

# **BUREAU OF INDUSTRY AND SECURITY**



**FY 2010 President's Submission**

**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Budget Estimates, Fiscal Year 2010**  
**President's Submission**

**Table of Contents**

<b><u>Exhibit Number</u></b>	<b><u>Exhibits</u></b>	<b><u>Page Number</u></b>
1	Table of Contents.....	BIS - i
2	Organization Chart.....	BIS - 1
3	Executive Summary.....	BIS - 2
3A	Summary of Performance Goals and Measures.....	BIS - 6
5	Summary of Resource Requirements: Direct Obligations.....	BIS - 25
7	Summary of Financing.....	BIS - 26
8	Summary of Adjustments-to-Base.....	BIS - 27
9	Justification of Adjustments-to-Base.....	BIS - 28
 <b><u>Management and Policy Coordination:</u></b>		
10	Program and Performance: Direct Obligations.....	BIS - 33
12	Justification of Program and Performance.....	BIS - 34

**Export Administration:**

10	Program and Performance: Direct Obligations.....	BIS - 36
12	Justification of Program and Performance.....	BIS - 37
13	Program Change – Cyber Espionage Response .....	BIS - 41
14	Personnel Detail.....	BIS - 45
15	Detail by Object Class.....	BIS - 46

**Export Enforcement:**

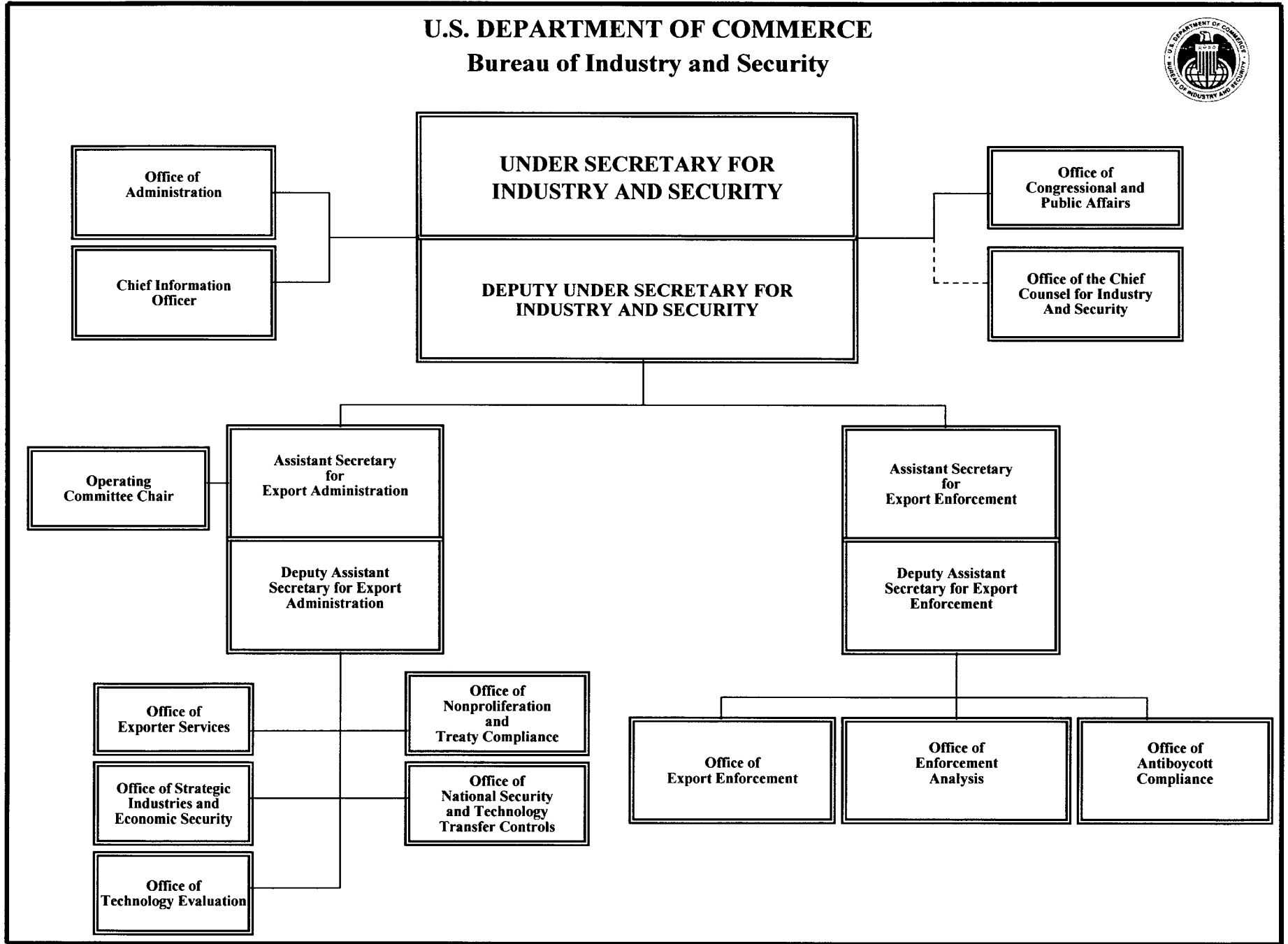
10	Program and Performance: Direct Obligations.....	BIS - 47
12	Justification of Program and Performance.....	BIS - 48
13	Program Change – Improvised Explosive Device Response .....	BIS - 51
14	Personnel Detail.....	BIS - 54
15	Detail by Object Class.....	BIS - 55

\* \* \* \* \*

16	Summary of Requirements by Object Class.....	BIS - 56
17	Detailed Requirements by Object Class.....	BIS - 57
23	Summary of Information Technology Resources.....	BIS - 61
33	Appropriation Language and Code Citations.....	BIS - 62
34	Consulting and Related Services .....	BIS - 68
35	Periodicals, Pamphlets and Audiovisual Services.....	BIS - 69
36	Average Grade and Salaries.....	BIS - 70



# U.S. DEPARTMENT OF COMMERCE Bureau of Industry and Security



**Department of Commerce  
BUREAU OF INDUSTRY AND SECURITY  
Budget Estimate, Fiscal Year 2010**

**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 (WMD), 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 2010, BIS is requesting \$100.3 million. This is an increase of \$16.7 million over the Fiscal Year 2009 request. The increase includes \$4.9 million for necessary cost of living adjustments and \$11.8 million for program enhancements and new initiatives that will advance BIS's export control and enforcement activities. The program initiatives, in priority order, follow:

**Cyber Espionage Response Initiative (4 Positions, 3 FTE, and \$10,000,000).** BIS requires extraordinary IT Security measures due to its: 1) international trade data with a "high" security impact level, and 2) confirmation as a target by international actors engaging in broad federal level cyber espionage. The

former requires data security exceeding even the requirements of personal privacy information; the latter requires security infrastructure over and above that provided by commercially available products.

BIS staff has identified an escalation in the attacks, including unauthorized access to the Office of Export Enforcement (OEE) Investigation Management System (IMS) server. IMS is a case management system supporting BIS's critical export control enforcement function, which combats illicit trafficking and proliferation of WMDs and missile delivery systems, terrorism and state sponsors, and diversion of dual-use goods to unauthorized military end-uses. If IMS becomes compromised to the point where externals impersonate BIS agents and access case information, which is a very real threat, the scenario could end with loss of life or vital dual-use commodities in the hands of countries or individuals who would put overseas U.S. troops and national security in jeopardy. At this point BIS has not experienced the loss of any data, but these resources are required to improve our security.

**WMD & IED Nonproliferation (4 Positions, 3 FTE, and \$1,800,000).** Opposing the proliferation of WMD is one of the highest priorities of the war against terror. The WMD threat is recognized in the 2006 National Security Strategy of the United States, which states, "The proliferation of nuclear weapons poses the greatest threat to our national security"; the strategy goes on to discuss the particular threat posed by terrorist acquisition of nuclear, chemical and biological attack capabilities; and includes strengthening of nonproliferation efforts as a key component of addressing this threat.

Also, EE has a critical and expanding operation targeting the illicit procurement of U.S. origin items used in improvised explosive devices (IEDs) being employed against U.S troops in the Middle East. This counter-IED effort initiated by EE resulted in the publication of General Order 3 of the Export Administration Regulations, and designated particular entities supplying U.S.-origin items that have been, and may continue to be, used in IEDs against coalition forces. Through this operation and others, EE is vigorously confronting known or suspected vulnerabilities in the international export control system to ensure that U.S. technology is protected and not misused by America's enemies.



