

U.S. Department of Commerce

Bureau of Industry and Security



Fiscal Year 2015

President's Submission

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**Department of Commerce
BUREAU OF INDUSTRY AND SECURITY
Budget Estimates, Fiscal Year 2015
President's Submission**

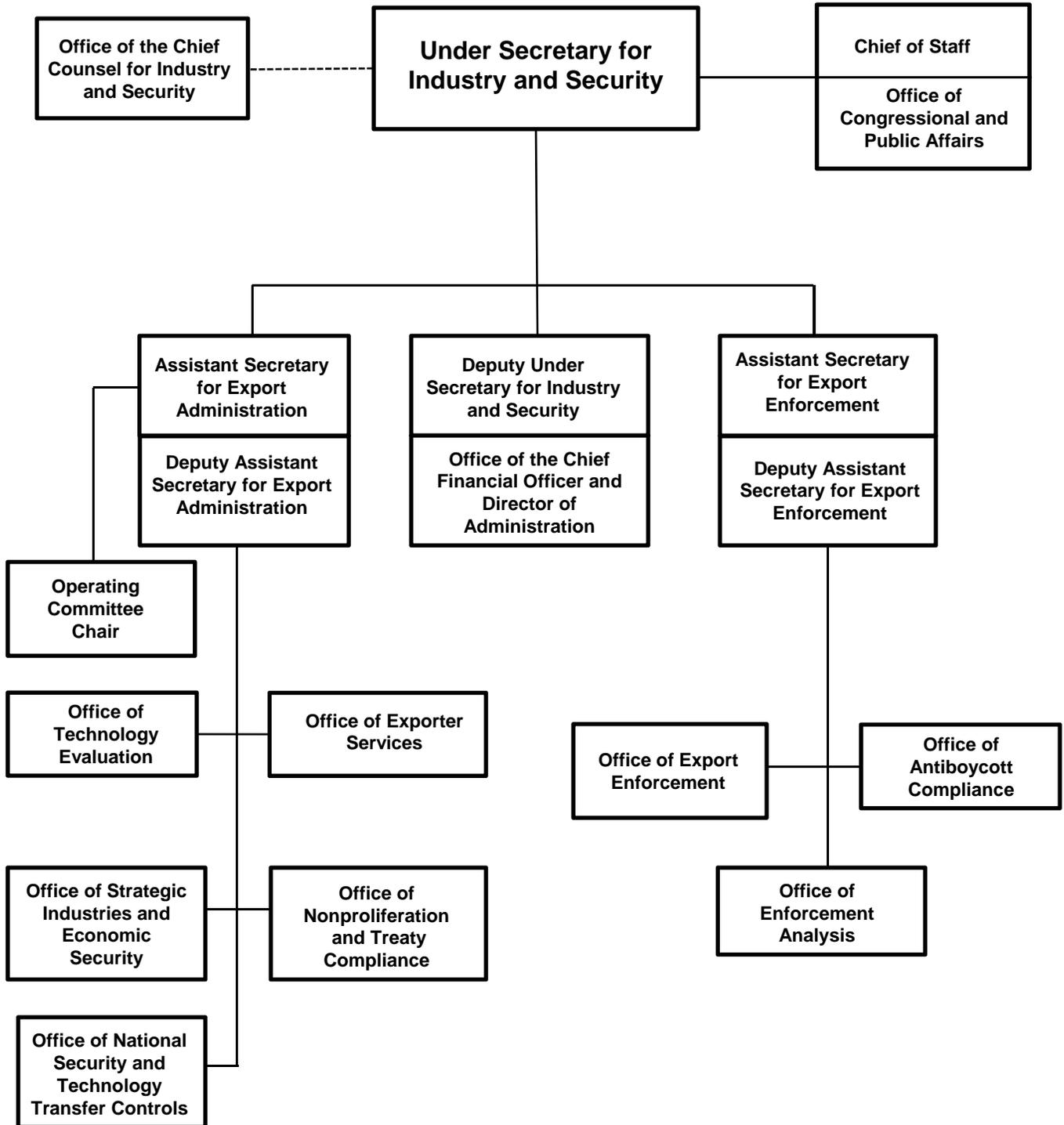
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U.S. DEPARTMENT OF COMMERCE

Bureau of Industry and Security



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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:

Trade and Investment:

- Increase U.S. exports by broadening and deepening the U.S. exporter base¹
 - 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 and reexports of dual-use items (i.e., those having a commercial and potential military or proliferation application) and various types of military items to counter proliferation of weapons of mass destruction (WMD), prevent destabilizing accumulations of conventional weapons, combat terrorism, and pursue other national security and foreign policy goals.

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

Ensure continued U.S. technology leadership in industries that are essential to national security: BIS works to ensure that the U.S. remains competitive in industry sectors and sub-sectors critical to national security. To this end, BIS analyzes the impact of export controls and trade policies on strategic U.S. industries, administers the Federal Government's Defense Priorities and Allocations System, reports on the impact of

¹ The President's Export Control Reform Initiative is fundamentally a national security effort intended to achieve greater regulatory efficiency and rationality, and focus controls on the most significant items and destinations – higher fences around the most sensitive items. A key element of the reform is moving tens of thousands of items – mostly parts and components – from the U.S. Munitions List to the more flexible Commerce Control List. The move will enable more nuanced distinctions among technologies, destinations, and end users than under the State Department's International Traffic in Arms Regulations. This will strengthen the U.S. defense industrial base by removing incentives for foreign manufacturers to avoid U.S. parts and components. U.S. exporters of such items, particularly small and medium-sized firms, will be more competitive.

defense trade offsets, and evaluates the security impact of certain proposed foreign investments in U.S. companies.

Statement of Organization and Objectives:

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

Management and Policy Coordination (MPC): The Office of the Under Secretary and supporting staff offices objectives are to develop, analyze, and coordinate policy initiatives within BIS on an interagency basis. This activity includes resources for BIS's engagement with other agencies to strengthen the capability of foreign countries to control strategic exports and to help stop the diversion of sensitive items.

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

Export Enforcement (EE): This activity includes the functions performed by the Office of the Assistant Secretary for EE and supporting offices, including support for programs carried out by federal law enforcement officers. The primary objectives are to detect and prevent the illegal export of controlled goods and technology; investigate and help sanction violators of U.S. export control, anti-terrorist and public safety laws and regulations; educate the business community to help prevent violations; and administer U.S. laws 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 (NIST) 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.

Summary of Budget Request:

For Fiscal Year 2015, BIS is requesting \$110.549 million. This is an increase of \$9.099 million over the Fiscal Year 2014 Enacted level. This includes an increase of \$1.130 million for necessary cost of living adjustments, and an increase of \$7.969 million from the Program Changes.

2015 Annual Performance Plan Formulation

Bureau of Industry and Security

Section 1 Overview

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 promoting continued U.S. strategic technology leadership.

The BIS headquarters is located in Washington D.C, with ten regional offices in Staten Island, NY; Boston, MA; Fort Lauderdale, FL; San Jose, CA; Herndon, VA; Oakbrook Terrace, IL; Irvine, CA (two offices); Irving, TX; and Houston, TX. BIS has currently seven Export Control Officers (ECOs) that are located in China (two ECOs), Hong Kong, India, Russia, Singapore, and the United Arab Emirates (UAE).

The full scope of responsibilities of the Bureau's operating elements can be found in the Executive Summary (Exhibit 3).

FY 2013 Accomplishments

During the fiscal year, the Obama Administration continued to make substantial progress in its watershed effort to reform the nation's export controls. After 40 proposed rules, numerous interagency meetings, and over 300 outreach events with the public, BIS and the Department of State published the first two sets of final rules that would implement the transfer of thousands of less sensitive military aircraft and engine items from the U.S. Munitions List (USML) to the Commerce Control List (CCL). This transfer marks the biggest change to the U.S. export control system in decades and moves the system from one that addressed Cold War concerns to one that will meet the national security and foreign policy needs of the 21st century.

One of the most important categories proposed during the fiscal year was USML Category XV. Section 1513 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 required that all satellites and related items be subject to the International Traffic in Arms Regulations (ITAR). Consequently, USML Category XV explicitly controls commercial items. As a result of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239), the President was authorized to review USML Category XV to determine what items, if any, continued to warrant control under the Arms Export Control Act (AECA). On May 24, 2013, BIS and the State Department published proposed rules that described those satellites, spacecraft, and related items warranting continued control under USML Category XV and described those less sensitive items moving to the CCL as "500 series" items. Revising USML Category XV will have a significant positive impact on the U.S. commercial satellite industry and is a high priority for the Administration.

Another significant USML category that was addressed during the fiscal year was USML Category XI for military electronics. Military electronics comprise the second largest category in licensing volume behind military aircraft. On November 28, 2012, BIS and the Department of State published a proposed rule that described those military electronics and related items that warrant continued control under USML Category XI and described those less sensitive items moving to the CCL as 600 series items. After thorough interagency review of public comments, BIS and the Department of State published a second proposed rule on July 25, 2013.

A key goal for ensuring the success of Export Control Reform (ECR) is an informed regulated community. BIS has developed and implemented a targeted and multifaceted outreach program to educate organizations of all sizes on regulatory requirements resulting from the new rules. BIS is working to reach as many affected organizations as possible, especially those organizations primarily exporting under the ITAR who may be unfamiliar with the Export Administration Regulations (EAR). As part of this effort, BIS has partnered with non-profit educational associations, local District Export Councils, the President's Export Council Subcommittee on Export Administration, the Small Business Administration, and the Minority Business Development Agency to educate defense exporters, including many small firms (mainly parts and components suppliers and manufacturers) whose transactions typically fell under the jurisdiction of the ITAR.

BIS has complemented this outreach by conducting a weekly teleconference on specific ECR topics, hosted by BIS officials, to respond to questions posed by the exporting community. BIS also continues to make educational resources available on its website, including webinars and web-based decision tools. Along with the decision tool on License Exception Strategic Trade Authorization (STA), BIS added two new decision tools – one for the order of review for classifying items subject to the EAR and one for utilizing the new definition of “specially designed.” These new tools, in addition to the existing online training materials on the BIS website, will greatly assist those less familiar with the EAR to understand their compliance responsibilities. BIS has reached over 16,000 persons through its ECR outreach efforts.

BIS is also working to implement aspects of ECR with other U.S. Government agencies and to educate agencies about the reform effort, particularly those agencies responsible for enforcing export controls. In order to capture the exports of items transitioning from the USML to the CCL, BIS worked with U.S. Customs and Border Protection (CBP) to program new requirements into the Automated Export System (AES). On April 17, 2013, an e-mail message was sent nationwide to all AES filers instructing them of the new AES reporting requirements under the initial implementation rule. BIS also trained approximately 200 outbound CBP officers in six locations across the country in advance of the effective date of the initial implementation rule.

In FY 2013, BIS worked closely with the Department's International Trade Administration and interagency Committee on Foreign Investment in the United States (CFIUS) partners to review 111 CFIUS filings to determine the effects of those transactions on the national security and to mitigate national security risks that may arise from the transactions. BIS participates in CFIUS by evaluating export control equities and industrial base implications in transactions that could result in foreign control of a U.S. business. In related activity, the office conducted over 35 follow-on discussions to ensure that parties to CFIUS transactions under review also understood their obligations under the EAR and the Defense Priorities and Allocations System.

In FY 2013, BIS played a leading role in mapping the intricate industrial supply chains for such key defense sectors as the Cartridge and Propellant Actuated Device Industry; U.S. Commercial Electro-Optical (EO) Satellite Imagery; and the Defense Supply Chain Network – Command, Control, Communications, Computer, Intelligence, Surveillance, and Reconnaissance. In addition, BIS continues to complete its assessments of the U.S. Infrastructure for Underwater Acoustic Transduction Systems and the U.S. Space Industrial Supply Chain. In particular, the Space assessment examines the health of supply chains in the space industry – including satellites, ground systems, and launch, with particular emphasis on government program participation and suppliers from lower tiers. The Space Industry defense industrial base assessment is a good example of how BIS works closely with defense and civilian agencies, such as National Aeronautics and Space Administration (NASA), National Reconnaissance Office, and the U.S. Air Force. BIS, in conjunction with

these agencies, distributed the survey to approximately 9,150 organizations, including companies, universities, non-profits, and U.S. Government agencies. Several reports associated with this project were finished in FY 2013 and additional interim reports are slated for Spring 2014.

In FY 2013, BIS's Office of Export Enforcement (OEE) investigations resulted in \$2.7 million in criminal fines, \$18.3 million in forfeitures, 48 arrests and 881 months of imprisonment, 351 detentions, and 84 seizures. On the administrative side, BIS (OEE and Office of Antiboycott Compliance (OAC)) investigations resulted in the completion of 71 administrative export and antiboycott actions with \$6.5 million in fines, and 33 denial orders were issued under Section 11(h) of the Export Administration Act (EAA) (which authorizes denial of export privileges of parties convicted under certain Federal statutes). OEE also issued 240 warning letters. The number of criminal convictions and administrative actions for FY 2013 has almost doubled compared to FY 2012, and represented the highest number of convictions in any of the past five years. Major cases concluded during FY 2013 included the Corezing International investigation into the diversion of 6,000 radio frequency modules to Iran via Singapore, of which at least 16 were later found in improvised explosive devices in Iraq; the Arc Electronics case, which involved a Russian espionage network illegally exporting high-tech microelectronics from the United States to Russian military and intelligence agencies; Computerlinks FZCO, which supplied the Syrian regime with surveillance technologies; and Timothy Gormley, an export compliance manager, who altered invoices and shipping documents to allow items to be shipped without the required licenses, listed false license numbers on export paperwork for defense article shipments, and lied to fellow employees about the status and existence of export licenses.

