

# **BUREAU OF INDUSTRY AND SECURITY**



**FY 2009 President's Submission**

**Department of Commerce  
BUREAU OF INDUSTRY AND SECURITY  
Budget Estimates, Fiscal Year 2009  
President's Submission**

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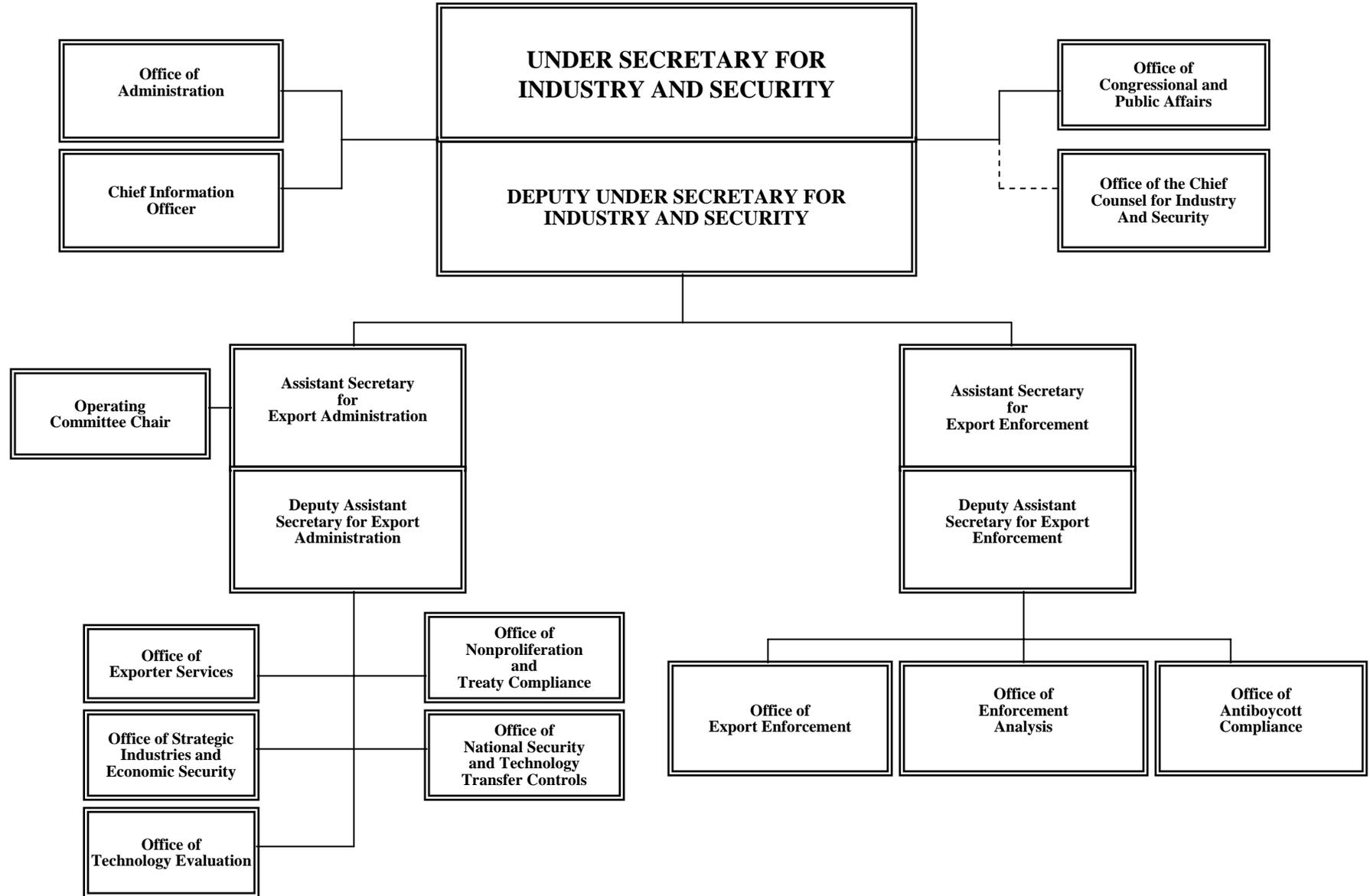
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# U.S. DEPARTMENT OF COMMERCE

## Bureau of Industry and Security



**Department of Commerce  
BUREAU OF INDUSTRY AND SECURITY  
Budget Estimate, Fiscal Year 2009**

**President's Submission  
Executive Summary**

**BIS Mission:** The mission of the Bureau of Industry and Security (BIS) is to advance U.S. national security, foreign policy, and economic objectives by ensuring an effective export control and treaty compliance system and by promoting continued U.S. strategic technology leadership. The BIS mission is closely aligned with, and supports, the following Department of Commerce Strategic Goal:

1. Maximize U.S. competitiveness and enable economic growth for American industries, workers, and consumers.

BIS is the only agency within the Department of Commerce specifically charged with meeting Departmental Objective 1.2: Advance responsible economic growth and trade while protecting American security.

To fulfill its mission in support of these Commerce Department goals and objectives, BIS focuses on three priorities and two enablers.

**BIS Performance Goals (Priorities):**

1. Maintain and strengthen an adaptable and effective U.S. export control and treaty compliance system
2. Integrate non-U.S. actors to create a more effective global export control and treaty compliance system
3. Ensure continued U.S. technology leadership in industries that are essential to national security

**Enablers (cut across priorities and facilitate their achievement):**

- E1. Leadership at all levels
- E2. Focused management

BIS has translated these priorities and enablers into specific BIS goals, unit objectives, and metrics. In this way, BIS prioritizes its programs to contribute – directly and successfully – to the Secretary’s priorities concerning trade, competitiveness, China, leadership, management, and deficit reduction.

**Primary BIS Activities:**

**Maintain and strengthen an adaptable and effective U.S. export control and treaty compliance system:** BIS administers and enforces controls on exports of dual-use goods and technologies to counter proliferation of weapons of mass destruction, combat terrorism, and pursue other national security and foreign policy goals. BIS also serves as the lead agency for ensuring U.S. industry compliance with the Chemical Weapons Convention (CWC) and the International Atomic Energy Agency (IAEA) Additional Protocol. BIS’s enforcement efforts detect, prevent, and prosecute illicit dual-use export activity, with a primary emphasis on weapons of mass destruction, terrorism, and military diversion.

**Integrate non-U.S. actors to create a more effective global export control and treaty compliance system:** The effectiveness of U.S. export controls is enhanced by strong controls in other nations that export, or transship sensitive goods and technologies. BIS works to improve the participation and compliance of existing members of multilateral export control regimes and cooperates with other countries to help them establish effective export control programs. As part of policy formulation and implementation toward key trading partners and transshipment countries, BIS engages in a robust end-use visit program.

**Ensure continued U.S. technology leadership in industries that are essential to national security:** BIS works to ensure that the United States remains competitive in industry sectors and sub-sectors critical to national security. To this end, BIS analyzes the impact of export controls and trade policies on strategic U.S. industries, administers the Federal Government’s Defense Priorities and Allocations System (DPAS), reports on the impact of defense trade offsets, and evaluates the security impact of certain proposed foreign investments in U.S. companies.

BIS continues to refine its performance measures to: (1) focus on long-term and short-term results; (2) measure work under its control; (3) use representative data; and (4) create new measures to support new initiatives/programs and budget increases.

### **Statement of Organization and Objectives:**

The three primary components of BIS (for budget purposes) all have roles in meeting specific Secretarial and Department goals, objectives, and priorities in the context of the BIS mission.

**Management and Policy Coordination (MPC):** This activity supports all Bureau performance goals and enablers which, in turn, support Department of Commerce (DOC) strategic goals 1 and 5. MPC includes the functions performed by the Office of the Under Secretary and supporting staff offices. The primary objectives are to develop, analyze, and coordinate policy initiatives within BIS on an interagency basis. This activity includes resources for BIS's engagement with other agencies to strengthen the capability of foreign countries to control strategic exports and to help stop the diversion of sensitive items. This program specifically supports Bureau performance goals 1, 2, and 3.

**Export Administration (EA):** This activity supports Bureau performance goals 1, 2, and 3 which, in turn, support DOC strategic goal 1. It includes the functions performed by the Office of the Assistant Secretary for EA and the supporting offices, which carry out BIS programs related to export control policy and regulations, export licenses, treaty compliance, treaty obligations relating to weapons of mass destruction, and the defense industrial and technology base to meet national security needs. The primary objectives are to regulate the export of items determined to require export licenses for reasons of national security, nonproliferation, foreign policy, or short supply; ensure that approval or denial of license applications is consistent with U.S. economic and security concerns; promote within the business community an understanding of export control regulations; represent the Department in interagency and international fora relating to export controls, particularly multilateral regimes; monitor and seek to ensure the availability of industrial resources for national defense under the authority of the DPA; analyze the impact of export controls on strategic industries; and assess the security consequences for the United States of certain foreign investment.

**Export Enforcement (EE):** This activity supports Bureau performance goals 1 and 2 which, in turn, support DOC strategic goal 1. It includes the functions performed by the Office of the Assistant Secretary for EE and supporting offices, including support for programs carried out by federal law enforcement officers. The primary objectives are to detect and prevent the illegal export of controlled goods and technology; to investigate and help sanction violators of U.S. export control, anti-terrorist and public safety laws and regulations; to educate the business community to help prevent violations; and to administer U.S. law and regulations restricting participation in foreign boycotts.

### **Summary of Budget Request:**

For Fiscal Year 2009, BIS is requesting \$83.676 million. This is an increase of \$10.821 million over the Fiscal Year 2008 Enacted Appropriation. The increase includes \$2.594 million for necessary cost of living adjustments and \$2.385 million for program enhancements and new initiatives that will advance BIS's export control and enforcement activities. In addition, the increase restores \$5.842 million of FY 2008 base reductions in order to remedy the unavoidable hiring freeze, investigative travel reductions, license processing delays, and IT infrastructure development delays that were required to manage within the appropriation. The program initiatives, in priority order, follow:

**Counter-Proliferation Initiative (4 positions, 3 FTE, and \$695,000).** In March 2005, the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (the “WMD Commission”) recommended a number of actions to enhance counter-proliferation efforts. A central recommendation was expansion of agent resources for the field operations of the Bureau of Industry and Security’s criminal investigators.

Investigations relevant to weapons of mass destruction (WMD) proliferation concerns have demonstrated the need for an enhanced enforcement presence in additional locations nationwide to provide BIS criminal investigators with better access to industries and technologies with proliferation implications. Additional locations would also permit BIS criminal investigators to participate in more WMD and counter-proliferation task forces with agents and officials from sister enforcement agencies, thus multiplying the impact of each BIS criminal investigator.

**Enhanced Southeast Asia Transshipment Initiative (2 positions, 1 FTE, and \$863,000).** In the world of global commerce, transshipment hubs are critical to the movement of goods in international trade. Yet, often these hubs are vulnerable to trade security and international export control concerns. To address these challenges the BIS strategic plan identifies the objective of “Develop[ing] and implement[ing] policies addressing economies of transshipment concern to mitigate risk of diversion.

Several of the countries of transshipment concern are in Southeast Asia. To address these transshipment concerns, enhance the BIS enforcement presence in Southeast Asia, and advance the BIS mission, BIS proposes to establish an Export Control Officer (ECO) position, based in Singapore, but with regional responsibilities in Malaysia, Indonesia, Thailand and the Philippines. The ECO would monitor transshipments and, as a trained criminal investigator, the ECO would use his/her unique training and investigative skills to conduct targeted high priority end-use checks to uncover diversion schemes and halt the transfer of strategic products to WMD proliferating countries or terrorist groups. The ECO would also work with host government and industry officials to engage in export control and enforcement cooperation and to ensure that they understand and comply with U.S. export controls.

**Validated End-User (VEU) Initiative (4 positions, 3 FTE, and \$827,000).** BIS is seeking additional resources for Export Administration’s Office of Exporter Services to ensure compliance by foreign entities in several countries, including the People’s Republic of China and India, with the requirements of the Validated End-User program (VEU).

VEU is a U.S. Government initiative to strengthen and streamline the U.S. dual-use export control system. By focusing on the end-user of an exported item, VEU helps adapt export control policies to the realities of a globalizing marketplace, in which the same economy often contains trusted customers as well as customers ineligible for controlled items and other customers not clearly in either category. VEU allows BIS to focus its resources on the latter two categories. It thereby facilitates U.S. exports to specific trusted foreign customers, enabling BIS to better address global security challenges by strengthening U.S. secure trading networks.

**FY 2009 Annual Performance Plan**  
**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**

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## **Section 1: Mission**

**Mission:** The mission of BIS is to advance U.S. national security, foreign policy, and economic objectives by ensuring an effective export control and treaty compliance system and promoting continued U.S. strategic technology leadership.

## **Section 2: Corresponding DOC Strategic Goal and Objective/Outcome**

Strategic Goal 1: Maximize U.S. competitiveness and enable economic growth for American industries, workers, and consumers.

DOC Performance Objective 1.2: Advance responsible economic growth and trade while protecting American security.

### **Rationale:**

This objective is important to the nation as it focuses on ensuring fair competition in international trade, advancing U.S. national security and economic interests by enhancing the efficiency of the export control system, preventing illegal exports and identifying violators of export prohibitions and restrictions for prosecution, enhancing the export and transit control systems of nations that lack effective control arrangements, ensuring U.S. industry compliance with the CWC Agreement, and undertaking a variety of functions to support the viability of the U.S. defense industrial base.

The Department continues to face the task of advancing U.S. foreign policy and security goals while addressing viable opportunities to expand the U.S. market base. The Department's success in reconciling these imperatives stems from its ability to integrate efforts to support the President's commercial and foreign policy goals to promote freedom and liberty through free and fair trade while pursuing expanding profitable markets for U.S. goods and services.

BIS supports this objective by administering the U.S. dual-use export control system. Dual-use items subject to the Department's regulatory jurisdiction, have predominantly civilian uses, but could also have conventional military, weapons of mass destruction (WMD), and terrorism-related applications. BIS effectively administers the dual-use export control system by (1) writing and promulgating regulations, (2) processing license applications, (3) enforcing adherence to U.S. law and regulations, (4) conducting outreach to exporters, (5) strengthening the export control systems of other countries, (6) assessing the viability of key sectors of the defense industrial base, and (7) assuring the timely availability of industrial resources to meet national defense and emergency preparedness requirements.

### **Goals:**

**BIS Performance Goal / Outcome 1: Maintain and strengthen an adaptable and effective U.S. export control and treaty compliance system:** BIS administers and enforces controls on exports of dual-use goods and technologies to counter proliferation of weapons of mass destruction, combat terrorism, and pursue other national security and foreign policy goals. BIS also serves as the lead agency for ensuring U.S. industry compliance with the Chemical Weapons Convention (CWC) and the International Atomic Energy Agency (IAEA) Additional Protocol. BIS's enforcement efforts detect, prevent, and prosecute illicit dual-use export activity, with a primary focus on weapons of mass destruction, terrorism, and military diversion.

**BIS Performance Goal / Outcome 2: Integrate non-U.S. actors to create a more effective global export control and treaty compliance system:** The effectiveness of U.S. export controls is enhanced by strong controls in other nations that export or transship sensitive goods and technologies. BIS works to improve the participation and compliance of existing members of multilateral export control regimes and cooperates with other countries to help them establish effective export control programs. As part of policy formulation and implementation toward key trading partners and transshipment countries, BIS engages in a robust end-use visit program.

**BIS Performance Goal / Outcome 3: Ensure continued U.S. technology leadership in industries that are essential to national security:** BIS works to ensure that the United States remains competitive in industry sectors and sub-sectors critical to national security. To this end BIS analyzes the impact of export controls and trade policies on strategic U.S. industries, administers the Federal government’s Defense Priorities and Allocations System (DPAS), reports on the impact of defense trade offsets, and evaluates the security impact of certain proposed foreign investments in U.S. companies.

In order to successfully accomplish these goals, BIS places a high priority on the following enablers:

- Leadership at all levels: BIS accomplishes its mission priorities by developing clearly defined goals with actionable unit objectives and metrics; communicating its mission, priorities, goals, objectives, and metrics throughout the Bureau; and creating an empowering environment where BIS employees can grow, prosper, and be recognized.
- Focused management: BIS accomplishes its mission priorities by effectively executing the President’s Management Agenda.

