

U.S. Department of Commerce

Bureau of Industry and Security



Fiscal Year 2017

President's Submission

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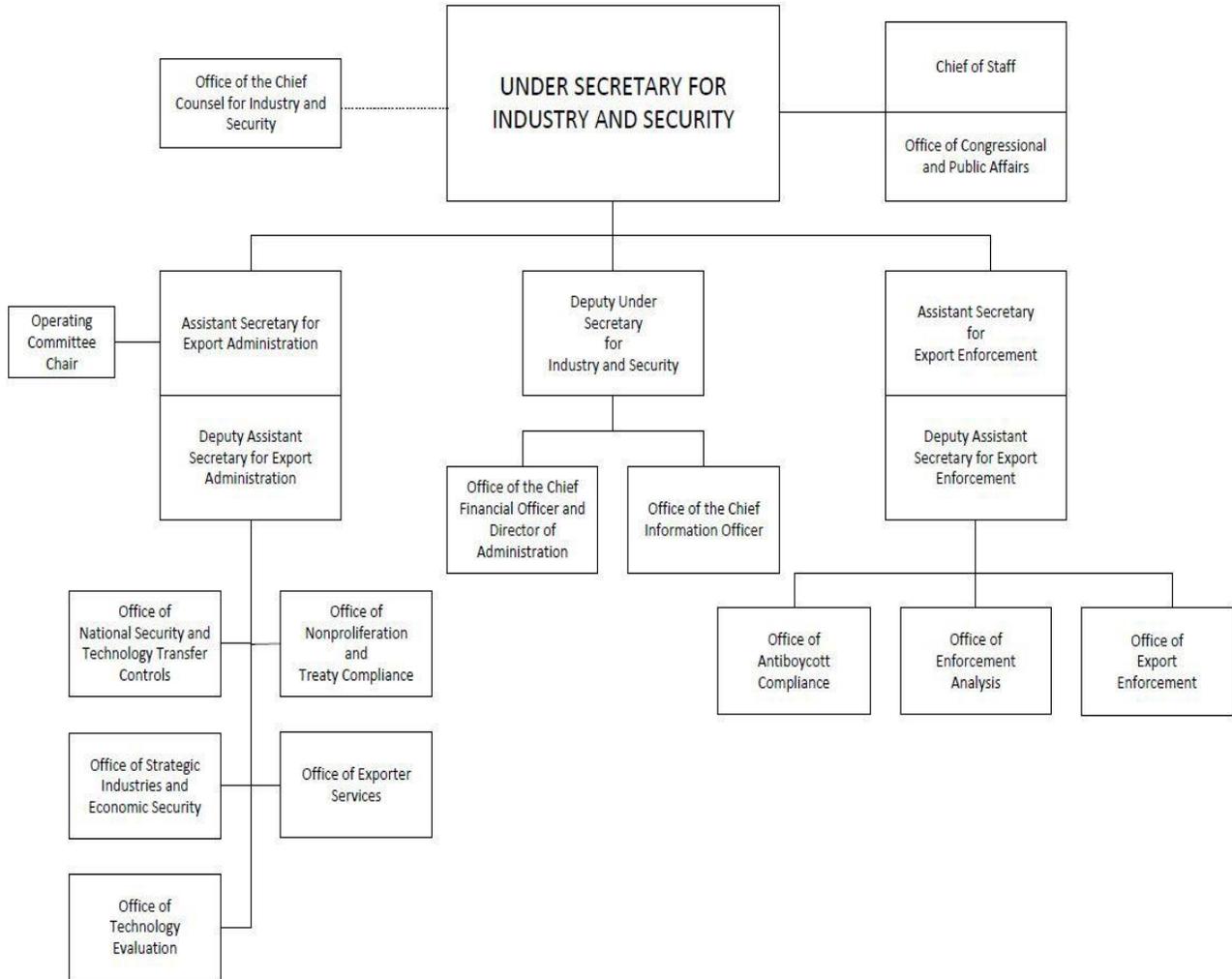
**Department of Commerce
BUREAU OF INDUSTRY AND SECURITY
Budget Estimates, Fiscal Year 2017
President's Submission
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U.S. DEPARTMENT OF COMMERCE

Bureau of Industry and Security

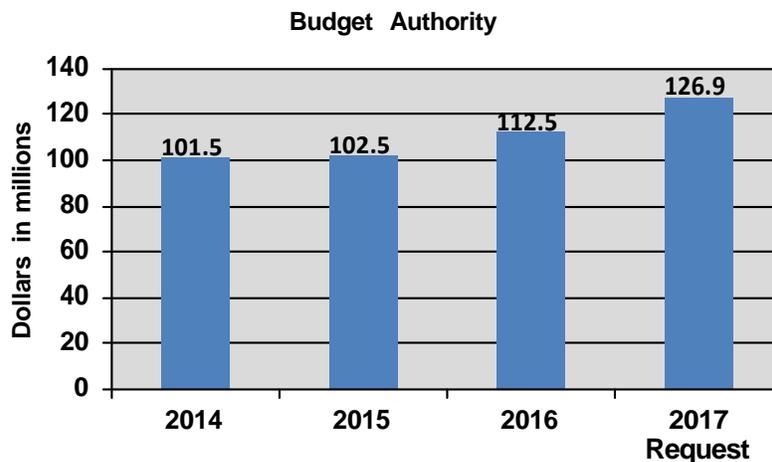


**Department of Commerce
BUREAU OF INDUSTRY AND SECURITY
Executive Summary**

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.

In FY 2016 BIS continues to fulfill its unique national security mission through the implementation of export control reform activities. BIS resources are not growing proportionately with the activities associated with its increasing licensing workload and investigative activities. At the enacted level of \$112.5 million, BIS is able to make strides in processing its increasing licensing workload and enforcement efforts to encourage compliance, prevent and deter violations, disrupt illicit activities and bring violators to justice. To meet the growing challenges associated with its increasing licensing workload and investigative activities, BIS's required resources must also grow proportionately.

To address the increasing demand on BIS operations, the FY 2017 President's budget requests \$126.945 million and 435 FTE, which is a \$14.4 million (or 13%) increase over the FY 2016 Enacted Budget (\$112.5 million). This increase represents an increase of \$6.5 million in adjustments to base and \$7.9 million and 15 FTEs to support new initiatives and ongoing activities.



Program Changes:

Management and Policy Coordination (MPC) +\$0.500 million; 0 FTE

BIS requests \$0.500 and 0 FTE to continue to stay abreast of technological changes through the procurement of updated hardware and software for its networks as well as to support federal cybersecurity initiatives to ensure that controls are appropriate and effective and that our information systems comply with U.S.G. security policies. This work will be done under the direction of the Department of Commerce's Chief Information Officer. Given BIS's mission, the networks and information that BIS maintains and manages are high valued targets for cyber threats and hackers. BIS has compartmentalized its data and information within moderate and high security impact environments in order to protect all information. BIS has witnessed a

significant increase in the demand for intelligence and interagency collaboration, thus requiring increased secure IT architecture components. Increased funding will enable BIS to upgrade its IT security tools and obtain advanced malware and virus detection software.

The rapidly evolving need to work collaboratively with other agencies and the intelligence community has increased the need to provide technical solutions to enable secure, trusted and reliable communications. The Export Control Reform (ECR) Initiative has also required IT resources to focus on the strategic planning, architecture and system design solutions to accomplish the objective of a single IT platform. To meet this challenge, BIS, in conjunction with the Department's Office of the Chief Information Officer (OCIO) is working on new initiatives for engagement with interagency partners to develop technical solutions that will promote BIS's national security regulatory mission.

Export Administration (EA) +\$3.305 million 13 FTE

For FY 2017, BIS requests an increase of \$3.305 million and 13 FTE for a total request of \$65.312 million and 227 FTE for EA. This increase will enable EA to keep pace with the increase in work due to the Presidential Export Control Reform (ECR) Initiative – and to fulfill its mission to protect national security and enhance U.S. economic competitiveness.

Expansion of licenses and other reviews (primarily commodity classification (CCATS) and commodity jurisdiction (CJ) requests)—\$2.5 million (10 FTE): Additional staff will enable EA to efficiently evaluate the tens of thousands of items, largely parts and components, specially designed for military applications that are moving from the relatively rigid controls of the State Department to the relatively tailored controls of the Commerce Department resulting from the ECR. As EA works with interagency partners to facilitate the continuing transition, additional staff will ensure that the increasing number of license applications submitted to BIS can be processed in accordance with statutory and Executive Order requirements.

Analytical staff for Defense Production Act (DPA) studies and foreign availability studies—\$0.8 million (3 FTE): Additional analytical staff will support the growing demand for mandatory DPA industrial base surveys and assessments requested by the U.S. national security and intelligence communities, as well as foreign availability studies and export licensing effectiveness activities.

Export Enforcement (EE) +\$4.115 million +2 FTE

With the increase in licensing/Strategic Trade Authorization (STA) workload, the associated compliance and enforcement workload for Commerce will also 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. This essential next step ensures that ECR fulfills its promise to keep the most sensitive goods out of the dangerous hands. Failing to fund the enforcement aspect of ECR will leave this Presidential initiative incomplete and will erode the current effectiveness of BIS's export enforcement efforts. These new resources will provide for:

Productivity Improvement - BIS is requesting an increase of \$1.600 million (0 FTEs) for retention of the best and brightest enforcement employees through the implementation of an upward mobility program; to address system upgrades that are critically needed for its system of investigative records in the BIS Information Management System; and to provide

resources for its Seized Computer Evidence Recovery Specialist (SCERS) Program to improve its response in the arena of counter-proliferation and export enforcement.

Information Triage Unit Expansion - BIS requests an additional of \$0.8 million and 2 FTEs to support the ITU's Network Analysis Initiative – i.e., to evaluate possible network links, expand license application analysis, and develop leads packages to support the initiation of law enforcement investigations. The ITU was established as part of the President's ECR initiative, i.e., evaluation of intelligence, expansion of license application review & analysis, and development of leads for law enforcement purposes. This initiative will allow BIS to strategically link disparate information to find relationships among individual transactions that can result in broader impacts to U.S. national security and foreign policy objectives than can occur through transactional analysis.

Other Highlights:

Workload Assessment - BIS begun an independent study conducted by outside experts (Department of Homeland Security (DHS) Federally Funded Research and Development Center (FFRDC)) to examine BIS's workforce and the environment in which we operate. Preliminary findings indicate that BIS staff levels are not in line with growth in export license applications and enforcement activities. Despite the extraordinary commitment and tireless effort of our employees, we have reached the tipping point.

ECO Relocations in FY 2016:

Moscow to Frankfurt: In 2015, the U.S. Embassy in Moscow informed BIS that due to President Putin's Presidential Decree 653, which directly impacts the ECO's ability to perform any end-use checks in Russia, BIS needed to relocate their regional ECO position from Moscow to another location in the region (outside of Russia). In November 2015, due to increasing security issues associated with the ECO maintaining its presence in Moscow, began reducing its operations in Moscow in order to relocate to Frankfurt. From this location the ECO will continue to focus on end-use checks on items destined for Russia.

This relocation of the ECO to Frankfurt does not obviate BIS's expansion to meet the increasing Strategic Trade Authorization licensing workload in this region that is crucial for coverage against diversions or transshipments of critical commercial items that are used to support activities counter to our national security. The expanded ECO position will address end use checks with our allies in Europe. BIS will maintain a minimal presence in Moscow.

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

Page No.		Positions	FTE	Budget Authority	Direct Obligations
	2016 President's Enacted.....	433	414	\$112,500	\$112,500
	Less: Obligations from prior year.....	0	0	0	\$0
BIS - 15	Plus: 2017 Adjustments to Base.....	0	6	\$6,525	\$6,525
	2017 Base.....	433	420	\$119,025	\$119,025
	Plus: 2017 Program Changes.....	28	15	\$7,920	\$7,920
	2017 Estimate.....	461	435	\$126,945	\$126,945

<u>Comparison by Program:</u>			2015		2016		2017		2017		Increase/	
			Actual		Enacted		Base		Estimate		Decrease	
			Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
BIS - 16	Management and Policy Coordination....	Pos./BA	15	\$5,850	15	\$6,001	15	\$6,166	15	\$6,666	0	\$500
		FTE/Obl.	11	\$6,665	11	\$6,057	11	\$6,166	11	\$6,666	0	\$500
BIS - 22	Export Administration.....	Pos./BA	217	\$56,672	219	\$58,602	219	\$62,007	236	\$65,312	17	\$3,305
		FTE/Obl.	212	\$53,164	214	\$59,144	214	\$62,007	227	\$65,312	13	\$3,305
BIS - 34	Export Enforcement.....	Pos./BA	171	\$39,978	199	\$47,897	199	\$50,852	202	\$54,967	3	\$4,115
		FTE/Obl.	167	\$44,552	189	\$48,340	195	\$50,852	197	\$54,967	2	\$4,115
	Direct Obligations.....	Pos./BA	403	\$102,500	433	\$112,500	433	\$119,025	453	\$126,945	20	\$7,920
		FTE/Obl.	390	\$104,381	414	\$113,541	420	\$119,025	435	\$126,945	15	\$7,920

Adjustments to Obligations

Recoveries.....	-\$531	
Unobligated balance, start of year.....	-\$2,391	-\$1,041
Unobligated balance, rescission.....		
Unobligated balance, end of year.....	\$1,041	
Unobligated balance expiring.....		

