



United States Department of State
and the Broadcasting Board of Governors

Inspector General

Re: OIG FOIA Case No. 08-00015-FOI

Mr. Matt Schroeder
Manager
Federation of American Scientists
1725 DeSales Street - 6th Floor
Washington, DC 20036

Dear Mr. Schroeder:

This is in response to your Freedom of Information Act (FOIA), 5 U.S.C. § 552, request dated January 22, 2008, submitted to the Office of Information Programs and Services (IPS), U.S. Department of State. Your request was forwarded to the Office of Inspector General (OIG) for action on February 15, 2008.

You requested a copy of the report titled: Review of Department of State's End-Use Monitoring of Munitions Exports (AUD/PR-03-31, March 2003) and any segregable unclassified information not already available in the public domain.

OIG conducted a search and located 281 documents responsive to your request. One document is being released to you in part, redacted under FOIA exemption (b)(2). Nine documents have been referred to another agency for review and direct response to you. The remaining documents, consisting of work papers are being withheld in their entirety, pursuant to FOIA exemption (b)(5). We have also enclosed a separate sheet explaining the exemptions.

You may appeal this decision within 60 days to the Chairman of the Appeals Panel of the U.S. Department of State as explained in the enclosed regulation. Appeals should be addressed to: Chairman, Appeals Review Panel, Attention: Appeals Officer, A/ISS/IPS/PP/LC, Room 8100, State Annex 2 (SA-2), U.S. Department of State, Washington, D.C. 20522-8100.

Sincerely,

Harold W. Geisel
Acting Inspector General

Enclosures: As stated

UNCLASSIFIED
~~SENSITIVE BUT UNCLASSIFIED~~

**United States Department of State
and the Broadcasting Board of Governors
Office of Inspector General**

RELEASED IN PART
B2

01

Office of Audits

**Review of Department of State's
End-Use Monitoring of
Munitions Exports**

Memorandum Report Number AUD/PR-03-31, March 2003

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: THEODORE SELLIN
DATE/CASE ID: 24 APR 2009 200805885

~~IMPORTANT NOTICE~~

~~This report is intended solely for the official use of the Department of State or the Broadcasting Board of Governors, or any agency or organization receiving a copy directly from the Office of Inspector General. No secondary distribution may be made, in whole or in part, outside the Department of State or the Broadcasting Board of Governors, by them or by other agencies or organizations, without prior authorization by the Inspector General. Public availability of the document will be determined by the Inspector General under the U.S. Code 5 U.S.C. 552. Improper disclosure of this report may result in criminal, civil, or administrative penalties.~~

UNCLASSIFIED
~~SENSITIVE BUT UNCLASSIFIED~~

1

Office of Inspector General



UNCLASSIFIED



United States Department of State
and the Broadcasting Board of Governors

Inspector General

PREFACE

This report was prepared by the Office of Inspector General (OIG) pursuant to the Inspector General Act of 1978, as amended, Section 209 of the Foreign Service Act of 1980, the Arms Control and Disarmament Amendments Act of 1987, and the Department of State and Related Agencies Appropriations Act, FY 1996. It is one of a series of audit, inspection, investigative, and special reports prepared by OIG periodically as part of its oversight responsibility with respect to the Department of State and the Broadcasting Board of Governors to identify and prevent fraud, waste, abuse, and mismanagement.

This report is the result of an assessment of the strengths and weaknesses of the office, post, or function under review. It is based on interviews with employees and officials of relevant agencies and institutions, direct observation, and a review of applicable documents.

The recommendations therein have been developed on the basis of the best knowledge available to the OIG, and have been discussed in draft with those responsible for implementation. It is my hope that these recommendations will result in more effective, efficient, and/or economical operations.

I express my appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in cursive script, reading "Anne M. Sigmund".

Anne M. Sigmund
Acting Inspector General

UNCLASSIFIED

~~SENSITIVE BUT UNCLASSIFIED~~

OFFICE OF AUDITS

REVIEW OF DEPARTMENT OF STATE'S END-USE
MONITORING OF MUNITIONS EXPORTS

MEMORANDUM REPORT NUMBER AUD/PR-03-31

MARCH 2003

~~SENSITIVE BUT UNCLASSIFIED~~
UNCLASSIFIED

UNCLASSIFIED

~~SENSITIVE BUT UNCLASSIFIED~~

INTRODUCTION

In the aftermath of the September 11, 2001, terrorist attacks in the United States, there has been an increased focus and attention worldwide on transfers of militarily sensitive technology -- particularly diversions to countries and entities of concern. Efforts to monitor exports of defense-related articles and services on the U.S. Munitions List (USML) and to ensure compliance with U.S. export laws have been complicated by the loosening of restrictions on military assistance and sales to foreign countries.

The gray arms trade, which is the illegal transfer of exports to end-users inimical to U.S. interests after the initial transaction was conducted through legitimate channels, is a continuing problem that is difficult to detect. The Department of State (Department) licenses U.S. private commercial sales of defense-related articles and services and is required by law to notify Congress of export violations or unauthorized transfers. OIG reviewed the adequacy and effectiveness of the Department's export enforcement and compliance activities.

~~SENSITIVE BUT UNCLASSIFIED~~
UNCLASSIFIED

~~SENSITIVE BUT UNCLASSIFIED~~

SCOPE OF REVIEW

Section 1402 of the National Defense Authorization Act for FY 2000 (Pub. L. No. 106-65),¹ Annual Report of Transfers of Militarily Sensitive Technology to Countries and Entities of Concern, requires the Inspectors General (OIG) of the Departments of Commerce, Defense, Energy, and State to audit U.S. government policies and procedures for the export of technologies and technical information to countries and entities of concern. These annual reviews require that OIGs submit a report by March 30 of each year beginning in 2000 and ending in 2007. The focus of the March 2003 report is enforcement of export control laws. The interagency review team consisted of OIG staff from the Departments of Commerce, Defense, State, and Treasury, as well as the U.S. Postal Service and Central Intelligence Agency. Each OIG reviewed its agency-specific practices and procedures, directives, policies, regulations, and laws regarding export enforcement and compliance. Each OIG produced an individual agency report and contributed to an interagency report summarizing overall observations.

This report addresses the Department's monitoring of commercial defense trade exporters of items on the USML and related compliance activities. OIG specifically evaluated the effectiveness and reliability of the Department's end-use check process, also known as the Blue Lantern Program (BLP), for Fiscal Years 2001 and 2002. In addition, the Department's OIG, in conjunction with Treasury OIG, reviewed the enforcement of export regulations under a cooperative agreement between the Department and the U.S. Customs Service (U.S. Customs).

OIG interviewed Department officials and reviewed program guidance and relevant source documents at the Bureau of Political-Military Affairs, Directorate of Defense Trade Controls (PM/DDTC).²

OIG interviewed embassy

¹ 22 U.S.C. 2778 note (2003).

² The title and structure of the former Office of Defense Trade Controls changed as of January 16, 2003. The new title and structure of the organization are reflected in OIG's report.

UNCLASSIFIED

~~SENSITIVE BUT UNCLASSIFIED~~

officials involved in the end-use monitoring program and reviewed pertinent documents. The Department's OIG participated in domestic fieldwork conducted by the Treasury OIG

B2

OIG's Office of Audits, Program Reviews Division, conducted the audit work between May 2002 and January 2003 in accordance with generally accepted government auditing standards. Contributors were Luther Atkins, acting assistant inspector general for audits; Robert Wurster, division director; Lynda Kyte, audit manager; Carolyn Jones and Monique Taylor, senior auditors; and Janice McCain, senior management analyst.

~~SENSITIVE BUT UNCLASSIFIED~~
UNCLASSIFIED

~~SENSITIVE BUT UNCLASSIFIED~~

RESULTS OF REVIEW

Section 150 of the Arms Export Control Act of 1976, as amended (Pub. L. No. 104-164),³ End-Use Monitoring of Defense Articles and Defense Services, provides that, to the extent practicable, the President shall establish a program for the end-use monitoring of defense articles and services to identify high-risk exports for regular end-use verification. The program, commonly referred to as the Blue Lantern Program, shall be designed to provide reasonable assurance that the recipient is complying with U.S. government requirements and that such articles and services are being used for the purposes intended.

OIG found that the Office of Defense Trade Controls Compliance (compliance office) targets end-use monitoring and verification for only a small number of license applications and approved licenses.

[REDACTED]

[REDACTED] Regular end-use verification of high-risk exports does not occur because the BLP is limited to only select licenses that generate cause for concern.

Overseas, OIG observed that end-use monitoring is not consistently implemented. Site visits to foreign consignees (host country commercial businesses purchasing munitions through U.S. companies) and end-users (typically, host government military services) did not occur at four of the nine missions OIG visited. OIG believes that improved BLP guidance and direction are needed, especially with regard to the requirements for conducting site visits. In addition, better reporting and communication are needed on the results of end-use checks.