**Section 3: PART Summary**

Program:	Year	Score	2007 Funding (Direct and Reimb.)	2008 Funding Estimate (Direct and Reimb.)	2009 Funding Request (Direct and Reimb.)
Bureau of Industry and Security (entire bureau)	FY 2005	72 Moderately Effective	\$80.9	\$78.8	\$85.5
<p>Open recommendations (Do not include completed recommendations):</p> <ol style="list-style-type: none"> <li>1. <u>Work to ensure passage of an updated reauthorized Export Administration Act.</u>   <u>Status/Progress:</u> BIS has an ambitious agenda to inform and work with Congress on EAA renewal with all levels of BIS leadership making it a priority. The Export Enforcement Act of 2007, to renew and revise the EAA, was officially submitted to Congress, and on August 3 Senator Dodd introduced S2000, the Export Enforcement Act of 2007. Roll out activities are underway - industry and Hill briefings have begun and initial press reports have circulated in the trade papers.</li> <li>2. <u>Develop a long-term measure related to the effectiveness of the dual-use export control program.</u>   <u>Status/Progress:</u> BIS developed an effectiveness methodology aimed at measuring the effects of dual-use export controls on U.S. interests (i.e., national security, economic competitiveness, and system operations). Two long-term metrics have been developed. Efforts will continue to test and validate the methodology and associated metrics. Two long-term metrics have been developed that measure if foreign users are properly protecting sensitive technology and if American companies are properly safeguarding exports of sensitive technologies. Efforts will continue to test and validate the methodology and associated metrics to ensure that they will help drive change and better improve program performance.</li> </ol>					

Include a discussion of how PART and other performance information influenced the FY 2009 request:

Accomplishment of the above improvement plan items did not impact the FY 2009 budget request.

No additional funds are required to implement the current PART recommendations.

#### **Section 4: Priorities / Management Challenges**

The FY 2009 request is tailored to support BIS's ongoing programs and address three growing challenges to BIS's ability to advance Commerce Department Objective 1.2: Advance responsible economic growth and trade while protecting American security.

- The Counter-Proliferation Initiative strengthens BIS's ability to prevent and punish WMD proliferation, as recommended by the WMD Commission.
- The Enhanced Southeast Asia Transshipment Initiative increases BIS's presence and effectiveness in a region of great terrorist and proliferation concern.
- The VEU Initiative takes BIS into the future of export controls by strengthening the VEU program and its focus on end-user controls, as required in the global economy.

**Section 5: Target and Performance Summary Table (including measure description / target explanation)**

BIS performance outcomes and measures were significantly revised beginning in FY 2006. Straight line comparisons for measures/targets in Fiscal Years 2004 and 2005 are not meaningful in comparison, and are therefore not presented.

<b>Outcome 1 – Maintain and Strengthen an Adaptable and Effective U.S. Export Control and Treaty Compliance System</b>					
<b>Measure 1a: Percent of licenses requiring interagency referral referred within nine days</b>		<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
		<b>Actual</b>	<b>Actual</b>	<b>Target</b>	<b>Target</b>
		98%	98%	95%	95%
<p><b>Description:</b> Under the authority of the Export Administration Act of 1979, and the International Emergency Economic Powers Act (IEEPA), the Bureau of Industry and Security (BIS) is responsible for administering dual-use commodity export controls. Dual-use commodities include any product that may have both civilian and military applications. To export dual-use commodities outside the United States, companies must apply for an approval license from the BIS.</p> <p>Generally, dual-use commodity license applications fall into two categories: 1) referred licenses, includes those licenses that require an opinion from another agency (i.e., Department of State, Department of Energy, Central Intelligence Agency, etc.), thus the name “referred licenses;” and 2) non-referred licenses, which are those license requests that BIS may review/approve without being referred to any other federal agency. Referred licenses comprise approximately 85% of the license applications, with the remaining 15% being non-referred licenses.</p> <p>Executive Order 12981 stipulates that 100% of the licenses needing referral, (to other federal agencies) be referred within 9 days. While the E.O. stipulates that 100% of the licenses needing referral be referred within 9 days, the licensing process is subject to uncontrollable delays. Therefore, BIS used historical data to set a target of 95%.</p> <p>This measure is designed to measure the effectiveness of BIS in meeting the target of referring 95% of those licenses requiring referral within 9 days.</p> <p><b>Comments on Changes to Targets:</b> Executive Order 12981 stipulates that 100% of the licenses needing referral, (to other federal agencies) be referred within 9 days. While the E.O. stipulates that 100% of the licenses needing referral be referred within 9 days, the licensing process is subject to uncontrollable delays. Therefore, BIS used historical data to set a target of 95 %.</p> <p>BIS is requesting 3 FTEs and \$827,000 to support the Validated End-User Initiative in FY 2009, to ensure compliance by foreign entities in several countries, including the Peoples Republic of China and India, with the requirements for the Validated End-User program (VEU). By lifting individual license requirements from certain trusted customers, VEU will free up licensing officer time to focus on other, more difficult applications and thereby positively impact the licensing process in terms of efficiency improvements and effectiveness; however, quantifiable performance results are not available at this time.</p> <p>This measure is designed to measure the effectiveness of BIS in meeting the target of referring 95% of those licenses requiring referral within 9 days. FY 2006 was the initial year for this revised measure, with 98% of licenses requiring interagency referral referred within nine days.</p> <p>FY 2009 target: 95%.</p>					
<b>Relevant Program Change(s):</b>	<b>Title: Validated End-User Initiative</b>				<b>Exhibit 13 Page #: 42</b>
<b>3 FTE’s / \$827,000</b>					

**Outcome 1 – Maintain and Strengthen an Adaptable and Effective U.S. Export Control and Treaty Compliance System**

<b>Measure 1b: Median processing time for new regime regulations (3 months)</b>		<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Target</b>	<b>FY 2009 Target</b>
		2.5	2	3	3

**Description:** This performance measure shows the ability of BIS to adapt regulations to effectively implement policy changes, thereby increasing the effectiveness and efficiency of the current export control system. Regulatory changes resulting from multilateral regime plenary sessions are those agreed to by our export control partners. If those changes result in tighter controls, they must be implemented to address national security or proliferation concerns. If they result in liberalizations, they must be implemented to ensure that U.S. industry is not disadvantaged vis-à-vis our allies. Therefore, it is important to refer the draft changes for interagency review in three months or less in order to maximize U.S. competitiveness and enable economic growth for American industries, workers, and consumers. Effective and efficient adaptation of export controls advances responsible economic growth and trade while protecting American security.

This performance measure tracks the median processing time for draft regulations implementing regulatory changes resulting from multilateral regime plenary sessions. The processing time is measured from the date on which the program office supplies the Regulatory Policy Division with the information needed to prepare the draft rule to the date the rule is referred for interagency review.

**Comments on Changes to Targets:** This measure will track the length of time it takes BIS to issue a draft regulation after regime changes have been received and analyzed. There is a significant amount of time that is spent analyzing each regime resolution before actual drafting of a regulation can begin. For example, BIS must determine the appropriate level of unilateral controls for items decontrolled by the Regimes before it can change its regulations. Therefore, it is important to refer the draft changes for interagency review in three months or less in order to maximize U.S. competitiveness and enable economic growth for American industries, workers, and consumers.

This performance measure tracks the median processing time for draft regulations implementing regulatory changes resulting from multilateral regime plenary sessions. The processing time is measured from the date on which the program office supplies the Regulatory Policy Division with the information needed to prepare the draft rule to the date the rule is referred for interagency review.

FY 2009 target: 3 months.

<b>Relevant Program Change(s):</b>  N/A	<b>Title:</b>  N/A	<b>Exhibit 13 Page #:</b>  N/A
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**Outcome 1 – Maintain and Strengthen an Adaptable and Effective U.S. Export Control and Treaty Compliance System**

<b>Measure 1c: Percent of attendees rating seminars highly</b>		<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Target</b>	<b>FY 2009 Target</b>
		90%	90%	85%	85%
<p><b>Description:</b> BIS advances trade while promoting national security with an industry outreach program to facilitate compliance with U.S. export controls. In FY 2007, BIS conducted 49 seminars, including a major seminar in October 2006 with over 700 participants, as well as two overseas programs. Seminars include one-day programs on the major elements of the U.S. dual-use export control system and intensive two-day programs that provide comprehensive presentation of exporter obligations under the Export Administration Regulations (EAR). Special topic seminars, such as exporter obligations, doing business with key trading partners, or key technologies, are also conducted. Over 120 outreach activities were conducted on the release of sensitive technologies (“deemed exports”) to foreign nationals in the United States.</p> <p>This metric is designed to measure the overall effectiveness of its entire export control outreach seminar program. The target is for at least 85% of the seminar attendees to give the seminar an overall rating of at least 4 (out of a 5 level scale).</p>					
<p><b>Comments on Changes to Targets:</b> FY 2006 was the initial year for this revised measure. Attendees rated seminars highly 90% of the time versus a target of 85%.</p> <p>FY 2009 target: 85%.</p>					
<b>Relevant Program Change(s):</b>  N/A	<b>Title:</b>  N/A			<b>Exhibit 13 Page #:</b>  N/A	

**Outcome 1 – Maintain and Strengthen an Adaptable and Effective U.S. Export Control and Treaty Compliance System**

<b>Measure 1d: Percent of declarations received from U.S. industry in accordance with CWC regulations (time lines) that are processed, certified and submitted to the State Department in time for the U.S. to meet its treaty obligations</b>		<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Target</b>	<b>FY 2009 Target</b>
		100%	100%	100%	100%
<p><b>Description:</b> The CWC establishes a verification regime (e.g., declaration requirements, on-site inspections, and trade restrictions) for weapons-related toxic chemicals and precursors that have peaceful applications. BIS's CWC Regulations require U.S. industry exceeding certain chemical activity thresholds to submit declarations and reports. BIS processes, validates, and aggregates the declarations and reports to develop the U.S. CWC Industrial Declaration, which is forwarded to the State Department in time to submit it to the Organization for the Prohibition of Chemical Weapons, within established time frames mandated under the CWC.</p> <p>This measure is designed to measure the rate of U.S. industry in complying with the declaration provisions of the Chemical Weapons Convention Regulations.</p>					
<p><b>Comments on Changes to Targets:</b> This measure is designed to calculate the rate of U.S. industry in complying with the declaration provisions of the Chemical Weapons Convention Regulations.</p> <p>FY 2009 target: 100%.</p>					
<b>Relevant Program Change(s):</b>	<b>Title:</b>			<b>Exhibit 13 Page #:</b>	
N/A	N/A			N/A	

**Outcome 1 – Maintain and Strengthen an Adaptable and Effective U.S. Export Control and Treaty Compliance System**

<b>Measure 1e: Number of actions that result in a deterrence or prevention of a violation and cases which result in a criminal and/or administrative charge</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Target</b>	<b>FY 2009 Target</b>
	872	930	675	850

**Description:** To be effective, export controls must be enforced and violators punished. BIS enforces dual-use export controls for reasons of national security, foreign policy, nonproliferation, anti-terrorism, and short supply. This performance measure will capture the number of EE deterrence actions, cases that result in a prevention of a violation, criminal/administrative cases, and administrative settlement orders. Prevention may be accomplished by an investigative lead which results in agent outreach to a business, a freight forwarder, or any party to an export, and deters or prevents an unauthorized export. This measure will also count preventions that are achieved through cases that result in a criminal penalty or administrative resolution, rather than simply investigations accepted for prosecution. The measure will also include Office of Antiboycott Compliance advice line inquiries that result in prevention or deterrence, which were not previously captured. This measure will reflect the actual number and type of preventive enforcement actions conducted including: detentions of suspect exports, seizures of unauthorized shipments, industry outreach and issuance of warning letters for first time and/or minor export offenses, screened licenses targeted for enforcement concerns, recommended denials of license applications based on diversion or false statement indicators, recommended placement of parties on the Unverified List and denials on visa requests, detection of violations of license conditions, and other preventive actions that identify and prevent suspect transactions. The data for the second clause has been expanded, beginning in FY 2006. BIS used the number of cases referred to Assistant U.S. Attorneys for criminal prosecution and to the Office of Chief Counsel (OCC) for administrative prosecution, in FY 2005 to determine this number. In looking at this data, BIS has concluded that these numbers do not sufficiently capture the impact of its criminal and administrative enforcement work since they are not the ultimate outcomes of the process. By contrast, for FY 2006 BIS will use the number of criminal indictments and informations filed for the criminal number, and the number of administrative settlement orders issued by the Assistant Secretary and judgments by the Administrative Law Judges for the administrative number. This change is reflected in the use of the term “charge.”

The implementation of this measure will allow BIS to gauge its overall effectiveness in terms of successful prosecutions and preventive enforcement.

**Comments on Changes to Targets:** The FY 2009 target is being increased from 675 to 850. This represents an increase of 23% from the FY 2008 target (675), and an 84% increase over the FY 2007 target (450). Due to the recent trends in enforcement efforts, the target is being increased. These trends include, but are not limited to, the emerging pattern of enforcement regulations and investigations being focused towards end-use/r controls, such as the Enhanced Proliferation Control Initiative (EPCI), weapons of mass destruction (WMD), and terrorism.

Export Enforcement plans to conduct Special Agent training in FY 2008, and it is anticipated that this training will result in increased case development. This will cause an increase in the number of actions resulting in a deterrence or prevention of a violation resulting in a criminal and/or administrative charge. Furthermore, it is anticipated that “new Special Agent” training will be conducted which will help develop investigative skills of newer OEE Special Agents. Also, with the continued trend of enforcement regulations being focused toward end-use/r controls, more detentions, preventions, and criminal and administrative cases will be realized.

In FY 2009, BIS is requesting an additional \$695,000 and 3 FTE’s (criminal investigators) for the Counter-proliferation initiative. This initiative will increase the number of actions/cases from 800 to 850 in FY 2009.

<b>Relevant Program Change(s):</b>  3 FTE’s / \$695,000	<b>Title: Counter-Proliferation Initiative</b>	<b>Exhibit 13 Page #: 51</b>
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**Outcome 1 – Maintain and Strengthen an Adaptable and Effective U.S. Export Control and Treaty Compliance System**

<b>Measure 1f: Percent of Shipped Transactions in Compliance with the Licensing Requirements of the Export Administration Regulations (EAR)</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Target</b>	<b>FY 2009 Target</b>
	N/A	N/A	87%	95%

**Description:** This measure evaluates how effective the dual-use export control system is in ensuring that items subject to a BIS licensing requirement are exported in compliance with the EAR. BIS will measure exporter compliance with the EAR by reviewing, on an annual basis, the entire compilation of export transactions subject to a license requirement (i.e., licensed and license exception shipments) and determining what percentage are in compliance with the EAR following any BIS intervention as necessary. BIS interventions will comprise actions taken to mitigate or resolve non-compliance findings (i.e., counseling, outreach, warning letters, enforcement referral).

BIS anticipates that the data evaluation period for this metric will run from July 1-June 30 annually, which is based on the estimated time lag of receipt of shipment information from the Census Bureau (monthly data is released approximately 45 days after the close of the statistical month) and BIS analysis of and action on the data.

**Comments on Changes to Targets:** For FY 2008, the measure described above will be implemented and baseline performance will be compared with the target. BIS is working with the Census Bureau on establishing electronic validations of certain export control elements on shipper’s export declarations that are anticipated to become effective in April 2008. Once the change is effective, BIS’s ability to identify and remedy compliance issues will increase as is evidenced by the change to the target in FY 2009. In FY 2009, after a performance baseline has been established, performance metrics may be further readjusted.

<b>Relevant Program Change(s):</b>	<b>Title:</b>	<b>Exhibit 13 Page #:</b>
N/A	N/A	N/A

**Outcome 1 – Maintain and Strengthen an Adaptable and Effective U.S. Export Control and Treaty Compliance System**

<b>Measure 1g: Percentage of Post-Shipment Verifications completed and categorized above the “Unfavorable” classification</b>		<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Target</b>	<b>FY 2009 Target</b>
		N/A	N/A	215 PSVs 80%	260 PSVs 85%

**Description:** Post Shipment Verifications (PSVs) confirm whether or not goods exported from the United States actually were received by the party named on the license or other export documentation, and whether the goods are being used in accordance with the provisions of that license. PSVs are selected through the use of a new decision rubric that scores several aspects of a license application. In addition, BIS enforcement analysts research other potential factors to make a final determination on whether to initiate an end-use check to include PSVs. While PSVs are a key component of compliance verification, they also identify diverted transactions and reveal untrustworthy end-users and intermediate consignees. By conducting PSVs, BIS can provide a level of assurance that foreign end-users are aware of BIS license restrictions and comply with them as well as identifying if controlled items were shipped to unqualified end-users. Because BIS does not have the resources to conduct PSVs on every shipment, the bureau must carefully choose which ones to investigate, with a focus on uncovering potential violators. As a result, the PSV sample deliberately over-represents “Unfavorable” outcomes compared to the entire shipment population.