Financing from transfers:

Transferred from other accounts (-).....	
Transferred to other accounts (+).....	

Unobligated balance, rescission:

Appropriation.....	\$102,500	\$112,500	\$119,025	\$126,945	\$7,920
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Department of Commerce
 BUREAU OF INDUSTRY AND SECURITY
 Operations and Administration
 Summary of Reimbursable Obligations
 (Dollar amounts in thousands)

<u>Comparison by Program:</u>		2015		2016		2017		2017		Increase/	
		Enacted		Estimate		Base		Estimate		Decrease	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Management and Policy Coordination.....	Pos./BA	0	\$109	0	\$109	0	\$109	0	\$109	0	\$0
	FTE/Obl.	0	\$152	0	\$109	0	\$109	0	\$109	0	\$0
Export Administration.....	Pos./BA	2	\$2,022	2	\$2,022	2	\$2,022	2	\$2,022	0	\$0
	FTE/Obl.	2	\$1,214	2	\$5,946	2	\$2,022	2	\$2,022	0	\$0
Export Enforcement.....	Pos./BA	0	\$769	0	\$769	0	\$769	0	\$769	0	\$0
	FTE/Obl.	0	\$1,017	0	\$769	0	\$769	0	\$769	0	\$0
Reimbursable Obligations.....	Pos./BA	2	\$2,900	2	\$2,900	2	\$2,900	2	\$2,900	0	\$0
	FTE/Obl.	2	\$2,383	2	\$6,824	2	\$2,900	2	\$2,900	0	\$0
Adjustments to Obligations											
Recoveries.....											
Unobligated balance, start of year.....			-\$3,040		-\$3,924						
Unobligated balance, rescission.....											
Unobligated balance, end of year.....			\$3,924								
Unobligated balance expiring.....											
Reimbursable Authority.....			\$3,267		\$2,900		\$2,900		\$2,900		\$0

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

	2015 Actual	2016 Estimate	2017 Base	2017 Estimate	Increase/ Decrease
Total Obligations.....	\$106,764	\$120,365	\$121,925	\$129,845	\$7,920
Financing:					
Offsetting collections from:.....					
Federal funds.....	-\$3,267	-\$1,508	-\$1,508	-\$1,508	0
Non-Federal sources.....	\$0	-\$1,392	-\$1,392	-\$1,392	0
Recovery of prior year obligations.....	-531	0	0	0	0
Unobligated balance, start of year.....	-\$5,431	-\$4,965	0	0	0
Unobligated balance, transferred.....	0	0	0	0	0
Unobligated balance, end of year*.....	\$4,965	0	0	0	0
Unobligated balance expiring.....	0	0	0	0	0
Budget Authority.....	\$102,500	\$112,500	\$119,025	\$126,945	\$7,920
Financing:					
Transfers from other accounts.....	0	0	0	0	0
Transfers to other accounts.....	0	0	0	0	0
Unobligated balance, rescission:					
Appropriation.....	\$102,500	\$112,500	\$119,025	\$126,945	\$7,920

*BIS's unobligated balance at the start of FY 2015 was \$5.431 million. Of this total, \$0.708 million was in direct appropriation funds; \$1.683 million was associated with the Congressionally approved reprogramming of funds from NIST to support BIS's transition to USXports; \$0.723 million was associated with reimbursable accounts; and the remaining \$2.317 million was associated with the Seminar Trust Fund.

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

Changes:

FTE Amount

Pay Raises

0 927

Full-year cost of 2016 pay increase and related costs:

A pay raise of 1.3% will be effective January 1, 2016

Total cost in 2017 of 2016 pay raise at 1.3%	745,333
Less amount funded in 2016	-559,000
Amount requested in 2017 to provide full-year cost of 2016 pay increase	186,333

2017 pay increase and related costs:

A general pay raise of 1.6% is assumed to be effective January 1, 2017.

Total cost in 2017 for pay raise	741,000
Total, Adjustment for 2017 pay raise	741,000

Full-cost in 2017 of Positions Financed Part Year 2016

6 920

An increase in the amount of \$920,406 is required to fund the full-year cost in 2017 of positions financed for part-year in 2016.

	FTE	Amount
Annual salary of new positions in 2016	28	2,592,361
Availability pay adjustment 2016	0	358,733
2016 Pay Raise (1.3%)	0	38,363
Less 5 percent lapse	-1	-149,473
Full-year cost of personnel compensation	27	2,839,984
Less personnel compensation in 2016	-21	-2,242,093
Additional cost of personnel compensation in 2017	6	597,891
Adjustment for 2017 pay raise (.016 X .75 X \$1)	0	5,829
Amount required for personnel compensation	6	603,720
Repricing Adjustment	0	84,629
Benefits	0	232,057
Total, Adjustment for positions financed part-year in 2017	6	920,406

Civil Service Retirement System (CSRS)

The estimated percentage of payroll covered by CSRS will remain at 12.30% for regular employees, and 0.00% for law enforcement employees. Contribution rates are expected to remain at 7.0% for regular employees, and 7.5% for law enforcement employees.

0 0

Regular Employees:

CSRS Cost in 2017 (\$31,281,000 X .123 X .070)	269,329
CSRS Cost in 2016 (\$31,281,000 X .123 X .070)	-269,329
Subtotal	0

Law Enforcement Employees:

CSRS Cost in 2017 (\$15,929,000 X .000 X .075)	0
CSRS Cost in 2016 (\$15,929,000 X .000 X .075)	0
Subtotal	0

Total adjustment-to-base **0**

Federal Employees' Retirement System (FERS)

0 68

The estimated percentage of payroll covered by FERS will increase from 87.70% in 2016 to 89.30% in 2017 for regular employees and remain at 100% for law enforcement employees.
The estimated percentage of FERS Revised Annuity Employees (RAE) will increase from 87.70% in 2016 to 89.30% in 2017 for regular employees and remain 0.00% for law enforcement employees.
Contribution rates are expected to remain the same for all the employees.

Regular Employees (Non-RAE):

FERS (Non-RAE) cost in 2017 (\$30,812,000 X .893 X .137)	3,769,571
FERS (Non-RAE) cost in 2016 (\$30,812,000 X .877 X .137)	<u>-3,702,031</u>
Subtotal	67,540

Regular Employees (RAE):

FERS - RAE cost in 2017 (\$469,000 X 0.893 X 0.119)	49,839
FERS - RAE cost in 2016 (\$469,000 X 0.877 X 0.119)	<u>-48,946</u>
Subtotal	893

Law Enforcement Employees:

FERS cost in 2017 (\$15,929,000 X 1.000 X .301)	4,794,629
FERS cost in 2016 (\$15,929,000 X 1.000 X .301)	<u>-4,794,629</u>
Subtotal	0

Total adjustment-to-base

68,433

Thrift Savings Plan

0 440

The cost of BIS' contribution to the Thrift Savings Plan is expected to increase from 87.70% in 2016 to 89.30% in 2017 for regular employees and remain at 100% for law enforcement employees.
The contribution rate will increase from 1% in 2016 to 2% in 2017.

Regular Employees (Non-RAE):

Cost in 2017 (\$30,812,000 X .893 X .02)	550,302
Cost in 2016 (\$30,812,000 X .877 X .01)	<u>-270,221</u>
Subtotal	280,081

Regular Employees (RAE):

Cost in 2017 (\$469,000 X 0.119 X .020)	1,116
Cost in 2016 (\$469,000 X 0.111 X .010)	<u>-558</u>
Subtotal	559

Law Enforcement Employees (Non-RAE):

Cost in 2017 (\$15,929,000 X 1.000 X .020)	318,580
Cost in 2016 (\$15,929,000 X 1.000 X .010)	<u>-159,290</u>
Subtotal	159,290

Total adjustment-to-base

439,930

FTE Amount

Federal Insurance Contributions Act (FICA)

0 43

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 2017. The OASDI tax rate will remain same at 6.2% in 2017.

Regular Employees (Non-RAE):

Cost in 2017 (\$30,812,000 X .893 X .947 X .062)	1,615,523
Cost in 2016 (\$30,812,000 X .877 X .942 X .062)	<u>-1,578,200</u>
Subtotal	37,323

Regular Employees (RAE):

Cost in 2017 (\$469,000 X 0.893 X .947 X .062)	24,590
Cost in 2016 (\$469,000 X 0.877 X .942 X .062)	<u>-24,022</u>
Subtotal	568

Law Enforcement Employees:

Cost in 2017 (\$12,746,000 X 1.000 X .947 X .062)	748,369
Cost in 2016 (\$12,746,000 X 1.000 X .942 X .062)	<u>-744,417</u>
Subtotal	3,952

Other Salaries - Regular Employees:

Cost in 2017 (\$55,000 X .893 X .947 X .062)	2,884
Cost in 2016 (\$55,000 X .877 X .942 X .062)	<u>-2,817</u>
Subtotal	67

Other Salaries - Law Enforcement Employees:

Cost in 2017 (\$3,183,000 X 1.000 X .947 X .062)	186,887
Cost in 2016 (\$3,183,000 X 1.000 X .942 X .062)	<u>-185,900</u>
Subtotal	987

Total adjustment-to-base

42,897

Health Insurance Premium

0 148

Effective January 2017, this agency's contribution to Federal employees' health insurance premiums increased by 5.03%. Applied against the 2016 estimated amount of \$2,943,000 the additional amount required is \$148,174.

Rental Payments to GSA

0 208

GSA rate is projected to be at 3.0% in 2017. This percentage was applied to the 2016 estimated amount of \$6,932,000 to arrive at an increase of \$207,960.

Postage

0 7

Postage rate is expected to increase at 2.0% in 2017. This percentage was applied to the 2016 estimated amount of \$369,000 to arrive at an increase of \$7,380.

GPO Printing

0 5

GPO has provided an estimated rate of 1.8% in 2017. This percentage was applied to the 2016 estimated amount of \$294,000 to arrive at an increase of \$5,292.

Mileage

0 7

Changes to the Federal Travel Regulations increased the reimbursement rate for the use of a privately-owned automobile from 56 cents to 57.5 cents per mile. The percentage 2.68% was applied to 2016 estimated amount of \$270,000 to arrive at an increase of \$7,236.

	<u>FTE</u>	<u>Amount</u>
Working Capital Fund	0	915
The amount of \$915,000 to fund inflationary costs within the Departmental Working Capital Fund.		
Compensable Day	0	-232
In FY 2017, there are 260 compensable days, a decrease of two days from 262 days in FY 2016.		
Employee Compensation Fund	0	-11
The anticipated workers compensation cost for FY 2017 is -11,304.14.		
National Archives and Records Administration (NARA)	0	20
The estimated cost for NARA storage has increased for FY 2017 by \$20,000.		
Herbert C. Hoover Electricity	0	7
The estimated cost for PEPCO electricity is expected to increase by \$7,000 in FY 2017.		
Fuel	0	-48
Utilizing economic assumptions for energy prices (gas and oil price index) the percentage decrease of estimated fuel cost in FY 2017 compared to FY 2014 is -21.37%. Applied against the FY 2014 actual cost of \$174,655, the projected FY 2017 cost is \$137,336. The base estimate of \$185,000 in the FY 2016 budget minus the anticipated FY 2017 cost of \$137,336 leaves the total FY 2017 adjustment for fuel at -\$47,664.		
General Pricing Level Adjustments	0	515
This request applies OMB economic assumptions for 2017 to object classes where the prices the Government pays are established through the market system. A 1.8% factor was applied to rental payments to others (\$468); transportation of things (\$4,086); communications, utilities, and miscellaneous charges (excluding postage and FTS) (\$19,278); other services (excluding the Working Capital Fund and CBS) (\$422,344); supplies and materials (\$31,914); and, equipment (\$37,296).		
Adjustment	0	2,586
Other activities in support of licensing and enforcement programs.		
<hr/>		
Adjustments-to-Base	6	\$6,525
<hr/>		
Total - FY 2017 Adjustments-to-Base	6	\$6,525

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>	2015		2016		2017		2017		Increase/	
	Enacted		Estimate		Base		Estimate		Decrease	
	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Management and Policy Coordination.	15	\$5,850	15	\$6,001	15	\$6,166	15	\$6,666	0	\$500
Pos./BA FTE/Obl.	11	\$6,665	11	\$6,057	11	\$6,166	11	\$6,666	0	\$500

**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 2017, Bureau of Industry and Security (BIS) requests a total of \$6.666 million and 11 FTEs for Management and Policy Coordination (including inflationary adjustments). This funding includes a net increase of \$0.666 million and 0 FTE, with programmatic changes of \$0.500 million and 0 FTEs and an increase of \$0.166 million in inflationary adjustments.