**FY 2010 Annual Performance Plan**  
**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**

**Table of Contents**

Section 1: Mission----- BIS- 7

Section 2: Corresponding DOC Strategic Goal and Objective / Outcome----- BIS- 7

Section 3: Priorities / Management Challenges ----- BIS- 8

Section 4: Target and Performance Summary Table (with brief measure descriptions) ----- BIS- 9

Section 5: FY 2010 Program Changes ----- BIS- 18

Section 6: Resource Requirements Summary ----- BIS- 19

Section 7: Data Validation and Verification Table / Internal Control information ----- BIS- 21

## **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, 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 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 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: Priorities / Management Challenges**

The FY 2010 request is tailored to support BIS's ongoing programs and address two growing challenges to BIS's ability to advance Commerce Department Objective 1.2: Advance responsible economic growth and trade while protecting American security.

- The Cyber Espionage Response and System Modernization Initiative, secures BIS IT systems, and leverages information shared with other federal agency partners.
- The WMD & IED Nonproliferation Initiative strengthens BIS's ability to prevent and punish WMD proliferation, as recommended by the WMD Commission.

**Section 4: 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 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</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), 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>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>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 2010 target: 95%.</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 1b: Median processing time for new regime regulations (3 months)</b>		<b>FY 2007 Actual</b>	<b>FY 2008 Actual</b>	<b>FY 2009 Target</b>	<b>FY 2010 Target</b>
		2	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.

**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 2010 target: 3 months.

<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 1c: Percent of attendees rating seminars highly</b>		<b>FY 2007 Actual</b>	<b>FY 2008 Actual</b>	<b>FY 2009 Target</b>	<b>FY 2010 Target</b>
		90%	93%	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 2010 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 2007 Actual</b>	<b>FY 2008 Actual</b>	<b>FY 2009 Target</b>	<b>FY 2010 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><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 CWC Regulations.</p> <p>FY 2010 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 2007 Actual</b>	<b>FY 2008 Actual</b>	<b>FY 2009 Target</b>	<b>FY 2010 Target</b>
		930	881	850	850
<p><b>Description:</b> 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.</p>					
<p><b>Comments on Changes to Targets:</b> The implementation of this measure will allow BIS to gauge its overall effectiveness in terms of successful prosecutions and preventive enforcement.</p> <p>FY 2010 target: 850.</p>					
<b>Relevant Program Change(s):</b>	<b>Title: WMD &amp; IED Initiative</b>			<b>Exhibit 13 Page #:</b>	
3 FTEs/\$1,800,000				BIS-51	



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

Measure 1f: Percent of Shipped Transactions in Compliance with the Licensing Requirements of the Export Administration Regulations (EAR)		FY 2007	FY 2008	FY 2009	FY 2010
		Actual	Actual	Target	Target
		N/A	87%	95%	97%
<p><b>Description:</b> 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).</p> <p>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.</p> <p><b>Comments on Targets:</b> Improved validations, follow-up and an increase in outreach have contributed to meeting this goal. In FY 2009, after a performance baseline has been established, performance metrics may be adjusted.</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 1g: Percentage of Post-Shipment Verifications completed and categorized above the “Unfavorable” classification</b>		<b>FY 2007 Actual</b>	<b>FY 2008 Actual</b>	<b>FY 2009 Target</b>	<b>FY 2010 Target</b>
		N/A	136 PSVs 93%	260 PSVs 85%	260 PSVs 85%
<p><b>Description:</b> 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.</p>					
<p><b>Comments on Changes to Targets:</b> 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. FY 2008 was the initial year for this measure.</p> <p>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.</p>					
<b>Relevant Program Change(s):</b> N/A	<b>Title:</b> N/A			<b>Exhibit #13 Page #:</b> N/A	

**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 2007 Actual</b>	<b>FY 2008 Actual</b>	<b>FY 2009 Target</b>	<b>FY 2010 Target</b>
		854	490	850	850
<p><b>Description:</b> 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 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.</p>					
<p><b>Comments on Changes to Targets:</b> 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 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.</p> <p>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 FY 2008 (490). 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.</p> <p>In FY 2009, BIS will establish a new baseline using the "rubric" methodology, and possibly revise the number of end-use checks that will be targeted for FY 2010 and beyond.</p>					
<b>Relevant Program Change(s):</b> N/A	<b>Title:</b> N/A			<b>Exhibit 13 Page #:</b> N/A	

**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 2007 Actual</b>	<b>FY 2008 Actual</b>	<b>FY 2009 Target</b>	<b>FY 2010 Target</b>
		100%	100%	100%	100%
<p><b>Description:</b> 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.</p> <p>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.</p> <p>This metric will measure the overall effectiveness of conducting industry assessments.</p>					
<p><b>Comments on current Targets:</b> Industry assessment data: Foreign Availability Study on Uncooled Thermal Imaging Cameras completed December, 2008; Machine Tool Study and Thermal Imaging Assessment have both been completed, FY 2009; and, initiation of Vibration Test Equipment and Encryption have begun, FY 2009.</p> <p>The FY 2010 target: 100%</p>					
<b>Relevant Program Change(s):</b>  N/A	<b>Title:</b>  N/A			<b>Exhibit 13 Page #:</b>  N/A	

**Section 5: FY 2009 Program Changes (Dollars in Millions, etc)**

	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> WMD&IED Initiative	Page 13	1e	162	\$38.0	3	\$1.8	Page 51

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 6: Resource Requirements Summary**

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

<b>Resource Summary</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Actual</b>	<b>FY 2009 Estimate</b>	<b>FY 2010 Base</b>	<b>Increase/ Decrease</b>	<b>FY 2010 Request</b>
Management and Policy Coordination	8.9	5.8	5.8	6.0	-	6.0
Export Administration	33.4	32.2	35.1	39.1	10.0	49.1
Export Enforcement	28.1	28.1	32.4	32.9	1.8	34.7
Total Funding	70.4	66.1	73.3	78.0	11.8	89.8
Direct	66.7	62.6	71.5	76.0	11.8	88.0
Reimbursable <sup>1</sup>	3.7	3.5	1.8	2.0	-	1.8
IT Funding <sup>2</sup>	11.1	11.1	10.0	10.0	10.0	20.0
FTE <sup>3</sup>	322	310	310	313	6	319

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

<b>Resource Summary</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Actual</b>	<b>FY 2009 Estimate</b>	<b>FY 2010 Base</b>	<b>Increase/ Decrease</b>	<b>FY 2010 Request</b>
Management and Policy Coordination	0.1	0.1	0.2	0.2	-	0.2
Export Administration	-	-	-	-	-	-
Export Enforcement	4.5	5.0	5.4	5.5	-	5.5
Total Funding	4.6	5.1	5.6	5.7	-	5.7
Direct	4.6	5.1	5.6	5.7	-	5.7
Reimbursable <sup>1</sup>	-	-	-	-	-	-
IT Funding <sup>2</sup>	0.7	0.7	0.6	0.6	-	0.6
FTE <sup>3</sup>	13	12	12	12	-	12

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

<b>Resource Summary</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Actual</b>	<b>FY 2009 Estimate</b>	<b>FY 2010 Base</b>	<b>Increase/ Decrease</b>	<b>FY 2010 Request</b>
<b>Management and Policy Coordination</b>	0.1	0.1	0.2	0.2	-	0.2
Export Administration	5.9	5.0	6.2	6.6	-	6.6
<b>Export Enforcement</b>	-	-	-	-	-	-
<b>Total Funding</b>	6.0	5.1	6.4	6.8	-	6.8
<b>Direct</b>	6.0	5.1	6.4	6.8	-	6.8
Reimbursable <sup>1</sup>	-	-	-	-	-	-
<b>IT Funding<sup>2</sup></b>	1.1	1.1	1.0	1.0	-	1.0
<b>FTE<sup>3</sup></b>	31	31	31	31	-	31

**Resource Summary Grand Total**

<b>Resource Summary</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Actual</b>	<b>FY 2009 Estimate</b>	<b>FY 2010 Base</b>	<b>Increase/ Decrease</b>	<b>FY 2010 Request</b>
<b>Management and Policy Coordination</b>	9.1	6.0	6.2	6.4	-	6.4
Export Administration	39.2	37.2	41.3	45.7	10.0	55.7
<b>Export Enforcement</b>	32.6	33.1	37.8	38.4	1.8	40.2
<b>Total Funding</b>	81.0	76.3	85.3	90.5	11.8	102.3
<b>Direct</b>	77.3	72.8	83.5	88.5	11.8	100.3
Reimbursable <sup>1</sup>	3.7	3.5	1.8	2.0	-	2.0
<b>IT Funding<sup>2</sup></b>	12.9	12.9	11.6	11.6	10.0	21.6
<b>FTE<sup>3</sup></b>	366	353	353	356	6	362