OIG also noted that export monitoring and enforcement are limited at U.S. ports.

[REDACTED]

[REDACTED] However, OIG found that the Department and Customs do coordinate effectively

³ 22 U.S.C. 2785 (2003).

B2

B2

UNCLASSIFIED

~~SENSITIVE BUT UNCLASSIFIED~~

when questions arise about whether items require an export license. OIG believes that the Department could enhance its export enforcement process by providing additional training to U.S. Customs' inspectors on the identification of USML items.

OIG recommendations include increasing the number of end-use checks and site visits performed, providing additional BLP guidance and compliance office direction with regard to site visits, and improving the reporting and communication on the results of end-use checks. PM/DDTC provided comments on the report, which are included in their entirety in Appendix A. A synopsis of PM/DDTC's response and OIG's analysis is provided after each recommendation in the report. The DDTC's managing director noted that the report is a valuable tool in increasing the effectiveness of the program, agreeing with seven of the nine report recommendations. PM/DDTC plans to undertake measures to improve the program, with the caveat that some of OIG's recommendations may be difficult to implement with current resources, particularly staffing.

~~SENSITIVE BUT UNCLASSIFIED~~
UNCLASSIFIED

UNCLASSIFIED

~~SENSITIVE BUT UNCLASSIFIED~~

BACKGROUND

The United States provides various forms of military assistance to foreign governments, including sales of defense-related articles and services. Foreign governments negotiate military sales directly with the U.S. government, or foreign purchasers can pursue direct commercial sales through private U.S. companies that apply for an export license from the Department. The Arms Export Control Act of 1976, passed in response to escalating arms sales in the 1970s, set up procedures to regulate foreign military and direct commercial sales.

The Department initiated the BLP in 1990 to help verify the legitimacy of export transactions and the end-use of exports on the USML. PM/DDTC is charged with enforcing the Arms Export Control Act and its implementing regulations, the International Traffic in Arms Regulations.⁴ The latter contains the USML and specifies the conditions under which munitions may be exported.

The Office of Defense Trade Controls Licensing (licensing office) reviews all munitions export control license applications for approval and refers applications to other agencies and bureaus for further review as needed. The aforementioned compliance office has a research and analysis branch, which administers the BLP and maintains a watch list. The watch list consists of thousands of parties whose appearance on or association with a registration, export license application, or other requests for approval triggers closer examination. The list, which is constantly updated, is compiled from a number of sources. The compliance office also prepares reports to Congress when diversions or unauthorized transfers of USML items have occurred.

The compliance office initiates end-use or BLP checks for pre-license applications and approved licenses. The Department uses the BLP to conduct checks of suspicious license applications before issuing an export license. BLP also confirms receipt of a shipment where there is a need to establish proof of proper end-use.

⁴ 22 C.F.R. Subchapter M (2003).

~~SENSITIVE BUT UNCLASSIFIED~~
UNCLASSIFIED

UNCLASSIFIED

~~SENSITIVE BUT UNCLASSIFIED~~

The routine process the licensing office uses to review pre-license applications begins with a U.S. company or entity submitting a hard or electronic copy of the license application. Other routine review procedures include researching the watch list, referring the license to other bureaus or federal agencies for review, and discussing concerns during staff meetings with other licensing and compliance officers. During the pre-license review process, a licensing officer may recommend a BLP end-use check to the research and analysis branch of the compliance office. Approximately 30 percent of pre-license applications are referred outside the licensing office for technical, national security, and foreign policy reviews. Any of these other Department bureaus or federal agencies may place restrictions or limitations on the USML items to be exported, recommend that the licensing officer deny the license, or recommend a BLP end-use check.

Either the licensing or compliance office may also initiate a BLP post-license shipment check when new information has come to their attention that warrants more in-depth review. This new information is generally added to the watch list. Compliance officers also select licenses that were previously selected for a BLP pre-license check. According to the BLP handbook:

Commodity shipments often take several weeks to be made and, in cases that Licensing Officers have determined do not warrant holding up a license for a pre-license check, it may be preferable to verify the transaction before or soon after the commodities are shipped.

The compliance office maintains an automated watch list of suspicious organizations and entities of concern for use in the review of all export license applications and licenses selected for end-use monitoring. The watch list provides valuable information for licensing officers, compliance officers, and enforcement personnel, primarily during the pre-license approval and end-use check processes. Licensing and compliance officers make entries in the watch list for entities identified as having problems. Derogatory information in the watch list about an organization or individual can serve as a basis for conducting a BLP end-use verification check.

~~SENSITIVE BUT UNCLASSIFIED~~
UNCLASSIFIED

~~SENSITIVE BUT UNCLASSIFIED~~

FINDINGS

End-use Monitoring Is Targeted to a Small Number of Export License Applications and Approved Licenses

The compliance office uses a limited, targeted approach to verify the legitimacy of licensing transactions and end-users. Specifically, the office conducts end-use checks only on those licenses that generate cause for concern or that are recommended by licensing and compliance officers, Department bureaus, or other federal agencies. According to the BLP handbook, the compliance office is to use an analytical approach with statistical methods to accomplish the licensing and compliance mission. Annual reports to Congress also imply that the office uses a statistical approach and process. Using the limited, targeted approach, however, results in a very small number of export licenses being subjected to a BLP end-use check.

B2

In FY 2001, the licensing office reviewed approximately 46,000 license applications. According to the former director of PM/DDTC, about 35,000 of those applications were for munitions shipped to foreign countries.

B2

A senior compliance official told OIG that he would like to see more checks done, but he believed that this would place a burden on embassy personnel. Most of the BLP coordinators interviewed overseas, however, told OIG that they believed the end-use monitoring program was worthwhile, took up less than five percent of their overall workload, and did not interfere with any primary duties.

B2

⁵ The remaining 11,000 included license approvals for the transfer of technology to foreign nationals within the United States. See OIG, *Department of State Controls Over the Transfer of Militarily Sensitive Technologies to Foreign Nationals From Countries and Entities of Concern (00-CI-008, Mar. 2000)* for more details.

SENSITIVE BUT UNCLASSIFIED

[Redacted]

B2

Recommendation 1:

[Redacted]

B2

The Office of Defense Trade Controls Compliance agreed with this recommendation and

[Redacted]

B2

End-use Monitoring Overseas Is Not Consistently Implemented

The compliance office's end-use check program is not limited to any specific commodity, export dollar value, level of technological sophistication, or region of the world. In FY 2001, the compliance office performed one or more end-use checks in 72 countries. To evaluate how effectively the BLP was being implemented abroad, OIG visited nine missions with a high export dollar value for USML commercial imports (see table 1) and a relatively high number of end-use checks.

[Redacted]

B2

Overall, OIG found that the overseas program was not being implemented consistently. Some areas for improvement that OIG identified were: using an embassy team approach, assigning a Department official as the BLP coordinator,

[Redacted]

B2

[Redacted] and improving the guidance and direction from the compliance office on specific cases in which a site visit would be advised or mandated.

~~SENSITIVE BUT UNCLASSIFIED~~

Table 1: Value of Approved Licenses in Countries Under Review

Country or Mission OIG Visited	Dollar Value of Approved Licenses (rounded in millions)	
	FY 2001	FY 2002
[REDACTED]		
Total for nine missions	\$6,246.0	\$6,203.1
Total for all missions	\$17,204.0	\$16,000.8

Note: Totals may not sum owing to rounding.
Source: PM/DDTC's Office of Defense Controls Compliance.

Blue Lantern Coordinator Assignment and Program Implementation Vary

Each embassy (or mission) designates an action officer to serve as the BLP coordinator. The BLP coordinators at the missions OIG visited included four economic officers, two political-military officers, two Customs officers,⁶ and one regional security officer. OIG found that the coordinator's approach to implementing the BLP varied from country to country. Some coordinators conducted checks by themselves, while others obtained assistance from Foreign Service nationals (FSN), U.S. military personnel, and Foreign Commercial Service (FCS) officers. Some coordinators performed site visits, and others did not.

OIG found that [REDACTED] had adopted a best practice -- a country team approach -- in responding to requests from the compliance office for BLP checks. For instance, after reviewing the cable requesting a BLP check, the coordinator [REDACTED] assigned the case to the most knowledgeable U.S. Customs, defense, regional security, or [REDACTED]

⁶ During the first period of OIG's review, the action officer [REDACTED] was a Customs officer; an economic officer was assigned that responsibility in August 2002.

B2

B2

B2

SENSITIVE BUT UNCLASSIFIED

consular officer. According to this coordinator, it made sense for those that had the contacts with the host-country military, police, and customs officials to perform the end-use check. [redacted] the BLP coordinator worked with officers in the FCS. An FSN performed the site visits along with a junior economic officer.

