UNITED STATES DEPARTMENT OF COMMERCE
Office of Inspector General
Washington, D.C. 20230

May 27, 2020

The Honorable Jerry Moran
Chairman
United States Senate Committee
on Appropriations
Subcommittee on Commerce, Justice,
Science, and Related Agencies
Room S-128, The Capitol
Washington, DC 20510

The Honorable Jeanne Shaheen
Vice Chairwoman
United States Senate Committee
on Appropriations
Subcommittee on Commerce, Justice,
Science, and Related Agencies
Room S-128, The Capitol
Washington, DC 20510

Dear Chairman Moran and Vice Chairwoman Shaheen:

This responds to your letter of September 11, 2019, to the Secretary of Commerce, requesting that the Department of Commerce (the Department) Office of Inspector General (OIG) conduct a formal inquiry of the International Trade Administration's (ITA's) and the Department's budgetary formulation and execution processes.

To respond to your questions, we developed the following objectives for this evaluation:

I. To determine whether ITA reduced Global Markets (GM) staffing levels and reinvested funds intended for personnel expenses[1] to other priorities not included in the ITA fiscal year (FY) 2019 President's budget request.

II. To determine whether GM could support inconsistencies in reported staffing positions as shown on the FYs 2018 and 2019 spend plans and the FY 2020 Congressional Budget Justification (CBJ).

We have included the Appropriation Committee's (Committee's) letter as an appendix.

Based on the results of our evaluation, we found that (I) ITA reduced GM staffing by 159 full-time equivalents[2] (FTEs) between FYs 2016 and 2019. We also found that, in FY 2019, ITA reduced funding for several GM budget categories—including personnel expenses—while it increased funding to its Centralized Services Fund (CSF), which is an expense that does not appear in ITA's FY 2019 President's budget request. Further, we identified (II) inconsistencies in ITA's reporting of staffing positions for GM. However, a lack of adequate ITA supporting documentation prevents us from determining the accuracy of or reconciling differences in the reported amounts.

[1] Personnel expenses include personnel compensation and personnel benefits.

[2] The Office of Management and Budget (OMB) Circular A-11 (November 2014), § 85.2, defines *FTE employees* as the total number of regular straight-time hours worked by employees divided by the number of compensable hours applicable to each FY. "Hours worked" include annual leave, sick leave, compensatory time off, and other approved leave categories.

Our evaluation included reviewing submitted reports, conducting interviews, and analyzing relevant laws and regulations as mentioned later in this memorandum. We conducted our review from September 2019 through March 2020.

I. ITA Reduced Both GM Staffing Levels and Funding for Personnel Expenses During FY 2019

Among the Committee's concerns are whether (a) ITA reduced GM staffing levels and (b) personnel compensation funds were reinvested to fund priorities not included in the President's budget request during FY 2019. Based on the CBJ, we found that GM decreased 159 FTEs between FYs 2016 and 2019. We also found a decrease of $4.7 million for personnel expenses obligations that was reinvested to offset various cost increases in other budget categories, such as increased contributions for ITA's CSF, in FY 2019.

Reduced staffing. ITA did not maintain adequate documentation supporting the staffing levels reported in its FYs 2018 and 2019 CBJs and spend plans. Consequently, we used actual FTE data as reported in the annual ITA CBJs[3]—which represents ITA's annual funding request to Congress and provides information about ITA's programs, projects, activities, and organizational performance targets.

Based on our analysis, we determined that GM staffing levels decreased from FY 2016 to FY 2019 by 159 FTEs. We also found that, during the same period, the other ITA components increased overall staffing levels by 13 FTEs, as detailed in table 1.

[3] Per OMB Circular A-11 (November 2014), §§ 51.3, 85.4, when preparing the upcoming FY justification, agencies include the prior FY actual results, which includes actual FTE levels. We used the FY 2021 ITA CBJ, which includes the actual budgetary and staffing amounts for FY 2019.

Table 1. ITA Staffing Levels in FTEs, FYs 2016–2019

Fiscal Year	Staffing Levels (in FTEs)		+/(-)Change from Prior Year (in FTEs)[a]	
	GM	ITA (excluding GM)	GM	ITA (excluding GM)
2019	889	627	(51)	25
2018	940	602	(64)	(9)
2017	1,004	611	(44)	(3)
2016	1,048	614	N/A	N/A
FY 2016 vs. FY 2019 Net Increase/(Decrease)			**(159)**	**13**

Source: OIG analysis of ITA's FYs 2018–2021 CBJs

[a] Change from FY 2015 to FY 2016 was not included when calculating total FY 2016 vs. FY 2019 net increase/(decrease).

