



FY 2012 President's Submission

**Department of Commerce
BUREAU OF INDUSTRY AND SECURITY
Budget Estimates, Fiscal Year 2012
President's Submission**

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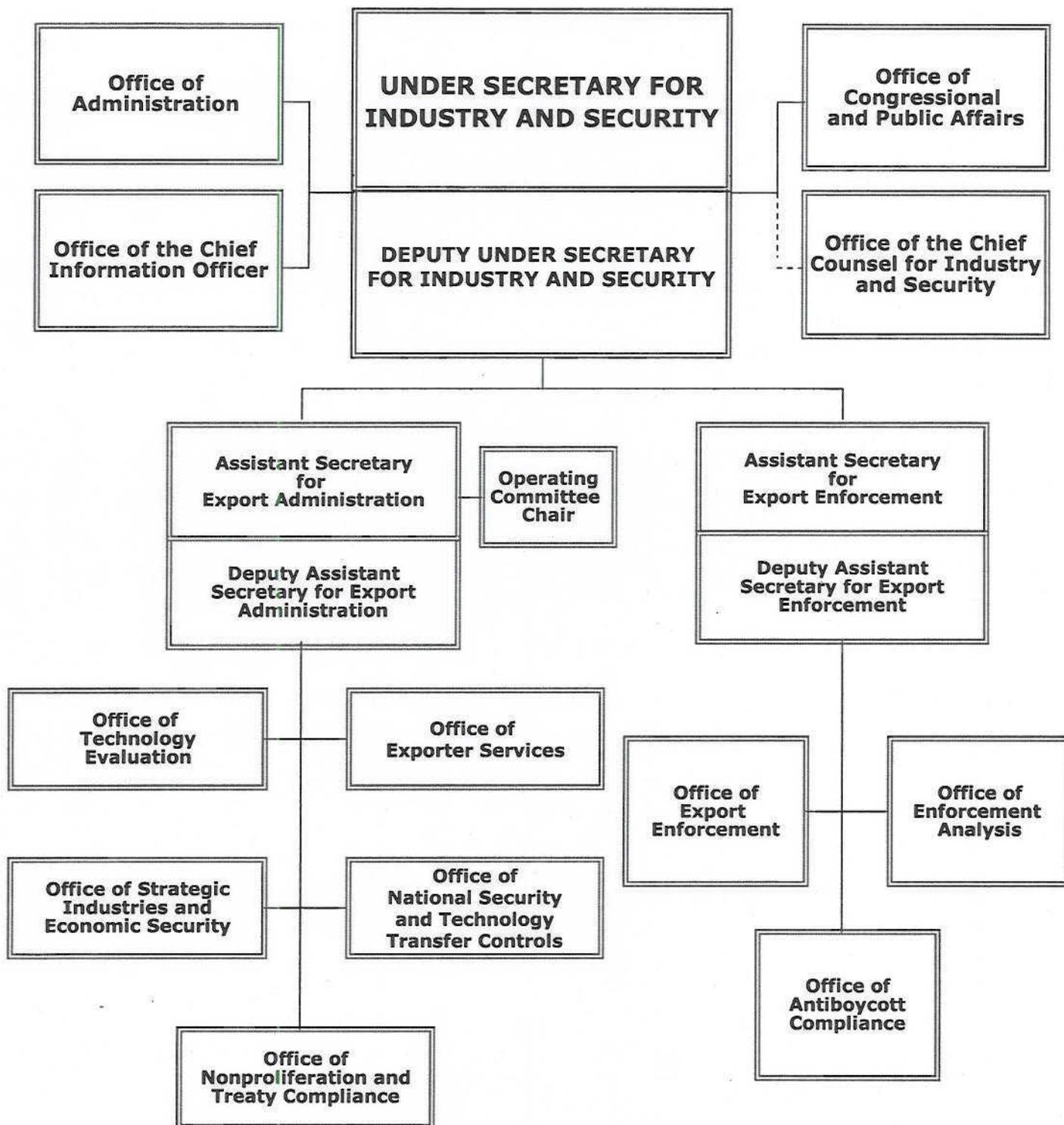
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U.S. DEPARTMENT OF COMMERCE

Bureau of Industry and Security



**Department of Commerce
BUREAU OF INDUSTRY AND SECURITY
Budget Estimate, Fiscal Year 2012**

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

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 weapons of mass destruction, and the defense industrial and technology base to meet national security needs. The primary objectives are to regulate the export of items determined to require export licenses for reasons of national security, nonproliferation, foreign policy, or short supply; ensure that approval or denial of license applications is consistent with U.S. economic and security concerns; promote within the business community an understanding of export control regulations; represent the Department in interagency and international fora relating to export controls, particularly multilateral regimes; monitor and seek to ensure the availability of industrial resources for national defense under the authority of the 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.

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 were 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 2012, BIS is requesting \$111.2 million. This is an increase of \$10.8 million over the Fiscal Year 2011 annualized Continuing Resolution request. The increase includes \$2.1 million for necessary cost of living adjustments, and an increase of \$10.4 million for new initiatives. Additionally, after reviewing its administrative costs, BIS has identified \$1,718,000 in administrative savings. Of these savings, \$1,418,000 is tied to its Information Technology (IT) plans for FY 2012 (see the details in the program change on page 31), and in the area of acquisition, BIS expects to reduce its costs by \$300,000 utilizing strategic sourcing opportunities negotiated by the Department. BIS has also identified \$282,000 in Working Capital Fund savings which is reflected in our base.

2012 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 ensuring fair competition in international trade, 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 expand the U.S. market base. The Department's success in reconciling these imperatives stems from its ability to integrate efforts to support the President's commercial and foreign policy goals to promote freedom and liberty through free and fair trade while pursuing expanding profitable markets for U.S. goods and services.

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

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 2012 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

Measure Description	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 95% of those licenses requiring referral within 9 days.					
Target and Performance Table						
	FY2007 Actual	FY2008 Actual	FY2009 Actual	FY2010 Actual	FY2011 Target	FY2012 Target
Original Funds	98%	99%	99%	90%	98%	98%
Impact of Recovery Funds	0	0	0	0	0	0
Adjusted Targets reflecting Original and Recovery Act Funds	98%	99%	99%	90%	98%	98%
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				NA
Validation & Verification Information	Data Source	Reporting Frequency	Data Storage	Internal Control Procedures	Data Limitations	Actions to be Taken
	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)

Measure Description	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.					
Target and Performance Table						
	FY2007 Actual	FY2008 Actual	FY2009 Actual	FY2010 Actual	FY2011 Target	FY2012 Target
Original Funds	2	2	2	3	2	2
Impact of Recovery Funds	0	0	0	0	0	0
Adjusted Targets reflecting Original and Recovery Act Funds	2	2	2	3	2	2
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				NA
Validation & Verification Information	Data Source	Reporting Frequency	Data Storage	Internal Control Procedures	Data Limitations	Actions to be Taken
	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

