

U.S. Department of Commerce  
Bureau of Industry and Security



Fiscal Year 2013  
President's Submission

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**Department of Commerce**  
**BUREAU OF INDUSTRY AND SECURITY**  
**Budget Estimates, Fiscal Year 2013**  
**President's Submission**

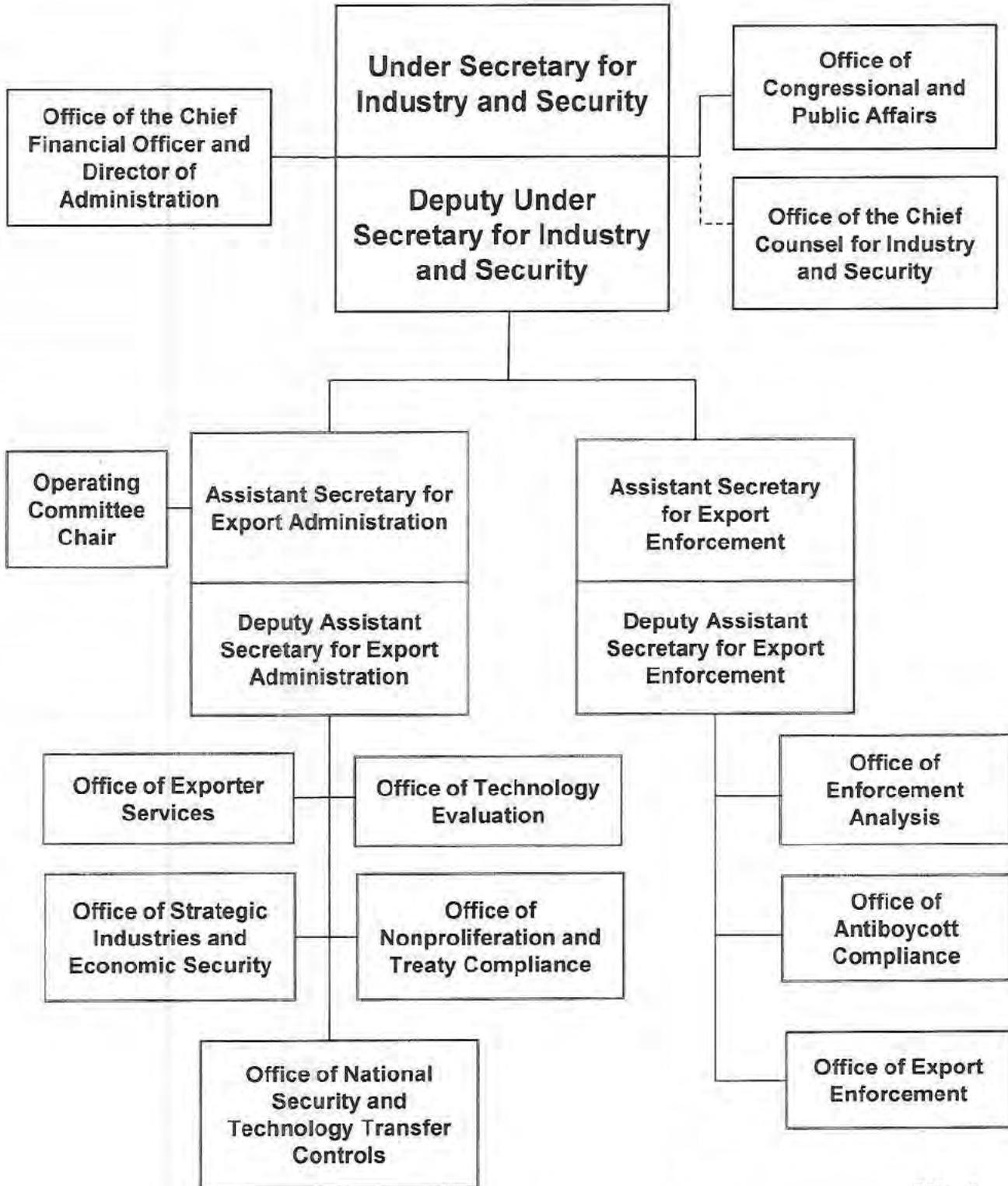
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# U.S. DEPARTMENT OF COMMERCE

## Bureau of Industry and Security



**Department of Commerce  
BUREAU OF INDUSTRY AND SECURITY  
Budget Estimate, Fiscal Year 2013**

**President's Submission  
Executive Summary**

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 Objective:

**Economic Growth:**

- Trade Promotion and Compliance Goal: Improve our global competitiveness and foster domestic job growth while protecting American Security Trade Promotion and Commercial Diplomacy: "Enhancing Global Competitiveness"
  - Implement an effective export control reform program to advance national security and overall economic competitiveness.

**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.

**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 utilizes an end-use visit program.

**Ensure continued U.S. technology leadership in industries that are essential to national security:** BIS works to ensure that the U.S. 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.

**Statement of Organization and Objectives:**

The three Program, Project, or Activity (PPA) components of BIS all contribute to BIS meeting specific Secretarial and Department goals, objectives, and priorities in the context of the BIS mission.

**Management and Policy Coordination (MPC):** The Office of the Under Secretary and supporting staff offices' 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.

**Export Administration (EA):** This activity 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 WMD, 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 Defense Production Act; 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 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.

In addition to fulfilling its unique national security mission, BIS contributes to the Department's priorities and goals. While BIS utilizes the acquisition services of the National Institute of Standards and Technology and has no acquisition workforce of its own, the Bureau is an active participant in the Department's acquisition reform efforts. Also, BIS complies with energy conservation measures as presented in Departmental policies and procedures.

#### **Information Technology:**

For FY 2013 new and ongoing IT investments, the BIS Office of Chief Information Officer (OCIO) will focus on the following mandates and priorities:

- **Cyber security:** Address requirements for cyber security risk management and operations, with resource needs identified to obtain initial Authority to Operate (ATO) and to provide sustained ability to meet security requirements during longer term operations and maintenance phases. Additionally, OCIO will be working to address Continuous Monitoring and Configuration Management, which will improve the Security Operations Center (SOC) and its monitoring capabilities.
- **Cloud computing:** Use of cloud computing solutions, unless a requirements and business-based alternatives analysis demonstrates better value to the government through the use of government-managed infrastructure.
- **Data Center Consolidation:** For investments having data center requirements, use of existing DOC data center facilities will be given priority over the establishment of any new facilities.

- Identity, Credentialing and Access Management (ICAM): This will specifically address Single Sign On (SSO) capabilities.
- Enterprise architecture and efficiencies: Address any enterprise architecture issues, alignment with technical reference models, use of Department or bureau standards, and/or procurement approaches aimed at obtaining greater efficiencies in use of IT resources.
- Compliance with Homeland Security Presidential Directive 12 (HSPD-12) logical access control authentication requirements, Internet Protocol version 6 (IPv6), Trusted Internet Connections, when applicable.

#### **E-Government Initiatives:**

The Department of Commerce, along with its operating units, supports and is an active participant in the Government-wide e-Government initiatives and lines of business. Each initiative or line of business is managed by another federal agency, such as the General Services Administration, and was implemented in part to avoid redundancy and duplication of government-wide activities such as rulemaking, human resource servicing, financial management, grants management, etc. The e-government initiatives and lines of business play a key role in Commerce's enterprise architecture, particularly for Department-wide administrative systems. These initiatives and lines of business promote internal Commerce efficiency in acquisition and other administrative activities. Commerce external customers benefit from a single source for grant postings, grant application submission and applying for Commerce benefit programs. Commerce e-government participation provides better services to the citizen, promotes transparency, and actively supports our stakeholders in the business community.

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

For Fiscal Year 2013, BIS is requesting \$102.328 million. This is an increase of \$1.328 million over the Fiscal Year 2012 enacted request. The increase includes \$0.191 million for necessary cost of living adjustments, an increase of \$1.603 million from Program Changes and a decrease of \$0.466 million from administrative savings. The \$1.603 million from Program Changes includes an increase of \$6.237 million for the Export Control Reform Initiative and offsetting program savings (greater detail is provided in the respective Exhibits 12-15).

The Administration is continuing its pursuit of an aggressive government-wide effort to curb non-essential administrative spending called the Administrative Efficiency Initiative. As a result, the Department of Commerce continues to seek ways to improve the efficiency of programs without reducing their effectiveness. The Department's total savings target for FY 2013 is \$176 million, which includes \$142.8 million in savings initiated in FY 2012 and an additional \$33.2 million planned for FY 2013. Building on the Bureau of Industry and Security's administrative savings planned for FY 2012 (\$2.0 million), an additional \$0.466 million in savings is targeted for FY 2013 for total savings in FY 2013 of \$2.466 million.

## **2013 Annual Performance Plan Formulation**

## **Bureau of Industry and Security**

### **Section 1 Mission Statement**

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 Goals**

Strategic Goal: Trade Promotion and Compliance: Improve our global competitiveness and foster domestic job growth while protecting American security.

DOC Performance Objective: Implement an effective export control reform program to advance national security and overall economic competitiveness.

#### **Rationale:**

This objective is important to the nation as it focuses on advancing U.S. national security and economic interests by reforming and 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 Chemical Weapons Convention 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 preserve the U.S. defense industrial base. The Department's success in reconciling these imperatives stems from its ability to integrate efforts to support the President's national security and foreign policy goals while ensuring 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.

### **Section 3 Impact of Recovery Act (for Bureaus with Recovery Act funds)**

BIS did not receive Recovery Act funds.

### **Section 4 Priorities and Management Challenges**

The FY 2013 request is tailored to support BIS's ongoing programs and to address BIS's ability to advance the Bureau's Performance Goal: Implement an effective export control reform program to advance national security and overall economic competitiveness.

BIS will continue to improve and advance the aggressive posture it has assumed in response to the Administration's various mandates in the arena of counter proliferation and export enforcement. Doing so will place BIS in the best possible position to execute its critical mission of ensuring that sensitive U.S. dual-use goods and technologies are not misused by proliferators, terrorists, and others working contrary to the national security interests of the United States.