Despite our numerous requests, ITA could not provide adequate supporting documentation (e.g., meeting notes, cost-benefit analysis, projections, or records of decisions) that justified the reduction of staffing levels. ITA budget officials stated that one reason they reduced GM staffing levels was to avoid a potential Antideficiency Act violation[4] due to fixed costs increases.[5] However, we reviewed available budget reports indicating that, during the same period, GM ended each FY with about $4.5–10.5 million in available funds.

Decreased personnel expenses funding. To determine changes in personnel expenses funding, we (a) summarized financial transactions to calculate FY 2019 obligations by budget category and (b) identified variances from the prior FY. Personnel expenses includes salaries, wages, and benefits for senior executive service, foreign service, civil service, and foreign national employees, at both domestic and international locations.

Our analysis of financial records found that GM obligated $333.7 million in FY 2019, an increase of $8.4 million from the prior fiscal year. However, of the $333.7 million, GM obligated $173.6 million for personnel expenses, a decrease of $4.7 million from FY 2018. Obligations by budget category for FYs 2018 and 2019 are detailed in table 2.

[4] Per the U.S. Government Accountability Office, '[o]nce it is determined that there has been a violation of 31 U.S.C. §§ 1341(a), 1342, or 1517(a), the agency head "shall report immediately to the President and Congress all relevant facts and a statement of actions taken."' *See* U.S. Government Accountability Office, "Antideficiency Act Resources: Overview" [online]. https://www.gao.gov/legal/appropriations-law-decisions/resources (accessed April 13, 2020) (citing 31 U.S.C. §§ 1351, 1517(b)).

[5] ITA budget officials stated that most of GM's budget is comprised of mandatory fixed costs that cannot be shifted to offset cost increases. As a result, ITA determined that using the savings from reducing GM's staffing to offset the cost increases, and avoiding the cost increases from continuing to employ the reduced staff, was the most feasible way to mitigate the risk of an Antideficiency Act violation.

Table 2. GM FY 2018 vs. FY 2019 Budget Category Obligations[a] (in $ Thousands)

Budget Categories	FY 2018	FY 2019	+/(-) Change
Personnel Expenses[b]	178,338	173,595	(4,742)
Travel and Transportation	12,666	13,207	541
Rent, Communications, and Utilities	22,126	20,472	(1,655)
U.S. Department of State Shared Costs	47,482	52,357	4,875
ITA's Centralized Services Fund	52,925	60,994	8,068
Other	11,753	13,075	1,323
Total	**325,290**	**333,700**	**8,410**

Source: OIG analysis of ITA's Commerce Business System accounting data

[a] OMB A-11 (November 2014), § 20.3, defines *obligations* as binding agreements that will result in outlays, immediately or in the future. Budgetary resources must be available before obligations are recorded.

[b] We analyzed the document type assigned to GM's personnel expenses obligations and obtained limited assurance that the obligations are properly classified.

Personnel expenses was the largest decreasing budget category; the two largest increases included the U.S. Department of State (the State Department) shared costs and the ITA CSF. The State Department shared costs, which we did not review, are costs incurred by federal agencies co-located within State Department foreign post locations. The ITA CSF is an internally managed fund for IT services, ITA's share of the Departmental working capital fund, rent, utilities, and any other shared expenses that provide benefit to ITA's operational units. Per ITA officials, a governance board oversees the operation of the fund and provides recommendations to ITA leadership on each operational unit's contributions. However, because the CSF is an internally managed fund, it is not shown as a separate exhibit on the annual CBJs and spend plans submitted to Congress.

II. ITA Could Not Support GM Reports

We analyzed ITA reported staffing level numbers and identified several inconsistencies between the FYs 2018 and 2019 spend plans, as well as the FY 2020 CBJ. For example, the GM FY 2018 spend plan identified 1,070 funded positions, while the FY 2019 spend plan identified 865, a difference of 205 positions. By comparison, the remaining ITA components' funded positions varied by only 2 between spend plans. Additionally, the FY 2019 funded positions, as shown in the FY 2020 CBJ, differed by 123 positions from the spend plan, even though they were submitted to Congress a month apart.[6] Details are shown in table 3.

[6] The FY 2019 ITA spend plan was submitted April 2019, and the 2020 CBJ was submitted March 2019. We compared the FY 2019 enacted budget amounts in both documents.