Measure Description	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 EAR is a critical component of our dual-use export control system. The target is for at least 85% of the seminar attendees to give the seminar an overall rating of at least 4 (out of a 5 level scale).					
Target and Performance Table						
	FY2007 Actual	FY2008 Actual	FY2009 Actual	FY2010 Actual	FY2011 Target	FY2012 Target
Original Funds	90%	93%	93%	94%	93%	93%
Impact of Recovery Funds	0	0	0	0	0	0
Adjusted Targets reflecting Original and Recovery Act Funds	90%	93%	93%	94%	93%	93%
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				NA
Validation & Verification Information	Data Source	Reporting Frequency	Data Storage	Internal Control Procedures	Data Limitations	Actions to be Taken
	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 CWC time lines that are processed in time for the U.S. to meet treaty obligations

Measure Description	The CWC establishes a verification regime (e.g., declaration requirements, on-site inspections, and trade restrictions) for weapons-related toxic chemicals and precursors that have peaceful applications. BIS's CWC Regulations require U.S. industry exceeding certain chemical activity thresholds to submit declarations and reports. BIS processes, validates, and aggregates the declarations and reports to develop the U.S. CWC Industrial Declaration, which is forwarded to the State Department in time to submit it to the Organization for the Prohibition of Chemical Weapons, within established time frames mandated under the CWC.					
Target and Performance Table						
	FY2007 Actual	FY2008 Actual	FY2009 Actual	FY2010 Actual	FY2011 Target	FY2012 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						
Relevant Program Changes	Program Changes?	Title of Program Change				Exhibit 13 Page Number
	No	None				NA
Validation & Verification Information	Data Source	Reporting Frequency	Data Storage	Internal Control Procedures	Data Limitations	Actions to be Taken
	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

Measure Description	This performance measure will capture the number of EE deterrence actions, cases that result in a prevention of a violation, criminal/administrative cases, and administrative settlement orders. This measure will also count preventions that are achieved through cases that result in a criminal penalty or administrative resolution, rather than simply investigations accepted for prosecution. The measure will include Office of Antboyccott 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.					
Target and Performance Table						
	FY2007 Actual	FY2008 Actual	FY2009 Actual	FY2010 Actual	FY2011 Target	FY2012 Target
Original Funds	930	881	876	806	850	1157
Impact of Recovery Funds	0	0	0	0	0	0
Adjusted Targets reflecting Original and Recovery Act Funds	930	881	876	806	850	1157
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				NA
Validation & Verification Information	Data Source	Reporting Frequency	Data Storage	Internal Control Procedures	Data Limitations	Actions to be Taken
	EE Investigative Management System (IMS)	Monthly	IMS	EE and Antboyccott 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)

Measure Description	This measure evaluates how effective the dual-use export control system is in ensuring that items subject to a BIS licensing requirement are exported in compliance with the EAR. BIS will measure exporter compliance with the EAR by reviewing, on an annual basis, the entire compilation of export transactions subject to a license requirement (i.e., licensed and license exception shipments) and 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.					
Target and Performance Table						
	FY2007 Actual	FY2008 Actual	FY2009 Actual	FY2010 Actual	FY2011 Target	FY2012 Target
Original Funds	N/A	87%	96%	98%	99%	99%
Impact of Recovery Funds	0	0	0	0	0	0
Adjusted Targets reflecting Original and Recovery Act Funds	N/A	87%	96%	98%	99%	99%
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				NA
Validation & Verification Information	Data Source	Reporting Frequency	Data Storage	Internal Control Procedures	Data Limitations	Actions to be Taken
	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	Post Shipment Verifications (PSVs) confirm whether or not goods exported from the United States actually were received by the party named on the license or other export documentation, and whether the goods are being used in accordance with the provisions of that license. PSVs are selected through the use of a new decision rubric that scores several aspects of a license application. In addition, BIS enforcement analysts research other potential factors to make a final determination on whether to initiate an end-use check to include PSVs. While PSVs are a key component of compliance verification, they also identify diverted transactions and reveal untrustworthy end-users and intermediate consignees. By conducting PSVs, BIS can provide a level of assurance that foreign end-users are aware of BIS license restrictions and comply with them as well as identifying if controlled items were shipped to unqualified end-users. As a result, the PSV sample deliberately over-represents "Unfavorable" outcomes compared to the entire shipment population.					
Target and Performance Table						
	FY2007 Actual	FY2008 Actual	FY2009 Actual	FY2010 Actual	FY2011 Target	FY2012 Target
Original Funds	N/A	136 PSVs / 93%	314 PSVs / 88%	256 PSVs / 93%	315 PSVs / 85%	315 PSVs / 85%
Impact of Recovery Funds	0	0	0	0	0	0
Adjusted Targets reflecting Original and Recovery Act Funds	N/A	136 PSVs / 93%	314 PSVs / 88%	256 PSVs / 93%	315 PSVs / 85%	315 PSVs / 85%
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	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 - Percentage of leads that result in prevention of a violation and cases which result in a criminal and/or administrative action.

Measure Description	Monitoring the number of Office of Enforcement Analysis (OEA) generated leads and law enforcement actions resulting from those leads will provide a quality check and production measure of the effectiveness of OEA leads. The focus of the measure is quality, thus effectiveness will be measured by the number of "preventions", (an OEE measure), to include investigations resulting in criminal and/or administrative action-thus ensuring greater compliance with the Export Administration Act. The performance measure will capture the number of OEA initiated leads and the percentage resulting in a prevention of a violation (to include industry outreach and issuance of warning letters for first time and/or minor export offenses), criminal/administrative cases, and administrative settlement orders.					
Target and Performance Table						
	FY2008 Actual	FY2009 Actual	FY2010 Actual	FY2011 Estimate	FY2012 Target	FY2013 Target
Original Funds	N/A	N/A	N/A	N/A	30/80%	40/85%
Impact of Recovery Funds	0	0	0	0	0	0
Adjusted Targets reflecting Original and Recovery Act Funds	N/A	N/A	N/A	N/A	30/80%	40/85%
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				NA
Validation & Verification Information	Data Source	Reporting Frequency	Data Storage	Internal Control Procedures	Data Limitations	Actions to be Taken
	EE Investigative Management System – Redesigned (IMS-R)	Monthly	IMS-R	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 9: Number of End-Use Checks completed

Measure Description	<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>					
Target and Performance Table						
	FY2007 Actual	FY2008 Actual	FY2009 Actual	FY2010 Actual	FY2011 Target	FY2012 Target
Original Funds	854	490	737	708	850	850
Impact of Recovery Funds	0	0	0	0	0	0
Adjusted Targets reflecting Original and Recovery Act Funds	854	490	737	708	850	850
Comments on Changes to Targets	<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. While PSVs are a key component of compliance verification, they also identify diverted transactions and reveal untrustworthy end-users and intermediate consignees. Better intelligence efforts and refined PSVs has contributed to the reduction in total end-use checks and brings the validity of the current measure into question. Therefore, BIS intends to reevaluate this measure and potentially set a new base line target.</p>					
Impact of Recovery Act Funds						
Relevant Program Changes	Program Changes?	Title of Program Change				Exhibit 13 Page Number
	No	None				NA
Validation & Verification Information	Data Source	Reporting Frequency	Data Storage	Internal Control Procedures	Data Limitations	Actions to be Taken
	ECASS & IMS	Monthly	ECASS & IMS	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 10 - Percent of industry assessments resulting in BIS determination, within three months of completion, on whether to revise export controls