**Comments on Changes to Targets:** FY 2008 is the initial year for this measure. In FY 2007 BIS initiated a new process relative to the review and selection of end-use check candidates against a rubric that scores several different aspects of a license application. The variables involved in the rubric scoring include all the parties to the transaction, the items, and the countries involved. After all these variables are assessed and scored, a BIS enforcement analyst further reviews the transaction in light of the rubric score and any other potential factors to make a final determination on whether to initiate an end-use check.

Since the methodology for initiating end-use checks is changing, the impact on the number of PSVs initiated is unknown. Additionally, our sample size is too small to determine the overall impact on the baseline number of PSVs rated as unfavorable. Therefore, the baseline number of PSVs initiated and the percentage of unfavorable ratings may need to be adjusted for FY 2009 and beyond.

<b>Relevant Program Change(s):</b>	<b>Title:</b>	<b>Exhibit # Page #:</b>
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**Outcome 2 – Integrate Non-U.S. Actors To Create a More Effective Global Export Control and Treaty Compliance**

<b>Measure 2a: Number of end-use checks completed</b>		<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Target</b>	<b>FY 2009 Target</b>
		942	854	850	850

**Description:** A key element of BIS’s policy formulation and implementation toward other key countries is conducting end-use checks (EUCs) to verify that targeted dual-use exports will be or have been properly used by the proper end-users. End-use checks are comprised of both Pre-license Checks (PLCs) and Post Shipment Verifications (PSVs). PLCs are used to determine if an overseas person or firm is a suitable party to a transaction involving controlled U.S. origin goods or technical data. A PSV confirms whether or not goods exported from the United States actually were received by the party named on the license or other export documentation, and whether the goods are being used in accordance with the provisions of that license. The primary means for conducting EUCs is Sentinel visits (formerly known as “Safeguards”) conducted under the Sentinel Program. During Sentinel trips, which generally consist of two-person teams of BIS Special Agents on two-week assignments to visit foreign consignees and end-users of U.S. commodities and technology, agents attempt to verify bona fides of consignees named on a BIS license, and confirm that the equipment is being used in conformance with conditions on the license. By conducting PSVs, BIS can provide a level of assurance that foreign end-users are aware of BIS license restrictions and comply with them. PSV’s also identify diverted transactions and reveal untrustworthy end-users and intermediate consignees.

**Comments on Changes to Targets:** In February 2007, BIS initiated a new process relative to the review and selection of end-use check candidates. BIS developed a rubric that scores several different aspects of a license application to assist in determining the potential need for initiating an end-use check. The variables involved in the rubric scoring include all the parties to the transaction, the items, and the countries involved. After all these variables are assessed and scored, a BIS enforcement analyst further reviews the transaction to make a final determination on whether to initiate an end-use check which takes into effect the rubric score and any other potential factors present. A major advantage of this process is that now every BIS application receives the same systematic review and analysis applying a standard discipline. Previously, BIS used general criteria for analysts and licensing personnel use for identifying and selecting end-use check candidates, but based on individual styles could be applied in a non-consistent manner and also was not systematically applied to every license application.

The methodology for initiating end-use checks is changing from a generic one to the newly developed rubric. As of mid-year FY 2007, BIS had used two different methodologies during the Fiscal Year to target and select end-use checks, while still trying to reach the end-use check goal previously set (850). The number of end-use checks completed using the previous targeting mechanism produced more completed checks as evidenced in BIS’s first quarter FY 2007 completed end-use check numbers versus its second quarter numbers (1<sup>st</sup> Qtr: 227 vice 2<sup>nd</sup> Qtr: 122). Thus, it is plausible that the new methodology is indeed enhancing the targeting of end-use checks to select the most meaningful ones, and lowering the number of completed end-use checks.

In FY 2008, BIS will establish a new baseline using the “rubric” methodology. At the beginning of FY 2009, BIS will assess this new process (rubric), and establish the number of end-use checks that will be targeted for FY 2009 and beyond.

BIS has requested \$863,000 and 1 FTE to support the “Enhanced Export Enforcement to Address Southeast Asia Transshipment Concerns.” The number of end-use checks contributed by this initiative will be included in the new targets that will be developed after the baseline is established in FY 2008.

<b>Relevant Program Change(s):</b> 1 FTE / \$863,000	<b>Title: Enhanced Southeast Asia Transshipment Initiative</b>	<b>Exhibit 13 Page #: 56</b>
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**Outcome 3 – Ensure Continued U.S. Technology Leadership in Industries that are Essential to National Security**

<b>Measure 3a: Percent of industry assessments resulting in BIS determination, within three months of completion, on whether to revise export controls</b>		<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Target</b>	<b>FY 2009 Target</b>
		N/A *	100%	100%	100%

**Description:** This is a slight revision to the existing performance measure, “Percent of Industry Assessments Resulting in BIS Determination on Export Controls,” which was to be implemented in FY 2006 with the creation of the Office of Technology Evaluation (OTE). OTE provides analysis to inform decision on U.S. dual-use export controls to cover key (existing and emerging) technologies in a way that maintains the competitiveness and economic viability of those U.S. technology sectors. In addition to conducting effectiveness evaluations and defense industrial base studies to meet this objective, OTE conducts technology assessments that address the adequacy of current controls, economic status of the relevant industry sector, foreign availability, and foreign country export control practices. Assessment topics can arise from discussions with licensing offices, industry, technical advisory committees, or other sources.

This change in wording makes it clearer that the assessments may or may not result in revisions to export controls. BIS will monitor global technology and market trends to identify new items to be proposed for inclusion on the export control list and for changes in technology that render current controls obsolete. Additionally, BIS will identify very sensitive items that should be subject to heightened scrutiny in the licensing process or items that would be candidates for enhanced control through bilateral or multilateral agreement with other producer countries. BIS will also monitor global market trends to identify ways of doing business that warrant revised export control policies and procedures. BIS will determine for all assessments, within three months of completion, whether export controls should be changed.

This metric will measure the overall effectiveness of conducting industry assessments.

**Comments on Changes to Targets:** \* FY 2006 was the first year this measure was in place. BIS reported N/A for FY 2006. No assessments fell within this metric in FY 2006. Two industry assessments were completed late in the fourth quarter of FY 2006, thus not meeting the three month window (before the end of the fiscal year) to make a final determination on revising export controls. Industry assessment data will be available in following fiscal years.

The FY 2009 target: 100%

<b>Relevant Program Change(s):</b>	<b>Title:</b>	<b>Exhibit 13 Page #:</b>
N/A	N/A	N/A

**Section 6: FY 2009 Program Changes** (Dollars in Millions, etc)

Program Change:	Accompanying GPRA Measure		Base		Increase/Decrease		Page of Exhibit 13 Discussion
	APP Page # (Exhibit 3A)	Performance Measure #	FTE	Amount	FTE	Amount	
<u>Export Enforcement:</u> Counter-Proliferation Initiative	Page 14	1e	176	\$35.3	3	\$0.7	Page 51
<u>Export Enforcement:</u> Enhanced Southeast Asia Transshipment Initiative	Page 17	2a	176	\$35.3	1	\$0.9	Page 56
<u>Export Administration:</u> Validated End-User Initiative	Page 10	1a	192	\$40.2	3	\$0.8	Page 42

The table for this section should cite the subsequent page in the budget justification where the program change and impact on performance measures is described in detail. Specific increments to performance indicators for these initiatives are addressed in the “explanation of target” portion of Exhibit 3A.

## Section 7: Resource Requirements Summary

BIS performance outcomes and measures were significantly revised beginning in FY 2006.

Straight line comparisons for resources in Fiscal Years 2004 and 2005 are not meaningful in comparison, and are therefore not presented.

### Performance Outcome 1: Maintain and strengthen an adaptable and effective U.S. export control and treaty compliance system

Resource Summary	FY 2006 Actual	FY 2007 Actual	FY 2008 Estimate	FY 2009 Base	Increase/ Decrease	FY 2009 Request
Management and Policy Coordination	12.2	8.9	7.5	6.0	-	6.0
Export Administration	31.4	33.4	33.2	35.1	0.8	35.9
Export Enforcement	29.4	28.1	27.8	30.5	0.7	31.2
Total Funding	73.0	70.4	68.5	71.6	1.5	73.1
Direct	66.2	66.7	63.1	69.8	1.5	71.4
Reimbursable <sup>1</sup>	6.8	3.7	5.3	1.8	-	1.8
IT Funding <sup>2</sup>	10.9	11.1	10.9	10.0	0.2	10.2
FTE <sup>3</sup>	309	322	343	358	6	364

### Performance Outcome 2: Integrate non-U.S. actors to create a more effective global export control and treaty compliance system

Resource Summary	FY 2006 Actual	FY 2007 Actual	FY 2008 Estimate	FY 2009 Base	Increase/ Decrease	FY 2009 Request
Management and Policy Coordination	-	0.1	0.1	0.2	-	0.2
Export Administration	-	-	-	-	-	-
Export Enforcement	2.8	4.5	4.4	4.9	0.9	5.8
Total Funding	2.8	4.6	4.5	5.1	0.9	6.0
Direct	2.8	4.6	4.5	5.1	0.9	6.0
Reimbursable <sup>1</sup>	-	-	-	-	-	-
IT Funding <sup>2</sup>	0.3	0.7	0.6	0.6	-	0.6
FTE <sup>3</sup>	13	13	13	13	1	14

**Performance Outcome 3: Ensure continued U.S. technology leadership in industries that are essential to national security**

<b>Resource Summary</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Estimate</b>	<b>FY 2009 Base</b>	<b>Increase/ Decrease</b>	<b>FY 2009 Request</b>
Management and Policy Coordination	0.1	0.1	0.2	0.2	-	0.2
Export Administration	6.2	5.9	5.6	6.2	-	6.2
Export Enforcement	-	-	-	-	-	-
Total Funding	6.3	6.0	5.8	6.3	-	6.3
Direct	6.3	5.9	5.8	6.3	-	6.3
Reimbursable <sup>1</sup>	-	-	-	-	-	-
IT Funding <sup>2</sup>	1.1	1.1	1.1	1.0	-	1.0
FTE <sup>3</sup>	31	31	30	30	-	30

**Resource Summary Grand Total**

<b>Resource Summary</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Estimate</b>	<b>FY 2009 Base</b>	<b>Increase/ Decrease</b>	<b>FY 2009 Request</b>
Management and Policy Coordination	12.3	9.1	7.8	6.4	-	6.4
Export Administration	37.6	39.2	38.8	41.2	0.8	41.8
Export Enforcement	32.2	32.6	32.2	35.4	1.6	37.0
Total Funding	82.1	80.9	78.8	83.1	2.4	85.5
Direct	75.3	77.2	73.5	81.3	2.4	83.7
Reimbursable <sup>1</sup>	6.8	3.7	5.3	1.8	-	1.8
IT Funding <sup>2</sup>	12.3	12.9	12.5	11.6	0.2	11.8
FTE <sup>3</sup>	353	366	386	386	7	393

<sup>1</sup> Reimbursable funding included in total funding.

<sup>2</sup> IT funding included in total funding.

<sup>3</sup> Includes reimbursable FTEs.

Notes: Totals may differ slightly due to rounding.

Total obligations may differ from those reported in other exhibits due to inclusion of restorations of prior year funds in the amounts cited above. Human Capital Initiative Funding is included in “overhead” and distributed appropriately across all BIS Goals.

**Section 8: Data Validation and Verification Table / Internal Control Information**

Data Validation and Verification

Beginning in FY 2006, BIS decentralized the data validation and verification, Government Performance and Results Act (GPRA), responsibilities from the Office of Planning, Evaluation and Management to the individual program office(s) reporting data. This realignment directly links performance measure reporting and data validation and verification responsibilities within the program offices performing the work.

Performance Measure:	<b>Percent of licenses requiring interagency referral referred in nine days</b>
Data Source:	ECASS
Frequency:	Quarterly
Data Storage:	ECASS
Internal Control Procedures:	Export Administration will verify ECASS reports by running similar reports to determine if they produce the same results.
Data Limitations:	None
Actions to be Taken:	None
Performance Measure:	<b>Median processing time for new regime regulations (months)</b>
Data Source:	Paper records and Webcims (BIS internal document tracking system)
Frequency:	Quarterly
Data Storage:	Export Administration office files
Internal Control Procedures:	BIS will verify the information used to report on this performance measure against supporting documentation.
Data Limitations:	None
Actions to be Taken:	None
Performance Measure:	<b>Percent of attendees rating seminars highly</b>
Data Source:	Seminar evaluations
Frequency:	Quarterly
Data Storage:	Export Administration office files
Internal Control Procedures:	BIS will verify the information used to report on this performance measure against supporting documentation.
Data Limitations:	Data is dependent on the voluntary responses of seminar participants and is based on respondent opinion. Opinions may, or may not be a factual indicator of performance.
Actions to be Taken:	None

Performance Measure:	<b>Percent of declarations received from U.S. industry in accordance with CWC Regulations (timelines) that are processed, certified and submitted to State Department in time for the U.S. to meet its treaty obligations</b>
Data Source:	Paper records of declarations
Frequency:	Quarterly
Data Storage:	Export Administration office files
Internal Control Procedures:	BIS will verify the information used to report on this performance measure against supporting documentation.
Data Limitations:	None
Actions to be Taken:	None
Performance Measure:	<b>Number of actions that result in a deterrence or prevention of a violation and cases which result in a criminal and/or administrative charge</b>
Data Source:	Export Enforcement Investigation Management System (IMS)
Frequency:	Monthly
Data Storage:	IMS
Internal Control Procedures:	The Office of Export Enforcement and the Office of Antiboycott Compliance will both perform two types of checks to ensure data are entered where they should be (system integrity) and to ensure that the data are accurate and valid.
Data Limitations:	None
Actions to be Taken:	None
Performance Measure:	<b>Percent of Shipped Transactions in Compliance with the Licensing Requirements of the Export Administration Regulations (EAR)</b>
Data Source:	ECASS, AES
Frequency:	Quarterly
Data Storage:	Export Administration office files
Internal Control Procedures:	BIS will verify the information used to report on this performance measure against supporting documentation
Data Limitations:	None
Actions to be Taken:	None
Performance Measure:	<b>Percentage of Post-Shipment Verifications completed and categorized above the “Unfavorable” classification</b>
Data Source:	ECASS and Export Enforcement Investigation Management System (IMS)
Frequency:	Monthly
Data Storage:	ECASS and IMS
Internal Control Procedures:	The Office of Enforcement Analysis will perform two types of checks to ensure data are entered where they should be (system integrity) and to ensure that the data are accurate and valid.
Data Limitations:	None
Actions to be Taken:	None

Performance Measure:	<b>Number of end-use checks completed</b>
Data Source:	ECASS and Export Enforcement Investigation Management System (IMS)
Frequency:	Monthly
Data Storage:	ECASS and IMS
Internal Control Procedures:	The Office of Enforcement Analysis will perform two types of checks to ensure data are entered where they should be (system integrity) and to ensure that the data are accurate and valid.
Data Limitations:	None
Actions to be Taken:	None
Performance Measure:	<b>Percent of industry assessments resulting in BIS determination, within three months of completion, on whether to revise export controls</b>
Data Source:	Paper records
Frequency:	Quarterly
Data Storage:	Export Administration office files
Internal Control Procedures:	BIS will verify the information used to report on this performance measure against supporting documentation.
Data Limitations:	None
Actions to be Taken:	None

**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Operations and Administration**  
**Summary of Resource Requirements**

(Dollar amounts in thousands)