BASE JUSTIFICATION:**Management and Policy Coordination (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 \$0.166 million and 0 FTE to fund adjustments-to-base to current programs for MPC activities. The increase will fund the estimated 2017 Federal pay raise of 1.6 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 2017

Management and Policy Coordination (MPC) (Base funding: \$6.166 million and 11 FTE): BIS is requesting an increase of \$0.500 million and 0 FTE to strengthen its cyber security responsibilities and information technology operations.

BIS requests \$0.500 million and 0 FTE to continue to stay abreast of technological changes through the procurement of updated hardware and software among its several networks as well as to meet the requirements associated with federal cybersecurity initiatives. The rapidly evolving need to work collaborative with other agencies and the intelligence community has increased the need to provide technical solutions to enable secure, trusted and reliable communications. The Export Control Reform (ECR) Initiative has also required IT resources to focus on the strategic planning, architecture and system design solutions to accomplish the objective of a single IT platform. To meet this challenge, BIS's Office of the Chief Information Officer (OCIO) is working with the Department's OCIO on new initiatives for engagement with interagency partners to develop technical solutions that will promote commerce and support compliance and enforcement of existing and new regulation.

Additionally, as the direction and mission of the Bureau continues to expand, the needs for state-of-the-art tools, capabilities, resources, and technology must expand as well. OCIO's current level of performance is unsustainable without additional budgetary resources to restore staff loss because of attrition caused by inability to backfill vacancies. With the identified staff additions, the OCIO will be able to sustain the current levels of service and be positioned to address expanding Bureau needs and cybersecurity mandates.

Given BIS's mission, the networks and information that BIS maintains and manages makes it a high valued target for cyber threats and hackers. BIS has compartmentalized its data and information within moderate and high security impact environments in order to protect all information. BIS has witnessed a significant increase in the demand for intelligence and interagency collaboration thus requiring increased secure architecture components. Increased funding will enable BIS to upgrade security tools and obtain advanced malware and virus detection software.

As the life expectancy of network equipment (servers, routers, switches, etc.) and software versions reach the point where their service and/or maintenance agreements are no longer supported, they will need to be refreshed and/or upgraded in order to better identify security threats.

Risk Assessment

The categories of risks identified with this program change include Strategic, Operational, Safety & Security, Compliance/Regulatory and Reputation. Without the additional resources, we cannot continue to meet the requirement to establish a continuous monitoring strategy and implement a continuous monitoring program in accordance with Office of Management and Budget (OMB) and Departmental requirements. Specifically, bureaus are to manage information security risks on a continuous basis including monitoring the security controls in their information systems, as described in the National Institute of Standards and Technology (NIST) Risk Management Framework (RMF) (Special Publication 800-37, Rev. 1). Without timely responses, services and a secure IT environment, the productivity and performance of BIS staff in Export Administration (EA) and Export Enforcement (EE) would likely be drastically degraded, resulting in increased risk of controlled products falling into the hands of those who would act in a manner contrary to U.S. national security interests.

Program Change Detail by Object Class

(Dollar amounts in thousands)

Program: Chief Financial Officer and Director of Administration

Program Change: Cyber Security and IT Operations

Object Class:		FY 2017 Increase
Personnel Compensation		
11.1	Full-time permanent	0
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	0
12.1	Civilian personnel benefits	0
13	Benefits for former personnel	0
21	Travel and Transportation of persons	0
22	Transportation of things	0
23.1	Rental payments to GSA	0
23.2	Rental payments to others	0
23.3	Communications, Utilities and Miscellaneous charge	0
24	Printing and Reproduction	0
25	Other Services	500
26	Supplies and Materials/Fuel	0
31	Equipment	0
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	500

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>	2015		2016		2017		2017		Increase/		
	Enacted		Estimate		Base		Estimate		Decrease		
	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	
Export Administration.....	Pos./BA	217	\$56,672	219	\$58,602	219	\$62,007	236	\$65,312	17	\$3,305
	FTE/Obl.	212	\$53,164	214	\$59,144	214	\$62,007	227	\$65,312	13	\$3,305

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

APPROPRIATION ACCOUNT: Operations and Administration

Budget Program: Export Administration

For FY 2017, Bureau of Industry and Security (BIS) requests a total of \$65.312 million and 227 FTEs for Export Administration (including inflationary adjustments). This funding includes a net increase of \$6.710 million and 13 FTE, with programmatic changes of \$3.305 million and 13 FTEs and an increase of \$3.405 million in inflationary adjustments.

BASE JUSTIFICATION:

Export Administration (EA) Overview

EA is critical to the accomplishment of BIS's and the Department's mission of advancing U.S. national security and U.S. foreign policy, and enhancing U.S. economic competitiveness while supporting the U.S. defense industrial base. In 2014, approximately 2.6 million export shipments valued at over \$190 billion included sensitive items controlled by EA, yet a single program fault (such as an export of a component that enables the detonation of a nuclear device) could have had disastrous consequences to life, infrastructure, and the environment. Given that the number of exports continues to increase, and because sensitive items will continue to be transferred to BIS's jurisdiction in the coming months, EA will be hard-pressed to continue its essential work in a timely manner without additional resources.

Items under BIS's jurisdiction are controlled for export because, in addition to legitimate commercial and military end use, the items may have application in the development and manufacture of nuclear explosives, weaponized chemical and biological warfare agents or missile systems to deliver weapons that can cause disastrous consequences. EA's role is to ensure that highly capable, advanced technology commodities are licensed for export only to foreign end users that have been thoroughly evaluated in a comprehensive licensing process by a highly trained cadre of analysts.

In order to provide the U.S. Government a level of assurance that these exports will not be diverted to weapons of mass destruction programs, military programs contrary to U.S. interests, terrorists, or governments that violate human rights, EA analysts and engineers must maintain superior expertise in regulatory and trade policy and be technically qualified to assess and evaluate intricate and complex leading edge products available in the global marketplace. In addition, analysts must be able to perform the data analytics necessary to identify metrics used to measure the impacts and outcomes of new or changing policies, and formulate and implement actions based on the outcome data, such as improving outreach to the exporting community to strengthen exporters' regulatory compliance. EA processes involving data analytics have been and will continue to be enhanced to enable more efficient analysis to provide better informed and faster support for policy making, and for making more effective recommendations on export license applications.

Domestic and world events are rarely static; as a result EA resources are also dedicated to addressing emergent events. For example:

- EA implemented targeted export controls on Russia’s military and energy sector in response to its occupation of Crimea and support of separatists in eastern Ukraine.
- EA has played a major role in the Administration’s initiative to open trade with Cuba and has worked to advance similar efforts with regard to Sudan.
- EA oversees export licensing of crude oil. Export controls in place for short supply reasons since fuel shortages in the 1970s have come under recent significant scrutiny with oil exploration successes and surpluses in the United States facilitated by new technologies and techniques. EA facilitated \$12.7 billion of licensed exports of crude oil in calendar year (CY) 2014.
- EA imposed additional restrictive regulatory measures on exports to Venezuela because of its military’s role in suppressing human rights.
- EA had a major role in facilitating the collection of chemical weapon agents in Syria, transport from Syria to the United States of chemical weapon precursors, and continues to oversee the destruction of these precursors at a commercial facility in the United States.
- EA dedicates resources to engage trade partners in major transit and transshipment hubs including the United Arab Emirates, Singapore, Malaysia and Hong Kong to ensure compliance with U.S. export controls and prevent efforts to divert goods to proscribed countries and end users.
- EA supports BIS’s efforts to formally engage China and India in high technology trade.

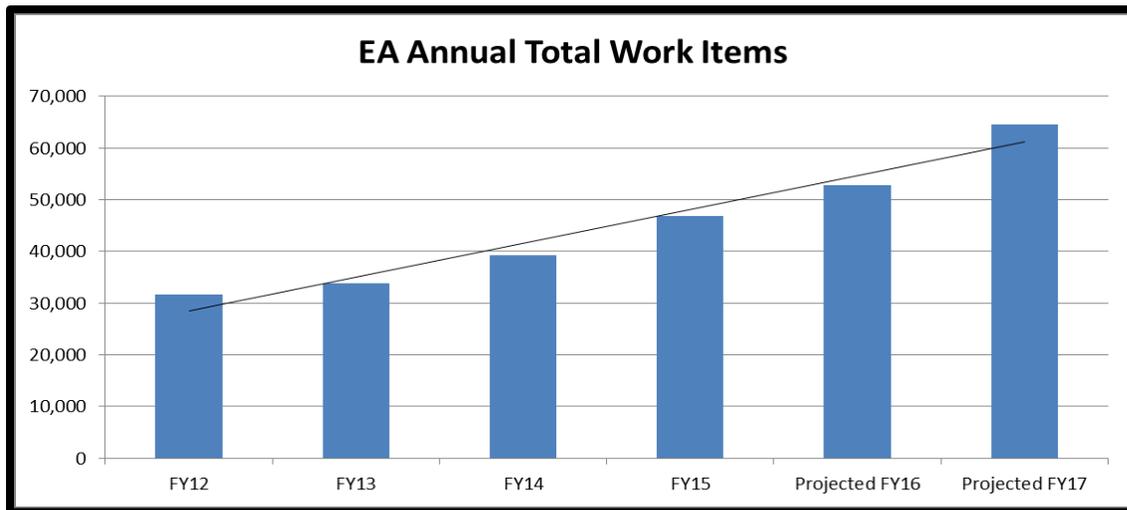
EA has also played a leading role in the success of the effort begun in 2009 to reform the United States export control system from an antiquated Cold War structure to a system that effectively meets the national and global security realities and challenges that exist in the 21st century. The President’s Export Control Reform (ECR) Initiative is a fundamental national security effort intended to achieve greater regulatory efficiency and rationality, and to focus controls on the most significant items and destinations – “higher fences around fewer items”. This Initiative is identified as one of five key strategies supporting the Department’s *Strategic Objective 1.2, Increase U.S. exports by broadening and deepening the U.S. exporter base.*

President Obama’s ECR Initiative has successfully focused the U.S. export control system to an extent not seen previously. It also strengthens our national security by focusing the U.S. Government’s limited export licensing and compliance resources on the threats that matter the most, increasing the United States’ ability to work with our close friends and allies, and strengthening the U.S. defense industrial base by reducing the incentives for foreign manufacturers to “design out” U.S.-origin parts and components.

ECR’s key element is transferring tens of thousands of military items – mostly parts and components – from the U.S. Munitions List (USML) of the International Traffic in Arms Regulations, which is administered by the Department of State, to the more flexible Commerce Control List (CCL) of the Export Administration Regulations (EAR), administered by EA. These ongoing transfers enable U.S. exporters of such items, particularly small and medium-sized firms, to be more competitive in the global marketplace. In addition to the transfers of munitions items, in early FY 2015, BIS implemented regulations that returned licensing jurisdiction for exports of commercial satellites to the Department of Commerce as a result of legislation in the FY 2013 National Defense Authorization Act.

According to the Office of the U.S. Trade Representative, “Trade has played an indispensable role in America’s recovery from the Great Recession. Since the end of the recession in mid-2009, the increase in U.S. exports has contributed nearly one-third of our overall economic growth. Last year, U.S. exports reached \$2.35 trillion, a record-breaking amount that supported over 11 million good-paying American jobs.”

In FY 2014, EA processed 30,953 export license applications. This marked a significant increase from the 24,782 applications processed in FY2013 and reflects EA’s new role in processing license applications for the military items and commercial satellites transferred from the USML to the CCL. EA licensing volume reached over 37,000 in 2015 and continues to surge as items that have historically accounted for over 60 percent of State’s licensing activity continue to transition to BIS’s jurisdiction. In addition to the items transferred from the USML to CCL, emerging technologies are also increasing the number of items controlled on the CCL - since 2010, BIS has seen a seventeen percent increase in the number of items controlled under an Export Control Classification Number on the CCL. As the licensing volume surges, actual exports of those licensed items will surge as well. Since ECR’s implementation in October 2013, BIS has seen an additional 80,000 annual exports related to those items transferred from the USML to the CCL and by FY2017, BIS estimates that the number of additional exports will double to 120,000 shipments. In addition to the EA analysts and engineers that review the items prior to shipment, EA compliance specialists and analysts review these ECR related shipments to ensure exporter’s’ compliance with the regulations.



As a result of EA’s increased scope of responsibilities, a corresponding increase in license related actions is expected, including the following quantifiable work items: Commodity Classification (CCATS) and Commodity Jurisdiction (CJ) requests from exporters; and License Determinations (LD) from BIS’s Office of Export Enforcement, the Federal Bureau of Investigation, Customs and Border Protection and other law enforcement agencies. The table above shows the projected increase of licenses and these associated work items through FY2017.