<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 7: 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

Intentionally Left Blank

**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
2009 Enacted.....	371	353	\$83,676	\$83,676
less: Obligations from prior years.....	0	0	0	\$0
BIS - 27 plus: 2010 adjustments to base.....	0	3	\$4,866	\$4,866
2010 Base.....	371	356	\$88,542	\$88,542
plus: 2010 program changes.....	8	6	\$11,800	\$11,800
2010 Estimate.....	379	362	\$100,342	\$100,342

		2008 Actual		2009 Estimate		2010 Base		2010 Estimate		Increase/Decrease		
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	
<b>Comparison by Activity:</b>												
BIS - 33	Management and Policy Coordination.....	Pos./BA	15	\$5,775	15	\$5,850	15	\$6,056	15	\$6,056	0	\$0
		FTE/Obl.	11	\$6,026	11	\$5,850	11	\$6,056	11	\$6,056	0	\$0
BIS - 36	Export Administration.....	Pos./BA	186	\$36,616	189	\$40,988	189	\$44,432	193	\$54,432	4	\$10,000
		FTE/Obl.	182	\$37,196	182	\$40,988	183	\$44,432	186	\$54,432	3	\$10,000
BIS - 47	Export Enforcement.....	Pos./BA	164	\$32,564	167	\$36,838	167	\$38,054	171	\$39,854	4	\$1,800
		FTE/Obl.	160	\$33,106	160	\$36,838	162	\$38,054	165	\$39,854	3	\$1,800
	<b>Direct Obligations.....</b>	Pos./BA	365	\$74,955	371	\$83,676	371	\$88,542	379	\$100,342	8	\$11,800
		FTE/Obl.	353	\$76,328	353	\$83,676	356	\$88,542	362	\$100,342	6	\$11,800
	<b>Adjustments to Obligations</b>											
	Recoveries.....			-\$784								
	Unobligated balance, start of year.....			-\$589	\$0							
	Unobligated balance, rescission.....											
	Unobligated balance, end of year.....			\$0								
	Unobligated balance expiring.....											
	<b>Financing from transfers:</b>											
	Transferred from other accounts (-).....			-\$2,100								
	Transferred to other accounts (+).....											
	<b>Unobligated balance, rescission:</b>											
	Appropriation.....		\$72,855		\$83,676		\$88,542		\$100,342		\$11,800	

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

	2008 Actual	2009 Estimate	2010 Base	2010 Estimate	Increase/ Decrease
Total Obligations.....	\$78,535	\$89,957	\$90,542	\$102,342	\$11,800
Financing: 74954					
Offsetting collections from:					
Federal funds.....	-\$1,415	-\$1,050	-\$1,050	-\$1,050	0
Non-Federal sources.....	-\$1,805	-\$750	-\$950	-\$950	0
Recovery of prior year obligations.....	-710	0	0	0	0
Unobligated balance, start of year.....	-\$4,131	-4,481	0	0	0
Unobligated balance, transferred.....	0	0	0	0	0
Unobligated balance, end of year.....	4,481	0	0	0	0
Unobligated balance expiring .....	_____	_____	_____	_____	_____
Budget Authority.....	\$74,955	\$83,676	\$88,542	\$100,342	\$11,800
Financing:					
Transfers from other accounts.....	-2,100	0	0	0	0
Transfers to other accounts.....	0	0	0	0	0
Unobligated balance, rescission:	_____	_____	_____	_____	_____
<b>Appropriation.....</b>	<b>\$72,855</b>	<b>\$83,676</b>	<b>\$88,542</b>	<b>\$100,342</b>	<b>\$11,800</b>

**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Operations and Administration**  
**Summary of Adjustments to Base 2010**  
(Dollar amounts in thousands)

	FTE	Amount
<b>Other Changes:</b>		
Full-year Cost of FY 2009 Pay Raise	0	753
FY 2010 Pay Raise	0	684
Working Capital Fund Pay Raise	0	77
Full-cost in 2010 of Positions Financed Part Year 2009	3	240
Civil Service Retirement System (CSRS)	0	-59
Federal Employees' Retirement System (FERS)	0	223
Thrift Savings Plan	0	17
Federal Insurance Contributions Act (FICA/OASDI)	0	44
Health Insurance	0	57
Compensable Day	0	0
Employees' Compensation Fund	0	-20
Travel:		
Mileage	0	21
Per Diem	0	0
Rental Payments to GSA	0	126
Postage	0	7
GPO Printing	0	2
Other services:		
Working Capital Fund	0	1184
Payment to Working Capital Fund for Utilities	0	-844
Payment to ITA for Personnel Services	0	-494
NARA Storage Costs	0	4
GSA Steam	0	296
PEPCO Electricity	0	596
Fuel	0	-181
General Pricing Level Adjustment:		
Transportation of things	0	1
Rental payments to others	0	0
Communications and utilities	0	7
Other services (Excluding WCF and CAMS)	0	96
Supplies and materials	0	10
Equipment	0	19
Subtotal, Other Changes	3	2,866
Reimbursable Activities In Support Of The Licensing Program	0	2,000
<b>Total, Adjustments to Base</b>	<b>3</b>	<b>\$4,866</b>

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

	<u>FTE</u>	<u>Amount</u>
<b>Changes:</b>		
<b>Pay Raises</b>	<b>0</b>	<b>1,514</b>
<b>Full-year cost of 2009 pay increase and related costs:</b>		
A pay raise of 3.9% will be effective January 1, 2009.		
Total cost in 2010 of 2009 pay raise at 2.9%		1,703,448
Less amount funded in 2009		-950,000
Amount requested in 2010 to provide full-year cost of 2009 pay increase		753,448
<b>2010 pay increase and related costs:</b>		
A general pay raise of 2.0% is assumed to be effective January 1, 2010.		
Total cost in 2010 for pay raise		684,000
Payment to the Working Capital Fund		77,000
Total, Adjustment for 2010 pay raise		761,000
<b>Full-cost in 2010 of Positions Financed Part Year 2009</b>	<b>3</b>	<b>240</b>
An increase in the amount of \$231,181 is required to fund the full-year cost in 2010 of positions financed for part-year in 2009.		
	<u>FTE</u>	<u>Amount</u>
Annual salary of new positions in 2009	10	712,505
Availability pay adjustment 2009	0	94,272
2009 Pay Raise (3.9%)	0	31,464
Less 5 percent lapse	0	-41,912
Full-year cost of personnel compensation	10	796,329
Less personnel compensation in 2009	-7	-622,701
Additional cost of personnel compensation in 2010	3	173,628
Adjustment for 2010 pay raise (.02 X .75 X \$173,628)	0	2,604
Amount required for personnel compensation	3	176,232
Benefits	0	63,679
Total, Adjustment for positions financed part-year in 2009	3	239,911

<u>FTE</u>	<u>Amount</u>
<u>0</u>	<u>-59</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 25.8% in 2008 to 21.60% in 2010 and increase from 0% to 1% for law enforcement employees. Contribution rates are expected to remain at 7% for regular employees, and 7.5% for law enforcement employees.

Regular Employees:

CSRS Cost in 2010 (\$23,409,000 X .2160 X .0700)	353,944
CSRS Cost in 2009 (\$23,409,000 X .2580 X .0700)	<u>-422,767</u>
Subtotal	-68,823

Law Enforcement Agents:

CSRS Cost in 2010 (\$13,307,000 X 1.0 X .0750)	9,980
CSRS Cost in 2009 (\$13,307,000 X .0 X .0750)	<u>0</u>
Subtotal	9,980

Total adjustment-to-base	-58,843
--------------------------	---------

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

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 74.20% in 2009 to 78.40% in 2010. The estimated percentage of payroll for law enforcement employees covered by FERS will decrease from 100.00% in 2009 to 99% in 2010. Contribution rates for regular employees will remain at 11.20% in 2010. Contribution rates for law enforcement employees will increase to 24.90% in 2010.

