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MISMANAGEMENT OF FUNDS AT THE NATIONAL WEATHER SERVICE AND THE IMPACT ON THE FUTURE OF WEATHER FORECASTING

HEARING

BEFORE THE

SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

WEDNESDAY, SEPTEMBER 12, 2012

Serial No. 112–103

Printed for the use of the Committee on Science, Space, and Technology

Available via the World Wide Web: http://science.house.gov

U.S. GOVERNMENT PRINTING OFFICE

76–235PDF WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
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MISMANAGEMENT OF FUNDS AT THE NATIONAL WEATHER SERVICE AND THE IMPACT ON THE FUTURE OF WEATHER FORECASTING

WEDNESDAY, SEPTEMBER 12, 2012

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT,
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY,
Washington, D.C.

The Subcommittee met, pursuant to call, at 3:33 p.m., in Room 2318 of the Rayburn House Office Building, Hon. Sandy Adams [Chairwoman of the Subcommittee] presiding.

Subcommittees on Investigations & Oversight Hearing

Mismanagement of Funds at the National Weather Service and the Impact on the Future of Weather Forecasting

Wednesday, September 12, 2012
2:00 p.m. to 4:00 p.m.
2318 Rayburn House Office Building

Witnesses

Panel I
Dr. Kathryn D. Sullivan, Assistant Secretary of Commerce for Environmental Observation and Prediction and Deputy Administrator for the National Oceanic and Atmospheric Administration, U.S. Department of Commerce

Inspector General Todd J. Zinser, U.S. Department of Commerce, Office of Inspector General

INVITED – Ms. Maureen Wylie, Chief, Resource and Operations Management, and former Chief Financial Officer, National Oceanic and Atmospheric Administration, U.S. Department of Commerce

Panel II
Dr. William B. Gail, Chief Technology Officer, Global Weather Corporation, and Member, Committee on the Assessment of the National Weather Service's Modernization Program, National Research Council of the National Academies

Mr. Richard Hirn, General Counsel and Legislative Director, National Weather Service Employees Organization

U.S. House of Representatives

Committee on Science, Space, and Technology
Subcommittee on Investigations & Oversight

HEARING CHARTER

"Mismanagement of Funds at the National Weather Service and the Impact on the Future of Weather Forecasting"

Wednesday, September 12, 2012
2:00 p.m. – 4:00 p.m.
2318 Rayburn House Office Building

PURPOSE

On September 12, 2012 at 2:00 p.m., the Investigations and Oversight Subcommittee will hold a hearing to provide Subcommittee Members the opportunity to understand the events that led to unauthorized reprogramming of funds within the National Weather Service (NWS). A 2011 National Oceanic and Atmospheric Administration (NOAA) report and a 2012 joint NOAA and Department of Commerce (DOC) investigative report provide the basis for memos issued by NOAA and DOC that acknowledge "a financial unit that, for at least the past two fiscal years, operated outside the bounds of acceptable financial management."[1] Of particular concern, these memos detail that NWS employees engaged in the transfer of potentially millions of NWS funds without Congressional authorization or notification. These actions raise concerns about the fidelity of budget requests, financial oversight, and possible Anti-Deficiency Act (ADA) violations.

The hearing will examine how NOAA, DOC, and the DOC Office of Inspector General (OIG) plan to prevent similar incidents in the future, as well as address the breakdown in communication that led to earlier complaints being ignored. The hearing will also examine the context in which these events transpired. The Committee will hear about historical funding challenges at the NWS, as well as the importance of science and technology investments to ensure that the U.S. produces first class forecasting.

BACKGROUND

The National Weather Service is one of five line offices within NOAA, which in turn is one of the largest bureaus within the Department of Commerce. The mission of NWS is to "provide weather, water, and climate data, forecasts and warnings for the protection of life and property and enhancement of the national economy."[2] NWS data and products "form a national

[1] DOC Deputy Secretarial Decision Memorandum, "Decisions Regarding Recommendations Contained in Report Entitled 'Internal Inquiry into Alleged Mismanagement of Funds Within the National Weather Service,'" May 24, 2012, available at: http://www.noaa.gov/foia/noaa_useful_websites/052412_blank_decision_memo.pdf (hereinafter DOC Memo).
[2] NWS website, available at: http://www.weather.gov/about.

information database and infrastructure which can be used by other governmental agencies, the private sector, the public, and the global community."[3]

Earlier this year, NOAA and DOC each issued a decision memorandum addressing allegations of mismanagement at NWS.[4] The basis for these two memos are a preliminary review of these allegations completed in November 2011, which in turn set the foundation for a subsequent NOAA and DOC-led investigation, culminating in a report in May titled, "Internal Inquiry into Alleged Mismanagement of Funds Within the National Weather Service" (Investigative Report). Citing Privacy Act concerns, NOAA has restricted circulation of the Investigative Report; however, the two decision memos from NOAA and DOC are available to the public.

According to the DOC memo, issued by Dr. Rebecca Blank, Deputy Secretary of Commerce:

> "In recognition of the seriousness of the allegations and preliminary findings as well as the potential impact such conduct could have on a program of critical importance to the Nation, Under Secretary Lubchenco and I took immediate action to establish an investigative team led by senior executives from NOAA and the Department's Office of Budget ("Investigative Team") to review the preliminary findings and expand upon the work of the internal review."[5]

Additionally, according to the NOAA memo, issued by Dr. Jane Lubchenco, Under Secretary of Commerce for Oceans and Atmosphere, in the five months it took to conduct the investigation this year:

> "[T]he Investigative Team conducted thirty interviews of over twenty Department of Commerce employees, completed an extensive review of NWS financial records, and reviewed a large number of documents including emails, financial information, memoranda, and other material provided by witnesses in support of their testimony. Throughout the investigative process the Team consulted with the Office of the Inspector General regarding the conduct of the investigation, including whom to interview and what lines of questioning to pursue. The investigation focused on FY 2010 and FY 2011 because that was the time period referenced in the complaints received."[6]

Dr. Lubchenco's memo further elaborates on the findings of the Investigative Report. Specifically, she explains that the Investigative Team determined that "NWS employees engaged in reprogramming of NWS funds without Congressional notification during the years in question."[7] The Investigative Team also found there to be a "failure of management and oversight by NWS leadership. In addition, the Team found significant problems with budget and financial controls at the National Weather Service and that Departmental financial and

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[3] NWS website, Mission Statement, available at: http://www.nws.noaa.gov/mission.php.
[4] DOC Memo, *supra*, note 1; and DOC Under Secretarial Decision Memorandum, "Corrective Actions re: Internal Inquiry into Alleged Mismanagement of Funds Within the National Weather Service," May 24, 2012, available at: http://www.noaa.gov/foia/noaa_useful_websites/052412_lubchenco_decision_memo.pdf (hereinafter NOAA Memo).
[5] DOC Memo, *supra*, note 1.
[6] NOAA Memo, *supra*, note 4.
[7] Ibid.

management controls were ineffective at detecting or preventing this inappropriate reprogramming."[8]

DOC OIG

The OIG referred complaints about the problems at NWS to NOAA and DOC. During the course of the NOAA/DOC investigation, OIG staff was available to assist the agency and provide guidance, with the understanding that at the conclusion of the investigation, the OIG would conduct a 'sufficiency review,' which would determine if the investigation was conducted appropriately. The IG will provide the Committee with his preliminary analysis of the NOAA/DOC report, and explain what additional steps his office will take to address his concerns.

Summary Level Transfers (SLTs)

The mechanism used to transfer funds involved a common accounting tool - Summary Level Transfers (SLTs) - that were manipulated and used inappropriately. Typically, SLTs are used to correct minor accounting mistakes such as billing errors. The NOAA decision memo explains that SLTs were used "improperly to facilitate the inappropriate transfer of funds. In this case, SLTs were used to switch accounting codes assigned to past expenses from one account to another, a purpose for which they were never intended."[9]

The NWS used these accounting anomalies because there were insufficient funds to pay for various overhead costs such as common service expenses like rent and utilities, and management and administration (M&A) expenses. A recent GAO report found that NOAA line offices "have no or limited documentation of their policies and procedures for the M&A services they provide. This lack of documentation limits the availability of information on M&A services for agency officials and congressional decision makers and may hamper financial management and management decision making."[10]

According to the decision memo from Dr. Lubchenco, in FY 2010 and FY 2011, NWS employees "did not assess NWS programs evenly or in appropriate amounts to cover NWS common services. This left a shortfall in the Management and Administration account."[11]

Structural Deficit

These annual shortfalls ultimately led to a 'structural deficit' that appeared to grow each year. The term structural deficit (variations include funding or budget deficit or shortfall) is a term the Committee encountered frequently during its review of the financial mismanagement issue at NWS, but one that is not clearly defined in the Investigative Report, nor is there consensus among NOAA staff on the definition and amount. It is nevertheless worth noting that in 2006,

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[8] Ibid.
[9] Ibid.
[10] GAO Report, "NOAA Needs to Better Document its Policies and Procedures for Providing Management and Administration Services," January 2011, available at: http://www.gao.gov/assets/320/315343.pdf.
[11] NOAA Memo, *supra*, note 4.

DOC requested additional funds from Congress in the amount of $12.7 million,[12] and earlier this year, shortly after breaking the news about the problems at NWS, the DOC sent Congress a request to be allowed to "repurpose $35.5 million."[13]

Congress has typically fully funded the NWS based on the request from the Administration. Since FY 2007, Congress has exceeded the Administration's request for NWS in all but two years, including FY 2011, as a result of a Continuing Resolution (CR). The fact that the amount requested appears to be insufficient is a different - and more serious - issue altogether as it not only provides Congress with inaccurate information regarding the true needs of the NWS, but it also appears to be the main cause of the reprogramming issue at NWS.

Table 1

National Weather Service*

($ in thousands)

Fiscal Year	President's Request	Appropriation
2007	881,866	851,577
2008	903,492	911,406
2009	930,691	958,889
2010	963,880	999,845
2011	1,003,193	976,481
2012	987,978	991,874
2013	972,193	

Source: NOAA Budget Office, NOAA Budget Summary (Blue Book), Fiscal Years 2008- 2013.

* Includes both Operations, Research, & Facilities (ORF), and Procurement, Acquisition & Construction (PAC) accounts.

No Personal Gain

Despite the inappropriate use of funds at NWS, both the NOAA and DOC decision memos indicate that these actions were not taken for any individual financial benefit. Initial reviews indicate that NWS personnel attempted to meet agency mission requirements while costs increased and budget remained stagnant. While the Investigative Team stated it "did not find any evidence that any NWS employee committed fraud or received personal financial gain

[12] Written testimony of Richard Hirn, General Counsel and Legislative Director, National Weather Service Employees Organization, submitted for the House Science, Space, and Technology Subcommittee on Investigations and Oversight hearing titled, "Mismanagement of Funds at the National Weather Service and the Impact on the Future of Weather Forecasting," September 12, 2012.

[13] Lisa Rein and Jason Samenow, "Senators Tell Weather Service Congress Won't Authorize Plan to Shift Money," The Washington Post, May 29, 2012, available at: http://www.washingtonpost.com/politics/senators-tell-weather-service-congress-wont-authorize-plan-to-shift-money/2012/05/29/gJQAgvVS0U_story.html.

through their actions,"[14] it did acknowledge that, "[t]his fact does not excuse, or reduce the seriousness of the employees' actions."[15]

ISSUES

Structural Deficit

As previously mentioned, while the term structural deficit or budget shortfall seems commonplace, NOAA does not officially acknowledge its existence. One of the findings of the Investigative Report, as described in the NOAA decision memo is:

> "[The NWS employees that were interviewed] believe there is a "structural deficit" with the NWS budget. This, along with apparent shortfalls in the NWS OAA [Office of the Assistant Administrator] account, created a motive for [the NWS employee's] actions. Accordingly, it is imperative to determine if such a structural deficit exists and, if so, the causes and extent of that shortfall."[16]

The accompanying 'Administrator Decision #10' states:

> "I instruct the Acting NWS CFO to examine each program office to determine if [the government employee's] belief that a "structural deficit" existed is supported by evidence and if so, to determine the causes and extent of that shortfall. I expect a time line and plan of action to complete this review no later than July 1."[17]

However, according to comments by the President of the National Weather Service Employees Organization (NWSEO):

> "It is long-held knowledge that NWS had been operating at a structural deficit -- in fact the Obama transition team was briefed on it in 2009," Sobien [President of NWSEO] said. "It sounds like this came as a surprise, but given there's been a deficit for over a decade, where did they think the money would come from?"[18]

Further, a witness on the second panel has been quoted as saying that he "briefed both Monica Medina, who became deputy undersecretary of NOAA, and Sally Yozell, a senior policy advisor to Lubchenco, on this [structural deficits] matter on Dec. 3, 2008, as part of Presidential transition process."[19]

National Research Council (NRC) of the National Academies

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[14] NOAA Memo, *supra*, note 4.
[15] Ibid.
[16] Ibid.
[17] Ibid.
[18] Charles S. Clark, "NOAA Takes Remedial Steps After National Weather Service Chief's Departure," *National Journal*, May 29, 2012, available at: http://www.nationaljournal.com/congress/noaa-takes-remedial-steps-after-national-weather-service-chief-s-departure-20120529.
[19] Eric Berger, "The National Weather Service may have been diverting funds for years: Here's why," *Houston Chronicle*, May 30, 2012, available at: http://blog.chron.com/sciguy/2012/05/the-national-weather-service-may-have-been-diverting-funds-for-years-heres-why.

Last month, the NRC issued the second of two reports that took a comprehensive look at the Modernization and Associated Restructuring (MAR) of the NWS during the 1980s and 1990s. The first report, titled "The National Weather Service Modernization and Associated Restructuring: A Retrospective Assessment" was published earlier this year, and essentially concluded that "the MAR was a success: 'weather services have great value to the Nation and the MAR was well worth the investment.'"[20] The second report titled, "Weather Services For The Nation: Becoming Second to None," contains "advice for the NWS on how best to plan, deploy, and oversee future improvements, based on lessons learned from the MAR."[21]

The NWS' ability to keep up with advances in science and technology will be critical to the agency's ability to produce world class forecasting. As the NRC stated in its August report, "[A]s scientific and technological progress continues, critical components within the NWS are lagging behind the state of the science."[22] Moreover, the same report states that as the:

> "pace of scientific and technological advancement in the atmospheric and hydrological sciences continues to accelerate...enormous amounts of data generated by new surface networks, radars, satellites, and numerical models need to be rapidly distilled into actionable information in order to create and communicate effective public forecasts and warnings."[23]

Keeping those findings in mind, it is disconcerting to note that "programs like the Advanced Weather Interactive Processing System Program and the Weather Radio Improvement Project were used to pay for NWS expenses within LWF [Local Warnings and Forecasts account]. And separate funds within LWF were in turn freed up to pay for shortfalls in other NWS operations."[24] AWIPS is a "technologically advanced information processing, display, and telecommunications system that is the cornerstone of the National Weather Service modernization and restructuring."[25]

Anti-Deficiency Act Violations

From Dr. Lubchenco's decision memo:

> "The Investigative Team found that NWS employees engaged in the reprogramming of NWS funds without Congressional notification during the years in question. These actions may be a violation of the Anti-Deficiency Act."[26]

Under the Anti-Deficiency Act, federal employees may not:

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[20] Weather Services for the Nation: Becoming Second to None," National Research Council of the National Academies, August 2012, available at: http://www.nap.edu/openbook.php?record_id=13429&page=R7.
[21] Ibid.
[22] Ibid.
[23] Ibid.
[24] NOAA Memo, *supra*, note 4.
[25] NWS website, Field Systems Operations Center Test and Evaluation Branch (OPS24), available at: http://www.nws.noaa.gov/ops2/ops24/awips.htm.
[26] NOAA Memo, *supra*, note 4.

> "make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation; involve either government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law."[27]

The Committee expects to be kept apprised of any ADA developments including any administrative and/or penal actions that may result from a determination of an ADA violation. However, at this point, DOC has not yet made a determination on an ADA violation, nor has it provided the Committee with a time frame on when we can expect that decision.

Impacts

- *Of the budget reallocation on NWS programs and services*: The regular and repeated practice of siphoning money from accounts could impact the program's ability to perform and provide required services. Dr. Lubchenco states in her decision memo that, "I have been assured that none of the local forecasts and warnings – life-and property-saving services provided by NWS on a daily basis – was jeopardized by the misconduct."[28] While these actions may not have impacted current forecasts and warnings, it remains to be seen how future forecasting ability will be impacted by the reallocation of funding from future investments for near-term shortfalls.

- *Of the insufficient transparency and oversight*: Dr. Lubchenco states in her decision memo that, "The NWS operated with an unacceptable lack of transparency relating to budgeting and without mechanisms for staff to air their concerns about budget formulation and execution within NWS, creating an environment of mistrust."[29] Dr. Lubchenco also states that, "In addition to the reprogramming violations, the investigation also found that these actions went unchecked in large part due to various management issues. It is clear that this issue would have been discovered and corrected earlier had senior leadership within the NWS exercised appropriate oversight."[30] The Committee plans to monitor how NOAA and DOC address these issues of transparency and oversight.

Future Actions

- *Comprehensive review by an outside firm*: On June 21, 2012, Dr. Lubchenco testified before the House Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies that, "I have initiated the process of contracting with an outside firm to determine the full amount of expenses improperly reprogrammed during fiscal years 2010, 2011, and possibly prior years."[31] It is unclear when this review will start and end,

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[27] 31 U.S.C. Chapter 13 § 1341(a)(1)(A) and (B), available at: http://uscode.house.gov/download/pls/31C13.txt.
[28] NOAA Memo, *supra*, note 4.
[29] Ibid.
[30] Ibid.
[31] Testimony of Jane Lubchenco, Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator, before the Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies, on June 21, 2012, available at: http://appropriations.house.gov/uploadedfiles/06.21.12_cjs_-_noaa_-_jane_lubchenco_-_testimony.pdf.

or whether the agency will solicit input from the OIG. The Committee will monitor developments on these issues.

- *Disciplinary Actions*: For privacy reasons, the Committee has not been briefed on personnel actions taken or being considered by NOAA and or DOC, other than placing one individual on administrative leave. In her decision memo, Dr. Blank states, "Under Secretary Lubchenco has assured me that appropriate disciplinary action is being taken regarding those involved."[32] The Committee will hold the agency accountable for ensuring those actions take place and expects to be kept apprised of any such action.

WITNESSES

Panel I:

- **Dr. Kathryn D. Sullivan**, Assistant Secretary of Commerce for Environmental Observation and Prediction and Deputy Administrator for the National Oceanic and Atmospheric Administration, U.S. Department of Commerce
- **Inspector General Todd J. Zinser**, U.S. Department of Commerce, Office of Inspector General
- **INVITED - Ms. Maureen Wylie**, Chief, Resource and Operations Management, and former Chief Financial Officer, National Oceanic and Atmospheric Administration, U.S. Department of Commerce

Panel II:

- **Dr. William B. Gail**, Chief Technology Officer, Global Weather Corporation, and Member, Committee on the Assessment of the National Weather Service's Modernization Program, National Research Council of the National Academies.
- **Mr. Richard Hirn**, General Counsel and Legislative Director, National Weather Service Employees Organization

[32] DOC Memo, *supra*, note 1.

Vice-Chairwoman ADAMS. The Subcommittee on Investigations and Oversight will come to order.