Page No.		Positions	FTE	Budget Authority	Direct Obligations
	2008 Enacted Appropriation .....	365	364	\$72,855	\$73,444
	Restoration of base reductions in prior years.....	21	21	\$5,842	\$5,842
	less: Obligations from prior years.....	0	0	0	-\$589
BIS - 28	plus: 2009 adjustments to base.....	0	0	\$2,594	\$2,594
	2009 Base.....	386	385	\$81,291	\$81,291
	plus: 2009 program changes.....	10	7	\$2,385	\$2,385
	2009 Estimate.....	396	392	\$83,676	\$83,676

		2007 Actual		2008 Enacted		2009 Base		2009 Estimate		Increase/ Decrease	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
<b>Comparison by Activity:</b>											
BIS - 34	Management and Policy Coordination.....	24	\$6,337	15	\$5,375	17	\$5,850	17	\$5,850	0	\$0
	FTE/Obl.	15	\$6,845	15	\$5,466	17	\$5,850	17	\$5,850	0	\$0
BIS - 37	Export Administration.....	209	\$37,067	186	\$35,766	193	\$40,161	197	\$40,988	4	\$827
	FTE/Obl.	185	\$38,204	185	\$36,060	192	\$40,161	195	\$40,988	3	\$827
BIS - 47	Export Enforcement.....	183	\$31,989	164	\$31,714	176	\$35,280	182	\$36,838	6	\$1,558
	FTE/Obl.	164	\$32,168	164	\$31,918	176	\$35,280	180	\$36,838	4	\$1,558
	<b>Direct Obligations.....</b>	<b>416</b>	<b>\$75,393</b>	<b>365</b>	<b>\$72,855</b>	<b>386</b>	<b>\$81,291</b>	<b>396</b>	<b>\$83,676</b>	<b>10</b>	<b>\$2,385</b>
	FTE/Obl.	<b>364</b>	<b>\$77,217</b>	<b>364</b>	<b>\$73,444</b>	<b>385</b>	<b>\$81,291</b>	<b>392</b>	<b>\$83,676</b>	<b>7</b>	<b>\$2,385</b>
<b>Adjustments to Obligations</b>											
	Recoveries.....		-\$454								
	Unobligated balance, start of year.....		-\$1,959		-\$589						
	Unobligated balance, rescission.....										
	Unobligated balance, end of year.....		\$589								
	Unobligated balance expiring.....										
<b>Financing from transfers:</b>											
	Transferred from other accounts (-).....										
	Transferred to other accounts (+).....										
<b>Unobligated balance, rescission:</b>											
	<b>Appropriation.....</b>		<b>\$75,393</b>		<b>\$72,855</b>		<b>\$81,291</b>		<b>\$83,676</b>		<b>\$2,385</b>

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**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Operations and Administration**  
**Summary of Financing**  
(Dollar amounts in thousands)

	2007 Actual	2008 Enacted	2009 Base	2009 Estimate	Increase/ Decrease
Total Obligations.....	\$80,941	\$78,787	\$83,091	\$85,476	\$2,385
Financing:					
Offsetting collections from:					
Federal funds.....	\$662	-\$1,050	-\$1,050	-\$1,050	0
Non-Federal sources.....	-\$1,129	-\$750	-\$750	-\$750	0
Recovery of prior year obligations.....	-453	0	0	0	0
Unobligated balance, start of year.....	-\$8,760	-4,132	0	0	0
Unobligated balance, transferred.....	0	0	0	0	0
Unobligated balance, end of year.....	4,132	0	0	0	0
Unobligated balance expiring .....	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Budget Authority.....	\$75,393	\$72,855	\$81,291	\$83,676	\$2,385
Financing:					
Transfers from other accounts.....	0	0	0	0	0
Transfers to other accounts.....	0	0	0	0	0
Unobligated balance, rescission:	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>Appropriation.....</b>	<b>\$75,393</b>	<b>\$72,855</b>	<b>\$81,291</b>	<b>\$83,676</b>	<b>\$2,385</b>

**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Operations and Administration**  
**Summary of Adjustments to Base 2009**  
(Dollar amounts in thousands)

	<b>FTE</b>	<b>Amount</b>
<b>Adjustment:</b>		
Restoration of base reductions in prior years	21	\$5,842
<b>Other Changes:</b>		
Full-year Cost of FY 2008 Pay Raise	0	576
FY 2009 Pay Raise	0	865
Working Capital Fund Pay Raise	0	85
Full-cost in 2009 of Positions Financed Part Year 2008	0	0
Civil Service Retirement System (CSRS)	0	-117
Federal Employees' Retirement System (FERS)	0	269
Thrift Savings Plan	0	32
Federal Insurance Contributions Act (FICA/OASDI)	0	101
Health Insurance	0	40
Compensable Day	0	-149
Employees' Compensation Fund	0	233
Travel:		
Mileage	0	5
Per Diem	0	0
Rental Payments to GSA	0	108
Postage	0	14
GPO Printing	0	4
Other services:		
Working Capital Fund	0	166
CBS	0	0
NARA Storage Costs	0	-4
Fuel	0	96
General Pricing Level Adjustment:		
Transportation of things	0	3
Rental payments to others	0	0
Communications and utilities	0	16
Other services (Excluding WCF and CAMS)	0	187
Supplies and materials	0	19
Equipment	0	45
Subtotal, Other Changes	<u>0</u>	<u>2,594</u>
<b>Total, Adjustments to Base</b>	<b><u>21</u></b>	<b><u>\$8,436</u></b>

**Department of Commerce  
BUREAU OF INDUSTRY AND SECURITY  
Operations and Administration  
Justification of Adjustments to Base  
(Direct Obligations in thousands)**

**FTE      Amount**

**21      5,842**

**0      1,526**

**0      166**

**Adjustments:**

Restoration of base reductions in prior years: The FY 2008 appropriation was \$5.9 million below the President's Request, which was to fund base operations (there were no new initiatives in this request). This restoration will be used to remedy the unavoidable hiring freeze, investigative travel reductions, delays in license processing, and the delay of development of BIS's secure IT infrastructure required to manage within the appropriation.

**Changes:**

**Pay Raises**

**Full-year cost of 2008 pay increase and related costs:**

A pay raise of 3.5% was effective January 1, 2008.  
 Total cost in 2009 of 2008 pay raise at 3.5%  
     Less amount funded in 2008  
 Amount requested in 2009 to provide full-year cost of 2008 pay increase

1,613,111  
-1,037,000  
**576,111**

**2009 pay increase and related costs:**

A general pay raise of 2.9% is assumed to be effective January 1, 2009.  
 Total cost in 2009 for pay raise  
     Payment to the Working Capital Fund  
 Total, Adjustment for 2009 pay raise

865,000  
85,000  
**950,000**

**Working Capital Fund**

An additional \$166,000 is required to fund cost increases in the Departmental Management's Working Capital Fund.

**166,000**

<u>FTE</u>	<u>Amount</u>
<u>0</u>	<u>-117</u>

**Civil Service Retirement System (CSRS)**

The number of employees covered by the CSRS continues to drop as positions become vacant and are filled by employees who are covered by the Federal Employees Retirement Fund. The estimated percentage of payroll for regular employees covered by CSRS will decrease from 30.30% in 2008 to 25.80% in 2009 and from 6.0% to 0% for law enforcement employees. Contribution rates are expected to remain at 7% for regular employees.

Regular Employees:	
CSRS Cost in 2009 (\$20,656,000 X .2580 X .0700)	373,047
CSRS Cost in 2008 (\$20,656,000 X .3030 X .0700)	-438,114
Subtotal	<u>-65,067</u>
Law Enforcement Agents:	
CSRS Cost in 2009 - Zero Percentage Of Payroll	0
CSRS Cost in 2008 (\$11,562,000 X .06 X .0750)	-52,029
Subtotal	<u>-52,029</u>
Total adjustment-to-base	<b>-117,096</b>

**Federal Employees' Retirement System (FERS)**

<u>0</u>	<u>269</u>
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The number of employees covered by FERS continues to rise as employees covered by CSRS leave and are replaced by employees covered by FERS. The estimated percentage of payroll for regular employees will increase from 69.70% in 2008 to 74.20% in 2009. The estimated percentage of payroll for law enforcement employees covered by FERS will increase from 94.00% in 2008 to 100% in 2009. Contribution rates for regular employees will remain at 11.20% in 2009. Contribution rates for law enforcement employees will remain at 23.80% in 2009.

Regular Employees:	
FERS cost in 2009 (\$20,656,000 X .7420 X .1120)	1,716,596
FERS cost in 2008 (\$20,656,000 X .6970 X .1120)	-1,612,490
Subtotal	<u>104,106</u>
Law Enforcement Agents:	
FERS cost in 2009 (\$11,562,000 X 1.00 X .2380)	2,751,756
FERS cost in 2008 (\$11,562,000 X .94 X .2380)	-2,586,651
Subtotal	<u>165,105</u>
Total adjustment-to-base	<b>269,211</b>

**FTE**      **Amount**

**0**                      **32**

**Thrift Savings Plan**

The cost of BIS's contribution to the Thrift Savings Plan is expected to increase as the cost for FERS participation increases. The contribution rate is expected to remain at 2.0%.

Regular Employees:

Cost in 2009 (\$20,656,000 X .7420 X .0200) 306,535

Cost in 2008 (\$20,656,000 X .6970 X .0200) -287,945

Subtotal 18,590

Law Enforcement Agents:

Cost in 2009 (\$11,562,000 X 1.00 X .0200) 231,240

Cost in 2008 (\$11,562,000 X .94 X .0200) -217,366

Subtotal 13,874

Total adjustment-to-base **32,464**

**Federal Insurance Contributions Act (FICA)**

**0**                      **101**

As the percentage of payroll covered by FERS increases, the cost of OASDI contributions will increase. In addition, the maximum salary subject to OASDI tax will increase in 2009. The OASDI tax rate will remain at 6.2% in 2009.

Regular Employees:

Cost in 2009 \$20,656,000 X .7420 X .9560 X .0620 908,447

Cost in 2008 \$20,656,000 X .6970 X .9540 X .0620 -851,567

Subtotal 56,880

Law Enforcement Agents:

Cost in 2009 \$9,250,000 X 1.00 X .9560 X .0620 548,266

Cost in 2008 \$9,250,000 X .94 X .9540 X .0620 -514,292

Subtotal 33,974

Other Salaries - Regular Employees:

Cost in 2009 \$773,000 X .7420 X .9560 X .0620 33,996

Cost in 2008 \$773,000 X .6970 X .9540 X .0620 -31,868

Subtotal 2,128

Other Salaries - Law Enforcement Agents:

Cost in 2009 \$2,312,000 X 1.00 X .9560 X .0620 137,037

Cost in 2008 \$2,312,000 X .94 X .9540 X .0620 -128,545

Subtotal 8,492

Total adjustment-to-base **101,474**

	<u>FTE</u>	<u>Amount</u>
<b>Health Insurance Premium</b>	<u>0</u>	<u>40</u>
Effective January 2007, this agency's contribution to Federal employees' health insurance premiums increased by 2.1%. Applied against the 2008 estimate of \$1,898,000 the additional amount required is \$39,858.		
<b>Rental Payments to GSA</b>	<u>0</u>	<u>108</u>
GSA rates are projected to increase 2.4% in 2009. This percentage was applied to the 2008 estimate of \$4,501,000 to arrive at an increase of \$108,024.		
<b>GPO Printing</b>	<u>0</u>	<u>4</u>
GPO has provided an estimated rate increase of 1.9% in 2009. This percentage was applied to the 2008 estimate of \$221,000 to arrive at an increase of \$4,199.		
<b>Mileage</b>	<u>0</u>	<u>5</u>
Changes to the Federal Travel Regulations increased the reimbursement rate for the use of a privately-owned automobile from 44.5 cents to 48.5 cents per mile. The percentage increase of 9.0% was applied to 2008 estimate of \$56,000 to arrive at an increase of \$5,040.		
<b>Change in Compensable Day</b>	<u>0</u>	<u>-149</u>
The decreased cost of one compensable day in FY 2009 compared to FY 2008 is calculated by dividing the FY 2008 estimated personnel compensation (\$32,218,000) plus total benefits (\$6,704,000) by 262 days. The cost decrease of one compensable day is \$148,557.		
<b>Postage</b>	<u>0</u>	<u>14</u>
Effective in January 2007, the Postal Service implemented a rate increase of 5.1%. This percentage was applied to the 2008 estimate of \$266,000 to arrive at an increase of \$13,566.		
<b>Employees Compensation Fund</b>	<u>0</u>	<u>233</u>
The Employees' Compensation Fund bill for the year ending June 30, 2007 was \$233,000.		

	<u>FTE</u>	<u>Amount</u>
<b>National Archives and Records Administration (NARA)</b>	<b>0</b>	<b>-4</b>
The estimated cost for NARA storage has decreased for fiscal year 2009 by \$4,000.		
<b>Fuel</b>	<b>0</b>	<b>96</b>
Based on actual billings over the last two years, the cost of fuel increased by 39%. Applied against the FY 2008 estimate of \$246,993, the additional amount required is \$96,327.		
<b>General Pricing Level Adjustments</b>	<b>0</b>	<b>270</b>
This request applies OMB economic assumptions for 2009 to object classes where the prices the Government pays are established through the market system. A 1.9% factor was applied to rental payments to others (\$475); transportation of things (\$2,679); communications, utilities, and miscellaneous charges (excluding postage and FTS ) (\$16,036); other services (excluding the Working Capital Fund and CBS) (\$186,504); supplies and materials (\$19,038); and, equipment (\$45,239).		
<b>Total - FY 2009 Adjustments-to-Base</b>	<b>21</b>	<b>\$8,436</b>

**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Operations and Administration**  
**Program and Performance: Direct Obligations**  
(Dollar amounts in thousands)

Comparison by Activity:		2007		2008		2009		2009		Increase/ Decrease	
		Actual		Enacted		Base		Estimate		Personnel	Amount
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount		
Management and Policy Coordination.....	Pos./BA	24	\$6,337	15	\$5,375	17	\$5,850	17	\$5,850	0	\$0
	FTE/Obl.	15	\$6,845	15	\$5,466	17	\$5,850	17	\$5,850	0	\$0

**Department of Commerce  
BUREAU OF INDUSTRY AND SECURITY  
Operations and Administration  
JUSTIFICATION OF PROGRAM AND PERFORMANCE**

**Activity: Management and Policy Coordination**

**BIS Performance Goals (Priorities):**

- 1: Maintain and strengthen an adaptable and effective U.S. export control and treaty compliance system
- 2: Integrate non-U.S. actors to create a more effective global export control and treaty compliance system
- 3: Ensure continued U.S. technology leadership in industries that are essential to national security

Activity Goal: To provide leadership, executive direction, and policy guidance necessary to meet BIS's mission, priorities, goals, and objectives.

Objectives: The objectives of this activity are to lead and manage BIS to the successful attainment of its performance goals, as listed above. These are in direct support of: (1) the Department of Commerce's Strategic Goal 1: Provide information and tools to maximize U.S. competitiveness and enable economic growth for American industries, workers, and consumers; (2) Objective 1.2 under Department Goal 1: Advance responsible economic growth and trade while protecting American security; and (3) the priorities of the Secretary of Commerce.

**Base Program:**

This activity funds the Office of the Under Secretary for Industry and Security and supporting offices. Management and Policy Coordination (MPC) officials provide leadership, management and policy guidance in direct support of BIS's priorities, goals, and objectives, and to the Assistant Secretaries in their areas of responsibility.

Ongoing BIS management responsibilities of this activity include: (1) establishing BIS's overall policy agenda, coordinating agreement on BIS priorities, Bureau goals, unit objectives, and key metrics, and evaluating unit performance for consistency with these priorities, goals, objectives and metrics; (2) performing overall oversight of program operations and expenditures; (3) executing or directly supervising the execution of selected policy initiatives; (4) ensuring successful implementation of the President's Management Agenda; and (5) adjudicating appeals of licensing and enforcement decisions.

MPC supports the Secretary of Commerce by: (1) providing policy support to the Secretary on matters relating to BIS's responsibilities relevant to Department and Secretarial goals, objectives, and priorities; (2) preparing reports and testimony relating to BIS activities; and (3) representing the Department in ongoing interagency dialogues (e.g., with the Departments of Defense, Energy, Homeland Security, Justice, and State, the National Security Council, the U.S. Trade Representative, and the intelligence community) on issues involving national security and nonproliferation, export controls, and strategic industries.