Regular Employees:

FERS cost in 2010 (\$23,409,000 X .7840 X .1120)	2,055,497
FERS cost in 2009 (\$23,409,000 X .7420 X .1120)	<u>-1,945,382</u>
Subtotal	110,115

Law Enforcement Agents:

FERS cost in 2010 (\$13,307,000 X .9900 X .2490)	3,280,309
FERS cost in 2009 (\$13,307,000 X 1.00 X .2380)	<u>-3,167,066</u>
Subtotal	113,243

Total adjustment-to-base	223,358
--------------------------	---------

<u>0</u>	<u>223</u>
----------	------------



**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 2010 (\$23,409,000 X .7840 X .0200)	367,053
Cost in 2009 (\$23,409,000 X .7420 X .0200)	<u>-347,390</u>
Subtotal	19,663
Law Enforcement Agents:	
Cost in 2010 (\$13,307,000 X .9900 X .0200)	263,479
Cost in 2009 (\$13,307,000 X 1.00 X .0200)	<u>-266,140</u>
Subtotal	-2,661

Total adjustment-to-base **17,002**

**Federal Insurance Contributions Act (FICA)**

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 2010. The OASDI tax rate will remain at 6.2% in 2010.

## Regular Employees:

Cost in 2010 \$23,409,000 X .7840 X .9520 X .0620	1,083,247
Cost in 2009 \$23,409,000 X .7420 X .9560 X .0620	<u>-1,029,524</u>
Subtotal	53,723
Law Enforcement Agents:	
Cost in 2010 \$10,646,000 X .9900 X .9520 X .0620	622,086
Cost in 2009 \$10,646,000 X 1.00 X .9560 X .0620	<u>-631,010</u>
Subtotal	-8,924

## Other Salaries - Regular Employees:

Cost in 2010 \$773,000 X .7840 X .9520 X .0620	35,770
Cost in 2009 \$773,000 X .7420 X .9560 X .0620	<u>-33,996</u>
Subtotal	1,774

## Other Salaries - Law Enforcement Agents:

Cost in 2010 \$2,661,000 X .9900 X .9520 X .0620	155,492
Cost in 2009 \$2,661,000 X 1.00 X .9560 X .0620	<u>-157,723</u>
Subtotal	-2,231

Total adjustment-to-base **44,342**

<u>FTE</u>	<u>Amount</u>
0	17

<u>0</u>	<u>44</u>
----------	-----------

**Health Insurance Premium**

Effective January 2008, this agency's contribution to Federal employees' health insurance premiums increased by 2.5%. Applied against the 2009 estimate of \$2,298,000 the additional amount required is \$57,450.

<u>FTE</u>	<u>Amount</u>
<u>0</u>	<u>57</u>

**Rental Payments to GSA**

GSA rates are projected to increase 2.5% in 2010. This percentage was applied to the 2009 estimate of \$5,028,000 to arrive at an increase of \$125,700.

<u>0</u>	<u>126</u>
----------	------------

**GPO Printing**

GPO has provided an estimated rate increase of .8% in 2010. This percentage was applied to the 2009 estimate of \$244,000 to arrive at an increase of \$1,952.

<u>0</u>	<u>2</u>
----------	----------

**Mileage**

Changes to the Federal Travel Regulations increased the reimbursement rate for the use of a privately-owned automobile from 48.5 cents to 58.5 cents per mile. The percentage increase of 20.6% was applied to 2009 estimate of \$103,000 to arrive at an increase of \$21,218.

<u>0</u>	<u>21</u>
----------	-----------

**Postage**

Effective in January 2008, the Postal Service implemented a rate increase of 2.4%. This percentage was applied to the 2009 estimate of \$301,000 to arrive at an increase of \$7,224.

<u>0</u>	<u>7</u>
----------	----------

**National Archives and Records Administration (NARA)**

The estimated cost for NARA storage has increased for fiscal year 2010 by \$4,000.

0      4

**Employees Compensation Fund**

The Employees' Compensation Fund bill for the year ending June 30, 2008 decreased by \$20,000.

0      -20

**Working Capital Fund**

The estimated amounts required to fund cost increases/decreases in the Departmental Management's Working Capital Fund (WCF) include \$1,184,000 for Working Capital Fund, -\$844,000 for WCF Utilities; -\$494,000 for Payment to ITA for Personnel Service; \$296,000 for GSA Steam; and, \$596,000 for PEPCO Electricity.

0      738

**Fuel**

Utilizing economic assumptions for energy prices (gas and oil price index) the percentage decrease of anticipated fuel cost in FY 2010 compared to 2007 is -28.41%. Applied against the FY 2007 actual cost of \$225,652, the projected FY 2010 cost is \$161,539. The base estimate of \$343,000 in the FY 2009 budget minus the anticipated FY 2010 cost of \$161,539 leaves the total FY 2010 adjustment for fuel at -181,461.

0      -181

**General Pricing Level Adjustments**

This request applies OMB economic assumptions for 2010 to object classes where the prices the Government pays are established through the market system. An .8% factor was applied to rental payments to others (\$208); transportation of things (\$1,304); communications, utilities, and miscellaneous charges (excluding postage and FTS ) (\$7,400); other services (excluding the Working Capital Fund and CBS) (\$96,152); supplies and materials (\$9,320); and, equipment (\$18,640).

0      133

**Adjustment**

Provides for reimbursable activities from the intelligence community in support of the BIS licensing program.

0      2,000

---

**Total - FY 2010 Adjustments-to-Base**

3      \$4,866

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

Comparison by Activity:		2008		2009		2010		2010		Increase/ Decrease	
		Actual		Estimate		Base		Estimate		Personnel	Amount
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount		
Management and Policy Coordination.....	Pos./BA	15	\$5,775	15	\$5,850	15	\$6,056	15	\$6,056	0	\$0
	FTE/Obl.	11	\$6,026	11	\$5,850	11	\$6,056	11	\$6,056	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:		2008 Actual		2009 Estimate		2010 Base		2010 Estimate		Increase/ Decrease	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Export Administration.....	Pos./BA	186	\$36,616	189	\$40,988	189	\$44,432	193	\$54,432	4	\$10,000
	FTE/Obl.	182	\$37,196	182	\$40,988	183	\$44,432	186	\$54,432	3	\$10,000

**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 July 23, 2008 (73 Fed. Reg. 43603 (July 25, 2008)), 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 CWC 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. 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 DPAS; (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 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.

EA measures 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. EA measures exporter compliance with the EAR by reviewing all export transactions subject to a license requirement on an annual basis and determines what percentage are in compliance with the EAR following any EA intervention as necessary. EA interventions are comprised of actions taken to mitigate or resolve non-compliance findings (e.g., counseling, outreach, warning letters, and enforcement referral). BIS identified a baseline GPRA compliance measure of 95 percent of export transactions in compliance with the licensing requirements of the EAR in FY 2009. In FY 2010, BIS has a goal of 97 percent compliance based on continued counseling, outreach, and enforcement as well as establishing electronic validations of certain export control elements on Automated Export System records.

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 2008 GPRA measure for effective outreach by scoring 93 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 2008 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; and assesses the impact of defense memoranda of understanding and transfers 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 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. This also includes reviewing the Department's commodity jurisdiction and commodity classifications for non-proliferation and foreign policy-controlled dual-use items. 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 and Export Enhancement Act, the Syrian Accountability and Lebanese Sovereignty Restoration Act, etc.). NPTC is responsible for developing export control policy on dual-use items such as navigation equipment, spark gaps, chemicals, and biologicals.

NSTTC is responsible for developing and administering the Commerce Department's dual-use multilateral export control under the Wassenaar Arrangement (conventional arms and sensitive dual-use items). NSTTC develops export control policy on sensitive dual-use items such as nanotechnology, aerospace, high performance computers, night vision products, deemed exports, intangible technology, and semiconductor capital equipment. This office is the focal point within the U.S. Government for the licensing and review of encryption items and developing policy on technology transfers associated with employment of foreign nationals in high technology industry and academic environments, often referred to as deemed exports. NSTTC is also responsible for reviewing the Department's commodity jurisdiction and commodity classifications for sensitive dual-use items. 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 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 reviewed by the Committee on Foreign Investment in the United States, and the transfer 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 participates in interagency initiatives seeking to reduce economic inefficiencies. SIES is also responsible for administering the DPAS 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, identifying trends with key trading partners to support bilateral and multilateral policy decisions. OTE also analyzes export data to: determine the economic impact of proposed changes to the Commerce Control List; better inform exporters; and facilitate their adherence to the EAR.