Good afternoon. Welcome to today's hearing entitled "Mismanagement of Funds at the National Weather Service and the Impact on the Future of Weather Forecasting." Today's hearing will consist of two panels. You will find in the front of you packets containing written testimony, biographies, and truth-in-testimony disclosures for both of today's witness panels.

I recognize myself for five minutes for an opening statement.

As Vice Chair of the Investigations and Oversight Subcommittee, it is my pleasure to chair the hearing in Dr. Broun's place.

We are here today to better understand what led to the mismanagement of funds at the National Weather Service. Our first panel will provide insight into how that mismanagement occurred, why there was insufficient oversight by department leaders, how the investigation was conducted, and the decisions and corrective actions that NOAA and the Department of Commerce will make going forward.

Our second panel will provide context for how we got in this situation in the first place. We will hear from the National Weather Service Employees Organization about the stresses on labor funding and staffing, as well as the National Academies of Science about their recent report on how to plan, deploy, and oversee future improvements at the Weather Service, specifically the need to integrate advances in science and technology.

Congress' appreciation of the value of the National Weather Service is evidenced by its financial commitment to it. Since 2007, Congress has exceeded the Administration's request for the National Weather Service in all but two years, including 2011 when this Congress had to move a CR six months into the fiscal year. So when Congress is informed that the Weather Service has been experiencing a budget shortfall for several years, we are understandably concerned. Keeping Congress in the dark while there is a storm brewing at the Agency is at best irresponsible, and at worst dishonest.

We have also been informed that no "NWS employee committed fraud or received personal financial gain through their actions." Yes, I am glad that no one stole money for personal gain, but make no mistake; Congress' trust—my trust—has been violated. Money designated for programs like the Advanced Weather Interactive Processing System and Weather Radio Improvement Projects, important investments in future capabilities, were used to pay for other near-term expenses. Why did the Agency decide to "rob Peter to pay Paul," rather than appropriately prioritizing in the first place? Perhaps the clues lie in the May 24, 2012, decision memo issued by Administrator Lubchenco when she states, "the NWS operated with an unacceptable lack of transparency relating to budgeting and without mechanisms for staff to air their concerns about budget formulation and execution within NWS, creating an environment of mistrust."

Then there is the question of NWS oversight, or lack thereof. The same memo also states that the investigative team that reviewed the financial mismanagement issues found "failure of management and oversight by NWS leadership." In addition, the team found sig-

nificant problems with budget and financial controls at the National Weather Service and that department financial and management controls were ineffective at detecting or preventing this inappropriate reprogramming."

Yet, despite this admission, NOAA and the Department of Commerce refused to provide an important witness for today's hearing. NOAA's Chief of Resources, Operations, and Management (CROM), and former CFO during the events in question, would have been able to provide a historical context for the funding issues the Weather Service faced, a description of the impediments of transparency she experienced as CFO, and a detailed understanding of what NOAA needs to do going forward to fully understand what happened and how it can be prevented in the future. The Committee was willing to work with NOAA, even going as far as allowing the Agency to only submit one piece of written testimony, but NOAA still refused.

While I appreciate Dr. Sullivan's willingness to appear before the Committee, denying the Committee's request to hear from the person who was the Agency's principal financial manager during a time in which millions of dollars of resources were secretly misallocated is simply unacceptable. This should be embarrassing for an administration that repeatedly declares itself "the most transparent in history."

The Committee has also requested a number of documents from NOAA, some of which were originally requested months ago. Unfortunately, NOAA has not provided a number of resources that should be readily available. When an agency refuses to provide a witness, as well as requested documents, it makes it difficult for us to conduct a thorough oversight. It also makes it difficult for us not to ask: what are you hiding?

The Committee will continue to track this issue as NOAA and the Department of Commerce attempt to identify the exact costs and impacts of these transfers, as well as how they plan to prevent it from happening in the future. Unfortunately, as the Commerce IG will mention in his testimony, allegations of similar behavior are still coming in, even as recently as last month.

Now, as a former law enforcement officer, I understand that allegations have to be investigated thoroughly, but the simple fact that these complaints are still coming in tells me that NOAA and the Department still have a problem on their hands.

I look forward to all our witness testimonies and thank them for appearing today.

The Chair now recognizes Mr. Tonko for his opening statement.

[The prepared statement of Mrs. Adams follows:]

PREPARED STATEMENT OF SUBCOMMITTEE VICE-CHAIRWOMAN SANDY ADAMS

Good afternoon and welcome to today's hearing. As Vice-Chair of the Investigations and Oversight Subcommittee, it is my pleasure to chair the hearing in Dr. Broun's place.

We are here today to better understand what led to the mismanagement of funds at the National Weather Service. Our first panel will provide insight into how that mismanagement occurred, why there was insufficient oversight by department leaders, how the investigation was conducted and the decisions and corrective actions that NOAA and the Department of Commerce will make going forward.

Our second panel will provide context for how we got in this situation in the first place. We will hear from the National Weather Service Employees Organization

about the stresses on labor funding and staffing, as well as the National Academies of Science about their recent report on how to plan, deploy, and oversee future improvements at the Weather Service, specifically the need to integrate advances in science and technology.

Congress' appreciation of the value of the National Weather Service is evidenced by its financial commitment to it. Since 2007, Congress has exceeded the Administration's request for the National Weather Service in all but two years, including 2011 when this Congress had to move a CR six months into the fiscal year. So when Congress is informed that the Weather Service has been experiencing a budget shortfall for several years, we are understandably concerned. Keeping Congress in the dark while there's a storm brewing at the agency is at best irresponsible, and at worst dishonest.

We have also been informed that no *"NWS employee committed fraud or received personal financial gain through their actions."* Yes, I'm glad that no one stole money for personal gain, but make no mistake, Congress' trust—my trust—has been violated. Money designated for programs like the Advanced Weather Interactive Processing System and Weather Radio Improvement Project, important investments in future capabilities, were used to pay for other near-term expenses. Why did the agency decide to 'rob Peter to pay Paul,' rather than appropriately prioritizing in the first place? Perhaps the clue lies in the May 24, 2012 decision memo issued by Administrator Lubchenco when she states:

> *"NThe NWS operated with an unacceptable lack of transparency relating to budgeting and without mechanisms for staff to air their concerns about budget formulation and execution within NWS, creating an environment of mistrust."*

Then there's the question of NWS oversight, or lack thereof. The same memo also states that the Investigative Team that reviewed the financial mismanagement issues found:

> *"failure of management and oversight by NWS leadership. In addition, the Team found significant problems with budget and financial controls at the National Weather Service and that Departmental financial and management controls were ineffective at detecting or preventing this inappropriate reprogramming."*

Yet, despite this admission, NOAA and the Department of Commerce refused to provide an important witness for today's hearing. NOAA's Chief of Resources, Operations, and Management (CROM), and former CFO during the events in question, would have been able to provide a historical context for the funding issues the Weather Service faced, a description of the impediments to transparency she experienced as CFO, and a detailed understanding of what NOAA needs to do going forward to fully understand what happened, and how it can be prevented in the future. The Committee was willing to work with NOAA, even going as far as allowing the agency to only submit one piece of written testimony, but NOAA still refused. While I appreciate Dr. Sullivan's willingness to appear before the Committee, denying the Committee's request to hear from the person who was the agency's principal financial manager during a time in which millions of dollars of resources were secretly misallocated is simply unacceptable. This should be embarrassing for an administration that repeatedly declares itself "the most transparent in history."

The Committee has also requested a number of documents from NOAA—some of which were originally requested months ago. Unfortunately, NOAA has not provided a number of resources that should be readily available. When an agency refuses to provide a witness as well as requested documents, it makes it difficult for us to conduct thorough oversight. It also makes it difficult for us not to ask: what are you hiding?

The Committee will continue to track this issue as NOAA and the Department of Commerce attempt to identify the exact costs and impacts of these transfers, as well as how they plan to prevent it from happening in the future. Unfortunately, as the Commerce IG will mention in his testimony, allegations of similar behavior are still coming in—even as recently as last month. Now, as a former law enforcement officer, I understand that allegations have to be investigated thoroughly, but the simple fact that these complaints are still coming in tells me that NOAA and the Department still have a problem on their hands.

I look forward to all of our witnesses testimony, and thank them for appearing today.

Mr. TONKO. Thank you, Madam Chair.

I start with several statements of the obvious. The National Weather Service, or NWS, is a vital public safety organization and

the public greatly values the organization and its work. Congress authorizes and appropriates funds to federal agencies for specific purposes and has been supportive of the NWS and its mission.

In light of this, the financial misconduct at the National Weather Service is shocking. There are well established and widely understood processes for NWS to use if top management believes that funds must be reprogrammed. At their heart, these—those processes involve consulting with Congress. If you move money around without any accountability, as the former Chief Financial Officer at NWS did, you are violating the Anti-Deficiency Act, a statute that clearly sets limits and penalties for spending money not authorized or appropriated by Congress. The power of the purse is enshrined for Congress in the Constitution and for any senior official to ignore the law and the Constitution is a deeply troubling event.

There are important investigative questions about what happened and why in the NWS, but the committee majority has expressed its preference not to release the investigative report produced by NOAA management to the public. The Committee has not engaged in its own investigation to test the findings in that report to reach our own conclusions. This Subcommittee has much more work to do before any of these questions could be answered. Instead, much of this hearing will be about the path forward for NWS and NOAA in ensuring that a future CFO cannot engage in systematic financial deception. That is fine as far as it goes.

I think the proposals put forward by the Agency make sense. However, I am not sure we agree with this hearing's focus or scope. While there is no question that wrongdoing occurred at NOAA, just as troubling to me is the failure by the Inspector General's office at the Department of Commerce to take aggressive steps to investigate this matter. The IG is the cop on the beat, so to speak, at federal agencies. Congress empowers IGs with broad authority to investigate the inner workings of their agency, provides funding for investigative staff, and has established whistleblower protections for federal employees to try to encourage a culture where accountability is rewarded.

The IG offices are vital partners in Congress' oversight responsibility. In this instance, the cop appears to have been taking a break and the partnership failed. Inspector General Zinser has included in his testimony an accounting of the allegations his office received regarding financial irregularities at NWS and the disposition of those allegations. After receiving multiple tips, the IG's office recognized the potential problem. But the response to allegations of high-level financial shenanigans seems to have been to send those allegations back to the Agency to ask them to check on their own misconduct. It seems counterintuitive to me that the best way to ferret out problems is to ask potential wrongdoers to investigate their own wrongdoing.

Even the one preliminary investigation that was triggered by the hotline tips coming into the IG's office reveals something a little odd. That tip appears to have come in during October of 2010. However, Mr. Zinser was unaware that his office had received the allegations, that his staff had launched a preliminary investigation, or that his staff believed an Anti-Deficiency Act violation had occurred until November of 2011, one year later. By the time Mr.

Zinser had seen his staff's memo, NOAA had already conducted its own preliminary investigation and had begun to take steps to remove the CFO from his post. And when it came time to launch a full investigation, the IG allowed the Agency to conduct its own investigation. The IG's office was limited to offering investigative advice and questions to the team that NOAA put together. These procedures bear no resemblance to the conduct of an independent investigative office.

Since the scandal broke, the IG has instituted a new system where allegations are aggregated each week and forwarded to a senior level review team led by the IG himself. That is certainly a positive step but for five years his office did not do this. One has to wonder whether other anonymous tips were ignored or sent back to the perpetrators with the recommendation that they investigate themselves.

Finally, the IG has a mandate to inform Congress in a timely fashion of important agency misconduct and mismanagement. Yet to my knowledge, the IG did not inform this committee or the Appropriations Committee that they had uncovered evidence of this apparent violation of law. This represents a real failing to follow the intent that the IG communicate with Congress about significant misconduct at their agency. There is no partnership where there is no communication. This is unacceptable.

Madam Chair, I hope you agree that this committee deserves answers to our questions about what went wrong in the IG shop as we rely on that office to be our eyes and our ears for wrongdoing. Congress has a responsibility to the taxpayer to not allow—to not only allocate budgets to the agencies but to ensure that allocated funds are spent wisely and in accordance with the law. I am concerned that the Department of Commerce OIG has failed to carry out the mission of his office and I expect his full cooperation in helping us understand what they did, good and bad, and that he stand accountable for those actions.

And with that, I yield back.

[The prepared statement of Mr. Tonko follows:]

PREPARED STATEMENT OF SUBCOMMITTEE RANKING MEMBER PAUL D. TONKO

Thank you, Madame Chair.

I start with several statements of the obvious: The National Weather Service (NWS) is a vital, public safety organization, and the public greatly values the organization and its work. Congress authorizes and appropriates funds to federal agencies for specific purposes and has been supportive of the NWS and its mission. In light of this, the financial misconduct at the National Weather Service is shocking.

There are well established and widely understood processes for NWS to use if top management feels that funds must be reprogrammed. At their heart, those processes involve consulting with Congress. If you move money around without any accountability, as the former Chief Financial Officer (CFO) at NWS did, you are violating the Anti-Deficiency Act-a statute that sets clear limits and penalties for spending money not authorized or appropriated by Congress. The power of the purse is enshrined for Congress in the Constitution and for any senior official to ignore the law and the Constitution is a deeply troubling event.

We will not be able to delve deeply into the details of this incident at today's hearing or answer many outstanding questions. Why were these funds being moved without a reprogramming request? Which accounts received additional funding and which accounts were short-changed? Why did whistleblowers have to complain repeatedly to the Agency and the Inspector General's Office before anyone noticed that something was amiss in the NWS budget?

The Committee Majority have expressed their preference not to release the investigative report produced by NOAA management to the public. The Committee has not engaged in its own investigation to test the findings in that report to reach our own conclusions. This Subcommittee has much more work to do before any of these questions could be answered.

Instead, much of this hearing will be about the path forward for NWS and NOAA in ensuring that a future CFO cannot engage in systematic financial deception. That is fine as far as it goes. I think the proposals put forward by the Agency make sense. However, I am not sure we agree with this hearing's focus or scope. While there is no question that wrong-doing occurred at NOAA, just as troubling to me is the failure by the Inspector General's office at the Department of Commerce to take aggressive steps to investigate this matter.

The IG is the cop on the beat at federal agencies. Congress empowers IG's with broad authority to investigate the inner workings of their agency, provides funding for investigative staff, and has established whistleblower protections for Federal employees to try to encourage a culture where accountability is rewarded. The IG offices are vital partners in Congress's oversight responsibility. In this instance, the cop appears to have been taking a break, and the partnership failed.

Inspector General Zinser has included in his testimony an accounting of the allegations his office received regarding financial irregularities at NWS and the disposition of those allegations. After receiving multiple tips, the IG's office recognized the potential problem. But, the response to allegations of high-level financial shenanigans seems to have been to send those allegations back to the agency to ask them to check on their own misconduct. It seems counter-intuitive to me that the best way to ferret out problems is to ask a potential wrong-doer to investigate their own wrong-doing.

Even the one preliminary investigation that was triggered by the hotline tips coming into the IG's office reveals something a little odd. That tip appears to have come in October of 2010. However, Mr. Zinser was unaware that his office had received the allegation, that his staff had launched a preliminary investigation, or that his staff believed an Anti-Deficiency Act violation had occurred until November of 2011—one year later.

By the time Mr. Zinser had seen his staff's memo, NOAA had already conducted their own preliminary investigation and had begun to take steps to remove the CFO from his post. And when it came time to launch a full investigation, the IG allowed the agency to conduct its own investigation. The IG's office was limited to offering investigative advice and questions to the team that NOAA put together. These procedures bear no resemblance to the conduct of an independent investigative office.

Since the scandal broke, the IG has instituted a new system where allegations are aggregated each week and forwarded to a senior level review team led by the IG himself. That is certainly a positive step.

But for five years, his office did not do this and one has to wonder whether other anonymous tips were ignored or sent back to the perpetrators with a recommendation that they investigate themselves.

Finally, the IG has a mandate to inform Congress in a timely fashion of important agency misconduct and mismanagement. Mr. Zinser has expressed to Committee staff that he believes there was sufficient evidence in the preliminary investigative memo done by his staff in November of 2011 that an Anti-Deficiency Act violation had occurred. Yet, to my knowledge the IG did not inform this Committee or the Appropriations Committee that they had uncovered evidence of this apparent violation of law.

His explanation was that he believed that the Agency was going to inform Congress, but there was no follow up to confirm this. In fact, this Committee, which has black letter jurisdiction over the National Weather Service, did not learn of the situation until April of 2012. This represents a real failing to follow the intent that the IG communicate with Congress about significant misconduct at their agency. There is no partnership where there is no communication. This is unacceptable.

I understand that this IG had a lot on his plate with oversight of the recovery act and politically-charged requests for investigations into topics such as climate science. Being the Inspector General at the Department of Commerce has been a notoriously difficult post. However, it is clear that in the five years that this IG has been on the job he did not put in place information and decision-making processes to guarantee that credible, important allegations receive high level attention and timely action. If the first complaint from Spring of 2010 had been acted on quickly by the IG, as it should have been, we might have kept this situation from spinning so far out of control.

Madame Chair, I hope you agree that this Committee deserves answers to our questions about what went wrong in the IG's shop, as we rely on that office to be

our eyes and ears for wrong-doing. Congress has a responsibility to the taxpayer to not only allocate budgets to the agencies, but to ensure the allocated funds are spent wisely and in accordance with the law. I am concerned that the Department of Commerce IG has failed to carry out the mission of the office, and I expect his full cooperation in helping us understand what they did—good and bad—and that he stand accountable for those actions.

Vice-Chairwoman ADAMS. Thank you, Mr. Tonko.

If there are Members who wish to submit additional opening statements, your statements will be added to the record at this point.

Now, I am going to introduce our first panel.

At this time, I would like to introduce our first panel of witnesses. Our first witness is Dr. Kathryn Sullivan, the Assistant Secretary of Commerce for Environmental Observation and Prediction, and the Deputy Administrator for the National Oceanic and Atmospheric Administration at the United States Department of Commerce. Our second witness will be Inspector General Todd Zinser of the United States Department of Commerce Office of Inspector General.

As our witnesses should know, spoken testimony is limited to five minutes each, after which the Members of the Committee will have five minutes each to ask questions. Your written testimony will be included in the record of the hearing. It is the practice of the Subcommittee on Investigations and Oversight to receive testimony under oath. Do either of you have—or do any of you have any objection to taking an oath?

Dr. SULLIVAN. No objection.

Mr. ZINSER. No objection.

Vice-Chairwoman ADAMS. Let the record reflect that all witnesses were willing to take an oath.

You may also be represented by counsel. Do any of you have counsel here with you today?

Dr. SULLIVAN. I do not.

Mr. ZINSER. No.

Vice-Chairwoman ADAMS. Let the record reflect none of the witnesses have had counsel.

If you would now please stand and raise your right hand.

Do you solemnly swear or affirm to tell the truth, the whole truth, nothing but the truth, so help you God?

Dr. SULLIVAN. I do.

Mr. ZINSER. I do.

Vice-Chairwoman ADAMS. Let the record reflect that all witnesses participating have taken the oath.

Thank you.

I now recognize our first witness, Dr. Kathryn Sullivan.

TESTIMONY OF DR. KATHRYN D. SULLIVAN, ASSISTANT SECRETARY OF COMMERCE FOR ENVIRONMENTAL OBSERVATION AND PREDICTION AND DEPUTY ADMINISTRATOR FOR THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Dr. SULLIVAN. Thank you, Vice Chair Adams, Ranking Member Tonko, Mr. McNerney, Members of the Committee. I want to start by thanking you for your support of NOAA and specifically for the

National Weather Service throughout the years. I know you join me in admiring the men and women of the Weather Service who, day in and out, provide the accurate timely warnings and forecasts that protect lives and livelihoods across our Nation.