Measure Description	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.					
Target and Performance Table						
	FY2007 Actual	FY2008 Actual	FY2009 Actual	FY2010 Actual	FY2011 Target	FY2012 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						
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
	Paper records	Quarterly	EA office files	BIS will verify the information used to report this performance measure against supporting documentation.	None	None

Section 6 2012 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	Administrative Savings	Page 25, 31, 36	None	0	\$2,000,000	0	-\$2,000,000	Page 24, 27, 33
Yes	Export Enforcement	Page 37, 40, 44	None	167	\$40,743,000	28	\$10,415,000	Page 33

Section 7 Resource Requirements

	Program or Line Item Name	FY2007 Actual	FY2008 Actual	FY2009 Actual	FY2010 Actual	FY2011 Annualized CR	FY2012 Base	Increase/Decrease	FY2012 Request
Original Funds	Office of Technology Evaluation	3.3	3.1	3.6	4.3	4.3	4.4	0	4.4
	Office of Strategic Industries and Economic Security	4.5	4.2	4.8	5.8	5.8	5.9	0	5.9
	Office of Nonproliferation and Treaty Compliance	14.1	13.2	15.2	18.2	18.2	18.6	-1.0	17.6
	Office of Exporter Services	12.1	11.4	13.1	15.7	15.7	16.1	0	16.1
	Office of National Security and Technology Transfer Controls	10.3	9.7	11.2	13.4	13.4	13.7	-1.0	12.7
	Office of Enforcement Analysis	5.3	5.0	5.8	6.9	6.9	7.1	2.0	9.1
	Office of Anitboycott Compliance	2.3	2.2	2.5	3.0	3.0	3.1	0	3.1
	Office of Export Enforcement	25.4	24.0	27.5	33.0	33.0	33.8	8.4	42.2
Total Funding		81.0	76.3	85.5	102.5	102.5	105.2	0	113.6
Total Direct		77.3	72.8	83.7	100.3	100.3	102.7	8.4	111.1
Total Reimbursable		3.7	3.5	1.8	2.2	2.2	2.5	0	2.5
Total IT Funding		12.9	12.9	11.6	21.6	21.6	22.0	0	20.0
Total FTE		366	353	329	362	364	366	0	394

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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
	2011 CR (Annualized)	379	364	\$100,342	\$100,342
	Adjustment to support level in FY 2011 President's Budget		2	\$879	\$879
BIS - 19	Plus: 2012 adjustments to base	37	28	\$1,269	\$1,269
	2012 Base	416	394	\$102,490	\$102,490
	Administrative Savings (Actual Reduction)	0	0	-\$1,718	-\$1,718
	Plus: 2012 program changes	0	0	\$10,415	\$10,415
	2012 Estimate	416	394	\$111,187	\$111,187

Comparison by Activity:		2010 Actual		2011 CR (Annualized)		2012 Base		2012 Estimate		Increase/Decrease		
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	
BIS - 23	Management and Policy Coordination	Pos./BA	15	\$6,056	15	\$6,056	15	\$6,182	15	\$6,162	0	-\$20
		FTE/Obl.	13	\$6,130	11	\$6,045	11	\$6,182	11	\$6,162	0	-\$20
BIS - 26	Export Administration	Pos./BA	193	\$54,432	193	\$54,432	193	\$55,565	193	\$54,007	0	-\$1,558
		FTE/Obl.	163	\$55,079	187	\$54,379	188	\$55,565	188	\$54,007	0	-\$1,558
BIS - 32	Export Enforcement	Pos./BA	171	\$39,854	171	\$39,854	171	\$40,743	208	\$51,018	37	\$10,275
		FTE/Obl.	145	\$40,010	166	\$40,208	167	\$40,743	195	\$51,018	28	\$10,275
	Direct Obligations	Pos./BA	379	\$100,342	379	\$100,342	379	\$102,490	416	\$111,187	37	\$8,697
		FTE/Obl.	322	\$101,219	364	\$100,632	366	\$102,490	394	\$111,187	28	\$8,697
	Adjustments to Obligations											
	Recoveries											
	Unobligated balance, start of year											
	Unobligated balance, rescission											
	Unobligated balance, end of year											
	Unobligated balance expiring											
	Financing from transfers:											
	Transferred from other accounts (-)											
	Transferred to other accounts (+)											
	Unobligated balance, rescission:											
	Appropriation		\$100,342		\$100,342		\$102,490		\$111,187		\$8,697	

Note: The distribution of administrative savings reflected in this exhibit are based on current estimates. As the review and implementation processes proceed, the distribution of these savings may change the funding levels for these line items.

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

	2010 Actual	2011 CR (Annualized)	2012 Base	2012 Estimate	Increase/ Decrease
Total Obligations.....	\$97,966	\$108,544	\$104,490	\$113,187	\$8,697
Financing:					
Offsetting collections from:					
Federal funds.....	-\$1,307	-\$1,050	-\$1,050	-\$1,050	0
Non-Federal sources.....	-\$1,352	-\$950	-\$950	-\$950	0
Recovery of prior year obligations.....	-113	0	0	0	0
Unobligated balance, start of year.....	-\$1,054	-6,202	0	0	0
Unobligated balance, transferred.....	0	0	0	0	0
Unobligated balance, end of year.....	6,202	0	0	0	0
Unobligated balance expiring	-----	-----	-----	-----	-----
Budget Authority.....	\$100,342	\$100,342	\$102,490	\$111,187	\$8,697
Financing:					
Transfers from other accounts.....	0	0	0	0	0
Transfers to other accounts.....	0	0	0	0	0
Unobligated balance, rescission:	-----	-----	-----	-----	-----
Appropriation.....	\$100,342	\$100,342	\$102,490	\$111,187	\$8,697

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

	<u>FTE</u>	<u>Amount</u>
Adjustments:		
Adjustment to support level in FY 2011 President's Budget	<u>2</u>	<u>879</u>
Changes:		
Pay Raises	<u>0</u>	<u>0</u>
 Civil Service Retirement System (CSRS)		
The estimated percentage of payroll for regular employees covered by CSRS will decrease from 22.6% in 2011 to 20% in 2012 and increase from 0% to .10% 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>-44</u>
 Regular Employees:		
CSRS Cost in 2012 (\$24,856,000 X .20 X .0700)	347,984	
CSRS Cost in 2011 (\$24,856,000 X .2260 X .0700)	-393,222	
Subtotal	<u>-45,238</u>	
 Law Enforcement Agents:		
CSRS Cost in 2012 (\$14,068,000 X .0010 X .0750)	1,055	
CSRS Cost in 2011 (\$14,068,000 X .00 X .0750)	0	
Subtotal	<u>1,055</u>	
Total adjustment-to-base		-44,183

FTE Amount

Federal Employees' Retirement System (FERS)

0 72

The estimated percentage of payroll for regular employees covered by FERS will increase from 77.40% in 2011 to 80.00% in 2012. The estimated percentage of payroll for law enforcement employees covered by FERS will decrease from 100.00% in 2011 to 99.90% in 2012. Contribution rates will remain the same at 11.70% for regular employees and 25.70% for law enforcement employees in 2012.