MPC provides guidance and coordination for BIS's substantive support for the U.S. Government's Export Control and Related Border Security Assistance (EXBS) program. The EXBS program provides technical assistance to strengthen the export control systems of nations lacking effective systems that are identified as potential locations for export, transshipment or transit of nuclear, chemical, biological, or radiological weapons, missile delivery systems, or the commodities, technologies or equipment that could be used to design or build such weapons or their delivery systems.

**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Operations and Administration**  
**Program and Performance: Direct Obligations**  
(Dollar amounts in thousands)

Comparison by Activity:		2007		2008		2009		2009		Increase/ Decrease	
		Actual		Enacted		Base		Estimate			
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Export Administration.....	Pos./BA	209	\$37,067	186	\$35,766	193	\$40,161	197	\$40,988	4	\$827
	FTE/Obl.	185	\$38,204	185	\$36,060	192	\$40,161	195	\$40,988	3	\$827

**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Operations and Administration**  
**JUSTIFICATION OF PROGRAM AND PERFORMANCE**

**Activity: Export Administration**

**BIS Performance Goals (Priorities):**

1. Maintain and strengthen an adaptable and effective U.S. export control and treaty compliance system
2. Integrate non-U.S actors to create a more effective global export control and treaty compliance system
3. Ensure continued U.S. technology leadership in industries that are essential to national security

Activity Goal: To advance U.S. national security, foreign policy, and economic objectives by administering an effective export control and treaty compliance system and promoting continued U.S. strategic technology leadership.

Objectives: Pursuant to the EAA (which expired on August 19, 2001, but the provisions of which remain in force under the IEEPA, Executive Order 13222, as extended most recently by the Notice of August 15, 2007 (72 Fed. Reg. 46137 (August 16, 2007)), the Chemical Weapons Convention Implementation Act of 1998, and the Defense Production Act (DPA), the objectives of this activity include: (1) processing export license applications and other licensing products consistently, accurately, and in accordance with E.O. 12981 timelines and other internal guidelines; (2) refining public/private sector domestic and international outreach to maximize the effectiveness of the dual use export control system; (3) adapting regulations to changing policies; and (4) facilitating U.S. industry compliance with global treaties, such as the Chemical Weapons Convention and the IAEA Additional Protocol. Additional objectives include: (1) strengthening multilateral cooperation on dual use export controls; (2) developing and implementing policies toward key countries such as China and India; and (3) supporting the Export Control and Related Border Security Program. Export Administration (EA) also supports continued U.S. technology leadership and competitiveness in essential industries by (1) developing and implementing comprehensive rules regarding foreign nationals (“deemed exports”); (2) identifying and analyzing critical U.S. industry sectors from an export control perspective; (3) ensuring timely and accurate processing of requests under the Defense Priorities and Allocations System; (4) assessing the national defense industrial base and export control implications of foreign acquisitions of U.S. companies in support of the Committee on Foreign Investment in the United States (CFIUS); (5) developing policy and preparing statutorily-required reports, including the annual offsets report; and (6) managing the Bureau’s emergency preparedness program.

**Base Program:**

EA exercises licensing jurisdiction over dual use commodities and technical data exported from the United States and their reexport to other foreign destinations as authorized by the EAA and Export Administration Regulations (EAR). Any export of commodities or technical data which has strategic or foreign policy concerns requires formal authorization through issuance of an export license. As part of this program, EA develops and publishes export control regulations and procedures, administers the interagency process established to review individual export license applications, and issues formal commodity classifications and related determinations. BIS exceeded its FY 2007 GPRA measure for efficient export licensing by referring 98 percent of eligible licenses to other agencies within nine days (vs. the target of 95 percent).

In coordination with MPC and EE, EA develops and implements policies to strengthen multilateral cooperation on export controls. These programs help strengthen U.S. security by extending controls over sensitive items beyond American borders; they also help ensure a level playing field for American exporters and otherwise permit them access to foreign markets. In this context, EA provides technical and policy support for negotiations conducted under the four multilateral export control regimes. In coordination with its U.S. government interagency partners, EA also develops and implements policies to strengthen multilateral export controls outside of the multilateral export control regimes (i.e., in compliance with the United States' membership in the United Nations) and the United States' unilateral foreign policy based-export control requirements.

In terms of outreach, EA provides assistance to the business community by responding to exporter questions through seminars, publications, and a help desk. In addition, EA disseminates current export licensing and export control policy information on the BIS Web site. EA conducts foreign/domestic reviews of select U.S. companies' export control systems to validate that procedures are in compliance with U.S. export control laws. EA also undertakes industry outreach on CWC implementation and DPA issues. BIS exceeded its FY 2007 GPRA measure for effective outreach by scoring 91 percent on the rating of seminars by attendees (vs. the target of 85 percent).

EA is also responsible for overseeing and facilitating compliance with the CWC and the Additional Protocol to the International Atomic Energy Agency Safeguard Agreement by the U.S. business community. This responsibility includes hosting domestic visits of international inspection teams to determine U.S. companies' compliance with treaty obligations and receiving and analyzing industry reports required by the treaty. BIS met its FY 2007 GPRA treaty compliance measure of 100 percent of declarations received from U.S. industry processed according to U.S. treaty obligations.

The EA base program also promotes American security and competitiveness through programs to strengthen U.S. industry's ability to meet vital U.S. national security requirements. EA assesses and evaluates the impact of export controls on, and the viability of, strategic U.S. industries; administers the "deemed export" regulations; evaluates the effects on national security of imports of certain items; provides defense trade advocacy for U.S. industry in support of the Trade Policy Coordinating Committee, and assesses the impact of defense memoranda of understanding and sales of excess defense articles on U.S. industry. Under

the DPA, EA undertakes a variety of responsibilities, including evaluating the effects on national security of foreign investments in U.S. companies, preparing an annual report on offsets in defense trade, and implementing the Defense Priorities and Allocations System (DPAS). The DPAS assures the timely availability of industrial resources to meet national defense and emergency preparedness program requirements and provides an operating system to support rapid industrial response in a national emergency.

EA is structured into five offices to meet its goals and implement its programs. EA's export control licensing operations are conducted by two offices: the Office of Nonproliferation and Treaty Compliance (NPTC) and the Office of National Security and Technology Transfer Controls (NSTTC). Both offices participate in interagency and international deliberations to determine the list of items that the United States will control. Licensing officers in both offices are responsible for decisions on individual export license applications, based on their technical and/or foreign policy analysis of the specific transactions, and are active in the interagency dispute resolution process when consensus is not reached among the reviewing agencies. The offices also provide commodity jurisdictions, commodity classifications, and advisory opinions to help exporters determine the licensing requirements for their export transactions. Finally, these offices also support the Bureau's export seminar outreach and international export control cooperation programs and provide license determinations in support of enforcement actions.

NPTC is responsible for administering the Commerce Department's multilateral export control responsibilities under the Nuclear Suppliers Group, the Missile Technology Control Regime, and the Australia Group (chemical and biological controls) as well as U.S. foreign policy-based export controls. NPTC also is responsible for implementing a number of industry programs related to U.S. compliance with the CWC and the Additional Protocol to the International Atomic Energy Agency Safeguard Agreement, including educating industry concerning its treaty obligations, serving as the lead agency escort for the Organization for the Prohibition of Chemical Weapons (OPCW) inspections of U.S. chemical industry sites, assisting U.S. firms in drafting facility inspection agreements, negotiating final facility agreements with OPCW, implementing CWC export control and trade restriction provisions, and representing the concerns of the business community to ensure that they are fully integrated in the decision-making process in the U.S. Government and in international deliberations on matters of CWC compliance and implementation. NPTC also is responsible for implementing most of the Commerce Department's unilateral controls, including sanctions, and preparing the Annual Foreign Policy Report to Congress, as well as other Congressionally-mandated reports (i.e., as required by the Trade Sanctions Reform Act, the Syrian Accountability Act, etc.). NPTC is responsible for developing export control policy on dual use items such as navigation equipment, spark gaps, chemicals, and biologicals.

NSTTC specifically implements multilateral export controls under the Wassenaar Arrangement, which deals with conventional arms and related sensitive dual use items. NSTTC is responsible for developing export control policy on nanotechnology, aerospace, high performance computers, night vision products, deemed exports, intangible technology, semiconductor capital equipment, and encryption hardware and software. In addition, the office is responsible for developing policy on technology transfers associated with employment of foreign nationals in high technology industry and academic environments, often referred to as deemed exports. Finally, the office administers Congressionally-mandated short supply controls on crude oil and timber. Its responsibilities in these areas include development of licensing policies and negotiating positions, control list development, export licensing, and preparation of commodity classifications and advisory opinions.

EA's Office of Exporter Services' (OExS) promotes knowledgeable voluntary compliance with dual use export controls by educating the exporting community about its obligations under the EAR. Accordingly, OExS is responsible for maintaining the EAR, including drafting new regulations and coordinating the clearance of all EAR amendments. The GPRA target of a 3-month median processing time for regime regulations is met consistently. OExS conducts export control seminars across the United States and in other countries, as well as online training programs on U.S. export controls or webinars that are broadcast to a live audience and then archived on the BIS website for future viewing. OExS also develops publications and Web site guidance for exporters, maintains a regional office on the West Coast to enhance access to EA services, and maintains a help desk telephone service to answer questions related to the EAR. In addition, OExS develops Internal Control Program Guidelines and Export Management and Compliance Program Guidelines that companies use to develop compliance programs to ensure their exports are consistent with the EAR. The Director of the office serves as BIS's Chief Licensing Officer, with responsibility for oversight and management of the licensing system, formulating licensing operating policy, storage and retrieval of all licensing data and documents, and disseminating export licensing forms.

The Office of Strategic Industries and Economic Security (SIES) is responsible for implementing programs to help ensure that strategic U.S. industries can meet current and future national security requirements. SIES accomplishes this, in part, by analyzing the impact on strategic U.S. industries of cooperative international defense agreements, foreign investment in the United States and CFIUS reviews, and the sale of excess defense articles and stockpile material disposal plans. In addition, SIES analyzes the impact of "offsets" in defense trade on the U.S. defense industrial base and develops initiatives to reduce economic inefficiencies. SIES is also responsible for administering the Defense Priorities and Allocations System that assures the timely availability of industrial resources to meet national defense and emergency preparedness program requirements, coordinating the Bureau's continuity programs, and participating in NATO's Industrial Planning Committee.

The Office of Technology Evaluation (OTE) conducts analyses to inform decisions on implementing dual use export controls to cover key (existing and emerging) technologies and performs assessments of critical technologies and defense industrial base sectors by analyzing the impact of U.S. trade policies and export controls on strategic U.S. industries. OTE accomplishes these objectives by: evaluating the adequacy and effectiveness of current export controls; conducting foreign availability and mass market assessments; evaluating foreign export control practices; surveying U.S. industry and analyzing financial, employment, trade, and other pertinent economic data; investigating the impact of imports on national security; and analyzing export data to determine the economic impact of proposed changes to the Commerce Control List, better inform licensing decisions, facilitate exporter adherence to the EAR, and identify trends with key trading partners to support bilateral and multilateral policy decisions.

**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Increase for 2009**  
**Validated End-User Initiative**  
(Dollar amounts in thousands)

		2009 Base		2009 Estimate		Increase (Decrease)	
		<u>Personnel</u>	<u>Amount</u>	<u>Personnel</u>	<u>Amount</u>	<u>Personnel</u>	<u>Amount</u>
<b>Export Administration</b>	Pos./BA	193	\$40,161	197	\$40,988	4	\$827
	FTE/Obl.	192	\$40,161	195	\$40,988	3	\$827

**Validated End-User (VEU) Initiative (4 Positions, 3 FTE, and \$827,000).** The following change is being requested:

BIS is seeking additional resources for Export Administration’s Office of Exporter Services to ensure compliance by foreign entities in several countries, including the People’s Republic of China and India, with the requirements of the Validated End-User program (VEU).

VEU is a U.S. Government initiative to strengthen and streamline the U.S. dual-use export control system. By focusing on the end-user of an exported item, VEU helps adapt export control policies to the realities of a globalizing marketplace, in which the same economy contains trusted customers as well as known customers ineligible for controlled items and other customers not clearly in either category. VEU allows BIS to focus its resources on the latter two categories. It thereby facilitates U.S. exports to specific trusted foreign customers, enabling BIS to better address global security challenges by strengthening U.S. secure trading networks.

Introduced in 2007, VEU provides a market-based incentive for foreign companies to comply with U.S. export regulations and follow responsible export control practices. Specifically, VEU allows the export of certain items that would otherwise require individual export licenses without such licenses, under a general authorization to foreign customers who have been “validated” by the U.S. Government as reliable civilian end-users. These trusted customers are then subject to periodic review to ensure they are using controlled items received without a license only for appropriate civilian purposes.

In order to ensure that foreign companies participating in VEU comply with its requirements, BIS must conduct periodic reviews and on-site inspections of a VEU customer’s records. If VEU grows as expected, it will overtax existing resources. In FY 2009, for example, BIS expects to review the internal records of at

least 30 overseas-based companies to meet program demand. The \$827,000 request will fund four new positions (three FTE) and the related technical training and travel necessary to ensure compliance with VEU requirements.

The FTEs will be export compliance specialists from general business or technical backgrounds with expertise in nonproliferation and export control policy, intelligence analysis, and operations review auditing. They will be located in Washington, D.C., and conduct compliance reviews of VEU customer's order processing operations in overseas locations to ensure compliance with program requirements. This increase includes \$200,000 to fund 10 overseas trips. In each trip, a BIS team of one export compliance specialist and one to two subject matter experts would visit an average of three companies.

**Performance Impact: Validated End-User Initiative**

<b>Measure Number:</b> 1a <b>Measure Name:</b> Percent of licenses requiring interagency referral referred within nine days <b>Exhibit 3a (APP) Page Number:</b> 10		<b>FY 2007 Target</b>	<b>FY 2008 Target</b>	<b>FY 2009 Target</b>	<b>FY 2010 Target</b>	<b>FY 2011 Target</b>	<b>FY 2012 Target</b>
Validated End-User Initiative	<b>With Increase</b>	<b>95%</b>	<b>95%</b>	<b>95%</b>	<b>95%</b>	<b>95%</b>	<b>95%</b>
Validated End-User Initiative	<b>Without Increase</b>	<b>95%</b>	<b>95%</b>	<b>95%</b>	<b>95%</b>	<b>95%</b>	<b>95%</b>
<b>Description:</b> GPRA Measure, refer to Exhibit 3a (APP) for description.							