## Section 5 Targets and Performance Summary

### Measure 1 - Percent of licenses requiring interagency referral referred within nine days

|   |   |                                |                     |  |                         |                               |
|---|---|--------------------------------|---------------------|--|-------------------------|-------------------------------|
| <b>Measure Description</b>                                  | Generally, dual-use (products that may have both civilian and military applications) 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. This measure is designed to measure the effectiveness of BIS in meeting the target of referring 98% of those licenses requiring referral within 9 days. |                                |                     |  |                         |                               |
| <b>Target and Performance Table</b>                         |   |                                |                     |  |                         |                               |
|   | FY2009 Actual   | FY2010 Actual                  | FY2011 Actual       | FY2012 Target  | FY2013 Target           | FY2014 Target                 |
| Original Funds  | 99%   | 90%                            | 88%                 | 98%  | 98%                     | 98%                           |
| Impact of Recovery Funds                                    | 0   | 0                              | 0                   | 0  | 0                       | 0                             |
| Adjusted Targets reflecting Original and Recovery Act Funds | 99%   | 90%                            | 88%                 | 98%  | 98%                     | 98%                           |
| Comments on Changes to Targets                              |   |                                |                     |  |                         |                               |
| Impact of Recovery Act Funds                                |   |                                |                     |  |                         |                               |
| <b>Relevant Program Changes</b>                             | <b>Program Changes?</b>   | <b>Title of Program Change</b> |                     |  |                         | <b>Exhibit 13 Page Number</b> |
|   | No  | None                           |                     |  |                         | N/A                           |
| <b>Validation &amp; Verification Information</b>            | <b>Data Source</b>  | <b>Reporting Frequency</b>     | <b>Data Storage</b> | <b>Internal Control Procedures</b>   | <b>Data Limitations</b> | <b>Actions to be Taken</b>    |
|   | ECASS   | Quarterly                      | ECASS               | EA will verify ECASS reports by running similar reports to determine if they produce the same results. | None                    | None                          |

### Measure 2 - Median processing time for new regime regulations (months)

|   |  |                                |                     |  |                         |                               |
|---|--|--------------------------------|---------------------|--|-------------------------|-------------------------------|
| <b>Measure Description</b>                                  | 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, and 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. |                                |                     |  |                         |                               |
| <b>Target and Performance Table</b>                         |  |                                |                     |  |                         |                               |
|   | FY2009 Actual  | FY2010 Actual                  | FY2011 Actual       | FY2012 Target  | FY2013 Target           | FY2014 Target                 |
| Original Funds  | 2  | 3                              | 2                   | 2  | 2                       | 2                             |
| Impact of Recovery Funds                                    | 0  | 0                              | 0                   | 0  | 0                       | 0                             |
| Adjusted Targets reflecting Original and Recovery Act Funds | 2  | 3                              | 2                   | 2  | 2                       | 2                             |
| Comments on Changes to Targets                              |  |                                |                     |  |                         |                               |
| Impact of Recovery Act Funds                                |  |                                |                     |  |                         |                               |
| <b>Relevant Program Changes</b>                             | <b>Program Changes?</b>  | <b>Title of Program Change</b> |                     |  |                         | <b>Exhibit 13 Page Number</b> |
|   | No   | None                           |                     |  |                         | N/A                           |
| <b>Validation &amp; Verification Information</b>            | <b>Data Source</b>   | <b>Reporting Frequency</b>     | <b>Data Storage</b> | <b>Internal Control Procedures</b>   | <b>Data Limitations</b> | <b>Actions to be Taken</b>    |
|   | Paper records and Webcims (BIS internal document tracking system)  | Quarterly                      | EA office files     | BIS will verify the information used to report on this performance measure against supporting documentation. | None                    | None                          |

**Measure 3 - Percent of attendees rating seminars highly**

|   |  |                                |                     |  |  |                               |
|---|--|--------------------------------|---------------------|--|--|-------------------------------|
| <b>Measure Description</b>                                  | This metric is designed to measure the overall effectiveness of the entire export control outreach seminar program. Given the volume of trade from the United States, informing U.S. and foreign businesses of the requirements of the Export Administration Regulation (EAR) is a critical component of our dual-use export control system. The target is for at least 93% of the seminar attendees to give the seminar an overall rating of at least 4 (out of a 5 level scale). |                                |                     |  |  |                               |
| <b>Target and Performance Table</b>                         |  |                                |                     |  |  |                               |
|   | FY2009 Actual  | FY2010 Actual                  | FY2011 Actual       | FY2012 Target  | FY2013 Target  | FY2014 Target                 |
| Original Funds  | 93%  | 94%                            | 94%                 | 93%  | 93%  | 93%                           |
| Impact of Recovery Funds                                    | 0  | 0                              | 0                   | 0  | 0  | 0                             |
| Adjusted Targets reflecting Original and Recovery Act Funds | 93%  | 94%                            | 94%                 | 93%  | 93%  | 93%                           |
| Comments on Changes to Targets                              |  |                                |                     |  |  |                               |
| Impact of Recovery Act Funds                                |  |                                |                     |  |  |                               |
| <b>Relevant Program Changes</b>                             | <b>Program Changes?</b>  | <b>Title of Program Change</b> |                     |  |  | <b>Exhibit 13 Page Number</b> |
|   | No   | None                           |                     |  |  | N/A                           |
| <b>Validation &amp; Verification Information</b>            | <b>Data Source</b>   | <b>Reporting Frequency</b>     | <b>Data Storage</b> | <b>Internal Control Procedures</b>   | <b>Data Limitations</b>  | <b>Actions to be Taken</b>    |
|   | Seminar Evaluations  | Quarterly                      | EA office files     | BIS will verify the information used to report on this performance measure against supporting documentation. | Data is dependent upon voluntary responses of seminar participants and is based on respondent opinion. Opinion may or may not be a factual indicator of performance. | None                          |

**Measure 4 - Percent of declarations received from U.S. industry in accordance with Chemical Weapon Convention (CWC) time lines that are processed in time for the U.S. to meet treaty obligations**

|   |   |                                |                     |  |                         |                               |
|---|---|--------------------------------|---------------------|--|-------------------------|-------------------------------|
| <b>Measure 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, within established time frames mandated under the CWC, to submit it to the Organization for the Prohibition of Chemical Weapons. |                                |                     |  |                         |                               |
| <b>Target and Performance Table</b>                         |   |                                |                     |  |                         |                               |
|   | FY2009 Actual   | FY2010 Actual                  | FY2011 Actual       | FY2012 Target  | FY2013 Target           | FY2014 Target                 |
| Original Funds  | 100%  | 100%                           | 100%                | 100%   | 100%                    | 100%                          |
| Impact of Recovery Funds                                    | 0   | 0                              | 0                   | 0  | 0                       | 0                             |
| Adjusted Targets reflecting Original and Recovery Act Funds | 100%  | 100%                           | 100%                | 100%   | 100%                    | 100%                          |
| Comments on Changes to Targets                              |   |                                |                     |  |                         |                               |
| Impact of Recovery Act Funds                                |   |                                |                     |  |                         |                               |
| <b>Relevant Program Changes</b>                             | <b>Program Changes?</b>   | <b>Title of Program Change</b> |                     |  |                         | <b>Exhibit 13 Page Number</b> |
|   | No  | None                           |                     |  |                         | N/A                           |
| <b>Validation &amp; Verification Information</b>            | <b>Data Source</b>  | <b>Reporting Frequency</b>     | <b>Data Storage</b> | <b>Internal Control Procedures</b>   | <b>Data Limitations</b> | <b>Actions to be Taken</b>    |
|   | Paper records of declarations   | Quarterly                      | EA office files     | BIS will verify the information used to report on this performance measure against supporting documentation. | None                    | None                          |

**Measure 5 - 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>Measure Description</b>   | This performance measure captures the number of EE deterrence actions, cases that result in a prevention of a violation, criminal/administrative cases, and administrative settlement orders. This measure also counts preventions that are achieved through cases that result in a criminal penalty or administrative resolution, rather than simply investigations accepted for prosecution. The measure includes Office of Antiboycott Compliance advice line inquiries that result in prevention or deterrence, which were not previously captured, and 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. |                                |                      |  |                         |                               |
| <b>Target and Performance Table</b>                                |   |                                |                      |  |                         |                               |
|  | <b>FY2009 Actual</b>  | <b>FY2010 Actual</b>           | <b>FY2011 Actual</b> | <b>FY2012 Target</b>   | <b>FY2013 Target</b>    | <b>FY2014 Target</b>          |
| <b>Original Funds</b>  | 876   | 806                            | 1073                 | 850  | 850                     | 850                           |
| <b>Impact of Recovery Funds</b>                                    | 0   | 0                              | 0                    | 0  | 0                       | 0                             |
| <b>Adjusted Targets reflecting Original and Recovery Act Funds</b> | 876   | 806                            | 1073                 | 850  | 850                     | 850                           |
| <b>Comments on Changes to Targets</b>                              |   |                                |                      |  |                         |                               |
| <b>Impact of Recovery Act Funds</b>                                |   |                                |                      |  |                         |                               |
| <b>Relevant Program Changes</b>                                    | <b>Program Changes?</b>   | <b>Title of Program Change</b> |                      |  |                         | <b>Exhibit 13 Page Number</b> |
|  | No  | None                           |                      |  |                         | N/A                           |
| <b>Validation &amp; Verification Information</b>                   | <b>Data Source</b>  | <b>Reporting Frequency</b>     | <b>Data Storage</b>  | <b>Internal Control Procedures</b>   | <b>Data Limitations</b> | <b>Actions to be Taken</b>    |
|  | EE Investigative Management System (IMS)  | Monthly                        | IMS                  | EE and Antiboycott Compliance will both perform two types of checks to ensure data is entered where it should be (system integrity) and to ensure that the data is accurate and valid. | None                    | None                          |

**Measure 6 - Percent of shipped transactions in compliance with the licensing requirements of the Export Administration Regulations (EAR)**

|  |   |                                |                      |   |                         |                               |
|--|---|--------------------------------|----------------------|---|-------------------------|-------------------------------|
| <b>Measure 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 determine 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, and enforcement referral). |                                |                      |   |                         |                               |
|  | BIS anticipates that the data evaluation period for this metric will run from July 1-June 30 annually, which is based on the estimated time lag of receipt of shipment information from the Census Bureau (monthly data is released approximately 45 days after the close of the statistical month) and BIS analysis of and action on the data.   |                                |                      |   |                         |                               |
| <b>Target and Performance Table</b>                                |   |                                |                      |   |                         |                               |
|  | <b>FY2009 Actual</b>  | <b>FY2010 Actual</b>           | <b>FY2011 Actual</b> | <b>FY2012 Target</b>  | <b>FY2013 Target</b>    | <b>FY2014 Target</b>          |
| <b>Original Funds</b>  | 96%   | 98%                            | 99%                  | 99%   | 99%                     | 99%                           |
| <b>Impact of Recovery Funds</b>                                    | 0   | 0                              | 0                    | 0   | 0                       | 0                             |
| <b>Adjusted Targets reflecting Original and Recovery Act Funds</b> | 96%   | 98%                            | 99%                  | 99%   | 99%                     | 99%                           |
| <b>Comments on Changes to Targets</b>                              |   |                                |                      |   |                         |                               |
| <b>Impact of Recovery Act Funds</b>                                |   |                                |                      |   |                         |                               |
| <b>Relevant Program Changes</b>                                    | <b>Program Changes</b>  | <b>Title of Program Change</b> |                      |   |                         | <b>Exhibit 13 Page Number</b> |
|  | No  | None                           |                      |   |                         | N/A                           |
| <b>Validation &amp; Verification Information</b>                   | <b>Data Source</b>  | <b>Reporting Frequency</b>     | <b>Data Storage</b>  | <b>Internal Control Procedures</b>  | <b>Data Limitations</b> | <b>Actions to be Taken</b>    |
|  | ECASS, AES  | Quarterly                      | EA office files      | BIS will verify the information used to report on this performance measure against supporting documentation | None                    | None                          |