Moreover, the rapidly evolving export control structure resulting from the ECR Initiative has required an increase in outreach to U.S industry commensurate with the increase in EA's other work items. EA has focused these efforts on the defense industry sector, which historically had been regulated by the State Department, as well as to foreign governments and industries, to ensure effective compliance with the new regulations. To meet this challenge, EA is developing new initiatives for engagement with industry and has undertaken a substantially increased level of outreach in order to help ensure that both U.S. and foreign industry, as well as foreign governments, are aware of, understand and know how to comply with BIS's export control regulations. In addition to traditional outreach methodologies, such as speeches and seminars, EA has substantially increased the educational resources available on the BIS website through the inclusion of web-based decision tools and webinars. EA has also begun administering an electronic consolidated screening list of U.S. Government proscribed parties that exporters can easily search to screen against restricted parties in export transactions. EA has also undertaken additional outreach visits to individual companies to evaluate EAR compliance (i.e., BIS's weekly ECR update conference call).

BIS has also adapted to changes resulting from improvements to streamlining the export system with the introduction of the International Trade Data System (ITDS). These changes introduce challenges related to educating companies and enhancing BIS's business intelligence tools and procedures to stay on pace with automation. In addition, the interface of BIS's licensing system with U.S. Customs and Border Protection's Automated Commercial Environment has been, and will continue to be, enhanced to provide greater transparency to exporters who transmit data required by BIS, and promote improved opportunities for trade facilitation and national security in the 21st century.

SIGNIFICANT ADJUSTMENTS-TO-BASE (ATBs):

BIS requests a net increase of \$3.405 million and 0 FTE to fund adjustments-to-base to current programs for EA activities. The increase will fund the estimated 2017 Federal pay raise of 1.6 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. Office of National Security and Technology Transfer Controls
2. Office of Nonproliferation and Treaty Compliance
3. Office of Strategic Industries and Economic Security
4. Office of Exporter Services
5. Office of Technology Evaluation

The first three sub-programs are primarily licensing offices in which the Licensing Officers (LO) are responsible for decisions on export license applications, commodity classifications, license determinations, and commodity jurisdictions, based on their technical and/or foreign policy analysis of the specific transaction. Each of the three licensing offices is also responsible for many other important activities, including:

- Providing technical and policy support for negotiations conducted under the four multilateral export control regimes: the Australia Group (chemical and biological non-proliferation), the Missile Technology Control Regime, the Nuclear Suppliers Group, and

The Wassenaar Arrangement (conventional arms and related goods, software, and technologies).

- Administering embargoes and sanctions on selected categories of items to specific destinations, including state sponsors of terrorism.
- Supporting outreach and international export control cooperation programs designed to strengthen export controls in major transshipment hubs (e.g., Hong Kong, Singapore, Malaysia and the United Arab Emirates), countries of proliferation concern (e.g., China) and export control capacity building in partner countries (e.g., India). Personnel resources are dedicated to support the mutual objectives worldwide of Department of State's Export and Border Security Program (EXBS) and the Department of Energy's International Nonproliferation Export Control Program (INECP).
- Implementing portions of the Chemical Weapons Convention Implementation Act of 1998 (CWCA), and the Additional Protocol (AP) to the U.S. Nuclear Safeguards Agreement with the International Atomic Energy Agency (IAEA).
- Supporting the interagency Committee on Foreign Investment in the United States (CFIUS) assessing the national security implications of foreign acquisitions of U.S. companies.
- Managing Defense Production Act programs to support military, homeland security, energy, critical infrastructure, and emergency preparedness requirements.
- Measure the quality and conformance to requirements of the export license application review process in order to implement a strategy of continuous quality improvement.

The remaining two sub-programs are responsible for regulatory policy, outreach/compliance activities and data analytics. These units are responsible for many important activities, including:

- Implementing the regulatory policy administration of the Commerce 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.
- Promoting knowledgeable voluntary compliance with Commerce export controls through many and varied outreach avenues and compliance activities.
- Performing successful analytics using export and related economic data obtained from the Automated Export System (AES) and other available sources to inform policy decisions and measure fact-based impacts and outcomes of those decisions.
- Deploying an implementation plan required by the ITDS so exports of BIS controlled items processed at ports of export by U.S. Customs and Border Protection are streamlined and critical export data are made visible to law enforcement personnel.
- Providing analysis to inform decisions on U.S. export controls to cover existing and emerging technologies in a way that maintains the competitiveness and economic viability of those U.S. technology sectors.
- Conducting primary research and analysis of critical technologies and industrial capabilities of key defense-related sectors and with the help of industry organizations and universities.

Finally, EA chairs two important interagency committees: the Operating Committee (OC) and the End-User Review Committee (ERC). The OC is the first stage of the dispute resolution process for license applications. The ERC is the committee that administers two national security programs: the Validated End-User Program, which promotes secure high technology trade with China and India, and the Entity List, a U.S. government proscribed parties list.

PROGRAM CHANGES FOR FY 2017

Export Administration (Base funding: \$62.007 million and 214 FTE): For FY 2017, BIS requests an increase of \$3.305 million and 13 FTE for a total request of \$65.312 million and 227 FTE for EA. This increase will enable EA to keep pace with the increase in work due to the Export Control Reform Initiative and to fulfill its mission to protect national security and enhance U.S. economic competitiveness.

BIS is unique in that it is a regulatory agency within an agency whose primary mission is trade promotion. However, BIS works to reduce unnecessary negative economic impacts created by the export control regulations. An important way to reduce such burdens is to run efficient regulatory operations and to regularly update and tailor existing export control rules to reflect contemporary threats, concerns, technologies, and issues. Reducing needless burdens in turn promotes manufacturing growth and creates U.S. jobs while protecting U.S. national security and foreign policy interests.

To run an efficient operation and to regularly review and update regulations in response to change in the global environment, BIS needs additional capable people. The following is a breakdown of EA's FY 2017 initiatives:

- BIS is requesting an additional \$2.527 million and 10 FTE to ensure compliance with statutory and Executive Order requirements for review of the tens of thousands of items moving from the United States Munitions List to the Commerce Control List; to respond to stakeholder needs with respect to outreach, training, and other requests for assistance with their real and potential export transactions; and to work with international partners to ensure a level playing field for U.S. exporters. The newly established flexibility afforded by ECR and necessitate more staff. EA's additional personnel will ensure that industry understands how to be compliant in its export transactions and how the revised rules affect business practices. It is imperative that the USG have robust compliance resources to ensure that regulatory requirements are met.
 - Additional staff will enable EA to efficiently evaluate the tens of thousands of items, largely parts and components, specially designed for military applications that are moving from the more rigid controls of the State Department to the more tailored controls of the Commerce Department resulting from ECR. As EA works with interagency partners to facilitate the continuing transition, additional staff will ensure that the increasing number of license applications submitted to BIS can be processed in accordance with statutory and Executive Order requirements. BIS must also provide thorough and prompt responses to investigators' requests for official determinations on the control status of transactions under investigations and testimony in judicial proceedings. EA is an integral part of the preliminary work in pursuing administrative and criminal investigations. Additional staff is needed to facilitate the timely input into such investigations and to support the potential increase in the number of investigations associated with the increase in exports of items under BIS's export control jurisdiction as a result of ECR.
 - These additional personnel will allow BIS to meet the demands of responding to stakeholder inquiries. The increasing pace of change to the regulations challenges even long-term practitioners of export controls. If exporters do not understand the new

- requirements, they are less likely to comply, or less likely to export. EA personnel are the agency's first responders to these public inquiries.
- Additional staff will enhance BIS's ability to work with important trading partners to ensure they have effective export control systems. The needed increase will staff EA to a level necessary to maintain its international efforts in ensuring that U.S. exporters have a level playing field in the global marketplace. Through EA's participation in the international export control regimes and by teaching other countries about our export control system and assisting those in setting up similar systems we are ensuring that U.S. businesses are competing based on product capability, customer service, and/or price, rather than differences in government regulation. Finally, if more countries control the export of dangerous goods as does the United States, the world is a safer place.
 - BIS is requesting an additional \$0.778 million and 3 FTE to ensure prompt and thorough updating of the Export Administration Regulations critical to the President's Export Control Reform Initiative, and to conduct essential analytical functions promptly and thoroughly. To regularly review and update regulations for clarity, coherence, and consistency takes time and manpower. Additional FTE dedicated to this task is critical to the success of the Presidential Initiatives and to the economic success of U.S. exporters. Additional analytical staff will support the growing demand for mandatory Defense Production Act industrial base surveys and assessments requested by the USG national security and intelligence communities, as well as foreign availability studies and export licensing effectiveness activities.

Risk Assessment

The categories of risks identified with this program change include Strategic, Operational, Safety & Security, Compliance/Regulatory and Reputation. Without the additional resources of 13 FTEs, we cannot meet the new performance targets set forth in our Performance Plan, operationally this would severely affect EA's responsiveness to customers requesting licensing approvals (creating a backlog). Without timely responses, customers would likely see a loss in revenue and may instead make ill-informed compliance decisions resulting in increased risk of controlled products falling into the hands of those who would act in a manner contrary to U.S. national security interests. Without the additional personnel we risk the ability to review and refer out our license applications within timeframes specified in Executive Order 12981. Delays in processing and the inability to assist our customers will adversely impact our customer's trust and confidence in BIS.

Program Change Personnel Detail

Program: Export Administration

Program Change: Compliance, Outreach, and Regulations Review

Title	Grade	Number	Annual Plan	Total Salaries
General Engineer	15	1	143,079	143,079
General Engineer	14	1	121,635	121,635
Senior Trade and Industry Analyst	14	2	121,635	243,270
Senior Export Policy Analyst	14	2	121,635	243,270
Electronic Engineer	14	1	121,635	121,635
Nuclear Engineer	14	1	121,635	121,635
Trade and Industry Analyst	13	1	102,932	102,932
Compliance Specialist	13	1	102,932	102,932
Export Policy Analyst	13	4	102,932	411,728
Export Administration Specialist	13	3	102,932	308,796
Total		17		1,920,912
Less Lapse		25%	-4	-480,228
Total, full-time permanent		13		1,440,684
FY 2017 pay raise		1.6%		23,051
Total, full-time permanent		13		1,463,735

Personnel Data:	Number
Full-time Equivalent Employment	
Full-time Permanent	13
Other than full-time permanent	<u>0</u>
Total	13
Authorized Positions:	
Full-time Permanent	17
Other than full-time permanent	<u>0</u>
Total	17

Program Change Detail by Object Class

(Dollar amounts in thousands)

Program: Export Administration

Program Change: Compliance, Outreach, and Regulations Review

Object Class:		FY 2017 Increase
Personnel Compensation		
11.1	Full-time permanent	1,464
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	1,464
12.1	Civilian personnel benefits	409
13	Benefits for former personnel	0
21	Travel and Transportation of persons	85
22	Transportation of things	16
23.1	Rental payments to GSA	468
23.2	Rental payments to others	0
23.3	Communications, Utilities and Miscellaneous charge	94
24	Printing and Reproduction	11
25	Other Services	580
26	Supplies and Materials/Fuel	60
31	Equipment	119
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	3,305

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>		2015		2016		2017		2017		Increase/ Decrease	
		Enacted		Estimate		Base		Estimate			
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Export Enforcement.....	Pos./BA	171	\$39,978	199	\$47,897	199	\$50,852	202	\$54,967	3	\$4,115
	FTE/Obl.	167	\$44,552	189	\$48,340	195	\$50,852	197	\$54,967	2	\$4,115

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

APPROPRIATION ACCOUNT: Operations and Administration

BUDGET PROGRAM: Export Enforcement

For FY 2017, Bureau of Industry and Security (BIS) requests a total of \$54.967 million and 197 FTEs for Export Enforcement (including inflationary adjustments). This funding includes a net increase of \$7.070 million and 2 FTE, with programmatic changes of \$4.115 million and 2 FTEs and an increase of \$2.955 million in inflationary adjustments.

BASE JUSTIFICATION:

Export Enforcement (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).¹ 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 \$2.955 million and 6 FTE to fund adjustments-to-base to current programs for EE activities. The increase will fund the estimated 2017 Federal pay raise of 1.6 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. Office of Export Enforcement (OEE)
2. Office of Enforcement Analysis (OEA)
3. Office of Antiboycott Compliance

The first sub-program investigates violations, refers cases to the Department of Justice for criminal prosecution, and imposes 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

¹ The EAA expired on August 17, 2001, but the provisions remain in force under the International Emergency Economic Powers Act (IEEPA), Executive Order 13222, as extended most recently by the Notice of August 7, 2015 (80 Fed. Reg. 48233 (August 11, 2015)).