B2

OIG believes that coordination among embassy elements is important because the BLP coordinator:

- may need firsthand knowledge of the military equipment being exported;
- may not have the military or commercial contacts for case development; or
- may need greater access to appropriate information elsewhere in the mission.

For example, the BLP coordinators in [redacted] typically consult with the embassy's FCS office to check what information is available on foreign consignees (i.e., the local companies involved in the transaction). FCS officers also have access to the Department of Commerce's database on commercial businesses and entities.

B2

During our visit to [redacted] OIG observed that no Department official was assigned to the BLP. The embassy relied on the U.S. Customs official in Seoul to conduct the BLP end-use checks. Because the U.S. Customs official did not have access to the Department's cable system, the facsimile was used to correspond with the compliance office in Washington. Having the U.S. Customs office solely responsible for the BLP increases the risk of missed communications with the compliance office. It may also preclude key Department officials at the embassy from bringing relevant knowledge to a particular end-use check.

B2

In a previous report, OIG recommended that the compliance office advise missions that a Department official is to be designated as the BLP official responsible for coordinating end-use checks with other organizations and for ensuring that the checks are completed.⁷ The annual cable from the compliance office to missions directs them to designate a Department official as

⁷ See OIG, *The Federal Government's Export Licensing Processes for Munitions and Dual-Use Commodities* (Sept. 1993).

~~SENSITIVE BUT UNCLASSIFIED~~

the BLP action officer, although other embassy personnel may, in fact, conduct the check. Although U.S. Customs is doing an adequate job conducting BLP end-use checks at Embassy Seoul, OIG believes that having a Department official as the BLP coordinator is essential for implementing and reporting on this program.

Recommendation 2: The Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, should ensure that the Blue Lantern Program Handbook encourages missions to adopt the team approach used by which was a best practice.

B2

The Office of Defense Trade Controls Compliance agreed on the benefits of the team approach for many overseas missions. It will continue to emphasize this approach where appropriate and to depend on individual embassies to tailor the BLP to local conditions. OIG noted that for the embassies it visited that had an implementing BLP plan -- as required by the compliance office -- the team approach was not mentioned. These embassies could benefit from additional guidance provided by the compliance office.

Recommendation 3: The Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, should ensure that at each relevant embassy, a Department official is designated as the coordinator for the Blue Lantern Program, although other embassy personnel may in fact conduct the checks.

The Office of Defense Trade Controls Compliance agreed on the value of having a Department official as the BLP point of contact. It will continue to encourage the designation of an appropriate Department official as the BLP coordinator to the extent possible.

~~SENSITIVE BUT UNCLASSIFIED~~

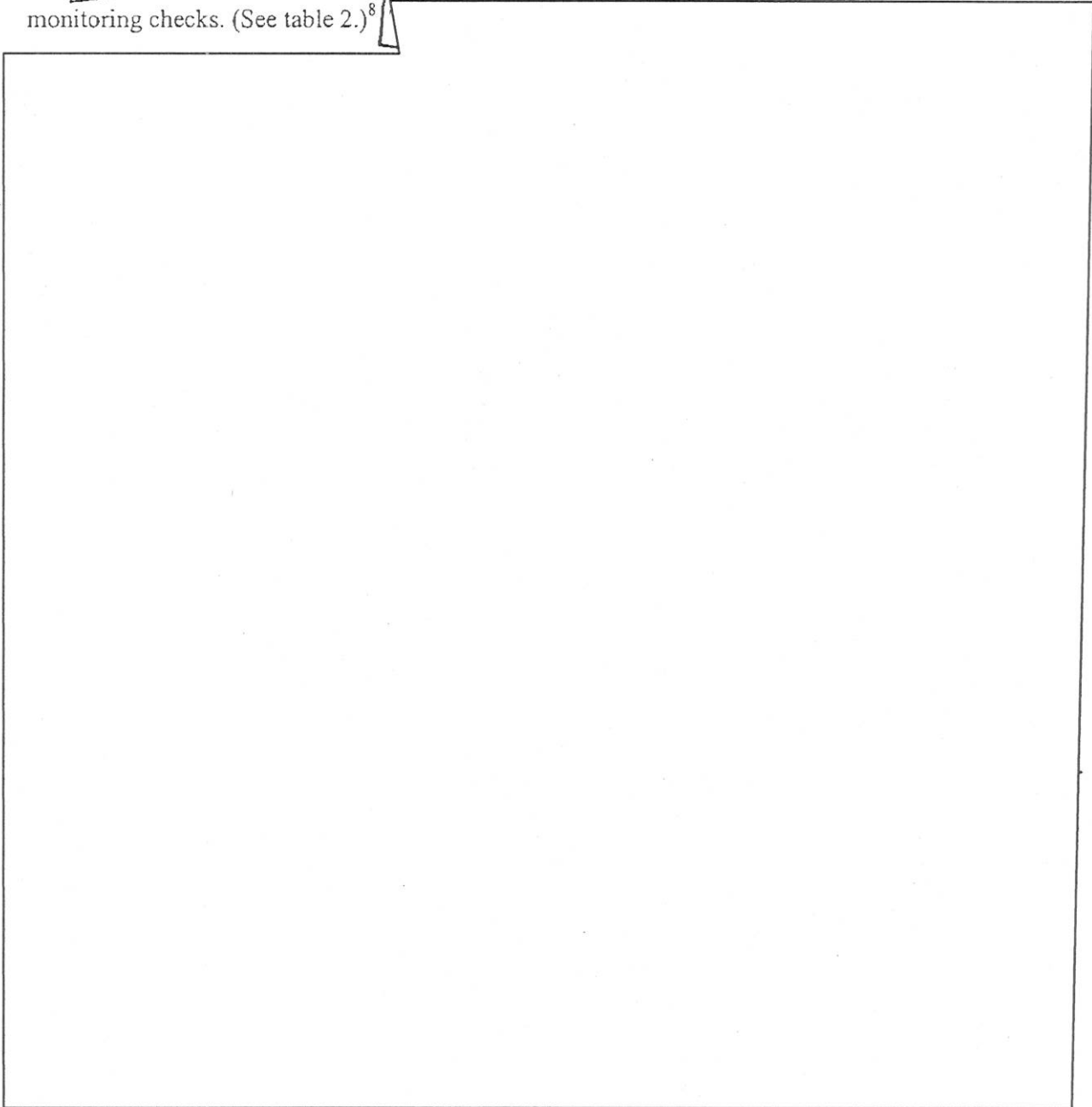
Site Visits Are Not Always Conducted

OIG found that four of the nine BLP coordinators overseas - [redacted]

B2

[redacted] did not perform site visits as part of the compliance office's requested end-use monitoring checks. (See table 2.)⁸ [redacted]

B2



⁸ The BLP coordinators in [redacted] received special recognition from the compliance office for outstanding work in FY 2001, as did several other country coordinators.

B2

~~SENSITIVE BUT UNCLASSIFIED~~

[REDACTED] However, OIG noted that cables from the compliance office did not request site visits for any of the BLP cases reviewed.

B2

Senior officials in the compliance office told OIG that they were surprised that some BLP coordinators did not perform site visits. These officials indicated that site visits should be part of the end-use check procedures, especially for post-shipment. Nevertheless, BLP guidance and cable telegrams generally did not state that embassies should conduct site visits. One senior PM/DDTC official said that the guidance could be more specific, although each country has unique political considerations. OIG believes that BLP coordinators should inform the compliance office when they encounter difficulties in conducting site visits as part of a host government end-use check. The compliance office could decide, in those instances, whether to waive the site visit requirement and, if so, document the reasons.

OIG believes that the quality of the end-use check performed by U.S. officials is enhanced when a site visit is conducted.

B2

[REDACTED]

[REDACTED]

B2

~~SENSITIVE BUT UNCLASSIFIED~~

B2

Guidance and Direction Unclear on the Need for Site Visits

The BLP handbook prescribes the procedures for implementing end-use checks of USML items. ² OIG found, however, that the handbook's requirements were not clear on the need for BLP coordinators to conduct physical checks to:

- verify the legitimacy of the foreign consignee or local company involved in the commercial transaction;
- affirm that the USML commodity was going to the authorized end-user; and
- inspect the USML commodity to determine that it was being used as intended by the end-user. (This is applicable to post-shipment checks only.)

The handbook stated that the compliance office "has found it impractical to specify strict procedures for conducting end-use checks, due to the differences in the countries engaged in defense trade with the United States." OIG also noted that correspondence from the compliance office to overseas coordinators rarely specified the need for a site visit, even when the end-use check was categorized as a high priority.