In FY 2013, BIS's Office of Enforcement Analysis (OEA) completed its first full year of operating the Information Triage Unit (ITU), which was established pursuant to the President's ECR Initiative to assemble and disseminate relevant information, including intelligence, upon which to base informed decisions on proposed export licenses. The ITU produced 1,059 Bona Fides Information Reports (BFIRs). As a measure of the ITU's effectiveness, Export Enforcement (EE) compares the overall BIS license denial rate with that of the denial rate for licenses where a BFIR was produced. In FY 2013, the BIS overall denial rate was 0.6% while the denial rate for applications involving a BFIR was 6.0%, thus demonstrating the national security value of ITU involvement.

In FY 2013, OEA oversaw completion of 1,033 end-use checks (EUCs), of which 73% were conducted by its Export Control Officer (ECO) program. Enforcement leads resulting from unfavorable EUCs resulted in 24 outreaches, six open cases, and four warning letters. In addition, the results of unfavorable EUCs in Hong Kong had significant policy ramifications for BIS-Trade and Industry Department relations, and resulted in a specific plan for improving the effectiveness of the Hong Kong export control system. EUCs in Singapore and the United Arab Emirates also significantly influenced BIS bilateral relationships, and culminated in: (i) an expanded data sharing effort with Singapore Customs that resulted in their proactive enforcement actions; and (ii) agreement for establishment of a bilateral relationship between BIS and the UAE's Export Control Executive Office and data sharing arrangement. Finally, BIS published proposed revisions to the Unverified List to eliminate uncertainty on what BIS authorization is necessary to trade with entities whose bona fides could not be established during an EUC. EUC outcomes in India, Russia, and China resulted in significant enforcement-related outcomes, including Entity List nominations, imposition of a licensing requirement to impede a weapons of mass destruction (WMD) program, and prevention of diversions to unauthorized military modernization programs.

Overall, OEA intelligence, export, and licensing screening generated 339 enforcement leads, which resulted in 147 enforcement outreaches, 34 enforcement cases, 38 detentions, and 11 warning letters. BIS added 187 individuals and companies to the Entity List as a result of EE

activities (including nine exclusively generated by OEA), which involved efforts to stem WMD, military modernization, and improvised explosive device proliferation efforts.

Section 2 Corresponding DOC Strategic Themes, Goals, and Objectives

Goal	Objective Number	Objective Name	Leader
Trade and Investment	1.2	Increase U.S. exports by broadening and deepening the U.S. exporter base ¹	Kenneth E. Hyatt, Acting Secretary for International Trade

Rationale

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

The Department continues to face the task of advancing U.S. foreign policy and security goals while addressing viable opportunities to preserve the U.S. defense industrial base. The Department’s success in reconciling these imperatives stems from its ability to integrate efforts to support the President’s national security and foreign policy goals while ensuring profitable markets for U.S. goods and services.

BIS supports this objective by controlling the export, reexport, and transfer of commodities, software and technology subject to the EAR to protect U.S. national security, advance U.S. foreign policy, and support U.S. economic competitiveness. BIS effectively administers the dual-use export control system, and munitions items transferred from the USML to the new 600-Series CCL by: (1) writing and promulgating regulations; (2) processing license applications; (3) enforcing U.S. laws and regulations; (4) conducting outreach to exporters; and (5) strengthening the export control systems of other countries. These measures increase interoperability with our Allies and strengthen the U.S. defense industrial base by reducing incentives for foreign manufactures to design out and avoid using U.S. parts and components.

In addition, BIS supports the U.S. industrial base by assessing the viability of key sectors of the defense industrial base, and assuring the timely availability of industrial resources to meet national defense and emergency preparedness requirements.

¹ The President’s Export Control Reform Initiative is fundamentally a national security effort intended to achieve greater regulatory efficiency and rationality, and focus controls on the most significant items and destinations – higher fences around the most sensitive items. A key element of the reform is moving tens of thousands of items – mostly parts and components – from the U.S. Munitions List to the more flexible Commerce Control List. The move will enable more nuanced distinctions among technologies, destinations, and end users than under the State Department’s International Traffic in Arms Regulations. This will strengthen the U.S. defense industrial base by removing incentives for foreign manufacturers to avoid U.S. parts and components. U.S. exporters of such items, particularly small and medium-sized firms, will be more competitive.

Strategies

BIS has primary responsibility, in coordination with several other agencies, for implementing U.S. export control policy on EAR commodities, software, and technology. To accomplish its objectives, BIS administers, and amends as necessary, the EAR. The EAR set forth license requirements and licensing policy for the exports of CCL items.

Enforcement is an essential aspect of the BIS mission. Enforcement efforts encourage compliance, prevent and deter violations, disrupt illicit activities, and bring violators to justice. BIS achieves these important objectives through a law enforcement program focused on parties engaged in exports of sensitive commodities, software, and technology to end uses, end users, and destinations of concern.

BIS plays a significant role in the four major multilateral export control regimes and three treaties which deal with specific industry sectors: the Australia Group (chemical and biological nonproliferation), the Missile Technology Control Regime, the Nuclear Suppliers Group, the Wassenaar Arrangement (conventional arms and related dual-use goods, software, and technologies), the CWC (chemical weapons nonproliferation), the Additional Protocol to the U.S.-International Atomic Energy Agency Safeguards Agreement (nuclear weapons nonproliferation) and the Biological Weapons Convention (biological weapons nonproliferation).

BIS consults closely with industry on the development of regulatory policy through its Technical Advisory Committees (TACs). The TACs provide valuable input regarding industry perspectives on trends in technology and the practicality and likely impact of export controls. BIS also conducts numerous outreach events through the United States and overseas to educate and update the public on export controls and policy.

Part 2 Performance Results and Plans

Section 1: FY 2013 Summary Description of Performance by Objective

FY 2014 – FY 2018 Strategic Goal: Trade and Investment

FY 2014 – FY 2018 Strategic Objective: Increase U.S. exports by broadening and deepening the U.S. exporter base

Benefits

BIS works to protect U.S. national security and supports U.S. foreign policy. The Bureau's principal activity in this regard is the regulation of exports, reexports and transfers of various types of commodities, software, and technology items to destinations, end-users, and end uses of concern. The Bureau does so by administering and enforcing controls on exports and reexports of dual-use items (i.e., those having a commercial and potential military or proliferation application) and various types of military items to counter proliferation of weapons of mass destruction (WMD), prevent destabilizing accumulations of conventional weapons, combat terrorism, and pursue other national security and foreign policy goals. The Bureau processes export license applications for controlled items to be exported or reexported in accordance with the EAR. BIS seeks to prevent violations before they occur and to investigate and sanction violators to dismantle illicit proliferation networks. Preventive activities include the following:

- conducting educational outreach;
- screening license applications for end-use and end-user concerns;

- conducting end-use checks abroad to confirm the *bona fides* of foreign parties to export transactions;
- confirming compliance with license conditions or the use of license exceptions;
- uncovering diversions to unauthorized end-users/uses;
- leveraging interagency resources to identify unauthorized exports (including deemed exports); and,
- reviewing Automated Export System (AES) filings to identify potential export control violations.

Outreach activities educate U.S. businesses on export control requirements and include how to identify suspicious transactions. Identifying suspicious transactions leads to successful preventive and investigative actions. The Bureau facilitates compliance with U.S. export controls by keeping U.S. and foreign firms informed of export control regulations through an extensive domestic and foreign outreach program. Screening license applications allows the Bureau, with other agencies, to deny transactions with a high risk of diversion. The Bureau's Special Agents investigate significant proliferation, terrorism, and military end-use/user export control violations, and vigorously pursue criminal and administrative penalties.

End-use checks continue to serve as a valuable safeguard and preventive enforcement tool for verifying the *bona fides* of foreign end users, ensuring that exported items have been or will be used as authorized, and that license conditions are met. BIS end-use checks have been effective in revealing unauthorized end-uses and end users, including the improper or unauthorized diversion of items subject to BIS jurisdiction.

Pursuant to the President's Export Control Reform (ECR) initiative, BIS is participating in a broad-based, interagency review of the U.S. export control system to reduce complexity and allow the U.S. Government to focus on the most critical national security priorities. ECR will improve U.S. military interoperability with allied countries, strengthen the U.S. industrial base by reducing incentives for foreign manufacturers in allied countries to design out and avoid using U.S.-made content, and allow the U.S. Government to focus resources on the most serious national security and proliferation concerns. The objectives of the reform effort will be met in large part by moving jurisdiction of tens of thousands of less sensitive items from the State Department to the Commerce Department, which has a more flexible regulatory structure. Thus, in order to reduce the burden on U.S. industry and achieve the other national security objectives, the Bureau will be more than doubling the volume of exports subject to its control.

BIS also works to strengthen the export control systems of other countries, assess the viability of key sectors of the defense industrial base, review the national security impact of foreign acquisitions of U.S. companies, and assure the timely availability of industrial resources to meet national defense and emergency preparedness requirements. Finally, the Department also serves as the lead agency for ensuring U.S. industry compliance with CWC. Further information on these tasks is available on <http://www.bis.doc.gov/index.php/about-bis/newsroom/publications>.

Recurring Indicators

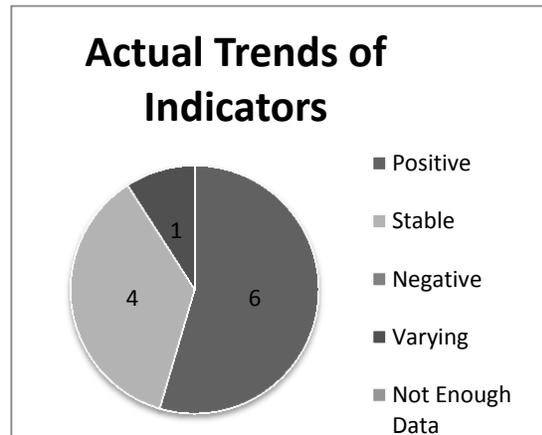
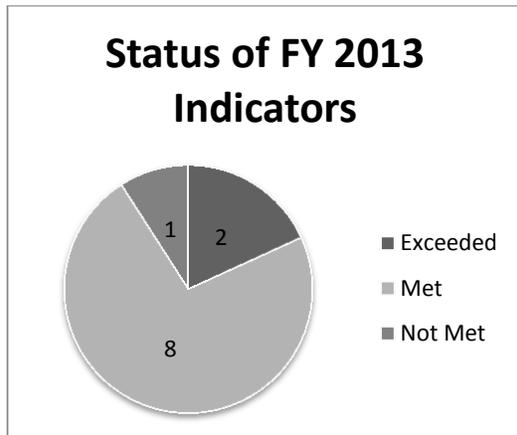
Indicators	Target	Actual	Status	Trend
Percent of licenses requiring interagency referral referred within nine days	98%	98%	Met	Stable
Percent of attendees rating seminars highly	93%	91%	Met	Positive
Number of actions that result in a deterrence or prevention of a violation and cases which result in a criminal and/or	850	1,403	Exceeded	Positive

administrative charge				
Number of End-Use Checks completed	850	1,033	Exceeded	Varying
Post-shipment verifications completed and categorized above the “unfavorable” classification	315 PSVs	240 PSVs	Not Met	Stable
Number of Exporters Educated and Trained through Outreach Activities related to Export Control Reform	4,000	4,000	Met	Positive
Number of Export Control Reform rules issued	7	7	Met	Positive

Non-recurring Indicators

Indicators	Target	Actual	Status	Trend
Median processing time for new regime regulations (months)	2	2	Met	Stable
Percent of declarations received from U.S. industry in accordance with CWC regulations (time lines) that are processed, certified and submitted to the State Department in time for the U.S. to meet its treaty obligations	100%	100%	Met	Stable
Percent of shipped transactions in compliance with the licensing requirements of the EAR	99%	99%	Met	Positive
Percent of Industry assessments resulting in BIS determination, within three months of completion, on whether to revise export controls	100%	100%	Met	Positive

All FY 2013 Indicators:



Section 2: Detailed Description of Past and Future Performance by Objective

New or Recurring Indicators

Indicator: Number of Exporters Educated and Trained through Outreach Activities related to Export Control Reform								
Description: A key element of the Export Control Reform (ECR) Initiative is moving tens of thousands of items -- mostly parts and components -- from the U.S. Munitions List to the more flexible Commerce Control List. The move will enable more nuanced distinctions among technologies, destinations, and end users than under the State Department's International Traffic in Arms Regulations. Through our outreach programs, BIS will educate and train exporters on these importance ECR changes.								
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Targets	NA	NA	NA	NA	NA	4,000	28,000	48,000
Actual	NA	NA	NA	NA	NA	4,000	NA	NA
Status	NA	NA	NA	NA	NA	Met	NA	NA
Trend: This is a new measure.								
Explanation (if not met in FY 2013): NA								
Actions to be taken / Future Plans: None								
Adjustments to targets: None								
Information Gaps: None								
Validation and Verification								
Data Source	Frequency	Data Storage	Internal Control Procedures			Data Limitations	Actions to be Taken	
In House Records	Quarterly	Electronic Files	BIS will verify the information used to report on this performance indicator against supporting documentation.			None	None	

Indicator: Number of Export Control Reform rules issued								
Description: A key element of the Export Control Reform (ECR) Initiative is moving tens of thousands of items -- mostly parts and components -- from the U.S. Munitions List to the more flexible Commerce Control List. The move will enable more nuanced distinctions among technologies, destinations, and end users than under the State Department's International Traffic in Arms Regulations. Through our outreach programs, BIS will educate and train exporters on these importance ECR changes.								
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Targets	NA	NA	NA	NA	NA	7	4	4
Actual	NA	NA	NA	NA	NA	7	NA	NA
Status	NA	NA	NA	NA	NA	Met	NA	NA
Trend: This is a new measure.								
Explanation (if not met in FY 2013): NA								
Actions to be taken / Future Plans: None								
Adjustments to targets: None								
Information Gaps: None								
Validation and Verification								
Data Source	Frequency	Data Storage	Internal Control Procedures			Data Limitations	Actions to be Taken	
Federal Register	Quarterly	Federal Register	BIS will verify the information used to report on this performance indicator against supporting documentation.			None	None	