**Measure 7 - Percentage of post-shipment verifications completed and categorized above the 'unfavorable' classification**

|   |  |                         |               |  |                  |                        |
|---|--|-------------------------|---------------|--|------------------|------------------------|
| Measure Description   | <p>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 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. As a result, the PSV sample deliberately over-represents "Unfavorable" outcomes compared to the entire shipment population.</p> |                         |               |  |                  |                        |
| <b>Target and Performance Table</b>                         |  |                         |               |  |                  |                        |
|   | FY2009 Actual  | FY2010 Actual           | FY2011 Actual | FY2012 Target  | FY2013 Target    | FY2014 Target          |
| Original Funds  | 314 PSVs/88%   | 256 PSVs/93%            | 382 PSVs/92%  | 315 PSVs/90%   | 315 PSVs/90%     | 315 PSVs/90%           |
| Impact of Recovery Funds                                    | 0  | 0                       | 0             | 0  | 0                | 0                      |
| Adjusted Targets reflecting Original and Recovery Act Funds | 314 PSVs/88%   | 256 PSVs/93%            | 382 PSVs/92%  | 315 PSVs/90%   | 315 PSVs/90%     | 315 PSVs/90%           |
| Comments on Changes to Targets                              |  |                         |               |  |                  |                        |
| Impact of Recovery Act Funds                                |  |                         |               |  |                  |                        |
| Relevant Program Changes                                    | Program Changes?   | Title of Program Change |               |  |                  | Exhibit 13 Page Number |
|   | No   | None                    |               |  |                  | N/A                    |
| Validation & Verification Information                       | Data Source  | Reporting Frequency     | Data Storage  | Internal Control Procedures  | Data Limitations | Actions to be Taken    |
|   | ECASS & IMS  | Monthly                 | ECASS & IMS   | Office of Enforcement Analysis (OEA) will perform two types of checks to ensure data is entered where it should be (system integrity) and to ensure that the data is accurate and valid. | None             | None                   |

**Measure 8 - Number of End-Use Checks completed**

|  |  |                                |                        |  |                         |                               |
|--|--|--------------------------------|------------------------|--|-------------------------|-------------------------------|
| <p><b>Measure Description</b></p>                                  | <p>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. PSVs also identify diverted transactions and reveal untrustworthy end-users and intermediate consignees.</p> |                                |                        |  |                         |                               |
| <p><b>Target and Performance Table</b></p>                         |  |                                |                        |  |                         |                               |
|  | <p>FY2009 Actual</p>   | <p>FY2010 Actual</p>           | <p>FY2011 Actual</p>   | <p>FY2012 Target</p>   | <p>FY2013 Target</p>    | <p>FY2014 Target</p>          |
| <p>Original Funds</p>  | <p>737</p>   | <p>708</p>                     | <p>891</p>             | <p>850</p>   | <p>850</p>              | <p>850</p>                    |
| <p>Impact of Recovery Funds</p>                                    | <p>0</p>   | <p>0</p>                       | <p>0</p>               | <p>0</p>   | <p>0</p>                | <p>0</p>                      |
| <p>Adjusted Targets reflecting Original and Recovery Act Funds</p> | <p>737</p>   | <p>708</p>                     | <p>891</p>             | <p>850</p>   | <p>850</p>              | <p>850</p>                    |
| <p>Comments on Changes to Targets</p>                              |  |                                |                        |  |                         |                               |
| <p>Impact of Recovery Act Funds</p>                                |  |                                |                        |  |                         |                               |
| <p>Relevant Program Changes</p>                                    | <p>Program Changes?</p>  | <p>Title of Program Change</p> |                        |  |                         | <p>Exhibit 13 Page Number</p> |
|  | <p>No</p>  | <p>None</p>                    |                        |  |                         | <p>N/A</p>                    |
| <p>Validation &amp; Verification Information</p>                   | <p>Data Source</p>   | <p>Reporting Frequency</p>     | <p>Data Storage</p>    | <p>Internal Control Procedures</p>   | <p>Data Limitations</p> | <p>Actions to be Taken</p>    |
|  | <p>ECASS &amp; IMS</p>   | <p>Monthly</p>                 | <p>ECASS &amp; IMS</p> | <p>OEA will perform two types of checks to ensure data is entered where it should be (system integrity) and to ensure that the data is accurate and valid.</p> | <p>None</p>             | <p>None</p>                   |

**Measure 9 - Percent of industry assessments resulting in BIS determination, within three months of completion, on whether to revise export controls**

|  |  |                                |                      |   |                         |                               |
|--|--|--------------------------------|----------------------|---|-------------------------|-------------------------------|
| <b>Measure Description</b>   | Percent of industry assessments resulting in BIS determination, within three months of completion, on whether to revise export controls. The Office of Technology Evaluation (OTE) provides analysis to inform decisions 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. |                                |                      |   |                         |                               |
| <b>Target and Performance Table</b>                                |  |                                |                      |   |                         |                               |
|  | <b>FY2009 Actual</b>   | <b>FY2010 Actual</b>           | <b>FY2011 Actual</b> | <b>FY2012 Target</b>  | <b>FY2013 Target</b>    | <b>FY2014 Target</b>          |
| <b>Original Funds</b>  | 100%   | 100%                           | 100%                 | 100%  | 100%                    | 100%                          |
| <b>Impact of Recovery Funds</b>                                    | 0  | 0                              | 0                    | 0   | 0                       | 0                             |
| <b>Adjusted Targets reflecting Original and Recovery Act Funds</b> | 100%   | 100%                           | 100%                 | 100%  | 100%                    | 100%                          |
| <b>Comments on Changes to Targets</b>                              |  |                                |                      |   |                         |                               |
| <b>Impact of Recovery Act Funds</b>                                |  |                                |                      |   |                         |                               |
| <b>Relevant Program Changes</b>                                    | <b>Program Changes?</b>  | <b>Title of Program Change</b> |                      |   |                         | <b>Exhibit 13 Page Number</b> |
|  | No   | None                           |                      |   |                         | N/A                           |
| <b>Validation &amp; Verification Information</b>                   | <b>Data Source</b>   | <b>Reporting Frequency</b>     | <b>Data Storage</b>  | <b>Internal Control Procedures</b>  | <b>Data Limitations</b> | <b>Actions to be Taken</b>    |
|  | Paper records  | Quarterly                      | EA office files      | BIS will verify the information used to report this performance measure against supporting documentation. | None                    | None                          |

## Section 6 - 2013 Program Changes

| Program Changes? | Program Name                       | Accompanying APP Page No. | GPRA Performance Measure Name and Number | Base FTEs | Base Amount  | Increase/Decrease FTEs | Increase/Decrease Amount | Exhibit 12-15 Page No. |
|------------------|------------------------------------|---------------------------|--|-----------|--------------|------------------------|--------------------------|------------------------|
| Yes              | Management and Policy Coordination | N/A                       | None                                     | 0         | \$6,134,000  | 0                      | -\$308,000               | Page 25                |
| Yes              | Export Administration              | N/A                       | None                                     | 188       | \$54,910,000 | 24                     | \$3,469,000              | Page 28                |
| Yes              | Export Enforcement                 | N/A                       | None                                     | 167       | \$40,147,000 | 0                      | -\$2,024,000             | Page 38                |

## Section 7 Resource Requirements

|                           | Program or Line Item Name                                    | FY2008 Actual | FY2009 Actual | FY2010 Actual | FY2011 Actual | FY2012 Enacted | FY2013 Base  | Increase/Decrease | FY2013 Estimate |
|---------------------------|--|---------------|---------------|---------------|---------------|----------------|--------------|-------------------|-----------------|
| Original Funds            | Office of Technology Evaluation                              | 3.2           | 3.6           | 4.3           | 3.8           | 3.7            | 3.7          | -0.2              | 3.5             |
|                           | Office of Strategic Industries and Economic Security         | 4.3           | 4.8           | 5.8           | 4.4           | 4.3            | 4.3          | -0.2              | 4.1             |
|                           | Office of Nonproliferation and Treaty Compliance             | 13.6          | 15.2          | 18.2          | 16.4          | 16.1           | 16.1         | -2.3              | 18.4            |
|                           | Office of Exporter Services                                  | 11.7          | 13.1          | 15.7          | 12.5          | 12.3           | 12.3         | -0.6              | 11.7            |
|                           | Office of National Security and Technology Transfer Controls | 10.0          | 11.2          | 13.4          | 12.6          | 12.4           | 12.4         | 2.5               | 14.9            |
|                           | Office of Enforcement Analysis                               | 5.1           | 5.8           | 6.9           | 6.2           | 6.1            | 6.1          | -0.3              | 5.8             |
|                           | Office of Antiboycott Compliance                             | 2.3           | 2.5           | 3.0           | 3.6           | 3.5            | 3.5          | -0.2              | 3.3             |
|                           | Office of Export Enforcement                                 | 24.7          | 27.5          | 33.0          | 43.4          | 42.6           | 42.8         | -2.2              | 40.6            |
| <b>Total Funding</b>      |  | <b>78.4</b>   | <b>85.5</b>   | <b>102.5</b>  | <b>105.9</b>  | <b>103.9</b>   | <b>104.1</b> | <b>1.1</b>        | <b>105.2</b>    |
| <b>Total Direct</b>       |  | <b>74.9</b>   | <b>83.7</b>   | <b>100.3</b>  | <b>102.9</b>  | <b>101.0</b>   | <b>101.2</b> | <b>1.1</b>        | <b>102.3</b>    |
| <b>Total Reimbursable</b> |  | <b>3.5</b>    | <b>1.8</b>    | <b>2.2</b>    | <b>3.0</b>    | <b>2.9</b>     | <b>2.9</b>   | <b>0</b>          | <b>2.9</b>      |
| <b>Total IT Funding</b>   |  | <b>12.9</b>   | <b>11.6</b>   | <b>21.6</b>   | <b>20.5</b>   | <b>17.0</b>    | <b>16.2</b>  | <b>0</b>          | <b>16.2</b>     |
| <b>Total FTE</b>          |  | <b>353</b>    | <b>329</b>    | <b>322</b>    | <b>351</b>    | <b>368</b>     | <b>368</b>   | <b>24</b>         | <b>392</b>      |