Unfortunately, I am here today to testify on misconduct and budget formulation execution within the Service. Before going further, I do want to stress a vital point. While the conduct was wrong and breached the trust between NOAA and this Congress, at no point did it compromise performance of our core forecast and warning mission.

We first learned of the alleged misconduct in late November 2011. NOAA Administrator Dr. Jane Lubchenco notified then-Deputy Secretary Dr. Blank and directed several immediate remedial actions. We put a government employee on administrative leave, we assigned the Chief Financial Officer from NOAA Fisheries to serve as the acting Weather Service CFO. Dr. Blank and Dr. Lubchenco launched an internal investigation led by myself as the senior NOAA official and a counterpart from the Commerce Department's CFO office. We also informed the Department of Commerce Inspector General of our intended investigation and he agreed that an internal inquiry was the proper course of action. Finally, we notified the House and Senate Committees on Appropriations of both the allegations and our investigation.

As we reported upon conclusion of the investigation in May, we found that the Weather Service reprogrammed funds in fiscal years 2010 and 2011 without appropriate Congressional notification. The mechanisms used were complex and undetectable by existing financial controls. We also found a significant lack of transparency and ineffective oversight of budget execution within the Weather Service. Importantly, as noted, we found no evidence of fraud or personal financial gain by any employee.

We found further that the Weather Service had not actually operated in the red or as a whole with overspending its funds in a given year to accomplish its core mission. It did become clear, however, that the Service did not have the right sums of money in the right accounts to support labor and operating costs.

On May 25 of this year, Acting Secretary Blank and Dr. Lubchenco each issued a memorandum directing a set of corrective actions. These have been underway since that date. Dr. Lubchenco ordered 12 corrective actions all designed to strengthen financial controls and increase transparency within the Service, as well as to ensure no similar issues exist elsewhere in the Agency. We directed changes in the Weather Service supervisory structure to strengthen oversight of the CFO by both the Weather Service Deputy AA and the NOAA CFO. We are creating a well documented and transparent process to ensure that Weather Service budget formulation and execution are properly aligned and within the limits of appropriated funds. We strengthened the NOAA CFO's supervision over summary level transfers, one of the mechanisms used to executive the expense transfers inappropriately in this case. Lastly, we have awarded a contract to conduct an independent financial review and analysis of the National Weather Service books going back to fiscal year 2006.

In May, we worked with appropriators of both chambers to reprogram $36 million, the sum needed to sustain current levels of performance and our core forecast warning services and avert the necessity of employee furloughs. This involved moving funds out of research and spare parts inventories and delaying some programs that support improvements for future years. The cuts were not easy but few options remained open to us that late in the fiscal year. The exceptional performance of the Weather Service during Hurricane Isaac confirms that these have not negatively affected our current warnings and forecast performance.

We are fully cognizant that it is imperative and incumbent upon us to restore sound financial management in the National Weather Service. We are committed to doing that and to keeping this committee informed of our progress. But even amid this immediate challenge, we must be looking toward the future and taking actions that ensure the long-term vitality and effectiveness of the National Weather Service. The National Academy study that the Congress requested is already guiding our thinking in this regard. We share the Academy's sense that the Service must, "evolve its role and how it operates, making it more agile and efficient," and we look forward to the follow-on operations study directed by the CJS FY12 conference report due in April 2013.

We hope that in the coming months our dialogue with the Congress, our employees, and our stakeholders can focus on the future, on how we all can work together to create that more agile and efficient organization, a National Weather Service for the 21st century that is, as the Academy says, second to none.

Thank you again for this opportunity to testify on this very important matter. I welcome your questions.

[The prepared statement of Dr. Sullivan follows:]

WRITTEN STATEMENT OF
KATHRYN SULLIVAN, Ph.D.
ASSISTANT SECRETARY OF COMMERCE
FOR ENVIRONMENTAL OBSERVATION AND PREDICTION
AND DEPUTY ADMINISTRATOR
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

ON THE
MISMANAGEMENT OF FUNDS AT THE NATIONAL WEATHER SERVICE AND THE IMPACT ON THE FUTURE OF WEATHER FORECASTING

BEFORE THE
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT
U.S. HOUSE OF REPRESENTATIVES

SEPTEMBER 12, 2012

Chairman Broun, Ranking Member Tonko, and members of the Committee, thank you for your leadership and the continued support you have shown the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA). I am here to discuss the budget situation facing NOAA's National Weather Service (NWS) and the way forward.

Introduction

The National Weather Service (NWS) is one of five line offices within the National Oceanic and Atmospheric Administration (NOAA) within the Department of Commerce (DOC) that work together to achieve NOAA's missions. NWS' core mission is to provide weather, water, and climate data, forecasts, and warnings for the protection of life and property and the enhancement of the national economy. I have come today to testify on our investigation and actions in response to inappropriate and potentially unlawful conduct during budget execution at the NWS. I do so knowing full well how much our Nation counts on NOAA's National Weather Service to be a trusted source of critical, life-saving information. I consider NOAA's responsibility to maintain this trust to be one of our most important missions.

NWS is the official Federal source for the Nation's weather information. The private sector, military and civilian agencies, media, and academia rely on a range of services NOAA provides. For example, NOAA scientists use supercomputers at the NWS National Centers for Environmental Prediction to produce quality-controlled numerical forecasts. The Nation also relies on the Federal observing and information infrastructure, especially NOAA's network of observing systems: Doppler weather radar, radiosonde profiles, and the National Environmental Satellite, Data, and Information Service's (NESDIS) satellite data, to name just a few components. This infrastructure forms the foundation of the Nation's multi-billion dollar private weather industry.

The NWS mission is tightly aligned with that of emergency management, and is linked closely to the Federal Emergency Management Administration (FEMA), the United States Geological Survey (USGS), the United States Army Corps of Engineers, and the National Airspace System. NWS forecast and warning capabilities are Primary Mission Essential Functions (PMEF) vital to the Nation's continuity of operations. The growing population and geographic development of the country have contributed to escalating impacts due to weather-related natural disasters, both in terms of lives lost and of economic effects. Last year's record weather-related disasters caused an estimated $46 billion in economic losses in the United States. In response, NWS launched a nationwide initiative to increase the effectiveness of our warnings and to provide better decision-support services to local communities to ensure they are prepared for, and respond to weather-related events. This initiative is called Weather-Ready Nation. Keeping the National Weather Service effective, resilient, and modern is a shared goal of ours and Congress' and is in this Nation's best interest. Any misconduct at NWS is of grave concern to us and – I fully understand – to this committee and the rest of Congress as well.

Historically, the NWS has achieved a record of sustained performance, meeting and exceeding most Government Performance and Results Act performance measures and ranking third in 2011 among all federal agencies in an independent survey by the American Customer Satisfaction Index, with a customer satisfaction rating of 84. American citizens have long trusted the National Weather Service, and maintaining that trust is imperative.

Financial Investigation

Background

On November 29th, 2011, NOAA's Deputy Under Secretary for Operations informed NOAA Administrator, Dr. Jane Lubchenco, that a preliminary review of allegations concerning financial mismanagement within the NWS had uncovered evidence of potential violations of appropriations law. Because of the seriousness of these allegations, Dr. Lubchenco immediately informed the Deputy Secretary of Commerce, Dr. Rebecca Blank, of the preliminary findings, placed a NWS employee on indefinite administrative leave, and moved our NOAA Fisheries Chief Financial Officer (CFO) to act as the NWS CFO. At this time the Office of the Secretary and NOAA staff informed Appropriations Committees that an employee was placed on administrative leave, that we were planning an investigation, and that we had concerns about the FY 2012 budget. Dr. Blank and Dr. Jane Lubchenco immediately initiated an investigation. I was the senior executive from NOAA charged with leading the investigation along with a senior executive from the Department's Office of the Chief Financial Officer. Our charge was to review the preliminary findings and expand upon the work of the initial review. From the outset of the investigation, clear instructions were given that we were to determine if improper actions were taken by individuals within the NWS CFO's office and NWS leadership, and if so how best to correct these improprieties.

From December 2011 to April 2012, the Investigative Team conducted thirty interviews of twenty one Department of Commerce employees, completed an extensive review of NWS financial records, and reviewed a large number of documents including emails, financial information, memoranda, and other material provided by witnesses in support of their testimony. Throughout the investigative process the Team consulted with the Department of Commerce

Office of the Inspector General regarding the conduct of the investigation, including whom to interview and what lines of questioning to pursue. The investigation focused primarily on fiscal years (FY) 2010 and 2011, because this was the time period referenced in the complaints received.

Findings

On May 11, 2012, I, in my role as a leader of the Investigative Team, provided Dr. Lubchenco and Dr. Blank with our report, including our findings and recommendations. Importantly, we did not find evidence that NWS officials' improper actions put life or property at risk or jeopardized the delivery of timely and reliable weather forecasts and warnings. However, we found that NWS employees engaged in the reprogramming of NWS funds without Congressional notification during FY 2010 and 2011. Although still under legal review, these actions may be in violation of the Anti-Deficiency Act. The Team also found a failure of management and oversight by NWS leadership, and significant deficiencies in budget and financial controls within NWS, NOAA, and DOC.

The Team found no evidence that NWS employees committed fraud or received personal financial gain through their actions. However, this fact does not alleviate the seriousness of the findings.

The Team found that several anonymous complaints alleging improper financial activity within the NWS were received by the Department of Commerce OIG and senior officials inside NOAA and DOC from early 2010 until the July 2011 OIG referral that initiated the first preliminary investigation. Unfortunately, these early warning signs were not effectively acted upon.

NWS employees used complex financial mechanisms to conduct the unauthorized reprogramming of funds, and I will provide you with a brief synopsis of the Investigative Team's results.

As an initial matter, the Investigative Team found that the NWS did not assess its programs equitably, transparently, or sufficiently to cover common services which was contrary to methods used among other line offices at NOAA. This left a shortfall in the Weather Service Management and Administration account, which the NWS CFO's Office had to address in execution during the course of the fiscal year. In response to this shortfall, and other operational needs, NWS employees switched accounting codes on past expenses between programs and accounts in violation of appropriations law.

NWS used a financial vehicle called a Summary Level Transfer, or SLT, which, under normal circumstances, allows for the correction of accounting errors. In this case, NWS employees used SLTs to switch accounting codes on past expenses paid out of the Local Warnings and Forecasts budget, or "LWF" to codes for other programs. Thus, previously obligated funds within the LWF were freed to use for other purposes, and applied to other activities. As a result, funds appropriated for programs like the Advanced Weather Interactive Processing System (AWIPS), the Weather Surveillance Radar 1988 Doppler (WSR88D) program, and the Weather Radio Improvement Program (WRIP) were used to cover LWF expenses; LWF expenses are primarily labor costs. Newly freed funds within the LWF were in turn used to pay for shortfalls in NWS base operations.

The investigation found that these actions went unchecked in large part due to insufficient oversight over the NWS CFO's Office and a lack of appropriate budget controls over the SLT process. The lack of oversight was exacerbated by the fact that the NWS operated with an unacceptable lack of transparency regarding financial issues, and without avenues by which staff could air concerns about budget formulation and execution within NWS. Moreover, financial controls in place at the Department, NOAA, and the NWS were not designed to, and therefore could not detect the financial mismanagement that occurred here. In addition, the Team found that there was insufficient training for NWS budget personnel and NWS leadership on reprogramming and appropriations law.

The Investigative Team found that the government employee who directed the inappropriate actions was attempting to protect parts of the NWS budget that he or she believed were chronically underfunded, despite the fact that during budget formulation, NWS leadership assured NOAA and Department of Commerce leadership that overall funding was sufficient and that funding was appropriately allocated among NWS accounts.

In the time allotted for the investigation, we could not determine the full amount of expenses improperly reprogrammed during FY 2010 and 2011. Dr. Lubchenco and I know this Committee wants the answer to this question, and I assure you no one wants this answer more than we do. We awarded a contract on the 17th of August to Grant Thornton to conduct a full financial review and analysis that we hope can determine the full amount of expenses improperly reprogrammed during fiscal years 2010, 2011, and possibly prior years. What I can tell you is that for FY 2012 we worked with the Appropriation committees to reprogram $36 million to protect NWS core mission functions.

Response Actions

Financial mismanagement at the NWS is a serious matter. The improper and irresponsible actions described in the report are wholly unacceptable and require swift corrective action. To this end, on May 25, 2012, Dr. Blank and Dr. Lubchenco released decision memos detailing the report's findings and corrective actions NOAA and the Department of Commerce are taking in response to those findings. On that day, we provided these decision memos to this Committee, as well as the House Committee on Appropriations, the Senate Committee on Appropriations, and NOAA's other authorizing Committees, and I have attached them again as addenda to this testimony.

The decision memos detail the 25 corrective actions that Dr. Blank and Dr. Lubchenco have ordered. The first corrective action we directed was the submission to both the House Committee on Appropriations and the Senate Committee on Appropriations of a $36 million FY 2012 reprogramming. Our dual goals in this reprogramming request were to ensure continuity in core NWS operations and to prevent the possibility of the furlough of NWS employees. We worked with our appropriations committees over the month of June and are currently moving ahead with this reprogramming. The request takes $29.9 million from NWS programs, $4.1 million from some non-NWS NOAA programs, and $1.5 million from prior year de-obligations. This action sustains current levels of weather forecasts and warning services to the Nation. The reductions are largely targeted toward research, postponing procurements of spare parts, deferring enhancements to weather systems, and accelerating reductions proposed in the FY 2013 budget.

The proposed reductions underwent a rigorous review and reflect the best options available at the time given that it was already the third quarter of the fiscal year.

Beyond the reprogramming, the decision memos include actions that are specific to NWS, NOAA, or the entire Department. The NOAA-specific actions include a change in the supervisory structure of the NWS that strengthens oversight of the NWS CFO position by including the Deputy Assistant Administrator for Weather Services and the NOAA CFO in the performance review process; the creation of a well-documented process that includes explicit time for programmatic decisions to align NWS budget formulation and execution with available funds, an equitable assessment of NWS programs for common services, an expansion of NOAA CFO's office supervision of summary level transfers, and the initiation of an outside financial analysis. We are currently on schedule to meet our goals for these actions.

Dr. Lubchenco has been personally engaged in implementing the corrective action plan. Deputy Under Secretary for Operations, Dr. David Titley, and I have been put in charge of carrying out the corrective actions Dr. Blank and Dr. Lubchenco ordered for NOAA and providing them with regular updates. All of NOAA leadership is committed to working with Congress to ensure that processes are in place to restore proper oversight over the Weather Service budget, and that appropriate disciplinary action is taken.

Moving Forward

As we work to implement the corrective actions to ensure proper oversight, we also want to begin a discussion with you on the path forward for the NWS. The science and technology of weather observing, forecasting, and communications have changed dramatically since the current NWS Operations Model was developed in the late 1980s and continue to evolve rapidly. It is imperative that NWS is able to keep pace with these advances and able to change with the evolving needs of our society. An effective, resilient, and modern NWS is needed to better deliver services responsive to population growth, growing infrastructure threats, and an increasingly interdependent economy. Rapid scientific and technological advancements are providing potential solutions that will enable NOAA to better meet our country's needs.

Our dialogue with you needs to move to a strategic vision of what our Nation needs from the NWS in the 21st century and how we enable the NWS to evolve accordingly and to provide for those needs in the most efficient and cost effective manner. Future NWS budgets need to focus on a broader, end-to-end and comprehensive strategy for weather services. Congress, the Administration, and key stakeholders – emergency managers, private sector, academia, and the public – need to be active participants in the dialogue as the strategy for the future of NWS is developed.

Important components of this dialogue are the two independent studies, directed by Congress, to review NWS. The first is the National Academy of Sciences (NAS) study of the NWS Modernization and Associated Restructuring (MAR) that Congress directed in the FY 2010 report language. The first phase of this study provided the first official history of the MAR, including lessons learned. The fundamental message delivered by the NAS is that the NWS should not be placed in a position where another wholesale re-engineering effort like MAR is

needed. The second phase, completed last month, reviewed the NWS Strategic Plan[1] and Roadmap[2].

In NOAA's FY 2012 Appropriations conference report language (P.L. 112-55), Congress recognized the need for a follow-on study to examine the structure of the NWS and directed a second study, using the following language:

> "NOAA shall enter into a contract with an independent organization with experience in assessing Federal agencies for the purposes of evaluating efficiencies that can be made to NWS operations...This review shall not be undertaken until the National Academy of Sciences completes its review of the NWS modernization, which will include recommendations on the NWS workforce and composition and how NWS can improve current partnerships with Federal and non-Federal partners and incorporate new technologies for improved services. The findings and recommendations of the National Academy of Sciences review should inform this new independent assessment."

The Request for Proposals for the follow on study was released on June 14, 2012 and we expect a contract award for this independent study by September 28, 2012.

Results of this study, expected in April of 2013, will help inform future budgets and planning. We hope to have a continuous, rich dialogue with Congress as we move forward and use the results of the reports to begin charting the future course of the NWS.

Recent events have highlighted the need for the Nation's Weather Service to be agile and quick to meet rapidly changing stakeholder needs and accelerating advances in science and technology, while also being resilient and cost-effective in the face of changing budgets. We believe the future of NWS must be marked by more continuous innovation and change. It is our hope that your assistance and the advice of external review and guidance from the NAS and others will provide the necessary information to effect the changes needed to position the NWS for the future. I look forward to continuing this discussion with all of you in the coming months.

Conclusion

We are committed to working with Congress to ensure that processes are in place to restore proper oversight over the Weather Service budget, and to begin a discussion on the future direction of NWS. Thank you for the opportunity to discuss this important issue with you, and I will be happy to answer any questions.

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[1] http://www.nws.noaa.gov/com/weatherreadynation/files/strategic_plan.pdf

[2] http://www.nws.noaa.gov/com/weatherreadynation/files/NWS_WRN_Roadmap.pdf

Vice-Chairwoman ADAMS. Thank you. And I now recognize our second witness for the panel, Inspector General Todd Zinser, for five minutes.

TESTIMONY OF INSPECTOR GENERAL TODD J. ZINSER, U.S. DEPARTMENT OF COMMERCE, OFFICE OF INSPECTOR GENERAL

Mr. ZINSER. Madam Chair, Ranking Member Tonko, Members of the Subcommittee, good afternoon.

The invitation from Chairman Broun asked us to specifically address four areas. One, identify how and when we received the allegations relating to financial misconduct at the National Weather Service. During the period June 2010 to August 2012, we received numerous complaints through our hotline and from GAO via their FraudNet. Eight concerned allegations of improper reprogramming, and four concerned allegations about a former employee of the National Weather Service Office of Chief Financial Officer, who was brought back as a contractor. That person is now a former contractor, thanks to the National Weather Service staff who contacted our hotline and Dr. Sullivan's prompt management action.

Two, explain our role in and provide a preliminary analysis of the joint NOAA departmental investigative report following NOAA's internal inquiry. I first became aware of allegations of improper reprogramming at the National Weather Service in November 2011, when the head of our audit staff sent a memorandum to the National Weather Service Chief Financial Officer and several other NOAA and Departmental officials which basically said that we thought they had a $10 million improper reprogramming issue concerning AWIPS funding and that they should get an opinion from the Department's Office of General Counsel. In our conversations with the National Weather Service CFO's office during our review, they insisted that they had not engaged in improper reprogramming. We disagreed and said they needed to get the lawyers involved. A copy of our memorandum is attached to our written statement.