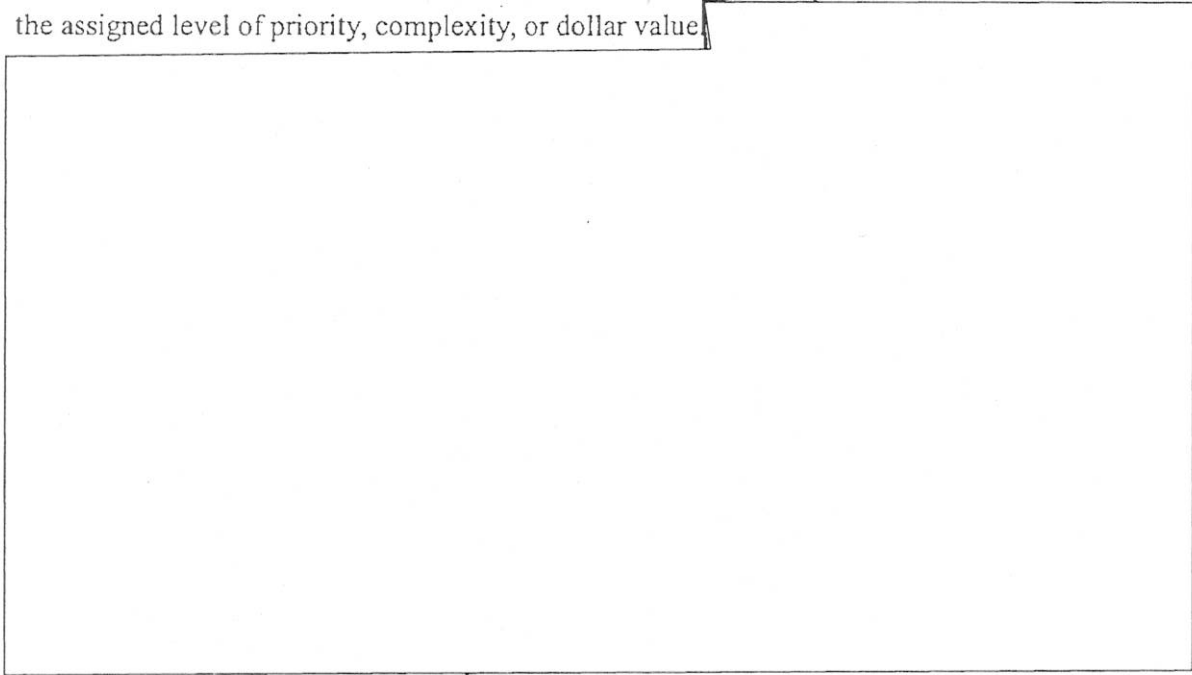
The handbook describes three levels of priority and complexity, with level one being the highest priority and level three the lowest. For example, the guidance states that level-three cases are the most routine, and usually require checking the legitimacy of a foreign consignee or firm as part of the transaction. The vast majority of checks are at this level. The handbook

⁹ In *Report of Audit on Export Licensing* (99-CI-018, June 1999), OIG responded affirmatively about whether the U.S. government still uses FSNs to conduct either pre-license or post-shipment licensing activities and whether such a practice is advisable. However, OIG also stated that the use of an FSN should be determined on a case-by-case basis.

SENSITIVE BUT UNCLASSIFIED

further notes that, in some cases, physical examination of the business premises is useful for level-three checks. The guidance also states that for level-two cases, a physical inspection of the commodity is often not required; however, an onsite visit by the BLP action officer or local authorities may be appropriate. Also if a post-shipment verification is requested, the action officer should always attempt to view the actual item to establish that the intended party received it and to ensure that it was being used in accordance with the terms and conditions of the license. There is no mention of a site visit for the level-one cases, although they are the highest priority and involve specific information about actual or potential illegal retransfers or diversions.

OIG found that embassies conducted end-use checks in the same manner, regardless of the assigned level of priority, complexity, or dollar value.

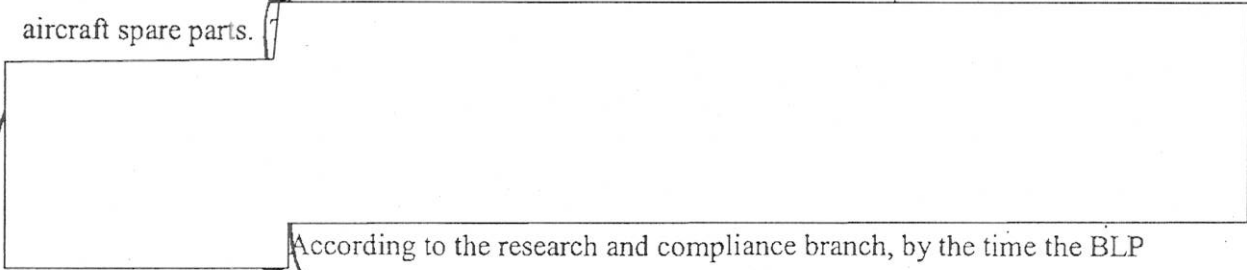


B2

The handbook guidance specifies that the assigned BLP levels are important in categorizing the degree of importance and level of response required from the mission. However, the handbook also states that its guidance does not take the place of the specific questions in the action paragraph of a BLP cable request from the compliance office. The guidance clarifies that specific questions and concerns in the cable should dictate the direction and scope of the end-use checks. Nevertheless, for the nine missions visited, OIG found only one request by the compliance office that a site visit be conducted during the period of its review.

~~SENSITIVE BUT UNCLASSIFIED~~

The request to Embassy Manila was for a BLP post-shipment check on a \$2 million license for aircraft spare parts.



According to the research and compliance branch, by the time the BLP coordinator responded to the compliance office's request for information, the license had expired.

In contrast, OIG found that the Department of Commerce's guidance for conducting end-use checks for dual-use items was clear, concise, and very detailed. Site visits are mandated for all dual-use item checks, and a U.S. official is required to attend. Commerce's guidance also addresses how to handle restrictions by host governments. The U.S. official in the country is responsible for notifying Commerce of any local restrictions preventing officers from performing a complete and accurate check.

Recommendation 4: The Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, should specify in its cable to the Blue Lantern coordinator when a site visit is required.

Recommendation 5: The Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, should revise its Blue Lantern Program Handbook to require site visits and physical inspections as part of end-use checks, unless prohibited by host government laws.

The Office of Defense Trade Controls Compliance agreed on the importance of site visits where appropriate and will seek to clarify when site visits are advisable in requests to overseas missions. However, the compliance office disagrees with making site visits mandatory, noting that in some countries performing a BLP site visit can be illegal. OIG discussed the feasibility of performing site visits with the BLP coordinators visited overseas. Legality was not an issue for any of the countries visited according to the coordinators, who noted that visits to foreign

~~SENSITIVE BUT UNCLASSIFIED~~

consignees would not be a problem.

B2

Better Reporting and Communication Are Needed on the Results of End-Use Checks

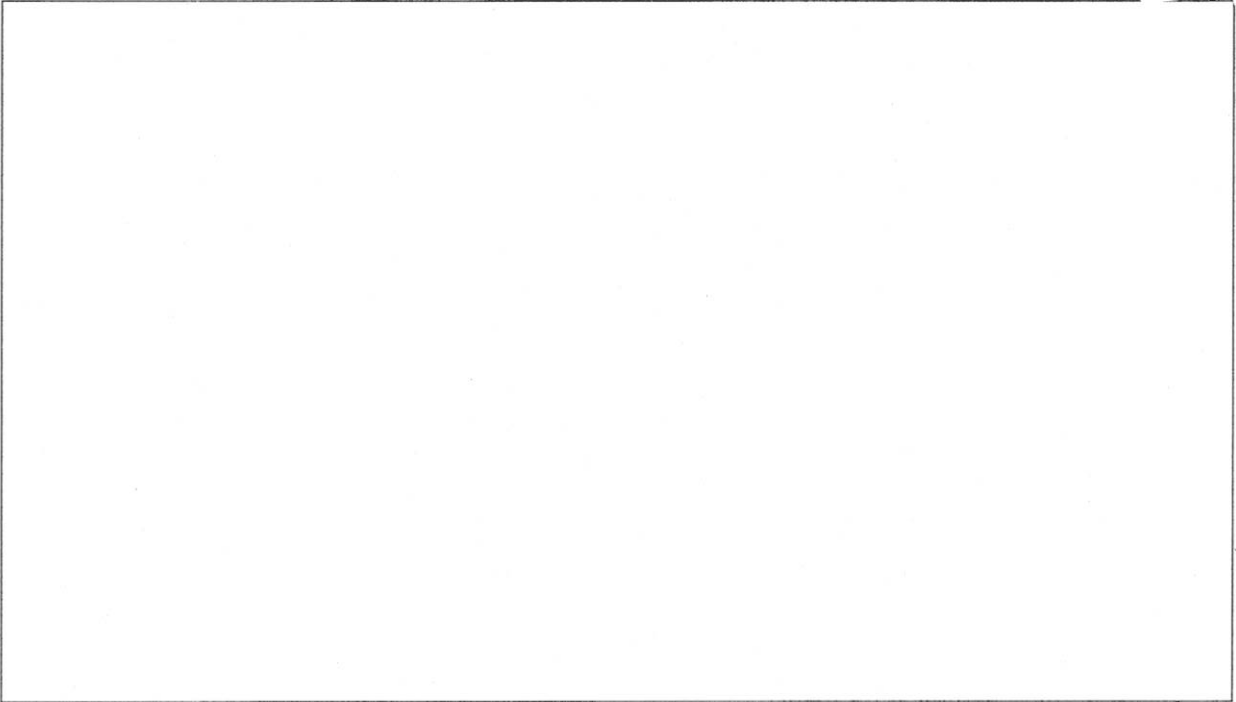
OIG believes that the compliance office's annual report to Congress overstates the BLP's impact and effectiveness.