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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 |
|----------|--|-----------|-----|------------------|--------------------|
|          | 2012 Enacted Level                                   | 379       | 366 | \$101,000        | \$104,989          |
|          | Less: Obligations from prior year                    | 0         | 0   | 0                | -\$3,989           |
| BIS - 20 | Plus: 2013 Adjustments to Base                       | 0         | 0   | \$191            | \$191              |
|          | 2013 Base  | 379       | 366 | \$101,191        | \$101,191          |
|          | Less: 2013 Administrative Savings (Actual Reduction) | 0         | 0   | -\$466           | -\$466             |
|          | Plus: 2013 Program Changes                           | 24        | 24  | \$1,603          | \$1,603            |
|          | 2013 Estimate  | 403       | 390 | \$102,328        | \$102,328          |

| Comparison by Activity: |                                    |          | 2011 Actual |           | 2012 Enacted |           | 2013 Base |           | 2013 Estimate |           | Increase/Decrease |          |
|-------------------------|------------------------------------|----------|-------------|-----------|--------------|-----------|-----------|-----------|---------------|-----------|-------------------|----------|
|                         |                                    |          | Personnel   | Amount    | Personnel    | Amount    | Personnel | Amount    | Personnel     | Amount    | Personnel         | Amount   |
| BIS - 24                | Management and Policy Coordination | Pos./BA  | 15          | \$6,048   | 15           | \$6,123   | 15        | \$6,134   | 15            | \$5,826   | 0                 | -\$308   |
|                         |                                    | FTE/Obl. | 14          | \$5,934   | 11           | \$6,750   | 11        | \$6,134   | 11            | \$5,826   | 0                 | -\$308   |
| BIS - 27                | Export Administration              | Pos./BA  | 193         | \$57,130  | 193          | \$54,806  | 193       | \$54,910  | 217           | \$58,379  | 24                | \$3,469  |
|                         |                                    | FTE/Obl. | 170         | \$54,576  | 188          | \$57,789  | 188       | \$54,910  | 212           | \$58,379  | 24                | \$3,469  |
| BIS - 37                | Export Enforcement                 | Pos./BA  | 171         | \$38,763  | 171          | \$40,071  | 171       | \$40,147  | 171           | \$38,123  | 0                 | -\$2,024 |
|                         |                                    | FTE/Obl. | 165         | \$39,668  | 167          | \$40,450  | 167       | \$40,147  | 167           | \$38,123  | 0                 | -\$2,024 |
|                         | Direct Obligations                 | Pos./BA  | 379         | \$102,941 | 379          | \$101,000 | 379       | \$101,191 | 403           | \$102,328 | 24                | \$1,137  |
|                         |                                    | FTE/Obl. | 349         | \$100,178 | 366          | \$104,989 | 366       | \$101,191 | 390           | \$102,328 | 24                | \$1,137  |

**Adjustments to Obligations**

|                                    |         |
|------------------------------------|---------|
| Recoveries                         | -\$936  |
| Unobligated balance, start of year | -\$290  |
| Unobligated balance, rescission    |         |
| Unobligated balance, end of year   | \$3,989 |
| Unobligated balance expiring       |         |

**Financing from transfers:**

|                                     |          |
|-------------------------------------|----------|
| Transferred from other accounts (-) | -\$2,800 |
| Transferred to other accounts (+)   |          |

**Unobligated balance, rescission:**

|               |           |
|---------------|-----------|
| Appropriation | \$100,141 |
|---------------|-----------|

|           |           |           |           |         |
|-----------|-----------|-----------|-----------|---------|
| \$100,141 | \$101,000 | \$101,191 | \$102,328 | \$1,137 |
|-----------|-----------|-----------|-----------|---------|

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

| Comparison by Activity:                 |          | 2011      |         | 2012      |         | 2013      |         | 2013      |         | Increase/ |        |
|---|----------|-----------|---------|-----------|---------|-----------|---------|-----------|---------|-----------|--------|
|   |          | Actual    |         | Enacted   |         | Base      |         | Estimate  |         | Decrease  |        |
|   |          | Personnel | Amount  | Personnel | Amount  | Personnel | Amount  | Personnel | Amount  | Personnel | Amount |
| Management and Policy Coordination..... | Pos./BA  | 0         | \$450   | 0         | \$571   | 0         | \$571   | 0         | \$571   | 0         | \$0    |
|   | FTE/Obl. | 0         | \$450   | 0         | \$571   | 0         | \$571   | 0         | \$571   | 0         | \$0    |
| Export Administration.....              | Pos./BA  | 1         | \$1,020 | 2         | \$1,294 | 2         | \$1,294 | 2         | \$1,294 | 0         | \$0    |
|   | FTE/Obl. | 2         | \$1,020 | 2         | \$1,294 | 2         | \$1,294 | 2         | \$1,294 | 0         | \$0    |
| Export Enforcement.....                 | Pos./BA  | 0         | \$816   | 0         | \$1,035 | 0         | \$1,035 | 0         | \$1,035 | 0         | \$0    |
|   | FTE/Obl. | 0         | \$816   | 0         | \$1,035 | 0         | \$1,035 | 0         | \$1,035 | 0         | \$0    |
| Reimbursable Obligations.....           | Pos./BA  | 1         | \$2,286 | 2         | \$2,900 | 2         | \$2,900 | 2         | \$2,900 | 0         | \$0    |
|   | FTE/Obl. | 2         | \$2,286 | 2         | \$2,900 | 2         | \$2,900 | 2         | \$2,900 | 0         | \$0    |

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

|   | 2011<br>Actual   | 2012<br>Enacted  | 2013<br>Base     | 2013<br>Estimate | Increase/<br>Decrease |
|---|------------------|------------------|------------------|------------------|-----------------------|
| <b>Total Obligations</b> .....          | <b>\$102,939</b> | <b>\$113,535</b> | <b>\$104,091</b> | <b>\$105,228</b> | <b>\$1,137</b>        |
| <b>Financing:</b>                       |                  |                  |                  |                  |                       |
| Offsetting collections from:            |                  |                  |                  |                  |                       |
| Federal funds.....                      | -\$1,241         | -\$1,508         | -\$1,508         | -\$1,508         | 0                     |
| Non-Federal sources.....                | -\$1,254         | -\$1,392         | -\$1,392         | -\$1,392         | 0                     |
| Recovery of prior year obligations..... | -\$936           | 0                | 0                | 0                | 0                     |
| Unobligated balance, start of year..... | -\$6,202         | -\$9,635         | 0                | 0                | 0                     |
| Unobligated balance, transferred.....   | 0                | 0                | 0                | 0                | 0                     |
| Unobligated balance, end of year.....   | \$9,635          | 0                | 0                | 0                | 0                     |
| Unobligated balance expiring.....       | 0                | 0                | 0                | 0                | 0                     |
| <b>Budget Authority</b> .....           | <b>\$102,941</b> | <b>\$101,000</b> | <b>\$101,191</b> | <b>\$102,328</b> | <b>\$1,137</b>        |
| <b>Financing:</b>                       |                  |                  |                  |                  |                       |
| Transfers from other accounts.....      | -2,800           | 0                | 0                | 0                | 0                     |
| Transfers to other accounts.....        | 0                | 0                | 0                | 0                | 0                     |
| <b>Unobligated balance, rescission:</b> |                  |                  |                  |                  |                       |
| <b>Appropriation</b> .....              | <b>\$100,141</b> | <b>\$101,000</b> | <b>\$101,191</b> | <b>\$102,328</b> | <b>\$1,137</b>        |

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

| <u>Changes:</u>  | <u>FTE</u> | <u>Amount</u>      |
|--|------------|--------------------|
| <b>Pay Raises</b>  | <u>0</u>   | <u>183</u>         |
| <b>2013 pay increase and related costs:</b>  |            |                    |
| A general pay raise of 0.5% is assumed to be effective January 1, 2013   |            |                    |
| Total cost in 2013 for pay raise   |            | 183,000            |
| Payment to the Working Capital Fund  |            | <u>0</u>           |
| Total, Adjustment for 2013 pay raise   |            | <u>183,000</u>     |
| <br>   |            |                    |
| <b>Civil Service Retirement System (CSRS)</b>  |            |                    |
| The estimated percentage of payroll for regular employees covered by CSRS will decrease from 20.00% in 2012 to 17.00% in 2013 and decrease from .10% to .00% for law enforcement employees. Contribution rates are expected to remain at 7% for regular employees, and 7.5% for law enforcement employees. |            |                    |
|  | <u>0</u>   | <u>-54</u>         |
| <br>   |            |                    |
| <b>Regular Employees:</b>  |            |                    |
| CSRS Cost in 2013 (\$25,267,000 X .170 X .0700)  |            | 300,677            |
| CSRS Cost in 2012 (\$25,267,000 X .200 X .0700)  |            | <u>-353,738</u>    |
| Subtotal   |            | <u>-53,061</u>     |
| <br>   |            |                    |
| <b>Law Enforcement Agents:</b>   |            |                    |
| CSRS Cost in 2013 (\$14,302,000 X .000 X .0750)  |            | 0                  |
| CSRS Cost in 2012 (\$14,302,000 X .001 X .0750)  |            | <u>-1,073</u>      |
| Subtotal   |            | <u>-1,073</u>      |
| <br><b>Total adjustment-to-base</b>  |            | <br><u>-54,134</u> |

FTE   Amount

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

0   92

The estimated percentage of payroll for regular employees covered by FERS will increase from 80.00% in 2012 to 83.00% in 2013. The estimated percentage of payroll for law enforcement employees covered by FERS will increase from 99.90% in 2012 to 100.00% in 2013. Contribution rates will remain the same at 11.70% for regular employees and 25.70% for law enforcement employees in 2013.

