NASA has taken steps to implement the virtual visit on all SBIR Phase II awards.

CASIS

6) **In August 2011, NASA entered into a cooperative agreement with the Center for the Advancement of Science in Space (CASIS), a non-profit organization that was to manage the non-NASA science activities on the International Space Station (ISS). However, as identified in your office's 2012 Management Challenges report, "during its first year of operation CASIS encountered a variety of start-up challenges, including the resignation of its executive director, and as of October 2012, did not have a permanent Board of Directors." To what extent has your office examined CASIS and do you have any ongoing work regarding ISS utilization?**

   Answer: We currently are completing a review examining NASA's efforts to utilize the U.S. Laboratory portion of the ISS. The review objectives include: 1) current usage of the ISS; 2) CASIS' efforts to facilitate non-exploration research onboard the ISS; and 3) transportation challenges that could hinder effective utilization of the ISS. Specific to CASIS, we are examining the organization's achievements to date, metrics used to measure that progress, and challenges related to attracting financial donors and users to conduct examinations onboard the ISS. We expect to issue the final report this summer.

NASA Infrastructure

7) **During the hearing, you testified about the waste associated with NASA's aging infrastructure, which require about $2.3 billion in upkeep and maintenance costs. You also referenced an audit from earlier this month in which you identified 33 underutilized facilities with no future mission needs that cost NASA more than $43 million to maintain in FY 2011.**

   a. In addition to identifying the problem, what recommendations have you made to NASA to reduce or eliminate this source of expense?

b. What is the agency's response?

Answer: Our report found that NASA has ongoing efforts to evaluate Center capabilities against the current and future missions of the Agency. We recommended that NASA's Associate Administrator complete the Agency's ongoing comprehensive technical capabilities assessment; ensure that the assessment includes a process for communicating decisions to outside stakeholders; and is established into Agency policy. Such assessments should be conducted on a regular basis and sustained over time. We also recommended that NASA's Associate Administrator for Mission Support expedite implementation of Corporate Portfolio Management (CPM) and develop processes to improve data accuracy with the NASA Technical Capabilities Database (NTCD). NASA concurred with our recommendations.

In addition, NASA has a series of initiatives underway that we see as positive steps towards "rightsizing" its real property footprint. For example, the development of an Agency Facilities Strategy and Integrated Master Plan, capability assessments, and organizational changes to centralize decision authority over infrastructure matters should better position the Agency to strategically assess infrastructure needs, manage underutilized property, and divest itself of facilities that are duplicative or unneeded. However, many of these efforts are in the early stages and their ultimate effect on the Agency's ability to reduce its real property portfolio remains unclear.

Despite these efforts, our report noted that these efforts ultimately may be insufficient to overcome longstanding cultural and political obstacles to eliminating or consolidating Agency facilities and that an outside process similar to the Department of Defense's Base Realignment and Closure Commission may be necessary.

ITAR Records Request

8) **During the hearing, I asked you to provide the Committee with all records relating to your office's review of allegations related to ITAR (International Traffic in Arms Regulations) violations at the Ames Research Center. Please reference p. 32 of the hearing transcript for more information about this request, and please ensure you provide the information requested as part of your reply to these questions.**

Answer: Answer: We are conducting an administrative investigation of these allegations and therefore it would not be appropriate to share information about these matters at this time. We would be pleased to brief your staff on the timing of this review as it progresses.

Questions submitted by Rep. Bill Posey

1) **Mr. Martin, in August of 2012 the NASA IG office issued a report regarding NASA's leasing practices.**

It was found that "NASA did not have clear guidance to ensure that property identified for leasing was not in excess to the agency's needs" (pp.iii-iv of the Report).
Can you point to successful leasing practices in other agencies that can serve as a model for NASA? Can you offer specific recommendations on how NASA can improve its leasing practices?

Answer: Our August 2012 report assessed whether NASA effectively: (1) identified space available for lease to other entities, (2) marketed available space to potential Federal and non-Federal tenants, (3) established internal controls to ensure that lease agreements provide the best value to the Government and are fair to potential tenants, and (4) accounted for in-kind consideration received from Enhanced Use Leases (EUL). That report found that although NASA has made improvements to its leasing program in recent years, the Agency still faces significant challenges to ensure that it has effective controls in place to maximize the benefits of its leasing program. As such, we made the following three recommendations aimed at improving NASA leasing practices.

1) Revise existing policy and develop new policy. Specifically:

- articulate the criteria Centers should use to determine whether underutilized property has a current or future mission use;
- require that Federal entities be considered for leasing opportunities and that NASA coordinate with the GSA Office of Client Solutions to identify potential Federal tenants;
- require that leasing opportunities be widely publicized;
- provide guidance for Center management addressing the requirements for lease agreements; and
- provide guidance for determining whether in-kind consideration provides the best value to the Government.

2) Implement a process for identifying and maintaining a complete inventory of real property available for leasing.

3) Institute a review of all existing agreements to ensure they are consistent with applicable statutes and regulations regarding signature authority and other required terms.

We did not benchmark the leasing practices of other agencies as part of our review.

Responses by Ms. Allison C. Lerner

HOUSE COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
SUBCOMMITTEE ON OVERSIGHT

"Top Challenges for Science Agencies: Reports from the Inspectors General - Part 1"

Questions for the Record, Ms. Allison C. Lerner, Inspector General, National Science Foundation

Questions submitted by Dr. Paul Broun, Chairman

Cooperative Agreements

1) According to your 2012 Management Challenges report, NSF currently has 685 Cooperative Agreements totaling nearly $11 billion, of which 38 are for over $50 million each.[1] Your office has identified various problems with NSF's Cooperative Agreement award and monitoring process. Considering that Cooperative Agreements are not subject to the same rigor and reporting mechanisms as a contract:

    a. As indicated in your 2012 Management Challenges report, why does NSF not have a strong post-award monitoring process?
    b. How has NSF responded to the suggestion that a stronger post-award monitoring process is needed for Cooperative Agreements?[2]

    OIG: As we have pointed out in the Management Challenges report, there are two main problems contributing to an overall weakness in NSF's post-award monitoritng process. First, while NSF receives certain financial reports on its large facility cooperative agreements, these reports do not contain the level of detail needed to perform adequate cost surveillance. NSF only receives sufficient cost details from a few awardees that also have large contracts and are therefore required by the Federal Acquisition Regulation to provide annual incurred cost submissions. NSF does not require incurred cost submissions, or their equivalent, which are important for proper cost monitoring because they provide visibility over awardees' claimed costs. Second, NSF does not routinely obtain incurred cost audits of nonprofit awardees that have high-risk, high dollar, cooperative agreements and grants. Audits of incurred cost submissions are critical for proper monitoring and would reveal instances of noncompliance with federal regulations as well as costs claimed that are unallowable or unreasonable. Such information is particularly important in high value, high risk cooperative agreeements. NSF explained that it has chosen not to undertake these oversight measures because they are not required in the assistance agreement context.

[1] P.1 of 2012 NSF Management Challenges Report.
[2] P.1-2 of 2012 NSF Management Challenges Report.

To be clear, we are not suggesting that NSF take these actions for all its cooperative agreements. We are recommending that NSF should use a risk-based approach that at a minimum, includes these elements for its high-risk, high-dollar (those over $50 million) cooperative agreements that warrant the additional oversight necessary for proper accountability over federal funds. NSF believes that the $50 million level is too low, but has not indicated what dollar level it believes would be sufficient.

In response to our recommendations to institute stronger post-award monitoring, however, NSF has stated that it agrees with OIG concerning the need for cost surveillance controls over the lifecycle of large facilitites projects, which are funded through cooperative agreements. NSF stated in its corrective action plan in response to our alert memo that it agrees with some of our recommendations. However, while the plan makes repeated references to developing guidance for oversight of cooperative agreements, there is no indication of what this guidance will require. NSF needs to have a concrete plan to ensure oversight of its high-risk, high-dollar cooperative agreements, not simply an ad-hoc approach.

In addition, in response to a charge from the NSF Director for a senior advisor to coordinate a major assessment of processes for supporting large research facilities from conception through construction to operation and sun-setting, NSF has developed a plan that offers opportunities for more robust oversight. We view this plan as a step in the right direction. Nevertheless, we remain concerned that it may be too open-ended. For example, as explained in its response to the OIG's alert memo, NSF stated that the need for incurred cost audits of even its highest dollar awards would be determined on an ad hoc basis. NSF has offered nothing concrete insofar as when such audits or incurred cost submissions would be required. Since this effort was spearheaded by the Director, we are concerned about NSF maintaining the momentum to address oversight of its high-risk, high-dollar cooperative agreements after the Director's departure from the Foundation at the end of March. Our recommendations are reasonable and prudent measures to protect taxpayer funds.

2) Does your oversight of Cooperative Agreements (CA) include reviewing ethical or conflict-of-interest violations? Have previous CA reviews ever considered such violations?

OIG: Our oversight of cooperative agreements has focused on NSF's cost surveillance measures for awarding and managing cooperative agreements and has not included a review to determine whether there are conflict-of-interest violations.

<u>Audits</u>

3) What areas of your office's audits tend to be most contentious with institutions? How does your office work with institutions to address these issues, and what is the procedure if an agreement cannot be reached?

OIG: We use a risk assessment in determining which external entities to audit, which includes factors such as an institution's past record of managing federal awards. The most contentious

areas are usually those audits that question costs, and the level of disagreement rises along with the dollar value of the questioned costs.

In such audits, the procedure for resolving audit findings is set forth in OMB Circular A-50, *Audit Followup*. Pursuant to A-50, NSF management is responsible for issuing a management decision on audit recommendations and for following up with awardees on implementation of the agreed upon actions to address recommendations. Thus, while the OIG communicates with NSF throughout this process and reviews the proposed actions, NSF works with awardees to address the audit recommendations. If the OIG and NSF are unable to agree on the corrective actions to resolve the recommendations, the matter is referred to NSF's Deputy Director for resolution.

Finally, A-50 provides that all recommendations should be resolved within six months from the date the final report is issued.

4) Who is ultimately responsible for recovering money identified by audits, and what happens when NSF disagrees with the OIG?

OIG: As part of the audit resolution process, NSF is responsible for working with awardees to recover money identified by audits.

According to your written statement, on a recent audit of a university that is among the top 30 largest NSF award recipients, you identified over $6 million in questionable expenses using new automated techniques as a supplement to your traditional audit techniques. How did the institution respond to your finding, and how is that situation being resolved?

OIG: The institution disagreed with the audit findings. Resolution of audit findings between NSF and the OIG and closure of audit recommendations will follow the audit resolution procedure outlined in the response to question 3.

5) To perform better oversight of awards, your office has conducted a "virtual site visit pilot program as an enhancement to the AMBAP [Award Monitoring and Business Assistance Program]."[3] Do you feel that these virtual site visits are sufficient? Are there limitations to when a virtual site visit can be employed compared to an actual site visit?

OIG: NSF's Office of Budget, Finance, and Award Management (BFA), which has the responsibility for issuing and overseeing the thousands of awards NSF makes each year, commenced its Award Monitoring and Business Assistance Program to help ensure that awardees have adequate processes and systems to manage their NSF awards. The virtual site visit pilot is BFA's initiative, not the OIG's.

Virtual site visits can be a cost effective mechanism to identify problems, particulary during a time of limited resources. Combined with other oversight tools for high-dollar, high-risk awardees, such as accounting system reviews and incurred cost audits, virtual site visits can enhance NSF's monitoring capability, especially when on-site reviews are not possible.

[3] P.3 of 2012 NSF Management Challenges Report.

We have not done an analysis comparing the adequacy of virtual site visits with actual visits.

Contracts

6) The 2012 Management Challenges report raised concerns regarding cost reimbursement (CR) contracts, and highlighted the need for better monitoring of costs on NSF's largest contracts. The report states, "Although the Contracting Manual was updated to require cost incurred submissions every 6 months from its largest contractors, in FY 2011 two of three contractors transmitted the submissions late and the third did not submit one at all."[4] What is the next step that NSF should take to ensure compliance with these guidelines from contractors who fail to meet them?

OIG: There is a range of options NSF could consider to ensure compliance by contractors including award suspension or termination. Depending on the circumstances, government-wide suspension or debarment could also be appropriate. Ultimately, what NSF does is within the agency's purview, and we continue to encourage NSF to take strong action to ensure compliance with this requirement.

7) NSF funds large research infrastructure projects through the Major Research Equipment and Facilities Construction (MREFC) account. In an effort to keep MREFC project costs from escalating during construction, NSF instituted a "no cost overrun policy" on new MREFC-funded construction projects. "This policy requires that the total project cost estimate developed at the Preliminary Design Stage have adequate *contingency* to cover all foreseeable risks, and that any cost increases not covered by contingency be accommodated by reductions in scope."

   In testimony you presented last Congress, you noted that the Defense Contract Audit Agency (DCAA) that assists you with audits found that "there are a lack of controls over the contingency funds" for several MREFC projects. Specifically, awardees can draw down contingency funds as they do normal funds.

   a. What has your office found out so far about how these funds are being used?
   b. What is NSF's response to your office's work on contingency funding, and what kind of resolution is your office looking for from its investigation into the MREFC funding process?

OIG: In order to gain insight into how contingencies are actually used in construction projects, we audited the use of contingencies in a closed project. We found that NSF lacked visibility over expenditure of contingency funds. NSF's policies allowed the awardee to execute all change order requests for $250,000 or less to the MREFC account or $100,000 or less for the operations and maintenance yearly cost without NSF's review or approval. We found that the awardee executed all nine of the existing change orders (which totaled over $1,000,000) without seeking NSF's approval thereby limiting NSF's ability to ensure that requests for and approvals of the use of contingency funds were appropriate. Current policies continue to allow MREFC awardees to execute change order requirements for amounts less than designated thresholds for

[4] P.4 of 2012 NSF Management Challenges Report.

each project. We also found some instances in which NSF approved the use of contingency funds for matters that did not appear to represent the materialization of contingent events such as hiring a publications coordinator and paying for office space.

Further, our audit of a closed award found that awardees did not separately track contingency expenditures so it was impossible to tell what these funds were actually used to purchase. In addition, a recent audit of another MREFC project revealed many of the same problems.

The bottom line is that NSF's current method for managing contingencies which allows awardees to request and obtain contingency funds without NSF's approval and is exacerbated by a lack of visibility into contingency expenditures, increases the risk of misuse of contingency funds. At a minimum, NSF should hold unallowable contingency funds (i.e., those for unforeseeable occurrences) until the awardee is able to demonstrate through adequate documentation, the need for such funds. The OIG is seeking a resolution that implements its recommendations which are in line with federal requirements, reasonable, and represent prudent business practice.

NSF's disagrees with the OIG and asserts that its current practice is consistent with federal requirements.

Research Misconduct

8) You reported that over the past 10 years, the number of allegations and findings of research misconduct at NSF has tripled.[1]
    a. Do you think that the increase is because technology has made it easier to perpetrate misconduct, or because misconduct is easier to detect?
    b. Has there been a shift in culture with regards to research misconduct?

OIG: (a) Technology has made it easier for individuals to commit research misconduct and has also advanced our ability to detect such activity.

As cited in my testimony, recent surveys suggest that 30 percent of researchers admit to engaging in questionable research practices and 50 percent of college undergraduate students admitted to cheating reflecting the current cultural climate. Such attitudes demonstrate the importance of affirmative steps to counter integrity-related violations.

Responsible Conduct of Research (RCR) programs were created in response to requirements in the America Competes Act to advance the professional and ethical development of new scientists. My office has observed variations in grantee RCR programs. Therefore, among other things, we are planning to examine the course content, participation requirements, and oversight of institutional RCR programs.

[1] P.9 of 2012 NSF Management Challenges Report.

U.S. Antarctic Program (USAP)

9) The September 2011 NSF IG Report to Congress included the recovery of $11.4 million in wrongful charges from the contractor providing support for the USAP. In 2012, a new contractor took over work on the USAP. Has your office been involved with the transition to the new contractor for the Antarctic Program? To what degree does your staff monitor and review this transition and the work of the new contractor?

OIG: My office was not involved with the transition to the new contractor for the USAP. The selection of a new contractor is an agency function. The IG Act makes clear that OIGs are not to perform management functions. As such, we would not have been involved in NSF's process for selecting the new contractor or managing the transition. My office did, however, recommend that as part of the procurement process, NSF ensure that DCAA audits were obtained of business and financial systems along with cost proposals submitted by bidders for the USAP contract. Such audits, which NSF obtained, are important to determine whether those systems are capable of ensuring that government funds are properly allocated and billed and that costs proposed are reasonable.

Now that the new contractor has been chosen and is in place, we are developing a comprehensive, long-term oversight plan for the USAP. As the new contractor is responsible for infrastructure and logistical functions for the program, we will be monitoring the new contractor's work in these areas. In addition to examining those areas, the plan also includes work to determine whether the contractor is charging costs that are reasonable and allowable.

10) Does NSF have sufficient oversight mechanisms to protect against waste, fraud, and abuse relative to the USAP?

OIG: USAP is a complex program operating in one of the world's most challenging environments. The recent Blue Ribbon Panel report made a number of recommendations with regard to the program's logistical challenges. NSF has recently completed its response to the Panel's recommendations, which we will be evaluating and assessing for any vulnerabilities that could increase the risk of waste, fraud, and abuse. We have started an audit to determine whether there are opportunities for savings in USAP's medical screening processes. Other issues in our oversight plan include the impact of deferred maintenance on USAP facilities and the impact on research if an icebreaker is unavailable.

SBIR/STTR

11) Based on what seems to be significant concerns of fraud within the Small Business Innovation Research (SBIR) program, how are the recommendations of the SBIR Working Group – under the Council of Inspectors General on Integrity and Efficiency – being received by the different SBIR participating agencies?

OIG: Since its inception in 2009, the working group has made significant progress in preventing and detecting fraud in the SBIR program. For example, based on the group's recommendations, SBA has made improvements to TECH-*Net,* the government database of SBIR/STTR awards, to better assist in the identification and analysis of companies under examination or investigation.

A particular focus of the group has been promoting the government-wide use of standardized life-cycle certifications to prevent fraud and to facilitate prosecution of fraudulent activities. This effort culminated in revisions that are being made to the SBA's SBIR policy directives, which include requirements for such certifications. The draft policy directive has also incorporated a number of other working group suggestions to prevent and detect fraud, waste, and abuse in this program. We understand that SBA is finalizing this directive.
An agent-level working group also shares information and coordinates investigations with SBIR agencies. This group has identified several fraud indicators and is working proactive investigations.

12) How much time and staff does your office dedicate to investigating and auditing SBIR and STTR (Small Business Technology Transfer) grants?

    a. Is the reason for your focus on these programs a reflection of the problems that exist with these types of grants or that NSF doesn't scrutinize them enough?
    b. How has this changed over the past two or three years?

OIG: We have one agent working full time on SBIR investigations and coordinating the interagency working group, but every agent in the office has worked multiple SBIR cases since 2009. Additionally, most of the other investigative attorneys and investigative scientists on our staff have worked SBIR cases over the past few years, on issues including duplicate funding, false certifications, and research misconduct. We currently have 58 active SBIR cases. These cases make up approximately 20% of the Office of Investigations active case load. Twelve of these cases have been accepted for civil or criminal prosecution, with several more likely to follow in the near future.

At NSF, the primary objective of the SBIR program is to increase the incentive and opportunity for small firms to undertake cutting-edge, high-risk, high-quality scientific, engineering, or education research that would have a high potential economic payoff if the research is successful. We have focused on the SBIR programs because of the risk of unscrupulous companies attempting to fraudulently obtain SBIR funds, duplicative funding, and other types of fraud. SBIR funds are directed at small, start-up businesses that may lack experience in managing federal funds. While the vast majority of businesses receiving SBIR awards from NSF spend the funds properly and report accurately to the agency about their results, our experience shows that a small fraction of awardees engage in fraudulent activity.

It is important to emphasize that NSF's SBIR program staff has strongly supported my office's efforts to prevent, detect, and prosecute fraud in the program. SBIR program officers regularly inform us when they receive allegations of wrongdoing or become aware of information that indicates a possible problem.

OIG: SBIR cases have been an important part of our investigative work since the 1990s and as noted above, we have worked closely with SBIR program officials since that time. One of the problems we encountered until the working group was established was a lack of insight into problems with duplicative funding at other agencies. The agent-level working group has

enhanced our ability to work multi-agency cases and has contributed to the current increase in the number of cases.

As we conduct our investigations, we look for evidence of internal control weaknesses that can be exploited. Based on these efforts, we have made several recommendations to NSF to reduce the risk of fraud in SBIR/STTR programs including that NSF require awardees to notify the agency when any significant changes to the budget or to research are planned. NSF has agreed with our recommendations and is taking steps to implement them.

Question submitted by Rep. Lamar Smith, Chairman, House Science, Space, and Technology Committee

1) During the hearing, I asked you to provide the Committee with the names of universities and colleges that need a second look because of questionable grant expenditures. Please reference p. 38 of the hearing transcript to refresh your memory about this request, and please ensure you provide the information within the timeframe provided in the Committee's letter to you.

OIG: NSF is the funding source for approximately 20 percent of all federally supported basic research in science and engineering conducted by the nation's colleges and universities. Each year the Foundation funds approximately 10,000 new awards at more than 2,000 institutions. The OIG has an important oversight role over these expenditures, but given the breadth of our mission, we can only review a small number of awards each year. To target our oversight where questionable grant expenditures are most likely we conduct a risk assessment that considers factors such as an institution's past record in managing federal funds.

In addition, we are using automated techniques, which enhance our oversight and permit us to:

- Better identify high-risk awardees
- Expand audit coverage to 100 percent of expenditures
- Focus our limited audit resources on questionable expenditures.

Using automated techniques enables us to obtain data from multiple financial and program databases, which we can compare and analyze to identify anomalies in cost data and in award-expenditure patterns. These techniques provide a level of transparency over recipient spending well beyond that available from traditional methods.

Following are the names of the colleges and universities where we identified questioned costs in FY 2012 and FY 2013:

Johns Hopkins
University of Notre Dame
University of California-Santa Barbara
University of Wisconsin-Madison
Jackson State University

Responses by Mr. David Smith

Questions from Chairman Paul Broun

MANUFACTURING

1) ***How successful have DOC programs like the Repatriation Task Force and the Advanced Manufacturing Technology Consortia (AMTech) been in meeting DOC goals that include repatriating jobs that have moved abroad back to the U.S., or bringing manufacturing jobs back to the United States?***

The Repatriation Task Force has a mandate to examine incentives and other activities to encourage U.S. companies to bring back manufacturing and research and development (R&D) activities from overseas. The Advanced Manufacturing Technology Consortia is a public–private partnership aimed at improving R&D investments. OIG has not performed audit work on the Department's manufacturing initiatives recently but is tracking reviews conducted by other independent entities. For example, GAO has ongoing reviews of the implementation of the America COMPETES Reauthorization Act. OIG will use these review results to plan for future work.

2) ***Given that, as your office's Management Challenges report states, "Many offices, task forces, and councils are involved with studying and establishing manufacturing initiatives," is DOC doing enough to ensure it avoids duplicating the activities of its partners in other federal agencies?***

In its *Follow-up on 2011 Report: Status of Actions Taken to Reduce Duplication, Overlap, and Fragmentation, Save Tax Dollars, and Enhance Revenue* (GAO-12-453SP, February 2012) GAO identified continued needs for better coordination between the Department of Commerce and other agencies to avoid duplications/overlaps on economic development programs. However, given the current constrained budget environment that Commerce and other executive departments and agencies are experiencing, we believe it is imperative that the Department ensure that its existing resources are used effectively on targeted programs, to maximize their efforts and avoid duplication of resources.

Manufacturing Extension Partnership (MEP)

3) ***Is your office conducting any audits of MEP centers, and if so, which ones and how were they selected?***

We completed extensive audit work of 6 MEP centers and issued reports in 2009–2010 and have continued to conduct follow-up activities associated with the audits. NIST is still using the lessons it learned from these audits to help it better manage the program.

While we have not audited any additional MEP centers, centers expending more than $500,000 in a fiscal year are required by the Single Audit Act to submit audits on a fiscal year basis. These single audits are performed by independent public accountants, and OIG receives and reviews relevant reports on an ongoing basis. The most recent single audit reports for Florida MEP and Massachusetts MEP have been received. In these audits, the independent public accounting firm rendered its opinion on the financial statements;

however, the firm issued a qualification to its opinion on compliance issues due to unresolved issues first revealed in our March 2009 audit report.

Recently, NIST issued a determination on the audit findings of OIG's 2009 audit. NIST staff determined that the MEPs did not provide sufficient evidence or documentation that would persuade them to change their original position. After an appeal by both MEP Centers did not result in further adjustments, NIST issued a bill for $2 million to the MEP center in Florida and for $790,000 to the MEP center in Massachusetts. The entire amount must be paid in full or negotiated under another acceptable arrangement or the MEP centers could encounter enforcement action under their current MEP awards, including but not limited to administrative offset of award payments, suspension of the awards, and termination of the awards.

4) ***According to press accounts, Florida's 2013 "Manufacturing Innovation" conference was cancelled shortly before the DOC announced it would review the event's expenses for the past two years. While there are many legitimate questions about some of the expenses related to last year's Florida conference, questions have also been raised about the role of the NIST MEP (National Institute of Standards and Technology's Manufacturing Extension Partnership), which organizes and hosts the annual event.***

a. Does your office have any ongoing work regarding the Florida MEP and its relationship with the NIST MEP?

b. If so, please provide an update.

We have not performed an audit of the Florida MEP since completion of an incurred cost audit in March 2009, where we questioned $12.6 million of the Florida MEP's claimed costs for the period July 2005 through March 2007. While we have ongoing work regarding the NIST MEP program, it is not focused on Florida MEP. We are not planning to conduct any additional OIG audits of the Florida MEP program or its cooperative agreement relationship with NIST MEP at this time. However, we will be monitoring any single audit reports received for the MEPs as noted in question 3 above. We are auditing NIST MEP conference costs for FYs 2011 and 2012, including the Orlando Annual Conference, and anticipate completion in the third quarter of FY 2013.

5) ***Last year, your office received a letter from Congress requesting that you look into potential mismanagement of the NIST MEP. The letter alleged that "NIST MEP is targeting certain state centers by withholding matching federal funds to which they are entitled by statute." Moreover, press reports have explained that "MEP Centers allege that NIST has avoided sending more money to the centers in order to boost the share of its budget that remains in Washington." What is the status of your review, and when can we expect your report on it?***

Our office is currently gathering information to respond to the letter we received from Chairman Issa in September 2012. We cannot estimate the date of the completion of our work at this time.

NATIONAL WEATHER SERVICE (NWS)

6) After Hurricane Sandy, NOAA and NWS put together a team to conduct a service assessment of Sandy, which is a common practice following major weather-related events. The first team was disbanded partially because it was going to be co-led by a person from the private sector, which, according to agency documents, appears to be a violation of the Federal Advisory Committee Act (FACA). Do you have any ongoing work to assess whether past NWS Service Assessments violated FACA?

We do not have any ongoing work assessing whether past NWS service assessments violated FACA.

7) NOAA and DOC issued memos last May in the aftermath of revelations of financial mismanagement at NOAA. Those memos listed several action items with most due dates within a few months.
a. Have you tracked those items to ensure they were accomplished, and can you give us a status update on them?

OIG is currently conducting a review of the status of the Department and NOAA's actions to address the decision memoranda issued on May 24, 2012, by Acting Secretary Blank and former Under Secretary Lubchenco, respectively. We are evaluating the actions that the Department and NOAA deem complete and will issue a report after the completion of our work during the third quarter of FY 2013.

8) Please provide the Committee an update on the status of financial issues at NOAA:

a. What actions have NWS, NOAA and DOC taken?

The Department and NOAA are implementing the actions required by the decision memoranda issued on May 24, 2012, by Acting Secretary Blank and former Under Secretary Lubchenco, respectively. We are evaluating these actions and will issue a report after the completion of our work which is estimated during the third quarter of FY 2013.

b. What actions are outstanding?

The Department and NOAA have asserted that many of the decision memoranda requirements are complete. We are assessing their actions for sufficiency. Our review is under way, and we will report the results after the completion of our work estimated to be during the third quarter of 2013.

c. What work do you have ongoing related to the matter?

In June 2012, OIG received an anonymous complaint alleging that continuous unauthorized reprogramming had occurred at NWS from 2000 through June 2012 and that senior NOAA officials were aware of this activity. In the course of our investigation, several instances of potentially unauthorized reprogramming were identified. In March 2013, we referred these specific instances to NOAA and requested it determine if the unauthorized reprogramming occurred and, in coordination with the Department, any Antideficiency Act violations. OIG

is currently preparing a Report of Investigation addressing whether senior officials were involved in or aware of unauthorized reprogramming.

In August 2012, OIG initiated a review to evaluate the adequacy of the actions taken by the Department and NOAA to address the NWS financial management issues. The Department and NOAA actions were mandated by the decision memoranda issued on May 24, 2012, by Acting Secretary Blank and former Under Secretary Lubchenco.

We have other ongoing work that identifies funds control issues in the Department. In addition, our audit in process of the Department's unliquidated obligations and the annual financial statement audit work has identified funds control issues.

SATELLITES

9) ***Has NOAA given a good reason for why the JPSS-2 satellite is going to be re-competed instead of sole sourcing both contracts? What impact will there-compete process have on the agency in terms of schedule and cost?***

NOAA and the JPSS program have not yet completed an acquisition strategy decision memorandum, which was expected by late March 2013. Until we can review the memorandum, we cannot comment on their acquisition strategy or what impact the strategy will have in terms of schedule and cost. We are aware, however, that NASA—the JPSS acquisition agent—has a streamlined competitive bidding process for spacecraft contracts that is designed to avoid potential schedule delays. In addition, the Federal Acquisition Regulation generally requires contracting officers to use full and open competition in soliciting offers and awarding government contracts.

10) ***Toward the end of last year, NOAA issued a contingency plan in response to a GAO directive to address potential gaps in weather forecasting due to launch delays of weather satellites, and a larger general plan is expected to be unveiled later this year. Are you familiar with either of these products? Can you provide some insight on them?***

NOAA's contractor conducted an independent analysis of alternatives to mitigate the degradation of National Weather Service products in the event a gap in afternoon polar-orbiting satellite data occurs. The study captured and assessed ideas, such as leveraging other data sources and improving computing capabilities, from a broad range of organizations and individuals and made 17 recommendations. Most of the recommendations are funded in the Hurricane Sandy supplemental appropriations law. Separately, NOAA developed its October 2012 "Mitigation Plan for Potential Data Gap Between Suomi National Polar-orbiting Partnership (SNPP) and JPSS-1" report. It includes plans for continuous monitoring of indicators of a potential gap, which would trigger further decisions, and mitigation options (echoing the 17 recommendations in the analysis of alternatives) and references a mitigation decision process.

11) The Department plans to "replace all legacy financial systems--core financial accounting, financial management, grants management, acquisition management, and property management--with commercially available software between FY s 2014 and 2018."

a. What benefits does the Department expect to achieve in its move to modernize its financial management system?

According to the Department, the legacy systems are antiquated, highly customized, and not well documented. They have become more and more difficult and expensive to maintain, especially with a shrinking pool of knowledge. Conversely, commercial software uses table-driven design; is easier to maintain; and is more responsive to government-wide changing requirements, such as the expansion of Standard General Ledger accounts from four to six digits and 508 compliance. Finally, the Department expects the modernized system to have the ability to automate the consolidation of the bureau financial statements; the legacy systems are not integrated.

b. What impact would this have on NWS, specifically, would it prevent the ability of an individual to use summary level transfers to secretly reprogram funds?

No, an individual's ability to make summary level transfers is not related to the legacy system. However, we will work with the Department to ensure that there are both appropriate automated system and documentation/approval controls to better prevent and detect inappropriate transactions.

c. Will this transformation help the Department provide Congress more accurate and timely cost estimates, schedules, and program baselines?

With the replacement system, management should be able to provide more timely information to Congress. However, the accuracy of the information still depends on the integrity of the data entered into the system.

OFFICE OF ACQUISITION MANAGEMENT

12) When did the Office of Acquisition Management develop an Acquisition Project Management Framework/Guidebook?

The framework policy was signed in November 2012, and the bureaus have 6 months to describe to the Office of Acquisition Management (OAM) how they will implement the new policy. However, in January 2013, OAM designated three high-profile projects to first implement the framework: 2020 decennial census, NIST laboratory construction, and the NOAA JPSS satellite.

a. How well have the bureaus incorporated the new framework/guideline? Who's done the best job of this and who's experiencing the most problems?

So far, NIST appears to be the most successful at incorporating the framework, and Census has had the most challenges because it has been difficult for OAM to determine what initial acquisition phase their program is in and, accordingly, what documentation is needed.

b. What impact has this framework/guideline had on NOAA, given its relationship with NASA where NASA is the acquiring agent in the JPSS program for example?

We have not yet observed any impact of the Department's recently issued framework on NOAA based on its relationship with NASA for the acquisition of JPSS.

INFORMATION TECHNOLOGY (IT)

13) In June 2012, the Acting Secretary issued the "Department IT Portfolio Management Strategy," which expanded the role of the Commerce CIO (Chief Information Officer).Oversight.

a. How much leeway does the CIO have in requiring the different bureaus to take steps to strengthen IT security posture now, as compared to before the issuance of this document, and is it enough?