**Performance Measures:**

	FY 2009 Target
<u>Goal 1: Maintain and Strengthen an Adaptable and Effective U.S. Export Control and Treaty Compliance System</u>	
Measure 1 a: Percent of licenses requiring interagency referral referred within nine days	95%
Measure 1b: Median processing time for new regime regulations (months)	3
Measure 1c: Percent of attendees rating seminars highly	85%
Measure 1d: Percent of declarations received from U.S. industry in accordance with CWC regulations (time lines) that are processed, certified and submitted to the State Department in time for the U.S. to meet its treaty obligations	100%
Measure 1e: Number of actions that result in a deterrence or prevention of a violation and cases which result in a criminal and/or administrative charge	850
Measure 1f: Percent of shipped transactions in compliance with the licensing requirements of the Export Administration Regulations (EAR)	95%
Measure 1g: Percentage of post-shipment verifications completed and categorized above the "Unfavorable" classification	260 PSVs 85%

**Cost and Benefits:**

	FY 2009 Estimate
Direct Obligations:	
Uncapitalized	827.0
Budget Authority	827.0
Outlays	703.0
FTE	3
Benefits, in dollars	827.0

**Department of Commerce  
BUREAU OF INDUSTRY AND SECURITY  
Operations and Administration  
Program Change Personnel Detail**

**Activity: Export Administration**  
**Program Change: Validated End-User Initiative (VEU)**

<b>Title:</b>	<b>Grade</b>	<b>Number</b>	<b>Annual Plan</b>	<b>Total Salaries</b>
Export Compliance Specialist	14.01	1	\$98,033	\$98,033
Export Compliance Specialist	11.01	1	\$58,206	\$58,206
Export Compliance Specialist	9.01	2	\$48,108	\$96,216
Total		4		\$252,455
Less lapse	25.0%	(1)		-\$63,114
Total, full-time permanent		3		\$189,340
FY 2009 pay raise	2.9%			\$5,491
<b>Total full-time permanent:</b>		<b>3</b>		<b>\$194,831</b>

<b>Personnel Data:</b>	<b>Number</b>
Full-time Equivalent Employment:	
Full-time permanent	3
Other than full-time permanent	0
<b>Total</b>	<b>3</b>

Authorized Positions:	
Full-time permanent	4
Other than full-time permanent	0
Total	4

Department of Commerce  
BUREAU OF INDUSTRY AND SECURITY  
Operations and Administration  
Program Change Detail by Object Class  
(Dollars in thousands)

Activity: Export Administration  
Program Change: Validated End-User Initiative (VEU)

Object Class:		<u>FY 2009 Increase</u>
	Personnel compensation	
11.1	Full-time permanent	\$195
11.3	Other than full-time permanent	0
11.5	Other personnel compensation	0
11.8	Special personnel services payments	0
11.9	Total personnel compensation	<u>\$195</u>
12.1	Civilian personnel Benefits	\$45
13	Benefits for former personnel	0
21	Travel and transportation of persons	\$200
22	Transportation of things	\$4
23.1	Rental payments to GSA	\$50
23.2	Rental payments to others	0
23.3	Communications, utilities and miscellaneous charges	\$17
24	Printing and reproduction	\$3
25	Other services	\$133
26	Supplies and materials	\$20
31	Equipment	\$160
32	Lands and structures	0
33	Investments and loans	0
41	Grants, subsidies and contributions	0
42	Insurance claims and indemnities	0
43	Interest and dividends	0
44	Refunds	0
99	Total obligations	<u>\$827</u>

**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Operations and Administration**  
**Program and Performance: Direct Obligations**  
 (Dollar amounts in thousands)

Comparison by Activity:		2007		2008		2009		2009		Increase/ Decrease	
		Actual		Enacted		Base		Estimate		Personnel	Amount
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount		
Export Enforcement.....	Pos./BA	183	\$31,989	164	\$31,714	176	\$35,280	182	\$36,838	6	\$1,558
	FTE/Obl.	164	\$32,168	164	\$31,918	176	\$35,280	180	\$36,838	4	\$1,558

**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Operations and Administration**  
**JUSTIFICATION OF PROGRAM AND PERFORMANCE**

**Activity: Export Enforcement**

**BIS Performance Goals (Priorities):**

1. Maintain and strengthen an adaptable and effective U.S. export control and treaty compliance system
2. Integrate non-U.S. actors to create a more effective global export control and treaty compliance system

Activity Goal: To advance U.S. national security, foreign policy, and economic objectives by enforcing dual-use export control and anti-boycott laws and regulations in the context of an effective export control and treaty compliance system.

Objectives: Pursuant to the EAA (which expired on August 19, 2001, but the provisions of which remain in force under the IEEPA, Executive Order 13222, as extended most recently by the Notice of August 15, 2007 (72 Fed. Reg. 46137 (August 16, 2007)), EE enforces dual-use export controls for reasons of national security, nonproliferation, anti-terrorism, foreign policy, and short supply.

**Base Program:**

The major activities of BIS's enforcement program include investigating criminal and administrative violations and imposing civil sanctions for violations of the EAA, IEEPA, the CWCIA, the Fastener Quality Act (FQA), and related statutes and regulations. Consistent with the President's national security priorities, EE prioritizes its enforcement activities on cases relating to the proliferation of weapons of mass destruction, terrorism, and military diversion. The success of this program is demonstrated by the fact that it far exceeded its FY 2007 GPRA measure for deterrence, prevention and prosecution (930 in FY 2007, includes antiboycott deterrence).

EE also undertakes a vigorous campaign of preventive enforcement measures. EE Special Agents conduct end-use checks, both pre-license checks and post-shipment verifications for licensed transactions, to help detect and prevent diversions of U.S. goods to countries and end-users of proliferation concern. BIS's

Export Control Officers (ECOs) conduct many of these end-use checks. Currently, BIS has ECOs in Abu Dhabi, Beijing, Hong Kong, Moscow, and New Delhi. ECOs also help their host countries develop and maintain effective enforcement systems and facilitate cooperation with the United States on export enforcement matters. In addition, BIS ECOs educate the business community about U.S. export control laws and regulations.

Other end-use checks are conducted through the Sentinel program generally by two-person teams of BIS Special Agents on two-week assignments to visit foreign consignees and end-users of U.S. commodities and technology. The Special Agents conduct end-use checks to determine if the export transactions are in compliance with U.S. export regulations. In addition to conducting on-site end-use visits, the teams train American Embassy/Consulate officials to conduct end-use checks and educate host government officials as well as local importers about U.S. export control requirements. The success of the end-use check program is demonstrated by the fact that it exceeded its FY 2007 GPRA measure for conducting end-use checks (854 in FY 2007).

Other EE preventive enforcement measures include seeking temporary denials of export privileges where a violation is imminent, review of Shipper's Export Declarations (SEDs), utilization of intelligence research and analysis to better target EE's nonproliferation and anti-terrorism enforcement efforts, review of visa applications of foreign nationals who are not permanent residents to prevent illegal technology transfers to WMDs and other weapons programs, and screening export license applications against the U.S. Department of Homeland Security's Treasury Enforcement Communication Systems (TECS) and other databases.

EE also enforces U.S. antiboycott law and regulations by advising U.S. exporters on potential prohibited requests contained in foreign contracts; investigating violations such as the furnishing of boycott-related information, refusing to deal with blacklisted businesses; and pursuing criminal and administrative sanctions for violations.

EE's outreach objectives include education programs to train U.S. exporters to identify and avoid illegal transactions, reducing U.S. business participation in foreign boycotts through a comprehensive public awareness program that increases private sector understanding of the antiboycott regulations, improving government-wide export enforcement efforts through increased cooperation with other U.S. Government export control and enforcement agencies, and working cooperatively with foreign governments to help them acquire enforcement capabilities needed for fully effective export control programs.

EE is structured into three offices to meet its goals and implement its programs. BIS's federal law enforcement agents work through the Office of Export Enforcement (OEE) to investigate suspected violations of the EAA and the EAR, the FQA and regulations, and the regulations implementing the CWCIA. OEE investigations can result in the imposition of criminal penalties as well as administrative penalties (civil monetary fines and export denials). OEE Special Agents have traditional police powers, including the authority to make arrests, execute warrants, issue administrative subpoenas, and detain, seize, and forfeit goods.

OEE's Special Agents are based in field offices located throughout the country in major strategic technology exporting centers. Currently, BIS has eight regional field offices: Irvine, California; San Jose, California; New York City, New York; Herndon, Virginia; Boston, Massachusetts; Fort Lauderdale, Florida; Dallas, Texas; and Des Plaines, Illinois. BIS also has a resident office in Houston, Texas, which reports to the Dallas Field Office. Additional Special Agents located in the Washington, DC, headquarters collect and analyze information relating to potential dual-use export control violations. These Special Agents also serve as BIS's point of contact for all intelligence information needed to identify and target suspects for enforcement investigations and to identify diversion networks.

OEE's enforcement personnel work closely with other federal agencies involved in dual-use export controls. OEE shares enforcement responsibility for the EAA and the EAR with the U.S. Department of Homeland Security. OEE and Homeland Security agents conduct joint investigations, and OEE agents also work with the Department of Justice and its Federal Bureau of Investigation (FBI), the Departments of State, Defense, Treasury and Energy, and with the intelligence community. To each of these partnerships, OEE Special Agents bring unique and deep specialization in the narrow range of export control laws that BIS enforces. Because of their close working relationship with BIS's licensing officers and policy staff, as well as with other U.S. Government agencies involved in export controls, OEE Special Agents have a sophisticated awareness of all aspects of the export control system, the importance of its provisions, and the potential areas of vulnerability.

EE's Office of Enforcement Analysis (OEA) supports field agents by collecting and analyzing information from all sources, public, governmental, and intelligence. OEA personnel bring the enforcement perspective to the evaluation of export license applications. They also analyze intelligence information and correlate this information to determine when pre-license checks and post-shipment verification checks should be conducted.

EE's Office of Antiboycott Compliance (OAC) works to ensure compliance with the antiboycott provisions of the EAA. OAC also provides important support to the State Department in connection with the U.S. Government's efforts to persuade Arab governments to end their boycott of Israel. Finally, OAC provides U.S. Embassies with detailed analysis and documentation of the boycott requests received in the United States for use in engaging with Arab governments.

**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Increase for 2009**  
**Counter-Proliferation Initiative**  
(Dollar amounts in thousands)

		2009 Base		2009 Estimate		Increase (Decrease)	
		<u>Personnel</u>	<u>Amount</u>	<u>Personnel</u>	<u>Amount</u>	<u>Personnel</u>	<u>Amount</u>
<b>Export Enforcement</b>	Pos./BA	176	\$35,280	180	\$35,975	4	\$695
	FTE/Obl.	176	\$35,280	179	\$35,975	3	\$695

**Counter-Proliferation Initiative (4 Positions, 3 FTE, and \$695,000).** The following change is being requested:

In March 2005, the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (the “WMD Commission”) recommended a number of actions to enhance counter proliferation efforts. A central recommendation was expansion of agent and analytic resources for the field operations of the Bureau of Industry and Security’s agents.

BIS is currently staffed with approximately 100 criminal investigators assigned to offices in the Washington, D.C. headquarters and in eight domestic field offices headed by Special Agents in Charge. These field offices are located in Boston, Chicago, Dallas, Los Angeles, Miami, New York, San Jose, and suburban Washington, D.C. BIS criminal investigators are also assigned to Houston with a Resident Agent in Charge, reporting to the Dallas Field Office. In addition, BIS has Export Control Officers stationed in China, the United Arab Emirates, Russia, Hong Kong, and India. These criminal investigators are supported by 12 enforcement analysts in Washington, D.C.

BIS field offices are strategically located throughout the country in urban areas that have been traditional hubs of commerce, such as technology centers and ports. However, investigations focused on end-use and end-user controls relevant to weapons of mass destruction (WMD) proliferation concerns have demonstrated the need for an enhanced enforcement presence in additional locations nationwide to provide BIS criminal investigators with better access to industries and technologies with proliferation implications that have been difficult to reach due to great distances from existing field offices and high travel costs. Additional locations would also permit BIS criminal investigators to participate in more WMD and counter-proliferation task forces with agents and officials from sister enforcement agencies, thus multiplying the impact of each BIS criminal investigator.

BIS therefore requests funding for four new positions to provide an enhanced presence in key geographic areas nationwide. These positions would be for series 1811 criminal investigators as new Resident Agent in Charge offices. BIS would seek to co-locate the criminal investigators with other federal law enforcement agencies.

**Performance Impact: Counter-Proliferation Initiative**

<b>Measure Number:</b> 1e <b>Measure Name:</b> Number of actions that result in a deterrence or prevention of a violation and cases which result in a criminal and/or administrative charge <b>Exhibit 3a (APP) Page Number:</b> 14		<b>FY 2007 Target</b>	<b>FY 2008 Target</b>	<b>FY 2009 Target</b>	<b>FY 2010 Target</b>	<b>FY 2011 Target</b>	<b>FY 2012 Target</b>
Counter Proliferation Initiative	<b>With Increase</b>	<b>450</b>	<b>675</b>	<b>850</b>	<b>850</b>	<b>850</b>	<b>850</b>
Counter Proliferation Initiative	<b>Without Increase</b>	<b>450</b>	<b>675</b>	<b>800</b>	<b>800</b>	<b>800</b>	<b>800</b>
<b>Description:</b> GPRA Measure, refer to Exhibit 3a (APP) for description.							

**Performance Measures:**

	FY 2009 Target
<u>Goal 1: Maintain and Strengthen an Adaptable and Effective U.S. Export Control and Treaty Compliance System</u>	
Measure 1a: Percent of licenses requiring interagency referral referred within nine days	95%
Measure 1b: Median processing time for new regime regulations (months)	3
Measure 1c: Percent of attendees rating seminars highly	85%
Measure 1d: Percent of declarations received from U.S. industry in accordance with CWC regulations (time lines) that are processed, certified and submitted to the State Department in time for the U.S. to meet its treaty obligations	100%
Measure 1e: Number of actions that result in a deterrence or prevention of a violation and cases which result in a criminal and/or administrative charge	850
Measure 1f: Percent of shipped transactions in compliance with the licensing requirements of the Export Administration Regulations (EAR)	95%
Measure 1g: Percentage of post-shipment verifications completed and categorized above the “Unfavorable” classification	260 PSVs 85%

**Cost and Benefits:**

	FY 2009 Estimate
Direct Obligations:	
Uncapitalized	695.0
Budget Authority	695.0
Outlays	591.0
FTE	3
Benefits, in dollars	695.0

**Department of Commerce  
BUREAU OF INDUSTRY AND SECURITY  
Operations and Administration  
Program Change Personnel Detail**

**Activity: Export Enforcement  
Program Change: Counter-Proliferation Initiative**

<b>Title:</b>	<b>Grade</b>	<b>Number</b>	<b>Annual Plan</b>	<b>Total Salaries</b>
Criminal Investigator	12.01	4	\$69,764	\$279,056
Analyst	0	0	\$0	\$0
<b>Total</b>		4		\$279,056
Less lapse	25.0%	(1)		-\$69,764
Total, full-time permanent		3		\$209,292
FY 2009 pay raise	2.9%			\$6,069
Availability Pay	25.0%			\$53,893
<b>Total full-time permanent:</b>		<b>3</b>		<b>\$269,255</b>

<b>Personnel Data:</b>	<b>Number</b>
Full-time Equivalent Employment:	
Full-time permanent	3
Other than full-time permanent	0
<b>Total</b>	<b>3</b>

Authorized Positions:	
Full-time permanent	4
Other than full-time permanent	0
<b>Total</b>	<b>4</b>

Department of Commerce  
BUREAU OF INDUSTRY AND SECURITY  
Operations and Administration  
Program Change Detail by Object Class  
(Dollars in thousands)

Activity: Export Enforcement  
Program Change: Counter-Proliferation Initiative

Object Class:		<u>FY 2009 Increase</u>
	Personnel compensation	
11.1	Full-time permanent	\$269
11.3	Other than full-time permanent	0
11.5	Other personnel compensation	0
11.8	Special personnel services payments	0
11.9	Total personnel compensation	<u>\$269</u>
12.1	Civilian personnel Benefits	\$95
13	Benefits for former personnel	0
21	Travel and transportation of persons	\$80
22	Transportation of things	\$3
23.1	Rental payments to GSA	\$50
23.2	Rental payments to others	0
23.3	Communications, utilities and miscellaneous charges	\$14
24	Printing and reproduction	\$1
25	Other services	\$120
26	Supplies and materials	\$15
31	Equipment	\$48
32	Lands and structures	0
33	Investments and loans	0
41	Grants, subsidies and contributions	0
42	Insurance claims and indemnities	0
43	Interest and dividends	0
44	Refunds	0
99	Total obligations	<u>\$695</u>

**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Increase for 2009**  
**Enhanced Southeast Asia Transshipment Initiative**  
(Dollar amounts in thousands)

		2009 Base		2009 Estimate		Increase (Decrease)	
		<u>Personnel</u>	<u>Amount</u>	<u>Personnel</u>	<u>Amount</u>	<u>Personnel</u>	<u>Amount</u>
<b>Export Enforcement</b>	Pos./BA	176	\$35,280	178	\$36,143	2	\$863
	FTE/Obl.	176	\$35,280	177	\$36,143	1	\$863

**Enhanced Southeast Asia Transshipment Initiative (2 Positions, 1 FTE, and \$863,000).** The following change is being requested:

In the world of global commerce, transshipment hubs are critical to the movement of goods in international trade. Yet, often these hubs are vulnerable to trade security and international export control concerns. To address this challenge, the BIS strategic plan identifies “Develop[ing] and implement[ing] policies addressing economies of transshipment concern to mitigate risk of diversion as one of its top objectives under Priority 2: “Integrate non-U.S. actors to create a more effective global export control and treaty compliance system.”

Several of the countries of transshipment concern are in Southeast Asia. To address these transshipment concerns, enhance the BIS enforcement presence in Southeast Asia, and advance BIS priorities, BIS proposes to establish an Export Control Officer (ECO) position, based in Singapore, but with regional responsibilities in Malaysia, Indonesia, Thailand and the Philippines. The ECO would monitor transshipments through Singapore and, as a trained criminal investigator, the ECO would use his/her unique training and investigative skills to conduct targeted high priority end-use checks to uncover diversion schemes and halt the illegal transfer of controlled items to WMD proliferating countries or terrorist groups. The ECO would also work with host government and industry officials to engage in export control and enforcement cooperation and to ensure that they understand and comply with U.S. export controls.