**Regular Employees:**

|   |                   |
|---|-------------------|
| FERS cost in 2013 (\$25,267,000 X .830 X .1170) | 2,453,678         |
| FERS cost in 2012 (\$25,267,000 X .800 X .1170) | <u>-2,364,991</u> |
| Subtotal  | 88,687            |

**Law Enforcement Agents:**

|  |                   |
|--|-------------------|
| FERS cost in 2013 (\$14,302,000 X 1.000 X .2570) | 3,675,614         |
| FERS cost in 2012 (\$14,302,000 X 0.999 X .2570) | <u>-3,671,938</u> |
| Subtotal   | 3,676             |

**Total adjustment-to-base**

**92,363**

**Thrift Savings Plan**

0   15

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 2013 (\$25,267,000 X .8300 X .0200) | 419,432         |
| Cost in 2012 (\$25,267,000 X .8000 X .0200) | <u>-404,272</u> |
| Subtotal                                    | 15,160          |

**Law Enforcement Agents:**

|   |                 |
|---|-----------------|
| Cost in 2013 (\$14,302,000 X 1.000 X .0200) | 286,040         |
| Cost in 2012 (\$14,302,000 X 0.999 X .0200) | <u>-285,754</u> |
| Subtotal                                    | 286             |

**Total adjustment-to-base**

**15,446**

|  | <u>FTE</u> | <u>Amount</u>     |
|--|------------|-------------------|
| <b>Federal Insurance Contributions Act (FICA)</b>  | <u>0</u>   | <u>56</u>         |
| 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 2013. The OASDI tax rate will remain at 6.2% in 2013.                             |            |                   |
| <b>Regular Employees:</b>  |            |                   |
| Cost in 2013 (\$25,267,000 X .8300 X .9200 X .0620)  |            | 1,196,221         |
| Cost in 2012 (\$25,267,000 X .8000 X .9150 X .0620)  |            | <u>-1,146,718</u> |
| Subtotal   |            | 49,503            |
| <b>Law Enforcement Agents:</b>   |            |                   |
| Cost in 2013 (\$11,442,000 X 1.00 X .9200 X .0620)   |            | 652,652           |
| Cost in 2012 (\$11,442,000 X .999 X .9150 X .0620)   |            | <u>-648,456</u>   |
| Subtotal   |            | 4,196             |
| <b>Other Salaries - Regular Employees:</b>   |            |                   |
| Cost in 2013 (\$820,000 X .8300 X .9200 X .0620)   |            | 38,821            |
| Cost in 2012 (\$820,000 X .8000 X .9150 X .0620)   |            | <u>-37,215</u>    |
| Subtotal   |            | 1,606             |
| <b>Other Salaries - Law Enforcement Agents:</b>  |            |                   |
| Cost in 2013 (\$2,860,000 X 1.000 X .9200 X .0620)   |            | 163,134           |
| Cost in 2012 (\$2,860,000 X 0.999 X .9150 X .0620)   |            | <u>-162,086</u>   |
| Subtotal   |            | 1,048             |
| <b>Total adjustment-to-base</b>  |            | <b>56,353</b>     |
| <b>Health Insurance Premium</b>  | <u>0</u>   | <u>246</u>        |
| Effective January 2013, this agency's contribution to Federal employees' health insurance premiums increased by 8.97%. Applied against the 2012 estimate of \$2,747,000 the additional amount required is \$246,339.   |            |                   |
| <b>Rental Payments to GSA</b>  | <u>0</u>   | <u>92</u>         |
| GSA rates are projected to remain same 1.7% in 2013. This percentage was applied to the 2012 estimate of \$5,419,000 to arrive at an increase of \$92,123.   |            |                   |
| <b>GPO Printing</b>  | <u>0</u>   | <u>4</u>          |
| GPO has provided an estimated rate increase of 1.5% in 2013. This percentage was applied to the 2012 estimate of \$256,000 to arrive at an increase of \$3,840.  |            |                   |
| <b>Mileage</b>   | <u>0</u>   | <u>2</u>          |
| Changes to the Federal Travel Regulations increased the reimbursement rate for the use of a privately-owned automobile from 50 cents to 51 cents per mile. The percentage 2.00% was applied to 2012 estimate of \$122,000 to arrive at an increase of \$2,440. |            |                   |
| <b>Per Diem</b>  | <u>0</u>   | <u>89</u>         |
| Per Diem rates are projected to be 6.0% in 2013. This percentage was applied to the 2012 estimate of \$1,478,000 to arrive at an increase of \$88,680.   |            |                   |

|  | <u>FTE</u> | <u>Amount</u> |
|--|------------|---------------|
| <b>Employee Compensation Fund</b>  |            |               |
| The Employees' Compensation Fund bill for the year ending June 30, 2011 was -\$41,000.   | 0          | -41           |
| <b>Working Capital Fund</b>  |            |               |
| An additional \$69,000 is required to fund cost increases in the Departmental Management's Working Capital Fund.   | 0          | 69            |
| <b>National Archives and Records Administration (NARA)</b>   |            |               |
| The estimated cost for NARA storage has increased for FY 2013 by \$1,566   | 0          | 2             |
| <b>Herbert C. Hoover Electricity</b>   |            |               |
| The estimated cost for PEPCO electricity is expected to decrease by \$217,000 in FY 2013.  | 0          | -217          |
| <b>Herbert C. Hoover Water</b>   |            |               |
| The estimated cost for HCHB water is expected to remain same \$2,000 in FY 2013.   | 0          | 2             |
| <b>Fuel</b>  |            |               |
| Utilizing economic assumptions for energy prices (gas and oil price index) the percentage increase of anticipated fuel cost in FY 2013 compared to 2011 is 0.50%. Applied against the FY 2011 actual cost of \$228,579 - the projected FY 2013 cost is \$229,712. The base estimate of \$245,000 in the FY 2012 budget minus the anticipated FY 2013 cost of \$229,712 leaves the total FY 2013 adjustment for fuel at -\$15,288.  | 0          | -15           |
| <b>General Pricing Level Adjustments</b>   |            |               |
| This request applies OMB economic assumptions for 2013 to object classes where the prices the Government pays are established through the market system. A 1.5% factor was applied to rental payments to others (\$0); transportation of things (\$2,625); communications, utilities, and miscellaneous charges (excluding postage and FTS) (\$14,580); other services (excluding the Working Capital Fund and CBS) (\$232,800); supplies and materials (\$18,900); and, equipment (\$76,125). | 0          | 346           |
| <hr/>  |            |               |
| Adjustments-to-Base  | 0          | \$871         |
| Adjustments-to-Base Absorption   | 0          | (\$680)       |
| <hr/>  |            |               |
| Total - FY 2013 Adjustments-to-Base  | 0          | \$191         |

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

| <u>Comparison by Activity:</u>        |          | <u>2011</u>   |         | <u>2012</u>    |         | <u>2013</u> |         | <u>2013</u>     |         | <u>Increase/</u> |        |
|---------------------------------------|----------|---------------|---------|----------------|---------|-------------|---------|-----------------|---------|------------------|--------|
|                                       |          | <u>Actual</u> |         | <u>Enacted</u> |         | <u>Base</u> |         | <u>Estimate</u> |         | <u>Decrease</u>  |        |
|                                       |          | Personnel     | Amount  | Personnel      | Amount  | Personnel   | Amount  | Personnel       | Amount  | Personnel        | Amount |
| Management and Policy Coordination... | Pos./BA  | 15            | \$6,048 | 15             | \$6,123 | 15          | \$6,134 | 15              | \$5,826 | 0                | -\$308 |
|                                       | FTE/Obl. | 14            | \$5,934 | 11             | \$6,750 | 11          | \$6,134 | 11              | \$5,826 | 0                | -\$308 |

Department of Commerce  
Bureau of Industry and Security  
Operations and Administration  
Program Justification

**APPROPRIATION ACCOUNT: Operations and Administration**

**BUDGET ACTIVITY: Management and Policy Coordination (MPC)**

For FY 2013, BIS will decrease its funding by \$0.297 million and 0 FTE under the FY 2012 enacted request for a total of \$5.826 million and 11 FTE for MPC. The decrease includes \$0.308 million from Program Changes and an increase of \$0.011 million for necessary cost of living adjustments.

**BASE JUSTIFICATION FOR FY 2013:**

MPC funds the Office of the Under Secretary for Industry and Security and supporting offices. 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; and (4) 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.

**Significant Adjustments-to-Base (ATBs):**

BIS requests a net increase of 0 FTE and \$0.011 million to fund adjustments to current programs for MPC activities. The increase will fund the estimated 2013 Federal pay raise of 0.5 percent. The increase will also provide inflationary increases for non-labor activities, including service contracts, utilities, field office lease payments, and rent charges from the General Service Administration (GSA).

**Administrative Cost Savings**

**PROGRAM CHANGES FOR FY 2013: Management and Policy Coordination (-0 FTE and -\$0.028 million):** BIS requests a decrease of \$0.028 million and 0 FTE for a total request of \$5.826 million and 11 FTE for MPC. The decrease includes \$0.028 million from cross-cutting program reductions. These cross-cutting reductions will be captured by managing on-going administrative savings.

The Administration is continuing its pursuit of an aggressive government-wide effort to curb non-essential administrative spending called the Administrative Efficiency Initiative. As a result, the Department of Commerce continues to seek ways to improve the efficiency of programs without reducing their effectiveness.

**PROGRAM CHANGES FOR FY 2013:**

**Program Change, Management and Policy Coordination (Base Funding: 11 FTE and \$6.134 million)**: BIS requests a decrease of \$0.308 million, and 0 FTE for a total request of \$5.826 million, and 11 FTE for MPC. The \$0.308 million decrease is derived from the Administrative Cost Savings cited above (\$0.028 million) and additional savings within MPC (\$0.280 million) from reductions in application development, re-organization of Information Technology support services, and reduction of main frame requirements as BIS moves to the Department of Defense's USXPORTS.

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

| <u>Comparison by Activity:</u> |          | 2011      |          | 2012      |          | 2013      |          | 2013      |          | Increase/<br>Decrease |         |
|--------------------------------|----------|-----------|----------|-----------|----------|-----------|----------|-----------|----------|-----------------------|---------|
|                                |          | Actual    |          | Enacted   |          | Base      |          | Estimate  |          |                       |         |
|                                |          | Personnel | Amount   | Personnel | Amount   | Personnel | Amount   | Personnel | Amount   | Personnel             | Amount  |
| Export Administration.....     | Pos./BA  | 193       | \$57,130 | 193       | \$54,806 | 193       | \$54,910 | 217       | \$58,379 | 24                    | \$3,469 |
|                                | FTE/Obl. | 170       | \$54,576 | 188       | \$57,789 | 188       | \$54,910 | 212       | \$58,379 | 24                    | \$3,469 |

**Department of Commerce  
Bureau of Industry and Security  
Operations and Administration  
Program Justification**

**APPROPRIATION ACCOUNT: Operations and Administration**

**BUDGET ACTIVITY: Export Administration (EA)**

For FY 2013, BIS will increase its funding by \$3.573 million and 24 FTE over the FY 2012 enacted request for a total of \$58.379 million and 212 FTE for EA. The increase includes \$0.104 million for necessary cost of living adjustments and an increase of \$3.469 million from Program Changes.