The Acting Secretary's June 2012 memorandum defines the CIO's responsibilities for managing the IT portfolio of the Department, including having the lead role in information security. By the time the memorandum was issued, we were well into our FY 2012 Federal Information Management Act of 2002 (FISMA) audits, and we did not observe any significant IT security improvements attributable to the memorandum. We will, however, assess the impact of the Acting Secretary's memorandum as we conduct the FY 2013 FISMA audits.

b. Given that most IG offices work closely with their respective agencies on Information Technology issues, how closely does your office work with the Department on IT issues?

We have established and maintain a strong working relationship with the Department on IT issues. My senior staff and I meet with the Department CIO and his senior staff regularly to discuss IT issues associated with management, budget, development, and security. We also attend CIO Council meetings, where key IT topics are discussed, and the Commerce Information Technology Review Board meetings, where program managers of major Department IT investments brief cost, schedule, and performance information. In addition, we continue to work closely with the Department to strengthen its IT security program.

14) What tools does your office have to deal with situations when DOC does not address OIG-referred complaints in a timely manner?

The Department's written policy states that an "operating unit or agency shall report its findings . . . within 60 days of the referral", but does not prescribe how OIG should handle cases where agencies are delinquent in looking into allegations or otherwise not timely in responding to referrals.[1] In order to persuade agencies to handle referrals in a timely manner, OIG provides status updates to the agency liaisons and Departmental leadership.

[1] See Departmental Administrative Order 207-10, Section 5(d). http://www.osec.doc.gov/opog/dmp/daos/dao207_10.html.

- ***Monthly Reports to Agencies:*** OIG provides agencies with monthly reports of their current pending referrals, in order to remind management about aging referrals, and to check the integrity of their own tracking systems.
- ***Quarterly Reports to the Secretary:*** On a quarterly basis, the IG sends a memorandum to the Secretary, Deputy Secretary, and other senior officials to inform them about the backlog of aging referrals. For example, in January 2013, our office reported that "over half the Department's complaint referrals are pending with NOAA, where the portion of referrals older than 60 days without an initial response increased from 73 percent to 89 percent this quarter."

a. How big a problem is this?

As of March 28, the Department had 101 pending complaint referrals, of which 72 were older than 60 days without an initial response. NOAA had the largest share of complaints pending, 54, of which 85 percent were older than 60 days without a response. NOAA has three complaint referrals that are older than two years, and seven additional complaints older than one year.

b. How does your office determine when to forward allegations to the Department?

OIG staff conducts preliminary research on Department-related complaints and briefs the Inspector General and OIG senior leadership, who determine how each complaint should be handled. Before deciding to refer a complaint to an operating unit in this manner, OIG determines whether the matter would be more appropriately handled by Departmental management.

c. How do you ensure that you are not forwarding complaints that will potentially be reviewed by the very individuals identified in the allegation of misconduct?

In January of 2012, OIG issued the *Guide to Conducting Administrative Inquiries* to the Department, which outlines best practices and guidance for conducting administrative inquiries. In OIG's *Guide,* and on our memoranda forwarding such complaints, we request that any officials involved in conducting the inquiry sign a statement testifying to their independence from the matters at hand before commencing any inquiry-related activity. In our *Guide,* we note that "It is critical that the operating unit appoint an inquiry official who is outside the supervisory chain of the subject and removed from the immediate affairs that the allegations relate to."[2] In cases where senior officials or agency liaisons are implicated in the allegations, we will refer allegations to a different bureau or set of officials to ensure independence.

[2] See U.S Department of Commerce Office of Inspector General, January 2012. *Guide to Conducting Administrative Inquiries*. Washington, DC: DOC OIG, 6.

MANAGEMENT

15) ***Your office's 2012 Management Challenges report states "Commerce leadership must continue showing the way forward to establish an accountability culture with increased transparency, readily available support, and independent validation." The report describes this as "perhaps the Department's biggest challenge of all." Can you elaborate on this observation by providing examples, and explain whether this is a Department-wide issue, or if certain bureaus are more problematic than others?***

The need for an accountability culture with increased transparency, readily available support, and independent validation is Department-wide. However, since NOAA accounts for almost one-half of the Department's total budget and has more complex operations than other bureaus, it has a greater need for improved accountability. The following are Department-wide examples identified in recent years:

- Acquisitions: insufficient procurement alternative analysis (e.g., NOAA Marine Operations Center-Pacific) and inadequate oversight of cost-plus-award-fee contracts (e.g., Census and NOAA)
- Fund controls: inappropriate accounting of funds received through reimbursable agreements (NIST), reporting estimated (vs. actual) conference spending (Department-wide), and unauthorized reprogramming of funds (NOAA/NWS)
- Asset controls: inappropriate use of forfeited assets (NOAA Fisheries), improper and untimely accounting for property acquisitions, transfers, construction work-in-process, asset retirements, and impairment assessments (NOAA)
- Cybersecurity: perpetual security weaknesses (Department-wide)
- Grants: inadequate oversight of Federal fund recipients (NOAA, NIST, EDA)

Questions from Ranking Member Dan Maffei

1. Commerce OIG Potential ADA

At the hearing you testified that you were unaware of any suspected or actual AntiDeficiency Act (ADA) violations that have occurred in the Department of Commerce's Office of Inspector General (OIG) since Todd Zinser became the Inspector General in December 2007. You said that you would look into the matter and provide the Committee with any relevant information.

Please provide the Committee with a list of any Department of Commerce (DOC) OIG budget actions which triggered internal OIG or DOC review for potential ADA violations (from December 2007 to present). If any suspected or declared ADA violations have occurred please provide a detailed explanation, which includes at a minimum when the ADA violation(s) or suspected violation(s) occurred, why they occurred, when Inspector General Todd Zinser became aware of the issue, who investigated the allegations and whether or not any suspected ADA violations were actually declared or referred from the OIG to the Department of Commerce or any other entity, including the Council of Inspectors General on Integrity and Efficiency (CIGIE), for review.

In addition, please provide the Committee with supporting documentation regarding each of the suspected or declared ADA violations that may have occurred in the Commerce IG's office. This should include, but not be limited to, any Memorandum, reports or draft reports or correspondence with, to or between the Commerce OIG and any other offices within the Department of Commerce, including the Commerce Department's Office of Budget or the Office of General Counsel regarding actual or suspected ADA violations.

The OIG is not aware of any ADA violations that were committed by this office under the current Inspector General. The OIG and Department's Office of General Counsel (OGC) did review an OIG contract obligation for ADA compliance in 2011, but it was determined that the obligation had been proper. That contract was for financial statement audit services and the OIG entered into it on December 30, 2010 during the December 22, 2010–March 2, 2011, continuing resolution (CR) period. It was always clear that the OIG had sufficient appropriations to cover the obligation. The availability of apportioned funds needed to be confirmed, however, given some confusion within the Department as to whether the entire amount of an automatic CR apportionment became available immediately when issued by Office of Management and Budget (OMB) Bulletin.

The OIG and Department's OGC both evaluated the transaction, consistent with Department policy, and OMB was consulted as part of the process. OMB advised that the "full amount [of the automatic apportionment] was apportioned for the entire CR period" per OMB Bulletin 10-3, and thus that it appeared that the OIG had more than adequate apportioned funds to cover the contract obligation. Based on this guidance, the Department's OGC and the OIG both concurred with OMB that no ADA violation had occurred. The Department's OGC issued a memorandum to that effect and concluded its review. The OIG and the Department's Office of Budget have subsequently worked together to clarify and strengthen procedures for the apportionment approval process within the Department.

Because the contract obligation at issue here was proper, there was no reporting required under the ADA. See 31 U.S.C. §§ 1351 and 1517(b). Moreover, because the matter involved a question of appropriations law and did not involve any allegation of wrongdoing by the Inspector General or high-level management, the OIG had no reason to refer the matter to the Council of Inspectors General on Integrity and Efficiency (CIGIE). See Policies and Procedures of the Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency. However, the OIG strived to be transparent and collaborative with the Department and other government entities throughout the process. Notably, this legal review was included in the Department's Performance and Accountability Report for 2011 that was made publicly available, including through posting on the Department's website. See pg. 291.

Regarding your request for supporting documentation: given the sensitive nature of the documents you request, we would be pleased to provide those documents in accordance with the procedures for document requests required under the Privacy Act.

2. Temporary Duty Status OIG Employees

I asked at the hearing that you provide the Committee with information about the Commerce IG employee who lives in Arizona but spends the majority of his time on Temporary Duty (TDY) assignment in Washington, D.C. and any other OIG employees that spend more than one week per month on TDY in the Washington, D.C. area. Please provide the Committee with the number of employees who have spent more than one week per month on TDY status in Washington, D.C. for any time period between January 1, 2010 and present. Please indicate their "home" assignment, the reason for the TDY, and the cost of their Temporary Duty assignment.

The U.S Attorney's Office for the District of Maryland and the Federal Bureau of Investigation requested that the OIG employee from Arizona assist in a criminal investigation, under the exclusive direction of the Department of Justice, beginning in March 2012. During the time the employee worked for the Department of Justice, he did not work in OIG spaces nor was he assigned tasks by OIG personnel. OIG has another employee who has spent more than one week per month on TDY assignment in Washington, DC, over the past year. This employee works out of OIG's Denver office, and travels to Washington, DC, to supervise investigations, meet with OIG officials, and to coordinate with the Department of Justice, as needed.

3. Office of Personnel Management 2012 Survey of Commerce OIG

Mr. Smith, when I asked about the Office of Personnel Management (OPM) 2012 Survey of the Commerce OIG at the hearing you responded that, "the number of negative responses from last year's survey has actually decreased for almost every question, and I do consider that progress."

I wanted to clarify with you that you were referencing the same survey as I was. I assume you are familiar with that survey as you have been put in charge of the IG's employee working groups. The link to the survey that I referred to at the hearing can be found here: http:i/democrats.science.house.gov/publication/federal-employee-viewpointsurvey-results-2012.

This survey clearly indicates a dramatic decline in both the morale of the Commerce OIG staff over the past two years and a significant deterioration in the staffs respect for the Commerce IG's top leaders. To highlight some of the responses:

In answer to Question #15, "My performance appraisal is a fair reflection of my performance," the number of OIG employees responding positively to that question dropped from 64.8% in 2010 to 54.7% in 2012.

In answer to Question #17, "I can disclose a suspected violation of any law, rule or regulation without fear of reprisal," the number of OIG staff responding positively to that question dropped from 63.3% in 2010 to 55.4% in 2012.

In answer to Question #21, "My work unit is able to recruit people with the right skills," the number of OIG employees responding negatively to that question nearly doubled from 15.2% in 2010 to 35.1% in 2012.

In answer to Question #22, "Promotions in my work unit are based on merit," the number of employees responding negatively to that question rose from 22.2% in 2010 to 39.6% in 2012.

In answer to Question #25, "Awards in my work unit depend on how well employees perform their jobs," the number of employees responding positively to that question dropped from 42.4% in 2010 to 34.7% in 2012.

In answer to Question #27, "The skill level in my work unit has improved in the past year," the number of employees responding negatively more than tripled in the past two years from 9.2% in2010 to 30.0% in 2012.

In answer to Question #29, "The workforce has the job-relevant knowledge and skills necessary to accomplish organizational goals," the number of negative responses swelled from 5.7% in 2010 to 19.6% in 2012.

In answer to Question #38, "Prohibited Personnel Practices (for example, illegally discriminating for or against any employee/applicant, obstructing a person's right to compete for employment, knowingly violating veterans' preference requirements) are not tolerated," the number of negative responses jumped from 9.8% in 2010 to 16.8% in 2012.

In answer to Question #40, "I recommend my organization as a good place to work," the number of OIG staff responding negatively ballooned from 8.8% in 2010 to 45.4% just two years later in 2012.

In answer to Question #41, "I believe the results of this survey will be used to make my agency a better place to work," the number of negative responses more than doubled from 23.5% in 2010 to 49.4% in 2012.

In answer to Question #53, "In my organization, leaders generate high levels of motivation and commitment in the workforce," the number of negative responses rose from 16.4% in 2010 to 48.5% in 2012.

In answer to Question #54, "My organization's leaders maintain high standards of honesty and integrity," the number of OIG staff responding negatively rose by nearly 400% from 10.6% in 2010 to 39.6% in 2012.

In answer to Question #60, "Overall, how good a job do you feel is being done by the manager directly above your immediate supervisor/team leader?" the number of employees responding negatively increased from just 5.6% in 2010 to 26.2% in 2012.

In answer to Question #61, "I have a high level of respect for my organization's senior leaders," the number of employees responding in the negative rose from 16.2% in 2010 to 37.1% in 2012.

In answer to Question #69, "Considering everything, how satisfied are you with your job?" the number of negative responses increased from 18.9% in 2010 to 30.4% in 2012.

At the hearing, in answer to my question about this survey you said: " ... I would like to point out the fact that even though the difference between the positive and the neutral negative may not be where we want it to be, it is encouraging to see that the number of negative responses from last year's survey has actually decreased for almost every question, and I do consider that progress." Mr. Smith, I do not consider the above responses progress. Please identify for me the specific areas you believe point to progress in the management of the Commerce Office of Inspector General as highlighted in the OPM survey.

Regarding the OPM 2012 survey, I think it important to point out that the overall satisfaction of federal employees who participated in the survey dropped to its lowest level in nearly a decade, according to the Partnership for Public Service. Other reference points in the survey showed two-thirds of all federal agencies experienced decreasing employee satisfaction. According to one federal human capital practice director who worked with the Partnership on the survey, the "overall morale decline is likely due to the stresses faced by federal employees in the last year, such as at least two years of pay scale freezes, tight budgets, staffing declines and increasing workloads." Despite this, Commerce OIG showed a drop in the percentage of negative responses in several morale related areas, such as satisfaction with training, sense of accomplishment, and overall job satisfaction.

As you quoted, I said in my testimony "that the number of negative responses from last year's survey has actually decreased for almost every question, and I do consider that progress." If people who took the survey are less negative in their responses from one year to the next, I consider that progress. My response stated I was comparing the current year results (2012) with the prior year results (2011). I was also speaking of improvements in the percentages of those who provided a "negative" response. I was not comparing our results from the current year with responses from two years ago (2010), nor was I speaking to differences between "positive" responses from the current year with "positive" responses from two years ago, both of which you cited in your examples. Responses to questions 1, 4, 6, 7, 11, 28, 34, 37, 38, 43, 46, 49, 50, 52, 63, 64, 67, 68, and 69 represent

examples of improvements in the percentage of "negative" responses between 2012 and 2011.

Questions from The Honorable Scott Peters

Commerce IG Nondisclosure Orders ("Gag Orders.")

QFR #1: Mr. Smith, in response to my question at the hearing about the non-disclosure or "gag orders" that the Commerce Inspector General Mr. Todd Zinser, Mr. Rick Beitel, the Principal Assistant Inspector General for Investigations and Whistleblower Protection, and Mr. Wade Green, the Commerce IG's General Counsel, forced several departing IG staff to sign, you said:

> "We do not believe that the interpretation that was provided, that those were gag orders, is correct. We actually used the definition of disparage within the EEOC website, which says telling of falsehoods and lies with reckless regard to the truth. That is the connotation that was used. In addition, we have been working with OSC and they have—through the MSPB [Merit Systems Protection Board], and they have in fact requested through the arbitrator that we submit a joint motion to dismiss the stay as well as dismiss the protective order, and the last we heard from OSC, they consider through the additional language that we submitted on those nondisclosure agreements as well as the Whistleblower Enhancement Act that was passed, that that is no longer an issue."

I believe your statement mischaracterized the facts relating to both the purpose of the non-disclosure agreements and the status of the investigation into prohibited personnel practices of the Commerce Inspector General and his senior staff by the Office of Special Counsel (OSC).

You claimed that the word "disparage" as used in the non-disclosure agreements was an innocent effort to prevent these employees from telling "lies, falsehoods" to Congress and others. It seems nonsensical that this was the actual intent of the gag orders. In a November 2012 press release regarding these illegal orders, OSC said: "The agreements prohibit employees from voluntarily communicating with OSC or Congress." No where did the OSC find that the Commerce Office of Inspector General feared that any of the individuals who signed these non-disclosures were forced to do so because there was a legitimate fear by the Commerce OIG that these departing employees would run off telling "lies" or "falsehoods."

Can you please provide the Committee with the name or names of the individuals within the Commerce IG's office that described to you the nature, intent and scope of these non-disclosure agreements?

> We disagree with the characterization of the Settlement Agreements that appeared in the November 2012 press release, and subsequently in the media. On February 27, 2013, we issued our own press release entitled "Statement Regarding Science Committee Minority Press Release," which included the following: "We have and will continue to cooperate fully with the Office of Special Counsel (OSC) as they continue their investigation. Most recently, at the suggestion of the Merit Systems Protection Board (MSPB) mediator, we have filed with the OSC a joint request to withdraw the application for Stay and Protective Order. Both parties are waiting for the MSPB to act on this joint request. We have met with and updated our oversight committees and will continue to keep them informed about this matter."

Today, the MSPB granted the motion to dismiss the protective order and closed the case number associated with the motion to withdraw the stay because the stay had already expired.

Further, our use of the word "disparage" is consistent with the definition of disparage used by the EEOC, as contained in a sample Settlement Agreement on its website: "Disparage as used herein shall mean any communication, or written, of false information or the communication of information with reckless disregard to its truth or falsity."

QFR #2:

In describing your justification for why IG staff were forced to sign these nondisclosures you also failed to mention a portion of the orders that clearly threatened the IG employees coerced into signing these agreements, that the OIG would provide their new employers with poor performance appraisals of their work if they broke their vow of silence about discussing issues regarding the IG's office with either Congress or the Office of Special Counsel. These agreements seem intended to both frighten and silence departing employees through reprehensible coercive tactics. Again, the OSC said in its November 2012 press release that:

> "The employees were told that manufactured negative performance appraisals would be shared with prospective employers if the employees did not sign the nondisclosure agreements."

Why did you omit this important section of the nondisclosure order from your testimony?

In reviewing my testimony, I do not see where I provided "justification for why IG staff were forced to sign these nondisclosures." As noted in my testimony, we disagree with the media's characterization of these agreements. My understanding is that the agreements were negotiated between OIG attorneys and employees who were represented by counsel —or with the employee's counsel directly—in arms-length transactions. I was not asked about this section of the OSC press release; I answered the questions I was asked.

QFR #3: You implied in your testimony that the Department of Commerce Inspector General's office has worked with the Office of Special Counsel to resolve the questions regarding the nondisclosure orders and that you filed a "joint motion" with the Merit Systems Protection Board to dismiss the stay and protective order as a result of the revised nondisclosure agreements that you personally signed and sent to the former IG staff originally forced into signing these agreements in the first place. In your testimony, you said that as a result OSC believes "that that is no longer an issue." As you must know, the "joint motion" essentially dealt with rescinding the illegal "gag orders" that were imposed on the former IG staff by your office. It did nothing to halt the ongoing substantive investigation into the "prohibited personnel practices" that occurred in the IG's office. Your sworn testimony created a false impression that OSC was about to close their case.

At the time of your testimony, were you aware that the Office of Special Counsel still had an ongoing investigation into the Department of Commerce Office of Inspector General? Why did you not acknowledge that fact to the Members of the Committee?

I have clarified my testimony to emphasize that the joint motion the OIG filed with the OSC, at the request of the MSPB arbitrator, cleared up the issue of the stay and protective order. As stated above, I answered questions I was asked. Had the question been asked whether or not I was aware of OSC's ongoing investigation, I would certainly have "acknowledged that fact to the Members of the Committee;" however, since the OSC has not provided details on specific allegations, I would not have been able to provide any further details other than to say we are cooperating fully with their investigation.

Finally, in your testimony you suggested that the Committee has been provided with copies of the nondisclosure agreements from your office. I have been informed by Committee staff that we have received no such documents from the Commerce OIG. Since, you assumed we had been provided with these records at the hearing I would ask that you provide the Committee with copies of all of the nondisclosure agreements signed by any staff in the IG's office, both the original agreements and any subsequent revisions to them.

Regarding your request for copies of settlement agreements: given the sensitive nature of the documents you request, we would be pleased to provide those documents in accordance with the procedures for document requests required under the Privacy Act.

Appendix II

Additional Material for the Record

LETTER SUBMITTED BY RANKING MINORITY MEMBER MAFFEI

LAMAR S. SMITH, Texas
CHAIRMAN

EDDIE BERNICE JOHNSON, Texas
RANKING MEMBER

Congress of the United States
House of Representatives
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February 26, 2013

Mr. Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office (GAO)
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Dodaro:

The Department of Commerce oversees an annual budget of approximately $8 billion in discretionary appropriations funding and employs nearly 47,000 people. A key role of the department is to create jobs, advance economic growth and enhance U.S. international trade. The department also promotes and implements many key science and technology programs in the telecommunications arena; helps to set federal standards in forensic science, cyber-security and electronic health-care records; and develops weather forecasting tools and technologies that are vital in warning U.S. citizens of severe storms, coastal flooding and other potentially hazardous weather conditions.[1] The Department also manages the radio spectrum, a critically important resource and a potential source of billions of dollars in government revenue.

The Department of Commerce's Office of Inspector General (OIG) has oversight of the agency, and endeavors to detect and deter waste, fraud and abuse by conducting audits, inspections, evaluations and investigations. The taxpayer provides approximately $26 million a year to fund the work of this important accountability office. The Commerce OIG has been headed by Todd J. Zinser since December 2007 and has oversight responsibility for all Department of Commerce agencies, including many that the Science, Space, & Technology Committee has oversight jurisdiction over as well, including the National Institute of Standards and Technology (NIST), National Oceanic and Atmospheric Administration (NOAA), and other Department of Commerce offices and programs.[2]

Considering the vast array of oversight responsibilities the OIG has for multi-billion dollar projects currently underway within Commerce on weather satellite development, weather

[1] "Mission Statement," U.S. Department of Commerce, available here: http://www.commerce.gov/about-department-commerce.
[2] Department of Commerce, Office of Inspector General (OIG) home-page, available here: http://www.oig.doc.gov/Pages/default.aspx.

forecasting technologies and other endeavors, and the large number of employees and offices the Commerce Department comprises, carrying out these oversight responsibilities effectively, efficiently and thoroughly is extremely important. The taxpayers' investments in the Department can only be protected if the OIG is well organized, focused on their mission, and professional in their conduct.

Unfortunately, through both the Committee's own oversight of NOAA and recent news accounts regarding serious allegations of wrong-doing in the Commerce Department's Office of Inspector General, it seems clear there are many problems within the IG's office. That is why we are writing to you. We believe the Government Accountability Office (GAO) is well positioned to carry out a thorough review of the organization, management, policies and procedures of this office. The GAO has a long history of investigating the professional standards, alleged misconduct and efficiency of federal Offices of Inspector Generals. We ask that you carefully document any problems within the Commerce IG's office that you identify and provide Congress with recommendations regarding improvements to the structure, policies and procedures of that office.

Last September, our Committee held a hearing into the unauthorized reprogramming of millions of dollars within the National Weather Service (NWS), part of the National Oceanic Atmospheric Administration (NOAA), and the agency's failure to inform Congress of this unlawful reprogramming. In November 2012 the Department of Commerce officially acknowledged that this unauthorized reprogramming of funds in 2010 and 2011 violated the Anti-deficiency Act (ADA), which is a federal crime. As part of the preparation for this hearing, it became clear that the Commerce OIG failed to adequately pursue multiple allegations regarding these ADA violations beginning in 2010. The reasons for this failure remain unclear and the explanations provided to the Committee have been inconsistent. What does seem clear is that the IG's office received credible allegations of financial misconduct involving millions of dollars and yet did nothing with them. Moreover, after finally launching a preliminary review that concluded the available evidence pointed to a violation of law, the IG turned the investigation back over to the agency—essentially allowing the agency to investigate itself. Both steps are inexplicable and inconsistent with our expectations for an Inspector General.

In December, adding to our concerns about the conduct of the Commerce IG's office, *The Washington Post* published a story citing an ongoing investigation of this office by the Office of Special Counsel (OSC). The OSC is the office in the Federal government that acts to protect whistleblowers—a function that IGs are also expected to perform. The Post reported on allegations of coercive tactics used by the Inspector General Todd Zinser and two of his most senior deputies—including his General Counsel and the official who had formerly been in charge of Whistle Blower Protections—against at least four senior Commerce OIG law enforcement officers. The allegations detail how those four former employees were forced to sign non-disclosure agreements barring them from providing information about the Commerce OIG's conduct to both the Office of Special Counsel and to Congress.[3] The employees were reportedly told by senior OIG management that if they failed to sign the non-disclosure agreements that

[3] Josh Hicks, "Watchdog wins reprieve for Commerce Department agents under gag agreement," *The Washington Post*, December 3, 2012, available here: http://www.washingtonpost.com/blogs/federal-eye/wp/2012/12/03/watchdog-wins-reprieve-for-commerce-department-agents-under-gag-agreement/

negative performance appraisals would be manufactured and shared with potential new employers. The OSC, an independent federal investigative agency, is specifically chartered to safeguard federal employees from reprisals for whistleblowing, and investigates and prosecutes allegations of prohibited personnel practices.[4]

Under both 5 U.S.C. §2302 and 5 U.S.C. §7211, it is a prohibited personnel practice to interfere with federal employees' ability to communicate with or provide documentation to Congress. The law that governs the ban against "Prohibited Personnel Practices," 5 U.S.C. §2302, says in part that disclosure is permissible when the individual employee "reasonably believes that the disclosure evidences—**(i)** any violation of any law, rule, or regulation; or **(ii)** gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety."[5] U.S. Code 5 U.S.C. §7211, "Employees' Right to Petition Congress," says simply, in its entirety: "The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied."[6]

According to a document filed by OSC with the Merit Systems Protection Board (MSPB) in November, the top three employees in the Department of Commerce's Office of Inspector General (OIG) "have engaged in a pattern of prohibited personnel practices designed to chill employees and former employees from whistleblowing, cooperating with OSC, and reporting wrongdoing to Congress."[7] Remarkably, the OIG web-site says: "OIG is certified by the **U.S. Office of Special Counsel (OSC)** as a 5 U.S.C. §2302(c) Whistleblower Protection Agency."[8] Yet, the OSC filing with MSPB concludes: "The ultimate irony is that these gag agreements were coerced by an Inspector General – the very person sworn to protect a federal agency's employees from prohibited personnel practices and to uphold the merits system principles." The idea that any Inspector General would hold the threat of negative performance evaluations over the head of employees in exchange for their silence with Congress or the OSC is simply incomprehensible. IGs are supposed to be the place abused employees can go for protection, not a source of employee abuse. IGs, uniquely among Federal officials, also have a dual reporting obligation to both the Executive Branch and to Congress, so an IG that attempts to obstruct communications with Congress—communications that are protected by law—certainly fails to appreciate the IG's position as a law enforcement official.

The work environment at the OIG's office is also suggestive of a pattern of management that is not conducive to good accountability work. The 2012 Federal Employee Viewpoint Survey Results (the so-called "Best Places to Work" survey) found the DOC IG's office to be among the very worst offices to work in government. Although the survey found the Department of Commerce at large was the 4th best place to work among 19 federal agencies surveyed, of 292

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[4] "Introduction to OSC," U.S. Office of Special Counsel (OSC), http://www.osc.gov/Intro.htm
[5] The text of 5 U.S.C. §2302, Prohibited Personnel Practices, is available here: http://www.law.cornell.edu/uscode/text/5/2302.
[6] The text of 5 U.S.C. §7211, Employees' Right to Petition Congress, is available here: http://www.law.cornell.edu/uscode/text/5/7211.
[7] "Initial Request for Stay of Personnel Action and Protective Order," U.S. Office of Special Counsel Ex Rel. John Does 1-4 (Petitioners) vs. Department of Commerce, Office of Inspector General (Respondent), November 26, 2012.
[8] Department of Commerce, Office of Inspector General (OIG) home-page, available here: http://www.oig.doc.gov/Pages/default.aspx

Agency Subcomponent offices surveyed, the DOC OIG came in 291st. The office came in dead last for "employee skills/mission match; 285th for Effective Leadership-Empowerment; 280th for Teamwork; 275th for Effective Leadership-Senior Leaders and 275th for Performance Based Rewards and Advancement.[9] Drilling down into the specific questions, several revealing responses are worth noting. Only 55% of those responding indicated that they felt safe to "disclose a suspected violation of any law, rule or regulation without fear of reprisal." Only 38% indicated that promotions in their work unit were based on merit. On Senior Leadership, only 36.8% have a high level of respect for that leadership. The staff is almost split on the leadership's standards of honesty and integrity. The good news is that 46.1% believe they do maintain those standards, but a plurality of employees, 53.9%, are either unsure (14.3%) or have concluded that the leaders fail to meet those standards (39.6%). Such scores in an Inspector General's office are simply shocking. Finally, the survey found that in 2011, 17.60% of the workforce left the Commerce OIG.[10]

These kinds of attitudes may have real consequences for the productivity and integrity of the office. A standard evaluative data point used with IG's is to look at their return on investment. In other words, one looks at the productivity of the office by comparing the taxpayer dollars spent versus the dollars saved by IG actions. According to an analysis by our Committee staff, it appears that those returns have been steadily declining since Mr. Zinser took over the office. His first year in office (2008) found the DOC OIG bringing in $4.56. That figure has been in steady decline with figures of $2.88 in 2009, $1.45 in 2010 and $1.05 in 2011. These figures can be subject to great variablity across agencies and even year-to-year in the same agency, but the trend is consistent with an office that has declining capacity to carry out high-quality work as reflected in the Satisfaction Survey cited above.

The problems within the Commerce OIG's office appear to be substantive and widespread. Apart from the most recent actions to halt the gag orders put in place by the Commerce OIG, the Office of Special Counsel (OSC) is apparently investigating other issues regarding potential misconduct in the OIG's office, particularly questionable hiring practices by senior officials. Any of these issues would be deeply troubling in and of themselves. However, multiple and disparate management problems appear to be present in the Department of Commerce's Office of Inspector General.

As a result of all of the disturbing information outlined above regarding the work and work atmosphere of the Commerce OIG, We request that GAO conduct a thorough review of the Department of Commerce's Office of Inspector General. We ask that you specifically examine:

1. The conduct of the office with regards to managing the IG's Hotline. This Hotline system was the method by which the office first received allegations of misconduct with NWS funds, according to the IG's testimony before our Committee. The IG's explanation of what was done

[9] "The Best Places to Work, 2012," the Partnership for Public Service, Agency Report: Office of the Inspector General (Commerce). See also the "2012 Federal Employee Viewpoint Survey Results; Department of Commerce Office of the Inspector General," US Office of Personnel Management.
[10] "The Best Places to Work in The Federal Government: 2012 Rankings," Compiled by the Partnership for Public Service and the Deloitte Consulting firm, specific rankings of the Department of Commerce's Office of Inspector General (DOC OIG) available here: http://bestplacestowork.org/BPTW/rankings/detail/CM64

with those allegations, and how they choose to pursue or not pursue allegations has been inconsistent over time. Without a properly functioning Hotline, the IG will miss early signs of trouble in the agency, just as this IG apparently did with illegal conduct in the NWS CFO's office.

2. Whether the office engages in prohibited personnel practices. The work satisfaction survey results suggest that the four employees who were forced to sign non-disclosure agreements may not be the only ones who have witnessed misconduct. Both hiring and firing, as well as retention, pay and bonus decisions appear to be arbitrary and worth examining. If the IG has hired or promoted staff not fully qualified for their positions or staff who have used their senior positions in abusive ways, or has made hiring, firing and promotion decisions based on metrics of performance other than contributing to protecting the taxpayer and enforcing the law, the Congress needs to know this.

3. Why does productivity in the office seem to be in decline in the last few years? Are staff empowered to carry out audits and investigations of the highest value targets? Are staff free to follow leads and evidence regardless of where they lead? Is the decision-making in the Leadership effective and well-documented? This is particularly important in the one matter that the Subcommittee is aware of: the IG deciding to send back to the agency an investigation into unauthorized reprogramming at NWS. That matter has generated three different types of explanations by the Inspector General and none of them are reassuring. Other Inspector Generals we have consulted with have all indicated that they would never return such an investigation to the agency, especially since the people you are empowering to do the investigation may themselves have been involved in the misconduct.

Please coordinate with our staff regarding this project. You may contact Dr. Dan Pearson (202-225-4494), the Subcommittee on Oversight's Minority staff director, or Mr. Douglas Pasternak (202-226-8892), the Subcommittee on Oversight's Minority chief investigator to discuss this project.

Sincerely,

Eddie Bernice Johnson
Ranking Member
Committee on Science, Space & Technology

Dan Maffei
Ranking Member
Subcommittee on Oversight

Frederica Wilson
Ranking Member
Subcommittee on Technology

Suzanne Bonamici
Ranking Member
Subcommittee on Environment

cc: Mr. Lamar Smith
Chairman
Committee on Science, Space & Technology

Dr. Paul Broun
Chairman
Subcommittee on Oversight

Dr. Andy Harris
Chairman
Subcommittee on Environment

Mr. Thomas Massie
Chairman
Subcommittee on Technology

Mr. Todd J. Zinser
Inspector General
Department of Commerce

WASHINGTON POST ARTICLE SUBMITTED BY RANKING MINORITY MEMBER MAFFEI

http://www.washingtonpost.com/blogs/federal-eye/wp/2012/12/03/watchdog-wins-reprieve-for-commerce-department-agents-under-gag-agreement/

The Washington Post

Federal Eye

Keeping tabs on the federal government

Watchdog wins reprieve for Commerce Department agents under gag agreement

Posted by **Josh Hicks** on December 3, 2012 at 5:01 pm

Commerce Department Inspector General Todd Zinser.
(Courtesy of Commerce Department Inspector General's Office)

A board that conducts hearings over questionable personnel practices issued a stay order against the Commerce Department's Office of the Inspector General Thursday, temporarily lifting gag agreements aimed at preventing four senior law enforcement officers from speaking out against the agency.