Regular Employees:

FERS cost in 2012 (\$24,856,000 X .80 X .1170)	2,326,522
FERS cost in 2011 (\$24,856,000 X .7740 X .1170)	<u>-2,250,910</u>
Subtotal	75,612

Law Enforcement Agents:

FERS cost in 2012 (\$14,068,000 X .9990 X .2570)	3,611,861
FERS cost in 2011 (\$14,068,000 X 1.00 X .2570)	<u>-3,615,476</u>
Subtotal	-3,615

Total adjustment-to-base **71,997**

Thrift Savings Plan

0 13

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 2012 (\$24,856,000 X .80 X .0200)	397,696
Cost in 2011 (\$24,856,000 X .7740 X .0200)	<u>-384,771</u>
Subtotal	12,925

Law Enforcement Agents:

Cost in 2012 (\$14,068,000 X .9990 X .0200)	281,079
Cost in 2011 (\$14,068,000 X 1.00 X .0200)	<u>-281,360</u>
Subtotal	-281

Total adjustment-to-base **12,644**

	<u>FTE</u>	<u>Amount</u>
Federal Insurance Contributions Act (FICA)	<u>0</u>	<u>-28</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 2012. The OASDI tax rate will remain at 6.2% in 2012.		
Regular Employees:		
Cost in 2012 \$24,856,000 X .80 X .9150 X .0620		1,128,065
Cost in 2011 \$24,856,000 X .7740 X .9460 X .0620		-1,128,379
Subtotal		-314
Law Enforcement Agents:		
Cost in 2012 \$11,255,000 X .9990 X .9150 X .0620		637,858
Cost in 2011 \$11,255,000 X 1.00 X .9460 X .0620		-660,128
Subtotal		-22,270
Other Salaries - Regular Employees:		
Cost in 2012 \$806,000 X .80 X .9150 X .0620		36,580
Cost in 2011 \$806,000 X .7740 X .9460 X .0620		-36,590
Subtotal		-10
Other Salaries - Law Enforcement Agents:		
Cost in 2012 \$2,813,000 X .9990 X .9150 X .0620		159,422
Cost in 2011 \$2,813,000 X 1.00 X .9460 X .0620		-164,988
Subtotal		-5,566
Total adjustment-to-base		-28,160
Health Insurance Premium	<u>0</u>	<u>175</u>
Effective January 2010, this agency's contribution to Federal employees' health insurance premiums increased by 7.3%. Applied against the 2011 estimate of \$2,391,000 the additional amount required is \$174,992.		
Rental Payments to GSA	<u>0</u>	<u>89</u>
GSA rates are projected to increase 1.7% in 2012. This percentage was applied to the 2011 estimate of \$5,256,000 to arrive at an increase of \$89,352.		
GPO Printing	<u>0</u>	<u>3</u>
GPO has provided an estimated rate increase of 1.2% in 2012. This percentage was applied to the 2011 estimate of \$251,000 to arrive at an increase of \$3,012.		
Mileage	<u>0</u>	<u>-12</u>
Changes to the Federal Travel Regulations decreased the reimbursement rate for the use of a privately-owned automobile from 55 cents to 50 cents per mile. The percentage decrease of 9.00% was applied to 2011 estimate of \$138,000 to arrive at a decrease of -\$12,420.		

	<u>FTE</u>	<u>Amount</u>
Working Capital Fund		
A net increase of \$528,000 is required to fund cost increase of \$810,000 and Administration Savings decrease of \$282,000 in the Departmental Management's Working Capital Fund.	0	528
National Archives and Records Administration (NARA)		
The estimated cost for NARA storage has increased for fiscal year 2012 by \$565.	0	1
Herbert C. Hoover Electricity		
The estimated cost for PEPCO electricity is expected to increase by \$185,000 in fiscal year 2012.	0	185
Herbert C. Hoover Water		
The estimated cost for HCHB water is expected to increase by \$2,000 in fiscal year 2012.	0	2
Fuel		
Utilizing economic assumptions for energy prices (gas and oil price index) the percentage increase of anticipated fuel cost in FY 2012 compared to 2009 is 44.39%. Applied against the FY 2009 actual cost of \$122,496 - the projected FY 2012 cost is \$176,867. The base estimate of \$190,000 in the FY 2011 budget minus the anticipated FY 2012 cost of \$176,872 leaves the total FY 2012 adjustment for fuel at -\$13,133.	0	-13
General Pricing Level Adjustments		
This request applies OMB economic assumptions for 2012 to object classes where the prices the Government pays are established through the market system. A 1.2% factor was applied to rental payments to others (\$0); transportation of things (\$2,064); communications, utilities, and miscellaneous charges (excluding postage and FTS) (\$11,448); other services (excluding the Working Capital Fund and CBS) (\$210,900); supplies and materials (\$14,856); and, equipment (\$59,760).	0	298
Total - FY 2012 Adjustments-to-Base	2	\$2,148

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>Actual</u>		<u>(Annualized)</u>		<u>Base</u>		<u>Estimate</u>		<u>Decrease</u>	
		<u>Personnel</u>	<u>Amount</u>	<u>Personnel</u>	<u>Amount</u>	<u>Personnel</u>	<u>Amount</u>	<u>Personnel</u>	<u>Amount</u>	<u>Personnel</u>	<u>Amount</u>
Management and Policy Coordination...	Pos./BA	15	\$6,056	15	\$6,056	15	\$6,182	15	\$6,162	0	-\$20
	FTE/Obl.	13	\$6,130	11	\$6,045	11	\$6,182	11	\$6,162	0	-\$20

**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 2012, BIS will increase its funding by \$0.1 million and 0 FTE over the FY 2010 enacted level for a total of \$6.2 million and 11 FTE for Management and Policy Coordination. This increase includes \$0.1 million in inflationary adjustments and a decrease of \$.02 million for administrative savings.

BASE JUSTIFICATION FOR FY 2012:

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; (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 \$.1 million to fund adjustments to current programs for MPC activities. The increase will also provide inflationary increases for non-labor activities, including service contracts, utilities, office lease payments, and rent charges from the General Service Administration (GSA).

Administrative Cost Savings

PROGRAM CHANGES FOR FY 2012: Management and Policy Coordination (-0 FTE and -\$20,000): BIS requests a decrease of \$.02 million and 0 FTE for a total of \$6.162 million and 11 FTE to meet the cross-cutting program elimination.

The Administration is pursuing an aggressive government-wide effort to curb non-essential administrative spending called the Administrative Efficiency Initiative. In order to be good stewards of taxpayer money the Federal Government should continue to seek ways to improve the efficiency of programs without reducing their effectiveness. As such, the President directed each agency to analyze its administrative costs and identify savings where possible. In the area of Acquisition, BIS expects to reduce its costs by \$300,000 utilizing strategic sourcing opportunities negotiated by the Department. Of this \$300,000, MPC will be reduced by \$20,000.

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

Comparison by Activity:		2010 Actual		2011 CR (Annualized)		2012 Base		2012 Estimate		Increase/ Decrease	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Export Administration.....	Pos./BA	193	\$54,432	193	\$54,432	193	\$55,565	193	\$54,007	0	-\$1,558
	FTE/Obl.	163	\$55,079	187	\$54,379	188	\$55,565	188	\$54,007	0	-\$1,558

**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 2012, BIS will decrease its funding by \$0.4 million and increase 2 FTE over the FY 2010 enacted level for a total of \$54.0 million and 188 FTE for EA. This decrease includes \$1.6 million in administrative savings and an increase of \$1.1 million for inflationary adjustments.