**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Increase for 2010**  
**Cyber Espionage Response Initiative**  
(Dollar amounts in thousands)

		2010 Base		2010 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	189	\$44,432	193	\$54,432	4	\$10,000
	FTE/Obl.	183	\$44,432	186	\$54,432	3	\$10,000

**Cyber Espionage Response Initiative (4 Positions, 3 FTE, and \$10,000,000).**

Secure BIS IT systems, which can be leveraged to share information with other federal agency partners, are essential if the Bureau is to fulfill its mission to advance U.S. national security, foreign policy and economic objectives by ensuring effective export control and treaty compliance systems and promoting continued U.S. strategic technology leadership.

BIS requires extraordinary IT Security measures due to its: 1) international trade data with a “high” security impact (FIPS-199) level, and 2) confirmation as a target by international actors engaging in broad federal level cyber espionage. The former requires data security exceeding even the requirements of personal privacy information; the latter requires security infrastructure over and above that provided by commercially available products.

BIS is one of only four Commerce Bureaus with Primary Mission Essential Function systems. Of the 340 Commerce information systems identified in FY 2007, 33 unclassified systems are “high” impact security systems. Of these, BIS has five (15%). These include the: 1) legacy export control license processing system (ECASS), 2) exporter telephone support (STELA) and document management (MARRS) systems, 3) replacement export control system (ECASS Redesign) which is being developed and deployed incrementally, 4) export enforcement Investigative Management System (IMS-R), and 5) BIS general support system (BI) which provides general office support applications, email, and network file and print services.

The BIS automated electronic export control and CWC treaty compliance systems essential to BIS’s ability to administer the U.S. dual-use export control and CWC systems, and therefore, to advance the national security, foreign policy, and economic interests of the U.S. by supporting over 18,000 U.S. exporters. In addition, these systems are used by BIS licensing and enforcement officials, in coordination with experts from the Departments of State, Defense, and Energy, and the intelligence community, to coordinate the license application process to meet security and timeliness requirements<sup>1</sup>.

<sup>1</sup> Requirements of Executive Order 12981

## Statement of Need

BIS's mission has been put at risk by attacks on its IT systems. The widely<sup>2,3,4</sup> reported cyber espionage attack against BIS has been confirmed by US-CERT to be the same as that cited by the National Cyber Study Group. The general nature is that BIS has been, and continues to be, the target of attempts by the malicious processes to build files (planned for exfiltration) and launch attacks against other computer systems.

BIS staff has identified a gradual escalation in the attacks, including unauthorized access to the OEE IMS server. IMS is a case management system supporting BIS's critical export control enforcement function, which combats illicit trafficking and proliferation of WMD and missile delivery systems, terrorism and state sponsors, and diversion of dual-use goods to unauthorized military end-uses. If IMS becomes compromised to the point where externals impersonate BIS agents and access case information, which is a very real threat, the scenario could end with loss of life or vital dual-use commodities in the hands of countries or individuals who would put overseas U.S. troops and national security in jeopardy.

Moreover, the twenty-four year-old "legacy" Export Control Automated Support System (ECASS) has long been in need of replacement and modernization. ECASS legacy is composed of over 1 million lines of proprietary programming language code that is complex, obsolete, and no longer supported. The legacy system is not only expensive and high risk, but lacks the capability to mine and analyze data, which is needed by BIS to spot trends and potential risks<sup>5</sup>.

Of further concern, even with a completion date in FY 2013, the scope of ECASS-R does not include re-engineering BIS business processes and Inter-agency Export Data Integration. This is because the monolithic ECASS Legacy system is at risk because of its age, and must be replaced in its entirety as quickly as possible. In 2005, BIS executed a prototype to estimate the effort needed to replace the Legacy ECASS system and in parallel re-engineer the 200 core BIS business processes it supports – this approach will require four times the effort. Re-engineering is broader in scope, requires decisions at the policy level, consensus building, complex integration, and regulation re-work. At the current funding level, the program duration would stretch to 20 years, and the legacy ECASS system would be 40 years old when retired. The risk is unacceptable.

Since 2005, the "catch-22" situation between the need to replace the legacy ECASS system as quickly as possible and at the same time support new business requirements, re-engineer BIS licensing and enforcement processes, and put a current technology foundation in place in order to exchange data with external agencies, has become more urgent. Internally, as policy and technology develop, BIS faces a growing number of increasingly complex licensing decisions. Each licensing officer's workload increased from 370 cases in 2003 to 452 in 2007. The only way to close this rapidly growing gap between BIS's production capacity (licensing officers) and production requirements (license applications) is with business process reengineering and technology. Similarly, BIS needs to upgrade its Chemical Weapon Compliance Systems, and to automate the now manual survey process used to assess the ability of the U.S. industrial base to respond to defense requirements. Externally, the requirements for information sharing between BIS and other agencies have changed in scope and complexity.

---

<sup>2</sup> Computer System Under Attack, Commerce Department Targeted, Hackers Traced to China, Alan Sipress, Washington Post October 6, 2007

<sup>3</sup> Department of Commerce testimony, David Jarrell, Manager, Critical Infrastructure Protection Program, OCIO, for an April 19th (2007) hearing before the House Committee on Homeland Security, Subcommittee on Emerging Threats, Cybersecurity and Science and Technology.

<sup>4</sup> Rachel F Kesselman, Intel Brief: Chinese cyberwarfare Governments are likely to become targets of increasingly sophisticated Chinese cyber warfare attacks over the next three to five years as the PLA assembles an advanced cybermilitia, January 14, 2008.

<sup>5</sup> Weakness identified by the Commerce Office of Inspector General in its *Annual Follow-Up Report on Previous Export Control Recommendations, as Mandated by the National Defense Authorization Act for Fiscal Year 2000 (IPE-17361/March 2005)* audit.

For example, BIS needs to implement a secure interface between the BIS export control systems data, the Department of Homeland Security (DHS) Customs and Border Protection Service Automated Export System (AES), and the Census Bureau Foreign Trade Division data. This interface is urgent because a critical component of BIS's administration of dual-use export controls is: a) validating exporter compliance (whether companies are exporting items in accordance with the Export Administration Regulations), and b) capturing metrics to assess effectiveness of the dual-use export system. The requirement to compare BIS license data against DHS shipment data can not be met cost effectively and securely without re-engineering BIS business processes and migrating the BIS computer systems to a current technology platform. Other new and emerging requirements to broaden data sharing exist for the Departments of Defense, Energy, Justice- FBI, and State - CIA and NSA.

### **Proposed BIS Cyber Espionage Response**

The most effective BIS response to the cyber-espionage threat which emerged in FY 2007 and 2008 is to implement a compartmentalized high, moderate, and low security Compartmentalized Application Infrastructure (CAI) to secure mission critical export control system applications and data from foreign intrusions. Physical and logical segregation is the same concept applied to classified systems and data protection. BIS does not currently have compartmentalized systems in place.

Based on analysis of DHS Cyber Security alert briefing materials characterizing the multi-year large scale type of attack that BIS is experiencing, a compartmentalized system is the only approach which will yield results with a high degree of certainty. Selective targeted IT security measures have not been, and are not, effective because of the breadth, resources, sophistication and nature of the zero-day attack<sup>6</sup> methods. The BIS high security systems and data can not be secured unless they are also logically and physically separated from lower security level systems. [n.b., This proposal is confined to BIS core mission internal system vulnerabilities only and is complementary to, without overlapping, the broader Next Generation Collaborative Service scope (e.g., Trusted Internet Connection)].

BIS proposes to accelerate the development of the Export Control Automated Support System Redesign (ECASS-R) to more quickly replace the high risk 25 year old export control system (2012 instead of 2014), and build a CAI to replace the high risk 5-7 year old general office automation infrastructure. These projects must be completed as quickly as possible because of the vulnerabilities of the current system and they are foundational to accomplish the following: 1) migrating the Chemical Weapons Treaty Compliance system to a secure service oriented architecture platform, and implementing the Nuclear Advanced Protocol (AP) system, 2) implementing a secure Industrial Base Survey web application system, and 3) increasing the services available through the BIS public and Exporter Community Services web sites.

### **Effectiveness Assessment**

BIS has proven its ability to stand up the CAI with a high security production pilot; BIS needs to move all export control applications to this environment, and segregate them from the moderate desktop office environment and low security internet access environment. This will allow BIS to all but assure that it will continue to be able to state that there has been no data compromise or exfiltration, while returning desktop internet access to the BIS staff, which has been a major morale and productivity issue. More importantly, implementing the CAI will not only enable BIS to continue to mitigate the risk of BIS systems losing sensitive data, but to ensure its systems are not used to launch an attack against the exporter community or other agencies.