**BASE JUSTIFICATION FOR FY 2013:**

EA Overview

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 Export Administration Act (EAA) and Export Administration Regulations (EAR). Any export of commodities or technical data which has strategic or foreign policy concerns requires formal authorization through issuance of an export license. As part of this program, EA develops and publishes export control regulations and procedures, administers the interagency process established to review individual export license applications, and issues formal commodity classifications and related determinations.

Pursuant to the EAA (which expired on August 19, 2001, but the provisions of which remain in force under the International Emergency Economic Powers Act (IEEPA), Executive Order 13222, as extended most recently by the Notice of August 12, 2011 (76 Fed. Reg. 50661 (August 16, 2011)), the Chemical Weapons Convention (CWC) 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 International Atomic Energy Agency (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 Defense Priorities and Allocations System; (4) assessing the national defense industrial base and export control implications of foreign acquisitions of U.S. companies in support of the Committee on Foreign Investment in the United States (CFIUS); (5) developing policy and preparing statutorily-required reports, including the annual offsets report; and (6) managing the Bureau's emergency preparedness program.

In coordination with Management and Policy Coordination and Export Enforcement, 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 referrals). BIS identified a baseline Government Performance Result Act (GPRA) compliance measure of 87 percent of export transactions in compliance with the licensing requirements of the EAR in FY 2008. In FY 2013, BIS has a goal of 99 percent compliance based on continued counseling, outreach, and enforcement as well as establishing electronic validations of certain export control elements on the Automated Export System records.

EA is organized into five subactivities under the Operations and Administration account.

1. The **Office of Technology Evaluation (OTE)** subactivity has a lead role in assessing the effectiveness of the dual-use export control system by analyzing export and related economic data obtained from the Export Control Automated Support System (ECASS), the Automated Export System (AES) and other available sources. OTE's metrics include determining the percentage of shipped transactions in compliance with the licensing requirements of the EAR and the percentage of Industry assessments resulting in BIS determination, within three months of completion, on whether to revise export controls. OTE also assists BIS's intelligence liaison and Office of Enforcement Analysis in assessing effectiveness from national security and compliance perspectives.

OTE conducts primary research and analysis of critical technologies and industrial capabilities of key defense-related sectors. With the help of industry organizations and universities, OTE publishes reports and assessments of findings and recommendations for government policy-makers and industry leaders. The goal is to enable the private sector and government agencies to monitor trends, benchmark industry performance, and raise awareness of diminishing manufacturing capabilities. 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.

2. The **Office of Strategic Industries and Economic Security (OSIES)** supports U.S. national security through its interagency and international activities related to strategic industries and economic security. OSIES produces analysis on the dual-use export control and industrial base implications associated with foreign

acquisitions of U.S. businesses reviewed by the interagency Committee on Foreign Investment in the United States to assess risks to national security. SIES administers the Defense Priorities and Allocations System utilized by Department of Defense (DOD), Department of Energy (DOE), Department of Homeland Security (DHS), and owners/operators of critical infrastructure to prioritize the performance of contracts to support national defense programs. SIES is a member of the interagency Defense Production Act (DPA) Committee to promote the more effective use of DPA authorities to support military, energy, homeland security, emergency preparedness, and critical infrastructure programs. SIES prepares an annual report to Congress on offsets in defense trade and serves on an interagency team that engages foreign governments to reduce the adverse impact of offsets in defense procurements. SIES co-chairs the interagency National Defense Stockpile Market Impact Committee that advises DOD on the potential economic impact of disposals of stockpiled material. SIES also provides DOD with input on the competitiveness implications of DOD's proposed international cooperative agreements and proposed transfers of excess defense articles. SIES coordinates the interagency review of industry requests for USG advocacy support in foreign defense competitions and serves as the USG authority that certifies a U.S. firm's eligibility to compete for NATO-funded procurements. SIES also manages BIS's continuity of operations program and supports NATO civil emergency planning.

3. The **Office of Nonproliferation and Treaty Compliance (NPTC)** subactivity fulfills treaty compliance obligations for the U.S. Government under the Chemical Weapons Convention (CWC), the Additional Protocol (AP), and the Biological Weapons Convention (BWC). As the designated lead agency for private industry implementation of the CWC and the AP, NPTC mandates and collects declarations to the responsible international organizations, and manages international inspections of U.S. industry. For the BWC, NPTC coordinates economic security aspects of compliance, including Confidence Building Measures. Confidence Building Measures refer to transparency measures to demonstrate confidence in compliance with the BWC. They are politically binding commitments within the BWC framework to take and/or report various steps on an annual basis. Additionally, NPTC administers:
  - o U.S. comprehensive export controls on certain categories of dual-use items controlled by three multilateral export control regimes (the Australia Group, the Missile Technology Control Regime, and the Nuclear Suppliers Group);
  - o embargoes and sanctions on selected categories of dual-use items to specific destinations, including the state sponsor of terrorism (Cuba, Iran, North Korea, Sudan, Syria);
  - o "catch-all" controls for Weapons of Mass Destruction (WMD) programs – as part of these controls, no U.S. person may transfer, without a license, any item subject to the EAR, when an exporter or U.S. person knows that the item will be used in the design, development, production, or use of WMD, or is informed that there is an unacceptable risk of diversion to such activities,
  - o military end-use control for a select group of non-listed items to China,
  - o Tiananmen Square sanctions prohibiting export of items controlled for crime control reasons to China,
  - o the "Glenn Amendment" which imposes a statutory prohibition on the export of items controlled for nuclear and missile reasons to a non-nuclear country that has exploded a nuclear device; and
  - o exports of certain items controlled for crime control reasons, or under the Inter-American Convention Against Illicit Manufacturing and Trafficking of Firearms (CIFTA, or the "Firearms Convention").

NPTC provides one-on-one counseling for potential exporters and issues written advisory opinions, processes license applications, escalates contentious license applications through an interagency process for resolution, provides exporters with commodity classifications under the regulations, and issues license determinations for law enforcement personnel. Office technical experts, including many PhD engineers, contribute to U.S. Government activities in the multilateral export control regimes (Australia Group, Missile Technology Control Regime, Nuclear Suppliers Group, Zangger Committee), including interagency deliberations and preparatory policy work, and travel to participate as experts in regime meetings. The Office also makes personnel available for domestic and international outreach to private industry and foreign governments.

4. **The Office of Exporter Services (OExS)** subactivity is comprised of three divisions and one division field office:

The Regulatory Policy Division (RPD) is responsible for the regulatory policy administration of the dual-use export control system through developing, negotiating, writing, and publishing new amendments to the EAR, and coordinating the clearance of all regulatory changes within the Bureau, Department, and other export control government agencies. In addition, RPD is responsible for responding to advisory opinion requests, counseling exporters on regulatory matters, participating in regulatory seminars, and representing the Bureau in various export control forums including the multilateral regimes.

The Office of Outreach and Educational Services Division (OESD) and the Western Regional Field Office (WRO) (located in Irvine, CA and San Jose, CA) promote knowledgeable voluntary compliance with dual-use export controls by educating the business community about its obligations under the EAR through one on one regulatory counseling and the development and implementation of online training programs, Webinar programs, annual export control conferences, licensing officer training, and U.S. Government export control training. OESD and WRO represent BIS on export control issues at regional seminars, trade shows and Trade Promotion Coordination Committee's Export Pavilion. Also, OESD and WRO publish information material on the BIS Website and Automated Export System (AES) Newsletter.

The Export Management and Compliance Division (EMCD) is responsible for reviewing company compliance manuals, providing compliance support for specific export programs that include a compliance program requirement for participation, conducting compliance seminars, facilitating the Bureau's quality assurance license review program, responding to 764.5(f) authorization requests (enforcement portion of the regulations), reviewing reports required by license conditions to ensure compliance, processing export license transfer requests, supporting licensing offices with the efficient and proper processing of classification and license requests, and managing access to the Bureau's on-line license application program, Simplified Network Application Process Redesign (SNAP-R).

5. **The Office of National Security and Technology Transfer Controls (NSTTC)** subactivity 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). Licensing officers in NSTTC 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. NSTTC licensing officers also perform the

technical and regulatory analysis to assist the exporting community in determining the licensing requirements for their products (Commodity Classifications and Advisory opinions), and for BIS's Office of Export Enforcement in support of their investigations of potential violations of U.S. export regulations (License Determinations). NSTTC licensing officers are called upon to provide expert testimony in criminal and civil suits relating to export control violations. The office also provides its expertise in cases in which the export control jurisdiction over an item (i.e., the dual-use Commerce Control List or U.S. Munitions List) is unclear.

NSTTC engineers and policy analysts participate in the U.S. delegation to the Wassenaar Arrangement, which is the international export control regime that harmonizes national export controls on conventional arms and dual-use goods. NSTTC Licensing officers play a key role in international technical discussions related to revisions of the control lists, while NSTTC policy analysts support Wassenaar policy initiatives.

Finally, NSTTC also supports the Bureau's export seminar outreach and international export control cooperation programs and assists the Regulatory Policy Division in the development of new rules and regulations affecting national security controlled items.

#### **Significant Adjustments-to-Base (ATBs):**

BIS requests a net increase of 0 FTE and \$0.104 million to fund adjustments to current programs for EA activities. The increase will fund the estimated 2013 Federal pay raise of 0.5 percent. The increase will also provide inflationary increases for non-labor activities, including service contracts, utilities, field office lease payments, and rent charges from the General Service Administration (GSA).

#### **Administrative Cost Savings**

**PROGRAM CHANGES FOR FY 2013: Export Administration (-0 FTE and -\$0.253 million):** BIS requests a decrease of \$0.253 million and 0 FTE for a total request of \$58.379 million and 212 FTE for EA. The decrease includes \$0.253 million from cross-cutting program reductions. These cross-cutting reductions will be captured by managing on-going administrative savings.

The Administration is continuing its pursuit of an aggressive government-wide effort to curb non-essential administrative spending called the Administrative Efficiency Initiative. As a result, the Department of Commerce continues to seek ways to improve the efficiency of programs without reducing their effectiveness.