BASE JUSTIFICATION FOR FY 2012:

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. BIS exceeded its FY 2009 GPRA measure for efficient export licensing by referring 99 percent of eligible licenses to other agencies within nine days (vs. the target of 95 percent).

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, 2010 (75 Fed. Reg. 50681 (August 16, 2010)), the Chemical Weapons Convention Implementation Act of 1998, and the Defense Production Act (DPA), the objectives of this activity include: (1) processing export license applications and other licensing products consistently, accurately, and in accordance with E.O. 12981 timelines and other internal guidelines; (2) refining public/private sector domestic and international outreach to maximize the effectiveness of the dual-use export control system; (3) adapting regulations to changing policies; and (4) facilitating U.S. industry compliance with global treaties, such as the CWC and the IAEA Additional Protocol. Additional objectives include: (1) strengthening multilateral cooperation on dual-use export controls; (2) developing and implementing policies toward key countries such as China and India; and (3) supporting the Export Control and Related Border Security Program. EA also supports continued U.S. technology leadership and competitiveness in essential industries by: (1) developing and implementing comprehensive rules regarding foreign nationals ("deemed exports"); (2) identifying and analyzing critical U.S. industry sectors from an export control perspective; (3) ensuring timely and accurate processing of requests under the 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 GPRA compliance measure of 87 percent of export transactions in compliance with the licensing requirements of the EAR in FY 2008. In FY 2011, BIS has a goal of 97 percent compliance based on continued counseling, outreach, and enforcement as well as establishing electronic validations of certain export control elements on Automated Export System records.

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

- **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 licenses that are not shipped against and why, identifying noncompliance with reporting requirements in the EAR, identifying trends related to EAR-controlled items to countries and end-users, and measuring the impact that controls have on emerging technologies. 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.

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

- 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. Additionally, NPTC administers:
 - U.S. comprehensive export controls and sanctions on selected categories of dual-use items to specific destinations, including the state sponsors of terrorism,
 - "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,
 - military end-use control for a select group of non-listed items to China,
 - Tiananmen Square sanctions prohibiting export of items controlled for crime control reasons to China,
 - 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
 - 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 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 traveling to participate as experts in regime meetings. The Office also makes personnel available for domestic and international outreach to private industry and foreign governments.

- 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 export control regulations, revising the current 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 Newport Beach, 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 represents BIS on export control issues at trade shows and Trade Promotion Coordination Committee's Export Pavilion, and publication of 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 issuing passwords for access to the Bureau's on-line license application program (SNAP-R).

- 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. The Office also provides commodity jurisdictions, commodity classifications, and advisory opinions to help exporters determine the licensing requirements for their export transactions. NSTTC also supports the Bureau's export seminar outreach and international export control cooperation programs and provides license determinations in support of enforcement actions. NSTTC also participates in interagency and international deliberations to determine the list of items that the United States will control.

Significant Adjustments-to-Base (ATBs):

BIS requests a net increase of 1 FTE and \$1.1 million to fund adjustments to current programs for Export Administration activities. 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 2012: Export Administration (-0 FTE and -\$1,558,000): BIS requests a decrease of \$1.6 million and 0 FTE for a total of \$54.007 million and 188 FTE to meet the cross-cutting program elimination.

The Administration is pursuing an aggressive government-wide effort to curb non-essential administrative spending called the Administrative Efficiency Initiative. In order to be good stewards of taxpayer money the Federal Government should continue to seek ways to improve the efficiency of programs without reducing their effectiveness. As such, the President directed each agency to analyze its administrative costs and identify savings where possible. After reviewing its administrative costs, BIS has identified \$1,418,000 in administrative savings tied to its Information Technology (IT) plans for FY 2012. The accelerated development of the Export Control Automated Support System Redesign moves BIS away from an antiquated legacy system and toward a "Single Information Technology System" (as directed by the Administration's fundamental reform of the U.S. export control system). This will decrease the overall requirement for engineering and development services, and the completion of one time build out charges and hardware purchases associated with the Compartmentalized Application Infrastructure supporting the high security requirements of our IT systems. In the area of Acquisition, BIS expects to reduce its costs by \$300,000 utilizing strategic sourcing opportunities negotiated by the Department. Of this \$300,000, EA will be reduced by \$140,000.

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>2010 Actual</u>		<u>2011 CR (Annualized)</u>		<u>2012 Base</u>		<u>2012 Estimate</u>		<u>Increase/Decrease</u>	
		<u>Personnel</u>	<u>Amount</u>	<u>Personnel</u>	<u>Amount</u>	<u>Personnel</u>	<u>Amount</u>	<u>Personnel</u>	<u>Amount</u>	<u>Personnel</u>	<u>Amount</u>
Export Enforcement.....	Pos./BA	171	\$39,854	171	\$39,854	171	\$40,743	208	\$51,018	37	\$10,275
	FTE/Obl.	146	\$40,010	166	\$40,208	167	\$40,743	195	\$51,018	28	\$10,275

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 2012, BIS requests an increase of \$11.1 million and 30 FTE over the FY 2010 enacted level for a total of \$51.0 million and 195 FTE for EE. This increase includes \$0.9 million in inflationary adjustments, \$10.4 million in new initiatives, and a decrease of \$0.1 million in administrative savings.

BASE JUSTIFICATION FOR FY 2012:

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, 2010 (75 Fed. Reg. 50681 (August 16, 2010))), 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,

- The **Office of Export Enforcement's (OEE)** subactivity enforcement program includes investigating criminal and administrative violations and imposing civil sanctions for violations of the EAR, IEEPA, the Chemical Weapons Convention Implementation Act (CWCIA), the Fastener Quality Act (FQA), and related statutes and regulations. Consistent with the President's national security priorities, EE prioritizes its enforcement activities on cases relating to the proliferation of 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, seize, and forfeit 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, 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. BIS's Export Control Officers (ECOs) conduct many of these end-use checks. Currently, BIS has six ECO positions in the following locations: Abu Dhabi, United Arab Emirates; Beijing, China; Hong Kong; Moscow, Russia; New Delhi, India; and Singapore.

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 to WMDs and other weapons programs, and screening export license applications against the U.S. Department of Homeland Security's Treasury Enforcement Communication Systems (TECS) and other databases.

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.

- **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 information to support compliance with the EAR, the Chemical Weapon Convention Regulations (CWCR), and related laws and regulations related to dual-use goods. The purpose of these efforts is to facilitate trade and promote commerce abroad while protecting our national security from unauthorized use of our nation's most sensitive goods and technology. OEA is the only national security program 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 Federal Special Agents, and providing analytical support to ongoing investigations. OEA also conducts risk assessments supporting determinations relating to the Verified End-User program, 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 a warning letter. 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.

- **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. Cooperation with certain requests for information designed to verify compliance with the boycott 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 1 FTE and \$0.9 million to fund adjustments to current programs for EE activities. 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 2012: Export Enforcement (-0 FTE and -\$140,000): BIS requests a decrease of \$.1 million and 0 FTE for a total of \$ 51.018 million and 195 FTE to meet the cross-cutting program elimination.

