

Oversight and Investigation

Question 1. In the annual financial statements audit for fiscal year (FY) 2014, external auditors identified some significant deficiencies, including information technology access, configuration management, and segregation of duties, controls, and accounting for Economic Development Administration (EDA) accrued grants. What specific actions have you taken to ensure that the Department addresses these significant deficiencies properly and swiftly?

Answer. The Department of Commerce (Department) takes its fiduciary responsibilities to this nation and its taxpayers very seriously. Even before the external auditors issued the final report, the Department had already started developing and implementing corrective actions. The Office of Financial Management (OFM) reviews each bureau's corrective action plans, making sure those actions properly and promptly addresses each deficiency. The plans are then sent to the Office of Inspector General for their official acceptance of the plans. The OFM then monitors the bureau's progress towards implementing the corrective action on a monthly basis, or more frequently if required, and randomly tests a sample of the completed actions to ensure that they are indeed complete. Additionally, the external auditors will retest areas found to be deficient as a means of validating the effectiveness of the corrective actions.

Rest assured that the highest levels of management are committed to ensuring the accuracy and integrity of the Department's financial statements.

Question 2. The Department of Commerce Office of Inspector General (OIG) has repeatedly identified significant flaws in security measures at the Department. Will you commit to working with the OIG and this Committee to address these outstanding deficiencies?

Answer. Cybersecurity is a very high priority for the Administration and the Department. I personally review our Department's progress on cybersecurity with my senior team monthly. The Department's Strategic Plan calls for an improvement in the Department's cybersecurity enterprise architecture, and the Department's Fiscal Year 2016 budget request supports activities that will bolster cybersecurity at the Department. We are currently in the process of deploying a Department-wide system for continuous monitoring of several key security controls, which will provide operational cybersecurity capability throughout the Department. Further, we have overhauled our cybersecurity risk management framework and have significantly enhanced policies relating to cybersecurity, including increasing authority of bureau Chief Information Officers over security for systems they don't directly manage and mandating professional certifications for IT professionals in certain security-related roles. As we continue to pursue opportunities to improve our security posture, we fully commit to working with OIG and this Committee to address security issues.

Question 3. In his written testimony at a February 25, 2015 hearing before the House Appropriations Committee, Subcommittee on Commerce, Justice, Science, and Related Agencies, Inspector General Todd J. Zinser mentioned a number of recent issues concerning OIG access and independence. Will you commit to providing the OIG with complete and timely access to all Department information and materials?

Answer. I take compliance and oversight very seriously, and deeply appreciate the critical role Inspector General offices play in improving management and preventing waste and abuse in the government. I am fully committed to working cooperatively with the Department's Inspector General on his oversight work and, as the Inspector General Act requires, providing full and open access to information the Inspector General needs to do his job.

Question 4. The OIG has identified "Providing Stronger Controls over Finances, Contracts, and Grants" as an area of concern for the upcoming year. What steps is the Department taking to eliminate sole-source contracting when there is inadequate justification for it and to bolster recordkeeping to ensure transparency and accountability?

Answer. The Department considers competition to be the cornerstone of an effective business strategy and promotes its use to the maximum extent practicable. The Deputy Senior Procurement Executive is designated as the Department Competition Advocate responsible for promoting full and open competition as well as challenging barriers to the acquisition of commercial items and full and open competition. In addition, each of the Department's Operating Units with authority to operate a contracting office has a designated Competition Advocate responsible for promoting competition at the Operating Unit level.

In Fiscal Year 2014, the Department demonstrated a continued commitment by achieving competition on 77% of its available competition base dollars. This is in part a result of several actions taken to achieve full and open competition in contracting operations, such as:

- Required review of sole source justifications for proposed actions up to \$650,000 by the Operating Unit Competition Advocate and by the Department's Competition Advocate for actions over \$650,000;
- Partnered with stakeholders in Industry Day events and pre-proposal conferences to increase emphasis on market research and competition;
- Briefed program directors and staff on the benefits of competition;
- Provided training to acquisition and program staff on effective market research and maximizing competition;
- Conducted acquisition reviews to evaluate the acquisition strategy of proposed contracts and promote the use of competition;
- Increased emphasis on improved acquisition planning and increased competition at all working levels;
- Established competition achievement goals and track performance on a monthly basis through the Department's Acquisition Council. The competition achievement metrics are also available real-time on the Secretarial Dashboard.