Indicator: Percent of licenses requiring interagency referral referred within nine days								
Description: Generally, export license applications for dual-use items (products that may have both civilian and military applications) and munitions items transferred from the USML to the new 600-Series CCL fall into two categories: 1) referred licenses, includes those licenses that require a recommendation from another agency (i.e., Department of Defense, State, and Energy, and where appropriate, other U.S. governments departments or agencies) 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 BIS license applications, with the remaining 15% being non-referred licenses. This measure is designed to measure the effectiveness of BIS in meeting the target of referring 98% of those licenses requiring referral within 9 days. If BIS does not meet the metric of 98% of license applications referred within 9 days, BIS is not maintaining effective management of the license application review process. According to Section 3 of Executive Order 12981, BIS must complete its initial review and refer to appropriate agencies the application and other pertinent information within 9 days.								
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Targets	95%	95%	95%	98%	98%	98%	98%	98%
Actual	98%	99%	90%	88%	97%	98%	NA	NA
Status	Met	Met	Met	Not Met	Met	Met	NA	NA
Trend: This is a maintain standard measure. Both the target and actual trends have remained stable.								
Explanation (if not met in FY 2013): NA								
Actions to be taken / Future Plans: None								
Adjustments to targets: None								
Information Gaps: None								
Validation and Verification								
Data Source	Frequency	Data Storage	Internal Control Procedures			Data Limitations	Actions to be Taken	
ECASS	Quarterly	ECASS	Export Administration (EA) will verify ECASS reports by running similar reports to determine if they produce the same results.			None	None	

Indicator: Percent of attendees rating seminars highly								
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 and 600-Series export control system. The target is for at least 93% of the seminar attendees to give the seminar an overall rating of at least 4 (out of a 5 level scale).								
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Targets	85%	85%	85%	93%	93%	93%	93%	93%
Actual	93%	93%	94%	94%	93%	91%	NA	NA
Status	Exceeded	Exceeded	Exceeded	Met	Met	Met	NA	NA
Trend: This appeared to be initially a maintain standards measure because the target trend remained stable from FY 2008 to FY 2010. However, the actual trend is positive leading to an increase in the target in FY 2011.								
Explanation (if not met in FY 2013): NA								
Actions to be taken / Future Plans: None								
Adjustments to targets: None								
Information Gaps: None								
Validation and Verification								
Data Source	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 indicator against supporting documentation.	Data is dependent upon voluntary responses of seminar participants and is based on respondent opinion. Opinions may or may not be a factual indicator of performance.	None			

Indicator: Number of actions that result in a deterrence or prevention of a violation and cases which result in a criminal and/or administrative charge/action								
Description: This performance indicator captures the number of Export Enforcement deterrence actions, cases that result in a prevention of a violation, criminal/administrative actions, and administrative settlement orders. The number will reflect the actual number and type of preventive enforcement actions conducted including: detentions of suspect exports, seizures of unauthorized shipments, industry outreach, issuance of warning letters, recommended denials of license applications based on enforcement concerns, and recommendations for parties to be added to the Entity List and Unverified List. The measure also includes Office of Antiboycott Compliance (OAC) advice line inquiries that result in prevention or deterrence.								
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Targets	675	850	850	850	850	850	850	1,100
Actual	881	876	806	1,073	1,162	1,403	NA	NA
Status	Exceeded	Exceeded	Met	Exceeded	Exceeded	Exceeded	NA	NA
Trend: Both the target and actual trends are positive.								
Explanation (if not met in FY 2013): NA								
Actions to be taken / Future Plans: None								
Adjustments to targets: Changes in Target associated with the additional Criminal Investigators (see Exhibit 12-15 Page Number – BIS 55, 58 for details).								
Information Gaps: None								
Validation and Verification								
Data Source	Frequency	Data Storage	Internal Control Procedures			Data Limitations	Actions to be Taken	
EE Investigative Management System (IMS)	Monthly	IMS	OEE, OEA and OAC 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	

Indicator: Percent of licenses requiring Information Triage Unit (ITU) report completed by Export Enforcement (EE) within ten Executive Order (EO) days of referral								
Description: The ITU, for which EE provides the majority of intelligence product outputs, drafts bona fides information reports on foreign transaction parties to license applications. The reports are either requested at the direction of a licensing officer or self-selected by EE. EE must, within the established EO timeframe, complete such reports in 10 EO days from referral to enable timely interagency review of license applications. This measure is designed to measure the effectiveness of BIS in meeting the target of completing 90% of ITU reports produced by EE within 10 EO days of referral.								
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Targets	NA	NA	NA	NA	NA	NA	90%	90%
Actual	NA	NA	NA	NA	NA	NA	NA	NA
Status	NA	NA	NA	NA	NA	NA	NA	NA
Trend: This is a new performance metric that is directly tied to FY 2015 Enforcement Initiatives (see Exhibit 12-15 Page Number – BIS 55 for details).								
Explanation (if not met in FY 2013): NA								
Actions to be taken / Future Plans: None								
Adjustments to targets: None								
Information Gaps: None								
Validation and Verification								
Data Source	Frequency	Data Storage	Internal Control Procedures			Data Limitations	Actions to be Taken	
ECASS	Quarterly	ECASS	OEA will verify ECASS reports by running similar reports to determine if they produce the same results.			None	None	

Indicator: Number of End-Use Checks (EUCs) completed

Description: A key element of BIS’s policy formulation and implementation toward other key countries is conducting 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 are through BIS ECOs stationed abroad with the Department of Commerce’s Foreign Commercial Service (FCS), augmented by Sentinel visits (formerly known as “Safeguards”) conducted by Special Agent-led teams as well as FCS officers. ECOs are located in six countries and are responsible for conducting EUCs in their respective areas of responsibility covering 28 countries in all. 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.

	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Targets	850	850	850	850	850	850	850	1,030
Actual	490	737	708	891	994	1,033	NA	NA
Status	Not Met	Not Met	Not Met	Met	Exceeded	Exceeded	NA	NA

Trend: The target trend remained stable from FY 2008 to FY 2013 and increased in FY 2014 to FY 2015.

Explanation (if not met in FY 2013): NA

Actions to be taken / Future Plans: None

Adjustments to targets: Changes in Target associated with the additional Export Control Officers (see Exhibit 12-15 Page Number – BIS 51 for details).

Information Gaps: None

Validation and Verification

Data Source	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

Indicator: Post shipment verifications completed and categorized above the 'unfavorable' classification

Description: Post Shipment Verifications (PSVs) confirm whether 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 strategic targeting plan. 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.

	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Targets	215 PSVs	260 PSVs	260 PSVs	315 PSVs	315 PSVs	315 PSVs	315 PSVs	360 PSVs
Actual	136 PSVs	314 PSVs	256 PSVs	382 PSVs	343 PSVs	240 PSVs	NA	NA
Status	Not Met	Met	Met	Met	Met	Not Met	NA	NA

Trend: This is a maintain-standard measure. The target and actual trends have remained stable with the actuals consistently meeting the targets.

Explanation (if not met in FY 2013): NA

Actions to be taken / Future Plans: None

Adjustments to targets: None

Information Gaps: None

Validation and Verification

Data Source	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

Non-Recurring Indicators

Indicator: Median processing time for new regime regulations (months)						
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 multilateral changes for interagency review in three months or less in order to meet our multilateral obligations, 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.						
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Targets	3	3	3	2	2	2
Actual	2	2	3	2	2	2
Status	Exceeded	Exceeded	Met	Met	Met	Met
Trend: This is a maintain standards measure. Both the target and actual trends have remained stable.						
Explanation (if not met in FY 2013): NA						

Indicator: 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						
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, within established time frames mandated under the CWC, and to submit it to the Organization for the Prohibition of Chemical Weapons (OPCW).						
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Targets	100%	100%	100%	100%	100%	100%
Actual	100%	100%	100%	100%	100%	100%
Status	Met	Met	Met	Met	Met	Met
Trend: This is a maintain standards measure. The target and actual trends have remained stable.						
Explanation (if not met in FY 2013): NA						

Indicator: Percent of shipped transactions in compliance with the licensing requirements of the EAR						
Description: This indicator evaluates how effective the dual-use and 600-Series export control system are 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.						
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Targets	87%	95%	97%	99%	99%	99%
Actual	87%	96%	98%	99%	99%	99%
Status	Met	Met	Met	Met	Met	Met
Trend: Both the target and actual trends are positive.						
Explanation (if not met in FY 2013): NA						

Indicator: Percent of industry assessments resulting in BIS determination, within three months of completion, on whether to revise export controls.						
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 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.						
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Targets	100%	100%	100%	100%	100%	100%
Actual	100%	100%	100%	100%	100%	NA
Status	Met	Met	Met	Met	Met	Met
Trend: This is a maintain standards measure. Both the target and actual trends have remained stable.						

Part 3 Resource Requirements

	FY 2008 Actual	FY 2009 Actual	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Actual	FY 2014 Enacted	FY 2015 Base	Increase / Decrease	FY 2015 Request
OSIES ²	4.3	4.8	5.8	4.4	12.0	11.5	11.5	11.6	-0.1	11.5
NPTC ³	13.6	15.2	18.2	16.4	16.2	15.9	15.9	16.1	-0.2	15.9
OEXS ⁴	11.7	13.1	15.7	12.5	12.7	13.0	13.5	13.6	-0.1	13.5
NSTTC ⁵	10.0	11.2	13.4	12.6	12.0	12.1	13.4	13.6	+0.3	13.9
OTE ⁶	3.2	3.6	4.3	3.8	5.1	5.5	4.9	5.0	0.0	5.0
OEA ⁷	5.1	5.8	6.9	6.2	6.1	5.9	6.8	6.9	+0.8	7.7
OAC ⁸	2.3	2.5	3.0	3.6	2.6	2.3	2.6	2.6	0.0	2.6
OEE ⁹	24.7	27.5	33.0	43.4	34.3	30.5	32.9	33.2	+7.2	40.4
Total Funding	74.9	83.7	100.3	102.9	101.0	96.7	101.5	102.6	+7.9	110.5
Direct	74.9	83.7	100.3	102.9	101.0	96.7	101.5	102.6	+7.9	110.5
Reimbu- -rsable	3.5	1.8	2.2	3.0	3.1	2.7	2.9	2.9	0	2.9
Total	78.4	85.5	102.5	105.9	104.1	99.4	104.4	105.5	+7.9	113.4
Total FTE	353	329	322	351	369	379	393	393	+24	417

² OSIES – Office of Strategic Industries and Economic Security

³ NPTC – Office of Nonproliferation and Treaty Compliance

⁴ OEXS – Office of Exporter Services

⁵ NSTTC – Office of National Security and Technology Transfer Controls

⁶ OTE – Office of Technology Evaluation

⁷ OEA – Office of Enforcement Analysis

⁸ OAC – Office of Antiboycott Compliance

⁹ OEE – Office of Export Enforcement

Part 4 Agency Priority Goals

BIS is not a leader of or a participant in any Agency Priority Goals.

Part 5 Other Information

Section 1 Major Management Challenges

The FY 2015 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 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 and munitions items and technologies are not misused by proliferators, terrorists, and others working contrary to the national security interests of the United States.

Section 2 Cross-Agency Collaborations

BIS works with the Departments of State and Defense on a daily basis to achieve objectives, priority goals, and performance goals. A few examples include:

- Review and approval or denial of export license applications.
- Collaboration on recommendations to the international export control regimes in which the United States participates.
- Close interagency cooperation on the Presidential initiative to reform the U.S. export control system.

BIS collaborates with the Census Bureau and U.S. Customs and Border Protection on the AES and International Trade Data System (ITDS) to ensure timely changes are made to the AES to ensure exporters' are educated of and comply with changes to the EAR, and to ensure that BIS equities are taken into account when the International Trade Data System "single window" export clearance approach is developed.

BIS works closely with defense and civilian agencies, such as the Air Force, NASA, and the National Reconnaissance Office, to leverage its unique authorities and analytical capabilities to accomplish its mission of maintaining and enhancing the U.S. defense industrial base.

BIS participates on the interagency Committee on Foreign Investment in the United States (CFIUS) and on the interagency Defense Production Act (DPA) Committee established in 2011 to promote the more effective use of DPA authorities to support military, energy, homeland security, emergency preparedness, and critical infrastructure programs.

BIS works with the Department of Justice (DOJ) to impose criminal sanctions for violations, including incarceration and fines, and with the Office of Chief Counsel for Industry and Security to impose civil fines and denials of export privileges. BIS also works closely with other Federal law enforcement agencies, including the Federal Bureau of Investigation (FBI) and the Department of Homeland Security (DHS), when conducting investigations or preventative actions.

Section 3 Program Evaluations

BIS is not proposing any program evaluations in the coming year.

Section 4 Hyperlinks

BIS's most recent Annual Report can be found at the following link:
<http://www.bis.doc.gov/index.php/about-bis/newsroom/publications>.

Section 5 Data Validation and Verification

The FY 2013 Summary of Performance and Financial Information includes in the Secretary's Statement, an assessment of the reliability and completeness of the Department's performance data.