---

<sup>6</sup>“Zero-day” attacks as the phrase is used here refer to cases where vulnerabilities, existing in all common commercial products like computer operating systems, data bases, office automation word processing and spreadsheet software, and formatting or utility software are discovered and exploited before the vendor knows about the vulnerability or can deliver a patch; or commercial security software can not identify and therefore protect against these vulnerabilities.

BIS has also proven its ability to implement the ECASS Redesign Service Oriented Architecture Framework, foundation data base, and the first of two major sub-system deliveries: ECASS Stage 1 exporter license application submission system in FY 2007 (Simplified Network Application Process Redesign (SNAP-R)).

### **Funding Justification**

The escalating cyber-espionage threat is such that a compartmentalized IT environment is required for sensitive but unclassified IT systems. BIS, which achieved the highest Commerce Bureau IT Security assessment score in 2007, is fully compliant with the Federal Information Security Management Act (FISMA) to the level required for high-impact security system per NIST 800-53A; however, the cyber espionage vulnerabilities exceed the protections provided by commercial products in a non-compartmentalized environment. Delay will greatly increase the risk of loss of high impact security WMD data which BIS is mandated to protect, threatening U.S. security and competitive posture.

BIS has not increased its budget significantly to fund IT investment since the mid-eighties, and up to this point, has funded its IT security needs from existing resources. BIS has leveraged its budget base to the maximum level to respond to its IT requirements including the Cyber Espionage Incident, as independently validated by the Department of Commerce IT Optimization Infrastructure study<sup>7</sup>. This study indicates that BIS currently has the lowest IT cost per head in Commerce, well below industry average.

The magnitude of the threat and the expense required to meet it, and the externally driven requirements to re-engineer licensing and enforcement processes, including data sharing with external agencies, mean that BIS can no longer satisfy its IT requirements without compromising core national security programs.

### **Cost and Benefits:**

	FY 2010 Estimate
Direct Obligations:	
Uncapitalized	10,000.0
Budget Authority	10,000.0
Outlays	8,500.0
FTE	3
Benefits, in dollars	10,000.0

<sup>7</sup>Full Title: "US GSA IT Infrastructure Optimization Line of Business Study, prepared by Gartner, December 2007."

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

**Activity: Export Administration  
Program Change: Cyber Espionage Response**

<b>Title:</b>	<b>Grade</b>	<b>Number</b>	<b>Annual Plan</b>	<b>Total Salaries</b>
Supervisory Computer Scientist (1550)	15.01	1	\$120,830	\$120,830
Computer Scientist (1550)	13.01	2	\$86,927	\$173,854
Project Coordinator	12.01	1	\$73,100	\$73,100
<b>Total</b>		4		\$367,784
Less lapse	25.0%	(1)		-\$91,946
<b>Total, full-time permanent</b>		3		\$275,837
FY 2010 pay raise	2.0%			\$5,517
<b>Total full-time permanent:</b>		3		\$281,354

<b>Personnel Data:</b>	<b>Number</b>
<b>Full-time Equivalent Employment:</b>	
Full-time permanent	3
Other than full-time permanent	0
<b>Total</b>	3
<b>Authorized Positions:</b>	
Full-time permanent	4
Other than full-time permanent	0
<b>Total</b>	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: Cyber Espionage Response**

<b>Object Class:</b>	<b>FY 2009 Increase</b>
Personnel compensation	
11.1 Full-time permanent	\$281
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>\$281</u>
12.1 Civilian personnel Benefits	\$68
13 Benefits for former personnel	0
21 Travel and transportation of persons	\$0
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	\$6,994
26 Supplies and materials	\$16
31 Equipment	\$2,567
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>\$10,000</u>

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

Comparison by Activity:		2008 Actual		2009 Estimate		2010 Base		2010 Estimate		Increase/ Decrease	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Export Enforcement.....	Pos./BA	164	\$32,564	167	\$36,838	167	\$38,054	171	\$39,854	4	\$1,800
	FTE/Obl.	160	\$33,106	160	\$36,838	162	\$38,054	165	\$39,854	3	\$1,800

**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 July 23, 2008 (73 Fed. Reg. 43603 (July 25, 2008))), EE enforces dual-use export controls of the Export Administration Regulations (EAR) 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 EAR, IEEPA, the Chemical Weapons Convention Implementation Act (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 WMDs, 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 (achieved 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, and plans to install an officer in Singapore during FY 2009. In addition to conducting targeted end-use checks, the ECOs work with the host governments and local businesses to ensure that they understand and comply with U.S. export control laws and regulations; develop and maintain effective enforcement systems; and facilitate cooperation with the United States on export enforcement matters. They provide information and appropriate training to facilitate better understanding of U.S. dual-use export control requirements, and to help develop indigenous export control capabilities.

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 (achieved 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 EAR, the FQA 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 office collect and analyze information relating to potential dual-use export control violations, target suspects for enforcement investigations, and identify and disrupt proliferation 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) monitors and evaluates export transactions to ensure compliance with the EAR, the CWC, and related laws and regulations to ultimately facilitate trade and promote commerce abroad while protecting our national security from unauthorized use of our nation's most sensitive goods and technology. OEA accomplishes this mission through managing BIS's End-Use Check program by initiating and tracking pre-license checks and post-shipment verifications; coordinating license recommendations and escalated license applications; and managing the activities of the ECO's. Additionally, OEA provides support to enforcement activities, and supplies the BIS program offices with information on export license applications. Specifically, OEA assists the OEE field offices with actionable leads and direct case-specific analytical support to ongoing investigations; and, assists BIS's export licensing offices by researching, analyzing, and disseminating export control information on end-users and end-uses facilitating the detection and prevention of illegal transfer of controlled U.S.-origin goods and technologies. The office also makes licensing recommendations to BIS licensing officers based on information and input received from multiple sources, to include the intelligence community, and Special Agents in the field.

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 2010  
WMD & IED Nonproliferation  
(Dollar amounts in thousands)**

	Pos./BA FTE/Obl.	2010 Base		2010 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
<b>Export Enforcement</b>		167	\$38,054	171	\$39,854	4	\$1,800
		162	\$38,054	165	\$39,854	3	\$1,800

**WMD & IED Nonproliferation (4 Positions, 3 FTE, and \$1,800,000).**

The office of the Assistant Secretary for Export Enforcement (EE) has an exigent need for additional resources with which to supplement its existing efforts to conduct operations consistent with its national security law enforcement mission of ensuring that critical U.S. dual-use technology does not fall into the wrong hands. EE currently maintains a significant inventory of cases in the critically important areas of weapons of mass destruction, terrorism and State sponsors of terror; and un-authorized military end-use<sup>1</sup>. These cases are a priority to the agency and the Government as a whole, and some of them directly impact the ability of the U.S. military to successfully execute its wartime missions in Iraq and Afghanistan. In order to support ongoing activities, EE needs additional funding to appropriately staff and support investigations, conduct intelligence analysis and support licensing reviews.

**Problem Statement**

EE has a critical and expanding operation targeting the illicit procurement of U.S. origin items used in IEDs being employed against U.S. troops in the Middle East. This counter-IED effort initiated by EE resulted in the publication of General Order 3 of the Export Administration Regulations, and designated particular entities supplying U.S.-origin items that have been, and may continue to be, used in IEDs against coalition forces. Through this operation and others, EE is vigorously confronting known or suspected vulnerabilities in the international export control system to ensure that U.S. technology is protected and not misused by America's enemies.

On October 11, 2007 the Department of Justice (DOJ), along with the Department of Commerce and several other agencies, launched a national initiative to harness the counter-proliferation assets of the U.S. law enforcement, licensing, and intelligence agencies to combat the growing threat posed by such illegal exports of restricted U.S. military and dual-use technology to proscribed countries, end-users and terrorist organizations. This DOJ-led initiative is both timely and critical to the overall U.S. Government effort to combat terrorism and protect U.S. national security. BIS wants to honor its commitment to serve as a full partner in this important initiative through the assignment of Special Agents to these task forces to investigate these cases in a timely and aggressive manner.

---

<sup>1</sup>These cases account for approximately 80% of OEE's discretionary case load.

There are currently about 20 such task forces being formed by DOJ, strategically located across the country, each of which is expecting EE participation for its unique talents and authorities. To support this initiative, EE has experienced a greater demand for investigative travel to cities outside the commuting area of its existing Regional Office structure. These multi-agency task forces will take many of the concepts used in combating terrorism (namely prevention, cooperation and coordination) and apply them to the counter proliferation effort. The task forces are designed to enhance cooperation among all agencies involved in export control, forge relationships with affected industries, and facilitate information sharing to prevent illegal foreign acquisition of U.S. technology.