The Office of Special Counsel, which requested the order from the Merit Systems Protection Board, claims three top inspector general's officials coerced four of their agents to sign nondisclosure agreements to keep them from volunteering information about the agency to the OSC or Congress, thereby violating whistleblower laws.

The board said in its stay order that it found "reasonable grounds to believe that the agency took or threatened to take [personnel actions] against the former employees in violation" of the Whistleblower Protection Act and the Lloyd-LaFollette Act, a 1912 law that codified whistleblowing rights for federal employees.

OSC alleges that Inspector General Todd Zinser, Deputy Inspector General Wade Green and Principal Assistant Inspector General for Investigations Rick Beitel issued failing performance reviews to each of the agents before asking them to sign the settlements, promising not to place the negative appraisals in the agents' personnel folders and saying they would provide prospective employers with neutral references if the officers signed the agreements.

Those actions, if they occurred, would contradict a major part of the inspector general's mission, which is to work with potential whistleblowers instead of silencing them.

Reports of wrongdoing by the inspector general's office preceded the case involving the stay order, according to OSC spokeswoman Ann O'Hanlon, who said she could not elaborate on those cases.

Zinser said in an interview that OSC is investigating his office for alleged personnel practices relating to two Commerce Department employees not connected to the stay order. He said he does not know the identities of any of the workers involved in allegations against his department or the details of their claims. The OSC has not released that information to the public.

OSC claims the coercive actions by the inspector general's office occurred in 2010 and 2011. According to Zinser, only five people signed separation agreements with his department during that time period.

The order from the Merit Systems Protection Board, which lasts until Jan. 14, allows the agents involved in the stay order to volunteer information to OSC, as well as other investigative bodies and the media, without immediate repercussions from the inspector general's office.

"OSC is committed to ensuring that agencies do not interfere with whistleblowing to Congress," Special Counsel Carolyn Lerner said in a statement. "We are pleased that the [Merit Systems Protection Board] has granted the stay so that OSC can further investigate this matter."

The inspector general's office released a statement Friday saying three of the agents involved in the case signed their separation agreements with representation from attorney's "considered among the best in federal labor law," while the fourth had at least consulted a lawyer before signing the contract.

"We strongly support employees' rights to register complaints and have not interfered with those rights," the inspector general's office said in its statement. "As we all know, there are two sides to every story and hopefully at some point in this process we will have the opportunity to provide the facts for the public record."

Zinser said of the investigation: "It's really a situation where we're going to cooperate with OSC and be as transparent as we can about it."

OFFICE OF PERSONNEL MANAGEMENT'S 2012 FEDERAL EMPLOYEE VIEWPOINT SURVEY RESULTS SUBMITTED BY RANKING MINORITY MEMBER MAFFEI

2012

Federal Employee Viewpoint Survey Results

EMPLOYEES INFLUENCING CHANGE

Office of Inspector General
1st Level Trend Report

Over
687,000
Federal
Employees'
Opinions

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT

Department of Commerce
Office of Inspector General
1st Level Trend Report

Response Summary

	Surveys Completed
2012 Governmentwide	687,687
2012 Department of Commerce	19,872
2012 Office of Inspector General	**110**
2011 Office of Inspector General	123
2010 Office of Inspector General	60
2008 Office of Inspector General	--
2006 Office of Inspector General	--

This 2012 Federal Employee Viewpoint Survey Report provides summary results for subagencies within your department or agency. The results include response percentages for each survey item. The definitions for the Positive, Neutral, and Negative response percentages vary in the following ways across the three primary response scales used in the survey:

Positive: *Strongly Agree* and *Agree / Very Satisfied* and *Satisfied / Very Good* and *Good*

Neutral: *Neither Agree nor Disagree / Neither Satisfied nor Dissatisfied / Fair*

Negative: *Disagree* and *Strongly Disagree / Dissatisfied* and *Very Dissatisfied / Poor* and *Very Poor*

Positive, Neutral, and Negative percentages are based on the total number of responses (N) that are in these three categories. The number of *Do Not Know (DNK)* or *No Basis to Judge (NBJ)* responses, where applicable, is listed separately.

Note: The report tables that follow do not include results for any subagency listed in the Response Summary table (above) that had fewer than 10 completed surveys.

My Work Experience

1. I am given a real opportunity to improve my skills in my organization.

	N	Positive	Neutral	Negative
2012 Governmentwide	686,499	63.2%	16.6%	20.2%
2012 Department of Commerce	19,832	68.6%	16.2%	15.3%
2012 Office of Inspector General	**110**	**46.2%**	**20.9%**	**32.9%**
2011 Office of Inspector General	123	48.5%	15.8%	35.7%
2010 Office of Inspector General	60	73.2%	14.9%	11.9%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Work Experience (continued)

2. I have enough information to do my job well.

	N	Positive	Neutral	Negative
2012 Governmentwide	684,821	71.9%	14.5%	13.6%
2012 Department of Commerce	19,781	75.7%	13.1%	11.2%
2012 Office of Inspector General	**110**	**50.2%**	**29.3%**	**20.6%**
2011 Office of Inspector General	121	56.5%	15.4%	28.2%
2010 Office of Inspector General	60	71.0%	16.8%	12.2%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

3. I feel encouraged to come up with new and better ways of doing things.

	N	Positive	Neutral	Negative
2012 Governmentwide	681,499	57.8%	18.7%	23.5%
2012 Department of Commerce	19,705	60.3%	21.0%	18.7%
2012 Office of Inspector General	**109**	**46.1%**	**19.7%**	**34.1%**
2011 Office of Inspector General	123	50.2%	18.8%	30.9%
2010 Office of Inspector General	60	57.1%	26.5%	16.4%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

4. My work gives me a feeling of personal accomplishment.

	N	Positive	Neutral	Negative
2012 Governmentwide	684,685	72.4%	14.4%	13.2%
2012 Department of Commerce	19,772	73.8%	14.8%	11.4%
2012 Office of Inspector General	**109**	**51.8%**	**21.9%**	**26.3%**
2011 Office of Inspector General	122	58.7%	13.5%	27.8%
2010 Office of Inspector General	60	68.4%	20.2%	11.4%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Work Experience (continued)

5. I like the kind of work I do.

	N	Positive	Neutral	Negative
2012 Governmentwide	682,133	83.8%	10.4%	5.7%
2012 Department of Commerce	19,708	82.5%	11.9%	5.6%
2012 Office of Inspector General	**110**	**63.3%**	**23.8%**	**12.9%**
2011 Office of Inspector General	122	74.1%	13.0%	12.9%
2010 Office of Inspector General	59	81.1%	14.2%	4.7%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

6. I know what is expected of me on the job.

	N	Positive	Neutral	Negative
2012 Governmentwide	681,765	80.1%	10.9%	9.0%
2012 Department of Commerce	19,699	82.9%	10.0%	7.1%
2012 Office of Inspector General	**110**	**61.2%**	**14.3%**	**24.5%**
2011 Office of Inspector General	122	54.9%	17.9%	27.1%
2010 Office of Inspector General	60	66.2%	21.7%	12.2%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

7. When needed I am willing to put in the extra effort to get a job done.

	N	Positive	Neutral	Negative
2012 Governmentwide	684,790	96.5%	2.3%	1.2%
2012 Department of Commerce	19,782	96.9%	2.3%	0.8%
2012 Office of Inspector General	**110**	**97.0%**	**1.7%**	**1.3%**
2011 Office of Inspector General	122	95.0%	3.2%	1.8%
2010 Office of Inspector General	60	98.2%	1.8%	0.0%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Work Experience (continued)

8. I am constantly looking for ways to do my job better.

	N	Positive	Neutral	Negative
2012 Governmentwide	685,285	91.4%	7.1%	1.5%
2012 Department of Commerce	19,795	90.0%	8.6%	1.4%
2012 Office of Inspector General	**110**	**80.8%**	**17.3%**	**2.0%**
2011 Office of Inspector General	121	88.0%	10.2%	1.8%
2010 Office of Inspector General	60	84.4%	15.6%	0.0%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

9. I have sufficient resources (for example, people, materials, budget) to get my job done.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	684,607	48.0%	16.9%	35.1%	1,655
2012 Department of Commerce	19,780	53.3%	16.5%	30.2%	44
2012 Office of Inspector General	**109**	**37.1%**	**18.8%**	**44.1%**	**1**
2011 Office of Inspector General	122	34.4%	23.3%	42.3%	1
2010 Office of Inspector General	59	60.5%	25.8%	13.7%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

10. My workload is reasonable.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	683,078	58.9%	16.2%	24.9%	1,258
2012 Department of Commerce	19,739	58.8%	18.4%	22.8%	31
2012 Office of Inspector General	**107**	**54.3%**	**22.7%**	**23.0%**	**1**
2011 Office of Inspector General	123	55.9%	17.8%	26.3%	0
2010 Office of Inspector General	58	51.1%	25.1%	23.8%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Work Experience (continued)

11. My talents are used well in the workplace.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	671,969	59.5%	16.8%	23.7%	3,517
2012 Department of Commerce	19,451	61.8%	18.4%	19.8%	67
2012 Office of Inspector General	**106**	**39.4%**	**23.0%**	**37.6%**	**1**
2011 Office of Inspector General	123	42.3%	16.3%	41.4%	0
2010 Office of Inspector General	59	44.8%	28.0%	27.2%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

12. I know how my work relates to the agency's goals and priorities.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	681,644	83.7%	10.1%	6.2%	2,503
2012 Department of Commerce	19,710	85.2%	9.4%	5.4%	49
2012 Office of Inspector General	**107**	**72.0%**	**12.1%**	**15.9%**	**1**
2011 Office of Inspector General	121	71.9%	14.8%	13.4%	1
2010 Office of Inspector General	59	80.6%	14.3%	5.1%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

13. The work I do is important.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	680,836	91.2%	6.2%	2.5%	1,769
2012 Department of Commerce	19,664	89.9%	7.5%	2.7%	52
2012 Office of Inspector General	**108**	**74.9%**	**16.0%**	**9.1%**	**2**
2011 Office of Inspector General	122	78.3%	13.7%	8.0%	1
2010 Office of Inspector General	58	83.0%	14.9%	2.1%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Work Experience (continued)

14. Physical conditions (for example, noise level, temperature, lighting, cleanliness in the workplace) allow employees to perform their jobs well.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	683,306	67.5%	14.0%	18.5%	2,522
2012 Department of Commerce	19,689	74.4%	13.0%	12.6%	106
2012 Office of Inspector General	**109**	**70.4%**	**14.7%**	**14.9%**	**1**
2011 Office of Inspector General	123	67.5%	16.4%	16.1%	0
2010 Office of Inspector General	59	67.6%	17.8%	14.5%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

15. My performance appraisal is a fair reflection of my performance.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	675,095	68.8%	14.8%	16.4%	10,306
2012 Department of Commerce	19,650	72.3%	14.8%	12.9%	149
2012 Office of Inspector General	**108**	**54.7%**	**22.2%**	**23.1%**	**1**
2011 Office of Inspector General	120	60.8%	22.0%	17.2%	3
2010 Office of Inspector General	59	64.8%	15.7%	19.4%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

16. I am held accountable for achieving results.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	681,102	82.8%	11.8%	5.5%	3,032
2012 Department of Commerce	19,696	85.3%	10.6%	4.2%	56
2012 Office of Inspector General	**109**	**76.8%**	**14.7%**	**8.4%**	**1**
2011 Office of Inspector General	122	73.7%	20.3%	5.9%	1
2010 Office of Inspector General	59	70.2%	24.4%	5.4%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Work Experience (continued)

17. I can disclose a suspected violation of any law, rule or regulation without fear of reprisal.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	656,457	61.5%	19.5%	19.0%	27,152
2012 Department of Commerce	18,431	63.9%	22.0%	14.2%	1,327
2012 Office of Inspector General	**106**	**55.4%**	**16.6%**	**28.0%**	**4**
2011 Office of Inspector General	118	54.5%	19.6%	25.9%	5
2010 Office of Inspector General	56	63.3%	15.0%	21.7%	4
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

18. My training needs are assessed.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	677,385	53.1%	23.4%	23.6%	7,250
2012 Department of Commerce	19,550	52.2%	24.7%	23.1%	232
2012 Office of Inspector General	**108**	**42.3%**	**23.2%**	**34.6%**	**2**
2011 Office of Inspector General	119	42.6%	22.6%	34.8%	4
2010 Office of Inspector General	59	61.9%	16.2%	21.9%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

19. In my most recent performance appraisal, I understood what I had to do to be rated at different performance levels (for example, Fully Successful, Outstanding).

	N	Positive	Neutral	Negative	NBJ
2012 Governmentwide	668,068	67.5%	14.8%	17.7%	18,229
2012 Department of Commerce	19,436	70.0%	14.5%	15.6%	387
2012 Office of Inspector General	**107**	**52.7%**	**18.0%**	**29.3%**	**3**
2011 Office of Inspector General	121	54.0%	15.8%	30.2%	2
2010 Office of Inspector General	59	59.6%	17.8%	22.6%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Work Unit

20. The people I work with cooperate to get the job done.

	N	Positive	Neutral	Negative
2012 Governmentwide	685,205	72.8%	14.3%	12.9%
2012 Department of Commerce	19,824	78.0%	13.1%	8.8%
2012 Office of Inspector General	**110**	**70.4%**	**16.7%**	**12.9%**
2011 Office of Inspector General	115	73.3%	14.2%	12.5%
2010 Office of Inspector General	59	81.8%	7.3%	10.9%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

21. My work unit is able to recruit people with the right skills.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	662,253	43.5%	27.2%	29.4%	23,872
2012 Department of Commerce	18,908	53.8%	25.3%	20.9%	917
2012 Office of Inspector General	**103**	**41.8%**	**23.1%**	**35.1%**	**7**
2011 Office of Inspector General	117	47.0%	21.5%	31.5%	6
2010 Office of Inspector General	57	56.2%	28.6%	15.2%	3
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

22. Promotions in my work unit are based on merit.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	645,137	33.5%	29.2%	37.3%	39,208
2012 Department of Commerce	18,757	52.5%	24.1%	23.3%	1,019
2012 Office of Inspector General	**106**	**38.1%**	**22.3%**	**39.6%**	**4**
2011 Office of Inspector General	110	36.7%	27.7%	35.6%	13
2010 Office of Inspector General	52	39.2%	38.6%	22.2%	8
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Work Unit (continued)

23. In my work unit, steps are taken to deal with a poor performer who cannot or will not improve.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	632,125	29.4%	27.8%	42.8%	51,759
2012 Department of Commerce	17,578	38.4%	29.1%	32.6%	2,205
2012 Office of Inspector General	**94**	**35.0%**	**29.3%**	**35.7%**	**14**
2011 Office of Inspector General	106	31.4%	33.5%	35.1%	17
2010 Office of Inspector General	54	27.3%	34.3%	38.4%	6
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

24. In my work unit, differences in performance are recognized in a meaningful way.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	652,024	33.8%	29.2%	37.0%	32,505
2012 Department of Commerce	18,494	42.9%	29.3%	27.8%	1,283
2012 Office of Inspector General	**106**	**34.6%**	**25.9%**	**39.5%**	**3**
2011 Office of Inspector General	109	31.3%	30.7%	38.0%	13
2010 Office of Inspector General	53	36.2%	28.9%	35.0%	7
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

25. Awards in my work unit depend on how well employees perform their jobs.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	648,791	41.0%	25.4%	33.6%	35,445
2012 Department of Commerce	18,813	55.2%	21.9%	22.8%	942
2012 Office of Inspector General	**105**	**34.7%**	**22.4%**	**42.8%**	**4**
2011 Office of Inspector General	113	45.5%	18.7%	35.8%	9
2010 Office of Inspector General	57	42.4%	27.1%	30.5%	3
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Work Unit (continued)

26. Employees in my work unit share job knowledge with each other.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	681,951	72.3%	14.6%	13.1%	2,878
2012 Department of Commerce	19,656	74.7%	14.3%	11.0%	116
2012 Office of Inspector General	**107**	**65.3%**	**17.7%**	**16.9%**	**2**
2011 Office of Inspector General	121	67.9%	16.0%	16.1%	1
2010 Office of Inspector General	59	74.3%	14.8%	10.9%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

27. The skill level in my work unit has improved in the past year.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	661,501	54.7%	28.6%	16.8%	23,067
2012 Department of Commerce	18,738	56.9%	30.3%	12.8%	1,038
2012 Office of Inspector General	**105**	**47.1%**	**22.9%**	**30.0%**	**5**
2011 Office of Inspector General	118	49.5%	32.9%	17.6%	4
2010 Office of Inspector General	59	63.9%	26.9%	9.2%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

28. How would you rate the overall quality of work done by your work unit?

	N	Positive	Neutral	Negative
2012 Governmentwide	683,823	83.4%	13.6%	3.0%
2012 Department of Commerce	19,781	88.6%	9.5%	1.9%
2012 Office of Inspector General	**110**	**77.2%**	**18.3%**	**4.5%**
2011 Office of Inspector General	123	73.3%	21.1%	5.6%
2010 Office of Inspector General	60	81.9%	18.1%	0.0%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Agency

29. The workforce has the job-relevant knowledge and skills necessary to accomplish organizational goals.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	662,287	71.6%	17.2%	11.2%	9,223
2012 Department of Commerce	19,200	76.9%	15.0%	8.0%	337
2012 Office of Inspector General	**104**	**62.1%**	**18.3%**	**19.6%**	**4**
2011 Office of Inspector General	115	62.8%	17.7%	19.5%	3
2010 Office of Inspector General	55	74.0%	20.3%	5.7%	4
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

30. Employees have a feeling of personal empowerment with respect to work processes.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	657,623	45.2%	26.0%	28.8%	13,810
2012 Department of Commerce	18,998	51.7%	25.4%	23.0%	532
2012 Office of Inspector General	**105**	**26.6%**	**20.9%**	**52.5%**	**4**
2011 Office of Inspector General	119	28.8%	25.6%	45.6%	2
2010 Office of Inspector General	52	52.0%	26.7%	21.2%	7
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

31. Employees are recognized for providing high quality products and services.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	658,648	48.4%	24.1%	27.5%	11,646
2012 Department of Commerce	19,163	58.6%	21.9%	19.4%	327
2012 Office of Inspector General	**107**	**42.1%**	**24.9%**	**33.0%**	**2**
2011 Office of Inspector General	118	50.6%	22.5%	26.9%	3
2010 Office of Inspector General	57	51.0%	35.6%	13.4%	2
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Agency (continued)

32. Creativity and innovation are rewarded.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	650,663	38.5%	29.6%	31.9%	18,726
2012 Department of Commerce	18,894	46.4%	29.0%	24.7%	584
2012 Office of Inspector General	**103**	**29.5%**	**28.4%**	**42.0%**	**6**
2011 Office of Inspector General	113	35.2%	27.7%	37.1%	8
2010 Office of Inspector General	55	36.5%	41.3%	22.2%	4
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

33. Pay raises depend on how well employees perform their jobs.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	628,870	21.6%	28.1%	50.2%	40,108
2012 Department of Commerce	18,445	39.4%	25.6%	35.1%	1,042
2012 Office of Inspector General	**100**	**28.3%**	**26.5%**	**45.2%**	**9**
2011 Office of Inspector General	111	32.3%	29.5%	38.2%	10
2010 Office of Inspector General	53	26.0%	37.2%	36.8%	6
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

34. Policies and programs promote diversity in the workplace (for example, recruiting minorities and women, training in awareness of diversity issues, mentoring).

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	625,285	56.8%	29.1%	14.1%	44,977
2012 Department of Commerce	18,032	64.2%	25.6%	10.2%	1,469
2012 Office of Inspector General	**105**	**51.5%**	**27.8%**	**20.7%**	**4**
2011 Office of Inspector General	109	41.2%	37.3%	21.5%	12
2010 Office of Inspector General	50	53.3%	35.3%	11.4%	9
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Agency (continued)

35. Employees are protected from health and safety hazards on the job.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	662,923	76.9%	13.4%	9.7%	7,525
2012 Department of Commerce	19,135	83.7%	11.3%	4.9%	394
2012 Office of Inspector General	**103**	**84.9%**	**11.8%**	**3.3%**	**5**
2011 Office of Inspector General	115	71.7%	18.4%	9.9%	6
2010 Office of Inspector General	57	79.7%	18.8%	1.6%	2
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

36. My organization has prepared employees for potential security threats.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	661,974	78.0%	13.9%	8.2%	7,292
2012 Department of Commerce	19,204	80.8%	13.7%	5.5%	288
2012 Office of Inspector General	**108**	**75.2%**	**17.4%**	**7.3%**	**1**
2011 Office of Inspector General	118	64.1%	24.6%	11.3%	3
2010 Office of Inspector General	58	75.5%	22.4%	2.1%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

37. Arbitrary action, personal favoritism and coercion for partisan political purposes are not tolerated.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	636,579	51.2%	23.4%	25.4%	32,982
2012 Department of Commerce	18,042	61.7%	21.8%	16.5%	1,440
2012 Office of Inspector General	**102**	**47.7%**	**23.0%**	**29.3%**	**7**
2011 Office of Inspector General	111	38.3%	25.0%	36.7%	10
2010 Office of Inspector General	56	42.8%	35.5%	21.7%	3
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Agency (continued)

38. Prohibited Personnel Practices (for example, illegally discriminating for or against any employee/applicant, obstructing a person's right to compete for employment, knowingly violating veterans' preference requirements) are not tolerated.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	615,998	65.9%	20.0%	14.1%	51,862
2012 Department of Commerce	17,562	73.2%	18.0%	8.7%	1,904
2012 Office of Inspector General	**96**	**54.9%**	**28.3%**	**16.8%**	**13**
2011 Office of Inspector General	111	53.4%	28.0%	18.6%	9
2010 Office of Inspector General	53	56.4%	33.8%	9.8%	6
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

39. My agency is successful at accomplishing its mission.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	658,423	76.4%	16.7%	6.9%	10,424
2012 Department of Commerce	19,099	82.5%	13.1%	4.5%	357
2012 Office of Inspector General	**107**	**59.4%**	**24.7%**	**15.9%**	**2**
2011 Office of Inspector General	118	64.8%	22.3%	12.9%	2
2010 Office of Inspector General	58	78.9%	15.8%	5.3%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

40. I recommend my organization as a good place to work.

	N	Positive	Neutral	Negative
2012 Governmentwide	669,665	66.8%	19.9%	13.4%
2012 Department of Commerce	19,513	74.0%	16.3%	9.8%
2012 Office of Inspector General	**109**	**31.6%**	**23.0%**	**45.4%**
2011 Office of Inspector General	121	44.3%	24.7%	31.0%
2010 Office of Inspector General	59	51.7%	39.4%	8.8%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Agency (continued)

41. I believe the results of this survey will be used to make my agency a better place to work.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	606,522	42.4%	29.1%	28.4%	63,385
2012 Department of Commerce	17,673	46.1%	29.6%	24.3%	1,873
2012 Office of Inspector General	**97**	**30.8%**	**19.9%**	**49.4%**	**12**
2011 Office of Inspector General	111	39.0%	26.5%	34.5%	11
2010 Office of Inspector General	51	49.1%	27.5%	23.5%	8
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

My Supervisor/Team Leader

42. My supervisor supports my need to balance work and other life issues.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	663,393	76.7%	11.9%	11.4%	4,030
2012 Department of Commerce	19,376	83.4%	9.8%	6.8%	123
2012 Office of Inspector General	**108**	**81.2%**	**7.0%**	**11.7%**	**1**
2011 Office of Inspector General	121	82.4%	9.0%	8.6%	0
2010 Office of Inspector General	58	77.3%	8.8%	13.9%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

43. My supervisor/team leader provides me with opportunities to demonstrate my leadership skills.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	663,693	65.2%	17.7%	17.1%	2,957
2012 Department of Commerce	19,333	68.5%	17.9%	13.6%	143
2012 Office of Inspector General	**108**	**66.1%**	**12.2%**	**21.7%**	**1**
2011 Office of Inspector General	121	58.8%	19.1%	22.1%	0
2010 Office of Inspector General	58	66.2%	16.8%	17.1%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Supervisor/Team Leader (continued)

44. Discussions with my supervisor/team leader about my performance are worthwhile.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	658,206	62.2%	19.2%	18.6%	6,888
2012 Department of Commerce	19,279	68.7%	16.9%	14.4%	157
2012 Office of Inspector General	**107**	**61.0%**	**18.6%**	**20.4%**	**1**
2011 Office of Inspector General	120	64.4%	16.4%	19.2%	2
2010 Office of Inspector General	58	50.6%	22.6%	26.8%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

45. My supervisor/team leader is committed to a workforce representative of all segments of society.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	615,578	64.5%	24.6%	10.9%	49,711
2012 Department of Commerce	17,644	70.1%	22.7%	7.3%	1,790
2012 Office of Inspector General	**103**	**69.6%**	**20.7%**	**9.8%**	**6**
2011 Office of Inspector General	109	63.9%	27.9%	8.2%	13
2010 Office of Inspector General	53	56.8%	33.1%	10.2%	5
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

46. My supervisor/team leader provides me with constructive suggestions to improve my job performance.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	662,244	60.8%	20.6%	18.7%	3,265
2012 Department of Commerce	19,351	66.4%	19.4%	14.3%	85
2012 Office of Inspector General	**108**	**63.4%**	**14.9%**	**21.7%**	**1**
2011 Office of Inspector General	119	59.1%	17.1%	23.7%	3
2010 Office of Inspector General	57	48.3%	24.4%	27.3%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Supervisor/Team Leader (continued)

47. Supervisors/team leaders in my work unit support employee development.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	657,845	65.1%	18.6%	16.3%	7,510
2012 Department of Commerce	19,227	72.4%	16.1%	11.4%	219
2012 Office of Inspector General	**107**	**68.2%**	**13.6%**	**18.2%**	**1**
2011 Office of Inspector General	120	63.4%	24.1%	12.5%	1
2010 Office of Inspector General	58	65.1%	24.0%	10.9%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

48. My supervisor/team leader listens to what I have to say.

	N	Positive	Neutral	Negative
2012 Governmentwide	665,079	74.3%	13.2%	12.5%
2012 Department of Commerce	19,488	80.7%	10.7%	8.6%
2012 Office of Inspector General	**109**	**77.8%**	**9.1%**	**13.1%**
2011 Office of Inspector General	122	77.2%	11.0%	11.8%
2010 Office of Inspector General	59	76.4%	15.0%	8.7%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

49. My supervisor/team leader treats me with respect.

	N	Positive	Neutral	Negative
2012 Governmentwide	664,171	79.4%	11.1%	9.5%
2012 Department of Commerce	19,461	84.3%	8.8%	6.9%
2012 Office of Inspector General	**108**	**79.1%**	**11.9%**	**9.0%**
2011 Office of Inspector General	122	82.2%	7.9%	9.9%
2010 Office of Inspector General	58	68.7%	18.8%	12.6%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Supervisor/Team Leader (continued)

50. In the last six months, my supervisor/team leader has talked with me about my performance.

	N	Positive	Neutral	Negative
2012 Governmentwide	664,039	76.8%	10.5%	12.7%
2012 Department of Commerce	19,436	87.2%	6.9%	5.9%
2012 Office of Inspector General	**109**	**88.3%**	**7.5%**	**4.2%**
2011 Office of Inspector General	122	77.2%	11.7%	11.1%
2010 Office of Inspector General	59	67.4%	17.1%	15.5%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

51. I have trust and confidence in my supervisor.

	N	Positive	Neutral	Negative
2012 Governmentwide	663,909	65.8%	17.2%	17.0%
2012 Department of Commerce	19,451	73.0%	14.6%	12.4%
2012 Office of Inspector General	**107**	**70.7%**	**13.7%**	**15.5%**
2011 Office of Inspector General	121	70.0%	15.6%	14.5%
2010 Office of Inspector General	59	59.2%	23.0%	17.9%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

52. Overall, how good a job do you feel is being done by your immediate supervisor/team leader?

	N	Positive	Neutral	Negative
2012 Governmentwide	663,472	68.4%	18.9%	12.6%
2012 Department of Commerce	19,458	75.5%	15.8%	8.7%
2012 Office of Inspector General	**108**	**75.2%**	**14.1%**	**10.7%**
2011 Office of Inspector General	120	73.0%	15.3%	11.7%
2010 Office of Inspector General	59	63.7%	24.0%	12.3%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

Leadership

53. In my organization, leaders generate high levels of motivation and commitment in the workforce.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	651,887	42.9%	26.2%	30.9%	6,310
2012 Department of Commerce	19,130	48.0%	26.6%	25.4%	229
2012 Office of Inspector General	**107**	**31.3%**	**20.2%**	**48.5%**	**1**
2011 Office of Inspector General	119	34.4%	23.2%	42.5%	0
2010 Office of Inspector General	57	48.7%	34.9%	16.4%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

54. My organization's leaders maintain high standards of honesty and integrity.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	638,553	55.1%	23.1%	21.8%	19,203
2012 Department of Commerce	18,475	60.8%	22.6%	16.6%	863
2012 Office of Inspector General	**105**	**46.1%**	**14.3%**	**39.6%**	**3**
2011 Office of Inspector General	113	47.9%	25.2%	26.9%	6
2010 Office of Inspector General	55	71.1%	18.3%	10.6%	3
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

55. Managers/supervisors/team leaders work well with employees of different backgrounds.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	631,883	63.4%	22.2%	14.4%	24,592
2012 Department of Commerce	18,228	69.9%	20.0%	10.1%	1,065
2012 Office of Inspector General	**100**	**51.8%**	**24.0%**	**24.2%**	**8**
2011 Office of Inspector General	110	57.4%	29.9%	12.7%	10
2010 Office of Inspector General	54	59.2%	30.0%	10.8%	4
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

Leadership (continued)

56. Managers communicate the goals and priorities of the organization.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	651,106	62.4%	19.9%	17.7%	5,427
2012 Department of Commerce	19,116	66.7%	18.7%	14.6%	163
2012 Office of Inspector General	**105**	**50.7%**	**20.8%**	**28.5%**	**2**
2011 Office of Inspector General	120	63.3%	18.6%	18.1%	0
2010 Office of Inspector General	57	63.6%	24.8%	11.5%	1
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

57. Managers review and evaluate the organization's progress toward meeting its goals and objectives.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	621,279	62.0%	23.4%	14.6%	34,259
2012 Department of Commerce	18,250	67.7%	20.8%	11.5%	1,009
2012 Office of Inspector General	**104**	**64.6%**	**18.4%**	**17.0%**	**3**
2011 Office of Inspector General	113	70.3%	16.0%	13.7%	6
2010 Office of Inspector General	53	67.9%	24.6%	7.5%	5
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

58. Managers promote communication among different work units (for example, about projects, goals, needed resources).

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	639,009	53.3%	23.0%	23.8%	17,366
2012 Department of Commerce	18,709	56.7%	22.8%	20.5%	592
2012 Office of Inspector General	**105**	**36.6%**	**26.8%**	**36.6%**	**3**
2011 Office of Inspector General	119	45.1%	24.2%	30.7%	1
2010 Office of Inspector General	55	48.2%	32.7%	19.1%	3
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

Leadership (continued)

59. Managers support collaboration across work units to accomplish work objectives.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	637,138	56.9%	23.0%	20.1%	18,374
2012 Department of Commerce	18,681	61.8%	21.8%	16.4%	601
2012 Office of Inspector General	**106**	**45.1%**	**31.6%**	**23.4%**	**2**
2011 Office of Inspector General	119	54.3%	25.0%	20.7%	1
2010 Office of Inspector General	56	58.0%	33.0%	9.0%	2
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

60. Overall, how good a job do you feel is being done by the manager directly above your immediate supervisor/team leader?