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:

- OEE's primary objectives are to detect and prevent the illegal export of controlled goods and technology; to investigate and 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. Recent threats to our national security using cyber methods have caused OEE Special Agents to be invited into task force groups like the FBI's National Cyber Investigative Task Force, to help address export violations that accompany large-scale exfiltration of data from U.S. victims.
- 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, via both pre-license checks and post-shipment verifications, for licensed and unlicensed transactions. The majority of end-use checks are conducted by Special Agents serving as regional Export Control Officers (ECOs) stationed abroad with DOC's Foreign Commercial Service.
- Additional end-use checks are conducted through the Sentinel Program, generally by two-person teams of domestically-based OEE 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.
- Finally, 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.

The second 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 U.S. interests; to prevent the diversion of EAR-controlled items to unauthorized military end users or end uses, including the destabilizing accumulation of conventional weapons; to prevent the repression of human rights by preventing, inter alia, access to instruments of torture or devices that prevent freedom of speech or expression; 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 OEE Special Agents at domestic field offices, and provides analytical support to ongoing OEE 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 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 U.S. 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.

The third sub-program administers the antiboycott provisions of the EAR (15 C.F.R. Part 760). These regulations are designed to discourage, and in certain circumstances, to prohibit U.S. persons from taking certain actions in furtherance or support of any unsanctioned foreign boycott, including the Arab League boycott of Israel. Receipt by U.S. persons of requests to confirm compliance with the boycott may be reportable to OAC and compliance may be prohibited by the EAR.

- The antiboycott provisions of the EAR apply to all U.S. persons, defined to include individuals and companies located in the U.S. and their controlled-in-fact foreign affiliates. These persons are subject to the EAR 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 includes 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, by monitoring the type and origin of requests to comply with unsanctioned foreign boycotts received by U.S. persons, and by investigating and imposing penalties (including civil monetary fines and export denials) for violations of

the antiboycott provisions of the EAR. OAC assists the regulated public to understand the substance and application of the antiboycott regulations through its outreach efforts. These include participation in export control seminars and conferences at which OAC provides information and examples which illustrate to exporters, freight forwarders, bankers, lawyers, and others how to identify an antiboycott issue and how to respond in compliance with the EAR. Additionally, OAC, through its telephone and e-mail Advice Line, provides guidance to the exporting community with respect to specific antiboycott issues and questions. The EAR requires U.S. persons to report the receipt of certain requests to comply with unsanctioned foreign boycotts to BIS. These reports include identification of the boycotting country initiating the request and the language of the request. OAC's Report Processing Unit processes the report forms and maintains a database of these boycott-related requests.

- OAC's Policy Division monitors and analyzes this database and contributes this data annually to the Congress. Further, the Policy Division works closely with partners at the Department of State's Office of the Near East and U.S. Embassies in boycotting countries; DOC's International Trade Administration; the Department of Treasury's Office of General Counsel, which is 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 and to engage with Ministers and other government officials in boycotting countries in an effort to remove boycott language from commercial documents at the source.

Export Control Officer Moves FY 2016

Moscow to Frankfurt

Moscow to Frankfurt: In 2015, the U.S. Embassy in Moscow informed BIS that due to President Putin's Presidential Decree 653, which directly impacts the ECO's ability to perform any end-use checks in Russia, BIS needed to relocate their regional ECO position from Moscow to another location in the region (outside of Russia). In November 2015, due to increasing security issues associated with the ECO maintaining its presence in Moscow, began reducing its operations in Moscow in order to relocate to Frankfurt. From this location the ECO will continue to focus on end-use checks on items destined for Russia.

This relocation of the ECO to Frankfurt does not obviate BIS's expansion to meet the increasing Strategic Trade Authorization licensing workload in this region that is crucial for coverage against diversions or transshipments of critical commercial items that are used to support activities counter to our national security. The ECO position will address end use checks with our allies in Europe. BIS will maintain a minimal presence in Moscow.

PROGRAM CHANGES FOR FY 2017:

Export Enforcement (Base funding: \$51.441 million and 195 FTE): For FY 2017, BIS requests an increase of \$4.115 million and 2 FTE for a total request of \$54.967 million and 197 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 will erode the current effectiveness of BIS's Export Enforcement efforts.

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 continue to support the progress this 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. This year BIS obtained the assistance of Homeland Security Studies and Analysis Institute (HSSAI), an expert analytic group, to evaluate BIS resourcing history and project future needs based upon a number of trends related to BIS and exports. HSSAI's observations will be provided to highlight specific critical shortfalls throughout this budget request.

The following is a breakdown of EE's FY 2017 initiatives:

Productivity Improvement - BIS is requesting an increase of \$1.600 million (0 FTEs) to address system upgrades that are critically needed for its system of investigative records - BIS' Information Management System; and, to provide resources for its Seized Computer Evidence Recovery Specialist (SCERS) Program to improve its response in the arena of counter-proliferation and export enforcement.

Permanent Change of Station (Mobility) Program

BIS is requesting \$0.400 million (+0 FTE) per year beginning in FY 2017. During feedback sessions with BIS field personnel, one of the most often voiced concerns about taking a headquarters assignment is the high cost of relocation to the Washington Metropolitan area. A PCS incentive would allow for OEE to keep the "best and the brightest" within our ranks and allow for us to grow our own future leaders by a process of upward mobility in a more-formalized career track. This process has been used successfully by other federal agencies (including DOC's NOAA), corporations, and the U.S. Military for decades.

IMS Maintenance/Upgrades

Effective enforcement requires a robust system of records to report and maintain investigative records.

- BIS requests an increase of \$0.500 million (+0 FTE) for Information Management System (IMS) in use by BIS is several years old and in need of system wide capital refresh and upgrade. Currently, OCIO maintains a list of anywhere from 10 to 100 items (the list is ever-changing) that are to improve the IMS system. In light of budget constraints over the past several years, BIS's IT systems have been forced to continue to operate on increasingly older technology; and in this case (IMS) simple changes to code could not be purchased because BIS did not have the sufficient funds for this upgrade. This is not only inefficient, but

increasingly makes our systems more vulnerable to sophisticated attacks from a determined individual or state actor. BIS Special Agents, Analysts and Support personnel use IMS to support the core mission of Export Enforcement.

These critical mission steps must be recorded in a secure, efficient manner and must be maintained in accordance with the retention policy established for investigative files. Investigative steps, interviews, and all facets of the investigative process are entered into the system for records retention and indexing.

Seized Computer Evidence Recovery Specialist (SCERS) Program Upgrades

Effective enforcement requires intensive investigative, forensic and technical capability. BIS Special Agents and Analysts responding to the ever evolving and dynamic environment and the challenge of enforcing the President's Export Control Reform (ECR) have been using computer forensic equipment several years old that is in serious need of upgrade to keep pace with current technology.

- BIS requests an increase of \$0.700 million (+0 FTE) to support SCERS and to improve its response in the arena of counter-proliferation and export enforcement will have the capability to pursue investigations and operations affecting our national security.
- As BIS cases become increasingly more complex, the requirements necessary for the proper processing of the seized evidence increases as well.
- It's not just about computers anymore. The threat is from cell/smart phones, iPads, tablets, and thumb drives; the digital world is immense and BIS needs to expand to meet this challenge. In a recent investigation the amount of data seized in one seizure, in email files alone would if printed equal a stack of paper approximately twenty-five miles high.
- The data storage and computer processing requirements to analyze this data is vast. In another investigation involving seized data, just to get the files to a point where a computer forensic examiner could review the data took 29 days using the best available equipment. Recently SCERS personnel supported a sensitive investigation by placing a satellite tracking device on a package that was suspected of being diverted to Iran in violation of the Iran Sanctions Act. Nearly 100 percent of the tools and equipment used to install this device were borrowed by the Agents involved in the installation. In order to move forward with a more robust capability, full funding is critical to provide the necessary hardware and infrastructure required.

BIS has expended a lot of resources both in personnel and equipment costs to meet this challenge. The "digital explosion" has been seen in the review of evidence in enforcement cases. In one case involving digital evidence, the suspect was using 248 bit encryption to hide the evidence of his crimes. Only the experience of the BIS examiner and the one well-built forensic computer available to break the encryption foiled his efforts. Additional funding is critical to increase the capabilities both in hardware and in training of BIS personnel to build for the future to continue in order to solve the difficult and more complex cases.

Export Control Officer (ECO) Cost: - BIS is requesting an additional \$1.702 million and +0 FTEs in FY 2017 to address inflationary expenses associated with the existing ECO program. This funding will also support the cost associated with the relocation of ECOs as they transition from their foreign post back to the U.S.

Information Triage Unit Expansion - BIS requests an additional of \$0.813 million and 2 FTEs to support the ITU's Network Analysis Initiative – i.e., to evaluate possible network links, expand license application analysis, and develop leads packages to support the initiation of law enforcement investigations. This initiative will allow BIS to strategically link disparate information to find relationships among individual transactions that can result in broader impacts to U.S. national security and foreign policy objectives than can occur through transactional analysis.

ITU Expansion: Network Analysis IT Support; Entity History System ; Proliferation Network Analysis Initiative

ECR established an ITU, housed in EE, to assemble and disseminate relevant all-source information, including intelligence, to inform stakeholder agencies about parties to export transactions, including those requiring a U.S. Government license. The ITU has three primary responsibilities: (1) develop Bona Fides Information Reports (BFIRs) on foreign parties of interest to licensing and enforcement personnel; (2) compilation of an automated Entity History Fact Sheet involving parties to a license application; (3) analysis of compliance trends involving U.S.-origin items.

In addition to the BFIR activity already conducted by the ITU, two functionalities related to this mission directed by the President required (i) ensuring that all licenses processed in the Department of Defense's USXports system receive a baseline automated *Entity History Fact Sheet* incorporating all data elements relevant to a transaction (e.g., export, licensing, end-use check history, intelligence screen) and (ii) conducting analysis of licensed and unlicensed exports, which have increased by 40 percent over the past 6 years, to determine *proliferation network* trends in the export of items that may pose a national security, proliferation or foreign policy concern, including the accumulation of unlicensed items that would give the recipient capabilities equivalent to a controlled item, in order to increase the enforcement capabilities of the U.S. Government. A key aspect of this effort requires an additional person to review license applications to determine patterns of behavior with regard to parties (e.g., name/address matches) of interest. The increase in license applications by 46% requires additional support to this functionality. The other four analysts will focus on proliferation network trends to address symmetric and increasing asymmetric threats posed by state and non-state actors.

Proliferation Network Analysis IT Support: A key component of identifying compliance trends involves an upgraded information technology system (IT) that can identify and manage connections across export, licensing, intelligence, and law enforcement data to identify proliferation networks of interest. BIS requests a dedicated IT professional contractor to develop requirements and provide on-going support to ITU analysts as necessary.

Entity History Fact Sheet (EHFS): EE is currently working with the Department of Defense (DOD) to develop the requirements for fusing entity history data into USXports. Much of this data resides outside of the core requirements of processing licenses (e.g., integration of export data into entity history screens).

BIS resources are critical to integrate relevant entity history data into USXports and to implement a core ITU objective: ensuring that all agencies have comprehensive information about parties to a license transaction through an automated process that eliminates redundant research efforts of interagency licensing officers while providing more context for license reviews, thus facilitating more timely and national security-effective processing of license applications. BIS requests funds to support DOD operation and maintenance of EHFS operations.

Risk Assessment

These new resources will expand current Export Control Officer (ECO) operations, enhance current Intelligence efforts, and expand the Bureau's tactical and strategic 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.

Effective and efficient export enforcement requires an intensive, coordinated investigative and analytical capability, with special agents, intelligence analysts and export licensing officers all working together. They must be experts not only in their respective fields but also in export regulations, enforcement, exporters and their products, and associated adversaries seeking to harm the United States and/or steal U.S. technology. They also must have a clear understanding of the President's Export Control Reform and the Department of Commerce's strategic objectives for trade and industry while at the same time be the principle protector of our Nation's controlled exports.

Even with limited staffing, the Export Enforcement organization has demonstrated a positive return in bringing back to the US Treasury, hundreds of millions of dollars in criminal and civil fines. Working in a lean workforce environment, staffs have implemented efficiencies in their intelligence analysis and review of suspicious export licensing applications, exporters and products, and end-users. Export Enforcement does all it can to manage limited resources and has prioritized its enforcement activities and investigations according to threat potential. However, no matter how impactful recent success has been, the risks associated with unattended investigative leads are great.

For example, when using the Department's enterprise risk assessment model, Export Enforcement activities score high on severity of strategic risk. This is because the risks associated with export enforcement not only have a strong likelihood of occurring if not attenuated in time, but also they would be of extreme consequence to the mission of BIS, the objectives of Commerce and the safety of our Nation.