B2

B2

~~SENSITIVE BUT UNCLASSIFIED~~

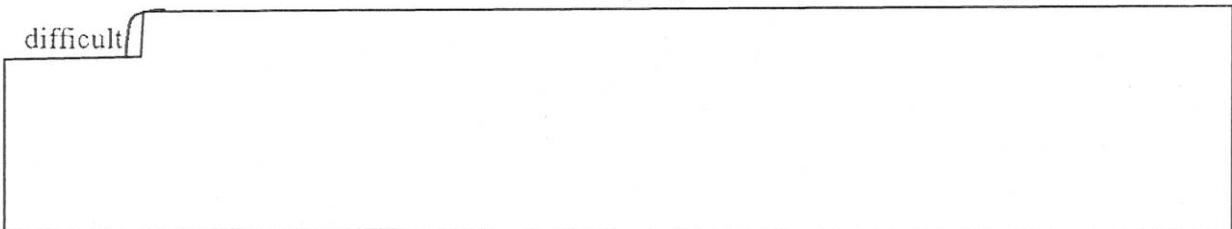
Table 3



B2

Source: PM/DDTC's Office of Defense Trade Controls Compliance, *FY 2001 Report to Congress: End-use Monitoring of Defense Articles and Services*.

OIG believes that the Department should be cautious in discussing trends and accomplishments from the BLP, given its targeted approach to the selection of licenses for review. The total number of BLP checks varies by region each year, making comparisons difficult



B2

Recommendation 6: The Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, should clarify in its annual report to Congress the limitations in analyzing trends in the Blue Lantern Program, given its targeted approach.

~~SENSITIVE BUT UNCLASSIFIED~~

The Office of Defense Trade Controls Compliance agreed with the recommendations and intends to further clarify the statistical basis behind the trends highlighted in the next report to Congress.

Unfavorable and Unverified Outcomes for End-use Checks

The effectiveness of end-use monitoring can largely be determined through the number of potential illegal export activities halted. The BLP only addresses transactions occurring through the USML licensing process. Unlicensed transactions are not monitored per se; however, the watch list may provide information on entities suspected of exporting without a license.

For the nine missions visited, OIG reviewed 23 unfavorable or negative license determinations that occurred during FY 2001–FY 2002. Of these licenses, 17 were pre-license and six were post-license. Twelve of the 17 were pre-license end-use checks that resulted in the license application being returned without action and a watch list entry added to the database. According to senior compliance officials, licenses are only denied if there is a legal basis to do so. OIG found that only two of the 17 unfavorable pre-license end-use checks resulted in a license being denied:

[Redacted]

B2

Three of the 17 unfavorable pre-license applications were approved, one with additional provisos or conditions placed on the license.

Six of the 23 unfavorable license determinations were categorized as post-license end-use checks. Compliance officials provided the following information: one license was approved with additional conditions placed on the license; two licenses were returned without action (the checks were originally categorized as pre-license, later renamed post-license in case the company decided to resubmit their application); and three were approved and referred to the compliance enforcement branch for further review. Officials also stated the companies associated with the six licenses were placed on the watch list.

In addition to categorizing checks as unfavorable, the compliance office may categorize them as unverified if the end-user did not cooperate or the coordinator was unable to confirm the

UNCLASSIFIED

~~SENSITIVE BUT UNCLASSIFIED~~

contract or shipment order. For the missions OIG visited, 11 end-use checks were categorized as unverified. Some foreign countries, as a rule, do not cooperate with U.S. export control requirements even though they expect to make future purchases of U.S. munitions. OIG found that four of the 11 unverified cases were for pre-license checks and seven were for post-license checks. Three of the four pre-license applications were returned without action, and one was approved with provisos. OIG noted that the one license approved with provisos [redacted] was made without sufficient information to make a favorable or unfavorable determination. The license value was small--one radar valued at \$1,460--and the licensing officer did not believe that insufficient information was worth holding up the license. Although he could not confirm the order with the [redacted] as the end-user, the foreign consignee appeared to be a legitimate company with a good reputation and cooperated fully with the end-use check.

B2

For the seven unverified post-license checks OIG reviewed at [redacted] six were orders from the same foreign consignee under different licenses. This foreign consignee was placed on the watch list. According to the compliance office, there had been shipments on only one of the six licenses, and a BLP level-one check was initiated on this particular license. At the time of the OIG review, the case was under investigation by U.S. Customs. For the other post-license check, according to compliance officials, no derogatory information was found on the foreign consignee; however, the order for telecommunications equipment valued at \$1,780 could not be confirmed with [redacted]. The only action taken was placing the foreign consignee on the watch list. Since the licenses in these cases are still valid, there is a chance that additional items could be shipped despite the inability to verify information on the licenses.

B2

Recommendation 7: The Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, should take action to prevent the shipment of munitions items on a license if the Blue Lantern post-license check is determined to be unfavorable or pertinent information cannot be verified, unless this action would interfere with an ongoing investigation.

~~SENSITIVE BUT UNCLASSIFIED~~
UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

The Office of Defense Trade Controls Compliance disagreed with OIG's original recommendation, stating that unverified post-check results do not provide a sufficient basis to "cancel" (i.e., revoke) a license in all cases. OIG revised this recommendation to say that some action must be taken, such as notifying U.S. Customs, to prevent the shipment of munitions when the compliance office cannot verify the legitimacy of the consignee or end-user transaction. The shipment should be prevented until pertinent information, such as the quantity of the order and the dollar amount of purchase, can be verified to reduce the risk of misuse and diversion of munitions items.

BLP Coordinators Are Not Informed of End-Use Check Results

OIG found that PM/DDTC did not inform any of the nine BLP coordinators regarding the final action taken by the compliance office on the end-use checks. Several of the BLP coordinators expressed concern over the lack of feedback regarding the cases they processed. BLP coordinators were unsure if the information they had submitted was adequate and, in cases where they had uncovered derogatory information, if the application was denied or approved. These coordinators thought that knowing how the cases turned out would be useful and would enhance their performance and appreciation of the program.

According to a senior compliance official, if BLP coordinators want to know the outcome of the end-use checks performed, all they have to do is ask. He said that, to his knowledge, coordinators have not asked for this information. However, BLP coordinators have other duties and may not be able to follow up with the research and analysis branch to ascertain the status of a particular case. Additionally, OIG found instances in which the time between an overseas check and the licensing office's decision was significant. For instance, for the end-use checks conducted [redacted] the compliance office took from 21 to 196 days to make a determination. In one case, it took 120 days after the end-use check was performed for the compliance office to determine that it could not verify the supplier's relationship with the end-user or the necessity for a large order. The compliance office closed that case as unverified, and

B2

UNCLASSIFIED

~~SENSITIVE BUT UNCLASSIFIED~~

the license application was returned without action. The BLP coordinator was not notified of the results, and the coordinator's file remained open at the time of OIG's review.

Recommendation 8: The Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, should provide Blue Lantern Program coordinators with the final license disposition of the end-use checks it performed as a means of increasing communications and enhancing its working relationship with the missions.

The Office of Defense Trade Controls Compliance disagreed with the recommendation, stating that it has extensive communication with posts on Blue Lantern cases. In addition, the compliance office would need to add an additional staff position to comply with this recommendation. OIG observed that there was only one compliance office staff member assigned to routinely communicate with BLP coordinators, primarily through cables and e-mail correspondence. As the report notes, there are benefits to providing timely feedback to BLP coordinators on the final disposition of end-use checks. Foreign Service BLP coordinators turn over frequently; the end-use check record in the field can provide officers with a valuable learning tool.