Question 5. How will you go about implementing a culture of accountability at the Department?

Answer. The Department takes its fiduciary responsibilities to this nation and its taxpayers very seriously and maintains a culture of accountability to ensure that we meet these fiduciary responsibilities. The Department's culture of accountability cascades from the top leadership of the Department to individual employees. Our culture of accountability starts at the top of the agency with the Executive Management Team (EMT) led by the Secretary and composed of the heads of the Department's bureaus. This group ensures that the Department is closely monitoring

its program and policy commitments and that bureaus are collaborating to optimize return on investment in the Department's programs.

The oversight provided by the EMT is supplemented by the same group sitting once a month as a review group to examine progress on specific Department Strategic Goals. Further, the Deputy Secretary meets monthly with the Goal Leads individually and as a group to discuss how plans and strategies should be evolving based on current developments.

One level down from the EMT is the Departmental Management Council (DMC). The DMC is led by the Deputy Secretary and composed of the Associate Director, Chief Operating Officer or equivalent career senior executive from each of the Department's bureaus, who are responsible for the day-to-day bureau operations and have an understanding of the management and budget resources that support bureau activities. The DMC focuses on increasing the efficiency and quality of mission support processes.

At a functional level, the Department has councils that provide oversight and accountability for the various functions, including the Chief Financial Officers Council, Chief Information Officers Council, Acquisitions Council, Grants Council, Enterprise Risk Management Council, the Performance Excellence Council and Human Resource Council. These councils review multi-bureau performance data related to their functional areas to facilitate preemptive action if processes depart from standards and/or targets. Risk management is supported by written policies and procedures that are facilitated by dedicated staff professionals.

Accountability for follow-up on Inspector General and Government Accountability Office findings is supported by a Department-wide tracking system used to monitor that timely action is taken on recommendations. At the functional level there are councils and groups responsible for ensuring accountability such as the internal controls Senior Assessment Team, which monitors corrective actions for internal and external financial management findings.

At the employee level, accountability is written into individual performance plans; for instance, employees responsible for the safeguarding of property have critical elements in their performance plans that address these duties. This accountability structure is mirrored at the bureau level.

Federal Records Act

The Federal Records Act (FRA) requires federal employees to preserve all records, including e-mails, documenting official government business. The National Archives and Records Administration (NARA) further clarified this requirement in 1995 by adopting regulations specifically requiring the preservation of official e-mails created on non-official accounts. The cornerstone of transparency, this clear and unambiguous requirement ensures that complete and accurate documentation of the business of federal departments and agencies is available for congressional inquiries, Freedom of Information Act (FOIA) requests, litigation, and historical research. Given reports about deficiencies in FRA compliance at several departments and agencies, please answer the following questions:

Question 6. Do you use an official government e-mail account for official business?

Answer. Yes. Pursuant to Department policy, the Secretary uses an official government email account for official business.

Question 7. Do you or any other senior Department officials use an alternate, alias, or other official account (apart from your primary official account) for official business? If so, is the Department's Chief FOIA Officer aware of this practice? Have you ever used a non-official e-mail account for official business? If yes, please explain your purpose and justification for this practice.

Answer. As previously noted, the Secretary uses an official government email account to conduct official business. As a general matter, senior Department officials use a single official email account for official business. Because of the volume of emails she receives, the Secretary, with the knowledge of the Department's FOIA Officer, maintains both an official email account published on the Department's website and administered by the Executive Secretariat for inquiries from the general public, as well as two additional official email accounts for other official communications.

For the same reason, the Office of the Deputy Secretary, the Office of the General Counsel, and certain other Department bureaus and operating units maintain official accounts managed by administrative staff for inquiries from the general public, and these accounts are distinct from the official Department email accounts that the associated senior officials use for their day-to-day communications.

In addition, for security reasons, certain senior officials traveling overseas may use mobile devices configured with travel accounts that are deliberately segregated from their primary email accounts. Finally, certain senior officials maintain secondary official email accounts that were created when their primary official accounts reached their storage capacity. Department officials' primary and alternate official email accounts are equally subject to FOIA.