The Administration is pursuing an aggressive government-wide effort to curb non-essential administrative spending called the Administrative Efficiency Initiative. In order to be good stewards of taxpayer money the Federal Government should continue to seek ways to improve the efficiency of programs without reducing their effectiveness. As such, the President directed each agency to analyze its administrative costs and identify savings where possible. In the area of Acquisition, BIS expects to reduce its costs by \$300,000 utilizing strategic sourcing opportunities negotiated by the Department. Of this \$300,000, EE will be reduced by \$140,000.

PROGRAM CHANGES FOR FY 2012:

Program Change, Export Enforcement (Base Funding: 171 Positions, 167 FTE and \$40.743 million; Program Change: +37 Positions, +28 FTE and + \$10.4 million): BIS requests an increase of \$10.4 million and 28 FTE for a total of \$51.018 million and 195 FTE to continue to improve its 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, and will significantly enhance outreach and education efforts directed to promote and encourage compliant exports. EE has several significant ongoing investigations and operations which highlight the current need for more investigators and program enhancements to pursue these national security imperatives. The three enforcement components are in priority order:

Proposed Actions:

Implementation of the WMD Commission's Recommendations and enhancing counter-IED capacities – (9 positions, 7 FTE, and \$3,002,769) The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (WMD Commission) has recommended enhancement of the U.S. Government's counter proliferation efforts. BIS is seeking additional resources to increase the number of positions in OEE to support increased counter proliferation, counterterrorism and national security programs and investigations. Seized Computer Evidence Recovery Specialist (SCERS) enhancements are also required to support this initiative as recent investigations have yielded results utilizing these analytical technologies. Additionally, in October 2007, the Department of Justice (DOJ) introduced its Export Enforcement Initiative, in which BIS needs to participate as a full partner. This DOJ-led national initiative harnesses the counter proliferation assets of the law enforcement and intelligence communities to combat the growing threat posed by the illegal export of restricted U.S. technologies to proscribed countries, end-users and terrorist organizations. Its two primary objectives are to foster the multi-agency cooperation critical to successful national security prosecutions; and to provide U.S. Attorney's offices with the assistance, training and expertise to undertake these complex prosecutions. The cornerstone of this initiative is the establishment of Counter-Proliferation Task Forces in numerous judicial districts around the country which will concentrate greater investigative and prosecutorial efforts on export enforcement cases. These task forces include representatives from BIS/OEE, Federal Bureau of Investigation (FBI), Immigration and Customs Enforcement (ICE) and various other U.S. Government agencies. OEE participates in this important initiative through the assignment of Special Agents to numerous such task forces located across the country. Due to this initiative, EE has experienced a

greater demand for the specialized experience found within the Special Agent's ranks. This staffing increase will allow BIS to continue current investigative efforts while contributing as a full partner in the DOJ counter proliferation program.

Performance Impact: Implementation of the WMD Commission Recommendations

Measure Number: 5 Measure Name: Number of actions that result in a deterrence or prevention of a violation and cases which result in a criminal and/or administrative charge Exhibit 3a (APP) Page Number: 9		FY 2008 Actual	FY 2009 Actual	FY 2010 Actual	FY 2011 Target	FY 2012 Target	FY 2013 Target
WMD Commission Recommendations	With Increase	881	876	806	850	1008	1195
	Without Increase	881	876	806	850	750	728
Description: GPRA Measure, refer to Exhibit 3a (APP) for description.							

PROGRAM CHANGE PERSONNEL DETAIL

(Dollar amount in thousands)

Activity: Export Enforcement

Subactivity: Implementation of the WMD Commission's Recommendations and enhancing counter-IED capacities

<u>Title:</u>	<u>Location</u>	<u>Grade</u>	<u>Number of Positions</u>	<u>Annual Salary</u>	<u>Total Salaries</u>
Supervisory Criminal Investigator	DC	GS-15	2	\$123,758	\$247,516
Criminal Investigator	DC	GS-14	1	\$105,211	\$105,211
Criminal Investigators	DC	GS-13	6	\$89,033	\$534,198
Total			<u>9</u>		<u>\$886,925</u>
Less lapse		25.00%	<u>(2)</u>		<u>-\$221,731</u>
Total, full-time permanent (FTE)			7		\$665,194
2011 Pay Adjustment (0.0%)					\$0
2012 Pay Adjustment (0.0%)					\$0
Availability Pay		25.0%			\$166,298
TOTAL:					<u>\$831,492</u>

Personnel Data:

	<u>Number</u>
Full-time Equivalent Employment:	
Full-time permanent	7
Other than full-time permanent	0
Total	<u>7</u>

Authorized Positions:

Full-time permanent	9
Other than full-time permanent	0
Total	<u>9</u>

PROGRAM CHANGE DETAIL BY OBJECT CLASS
(Dollar amounts in thousands)

Activity: Export Enforcement

Subactivity: Implementation of the WMD Commission's Recommendations and enhancing counter-IED capacities

Object Class	2012 Increase
11 Personnel compensation	
11.1 Full-time permanent	\$831
11.3 Other than full-time permanent	0
11.5 Other personnel compensation	0
11.8 Special personnel services payments	0
11.9 Total personnel compensation	<u>\$831</u>
12 Civilian personnel Benefits	\$299
13 Benefits for former personnel	0
21 Travel and transportation of persons	\$608
22 Transportation of things	\$9
23.1 Rental payments to GSA	\$270
23.2 Rental payments to others	0
23.3 Communications, utilities and miscellaneous charges	\$59
24 Printing and reproduction	\$8
25.1 Advisory and Assistance Services	\$0
25.2 Other services	\$108
25.3 Purchases of goods & services from Gov't accounts	\$553
25.4 Operation and maintenance of facilities	\$0
25.5 Research and Development Contracts	\$0
25.6 Medical Care	\$0
25.7 Operation and maintenance of equipment	\$0
25.8 Subsistence and support of persons	\$0
26 Supplies and materials/Fuel	\$72
31 Equipment	\$186
32 Lands and structures	0
33 Investments and loans	0
41 Grants, subsidies and contributions	0
42 Insurance claims and indemnities	0
43 Interest and dividends	0
44 Refunds	0
99 Total obligations	<u>\$3,003</u>

Field Office Expansion in Oregon, Ohio, Arizona and Georgia (20 positions, 15 FTE, and \$5,458,847). One of the core recommendations of the WMD Report was the expansion of BIS Special Agent resources in the field. An expanded presence will result in better access to industries and technologies with associated proliferation concerns, which have thus far been difficult to reach due to the limited OEE footprint across the country. EE has conducted an exhaustive study to determine the locations where the greatest need exists to accomplish its national security mission. That study determined that OEE needs to expand its investigative presence in the following states: Oregon, Ohio, Arizona, and Georgia. This expansion would create four Resident Agents in Charge (RAC) offices in the designated locations. It is critical that EE establish a presence in each of these locations. The priority order of expansion will be determined by ongoing investigations and initial opportunities to co-locate with existing Federal law enforcement offices. This increase in OEE's investigative posture will allow the agency to more efficiently execute its duties within new regional areas of responsibility enhancing its ability to prevent the proliferation of dual-use goods and technology contrary to the national security interests of the United States.