Domestic Export Monitoring and Enforcement Are Limited

Although the Department has primary responsibility for the licensing of munitions commodities listed in the International Traffic in Arms Regulations, U.S. Customs has the authority for enforcing those laws and regulations pertaining to the shipment of munitions exports overseas. Therefore, coordination between the Department and U.S. Customs is crucial to preventing munitions items from being diverted to unauthorized parties or for an unauthorized purpose. Cooperative efforts by the Department and U.S. Customs have had positive results. For example, as reported in the compliance office's *Annual Report to Congress: End-Use Monitoring of Defense Articles and Defense Services*, cooperative programs in FY 2000 facilitated more than 637 arms seizures at U.S. ports valued at more than \$48 million.

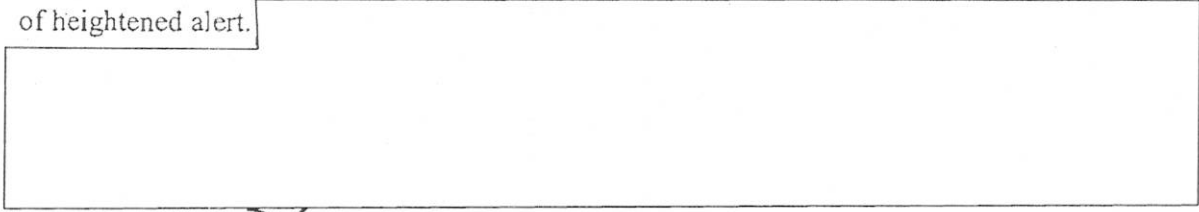
~~SENSITIVE BUT UNCLASSIFIED~~
UNCLASSIFIED

UNCLASSIFIED

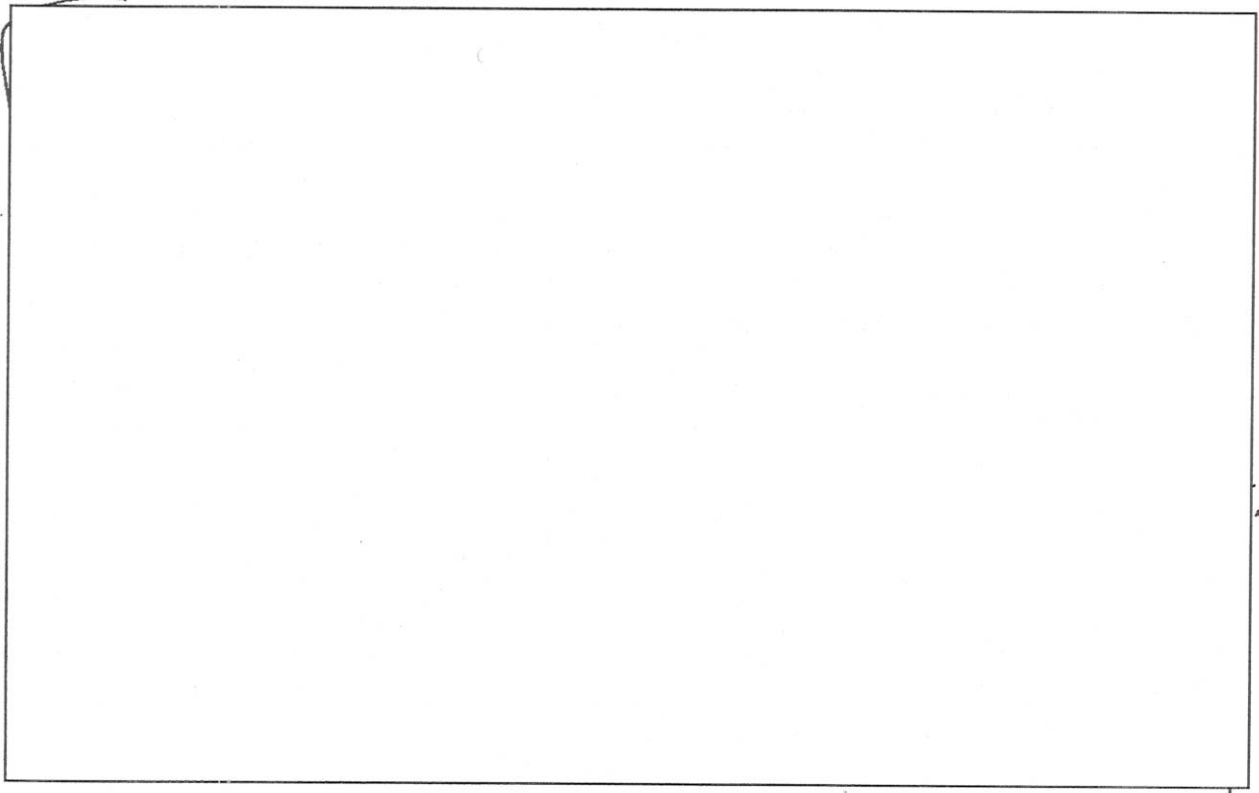
SENSITIVE BUT UNCLASSIFIED

OIG found that the Department and U.S. Customs also worked effectively together on questions of whether or not USML commodities required export licenses. However, OIG also noted that U.S. Customs inspectors would benefit from increased training in the identification of USML items at the ports of debarkation, which would improve the monitoring of both licensed and unlicensed munitions.

Following the terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001, and the ongoing threat against the United States, the primary mission of U.S. Customs is protecting our U.S. borders against entry by terrorists. To address this threat, U.S. Customs has increased its scrutiny of travelers, both inbound and outbound, and placed its staff at a state of heightened alert.

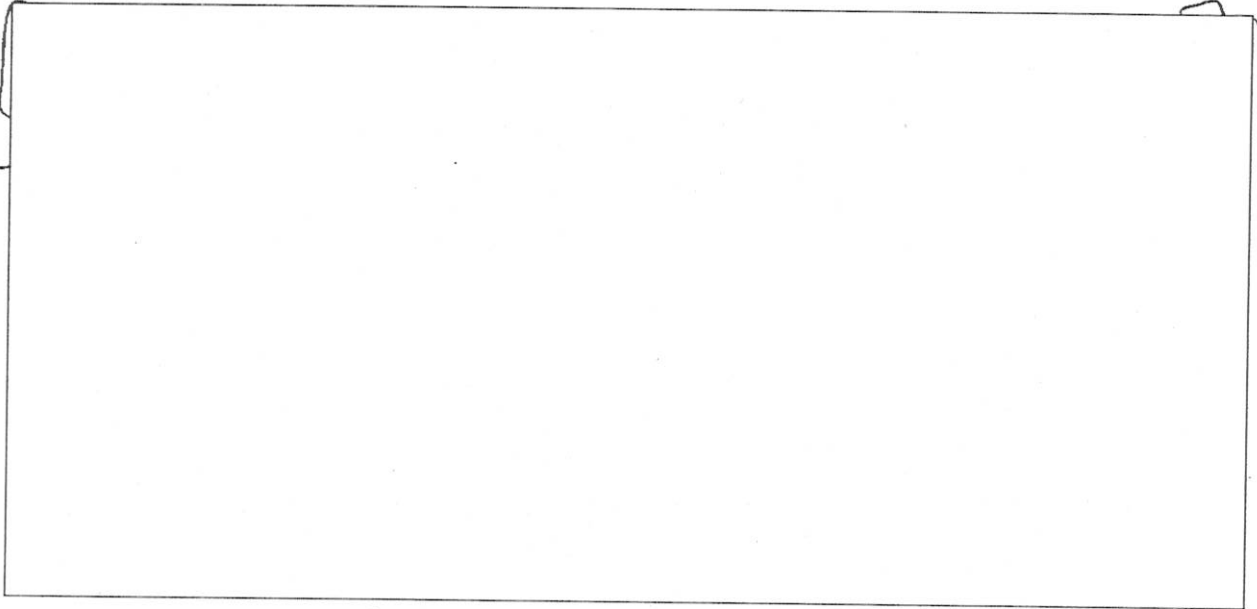


B2



B2

SENSITIVE BUT UNCLASSIFIED



B2

Recommendation 9: The Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, in conjunction with the U.S. Customs Service, should develop a training module for U.S. Customs Service inspectors on the identification of various categories of defense-related articles and services.

The Directorate of Defense Trade Controls agrees that training and outreach with U.S. Customs is important and has been providing such training for many years. The Office of Defense Trade Controls Licensing provided a copy of the most recent training presentation. Based on the additional information provided, OIG closes this recommendation.