Question 8. Are you aware of any other Department or Administration officials who use or have used non-official e-mail accounts for official business?

Answer. As a matter of practice and consistent with Department policy, the Secretary and other Department officials use official government email accounts to conduct official business. In answering this and other questions, we consulted with the Offices of the Chief Information Officers for the Department and its bureaus, generally addressing the timeframe from the Secretary's swearing-in through present. Based on this inquiry, we believe any use of non-official email by Department officials, including during emergencies or otherwise unusual circumstances, is minimal—and we are unaware of any widespread, ongoing use of non-official email by officials to conduct official business.

Separately, for a limited time following their September 2012 appointment, certain non-federal board members of the First Responder Network Authority ("FirstNet")—who were full-time employees of private and public-sector entities or otherwise engaged in non-federal activities, had limited access to federal communications devices, and worked only intermittently on FirstNet business—sent some communications from their non-federal email accounts. Personnel at the National Telecommunications and Information Administration, within which FirstNet is housed, as a matter of practice copied those board members' official government accounts when corresponding with them during this limited period of time. At present, board members generally

communicate using official federal email accounts, consistent with the practices described in the paragraph above.

Question 9. What steps have you taken to ensure the preservation of all federal records, including e-mails, at the Department in accordance with the FRA? Has the Department adopted the Capstone approach to managing e-mail, outlined in the September 14, 2014 memorandum to the heads of federal departments and agencies from the Office of Management and Budget and NARA? Have any Department employees using non-official e-mail accounts to conduct official business forwarded the e-mails to their official accounts within 20 days as required by law?

Answer. Various Department policies require the preservation of federal records, including emails, in accordance with the FRA and with NARA-approved general records schedules. The Department also maintains a comprehensive access and use policy prohibiting the use of personal email for official business. The Department publishes these policies on its intranet and conducts periodic records training for employees.

Like other federal agencies, the Department is working to implement recent Office of Management and Budget electronic records directives that agencies electronically manage email records by December 31, 2016—and electronically manage all records by December 31, 2019. In connection with these directives, the Department is working to implement a Capstone approach to email records management.

Question 10. What policies and procedures does the Department have in place to ensure that all employees comply with their FRA obligations? When was the most recent FRA training session offered to Department employees, including Senate-confirmed individuals?

Answer. As previously noted, the Department maintains various policies that require the preservation of federal records. They include comprehensive, Department-wide policies setting forth employees' obligations to preserve records, as well as an access and use policy prohibiting the use of personal email for official business. The Department publishes these policies on its intranet and conducts periodic records training for employees; for example, training on the access and use policy was conducted in early April 2015.

The Department's records training is handled at the bureau and operating unit level, with additional briefing on recordkeeping obligations occurring periodically at the Department Management Council level. Senate-confirmed employees receive records training on an individualized basis. Going forward, the Department intends to move toward a virtual and uniform records training based on the federal government-wide, NARA-sanctioned model that the Federal Records Officer Network is developing.

Question 11. Is any senior Department employee aware of any unlawful or accidental removal, alteration, or destruction of electronic federal records in the Department's custody or control, including e-mails? If so, has the Department reported these incidents to NARA? Please provide details of any such incidents, including the dates, number and type of records, and custodians involved, as well as any reports, including dates, made to NARA.

Answer. Based on the consultation described in response to question three, we are unaware of the unlawful or accidental removal, alteration, or destruction of electronic federal records in the Department's custody or control.

Question 12. Are you or any Department official aware of any Department employee's use of a private or independent e-mail server to conduct official business? If yes, who approved its use? What was the rationale or justification for its use?

Answer. Based on the consultation described in response to question three, the Department is not aware of any Department employee's use of a private or independent email server to conduct official business. As noted, Department policy requires employees to use official email accounts to conduct official business.

Question 13. Has the Department received any inquiries from employees about the permissibility of using a private or independent e-mail server to conduct official business? If yes, who made the inquiry and what was the response?

Answer. Based on the same consultation described above, the Department is likewise unaware of any inquiries from employees regarding the permissibility of using a private or independent email server to conduct official business.