At about the same time, in a November 2011 conversation with the former NOAA Deputy Undersecretary, I learned that NOAA was finishing up a review of similar reprogramming allegations that had been referred to them by my OIG hotline staff. That review reached the same conclusion that we did that there was improper reprogramming occurring. The issue was elevated very quickly to the Deputy Secretary and Undersecretary. There was interest in additional fact-finding, especially about the extent of executive responsibility and knowing the extent of the reprogramming, so initially NOAA, then the Department and NOAA jointly, undertook further fact-finding between November 2011 and May 2012, when the NOAA review report was issued and corrective actions ordered.

Three, explain the rationale for conducting a sufficiency review of the investigation rather than an independent OIG investigation. Generally, when we refer a hotline matter to the Department or one of its Gureaus for resolution, we ask for an answer. Once we receive the answer, we then conduct what we call a sufficiency review. We do not have the resources to look into every allegation we

receive through the hotline, so this is a common method used by IG offices across the government to leverage our resources with those of the agencies to resolve management and administrative matters.

In this case, it was my view that the Department and NOAA were in the best position to carry out the follow-up fact-finding for a few reasons. At the end of the day, the determination as to whether the reprogramming actions were proper or improper was going to be made by the Department and OMB and the basic facts were already known. We had already reported our observations in our November 2011 memorandum and it was now up to the Department and NOAA to address these observations with their budget, accounting, and legal staffs. That put my office in a better position to evaluate the Department and NOAA's actions and response. We are in the process of doing that right now.

Four, discuss what follow-up activity OIG has planned. Both our audit and investigative staff are engaged in follow-up work. These activities are discussed in further detail in my written statement. Among other things, our audit staff is tracking progress on the 20 or so corrective actions that were directed by Acting Secretary Blank and Undersecretary Lubchenco. Our audit staff is also going to try to get a better handle on the reported structural deficit and budget shortfall referenced in the May 2012 report that is said to underlie improper programming. We would also like to get a better understanding of the impact, if any, of the reprogramming actions on the National Weather Service programs, especially AWIPS.

Our investigators are conducting follow-up interviews about how far back this may go and which other officials may have been aware of the structural deficit, the shortfall, and the reprogramming activities. The investigative work is also in response to hotline complaints received after the May 2012 internal report was issued. We will keep both Congress and the Department informed of our work.

This concludes my statement, Madam Chair. I would be happy to answer questions that you or other Members of the Subcommittee may have.

[The prepared statement of Mr. Zinser follows:]

Testimony of

The Honorable Todd J. Zinser
Inspector General

U.S. Department of Commerce

before the

House Committee on Science, Space and Technology

Subcommittee on Investigations and Oversight

Mismanagement of Funds at the National Weather Service and the Impact on the Future of Weather Forecasting

September 12, 2012

Madam Chair, Ranking Member Tonko, and Members of the Subcommittee:

I appreciate the opportunity to testify today about the Department of Commerce's response to National Oceanic and Atmospheric Administration (NOAA) National Weather Service's (NWS') mismanagement of budgetary resources. Our testimony will address three areas:

1. Numerous ***whistleblower complaints***, dating back to 2010, many of which have since been validated by multiple reviews of NWS financial mismanagement;
2. Separate ***Departmental and NOAA internal inquiries***, resulting in both the Department and NOAA undertaking significant corrective action; and
3. Recent and current ***Office of Inspector General (OIG) follow-up reviews***, to measure the sufficiency of the internal inquiries and the resulting corrective actions.

I. Whistleblower Complaints

Between June 2010 and August 2012, OIG received eight complaints concerning unauthorized reprogramming at NWS. In addition, beginning in January 2012, OIG received a series of four complaints alleging contracting improprieties in the NWS Office of the Chief Financial Officer (OCFO), concerning the employment of a consultant who had formerly been a senior OCFO official. We have summarized these complaints chronologically (see below):

- **GAO hotline referral (received June 17, 2010)**—OIG received a mailed letter from GAO's FraudNet, dated May 25, 2010, forwarding an anonymous complaint that NWS OCFO moved appropriated funds from "program to program" to pay for underfunded and underestimated costs. This anonymous complaint listed NOAA's Deputy Under Secretary for Operations, along with OIG and other parties, as being sent copies of the complaint. OIG, having received only the GAO referral, did not take action at the time, filing the complaint for future reference. We later learned that (a) NOAA had previously received this identical complaint, in April 2010 or earlier; (b) NOAA had assigned it to NWS OCFO; and (c) in April 2010, NWS OCFO had drafted a response to NOAA's Deputy Under Secretary for Operations addressing the allegations. We are not aware of NWS OCFO ever having finalized its response.
- **OIG hotline complaint (received October 31, 2010)**—OIG received a second anonymous complaint through an online form, which alleged that NWS was inappropriately reprogramming appropriated funds for the Advanced Weather Interactive Processing System (AWIPS) to pay for other activities. OIG commenced a review of the complaint; on November 18, 2011, we issued a memorandum to the NWS OCFO and other senior NOAA and Department officials, concluding that $10 million in AWIPS funds were shifted to other accounts without a reprogramming request. (See section III of this testimony for further details.)
- **OIG hotline complaint (received June 14, 2011)**—OIG received another anonymous online complaint, stating that "rumors abound" that NWS OCFO staff were "spending many hours building a cover story" about financial mismanagement. OIG sent this complaint to NOAA for internal inquiry, the results of which were reported in NOAA's November 2011 preliminary report, *AWIPS Funding Investigation Report:*

Response to OIG Referral Number PPC-CI-11-0442-H. This 17-page report (excluding appendixes) found that, over the 2 years examined—fiscal years (FYs) 2010 and 2011—NWS OCFO (a) engaged in a strategy to address NWS budget shortfalls through the reallocation of program funding and (b) because shortfalls were not addressed at the start of the fiscal year, created a need during the year to continually reallocate funds. The report concluded that these actions "created an environment of uncertainty, and lack of transparency that relies on ad hoc budget manipulations during the fiscal year to ensure solvency," in violation of the FYs 2010 and 2011 appropriations acts.

- **OIG hotline complaint (received November 1, 2011)**—An NWS employee emailed OIG's hotline alleging an NWS OCFO redirection of FY 2012 Next Generation Weather Radar System (NEXRAD) Operations and Maintenance funds to pay for its Product Improvement Program. OIG sent this complaint to NOAA and requested that the agency consider it along with the June 14 allegations.
- **OIG hotline complaints (received beginning January 11, 2012)**—Beginning on this date, OIG received a series of four anonymous complaints, involving a former senior employee in NWS OCFO, that are the subject of an ongoing OIG investigation. The complaints alleged contract improprieties related to the hiring of this former employee as a consultant for NWS OCFO, including improper payment of lodging. One complaint alleged the consultant attempted to use undue influence in an effort to get a family member a contract position at NWS. Specifically, this complaint alleged that funding sources for their programs would be provided if they agreed to hire the relative. While our investigation is ongoing, we have determined that NOAA provided the contractor housing valued at more than $52,000 and spent more than $336,000 in wages for this consultant's services over a period of one and a half years. We promptly notified NOAA of our preliminary findings concerning the consultant's efforts to secure a job for the family member; NOAA took swift action to terminate the consultant's employment with the agency.
- **OIG hotline complaint (received February 4, 2012)**—OIG received an email from an NWS employee who alleged that the agency overspent available funds by more than $100 million over the past several fiscal years. OIG sent this complaint to the NOAA/Department team conducting the internal inquiry, requesting its inclusion with the existing inquiry.
- **GAO hotline referral (received April 16, 2012)**—OIG received a second GAO Fraudnet complaint, alleging that NWS OCFO was not the only NOAA office that knew of, and was responsible for, the improper reprogramming of funds. The complainant alleged that NWS and NOAA OCFO also had knowledge of the unauthorized reprogramming of funds. OIG sent this complaint to the NOAA/Department team conducting the internal inquiry, requesting its inclusion with the existing inquiry.
- **OIG hotline complaint (received June 11, 2012)**—After the Department and NOAA jointly issued the internal inquiry report responding to the reprogramming allegations, OIG received another anonymous complaint. It contained allegations that, despite the investigation, the unauthorized reprogramming of funds at NWS had continued unabated. The complainant suggested that the unauthorized reprogramming

has been taking place since 2004, when NWS failed in its attempt to restructure as a way to mitigate budget shortfalls. OIG is currently investigating these allegations.

- **OIG hotline complaint (received August 18, 2012)**—OIG received another complaint from a senior NWS employee, who raised concerns about how NWS continues to handle its financial challenges, including the lack of sufficient oversight and appropriate measures to mitigate funding shortfalls. The complainant reported being told specifically to use funds from what the complainant described as "admittedly" not the "right pocket." We are currently assessing this complaint in conjunction with our ongoing review (see section III of this testimony for further details).

II. Departmental and NOAA Internal Inquiries

The Department's Internal Inquiry Report (May 11, 2012)

On May 11, 2012, the Department of Commerce issued its *Internal Inquiry into Alleged Mismanagement of Funds Within the National Weather Service*. The Department initiated this executive-level inquiry, jointly with the National Oceanic and Atmospheric Administration (NOAA), following the agency's preliminary inquiry into OIG hotline and other complaints regarding suspected improper reallocation of expenses within NWS. NOAA's preliminary inquiry concluded that the NWS OCFO may have engaged in the unauthorized reprogramming of its program funds in FYs 2010 and 2011, in violation of the appropriations acts for those years. The Department carried out its follow-up inquiry to examine the reported issues in greater depth and validate NOAA's initial findings.

As stated in its May 11, 2012 report, the Department and NOAA jointly:

- Conducted more than 30 interviews of over 20 witnesses;
- Performed financial analyses;
- Consulted with OIG, NOAA OCFO, and the Department's Office of General Counsel (OGC); and
- Examined large numbers of documents, e-mails, memoranda, and spreadsheets related to the allegations.

In addition to the unauthorized reprogramming of NWS funds in FYs 2010 and 2011, the Department found that significant management, leadership, budget, and financial control problems led to an environment where such activity could occur, including what the Department terms "summary level transfers" (SLT) to reallocate expenses. The Department uses SLTs to provide financial officers flexibility for reassigning accounting codes on past expenses, for reasons including fixing account code errors. For the reprogramming, NWS used SLTs to change accounting codes on expenses previously paid out of the NWS Local Warnings and Forecasts (LWF) base budget to those of other activities, thereby freeing up flexible LWF funds for almost any purpose. The full range of Departmental findings includes:

- The improper use of SLT accounting to facilitate the inappropriate reallocation of expenses;

- An inappropriate assessment of required NWS program office payments for common services;
- NWS OCFO staff ultimately participating in the unlawful reprogramming of funds, despite their objections;
- Failed oversight of and an environment of mistrust at NWS OCFO;
- A lack of timely responsive action from NOAA, the Department, and OIG;
- Possible improprieties in the reallocation of expenses; and
- Financial and management controls that were ineffective at preventing an unlawful reprogramming of funds.

Since the release of the May 11, 2012, report, the Department and NOAA have proceeded with several directives, reviews, and studies focused on Departmental and NWS budget, training, and reporting structure issues. Acting Secretary Rebecca Blank and Under Secretary of Commerce for Oceans and Atmosphere Jane Lubchenco issued separate decision memoranda on May 24, 2012, with specific actions for correcting the conditions leading to the report's findings. These decision memoranda require Departmental action on 20 distinct activities, including audits, organizational reporting adjustments, and changes to budget formulation and execution processes.

Deputy (Acting) Secretary Response to the Internal Inquiry Report (May 24, 2012)

On May 24, 2012, the Deputy Secretary (now Acting Secretary) provided 8 directives requiring:

1. An implementation plan for each of the decisions contained In Under Secretary Lubchenco's memo, with a timetable and milestones;
2. A comprehensive review of all Department SLTs;
3. Examination of the Department's budget formulation and reporting structure;
4. Financial, reprogramming, Anti-Deficiency Act (ADA), and appropriations law training for Department staff;
5. Budget and appropriations law training for Departmental senior executives and political appointees;
6. Complaint handling training for Departmental senior executives and political appointees;
7. A review of Departmental budget allocations for common services; and
8. A review of the Department's line office reporting structure

NOAA Response to the Internal Inquiry Report (May 24, 2012)

Also on May 24, 2012, the Under Secretary of Commerce for Oceans and Atmosphere issued a memorandum summarizing the findings and 14 recommendations made by the inquiry team, and provided the following additional 12 administrator decisions to:

1. Deliver FY 2012 NWS reprogramming request to Congress;

2. Fully fund NWS headquarters operations, assess NWS common services, and deliver training for NOAA staff on common services assessments;
3. Add the NOAA CFO to the line office budget reporting structure;
4. Expand NOAA CFO responsibility for reviewing SLTs;
5. Ensure input from NWS program officials on budget decisions;
6. Document NWS budget formulation and execution process and include regular briefings;
7. Ensure NOAA financial skills assessment and training;
8. Initiate NWS financial and program audit and address structural deficit;
9. Investigate whether an NWS ADA violation occurred and meet with Congress on reprogramming;
10. Conduct an independent financial audit and address NWS structural deficit and shortfall;
11. Review and recommend changes to NOAA complaint handling; and
12. Review NOAA's line office oversight and reporting structure.

On August 31, 2012, OIG received a Departmental report that intends to fulfill one of its corrective actions. We expect that soon we will receive notice of other outcomes of the Department's and NOAA's corrective actions, many of which had deadlines in July–August 2012. As of September 7, we have not yet concluded our review of these results.

Among the corrective actions is a determination of whether NWS committed a violation of the ADA. The ADA requires the head of an executive agency to report any known violation of that law to the President and the Congress. It is our understanding that a determination is pending with the Department. In cases where a violation was knowing and willful, the Department of Justice (DOJ) will review the matter. DOJ has stated that it will await the Department's determination before proceeding with further review.

III. OIG Follow-Up Reviews

Memorandum to NWS CFO (November 18, 2011)

Concurrent with NOAA's preliminary inquiry, our office commenced a review of NWS reprogramming issues in December 2010. In discussions with our staff, NOAA budget officials asserted that there was not a reprogramming issue and maintained that NWS' actions were proper. Notwithstanding, our team identified continued concerns regarding the reprogramming issues. As a result, OIG issued a November 18, 2011, memorandum to the NWS CFO (with copies going to the NOAA CFO and two Department budget officials) requesting a formal review and response by NOAA and Department budget officials on the appropriateness of these actions. (See appendix for the full memorandum.)

We found that NWS had not submitted any reprogramming requests for the AWIPS program—for which Congress stipulated virtually full funding within its FY 2010 appropriation for the Department. However, in March 2011, we met with officials responsible for managing

the AWIPS program, who reported that a significant diversion (over $10 million) of AWIPS-appropriated funding occurred during FY 2010. AWIPS management also reported that they did not know the destination or ultimate use of the redirected funds.

Finally, our memorandum further detailed our April 19, 2011, meeting with NWS budget officials, who outlined how over $10 million in AWIPS funding had been shifted to other accounts, primarily to cover NWS overhead. Based on this meeting and our review of related documentation, we made a preliminary determination that the primary reason for the shift was to fund an NWS budget shortfall—and that this shifting of funds from the AWIPS program to other uses by NWS would likely require Congressional approval (as stipulated in section 505 of Public Law 111-117, the Consolidated Appropriations Act of 2010).

We concluded the memorandum by requesting that NWS confirm with Department officials that the AWIPS funding shift did not violate any applicable appropriations law or regulation, as was asserted to OIG. We did not receive a response from NOAA or the Department but were provided a copy of NOAA's November 28, 2011, report on its preliminary inquiry into these issues.

Current OIG Work

Upon the Department's conducting of its internal inquiry, the Senate Committee on Appropriations asked us to review the reprogramming request. We provided our observations to the staff of the Senate Committee on Appropriations; the House and Senate appropriations committees subsequently approved the reprogramming request.

Our focus has shifted from reviewing the reprogramming request to evaluating the Department's progress in taking corrective action. Upon receiving the Department's May 11, 2012, internal inquiry report concerning these issues, we assessed the report's conditions and findings and how the Department evaluated them.

OIG Review. Our preliminary review of the Department's actions has included:

- Receiving the Department's supporting documentation related to the May 11 internal inquiry report;
- Communicating with House and Senate appropriations staff about the NWS reprogramming request ;
- Discussing NWS reprogramming with financial statement auditors;
- Meeting with NWS budget officials to discuss reprogramming, budget details, budget shortfalls, and OIG access to working papers;
- Receiving a statement of work on a NOAA-contracted audit of structural deficit and shortfalls.

Our objective in reviewing the Department's May 2012 responses to its internal inquiry results is to determine the adequacy of actions taken by the Department and NOAA in addressing the related budget reprogramming issues. The scope of our review includes:

- The Department's audit of budgetary SLTs;
- NOAA's audit of structural deficit and budget shortfalls,
- The FY 2013 operational budget, including fully-funded headquarters operations;
- NOAA's updated budget reporting structure;
- NOAA's updated procedures for common services budget allocations:
- NOAA's updated procedures for OCFO-level SLT review; and
- NWS' updated budget formulation and execution processes.

Our follow-up review is consistent with our emphasis that the Department and its management should be responsible for first addressing management issues of compromised controls when they arise. Generally, when OIG receives a hotline complaint that is administrative in nature and most appropriately addressed by Departmental or agency management, we refer the complaint to the Department or agency for inquiry and any appropriate corrective action. This is common practice across the government. Often, our referrals require a response from the Department or agency. The Department's responses, such as the one issued by the Department and NOAA in May 2012, underscore the Department's responsibility in addressing mismanagement issues.

Investigative Inquiries. Finally, OIG investigators are currently carrying out two NWS-related inquiries received since the conclusion of the Department's inquiry. One complaint, received in June 2012, alleged that (a) NWS' unauthorized reprogramming of appropriated funds also occurred prior to 2010 and (b) senior NWS and NOAA officials were aware of this practice. Accordingly, OIG is currently investigating these issues to determine whether this improper activity began prior to FY 2010 (the earliest timeframe examined in the Department's May 2012 report), as well as to identify senior officials who may have been aware of this activity and when they became aware of it. The second complaint, which we received in August 2012, alleged that NWS reprogramming of appropriated funds is still occurring at NWS; we are assessing this information as part of our ongoing review of this matter. Additionally, we have an open investigation involving allegations of the improper hiring of, and providing of lodging at no cost to, a r tired NWS senior executive in the NWS OCFO.

This concludes my prepared statement, and I will be pleased to respond to any questions you or other Subcommittee members may have.

Appendix

Memorandum to NWS CFO (November 18, 2011)

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

November 18, 2011

MEMORANDUM FOR: Robert J. Byrd
Chief Financial Officer
National Weather Service

FROM: Ann C. Eilers
Principal Assistant Inspector General for Audit and Evaluation

SUBJECT: Allegation Concerning Redirection of Appropriated Funds for the Advanced Weather Interactive Processing System

In late 2010, the Office of Inspector General (OIG) received an allegation that substantial funds had been shifted from the Advanced Weather Interactive Processing System (AWIPS) program to other National Weather Service (NWS) activities. Section 505(a)(8) of Public Law 111-117, Consolidated Appropriations Act of 2010, requires agencies to notify the House and Senate Appropriation Committees when reprogramming funds in excess of $500,000 or 10 percent (whichever is less) between programs, projects, or activities.