As a part of the regional focus of this position, the ECO would also conduct regional trips to Malaysia and Indonesia to conduct end-use checks, along with less frequent trips to Thailand and the Philippines. Having an ECO with regional responsibilities would enable BIS to benefit from more timely completion of end-use checks in the regional countries, in turn providing shortened license processing times for legitimate transactions and more timely prevention of unauthorized diversions. The regional ECO could more effectively establish and maintain relationships with embassy and host government officials in the regional countries, to consult and coordinate on issues of mutual concern, including real-time enforcement actions involving in-transit cargo requiring immediate response.

To support the ECO's work, BIS also proposes to establish an analyst within the Office of Enforcement Analysis. Experience has shown that a dedicated analyst enhances ECO productivity. This analyst would provide critical analytic support by generating targeted end-use check requests, focusing on the particular diversion concerns of goods transiting through these transshipment hubs in Southeast Asia. The analyst would also provide the ECO with key regional analysis by identifying cross border illicit proliferation and diversion activity. This position is meant to complement, rather than replace current existing analytic resources within the Office of Enforcement Analysis, which already support the work of the five ECOs currently stationed in other overseas countries of concern.

**Performance Impact: Enhanced Southeast Asia Transshipment Initiative**

<b>Measure Number:</b> 2a <b>Measure Name:</b> Number of end-use checks completed <b>Exhibit 3a (APP) Page Number:</b> 17		<b>FY 2007 Target</b>	<b>FY 2008 Target</b>	<b>FY 2009 Target</b>	<b>FY 2010 Target</b>	<b>FY 2011 Target</b>	<b>FY 2012 Target</b>
Enhanced Southeast Asia Transshipment Initiative	<b>With Increase</b>	<b>850</b>	<b>Baseline</b>	<b>New</b>	<b>New</b>	<b>New</b>	<b>New</b>
Enhanced Southeast Asia Transshipment Initiative	<b>Without Increase</b>	<b>850</b>	<b>Baseline</b>	<b>New</b>	<b>New</b>	<b>New</b>	<b>New</b>
<b>Description:</b> GPRA Measure, refer to Exhibit 3a (APP) for description.							

**Performance Measures:**

	FY 2009 Target
<u>Goal 2: Integrate Non-U.S. Actors to Create a More Effective Global Export Control and Treaty Compliance System</u>	
Measure 2a: Number of End-Use Checks completed FY 2007: (650 PSVs + 200 PLCs) FY 2008: (Baseline) FY 2009: (New)	850

**Cost and Benefits:**

	FY 2009 Estimate
Direct Obligations: Un-capitalized	863.0
Budget Authority	863.0
Outlays	734.0
FTE	1
Benefits, in dollars	863.0

**Department of Commerce  
BUREAU OF INDUSTRY AND SECURITY  
Operations and Administration  
Program Change Personnel Detail**

**Activity: Export Enforcement**  
**Program Change: Enhanced Southeast Asia Transshipment Initiative**

<b>Title:</b>	<b>Grade</b>	<b>Number</b>	<b>Annual Plan</b>	<b>Total Salaries</b>
Export Control Officer	14.01	1	\$98,033	\$98,033
Analyst	13.01	1	\$82,961	\$82,961
<b>Total</b>		2		\$180,994
Less lapse	25.0%	(1)		-\$45,249
Total, full-time permanent		1		\$135,746
FY 2009 pay raise	2.9%			\$3,937
Availability Pay	25.0%			\$18,933
<b>Total full-time permanent:</b>		<b>1</b>		<b>\$158,615</b>

<b>Personnel Data:</b>	<b>Number</b>
Full-time Equivalent Employment:	
Full-time permanent	1
Other than full-time permanent	0
<b>Total</b>	<b>1</b>

Authorized Positions:	
Full-time permanent	2
Other than full-time permanent	0
<b>Total</b>	<b>2</b>

**Exhibit - 15**

**Department of Commerce  
BUREAU OF INDUSTRY AND SECURITY  
Operations and Administration  
Program Change Detail by Object Class  
(Dollars in thousands)**

**Activity: Export Enforcement**

**Program Change: Enhanced Southeast Asia Transshipment Initiative**

<b>Object Class:</b>	<b>FY 2009 Increase</b>
Personnel compensation	
11.1 Full-time permanent	\$159
11.3 Other than full-time permanent	0
11.5 Other personnel compensation	0
11.8 Special personnel services payments	0
11.9 Total personnel compensation	\$159
12.1 Civilian personnel Benefits	\$56
13 Benefits for former personnel	0
21 Travel and transportation of persons	\$10
22 Transportation of things	\$2
23.1 Rental payments to GSA	\$13
23.2 Rental payments to others	0
23.3 Communications, utilities and miscellaneous charges	\$4
24 Printing and reproduction	\$1
25 Other services	\$603
26 Supplies and materials	\$5
31 Equipment	\$10
32 Lands and structures	0
33 Investments and loans	0
41 Grants, subsidies and contributions	0
42 Insurance claims and indemnities	0
43 Interest and dividends	0
44 Refunds	0
99 Total obligations	\$863

**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Operations and Administration**  
**Summary of Requirements by Object Class**  
(Dollar amounts in thousands)

Object Class	2007 Actual*	2008 Enacted	2009 Base	2009 Estimate	Increase/ Decrease
<b>Personnel compensation:</b>					
11.1 Full-time permanent	\$33,075	\$29,693	\$33,266	\$33,816	\$550
11.3 Other than full-time permanent	\$381	\$213	\$239	\$239	\$0
11.5 Other personnel compensation	\$2,953	\$3,090	\$3,435	\$3,508	\$73
11.8 Special personnel services payments	\$0	\$33	\$36	\$36	\$0
<b>11.9 Total personnel compensation</b>	<b>\$36,409</b>	<b>\$33,029</b>	<b>\$36,976</b>	<b>\$37,599</b>	<b>\$623</b>
12.0 Civilian personnel benefits	\$10,728	\$8,644	\$10,745	\$10,940	\$195
13.0 Benefits for former personnel	\$131	\$16	\$16	\$16	\$0
21.0 Travel and transportation of persons	\$1,418	\$2,913	\$3,003	\$3,267	\$264
22.0 Transportation of things	\$38	\$141	\$154	\$163	\$9
<b>Rent, communications, and utilities:</b>					
23.1 Rental payments to GSA	\$4,562	\$4,501	\$4,916	\$5,028	\$112
23.2 Rental payments to others	\$0	\$25	\$26	\$26	\$0
23.3 Communications, utilities and miscellaneous charges	\$598	\$1,592	\$1,710	\$1,744	\$34
24.0 Printing and reproduction	\$250	\$221	\$238	\$244	\$6
<b>Consulting and other services</b>					
25.1 Advisory and assistance services	\$18	\$283	\$830	\$830	\$0
25.2 Other services	\$7,539	\$7,422	\$6,681	\$6,880	\$199
25.3 Purchase of goods and services from Government accounts	\$12,624	\$11,050	\$12,239	\$13,073	\$834
26.0 Supplies and materials	\$2,269	\$1,226	\$1,468	\$1,536	\$68
31.0 Equipment	\$623	\$2,381	\$2,289	\$2,330	\$41
32.0 Lands and structures	\$0	\$0	\$0	\$0	\$0
33.0 Investments and loans	\$0	\$0	\$0	\$0	\$0
41.0 Grants, subsidies and contributions	\$0	\$0	\$0	\$0	\$0
42.0 Insurance claims and indemnities	\$1	\$0	\$0	\$0	\$0
43.0 Interest and dividends	\$9	\$0	\$0	\$0	\$0
50.0 Depreciation	\$0	\$0	\$0	\$0	\$0
<b>99.0 Total Obligations</b>	<b>\$77,217</b>	<b>\$73,444</b>	<b>\$81,291</b>	<b>\$83,676</b>	<b>\$2,385</b>
Less: Recoveries	-\$454	\$0	\$0	\$0	\$0
Less: Unobligated balance, start of year	-\$1,959	-\$589	\$0	\$0	\$0
Plus: Unobligated balance, rescission	\$0	\$0	\$0	\$0	\$0
Plus: Unobligated balance, end of year	\$589	\$0	\$0	\$0	\$0
Plus: Unobligated balance, expiring	\$0	\$0	\$0	\$0	\$0
Plus: Unobligated balance, transferred	\$0	\$0	\$0	\$0	\$0
Less: Transferred from other accounts	\$0	\$0	\$0	\$0	\$0
Less: Transferred to other accounts	\$0	\$0	\$0	\$0	\$0
<b>99.1 Total Budget Authority</b>	<b>\$75,393</b>	<b>\$72,855</b>	<b>\$81,291</b>	<b>\$83,676</b>	<b>\$2,385</b>

\* FY 2007 actual object class breakout differs from that reflected in MAX.

Exhibit-17

**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Operations and Administration**  
**Detailed Requirements by Object Class**  
(Dollar amounts in thousands)

Object Class	2009 Adjustments to Base	2009 Base	2009 Estimate	Increase/ Decrease
<b>11 Personnel compensation:</b>				
<b>11.1 Full-time permanent:</b>				
Executive level	\$6	\$190	\$190	\$0
Senior executive service	\$61	\$2,166	\$2,166	\$0
General schedule/regular employees	\$606	\$20,553	\$20,814	\$261
General schedule/law enforcement	\$295	\$10,357	\$10,646	\$289
<b>Subtotal</b>	<b>\$968</b>	<b>\$33,266</b>	<b>\$33,816</b>	<b>\$550</b>
<b>11.3 Other than full-time permanent:</b>				
General schedule	\$7	\$239	\$239	\$0
Wage board	\$0	\$0	\$0	\$0
Experts & consultants	\$0	\$0	\$0	\$0
Hourly	\$0	\$0	\$0	\$0
<b>Subtotal</b>	<b>\$7</b>	<b>\$239</b>	<b>\$239</b>	<b>\$0</b>
<b>11.5 Other personnel compensation:</b>				
Overtime	\$0	\$60	\$60	\$0
SES performance awards	\$0	\$110	\$110	\$0
Cash awards	\$0	\$677	\$677	\$0
Merit pay awards	\$0	\$0	\$0	\$0
Availability Pay	\$74	\$2,588	\$2,661	\$73
<b>Subtotal</b>	<b>\$74</b>	<b>\$3,435</b>	<b>\$3,508</b>	<b>\$73</b>
<b>11.8 Special personnel services payments:</b>				
Foreign service officers (State)	\$0	\$0	\$0	\$0
Other	\$0	\$36	\$36	\$0
<b>Subtotal</b>	<b>\$0</b>	<b>\$36</b>	<b>\$36</b>	<b>\$0</b>
<b>11.9 Total personnel compensation:</b>	<b>\$1,049</b>	<b>\$36,976</b>	<b>\$37,599</b>	<b>\$623</b>

	2009 Adjustments to Base	2009 Base	2009 Estimate	Increase/ Decrease
<b>12.0 Civilian personnel benefits:</b>				
Civil service retirement system (CSRS)	-\$105	\$624	\$632	\$8
Federal employees' retirement system	\$414	\$4,249	\$4,341	\$92
Thrift savings plan	\$50	\$1,050	\$1,062	\$12
Federal insurance contribution act	\$152	\$2,284	\$2,317	\$33
Health Benefits(FEHBA)	\$40	\$40	\$50	\$10
Health insurance	\$16	\$2,209	\$2,248	\$39
Life insurance	\$1	\$56	\$57	\$1
Employees' compensation fund	\$233	\$233	\$233	\$0
<b>Subtotal</b>	<b>\$801</b>	<b>\$10,745</b>	<b>\$10,940</b>	<b>\$195</b>
<b>13.0 Benefits for former personnel:</b>				
Severance pay	\$0	\$3	\$3	\$0
Unemployment compensation	\$0	\$11	\$11	\$0
Other	\$0	\$2	\$2	\$0
<b>Subtotal</b>	<b>\$0</b>	<b>\$16</b>	<b>\$16</b>	<b>\$0</b>
<b>21.0 Travel and transportation of persons:</b>				
Common carrier	\$0	\$1,006	\$1,141	\$135
Mileage	\$4	\$62	\$103	\$41
Per diem/actual	\$0	\$1,385	\$1,453	\$68
Commercial car rental	\$1	\$532	\$552	\$20
Other	\$0	\$18	\$18	\$0
<b>Subtotal</b>	<b>\$5</b>	<b>\$3,003</b>	<b>\$3,267</b>	<b>\$264</b>
<b>22.0 Transportation of things</b>	<b>\$3</b>	<b>\$154</b>	<b>\$163</b>	<b>\$9</b>
<b>23.0 Rent, communications, and utilities:</b>				
<b>23.1 Rental payments to GSA</b>	<b>\$108</b>	<b>\$4,916</b>	<b>\$5,028</b>	<b>\$112</b>
<b>23.2 Rental payments to others</b>	<b>\$0</b>	<b>\$26</b>	<b>\$26</b>	<b>\$0</b>
<b>23.3 Communications, utilities and miscellaneous charges:</b>				
Federal telecommunications system	\$0	\$508	\$518	\$10
Commercial telephone services	\$16	\$834	\$850	\$16
Postal Service by USPS	\$14	\$295	\$301	\$6
Other	\$0	\$73	\$75	\$2
<b>Subtotal</b>	<b>\$30</b>	<b>\$1,710</b>	<b>\$1,744</b>	<b>\$34</b>

	2009 Adjustments to Base	2009 Base	2009 Estimate	Increase/ Decrease
<b>24.0 Printing and reproduction:</b>				
Publications	\$4	\$211	\$217	\$6
Public use forms	\$0	\$7	\$7	\$0
Envelopes	\$0	\$13	\$13	\$0
Other	\$0	\$7	\$7	\$0
<b>Subtotal</b>	<b>\$4</b>	<b>\$238</b>	<b>\$244</b>	<b>\$6</b>
<b>25.0 Other Contractual Services</b>				
<b>25.1 Consulting services</b>	<b>\$0</b>	<b>\$830</b>	<b>\$830</b>	<b>\$0</b>
<b>25.2 Other Services:</b>				
Maintenance of equipment	\$24	\$187	\$187	\$0
ADP related costs	\$129	\$1,002	\$1,179	\$177
Telecommunications services	\$34	\$269	\$269	\$0
Other	\$0	\$5,223	\$5,245	\$22
<b>Subtotal</b>	<b>\$187</b>	<b>\$6,681</b>	<b>\$6,880</b>	<b>\$199</b>
<b>25.3 Purchase of goods and services from Gov't accounts:</b>				
WCF Payments to O/S	\$251	\$8,652	\$8,652	\$0
National archives & records Admin:	-\$4	\$112	\$112	\$0
Other Payments to O/S	\$0	\$1,121	\$1,383	\$262
Other Federal Agencies	\$0	\$2,354	\$2,926	\$572
<b>Subtotal</b>	<b>\$247</b>	<b>\$12,239</b>	<b>\$13,073</b>	<b>\$834</b>
<b>26.0 Supplies and materials:</b>				
Fuel	\$96	\$343	\$371	\$28
Office supplies	\$12	\$759	\$785	\$26
ADP supplies	\$7	\$366	\$380	\$14
<b>Subtotal</b>	<b>\$115</b>	<b>\$1,468</b>	<b>\$1,536</b>	<b>\$68</b>
<b>31.0 Equipment:</b>				
Office machines and equipment	\$20	\$931	\$949	\$18
ADP hardware	\$18	\$841	\$857	\$16
ADP software	\$7	\$313	\$320	\$7
Other	\$0	\$204	\$204	\$0
<b>Subtotal</b>	<b>\$45</b>	<b>\$2,289</b>	<b>\$2,330</b>	<b>\$41</b>

	2009 Adjustments to Base	2009 Base	2009 Estimate	Increase/ Decrease
32 Lands and structures	\$0	\$0	\$0	\$0
33 Investments and loans	\$0	\$0	\$0	\$0
41 Grants, subsidies and contributions	\$0	\$0	\$0	\$0
42 Insurance claims and indemnities	\$0	\$0	\$0	\$0
43 Interest and dividends	\$0	\$0	\$0	\$0
<b>44 Refunds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
99 Total Obligations	\$2,594	\$81,291	\$83,676	\$2,385
99 Total Budget Authority	<u>\$2,594</u>	<u>\$81,291</u>	<u>\$83,676</u>	<u>\$2,385</u>