Bureau of Economic Analysis

Question 14. BEA Relocation to Suitland Federal Center: The President's budget seeks a \$14 million increase in FY 2016 for the Bureau of Economic Analysis (BEA), the agency best known for producing the nation's quarterly gross domestic product (GDP) numbers. Among the requests for additional funding for this agency is \$4.3 million for relocating the agency to the Suitland Federal Center. Will this relocation result in long term savings for the taxpayer?

Answer. Yes, we project the accumulated renovation and rent savings over a ten year period to be greater than \$65 million. The Bureau of Economic Analysis (BEA) is currently under a short-term lease extension at 1441 L Street NW, Washington, D.C. that expires in June, 2016. As part of establishing a new long-term lease, the General Services Administration (GSA) looked at options to (1) build out and relocate to a new facility or (2) reconfigure its current facility to a smaller footprint. The GSA estimated these costs at approximately \$16 million. BEA requested \$8 million in FY 2015 to partially pay for this one-time required build-out, and planned to request the remaining \$8 million in FY 2016. The Department, in conjunction with the Office of Management and Budget (OMB) and the General Services Administration (GSA), has decided to move BEA to Suitland, MD and co-locate them with the Census Bureau. Operationally, this makes sense. The Census Bureau provides 66 percent of the data that BEA uses to generate GDP. We know that our customers want, and will benefit from, data that is more timely and in greater detail regarding region and industry. Bringing these two operating units closer together will help us better deliver our important mission through greater collaboration. Financially, this relocation will result in long term tax savings. BEA will reduce the one time renovation costs by approximately \$8 million and its rent will be cut by \$2.5 million a year. Additionally, Census annual rent will be reduced by \$3.5 million based on the rent paid by BEA.

Question 15. BEA Energy Satellite Account: As previously noted, the President's budget requests a \$14 million increase in FY 2016 for the BEA. Among the requests for additional funding for the BEA is \$2 million to develop what's referred to as an "Energy Satellite Account" that will focus on national and regional energy production in the U.S., the use of energy goods and services by consumers and businesses in the U.S., and energy prices, among other things.

Doesn't this initiative duplicate what the Energy Information Administration is already doing? How is this proposed expenditure not a duplication of the efforts of the Energy Information Administration?

Answer. No, it does not duplicate existing efforts at the Energy Information Administration (EIA); it complements and builds upon those efforts. Energy statistics produced by the EIA are not intended to provide the full macroeconomic picture for the sector, such as the sector's contribution to U.S. economic growth, productivity, and jobs and wages. Moreover, the EIA data do not provide for the ability to compare and contrast important sectors in the economy—for example, the energy sector's economic performance in relation to the manufacturing sector or to the financial sector. EIA's very detailed energy data is important for understanding specific changes in energy production and consumption, such as changes in barrels of crude or refined petroleum, or spot prices for oil. These detailed energy data are important for forecasting certain things like future energy consumption, production, or world oil prices.

In contrast, BEA's proposed energy satellite account will pull together estimates on the economic performance of the energy sector and its supply chain, including the energy sector's contribution to the change in Gross Domestic Product (GDP). The satellite account will bring together existing and new sources of data into a coherent estimation framework and presentation, consistent with GDP, that will shed new light on the performance of the sector—from oil and gas extraction, to specialized manufacturing that provides the capital equipment necessary to produce energy, to refining, to the delivery of energy goods and services to businesses and people.

Question 16. Proposal for a BEA Broadband Satellite Account: With the Federal Communications Commission recently voting to encumber the Internet with Depression-era Title II regulation, I'm concerned that that, over time, we will observe a noticeable diminishment of investment by Internet service providers to improve upon and innovate within their networks. I recognize there is disagreement on this issue. That is why I think it's particularly important for the BEA to measure the impact of broadband investment on GDP over the next several years. Would you support establishing a broadband satellite account at BEA to measure the impact of broadband investment on GDP?

Answer. We would be happy to explore this idea with you, and also provide a brief description of the currently available information from BEA that may be helpful.

BEA's fixed asset accounts provide information on capital investment for the "broadcasting and telecommunications" industry, which includes broadband activity. The fixed asset accounts provide estimates of capital investment, net stock of assets, depreciation, and average ages of the stock of assets for types of equipment, structures, and intellectual property assets of the broadcasting and telecommunications industry. These estimates can be used to track changes in investment over time for this industry.