OIG staff conducted a limited review of the allegation. As part of our review, we researched basic criteria and departmental guidance governing the movement of appropriated funds, including

- Public Law 111-117, Consolidated Appropriations Act of 2010; Conference Report; and various committee reports concerning 2010 appropriations
- the Government Accountability Office's *Principles of Federal Appropriations Law*
- the Department of Commerce's *Budget, Performance and Program Analysis Handbook*

We also compared NWS' fiscal year (FY) 2010 operating plan and budget to its appropriations for that year. The operating plan and budget request for FY 2010 totaled $39.346 million for AWIPS operations and maintenance, and $24.364 million for AWIPS acquisitions. Both amount included increases over the prior year. The FY 2010 enacted budget, or appropriated amounts, for the two separate AWIPS appropriations related to operations and acquisitions totaled $39.346 million and $24.0 million, respectively. Thus, Congress stipulated virtually full funding for the AWIPS program within its FY 2010 appropriation for the Department of Commerce, based on requests and justifications presented by the National Oceanic and Atmospheric Administration (NOAA) for its NWS programs and acquisitions.

To verify recent reprogramming requests submitted by NWS, we met in January 2011 with the Department official responsible for reviewing AWIPS reprogramming requests.[1] We found that NWS did not submit any reprogramming requests for AWIPS during FY 2010. However, in March 2011 we met with officials responsible for managing the AWIPS program and confirmed that a significant diversion (over $10 million) of AWIPS-appropriated funding occurred during FY 2010. AWIPS management did not know the destination or ultimate use of the redirected funds. In order to trace the movement of the funds, we consulted with you.

During our meeting, you presented a broad overview of NWS and AWIPS budgets, along with a general discussion and documentation of where and how the AWIPS funding shifted. In brief, NWS experienced a serious funding shortfall during FY 2010, and funding for the AWIPS program was used to compensate. You stated that this redirection of funds, which was permanent, did not require reprogramming and indicated that a relationship existed between the final use of the shifted funds and the AWIPS program. However, we could not establish such a relationship based on the documents we reviewed during that discussion. You responded to our concerns by arranging another meeting to discuss the AWIPS funding in more detail with your budget execution staff.

In our April 2011 meeting with the NWS Director of the Budget Execution Accountability Office, accompanied by the Deputy CFO for NWS, your office made an effort to outline how over $10 million in AWIPS funding was shifted to other accounts, primarily NWS overhead. Based on our understanding of the presentations by your office and our review of related documentation, we made a preliminary determination that the primary reason for the shift was to fund the NWS shortfall, and that this shifting of funds from the AWIPS program to other uses by NWS would likely require congressional approval. Congress continues to underscore its expectation that each department and agency adhere to the procedures provided in the above-cited section 505; the following excerpt from Senate Report 111-229, dated July 2010, emphasizes congressional concerns about reprogramming:

> The Committee also expects that any items that are subject to interpretation will be reported. The Committee is concerned that, in some instances, the departments or agencies funded within this appropriations act are not adhering to the Committee's reprogramming guidelines that are clearly set forth in this report and in section 505 of the accompanying bill. The Committee expects that each department and agency funded in the bill will follow these notification policies precisely and will not reallocate resources or reorganize activities prior to submitting the required notifications to the Committee.[2]

OIG staff concluded that further review of the AWIPS funding allegation was beyond the scope of our inquiry and would require more detailed audit work. However, we offered your staff the

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[1] After review by the Department, the requests are submitted to the Office of Management and Budget for the required approval before transmission to congressional committees for final approval.

[2] Excerpted from Senate Report 111-229: *Departments of Commerce and Justice, Science, and Related Agencies Appropriations Bill 2011* [Online]. http://thomas.loc.gov/cgi-bin/cpquery/T?&report=sr229&dbname=111& (accessed July 8, 2011). The full text of the report's section on reprogrammings, reorganizations, and relocations is provided as an attachment to this memorandum.

opportunity to confirm with the Department official responsible for reprogramming requests that the AWIPS funding shift did not violate any applicable appropriations law or regulation.

Your staff has not informed us of the results of a meeting with the Department on this issue. Therefore, we ask that you advise us whether your office has notified the Department's budget office of the nature and extent of the movement of AWIPS funding and, if so, the results of your discussions.

We would appreciate your prompt attention to this matter. If you have any questions, please do not hesitate to contact me at (202) 482-2754.

Attachment

cc: Maureen Wylie, Chief Financial Officer, NOAA
Michael Phelps, Director, Office of Budget
David Socolof, Chief, Technology and Environment Programs Division, Office of Budget

Attachment:
Excerpt from Senate Report 111-229: *Departments of Commerce and Justice, Science, and Related Agencies Appropriations Bill 2011*

REPROGRAMMINGS, REORGANIZATIONS, AND RELOCATIONS

Section 505 contained in the 'General Provisions' of title V provides procedures for the reprogramming of funds. To reprogram is to change the use of funds from the specific purposes provided for in the act and the accompanying report or, in the absence of direction from the Committee on Appropriations, from the specific purposes provided for in the administration's budget request. Each title of the bill has also traditionally included separate provisions that define permissible transfers of resources between appropriation accounts. These transfer authority provisions are also pursuant to section 505, and were initiated in the early 1990s to provide additional flexibility to the agencies under the subcommittee's jurisdiction.

The Committee expects each department and agency to closely follow the reprogramming procedures listed in section 505, which are the same as provisions that applied in statute during fiscal year 2010. These procedures apply to funds provided under this act, or provided under previous appropriations acts that remain available for obligation or expenditure in fiscal year 2011, or provided from any accounts in the Treasury available to the agencies funded by this act. Section 505 requires that the Committee on Appropriations be notified by letter, at least 15 days prior to reprogramming of funds, whether permanent or temporary, in excess of $500,000 or 10 percent, whichever is less, between programs, projects or activities. This provision is also applicable in cases where several activities are involved with each receiving less than $500,000. In addition, the Committee is to be notified of reprogramming actions which are less than these amounts if such actions would have the effect of: committing the agency to significant funding requirements in future years; increasing funds or personnel by any means for any project or activity for which funds have been previously denied or restricted by Congress; creating new programs, offices, agencies or commissions or substantially augmenting existing programs, offices, agencies or commissions; relocating offices or employees; or reorganizing offices, programs, or activities.

The Committee also expects that any items that are subject to interpretation will be reported. The Committee is concerned that, in some instances, the departments or agencies funded within this appropriations act are not adhering to the Committee's reprogramming guidelines that are clearly set forth in this report and in section 505 of the accompanying bill. The Committee expects that each department and agency funded in the bill will follow these notification policies precisely and will not reallocate resources or reorganize activities prior to submitting the required notifications to the Committee.

The reprogramming process is based on comity between the Appropriations Committee and the executive branch. The Commerce, Justice, science, and related agencies appropriations bill provides specific program guidance throughout this report and tables accompanying the bill. The process is intended to provide flexibility to meet changing circumstances and emergency requirements of agencies, if there is agreement between the executive branch and the Congress

that such a change is warranted. Reprogramming procedures provide a means to agree on adjustments, if necessary, during a fiscal year, and to ensure that the Committee is kept apprised of instances where nonappropriated resources are used to meet program requirements, such as fee collections and unobligated balances that were not considered in the development of the appropriations legislation.

In the absence of comity and respect for the prerogatives of the Appropriations Committees and Congress in general, the Committee will have no choice but to include specific program limitations and details legislatively. Under these circumstances, programs, projects, and activities become absolutes and the executive branch shall lose the ability to propose changes in the use of appropriated funds through the reprogramming process between programs, projects, and activities without seeking some form of legislative action.

The Committee expects the executive branch departments to manage its programs, projects and activities within the levels appropriated. Reprogramming or transfer requests shall be submitted only in the case of an unforeseen emergency or situation that could not have been anticipated when formulating the budget request for the current fiscal year.

Vice-Chairwoman ADAMS. I thank the panel for their testimony. Reminding Members that committee rules limit questioning to five minutes, the Chair will at this point open the round of questioning.

The Chair recognizes herself for five minutes.

Dr. Sullivan, you state in your testimony that you did not find evidence that NWS officials improper action put life or property at risk or jeopardized the delivery of timely or reliable weather forecast and warnings. You also state that as part of the fiscal year 2012 reprogramming, NOAA will take funds out of NWS accounts that will lead to postponing procurements of spare parts and deferring enhancements to weather systems, among others.

How can you be sure that the future of NWS operations won't be impacted by these transfers? We have basically been eating our seed core by taking money from programs like AWIPS and WRIP. What does this mean to the future of NWS' ability to deliver timely and reliable weather forecasting warnings? And will the fiscal year 2013 budget request be modified to reflect the current shortfall or can we expect to revisit a scenario next year again where NWS either runs out of money or has to come back to Congress with more reprogramming requests?

Dr. SULLIVAN. Thank you for your question. We are—we share your concern that we are taking from programs that underwrite the long-term future of the Weather Service to balance this out and make sure we support the current forecast. Across government, senior managers are wrestling with very much the same challenge, short-term urgent matters, longer-term investments under the tight fiscal constraints that we are all facing. We don't have a simple silver-bullet answer, Madam Vice Chair. I would say in making the specific choices that we did make both for the fiscal year 2012 reprogramming and for the adjustments that we have proposed to fiscal year 2013, we looked carefully at performance metrics in our key forecast warning areas. We looked at rates of progress of those procurement programs. We made difficult, painful choices to slow rate of progress towards the future—not halt it but slow it—and be sure that we sustain the performance that is so vital every day to the American public.

Vice-Chairwoman ADAMS. So are you saying that you don't believe that this will impact AWIPS or WRIP?

Dr. SULLIVAN. We have restructured the Weather Radio Improvement Program only partly due to the reprogramming actions I have testified about today. There was separately and independent from that a very significant performance issue with the contractor that first was awarded that worked some years ago. And thirdly, the development of AWIPS as it came along through the years and technology advanced showed the opportunity to accomplish the WRIP upgrade through the AWIPS system itself rather than by a separate stand-alone proprietary approach. So we have modified the approach to that program. The capability will come into the Service.

On AWIPS a couple of things are happening simultaneously. We are fielding an advanced AWIPS system called AWIPS II. We have worked carefully to be sure that the adjustments that we have made in our budget do not affect the phased deployment of AWIPS II. Above and beyond that, there are subsequent downstream enhancements that we have been working to prepare and software

further algorithms. Those enhancements are what we have had to slow to make these adjustments.

Vice-Chairwoman ADAMS. Thank you. You know, I just—I am—why—Mr. Zinser, why didn't the IG's office assume responsibility for the investigation of NWS given how high up the allegations go? Wouldn't it have made more sense to handle it at the IG level rather than provide a supporting role to the Bureau in the Department's investigation? I mean I think that is—you touched on it in your testimony. I would like a little bit more as to why.

Mr. ZINSER. Yes, Madam Chair. The fact that the initial complaint had been reviewed by our audit staff and by an internal team at NOAA that resulted in their November 2011 report, taking those two things together established the basic facts. We both concluded that there was improper reprogramming going on. The additional fact-finding that the Acting Secretary was interested in dealt with whether proper accountability had been identified among the executive ranks. My concern was that, at the end of the day, a determination of whether the reprogramming was improper, whether it constituted an Anti-deficiency Act violation, that was all going to be determined by the Department's Office of General Counsel and OMB.

And at the same time, what I told the Acting Secretary was that I thought that they could go ahead with the additional fact-finding, but I had two concerns. One concern was that, if there was any evidence that there was money going to somebody personally, that we would step in. The second concern was that if the people whom they had to interview were of such high rank that the interviewing team felt uncomfortable interviewing them, that we would do that. And, in fact, we have done that and we continue to interview people and re-interview people whom the initial fact-finding team have already talked to. That is going to be part of our follow-up review.

So what I told the staff when we briefed them—your staff—was that there is a lot of work left to be done, but right now, we have a good set of documents NOAA pulled together and a lot of statements that have been made by various witnesses and we are in a much better position to do the follow-up work that I think needs to be done.

Vice-Chairwoman ADAMS. Thank you. My time is expired.

And I now recognize Mr. Tonko for five minutes.

Mr. TONKO. Thank you, Madam Chair.

Mr. Zinser, I think you have taken good steps to fix the way your office handles hotline complaints, but would you agree or disagree that the system—the old system was inadequate?

Mr. ZINSER. I definitely agree and I think there are other factors involved, but there were some process improvements that were required that we put in place, yes, sir.

Mr. TONKO. And to that original system for handling complaints, that basically led your office to ignore important warnings about the Weather Service, and I worry about what else you may have missed. Have you done a risk assessment of what was missed perhaps?

Mr. ZINSER. Yes, sir. While I am not in agreement that we ignored the National Weather Service, I don't think we——

Mr. TONKO. Well, you received whistleblower complaints——

Mr. ZINSER. Yes.

Mr. TONKO. —and nothing happened of that. Why would there not have been some sort of immediate response?

Mr. ZINSER. Well, the person who was managing my hotline operation at the time no longer works for me so I can't go back and ask him. And other factors that existed at the time—I don't want to sound like I am making excuses—but that was a period of time when the decennial census was operating our hotline was absolutely flooded, sir. But in any event, the risk assessment that we did do—what happened with the first GAO FraudNet, what that staff member did was what we call "zero-filed" it. They catalogued it; and set it aside. So zero-files are things that you are not going to take action on right away. You are going to file it and if additional complaints come in on the same subject, you have some history of the complaint. I would not have handled it that way, but my staff did.

Now, we went back and looked at all the other complaints that we zero-filed, and what I was told is that, out of 500 or so, there were maybe 10 that weren't very well documented. I don't know that we would have acted any differently, but we really couldn't tell the rationale for why they were zero-filed. But we have done a risk assessment and we have put in place a number of process improvements, and we have provided training to the Department. We have issued a guide on how to conduct these types of administrative reviews. We have also established a community of interest in the Department of anybody who works on hotlines. I am reporting on these on a quarterly basis to the Acting Secretary as part of our balanced scorecard. So we have strengthened, I feel, our whole process.

Mr. TONKO. So as you evaluate what might have been missed, can I ask that we receive a copy of the evaluation of what was missed?

Mr. ZINSER. Sure. Absolutely.

Mr. TONKO. And Dr. Sullivan, we hear of the failure of this system—of an IG system regardless of the human behavior or failure, it took that to draw attention to what should be a very obvious situation, a whistleblower or a team of whistleblowers doing their thing. Is it credible that no one at NWS or NOAA knew of financial misconduct? It seems that there were numerous complaints. And can you convince me that the CFO at NWS was really the only senior person who knew what was going on? I mean it is a major move of money. Am I to believe that it was just whistleblowers and then a failed IG response that we required when in fact the management of that situation should have been on top of it?

Dr. SULLIVAN. I would say, Mr. Tonko, our inquiry team, based on the witness statements that we took, really did find a very—an unfortunate and quite ineffective management climate at the senior levels of the Weather Service.

Mr. TONKO. I am told this goes back to 2006?

Dr. SULLIVAN. We have heard that anecdotally. Within the scope of our investigation, we couldn't verify that. That is why we have commissioned an independent evaluation by Grant Thornton to look back to fiscal year 2006 and try to confirm that. There certainly were lots of what the Assistant Administrator of the Weath-

er Service called "griping," what he says in his statement he construed as "normal carping" of program managers who disliked the pressures that their budgets were on.

Again, if you look at the details of the report we found a budget formulation process, you know, that fails to bring forward in crisp and actionable fashion questions that clearly needed to be addressed more squarely. If we don't have sufficient funding to advance a program at a certain rate, what do we do about that? Meetings were held, PowerPoint charts were given, but in the instant cited—and I think it was 2010 in our report—with all of that chatter and chitchat within the Service itself, leadership at the Weather Service level did not bring together, force together, crystallize specific issues, specific risks, specific responses. They did not do that within the Weather Service and certainly did not bring any such justification or risk or warning forward to NOAA leadership.

That is the only instance of such conduct I can speak to personally. It happened—we uncovered it and looked into it during our investigation. There may have been others previously before I arrived on station. I can't speak to those. But the one we did look at in our inquiry certainly says to me questions that needed answers, solid answers, well developed budget justification and risk answers were not being handled that way at the time within the Weather Service and were certainly not coming forward.

Mr. TONKO. Thank you.

Vice-Chairwoman ADAMS. Thank you.

And I now recognize Mr. Hultgren for five minutes.

Mr. HULTGREN. Thank you, Madam Chair.

Thank you for both being here. I apologize for being a little bit late, had a couple other meetings going on at the same time but I do appreciate your testimony.

I do want to ask a couple questions. I am not sure if this was covered in your oral testimony or not but wanted just to clarify it.

First of all, Dr. Sullivan, I wondered just on time line when we could expect the Department to conclude its review to determine if Anti-Deficiency Act violations had occurred?

Dr. SULLIVAN. Thank you, Mr. Hultgren.

It is my understanding that the preliminary determination has been concluded and the matter is in the process of being referred forward to appropriate—through appropriate channels to OMB and—sorry—Justice I presume. I confess to not being completely clear on the procedural details for that process and that report and write-up should go forward perhaps as soon as the end of this week.

Mr. HULTGREN. Okay. So you think we would start seeing those, then, in the next couple of weeks? Is that your thought or——

Dr. SULLIVAN. Again, I am not conversant with the procedural details that move these matters from a preliminary determination all the way through and bring them to the Congress' attention. But my understanding is there is a preliminary determination. I believe it is an affirmative one and that the package is moving forward.

Mr. HULTGREN. Okay. Also, Dr. Sullivan, there are several deadlines for action identified in the NOAA and DOC decision memos and then we had—many of them had deadlines that have already

passed. How many of those action items were completed by the listed deadline and what are they?

Dr. SULLIVAN. The far majority of them, Mr. Hultgren—and I can give you a detailed listing of those—I am sorry I can't recount them to you one by one. You appreciate there is quite a number. We have been holding biweekly meetings on the progress of those actions at very senior levels. Both the Undersecretary and the acting Secretary were briefed at the 90-day point on progress to date. There were many of the very early actions confirmed to be completed. There were none that I recall that were not underway or at an expected point of progress by that 90-day point with I think one exception whereas the team investigated the actions needed to fulfill the order that was given. They found the scope was more complex than realized and requested permission to delay one milestone. But I would be happy to get you that full accounting.

Mr. HULTGREN. If you would, that would be great. If you can get that to our office and maybe also the Committee, that would be terrific.

Dr. SULLIVAN. We will be glad to do that.

Mr. HULTGREN. Thank you.

Mr. Zinser, just a couple questions for you. When do you anticipate completing your response to the investigative report?

Mr. ZINSER. Sir, we really have just begun because part of that is to go and track the progress of the sufficiency of the corrective actions that have been directed and that NOAA and the Department are putting in place. We have reviewed the reprogramming request, for example, and spoken to the appropriators about that and the request was subsequently approved. And we have also received one report that Ernst & Young performed for NOAA and the rest of the Department on SLTs about how the controls are or are not in place for the SLT mechanisms that are used in the accounting of—for the budget. Beyond that, most of our work is still underway and it is hard to determine, you know, exactly how long we will be. Plus, we are doing some follow-up interviews, and as you probably are aware, you really never know where those are going to lead you.