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	625,622	57.9%	24.0%	18.1%	30,480
2012 Department of Commerce	17,769	64.0%	22.5%	13.6%	1,549
2012 Office of Inspector General	**102**	**53.0%**	**20.8%**	**26.2%**	**5**
2011 Office of Inspector General	113	50.8%	26.6%	22.6%	7
2010 Office of Inspector General	53	61.8%	32.6%	5.6%	5
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

61. I have a high level of respect for my organization's senior leaders.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	648,951	54.1%	23.3%	22.6%	7,190
2012 Department of Commerce	18,959	57.2%	23.2%	19.6%	359
2012 Office of Inspector General	**107**	**36.8%**	**26.1%**	**37.1%**	**1**
2011 Office of Inspector General	118	41.7%	26.2%	32.1%	0
2010 Office of Inspector General	55	55.3%	28.5%	16.2%	2
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

Leadership (continued)

62. Senior leaders demonstrate support for Work/Life programs.

	N	Positive	Neutral	Negative	DNK
2012 Governmentwide	598,453	54.0%	27.6%	18.4%	56,981
2012 Department of Commerce	17,314	62.7%	25.3%	12.0%	2,011
2012 Office of Inspector General	**101**	**46.0%**	**20.3%**	**33.7%**	**6**
2011 Office of Inspector General	111	45.1%	31.1%	23.9%	8
2010 Office of Inspector General	54	72.7%	17.5%	9.8%	2
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

My Satisfaction

63. How satisfied are you with your involvement in decisions that affect your work?

	N	Positive	Neutral	Negative
2012 Governmentwide	652,744	51.6%	23.7%	24.7%
2012 Department of Commerce	19,287	56.0%	23.6%	20.4%
2012 Office of Inspector General	**108**	**38.6%**	**22.3%**	**39.1%**
2011 Office of Inspector General	120	41.7%	17.5%	40.7%
2010 Office of Inspector General	59	48.4%	30.6%	21.0%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

64. How satisfied are you with the information you receive from management on what's going on in your organization?

	N	Positive	Neutral	Negative
2012 Governmentwide	652,105	48.4%	24.2%	27.5%
2012 Department of Commerce	19,262	52.4%	23.3%	24.2%
2012 Office of Inspector General	**108**	**32.9%**	**26.6%**	**40.5%**
2011 Office of Inspector General	120	38.2%	14.5%	47.3%
2010 Office of Inspector General	59	48.8%	26.4%	24.9%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Satisfaction (continued)

65. How satisfied are you with the recognition you receive for doing a good job?

	N	Positive	Neutral	Negative
2012 Governmentwide	650,832	48.0%	23.8%	28.2%
2012 Department of Commerce	19,221	56.7%	22.1%	21.2%
2012 Office of Inspector General	**107**	**37.3%**	**34.6%**	**28.1%**
2011 Office of Inspector General	119	43.9%	27.2%	28.9%
2010 Office of Inspector General	59	54.3%	26.8%	18.9%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

66. How satisfied are you with the policies and practices of your senior leaders?

	N	Positive	Neutral	Negative
2012 Governmentwide	650,372	43.4%	29.3%	27.3%
2012 Department of Commerce	19,191	47.0%	29.5%	23.5%
2012 Office of Inspector General	**108**	**31.1%**	**22.3%**	**46.6%**
2011 Office of Inspector General	120	33.4%	29.6%	37.0%
2010 Office of Inspector General	59	45.6%	33.9%	20.5%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

67. How satisfied are you with your opportunity to get a better job in your organization?

	N	Positive	Neutral	Negative
2012 Governmentwide	650,630	36.4%	28.4%	35.1%
2012 Department of Commerce	19,236	41.8%	30.4%	27.8%
2012 Office of Inspector General	**108**	**20.4%**	**34.3%**	**45.2%**
2011 Office of Inspector General	120	20.4%	33.3%	46.3%
2010 Office of Inspector General	59	30.4%	35.8%	33.9%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Satisfaction (continued)

68. How satisfied are you with the training you receive for your present job?

	N	Positive	Neutral	Negative
2012 Governmentwide	650,514	53.7%	23.5%	22.8%
2012 Department of Commerce	19,219	57.5%	23.9%	18.6%
2012 Office of Inspector General	**107**	**40.7%**	**17.9%**	**41.4%**
2011 Office of Inspector General	120	34.1%	23.6%	42.3%
2010 Office of Inspector General	59	61.5%	29.2%	9.3%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

69. Considering everything, how satisfied are you with your job?

	N	Positive	Neutral	Negative
2012 Governmentwide	650,211	68.0%	17.3%	14.7%
2012 Department of Commerce	19,227	71.7%	15.8%	12.5%
2012 Office of Inspector General	**108**	**45.8%**	**23.9%**	**30.4%**
2011 Office of Inspector General	119	49.4%	18.0%	32.5%
2010 Office of Inspector General	59	60.0%	21.1%	18.9%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

70. Considering everything, how satisfied are you with your pay?

	N	Positive	Neutral	Negative
2012 Governmentwide	650,947	58.8%	17.2%	24.0%
2012 Department of Commerce	19,247	65.1%	16.6%	18.2%
2012 Office of Inspector General	**107**	**59.8%**	**22.6%**	**17.7%**
2011 Office of Inspector General	120	63.7%	26.2%	10.0%
2010 Office of Inspector General	59	68.8%	17.3%	13.9%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

My Satisfaction (continued)

71. Considering everything, how satisfied are you with your organization?

	N	Positive	Neutral	Negative
2012 Governmentwide	651,064	58.9%	21.6%	19.5%
2012 Department of Commerce	19,229	65.1%	19.6%	15.3%
2012 Office of Inspector General	**107**	**37.3%**	**21.4%**	**41.3%**
2011 Office of Inspector General	120	42.7%	20.6%	36.7%
2010 Office of Inspector General	59	53.5%	31.8%	14.6%
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

Work/Life

72. Have you been notified that you are eligible to telework? Telework means working at a location other than your normal work site during your regular work hours (excludes travel).

	N	Yes	No	Not Sure
2012 Governmentwide	651,238	36.2%	57.9%	5.9%
2012 Department of Commerce	19,237	70.8%	25.2%	4.0%
2012 Office of Inspector General	**108**	**93.6%**	**4.5%**	**1.9%**
2011 Office of Inspector General	120	95.1%	4.9%	0.0%
2010 Office of Inspector General	--	--	--	--
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

73. Please select the response below that BEST describes your current teleworking situation:

		Telework			
	N	3+ Days Per Week	1-2 Days Per Week	No More Than 1-2 Days Per Month	Infrequently
2012 Governmentwide	631,985	2.6%	7.7%	3.8%	9.6%
2012 Department of Commerce	19,061	13.2%	17.7%	7.7%	16.7%
2012 Office of Inspector General	**108**	**3.3%**	**42.0%**	**12.8%**	**28.0%**
2011 Office of Inspector General	120	0.9%	31.4%	16.3%	34.9%
2010 Office of Inspector General	--	--	--	--	--
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

(continued)

Department of Commerce
Office of Inspector General
1st Level Trend Report

Work/Life (continued)

73. Please select the response below that BEST describes your current teleworking situation: (continued)

		Do Not Telework			
	N	Must Be Physically Present	Technical Issues	Not Allowed To Telework	Choose Not To Telework
2012 Governmentwide	631,985	35.0%	6.2%	22.2%	12.9%
2012 Department of Commerce	19,061	11.5%	5.5%	13.4%	14.3%
2012 Office of Inspector General	**108**	**0.7%**	**0.0%**	**3.8%**	**9.4%**
2011 Office of Inspector General	120	1.7%	0.0%	4.2%	10.6%
2010 Office of Inspector General	--	--	--	--	--
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

74. Do you participate in the following Work/Life programs? Alternative Work Schedules (AWS)

	N	Yes	No	Not Available To Me
2012 Governmentwide	648,172	32.3%	45.3%	22.4%
2012 Department of Commerce	19,215	55.4%	37.0%	7.6%
2012 Office of Inspector General	**106**	**43.5%**	**49.5%**	**6.9%**
2011 Office of Inspector General	120	45.2%	40.8%	14.0%
2010 Office of Inspector General	--	--	--	--
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

75. Do you participate in the following Work/Life programs? Health and Wellness Programs (for example, exercise, medical screening, quit smoking programs)

	N	Yes	No	Not Available To Me
2012 Governmentwide	646,836	29.3%	58.7%	12.0%
2012 Department of Commerce	19,138	28.9%	63.9%	7.3%
2012 Office of Inspector General	**106**	**12.9%**	**72.6%**	**14.5%**
2011 Office of Inspector General	119	19.9%	66.7%	13.4%
2010 Office of Inspector General	--	--	--	--
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

Work/Life (continued)

76. Do you participate in the following Work/Life programs? Employee Assistance Program (EAP)

	N	Yes	No	Not Available To Me
2012 Governmentwide	645,355	14.0%	80.0%	6.0%
2012 Department of Commerce	19,072	12.3%	84.3%	3.4%
2012 Office of Inspector General	**107**	**13.8%**	**82.5%**	**3.7%**
2011 Office of Inspector General	119	4.1%	90.7%	5.2%
2010 Office of Inspector General	--	--	--	--
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

77. Do you participate in the following Work/Life programs? Child Care Programs (for example, daycare, parenting classes, parenting support groups)

	N	Yes	No	Not Available To Me
2012 Governmentwide	648,002	3.7%	79.1%	17.2%
2012 Department of Commerce	19,164	4.0%	84.8%	11.2%
2012 Office of Inspector General	**107**	**0.0%**	**87.2%**	**12.8%**
2011 Office of Inspector General	118	0.9%	85.5%	13.6%
2010 Office of Inspector General	--	--	--	--
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

78. Do you participate in the following Work/Life programs? Elder Care Programs (for example, support groups, speakers)

	N	Yes	No	Not Available To Me
2012 Governmentwide	647,966	2.5%	80.0%	17.6%
2012 Department of Commerce	19,136	2.9%	85.3%	11.8%
2012 Office of Inspector General	**105**	**0.0%**	**86.3%**	**13.7%**
2011 Office of Inspector General	119	0.9%	84.2%	14.9%
2010 Office of Inspector General	--	--	--	--
2008 Office of Inspector General	--	--	--	--
2006 Office of Inspector General	--	--	--	--

Department of Commerce
Office of Inspector General
1st Level Trend Report

Work/Life (continued)

79. How satisfied are you with the following Work/Life programs in your agency? Telework

	N	Positive	Neutral	Negative	NBJ
2012 Governmentwide	187,559	72.8%	17.5%	9.7%	21,200
2012 Department of Commerce	11,156	82.6%	10.4%	7.0%	276
2012 Office of Inspector General	**90**	**62.3%**	**16.7%**	**21.0%**	**2**
2011 Office of Inspector General	100	82.7%	13.6%	3.7%	0
2010 Office of Inspector General	--	--	--	--	--
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

**The results for this item only include employees who indicated that they participated in this program.*

80. How satisfied are you with the following Work/Life programs in your agency? Alternative Work Schedules (AWS)

	N	Positive	Neutral	Negative	NBJ
2012 Governmentwide	228,200	88.5%	8.0%	3.5%	5,463
2012 Department of Commerce	10,795	93.9%	4.4%	1.7%	133
2012 Office of Inspector General	**43**	**79.2%**	**4.5%**	**16.4%**	**2**
2011 Office of Inspector General	54	92.0%	6.1%	1.9%	0
2010 Office of Inspector General	--	--	--	--	--
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

**The results for this item only include employees who indicated that they participated in this program.*

81. How satisfied are you with the following Work/Life programs in your agency? Health and Wellness Programs (for example, exercise, medical screening, quit smoking programs)

	N	Positive	Neutral	Negative	NBJ
2012 Governmentwide	184,051	80.0%	16.6%	3.4%	12,511
2012 Department of Commerce	5,391	85.8%	12.1%	2.1%	319
2012 Office of Inspector General	**14**	**72.4%**	**13.2%**	**14.4%**	**3**
2011 Office of Inspector General	19	84.8%	15.2%	0.0%	4
2010 Office of Inspector General	--	--	--	--	--
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

**The results for this item only include employees who indicated that they participated in this program.*

Department of Commerce
Office of Inspector General
1st Level Trend Report

Work/Life (continued)

82. How satisfied are you with the following Work/Life programs in your agency? Employee Assistance Program (EAP)

	N	Positive	Neutral	Negative	NBJ
2012 Governmentwide	88,192	75.6%	20.6%	3.8%	11,655
2012 Department of Commerce	2,348	78.3%	17.0%	4.8%	281
2012 Office of Inspector General	**13**	**84.9%**	**0.0%**	**15.1%**	**3**
2011 Office of Inspector General	5	60.9%	39.1%	0.0%	1
2010 Office of Inspector General	--	--	--	--	--
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

**The results for this item only include employees who indicated that they participated in this program.*

83. How satisfied are you with the following Work/Life programs in your agency? Child Care Programs (for example, daycare, parenting classes, parenting support groups)

	N	Positive	Neutral	Negative	NBJ
2012 Governmentwide	18,627	72.0%	24.3%	3.7%	6,929
2012 Department of Commerce	704	73.4%	24.3%	2.4%	232
2012 Office of Inspector General	**0**	**--**	**--**	**--**	**1**
2011 Office of Inspector General	1	0.0%	0.0%	100.0%	2
2010 Office of Inspector General	--	--	--	--	--
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

**The results for this item only include employees who indicated that they participated in this program.*

84. How satisfied are you with the following Work/Life programs in your agency? Elder Care Programs (for example, support groups, speakers)

	N	Positive	Neutral	Negative	NBJ
2012 Governmentwide	12,577	67.9%	30.0%	2.2%	5,846
2012 Department of Commerce	525	71.6%	26.6%	1.8%	216
2012 Office of Inspector General	**0**	**--**	**--**	**--**	**3**
2011 Office of Inspector General	2	49.3%	0.0%	50.7%	0
2010 Office of Inspector General	--	--	--	--	--
2008 Office of Inspector General	--	--	--	--	--
2006 Office of Inspector General	--	--	--	--	--

**The results for this item only include employees who indicated that they participated in this program.*

Department of Commerce
Office of Inspector General
1st Level Trend Report

Demographic Questions

85. ***Where do you work?***

	N	%
Headquarters	72	67.9%
Field	34	32.1%

86. ***What is your supervisory status?***

	N	%
Non-Supervisor	62	59.6%
Team Leader	7	6.7%
Supervisor	23	22.1%
Manager	6	5.8%
Executive	6	5.8%

87. ***Are you:***

	N	%
Male	47	46.5%
Female	54	53.5%

88. ***Are you Hispanic or Latino?***

	N	%
Yes	6	6.0%
No	94	94.0%

89. ***Race***

	N	%
American Indian or Alaska Native	4	4.3%
Asian	8	8.6%
Black or African American	22	23.7%
Native Hawaiian or Other Pacific Islander	0	0.0%
White	59	63.4%
Two or more races (Not Hispanic or Latino)	0	0.0%

Department of Commerce
Office of Inspector General
1st Level Trend Report

Demographic Questions (continued)

90. What is your age group?

	N	%
25 and under	3	3.1%
26-29	7	7.2%
30-39	23	23.7%
40-49	36	37.1%
50-59	27	27.8%
60 or older	1	1.0%

91. What is your pay category/grade?

	N	%
Federal Wage System	0	0.0%
GS 1-6	0	0.0%
GS 7-12	23	22.8%
GS 13-15	71	70.3%
Senior Executive Service	4	4.0%
Senior Level (SL) or Scientific or Professional (ST)	2	2.0%
Other	1	1.0%

92. How long have you been with the Federal Government (excluding military service)?

	N	%
Less than 1 year	0	0.0%
1 to 3 years	30	30.6%
4 to 5 years	3	3.1%
6 to 10 years	14	14.3%
11 to 14 years	16	16.3%
15 to 20 years	9	9.2%
More than 20 years	26	26.5%

93. How long have you been with your current agency (for example, Department of Justice, Environmental Protection Agency)?

	N	%
Less than 1 year	1	1.0%
1 to 3 years	52	52.5%
4 to 5 years	2	2.0%
6 to 10 years	17	17.2%
11 to 20 years	14	14.1%
More than 20 years	13	13.1%

Department of Commerce
Office of Inspector General
1st Level Trend Report

Demographic Questions (continued)

94. Are you considering leaving your organization within the next year, and if so, why?

	N	%
No	46	43.8%
Yes, to retire	2	1.9%
Yes, to take another job within the Federal Government	45	42.9%
Yes, to take another job outside the Federal Government	8	7.6%
Yes, other	4	3.8%

95. I am planning to retire:

	N	%
Within one year	1	1.0%
Between one and three years	5	5.1%
Between three and five years	1	1.0%
Five or more years	92	92.9%

96. Self-Identify as:

	N	%
Heterosexual or Straight	84	84.8%
Gay, Lesbian, Bisexual, or Transgender	4	4.0%
I prefer not to say	11	11.1%

97. Have you ever served on Active Duty in the US Armed Forces (Air Force, Army, Coast Guard, Marine Corps or Navy)?

	N	%
Yes	11	10.6%
No	93	89.4%

98. Are you an individual with a disability?

	N	%
Yes	3	2.9%
No	102	97.1%

TOP CHALLENGES FOR SCIENCE AGENCIES: REPORTS FROM THE INSPECTORS GENERAL (PART II)

THURSDAY, MARCH 14, 2013

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OVERSIGHT
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY,
Washington, D.C.

The Subcommittee met, pursuant to call, at 12:37 p.m., in Room 2318 of the Rayburn House Office Building, Hon. Paul Broun [Chairman of the Subcommittee] presiding.

LAMAR S. SMITH, Texas
CHAIRMAN

EDDIE BERNICE JOHNSON, Texas
RANKING MEMBER

Congress of the United States
House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
2321 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6301
(202) 225–6371
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Subcommittee on Oversight

Top Challenges for Science Agencies: Reports from the Inspectors General – Part 2

Thursday, March 14, 2013
12:30 p.m. to 2:30 p.m.
2318 Rayburn House Office Building

Witnesses

Mr. Gregory H. Friedman, Inspector General, U.S. Department of Energy, Office of Inspector General

Mr. Arthur A. Elkins, Jr., Inspector General, U.S. Environmental Protection Agency, Office of Inspector General

Ms. Mary L. Kendall, Deputy Inspector General, U.S. Department of the Interior, Office of Inspector General

U.S. House of Representatives
Committee on Science, Space, and Technology
Subcommittee on Oversight

HEARING CHARTER

Top Challenges for Science Agencies:
Reports from the Inspectors General
Part 2

Thursday, March 14, 2013
12:30 p.m. – 2:30 p.m.
2318 Rayburn House Office Building

Purpose

At 12:30 p.m. on March 14, 2013, the Subcommittee on Oversight will hold a hearing titled "Top Challenges for Science Agencies: Reports from the Inspectors General - Part 2." This is the second of two such hearings planned prior to the Committee's review of the Administration's FY 2014 budget requests of these agencies. Part 1 of this series was held two weeks ago on February 28, 2013.

This hearing will provide Members of the Subcommittee the opportunity to receive testimony on the most serious performance and management challenges facing the U.S. Department of Energy (DOE), the U.S. Environmental Protection Agency (EPA), and the U.S. Department of the Interior (DOI), from the perspective of the Inspectors General of each agency.

Witnesses

- **Mr. Gregory H. Friedman**, Inspector General, U.S. Department of Energy, Office of Inspector General;
- **Mr. Arthur A. Elkins, Jr.**, Inspector General, U.S. Environmental Protection Agency, Office of Inspector General;
- **Ms. Mary L. Kendall**, Deputy Inspector General, U.S. Department of the Interior, Office of Inspector General.

Overview

Public Law 106–531 (the Reports Consolidation Act of 2000), requires agency Inspectors General (IG) to file annual reports that identify the most serious management and performance challenges facing their agencies.[1] These reports also assess agencies' progress in their efforts to resolve the issues identified by the IGs.

[1] Public Law 106-351, "Reports Consolidation Acts of 2000," available at: http://www.gpo.gov/fdsys/pkg/PLAW-106publ531/html/PLAW-106publ531.htm.

U.S. Department of Energy

The DOE IG's report states that "on an annual basis, the Office of Inspector General identifies what it considers to be the most significant management challenges facing the Department. Now codified as part of the Reports Consolidation Act of 2000, under this effort we assess the agency's progress in addressing previously identified challenges and consider emerging issues facing the Department. Consistent with our mission, our goal is to use this process to advance efforts to work with the Department to enhance the effectiveness of agency programs and operations."[2] The report lists the following as management challenges at DOE:[3]

- Operational Efficiency and Cost Savings;
- Contract and Financial Assistance Award Management;
- Cyber Security;
- Energy Supply;
- Environmental Cleanup;
- Human Capital Management;
- Nuclear Waste Disposal;
- Safeguards and Security;
- Stockpile Stewardship.

U.S. Environmental Protection Agency

In reporting on what it considers to be the "most serious management and performance challenges facing the Agency,"[4] the EPA IG explains that the office used "audit, evaluation, and investigative work, as well as additional analysis of Agency operations, to identify challenges and weaknesses."[5] The following are identified as management challenges at EPA:[6]

- Oversight of Delegations to States;
- Safe Reuse of Contaminated Sites;
- Limited Capability to Respond to Cyber Security Attacks;
- EPA's Framework for Assessing and Managing Chemical Risks;
- Workforce Planning.

U.S. Department of the Interior

The DOI IG's report states, "[W]e are submitting what we determined are the most significant management and performance challenges facing the U.S. Department of the Interior (DOI). The challenges listed are for inclusion in DOI's 'Agency Financial Report' for fiscal year 2012.

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[2] *Management Challenges at the Department of Energy - Fiscal Year 2013*, October 19, 2012, available at: http://energy.gov/sites/prod/files/IG-0874_1.pdf.
[3] Ibid.
[4] *EPA's Fiscal Year 2012 Management Challenges*, July 5, 2012, available at: http://www.epa.gov/oig/reports/2012/Management_Challenges-2012.pdf.
[5] Ibid.
[6] Ibid.

These challenges reflect those that the Office of Inspector General (OIG) considers significant to departmental efforts to promote economy, efficiency, and effectiveness in its bureaus' management and operations."[7] Top management and performance challenges at DOI are identified as:[8]

- Energy management;
- Climate change;
- Water programs;
- Responsibility to Indians and Insular Areas;
- *Cobell* and Indian land consolidation; and
- Operational efficiencies.

[7] *Inspector General's Statement Summarizing the Major Management and Performance Challenges Facing the U.S. Department of the Interior*, October 15, 2012, available at: http://www.doi.gov/oig/reports/upload/ER-SP-MOI-0002-2012Public.pdf.
[8] Ibid.

Chairman BROUN. The Subcommittee on Oversight will come to order.

Good afternoon. In front of you are packets containing the written testimony, the biographies, and truth-in-testimony and the disclosures for today's witness panel. I recognize myself for five minutes for an opening statement.

Let me begin first by thanking our witnesses for you all's patience and flexibility, and you all have been very patient and very flexible and I greatly appreciate that. We have had several exchanges over the last couple weeks as we have had to change the hearing start time not once but twice. I appreciate you all's willingness to work with us on this.

The title of today's hearing is "Top Challenges for Science Agencies: Reports from the Inspectors General—Part 2." Part 1 was a couple of weeks ago. This is the second of two hearings we scheduled to hear from the Offices of Inspectors General representing the agencies within this committee's jurisdiction. The object of these hearings is to learn about the major performance and management challenges facing each agency from the perspective of each Inspector General.

The DOE IG's office is a regular guest at the hearings before this Committee. We follow your work very closely and pay attention to your thorough analysis. For example, during testimony provided at the Subcommittee hearing last year, your colleague explained that the Department "awarded grants of nearly $300 million for Clean Cities projects and about $400 million for Transportation and Electrification efforts." And while both programs required fund recipients to comply with Federal regulations governing financial assistance awards, as noted in testimony provided by your office back then, you identified "needed improvements in financial management for both programs."

Since then, the Department does not seem to have improved its management abilities, as further highlighted in the report by your office issued last month about LG Chem. This Michigan company received nearly $150 million in Recovery Act funds. Yet, not only did the company fail to meet basic project goals, its employees actually got paid for watching movies and playing board games. These are serious concerns about serious amounts of taxpayer money that require this Committee's attention.

As for the EPA, we always have questions about their actions and decisions. The Integrated Risk Information System, or IRIS, is a perennial topic of discussion even when we were in the Minority. IRIS is on the GAO's high-risk series and continues to be on the IG's management challenges list for the Agency.

Another issue that this committee has been involved with for several months is EPA's draft Bristol Bay Watershed Assessment. EPA has not provided clear answers about the purpose, cost, or relevance of an assessment that is based on a hypothetical mining plan. Hypothetical mining plan, mind you. Concerns have been raised about this assessment, prompting one peer reviewer to describe it as "hogwash." We have also heard concerns about the integrity and usefulness of EPA's second peer review of the assessment. These concerns, along with other potential problems regarding conflict of interest and proper process at other advisory and

peer-reviewed bodies at the Agency, will require the IG's diligent attention as they ultimately impact important regulatory decisions at EPA.

The Department of Interior also faces many challenges in the future, not the least of which is how it conducts science and incorporates that science into Department decisions. The Department is embroiled in scientific integrity cases involving: polar bear research; the Klamath River dam removal decision; the Delta Smelt issue regarding California's Central Valley Water; the evacuation of peer reviewers' comments to justify an offshore drilling moratorium; and the treatment of science in deciding to extend the operating agreement for an oyster company on a national seashore, just to name a few.

Because of the Department's track record, an uncertain process for handling allegations between the IG and the Agency, and questions about the IG's independence, I see scientific integrity as a fundamental challenge facing the Agency moving forward. This challenge affects the use of Federal lands, Endangered Species Act listings that influence property owners, and countless other important national interests tied to resources and wildlife.

As Inspectors General, you all have the important responsibility of conducting and supervising audits and investigations; providing leadership; recommending policies; and preventing and detecting waste, fraud, and abuse and mismanagement at the agencies. We rely on your diligence and independence to assist in our oversight responsibilities. That is why I look forward to receiving your testimonies and hearing your answers to my questions later this hour. I thank you.

Now, I recognize the Ranking Member, my friend from New York, the gentleman, Mr. Maffei, for an opening statement.

[The prepared statement of Mr. Broun follows:]

PREPARED STATEMENT OF CHAIRMAN PAUL C. BROUN

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Another issue that this Committee has been involved with for several months is EPA's draft Bristol Bay Watershed Assessment. EPA has not provided clear answers about the purpose, cost, or relevance of an assessment that is based on a hypothetical mining plan. Concerns have been raised about this assessment, prompting one peer reviewer to describe it as "hogwash."

We've also heard concerns about the integrity and usefulness of EPA's second peer review of the assessment. These concerns, along with other potential problems regarding conflict of interest and proper process at other advisory and peer review bodies at the Agency, will require the IG's diligent attention as they ultimately impact important regulatory decisions at EPA.

The Department of Interior also faces many challenges in the future, not least of which is how it conducts science and incorporates that science into Department decisions. The Department is embroiled in scientific integrity cases involving: polar bear research; the Klamath River dam removal decision; the Delta Smelt issue regarding California's central valley water; the manipulation of peer reviewers' comments to justify an offshore drilling moratorium; and the treatment of science in deciding to extend the operating agreement for an oyster company on a National Seashore, just to name a few.

Because of the Department's track record, an uncertain process for handling allegations between the IG and the Agency, and questions about the IG's independence, I see scientific integrity as a fundamental challenge facing the Agency moving forward. This challenge affects the use of federal lands, Endangered Species Act listings that influence property owners, and countless other important national interests tied to resources and wildlife.

As Inspectors General, you all have the important responsibility of conducting and supervising audits and investigations; providing leadership, recommending policies, and preventing and detecting waste, fraud, abuse and mismanagement at agencies. We rely on your diligence and independence to assist our oversight responsibilities. That's why I look forward to receiving your testimonies, and hearing your answers to my questions later this hour. Thank you.

Mr. MAFFEI. Thank you, Mr. Chairman, my friend from Georgia. And I want to join you in welcoming our witnesses today. We have a tight schedule this afternoon and I promise that I won't take too much time, but I really do want—because I really do want to hear from these witnesses.

As was said by the former Chairman of the Recovery Accountability and Transparency Board, Earl Devaney, who pointed out that history shows approximately seven percent of any large expenditure is likely to be subject to fraud. Now, while I am sure there is a lot of people that believe it is far, far more than that in today's Federal Government, even seven percent is too much. And I think we can do better. And that is precisely why we have Inspectors General, to help us locate waste, fraud, abuse and provide accountability to the American people that we are good stewards of their tax dollars. They are expected to be the watchdogs first and foremost.

And in that, Inspectors General have a tough job. They have to watch what the Agency follows—does in terms of making sure they follow the law. They have to guard the taxpayers' precious dollars. They have to offer advice and direction to management without getting so close to their agency heads that they lose their independence. On the one hand, they answer to the President, and on the other hand, they have to answer to Congress. I think in both cases you always answer to the American people.

All three of our witnesses have had experience standing up to those pressures and all demonstrate somewhat different choices on how to navigate through them. But even if we do not always agree

with their conclusions or like the implications of what they find, I want to recognize that all three of the offices work hard to produce meaningful audits, carry forward criminal investigations when necessary, and produce thoughtful reports that provide perspective on management challenges.

I particularly want to point out that the Department of Energy's IG is an office that provides a good model for others on how to balance the work.

Mr. Chairman, I am particularly looking forward to—looking to these witnesses to tell us about the impact of the current sequestration on the work of their offices and to offer insights into how their agencies might adapt to sequestration in the most cost-effective fashion. And in view of the conversation in the full Committee earlier, I just want to make it clear, Mr. Chairman, that I do not solely hold the Congressional leadership or the President responsible for this. I certainly don't hold the Chairman responsible, who, as noted, had voted against it. I was not in Congress then, and—but I do think that whoever is to blame—and there are many—we need to look at how to move forward. And so these across-the-board cuts done mid-year, they may be producing potential waste and unanticipated costs, and at the very least, I think it would be useful for this Committee to gather whatever information we can on this matter to inform our actions and that of the full Committee and the Congress moving forward.

And with that, I yield back the balance of my time and I thank the Chairman.

[The prepared statement of Mr. Maffei follows:]

PREPARED STATEMENT OF RANKING MINORITY MEMBER DAN MAFFEI

Thank you, Chairman Bucshon, and thank you to all of the witnesses for being here today.

One of the reasons I joined this Committee is because of my strong interest in working to improve STEM education. I have also served as co-chair of the House STEM Education Caucus for the past four years, so I'm glad we're having this hearing and that we are doing it early in the new Congress. As a former engineer, I can personally vouch for the importance of educating our students at all levels in STEM fields.

We're all familiar with the statistics by now. According to the 2011 TIMSS study, U.S. students in 4th grade rank behind students in 10 other countries in science aptitude and 15 other countries in math, and students fall further behind as they proceed to high school. This has serious consequences for individuals and for our nation's economy. For example, while we still face unacceptably high unemployment, many employers are unable to find qualified workers. I have heard from many manufacturers that they are having a difficult time finding workers who have basic STEM knowledge. And students who aren't learning the necessary skills by the time they graduate high school are much less likely to pursue STEM fields if they go to college, constraining our workforce even further. And with fewer Americans in STEM fields, especially fewer PhDs, American innovation is suffering, further hurting economic development.

We know that improving STEM education is a complex problem with no easy or one-size-fits-all solution. Therefore, we all must work together—the private sector, nonprofits, colleges and universities, school districts, and local, state, and federal governments—to find solutions that fit specific needs. If the U.S. wants to remain the global leader in innovation and technology, we have to tackle these challenges with an "all hands on deck" approach.

Today's hearing focuses on corporate and nonprofit organization STEM initiatives. U.S. companies are realizing more and more how critical it is to their long-term success that we have a robust high-tech workforce. Meanwhile, foundations and other nonprofits are increasingly leveraging their resources and expertise in this area as

the problems grow. I'm very excited to see how much the private sector has stepped up on these issues in the last few years, and I look forward to hearing about the efforts of the companies and organizations represented here today. But I also want to talk about the federal role in this partnership and in particular, the role of the National Science Foundation.

NSF is one of the most important sources of funding for education research. Industry rightly wants to put their money into proven programs. For that to happen, somebody has to provide the funding to develop and prove out those programs. NSF grants allow education researchers and organizations to test out and evaluate new ideas, and to improve our understanding of how people learn and what effective pedagogy really means. Much of what we know and use in STEM education today started out with NSF funding.

Unfortunately, our Federal investments in STEM education, including at NSF, have stagnated and are even being questioned. This is not a good strategy for educating and training our next generation of STEM workers and strengthening American competitiveness. We must continue to address this challenge, so I hope this first hearing on STEM education is one of many during this Congress, and that future hearings will look at the role of other stakeholders, including the Federal Government.

U.S. researchers and universities—which attract top-notch students from many nations—remain the best in the world. However, we can't take this leadership for granted. As other countries take bold steps to match and surpass our progress, we must all work together so that the U.S. remains the most innovative country in the world. I look forward to working with all my colleagues to ensure that we are doing our part.

I want to thank Chairman Bucshon again for calling this hearing, and the witnesses as well for taking the time to offer their insights today. And with that, I yield back.

Chairman BROUN. Thank you, Mr. Maffei. I know you weren't here when we had that bill before us. It was proposed by the President and Members of Congress voted on it on both sides, so it was something that I thought was terrible policy and that is the reason I voted against it. And I don't believe generally in across-the-board cuts. I think we need to make some targeted cuts. And I appreciate the cooperation that I have from you and I love working with you.

Mr. MAFFEI. And if——

Chairman BROUN. We have got a good partnership in this Committee. And so we will go forward.

Mr. MAFFEI. Wonderful. Thank you, Mr. Chairman.

Chairman BROUN. If there are Members who wish to submit additional opening statements, your statements will be added to the record at this point.

Chairman BROUN. Now, at this time, I would like to introduce our panel of witnesses. Our first witness is Mr. Gregory Friedman, Inspector General of the U.S. Department of Energy, a position he has held since 1998. I know he has been before this Committee and the full Committee before, so we appreciate your being here, Mr. Friedman, as many a time participant in these hearings.

Our second witness is Mr. Arthur Elkins, Jr., Inspector General, U.S. Environmental Protection Agency, a position he has held since 2010.

And our third witness is Ms. Mary Kendall, Deputy Inspector General, U.S. Department of Interior, a position she has held since 1999, and includes a brief stint as acting Inspector General when the former IG left.

As our witnesses should know, spoken testimony is limited to five minutes each, and we are kind of pressed for time today, so if you would try to keep your spoken testimony within a five minute window, after which the Committee Members will have five

minutes each to ask questions. Your written testimony will be included in the record of the hearing.

It is the practice of this Subcommittee on Oversight to receive testimony under oath. If you would please rise and raise your right hand unless you have an objection to taking an oath. Do either of you have an objection—any of you have an objection to taking an oath? Okay.