#### **PROGRAM CHANGES FOR FY 2013:**

**Program Change, Export Administration (Base Funding: 188 FTE and \$54.910 million):** BIS requests an increase of \$3.469 million, and 24 FTE for a total request of \$58.379 million, and 212 FTE for EA to support the Presidential, Secretarial and Administration, priority to: Implement an effective export control reform program to advance national security and overall economic competitiveness by utilizing the more flexible Commerce dual-use system to control military items of less significance. The \$3.469 million increase will be added to the savings cited in the Administrative Cost Savings (\$0.253 million) and additional savings derived within EA (\$2.515 million) to fund a total requirement of \$6.237 million for the Export Control Reform Initiative. These savings will result from reductions in application development, re-organization of Information Technology support services, and reduction of main frame requirements as BIS moves to the Department of Defense's USXPORTS.

## **The U.S. Export Control System**

The U.S. Government's export control and sanctions laws and regulations are administered and supported by a number of different agencies within the Departments of Commerce, State, Defense, Treasury, and Energy. These regulations are structured differently, often overlap in scope, use different definitions of the same terms, and, as a result, impose unnecessary burdens on exporters and government officials. This structure was essentially set up after World War II and expanded considerably during the Cold War.

The two primary agencies in the system are Commerce's Bureau of Industry and Security (BIS) and State Department's Directorate of Defense Trade Controls (DDTC). BIS processes approximately 22,000 license applications a year under the Export Administration Regulations (EAR), which are relatively flexible in that they have various country groups for different types of items and various exceptions to allow for unlicensed exports under certain circumstances. DDTC processes approximately 84,000 license applications a year under the International Traffic in Arms Regulations (ITAR), which are relatively inflexible in that they impose virtually worldwide licensing obligations on all covered items, regardless of significance, with few exceptions. Moreover, the ITAR impose many collateral burdens and controls on exporters that do not exist in the EAR, such as registration requirements, expanded controls on related services, and controls over insignificant items even when incorporated into a foreign-made end item. The authorizing statute for the ITAR, the Arms Export Control Act, largely prohibits State Department from making the ITAR more flexible and tailored to the types of items being controlled. The authorizing statutes for the EAR provide Commerce with much more flexibility to tailor how and what is controlled under the EAR to account for current threats and national security needs.

## **Export Control Reform**

In August 2009, the President directed a broad-based interagency review of this system, with the goal of strengthening national security and increasing the competitiveness of key U.S. manufacturing and technology sectors by focusing on current threats, as well as adapting to the changing economic and technological landscape. This review determined that the current export control system is overly complicated, contains too many redundancies, and, in trying to protect too much, diminishes our ability to focus our efforts on the most critical national security priorities.

As a result, the Administration launched the Export Control Reform (ECR) Initiative, which will fundamentally reform the U.S. export control system. The ECR Initiative is designed to enhance U.S. national security and strengthen the United States' ability to counter threats such as the proliferation of weapons of mass destruction. The Administration is implementing the reform in three phases. Phases I and II reconcile various definitions, regulations, and policies for export controls, all the while building toward Phase III, which will create a single control list, single licensing agency, unified information technology system, and enforcement coordination center.

## **Transfer of Control to Commerce from State of Less Significant Defense Articles**

A core part of the White House-led, Deputies-approved plan to bring about the national security objectives described above is to transfer jurisdiction over less significant defense articles, principally generic parts and components, controlled by the regulations currently administered by the State Department to the more flexible regulations administered by the Commerce Department. This plan will create a significant Phase II deliverable of significantly reducing the licensing and other collateral burdens on exporters and the government while harmonizing the system to allow for the eventual creation of a single list of controlled items administered by a single licensing agency.

### Key Resource Points Associated with the Transfer of Items to Commerce from State

- It is estimated that approximately 30,000 of the license applications State's DDTC processes annually will become the responsibility of BIS.
- This means that the licensing workload for Commerce, and overall related training and compliance obligations, will increase by 150%, although the net burden the U.S. Government export control system imposes on exporters will decrease.
- BIS is in the process of putting the workforce in place to accommodate this transfer.
- BIS estimates that each Licensing Officer will process up to 1,200 licenses a year and be involved in performing related compliance training, outreach, and tasks associated with resolving control issues under the new system. This estimate incorporates the number of licenses processed by DDTC with an added factor for the additional commodity classification requirements done by BIS.
- Thus, for this key element of the President's Export Control Reform Initiative to succeed, BIS needs 24 additional staff to perform the licensing and related functions described above. Approximately \$6.2 million in additional funding for BIS is needed to perform these functions. This amount covers personnel pay, benefits, training, travel, specialized information technology requirements (Secret Internet Protocol Router Network (SIPRNet), and USXPORTS), and overhead and support.
- Making the current workforce absorb the 150% increase would cause significant delays in processing times and would put U.S. exporters at a severe disadvantage during a critical point in our economic recovery.

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

Activity: Export Administration  
 Program Change: Export Control Reform

| Title                             | Grade | Number    | Annual Plan | Total Salaries     |
|-----------------------------------|-------|-----------|-------------|--------------------|
| Licensing Officer                 | 15    | 2         | \$123,758   | \$247,516          |
| Licensing Officer                 | 14    | 6         | \$105,211   | \$631,266          |
| Licensing Officer                 | 13    | 16        | \$89,033    | \$1,424,528        |
| Total, Full-time permanent        |       | 24        |             | \$2,303,310        |
| FY 2013 pay raise                 |       | 0.50%     |             | \$11,517           |
| <b>Total full-time permanent:</b> |       | <b>24</b> |             | <b>\$2,314,827</b> |

| Personnel Data:                  | Number    |
|----------------------------------|-----------|
| Full-time Equivalent Employment: |           |
| Full-time Permanent              | 24        |
| <b>Total</b>                     | <b>24</b> |
| Authorized Positions:            |           |
| Full-time Permanent              | 24        |
| <b>Total</b>                     | <b>24</b> |

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

**Activity: Export Administration**  
**Program Change: Export Control Reform**

| <b>Object Class:</b>                                    | <b>FY 2013<br/>Increase</b> |
|---|-----------------------------|
| Personnel Compensation                                  |                             |
| 11.1 Full-time permanent                                | \$2,315                     |
| 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                       | \$2,315                     |
| 12.1 Civilian personnel Benefits                        | \$579                       |
| 13 Benefits for former personnel                        | 0                           |
| 21 Travel and transportation of persons                 | \$360                       |
| 22 Transportation of things                             | \$24                        |
| 23.1 Rental payments to GSA                             | \$384                       |
| 23.2 Rental payments to others                          | 0                           |
| 23.3 Communications, utilities and miscellaneous charge | \$159                       |
| 24 Printing and Reproduction                            | \$17                        |
| 25 Other Services                                       | \$2,091                     |
| 26 Supplies and Materials/Fuel                          | \$68                        |
| 31 Equipment  | \$240                       |
| 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                           |
| <b>99 Total obligations</b>                             | <b>\$6,237</b>              |

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

| Comparison by Activity: |         | 2011      |          | 2012      |          | 2013      |          | 2013      |          | Increase/<br>Decrease |          |
|-------------------------|---------|-----------|----------|-----------|----------|-----------|----------|-----------|----------|-----------------------|----------|
|                         |         | Actual    |          | Enacted   |          | Base      |          | Estimate  |          | Personnel             | Amount   |
|                         |         | Personnel | Amount   | Personnel | Amount   | Personnel | Amount   | Personnel | Amount   | Personnel             | Amount   |
| Export Enforcement..... | Pos./BA | 171       | \$39,763 | 171       | \$40,071 | 171       | \$40,147 | 171       | \$38,123 | 0                     | -\$2,024 |
|                         | FTE/Obl | 165       | \$39,068 | 167       | \$40,450 | 167       | \$40,147 | 167       | \$38,123 | 0                     | -\$2,024 |

Department of Commerce  
Bureau of Industry and Security  
Operations and Administration  
Program Administration

**APPROPRIATION ACCOUNT: Operations and Administration**

**BUDGET ACTIVITY: Export Enforcement (EE)**

For FY 2013, BIS will decrease its funding by \$1.948 million and 0 FTE under the FY 2012 enacted request for a total of \$38.123 million and 167 FTE for EE. The decrease includes \$2.024 million from Program Changes and an increase of \$0.076 million for necessary cost of living adjustments.

**BASE JUSTIFICATION FOR FY 2013:**

EE Overview

Pursuant to the Export Administration Act (EAA) (which expired on August 19, 2001, but the provisions of which remain in force under the International Emergency Economic Powers Act (IEEPA), Executive Order 13222, as extended most recently by the Notice of August 12, 2011 (76 Fed. Reg. 50661 (August 16, 2011)), 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.

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 is organized into three subactivities under the Operations and Administration account.

1. The **Office of Export Enforcement (OEE)** subactivity includes investigating criminal and administrative violations and imposing civil sanctions for violations of the Export Administration Regulation (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 Weapons of Mass Destruction (WMD), terrorism, and military diversion. 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. 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, and seize goods.

To help detect and prevent diversions of U.S. goods to countries and end-users of proliferation concern, OEE Special Agents conduct end-use checks, and both pre-license checks and post-shipment verifications for licensed transactions. Some 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.

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

OEE's outreach objectives include education programs to train 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 USG export control and enforcement agencies, and working cooperatively with foreign governments to help them acquire enforcement capabilities needed for fully effective export control programs.

2. The **Office of Enforcement Analysis (OEA)** subactivity monitors and evaluates export transactions and combines trade data - uniquely available to Commerce under proper safeguards - with private, public, and government classified and unclassified information to support compliance with the EAR, the Chemical Weapon Convention Regulations (CWCR), and related laws and regulations related to dual-use items. The purpose of these efforts is to facilitate trade and promote commerce abroad while protecting our national security and interests from unauthorized use of our nation's most sensitive items and technology that could be used to enhance foreign state and non-state actors' terrorist activities, like improvised explosive devices (IEDs). OEA is the only national security office specifically chartered to conduct intelligence analysis of export transactions and trade data pursuant to stopping the proliferation and misuse of dual-use goods.

In pursuit of its mission, OEA is responsible for collecting and analyzing export transactions, conducting corporate bona fides checks of end-users, identifying illicit procurement networks of dual-use goods, producing and disseminating law enforcement investigative leads relating to potential export violations to BIS Special Agents, and providing analytical support to ongoing investigations. OEA also conducts risk assessments supporting determinations relating to end users, which facilitates trade with reliable parties, and the Entity List, which restricts trade with unreliable end users. OEA activities are focused on established BIS priorities of preventing the diversion of dual use items to prohibited parties for the purpose of: producing WMD (nuclear, chemical, and biological), WMD delivery systems, supporting terrorism, and unauthorized military purposes. OEA provides this information within BIS to support a variety of BIS-led preventive and enforcement measures - pursuit of criminal and civil cases, regulatory actions, outreach, and administrative measures, such as, placing companies on the watch or entities list, or issuing warning letters. Additionally, OEA facilitates the provision of information and interchange of analysis with other U.S. Government agencies to bring to bear all relevant

instruments of national power abroad - diplomatic conventions, military, and other agency - to counter illicit procurement networks and to promote an effective export control regime.