Performance Impact: Field Office Expansion in Oregon, Ohio, Arizona, and Georgia

Measure Number: 5 Measure Name: Number of actions that result in a deterrence or prevention of a violation and cases which result in a criminal and/or administrative charge Exhibit 3a (APP) Page Number: 9		FY 2008 Actual	FY 2009 Actual	FY 2010 Actual	FY 2011 Target	FY 2012 Target	FY 2013 Target
Field Office Expansion	With Increase	881	876	806	850	1063	1215
	Without Increase	881	876	806	850	750	850

Description: GPRA Measure, refer to Exhibit 3a (APP) for description.

PROGRAM CHANGE PERSONNEL DATA
(Dollar amounts in thousands)

Activity: Export Enforcement

Subactivity: Field Office Expansion in Oregon, Ohio, Arizona and Georgia

Title:	Location	Grade	Number of Positions	Annual Salary	Total Salaries
Logistics Analyst	Field	GS-14	1	\$105,211	\$105,211
Assistant Supervisory Criminal Investigator	Field	GS-14	4	\$105,211	\$420,844
Criminal Investigators	Field	GS-13	15	\$89,033	\$1,335,495
Total			<u>20</u>		<u>\$1,861,550</u>
Less lapse		25.0%	<u>(5)</u>		<u>-\$465,388</u>
Total, full-time permanent			15		\$1,396,162
2011 Pay Adjustment					\$0
2012 Pay Adjustment					\$0
Plus Availability Pay		25.0%			\$329,314
Total					<u>\$1,725,476</u>

Personnel Data:

	<u>Number</u>
Full-time Equivalent Employment:	
Full-time permanent	15
Other than full-time permanent	0
Total	<u>15</u>
Authorized Positions:	
Full-time permanent	20
Other than full-time permanent	0
Total	<u>20</u>

PROGRAM CHANGE DETAIL BY OBJECT CLASS
(Dollar amounts in thousands)

Activity: Export Enforcement

Program Change: Field Office Expansion in Oregon, Ohio, Arizona and Georgia

Object Class	2012 Increase
11 Personnel compensation	
11.1 Full-time permanent	\$1,725
11.3 Other than full-time permanent	0
11.5 Other personnel compensation	0
11.8 Special personnel services payments	0
11.9 Total personnel compensation	<u>\$1,725</u>
12 Civilian personnel Benefits	\$621
13 Benefits for former personnel	0
21 Travel and transportation of persons	\$744
22 Transportation of things	\$20
23.1 Rental payments to GSA	\$600
23.2 Rental payments to others	0
23.3 Communications, utilities and miscellaneous charges	\$130
24 Printing and reproduction	\$14
25.1 Advisory and Assistance Services	\$0
25.2 Other services	\$380
25.3 Purchases of goods & services from Gov't accounts	\$662
25.4 Operation and maintenance of facilities	\$0
25.5 Research and Development Contracts	\$0
25.6 Medical Care	\$0
25.7 Operation and maintenance of equipment	\$225
25.8 Subsistence and support of persons	\$0
26 Supplies and materials/Fuel	\$137
31 Equipment	\$200
32 Lands and structures	0
33 Investments and loans	0
41 Grants, subsidies and contributions	0
42 Insurance claims and indemnities	0
43 Interest and dividends	0
44 Refunds	0
99 Total obligations	<u>\$5,459</u>

Office of Enforcement Analysis (OEA) expansion - (8 positions, 6 FTE, and \$1,953,383). The WMD Commission identified BIS contributions to the national security effort and recommended greater interaction with the intelligence community. The personnel resources described in this request will help BIS satisfy that recommendation. Effective enforcement requires intensive analytical capability. BIS seeks to increase the number of OEA analyst positions to support increased coordination and liaison with the intelligence community in support of counter proliferation, counterterrorism and other national security programs.

OEA analysts must possess a clear understanding of the objectives of foreign adversaries engaged in export activities contrary to U.S. interests, their requirements, specific technologies they seek, and their potential U.S. sources; they must understand specific domestic industry and academic activities that present dual-use export controls concerns, as well as the regulatory framework governing BIS enforcement operations. OEA analysts must substantiate assertions of risk or actual violations of export controls, and factually describe events or actions of specific entities involved in specific transactions. Transaction-level analysis is then used to reveal patterns and trends of violations and potential violations of export control laws and regulations. OEA's Intelligence Analysis Division (IAD) develops law enforcement lead packages for BIS Special Agents in domestic field offices and supports investigations into exports violations, conducts risk assessments in support of Verified End-User program and Entity List determinations, and provides analytical and research support to other BIS offices.

A global perspective of sensitive dual-use item needs and acquisition strategies of foreign entities that are a threat to U.S. national security is critical to BIS, and is expected to derive from the efforts of the planned IAD Intelligence Exploitation Unit (IEU). IAD's Analytical Support Unit (ASU) will maintain OEA's traditional role of support to law enforcement in the form of leads disseminated to the field. The expansion, however, is intended to refine the activity of the ASU to ensure that leads sent to the field are derived from the highest caliber synthesized intelligence on the most potent threats—peer adversary, rogue state, and terrorist entities in search of U.S. technologies—which will be produced by the IEU. The ASU, with its emphasis on the domestic problem set, will fuse the intelligence on the foreign illicit demand threat and expertise of the domestic export community and its vulnerabilities to foreign exploitation, to produce only the highest quality, highest national security impact leads. Currently the practical tasks of a healthy intelligence unit include: research, analysis, coordination with a wide network of federal agencies and counterparts in the intelligence community, and, broader establishment of pattern and trend analysis — covering the entire globe — and are being marginally accomplished by a core of four analysts.

Performance Impact: Office of Enforcement Analysis (OEA) expansion

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

Measure 8: Percentage of leads that result in prevention of a violation and cases which result in a criminal and/or administrative action. Exhibit 3a (APP) Page Number: 12	FY 2010 Actual	FY 2011 Target	FY 2012 Target	FY 2013 Target
	N/A	N/A	30 Leads 80%	40 Leads 85%

Description: Monitoring the number of OEA generated leads and law enforcement actions resulting from those leads will provide a quality check and production measure of the effectiveness of OEA leads. The focus of the measure is quality, thus effectiveness will be measured by the number of "preventions", (an OEE measure), to include investigations resulting in criminal and/or administrative action-thus ensuring greater compliance with the Export Administration Act. The performance measure will capture the number of OEA initiated leads and the percentage resulting in a prevention of a violation (to include industry outreach and issuance of warning letters for first time and/or minor export offenses), criminal/administrative cases, and administrative settlement orders.

Comments on Changes to Targets: FY 2012 is the initial year for this measure. In FY 2008 OEA initiated a new standard on the type of information and documentation required before sending a lead to the appropriate BIS law enforcement office. Additionally, OEA is currently inventorying law enforcement actions taken on each lead provided since FY 2004 to establish a baseline. Since the time between a lead being forwarded to the appropriate law enforcement office and the initiation of a criminal/administrative case can potentially take years, FY 2012 will be the first time outcomes can be truly measured with the new standards implemented. Therefore, the baseline number of leads initiated and the percentage of leads that result in preventions of a violation and cases which result in a criminal and/or administrative action may need to be adjusted for FY 2012 and beyond.