Let the record reflect all indicated they have no objection doing so.

Do you solemnly swear or affirm to tell the whole truth and nothing but the truth, so help you God?

You may be seated. Let the record reflect that all witnesses participating have taken the oath and said that they did swear to that oath.

I now recognize our first witness, Mr. Friedman, to present your testimony. And sir, you have five minutes.

STATEMENT OF MR. GREGORY H. FRIEDMAN, INSPECTOR GENERAL, U.S. DEPARTMENT OF ENERGY, OFFICE OF INSPECTOR GENERAL

Mr. FRIEDMAN. Thank you, Mr. Chairman.

Mr. Chairman, Ranking Member Maffei, and Members of the Subcommittee, I appreciate the opportunity to testify today on the major challenges facing the Department of Energy and the associated work of the Office of Inspector General.

The Department of Energy is a multifaceted agency responsible for some of the Nation's most complex and technologically advanced missions. These include vital work in basic and applied research, clean energy innovation, environmental cleanup, medical applications, nuclear weapons stewardship, and efforts to enhance national security. To advance these efforts, the Department receives an annual appropriation of nearly $30 billion, employs 115,000 or so Federal and contractor personnel, and manages assets valued in excess of $180 billion.

We provide in the Office of Inspector General independent oversight of the Department's programs, and of course our objective is to promote economy and efficiency and to prevent and detect fraud, waste, and abuse.

Based on this body of work, on an annual basis, my office identifies what we consider to be the most significant management challenges facing the Department. For Fiscal Year 2013, our list of challenges includes the following: operational efficiency and cost savings, which I will discuss a little bit more in depth later on; contract and financial assistance award management; cybersecurity; energy supply; environmental cleanup; human capital management; nuclear waste disposal; safeguards and security; and stockpile stewardship. We also developed a watch list of emerging issues and other items that warrant special attention by department officials. These include infrastructure modernization, the Department's Loan Guarantee Program, and worker and community safety.

These challenges are integral to the Department's mission. They are not amenable to immediate resolution, and they can only be addressed through a concerted effort over time.

I would like to focus, as I indicated earlier, on what may be the most current challenge. That is sustaining departmental operations in a period of constrained resources. In our Fiscal Year 2012 and 2013 Management Challenge Reports, we provided the Department with a series of suggested actions for major operational improvements and cost-reduction initiatives. They include the following:

First, applying the Quadrennial Technology Review's strategic planning concept to the Department's entire multibillion dollar science portfolio. This would put the Department in a better position from our perspective to develop metrics to evaluate its science efforts and to determine whether the science initiatives are aligned with current national priorities.

Second, we proposed eliminating costly duplicative functions associated with the National Nuclear Security Administration. The NNSA contains a set of distinctly separate overhead operations that are often redundant to existing departmental functions.

Third, we suggested the Department use a BRAC-style commission—Department of Defense BRAC-style commission to evaluate the current alignment of its laboratory and technology complexes and proposed revisions, including laboratory rightsizing and laboratory consolidation wherever possible. We noted that of the $10 billion spent annually on operating, the Department's 16 federally funded Research and Development Centers, administrative overhead, and indirect costs account for about $3.5 billion of this amount. This burden may not be sustainable in the current budget environment.

Fourth, reprioritizing the Department's $268 billion environmental remediation liability with the objective of ensuring that high-risk initiatives and activities are funded first. This would require an analytically-based remediation strategy which addresses environmental concerns on a national complex-wide basis, essentially a form of remediation triage.

Lastly, we propose evaluating the current structure of the Department's $1 billion per year physical security apparatus, nearly 700 million of which is spent on acquiring nearly 4,000 protective force guards from contractors around the country. We think other options need to be examined, including the possibility of federalizing those individuals.

The Department of Energy has an extraordinary mission and it truly is extraordinary. Yet, like most Federal agencies, it faces significant management challenges. Current budget trends and realities complicate the job of resolving the challenges that we have identified and the other issues facing the Department. The operative question going forward from our perspective may well be what can the Department afford in this environment?

We look forward to working with program officials, agency management, and the Congress in our common effort to advance the interest of U.S. taxpayers.

Mr. Chairman, this concludes my statement and I am pleased to answer any questions that you might have.

[The prepared statement of Mr. Friedman follows:]

Statement of Gregory H. Friedman

Inspector General

U.S. Department of Energy

Before the

Subcommittee on Oversight

Committee on Science, Space, and Technology

U.S. House of Representatives

FOR RELEASE ON DELIVERY
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Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to testify today on the major challenges facing the Department of Energy as viewed through the prism of the Office of Inspector General (OIG).

The Department of Energy is a multi-faceted agency responsible for executing some of the Nation's most complex and technologically advanced missions. These missions include cutting edge work in basic and applied science, clean energy innovation, energy efficiency and conservation, environmental cleanup, medical applications, nuclear weapons stewardship, and efforts to enhance national security. In order to execute this diverse portfolio, the Department receives an annual appropriation approaching $30 billion, employs nearly 110,000 Federal and contractor personnel, and manages assets valued at over $180 billion.

The underpinning of virtually all Departmental missions is related to science and technology. Its complex of 17 national laboratories, 16 of which have been designated as Federally Funded Research and Development Centers (FFRDC), and its extensive financial assistance for research in independent settings underscore the Department's status as a leader for science in the United States.

The OIG provides independent oversight of the Department's operations through a robust program of audits, inspections and investigations designed to promote economy and efficiency, and to detect and prevent fraud, waste, abuse, and mismanagement. Because of the prominence of and the resources committed to the Department's science and technology mission, a substantial portion of our work focuses on these important areas. A full inventory of related reports can be found at: http://energy.gov/ig/calendar-year-reports. It is this body of work that forms the basis of my testimony today.

Department of Energy Management Challenges

Annually, the OIG identifies what it considers to be the most significant management challenges facing the Department. We have a unique, independent perspective, which allows us to provide management, the Congress, and the citizenry with an unfiltered view of Departmental operations.

For FY 2013, our list of significant management challenges and our watch list of emerging issues included:

Management Challenges

- Operational Efficiency and Cost Savings
- Contract and Financial Assistance Award Management
- Cyber Security
- Energy Supply
- Environmental Cleanup
- Human Capital Management
- Nuclear Waste Disposal
- Safeguards and Security
- Stockpile Stewardship

Watch List

- Infrastructure Modernization
- Loan Guarantee Program
- Worker and Community Safety

These challenges impact virtually all of the Department's mission activities. They are not easily resolved and must, therefore, be addressed through a concerted, persistent effort over time.

Anticipating tight Federal budgets in the future, as part of the process of developing our list of management challenges for FY 2012, we stepped out of our comfort zone and presented the Department with five suggestions for reducing its cost of operations and enhancing agency efficiency. I would like to provide an overview of the management challenges and then focus specifically on the area of Operational Efficiency and Cost Savings.

Contract and Financial Assistance Award Management

The Department of Energy is the most contractor-dependent agency on the civilian side of the Federal government. The Department provides massive amounts of funding through contracts and other financial assistance awards to its own laboratories, for-profit companies, academic institutions, and non-profit organizations. In fact, the vast majority of Departmental funding is distributed through a combination of contracts, grants, cooperative agreements, and other financial assistance awards. Under these circumstances, successful contract management is essential. Numerous OIG reports have documented the barriers and missteps associated with successfully managing the Department's contracting process. Widely publicized concerns with the management of a number of major, multi-million dollar projects, all under the auspices of the Department's contractors, reflect the depth of this issue. For these reasons, Contract and Financial Assistance Award Management remains a significant management challenge.

Cyber Security

Given the importance and sensitivity of the Department's activities, along with the vast array of data it processes and maintains, protecting cyber assets has become a crucial aspect of the Department's overall security posture. As a whole, the Department invests about $2.1 billion each year in information technology. Although the Department has implemented numerous countermeasures in recent years, security challenges and threats to the Department's information systems continue and are constantly evolving. As such, it is critical that cyber security protective measures keep pace with these growing threats. As a result of the inherent risks associated with the sensitivity of much of the Department's work, we have identified Cyber Security as a continuing management challenge.

Energy Supply

Fundamental concerns related to the availability of energy in the U.S. have had a dramatic impact on consumers and the economy, with implications on national security. Through its role in areas of scientific discovery and innovation, there is an expectation that the Department will play a leadership role in ensuring that the Nation's energy needs are met through the development, implementation, and execution of sound energy policy. Providing the leadership to ensure a reliable, affordable, and environmentally sound Energy Supply represents a

significant management challenge for the Department, which will require both short-term and long-term solutions.

Environmental Cleanup

In the 1980's, the Department began an expedited process to dispose of large volumes of radioactive, hazardous, and mixed waste resulting from many years of nuclear defense and energy research work. This involves remediation efforts covering millions of acres of land in 35 states, the engagement of more than 30,000 Federal and contractor employees, and an unfunded Federal remediation liability of approximately $268 billion. The entire effort, perhaps the largest and most complex of its kind ever undertaken, will continue well into the future. While there have been a number of notable programmatic successes, significant difficulties have been encountered. As a result, Environmental Cleanup remains a management challenge that warrants attention by the Department's senior leadership.

Human Capital Management

Strategic management of human capital, recognized as one of the Government's most significant challenges, directly affects the Department of Energy. This applies both to the Federal and contractor workforces. The Department has endeavored to address these concerns. To cite one example, recognizing the importance of enhancing staff project management skills, the Department analyzed critical skills gaps in this area and developed a specific strategy to fill those needs. However, Human Capital Management remains a challenge for several reasons: (1) the Department and its contractors face a significant "baby boomer" retirement turnover resulting in the loss of highly skilled employees; (2) the reality of the current Federal budget environment will lead to potential job losses – again having an impact on the Department's skilled workforce; and, (3) the intense public/private sector demand for a competent workforce has made job recruitment and retention a continuing concern for the Department and its contractors. This challenge represents a critical area that will affect nearly all of the Department's programs going forward.

Nuclear Waste Disposal

Under the Nuclear Waste Policy Act of 1982, the Department is responsible for the management and safe disposal of high-level defense and commercial nuclear waste. For a number of years, the development of the Yucca Mountain Nuclear Waste Repository in Nye County, Nevada, was the centerpiece of this effort. The Department's FY 2010 budget request, however, included no funding for the Yucca Mountain Project, effectively terminating the project and the work of the Office of Civilian Radioactive Waste Management. Since that time, the Blue Ribbon Commission on America's Nuclear Future, created by the President and the Secretary, issued its findings and suggested new policies for managing the back end of the nuclear fuel cycle. However, despite the work of the Commission, solutions for the nuclear waste disposal issue have not yet been fully defined or approved and, at best, will take decades to implement. Given the importance of a nuclear waste disposal strategy that protects public health, safety, and the environment and the current uncertainties associated with such a strategy, Nuclear Waste Disposal remains a significant challenge facing the Department.

Safeguards and Security

The Department is responsible for safeguarding some of the Nation's most sensitive facilities and materials, including the nuclear weapons complex, the national laboratory system, a variety of sensitive materials, and other critical infrastructure assets. Recent events, including those at the Y-12 National Security Complex, have highlighted the need for a robust security apparatus with effective Federal oversight. Consequently, we have elevated Safeguards and Security to the list of significant management challenges.

Stockpile Stewardship

The Department is responsible for the reliability of the Nation's nuclear weapons stockpile. To help ensure that these assets are mission ready, the Department, using a science-based strategy, conducts stockpile surveillance and engineering analyses, refurbishes and updates selected nuclear systems, and maintains the ability to restore its aging weapons production infrastructure. This massive National Nuclear Security Administration (NNSA) undertaking involves the administration of three defense laboratories, management of the weapons production complex, and frequent interactions with the U.S. Department of Defense on related matters. Both OIG and

Government Accountability Office reports have identified concerns with project management, delays in refurbishment efforts, and facility safety and security, all in an era of declining budgets. Even though the Department and NNSA have taken steps to address these issues, the Stockpile Stewardship challenge persists.

Operational Efficiency and Cost Savings

As part of our Management Challenges report for FY 2012, we concluded that Federal budgetary concerns made finding ways to optimize agency operations and reduce costs the preeminent management challenge facing the Department.

In this context, our Management Challenges report suggested a series of large-scale, high-impact operational efficiency and cost reduction initiatives. Intended to provide a starting point for further discussion and examination, these proposals include:

- Applying the Quadrennial Technology Review strategic planning concept to the Department's entire science and technology portfolio;
- Eliminating costly duplicative NNSA functions;
- Evaluating, consolidating, and/or rightsizing the Department's laboratory and technology complex;
- Reprioritizing the Department's environmental remediation efforts with the goal of funding the work on a risk basis; and
- Realigning the current structure of the Department's physical security apparatus.

Additional details follow:

Expand the Quadrennial Technology Review (QTR) strategic planning concept to the Department's entire science and technology portfolio: In September 2011, the Department released its inaugural QTR, in essence a research and development strategic plan. In his message prefacing the report, the Secretary referred to the hard budget choices and fiscal challenges facing the Department, concluding that the Department must find ways to intelligently choose between the many technically viable activities it could pursue. The QTR, advanced as a

mechanism to guide these difficult choices, provided quality analysis and important information. However, as beneficial as it may be, the scope was limited to the Department's energy-related technology sector. We concluded that the discipline of the QTR process should be applied to the Department's entire set of science and technology activities. This type of large-scale planning effort would enable the Department to better evaluate its multi-billion dollar per year science effort to determine whether its science initiatives are aligned with current priorities; identify metrics to help decision makers confirm that research dollars are used for the highest and best purposes; and, determine whether the work of its separate system of 16 FFRDCs are properly integrated.

Eliminate duplicative NNSA functions: Created in response to national security concerns, NNSA was established as a separately organized agency within the Department of Energy under the Defense Authorization Act of 2000. NNSA maintains a set of distinctly separate overhead and indirect cost operations that often duplicate existing Departmental functions. These include human resources, general counsel, congressional and public affairs, procurement and acquisition, and information technology. These expenses are significant and parallel functions that exist at Headquarters as well as a number of field sites where Department and NNSA activities are co-located. In addition to cost considerations, these redundancies can complicate communications and program execution and cause different interpretations of core Departmental policy. The sustainability of this arrangement in the current budget environment is highly questionable. We recommend that the alignment be closely examined with the goals of consolidating overlapping efforts, preserving scarce resources, and improving operations.

Establish a "BRAC-style" commission to analyze the Department's laboratory and technology complex: The Department operates 16 FFRDCs at an annual cost of more than $10 billion.[1] Of this amount, nearly $3.5 billion was spent on functions including executive direction, human resources, procurement, legal, safeguards and security, utilities, logistics support, and information services. In our view, the proportion of scarce science resources diverted to administrative, overhead, and indirect costs for each laboratory may be unsustainable in the current budget environment. We recommended that the Department, using a BRAC-style

[1] This figure excludes the sizeable "Work for Others" programs at the Department's national laboratories.

formulation, analyze, realign, and consolidate laboratory operations to reduce indirect costs and, as a result, provide greater funds for science and research.

Reprioritize the Department's environmental remediation efforts: The Department's current unfunded environmental remediation liability is approximately $268 billion. As a result of more than 50 years of nuclear defense and energy research work, the Department spends about $6 billion per year on its environmental remediation activities. In doing so, program costs are largely "driven" by 37 individually negotiated Federal Facility Agreements (FFA) at key Department sites across the Nation. The FFAs involve no less than 350 milestones at these sites. The FFAs are augmented by numerous other local agreements with their own set of actions, requirements, milestones and due dates. The existing structure needs to be modified to reflect the realities of significant reductions in the Department's environmental cleanup budget. Consequently, we recommended that the Department revise its current remediation strategy and address environmental concerns on a national, complex-wide risk basis. This would result in a form of a complex-wide environmental remediation triage, funding only high-risk activities that represent imminent or near term danger to health and safety, or further environmental degradation.

Re-evaluate the current structure of the Department's physical security apparatus: The Department spends more than $1 billion per year providing physical security for its facilities and related materials and data. Of this amount, nearly $700 million per year is spent on a complex-wide protective force staff of nearly 4,000 highly trained professionals. The protective force staff is made up exclusively of contractor personnel retained through different mechanisms. These arrangements, which lack uniformity and consistency, result in at least 25 separate contract instruments, all with costly overhead burdens. We concluded the new budget realities require change and we recommended an in-depth evaluation of available options. These include a "master contract" to provide security at all Department facilities or consolidating protective force contracts by region or Departmental entity. Perhaps of greatest importance, in our judgment, Federalizing the protective force is an option that needs to be on the table. Protective force contract realignment or some form of Federalization may reduce security costs and improve the Department's physical security posture.

Observations

The Department of Energy faces a number of management challenges that require rigorous and sustained efforts. In our view, current and prospective Federal budget levels will likely make the job of resolving these challenges even more difficult. For this reason, we believe that the Department needs to undertake a comprehensive analysis of its operations with the goals of increasing efficiency and reducing cost. We are mindful of the fact that the proposals we have made in this regard are difficult to implement, highly controversial, and politically challenging. Further, to achieve long-term cost reduction, some near-term infrastructure investments may be necessary. We look forward to working with program officials, agency management, and the Congress in our effort to resolve the challenges facing the Department and protect the interests of the U.S. taxpayer.

Mr. Chairman, this concludes my statement and I would be pleased to answer any questions that the Subcommittee may have.

GREGORY H. FRIEDMAN
INSPECTOR GENERAL

U. S. DEPARTMENT OF ENERGY

Gregory H. Friedman was nominated by the President and confirmed by the U.S. Senate as Inspector General of the U.S. Department of Energy in 1998. Mr. Friedman started his Federal career in 1968 and has been with the Department of Energy, Office of Inspector General, since 1982. As Inspector General, he is responsible for a nationwide, independent program of audits, inspections, and law enforcement efforts related to the Department of Energy's programs and operations. In addition to his responsibilities as Inspector General, Mr. Friedman now serves as a member of the Recovery Act Accountability and Transparency Board and the Government Accountability and Transparency Board.

Mr. Friedman received a Bachelor's degree in Business Administration from Temple University and a Master's degree in Business Administration from Fairleigh Dickinson University. In 1979-1980, Mr. Friedman was selected as a Princeton Fellow in Public Affairs and spent a year in residence at Princeton University's Woodrow Wilson School for Public and International Studies.

In 2002, Mr. Friedman was named by the Comptroller General of the United States to serve as a member of the Advisory Council on Government Auditing Standards. In addition, he led the development of the "Federal Audit Manual," for the first time providing universal guidelines for conducting Federal financial audits.

From 2005 to 2008, Mr. Friedman served as Vice Chair of the President's Council on Integrity and Efficiency. Mr. Friedman has been a guest lecturer on the topics of audit, integrity, government oversight and program evaluation. In addition, Mr. Friedman is a member of several professional organizations, and has served in leadership positions in the Association of Government Accountants and the Institute of Internal Auditors. Mr. Friedman has also been active in a number of community and philanthropic organizations.

During his Federal career, Mr. Friedman has received numerous awards, including the Department of Energy's Meritorious Service Award, the Meritorious Presidential Rank Award, and the Presidential Rank Award for Distinguished Executive.

Chairman BROUN. Thank you, Mr. Friedman. Thank you for staying within the five minutes.

Now, Mr. Elkins, you are recognized for five minutes for your testimony.

STATEMENT OF MR. ARTHUR A. ELKINS, JR., INSPECTOR GENERAL, U.S. ENVIRONMENTAL PROTECTION AGENCY, OFFICE OF INSPECTOR GENERAL

Mr. ELKINS. Thank you very much. Good afternoon, Chairman Broun, Ranking Member Maffei, and Members of the Subcommittee. I am Arthur Elkins, Inspector General of the U.S. Environmental Protection Agency, and I am pleased to appear before you today to discuss the significant management challenges facing the EPA that the OIG has identified in Fiscal Year 2012. Thank you for allowing me the opportunity to share with you our work and recommendations on how to improve EPA's programs and operations.

Before I begin, I would like to commend the expertise, dedication, and professionalism of the OIG staff whose exceptional work serves as the foundation of my testimony this afternoon. I also would like to mention that last year the OIG was a recipient of the Alexander Hamilton Award for its work related to the Deepwater Horizon oil spill. This is the highest award bestowed by the IG community.

Although we are part of the EPA, senior EPA leaders can neither prevent nor prohibit us from conducting our work. In accordance with the IG Act of 1978, as amended, the OIG's mission is to: conduct independent and objective audits, investigations, and inspections; prevent and detect fraud, waste, and abuse; promote economy, effectiveness, and efficiency; review pending legislation and regulation; and keep the agency head and Congress fully and currently informed.

We identified five challenges which are detailed in my statement for the record. I will focus on two of these challenges: Oversight of Delegation to States and Limited Capability to Respond to Cybersecurity Attacks.

To accomplish its mission to protect human health and the environment, EPA develops regulations and establishes programs to implement environmental laws. The Agency relies heavily on authorized state and tribal agencies to implement environmental programs, and the performance of state and tribal governments is critical to assuring protection of human health and the environment.

Since 2008, we have designated oversight of delegations to states as a management challenge. For example, we reported that despite EPA efforts to improve state enforcement performance, state enforcement programs frequently do not meet national goals and States do not always take necessary enforcement actions. If these issues are not addressed, state performance will remain inconsistent across the country providing unequal environmental benefits to the public and an unlevel playing field for regulated industries.

We reported that Georgia's Concentrated Animal Feeding Operations program was operating without proper permits, inspection reports were missing required components, and the State was not

assessing compliance with permits. As a result of inadequate oversight and reporting, Georgia's waters were vulnerable to discharges of animal waste from these facilities, which are associated with a range of human health and ecological impacts and contribute to the degradation of the Nation's surface waters.

As technology continues to advance and the Agency increases its use of automated systems, having a strong IT infrastructure that addresses security at the enterprise architecture level is critical to protecting the Agency against cyber attacks. It is imperative that EPA continue efforts to strengthen practices to guard against advanced persistent threats.

While EPA has committed to making significant progress, this challenge persists. For example, we found limited assurance that data in the Automated System Security Evaluation and Remediation Tracking tool are reliable for decision-making. This tool is used to track the remediation of weaknesses in EPA's information security program, as well as informs management about the adequacy of controls implemented to protect Agency systems. We reported that EPA neither developed a comprehensive deployment strategy for its Security Information and Event Management tool to incorporate all of the Agency's offices, nor developed a formal training program to train employees on how to use the tool. This computerized tool is used to centralize the storage and review of computer logs or events to monitor or investigate unusual network activity.

While the EPA's senior leadership is taking the management challenges seriously and is making progress on resolving them, the Agency must remain focused on these challenges, especially in light of the difficult budgetary climate facing all Federal agencies today. The OIG will continue to provide oversight and track the EPA's actions on these challenges while looking to identify any emerging issues warranting attention.

In conclusion, I would like to reaffirm the OIG's commitment to vigorously work with the Administrator and Congress to ensure that the Agency's programs and operations work efficiently and effectively for the benefit of the American taxpayer.

Mr. Chairman, this concludes my prepared statement and I will be pleased to answer any questions you or the Members may have. Thank you.

[The prepared statement of Mr. Elkins follows:]

Statement of
Arthur A. Elkins Jr.
Inspector General
Office of Inspector General
U.S. Environmental Protection Agency
Before the
Subcommittee on Oversight
Committee on Science, Space, and Technology
U.S. House of Representatives
March 14, 2013

Good morning Chairman Broun, Ranking Member Maffei and Members of the Subcommittee. I am Arthur Elkins, Inspector General of the U.S. Environmental Protection Agency. I am pleased to appear before you today to discuss the significant management challenges facing the EPA that the Office of Inspector General identified for fiscal year 2012. Thank you for allowing me the opportunity to share with you our work and recommendations on how to improve EPA's programs and operations. Before I begin, I would like to commend the expertise, dedication and professionalism of the OIG staff whose exceptional work serves as the foundation of my testimony this afternoon. I also would like to mention that last year the OIG was a recipient of the Alexander Hamilton Award for its work related to the Deepwater Horizon oil spill. This is the highest award bestowed by the inspector general community, and highlights achievements in improving the integrity, efficiency and effectiveness of Executive Branch agency operations.

Role of the OIG

The OIG is an independent and non-partisan office within the EPA that is uniquely positioned to conduct audits and investigations of waste, fraud and abuse of agency programs and operations. Although we are a part of the EPA, senior EPA leaders can neither prevent nor prohibit us from conducting our work. In accordance with the Inspector General Act of 1978, as amended, the OIG's mission is to: conduct independent and objective audits, investigations and inspections; prevent and detect waste, fraud and abuse; promote economy, effectiveness and efficiency; review pending legislation and regulation; and keep the agency head and Congress fully and currently informed.

EPA Management Challenges for FY 2012

Today I will briefly summarize our July 2012 report on EPA's management challenges for FY 2012 that we provided to both the Administrator and Congress as mandated by the Reports Consolidation Act of 2000. This report, which was included in the Agency's Financial Report, is available to the public in its entirety on the OIG's web site.

To prepare this report, we defined management challenges as program or management functions, within or across the agency, that have greater vulnerability to waste, fraud,

abuse and mismanagement where a failure to perform well could seriously affect the ability of EPA to achieve its mission or goals.

The following are the five areas we determined were the key management challenges facing the EPA for FY 2012:

- Oversight of Delegations to States
- Safe Reuse of Contaminated Sites
- Limited Capability to Respond to Cyber Security Attacks
- EPA's Framework for Assessing and Managing Chemical Risks
- Workforce Planning

We deleted one management challenge that we had identified the previous year (Need for Greater Coordination of Environmental Efforts) because we recognize that cross-agency coordination is not something over which EPA has exclusive control. The OIG acknowledges the agency's efforts to coordinate environmental issues across the federal government and with state and local partners.

We are currently in the process of identifying the most serious management challenges for FY 2013 and will issue our list to the EPA Administrator later this year. Following are details on the key management challenges we had identified for FY 2012.

OVERSIGHT OF DELEGATIONS TO STATES

To accomplish its mission to protect human health and the environment, EPA develops regulations and establishes programs to implement environmental laws. The agency may authorize state, local or tribal governments to implement many of these laws when they request authorization and EPA determines that governments are capable of operating the program consistent with federal standards. The agency relies heavily on authorized state and tribal agencies to implement environmental programs and the performance of state and tribal governments is critical to assuring protection of human health and the environment. However, EPA delegation does not exempt EPA from its statutory and trust responsibilities to protect human health and the environment.

EPA performs oversight of state, local and tribal programs to provide reasonable assurance that delegated programs are achieving their goals. Since 2008, we have designated oversight of delegations to states as a management challenge. The agency has begun to improve its oversight by implementing the State Review Framework, which is intended to provide a consistent approach for overseeing state programs and identifying weaknesses and areas for improvement. However, this challenge persists. For example:

- In December 2011, we reported that despite EPA efforts to improve state enforcement performance, state enforcement programs frequently do not meet national goals and states do not always take necessary enforcement actions. EPA data show that noncompliance is high and the level of environmental enforcement is low. Our report identifies various reasons for this, such as limited state

resources, the management of enforcement resources, and the use of oversight authority. States and EPA are accountable for meeting enforcement standards and effectively curtailing weak and inconsistent enforcement. If these issues are not addressed, state performance will remain inconsistent across the country, providing unequal environmental benefits to the public and an unlevel playing field for regulated industries.

- In June 2011, we reported that Georgia's Concentrated Animal Feeding Operations program was operating without proper permits, inspection reports were missing required components, and the state was not assessing compliance with permits. EPA records presented a misleading picture of the status of the state's program. Georgia and EPA's records reported a 100 percent inspection rate for CAFOs, but almost half of these inspection reports were missing information. As a result of inadequate oversight and reporting, Georgia's waters were vulnerable to discharges of animal waste from CAFOs, which are associated with a range of human health and ecological impacts and contribute to degradation of the nation's surface waters.

We continue to conduct work in this area to provide recommendations to ensure that the agency provides stronger and effective oversight of delegations to states.

SAFE REUSE OF CONTAMINATED SITES

The EPA has placed increasing emphasis on the reuse of contaminated properties and has a performance measure to define a population of contaminated sites that are ready for reuse. The agency has successfully turned some problem sites into properties that reinvigorated communities and created jobs. However, EPA's primary duty is to ensure that contaminated sites are safe for humans and the environment. The agency faces significant and increasing challenges in this area due to: 1) the common practice of not removing all sources of contamination from hazardous sites; 2) a regulatory structure that places key responsibilities for monitoring and enforcing the long-term safety of contaminated sites on non-EPA parties that may lack necessary resources, information and skill; 3) changes in site risks as site conditions change over time; and 4) weaknesses in EPA's oversight of the long-term safety of sites. In addition, the agency has noted in its 2011 – 2015 Strategic Plan that it must incorporate emerging science into decision making.

Since 2009, we have designated safe reuse of contaminated sites as an EPA management challenge. The lack of effective long-term monitoring and enforcement of reuse controls at contaminated sites can pose significant risks to human health and the environment. Our recent work highlights the potential risks involved. For example:

- In August 2011, we reported the results of a review of conditions at five Superfund sites that had been remediated and removed from EPA's list of national Superfund priorities. At two of the sites we reviewed, we found new contamination and changed site conditions. At one former industrial site, we

found that the site owner was building a residence on top of the site although levels of contamination detected at the site exceeded residential safety levels and the site contained buried drums and other potential human health hazards.

- In February 2011, we reported that the EPA relies on the self-certification of a third-party environmental professional to determine whether statutorily required environmental due diligence has been performed at EPA-funded Brownfields sites. In a sample of environmental due diligence investigations we reviewed, environmental professionals failed to assure that a proper environmental investigation occurred. In addition, we found that the EPA conducts no oversight of the requirement to meet "continuing obligations" at EPA-funded Brownfields properties. Continuing obligations include land use controls and "institutional" controls designed to prevent unacceptable use of contaminated properties. Weaknesses or lapses in meeting environmental due diligence or continuing obligations requirements can result in undetected or undisclosed contamination and property reuse that may pose unacceptable risk to humans.

- In February 2012, we reported on important improvements in EPA's review and oversight of Superfund Five-Year Reviews. The Superfund FYR process is and should be a "safety net" for detecting new contamination or changes in conditions at sites determined to have met cleanup goals. FYRs can identify new potential human health risks and changing site conditions. We found that the FYR process needs to be a stronger safety net. We also found no formal process in place to resolve differences when EPA headquarters and regions disagree on the conclusions of FYR reports. Consequently, protectiveness determinations included in published FYR reports may reflect unresolved agency disagreements about site protectiveness. In addition, our review showed that the EPA did not always follow up to determine whether the regions implemented recommendations made in FYRs, and regions sometimes disregarded valid EPA headquarters comments about the quality of FYRs.

We have ongoing work in this area that will provide recommendations to EPA on how it can provide stronger and effective controls to ensure the long-term safety of reused sites.

LIMITED CAPABILITY TO RESPOND TO CYBER SECURITY ATTACKS

As technology continues to advance and the agency increases its use of automated systems to further integrate EPA data and services with external users via the Internet, having a strong information technology infrastructure that addresses security at the enterprise architecture level is critical to protecting the agency against cyber attacks. The growth in computer connectivity places the EPA at increased risk of disruption to its critical operations as well as the possibility of unauthorized access to sensitive data. As such, it is imperative that EPA management continues efforts to strengthen practices to guard against Advanced Persistent Threats.

The EPA acknowledges that Advanced Persistent Threats pose a significant challenge for the agency and has committed to making significant progress in enhancing situational awareness across the infrastructure and increasing visibility into network activities. EPA management stated that to address this challenge, it has identified specific automated tools to deal with cyber security concerns. Agency management also indicated it fully deployed a Security Information and Event Management tool to facilitate greater vigilance in log reviews and activity monitoring. Additionally, the agency indicated that its Computer Security Incident Response Capability team is working to build stronger relationships with internal organizations, such as the Office of Homeland Security, for threat intelligence sharing. However, this challenge persists. For example:

- In June 2011, we reported that the EPA has taken steps to address cyber threats, but key actions remain incomplete. In particular, we found limited assurance that data in the Automated System Security Evaluation and Remediation Tracking tool are reliable for decision-making. This tool is used to track the remediation of weaknesses in EPA's information security program, as well as inform management about the adequacy of controls implemented to protect agency systems. In addition, we concluded that the Computer Security Incident Response Capability center lacks the skills and resources to promptly identify and effectively remedy ongoing cyber threats. Furthermore, the EPA had not established an agency wide continuous network security monitoring program to identify known vulnerabilities. In this regard, the EPA has not completed a key project that would provide its offices with the needed tools to implement an agency wide approach for identifying known vulnerabilities. As a result, the EPA continues to lack information necessary to make accurate information system security investment decisions, effectively monitor its network for suspicious activity or remediate known weaknesses on its network.

- In September 2012, we reported that the EPA needed to make improvements in its network security monitoring program. We reported that EPA neither developed a comprehensive deployment strategy for its Security Information and Event Management tool to incorporate all of the agency's offices nor developed a formal training program to train employees on how to use the tool. This computerized tool is used to centralize the storage and review of computer logs or events to monitor or investigate unusual network activity. Furthermore, the EPA does not have a computer security log management policy to define practices for audit log storage and disposal, to include defined roles and responsibilities for log management. The agency also did not follow up with staff to confirm whether they took corrective actions to remediate known system vulnerabilities or steps to address weaknesses in its incident response program that were identified from internal reviews. As a result, EPA invested in a network monitoring tool that limited the agency's assurance of meeting organizational goals and user needs, increased risks that the EPA could not effectively respond to network compromises because data necessary to provide insight on suspicious activity would not be available when needed, and continued existence of known system

vulnerabilities and programmatic weaknesses that undermine the agency's ability to secure its network and respond to network intrusions.