Less than one week later, on October 16, 2007, the *International Emergency Economic Powers Enhancement Act of 2007* was signed into law, complementing the creation of these task forces by substantially increasing the penalties for violations of export control laws enforced by EE and other agencies. This enhancement not only serves as a valuable tool in the national security investigations conducted by EE Special Agents, but also as an indicator of the commitment the U.S. Government has collectively made to ensure the protection of sensitive U.S. technology by prioritizing these investigations and encouraging compliance with export regulations.

In October 2007, the National Clandestine Service of the CIA was charged with coordinating standards and practices for the recruitment and vetting of human sources for both intelligence and law enforcement.

Regarding threats from elsewhere in the world, as imparted in a November 2007 report to Congress, the United States-China Economic and Security Review Commission warned that "Chinese espionage in the United States, which now comprises the single greatest threat to U.S. technology, is straining the U.S. counterintelligence establishment". The commission also asked Congress to consider providing additional funding for U.S. export control enforcement and counterintelligence efforts, specifically those tasked with preventing illicit technology transfers to China and its state-sponsored industrial espionage operations. This too, is central to BIS's mission. China is a very complex country that offers a variety of attractive trade opportunities but also contains national security risks.

Opposing the proliferation of WMDs is one of the highest priorities of the war against terror. The WMD threat is recognized in the 2006 National Security Strategy of the United States, which states: "The proliferation of nuclear weapons poses the greatest threat to our national security"; goes on to discuss the particular threat posed by terrorist acquisition of nuclear, chemical and biological attack capabilities; and includes strengthening of nonproliferation efforts as a key component of addressing this threat.

BIS requests funding for four new positions to cover new geographic areas nationally and internationally. Two of these positions would be for series 1811 criminal investigators, one would be for a series 1801 enforcement analyst, and one series 0132 investigative analyst to support the investigators. BIS would seek to co-locate the criminal investigators with other federal law enforcement agencies. 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 IED concerns have demonstrated the need for an enhanced enforcement presence in additional locations. Additional locations would also permit BIS criminal investigators to participate in more task forces with agents and officials from sister enforcement agencies, thus multiplying the impact of each BIS criminal investigator.

**Cost and Benefits:**

	FY 2010 Estimate
Direct Obligations:	
Uncapitalized	1,800.0
Budget Authority	1,800.0
Outlays	1,530.0
FTE	3
Benefits, in dollars	1,800.0



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

**Activity: Export Enforcement  
Program Change: WMD & IED Nonproliferation**

<b>Title:</b>	<b>Grade</b>	<b>Number</b>	<b>Annual Plan</b>	<b>Total Salaries</b>
Criminal Investigator (1811)	13.01	2	\$86,927	\$173,854
Analyst (1801)	13.01	1	\$86,927	\$86,927
Support (0132)	12.01	1	\$73,100	\$73,100
<b>Total</b>		4		\$333,881
Less lapse	25.0%	(1)		-\$83,470
<b>Total, full-time permanent</b>		3		\$250,410
FY 2010 pay raise	2.0%			\$5,008
Availability Pay	25.0%			\$33,250
<b>Total full-time permanent:</b>		3		\$288,669

<b>Personnel Data:</b>	<b>Number</b>
<b>Full-time Equivalent Employment:</b>	
Full-time permanent	3
Other than full-time permanent	0
<b>Total</b>	3
<b>Authorized Positions:</b>	
Full-time permanent	4
Other than full-time permanent	0
<b>Total</b>	4

**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: WMD & IED Nonproliferation**

Object Class:	<u>FY 2009</u> <u>Increase</u>
Personnel compensation	
11.1 Full-time permanent	\$289
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>\$289</u>
12.1 Civilian personnel Benefits	\$101
13 Benefits for former personnel	0
21 Travel and transportation of persons	\$124
22 Transportation of things	\$4
23.1 Rental payments to GSA	\$52
23.2 Rental payments to others	0
23.3 Communications, utilities and miscellaneous charges	\$22
24 Printing and reproduction	\$2
25 Other services	\$1,095
26 Supplies and materials	\$47
31 Equipment	\$64
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>\$1,800</u>

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

Object Class	2008 Actual	2009 Enacted	2010 Base	2010 Estimate	Increase/ Decrease
Personnel compensation:					
11.1 Full-time permanent	\$34,132	\$33,816	\$35,326	\$35,862	\$536
11.3 Other than full-time permanent	\$343	\$239	\$249	\$249	\$0
11.5 Other personnel compensation	\$2,914	\$3,508	\$3,662	\$3,695	\$33
11.8 Special personnel services payments	\$0	\$36	\$39	\$39	\$0
<b>11.9 Total personnel compensation</b>	<b>\$37,389</b>	<b>\$37,599</b>	<b>\$39,276</b>	<b>\$39,845</b>	<b>\$569</b>
12.0 Civilian personnel benefits	\$11,239	\$10,940	\$11,202	\$11,372	\$170
13.0 Benefits for former personnel	\$37	\$16	\$16	\$16	\$0
21.0 Travel and transportation of persons	\$839	\$3,267	\$3,288	\$3,412	\$124
22.0 Transportation of things	\$45	\$163	\$164	\$172	\$8
Rent, communications, and utilities:					
23.1 Rental payments to GSA	\$4,391	\$5,028	\$5,154	\$5,256	\$102
23.2 Rental payments to others	\$19	\$26	\$26	\$26	\$0
23.3 Communications, utilities and miscellaneous charges	\$1,059	\$1,744	\$1,758	\$1,797	\$39
24.0 Printing and reproduction	\$226	\$244	\$246	\$251	\$5
Consulting and other services					
25.1 Advisory and assistance services	\$246	\$830	\$830	\$830	\$0
25.2 Other services	\$3,736	\$6,880	\$8,976	\$16,745	\$7,769
25.3 Purchase of goods and services from Government accounts	\$15,557	\$13,073	\$13,892	\$14,212	\$320
26.0 Supplies and materials	\$681	\$1,536	\$1,365	\$1,428	\$63
31.0 Equipment	\$862	\$2,330	\$2,349	\$4,980	\$2,631
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	\$0	\$0	\$0	\$0	\$0
43.0 Interest and dividends	\$2	\$0	\$0	\$0	\$0
50.0 Depreciation	\$0	\$0	\$0	\$0	\$0
<b>99.0 Total Obligations</b>	<b>\$76,328</b>	<b>\$83,676</b>	<b>\$88,542</b>	<b>\$100,342</b>	<b>\$11,800</b>
Less: Recoveries	-\$784	\$0	\$0	\$0	\$0
Less: Unobligated balance, start of year	-\$589	\$0	\$0	\$0	\$0
Plus: Unobligated balance, rescission	\$0	\$0	\$0	\$0	\$0
Plus: Unobligated balance, end of year	\$0	\$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	-\$2,100	\$0	\$0	\$0	\$0
Less: Transferred to other accounts	\$0	\$0	\$0	\$0	\$0
<b>99.1 Total Budget Authority</b>	<b>\$72,855</b>	<b>\$83,676</b>	<b>\$88,542</b>	<b>\$100,342</b>	<b>\$11,800</b>

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

Object Class	2010 Adjustments to Base	2010 Base	2010 Estimate	Increase/ Decrease
<b>11 Personnel compensation:</b>				
<b>11.1 Full-time permanent:</b>				
Executive level	\$8	\$198	\$198	\$0
Senior executive service	\$97	\$2,263	\$2,263	\$0
General schedule/regular employees	\$929	\$21,743	\$22,146	\$403
General schedule/law enforcement	\$476	\$11,122	\$11,255	\$133
<b>Subtotal</b>	<b>\$1,510</b>	<b>\$35,326</b>	<b>\$35,862</b>	<b>\$536</b>
<b>11.3 Other than full-time permanent:</b>				
General schedule	\$10	\$249	\$249	\$0
Wage board	\$0	\$0	\$0	\$0
Experts & consultants	\$0	\$0	\$0	\$0
Hourly	\$0	\$0	\$0	\$0
<b>Subtotal</b>	<b>\$10</b>	<b>\$249</b>	<b>\$249</b>	<b>\$0</b>
<b>11.5 Other personnel compensation:</b>				
Overtime	\$2	\$62	\$62	\$0
SES performance awards	\$5	\$115	\$115	\$0
Cash awards	\$28	\$705	\$705	\$0
Merit pay awards	\$0	\$0	\$0	\$0
Availability Pay	\$119	\$2,780	\$2,813	\$33
<b>Subtotal</b>	<b>\$154</b>	<b>\$3,662</b>	<b>\$3,695</b>	<b>\$33</b>
<b>11.8 Special personnel services payments:</b>				
Foreign service officers (State)	\$0	\$0	\$0	\$0
Other	\$3	\$39	\$39	\$0
<b>Subtotal</b>	<b>\$3</b>	<b>\$39</b>	<b>\$39</b>	<b>\$0</b>
<b>11.9 Total personnel compensation:</b>	<b>\$1,677</b>	<b>\$39,276</b>	<b>\$39,845</b>	<b>\$569</b>