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

Page No.		Budget		Direct	
		Positions	FTE	Authority	Obligations
	2014 Enacted.....	403	390	\$101,450	\$104,540
	Less: Obligations from prior year.....	0	0	0	-\$3,090
BIS - 28	Plus: 2015 Adjustments to Base.....	0	0	\$1,130	\$1,130
	2015 Base.....	403	390	\$102,580	\$102,580
	Less: 2015 Inflationary Adjustments.....	0	0	-\$834	-\$834
	Plus: 2015 Program Changes.....	30	24	\$8,803	\$8,803
	2015 Estimate.....	433	414	\$110,549	\$110,549

Comparison by Program:			2013		2014		2015		2015		Increase/	
			Actual		Enacted		Base		Estimate		Decrease	
			Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
BIS - 32	Management and Policy Coordination.....	Pos./BA	15	\$5,332	15	\$5,790	15	\$5,859	15	\$5,811	0	-\$48
		FTE/Obl.	11	\$5,295	11	\$6,253	11	\$5,859	11	\$5,811	0	-\$48
BIS - 35	Export Administration.....	Pos./BA	217	\$53,427	217	\$56,092	217	\$56,751	219	\$56,754	2	\$3
		FTE/Obl.	193	\$53,660	212	\$58,351	212	\$56,751	214	\$56,754	2	\$3
BIS - 45	Export Enforcement.....	Pos./BA	171	\$34,888	171	\$39,568	171	\$39,970	199	\$47,984	28	\$8,014
		FTE/Obl.	172	\$35,850	167	\$39,936	167	\$39,970	189	\$47,984	22	\$8,014
	Direct Obligations.....	Pos./BA	403	\$93,647	403	\$101,450	403	\$102,580	433	\$110,549	30	\$7,969
		FTE/Obl.	376	\$94,805	390	\$104,540	390	\$102,580	414	\$110,549	24	\$7,969
Adjustments to Obligations												
	Recoveries.....			-\$1,244								
	Unobligated balance, start of year.....			-\$4		-\$3,090						
	Unobligated balance, rescission.....											
	Unobligated balance, end of year.....			\$3,090								
	Unobligated balance expiring.....											
Financing from transfers:												
	Transferred from other accounts (-).....			-\$3,000								
	Transferred to other accounts (+).....											
Unobligated balance, rescission:												
	Appropriation.....			\$93,647		\$101,450		\$102,580		\$110,549		\$7,969

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

<u>Comparison by Program:</u>	2013		2014		2015		2015		Increase/ Decrease		
	Actual		Enacted		Base		Estimate				
	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	
Management and Policy Coordination.....	Pos./BA	0	\$571	0	\$571	0	\$571	0	\$571	0	\$0
	FTE/Obl.	0	\$358	0	\$571	0	\$571	0	\$571	0	\$0
Export Administration.....	Pos./BA	3	\$1,800	3	\$1,800	3	\$1,800	3	\$1,800	0	\$0
	FTE/Obl.	3	\$2,280	3	\$1,800	3	\$1,800	3	\$1,800	0	\$0
Export Enforcement.....	Pos./BA	0	\$529	0	\$529	0	\$529	0	\$529	0	\$0
	FTE/Obl.	0	\$98	0	\$529	0	\$529	0	\$529	0	\$0
Reimbursable Obligations.....	Pos./BA	3	\$2,900	3	\$2,900	3	\$2,900	3	\$2,900	0	\$0
	FTE/Obl.	3	\$2,736	3	\$2,900	3	\$2,900	3	\$2,900	0	\$0

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

	2013 Actual	2014 Enacted	2015 Base	2015 Estimate	Increase/ Decrease
Total Obligations	\$97,364	\$113,810	\$105,480	\$113,449	\$7,969
Financing:					
Offsetting collections from:.....					
Federal funds.....	-\$1,275	-\$1,508	-\$1,508	-\$1,508	0
Non-Federal sources.....	-\$1,781	-\$1,392	-\$1,392	-\$1,392	0
Recovery of prior year obligations.....	-\$1,244	0	0	0	0
Unobligated balance, start of year.....	-\$5,877	-\$9,460	0	0	0
Unobligated balance, transferred.....	0	0	0	0	0
Unobligated balance, end of year.....	\$9,460	0	0	0	0
Unobligated balance expiring.....	0	0	0	0	0
Budget Authority	\$96,647	\$101,450	\$102,580	\$110,549	\$7,969
Financing:					
Transfers from other accounts.....	-3,000	0	0	0	0
Transfers to other accounts.....	0	0	0	0	0
Unobligated balance, rescission:					
Appropriation	\$93,647	\$101,450	\$102,580	\$110,549	\$7,969

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

<u>Changes:</u>	<u>FTE</u>	<u>Amount</u>
Personal Identity Verification (PIV)	0	-254
The estimated cost for PIV is expected to decrease by \$254,000 in FY 2015.		
Pay Raises	0	578
Full-year cost of 2014 pay increase and related costs:		
A pay raise of 1.0% will be effective January 1, 2014		
Total cost in 2015 of 2014 pay raise at 1.0%	580,000	
Less amount funded in 2014	<u>-435,000</u>	
Amount requested in 2015 to provide full-year cost of 2014 pay increase	145,000	
2015 pay increase and related costs:		
A general pay raise of 1.049% is assumed to be effective January 1, 2015.		
Total cost in 2015 for pay raise	<u>433,000</u>	
Total, Adjustment for 2015 pay raise	433,000	
Civil Service Retirement System (CSRS)		
The estimated percentage of payroll for regular employees covered by CSRS will decrease from 16.60% in 2014 to 14.90% in 2015 and remain at 0.00% for law enforcement employees. Contribution rates are expected to remain at 7% for regular employees, and 7.5% for law enforcement employees.		
	<u>0</u>	<u>-35</u>
Regular Employees:		
CSRS Cost in 2015 (\$29,789,893 X .149 X .070)	310,709	
CSRS Cost in 2014 (\$29,789,893 X .166 X .070)	<u>-346,159</u>	
Subtotal	-35,450	
Law Enforcement Employees:		
CSRS Cost in 2015 (\$14,316,000 X .000 X .075)	0	
CSRS Cost in 2014 (\$14,316,000 X .000 X .075)	<u>0</u>	
Subtotal	0	
Total adjustment-to-base		-35,451

	<u>FTE</u>	<u>Amount</u>
Federal Employees' Retirement System (FERS)	0	390
<p>The estimated percentage of payroll for regular employees covered by FERS will increase from 82.10% in 2014 to 84.10% in 2015 and remain the same 100% for law enforcement employees. The estimated percentage of FERS Revised Annuity Employees (RAE) will decrease from 1.30% in 2014 to 1.10% in 2015. Contribution rates are expected to increase from 11.90 % in 2014 to 13.20% in 2015 for regular employees, and 9.60% in 2014 to 11.90% in 2015 for RAE employees, and remain at 26.30% for law enforcement employees.</p>		
Regular Employees (Non-RAE):		
FERS (Non-RAE) cost in 2015 (\$29,321,886 X .841 X .132)		3,255,081
FERS (Non-RAE) cost in 2014 (\$29,321,886 X .821 X .119)		<u>-2,864,719</u>
Subtotal		390,362
Regular Employees (RAE):		
FERS - RAE cost in 2015 (\$468,007 X 0.011 X 0.111)		571
FERS - RAE cost in 2014 (\$468,007 X 0.013 X 0.096)		<u>-584</u>
Subtotal		-13
Law Enforcement Employees:		
FERS cost in 2015 (\$14,316,000 X 1.000 X .263)		3,765,108
FERS cost in 2014 (\$14,316,000 X 1.000 X .263)		<u>-3,765,108</u>
Subtotal		0
Total adjustment-to-base		390,350
Thrift Savings Plan	0	-378
<p>The cost of BIS's contribution to the Thrift Savings Plan is expected to decrease as the cost for FERS Non-RAE participation increases and participation rate remains same for RAE employees. The contribution rate will decrease from 2.00% in 2014 to 1.00% in 2015.</p>		
Regular Employees (Non-RAE):		
Cost in 2015 (\$29,321,886 X .841 X .010)		246,597
Cost in 2014 (\$29,321,886 X .821 X .020)		<u>-481,465</u>
Subtotal		-234,868
Regular Employees (RAE):		
Cost in 2015 (\$468,007 X 0.1110 X .010)		519
Cost in 2014 (\$468,007 X 0.0960 X .020)		<u>-899</u>
Subtotal		-380
Law Enforcement Employees:		
Cost in 2015 (\$14,316,000 X 1.000 X .010)		143,160
Cost in 2014 (\$14,316,000 X 1.000 X .020)		<u>-286,320</u>
Subtotal		-143,160
Total adjustment-to-base		-378,408

	<u>FTE</u>	<u>Amount</u>
Federal Insurance Contributions Act (FICA)	<u>0</u>	<u>39</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 2015. The OASDI tax rate will remain same at 6.2% in 2015.		
Regular Employees (Non-RAE):		
Cost in 2015 (\$29,321,886 X .841 X .942 X .062)		1,440,225
Cost in 2014 (\$29,321,886 X .821 X .940 X .062)		<u>-1,402,990</u>
Subtotal		37,235
Regular Employees (RAE):		
Cost in 2015 (\$468,007 X 0.011 X .942 X .062)		301
Cost in 2014 (\$468,007 X 0.013 X .940 X .062)		<u>-355</u>
Subtotal		-54
Law Enforcement Employees:		
Cost in 2015 (\$11,456,000 X 1.000 X .942 X .062)		669,076
Cost in 2014 (\$11,456,000 X 1.000 X .940 X .062)		<u>-667,656</u>
Subtotal		1,420
Other Salaries - Regular Employees:		
Cost in 2015 (\$47,000 X .841 X .942 X .062)		2,309
Cost in 2014 (\$47,000 X .821 X .940 X .062)		<u>-2,249</u>
Subtotal		60
Other Salaries - Law Enforcement Employees:		
Cost in 2015 (\$2,860,000 X 1.000 X .942 X .062)		167,035
Cost in 2014 (\$2,860,000 X 1.000 X .940 X .062)		<u>-166,681</u>
Subtotal		354
Total adjustment-to-base		39,015
Health Insurance Premium	<u>0</u>	<u>89</u>
Effective January 2015, this agency's contribution to Federal employees' health insurance premiums increased by 3.19%. Applied against the 2014 estimate of \$2,786,792 the additional amount required is \$88,794.		
Rental Payments to GSA	<u>0</u>	<u>92</u>
GSA rate is projected to remain at 1.6% in 2015. This percentage was applied to the 2014 estimate of \$5,736,000 to arrive at an increase of \$91,776.		
Postage	<u>0</u>	<u>15</u>
Postage rate is expected to remain at 4.6% in 2015. This percentage was applied to the 2014 estimate of \$325,000 to arrive at an increase of \$14,950.		
GPO Printing	<u>0</u>	<u>4</u>
GPO has provided an estimated rate of 1.4% in 2015. This percentage was applied to the 2014 estimate of \$270,000 to arrive at an increase of \$3,780.		
Mileage	<u>0</u>	<u>6</u>
Changes to the Federal Travel Regulations increased the reimbursement rate for the use of a privately-owned automobile from 55 cents to 57 cents per mile. The percentage 3.64% was applied to 2014 estimate of \$169,000 to arrive at an increase of \$6,152.		

	<u>FTE</u>	<u>Amount</u>
Working Capital Fund	<u>0</u>	<u>452</u>
An additional \$452,000 is required to fund cost increases in the Departmental Management's Working Capital Fund.		
National Archives and Records Administration (NARA)	<u>0</u>	<u>1</u>
The estimated cost for NARA storage has increased for FY 2015 by \$1,064.		
Herbert C. Hoover Electricity	<u>0</u>	<u>-37</u>
The estimated cost for PEPCO electricity is expected to decrease by \$37,000 in FY 2015.		
Herbert C. Hoover Water	<u>0</u>	<u>32</u>
The estimated cost for HCHB water is expected to increase by \$32,000 in FY 2015.		
Herbert C. Hoover Steam	<u>0</u>	<u>-15</u>
The estimated cost for HCHB steam is expected to decrease by \$15,000 in FY 2015.		
Fuel	<u>0</u>	<u>-104</u>
Utilizing economic assumptions for energy prices (gas and oil price index) the percentage decrease of anticipated fuel cost in FY 2015 compared to 2013 is -6.27%. Applied against the FY 2013 actual cost of \$191,353, the projected FY 2015 cost is \$179,349. The base estimate of \$283,000 in the FY 2014 budget minus the anticipated FY 2015 cost of \$179,349 leaves the total FY 2015 adjustment for fuel at -\$103,651.		
General Pricing Level Adjustments	<u>0</u>	<u>255</u>
This request applies OMB economic assumptions for 2015 to object classes where the prices the Government pays are established through the market system. A 1.4% factor was applied to rental payments to others (\$364); transportation of things (\$2,758); communications, utilities, and miscellaneous charges (excluding postage and FTS) (\$13,454); other services (excluding the Working Capital Fund and CBS) (\$192,976); supplies and materials (\$17,752); and, equipment (\$28,000).		
Adjustments-to-Base	0	\$1,130
Total - FY 2015 Adjustments-to-Base	0	\$1,130

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

<u>Comparison by Program:</u>	2013		2014		2015		2015		Increase/ Decrease	
	Actual		Enacted		Base		Estimate			
	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Management and Policy Coordination.....	15	\$5,332	15	\$5,790	15	\$5,859	15	\$5,811	0	-\$48
Pos./BA										
FTE/Obl.	11	\$5,295	11	\$6,253	11	\$5,859	11	\$5,811	0	-\$48

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

APPROPRIATION ACCOUNT: Operations and Administration**BUDGET PROGRAM: Management and Policy Coordination**

For FY 2015, BIS requests an increase of \$0.021 million and 0 FTE over the FY 2014 Enacted level for a total of \$5.811 million and 11 FTE for Management and Policy Coordination (MPC). This includes an increase of \$0.069 million in adjustments-to-base and a decrease of \$0.048 million from the Program Changes.

BASE JUSTIFICATION:**MPC Overview**

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

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

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

SIGNIFICANT ADJUSTMENTS-TO-BASE (ATBs):

BIS requests a net increase of \$0.069 million and 0 FTE to fund adjustments-to-base to current programs for MPC activities. The increase will fund the estimated 2015 Federal pay raise of 1.049 percent. The increase will also provide inflationary increases for non-labor activities, including service contracts, utilities, field office lease payments, and rent charges from the General Service Administration (GSA).

PROGRAM CHANGES FOR FY 2015:

Inflationary Adjustment (0 FTE and -\$0.048 million): BIS requests a decrease of \$0.048 million and 0 FTE for a total request of \$5.811 million and 11 FTE to meet the inflationary adjustments which

will be captured by managing on-going administrative savings, managing the backfilling of vacated positions due to attrition, and carefully monitoring all travel and training.