We have ongoing work in this area and will provide EPA with recommendations when warranted for providing stronger and effective controls to secure its network infrastructure and respond to cyber attacks.

EPA'S FRAMEWORK FOR ASSESSING AND MANAGING CHEMICAL RISKS

The EPA's framework for assessing and managing chemical risks has not yet achieved the goal of protecting human health and the environment. In 1976, Congress passed the Toxic Substances Control Act authorizing EPA to collect information on chemicals, and regulate the production and distribution of those chemicals. The agency's effectiveness in assessing and managing chemical risks is hampered by limitations on its authority to regulate chemicals under TSCA.

Since 2010, we have designated the EPA's framework for assessing and managing chemical risks as a management challenge. It is a significant challenge as the TSCA inventory of chemicals in commerce now exceeds 84,000 chemicals, and there are other challenges. Specifically, chemicals that were produced for commercial purposes prior to TSCA were grandfathered, so manufacturers were not required to develop and produce data on toxicity and exposure that would be needed to properly and fully assess potential risks. Further, TSCA never provided adequate authority for the agency to evaluate existing chemicals as new concerns arose or as new scientific information became available. TSCA also lacks the broad information-gathering and enforcement provisions found in other major environmental protection statutes. For example, TSCA does not provide the EPA with the administrative authority to seek injunctive relief, issue administrative orders, collect samples, and quarantine and release chemical stocks, among other key authorities.

In 2009, the Administration outlined core principles to strengthen U.S. chemical management laws. Congress has also made attempts to revise and modernize TSCA. However, in the absence of new legislation, we reported in 2010 that the EPA could better manage existing authorities and demonstrate results within its New Chemicals Program and Endocrine Disruption Screening Program. For example, the EPA does not have integrated procedures and measures to ensure that new commercial chemicals do not pose an unreasonable risk to human health and the environment. Oversight of regulatory actions designed to reduce known risks is a low priority, and the resources allocated by the agency are not commensurate with the scope of monitoring and oversight work. In addition, the EPA's procedures for handling confidential business information requests are predisposed to protect industry information rather than provide public access to health and safety studies. Finally, the agency's framework for assessing and managing chemical risks from endocrine disruptors is failing to show results. Despite establishing the Endocrine Disruption Screening Program in 1998, the EPA has yet to regulate the endocrine-disrupting effects of any chemicals.

Other work we conducted in support of this management challenge includes:

- In December 2011, we reported that the EPA does not currently have sufficient information or processes to effectively manage human health and environmental risks from nanomaterials. Though the agency has the statutory authority to regulate nanomaterials, it lacks the environmental and human health exposure and toxicological data to do so effectively. The EPA has proposed mandatory reporting rules for nanomaterials under the Federal Insecticide, Fungicide, and Rodenticide Act and is also developing proposed rules under TSCA. After the OIG reported that the EPA lacked a formal process to coordinate the dissemination and utilization of the potentially mandated information, the agency agreed to our recommendation to establish a process.

- In July 2011, we reported that the EPA's Voluntary Children's Chemical Evaluation Pilot Program did not achieve its goals to design a process to assess and report on the safety of chemicals to children. The pilot's design did not allow for desired outcomes to be produced. Specifically, the pilot had a flawed chemical selection process and lacked an effective communication strategy. Program effectiveness was hampered by industry partners who chose not to voluntarily collect and submit information, and the agency's decision not to exercise its regulatory authorities under TSCA to compel data collection. We concluded that the EPA has not demonstrated that it can achieve children's health goals with a voluntary program.

We will continue to monitor the agency's progress in assessing and managing chemical risks.

WORKFORCE PLANNING

Over the last 5 years, the EPA has averaged over 17,000 positions in its organizational structure with annual payroll costs of approximately $2 billion. For any organization to operate efficiently and effectively, it must have a clear understanding of its workload. While there is no one exact definition of workload, it is commonly thought to be the amount of work assigned to, or expected to be completed by, a worker in a specified time period. Workload that is set too high or too low can negatively affect overall performance. The main objectives of assessing and predicting workload are to achieve an evenly distributed, manageable workload and to accurately determine the resource levels needed to carry out the work. The OIG has recently issued several reports examining how the EPA manages its workload and workforce levels. For example:

- In December 2010, we found that EPA's policies and procedures do not include a process for determining resource levels based on workload as prescribed by the Office of Management and Budget. Further, the EPA does not determine the number of positions needed per mission-critical occupation using workforce analysis as required by the Office of Personnel Management. These conditions occurred because the agency has not developed a workload assessment

methodology and has not developed policies and procedures that require workload analysis as part of the budget formulation process. As a result, the EPA cannot demonstrate that it has the right number of resources to accomplish its mission.

- In September 2011, we found that the agency has not collected comprehensive workload data or conducted workload analyses across the EPA in about 20 years. The EPA does not require program offices to collect and maintain workload data, and the programs do not have databases or cost accounting systems in place to collect data on time spent on specific mission-related outputs. Office of Management and Budget guidance states that agencies should identify their workloads to help determine the proper workforce size, and federal accounting standards require that agencies establish cost accounting systems to allow them to determine resources consumed for work performed. Without sufficient workload data, program offices are limited in their ability to analyze their workloads and accurately estimate resource needs, and EPA's Office of Budget must base budget decisions primarily on subjective justifications at a time when budgets continue to tighten and data-driven decisions are needed.

We made several recommendations to address these findings, including that the agency: conduct a pilot project requiring EPA offices to collect and analyze workload data on key project activities; based upon those pilot results, develop guidance for agency program managers for conducting workload analysis; and complete a workload analysis for all critical functions to support its budget request.

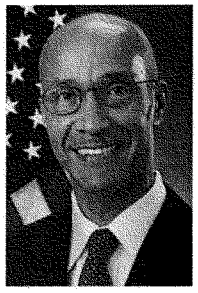
While the EPA has and continues to take action to address the longstanding issue of workforce analysis, much work remains to develop practical methods that the agency can use to accurately estimate workload and staffing levels.

Conclusion

While the EPA's senior leadership is taking the management challenges seriously and is making progress in resolving them, the agency must remain focused on these challenges, especially in light of the difficult budgetary climate facing all federal agencies today. The OIG will continue to provide oversight and track the EPA's actions on these challenges while looking to identify any emerging issues warranting attention. In conclusion, I would like to reaffirm the OIG's commitment to vigorously work with the Administrator and Congress to ensure that the agency's programs and operations work efficiently and effectively for the benefit of the American taxpayer.

Mr. Chairman, this concludes my prepared statement. I will be pleased to answer any questions you or the Members may have.

Biography of Inspector General Arthur A. Elkins, Jr.



Arthur A. Elkins, Jr. became Inspector General of the U.S. Environmental Protection Agency (EPA) on June 25, 2010. Before his appointment, Mr. Elkins served as Associate General Counsel within EPA's Office of General Counsel. While in that position, he supervised the delivery of legal counsel, opinions, litigation support, and other legal services for the Office of General Counsel's Information Law Practice, Employment Law Practice, and Intellectual Property Law Practice.

Previously, Mr. Elkins served as the Chief Legal Officer and General Counsel for the Court Services and Offender Supervision Agency, an independent federal executive branch agency responsible for pretrial services and adult parole and probation community offender supervision; Counsel to the Inspector General of the National Science Foundation; and Counsel within the Department of Defense, Defense Office of Hearings and Appeals.

Prior to joining the Federal Government, Mr. Elkins served as an Assistant Prosecuting Attorney in the Ohio Cuyahoga County Prosecutor's Office and as an Assistant Public Defender in the Ohio Cuyahoga County Public Defender's Office.

Mr. Elkins earned a Bachelor degree in social sciences from Thomas A. Edison State College; a Master of Business Administration degree from Baldwin-Wallace College; a Juris Doctor degree from Cleveland-Marshall College of Law, Cleveland State University; and a Master of Laws in Law and Government from Washington College of Law, The American University.

Mr. Elkins is a member of the bar in Ohio, District of Columbia, United States District Court for Northern Ohio, the United States Court of Appeals for the Sixth Circuit, and the Supreme Court of the United States of America.

Mr. Elkins is the recipient of the Council of Counsels to the Inspector Generals Leadership Award, Federal Executive Council on Integrity and Efficiency Award for Excellence in Investigations, and the National Science Foundation Office of Inspector General Commendable Service Award.

Mr. Elkins is the proud father of three children and resides in Bowie, Maryland, with his wife, Gail.

Chairman BROUN. Thank you, Mr. Elkins.

Now, I recognize Ms. Kendall for five minutes.

STATEMENT OF MS. MARY L. KENDALL,
DEPUTY INSPECTOR GENERAL,
U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF INSPECTOR GENERAL

Ms. KENDALL. Thank you, Mr. Chairman, Ranking Member Maffei, and Members of the Subcommittee. Thank you for the opportunity to testify about the major management and performance challenges facing the Department of the Interior and the approach the Office of Inspector General takes for providing oversight in these program areas.

As you know, the OIG makes an annual determination as to what the most significant management and performance challenges are facing Interior. Historically, the OIG made this determination by looking at our recent past audit and investigative work to identify the major challenges. In the past two years, however, we chose to take a more prospective outlook. Utilizing a number of resources, the OIG identified the top challenges we see facing the Department. We then met with the department officials to gain their perspective on the challenges we identified and the areas we would report upon. In those areas that the OIG had not done significant—or in some cases any—audit or investigative work, we asked the Department to help us identify one or two program areas that present the most challenge or concern.

Prior to issuing our report, we have done some limited analysis to better identify the scope of these issues involved in the greater challenges. We then used the major management and performance challenges to inform and guide our audit—and to the extent possible, investigative—work in the coming year.

Last year, the OIG identified the top management performance challenges as: energy management, climate change, water programs, responsibility to Indians and insular areas, Cobell and Indian land consolidation, and operation efficiencies. Therefore, in planning our audit and evaluation work for Fiscal Year 2013 and determining the scope for this work, we were guided by these top challenge categories into developing our targeted categories.

In energy, some of the program areas subject to review are mineral material sales, underground injection controls, offshore renewable energy, onshore oil and gas permitting, and pipeline management.

In climate change, we were reviewing the various climate change requirements placed on the Department.

In water, we are conducting a series of evaluations of the Coastal Impact Assistance Program and we will be looking at the Bureau of Reclamation Wastewater and Groundwater Programs.

In Indians and insular areas, we have looked at the election system and Public Finance Authority of the Virgin Islands and are reviewing the Guam Memorial Hospital Authority.

In addition to these top challenge categories, we have maintained additional targeted categories for audits and evaluations, as they are so integral to the mission of DOI and have been areas of con-

cern historically. They are: asset protection and preservation; and health, safety, security, and maintenance.

For investigations, we are necessarily more reactive. We cannot plan our investigative activities like we do our audits and evaluations. We are, however, guided by five investigative priorities: contract and grant fraud, energy, scientific misconduct, ethical violations, and public safety and security. Clearly, our investigative priorities overlap to a certain degree with our audit and evaluation priorities. This is a natural overlap, not necessarily intentional. But as an OIG of less than 300 employees that oversees a department with over 75,000 employees, we must focus our oversight activities on those areas of greatest concern and challenge. Although there may be many other ways in which to fine-tune this focus, using targeted categories and investigative priorities help us deploy our resources to the areas in greatest need of oversight in the Department of the Interior.

Mr. Chairman and Members of the Subcommittee, this concludes my formal testimony. I appreciate the opportunity to be here today and would be happy to answer any questions.

[The prepared statement of Ms. Kendall follows:]

TESTIMONY OF MARY L. KENDALL

DEPUTY INSPECTOR GENERAL FOR THE

DEPARTMENT OF THE INTERIOR BEFORE THE

HOUSE COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

SUBCOMMITTEE ON OVERSIGHT

MARCH 14, 2013

Mr. Chairman, and members of the Subcommittee, good afternoon. Thank you for the opportunity to testify about the major management and performance challenges facing the Department of the Interior (DOI), and the approach the Office of Inspector General (OIG) takes for providing oversight in these program areas.

In accordance with the Reports Consolidation Act of 2000, the OIG makes a determination as to what the most significant management and performance challenges are facing DOI. In the past, the OIG would make this determination by looking at our recent past audit and investigative work to identify the major challenges. In the past two years, we chose to take a more prospective outlook. Utilizing a number of resources, including budget justifications, program descriptions, press statements and coverage, congressional and public interest, the OIG identified the top challenges we see facing the Department. We then met with DOI officials to gain their perspective on the challenges we identified, and together agreed upon the challenge areas we would report on. In those areas that the OIG had not done significant (or in some cases, any) audit or investigative work, we asked the Department to identify one or two program areas that present the most challenge or concern to the Department. Prior to issuing our report, we have done some limited analysis to better identify the scope of issues involved in these greater challenges. We then use the major management and performance challenges to inform and guide our audit (and to the extent possible, investigative) work in the coming year.

Last year, the OIG identified the top management and performance challenges as—

- Energy management;
- Climate change;
- Water programs;
- Responsibility to Indians and Insular Areas;
- *Cobell* and Indian land consolidation; and
- Operations efficiencies.

Therefore, in planning our audit and evaluation work for fiscal year 2013 and determining the scope for this work, we were guided by these top challenge categories in developing our targeted categories:

Energy

- Mineral Material Sales – Determine whether BLM is obtaining market value for mineral materials on public lands.

- Underground Injection Controls – Determine whether the Department has (1) an accurate inventory of authorized underground injection sites and (2) adequate environmental safeguards.

- Offshore Renewable Energy – (1) Identify ongoing and proposed offshore renewable energy projects. (2) Evaluate DOI's budget and resource planning to determine if the Offshore Renewable Energy program is sufficiently funded and staffed to conduct leasing and oversight activities associated with offshore renewable energy. (3) Evaluate the process for establishing renewable energy fees to ensure fees are well reasoned and ensure a fair return to the federal government. (4) Evaluate the inspection and enforcement of the Offshore Renewable Energy program.

- Gulf of Mexico Energy Security Act (GoMESA) – Determine whether appropriate controls are in place to adequately ensure that GoMESA funds are being used only for authorized purposes. (The Act significantly enhances outer continental shelf oil and gas leasing activities and revenue sharing for the four Gulf oil and gas producing States of Alabama, Louisiana, Mississippi and Texas. Qualified revenues are transferred to the U.S. Treasury and to the Land and Water Conservation Fund (LWCF). From here, they are disbursed to the States. These funds are to be used for coastal conservation, restoration and hurricane protection.)

- Osage Nation Oil and Gas Program – Determine (1) the level of oil and gas oversight expertise at the Osage Agency and (2) what oil and gas oversight procedures exist as the Osage Agency (both in writing and in practice).

- Onshore Oil and Gas Permitting – Determine the effectiveness and efficiency of reviewing and issuing drilling permits on Federal and Indian oil and gas leases.

- Pipeline Management – Determine whether DOI has adequate inspection and enforcement programs to ensure that critical security and maintenance measures are effectively planned and implemented.

Climate Change

- Climate Change – Determine whether funding for climate change related projects are being effectively utilized and properly managed at the bureau level.

Water

- Coastal Impact Assistance Program (CIAP) – To (1) determine whether CIAP grant recipients have complied with CIAP's authorizing legislation, Federal regulations, DOI policies, and grant terms and conditions; and (2) identify grant

management challenges that FWS should address as it assumes responsibilities for CIAP management from BOEMRE.

- Bureau of Reclamation Wastewater and Groundwater Programs – Determine whether (1) grants awarded under the WaterSMART programs contribute to sustainable water resources and (2) the WaterSMART grant program is being effectively administered.

Indians and Insular Areas

- Election System of the Virgin Islands – Administration of Election Laws – Determine whether the activities and functions of the Joint Boards of Elections are in compliance with election rules issued by the Office of the Supervisor of Elections.

- Evaluation of Guam Memorial Hospital Authority – Determine the ability of Guam's Memorial Hospital to meet the medical care needs of the citizens of Guam in light of the planned increase in population from the military relocation. Further, determine whether opportunities exist to enhance medical services provided.

- Public Finance Authority – Monitoring of Capital Improvement Projects, Government of the Virgin Islands – Determine whether the Public Finance Authority adequately monitored the release of funds for its intended purpose in their capital improvement projects.

DOI Business Processes and Operations

- GovTrip Use and Monitoring – Determine whether proper management steps are being taken to use and monitor GovTrip

- Wildland Fire Controls – Determine whether the Wildland Fire program costs comply with applicable laws, regulations, policies and procedures. In addition, evaluate the effectiveness of internal controls over fire suppression and preparedness funding and the safeguarding of assets and resources.

- Wildland Fire Suppression Aviation Usage – Determine whether DOI is able to adequately justify its use of Interior-owned and/or contracted aircraft and related costs during wildfire land suppression activities.

- Recreation Revenue – Determine whether bureaus are obtaining market value (where appropriate) for recreation activities and amenities on public lands.

- USGS Requirements Under the National Earthquake Hazard Reduction Program (NEHRP) – Evaluate the effectiveness of the program, including the change from a discipline-focused organization to "science strategy" mission areas.

- Safety of Watercraft and Diving Operations – Determine whether bureaus are compliant with Federal and Departmental requirements. Specifically: (1) are watercraft operators and divers properly trained; (2) are required records kept; and (3) are safety incidents properly reported and investigated with causes mitigated?

In addition to these top challenges categories, we have maintained two additional targeted categories for audits and evaluations, as they are so integral to the mission of DOI and have been areas of concern historically –

- Asset protection and preservation; and
- Health, safety, security, and maintenance.

For investigations, we are necessarily more reactive. We cannot plan our investigative activities like we do audits and evaluations. We are, however, guided by five investigative priorities –

- Contract and grant fraud;
- Energy;
- Scientific misconduct;
- Ethical violations;
- Public safety and security.

Clearly, our investigative priorities overlap to a certain degree with our audit and evaluation priorities. This is a natural overlap, not necessarily intentional. But as an OIG of less than 300 employees that oversees a Department with over 75,000 employees, we must focus our oversight activities on those areas of greatest concern and challenge. Although there may be many other ways in which to fine-tune this focus, using targeted categories and investigative priorities help us deploy our resources to the areas in greatest need of oversight in the Department of the Interior.

Mr. Chairman and members of the Subcommittee, this concludes my formal testimony. I appreciate the opportunity to be here today, and would be happy to answer any questions you may have.

Mary L. Kendall
Deputy Inspector General
Department of the Interior

Mary Kendall spent much of her career as an attorney for Federal law enforcement programs and as a State and Federal prosecutor. She joined the Federal workforce in 1986 as an attorney for the Environmental Protection Agency's Office of General Counsel. In 1990, she transferred to its Office of Criminal Enforcement, where she served for 9 years. Ms. Kendall became Deputy Inspector General at the Department of the Interior in the fall of 1999. She played an instrumental role in transforming the Office of Inspector General into an innovative organization dedicated to detecting Departmental fraud, waste, and mismanagement.

Chairman BROUN. Thank you, Ms. Kendall.

I congratulate all three witnesses for staying within five minutes. I greatly appreciate it. And I thank you all for being available for questioning today.

Reminding Members that Committee rules limit questioning to five minutes, the Chair at this point will open the first round of questions. And the Chair recognizes himself for five minutes.

Ms. Kendall, you have refused to comply with a Congressional subpoena and obstructed at least two Congressional committees' inquiries into the Deepwater Horizon Offshore Drilling Moratorium Report. You have also adopted a policy to work more collaboratively with the Department. One of the most important qualities of an IG is their independence. How can this Committee trust your work, particularly when even your testimony today states that you collaborated with the Department and to quote you, "together, agreed upon the challenge areas we would report on?" Ms. Kendall?

Ms. KENDALL. Yes, sir. We did take a collaborative approach with the Department primarily because the—I am going to say the Association of Government Auditors made a recommendation to the Department of the Interior that the way that the top management challenges had been reported in the past did not give a good sense of sort of where the Department was and the position the IG took. It was more a sort of debate between the——

Chairman BROUN. Ms. Kendall, I am sorry to interrupt you because I—my time is very limited. The point is when you collaborate with the Department, that is not your job. Your job is to be a watchdog, to oversee them, to report things that they are doing that are wasteful or abuse, fraud, other types of oversight that you are supposed to be doing. That is what we have in this Committee's responsibility is being an oversight Committee. And if you are working in collaboration with the Agency, I don't know that we can trust your independence. I don't know that we can trust what you tell us. The IGs have to be independent. It is absolutely a critical part of what you guys do.

Mr. Friedman, the Administration's attempt, which I think was very misdirected—the attempt to permanently shutter the Yucca Mountain project is still in the process of being litigated. In spite of the possibility that the courts might require DOE to continue pursuing the license, which hopefully that will happen, DOE has eliminated all semblance of a Nuclear Waste Management Program, and that affects every single nuclear facility in this country, including the Georgia Power Company in my own State, including the legislatively created Office of Civilian Radioactive Waste Management. Has the DOE IG examined DOE's ability to reconstitute the Yucca Mountain project? Should the court—should the—well, let me ask that question. Have you all looked at reinstituting the Yucca Mountain project?

Mr. FRIEDMAN. We have not. First of all, Mr. Chairman, nuclear waste disposal and the termination of the Yucca Mountain project is one of our management challenges, which I referred to earlier.

Chairman BROUN. Yes.

Mr. FRIEDMAN. This is a $15 billion tunnel to nowhere in the middle of Nevada. So it is one of the worst cases of how not—or

the best cases actually of how not to make public policy from my perspective. And we have been outspoken on that.

In terms of reconstituting the office, the expertise—this is by observation; we have not done a report—by observation, the expertise—large parts of the expertise have left the office and I am not sure—could it be reconstituted? I am sure it could. Would it be extremely difficult? The answer is yes.

Chairman BROUN. Well, obviously, you think the courts should not require them to reconstitute that, is that correct?

Mr. FRIEDMAN. No, I have no position on the courts' position with regard to reconstitution at all.

Chairman BROUN. Okay. Has the DOE IG examined the CRWM's data retention plans to preserve the relevant records and documentation?

Mr. FRIEDMAN. Well, it is interesting you asked that question because when the Administration made the decision that it made not to fund the Yucca Mountain project and the office, we did do a review and we indicated that we were concerned that after the expenditures of nearly $15 billion, that there would be no appropriate means to maintain that information so that it could be used as a planning tool if nothing else for nuclear waste disposal decisions in the future.

Chairman BROUN. So were you maintaining those records?

Mr. FRIEDMAN. There is a system. We determined that there was a system to maintain those records. We have not looked at it in the last two, two and a half years.

Chairman BROUN. Well, my time is just about up, but this is a huge issue for us in Georgia and South Carolina and the Southeast and all over the country. And it is something I have been very interested in. This Yucca Mountain project has been studied at great length. We had hearings here and the general—and the full Committee about the safety of it, and it has been shown that this is the best repository—it is not a disposal; it is a repository, in my opinion, of this nuclear waste.

My time is expired. I now recognize Mr. Maffei for five minutes.

Mr. MAFFEI. Thank you, Mr. Chairman.

I am just wondering if each of the Inspectors General could very briefly tell us if—how the sequester is affecting their own offices, so not the Department but your own office. We will start with Mr. Friedman.

Mr. FRIEDMAN. Well, Mr. Maffei, we have canceled a very important training meeting that we had. It is not really a conference; it is a meeting. We were required to meet certain professional standards and training our auditors specifically. We had to cancel that and we are looking at alternatives. We are limiting travel, we are limiting training, and we are going to institute a hiring freeze in the not-too-distant future. So at this point, we have the resources to continue. We have—we are anticipating a reduction, but we have planned carefully and we think we will be okay in terms of furloughs and other job actions.

Mr. MAFFEI. Mr. Elkins? Thank you, Mr. Friedman.

Mr. Elkins?

Mr. ELKINS. Yeah, thank you. I will echo Mr. Friedman's comments. Generally speaking, we are pretty much in the same boat.

We have to take a look at training and travel. Over 80 percent of our appropriations are in FTEs. In order to do the IG's work, you have to have people, and the people need to get out and travel to do their investigations and audits.

I would like to say that there is also an opportunity cost that is missing here as well. The IG community is probably one of the few organizations that actually produce a return on investment. We pay for ourselves. And at the end of the day when we have to cut our resources to do the work that we need to do, that has an impact on the bottom line, because we are not out looking at fraud, waste, and abuse. So yeah, it is going to have a big impact on our ability to do our mission.

Mr. MAFFEI. So if I understand you correctly, you are saying that cutting the resources at the oversight level may lead to more waste and therefore, overall, may end up costing the taxpayer more money than if we had the appropriate resources at the IG?

Mr. ELKINS. Absolutely. If we don't do it, who will do it?

Mr. MAFFEI. I agree. Ms. Kendall?

Ms. KENDALL. Yes, sir. I would echo what Mr. Friedman and Mr. Elkins have both said. We are also operating right now at about 90 percent of our full FTE and we have slashed training, we have slashed travel. We are trying to limit travel to as close to our office locations as possible for the work that we are doing. Like Mr. Elkins said, about 80 percent is in salaries and benefits and the rest is really in support of our mission. So it is quite a significant effect.

Mr. MAFFEI. Thank you.

And then very briefly, Mr. Friedman—and the Chairman may be surprised that I am going to ask a question on this, but I am very interested in the LG Chem case in Michigan and what you were able to find there. I do believe that these are important programs, and when they are abused, it is an extremely detrimental effort to our attempts to green the economy and make sure that we can sustain the planet. So I would like an update on where you are with that.

And I would note that these need to be competitive programs. I have a battery company in my district that applied and was not granted these grants, and we are actually making batteries at my plant. So could you just give me an update as to where that investigation is and what you have found?

Mr. FRIEDMAN. Do you want me to synopsize what our report said, Mr. Maffei?

Mr. MAFFEI. Sure. Nothing——

Mr. FRIEDMAN. Oh——

Mr. MAFFEI. —since the report?

Mr. FRIEDMAN. I am sorry. Essentially, it was a grant to build a plant in Holland, Michigan, designed to produce lithium ion batteries primarily for the Volt. It went to LG—it went to a predecessor of LG. LG purchased the predecessor. We found that the—there were allegations that employees, because there was no demand for the product, that employees were in fact playing board games and volunteering for Habitat for Humanity, as important as that may be, certainly on the government payroll. We found that—we confirmed that's the case. We identified at least 1.6 million in

inappropriate payments of which the Department recovered from LG Chem $840,000.

But more importantly, actually, is the fact that the—that this 650,000 square-foot plant is idled because there is no demand for the product at this point. One of the important—one of the conditions precedent to granting the grant was that the LG production of lithium ion batteries in South Korea would be transferred to this plant.

Mr. MAFFEI. Yes.

Mr. FRIEDMAN. That component was never—although it was conceived—it was part of the conception of the grant, it never made its way into the written product. As a consequence, the Department had no leverage, so they told us to force LG to meet that term, which is—was extremely unfortunate.

Mr. MAFFEI. Realizing I am out of time, Mr. Chairman, but Mr. Friedman, is there any update—have you concluded the investigation? Are you continuing to look at how this so-called competitive decision was made?

Mr. FRIEDMAN. We have completed the audit component of the investigation. There are other aspects of it that are currently under review.

Mr. MAFFEI. Okay. We will be very interested in those.

Thank you, Mr. Chairman. I apologize for going over.

Chairman BROUN. Mr. Maffei, I will always give you some leeway here on that.

Okay. Thank you, Mr. Maffei.

Let us go to Mr. Schweikert, my friend from Arizona. You are recognized for five minutes.

Mr. SCHWEIKERT. Thank you, Mr. Chairman.

And to—is it—and forgive me for asking. It is properly pronounced Mr. Maffei?

Mr. MAFFEI. It rhymes with buffet so——

Mr. SCHWEIKERT. Buffet?

Mr. MAFFEI. —yeah. Think of everything you want——

Mr. SCHWEIKERT. Now, you will have just made me hungry.

Mr. MAFFEI. —to eat for 12.95 except with an M, of course.

Mr. SCHWEIKERT. Yeah, and that is in New York?

Mr. MAFFEI. Yes.

Mr. SCHWEIKERT. All right.

Mr. MAFFEI. Yes.

Mr. SCHWEIKERT. Hey, but Mr. Friedman, actually, my friend from New York here, who is my brand-new friend obviously, was basically going down a path that I know it is not your job is ultimately to audit, analyze policies that we make here in Congress and where we are going to have maybe some differences is was this actually a place that we should have been putting capital or instead of designing, you know, sort of tax and mechanical codes and those things that—with—maybe the benefits should have gone to the battery factory in his district because they were producing and working.

But when you are looking at this LG example in Michigan, your department or the department that you oversee has dozens and dozens of these grants, assistance, loan guarantees. What method-

ology do you reach out to? How do you grab data sets? How do you stay on top of it to know that you don't have bad actors out there?

Mr. FRIEDMAN. Well, understand, Mr. Schweikert, that I give—I am giving you an answer from the IG prism. The Department has a fairly extensive mechanism for managing the grants process and the contract process and other financial awards process, for making priority decisions, for evaluating what proposals make sense and what proposals don't make sense. Our role, as I see it, is to probe those processes to make sure that in fact they are using the structure that exists in the Federal acquisition regulations and good logic and good common sense.

Mr. SCHWEIKERT. But my concern is how do you catch them quickly? I mean have you embraced enough technology or the agencies you oversee so they are getting monthlies? You are actually seeing purchase orders that are attached to the grants, that you actually can see production? I mean this drives me insane because it is close to planned economy and that, we know, doesn't work. But if we are handing out the money, how are you—how does it ultimately get overseen and mechanically, how do you do quickly?

Mr. FRIEDMAN. Okay. Are you asking from—again——

Mr. SCHWEIKERT. You are the IG. Purely from the guy that is auditing——

Mr. FRIEDMAN. From an IG perspective——

Mr. SCHWEIKERT. In many ways you are auditing the auditors.

Mr. FRIEDMAN. Well, we are auditing those who are responsible for managing these contracts——

Mr. SCHWEIKERT. Yes.

Mr. FRIEDMAN. —and instruments. And the answer is we try our best, Mr. Schweikert, to be proactive and preventative in nature rather than reactive and come in after the fact. And we have done that in a number of cases where we are getting essentially—looking at the—looking—invoicing on a real-time basis to try and—to try to prevent unallowable costs before they occur——

Mr. SCHWEIKERT. Okay.

Mr. FRIEDMAN. —rather than after the fact. I don't know how—I hope I am answering your question, but I am more than happy to go beyond——

Mr. SCHWEIKERT. This is classic design controls setup, you know, we had in our Accounting 101 and 301 classes.

Ms. Kendall—and this one may be tainted because of some personal experiences when I was Maricopa County Treasurer. Is there a mechanism—does it hit your audit standards, your review standards, litigation settlements where Department of Interior is being sued because of a certain quarter, certain flood, certain this, certain that, and the mechanics within the decisions to either settle—do those hit your desk?

Ms. KENDALL. We have not had any issues really with the litigation in the Department that I can think of right now. It just hasn't been something that has come to us.

Mr. SCHWEIKERT. Okay. It is one of our folklores out West is sue the Department of Interior, sue the Forest Service, sue them, because that is how you get what you want. Because you basically sue them and they will agree and that way you actually get the

court order that sort of circumvents much of the rule-writing mechanics.

Ms. KENDALL. Interesting. It is not something that I was familiar with. I am glad you brought it to my attention. Thank you.

Mr. SCHWEIKERT. Okay. Mr. Chairman, with that, I yield back.

Chairman BROUN. Thank you, Mr. Schweikert.

Now, Mr. Peters, you are recognized for five minutes.

Mr. PETERS. Thank you. It is much easier to pronounce, too, I suppose. Thank you, Mr. Chairman.

Mr. Elkins, I had some questions for you. Last month, your office released a report calling for EPA to improve its air emissions data for oil and gas production, and it said that the sector had various pollution processes emit large amounts of harmful pollutants that affect air quality at local, regional, and global levels. States and the EPA rely on this air emissions data to guide this decision. And putting aside for the fact how we even know what the amounts are, how would we—how could EPA improve its directly measured air emissions data, and is there anything that Congress can do to help that process?

Mr. ELKINS. Well, as I recall, the import of that report really addressed the fact that EPA didn't have the—enough data to be able to make decisions as to whether or not it was problematic or not. I am not quite sure just exactly what the recommendation in terms of what Congress could do to assist. This is more of a data quality issue that EPA has, an investment that the Agency needs to make in order to strengthen, bolster its ability to make decisions with the data that it has. But that was the issue related to that report.

Mr. PETERS. But does EPA have the sufficient authority to be able to get that data if it wanted to get it?

Mr. ELKINS. I would have to say that they do. It is a matter of just being—you know, they need to accumulate the data. They clearly have the expertise to be able to do that so, yes, the data is available; they just need to collect it.

Mr. PETERS. So there is no need for Congressional authorization to EPA to get them to collect the data that we would all need to evaluate whether this is a problem as far as you know?

Mr. ELKINS. As far as I know. I don't see that that would be necessary, but of course, the Agency may have some constraints that I am not aware of.

Mr. PETERS. Do you know whether the drilling companies keep this data themselves or whether they are required to?

Mr. ELKINS. I do not know. I don't recall that that was brought out in our report.