Mr. HULTGREN. With your work, do you plan on issuing some sort of report or other documentation of the work that reflects what you are doing and the investigation that is ongoing now?

Mr. ZINSER. Yes, sir. We have opened a formal audit, made the announcement, and will issue an audit report upon its completion. But during the course of that, we would be happy to come up and brief the Subcommittee and keep you informed on the progress.

Mr. HULTGREN. Okay. And obviously, we would get copies of the report when that is completed, is that right?

Mr. ZINSER. Absolutely.

Mr. HULTGREN. Good. Also, Mr. Zimmer—Zinser, I am sorry—in your testimony you identify a series of complaints that began January 11 of 2012 relating to an NWS employee who allegedly promised funding for programs in return for hiring the employee's relative. Dr. Sullivan's testimony states that the investigative team found no evidence that the NWS employees committed fraud or received personal gain through their action. I wonder based on your

preliminary review of the allegations, do you agree with Dr. Sullivan's statement or do you have any position on that?

Mr. ZINSER. Yes, I think the review that the Department and NOAA did focused strictly on the reprogramming issue. In that case, if you put aside the fact that a willful violation of the Antideficiency Act could constitute a criminal act and be considered a fraud, you put that aside for now, the issues that we reported and a series of hotline complaints dealt with are a conduct issue and a contracting issue inside the office of the Chief Financial Officer at the National Weather Service. They are not directly about the reprogramming.

Mr. HULTGREN. Okay. I think that sort of answers my question. But so you don't have any direct statement of whether you agree with Dr. Sullivan's statement on that or not, that there is no evidence of personal gain received by these employees?

Mr. ZINSER. I think that the issue involving the former employee and contractor, I think he did improperly obtain personal gain but not through the reprogramming effort. We didn't find any evidence in the reprogramming activities that money was going into anybody's pocket, for example.

Mr. HULTGREN. Okay. Thank you very much.

I yield back.

Vice-Chairwoman ADAMS. Thank you.

I now recognize Mr. McNerney.

Mr. MCNERNEY. Thank you, Mr. Chair.

Dr. Sullivan, when did the last summary level transfer take place?

Dr. SULLIVAN. Mr. McNerney, summary level transfers are commonplace, financial management mechanisms. They are designed—their intent is to allow accounting officials to correct codes improperly entered inadvertently, really make technical level corrections. So they are a common and commonly used tool both within NOAA and across the Department widely. They—I don't know the precise answer but I suspect it is probably within some recent days for legitimate accounting code corrections.

Mr. MCNERNEY. Well, how about improper programming? When was the last incident where improper programming took place?

Dr. SULLIVAN. I don't have specific evidence that allows me to answer that, Mr. McNerney. We put new controls and oversight measures into place effective August 1 that significantly change both the——

Mr. MCNERNEY. August 1 of this year?

Dr. SULLIVAN. August 1 of this year in response to the corrective actions directed by Dr. Lubchenco.

Mr. ZINSER. Sir, if I may?

Mr. MCNERNEY. Yes.

Mr. ZINSER. The nature of these summary level transfers and the way they were carried out was such that NOAA and the Department could not figure out which summary level transfers were appropriate and which ones were not appropriate. That is why it took them five months trying to nail down the transactions. There was no documentation on the transfers that were made and the notations that were made in connection with those transfers were so cryptic that you didn't really understand the purpose of the trans-

fers. And when Ernst & Young came in and looked at it, their first finding was there that there were no controls over this process.

Mr. MCNERNEY. So, Dr. Sullivan, has the improper programming had any impact whatsoever either way on the polar satellite procurements?

Dr. SULLIVAN. This reprogramming that we investigated within the National Weather Service I am very confident has not affected that. A different organization with NOAA executes those programs.

Mr. MCNERNEY. Okay. I mean you must be sensitive to how this hurts the case for asking for those kinds of program funds?

Dr. SULLIVAN. We are very sensitive to the concerns of the Committee, the Subcommittee, and the Congress at large and we share them, and that is why a number of Dr. Lubchenco's corrective actions, as well as the acting Secretary's actions charged our teams with looking beyond the horizon of this investigation and digging in to confirm that anywhere in the Department we did be sure—we did change controls, add controls, strengthen them to be sure that we had none of this happening and could have higher confidence that it could not happen across our other program areas.

Mr. MCNERNEY. Okay, Mr. Zinser, did I hear you correctly that you first heard on November of 2011 about the improper reprogramming?

Mr. ZINSER. Yes, sir.

Mr. MCNERNEY. Well, that is a little bit contradictory of something else you said, that you allowed NOAA to conduct its own investigations because those departments were the most capable and the most ready to do those investigations, so that happened before November of 2011.

Mr. ZINSER. Yes, sir. There are actually two efforts by NOAA and the Department. The first one NOAA did as a result of my staff referring a matter to them. I wasn't briefed on that until November of 2011 either. It was after that, the follow-up review that was done by the Department and NOAA between November of 2011 and May 2012. That is when I went through a decision process with the Acting Secretary about how best to handle that follow-on investigation or fact-finding activity.

Mr. MCNERNEY. So you had no say, then, personally in the decision to send those investigations back to the NOAA?

Mr. ZINSER. Well, our process wasn't set up at that point for me to really get involved to that level of detail with the hotline program.

Mr. MCNERNEY. You know, I am—there are some inconsistencies still. By November of 2011, it was clear that some misconduct had occurred by some very senior National Weather Service officials and that your own staff made it apparent that those were in violation of the Anti-deficiency Act. That is an Act we take pretty seriously here in the Congress and yet those allegations were sent back to the Department even though they involved possible criminal behavior. What does it take for the IG to declare that an investigation has to take place within your department?

Mr. ZINSER. Yeah, let me clarify that, sir. When we have a finding and we make a recommendation, the Department does not have to pay attention to me. And so when we tell them we think there is an Anti-Deficiency Act violation——

Mr. MCNERNEY. This is the Department?

Mr. ZINSER. The Department of Commerce, or any department with an OIG, our recommendations do not have to be accepted or followed by the Department. And in the case of an Anti-deficiency Act violation, the Department itself and OMB makes the determination whether there was a violation or not. I can make my observation and I can make my recommendation, but until the Department weighs in and agrees, that is when action is taken, not just based on the IG's views.

Mr. MCNERNEY. Well, my time is expired.

Vice-Chairwoman ADAMS. Thank you.

And I believe we have enough time for a second round, so maybe some follow-up if you would like on that.

I now recognize myself—the Chair recognizes herself for five minutes.

Dr. Sullivan, as part of your testimony, you explained that of the 36 million fiscal year 2012 reprogramming request, 29.9 million will be from NWS programs. Protecting lives and property is central to NOAA's mission and NWS forecasting and warning is the primary line of office with that responsibility. Instead of further draining the resources of NWS, why doesn't the reprogramming request come from other non-NWS NOAA funds?

Dr. SULLIVAN. Thank you, Madam Chair.

We made a few judgments in working on the reprogramming. One was that the service in which we had had the failings should be the primary horizon in which we look to balance properly, for that reason and also to be sure that we really understood what sums needed to be where in the Weather Service itself. Secondly, although the National Weather Service is a very frontline and top priority mission for NOAA, we are charged with quite an array of missions that are of great importance to the country. I don't want to get into some debate about which of our children we love the most. It is by design an integrated ocean and atmosphere agency with a range of science service and stewardship responsibilities that touch Americans every single day. There is importance in our view in all of them. We attempted to make a balanced decision and prevent further degradation in mission areas that have suffered, frankly, greater budget erosion in recent years than the Weather Service itself has.

Vice-Chairwoman ADAMS. By the reprogramming?

Dr. SULLIVAN. No, by——

Vice-Chairwoman ADAMS. Okay. So again you are taking and reprogramming funds and you are doing it from NWS?

Dr. SULLIVAN. That is correct.

Vice-Chairwoman ADAMS. And so I would like to know what, if any, other programs could have sustained such reductions?

Dr. SULLIVAN. That sum—that is a very large sum to take across other NOAA program areas. And again our first driver and view was that it was right to solve this problem within the Service where the misconduct issues had occurred. That late in the year, that was not altogether possible to do due to the expenditure rate and execution pace of the Weather Service itself and something on the order—if I recall the sum correctly—of $4.2 million we did turn outside of the Weather Service and take those cuts there.

Vice-Chairwoman ADAMS. Okay. And so when I asked you earlier about the reductions and everything else, and then my colleague asked you about the polar systems and stuff, so you are saying you believe that you have enough money to do what you need to do, even with the reprogramming? And a simple yes or no will——

Dr. SULLIVAN. Within the National Weather Service?

Vice-Chairwoman ADAMS. Within NOAA, yes or no? Because you are going to reprogram so do you believe you have enough money?

Dr. SULLIVAN. We can operate at that level, yes, ma'am. I don't think any of us feel we are living fully up to the missions that the American people expect of us.

Vice-Chairwoman ADAMS. So in saying that, I think that it is very concerning because we have allocated and appropriated funding and it is taxpayers' money. And if you didn't need it in the first place and you can still do your mission, it is kind of concerning, okay?

The other question I have, in the fall of 2011, the Weather Service conducted an internal review of the allegations it received from the IG. The preliminary findings of that review led to NOAA placing an NWS employee on administrative leave and prompted a NOAA–Commerce senior level review that began in December of 2011 and did not conclude until May of 2012. During that time, NOAA created a new position, the Chief of Resources and Operations Management (CROM) to oversee the enterprise functions such as finance, information technology, and administration. This position was filled by the then-current NOAA CFO before the conclusion of an investigation into the management of NOAA finances. How was NOAA sure that this—that it was not giving a promotion to someone who had turned a blind eye towards or that was naively oblivious to improper financial activity when it had not concluded its report at the time that they made this appointment?

Dr. SULLIVAN. By the time that appointment was made, Madam Chair, we had taken—we judged sufficient witness statements to offer review, that the misconduct was substantially confined—totally confined within the Weather Service itself. As I said earlier, we had indications from a number of the witnesses and events that we reviewed that the Service was not bringing forward up the NOAA budget chain the kinds of indications—evidence, data——

Vice-Chairwoman ADAMS. But isn't it the responsibility of the CFO's office for establishing and ensuring the adequacy of financial internal controls and this person was there and then was promoted during your investigation? Is that not correct?

Dr. SULLIVAN. That is the timing, yes, ma'am.

Vice-Chairwoman ADAMS. Thank you. My time is expired.

I now recognize Mr. Tonko.

Mr. TONKO. Thank you, Madam Chair.

Dr. Sullivan, I know that you have taken the situation at NWS very seriously. At the same time, I have to mention how outraged I am and shocked to learn that with relative ease people were able to manipulate accounts in the way that they did. I still don't feel secure in what I am hearing, how that could have happened. You know, we talk about the funding shortages for labor that I am told are in the order of 10 to 15 million a year. And that is not insignificant but it does not explain the tens of millions of dollars that were

moved around that were non-labor. In fact, material provided to the Committee shows that the NWS was coping with a shortage of over 40 million in non-labor funding shortages. You know, at any other agency I would think funding shortfalls would lead to dropping some initiatives because there simply wouldn't be the resources to support them. But I get the impression that NWS did not do that and instead tried to keep everything going by moving money around. Why didn't NWS simply seek a reprogramming of funds to meet the financial needs or even ask for a supplemental appropriation to fully fund what is needed to be done?

Dr. SULLIVAN. Mr. Tonko, I can't speak to what the intentions or motives or thought processes were of people who didn't bring such matters directly to me and raise them or through our CFO chain and raise them in a way that was open for discussion. Again, I think as the corporate board matters that we discuss in our investigative report make clear, the processes—budget formulation and review processes within the Weather Service itself clearly seem deficient to really grappling with those kinds of questions squarely and bringing forward crisp alternatives, risk-based alternatives, evidence-based alternatives for management consideration and action.

Mr. TONKO. Well, when you do your budget request every year, that goes to NOAA. Am I correct?

Dr. SULLIVAN. Each line office makes a budget request——

Mr. TONKO. Right.

Dr. SULLIVAN. —that comes up and is aggregated into the NOAA budget, yes, sir.

Mr. TONKO. Well, that is for the NWS. And then to the Department of Commerce?

Dr. SULLIVAN. Correct.

Mr. TONKO. And then finally to OMB?

Dr. SULLIVAN. Correct.

Mr. TONKO. Which would then end up with formulating the President's request for Congress to take action. Would there be any reason to believe that NWS requests for funds after they have gone through all these offices would be inadequate to fully fund all their priorities?

Dr. SULLIVAN. Again, Mr. Tonko, I can't think of—both in my non-profit career and my corporate career and government career, I can't think of a time in any budget formulation process where each manager doesn't feel that the amount of money they really need to do the job they want to do the way they want to do it is less than is available in the total pot. It is commonplace everywhere. It is certainly commonplace in government. It is the challenge of managers at every level to make the best arguments, show the evidence of what they—what can they do, what can they delivery, what are the risks, if budgets don't conform to the requests that they have made, and one final budget allocations are made at any of those levels including by the Congress to adapt and adjust their operation to conform with that direction. It is always a challenge but it is a common challenge everywhere through government.

Mr. TONKO. And when it came to the CFO, was there any reason to believe that anyone advised him that—or encouraged him that they should do this fungible thing and move the dollars around?

Dr. SULLIVAN. The Weather Service CFO? Based on the materials we garnered in witness statements, I cannot recall—which would have been hearsay or speculation as to his motives in any case—but I don't recall any of our witnesses opining on their views of his motives, and I have no personal contact with that individual which he made any statements to me, so I couldn't speculate to that.

Mr. TONKO. Can we imagine any motivation to put one's career at risk or reputation or integrity on the line simply to balance an agency's budget? What would possess a CFO to take such a bold stand?

Dr. SULLIVAN. It defies my imagination, Mr. Tonko, and further understanding the critical importance of trust to the mission and performance and effectiveness of the National Weather Service overall, it defies my imagination that someone would do something that might even faintly go outside of the law for any reason.

Mr. TONKO. Well, the failure at the Department and then the ignoring of the whistleblowers by the IG and the lack of quick and ready response by the IG are all discouraging. And I look forward to additional information that will be exchanged with the Committee.

I yield back, Madam Chair.

Vice-Chairwoman ADAMS. Thank you. And I know that the Committee is looking forward to some information also I think that you have been asked—your agency has been asked for a dozen or so materials requested months ago, including the CFO counsel and some program oversight briefing, so hopefully, you can get that provided to the Committee as soon as possible.

Dr. SULLIVAN. We are working on that, Ms.—Madam Chair.

Vice-Chairwoman ADAMS. Hopefully, it will be done fairly quickly.

Dr. SULLIVAN. That is my hope as well, ma'am.

Vice-Chairwoman ADAMS. I would like to thank the panel for their valuable testimony. The witnesses are excused and we will move to our second panel.

And Dr. Sullivan, if you could ask them to please get it to us before we come back next month would be awesome.

Dr. SULLIVAN. I will pass that request——

Vice-Chairwoman ADAMS. Thank you.

Dr. SULLIVAN. —and add my urgings. Thank you very much.

Vice-Chairwoman ADAMS. Okay. We will get started with our second panel. The first witness on our second panel is Dr. William Gail, the Chief Technology Officer of the Global Weather Corporation who serves on the Committee on the Assessment of the National Weather Service's Modernization Program at the National Research Council of the National Academies. The final witness on our second panel is Mr. Richard Hirn, General Counsel and Legislative Director, National Weather Service's Employees Organization.

As our witnesses should know, spoken testimony is limited to five minutes each, after which the Members of the Committee will

have five minutes each to ask questions. Your written testimony will be included in the record of the hearing. It is the practice of the Subcommittee on Investigations and Oversight to receive testimony under oath. Do any of you have any objections to taking an oath?

Mr. HIRN. No.

Dr. GAIL. No.

Vice-Chairwoman ADAMS. Let the record reflect that all witnesses were willing to take an oath.

You may also be represented by counsel. Do any of you have counsel here with you today?

Mr. HIRN. No.

Dr. GAIL. No.

Vice-Chairwoman ADAMS. Let the record reflect that none of the witnesses have counsel.

If you would now please stand and raise your right hand.

Do you solemnly swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?

Ms. HIRN. Yes.

Dr. GAIL. I do.

Vice-Chairwoman ADAMS. Let the record reflect that all witnesses participating have taken the oath.

I now recognize our first witness, Dr. Gail, to present his testimony.

TESTIMONY OF DR. WILLIAM B. GAIL, CHIEF TECHNOLOGY OFFICER, GLOBAL WEATHER CORPORATION, COMMITTEE ON THE ASSESSMENT OF THE NATIONAL WEATHER SERVICE'S MODERNIZATION PROGRAM, NATIONAL RESEARCH COUNCIL OF THE NATIONAL ACADEMIES

Dr. GAIL. Madam Chair, Committee Members and colleagues, thank you for inviting me to talk to you today. My name is Bill Gail. I am cofounder and Chief Technology Officer of Global Weather Corporation, a provider of precision weather forecasts to businesses within the energy, media, transportation, and consumer sectors. We are a successful startup in today's economy because quality weather information is increasingly needed by businesses to serve customers and improve operations.

I am speaking to you today in my role as a Member of the Committee that produced the report "Weather Services for the Nation: Becoming Second to None," issued by the National Research Council of the National Academy of Sciences.

The Weather Service modernization of the 1990s produced major improvements to our Nation's weather observing systems and to the Weather Service structure. It was primarily a response to an internal lack of modernization over several decades. The Committee felt the Weather Service successfully learned most lessons from the modernization and has since continued to modernize.

Today's challenges are no less important but they are largely external challenges reflecting the ever-evolving user needs and technology context of our society. The first of these challenges is keeping pace with advances in science and technology that are taking place around the Weather Service. The second challenge is meeting

society's expanding needs for better weather information. The third challenge is effectively partnering with and supporting the larger enterprise to achieve the greatest public benefit. Meeting these key challenges will require the Weather Service to evolve its role and how it operates. The goal is for it to become more agile and effective. Our report presents three main recommendations for accomplishing this.

Our first recommendation is that the Weather Service should refocus on its core capabilities. These include creating foundational data sets, performing essential functions such as forecasts and warnings, and conducting operationally related research. All are needed for the Weather Service to perform its central role of protecting lives and property and for it to support the enterprise as a provider of additional services. In executing this recommendation, the Weather Service will need to prioritize those things only it can do and avoid replicating capabilities where there are viable alternatives.

Our second recommendation is to update Weather Service function and structure. The current Weather Service structure reflects needed functions of the 1990s. Technology has changed much of the rationale for the present Weather Service organizational structure. The committee was aware that Congress has requested a separate external review of Weather Service function and structure, so we chose to limit our detailed recommendations in this area but noted that any such study requires significant technical input.

Our third recommendation addressed the need to better leverage the larger enterprise providing weather services and systems. The relationship between the Weather Service and the rest of the enterprise has improved considerably since the modernization with praise deserved by all parties. Improved leveraging of the enterprise enhances the Weather Service's ability to serve the Nation. This is especially important at a time when the Weather Service seeks to enhance its services subject to constrained resources.

Better weather information can save both lives and be a growth engine for the economy. A recent study showed the variability in U.S. economic output due to weather-related supply and demand inefficiencies is more than three percent of GDP. In some States, it is over ten percent. A significant portion of this can be recovered as economic growth through improved weather information. I would like to provide two examples from my own company's experience that illustrate the importance to our Nation of both the Weather Service and the Committee's recommendations.