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

<u>Comparison by Program:</u>		2013		2014		2015		2015		Increase/	
		Actual		Enacted		Base		Estimate		Decrease	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Export Administration.....	Pos./BA	217	\$53,427	217	\$56,092	217	\$56,751	219	\$56,754	2	\$3
	FTE/Obl.	193	\$53,660	212	\$58,351	212	\$56,751	214	\$56,754	2	\$3

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

APPROPRIATION ACCOUNT: Operations and Administration**BUDGET PROGRAM: Export Administration**

For FY 2015, BIS requests an increase of \$0.662 million and 2 FTE over the FY 2014 Enacted level for a total of \$56.754 million and 214 FTE for Export Administration (EA). This includes an increase of \$0.659 million in adjustments-to-base, and an increase of \$0.003 million from the Program Changes.

BASE JUSTIFICATION:**EA Overview**

EA controls the export, reexport, and transfer of commodities, software and technology subject to the Export Administration Regulations (EAR) to protect U.S. national security, advance U.S. foreign policy, and support U.S. economic competitiveness. The EAR specifies license requirements and review policies for such transactions. To administer these controls, EA develops and publishes export control regulations and procedures, administers the interagency process established by Executive Order 12981 to review individual export license applications, issues formal commodity classifications and related determinations, and conducts outreach to the export community. Related to administering the EAR, EA develops and implements policies toward key countries such as China and India; and participates in the Department of State's Export Control and Related Border Security Program. During the lapse of the Export Administration Act (EAA) (which expired on August 17, 2001), the President authorizes continuation of the EAR through the International Emergency Economic Powers Act (IEEPA), Executive Order 13222, as extended most recently by the Notice of August 8, 2013 (78 Fed. Reg. 49107 (August 12, 2013)) and the National Emergencies Act.

EA develops and implements policies to strengthen multilateral cooperation on export controls. These policies enhance U.S. national security by extending controls over sensitive items beyond American borders while helping ensure a level global playing field for American exporters. 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 these regimes, (i.e., in compliance with the United States' membership in the United Nations) and United States' unilateral foreign policy based-export control requirements.

EA also implements portions of the Chemical Weapons Convention Implementation Act of 1998 (CWCIA), the Additional Protocol (AP) to the U.S. Nuclear Safeguards Agreement with the International Atomic Energy Agency (IAEA), and the Defense Production Act (DPA). EA's implementation of the CWCIA and AP facilitate U.S. industry compliance with international arms control treaties. EA's implementation of the DPA includes identifying and analyzing the economic status of critical U.S. industry sectors; ensuring timely and accurate processing of requests under the Defense Priorities and Allocations System; 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); and preparing statutorily-required reports, including the annual Offsets in Defense Trade report. These activities support continued U.S. technology leadership and competitiveness in essential industries, as does developing and implementing comprehensive rules regarding foreign nationals (“deemed exports”). In addition, EA manages the Bureau’s emergency preparedness program.

EA measures exporter compliance with the EAR export filing requirements by reviewing all export transactions subject to a license requirement on an annual basis. To address non-compliant transactions, EA takes a number of actions, including counseling, outreach, warning letters, enforcement referrals, and electronic validation by the Automated Export System (AES). EA started this effort with a baseline Government Performance Result Act (GPRA) metric of 87 percent of export transactions in compliance with the export filing requirements of the EAR in FY 2008. In FY 2015, BIS has a goal of 99 percent compliance.

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

As a result, the Administration launched the Export Control Reform (ECR) Initiative, which will fundamentally reform the U.S. export control system. The ECR Initiative is designed to enhance U.S. national security and strengthen the United States’ ability to counter threats such as the proliferation of weapons of mass destruction (WMD).

SIGNIFICANT ADJUSTMENTS-TO-BASE (ATBs):

BIS requests a net increase of \$0.659 million and 0 FTE to fund adjustments-to-base to current programs for EA activities. The increase will fund the estimated 2015 Federal pay raise of 1.049 percent. The increase will also provide inflationary increases for non-labor activities, including service contracts, utilities, field office lease payments, and rent charges from the General Service Administration (GSA).

SUB-PROGRAMS

EA is organized into five sub-programs under the Operations and Administration Account.

1. The **National Security and Technology Transfer Controls (NSTTC)** sub-program 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), encryption controls and administering short supply regulations. Licensing officers in NSTTC are responsible for decisions on 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 to reach consensus among the reviewing agencies. NSTTC licensing officers also perform technical and regulatory analysis to assist the exporting community in determining licensing requirements for their products (Commodity Classifications and Advisory Opinions), and to support BIS’s Office of Export Enforcement investigations of potential violations of U.S. export regulations (License Determinations). NSTTC licensing officers

are called upon to provide expert testimony in criminal and civil suits relating to export control violations. The office also provides expertise in cases in which the export control jurisdiction over an item (i.e., the dual-use Commerce Control List or U.S. Munitions List) is unclear.

In FY 2013, NSTTC processed 8,806 export license applications valued at over \$290 billion.

- NSTTC engineers and policy analysts participate in the U.S. delegation to the Wassenaar Arrangement, the international export control regime that harmonizes national export controls on conventional arms and dual-use goods. NSTTC Licensing officers play a key role in international technical discussions related to revisions of the control lists, while NSTTC policy analysts support Wassenaar policy initiatives.
 - NSTTC engineers provide guidance on the military end-use control for a select group of items to China.
 - NSTTC provides one-on-one counseling for potential exporters.
 - Finally, NSTTC also supports BIS's export seminar outreach and international export control cooperation programs, and assists the Regulatory Policy Division (RPD) of the Office of Exporter Services (OEXS) in the development of new rules and regulations affecting national security controlled items.
2. The **Office of Nonproliferation and Treaty Compliance (NPTC)** sub-program fulfills treaty compliance obligations for the U.S. Government under the Chemical Weapons Convention (CWC), the 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 submit to the responsible international organizations, and manages international inspections of U.S. industry. For the BWC, NPTC coordinates economic security aspects of compliance, including Confidence Building Measures. Confidence Building Measures refer to transparency measures to demonstrate confidence in compliance with the BWC. They are politically binding commitments within the BWC framework to take and/or report various steps on an annual basis. Additionally, NPTC administers:
- U.S. comprehensive export controls on certain categories of dual-use items controlled by three multilateral export control regimes (the Australia Group, the Missile Technology Control Regime, and the Nuclear Suppliers Group);
 - embargoes and sanctions on selected categories of dual-use items to specific destinations, including the state sponsors of terrorism (Cuba, Iran, North Korea, Sudan, Syria);
 - “catch-all” controls for 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 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 exporters with commodity classifications under the regulations, and issues license determinations for law enforcement personnel. Office technical experts, including many PhD engineers, contribute to U.S. Government activities in the multilateral export control regimes (Australia Group, Missile Technology Control Regime, Nuclear Suppliers Group, Zangger Committee), including interagency deliberations and preparatory policy work, and travel to participate as experts in regime meetings. The office also makes personnel available for domestic and international outreach to private industry and foreign governments.

In FY 2013, NPTC processed 15,389 export license applications valued at over \$13 billion.

3. The **Office of Exporter Services (OExS)** sub-program is comprised of three divisions and one division field office:

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

The Office of Outreach and Educational Services Division (OESD) and the Western Regional Field Office (WRO) (located in Irvine, CA and San Jose, CA) promote knowledgeable voluntary compliance with dual-use export controls by educating the business community about its obligations under the EAR. The office accomplishes this through one-on-one regulatory counseling and the development and implementation of online training programs, Webinar programs, annual export control conferences, licensing officer training, and U.S. Government export control training. OESD and WRO represent BIS on export control issues at regional seminars, trade shows and Trade Promotion Coordination Committee’s Export Pavilion, and publish information material on the BIS Website and AES Newsletter. OESD also is responsible for conducting outreach to deemed export stakeholders within the U.S. Government such as the Citizenship and Immigration Service as well as to university research groups and companies.

The Export Management and Compliance Division (EMCD) is responsible for ensuring compliance with EAR provisions. It accomplishes this by reviewing company compliance manuals, providing compliance support for 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 by processing classification and license

requests, and issuing passwords for access to the Bureau's on-line license application program (SNAP-R). EMCD also implements a program to verify compliance with the safeguard provisions of the license exception Strategic Trade Authorization (STA), and conducts site visits to ensure compliance with the license conditions for deemed export authorizations.

4. The **Office of Technology Evaluation (OTE)** sub-program 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 AES and other available sources. OTE's metrics include determining the percentage of shipped transactions subject to and in compliance with licensing requirements of the EAR, and the percentage of Industry assessments resulting in BIS determination, within three months of completion, on whether to revise export controls. OTE also assists BIS's Office of Enforcement Analysis and Office of Exporter Services 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.

OTE provides analysis to inform decisions on U.S. dual-use export controls to cover 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.

In addition, OTE oversees the operation of the Bureau's Technical Advisory Committees (TAC) to ensure industry input on the impact of export controls on key sectors of the U.S. industrial base.

5. The **Office of Strategic Industries and Economic Security (OSIES)** sub-program supports U.S. national security through its interagency and international activities related to strategic industries and economic security. OSIES produces analysis on the export control and industrial base implications associated with foreign acquisitions of U.S. businesses reviewed by the CFIUS to assess risks to national security. OSIES administers the Defense Priorities and Allocations System utilized by Department of Defense (DOD), Department of Energy (DOE), Department of Homeland Security (DHS), and owners/operators of critical infrastructure to prioritize the performance of contracts to support national defense programs. OSIES is a member of the interagency DPA Committee to promote the more effective use of DPA authorities to support military, energy, homeland security, emergency preparedness, and critical infrastructure programs. OSIES prepares an annual report to Congress on offsets in defense trade and serves on an interagency team that engages foreign governments to reduce the adverse impact of offsets in defense procurements. OSIES co-chairs the

interagency National Defense Stockpile Market Impact Committee that advises DOD on the potential economic impact of acquisitions and disposals of stockpiled material. OSIES also provides DOD input on the competitiveness implications of DOD's proposed international cooperative agreements and transfers of excess defense articles. OSIES coordinates interagency review of industry requests for U.S. Government advocacy support in foreign defense competitions, and serves as the U.S. Government authority certifying a U.S. firm's eligibility to compete for North Atlantic Treaty Organization (NATO)-funded procurements. OSIES manages BIS's continuity of operations program and supports NATO civil emergency planning. OSIES also administers export controls (licensing and related compliance activity) on military items, parts, components, accessories, and attachments that the President determines no longer warrant control under the State's International Traffic in Arms Regulations (ITAR), as part of President Obama's ECR Initiative. Congressional notification requirements and corresponding amendments to the ITAR and the EAR have begun, and will continue throughout FY 14.

PROGRAM CHANGES FOR FY 2015:

Inflationary Adjustment (0 FTE and -\$0.461 million): BIS requests a decrease of \$0.461 million and 0 FTE for a total request of \$56.754 million and 214 FTE to meet the inflationary adjustments which will be captured by managing on-going administrative savings, managing the backfilling of vacated positions due to attrition, and carefully monitoring all travel and training.

PROGRAM CHANGES FOR FY 2015:

Program Change, Export Administration (Base Funding: 212 FTE, and \$56.751 million): BIS requests an increase of \$0.464 million, and 2 FTE for a total request of \$56.754 million, and 214 FTE for EA to support the Presidential, Secretarial and Administration priority to: Implement an effective export control reform program to advance national security and overall economic competitiveness by utilizing the more flexible Commerce dual-use system to control military items of less significance.

The National Defense Authorization Act (NDAA) for FY 2013 authorizes the President to return control over export of satellites and related items from the State Department to the Department of Commerce. Enactment of the NDAA will contribute significantly to manufacturing jobs and revenues within the satellite industry (as reported by the Aerospace Industries Association). BIS will need an increase of \$0.464 million for the technical staff required to address the transfer of satellites and related items to Commerce.

The U.S. Export Control System

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

The two primary agencies in the system are Commerce's BIS and State Department's Directorate of Defense Trade Controls (DDTC). BIS processes approximately 22,000 license applications a year under the EAR, which are relatively flexible in that they have various country groups for different

types of items and various exceptions to allow for unlicensed exports under certain circumstances. DDTTC processes approximately 84,000 license applications a year under the ITAR, which are relatively inflexible in that they impose virtually worldwide licensing obligations on all covered items, regardless of significance, with few exceptions. Moreover, the ITAR impose many collateral burdens and controls on exporters that do not exist in the EAR, such as registration requirements, expanded controls on related services, and controls over insignificant items even when incorporated into a foreign-made end item. The authorizing statute for the ITAR, the Arms Export Control Act, largely prohibits State Department from making the ITAR more flexible and tailored to the types of items being controlled. The authorizing statutes for the EAR provide Commerce with much more flexibility to tailor how and what is controlled under the EAR to account for current threats and national security needs.

Export Control Reform

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

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

Program Change Personnel Detail

Program: Export Administration

Program Change: Satellites

Title	Grade	Number	Annual Plan	Total Salaries
Licensing Officer	15	1	123,758	123,758
Analyst	14	1	105,211	105,211
<hr/>				
Total		2		228,969
Less Lapse	25%	-1		-57,242
<hr/>				
Total, full-time permanent		2		171,727
FY 2015 pay raise	1.049%			1,801
<hr/>				
Total, full-time permanent		2		173,528

Personnel Data:	Number
Full-time Equivalent Employment	
Full-time Permanent	2
Other than full-time permanent	0
Total	2
Authorized Positions:	
Full-time Permanent	2
Other than full-time permanent	0
Total	2

Program Change Detail by Object Class

(Dollar amounts in thousands)

Program: Export Administration

Program Change: Satellites

Object Class:		FY 2015 Increase
Personnel Compensation		
11.1	Full-time permanent	174
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	174
12.1	Civilian personnel benefits	62
13	Benefits for former personnel	0
21	Travel and Transportation of persons	48
22	Transportation of things	2
23.1	Rental payments to GSA	60
23.2	Rental payments to others	0
23.3	Communications, Utilities and Miscellaneous charge	13
24	Printing and Reproduction	1
25	Other Services	56
26	Supplies and Materials/Fuel	8
31	Equipment	40
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	464

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

<u>Comparison by Program:</u>		2013		2014		2015		2015		Increase/ Decrease	
		Actual		Enacted		Base		Estimate		Personnel	Amount
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount		
Export Enforcement.....	Pos./BA	171	\$34,888	171	\$39,568	171	\$39,970	199	\$47,984	28	\$8,014
	FTE/Obl.	172	\$35,850	167	\$39,936	167	\$39,970	189	\$47,984	22	\$8,014

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

APPROPRIATION ACCOUNT: Operations and Administration**BUDGET PROGRAM: Export Enforcement**

For FY 2015, BIS requests an increase of \$8.416 million and 22 FTE over the FY 2014 Enacted level for a total of \$47.984 million and 189 FTE for Export Enforcement (EE). This includes an increase of \$0.402 million in adjustments-to-base, an increase of \$8.014 million from the Program Changes.