Mr. PETERS. So is it possible that drillers—I have to concede we don't know whether it is worse than we think or better than we think because we don't have the data, but it is possible, I suppose, that a driller at a particular site would be emitting exceptionally high levels of methane but not know it? Or what they—would you expect that they would know that?

Mr. ELKINS. Well, you don't know what you don't know. So that is kind of hard to say. I really wouldn't have an opinion on that. I mean if you are not looking for it, if you don't have any mechanisms or tools to identify it, I am not quite sure you would know it. I would think the science would suggest that based on the type

of reduction and the type of work that you are doing that it is going to produce certain byproducts. And if methane is based on the science, it is one of those byproducts; I would suspect that you would know that.

Mr. PETERS. So I would just observe from the answer a lot of the use of the words "I don't know" and the use of the word "guess." It strikes me that we would be better off in terms of evaluating the need for environmental regulation, and I start from there because I don't necessarily assume it if we knew what was going on. And if they have the power under existing law to collect that data, it would seem to me that that would be kind of something that you would want to encourage them to do. Otherwise, they can't very effectively be regulating air emissions, could they? We don't know?

Mr. ELKINS. I wouldn't want to go there. I mean in terms of what their statutory authority to do, in terms of regulation, I mean that is again totally up to the Agency to make that interpretation. That is an Agency call.

Mr. PETERS. Okay. So we should talk to the Agency about that, I guess.

Mr. ELKINS. That would be a good idea, I think.

Mr. PETERS. All right. Well, I appreciate your time, Mr. Chairman. Thank you. I yield back.

Chairman BROUN. Thank you, Mr. Peters. I hope I did pronounce that correctly.

Now, Mr. Posey, you are recognized for five minutes.

Mr. POSEY. Thank you very much, Mr. Chairman.

Mr. Friedman, in your written testimony you indicate that the Department of Energy "contract management remains a significant management challenge." You also highlighted the fact in your testimony that the Department of Energy is the "most contractor-dependent agency on the civilian side of the Federal Government." Ironically, you know that numerous Department of Energy Inspector General reports have documented missteps I think they call them associated with successfully managing the Department's contracting process.

Just a couple of examples: a February 2013 report from your office confirmed that LG Chem employees at the Michigan facility had little work to do and were spending time volunteering at local nonprofit organizations, playing games, and watching movies at the expense of the Federal Government and taxpayers; also, number two, a review of the July 2012 security breach at NS—NNSA's 2002—or Y–12 National Security Complex, a site which processes and stores uranium identified "troubling displays of ineptitude" that were chalked up to a lack of contractor governance and Federal oversight which failed to identify and correct early indicators of multiple system breakdowns.

And number three that grabbed me, your October 2012 report on foreign travel highlighted the fact that Department of Energy contractors, for some reason, are not bound by travel restrictions that DOE government employees have to adhere to. And so this suggests, of course, that the Department of Energy does not just have an isolated issue with some of its contracts but rather suffers from a systemic problem in the Agency's procurement system and what actions you would take I think we would all like to hear or would

you recommend that DOE take to ensure effective contractor oversight to address those issues and similar issues, which could conceivably be wasting billions of billions of taxpayer dollars every year?

Mr. FRIEDMAN. Well, Mr. Posey, we had almost a whole inventory of recommendations to address the contracting, granting, cooperative agreement, financial assistant awards, management in the Department of Energy. It is a—the weak underbelly, from my point of view, of the Department. We do a huge amount of contracting. Virtually everything we do actually, with obviously some exceptions, is done by contract, including work with regard to the nuclear weapons, the management of our national laboratories system, and I could go on and on and on. What needs to be done, it seems to me, we need to seriously revisit the question of finding the right balance between oversight of the contractors and, at the same time, encouraging the contractors, incentivizing the contractors to do the right thing. And it is a balance. It is an issue which has not been resolved in the many years that I have spent looking at the Department of Energy's system. That is, to me, the prime recommendation.

Mr. POSEY. Well, this is my first year on this Committee, and so this is kind of shocking to me. And I get the feeling from what else I have read and from hearing you that this is not a new problem at DOE. And apparently, there have been proposed solutions before. Can you give me a little bit of insight as to how they were received or taken?

Mr. FRIEDMAN. Well, this is not a new problem. It has been going on for years. The fundamental structure of the way the Department of Energy manages really goes back to the Manhattan Project. It has many of the same elements that existed in the late 1940s, early 1950s and 1960s. So it is a long-standing issue. And finding—as I say, finding that right balance is extremely difficult. A number of Administrations have tried and made valiant efforts. The contractors frequently pushed back. Sometimes their interests and the Department's interests—of course, when it comes to national security, I am not quarreling with that, but their interests—it is not always exactly parallel to that of the Department.

So, as I say, finding the right balance is tricky but it seems to me that is the avenue we need to pursue.

Mr. POSEY. Well, but besides the obvious waste of billions of dollars of taxpayers' money, my next point was the threat to our national security to have such ineptitude, such incompetence, such belligerence, obviously that they seem to be refusing to comply with the Inspector General's recommendations to remedy this situation.

Mr. FRIEDMAN. Well, in fairness, Mr. Posey, the senior leadership of the Department and the senior leadership with regards to the Y–12 matter, which is extremely—which is fresh and raw and very troubling. And you are absolutely correct. The Department's leadership—and I am not here to support them; I am not here speaking for them—they have gone to great lengths to make sure that the issues that we identified at Y–12 have been addressed. And at some point in the future, in the not-too-distant future, we will be going back in there to see if in fact the remedies are as effective as they have been portrayed. So you have my commitment with re-

gard to that, but you have struck a chord on the issue that is extremely important. And national security is of the highest priority, of course, and Y–12, presumably, prior to the intrusion last summer was thought to be the Fort Knox of the weapons complex.

Mr. POSEY. Yes. Thank you.

Chairman BROUN. The gentleman's time is expired.

And now, we will start our second round of questions.

Mr. Elkins, one challenge facing the EPA is its transparency. In fact, to me, it seems like that is a huge issue for this whole Administration. We were promised by the President that he would have the most transparent Administration in history, and it seems that he has redefined transparency to be obscurity. EPA's use of alias emails appears to corrupt the Agency's records by not tying an individual's name to an email account. This Committee sought your help in reviewing whether EPA followed relevant Federal records laws, regulations, and policies, and for that I thank you.

Understanding that EPA could hypothetically follow all relevant requirements and still frustrate records transparency, will your review address whether the current policies are sufficient to maintain the integrity of agency records and allow public transparency?

Mr. ELKINS. Yes, Chairman Broun. The focus of our review—and as you know, we are still in the process of doing that review—is going to take a look at whether or not the Agency's policies, regulations, and guidance was followed. Based on that review and based on the findings, we will be making recommendations if we find that the Agency has not followed its policy regulations and reviews and make recommendations how they can do so.

But yes, we will be definitely addressing any issues that arise and we will keep you informed.

Chairman BROUN. Well, I would appreciate that. The public deserves to know and use of alias email accounts is obviously a way of trying to get away from Freedom of Information Act and other ways of holding people accountable and responsible, and I think it is absolutely critical that—and I understand that this is not the only Administration that has utilized that type of activity, and I think it is deplorable that Administrator Jackson did do so and I hope that you will follow very closely and give this Committee some input.

But before you were confirmed as EPA IG, you worked for the EPA's Counsel's office under Administrator Jackson. Were you aware of Administrator Jackson's use of email aliases?

Mr. ELKINS. No, you are absolutely right. I did work in the Office of General Counsel, and no, I was not aware. This issue only surfaced as far as my awareness level is when it was raised as a result of the issues that we have had discussion on here at this hearing.

Chairman BROUN. Well, I think there is a potential appearance of a conflict of interest here, and what are you going to do to protect against a potential conflict of interest related to this review in view of the fact that you were in the counsel's office?

Mr. ELKINS. Yes. I mean that is a good question and it is something that when we embarked on doing this review, I raised the issue quite frankly, as to whether or not there was any conflicts. And I had a detailed discussion with my staff to determine whether or not I should recuse myself. But after going through that discus-

sion, you know, a) it was determined that I had absolutely no knowledge about any of the issues that we were going to take a look at; 2) the focus of our review is again going to take a look at whether or not the Agency followed the law, and if that is the case, that it either did or did not, and so, you know, it didn't seem based on that sort of review, it didn't seem that I should recuse myself from that because——

Chairman BROUN. When can we expect the report of that review?

Mr. ELKINS. I am sorry, sir?

Chairman BROUN. When can we expect a report of that review?

Mr. ELKINS. I would say probably within the next couple of months at least——

Chairman BROUN. Well, please get it to——

Mr. ELKINS. —we are in the early phases of it——

Chairman BROUN. —us as quickly as you can. My time is just——

Mr. ELKINS. Absolutely.

Chairman BROUN. —about up.

Mr. Friedman, after receiving anonymous complaints alleging improprieties in the Department's Loan Programs Office, you initiated a special inquiry and issued a report that identified weaknesses in the administration of loan programs at DOE. These findings parallel similar conclusions to a March 2011 report from your office on DOE's Loan Guarantee Program for clean energy technologies, as well as findings in a GAO report on DOE Loan Guarantees.

Your testimony states that the Loan Guarantee Program is on your watch list as you termed it. I recently received a letter from DOE's Loan Programs Office that seems to indicate that everything was just fine. Can you explain why you listed the Loan Guarantee Program?

Mr. FRIEDMAN. Mr. Chairman, there are aspects of our work in loan guarantee that I can talk about. There are aspects that I cannot talk about in public session that there are law-enforcement-sensitive. The cumulative body of work that we have done and that we have seen indicates to us in the obvious number of problems within the program that are in the public domain in and of themselves are sufficient to cause us to raise concerns about the program, its management, the selection process, the documentation that is maintained, and those sorts of issues. So that is our basis. I hope that is a satisfactory answer.

Chairman BROUN. Well, the American hard-working taxpayers need all you guys to be very diligent. The Loan Programs Office has certainly come into a lot of criticisms, and I hope you will continue that process.

I now recognize Mr. Peters for five minutes.

Mr. PETERS. Thank you again, Mr. Chairman.

I just had one more question for Mr. Friedman. I think you had indicated that the Department might establish a process to look at whether they could save money by consolidating their labs. This may even lead to closing some facilities. So I just wanted to see if you can explain for us maybe kind of what you thought the magnitude of the savings we might realize might be without undermining the missions of the Department's labs. And I also under-

stand it is something like a $3.5 billion ticket. And then adopting any process, do you have principles that you believe should guide the Department's review for sort of a lab BRAC kind of process? Thank you.

Mr. FRIEDMAN. Yes. Thank you for the question. Excuse me. Just to make sure we are clear, this is our recommendation as part of the management challenge process. The Department has not adopted it.

Mr. PETERS. No, I understand.

Mr. FRIEDMAN. It is—in fact, if—we are realists, Mr. Peters, and we are talking about jobs here and people and states that—in which these laboratories play a very important economic development role and they are extremely important. The basic framework of the laboratory system as it is currently established—and there has been some tinkering at the margins—is a remnant of the 1950/1960s model. It has not changed.

There are 16 FFRDCs spending about $11 billion a year, and of that amount, 35 to 40 percent is for administrative costs. Our view is that, given the current economic times, there ought to be a thoughtful approach—taking politics out of the mix if that is at all humanly possible—to determine whether all of those labs makes sense, whether there are ways of consolidating so that more of the—what is currently devoted to administrative costs could be devoted to direct science would be possible. That—our recommendation has not been adopted, and I might say, there are a number of Members of Congress who said it was dead on arrival.

Mr. PETERS. Um-hum.

Mr. FRIEDMAN. So we we made the recommendation because we thought it was the right thing to do, and the time has come for a reevaluation, but it was not received with a great deal of acceptance.

Mr. PETERS. Just to follow up——

Mr. FRIEDMAN. No white smoke, you might say.

Mr. PETERS. No, just to follow up, did you suggest a process by which that might be—might take place?

Mr. FRIEDMAN. Well, we believe that the BRAC—something patterned after the Department of Defense BRAC style is exactly—BRAC Commission is exactly what we would recommend.

Mr. PETERS. Okay. Thank you, Mr. Friedman.

And Mr. Chairman, I yield back. Thank you.

Chairman BROUN. Thank you, Mr. Peters.

And now, Mr. Posey, you are recognized for five minutes.

Mr. POSEY. Thank you, Mr. Chairman. And thank you for asking about Yucca Mountain earlier. I was really concerned about that. And you kind of got some of that air cleared for me.

Mr. Friedman, I appreciate your comments that it is not the top leadership at DOE, but clearly, some of the contractor oversight personnel need to have better accountability or need to be more accountable. What tools do you, the IG, need, do you believe, to help that be more effective?

Mr. FRIEDMAN. Well, I hope this doesn't disappoint you, Mr. Posey, but I actually think we have a bag of tools available to us currently that allow us to do what needs to be done.

Mr. POSEY. Okay.

Mr. FRIEDMAN. So I am comfortable with the status quo.

Mr. POSEY. What would you think Congress needs to do to make them a little bit more accountable?

Mr. FRIEDMAN. Well, I am—having been in this position for a long time and participated in a number of hearings, the sunlight that a—hearings and Congressional oversight forces is, to me, the most—single most important thing that Congress can do. So having hearings, having those involved in actual oversight and administration of these contracts appear before you it seems to me is the way of clearing the air, making it transparent, and holding people—maximum—achieving maximum accountability.

Mr. POSEY. Okay. That didn't work in Financial Services with the Securities and Exchange Commission after they let Madoff steal $70 billion. Nobody lost their job, and the answer to that was supposed to make us feel good is that, well, at least half the investigators and half the examiners who dropped the ball don't work here anymore. So maybe they are at DOE. I don't know.

But Mr. Elkins, one of the challenges facing EPA is that of public trust. I am sure you know that. The American people deserve to know that the regulations created by the EPA are informed by science and not special interest or activism. Your office received a request to conduct a review of the Clean Air Act Advisory Committees in August 2011. Can you tell me where that stands now?

Mr. ELKINS. I don't have that information right off the top of my head. I can get back to you on that, though. One second. Okay. My subject matter expert tells me that you can expect it in late summer.

Mr. POSEY. Okay. Please keep the Committee appraised.

Mr. ELKINS. I will do so.

Mr. POSEY. Thank you.

That is all, Mr. Chairman. I yield back.

Chairman BROUN. Thank you, Mr. Posey.

I have got a few more questions that I would like to ask. And I want to go back to the Loan Guarantee Program. Mr. Friedman, you all oversee over—the—that program oversees over $38 billion for 40 loan projects. Does your office plan on conducting any reviews on the loan selection process?

Mr. FRIEDMAN. Well, we have looked at the documentation. We have already published a report on the documentation that was maintained on the decision-making associated with the loan-granting process, Mr. Chairman. I admit to you that I am not as up to speed on the current status of the program as perhaps I should be, but my impression is that the vast majority of the loans have already been effectuated, if not all of the loans have been effectuated. But if there are loans to be granted in the future, we will be looking at that process.

Chairman BROUN. I hope you will be a very strong watchdog on that.

Mr. Elkins, I will come back to a question that Mr. Posey was asking you. The President has stated that if he cannot get his radical environmental agenda pushed through Congress that he is going to go around Congress. What is the IG office doing to try to maintain that we follow the Constitution and follow what should be done where the President is saying he is going to take Congress

out of the decision-making process? He is going to do whatever he wants to do. He is going to push his agenda and he doesn't care whatsoever what Congress does or doesn't do. What is the IG's office going to be doing to keep us in Congress and the American public aware of what is going on and make sure that the EPA does not promulgate regulations that are not authorized through Congressional action?

Mr. ELKINS. Well, Mr. Broun, our responsibility and mission, as you know, for the Office of Inspector General is to provide oversight and to make sure that the Agency follows its laws, the regulations, and guidance. We will continue to do that. We will continue to provide that oversight, and in areas where we determined that the Agency is not following the law, we will shed light on it and we will make it aware through our work products. So you can be assured of that.

Chairman BROUN. Well, we are counting on you. And the American people—the hard-working taxpayers of America are counting on you to do so. And I just trust that you will do so and look forward to your report in this Committee.

Ms. Kendall, as I said in my opening statement, I am concerned with how the DOI and the DOI IG handle allegations of scientific integrity and scientific misconduct. And I believe that this is a serious challenge facing the Agency as it moves forward, as we move forward. Given the allegations facing not only the Department but also the IG, I am not sure we can trust the Department's decisions. While some scientific integrity and misconduct cases seem to have been handled appropriately by the IG, it appears as though allegations from a scientific integrity officer have gone ignored. How do you decide when to pursue an allegation of scientific integrity or misconduct?

Ms. KENDALL. Well, we will look at any allegation of scientific misconduct. We are not, however, in a position to make a determination really on scientific integrity. The Office of Inspector General does not have any kind of scientific expertise in it. So we have to draw a fairly clean line between integrity of science and misconduct. When there are allegations of misconduct, we can investigate those factually. We cannot make a determination about the science, however.

Chairman BROUN. Well, I am real concerned. As I mentioned already, when you are working in collaboration with the folks that you are supposed to be overseeing, I am not sure that that is going to occur.

Mr. Elkins, in response to my earlier question, you said you would review whether EPA followed current policies regarding the integrity of maintaining agency records. I want to clarify my question. Will your review also address whether EPA's policies are sufficient?

Mr. ELKINS. We will make—if we find that the EPA's policies are not sufficient and that additional internal controls need to be implemented in order to make them sufficient, we will make that recommendation. Yes, we will be looking at that and—yes, we will be looking at that.

Chairman BROUN. Okay, Mr. Elkins. My time is expired. Mr. Posey—I think he is gone. And I appreciate Members being here

and I appreciate you all's testimony. And I appreciate all the—your forbearance with us and flexibility also. Again, I want to thank you.

Members of the Committee may have additional questions, and I ask you to respond to those in writing. Please do so very expeditiously. The record will remain open for two weeks for additional comments and written questions from Members.

The witnesses are excused and the hearing is now adjourned.

[Whereupon, at 1:45 p.m., the Subcommittee was adjourned.]

Appendix I

Answers to Post-Hearing Questions

Enclosure 1

U.S. Department of Energy

Office of Inspector General

Responses to Questions for the Record

Following the Hearing Entitled,

"Top Challenges for Science Agencies: Reports from the Inspectors General – Part 2"

House Committee on Science, Space, and Technology

Subcommittee on Oversight

March 14, 2013

Questions for the Record Submitted by Chairman Paul Broun, M.D.

1. **A December 2012 cyber security audit identifies duplicative capabilities for cyber security incident management between DOE and NNSA at a cost of more than $30 million per year. How is DOE planning to resolve this issue of duplicative capabilities?**

   In response to our audit report on *Follow-up Audit of the Department's Cyber Security Incident Management Program* (DOE/IG-0878, December 11, 2012), the Department noted that it planned to take action to address duplicative capabilities. In particular, management noted that the Joint Cyber Security Coordination Center (JC3) Implementation Plan will provide direction on how existing capabilities and resources from across the Department will be leveraged to accomplish the JC3 mission. Management noted that leveraging such investments should improve information sharing, better coordinate incident response, and improve incident reporting, thus reducing the duplicative services to the extent possible.

2. **It appears that DOE is incapable of ensuring contractors compliance with DOE regulations, leading to major safety concerns in some instances. For example, a review of a July 2012 security breach at NNSA's Y-12 National Security Complex, a site that processes and stores uranium, identified "troubling displays of ineptitude" that were chalked up to a lack of "[c]ontractor governance and Federal oversight [which] failed to identify and correct early indicators of...multiple system breakdowns." Additionally, your review of DOE's storage and maintenance of explosives, which the Department keeps for research and development, as well as security purposes, revealed "problems with handling and storing explosives at each of the four contractor-operated sites [you] visited, potentially increasing the risk of harm to personnel and infrastructure." What do you attribute these failures to? Is there a cultural problem at the Department?**

The Department delegates extensive responsibility for operations, safety, and security to its large stable of contractors. In this vein, in our recent reports on the Y-12 matter, we attributed the issues to inadequate Federal oversight of the contractor workforce and the various operational decisions they routinely make. Specifically, we found particularly troubling the lack of Federal involvement in oversight and the "eyes on, hands off" approach taken by site officials.

Additionally, we attribute the explosives-related issues, in part, to the fact that Department officials had not provided adequate oversight to ensure that responsible contractors properly implemented policies for handling and storing explosives. Also, contractor officials charged with managing and safeguarding explosives had not ensured compliance with various aspects of the Department's Explosives Safety Manual. Although various reasons were offered by contractor officials in support of their approaches, the actions taken did not conform to the best protective and preventative explosives safety protocols established by the Department. Failure to properly implement safety protocols for explosives handling and storage procedures unnecessarily increases the risk of harm to personnel, infrastructure and equipment.

Performance and compliance issues, compounded by a lack of robust contract management and oversight by Federal officials, in our opinion, contributed to the environment that permitted these problems to occur and not be identified, corrected or prevented in a timely manner. These issues, and any attendant cultural issues that may exist, are of concern and, in our opinion, unnecessarily expose critical national security assets to an increased risk of harm or compromise.

3. **In October 2012, your office issued a report on DOE's management of foreign travel, noting that the Department had not made a "concerted effort to reduce contractor international travel costs," which for FY 2007 through FY 2102 equals $306 million (out of a total $360 million for all federal and contractor international trips).**

   a. **Did the Department provide an adequate response to explain why contractors were excluded from the travel restrictions placed on DOE employees?**

      No. The Department told us that it did not interpret the Office of Management and Budget's requirement to reduce travel costs to apply to contractors. However, in our opinion, the Department missed an opportunity to make meaningful cost reductions by excluding contractor foreign travel.

   b. **What follow-up plans do you have to monitor the Department's handling of this issue?**

      In addition to periodic discussions with agency officials, we monitor the Department's progress on corrective actions through the Departmental Audit Reporting and Tracking System. As often as possible with available resources, we attempt to schedule follow-up reviews in specific areas of interest, if we identify the area as high risk and particularly if we learn that promised corrective actions were not completed or effective.

4. **Your February 2013 report on LG Chem Michigan Inc, succinctly summarizes problems that appear to exist Department-wide in other programs that benefited from an influx of stimulus spending. Specifically, regarding LG Chem, your report confirmed the allegation that "employees at the Michigan facility had little work to do and were spending time volunteering at local non-profit organizations, playing games and watching movies at the expense of the Federal government and taxpayers." Despite the expenditures of $142 million in Recovery Act funds, LG Chem Michigan has not yet achieved the objectives outlined in its Department-approved project plan. Is the Department going to recovery these funds from LG Chem?**

The Department recovered $842,189 from LG Chem Michigan, Inc. related to the questionable labor costs identified in our report. At the time of our review, however, the Department had no plans to attempt to recover the entire $142 million in expenditures.

5. **DOE has awarded ECOtality approximately $125 million in stimulus funding to install electric vehicle chargers across the United States – some of which was provided nearly a year after the SEC (U.S. Securities and Exchange Commission) issued a subpoena to the company.**

   a. **Last year, at a Science, Space, and Technology Committee hearing, your office identified a number of concerns associated with ECOtality's award, and informed the Committee an audit would be forthcoming in the second quarter of 2012. Given your broad concerns about DOE's Transportation Electrification Program, and previous statements, when can we expect your report on ECOtality?**

      We began our audit in the first quarter of 2013. We are currently in the process of drafting the report of this review.

   b. **Have you received all necessary information required for your review?**

      Yes. We received all of the necessary information required for our review.

   c. **Can you describe some of the elements of this audit report? (Your answer should include potential abuse of mandatory cost-share, accounting problems, and extensive project delays).**

      Our report is currently in the drafting stage. We can provide additional information once that process is complete.

6. **In testimony before the Energy and Environment Subcommittee last July, your colleague explained the need for improvements in financial management for the Clean Cities and Transportation Electrification Programs. In February, you issued a report about LG Chem Michigan, Inc., which has received nearly $150 million of taxpayer funds, but has yet to achieve objective outlined in its Department-approved project plan even as it paid employees to watch movies and play board games.**

   A number of your reports on the Clean Cities and Transportation Electrification Program found stunning waste and mismanagement. What do you attribute this to?

   During our reviews for the reports listed, we found that inadequate policies and procedures, ineffective oversight, and a lack of clear guidance contributed to the findings.

7. **Regarding the Clean Cities Program, you could state in your most recent Semiannual Report to Congress that DOE" also asserted that competition was not required." What criteria did the Department use to evaluate proposals and identify award recipients?**

   To clarify, the Department used competition to select award recipients for the Clean Cities Program. The Department uses 10 CFR 600 as the criteria for all financial assistance awards. During our review, however, management asserted that competition was not required for procurements by recipients. However, we emphasized that recipients had procured services after their award had been granted and therefore, due to requirements established in the award, should have complied with Federal procurement regulations.

8. **How often does the Department use other transactional authorities such as Cooperative Agreements (CA)? What are they mostly used for and what oversight work does your office conduct on these CAs, which typically are not subject to the same rigor and reporting mechanisms as a contract?**

   Cooperative agreements are one type of financial assistance agreements utilized by the Department. By definition, cooperative agreements are to be used when "substantial involvement" by the Department in the project will be necessary. Periodically, these types of agreements are selected as part of our reviews. The reporting mechanisms and requirements vary on projects as well as programs. As far as frequency of use is concerned, responsible Department officials may be able to provide such information.

9. **A report issued earlier this month by another Committee noted that "open and unimplemented IG recommendations could save taxpayers $67 billion" in 2012.**

   a. **How many open and unimplemented recommendations do you have with DOE?**

      As of the date of the hearing, March 14, 2013, approximately 300 Office of Inspector General recommendations remained open. The Chief Financial Officer (CFO) is the Department's designated audit follow-up official and maintains the agency's audit follow-up system, known as the Departmental Audit Report Tracking System. The CFO works with the responsible program and administrative elements to ensure that audit recommendations and corrective actions are appropriately tracked.

b. How much could the Department save if your recommendations were incorporated, and how have these numbers changed over the years?

The 300 recommendations noted above have an associated potential monetary benefit of approximately $1.6 billion. Please note that in terms of potential monetary benefit, these figures are representative of reports with open recommendations rather than individual recommendations themselves. These amounts include funds that could be used more efficiently by implementing recommended actions as well as other unresolved or questioned costs.

10. Are certain issues more likely than others to be on the "open and unimplemented" recommendations list for DOE? If so, can you please elaborate on them?

Over the last 10 years, the Office of Inspector General has issued more than 3,000 recommendations on a variety of Department programs and operations. These recommendations include, but are not limited to, issues such as contract administration, cyber security and information technology, environmental cleanup, national security, project management, internal controls, and operational efficiencies. Looking at the inventory of reports and open recommendations in its entirety, we have not identified any trend or pattern suggesting that certain issues or review topics are more likely than others to remain unaddressed by the Department.

Responses by Mr. Arthur A. Elkins, Jr.

HOUSE COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
SUBCOMMITTEE ON OVERSIGHT

"Top Challenges for Science Agencies: Reports from the Inspectors General - Part 2"

Questions for the Record, Mr. Arthur A. Elkins Jr., Inspector General
U.S. Environmental Protection Agency

Questions submitted by Dr. Paul Broun, Chairman

Sequestration

1) **You made some comments in an interview last month about how sequestration cuts may force you to limit some of your office's planned projects for this year.[1] Your office has a couple of projects it is working on for this Committee that were submitted and initiated last year – are they in danger of being delayed?**

   Based on the Committee's request, the OIG initiated an evaluation of EPA's research on human subjects in October 2012 to determine whether the EPA followed applicable laws, regulations, policies, procedures and guidance when it exposed human subjects to diesel exhaust emissions and concentrated airborne particles. As stated in the February 22, 2013, *Inside EPA* article, although sequestration cuts may eventually cause us to cut back on discretionary work, this evaluation has not been delayed due to sequestration cuts experienced by the OIG thus far and we do not envision it being delayed due to these cuts. It is taking longer to complete this evaluation than initially estimated, due largely to the amount of information received from the EPA and the University of North Carolina at Chapel Hill's Institutional Review Board. For example, we reviewed and evaluated over 6,000 pages of documents received from the review board alone. We plan to issue a draft report to the agency for comment by September 2013.

   Based on the Committee's request, we also initiated in December 2012 an audit of the EPA's use of private and alias email accounts, to determine whether the EPA follows applicable laws and regulations when using private and alias email accounts to conduct official business. We still plan to complete that work this summer.

Cyber Security

2) **Your 2012 Federal Information Security Management Act report highlighted several serious deficiencies in the EPA's information security program. What has the agency done to mitigate these failings?**

   On March 6, 2013, the OIG issued a draft report containing 10 recommendations that the agency should undertake to address deficiencies reported in our 2012 Federal Information Security Management Act Report. We anticipate issuing the final report in May 2013.

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[1] Anthony Lacey, "IG Warns Budget Cuts Could Hamper Effort To Ensure EPA 'Transparency,'" *InsideEPA.com*, February 22, 2013, available at: http://insideepa.com/201302222425536/EPA-Daily-News/Daily-News/ig-warns-budget-cuts-could-hamper-effort-to-ensure-epa-transparency/menu-id-95.html.

3) **Are EPA's system security plans up-to-date, and do they reflect current policies and procedures?**

During our 2012 Federal Information Security Management Act audit, we reviewed a sample of 13 agency information system security plans. Of those plans, 12 were up to date and reflected current policies and procedures. While the EPA sufficiently categorized the sensitivity of the data that resides in all its systems, one security plan lacked documentation of the controls implemented to protect the data processed by the system. This security plan lacked details related to continuous monitoring activities, such as security impact analysis, system audit log storage and response to audit processing failures.

Duplicative Programs

4) **The management challenges report states that your office has begun work that "could identify duplicative programs that warrant consideration as a future management challenge."[2] In the nine months since that report was released, what advances has your office made on the project?**

We completed the project ("Catalog of Environmental Programs 2012") in October 2012. The catalog is a browsable online database of interagency environmental activities which helps describe the extent to which federal agencies play a role environmental protection. The EPA's success in protecting the environment depends on the efforts of many federal, state, local and tribal partners.

Our audit and evaluation work also may involve identifying potential duplicative programs. We have ongoing audit work related to the Science to Achieve Results (STAR) grant program, for which we are looking at whether the EPA is effectively monitoring grant recipients to ensure the EPA is not funding costs also funded by another federal agency.

In September 2012, we issued a report ("Environmental Job Training Program Implemented Well, But Focus Needed on Possible Duplication With Other EPA Programs") that examined whether the EPA's Environmental Workforce Development and Job Training program is addressing its program goals and whether duplications may occur with other EPA job training programs. We found that the EPA effectively established and adhered to competitive criteria that resulted in the selection of job training proposals that addressed the broad goals of the Environmental Workforce Development and Job Training program. However, EPA did not have internal controls to identify and prevent duplication with other EPA job training programs.

5) **In your office's effort to identify duplicative programs at EPA, have you coordinated with the U.S. Government Accountability Office given the work that office conducts on duplicative federal programs?**

On an ongoing basis, the OIG coordinates its work with GAO. During meetings, we discuss our respective audit work involving duplicative programs, and also our respective planned, ongoing and completed audit work.

[2] Introduction to 2012 EPA management challenges report.

State Oversight

6) **As part of its responsibilities, EPA assesses whether a state government is "capable of operating [a] program consistent with federal standards"?[3] To that end, EPA has implemented a State Review Framework, but, as noted in your office's management challenges report, EPA has not "implemented [the framework] in a consistent manner."[4] Why is that and what work has your office done to oversee this process?**

In the OIG's 2011 report, "EPA Must Improve Oversight of State Enforcement," we conducted a review of the enforcement programs in all 50 states, including a review of the State Review Framework – a national system for reviewing state enforcement performance under the Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act developed in 2004. We found that EPA enforcement officials generally found enforcement programs beneficial. We also determined that making the State Review Framework public helped to put pressure on states to perform better, and the process overall brought the enforcement discussion to a higher level in state agencies. However, our review of all available State Review Framework reports indicated that despite the Office of Enforcement and Compliance Assurance's guidance on conducting framework oversight reviews, EPA regions did not consistently conduct or report on their reviews. This was in line with an overall finding that state oversight was inconsistent across EPA regions. We have not reviewed that State Review Framework since this report. The EPA is currently working on reports for several state reviews from its Round 2 review (2008-2012).

State enforcement performance and oversight has been an ongoing interest of the OIG. In addition to the 2011 state oversight report, we conducted a review in 2009 on EPA oversight and policy for high priority violations of the Clean Air Act, and a review in 2007 on long-term significant noncompliance with discharge permits under the Clean Water Act. We are currently working on a project looking at the EPA's Watch List.

IRIS

7) **This Committee has a long history with its oversight of EPA's IRIS (Integrated Risk Information System) program. Moreover, GAO lists IRIS as a high-risk program and even your office identifies it in your management challenges report. What do you have planned in terms of conducting oversight of this program at EPA this year?**

We recently completed the audit report, "Congressionally Requested Information on EPA Utilization of Integrated Risk Information System" (Report No. 13-P-0127), issued on February 1, 2013. We currently do not have further plans for reviewing IRIS in FY 2013.

Science Advisory Board

8) **EPA's Science Advisory Board (SAB) and Clean Air Scientific Advisory Committee (CASAC) play critical roles in reviewing the scientific foundation of EPA regulatory decisions and advising the agency broadly on science and technology-related matters. Yet, according to the Congressional Research Service, as of last year, almost 60 percent of the members of EPA's scientific advisory panels had directly received recent grants from the agency. Further, private sector expertise is often entirely excluded on panels, despite an**

[3] P.1 of 2012 EPA management challenges report.
[4] P.1 of 2012 EPA management challenges report.

existing statutory requirement that advisory committees "be fairly balanced in terms of the points of view represented."