**Department of Commerce**  
**Bureau of Industry and Security**  
**Operations and Administration**  
**SUMMARY OF INFORMATION TECHNOLOGY RESOURCES**

(Dollar amounts in thousands)  
(Budget Authority)

<b>IT Projects by activity/subactivity: with totals by activity</b>	Unique Project Identifier	IT Investment Title	2007 Actuals	2008 Estimate	2009 Estimate	Increase/ Decrease
Management and Policy Coordination	006-30-02-00-02-5505-00	BIS Bureau Communications Infrastructure (BCI)	\$154.74	\$192.37	\$192.37	\$0.00
	006-30-03-00-02-5506-00	BIS OCIO Planning	\$81.66	\$118.97	\$153.16	\$34.19
	<b>Subtotal</b>		<b>\$236.40</b>	<b>\$311.34</b>	<b>\$345.53</b>	<b>\$34.19</b>
Export Administration	006-30-02-00-02-5505-00	BIS Bureau Communications Infrastructure (BCI)	\$1,289.52	\$1,374.11	\$1,374.11	\$0.00
	006-30-03-00-02-5506-00	BIS OCIO Planning	\$583.27	\$849.75	\$1,099.76	\$250.01
	006-30-01-25-01-5501-00	BIS ECASS2000+	\$3,124.50	\$3,136.50	\$2,658.00	-\$478.50
	006-30-01-25-01-5502-00	BIS Treaty Compliance Division (TCD) - Network and Information Management System	\$1,347.00	\$1,677.00	\$1,772.00	\$95.00
	006-30-01-25-01-5510-00	BIS ECASS Modernization	\$182.60	\$354.60	\$357.40	\$2.80
	006-30-01-25-02-5515-00	BIS Legacy Export Control	\$1,188.12	\$1,231.12	\$1,237.43	\$6.31
<b>Subtotal</b>		<b>\$7,715.01</b>	<b>\$8,623.08</b>	<b>\$8,498.70</b>	<b>-\$124.38</b>	
Export Enforcement	006-30-02-00-02-5505-00	BIS Bureau Communications Infrastructure (BCI)	\$1,134.78	\$1,181.75	\$1,181.75	\$0.00
	006-30-03-00-02-5506-00	BIS OCIO Planning	\$501.61	\$730.78	\$946.58	\$215.80
	006-30-01-25-01-5501-00	BIS ECASS2000+	\$3,124.50	\$3,136.50	\$2,658.00	-\$478.50
	006-30-01-25-02-5515-00	BIS Legacy Export Control	\$1,188.12	\$1,231.12	\$1,237.43	\$6.31
<b>Subtotal</b>		<b>\$5,949.01</b>	<b>\$6,280.15</b>	<b>\$6,023.76</b>	<b>-\$256.39</b>	
<b>Total</b>			<b>\$13,900.42</b>	<b>\$15,214.57</b>	<b>\$14,867.99</b>	<b>-\$346.58</b>

**Department of Commerce  
BUREAU OF INDUSTRY AND SECURITY**

**Appropriation Language and Code Citations**

**1. “For necessary expense for export administration and national security activities of the Department of Commerce”**

**A. Export Administration**

50 U.S.C. app. 2401 et seq.  
10 U.S.C. 7430(e)  
22 U.S.C. 2799aa-1(b)  
22 U.S.C. 6001-6005  
22 U.S.C. 7201-7211  
30 U.S.C. 185(s), 185(u)  
42 U.S.C. 2139a, 6212  
43 U.S.C. 1354  
46 U.S.C. app. 466c  
50 U.S.C. 1701

50 U.S.C. app 2401 et seq. (Export Administration Act of 1979, as amended) provides authority for the regulation of exports for reasons of national security, foreign policy, or short supply. It also authorizes implementation of restrictions on compliance with foreign boycotts and other restrictive trade practices. The Export Administration Act expired on August 20, 2001. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. p. 783 (2002)), as extended by the Notice of August 15, 2007 (72 Fed. Reg. 46137, August 16, 2007), continues the provisions of the Export Administration Act in effect, to the extent permitted by law, under authority of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

10 U.S.C. 7430(e), 30 U.S.C. 185(s) and 185(u), 42 U.S.C. 6212 and 43 U.S.C. 1354 are provisions related to the export of oil and gas.

22 U.S.C. 2799aa-1(b) requires the President to impose sanctions, including prohibiting exports of specific goods and technologies, under section 6 of the Export Administration Act on a non-nuclear-weapon state that receives or detonates a nuclear explosive device.

22 U.S.C. 6001-6005 includes provisions of the Cuban Democracy Act, as amended, and the Cuban Liberty and Democratic Solidarity (Libertad) Act, related to certain exports to Cuba.

22 U.S.C. 7201-7211 (Trade Sanctions Reform and Export Enhancement Act of 2000, as amended) sets forth a licensing regime for the export of agricultural commodities, medicines and medical devices to designated terrorism-supporting countries.

42 U.S.C. 2139a sets forth the Commerce Department's responsibility for controlling the export of dual-use items of significance for nuclear explosive purposes.

46 U.S.C. app. 466c prohibits the export of horses by sea for purposes of slaughter.

50 U.S.C. 1701 et seq. (International Emergency Economic Powers Act, as amended) provides that the President may declare a national emergency to deal with an extraordinary threat to the U.S. national security, foreign policy or economy. Sanctions statutes, including the Iran Sanctions Act and the Iran-Iraq Arms Non-Proliferation Act, are codified as notes to this section.

## **B. National Security**

10 U.S.C. 2531-2532  
19 U.S.C. 1862  
22 U.S.C. 6701 et seq.  
42 U.S.C. 300j  
42 U.S.C. 5195  
50 U.S.C. 82  
50 U.S.C. 98-98h  
50 U.S.C. app. 468  
50 U.S.C. app. 2061 et seq.

10 U.S.C. 2531-2532 authorizes the Secretary of Commerce to review memoranda of understanding and related agreements pertaining to research, development, or production of defense equipment between the Secretary of Defense and one or more foreign countries.

19 U.S.C. 1862 authorizes investigations of the effects on national security of imports of a particular article, and a report of the results of the investigations to the President with a recommendation for action or inaction.

22 U.S.C. 6701 et seq. (Chemical Weapons Convention Implementation Act of 1998) directs the President to implement U.S. obligations under the Chemical Weapons Convention, including requiring reporting by chemical production, processing and consumption facilities and inspection of such facilities by the Organization for the Prohibition of Chemical Weapons (OPCW) (functions delegated to the Secretary of Commerce in Executive Order 13128, June 25, 1999).

42 U.S.C. 300j authorizes the issuance of orders requiring the delivery of chemicals or substances necessary for treatment of water (function delegated to the Secretary of Commerce in Executive Order 11879, Sept. 17, 1975).

42 U.S.C. 5195 provides for the development of national emergency plans and preparedness programs to anticipate and minimize the effects of hazards (natural disasters and accidental or man-caused events) on the civilian population (functions delegated to the Secretary of Commerce in Executive Order 12656, Nov. 18,

1988).

50 U.S.C. 82 provides for U.S. Government procurement of ships and material during war (functions delegated to the Secretary of Commerce in Executive Order 12742, Jan. 8, 1991).

50 U.S.C. 98 et seq. (Strategic and Critical Materials Stock Piling Act) authorizes the acquisition and retention of stocks of certain strategic and critical materials.

50 U.S.C. app. 468 provides for U.S. Government procurement of any articles or materials authorized by Congress (responsibility for all articles and materials except food, energy and civil transportation delegated to the Secretary of Commerce in Executive Order 12742, Jan. 8, 1991).

50 U.S.C. app. 2061 et seq. (Defense Production Act of 1950) authorizes the Bureau of Industry and Security (BIS) to set priorities for performance of defense and energy-related contracts and to allocate materials and supplies which are essential for national defense purposes and for maximization of domestic energy supplies, including the following:

- 50 U.S.C. app. 2071 provides for U.S. Government priority rating of contracts and orders necessary to promote the national defense (functions partially delegated to the Secretary of Commerce in Executive Order 12919, Jun. 3, 1994).
- 50 U.S.C. app. 2099 authorizes the Secretary of Commerce to produce the Annual Report on Offsets.
- 50 U.S.C. app. 2154 authorizes the President to prescribe such regulations and issue orders appropriate to carry out the Defense Priorities and Allocations System (functions partially delegated to the Secretary of Commerce in Executive Order 12919, Jun. 3, 1994).
- 50 U.S.C. app. 2155 authorizes the conduct of investigations and production of records and other documents. The Department of Commerce is also authorized to conduct assessments on the health and competitiveness of the U.S. defense industrial base (functions partially delegated to Secretary of Commerce in Executive Order 12656, Nov. 18, 1988).
- 50 U.S.C. app. 2170 provides for an interagency committee to determine the effects on national security of mergers, acquisitions, and takeovers that would result in foreign control of persons engaged in interstate commerce in the United States. (The Department of Commerce (BIS and the International Trade Administration (ITA)) participates as a member of the Committee on Foreign Investments in the United States (CFIUS) as set forth in Executive Order 12919, Jun. 3, 1994.)

### **C. Other**

15 U.S.C. 1501 et seq.

15 U.S.C. 1501 et seq. provides the basic authority for performance of those functions and activities of BIS which foster, promote, and develop foreign and domestic commerce.

**2. “including costs associated with the performance of export administration field activities both domestically and abroad;”**

15 U.S.C. 1531  
22 U.S.C. 3922

15 U.S.C. 1531 authorizes the Secretary of Commerce to establish a Buying Power Maintenance account for BIS. This fund is to be used to maintain overseas program activity at the appropriated program levels.

22 U.S.C. 3922 provides that the Secretary of Commerce may utilize the Foreign Service personnel system with respect to personnel performing international trade functions transferred to the Department of Commerce by Reorganization Plan No. 3 of 1979 (5 U.S.C. 903 note) and with respect to other personnel of the Department of Commerce to the extent the President determines to be necessary in order to enable the Department of Commerce to carry out functions which require service abroad.

**3. “full medical coverage for dependent members of immediate families of employees stationed overseas;”**

No Specific Authority

This language permits BIS to extend to certain of its overseas employees the same benefits afforded domestically employed Federal employees and employees of ITA’s Foreign Commercial Service in equivalent positions overseas.

**4. “employment of Americans and aliens by contract for services abroad;”**

No Specific Authority

Federal agencies must have specific legislative authority to procure personal services by contract. See 44 Comp. Gen. 761 (1965); H.R. Rep. No. 188, 89th Cong., 1st Sess. 5-13 (1965). This appropriation language gives BIS the flexibility to procure, by contract, services of U.S. citizens or aliens as appropriate. In some cases, it is advantageous to employ aliens who are fluent in the native language of the host country; who are familiar with local practices and procedures; or who only need to be employed for a short period of time. In other cases, it is advantageous to employ U.S. citizens in the host country (generally members of an employee’s family) who have greater familiarity with American methods and may require less effort to train.

**5. “payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries;”**

No Specific Authority

28 U.S.C. 2672 provides for settlement of tort claims for money damages of \$25,000 or less against the United States by the head of each federal agency for loss of property, personal injury, or death caused by a negligent or wrongful act or omission of any employee of the Government while acting within the scope of his employment in circumstances where the United States, if a private person, would be liable under local law. However, 28 U.S.C. 2680(k) exempts the settlement

of tort claims that arise abroad from the provisions of 28 U.S.C. 2672. The language requested would exempt BIS from 28 U.S.C. 2680, and would authorize the settlement of tort claims against the United States that arise in connection with its activities abroad.

**6. “not to exceed \$15,000 for official representation expense abroad;”**

No Specific Authority

Appropriated funds may not be expended for entertainment except when specifically authorized by law. See, e.g., 43 Comp. Gen. 305 (1963). The foregoing language provides such specific authority for BIS to expend up to \$15,000 for entertainment and similar expenses related to its official activities abroad.

**7. “awards of compensation to informers under the Export Administration Act of 1979, and authorized by 22 U.S.C. 401 (b);”**

50 U.S.C. app. 2411  
22 U.S.C. 401(b)

50 U.S.C. app. 2411 provides BIS with authority to make investigations and obtain such information as may be necessary to enforce the provisions of the Export Administration Act of 1979, as amended.

22 U.S.C. 401(b) provides for awards of compensation to informers providing information concerning illegal exports of war materials or other articles in violation of the law, when funds are specifically provided therefor.

**8. “purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law;”**

No Specific Authority

31 U.S.C. 1343 prohibits the purchase of passenger motor vehicles unless specifically authorized by appropriation or other law with the exception of those vehicles purchased for the use of the President of the United States, the secretaries to the President, or specified heads of executive departments.

**9. “... to remain available until expended,”**

No Specific Authority

31 U.S.C. 1301(c) provides that “[a]n appropriation in a regular, annual appropriation law may be construed to be permanent or available continuously only if the appropriation . . . expressly provides that it is available after the fiscal year covered by the law in which it appears.” The foregoing statement, “to remain available until expended,” constitutes such express language.

**10. “*Provided*, That the provisions of the first sentence of section 105 (f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455 (f) and 2458 (c)) shall apply in carrying out these activities: *Provided further*, That payments and contributions collected and accepted for materials or services provided as part of such activities may be retained for use in covering the cost of such activities, and for providing information to the public with respect to the export administration and national security activities of the Department of Commerce and other export control programs of the United States and other governments.”**

22 U.S.C. 2455 (f)

22 U.S.C. 2458 (c)

22 U.S.C. 2455 (f) provides authority to accept contributions of funds, property, and services from foreign governments, international organizations, and private individuals, firms, associations, agencies, and other groups in carrying out activities pursuant to the Mutual Educational and Cultural Exchange Act of 1961.

22 U.S.C. 2458 (c) provides authorization for all necessary expenditures involved in the selection, purchase, rental, construction, or other acquisition of exhibits and the necessary supplies therefor.

The above-quoted appropriations language makes clear that the Mutual Educational and Cultural Exchange Act of 1961 (MECEA) applies to the activities of BIS. The language also authorizes BIS to apply contributions received under MECEA toward the cost of activities conducted under MECEA.

**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Operations and Administration**  
**Consulting and Related Services**  
(dollar amounts in thousands)

	FY 2007 <u>Actual</u>	FY 2008 <u>Enacted</u>	FY 2009 <u>Estimate</u>
Consulting services.....	\$18	\$283	\$830

The Bureau of Industry and Security utilizes consulting services on an as needed basis to provide expertise unique to specific technical areas for which BIS has limited knowledge or abilities. BIS uses consulting services for a wide range of issues unique to any given year ranging from computer systems redesign to the establishment of export control expertise to deal with program mandates such as Chemical Weapons, Encryption, Fastener Quality Act, and nonproliferation matters dealing with countries which fall under the umbrella of the Office of International Programs.

**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Operations and Administration**  
**Periodicals, Pamphlets, and Audiovisual Products**  
(dollar amounts in thousands)

	FY 2007 <u>Actual</u>	FY 2008 <u>Enacted</u>	FY 2009 <u>Estimate</u>
Periodicals and Publications.....	\$250	\$221	\$244

The Bureau of Industry and Security publications, periodicals, and pamphlets are one of the most essential tools through which the Bureau fulfills its mission to administer U.S. statutes and agreements dealing with export controls.

The major publications and periodicals produced include the Export Administration Regulations, BIS Annual Report, and the Annual Foreign Policy Report to Congress. Publications play an essential role in keeping the community and the public informed on particular aspects of export control issues.

Pamphlets are primarily used to educate the business community on the functions performed by the Export Administration program and are distributed through Export Administration’s export seminar program during individual business seminars, giving speeches at public functions, and answering questions from the business community regarding exports.

**Department of Commerce  
BUREAU OF INDUSTRY AND SECURITY  
Operations and Administration  
Average Grade and Salaries**

	<u>2007 Actual</u>	<u>2008 Enacted</u>	<u>2009 Estimate</u>
Average ES Salary	\$154,048	\$159,625	\$164,254
Average GS Grade	12.70	12.79	12.76
Average GS Salary	\$90,640	\$95,421	\$97,764