BASE JUSTIFICATION:**EE Overview**

EE enforces export controls of the Export Administration Regulations (EAR) for reasons of national security, nonproliferation, anti-terrorism, foreign policy, and short supply. These enforcement actions are taken pursuant to the Export Administration Act (EAA) (which expired on August 17, 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 8, 2013 (78 Fed. Reg. 49107 (August 12, 2013)). EE also enforces U.S. antiboycott laws 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.

SIGNIFICANT ADJUSTMENTS-TO-BASE (ATBs):

BIS requests a net increase of \$0.402 million and 0 FTE to fund adjustments-to-base to current programs for EE activities. The increase will fund the estimated 2015 Federal pay raise of 1.049 percent. The increase will also provide inflationary increases for non-labor activities, including service contracts, utilities, field office lease payments, and rent charges from the General Service Administration (GSA).

SUB-PROGRAMS:

EE is organized into three sub-programs under the Operations and Administration account.

1. The **Office of Export Enforcement (OEE)** sub-program includes investigating violations, referring cases to the Department of Justice for criminal prosecution 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, OEE prioritizes its enforcement activities on cases relating to the proliferation of Weapons of Mass Destruction (WMD), terrorism, and diversion to military end uses by foreign governments contrary to U.S. national security interests. 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 and to educate the business community to help prevent violations. OEE investigations can result in the imposition of criminal penalties as well as administrative penalties (civil monetary fines and export denials). OEE Special Agents have traditional police powers, including the authority to make arrests, execute warrants, issue administrative subpoenas, and detain, and seize goods.

To help detect and prevent diversions of U.S. goods to countries and end-users of proliferation concern, OEE Special Agents conduct end-use checks, both pre-license checks and post-shipment verifications, for licensed and unlicensed transactions. The majority of end-use checks are conducted by BIS Special Agents serving as Export Control Officers (ECOs) stationed abroad with the Foreign Commercial Service of the Department of Commerce. Additional end-use checks are conducted through the Sentinel program; generally by two-person teams of domestically-based BIS Special Agents on two-week assignments to visit foreign consignees and end-users of U.S. commodities and technology. The Special Agents conduct end-use checks to determine if the export transactions are in compliance with U.S. export regulations. In addition to conducting on-site end-use visits, the teams train American Embassy/Consulate officials to conduct end-use checks and educate host government officials as well as local importers about U.S. export control requirements.

Other OEE preventive enforcement measures include seeking temporary denials of export privileges where a violation is imminent, review of Electronic Export Information (EEI), utilization of intelligence research and analysis to better target OEE's nonproliferation and anti-terrorism enforcement efforts, and screening export license applications against the U.S. Department of Homeland Security's Treasury Enforcement Communication System (TECS) and other databases.

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

2. The **Office of Enforcement Analysis (OEA)** sub-program protects national security by monitoring and evaluating export transactions through the analysis of trade data and private, public, and government classified and unclassified information to ensure compliance with the EAR, the Chemical Weapons Convention Regulations (CWCR), and other laws and regulations related to export controls subject to BIS jurisdiction. These efforts facilitate trade and promote U.S. exports while protecting national security by countering the unauthorized use of sensitive items by foreign parties of national security concern. OEA's priorities are to combat the proliferation of nuclear, chemical or biological WMD and their delivery systems inimical to US interests, to prevent the diversion of EAR-controlled items to unauthorized military end users or end uses, including the destabilizing accumulation of conventional weapons, and to deny terrorist groups and terrorist-supporting countries access to U.S. items for the development and manufacture of weapons, including improvised explosive devices, or other items used to support or commit terrorist acts.

OEA is the only national security office specifically chartered to conduct intelligence analysis of export transactions to identify and prevent the illicit proliferation and misuse of EAR-controlled items. In pursuit of its mission, OEA analyzes export transactions and related foreign parties, directs and conducts overseas end-use checks to verify the bona fides of foreign parties to export transactions, coordinates enforcement policy and outreach with international partners and industry, identifies illicit procurement networks, produces and disseminates investigative leads relating to potential export violations to BIS Special Agents at domestic field offices, and provides analytical support to ongoing BIS law enforcement investigations. This includes the conduct of comprehensive risk assessments to support determinations relating to the Validated End-User program, which facilitates trade with reliable parties, as well as the administration of the Unverified List and review of, and contributions to, the Entity List, both of which lists identify to the public unreliable foreign parties subject to progressively stringent trade restrictions. OEA supports a variety of additional BIS-led and interagency preventive and enforcement activities, including educational and law enforcement-related outreach to US persons (individuals and entities) and foreign governments and persons, and the issuance of warning or cautionary letters, which promote improved compliance by providing exporters constructive notice of existing or potential flaws in their export practices. Finally, OEA provides information to, and cooperates with, numerous other U.S. Government agencies to bring to bear all relevant instruments of national power to counter illicit procurement networks and to promote an effective export control regime.

3. The **Office of Antiboycott Compliance (OAC)** sub-program 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 other boycotting countries. This includes compliance by U.S. entities with certain requests for information designed to verify compliance with the boycott. Compliance with such requests may be prohibited by the regulations and reportable to 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 and contributes this data 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 Commerce's International Trade Administration, 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.

PROGRAM CHANGES FOR FY 2015:

Inflationary Adjustment (0 FTE and -\$0.325 million): BIS requests a decrease of \$0.325 million and 0 FTE for a total request of \$47.984 million and 189 FTE to meet the inflationary adjustments which will be captured by managing on-going administrative savings, managing the backfilling of vacated positions due to attrition, and carefully monitoring all travel and training.

PROGRAM CHANGES FOR FY 2015:

Enforcement of Export Control Reforms

In FY 2015, the BIS licensing workload will more than double – from 25,000 licenses per year to approximately 55,000. In addition, thousands of exports of military parts and components will continue to occur without licenses under BIS's License Exceptions. This wave of new responsibilities and licenses for the Department of Commerce and the increase in enforcement demands was identified shortly after President Obama announced the Export Control Reform Initiative (ECR) in 2009.

Program Change, Export Enforcement (Base Funding: 167 FTE and \$39.970 million): For FY 2015, BIS requests an increase of \$8.339 million and 22 FTE over the FY 2015 Base Request of \$39.970 million and 167 FTE for EE.

This request for additional resources for EE directly supports the Presidential priority to implement an effective export control reform program to advance national security and overall economic competitiveness. This is the essential next step to ensure that ECR fulfills its promise to keep the most sensitive goods out the most dangerous hands. Failing to fund the enforcement aspect of ECR will leave this Presidential Initiative incomplete and could undermine the current effectiveness of BIS's Export Enforcement efforts.

As stated previously, it is estimated that approximately 43,000 of the license applications that State's Directorate of Defense Trade Controls (DDTC) processes annually will become the responsibility of the Commerce's BIS, either as Commerce licenses (30,000) or exports under License Exception Strategic Trade Authorization (STA) (13,000). With the increase in licensing/STA workload, the associated compliance and enforcement load for Commerce also will rise. Our enforcement capabilities must keep up with, and be able to support, the progress the reform effort has already achieved on licensing and outreach to the export community.

Provision has been made for additional resources for the licensing, training, and compliance aspects of the reform initiative but not for enforcement. Yet it stands to reason that if BIS is responsible for controlling a substantially greater number of transactions in controlled goods and technology, it will need more enforcement resources. Congress and its investigative arm, the Government Accountability Office (GAO), have taken note of this need and are pressing Commerce and the Administration to act. (See Page BIS – 65 3rd Paragraph)

Program Changes for FY 2015:

Although the licensing, training, associated compliance and enforcement work load for BIS will more than double, this request does not seek to double the resources dedicated to enforcement. For FY 2015, BIS requests an increase of \$8.339 million and 22 FTE over the FY 2015 Base Request of \$39.970 million and 167 FTE for EE. These new resources will expand current Export Control Officer (ECO) operations, enhance current Intelligence efforts, and expand the Bureau's national enforcement and analytical capabilities. This will ensure enforcement of the President's Export Control Reform Initiative, and it will enhance EE's capability to support our Nation's national security objectives.

ECO Expansion

There are currently seven ECOs that are located in China (2 ECOs), Hong Kong, India, Russia, Singapore, and the United Arab Emirates (UAE). These ECOs and their associated analytical staff are only able to provide partial worldwide coverage against diversions or transshipments of critical dual-use items that are used to support activities counter to our national security and foreign policy objectives.

ECOs use their unique enforcement training and investigative skills to conduct targeted high priority end-use checks to uncover diversion schemes and halt the transfer of strategic commodities to WMD proliferating countries or terrorist groups, as well as to critical military and missile development programs in countries that are counter to the national interest of the United States. The ECOs also work with the host government and industry officials to engage in export control and enforcement cooperation to ensure that they understand and comply with U.S. export controls.

BIS evaluated four factors to support the need to expand ECOs overseas to effectively enforce ECR: controlled U.S. dual-use exports; controlled U.S. munitions exports; foreign trading relationships with Iran; and related national security concerns, including the potential for establishment of front companies in countries that will benefit most from flexible license authorizations.

The factors pinpointed three regions requiring additional export control officer assets: (1) Europe, given that six countries – France, Germany, Italy, Spain, Sweden, and the United Kingdom – combined will benefit more from license-free treatment of munitions items than any other group; (2) Turkey, given its proximity to Middle East, Eastern European, and North African countries of concern (e.g., Cyprus, Iran, Syria, Azerbaijan), eligibility for license-free trade, and growing transshipment status; and (3) UAE expansion, given its strategic location near Iran, transshipment volume, which currently overtasks BIS's existing ECO stationed in Abu Dhabi, large Iranian presence, and operational latitude in terms of BIS's ability to conduct end-use checks to support enforcement investigations.

BIS proposes to establish ECOs in: (1) Frankfurt, Germany, which serves as a regional hub for other key European destinations; (2) Istanbul, Turkey, which is the major port in Turkey, with regional responsibilities for, inter alia, Malta, Cyprus, Syria, Jordan, Egypt, Lebanon and Israel; and (3) Dubai,

UAE, which is the location of the majority of trade through the UAE, with regional responsibilities for, inter alia, Pakistan, Bahrain, Iraq, Kuwait, Oman, Qatar, Saudi Arabia and Yemen.

The anticipated annual cost for additional ECO personnel to support ECR is \$2.580 million.

Performance Impact: Expanding ECOs Presence

Performance Goal: Implement an effective export control reform program to advance national security and overall economic competitiveness	FY 2012 Target	FY 2013 Target	FY 2014 Target	FY 2015 Target	FY 2016 Target	FY 2017 Target	FY 2018 Target
Measure: Number of end-use checks completed							
With Increase	850	850	850	1,030	1,030	1,030	1,030
Without Increase	850	850	850	850	850	850	850
Description: GPRA Measure, refer to Exhibit 3A (APP) for description. (See Page BIS – 18)							

Program Change Personnel Detail

Program: Export Enforcement

Program Change: Expanding ECOs Presence

Title	Grade	Number	Annual Plan	Total Salaries
ECOs	13	3	89,033	267,099
OEA Analysts	13	2	89,033	178,066
Total		5		445,165
Less Lapse	25%	-1		-111,291
Total, full-time permanent		4		333,874
FY 2015 pay raise	1.049%			3,502
Plus Availability Pay	25%			50,606
Total, full-time permanent		4		387,982

Personnel Data:	Number
Full-time Equivalent Employment	
Full-time Permanent	4
Other than full-time permanent	0
Total	4
Authorized Positions:	
Full-time Permanent	5
Other than full-time permanent	0
Total	5

Program Change Detail by Object Class

(Dollar amounts in thousands)

Program: Export Enforcement

Program Change: Expanding ECOs Presence

Object Class:		FY 2015 Increase
Personnel Compensation		
11.1	Full-time permanent	388
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	388
12.1	Civilian personnel benefits	140
13	Benefits for former personnel	0
21	Travel and Transportation of persons	20
22	Transportation of things	2
23.1	Rental payments to GSA	60
23.2	Rental payments to others	0
23.3	Communications, Utilities and Miscellaneous charge	13
24	Printing and Reproduction	1
25	Other Services	1,906
26	Supplies and Materials/Fuel	10
31	Equipment	40
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	2,580

Information Triage Unit and E2C2 Expansion

ECR established an Information Triage Unit (ITU), housed in EE, to assemble and disseminate relevant all-source information, including intelligence, from which to base informed decisions on proposed exports requiring a U.S. Government license. Export Enforcement's OEA is currently funded at \$2 million annually to provide intelligence support to the dual-use process. Based on a tool developed by the interagency to focus BIS's resources on the most significant items and destinations, its current group of intelligence analysts is able to provide bona fides information reports on 15% of foreign entities identified on license applications, which is considered minimally acceptable to interagency licensing officers. However, the transfer of munitions items to the Commerce Control List and resulting doubling of licenses will significantly degrade the number of intelligence reviews that BIS is able to complete to less than 8% of transaction parties to licenses of interest, creating potential intelligence gaps in license reviews.