How does your office conduct oversight over the SAB, and ensure a fair and balanced membership that equally represents viewpoints of environmentalists, industries and everyone else?

In response to a congressional request, the OIG has an ongoing assignment reviewing the EPA's management of the CASAC and the Advisory Council on Clean Air Compliance Analysis. The EPA's SAB Staff Office is responsible for managing these two committees. Our review is assessing whether the EPA has managed the CASAC and Council in accordance with applicable laws, regulations and guidance pertaining to potential conflicts of interest, appearances of impartiality, rotation of members, balance of committee viewpoints and perspectives, and peer review. We plan to issue a draft report to the agency in May 2013. The OIG does not routinely conduct oversight of the SAB but may periodically review the SAB as we do other EPA programs and activities.

9) **EPA SAB meetings also limit public participation, and virtually no ability exists for interested parties to comment on the scope of SAB reviews. What projects do you have ongoing regarding EPA's SAB rules and ensuring that it be an open and transparent process?**

Our office does not have any ongoing reviews of the SAB's rules. The OIG review identified in response to question 8 is addressing the SAB Staff Office's management of the CASAC and the Advisory Council on Clean Air Compliance Analysis, not SAB committees.

Bristol Bay

10) **Has EPA previously issued a draft watershed assessment in the context of a potential mining project in advance of a permit being filed for mine development?**

The EPA has not done any review on the EPA's draft Bristol Bay Watershed Assessment, nor is this topic addressed in the OIG's annual plan for FY 2013.

11) **Regarding EPA's draft Bristol Bay Watershed Assessment, has your office received any complaints about whether this document is compliant with (a) OMB guidelines regarding peer review; (b) Highly Influential Scientific Assessment guidelines; and (c) the Administrative Procedure Act guidelines?**

No.

12) **Regarding EPA's draft Bristol Bay Watershed Assessment, have you received any concerns about the fact that this document is undergoing two peer reviews, yet EPA does not consider it a regulatory document?**

No.

13) **Regarding EPA's draft Bristol Bay Watershed Assessment, have any of the peer reviewers contacted your office about the peer review process or about any inappropriate contact from the agency meant to influence the second peer review of this document due later this year?**

No.

14) **Concerning EPA's draft Bristol Bay Watershed Assessment, have you received any allegations regarding conflict of interest associated with the watershed assessment peer review?**

No.

15) **Regarding EPA's draft Bristol Bay Watershed Assessment, have you received any allegations of scientific integrity violations by EPA in either the way the watershed assessment was drafted, or over its inclusion of non-peer reviewed publications?**

No.

Sustainability

16) **Has your office conducted any work on EPA efforts in the area of sustainability practices and approaches? Specifically, what steps has EPA taken to implement recommendations from the 2011 National Academy of Sciences report, *Sustainability and the U.S. EPA*, commonly referred to as the "Green book," for which EPA paid NAS nearly $700,000?[5] Under what statutory authority is the agency pursuing this agenda?**

The EPA has not done any review on the implementation of the National Academy of Sciences' recommendations, nor is this topic addressed in the OIG's annual plan for FY 2013.

Open and Unimplemented Recommendations

17) **A report issued earlier this month by another Committee noted that "open and unimplemented IG recommendations could save taxpayers $67 billion"[6] in 2012.**

a. **How many open and unimplemented recommendations do you have with EPA?**

The OIG semiannually prepares a Compendium of Open and Unimplemented Recommendations as an appendix to its Semiannual Report to Congress. For the Compendium of Unimplemented Recommendations report as of March 31, 2013, we are reporting 127 open recommendations (whose agreed-to completion dates have not yet expired) and 23 unimplemented recommendations more than 1 year past the agreed-to completion date, for a total of 150 open and unimplemented recommendations.

b. **How much could EPA save if your recommendations were incorporated, and how have these numbers changed over the years?**

The OIG performs a variety of audits, including, financial statement, grant/grantee, contract, information system, risk assessment and complex program audits and evaluations. Our recommendations involve quantifiable monetary benefits, as well as non-quantifiable non-monetary benefits.

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[5] David John Marotta, "EPA: Green Gone Wild," *Marotta on Money*, January 13, 2013, available at: http://www.marottaonmoney.com/epa-green-gone-wild.

[6] Committee on Oversight and Government Reform report, March 5, 2013, available at: http://oversight.house.gov/wp-content/uploads/2013/03/Staff-Report-Open-Unimplemented-IG-Recs.pdf.

For those audits and evaluations that contain monetary benefits, the OIG has identified over $400 million in potential savings in the form of cost efficiencies and questioned costs in FY 2012 that are subject to final management decisions and actions by the agency beyond the control of the OIG. Additionally, the vast majority of recommendations the OIG makes for which there are agreed-to corrective actions are performance and qualitative recommendations. While they are not quantifiable in monetary terms, if implemented they will result in significant savings, reduction of risk, and better delivery of EPA's environmental programs to improve the environment and public health. These benefits translate into cleaner water, air and land, and subsequent health and quality of life benefits.

Since the OIG began publishing its Compendium of Unimplemented Recommendations, the number of past due recommendations has steadily declined by about 75 percent.

18) Are certain issues more likely than others to be on the "open and unimplemented" recommendations list for EPA? If so, can you please elaborate on them?

There are no specific recurring issues that appear on the "Open and Unimplemented" recommendations list for EPA. The recommendations that appear on the list are very diverse and cover a myriad of topics. The recommendations relate to topics that range from information technology security, the EPA's financial statements, and EPA grantees (including tribal grants), as well as issues that affect EPA's programs like air, water and hazardous waste. Due to the very complex nature of the EPA programs, OIG audits and evaluations have similarly developed complex recommendations involving a wide array of stakeholders with scientific, policy and legal implications. As a result, complete implementation of complex program recommendations frequently requires many years, and some require continuous action.

Responses by Ms. Mary L. Kendall

HOUSE COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
SUBCOMMITTEE ON OVERSIGHT
"Top Challenges for Science Agencies: Reports from the Inspectors General – Part 2"
Questions for the Record, Ms. Mary L. Kendall, Deputy Inspector General
U.S. Department of the Interior

Questions submitted by Dr. Paul Broun, Chairman

Scientific Misconduct - Drakes Bay

1) Your office has done some work on the issues surrounding the Drakes Bay Oyster Company (DBOC), but has it looked into why former Secretary Ken Salazar based his decision to deny DBOC a Special Use Permit (SUP) on a policy and legal argument instead of on a scientific basis?

   Answer: No.

2) The former Secretary's DBOC decision has the appearance of the Administration choosing when it can ignore science in order to further a pre-established decision. This contradicts what the President said in a March 2009 memorandum about the scientific process: "Science and the scientific process must inform and guide decisions of my Administration on a wide range of issues, including . . . protection of the environment." I am further concerned by the amount of money wasted on multiple studies that in the end the Secretary "deemed optional and tangential to his decision."

   a. If the decision to shutter DBOC operations was a policy decision, have you done any work to determine why DOI invested so much time and resources to discredit the company's continued existence?

      Answer: No. OIG has not examined the Department's expenditure of funds relating to DBOC.

   b. Have you done any work to determine how much DOI spent on studies related to Drakes Bay? If not, can you provide the Committee with an estimate of how much the Department has spent so far on the DBOC issue, including all studies, reviews, environmental impact statements, NAS studies, etc.?

      Answer: OIG has not done any work to determine how much DOI spent on studies related to Drakes Bay, and it does not have an estimate of how much DOI has spent. The National Park Service should have this information.

3) Do you know of other examples where DOI initiated scientific studies on an issue but then made a decision on policy grounds instead of on the results of the scientific reviews?

Answer: No. There may be other instances where DOI initiated scientific studies on an issue but then made a decision on policy grounds, but OIG has not received allegations of wrongdoing in this regard. The science bureaus in the Department would be better positioned to answer this question.

4) Your office's February 7, 2013 investigative report of DBOC provides some discussion over the definition of best available science pertaining to soundscape, and when it is appropriate to use best available data as opposed to collecting new data in order to produce a report of the highest quality. In previous DOI Environmental Impact Statements (EIS), how many used best available data (or reference data, or proxy data) pertaining to the issue of soundscape, as opposed to new data collected from the sites or projects subject to the EISs?

   Answer: OIG does not have the data to answer this question. It would be best answered by the bureaus that conduct EISs.

5) Please provide the Committee with complete and unredacted copies of all attachments that accompany the February 7, 2013 DBOC report.

   Answer: A copy of the unredacted report and all attachments will be provided to the Chair, but these documents should not become a part of the record as they contain personal privacy information and/or other information that is exempt from disclosure under the Freedom of Information and Privacy Acts and would not be released to the public. A public version of this report was posted to the OIG Web site in February 2012.

6) Please provide the Committee with all records of correspondence, including e-mails, amongst all staff in your office including you, and between all staff in your office and all staff at the Department, regarding the February 7, 2013 DBOC report.

   Answer: The requested correspondence, including emails, is being compiled and will be provided to the Chair as soon as it is available. This correspondence also should not become a part of the record as it contains personal privacy information and/or other information that is exempt from disclosure under the Freedom of Information and Privacy Acts and would not be released to the public.

Scientific Misconduct- Dr. Charles Monnett

7) According to Public Employees for Environmental Responsibility's (PEER) website, your office has an open investigation into Dr. Charles Monnett, a senior scientist with DOI's Bureau of Ocean Energy Management (BOEM), and lead author of a research paper on sightings of polar bears drowned in open water following a storm. Your office has been reviewing Dr. Monnett for a few years now.

   a. What is the Department's response to your investigation?

      Answer: DOI's responses, and the OIG memo seeking clarification will be provided to the Chair under separate cover, but these documents should not become a part of the

record as they contain personal privacy information and/or other information that is exempt from disclosure under the Freedom of Information and Privacy Acts and would not be released to the public.

b. What ongoing work do you have regarding Dr. Monnett, and when will you release the results of your review?

Answer: The OIG file on this matter is closed. No further work is anticipated. The public version of the report of investigation was posted to the OIG Web site in February 2012.

Scientific Integrity – Klamath

8) The Department of the Interior has been the subject of at least one major allegation of a scientific integrity violation, related to the removal of the Klamath River Dam, claiming that Department officials skewed the reporting of scientific findings to fit previously stated Department priorities. In this specific incident, the Scientific Integrity Officer was the individual who brought the complaint against the Department, and alleges that he was subject to retaliatory efforts because of his statements.

I have serious concerns about DOI's scientific integrity policy when it is the Scientific Integrity Officers who are filing complaints. Further, in this case, the Scientific Integrity Officer's pleas for assistance from your office also went unheeded.

Answer: DOI Scientific Integrity Officers (SIOs), like all other DOI employees, have a positive duty to report scientific integrity violations and scientific misconduct. The SIO to which this question refers received considerable attention from OIG.

As background, Dr. Paul Houser was hired by DOI on April 10, 2011, to work as a science advisor for the Bureau of Reclamation (USBR). He also served as the SIO for USBR and worked on establishing scientific integrity policy for DOI. Dr. Houser was required to serve a 1-year probationary period through April 10, 2012.

On February 8, 2012, Dr. Houser contacted the OIG Assistant Inspector General for Whistleblower Protection (AIG for WBP) to report that his supervisor, Ms. Kira Finkler, had told him that he had the option of resigning or being fired by February 10, 2012, for unsatisfactory performance during his probationary term.

Dr. Houser believed that Ms. Finkler's action was in retaliation for a September 15, 2011 email he sent to her expressing his opinion about the content of a draft press release on the Klamath River Dam removal. He believed that the draft press release demonstrated a biased view of the science and tended to present only the positive without the uncertainties or negatives. Dr. Houser advised the AIG for WBP that the Klamath Dam issue was politically charged and that there were people on both sides of the science on this issue. Notably, Dr. Houser was not on the Klamath River Dam team. Nonetheless, the draft press release was modified to address the majority of Dr. Houser's concerns.

Prior to February 8, 2012, Dr. Houser had not filed a scientific integrity complaint with OIG, nor did he follow the procedures set out in the DOI scientific integrity policy (305 DM 3) in connection with his concern that the draft press release demonstrated bias. It was not until the AIG for WBP inquired whether Dr. Houser had filed a complaint under 305 DM 3 that he started to draft one. He filed a complaint on February 24, 2012, more than 5 months after he provided his input on the draft press release.

In the 2 weeks following his contact with OIG, the AIG for WBP spoke directly with Dr. Houser to advise him on his rights under the law, administrative process and procedure, and possible informal and formal venues for resolution of his reprisal complaint. He was advised that he had several options available to him:

1. He could work to informally resolve the issues he had with Ms. Finkler personally or through DOI's alternative dispute resolution program.
2. The AIG for WBP could intervene informally to achieve informal resolution of his complaint.
3. He could immediately file a formal complaint with the U.S. Office of Special Counsel (OSC) and request a stay order through the Merit Systems Protection Board (MSPB) to prevent his firing.

The AIG for WBP discussed MSPB case law and the merits of being fired rather than resigning so that Dr. Houser might fully protect his rights at OSC and MSPB. Because time was of the essence, the AIG for WBP also recommended filing an immediate formal complaint with OSC and request for a stay order.

The AIG for WBP advised Dr. Houser that he had three major hurdles to overcome in his complaint to the OSC:

1. his status as a probationary employee;
2. whether he could present sufficient information to conclude with a substantial likelihood that he had made a disclosure as required by statute; and
3. the fact that he would need to explain why he did not file a scientific integrity complaint in September 2011, but waited until his proposed removal to file one.

This was problematic because as an SIO, he had helped create the DOI scientific integrity policy and was responsible for its implementation in his bureau. Section 3.8(A) of the policy governs procedures for reporting and resolving allegations regarding loss of scientific and scholarly integrity. Dr. Houser did not comply with this and other provisions of the policy.

Dr. Houser chose first to attempt informal resolution with Ms. Finkler. This was unsuccessful. A formal complaint to OSC appeared to offer the most productive and immediate outcome given OSC's statutory authority, and to afford Dr. Houser the opportunity to request a stay order from the MSPB. On February 24, 2012, Dr. Houser told the AIG for WBP that he would file a formal complaint with OSC and request a stay order. The AIG for WBP advised Dr. Houser that she would provide any information or support necessary to the OSC attorney or investigator assigned.

If there was a science issue between September 2011 and February 8, 2012, that merited a formal scientific integrity complaint, it was not a priority for Dr. Houser. His complaint came more than 5 months after the "discovery of alleged misconduct," and advanced outside the established process that Dr. Houser helped to develop. Dr. Houser told Ms. Finkler that if he could retain his position, then the science issues could be resolved internally. When this could not be achieved, Dr. Houser filed the scientific integrity complaint. At the same time, he filed it with several members of Congress as well as sending a copy to the Siskiyou County Board of Supervisors, which, he believes, leaked it to the press. This temporarily usurped the process for his complaint to be properly addressed under the DOI scientific integrity policy.

9) OIG, through the AIG for WBP, responded to Dr. Houser's pleas for assistance by guiding him to the most appropriate forum for his allegation of reprisal to be addressed—OSC. It is our understanding that Dr. Houser is satisfied with the settlement he achieved through OSC on his reprisal complaint.

   Is anyone responsible for scientific integrity at DOI?

   Answer: DOI has a nascent program to ensure scientific integrity, which was launched when it issued its scientific integrity policy in 2011. See www.doi.gov/scientificintegrity/index.cfm.

10) Besides the Klamath River Dam situation, have there been other allegations at DOI of scientific findings being manipulated or otherwise incorrectly or inaccurately reported in order to conform to a predetermined policy goal?

    Answer: Since 2001, OIG has investigated several other allegations of scientific wrongdoing: the case of lynx fur being "planted" during a study; two cases involving allegations of scientific wrongdoing relative to Endangered Species Act (ESA) decisions; and allegations of scientists deliberately misleading the court in an ESA litigation case.

11) Is this part of a larger cultural problem within the Department of the Interior?

    Answer: Even if the above instances are combined with the Klamath, Monnett, and DBOC matters, as well as the matters identified in #12, below, OIG has not concluded that this is a large cultural problem in DOI.

12) Besides the Klamath River Dam situation, have you identified any other cases of falsification of scientific findings, and do you have any ongoing work on them?

    Answer: OIG would not consider the complaint about the Klamath River Dam draft press release a case of "falsification of scientific findings," nor would the following fall within that category, but OIG has identified several other matters that fall within the category of allegations of scientific misconduct. The lynx case and the two cases relative to ESA decisions identified above would fall in this category, as would OIG findings in its first

investigation concerning DBOC. OIG has three open matters that have scientific implications, but we have not yet determined whether they are scientific misconduct.

Scientific Misconduct- General

13) Understanding that DOI has challenges with scientific misconduct as well as scientific integrity issues at the Department, how does your office: (a) distinguish between the two at DOI, and (b) ensure rigorous oversight in pursuing both types of claims at DOI?

Answer: (a) For the past several years, the OIG Office of Investigations has attempted to address complaints of scientific misconduct and scientific integrity by reviewing the incoming complaints on a case-by-case basis. OIG has never considered itself positioned to adequately examine whether the science itself is sound or a "proper" scientific decision was made. As a matter of practice, OIG generally seeks to determine whether an established process exists and if that process had been properly followed. If the process was deviated from, we attempt to determine why the deviation occurred and what resulted from the deviation.

As the development of the scientific integrity policy took place in DOI, OIG began refining its procedures and practice. Efforts were made to distinguish between misconduct and integrity by defining scientific misconduct as "misconduct by scientists" and scientific integrity as whether the methodology and processes were followed in accordance with established protocols. Over time, however, the terms "scientific integrity" and "scientific misconduct" have been used interchangeably, causing confusion both internally and externally.

OIG is currently reviewing the OIGs of science agencies to identify best practices and to improve upon our own policy and procedures for handling such matters.

(b) Rigorous oversight of scientific misconduct and scientific integrity will be hampered by diminishing resources. Staffing gains made in the previous 5 years have been lost due to sequestration and other budgetary cuts. Our budget has been reduced to 2009 levels, and we have reduced our staff by over 20 FTEs. We must rely, to a great extent, on voluntary compliance and adherence to the scientific integrity policy and the reporting of violations by scientists and other employees in the field. We will continue to promote our Whistleblower Protection and Complaint Hotline programs. In addition, we will periodically conduct program evaluations to determine adherence to established policies and procedures.

When complaints of misconduct are received, we will conduct investigations when warranted and provide DOI the information it needs to take corrective action. We will continue to require notice of administrative action taken by DOI and will routinely report on our investigations into this area in our semiannual reports to Congress.

14) Have you or any of your staff in any way discouraged or intervened to prevent a DOI investigation of scientific integrity or misconduct from going forward?

Answer: No. In fact, it was the OIG evaluation entitled "Interior Lacks a Scientific Integrity Policy," issued in April 2010, which caused DOI to finally issue its scientific integrity policy.

Endangered Species Act

15) According to a recent news story, the Administration received a handful of proposals from environmental groups on how it could improve implementation of the Endangered Species Act. Has your office seen these proposals, and do you have any plans to monitor how the Department responds to these proposals, particularly if it decides to incorporate any of them?

Answer: OIG is charged with preventing and detecting fraud, waste, and abuse in DOI programs and operations. With approximately 250 employees, we are one of the smallest Cabinet-level OIGs, and so we simply cannot monitor every one of the many programs and over 70,000 employees that make up DOI. DOI manages more than 500 million acres of land and 700 million acres of subsurface minerals, and has jurisdiction over 1.7 billion acres of the Outer Continental Shelf. It also manages 401 units of the national park system, 561 national wildlife refuges, 73 fish hatcheries, 21 national conservation areas, and 19 national monuments. It collects billions of dollars in revenues. It is the largest supplier and manager of water in the 17 western States. It is responsible for 476 dams and 337 reservoirs that deliver irrigation water to 31 million people. It also has a responsibility toward the 483 million annual visitors to its lands, parks, refuges, and recreation sites. In addition, it is responsible for maintaining relationships with 566 federally recognized Indian tribes, for the largest land trust in the world, and for managing nearly $4.4 billion of trust funds held in accounts for more than 250 tribes and over 387,000 Individual Indians.

Absent allegations of fraud, waste, or abuse, OIG does not intend to monitor DOI's response to the Endangered Species Act proposals identified above.

Collaborative Approach

16) Your office has a different approach to its responsibilities in that you coordinated with the Department to collaboratively identify performance and management challenges at DOI?

a. What made you embrace this approach, and do any other IG offices follow the same protocol?

Answer: From fiscal years (FYs) 2007 through 2010, OIG was reporting, and DOI management was disputing, the status of seven major management challenges:

1. financial management;
2. information technology security;
3. health, safety, and maintenance;
4. responsibility to Indians and Insular Areas;
5. resource protection and restoration;
6. revenue collections; and
7. acquisition management.

Given the disputed status, little progress had been made in addressing these and other challenges and was reflective of the contentious relationship between DOI management and OIG. The approach to resolving the management issues was not constructive and did not contribute to a resolution. Information was not shared between staffs in a manner that allowed reconciliation of facts or resolution of specific problems, and this made the communications and ongoing working relationship among staffs strained and less productive than they could have been.

The contentiousness of this relationship was noted in an assessment by the Association of Government Accountants (AGA), an independent party that reviews agency financial reports annually. AGA had been commenting on the issues surrounding the major management challenge reports and management's responses since 2007. In AGA's review of DOI's 2010 agency financial report, AGA noted that DOI management and OIG were clearly not in synch, did not agree on facts, and repeated other facts, and that readers of the report (e.g., Congress, the Office of Management and Budget [OMB], and the public) could easily be confused or misled. In addition, AGA cited that the management challenge reports and management's responses were not meeting the intent of the Reports Consolidation Act and OMB Circular A-136 for OIG to "assess and report *all* aspects of DOI's progress addressing the challenges, and management adding additional comments only when it believes the Inspector General's assessment is less than complete."

In 2011, OIG and DOI management accepted AGA's recommendation and changed the process for addressing and reporting management challenges by openly discussing the issues, the status of those issues, and the best approach for addressing them. Not only has this approach directly addressed the AGA comment, which did not appear in the 2011 review, it further complied with the Reports Consolidation Act and OMB Circular A-136 and has resulted in a more effective communication of current issues.

This statement is supported by the fact that the 2012 management challenges report includes five new challenges compared to 2010, and that six of the 2010 challenges (most of which dated back to 2007 and earlier) are no longer considered major. Ongoing high-level dialog between OIG and the Deputy Secretary and Assistant Secretary – Policy Management and Budget, as well as dialog at the staff level, all contribute to more meaningful corrective actions.

This more constructive approach and improved relationship have allowed DOI to work with OIG to design processes for more effective oversight of programs and process throughout DOI. For example, DOI issued stronger grants and financial assistance guidance that incorporated lessons learned from working with OIG to review and monitor financial assistance programs.

Because of this approach, DOI management is now seeking OIG investigation, feedback, and input on issues instead of hiding the issues. As a result, OIG is better situated to conduct reviews or investigations, and can offer an independent perspective and objective

recommendations. This has directly contributed to more accurate assessments of current management challenges, their severity, and the status of corrective actions. For example, in 2011, a new Director in a smaller DOI office had issued a disclaimed assurance statement on the status of his office's internal controls. Management could have kept the statement quiet and for internal use only. Given the new working environment, however, management met with OIG, shared the disclaimed statement, and asked OIG to investigate the status and extent of the issues raised. OIG's independent feedback gave DOI the information and insight necessary to determine if and how the issues should be reported and identify the corrective actions needed.

We do not know if other OIGs take this approach.

b. How do you (a) ensure independence over the agency and (b) ensure that you don't end up doing the agency's own work of implementing its programs efficiently and conducting its own internal oversight?

Answer: (a) OIG is governed by independence standards in the realm of audits, inspections, and evaluations, as well as investigations. OIG and its staff take these standards very seriously and take great care to adhere to them. OIG is peer reviewed periodically, and independence is part of that review. OIG has not been found in violation of the independence standards.

(b) OIG also takes great care to draw a clear line between oversight and implementation. The independence standards provide very clear guidance in this regard.

Open and Unimplemented Recommendations

17) A report issued earlier this month by another Committee noted that "open and unimplemented IG recommendations could save taxpayers $67 billion" in 2012.

a. How many open and unimplemented recommendations do you have with DOI?

Answer: OIG and DOI are currently tracking approximately 600 open recommendations. There is approximately $40.5 million in questioned costs and $36.5 million in funds that could be put to better use. Only about 50 recommendations are awaiting a management decision as to their plan of resolution.

b. How much could the Department save if your recommendations were incorporated, and how have these numbers changed over the years?

Answer: At the start of FY 2008, OIG was tracking $16.3 million in questioned costs and $28.2 million in funds that could be put to better use without management decisions. Since FY 2008, OIG issued reports that have questioned costs of $55.2 million and an additional $4.7 million in funds that could be put to better use. At the end of FY 2012, OIG is tracking $516,000 in questioned costs and $8,500 in funds that could be put to better use without management decisions.

18) Are certain issues more likely than others to be on the "open and unimplemented" recommendations *list* for DOI? If so, can you please elaborate on them?

Answer: Recommendations that cross multiple bureaus take longer to resolve and issues that need legislation or regulation changes. Recommendations are also more likely to remain as open and unimplemented for grant and Insular Area audits where implementation of the recommendations is not completely under the control of DOI. The following is a list of a few long-term issues that OIG provided to the other committee (mentioned in question #17 above):

Report Number/ Issue Date	Term of Recs	Description
C-EV-MOA-0009-2008 Issue Date: 02/27/2009	**Long**	**Evaluation Report on Oil and Gas Production on Federal Leases: No Simple Answer** - Both MMS and BLM employ inconsistent procedures and definitions and BLM's records are often incomplete and inaccurate, all of which call into question both the integrity and the usefulness of their data. These data integrity issues are exacerbated by multiple, incompatible systems utilized by BLM and MMS. We found that due to incompatible data tracking systems used by BLM and MMS, DOI is at risk of losing millions of dollars in royalties. In one case, a breakdown of communications between BLM and MMS could have resulted in a loss of nearly $6 million in royalties over a 5-year period, had the company holding the leases not sent its first production report to both bureaus and not just BLM. The existing process relies heavily upon companies doing the right thing. We recommended DOI work with BLM and MMS to identify the best existing system (either bureau's system) for lease management and develop the capability for both bureaus to access and use this system, thus eliminating multiple systems, the need for manual reporting between the bureaus, and the attendant data-integrity problems that arise.
2002-I-0045 Issue Date: 08/19/2002	**Long**	**Recreational Fee Demonstration Program - National Park Service and Bureau of Land Management** - Both NPS and BLM have generally done a good job in managing their Fee Demo Programs. Fee Demo expenditures were generally reasonable and appropriate and used for the intended purposes. However, we did identify opportunities to enhance Program benefits. A primary concern was the completion rate of NPS Fee Demo projects. We believe that translating fee revenues into visible improvements is the major factor in ensuring the success and public acceptance of the program, and we have identified several areas in which NPS could improve its ability to complete Fee Demo projects.
C-IN-MOA-0049-2004 Issue Date: 06/13/2005	**Long**	**Department of the Interior Concessions Management** – DOI has established, as part of its strategic plan, a goal of providing for and receiving fair value in recreation. However, in our opinion DOI is not receiving a fair return in its concessions program. Although DOI has some of the most spectacular resources and wilderness areas in the world, it is still receiving a very low rate of return (about 5.7 percent) compared to other Federal and State agencies operating concession programs. In addition, DOI controls only $26.7 million of fees generated by the concessions program. (This amount excludes fees held in concessioner special accounts.) Thus, the program return is even lower than the estimated 5.7 percent. If we were to subtract the program cost (at least $11 million for National Park Service salaries and benefits), DOI actually nets less than $15 million from a program that grosses over $850 million to concessioners. We recommended DOI develop and implement an integrated management

Report Number/ Issue Date	Term of Recs	Description
		information system for maintaining and reporting concession data.
WR-EV-OSS-0012-2009 Issue Date: 12/23/2009	**Long**	**Evaluation Report on the Department of the Interior's Appraisal Operations** - The Appraisal Services Directorate (ASD) is not the strong and independent appraisal organization envisioned by the Secretary at its inception in 2003. From the outset, both external and internal obstacles have impeded ASD's ability to fulfill its mission and provide DOI with timely, independent appraisals and valuation services. In its October 2009 House Report (111-316), Congress directed DOI to revisit the appraisal services consolidation to immediately address delays in obtaining adequate appraisals for the acquisition of Federal lands. Based on our findings as well as the concerns recently voiced by Congress, we believe that DOI's appraisers must remain organizationally independent of the realty personnel in the bureaus. We made recommendations designed to ensure that ASD has full control of the contracting process, strong and effective leadership, and an organizational placement that enables it to provide timely, independent appraisals and valuation services.
CR-IN-BIA-0001-2011 Issue Date: 09/24/2012	**Long**	**Final Evaluation Report - Oil and Gas Leasing in Indian Country: An Opportunity for Economic Development** - The Bureau of Indian Affairs (BIA or Bureau) reviews and approves oil and gas and other mineral leases on Indian lands, which represent billions of dollars in overall annual economic benefits, significant to Indian Country. Insufficient guidance and oversight of oil and gas leases by DOI agencies have frustrated tribal officials and members, bureau employees, and the energy industry in Indian Country. In addition, Federal attempts to support tribal sovereignty through tribal energy resource agreements under the Energy Policy Act of 2005 have been hampered by complex regulations, insufficient funding, and tribal concerns about assuming increased responsibility. These problems contribute to a general preference by industry to acquire oil and gas leases on non-Indian lands. As a result, oil and gas leasing in Indian Country is not achieving its full economic potential, and frustration with leasing inefficiencies has led Indian landowners to take legal action against BIA. We made recommendations to strengthen BIA's management of Indian oil and gas development and help DOI fulfill the intent of the Energy Policy Act of 2005 by supporting Indian self-determination through oil and gas lease development.

Question submitted by Rep. David Schweikert

1) Since you were unaware of the Department of Interior's practice of using advocacy group lawsuits to craft regulation via court-ordered consent decrees, colloquially referred to as "sue-and-settle," I wanted to draw your attention to a letter from Senators David Vitter, John Boozman, James Inhofe, and Jeff Sessions (Attachments A and B). As you can see from the letter, Congress has previously raised the sue-and-settle issue several times. Since taxpayers are often ultimately responsible for the attorney legal fees associated with these sue-and-settle cases, moving forward, what steps will your office take to ensure proper auditing and oversight of all lawsuits that the Department of the Interior settles out of court?

Answer: During the audit of DOI's financial statements, the auditors, DOI financial officials and OIG review the listing of potential liabilities (including lawsuits) that will or could

adversely affect DOI (also called contingent liabilities). DOI financial officials and OIG review the contingent liabilities listings for reasonableness and consistency. The financial auditors ensure that the amounts reported by DOI are accurately and completely represented on the financial statements or in the statements' footnotes. If the amount reported for a case is significant, the auditors discuss these matters with DOI officials to determine if the outcome of the possible liability is probable. If this is the case, the amount should be reported on the financial statement balance sheet. If the outcome for the significant amount is reasonably possible, the event is disclosed in the footnotes to the financial statements. In addition, during the financial audit process, OIG is required by OMB to obtain and send the interim and final legal letters and schedule of possible liabilities to the Department of Justice, OMB, and the Department of the Treasury.

Last year, for FY 2012, DOI identified 360 reportable administrative proceedings, legal actions, and tort claims, which may result in settlements or decisions adverse to the Federal Government as high as $4.6 billion. This was down from $4.9 billion in FY 2011. In addition, DOI estimated up to $1.2 billion in environmental and disposal liabilities in FY 2012.

Clearly, with approximately 250 employees, OIG is one of the smallest Cabinet-level OIGs, and thus simply cannot monitor every one of the 360 reportable legal liabilities facing DOI absent allegations of fraud, waste, or abuse. We do plan, however, to look at a cross section of settlements to determine if there is a pattern and practice of sue-and-settle that can be identified and reined in. We appreciate having this issue brought to our attention.

Questions submitted by Rep. Randy Neugebauer

1) As you know, last year the Fish & Wildlife Service (FWS) settled a major lawsuit with environmental groups involving hundreds of candidate species for the Endangered Species list. This lawsuit settlement was agreed upon behind closed doors and has resulted in an arbitrary structure of listing proposals, including the Lesser Prairie Chicken in my district and across a total of five states. This settlement agreement required no public comment and even the details of the back-room deal remain locked away from public scrutiny. If the Lesser Prairie Chicken were listed as threatened, as proposed by FWS, my district would face drastic economic consequences. It is utterly unacceptable that the Service refuses to release the details behind the settlement that led to this proposal.

   a. To what degree can the Inspector General of the Department of the Interior get involved with oversight or investigation of this and other settlement agreements?
   b. How do you perceive these types of closed-door agreements affecting the transparency, integrity, and scientific justification for listing these species?
   c. How can Congress help to improve the openness of this type of agreement in the future?
   d. What other suggestions do you have to improve the transparency, scientific integrity, and unbiased justification for proposed listings of species under the Endangered Species Act?

Answer: OIG was not aware of this issue and does not routinely monitor listing decisions absent allegations of fraud, waste, abuse, or misconduct. Although we have met with

Committee staff several times, this issue has not been brought to our attention. It does not emanate from DOI's top management challenges, and is not envisioned in our targeted areas for future audits, inspections and evaluations.

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