If Export Enforcement activities were to fail, some of the known consequences would include:

- U.S. sanctions would become increasingly "meaningless" in the near-term-future wherein sanctions may be articulated but there is less ability to enforce them.
- Our Nation, and particularly the President, would lose a critical instrument of national power. Sanctions, enforced by DOC, Treasury, and others, provide an effective instrument that the President may use short of applying harder forms of power. Without an effective sanctions capability, the President may have to resort to applying military force, and thus putting the American military in harm's way, at a lower threshold than may have been encountered by previous Presidents.
- American businesses which abide by export laws will suffer. Without export enforcement, those that don't comply with export laws will gain competitive advantage over those who do. In effect, the lack of an effective export enforcement capability fuels an environment of lawlessness, which will ultimately harm law abiding American businesses as well as US national security and foreign policy interests.
- As those law abiding businesses are increasingly disadvantaged, they will lose sales and hence income to pay their workers. The consequence of this is that the American middle

class that produces the item, fills the orders, packs the boxes and ships the goods overseas will lose jobs.

- The battlefield will become more dangerous and more deadly. From night vision capability to IED triggers to sophisticated sensor technology and even satellite navigation systems that guide munitions, these are items that must be kept out of the hands of our enemies and potential enemies. Protecting against and prosecuting the diversion of these items translates into a tactical advantage on the battlefield that saves American lives and ultimately contributes to the United States achieving operational success.

During the 2016 budget process, BIS engaged Homeland Security Studies and Analysis Institute (HSSAI) to examine BIS's workforce and the "mission space", or environment, in which we operate. BIS plans to undertake a more robust study that will begin with a deep, data collection exercise followed by an intensive analysis that validates these preliminary findings and support out-year budget submissions.² The 2017 Budget incorporates many of the findings made by these experts in a series of briefings held in early 2015. Their observations, insights, and recommendations, demonstrate the need to expand BIS's resources proportionally with the growth in export control licensing and enforcement responsibilities to continue support of the Nation's national and economic security and foreign policy.

PRINCIPAL FINDINGS:

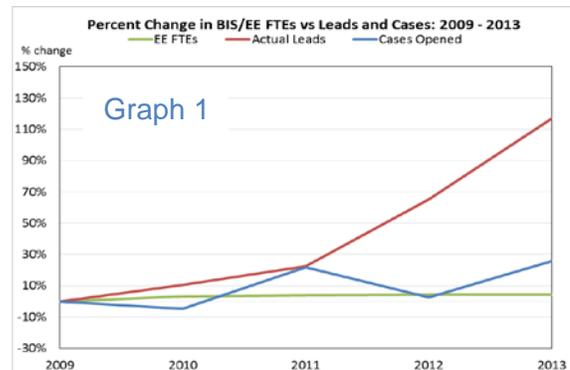
- a. The U.S. has successfully increased exports from 2008-2014. The value of BIS relevant exports, those exports of sensitive items classified under a control number on the Commerce Control List (CCL) - has grown from \$124.3 billion in 2010 to \$190.7 billion in 2014, an increase of 53%. (most recent data available)
- b. The number of exporters grew from 288,747 in 2008 to 304,223 in 2013 (most recent data available).
- c. License applications reviewed by BIS has grown from 21,239 in 2008 to 37,398 in FY 2015. This marked a 20.8% increase from the 30,953 applications processed in FY 2014.
- d. The President's Export Control Reform (ECR) initiative is resulting in an increase of tens of thousands of military items to be evaluated and processed by Export Administration (EA) and Export Enforcement (EE). This alone is particularly noteworthy - in FY 2015, BIS processed 13,250 export license applications for exports of "600 series" items that transferred from the USML to the CCL, more than 50% of the total processed in FY 2013 - before ECR initial implementation in October 2013.
- e. From 2008 to 2015, EA's authorized FTEs increased 14.6% (from 185 to 212), but the number of export licenses applications increased by 46% during the same period, in large part due to ECR.
- f. As license applications have grown, so have BIS's enforcement responsibilities. During the period 2008 to 2015, non-management FTEs increased only 1.83% (from 164 to 167).
 - Over this period, the volume of exports subject to BIS jurisdiction has grown by over 40% to 42 million, annually. Companies that invest in export management compliance programs rely on BIS to have a strong enforcement posture to ensure that they are not placed at an economic disadvantage against those companies that seek to save money and potentially cut corners in terms of export compliance.
 - While license applications have increased from 2008 to 2015, the number of intelligence reports that we are able to complete has not increased significantly.

Additionally, When the ITU provides an intelligence report to the licensing officer the license rejection rate jumps from 1% to 7%, demonstrating the quality and importance of intelligence reporting.

- The number of leads generated by the Office of Enforcement Analysis increased over the period 2009 to 2013 from 477 to 1,035, an increase of 117%. Due to resource constraints, BIS was only able to increase the number of cases by 26% over the same period (from 452 to 568), resulting in a widening gap between leads and actual cases being worked by law enforcement agents.

An outside study conducted by HSSAI shows illustrates the ever-widening gap between Export Enforcement activities (leads and case work) and BIS capacity (Graph 1).

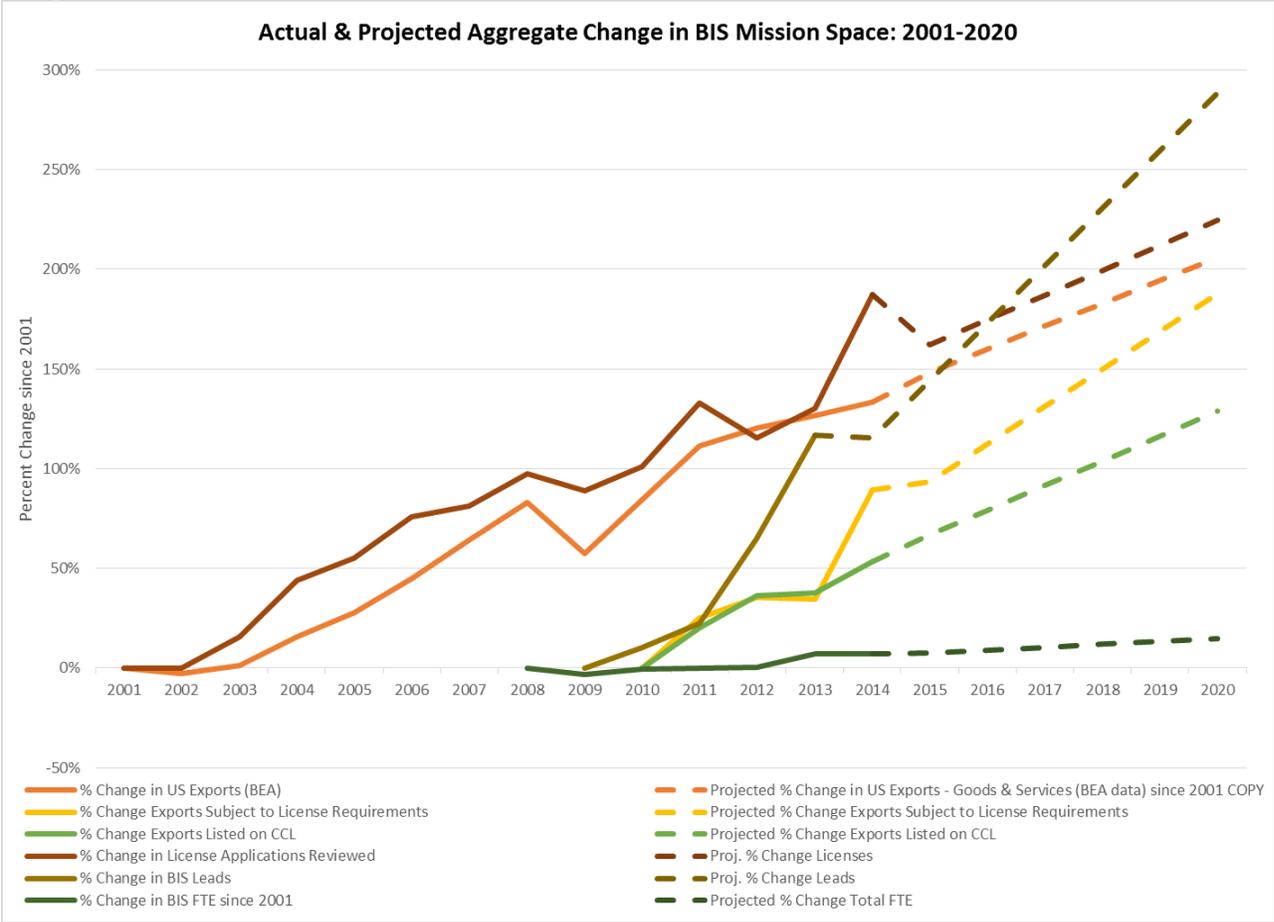
Their analysis found that in order for Export Enforcement to have maintained the same work to staff ratio that it had in 2008 (available data point), adjusted for this growth in its primary mission area, it would have increased staffing by 67% in the same period. It is worth noting that EE’s estimated resource deficiency is based on the number of leads produced with available staff that has remained constant since 2009, and does not account for additional leads and resulting potential additional cases if EE’s analytical capabilities kept pace with the percentage growth of exports subject to BIS jurisdiction.



The HSSAI analysis also showed BIS being rapidly outpaced by the increasing numbers of exporters, numbers of exports and numbers of items on the Commerce Control List (CCL). This includes a greater range of export categories that BIS must enforce as well as the addition of new types of categories. HSSAI’s data also reflected a growing complexity and expansion of US relationships with other countries, such as Venezuela, Russia, China, Cuba, Egypt, Yemen and Iran – all of which have experienced significant changes in just this year alone.

HSSAI also projected trends for 2015 to 2022 which show an even more alarming gulf between BIS staff levels and its mission to protect our Nation’s security, promote commerce, and serve our industries. The composite graph that follows shows several indicators of mission space activity projected from 2001 until 2022. The trends, based upon extrapolation of current and past data, all point to a continuing increase in mission space activity. In contrast, the percentage change in BIS FTE since 2001 line shows the relatively flat-lined staffing of BIS if past budgets are not corrected beginning in this FY17 budget request and in future budgets (Graph 2).

Graph 2



Program Change Personnel Detail

Program: Export Enforcement (EE)
 Program Change: Information Triage Unit Expansion

Title	Grade	Number	Annual Plan	Total Salaries
Analysts	13	3	102,932	308,796
Total		3		308,796
Less Lapse	25%	(1)		-77,199
Total, full-time permanent		2		231,597
FY 2017 pay raise	1.3%			3,011
Total, full-time permanent		2		234,608

Personnel Data:	Number
Full-time Equivalent Employment	
Full-time Permanent	2
Other than full-time permanent	<u>0</u>
Total	2
Authorized Positions:	
Full-time Permanent	3
Other than full-time permanent	<u>0</u>
Total	3

Program Change Detail by Object Class

(Dollar amounts in thousands)

Program: Export Enforcement (EE)

Program Change: Increase in workforce

Object Class:		FY 2017 Increase
Personnel Compensation		
11.1	Full-time permanent	235
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	235
12.1	Civilian personnel benefits	94
13	Benefits for former personnel	0
21	Travel and Transportation of persons	0
22	Transportation of things	3
23.1	Rental payments to GSA	90
23.2	Rental payments to others	0
23.3	Communications, Utilities and Miscellaneous charge	20
24	Printing and Reproduction	2
25	Other Services	3,633
26	Supplies and Materials/Fuel	9
31	Equipment	30
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	4,115

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

Object Class	2015 Enacted	2016 Estimate	2017 Base	2017 Estimate	Increase/ Decrease
Personnel compensation:					
11.1 Full-time permanent	\$39,420	\$43,770	\$45,273	\$46,967	\$1,694
11.3 Other than full-time permanent	\$466	\$257	\$266	\$266	\$0
11.5 Other personnel compensation	\$2,895	\$3,196	\$3,340	\$3,340	\$0
11.8 Special personnel services payments	\$0	\$42	\$44	\$44	\$0
11.9 Total personnel compensation	\$42,781	\$47,265	\$48,923	\$50,617	\$1,694
12.0 Civilian personnel benefits	\$15,008	\$16,402	\$17,047	\$17,548	\$501
13.0 Benefits for former personnel	\$36	\$46	\$46	\$46	\$0
21.0 Travel and transportation of persons	\$1,357	\$3,503	\$3,510	\$3,595	\$85
22.0 Transportation of things	\$119	\$227	\$231	\$250	\$19
Rent, communications, and utilities:					
23.1 Rental payments to GSA	\$6,083	\$6,932	\$7,140	\$7,698	\$558
23.2 Rental payments to others	\$0	\$26	\$26	\$26	\$0
23.3 Communications, utilities and miscellaneous charges	\$2,322	\$2,171	\$2,197	\$2,312	\$115
24.0 Printing and reproduction	\$22	\$294	\$299	\$312	\$13
Consulting and other services					
25.1 Advisory and assistance services	\$773	\$817	\$817	\$817	\$0
25.2 Other services	\$11,407	\$17,341	\$17,764	\$22,477	\$4,713
25.3 Purchase of goods and services from Government accounts	\$23,498	\$16,032	\$16,974	\$16,974	\$0
26.0 Supplies and materials	\$579	\$1,958	\$1,942	\$2,016	\$74
31.0 Equipment	\$394	\$2,072	\$2,109	\$2,257	\$148
32.0 Lands and structures	\$0	\$0	\$0	\$0	\$0
33.0 Investments and loans	\$0	\$0	\$0	\$0	\$0
41.0 Grants, subsidies and contributions	\$0	\$0	\$0	\$0	\$0
42.0 Insurance claims and indemnities	\$2	\$0	\$0	\$0	\$0
43.0 Interest and dividends	\$0	\$0	\$0	\$0	\$0
50.0 Depreciation	\$0	\$0	\$0	\$0	\$0
99.0 Total Obligations	\$104,381	\$115,086	\$119,025	\$126,945	\$7,920
Less: Absorption	\$0	\$0	\$0	\$0	\$0
Less: Recoveries	-\$531	\$0	\$0	\$0	\$0
Less: Unobligated balance, start of year	-\$2,391	\$0	\$0	\$0	\$0
Plus: Unobligated balance, rescission	\$0	\$0	\$0	\$0	\$0
Plus: Unobligated balance, end of year	\$1,041	\$0	\$0	\$0	\$0
Plus: Unobligated balance, expiring	\$0	\$0	\$0	\$0	\$0
Plus: Unobligated balance, transferred	\$0	\$0	\$0	\$0	\$0
Less: Transferred from other accounts	\$0	\$0	\$0	\$0	\$0
Plus: Transferred to other accounts	\$0	\$0	\$0	\$0	\$0
99.1 Total Budget Authority	\$102,500	\$115,086	\$119,025	\$126,945	\$7,920