On November 9, 2010, the President signed Executive Order 13558 establishing the Export Enforcement Coordination Center (E2C2). The E2C2 was established to coordinate and de-conflict criminal, administrative, and related export enforcement activities and, thereby, to protect national security through enhanced export enforcement and intelligence exchange. The various executive departments and agencies must coordinate their efforts to detect, prevent, disrupt, investigate, and prosecute violations of U.S. export control laws, and they must share intelligence and law enforcement information related to these efforts. The E2C2 also coordinates law enforcement public outreach activities related to export controls. The Department of Commerce is charged with providing a Deputy Director for Programs to the E2C2 who is responsible for licensing agency liaison coordination, outreach coordination, and tracking statistics for U.S. criminal and administrative export control enforcement activities. The Deputy Director for Programs position is currently being filled from an existing Special Agent position, thereby taking a valuable investigative resource from casework and field operations. Additionally, an OEA analyst is dedicated to supporting the E2C2 on a fulltime basis. A fully funded Deputy Director for Programs and two analysts are required to ensure this investment in de-conflicting across federal law enforcement in support of export control reform occurs.

To address the potential intelligence gap in license review and support the E2C2, under ECR, BIS requires additional analytical support to perform intelligence reviews of 15% of transaction parties on license applications for sensitive dual-use or munitions items. The anticipated annual cost of additional personnel is \$1.305 million, and there will be an additional cost of \$0.300 million to retrofit existing workspaces to meet current security standards.

Performance Impact: Information Triage Unit and E2C2 Expansion

Performance Goal: Implement an effective export control reform program to advance national security and overall economic competitiveness	FY 2012 Target	FY 2013 Target	FY 2014 Target	FY 2015 Target	FY 2016 Target	FY 2017 Target	FY 2018 Target
Measure: Number of actions that result in a deterrence or prevention of a violation and cases which result in a criminal and/or administrative charge							
With Increase	850	850	850	1,100	1,100	1,100	1,100
Without Increase	850	850	850	850	850	850	850
Description: GPRA Measure, refer to Exhibit 3A (APP) for description. (See Page BIS – 16)							

Performance Impact: Information Triage Unit and E2C2 Expansion

Performance Goal: Implement an effective export control reform program to advance national security and overall economic competitiveness	FY 2012 Target	FY 2013 Target	FY 2014 Target	FY 2015 Target	FY 2016 Target	FY 2017 Target	FY 2018 Target
Measure: Percent of licenses requiring ITU report referred by EE within ten Executive Order (EO) days							
With Increase	N/A	N/A	90%	90%	90%	90%	90%
Without Increase	N/A						
Description: New GPRA Measure, refer to Exhibit 3A (APP) for description. (See Page BIS – 17)							

Program Change Personnel Detail

Program: Export Enforcement

Program Change: Information Triage Unit and E2C2 Expansion

Title	Grade	Number	Annual Plan	Total Salaries
Supervisory Criminal Investigator 1811	15	1	123,758	123,758
ITU Staff	13	6	89,033	534,198
E2C2 Analysts	13	2	89,033	178,066
<hr/>				
Total		9		836,022
Less Lapse	25%	-2		-209,006
<hr/>				
Total, full-time permanent		7		627,017
FY 2015 pay raise	1.049%			6,577
Plus Availability Pay	25%			23,448
<hr/>				
Total, full-time permanent		7		657,042

Personnel Data:	Number
Full-time Equivalent Employment	
Full-time Permanent	7
Other than full-time permanent	0
Total	7
Authorized Positions:	
Full-time Permanent	9
Other than full-time permanent	0
Total	9

Program Change Detail by Object Class

(Dollar amounts in thousands)

Program: Export Enforcement

Program Change: Information Triage Unit and E2C2 Expansion

Object Class:		FY 2015 Increase
Personnel Compensation		
11.1	Full-time permanent	657
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	657
12.1	Civilian personnel benefits	237
13	Benefits for former personnel	0
21	Travel and Transportation of persons	37
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 charge	58
24	Printing and Reproduction	6
25	Other Services	211
26	Supplies and Materials/Fuel	48
31	Equipment	72
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	1,605

National Level Enforcement and Analytical Expansion

BIS requests an increase of \$4.153 million to support ECR and to improve its response in the arena of counter proliferation and export enforcement by adding additional Special Agents and analysts to pursue investigations and operations affecting our national security. This will be critical in light of the doubling in license applications processed by the Department of Commerce under ECR, not to mention the substantially increased use of License Exception STA to export military parts and components. Doing so is necessary to enable BIS to execute its critical mission of ensuring that sensitive U.S. goods and technologies are not misused by proliferators, terrorists, and other working contrary to the national security interests of the United States.

Effective enforcement requires intensive investigative and analytical capability. BIS Special Agents and Analysts responding to the new threat and the challenge of enforcing the President's Export Control Reform Initiative 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 export control concerns, as well as the regulatory framework governing export enforcement operations. The expanded presence of investigative and analytical personnel 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 investigative staffing numbers across the country. BIS also seeks to increase the number of analytical positions to support increased coordination and liaison with the intelligence community in support of counter proliferation, and counterterrorism and other security-related programs and to prevent the proliferation of goods and technology contrary to the national security interests of the United States.

Performance Impact: National Level Enforcement and Analytical Expansion

Performance Goal: Implement an effective export control reform program to advance national security and overall economic competitiveness	FY 2012 Target	FY 2013 Target	FY 2014 Target	FY 2015 Target	FY 2016 Target	FY 2017 Target	FY 2018 Target
Measure: Number of actions that result in a deterrence or prevention of a violation and cases which result in a criminal and/or administrative charge							
With Increase	850	850	850	1,100	1,100	1,100	1,100
Without Increase	850	850	850	850	850	850	850
Description: GPRA Measure, refer to Exhibit 3A (APP) for description. (See Page BIS – 16)							

Program Change Personnel Detail

Program: Export Enforcement

Program Change: National Level ECR Compliance and Enforcement

Title	Grade	Number	Annual Plan	Total Salaries
Criminal Investigators	13	7	89,033	623,231
Criminal Investigators	14	4	105,211	420,844
Analysts	13	3	89,033	267,099
Total		14		1,311,174
Less Lapse	25%	-4		-327,794
Total, full-time permanent		11		983,380
FY 2015 pay raise	1.049%			10,316
Plus Availability Pay	25%			197,818
Total, full-time permanent		11		1,191,514

Personnel Data:	Number
Full-time Equivalent Employment	
Full-time Permanent	11
Other than full-time permanent	0
Total	11
Authorized Positions:	
Full-time Permanent	14
Other than full-time permanent	0
Total	14

Program Change Detail by Object Class

(Dollars in thousands)

Program: Export Enforcement

Program Change: National Level ECR Compliance and Enforcement

Object Class:		FY 2015 Increase
Personnel Compensation		
11.1	Full-time permanent	1,192
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	1,192
12.1	Civilian personnel benefits	429
13	Benefits for former personnel	0
21	Travel and Transportation of persons	634
22	Transportation of things	14
23.1	Rental payments to GSA	420
23.2	Rental payments to others	0
23.3	Communications, Utilities and Miscellaneous charge	91
24	Printing and Reproduction	11
25	Other Services	1,146
26	Supplies and Materials/Fuel	100
31	Equipment	116
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	4,153

Export Control Reform and the New Threat

EE's two-pronged approach will ensure the effectiveness of ECR and counter the new threats our country now faces. By enforcing ECR, BIS will amplify its enforcement efforts to focus on these converging export control imperatives.

“While there is still more work to be done, taken together, these reforms will focus our resources on the threats that matter most, and help us work more effectively with our allies in the field. They’ll bring transparency and coherence to a field of regulation which has long been lacking both. And by enhancing the competitive of our manufacturing and technology sectors, they’ll help us not just increase exports and create jobs, but strengthen our national security as well.”

- President Obama, Department of Commerce Annual Export Controls Update Conference, August 30, 2010

Export Control Reform

In August 2009, the President directed a broad-based interagency review of the Government's export control system, with the goal of strengthening national security and the competitiveness of key U.S. manufacturing and technology sectors by focusing on current threats, as well as adapting to the changing economic and technological landscape. This review determined that the current export control system is overly complicated, contains too many redundancies, and, in trying to protect too much, diminishes our ability to focus our efforts on the most critical national security priorities. But even more important, the current antiquated system does not protect our national security and foreign policy objectives because it is unable to respond to new emerging threats that we face today.

As a result, the Administration launched the ECR Initiative, which will fundamentally reform the U.S. export control system. The ECR Initiative is designed to enhance U.S. national security and strengthen the United States' ability to counter threats such as the proliferation of weapons of mass destruction.

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

- It is estimated that approximately 43,000 of the license applications that State's DDTC processes annually will become the responsibility of the Commerce's Bureau of Industry and Security (BIS), either as BIS licenses (ca. 30,000) or as exports under license exception STA (13,000).
- This means that the licensing, training, associated compliance, and the enforcement work load for Commerce will more than double, although the net burden the U.S. Government export control system imposes on exporters will decrease.
- The transfer in jurisdiction over less significant defense articles to BIS began occurring in October 2013. Our enforcement capabilities must keep up with and be able to support the progress the reform effort has already achieved on the licensing and outreach to the export community.

The New Threat

“...we face multiple threats --- from nations, non-state actors and failed states...”
- President Obama, United States National Security Strategy, 2010

The threats to our Nation have shifted dramatically since the Cold War. Competition among states endures, but instead of a single nuclear adversary, the United States is now threatened by the potential spread of nuclear and other weapons to extremists who may not be deterred from using them. Instead of a hostile expansionist empire, we now face a diverse array of challenges, from a loose network of violent extremists to states that flout international norms or face internal collapse. The American people face no greater danger than a terrorist attack with a nuclear weapon. And, the world's peace and security is threatened by proliferation that could lead to a nuclear exchange. Since the end of the Cold War, the risk of a nuclear attack has increased, excessive Cold War stockpiles remain, and more nations have acquired nuclear weapons. Black markets trade in nuclear secrets and materials. The terrorists are determined to buy, build, or steal a nuclear weapon. Our Nation's efforts to contain these dangers are centered in a global nonproliferation regime that has frayed as more people and nations break the rules.

Transnational criminal threats and illicit trafficking networks continue to expand dramatically in size, scope, and influence, posing significant national security challenges for the United States and its overseas partners. These threats cross borders and continents and undermine the stability of nations, subverting government institutions through corruption and harming citizens worldwide. Transnational criminal organizations have accumulated unprecedented wealth and power through trafficking and other illicit activities, penetrating legitimate financial systems and destabilizing commercial markets. They extend their reach by forming alliances with government officials and some state security services. The crime-terror nexus is a serious concern as terrorists use criminal networks for logistical support and funding. Combating transnational criminal and trafficking networks requires a multidimensional strategy that safeguards citizens, breaks the financial strength of criminal and terrorist networks, disrupts illicit trafficking and procurement networks, and defeats transnational criminal organizations.

In addition to facing enemies on traditional battlefields, the United States must now be prepared for asymmetric threats, such as those that target our reliance on space and cyberspace. One of the most devastating threats is that from improvised explosive devices, known as IEDs. These IEDs are the weapon of choice of terrorists because they require limited skills to build and provide dramatic results for very little investment of time, money and effort. The public relations benefit of a surprising spectacular explosion can outweigh attacks using more conventional weapons. With terrorists' easy access to commercial technologies, internet training, and the ability to make or obtain explosive materials, IEDs continue to provide the enemy inexpensive, stand-off, precision weapons with near total anonymity. The IED became the insurgent weapon of choice during the war in Iraq. These IEDs continue to have devastating effect on U.S. and coalition forces in Afghanistan. IEDs will continue to be a threat throughout the world. They grow in sophistication and frequency as more enemies of peace realize the potential psychological, social, and political impact a weapon like this provides.

A global perspective of sensitive item needs and acquisition strategies of foreign entities that are a threat to U.S. national security is critical to the success of enforcing reforms. That is why this request will include not only enforcement Special Agents domestically and abroad, but also an expanded analytical intelligence capability.

Export Enforcement's Unique Capabilities to Support Export Control Reform and to Counter the New Threat

Current Enforcement Capability

BIS's Export Enforcement is an elite law enforcement organization recognized for its key role in support of international trade-related national security and foreign policy investigations. Export Enforcement - the only law enforcement entity solely focused on enforcing export control matters - has worked closely with U.S. industry for almost 30 years. This relationship with the business community has contributed to the ability of Commerce's enforcement officers to focus specifically on export control enforcement activities. This is unique in the Federal government.

BIS accomplishes its mission through analytical, preventive, and investigative enforcement activities and pursuing criminal and administrative sanctions against export violators. BIS maintains Special Agents at offices in nine cities across the United States and at key international locations. In support of these agents and overseas Export Control Officers is a trained team of dedicated enforcement and intelligence analysts that evaluate all-source information and export transactions to generate enforcement leads and assess domestic and foreign entities' compliance with the EAR. BIS Special Agents are sworn Federal law enforcement officers who make arrests, execute search and arrest warrants, serve subpoenas, and detain and seize goods about to be illegally exported. BIS analysts and Special Agents are at the forefront of key national security related investigations involving, among others, threats to U.S. servicemen and women from IEDs, as well as countering the military and nuclear ambitions of certain governments where those objectives are contrary to U.S. national security and foreign policy interests.

Export Enforcement employs BIS's administrative and criminal authorities to investigate the widest possible array of illegal behavior under the EAR. These investigations result in significant criminal and administrative penalties and deterrence activities (e.g., denial of U.S.-origin items) against U.S. and foreign parties. Using these administrative and criminal tools in concert, BIS has been able to shut down extensive Iranian networks involved in WMD and IED related procurement activities.

To help detect and prevent diversions of U.S. goods to countries and end users of proliferation concern, BIS Special Agents conduct end-use checks, both pre-license and post-shipment. Some end-use checks are conducted through the Sentinel Program; generally by two-person teams of BIS Special Agents on short-term 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 seven ECO positions in the following locations: Abu Dhabi, United Arab Emirates; Beijing, China (two ECOs); Hong Kong; Moscow, Russia; New Delhi, India; and Singapore.