PROGRAM CHANGE PERSONNEL DETAIL
(Dollar amount in thousands)

Activity: Export Enforcement

Subactivity: Office of Enforcement Analysis (OEA) Expansion

Title:	Location	Grade	Number of Positions	Annual Salary	Total Salaries
Supervisory Export Control Specialist	DC	GS-14	2	\$105,211	\$210,422
Export Control Specialist	DC	GS-13	4	\$89,033	\$356,132
Export Control Specialist	DC	GS-12	2	\$74,872	\$149,744
Total			<u>8</u>		<u>\$716,298</u>
Less lapse		25.00%	<u>(2)</u>		<u>-\$179,075</u>
Total, full-time permanent			6		\$537,223
2011 Pay Adjustment (0.0%)					\$0
2012 Pay Adjustment (0.0%)					\$0
Plus Availability Pay		25.00%			\$0
Total:					<u>\$537,223</u>

Personnel Data:

	<u>Number</u>
Full-time Equivalent Employment:	
Full-time permanent	6
Other than full-time permanent	0
Total	<u>6</u>

Authorized Positions:

Full-time permanent	8
Other than full-time permanent	0
Total	<u>8</u>

PROGRAM CHANGE DETAIL BY OBJECT CLASS
(Dollar amounts in thousands)

Activity: Export Enforcement

Subactivity: Office of Enforcement Analysis (OEA) Expansion

Object Class:	2012 Increase
11 Personnel compensation	
11.1 Full-time permanent	\$537
11.3 Other than full-time permanent	0
11.5 Other personnel compensation	0
11.8 Special personnel services payments	0
11.9 Total personnel compensation	<u>\$537</u>
12 Civilian personnel Benefits	\$193
13 Benefits for former personnel	0
21 Travel and transportation of persons	\$80
22 Transportation of things	\$8
23.1 Rental payments to GSA	\$240
23.2 Rental payments to others	0
23.3 Communications, utilities and miscellaneous charges	\$52
24 Printing and reproduction	\$6
25.1 Advisory and Assistance Services	\$0
25.2 Other services	\$380
25.3 Purchases of goods & services from Gov't accounts	\$326
25.4 Operation and maintenance of facilities	\$0
25.5 Research and Development Contracts	\$0
25.6 Medical Care	\$0
25.7 Operation and maintenance of equipment	\$0
25.8 Subsistence and support of persons	\$0
26 Supplies and materials/Fuel	\$20
31 Equipment	\$111
32 Lands and structures	0
33 Investments and loans	0
41 Grants, subsidies and contributions	0
42 Insurance claims and indemnities	0
43 Interest and dividends	0
44 Refunds	0
99 Total obligations	<u>\$1,953</u>

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

Object Class	2010 Actual	2011 Estimate	2012 Base	2012 Estimate	Increase/ Decrease
Personnel compensation:					
11.1 Full-time permanent	\$34,496	\$35,862	\$36,456	\$39,054	\$2,598
11.3 Other than full-time permanent	\$474	\$249	\$253	\$253	\$0
11.5 Other personnel compensation	\$3,041	\$3,695	\$3,756	\$4,252	\$496
11.8 Special personnel services payments	\$0	\$39	\$41	\$41	\$0
11.9 Total personnel compensation	\$38,011	\$39,845	\$40,506	\$43,600	\$3,094
12.0 Civilian personnel benefits	\$11,796	\$11,372	\$11,924	\$13,038	\$1,114
13.0 Benefits for former personnel	\$62	\$16	\$16	\$16	\$0
21.0 Travel and transportation of persons	\$1,715	\$3,412	\$3,392	\$4,823	\$1,431
22.0 Transportation of things	\$56	\$172	\$175	\$212	\$37
Rent, communications, and utilities:					
23.1 Rental payments to GSA	\$5,697	\$5,256	\$5,419	\$6,529	\$1,110
23.2 Rental payments to others	\$0	\$26	\$26	\$26	\$0
23.3 Communications, utilities and miscellaneous charges	\$1,296	\$1,797	\$1,830	\$2,071	\$241
24.0 Printing and reproduction	\$133	\$251	\$256	\$284	\$28
Consulting and other services					
25.1 Advisory and assistance services	\$2	\$830	\$830	\$830	\$0
25.2 Other services	\$5,434	\$16,745	\$16,180	\$17,096	\$916
25.3 Purchase of goods and services from Government accounts	\$30,890	\$14,212	\$15,356	\$15,356	\$0
26.0 Supplies and materials	\$2,313	\$1,428	\$1,505	\$1,734	\$229
31.0 Equipment	\$3,806	\$4,980	\$5,075	\$5,572	\$497
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	\$2	\$0	\$0	\$0	\$0
43.0 Interest and dividends	\$6	\$0	\$0	\$0	\$0
50.0 Depreciation	\$0	\$0	\$0	\$0	\$0
99.0 Total Obligations	\$101,219	\$100,342	\$102,490	\$111,187	\$8,697
Less: Recoveries	-\$113	\$0	\$0	\$0	\$0
Less: Unobligated balance, start of year	-\$1,054	\$0	\$0	\$0	\$0
Plus: Unobligated balance, rescission	\$0	\$0	\$0	\$0	\$0
Plus: Unobligated balance, end of year	\$290	\$0	\$0	\$0	\$0
Plus: Unobligated balance, expiring	\$0	\$0	\$0	\$0	\$0
Plus: Unobligated balance, transferred	\$0	\$0	\$0	\$0	\$0
Less: Transferred from other accounts	\$0	\$0	\$0	\$0	\$0
Less: Transferred to other accounts	\$0	\$0	\$0	\$0	\$0
99.1 Total Budget Authority	\$100,342	\$100,342	\$102,490	\$111,187	\$8,697

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 Comp. p. 783 (2002)), as extended by the Notice of August 12, 2010 (75 Fed. Reg. 50681, August 16, 2010)), continues the provisions of the Export Administration Act in effect, to the extent permitted by law, under authority of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

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

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

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

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

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

46 U.S.C. app. 466c (currently codified as 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.
42 U.S.C. 300j
42 U.S.C. 5195
50 U.S.C. 82
50 U.S.C. 98-98h
50 U.S.C. app. 468
50 U.S.C. app. 2061 et seq.

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

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

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

42 U.S.C. 300j authorizes the issuance of orders requiring the delivery of chemicals or substances necessary for treatment of water (function delegated to the Secretary of Commerce in Executive Order 11879, 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).
- Section 309 of the Defense Production Act of 1950, as amended, 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 assessments on 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 (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)

	FY 2010 <u>Actual</u>	FY 2011 <u>Estimate</u>	FY 2012 <u>Estimate</u>
Consulting services.....	\$36,326	\$31,787	\$33,282

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

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

	FY 2010 <u>Actual</u>	FY 2011 <u>Estimate</u>	FY 2012 <u>Estimate</u>
Periodicals and Publications	\$133	\$251	\$284

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

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

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

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

	<u>2010 Actual</u>	<u>2011 Enacted</u>	<u>2012 Estimate</u>
Average ES Salary	\$167,096	\$167,096	\$167,096
Average GS Grade	12.82	12.82	12.87
Average GS Salary	\$103,323	\$103,323	\$103,597