The Omaha World Herald News Group, owned by Berkshire Hathaway, has recently acquired nearly 100 small- and mid-sized newspapers. Their vision is that newspaper companies are not dying, but rather the best source of critical local information which will be delivered increasingly over web and mobile. Accurate weather forecasts are often the most important information they provide to these smaller communities.

Xcel Energy is the off-taker utility for ten percent of America's wind farm capacity. Starting in 2009, Xcel privately funded research and development focused on improving the accuracy of wind forecasts. Operational use of this system saved $7.9 million for Xcel ratepayers in 2011 alone.

In both examples, commercial weather companies are helping to implement the vision but Weather Service foundational information is essential to making it possible.

In summary, meeting today's challenges will require changes at the Weather Service over as much as a decade. Our recommendations will help make the Weather Service more agile and effective. In a constrained resource environment, this approach makes possible benefits to the Nation beyond what the Weather Service budget alone allows.

Thank you very much.

[The prepared statement of Dr. Gail follows:]

Weather Services for the Nation: Becoming Second to None

Statement of
William B. Gail, Ph.D.
Chief Technology Officer, Global Weather Corporation
and
Member, Committee on the Assessment of the
National Weather Service's Modernization Program
National Research Council / National Academy of Sciences

Congressmen, colleagues: Thank you for inviting me to talk to you today. My name is Bill Gail. I am co-founder and Chief Technology Officer of Global Weather Corporation, a provider of precision weather forecasts to businesses within the energy, media, transportation, and consumer sectors. We are a successful startup in today's economy because quality weather information is increasingly needed by business to serve customers and improve operations. My academic training is in physics and electrical engineering and I have two decades of experience in the fields of meteorology satellites, weather services, and location-aware software.

I'm speaking to you today in my role as a member of the Committee that produced the report "Weather Services for the Nation: Becoming Second to None," issued by the National Research Council and the National Academy of Sciences. This report, released in August of 2012, was the second report of a two-part assessment of the National Weather Service's Modernization and Associated Restructuring. In the first report, the Committee concluded that the Modernization and Associated Restructuring was a success and worth the investment. One of the most striking results of the Modernization has been the improvement in the probability of detecting and issuing warnings for severe weather events. For example, the probability of detection for flash floods

increased from about 40 percent to about 90 percent over the course of the Modernization. The second report presents advice for the National Weather Service (NWS) on how best to plan, deploy, and oversee future improvements based on lessons from the past.

TODAY'S KEY CHALLENGES

The Modernization of the 1990's produced major improvements to our nation's weather observing systems and to the NWS structure. It was primarily the response to an internal failure to properly modernize over several decades. The Committee felt that the NWS successfully internalized most lessons from the Modernization, and has since continued to modernize. Yet today the challenges they face are no less important than those of the Modernization era. Rather than internal failures, today's challenges are largely external, reflecting the ever-evolving user needs and technology context of our society. These challenges include:

- *Keeping Pace.* The pace of scientific and technological advancement in the atmospheric and hydrological sciences continues to accelerate. As an outgrowth of public and private-sector investment, technology advancements are exceeding the capacity of the NWS to optimally utilize these technological achievements. Furthermore, enormous amounts of data generated by new surface networks, radars, satellites, and numerical models need to be rapidly distilled into actionable information to create and communicate effective public forecasts and warnings. The skills required to comprehend, manage, and optimize this decision-making process go beyond traditional meteorological and hydrological curricula. Hence, the NWS workforce skill set will need to evolve appropriately.

- *Meeting Expanding and Evolving User Needs.* Increasingly, the United States is an information-centric society. Meteorological and hydrological information in particular is central to societal security and welfare. Unlike some other industries, weather is largely an information-based enterprise. The public expects continuous improvement in public safety and property protection related to severe weather.
- *Partnering with an Increasingly Capable Enterprise*[1]. At the time of the Modernization, delivery of weather information was largely synonymous with the NWS, the broadcasting sector, and the private-sector suppliers of weather data and services that supported the broadcasting sector. Outside of this, the weather, water, and climate enterprise had limited capacity. Today, the enterprise has grown considerably, and now the NWS has many important partners. All of these entities rely on core NWS infrastructure and capabilities to provide customized services. Together this combination of the NWS and third parties serves the nation better than the NWS could on its own.

These challenges are made more difficult by the external context, two areas of which are of particular importance:

- *Budget resources* are uncertain and will likely be constrained for the next decade.
- *Operational performance standards* against which NWS is measured, including those set by international weather service counterparts and private-sector entities, are increasingly high.

[1] The "enterprise" includes all entities in the public, private, non-profit, research, and academic sectors that provide information, services, and infrastructure in the areas of weather, water, and climate. For the purposes of this report, "enterprise" is often used as shorthand to refer to those enterprise elements outside NOAA that it can draw on in its mission. The non-NOAA portion of the enterprise is now of equal or greater economic size compared to the NOAA portion.

Additional important contextual issues include: the transformative pace of technological change; expansion of the number and type of observational data; continued concentration of infrastructure investment and population growth in vulnerable areas; the possibility of changing weather patterns arising from climate change; and ongoing evolution of international dimensions.

RESPONDING TO THE CHALLENGES

Meeting today's key challenges will require NWS to evolve its role and how it operates. The goal is for it to become more agile and effective. This report presents three main recommendations for accomplishing this: Prioritize Core Capabilities, Evaluate Function and Structure, and Leverage the Entire Enterprise.

Prioritize Core Capabilities

The NWS needs to prioritize those core capabilities that only the NWS can provide so as to deliver the products and services upon which the public and the entire weather, water, and climate enterprise depend. These core capabilities include creating foundational datasets, performing essential functions such as issuing forecasts, watches, and warnings, and conducting operationally-related research.

Recommendation: The National Weather Service (NWS) should:

1. **Evaluate all aspects of its work that contribute to its foundational datasets, with the explicit goal of ensuring that those foundational datasets are of the highest quality and that improvements are driven by user needs and scientific advances. As part of**

this initial and ongoing evaluation effort, clear quality and performance metrics should be established. Such metrics would address the technical components of NWS operations, as well as the efficiency and effectiveness of the flow of weather information to end users.

2. **Ensure that a similarly high priority is given to: (a) product generation and dissemination; (b) the brokering and provision of data services, and (c) development and enhancement of analysis tools for maintaining a common operating picture (COP).**
3. **Engage the entire enterprise to develop and implement a national strategy for a systematic approach to research-to-operations and operations-to-research.**

In support of this recommendation, the NWS should:

- Continue effective technology infusion programs,
- Improve numerical weather prediction systems,
- Develop and advance observational data metrics,
- Lead a community effort to provide probabilistic forecasts,
- Develop hydrologic prediction metrics, and
- Maintain an ongoing capability for development and testing of its incremental technical upgrades.

Evaluate Function and Structure

The current structure of the NWS primarily reflects the functions of the weather, water, and climate enterprise in the 1990s. Technology, including improvements in communications and

computer forecast models, has changed much of the rationale for the present organizational structure of the NWS. In view of the directions outlined in NWS's *Weather-Ready Nation Roadmap* for expanding the role of forecasters and other NWS staff, it would be prudent to evaluate the NWS's organizational and functional structure.

Recommendation: In light of evolving technology, and because the work of the National Weather Service (NWS) has major science and technology components, the NWS should evaluate its function and structure, seeking areas for improvement. Any examination of potential changes in the function and organizational structure of the NWS requires significant technical input and expertise, and should include metrics to evaluate the process of structural evolution. Such an examination would include individual NWS field offices, regional and national headquarters and management, as well as the National Centers and the weather-related parts of the National Oceanic and Atmospheric Administration (NOAA) such as the National Environmental Satellite, Data, and Information Service (NESDIS) and the Office of Oceanic and Atmospheric Research (OAR).

In support of this recommendation, the NWS should:

- Broaden the scope of its post-event evaluations,
- Expand its vision of team structures and functions within and between forecast offices,
- Develop performance metrics-based approaches to assessing staff skill sets,
- Retrain service-hydrologist staff to instill an evolutionary culture.

Leverage the Entire Enterprise

The relationship between NWS and the rest of the enterprise has improved considerably since the Modernization, with praise deserved by all parties. The Committee views further improvement of NWS-enterprise interaction as a way to enhance the NWS's capability to accomplish its mission of serving the public. This is especially important when it is seeking to enhance its service at a time when the nation faces constrained resources. Leveraging the entire enterprise provides one means to further NWS's mission of serving the public.

Recommendation: The National Weather Service (NWS) should broaden collaboration and cooperation with other parts of the weather, water, and climate enterprise. The greatest national good is achieved when all parts of the enterprise function optimally to serve the public and businesses. This process starts with the quality of core NWS capabilities but is realized through the effectiveness of NWS-enterprise relationships. A well-formulated enterprise strategy will also return direct benefit from the enterprise to the NWS, especially in areas of shared research, technology development, observational data sources, and improved end-user access to NWS-generated information.

In support of this recommendation, the NWS should:

- Seek to better understand the functioning of the secondary value-chain (defined as enterprise partners that provide value-added services beyond dissemination of NWS weather and warnings), and
- Strengthen its systems engineering and procurement processes for major systems.

EXAMPLES FROM THE WEATHER ENTERPRISE

Better weather information can both save lives and be a growth engine for the economy. A recent study showed that variability in U.S. economic output due to weather-related supply and demand inefficiencies is more than 3 percent of GDP. In some states, it is over 10 percent. A significant portion of this can be recovered as economic growth through improved weather information. I would like to provide two examples from my own company's experience reflecting innovative approaches to business growth through better use of weather information. These illustrate the importance to our nation of both the NWS and the Committee's recommendations.

The Omaha World-Herald news group, owned by Berkshire Hathaway, has recently acquired nearly 100 small- and mid-sized newspapers. Their vision is that newspaper companies are not dying, but rather the best source of critical local information, which will be delivered by these companies increasingly over web and mobile. Accurate weather forecasts are often the most important information they provide to smaller communities. The move to web and mobile allows them to customize forecasts for each reader, creating new ways for businesses to become more efficient and individuals more productive. Commercial weather companies are helping them implement the vision, but NWS foundational information is essential to making it possible.

Xcel Energy is the off-taker utility for 10 percent of America's wind farm capacity. Starting in 2009, Xcel privately-funded R&D at the National Center for Atmospheric Research, focused on improving the accuracy of wind forecasts. The resulting forecast system has since been successfully transitioned to a commercial company. Its operational use saved $7.9 million for Xcel ratepayers in 2011 alone, but it depends critically on data from NWS.

THE OUTCOME: A NATIONAL WEATHER SERVICE SECOND TO NONE

Meeting today's challenges will require changes at the NWS over as much as a decade. Fortunately, the Modernization established a solid foundation as a starting point. The recommendations presented in our report will help the NWS address these challenges, making it more agile and effective. It will have the highest quality core capabilities among national weather services. It will have a more agile organizational structure and workforce that will allow it to directly or indirectly reach more end users, save more lives, and help more businesses. And it will have leveraged these capabilities through the broader enterprise. In a constrained resource environment, this approach makes possible benefits to the nation beyond what the NWS budget alone allows.

Vice-Chairwoman ADAMS. Thank you.

I now recognize our second witness for his testimony on the panel, Mr. Hirn, for five minutes.

TESTIMONY OF MR. RICHARD HIRN,
GENERAL COUNSEL AND LEGISLATIVE DIRECTOR,
NATIONAL WEATHER SERVICE EMPLOYEES ORGANIZATION

Mr. HIRN. Thank you, Madam Chairman, Ranking Member Tonko. Thank you for inviting me to present the views of the National Weather Service Employees Organization and the 3,700 Weather Service employees we represent nationwide.

The Weather Service budget shortfall should not have come as a surprise to the leadership of NOAA as it did earlier this year when an emergency reprogramming request was submitted. Although the amount and cause of the structural shortfall is an open question, its existence was well documented and public knowledge. In January 2005, the Director of the Weather Service delivered a PowerPoint presentation to the American Meteorological Society that showed a cumulative funding gap that began in fiscal year 2001 and that had grown to $37 million. In February 2005, the Weather Service Budget Director also told the Washington Post that the Agency had a cumulative shortfall of 37 million that stemmed from chronic underfunding.

In April 2006, DOC had to submit a reprogramming request to add 13 million to the local warnings and forecast baseline to "sustain operations and avoid a nationwide hiring freeze." By 2008, the Weather Service had increased its lapsed labor rate to nearly five percent in order to mitigate the shortfall. In other words, the Weather Service intentionally delayed filling vacancies so that five percent of all Weather Service positions were vacant at any given time.

On December 3, 2008, I and other NWSEO representatives met with a NOAA transition team for the incoming administration. Both team members with whom we met would later be appointed to senior leadership positions in NOAA. We presented them with some of the documents on the shortfall that we had been previously provided by Weather Service, including a spreadsheet showing that the Weather Service anticipated an annual shortfall of $30 million through fiscal year 2013. Thus, the incoming administration was clearly told of the substantial financial problem left them by the outgoing administration.

In a recent appearance before the Commerce, Justice, and Science Appropriations Subcommittee, the Under Secretary testified that the Weather Service is not operating with insufficient funds. This assertion is refuted by nearly a decade's worth of evidence to the contrary.

Now, over the years, the Weather Service has erroneously attributed the structural shortfall to growing labor costs, which they say has outstripped increases in agency appropriations. But between 2002 and 2012, the salary rates of most Weather Service employees rose 27 percent. However, during the same ten-year period, the amount appropriated for the local warnings and forecast base line item, the line item for which 90 percent of all employees' salaries are paid, rose by 31 percent and overall funding for NWS oper-

ations rose by 34 percent. In other words, the general salary rates which have not grown faster than funding for NWS operations and employment levels of the Weather Service have been essentially flat since 2005 authorized at slightly over 4,600 employees.

Now, also in her recent testimony to the House Appropriations Committee, the Under Secretary stated that the Weather Service needs to evolve into "the most efficient and cost-effective manner in face of changing budgets." This year, the Administration proposed to eliminate 122 personnel at local forecast offices as a first step, a proposal that was soundly rejected in a bipartisan fashion by both the House and the Senate Appropriations Committee and by the full House, all of whom restored funding for these critical positions. Staffing reductions are simply not an option for mitigating the Weather Service structural shortfall. The 122 forecast offices operate 24/7, and most of the time, there are just two forecasters on duty who have responsibility for protecting the lives of nearly three million people on average.

Last year's National Research Council's retrospective assessment of the Weather Service modernization recognized that forecast offices are staffed only for fair weather and that staffing is at preciously low levels during severe weather. Staffing levels are continuing to remain at dangerously low levels because the Weather Service and the NOAA Workforce Management Office now delay filling vacant operational and emergency essential positions for six months or more leaving offices critically understaffed.

Finally, it is important to note that although the number of federal employees have grown over the past decade, employment levels at the Weather Service have remained stagnant. In fact, there are approximately 15 percent fewer Weather Service employees and only half as many offices as there was 20 years ago.

Thank you.

[The prepared statement of Mr. Hirn follows:]

TESTIMONY OF
RICHARD J. HIRN
GENERAL COUNSEL AND LEGISLATIVE DIRECTOR
NATIONAL WEATHER SERVICE EMPLOYEES ORGANIZATION

before the
COMMITTEE ON SCIENCE, SPACE AND TECHNOLOGY
SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT
U.S. HOUSE OF REPRESENTATIVES

SEPTEMBER 12, 2012

Chairman Broun, Ranking Member Tonko, and Members of the Subcommittee, thank you for inviting me to present the views of the National Weather Service Employees Organization and the 3,700 Weather Service employees it represents. Our members include the forecasters, hydrologists, technicians and other scientific and support personnel employed at 122 Forecast Offices, 13 River Forecast Centers, the various NWS national centers such as the Hurricane Prediction Center in Miami, the Severe Storms Prediction Center in Norman, Oklahoma, and the Climate Prediction Center in Suitland, Maryland, and at NWS headquarters in Silver Spring, Maryland.

The existence of a "structural shortfall" in the NWS budget is well documented.

For well over ten years, NWSEO's President and other officers have been invited to participate in most of the meetings of the NWS "Corporate Board" - the agency's senior leadership group comprised of the Director, Deputy Director, Chief Financial Officer, NWS Regional Directors and Division Chiefs. During these meetings, NWSEO has had first-hand access to and participated in discussions about the agency's budget development and execution during the past decade. We have also worked with and testified before the House Commerce, Justice and Science Appropriations Subcommittee throughout the past decade on the Weather Service budget. As I will explain, the NWS budget shortfall should not have come as a surprise to the leadership of NOAA as it did earlier this year, when an emergency reprogramming request was submitted. Although the amount and cause of the NWS' structural shortfall is an open question, its existence was common and public knowledge.

Materials provided to NWSEO by the NWS in September 2004 reveal that the agency anticipated an operating shortfall of $36.4M in FY 05. Among the mitigation efforts that the NWS made that year was to increase "lapse labor" - which is an intentional delay in backfilling newly vacated positions. The structural shortfall was no agency secret. In a January 2005 briefing to the American Meteorological Society, NWS

Director David Johnson delivered a PowerPoint presentation that showed a cumulative funding gap beginning in FY01 that had grown to a $37.1M shortfall. This presentation predicted a growing shortfall through FY10. An article in the January 25, 2005 edition of the *NWS Focus*, a newsletter from the NWS Communication Office, discussed the $37.1M shortfall and the *ad hoc* ways the NWS was attempting to mitigate it.

In January, 2005 the NWS submitted a one page briefing paper to the NOAA Executive Council titled "Structural Deficit of NOAA's National Weather Service." In this paper, the NWS wrote that it "has absorbed 19.0M of $56.1M structural deficit" and that a deficit of $37.1M remains in FY 2005." In commenting on this briefing paper, the Director of the NWS's National Centers for Environmental Prediction (which includes the National Hurricane Center and the Severe Storms Prediction Center) wrote to the NWS's Corporate Board that:

> One item that does not come through loud and clear is that the increased lapse [labor] rate are *[sic]* now at record levels which is having the effect of freezing our workforce numbers. I cannot help but believe this is having an impact on operations, transition issues, etc that we are not showing.

In February, 2005 a source within NWS management anonymously provided NWSEO with an internal management analysis that concluded that under-funding of the NWS "will have a critical impact on its vital life-saving mission" and that "these impacts will be felt throughout the nation by deterioration in NWS performance measures." The NWS Budget Director confirmed in the *Washington Post* that this memo was authentic, that "many of the problems stem from chronic under-funding" and that the agency had a cumulative shortfall of $37M. NWSEO was told later that month that even if the President's increased budget request for the NWS was approved that year, "our budget folks estimate" a structural deficit "at $40mil." Budget materials provided to NWSEO in February 2005 also showed that the estimated shortfall for FY07 was $65M.

In a November 9, 2005 analysis of the Conference Mark for FY 06, the NWS wrote that the mark:

> . . . perpetuates a cumulative deficit of $40M+ requiring extensive cutbacks in operating expenses, and planned program improvements, and will require at a minimum an organization-wide personnel hiring-freeze and will potentially require adverse personnel actions including directed

> reassignments and RIF in specific areas; all of which add risk to continuity of current weather and water warning and forecast services. . .
>
> The conference mark provides no correction to the NWS structural deficit. The NWS is running out of mitigation options in the non-labor area and will need to shift its mitigation strategy to labor . . .