	2010 Adjustments to Base	2010 Base	2010 Estimate	Increase/ Decrease
<b>12.0 Civilian personnel benefits:</b>				
Civil service retirement system (CSRS)	-\$59	\$573	\$582	\$9
Federal employees' retirement system	\$223	\$4,564	\$4,633	\$69
Thrift savings plan	\$17	\$1,079	\$1,095	\$16
Federal insurance contribution act	\$44	\$2,361	\$2,397	\$36
Health Benefits(FEHBA)	\$57	\$107	\$109	\$2
Health insurance	\$0	\$2,248	\$2,282	\$34
Life insurance	\$0	\$57	\$58	\$1
Employees' compensation fund	-\$20	\$213	\$216	\$3
<b>Subtotal</b>	<b>\$262</b>	<b>\$11,202</b>	<b>\$11,372</b>	<b>\$170</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	\$1,141	\$1,203	\$62
Mileage	\$18	\$121	\$138	\$17
Per diem/actual	\$0	\$1,453	\$1,478	\$25
Commercial car rental	\$3	\$555	\$575	\$20
Other	\$0	\$18	\$18	\$0
<b>Subtotal</b>	<b>\$21</b>	<b>\$3,288</b>	<b>\$3,412</b>	<b>\$124</b>
<b>22.0 Transportation of things</b>	<b>\$1</b>	<b>\$164</b>	<b>\$172</b>	<b>\$8</b>
<b>23.0 Rent, communications, and utilities:</b>				
<b>23.1 Rental payments to GSA</b>	<b>\$126</b>	<b>\$5,154</b>	<b>\$5,256</b>	<b>\$102</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	\$518	\$528	\$10
Commercial telephone services	\$7	\$857	\$877	\$20
Postal Service by USPS	\$7	\$308	\$315	\$7
Other	\$0	\$75	\$77	\$2
<b>Subtotal</b>	<b>\$14</b>	<b>\$1,758</b>	<b>\$1,797</b>	<b>\$39</b>

	2010 Adjustments to Base	2010 Base	2010 Estimate	Increase/ Decrease
<b>24.0 Printing and reproduction:</b>				
Publications	\$2	\$219	\$224	\$5
Public use forms	\$0	\$7	\$7	\$0
Envelopes	\$0	\$13	\$13	\$0
Other	\$0	\$7	\$7	\$0
<b>Subtotal</b>	<b>\$2</b>	<b>\$246</b>	<b>\$251</b>	<b>\$5</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	\$13	\$200	\$200	\$0
ADP related costs	\$66	\$1,245	\$1,245	\$0
Telecommunications services	\$17	\$286	\$286	\$0
Other	\$0	\$5,245	\$13,014	\$7,769
Intel Briefing Subscription	\$2,000	\$2,000	\$2,000	\$0
<b>Subtotal</b>	<b>\$2,096</b>	<b>\$8,976</b>	<b>\$16,745</b>	<b>\$7,769</b>
<b>25.3 Purchase of goods and services from Gov't accounts:</b>				
WCF Payments to O/S	\$1,261	\$9,913	\$10,103	\$190
Payment to WCF Utilities	-\$844	-\$844	-\$844	\$0
National archives & records Admin:	\$4	\$116	\$116	\$0
Other Payments to O/S	\$0	\$1,877	\$2,007	\$130
Payment to ITA fo Personnel Services	-\$494	-\$494	-\$494	\$0
GSA Steam	\$296	\$296	\$296	\$0
PEPCO Electricity	\$596	\$3,028	\$3,028	\$0
<b>Subtotal</b>	<b>\$819</b>	<b>\$13,892</b>	<b>\$14,212</b>	<b>\$320</b>
<b>26.0 Supplies and materials:</b>				
Fuel	-\$181	\$190	\$190	\$0
Office supplies	\$7	\$792	\$855	\$63
ADP supplies	\$3	\$383	\$383	\$0
<b>Subtotal</b>	<b>-\$171</b>	<b>\$1,365</b>	<b>\$1,428</b>	<b>\$63</b>
<b>31.0 Equipment:</b>				
Office machines and equipment	\$8	\$957	\$1,009	\$52
ADP hardware	\$8	\$865	\$3,444	\$2,579
ADP software	\$3	\$323	\$323	\$0
Other	\$0	\$204	\$204	\$0
<b>Subtotal</b>	<b>\$19</b>	<b>\$2,349</b>	<b>\$4,980</b>	<b>\$2,631</b>

	2010 Adjustments to Base	2010 Base	2010 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	\$4,866	\$88,542	\$100,342	\$11,800
99 Total Budget Authority	<u>\$4,866</u>	<u>\$88,542</u>	<u>\$100,342</u>	<u>\$11,800</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	2008 Actual	2009 Estimate	2010 Estimate	Increase/ Decrease
Management and Policy Coordination	006-30-02-00-02-5505-00	BIS Bureau Communications Infrastructure (BCI)	\$169.18	\$402.00	\$577.14	\$175.14
	006-30-03-00-02-5506-00	BIS OCIO Planning	\$77.64	\$97.76	\$104.26	\$6.50
	<b>Subtotal</b>		<b>\$246.82</b>	<b>\$499.76</b>	<b>\$681.40</b>	<b>\$181.64</b>
Export Administration	006-30-02-00-02-5505-00	BIS Bureau Communications Infrastructure (BCI)	\$1,301.39	\$3,092.00	\$4,439.55	\$1,347.55
	006-30-03-00-02-5506-00	BIS OCIO Planning	\$597.25	\$752.00	\$802.00	\$50.00
	006-30-01-25-01-5501-00	BIS ECASS2000+	\$2,816.64	\$3,839.20	\$5,273.00	\$1,433.80
	006-30-01-25-01-5502-00	BIS Treaty Compliance Division (TCD) - Network and Information Management System	\$1,116.21	\$1,116.93	\$1,872.00	\$755.07
	006-30-01-25-01-5510-00	BIS ECASS Modernization	\$116.35	\$0.00	\$5,435.57	\$5,435.57
	006-30-01-25-02-5515-00	BIS Legacy Export Control	\$1,015.68	\$1,637.42	\$1,714.96	\$77.54
<b>Subtotal</b>		<b>\$6,963.52</b>	<b>\$10,437.55</b>	<b>\$19,537.08</b>	<b>\$9,099.53</b>	
Export Enforcement	006-30-02-00-02-5505-00	BIS Bureau Communications Infrastructure (BCI)	\$1,132.21	\$2,690.00	\$3,862.41	\$1,172.41
	006-30-03-00-02-5506-00	BIS OCIO Planning	\$519.61	\$654.24	\$697.74	\$43.50
	006-30-01-25-01-5501-00	BIS ECASS2000+	\$2,816.65	\$3,839.20	\$5,273.00	\$1,433.80
	006-30-01-25-02-5515-00	BIS Legacy Export Control	\$1,015.67	\$1,637.43	\$1,714.97	\$77.54
<b>Subtotal</b>		<b>\$5,484.14</b>	<b>\$8,820.87</b>	<b>\$11,548.12</b>	<b>\$2,727.25</b>	
<b>Total</b>			<b>\$12,694.48</b>	<b>\$19,758.18</b>	<b>\$31,766.60</b>	<b>\$12,008.42</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 July 23, 2008 (73 Fed. Reg. 43603, (July 25, 2008)), 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 2008 <u>Actual</u>	FY 2009 <u>Enacted</u>	FY 2010 <u>Estimate</u>
Consulting services.....	\$246	\$830	\$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 foreign countries.

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

	FY 2008 <u>Actual</u>	FY 2009 <u>Enacted</u>	FY 2010 <u>Estimate</u>
Periodicals and Publications.....	\$226	\$244	\$251

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>2008 Actual</u>	<u>2009 Enacted</u>	<u>2010 Estimate</u>
Average ES Salary	\$158,500	\$166,425	\$169,754
Average GS Grade	12.70	12.68	12.69
Average GS Salary	\$94,997	\$99,176	\$101,165