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, 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 effective export control programs.

Evolving Casework to Confront the New Threats

Seventy-five percent of EE's top cases involve elaborate procurement networks spread across multiple countries, including the United States. EE, through its Special Agents and analysts, has investigated and disrupted a number of Iranian and Chinese-based procurement networks supplying U.S. origin components that ended up in IEDs used against U.S. and coalition troops in Iraq and Afghanistan. These cases involve multiple foreign and domestic subjects and require extensive and complex investigative work in the United States and abroad. The following examples have been taken from actual cases. The company and/or individual names have been removed. EE can provide a classified brief if more detail is required.

- **IED Components Used Against U.S. and Coalition Forces.** Five individuals and four of their companies conspired to defraud the United States and caused thousands of radio frequency modules to be illegally exported from the United States to Iran. At least 16 of these modules were later found in unexploded IEDs in Iraq. Some of the individuals were also charged in a fraud conspiracy involving exports of military antennas to Singapore and Hong Kong.

- **Electronic Components to China.** Two individuals conspired to illegally export defense articles and electronic equipment to China without the required export license. One of the individuals traveled to the U.S. annually using business visas and conspired to illegally export equipment used in electronic warfare, military radar, fire control, military guidance and control equipment, missile systems, and satellite communications to China. The company procured equipment from U.S. suppliers and exported the goods to China through Hong Kong using falsified shipping documents.

- **Aircraft to Iran.** A company from the United Kingdom conspired with an Iranian airline to export or re-export U.S.-origin Boeing 747 aircraft to Iran without the required U.S. Government authorization. Three of the aircraft were flying on routes in and out of Iran using Iranian flight numbers while under the operational control of an Iranian airline. This company allowed the aircraft to continue operation contrary to U.S. export control laws, despite warnings from BIS and the manufacturer. The company also misled officials and concealed information regarding false statements that were made to BIS regarding the ultimate destination, end-user, and the role the Iranian airline played in the acquisition and financing of the aircraft via funds from the Iranian Foreign Exchange Reserve Fund.

- **Computer Equipment to Syria.** An individual ordered equipment from an authorized distributor of computer equipment (proxy devices) in the UAE. The end-user information received by a U.S. company was for a government telecommunications entity in Iraq. The individual received the devices and transshipped them through the UAE to Syria. The devices were the subject of recent press reporting related to their potential use by the Syrian government to block pro-democracy websites and identify pro-democracy activists. Several of the devices have been identified by serial numbers as being used by the Syrian Telecommunications Establishment in Damascus, Syria.

- **Nuclear Materials to Pakistan.** An owner and operator of a U.S. computer communication company who is a Pakistani national and lawful permanent resident of the U.S. and his conspirators used the company to obtain or attempt to obtain radiation

detection devices, resins for coolant water purification, calibration and switching equipment, attenuators and surface refinishing abrasives, mechanical and electrical valves, cranes and scissor lifts for export to restricted entities in Pakistan. The individual attempted to evade export regulations and licensing requirements by providing false information, using third parties to procure items for him under false pretenses, misrepresenting the company as the purchaser/end-user of the items, and transshipping the items through the UAE. The individual took direction and received commissions from the owner of a trading company located in Karachi, Pakistan, regarding what materials were needed and methods to conceal the transactions. The individual's co-conspirators included individuals in Pakistan, Dubai, UAE and New York associated with the owner of the Pakistani trading company.

Export Control Reform and External Assessments of Enforceability

The transfer of many munitions items to the Commerce Control List expands BIS's enforcement responsibilities to address efforts by front companies and other nefarious actors to violate U.S. export control rules. In an effort to mitigate such threats, particularly in countries that will be eligible for flexible licensing authorizations or are located in regions of strategic national security importance, the U.S. Government needs on-site assets to validate the receipt of and the bona fides of foreign parties receiving U.S.-origin items. The ECO model has been effective in addressing traditional dual-use threats involving countries of diversion and transshipment concern (i.e., China, Hong Kong, India, Russia, Singapore, and the United Arab Emirates (UAE)). The Export Control Reform effort to shift tens of thousands of less sensitive munitions items from the control of the Department of State to BIS, which will more than double BIS's current license-related activities and significantly increase its enforcement needs, requires additional resources in regions that will be impacted significantly.

The Report of the Committee on Armed Services, U.S. House of Representatives, on H.R. 4310 (Report 112-479) concluded it *"is concerned that the U.S. Government has not fully assessed the potential impact of the proposed reforms. The committee notes that the GAO raised concerns regarding the proposed reforms in its April 23, 2012, report entitled 'Export Controls: Agencies Need to Assess Control List Reform's Impact on Compliance Activities' (GAO - 12-613). Among the findings, the GAO report states that U.S. agencies have not fully assessed the potential impact that the proposed reforms might have on compliance activities, to include the identification of resources necessary to support such activities. Additionally, the committee is aware that the Senate Select Committee on Intelligence required a review of the threats to U.S. security by 'technological export' in the committee report (S. Rept. 112-43) accompanying the Intelligence Authorization Act for Fiscal Year 2012. The results of that review have not yet been reported to Congress. Furthermore, the committee notes that the President's budget request for the Department of Commerce for fiscal year 2013 did not identify the need for additional compliance officers. The committee believes that the risks and resource implications of the potential reforms to the export control system should be identified and steps should be taken to sufficiently resource affected agencies in order to prevent increased backlog in licensing, degraded enforcement, and increased risk of loss of control of information and technology from the defense industrial base."*

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

<u>Object Class</u>	<u>2013</u> <u>Actual</u>	<u>2014</u> <u>Enacted</u>	<u>2015</u> <u>Base</u>	<u>2015</u> <u>Estimate</u>	<u>Increase/</u> <u>Decrease</u>
Personnel compensation:					
11.1 Full-time permanent	\$40,160	\$40,993	\$41,514	\$43,652	\$2,138
11.3 Other than full-time permanent	\$482	\$253	\$256	\$256	\$0
11.5 Other personnel compensation	\$2,379	\$2,858	\$2,911	\$3,183	\$272
11.8 Special personnel services payments	\$0	\$41	\$42	\$42	\$0
11.9 Total personnel compensation	\$43,022	\$44,145	\$44,723	\$47,133	\$2,410
12.0 Civilian personnel benefits	\$14,063	\$14,610	\$14,715	\$15,583	\$868
13.0 Benefits for former personnel	\$46	\$46	\$46	\$46	\$0
21.0 Travel and transportation of persons	\$1,331	\$2,716	\$2,722	\$3,377	\$655
22.0 Transportation of things	\$137	\$197	\$200	\$221	\$21
Rent, communications, and utilities:					
23.1 Rental payments to GSA	\$5,427	\$5,736	\$5,828	\$6,769	\$941
23.2 Rental payments to others	\$0	\$26	\$26	\$25	-\$1
23.3 Communications, utilities and miscellaneous charges	\$1,947	\$1,963	\$1,991	\$2,109	\$118
24.0 Printing and reproduction	\$17	\$270	\$274	\$287	\$13
Consulting and other services					
25.1 Advisory and assistance services	\$0	\$817	\$817	\$793	-\$24
25.2 Other services	\$7,125	\$12,967	\$13,160	\$14,954	\$1,794
25.3 Purchase of goods and services from Government accounts	\$20,720	\$14,406	\$14,585	\$15,289	\$704
26.0 Supplies and materials	\$398	\$1,551	\$1,465	\$1,563	\$98
31.0 Equipment	\$565	\$2,000	\$2,028	\$2,400	\$372
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	\$8	\$0	\$0	\$0	\$0
43.0 Interest and dividends	\$0	\$0	\$0	\$0	\$0
50.0 Depreciation	\$0	\$0	\$0	\$0	\$0
99.0 Total Obligations	\$94,805	\$101,450	\$102,580	\$110,549	\$7,969
Less: Absorption	\$0	\$0	\$0	\$0	\$0
Less: Recoveries	-\$1,244	\$0	\$0	\$0	\$0
Less: Unobligated balance, start of year	-\$4	\$0	\$0	\$0	\$0
Plus: Unobligated balance, rescission	\$0	\$0	\$0	\$0	\$0
Plus: Unobligated balance, end of year	\$3,090	\$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	-\$3,000	\$0	\$0	\$0	\$0
Plus: Transferred to other accounts	\$0	\$0	\$0	\$0	\$0
99.1 Total Budget Authority	\$93,647	\$101,450	\$102,580	\$110,549	\$7,969

**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. 2778
22 U.S.C. 2799aa-1(b)
22 U.S.C. 6001-6005
22 U.S.C. 7201-7211
22 U.S.C. 8544
22 U.S.C. 8551(c)(2)
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 et seq.

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 amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and as extended by the Notice of August 8, 2013 (78 Fed. Reg. 49107 (Aug. 12, 2013))), 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. 2778 (note) was amended by Section 1261 of the National Defense Authorization Act for Fiscal Year 2013, which repealed previous legislation that had placed satellites and related items on the United States Munitions List. Section 1261 permits the President to remove these items from the United States Munitions List and place them on the Commerce Control List.

22 U.S.C. 2799aa-1(b) requires the President to impose sanctions, including prohibiting exports of specific goods and technologies, pursuant to the requirements of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), on a non-nuclear-weapon state that receives or detonates a nuclear explosive device.

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

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

22 U.S.C. 8544 authorizes the Secretary of Commerce to designate any employee of the Office of Export Enforcement of the Department of Commerce to conduct certain activities specified under the Export Administration Act of 1979, 50 U.S.C. App 2411(a)(3)(B), when the employee is carrying out activities to enforce: (1) the provisions of the Export Administration Act of 1979; (2) a provision of Title III of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 or any other provision of law relating to export controls with respect to which the Secretary of Commerce has enforcement responsibility; or (3) any license, order or regulation issued under the Export Administration Act of 1979 or any other provision of law relating to export controls with respect to which the Secretary of Commerce has enforcement responsibility.

22 U.S.C. 8551(c)(2) authorizes the appropriation of sums to carry out the Office of Export Enforcement's law enforcement activities under 22 U.S.C 8544.

42 U.S.C. 2139a, 6212 sets forth the Commerce Department's responsibility for controlling the export of dual-use items of significance for nuclear explosive purposes.

15 U.S.C. 1824a prohibits the export of horses by sea for purposes of slaughter.

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

B. National Security

10 U.S.C. 2531-2532
19 U.S.C. 1862
22 U.S.C. 6701 et seq.
22 U.S.C. 8101 et seq.
42 U.S.C. 300j
42 U.S.C. 5195
50 U.S.C. 82
50 U.S.C. 98-98h
50 U.S.C. app. 468
50 U.S.C. app. 2061 et seq.

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

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

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

22 U.S.C. 8101 et seq. (United States Additional Protocol Implementation Act) authorizes the President to carry out U.S. obligations under the "Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency (IAEA) for the Application of Safeguards in the United States of America" signed in Vienna, Austria, on June 12, 1998. These obligations include reporting requirements of facilities engaged in nuclear activities and inspections of such facilities by members of the IAEA accompanied by U.S. government representatives (functions delegated to the Secretary of Commerce in Executive Order 13458, February 4, 2008).

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

42 U.S.C. 5195 provides for the development of national emergency plans and preparedness programs to anticipate and minimize the effects of hazards (natural disasters and accidental or man-caused events) on the civilian population (functions delegated to the Secretary of Commerce in Executive Order 12656, November 18, 1988).

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

50 U.S.C. 98-98h 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 (50 U.S.C. 2061 et seq.), authorizes the Secretary of Commerce to produce the Annual Report on Offsets (functions partially delegated to the Secretary of Commerce in Executive Order 12919, June 3, 1994).
- 50 U.S.C. app. 2154 authorizes the President to prescribe such regulations and issue orders appropriate to carry out the Defense Priorities and Allocations System (functions partially delegated to the Secretary of Commerce in Executive Order 12919, June 3, 1994).
- 50 U.S.C. app. 2155 authorizes the conduct of investigations and production of records and other documents. The Department of Commerce is also authorized to conduct studies and assessments of the health and competitiveness of the U.S defense industrial base (functions partially delegated to Secretary of Commerce in Executive Order 12656, November 18, 1988).
- 50 U.S.C. app. 2170 provides for an interagency committee to determine the effects on national security of mergers, acquisitions, and takeovers that would result in foreign control of persons engaged in interstate commerce in the United States. (The Department of Commerce (BIS and the International Trade Administration (ITA)) participates as a member of the Committee on Foreign Investments in the United States (CFIUS) as set forth in Executive Order 12919, June 3, 1994).

c. Other

15 U.S.C. 1501 et seq.

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

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

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

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

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

3. "full medical coverage for dependent members of immediate families of employees stationed overseas;"

No Specific Authority

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

4. "employment of Americans and aliens by contract for services abroad;"

No Specific Authority

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

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

No Specific Authority

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

6. "not to exceed \$13,500 for official representation expense abroad;"

No Specific Authority

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

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

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

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

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

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

No Specific Authority

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

9. " ... to remain available until expended,"

No Specific Authority

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

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

22 U.S.C. 2455(f)
22 U.S.C. 2458(c)

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

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

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

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

	<u>FY 2013</u> <u>Actual</u>	<u>FY 2014</u> <u>Enacted</u>	<u>FY 2015</u> <u>Estimate</u>
Consulting Services	\$27,845	\$28,190	\$31,036

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

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

	<u>FY 2013</u> <u>Actual</u>	<u>FY 2014</u> <u>Enacted</u>	<u>FY 2015</u> <u>Estimate</u>
Periodicals and Publications.....	\$17	\$270	\$287

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

	FY 2013 <u>Actual</u>	FY 2014 <u>Enacted</u>	FY 2015 <u>Estimate</u>
Average ES Salary.....	\$167,096	\$169,253	\$171,028
Average GS Grade	12.96	12.96	12.98
Average GS Salary	\$104,098	\$105,139	\$106,437