3. The **Office of Antiboycott Compliance (OAC)** subactivity administers the antiboycott provisions of the EAR (15 C.F.R. Part 760). The impetus of these laws was to discourage, and in some circumstances, prohibit U.S. companies from furthering or supporting the boycott of Israel sponsored by the Arab League, and certain Muslim countries. This includes compliance by U.S. entities with certain requests for information designed to verify compliance with the boycott. Cooperation with such requests may be prohibited by the regulations and reportable to the OAC.

The antiboycott provisions of the EAR apply to all "U.S. persons," defined to include individuals and companies located in the United States and their foreign affiliates. These persons are subject to the law when their activities relate to the sale, purchase, or transfer of goods or services (including information) within the U.S. or between the U.S. and a foreign country. This covers U.S. exports and imports, financing, forwarding and shipping, and certain other transactions that may take place wholly offshore.

OAC accomplishes its mission by assisting the regulated public in complying with the antiboycott regulations, monitoring requests to comply with unsanctioned foreign boycotts received by U.S. businesses, and investigating and sanctioning violators of the antiboycott provisions of the EAR. OAC assists the regulated public in complying with the antiboycott regulations through its outreach efforts. These include participation in export control seminars and conferences through which exporters, freight forwarders, bankers, lawyers, and others are trained on the application of the antiboycott portions of the EAR to export transactions. Additionally, OAC operates a telephone and E-mail advice line which provides answers to the exporting community's specific antiboycott questions.

The EAR requires U.S. persons report the receipt of requests to comply with unsanctioned foreign boycotts to BIS. These reports include the language of the request submitted by the reporting entity and the boycotting country initiating the request. OAC's Report Processing Unit staff receives the report forms and maintains a database of these boycott-related requests. OAC's policy division monitors and analyzes the database reporting trends in boycott activity annually to the Congress. Further, the Policy Division works closely with the Department's governmental partners at the Department of State's Office of the Near East, the Department of Treasury's Office of General Counsel, responsible for administering the antiboycott portion of the Internal Revenue Code, and the U.S. Trade Representative to ensure coordinated government policy regarding antiboycott compliance.

#### **Significant Adjustments-to-Base (ATBs):**

BIS requests a net increase of 0 FTE and \$0.076 million to fund adjustments to current programs for EE activities. The increase will fund the estimated 2013 Federal pay raise of 0.5 percent. The increase will also provide inflationary increases for non-labor activities, including service contracts, utilities, field office lease payments, and rent charges from the General Service Administration (GSA).

### **Administrative Cost Savings**

#### **PROGRAM CHANGES FOR FY 2013: Export Enforcement (-0 FTE and -\$0.185 million):**

BIS requests a decrease of \$0.185 million and 0 FTE for a total request of \$38.123 million and 167 FTE for EE. The decrease includes \$0.185 million from cross-cutting program reductions. These cross-cutting reductions will be captured by managing on-going administrative savings.

The Administration is continuing its pursuit of an aggressive government-wide effort to curb non-essential administrative spending called the Administrative Efficiency Initiative. As a result, the Department of Commerce continues to seek ways to improve the efficiency of programs without reducing their effectiveness.

#### **PROGRAM CHANGES FOR FY 2013:**

#### **Program Change, Export Enforcement (Base Funding: 167 FTE and \$40.147 million):**

BIS requests a decrease of \$2.024 million, and 0 FTE for a total request of \$38.123 million, and 167 FTE for EE. The \$2.024 million decrease is derived from the Administrative Cost Savings cited above (\$0.185 million) and additional savings within EE (\$1.839 million) from reductions in application development, re-organization of Information Technology support services, and reduction of main frame requirements as BIS moves to the Department of Defense's USXPORTS.

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

| Object Class   | 2011<br>Actual   | 2012<br>Enacted  | 2013<br>Base     | 2013<br>Estimate | Increase/<br>Decrease |
|--|------------------|------------------|------------------|------------------|-----------------------|
| <b>Personnel compensation:</b>                               |                  |                  |                  |                  |                       |
| 11.1 Full-time permanent                                     | \$37,196         | \$36,456         | \$36,493         | \$38,808         | \$2,315               |
| 11.3 Other than full-time permanent                          | \$576            | \$253            | \$263            | \$253            | \$0                   |
| 11.5 Other personnel compensation                            | \$3,755          | \$3,756          | \$3,769          | \$2,869          | -\$900                |
| 11.8 Special personnel services payments                     | \$0              | \$41             | \$41             | \$41             | \$0                   |
| <b>11.9 Total personnel compensation</b>                     | <b>\$41,527</b>  | <b>\$40,506</b>  | <b>\$40,546</b>  | <b>\$41,961</b>  | <b>\$1,415</b>        |
| 12.0 Civilian personnel benefits                             | \$13,010         | \$11,924         | \$11,993         | \$12,572         | \$579                 |
| 13.0 Benefits for former personnel                           | \$76             | \$16             | \$16             | \$16             | \$0                   |
| 21.0 Travel and transportation of persons                    | \$2,253          | \$3,392          | \$3,412          | \$3,772          | \$360                 |
| 22.0 Transportation of things                                | -\$103           | \$175            | \$175            | \$200            | \$24                  |
| <b>Rent, communications, and utilities:</b>                  |                  |                  |                  |                  |                       |
| 23.1 Rental payments to GSA                                  | \$5,196          | \$5,419          | \$5,439          | \$5,823          | \$384                 |
| 23.2 Rental payments to others                               | \$0              | \$26             | \$26             | \$26             | \$0                   |
| 23.3 Communications, utilities and miscellaneous charge      | \$1,626          | \$1,830          | \$1,834          | \$1,963          | \$159                 |
| 24.0 Printing and reproduction                               | \$231            | \$256            | \$257            | \$274            | \$17                  |
| <b>Consulting and other services</b>                         |                  |                  |                  |                  |                       |
| 25.1 Advisory and assistance services                        | \$0              | \$830            | \$830            | \$830            | \$0                   |
| 25.2 Other services  | \$15,915         | \$14,690         | \$14,742         | \$13,333         | -\$1,409              |
| 25.3 Purchase of goods and services from Government accounts | \$18,819         | \$15,356         | \$15,323         | \$14,823         | -\$700                |
| 26.0 Supplies and materials                                  | \$1,135          | \$1,505          | \$1,506          | \$1,574          | \$68                  |
| 31.0 Equipment   | \$285            | \$5,075          | \$5,061          | \$5,331          | \$240                 |
| 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                                  | \$1              | \$0              | \$0              | \$0              | \$0                   |
| 50.0 Depreciation  | \$0              | \$0              | \$0              | \$0              | \$0                   |
| <b>99.0 Total Obligations</b>                                | <b>\$100,178</b> | <b>\$101,000</b> | <b>\$101,191</b> | <b>\$102,328</b> | <b>\$1,137</b>        |
| Less: Recoveries   | -\$936           | \$0              | \$0              | \$0              | \$0                   |
| Less: Unobligated balance, start of year                     | -\$290           | \$0              | \$0              | \$0              | \$0                   |
| Plus: Unobligated balance, rescission                        | \$0              | \$0              | \$0              | \$0              | \$0                   |
| Plus: Unobligated balance, end of year                       | \$3,989          | \$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                        | -\$2,800         | \$0              | \$0              | \$0              | \$0                   |
| Plus: Transferred to other accounts                          | \$0              | \$0              | \$0              | \$0              | \$0                   |
| <b>99.1 Total Budget Authority</b>                           | <b>\$100,141</b> | <b>\$101,000</b> | <b>\$101,191</b> | <b>\$102,328</b> | <b>\$1,137</b>        |

**Department of Commerce  
BUREAU OF INDUSTRY AND SECURITY  
Operations and Administration  
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 (currently 15 U.S.C. 1824a)  
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 Camp. p. 783 (2002)), as extended by the Notice of August 12, 2011 (76 Fed. Reg. 50661 (Aug. 16, 2011)), 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, pursuant to the requirements of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), 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.

15 U.S.C. 1824a 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.  
22 U.S.C. 8101 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) authorizes 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).

22 U.S.C. 8101 et seq. (United States Additional Protocol Implementation Act) authorizes the President to carry out U.S. obligations under the "Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency (IAEA) for the Application of Safeguards in the United States of America" signed at Vienna, June 12, 1998. These obligations include reporting requirements of facilities engaged in nuclear activities and inspections of such facilities by members of the IAEA accompanied by U.S. government representatives (functions delegated to the Secretary of Commerce in Executive Order 13548, February 6, 2008).

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, September 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, November 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, January 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, January 8, 1991).

50 U.S.C. app. 2061 et seq. (Defense Production Act of 1950, as amended) 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 that 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, June 3, 1994).
- 50 U.S.C. app. 2099 authorizes the Secretary of Commerce to produce the Annual Report on Offsets (functions partially delegated to the Secretary of Commerce in Executive Order 12919, June 3, 1994).
- 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, June 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 studies and assessments of the health and competitiveness of the U.S defense industrial base (functions partially delegated to Secretary of Commerce in Executive Order 12656, November 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, June 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 (June 1, 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 therefore.

**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 therefore.

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)

|                           | <u>FY 2011</u><br><u>Actual</u> | <u>FY 2012</u><br><u>Enacted</u> | <u>FY2013</u><br><u>Estimate</u> |
|---------------------------|---------------------------------|----------------------------------|----------------------------------|
| Consulting Services ..... | \$34,734                        | \$30,876                         | \$28,786                         |

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)

|                                   | <u>FY 2011</u><br><u>Actual</u> | <u>FY 2012</u><br><u>Enacted</u> | <u>FY 2013</u><br><u>Estimate</u> |
|-----------------------------------|---------------------------------|----------------------------------|-----------------------------------|
| Periodicals and Publications..... | \$231                           | \$256                            | \$274                             |

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**

|                         | <b>FY 2011</b> | <b>FY 2012</b> | <b>FY 2013</b>  |
|-------------------------|----------------|----------------|-----------------|
|                         | <u>Actual</u>  | <u>Enacted</u> | <u>Estimate</u> |
| Average ES Salary ..... | \$167,096      | \$167,096      | \$167,931       |
| Average GS Grade .....  | 12.78          | 12.78          | 12.82           |
| Average GS Salary ..... | \$102,568      | \$102,568      | \$103,482       |