Table 3. Comparison of Funded Positions

Report and Estimates	GM	ITA (Excluding GM)
FY 2018 Spend Plan—FY 2018 Funded Positions	1,070	694
FY 2019 Spend Plan—FY 2019 Funded Positions	865	696
FY 2020 CBJ—FY 2019 Funded Positions	988	696

Source: ITA's FY 2018 and FY 2019 Spend Plans and FY 2020 CBJ

We attempted to obtain supporting analysis and documentation; however, the responsible ITA budget official could not recalculate the reported staffing numbers or provide any adequate supporting documentation for prior budgetary submissions.[7] This does not comply with OMB Circular A-11, which states that agencies should be prepared to explain the assumptions for staffing adjustments and provide justification supporting the accuracy of its staffing estimates that are within their budget constraints.[8]

Furthermore, several ITA budget officials stated that the reported discrepancies were due to implementation of a new methodology, in late FY 2019, that resulted in more accurate staff positions. According to the responsible ITA official, this new methodology accounts for GM's budget constraints when estimating staffing levels. The official explained that the previous method did not account for these constraints, which resulted in unrealistic reported staffing levels. However, because of a lack of documentation, we could not validate the veracity of ITA's statements or independently determine the underlying reasons for the variances.

Thank you for requesting that we inquire with the Department and ITA about their budgetary execution and formulation processes for GM's funding and staffing. We share the concerns expressed in your letter of September 11, 2019—and agree that proper budget formulation and execution are necessary for GM to accomplish its programmatic objectives and goals with accountability to Congress and other stakeholders.

If you have any questions, or would like to discuss these issues in further detail, please contact me at (202) 482-4661.

Sincerely,

Peggy E. Gustafson
Inspector General

[7] On January 24 and 30, 2020, we discussed this with ITA budget officials and the responsible budget official stated that he could not recalculate the reported staffing numbers because he did not have a role in formulating those numbers at that time.

[8] OMB Circular A-11 (November 2014), §§ 85.3, 85.5.

cc: Wilbur Ross, Secretary of Commerce, U.S. Department of Commerce
Thomas Gilman, Chief Financial Officer and Assistant Secretary for Administration, U.S. Department of Commerce
Joseph Semsar, Deputy Under Secretary for International Trade, Performing the non-exclusive functions and duties of the Under Secretary for International Trade, ITA

Appendix: Congressional Letter to the Secretary of Commerce, September 11, 2019

United States Senate
COMMITTEE ON APPROPRIATIONS
WASHINGTON, DC 20510–6025
http://appropriations.senate.gov

September 11, 2019

The Honorable Wilbur Ross
Secretary
Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

Dear Secretary Ross:

We write in response to the fiscal year (FY) 2019 spending plan for the International Trade Administration (ITA), dated April 30, 2019, provided to the Senate Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies (Committee) pursuant to Division C, Title V, section 533 of the Consolidated Appropriations Act, 2019 (P.L. 116-6).

The Committee does not concur with the proposed spending plan for ITA, after several months of discussion with the Department of Commerce (DOC) and ITA, due to the following reasons:

1. ITA and DOC have failed to adhere to congressional direction provided within P.L.116-6, which rejected all proposed cuts, including cuts to staffing, within the Global Markets (GM) business unit. To the Committee's dismay, ITA has instead reduced GM staffing levels and re-invested funding provided for compensation object classes in non-compensation object classes, to fund priorities which were not included in the FY 2019 President's budget request.

2. ITA and DOC have been unable to reconcile inconsistencies in the reported number of funded and filled vacancies for GM included in ITA's FY 2018 spending plan, FY 2019 spending plan, and the FY 2020 President's budget request. It is even more troubling that, following the Committee's discovery of these inconsistencies, DOC informed the Committee staff that the staffing and budgetary numbers included in the FY 2020 President's budget for GM can no longer be supported.

These issues call into question the Department's budgetary execution and formulation processes and leave no option but for the Committee to request a formal inquiry by the Department's Office of Inspector General.

Sincerely,

Jerry Moran

Jeanne Shaheen

Jerry Moran
Chairman
Subcommittee on Commerce,
Justice, Science and Related Agencies

Jeanne Shaheen
Vice Chairwoman
Subcommittee on Commerce,
Justice, Science and Related Agencies

cc: Peggy Gustafson, Inspector General, Department of Commerce
Thomas Gilman, Chief Financial Officer and Assistant Secretary of Administration, Department of Commerce

011200000355