**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
15 U.S.C. 1824a
50 U.S.C. 1701 et seq.

50 U.S.C. app. Sections 2401-2420 (Export Administration Act of 1979, as amended) (EAA) provides authority for the regulation of exports of dual-use items 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 EAA 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 successive Presidential Notices, most recently by the Notice of August 7, 2015 (80 Fed. Reg. 48233 (Aug. 11, 2015))), continues the provisions of the EAA in effect, to the extent permitted by law, under authority of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA).

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. 6001-6010 set forth provisions of the Cuban Democracy Act, as amended by the Cuban Liberty and Democratic Solidarity (Libertad) Act, 22 U.S.C. 6021-6091, 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 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 13603, March 16, 2012).
- 50 U.S.C. app. 2172 authorizes the Secretary of Commerce to produce the Annual Report on Offsets (functions delegated to the Secretary of Commerce in Executive Order 13603, March 16, 2012).

- 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 delegated to the Secretary of Commerce in Executive Order 13603, March 16, 2012).
- 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 13603, March 16, 2012).
- 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 (via BIS and the International Trade Administration (ITA)) participates as a member of the Committee on Foreign Investment in the United States).

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 U.S. 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 \$13,500 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, 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 2015</u> <u>Actual</u>	<u>FY 2016</u> <u>Enacted</u>	<u>FY 2017</u> <u>Estimate</u>
Consulting and Other Services.....	\$29,240	\$34,190	\$42,021

BIS 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 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
	<u>Actual</u>	<u>Enacted</u>	<u>Estimate</u>
Periodicals and Publications.....	\$270	\$294	\$317

BIS publications, periodicals, and pamphlets are essential tools through which the Bureau fulfills its mission to administer U.S. statues and agreements dealing with export controls.

The major publications and periodicals produced include the Export Administration Regulations, the 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 and giving speeches at public functions, and after answering questions from the business community regarding exports.

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

	FY 2015 <u>Actual</u>	FY 2016 <u>Enacted</u>	FY 2017 <u>Estimate</u>
Average ES Salary	\$177,716	\$186,601	\$195,932
Average GS Grade.....	12.99	13.01	13.04
Average GS Salary.....	\$106,569	\$108,126	\$112,384

FY 2016 Annual Performance Plan

Bureau of Industry and Security

Part 1: Agency and Mission Information

Section 1.1: 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 currently has seven Export Control Officers (ECOs) that are located in China (two ECOs), Hong Kong, India, Germany, Singapore, and the United Arab Emirates (UAE).

The BIS headquarters is located in Washington D.C., with an Export Administration Regional Office in Irvine, CA and

Section 1.2: Mission Statement

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 base³
 - 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 advance the national security and foreign policy goals to include: counter proliferation of weapons of mass destruction (WMD), prevent destabilizing accumulations of conventional weapons, and combat terrorism,

Integrate non-U.S. actors to create a more effective global export control and treaty

³ 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.

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 assists 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 implements a strong outreach program and utilizes an end-use verification 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 defense trade offsets, and evaluates the security impact of certain proposed foreign investments in U.S. companies.

Part 2: Cross-Agency Priority Goals

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

Part 3: Strategic Goals and Objectives

Section 3.1: Corresponding DOC Strategic 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	Stefan Selig, Under 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 Export Administration Regulations (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 U.S. Munitions List (USML) to the Commerce Control List (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.

Section 3.2: Strategies for Objectives

BIS has primary responsibility, in coordination with several other agencies, for implementing U.S. export control policy on Export Administration Regulations (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 throughout the United States and overseas to educate and update the public on export controls and policy.

Outreach and education are fundamental parts of BIS's activities. BIS offers seminars on a regular basis, at locations around the country and overseas, on a variety of export control-related topics, from introductory overviews to topic-specific in-depth instruction. BIS also offers educational tools, including videos, training modules and webinars, on its website, participates in trade shows and other events that offer opportunities for contact with the exporting public, offers counseling services via telephone and e-mail, and organizes teleconferences and town

hall meetings on specific topics on an as-needed basis. Because of their positioning throughout the United States, in areas where exporters are concentrated, BIS Special Agents use outreach as an effective tool to educate of the exporting public and prevent potential export violations.

FY 2015 Accomplishments

Since the initial implementation of Export Control Reform (ECR), BIS and the Department of State have published, in final form, fifteen of the twenty-one U.S. Munitions List (USML) categories and applicable corresponding Commerce Control List (CCL) controls, which include more tailored controls for commercial satellites and less-sensitive military items. During the fiscal year, BIS processed 13,250 license applications, with an average processing time of 17.5 days, for less-sensitive “600 series” military items and 1,216 license applications for satellites and related commodities that moved from the USML to the CCL. BIS continued to educate the public on changes made under ECR by conducting more than 50 ECR outreach activities that reached more than 5,262 participants. BIS also continued to utilize web-based decision tools to assist exporters. In FY 2015, the decision tools on the BIS website, received more than 33,000 hits

In FY 2015, BIS continued its strong commitment to protecting US national security interests and foreign policy objectives by ensuring a credible deterrence and seeking appropriate penalties to address EAR violations. BIS enforces the EAR utilizing approximately 115 Special Agents located in seventeen locations throughout the United States and six locations abroad of strategic diversion concern. Their subject matter expertise and singular focus on enforcement of and compliance with the EAR led to over \$156 million in criminal fines and nearly \$60.5 million in administrative penalties. BIS Special Agents had the highest level in criminal fines than any year during the past five years. In addition to outreach with the public, BIS continued to support U.S. Customs and Border Protection (CBP) and other law enforcement agencies around the United States with updated training materials in support of ECR. In addition, BIS completed four Antiboycott cases with administrative fines of over \$98,000. In terms of “Return on Investment,” BIS brought back (in fines alone) almost double its entire annual budget.

In FY 2015, BIS oversaw completion of 1031 end-use checks (EUCs) in 55 countries to ensure the proper disposition of US-origin items. Of these, 61% were conducted by its Export Control Officer (ECO) program and Foreign Commercial Service officers (3%), while the remainder was accomplished by Sentinel Program (35%) visits conducted by BIS Special Agents. BIS added 14 entities to and removed one entity from the UVL. Office of Enforcement Analysis (OEA) intelligence, export, and licensing screening generated Information Triage Unit reports to support 875 licensing activities and 409 enforcement leads, which resulted in 200 enforcement outreaches, 38 enforcement cases, 28 detentions, and 10 warning letters. OEA initiated 21 Entity List nominations, which involved efforts to stem WMD, military modernization, and improvised explosive device proliferation efforts. OEA also provided case support to 48 OEE field office investigations.

BIS's Export Administration analyzed 37,398 export license applications valued at over \$513 billion during FY 2015. In addition, 5,833 commodity classifications were completed. Export Administration was instrumental in enforcement actions taken by BIS, FBI and Homeland Security by completing over 2,563 requests for license determinations.

During FY 2014, the President signed an Executive Order on “21st Century Trade Facilitation” to establish policy principles and an implementation plan for the development of the

International Trade Data System (ITDS) by December 2016, and establish an interagency structure responsible for developing policies and processes to enhance interagency coordination related to certain border management functions in order to improve supply chain processes and identification of illicit shipments. BIS has successfully completed its full integration into ITDS. BIS's license application is fully automated through its Simplified Network Application Program, and BIS sends nightly information from the license applications to U.S. Customs and Border Protection (CBP) upon a determination being made on the license. CBP makes the license application information available to authorized enforcement officers to ensure that the export filings from exporters are consistent with the BIS license, and the license information is used to validate the export shipment filing of the licensed shipment. BIS has authorized access to the Automated Export System information through a "single window" to identify violations of the Export Administration Act, and other U.S. laws and regulations; evaluate the effectiveness of export controls, and improve outreach and compliance with the Export Administration Regulations.

BIS enabled the U.S. Government to expeditiously aid the international effort to verify and destroy Syria's chemical weapons program. BIS rapidly identified and classified items on a list of critically needed U.S.-origin items provided by the United Nations/Organization for the Prevention of Chemical Weapons (OPCW) Joint Mission in Syria, including chemical detectors, protective gear, nerve agent antidotes and hazardous material container. Taking into consideration the diverse equities of several U.S. Government agencies, BIS crafted license conditions acceptable to all agencies and issued licenses which allowed the Joint Mission to perform its functions in a safe and expeditious manner. On behalf of the interagency, BIS drafted the bilateral agreements between the United States and OPCW Technical Secretariat that were necessary to ensure the Department of Commerce could facilitate the on-site OPCW verification requirements contained in Decisions adopted by the OPCW policy-making organs in accordance with U.S. laws and regulations. The agreements were drafted in coordination with the affected private entities and were successfully negotiated with the OPCW Technical Secretariat. BIS subsequently assisted the port and destruction company during three OPCW on-site inspections in 2014.

Public Benefits

BIS protects the U.S. public by advancing U.S. national security, foreign policy, and economic objectives that ensure that America maintains its strategic competitive advantage in critical areas affecting economic and national security. BIS accomplishes its mission by maintaining and strengthening adaptable, efficient, and effective export control and treaty compliance systems. BIS administers and enforces controls on the export of items with chiefly commercial uses that can also be used in conventional arms, weapons of mass destruction, terrorist activities, or human rights abuses; less sensitive military items in transition from the Department of State under the President's Export Control Reform (ECR) Initiative; and certain items controlled for short supply. BIS administers and enforces these controls in coordination with several other U.S. federal agencies. BIS implements these controls primarily through the Export Administration Regulations (EAR). The EAR set forth license requirements and licensing policy for the exports of these 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 the export of sensitive commodities, software, and technology to end uses, end users, and destinations of concern.

Some examples of BIS efforts that directly impact the public include:

- Conducting educational outreach to the exporting community;
- Assisting U.S. business in accurately classifying their products;
- Assisting business in structuring export transactions to meet export control concerns;
- Negotiating for removal of obsolete controls in multilateral export control forms;
- Ensuring consistency in export controls with major trading partners;
- Denying export license applications which do not support US national security and foreign policy goals;
- Assisting U.S. and foreign firms in developing export control compliance programs;
- Investigating, indicting, and convicting those who willfully violate the provisions of the EAR;
- Targeting illegal procurement networks supporting terrorist regimes through focused analysis;
- Stopping unauthorized military end-use of U.S.-origin items;
- Bringing back millions of U.S. dollars to the Treasury in the form of fines and forfeitures from criminal and civil violators;
- Denying export privileges for convicted felons;
- Uncovering diversions to unauthorized end-users/uses;
- 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;
- Leveraging interagency resources to identify unauthorized exports (including deemed exports);
- Reviewing Automated Export System (AES) filings to identify potential export control violations and ensure exporter compliance.
- Reducing the use of chemical weapons by leading U.S. participation in the Chemical Weapons Convention Inspection program; and.
- Administering and amending the federal regulations on the international shipment of U.S.-origin dual-use items.

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. When improper or unauthorized diversion is identified, appropriate measures are taken to deny further exports of licensed materials to violators.

Pursuant to the 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 transferring jurisdiction of tens of thousands of less sensitive items from the State Department to the Commerce Department, which has a more flexible regulatory structure.