UNCLASSIFIED

Appendix A



United States Department of State

*Bureau of Political-Military Affairs
Directorate of Defense Trade Controls*

Washington, D.C. 20522-0112

MAR 19 2003

SENSITIVE BUT UNCLASSIFIED
MEMORANDUM

TO: OIG - Anne M. Sigmund

FROM: PM - Robert W. Magg **TM**

SUBJECT: Draft Report on the Department's End-use Monitoring of Munitions Exports

Attached are our comments on the OIG draft report on the Department's end-use check program, basically the Blue Lantern program. We appreciate the extra time given to us for responding to this draft report. We also appreciate the hard work of the OIG team in carefully examining the conduct of the end-use check program, and while we cannot agree with every recommendation, we view the report as a valuable tool in increasing the effectiveness of the program. Per your request, we have noted where we agree or disagree with the OIG recommendation. We also comment on the recommendation and, if appropriate, offer alternative language.

Generally speaking, we believe that the OIG correctly understood the "targeted" approach used by the Blue Lantern program. This approach was developed following previous OIG recommendations not to increase the number of requests according to a "quota" system, but rather to identify the highest-risk exports for end-use checks. We believe that using a comprehensive methodology for targeting these checks which relies upon a review of licenses for suspicious parties or red-flags, intelligence and law enforcement information, and the experience of the compliance and licensing staff provides the most efficient and accurate way to monitor those exports with the highest risk for diversion. The criteria we use in this selection involve the commodity, country of end-use and the parties concerned. Because the importance of these factors changes through time, there is no "one-size fits all" approach that will work as well as constant analysis by the responsible officers. We also apply this approach to our advice to the field for the conduct of Blue Lantern end-use checks, believing that ultimately the Embassies are in the best position to decide how to professionally conduct their checks. Our guide to the field recommends various alternatives to accomplish the results. We work closely with the Embassies to obtain mutually satisfactory results.

~~SENSITIVE BUT UNCLASSIFIED~~
UNCLASSIFIED

UNCLASSIFIED

~~SENSITIVE BUT UNCLASSIFIED~~

- 2 -

As a result of the OIG report and recommendations on the Blue Lantern program we plan to undertake the measures described in the attached documents to continue to improve the program. Certain of the IG recommendations will be very difficult to implement with current resources, particularly staffing. We have tried to indicate where resource implications are involved.

Attachments:

Tab 1: Comments on the OIG report

Tab 2: Defense Trade Controls Training Presentation

~~SENSITIVE BUT UNCLASSIFIED~~

UNCLASSIFIED

(b) (2)

(b) (2)

Recommendation 2: The Bureau of Political-Military Affairs, Directorate of Defense Trade Controls should ensure that the Blue Lantern Program Handbook encourages missions to adopt the team approach used by [REDACTED] which was a best practice.

B2

Comment: Current Blue Lantern Handbook guidelines suggest modalities for doing Blue Lantern checks, including the team approach. Further, the Handbook "strongly encourages use of the full range of country team resources regardless of the Blue Lantern action officer's affiliation". We can seek to strengthen this language while recognizing that the Post has the final say on the exact composition of the Blue Lantern team. Further, where Posts have made the Customs Attaché responsible for Blue Lantern checks, the success of that choice has been as variable as the success of State Blue Lantern contacts; that is, much depends on the nature of the Post and the officers concerned. Finally, while Posts handling Blue Lantern requests over a wide range of

UNCLASSIFIED

~~SENSITIVE BUT UNCLASSIFIED~~

- 2 -

commodities and types of licenses would usually benefit from an active Blue Lantern team, Posts with a small number of checks or a great concentration on a single USML category have less need to involve more personnel than the Blue Lantern officer. Ultimately, the Post is the best judge of what works.

Response: Agree. DTCC agrees on the benefits of the team approach for many Posts. DTCC will continue to emphasize this approach where appropriate, and will continue to depend on the individual Embassies to tailor the Blue Lantern Program to local conditions.

Recommendation 3: The Bureau of Political-Military Affairs, Directorate of Defense Trade Controls should ensure that at each relevant embassy, Department official is designated as the coordinator of the Blue Lantern program, although other embassy personnel may in fact conduct the checks.

Comment: Following previous recommendations, particularly from a 1993 interagency (State, Commerce, Defense and Energy) OIG review of export licensing, DDTC has established a policy of recommending to Embassies that a State Department official be designated the responsible officer for Blue Lantern end-use checks. This is the case in the great majority (96%) of the 163 posts with Blue Lantern programs. In the other 4% of the posts, the responsible officer is usually a Customs Attaché. While DDTC has no authority to "ensure" that the Blue Lantern Coordinator be a State officer, these numbers show that the guidance is routinely followed by Posts.

Making this a mandatory requirement would remove flexibility at the Posts and limit the ability of an individual mission to meet the program requirements. An individual mission, faced with unusual circumstances, may choose to designate the Customs Attaché, for example, as the Blue Lantern point of contact. Recently, in Brazil, the responsibility was shifted from a State officer to the regional Customs Attaché in Sao Paulo. In Seoul (mentioned in the IG report), the responsibility for Blue Lantern oversight was vested in an economic officer, but when that officer was transferred, no replacement was named and the departure was not noticed to DDTC. The Customs Attaché continued to do individual Blue Lantern investigations. Largely in response to the IG visit, another State employee has been designated with overall responsibility for the program.

Response: Agree. DTCC agrees on the value of having a State official as the Blue Lantern point of contact. DTCC will continue to encourage designation of an appropriate State official as the BL POC to the extent possible.

Recommendation 4: The Bureau of Political-Military Affairs, Directorate of Defense Trade Controls should specify in its cable to the Blue Lantern coordinator when a site visit is mandated.

~~SENSITIVE BUT UNCLASSIFIED~~

UNCLASSIFIED

UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

- 3 -

Comment: Specifically requesting site visits is done on occasion, particularly in Level I checks. However, current practice is to leave the responsibility of the Blue Lantern check to the individual posts who are most knowledgeable about local conditions. Mandating site visits, as suggested in the OIG recommendation would place this decision in DTCC which does not have either the local knowledge or the resources to undertake this role.

This local knowledge is critical to not only get a meaningful result but also to ensure that embassy staffs operate within the laws of the host country. For example, in certain countries performing a Blue Lantern site visit can be illegal. The report notes that the Department of Commerce guidance to their end-use check program "addresses how to handle restrictions by host governments". This guidance is not always trustworthy as a recent incident in Switzerland shows. According to information obtained by the Swiss desk the officer attempting to conduct a site visit for Commerce was told to "cease and desist" by local authorities. In other countries, relations with the host country authorities (e.g., MOD) are reliable and trustworthy, obviating the necessity for a site visit.

Response: Agree. DTCC agrees on the importance of site visits where appropriate and will seek to clarify when site visits are advisable in requests to Posts. However, we disagree with making site visits mandatory. DTCC would change the final word "mandated" in the recommendation to "desirable".

Recommendation 5: The Bureau of Political-Military Affairs, Directorate of Defense Trade Controls should revise its Blue Lantern Program Handbook to require site visits and physical inspection as part of end-use checks.

Comment: DTCC does not believe that site visits and physical inspections are always absolutely necessary for all end-use checks. IG notes that 4 of 9 Posts visited do not do site visits. However, those 4 Posts have a great predominance of licenses to foreign Ministry of Defense (MOD) end-users. We believe that these end-users are generally more trustworthy sources of information than private parties. In fact, many Blue Lanterns with MOD end-users are actually concerned with checking an intermediate consignee or some other party. In these cases the end-user can verify the reliability of the transaction very simply over the telephone by confirming the purchase order with the suspect intermediary. In WHA countries, which IG did not visit, site visits, especially for Category I licenses, are quite common. In addition, statistics are kept on Embassy response times. Such statistics do not support the concept that Embassies could easily assimilate the additional workload created by an increased number of Blue Lantern requests.

Response: Agree. DTCC agrees on the desirability of site visits where appropriate when conducting Blue Lantern pre- and post- shipment checks. DTCC believes that improved guidance to the Posts on the benefits of site visits and the existing Blue Lantern Program Handbook guidelines make clear the desirability of site visits where appropriate.

SENSITIVE BUT UNCLASSIFIED

UNCLASSIFIED

UNCLASSIFIED

~~SENSITIVE BUT UNCLASSIFIED~~

- 4 -

Recommendation 6: The Bureau of Political-Military Affairs, Directorate of Defense Trade Controls should clarify in its annual report to Congress the limitations in analyzing trends in the Blue Lantern Program given its targeted approach.

Comment: The OIG is correct in that the report to Congress discusses only the results of the Blue Lantern program which uses a targeted selection process, not a random sample, to verify the bona fides of high risk transactions. The trends and significant findings noted in the reports to Congress are based on these results. Their significance is not based on statistical methodology but rather the importance of the information developed in the past year (e.g., the number of European-based intermediaries involved in suspicious transactions).

Response: Agree. DTCC will further clarify the statistical basis behind the trends highlighted in the next report to Congress.

Recommendation 7: The Bureau of Political-Military Affairs, Directorate of Defense Trade Controls should cancel an approved license if the Blue Lantern check is determined to be unfavorable or pertinent information cannot be verified. This action should prevent any further shipment of USML items on the license.