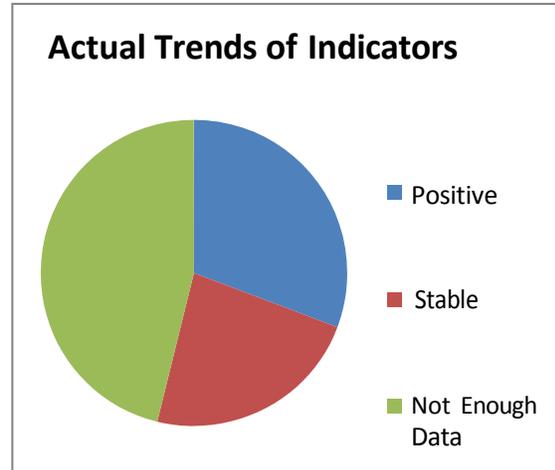
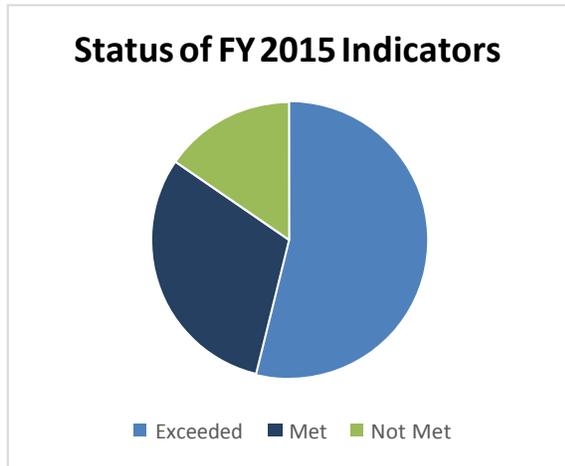
BIS also works to strengthen the export control systems of other countries, assess the viability of key sectors of the defense industrial base, review the national security impact of foreign acquisitions of U.S. companies, and assure the timely availability of industrial resources to meet national defense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

Section 3.4 Next Steps

The Bureau of Industry and Security will continue to hold a regular schedule of seminars and outreach events to educate exporters about export control requirements and compliance thereof. In addition to its premier conferences, the Update Conference on Export Controls and Policy, which is held annually in Washington, DC every, and the Export Control Forum, also held annually in California, BIS will co-sponsor approximately thirty other events scheduled for locations around the country. BIS will also continue to offer a wide variety of on-line educational offerings and electronic or in-person counseling.

Performance Indicator Information

Summary of Performance



Summary of Indicator Performance

- Of the 13 BIS performance indicators, 7 were Exceeded, 4 were Met and 2 were not met.
- Of the 13 BIS performance indicators, 7 have trend data. Of these indicators with trend data, 4 were positive and 3 were stable negative.

Summary of FY 2015 Indicator Performance

Indicator	Target	Actual	Status	Trend
Milestones Completed for Commerce Interoperability Framework - Number of Export Control Reform rules issued	4	9	Exceeded	
Milestones Completed for Commerce Interoperability Framework - Number of post shipment verifications (PSV) completed and categorized above the 'unfavorable' classification	315PSV	352PSV	Exceeded	
Number of Exporters Educated and Trained through Outreach Activities related to Export Control Reform	48,000	50,830	Exceeded	Not enough data
Number of Export Control Reform rules issued	4	9	Exceeded	Not enough data
Number of export transactions completed under the new authority of Commerce export licenses and license exceptions	80,000	126,798	Exceeded	Not enough data
Percent of licenses requiring interagency referral referred within nine days	98%	91%	Not Met	Stable
Percent of attendees rating seminars highly	93%	90%	Not Met	Positive
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	1,000	1,442	Exceeded	Positive
Percent of licenses requiring Information Triage Unit (ITU) report completed by Export Enforcement (EE) within ten Executive Order (EO) days of referral	90%	93%	Exceeded	Not enough data
Number of End-Use Checks (EUCs) completed	850	1,031	Exceeded	Positive
Number of post shipment verifications completed and categorized above the 'unfavorable' classification	315	352	Exceeded	Positive
Median processing time for new regime regulations (months)	2	2	Met	Stable
Percent of declarations received	100%	100%	Met	Stable

from U.S. industry in accordance with CWC time lines that are processed in time for the U.S. to meet treaty obligations				
Percent of electronic export information (EEI) transactions reported in the Automated Export System (AES) in compliance with the Export Administration Regulations (EAR)	99%	99%	Met	Not enough data
Percent of defense industrial base assessments completed within the time frame set forth in the Memorandum of Understanding (MOU) between the BIS and the survey sponsoring agency or entity.	100%	100%	Met	Not enough data

Detailed Indicator Plans and Performance

New or Recurring Indicators

Objective 1.2: Increase U.S. exports by broadening and deepening the U.S. exporter base

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 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Targets				4,000	28,000	48,000	48,000	48,000
Actual				4,000	69,948	50,830		
Status				Met	Exceeded	Exceeded		
Trend: Not enough information								
Explanation (if not met in FY 2015): NA								
Actions to be taken / Future Plans: None								
Adjustments to targets: None								
Information Gaps: 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 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Targets			7	4	4	4	
Actual			7	9	9		
Status			Met	Exceeded	Exceeded		
Trend: Not enough information							
Explanation (if not met in FY 2015): NA							
Actions to be taken / Future Plans: None							
Adjustments to targets: None							
Information Gaps: None							

Indicator: Number of export transactions completed under the new authority of Commerce export licenses and license exceptions

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 track shipments of such items made under the Automated Export System.

	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Targets					NA	80,000	100,000	150,000
Actual					42,837	126,798		
Status					NA	Exceeded		

Trend: Not enough information

Explanation (if not met in FY 2015): NA

Actions to be taken / Future Plans: None

Adjustments to targets: None

Information Gaps: 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 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Targets	95%	98%	98%	98%	98%	98%	98%	98%
Actual	90%	88%	97%	98%	98%	91%		
Status	Met	Not Met	Met	Met	Met	Not Met		
Trend: This is a maintain standard measure. Both the target and actual trends have remained stable.								
Explanation (if not met in FY 2015): BIS experienced an increase in attrition in FY 2015 that adversely impacted the organizations ability to meet the 98% metric. Too few people, more responsibilities, and we are losing people faster than we can hire behind								
Actions to be taken / Future Plans: None								
Adjustments to targets: None								
Information Gaps: 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 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Targets	85%	93%	93%	93%	93%	93%	93%	93%
Actual	94%	94%	93%	91%	91%	90%		
Status	Exceeded	Met	Met	Met	Met	Not Met		
Trend: Both the target and actual trends are positive.								
Explanation (if not met in FY 2015): In quarters 1 and 2, the specialized seminar on Encryptions Controls was given three times and received very low ratings – 49%, 71% and 88% favorable. EA has determined not to offer this again in half-day format, although that is requested by co-sponsors. The half-day seminar does not provide enough time to adequately familiarize attendees with this complex subject matter.								
Actions to be taken / Future Plans: None								
Adjustments to targets: None								
Information Gaps: 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 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Targets	850	850	850	850	1,100	1,000	1,000	1,000
Actual	806	1,073	1,162	1,403	1,473	1,442		
Status	Met	Exceeded	Exceeded	Exceeded	Exceeded	Exceeded		
Trend: Both the target and actual trends are positive.								
Explanation (if not met in FY 2015): NA								
Actions to be taken / Future Plans: None								
Adjustments to targets: None								
Information Gaps: 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 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Targets					90%	90%	90%	90%
Actual					96%	93%		
Status					Exceeded	Exceeded		

Trend: Not enough information

Explanation (if not met in FY 2015): NA

Actions to be taken / Future Plans: None

Adjustments to targets: None

Information Gaps: 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 and munitions items transferred from the USML to the new 600-Series CCL 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 items. 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 (where applicable) and the Export Administration Regulations (EAR). 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 43 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 the EAR. By conducting PSVs, BIS can provide a level of assurance that foreign end-users are aware of EAR requirements and comply with them. EUCs also identify diverted transactions and reveal untrustworthy end-users and intermediate consignees.

	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Targets	850	850	850	850	850	850	850	850
Actual	708	891	994	1,033	1,044	1,031		
Status	Not Met	Met	Exceeded	Exceeded	Exceeded	Exceeded		

Trend: Both the target and actual trends are positive.

Explanation (if not met in FY 2015): NA

Actions to be taken / Future Plans: None

Adjustments to targets: None

Information Gaps: None								
Indicator: Number of post shipment verifications completed and categorized above the 'unfavorable' classification								
Description: Post Shipment Verifications (PSVs) confirm whether items exported from the United States actually were received by the party named on the license or other export documentation, and whether the items 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 unauthorized end-users or for unauthorized end uses.								
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Targets	260 PSVs	315 PSVs	Delete					
Actual	256 PSVs	382 PSVs	343 PSVs	240 PSVs	344 PSVs	352		
Status	Met	Met	Met	Not Met	Met	Exceeded		
Trend: Both the target and actual trends are positive.								
Explanation (if not met in FY 2015): NA								
Actions to be taken / Future Plans:								
*Justification is below.								
Adjustments to targets: None								
Information Gaps: None								

*EE proposes to delete indicator "Number of post shipment verifications completed and categorized above the 'unfavorable' classification" for the following reasons:

- 1) Licensed PSVs are already part of a separate metric that OEA measures (850 EUCs).
- 2) Export Control Reform has resulted in more intense scrutiny of certain license applications through the application of a rigorous intelligence screen by the Information Triage Unit (ITU).
- 3) OEA has updated its end-use check targeting matrix to focus on higher risk export transactions.

The fact that licenses have already received a review by four agencies and may have also been subject to an ITU intelligence screen affords OEA (incl via OEE Sentinel trips) to focus EE's limited resources on transactions that have not received such scrutiny. However, the requirement to conduct more than 37% of our end-use checks annually on licensed transactions undermines BIS's ability to monitor higher risk transactions. The outcomes of the end-use checks this year bear this out. To date, 78% percent of all end use checks have been favorable, and 89% have been rated higher than unfavorable. However, 96% of all licensed PSVs have been rated favorably and 97% have been rated higher than unfavorable. That means we are spending 37% of our resources to identify 10 checks of compliance concern v non-licensed checks which have identified 133 transactions of compliance concern (i.e., 4% (licensed PSV) v 30% (all EUCs except licensed PSV) below favorable, respectively).

This doesn't mean we won't do such checks, some of which are mandated as part of the licensing process. But it wouldn't mandate the use of our resources for such checks when clearly other authorizations for export (e.g., license exceptions, NLR) have proven more valuable in terms of monitoring potential non-compliance with the EAR.

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 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Targets	3	2	2	2	2	2	2	2
Actual	3	2	2	2	2	2		
Status	Met	Met	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 2015): NA								
Actions to be taken / Future Plans: None								
Adjustments to targets: None								
Information Gaps: None								

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 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Targets	100%	100%	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. Both the target and actual trends have remained stable.								
Explanation (if not met in FY 2015): NA								
Actions to be taken / Future Plans: None								
Adjustments to targets: None								
Information Gaps: None								

Indicator: Percent of electronic export information (EEI) transactions reported in the Automated Export System (AES) in compliance with the Export Administration Regulations (EAR)

Description: This indicator evaluates how effective the BIS export control system is in ensuring that items exported and reported as electronic export information transactions in the AES are in compliance with the EAR. BIS will measure exporter compliance with the EAR by reviewing, on a quarterly and annual basis, the entire compilation of export transactions under the jurisdiction of BIS (i.e., BIS licensed, license exception and No License Required 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, compliance letters, and enforcement referral).

BIS anticipates that 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 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Targets						99%	99%	99%
Actual						99%		
Status						Met		

Trend: Not Enough Data

Explanation (if not met in FY 2015): NA

Actions to be taken / Future Plans: None

Adjustments to targets: None

Information Gaps: None

Indicator: Percent of defense industrial base assessments completed within the time frame set forth in the Memorandum of Understanding (MOU) between the BIS and the survey sponsoring agency or entity.								
Description: Percent of defense industrial base assessments completed within the time frame set forth by regulation or in MOUs between the BIS and the survey sponsoring agency or entity. The Office of Technology Evaluation (OTE) provides assessments to inform decisions in a way that maintains the competitiveness and economic viability of the health and competitiveness of the U.S. Defense Industrial Base and other industry sectors. In addition to conducting defense industrial base studies to meet this objective, OTE conducts technology assessments and foreign availability assessments that address the adequacy of current export controls, economic status of the relevant industry sector, foreign availability, and foreign country export control practices. Assessment topics can arise from discussions with other agencies, licensing offices, industry, technical advisory committees, or other sources. Completion is defined as building the survey, surveying respondents, collection, writing the report and publishing the report.								
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Targets						100%	100%	100%
Actual						100%		
Status						Met		
Trend: Not Enough Data								
Explanation (if not met in FY 2015): NA								
Actions to be taken / Future Plans: None								
Adjustments to targets: None								
Information Gaps: None								