Comment: In all cases, DDTC took appropriate compliance related actions in response to unfavorable pre- and post- checks. This involved placing the suspicious parties on the Watch List, referring the case for criminal or administrative investigation, or, in the case of post checks, revocation of an approved license. In the case of unverified Blue Lantern results, mentioned in the OIG report, the information is classified as unverified precisely because it is insufficient in nature to justify taking a compliance action (e.g., the response is ambiguous). If the information developed was sufficient to take a compliance action, the Blue Lantern would have been classified as "unfavorable", not "unverified". In cases classified as unverified, efforts are made to clarify the information where possible and other information is relied upon to make a judgement as to what actions are needed. In the case of a post-check, the compliance staff reviews all of the information available (e.g., prior license and compliance histories of the parties to the export, the nature of the export, the country of destination, etc...) to determine the risk of diversion or misuse. In the case of pre-license checks, the licensing officer will rely upon all of the other information in the case file to make a decision on license issuance.

Response: Disagree. Unverified post-check results do not provide a sufficient basis to "cancel" (i.e., revoke) a license in all cases.

Recommendation 8: The Bureau of Political-Military Affairs, Directorate of Defense Trade Controls should provide Blue Lantern Program coordinators with the final license disposition of the end-use checks they performed as a means of increasing communications and enhancing its working relationship with the missions.

Comment: DTCC has extensive communication with Posts on Blue Lantern cases, from the initial cable, through any follow-up cables and including a constant flow of e-

~~SENSITIVE BUT UNCLASSIFIED~~

UNCLASSIFIED

UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

- 5 -

mails/faxes as necessary. This is especially true with the unfavorable Blue Lantern cases where there is often an extensive chain of communication regarding the information being developed by the Post. Moreover, DTCC also issues a yearly ALDAC which addresses the Blue Lantern results for the previous year and highlights any program changes that Posts need to know. As noted by the IG, DTCC has not received requests from the field for final license disposition information. Monitoring the field response to the Blue Lantern request, up to the conclusion of the case, is done by e-mail from the various RAB team members assigned the case. The IG remarks that field Blue Lantern coordinators have other duties and cannot follow up their cases.

Response: Disagree. As mentioned above, DTCC has extensive communication with Posts on Blue Lantern cases. DTCC would need to add an additional staff position to comply with this recommendation.

Recommendation 9: The Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, in conjunction with the U.S. Customs Service, should develop a training module for U.S. Customs Service inspectors on the identification of various categories of defense-related articles and services.

Comment: DDTC already provides training to US Customs inspectors on a regular and recurring basis and has done so for a number of years. The training discusses basic ITAR elements (to include the USML) and the State Department's licensing responsibility/processes. DDTC also will be providing training to US Customs investigators starting this spring as well. The purpose of this training is to help Customs officials understand the basis of the USML, and addresses identifying ITAR controlled items, regulations, and actions. It also informs them of the State role in these activities. This outreach and training is one of the reasons why, as the OIG notes in the report, State and Customs have worked well on specific cases to identify violations of the ITAR.

Response: Agree. DDTC agrees that training and outreach with Customs is important and has been providing such training for many years. Attached is a copy of the most recent training presentation given by DDTC.

cc: PM/AS: Lincoln P. Bloomfield, Jr.

SENSITIVE BUT UNCLASSIFIED

UNCLASSIFIED

UNCLASSIFIED

FRAUD, WASTE, ABUSE OR MISMANAGEMENT
of Federal programs
and resources hurts everyone.

Call the Office of Inspector General

HOTLINE

202/647-3320

or 1-800-409-9926

or e-mail oighotline@state.gov
to report illegal or wasteful activities.

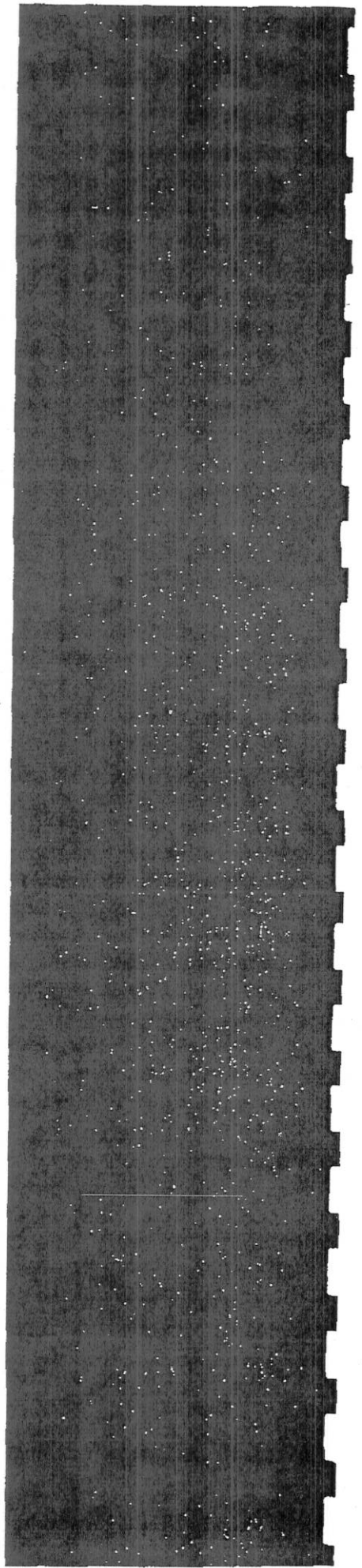
You may also write to
Office of Inspector General
U.S. Department of State
Post Office Box 9778
Arlington, VA 22219

Please visit our website at oig.state.gov

Cables to the Inspector General
should be slugged "OIG Channel"
to ensure confidentiality.

UNCLASSIFIED

UNCLASSIFIED
SENSITIVE BUT UNCLASSIFIED



SENSITIVE BUT UNCLASSIFIED

EXPLANATION OF EXEMPTIONS

The Freedom of Information Act (5 U.S.C. § 552)

- Exemption 1 (5 U.S.C. § 552(b)(1)) – protects from disclosure information which is specifically authorized under criteria established by Executive Order to be kept classified in the interest of national defense or foreign policy.
- Exemption 2 (5 U.S.C. § 552(b)(2)) – records related solely to internal personnel rules and practices, which, if released, would allow circumvention of an agency function. These are two profiles, LOW and HIGH.

LOW – Records qualifying under the LOW (b)(2) profile are those that are trivial and housekeeping in nature for which there is no *legitimate public interest or benefit* to be gained by release, and it would constitute an administrative burden to process the request in order to disclose the records;

HIGH – Records qualifying under HIGH (b)(2) are those containing or constituting statutes, rules, regulations, orders, manuals, directives, instructions, and security classification guides, the release of which would allow circumvention of these records thereby substantially hindering the effective performance of a significant function of the Department;

- Exemption 3 (5 U.S.C. § 552(b)(3)) – protects information specifically exempted from disclosure by other federal statutes.
- Exemption 4 (5 U.S.C. § 552(b)(4)) – protects from disclosure trade secrets and commercial or financial information obtained from a person which is privileged or confidential.
- Exemption 5 (5 U.S.C. § 552(b)(5)) – protects from disclosure inter-agency or intra-agency memoranda or letters consisting of predecisional advice, opinion or recommendations.
- Exemption 6 (5 U.S.C. § 552(b)(6)) – exempts from disclosure records or information which if disclosed would constitute a clearly unwarranted invasion of personal privacy.
- Exemption 7 (5 U.S.C. § 552(b)(7)) – protects from disclosure records or information compiled for law enforcement purposes to the extent that the production of such records or information:
 - (A) could reasonably be expected to interfere with enforcement proceedings;

- (B) would deprive a person of a right to a fair trial or an impartial adjudication;
- (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy;
- (D) could reasonably be expected to disclose the identity of a confidential source;
- (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; and/or
- (F) could reasonably be expected to endanger the life or physical safety of any individual.

The Privacy Act (5 U.S.C. § 552a)

- Exemption § 552a(j)(2), whereby records may be withheld from disclosure which are maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws and which consists of:
 - (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders;
 - (B) information compiled for the purpose of a criminal investigation; and/or
 - (C) reports identifiable to an individual.
- Exemption § 552a(k)(2), whereby information compiled for law enforcement purposes, other than for the purpose of a criminal investigation, including material which, if released, would reveal the identity of a source who furnished information to the government.

Amendment rights

In accordance with § 552a(d)(2) of the Privacy Act and § 171.35, Title 22 of the Code of Federal Regulations, an individual has the right to request that the Department amend a record pertaining to her or him which the individual believes is not accurate, relevant, timely, or complete. A copy of this regulation is enclosed, if applicable.