Accordingly, in early 2006, the NWS sought Voluntary Early Retirement Authority for the Office of Personnel Management, with the aim of reducing its workforce by an estimated 50 employees. The NWS Director told agency employees that "VERA is one of many actions we plan in FY06 to help mitigate the current budget shortfall." The NWS subsequently withdrew its request for VERA authority due to political pressure. Instead, in April, 2006 the Department of Commerce submitted a reprogramming request of $12.7M to Local Warnings and Forecast base "to sustain operations and avoid a nation-wide hiring freeze."

In October 2006, the NWS developed an "integrated priority listing" for use in development of the agency's budget request for FY09. The number one priority listed was an increase of $30M in FY 09 and in each of the next four successive fiscal years to "restore the NWS sustained shortfall."

By FY 2008, the NWS had increased its "lapsed labor" rate from 4% to nearly 5% in order to mitigate the shortfall. In other words, the NWS delayed filling all vacancies so that 5% of all NWS positions were vacant at any given time. This reduced the actual number of NWS employees on board from the authorized level of 4,629 to 4,400.

On December 3, 2008, I and other NWSEO representatives met with the newly appointed NOAA Transition Team for the incoming Administration. Both team members would later be appointed to senior leadership positions in NOAA. We discussed a number of outstanding issues with the Transition Team, but the first issue addressed as our number one priority was the NWS structural shortfall. We provided them with some of the documents on the shortfall we had been previously provided by the NWS, including a spreadsheet showing that the NWS anticipated an annual shortfall of $30M through FY 13, and a document that says that $15M was needed in FY09 to fully fund the cost of the NWS workforce. I handwrote on that document "has not been included in FY09 request. Should be added to FY10 request." Thus, the incoming Administration was clearly told of a substantial financial problem left them by the outgoing Administration.

Regrettably, the agency's FY10 and FY 11 budget requests contained only a 2% adjustment to base, barely sufficient to cover new inflationary increases. The NWS's CFO presented a PowerPoint presentation to the NWS Corporate Board dated September 22, 2010 which began "NWS's Growing Budget Gap Could Threaten Operations - budget gaps have outpaced budget growth by an order of magnitude."

A November 19, 2010 analysis prepared by the NWS CFO projected that the anticipated shortfall for FY11 had grown to $61.86M .

In her recent appearance before the Commerce, Justice and Science Appropriations Subcommittee, the Under Secretary testified that the NWS is not operating with insufficient funds. This assertion is refuted by nearly a decade's worth of evidence to the contrary.

The structural shortfall cannot be attributed primarily to labor costs.

The NWS and NOAA have unfairly attributed the structural shortfall to growing labor costs, which have ostensibly outstripped increases in agency appropriations. For example, in a November 5, 2010 memo the NWS CFO wrote:

> Congress has approved Appropriations Report language preventing the NWS from closing field offices or reducing filed office hours of work. At the same time, Congress has also under-funded NWS's labor costs by not fully funding yearly pay adjustment, associated benefits, and GS step increases. Yearly under-funding without authority to align labor with available funding has created a structural shortfall that adds to an increasing legacy of unrecoverable debt. In FY 11, OCFO is projecting the NWS structural shortfall at $15M.

This conclusion is questionable. Between 2002 and 2012, the salary of most NWS employees rose 26.8%. However, during the same ten year period, the amount appropriated for NWS "Local Warnings and Forecast" base - the budget line from which the salaries of 90% of NWS employees are funded - rose by 30.6% (from $483M to $631M) and overall funding for NWS ORF rose by 34% (from $672M to $901M). In other words, General Schedule salary rates have *not* grown faster than funding for NWS operations. And employment levels within the NWS have been essentially flat since 2005, authorized at slightly over 4,600 employees.

An "execution outlook" prepared by the NWS for FY 2009, projected a labor shortfall of $10M. Even the CFO's memo of November 5, 2010, estimates that the FY 11 shortfall due to labor was estimated to be $15M - far less than what the overall "structural shortfall" has been reported over the years.

In his September 22, 2010 PowerPoint presentation to the NWS Corporate Board, the NWS CFO noted that although OMB had approved the full cumulative total of $2.64B in agency requests for labor funding during the five years ending 2010, OMB had approved only $1.89B of a total of $2.17B in non-labor funding during the same period.

A "FY 2011 Analysis of Shortfall" prepared by the NWS's CFO on November 19, 2010 projected a total unmitigated shortfall of $61.86M. However, of that amount, only $13.5M was identified as a labor shortfall or ostensibly unfunded Federal pay increases.

NWS staffing levels are already "efficient and cost-effective" and cannot be reduced without further endangering the public.

In her June 21, 2012 testimony to the House Commerce, Justice and Science Appropriations Subcommittee in support of the Administration's reprogramming request, the Under Secretary stated that the NWS needs to "evolve" in "the most efficient and cost-effective manner" and that it needs to be more "cost-effective in the face of changing budgets." This year, the Administration proposed to eliminate 122 personnel at local forecast offices as a first step - a proposal that was soundly rejected in a bipartisan fashion by both the House and Senate Appropriations Committees, who restored funding for these critical positions.

Not only is the NWS field structure already "efficient and cost-effective," but staffing is at precariously dangerous levels. The 122 Forecast Offices operate 24/7, and most of the time have just two forecasters on duty, who are responsible for issuing forecasts and severe weather warnings for an average of nearly three million people. (The two forecasters at the Forecast Office in Sterling, Virginia near Dulles Airport have responsibility for the welfare of over nine million people who live in DC, Maryland, Delaware and Northern Virginia. The two forecasters on duty at the Atlanta Forecast Office have responsibility to protect nearly 8 million people in Northern Georgia).

Essentially, our forecast offices are only staffed for "fair weather." An internal NWS management study of the April 2011 tornado outbreak in the southeastern United States concluded that there was a "significant staffing deficit" at seven forecast offices during this high impact event. Last year's National Research Council's *Retrospective*

Assessment of the NWS Modernization and Restructuring recognized (at 60-61) that staffing at the NWS forecast offices are at a precarious level:

> The quality of the NWS's warning capability corresponds with its capacity to muster an ample, fully trained local staff at its WFOs as severe weather unfolds. With its current staffing levels, there are always two people working on shift, 24 hours a days 7 days a week. Though this works fine in fair weather, it can become problematic during severe weather, particularly when events develop rapidly under seemingly benign conditions. While managers at individual WFOs generally plan ahead to add sufficient staff to cover forecasted dangerous weather situations, more innocuous weather scenarios that suddenly and unexpectedly "blow up" often lead to shortcomings that are directly attributed to having insufficient manpower. Several recent Service Assessments (e.g., NWS, 2003, 2009, 2010) illustrate the critical role that adequately enhanced staffing (or lack thereof) plays in the success (or weakness) of NWS performance during major events. Appropriate levels of staffing, beyond normal fair weather staffing, during major weather events, are critical for fulfilling the NWS's "protection of life" mission.

Staffing levels are continuing at dangerous levels because of lapsed labor. NOAA workforce management now delays filling vacant operational and "emergency-essential" positions for four months or more, leaving offices critically understaffed.

It is important to note that although the number of Federal employees has grown over the past decade, employment levels at the NWS have remained level. In fact, there are approximately 15% fewer NWS employees and half as many NWS offices than there were 20 years ago.

Our views on the National Research Council's
Weather Services for the Nation: Becoming Second to None

The National Research Council's recent report recommends that "in light of evolving technology" the NWS "evaluate its function and structure." We agree with the Council that "a more flexible structure does not need to be viewed as a threat to staff or the National Weather Service Employees Organization." In fact, NWSEO has been urging the NWS to innovate in light of new technology and service demands.

Working with management, NWSEO has designed and the parties have recently implemented six new pilot projects at NWS headquarters, at the Southern Region headquarters, and at Forecast Offices in Tampa, New Orleans, Sterling, Virginia and Charleston, West Virginia. The pilot projects are developing and testing new service delivery models, such as integrating environmental data from other NOAA agencies into NWS products; providing enhanced, face-to-face decision support to state and local emergency management personnel; and developing new mesocale forecasting models and techniques that may enable the NWS to provide pinpoint, highly localized warnings of severe weather outbreaks hours in advance. As part of these pilot projects, the NWS created new positions called "Emergency Response Meteorologist." Hurricane Isaac provided the first real-time test of the value of the new positions. Before and during the storm, these new "ER-Mets" were deployed from the new Southern Regional Operations Center and the Tampa and New Orleans Forecast Offices to 16 different FEMA, state and local Emergency Operations Centers, as well as to the Multi-agency Communications Center at the Republican National Convention, to supply face-to-face decision support service. An official from the Secret Service Intelligence Division wrote to the NWS that:

> I found it very helpful to have someone on hand from the NWS to provide up to date information regarding the hurricane . . . It was invaluable to have you on the scene, when we all received a tornado warning on our Blackberries. You were able to say that we were in fact not in any danger because that particular storm was to the north of us.

These pilot projects build on the success of an aviation weather pilot project recently tested at New York, Chicago and Atlanta. By adding three additional forecasters at each location (one per shift) who were dedicated to providing additional weather support to the FAA, weather-related air traffic delays were reduced by 50% immediately.

We have agreed to alter traditional staffing models in order to conduct these pilot projects. But if these pilots are successful, the NWS will require more, not fewer, forecasters to provide these enhanced services nationwide.

One of the office realignment options that the Council recommended evaluating was to regionalize the preparation of the routine public forecasts. The Council wrote (at 55) that:

> The most important benefit from the regionalization of the public weather forecast tasks is to diminish the chances of the local staff being

> overwhelmed during severe weather outbreaks. The extra time at the local offices can be invested in the increasingly important role of communicating impact-weather decision support. More time would be available for training.

The Council noted (at 59) that such a restructuring "could open up positions for new hiring," presumably at new regional forecast centers. However much NWSEO would welcome a lightening of the workload, more training time, and greater employment opportunities, we do not believe that regionalization of public forecast preparation is practical or would actually mitigate the local workload.

Under the Council's suggestion, many products, such as marine and aviation forecasts, would continue to be produced at the local level. WFO forecasters do not forecast specific products, they forecast specific meteorological parameters. This one set of forecasted winds is then used by all forecast products, including marine, aviation or public forecasts. Therefore, having two entities forecast a parameter such as winds for the same area would take twice the work and lead to inconsistent forecasts. In addition, these forecast parameters are intertwined. For instance, forecasts of the winds will impact forecasts of temperatures or sky cover.

Furthermore, more than 80 percent of the workload of creating a forecast involves the forecaster orienting herself to the weather and developing an awareness of weather conditions. The forecaster in the local office will need to do this anyway whether they are doing local forecasting or preparing to issue severe weather warnings and advisories. Very little time is spent on actually adjusting model output or post editing text products. The ability of forecasters to maintain situational awareness and accurately identify and predict severe weather can be directly correlated to the significant number of man hours that are spent studying observational and remote sensing data, analyzing the synoptic weather scenario, and comparing numerical weather prediction models from varied sources, which is all a part of preparing the public forecast. Any savings from consolidated forecasting would be minimal, and would come at a risk of inconsistent forecasts.

The Council also suggested that regionalized forecasters "would easily be able to produce a forecast that is just as accurate as one produced locally." (at 55). But this unsupported assumption is contradicted earlier on the same page when the Council correctly notes that "[l]ocal knowledge of phenomena, terrain and infrastructure is an important factor in forecasting, and needs to be accounted for in any potential regionalization of functions."

Conclusion

Thank you for inviting the National Weather Service Employees Organization to participate in today's hearing. We hope the information we have provided in this testimony and previously assists the Subcommittee in ascertaining the true status of the NWS's financial health, and what the agency needs in the future to respond to maximize new science and technology and to respond to increasing societal demands for time critical weather information. The employees of the National Weather Service appreciate the bipartisan support that they have always received from the Members of the House Science Committee.

Vice-Chairwoman ADAMS. We thank the panel for their testimony.

Reminding Members that committee rules limit questioning to five minutes, the Chair will at this point open the round of questions. The Chair recognizes herself for five minutes.

Mr. Hirn, the term "structural deficit" has been used in different ways depending on the perspective of the speaker. Can you please explain what a structural deficit is from the perspective of the union? Is this deficit a result of insufficient planning, for yearly wage increases, for salary?

Mr. HIRN. We don't think it can be primarily attributed to insufficient salary planning because, as I have noted, the salary levels have gone—the salary rate—general schedule salary rates have gone up certainly no more than the Weather Service appropriations. And when we say structural deficit, we are just using the terminology that the Weather Service management through this previous administration and several Weather Service Directors and CFOs previous have used, laid out in all their charts and spreadsheets, which we have provided the Committee, listing what programs and what essential operational things are not being funded, what maintenance is being delayed, what procurements are not taking place. It has been pretty much laid out by the Weather Service. This is not our terminology. And those details have been provided to the Committee in hard copy.

Vice-Chairwoman ADAMS. Thank you.

Mr. Gail, will the Weather Service continue to be second to none if it does not continue to support investments in science and technology?

Dr. GAIL. It is essential that these investments are supported, absolutely.

Vice-Chairwoman ADAMS. And to both of you, a large portion of the Weather Service's budget is devoted to labor. Mr. Hirn's testimony indicates that forecasting centers are already running on skeleton crews. The Academy's recent reports say that as scientific and technological progress continues, critical components within NWS are lagging behind the state of the science. Understanding current budget realities, what advice would you provide Congress on how to address this predicament? Mr. Hirn and then Mr. Gail—Dr. Gail.

Mr. HIRN. Well, one of the—well, what we have worked—we supported what Congress did last year and that is called for an outside study of the Weather Service structure, its operations, and its needs for the future. We have worked with the National Research Council this year and the previous year on their study. We think that it has to be a nationwide dialogue to first establish what job the Weather Service is going to be doing, what new capabilities it can engage in in the future before a long-range plan can be set, but at a very minimum, the structural deficit may be in the realm of $30 million, there needs to be an adjustment in the fiscal year 2014 budget, if not in the 2013 budget.

Vice-Chairwoman ADAMS. Dr. Gail?

Dr. GAIL. Yeah, we agreed that there are efficiencies that can be gained within the Weather Service in terms of better utilization of technology. Technology is evolving rapidly, and those can be used

to improve the quality of the forecast. At the same time, we said that the human element of the forecast is essential, and as technology evolves, humans can play different roles in performing those forecasts, focusing on those areas where they contribute most, focusing on use of automation in areas where automation can be used best.

In addition, we said that the Weather Service has the ability working with the broader enterprise to create leverage in terms of value that is generated for the Nation using the private sector, using other entities that work with the Weather Service closely and can perform roles in providing benefits to both businesses and the public in terms of enhancing what the core weather service capabilities are. But it does come back to making sure that those are protected.

Vice-Chairwoman ADAMS. Thank you.

And Mr. Hirn, what was the reaction from NWS, NOAA, and/or DOC leadership to your efforts to inform them about the structural deficit and to your recommendations on how best to address it?

Mr. HIRN. I can only say that it was ignored. Had the incoming administration relied on our advice or had at least taken us seriously with the information we provided them, this whole reprogramming problem—unauthorized reprogramming problem that we have had over the past two years would never have happened because the problem would have been fixed two or three years ago had they gone back and—the new administration in their budget request to Congress had fixed the structural shortfall. And we have every confidence that Congress would have approved it because we—anything that the Weather Service has asked for basically has been approved by—has gotten bipartisan support from Congress.

Vice-Chairwoman ADAMS. Thank you. I yield back my—the rest of my time.

And I now recognize Mr. Tonko.

Mr. TONKO. Thank you, Madam Chair.

Some people may think the weather can just be grabbed off the television or forecasts are churned out by computers. So Mr. Hirn, can you clarify for the Members of the Committee the role of forecasters and the work over at NWS?

Mr. HIRN. Wow, that is a big job but I will just give—as capsule job—as capsule summary as I can say. Basically, twice a day, based on weather data gathered by weather balloons, satellites, observation centers, there are computer models—a number of computer models with what is called synoptic forecasts that are produced here in Maryland at the National Center for Environmental Prediction, goes out to the forecast offices—122 forecast offices nationwide. Those modeled forecasts are pretty large scope and need to be tweaked, changed, adapted to the local communities based on the knowledge and expertise of the local forecasters who put out several times a day marine, aviation, public, all kinds of forecasts that we rely upon directly to the public, to the press, to the private companies rely upon.

And as they are doing that, as they are watching the weather, adopting these models, tailoring them to the local needs, they are also keeping the eye on the weather for developing severe weather. And then when severe weather develops, while they are doing

these forecasts, they also—and they often have to call in extra staff because no two people can do this on their own—get on the radar, get the reports and issue the warnings and watches of tornadoes, severe thunderstorms, blizzards, flash flooding that we see in the media. So they are doing two things at one time. They are adopting the model forecast for—to specify for the local communities and they are also keeping an eye on the weather and then teaming up to—when necessary to issue warnings of severe weather.

Mr. TONKO. Thank you. The National Academies highlight the role of technology in empowering the NWS to do even better work than they do now. So Dr. Gail, do you see embracing new technology as a labor-saving exercise or is it that technology and labor levels don't necessarily connect in terms of a savings or is it just getting even better work out of the process? Is there a labor impact from the investment of technology in your mind?

Dr. GAIL. Well, the human work that is done now is a combination of highly skilled things and more routine things. And as with any industry, automation can step in and support on the more routine aspects of things that are done and free up that human labor to be applied where it is most needed in the judgment area, in the areas where you are trying to discern things that may not have been seen before, a particular set of conditions that seem somewhat unique. And yet the ability to create a forecast based on that knowledge is still critical to public safety. And so better applying the human judgment, the human capabilities where they can do the most good I think is where technology will be able to help most.

Mr. TONKO. So it is freeing up some of the labor to do the more judgmental or interpretive outcomes?

Dr. GAIL. Well, I think one of the things that is important to realize is that this is not a static situation. The demand for these kinds of things is increasing rapidly, both on the business side that I see within my company and on the public safety side as we see in terms of vulnerability to severe weather and things like that. So there is a demand that is—certainly will not be met in the future unless we really progress rapidly both in terms of our scientific and technology capability but also in terms of applying the human resources appropriately.

Mr. TONKO. Um-hum. And Mr. Hirn, in 45 seconds can you offer any observations there?

Mr. HIRN. Well, yes. To answer that, there is an increasing demand for the Weather Service to engage in what is called decision support services to have our forecasters work with directly face-to-face local emergency management personnel during severe weather events. We now have forecasters go out to the—all out West to all the wild land fires and do forecasts on the spot, face-to-face with the firefighting crews to the extent that better computer models and technology can free up time so that our folks can be more involved in these decision support services to the emergency management communities, we really are looking forward to that.

And in fact, it was at our request and our design that the Weather Service has now started several pilot programs around the country by adding an emergency response meteorologist to forecast offices whose primary job is more social science and interrelation with emergency managers to bring the product out, to make sure

people are aware of the product, the help the local communities and the emergency managers make better decisions based on the weather information. The union has been the one that designed those programs, convinced the Agency that they were needed, and we jointly designed and are experimenting with that in several places around the country.

Mr. TONKO. I can tell you, having been impacted in our district—Congressional District with severe storms over the last year, I can tell you the communities and the individuals that I represent could strongly endorse that kind of connection.

Thank you so much.

Vice-Chairwoman ADAMS. I would like to thank the witnesses for their valuable testimony and the Members for their questions. The Members of the Subcommittee may have additional questions for witnesses and we will ask for you to respond to those in writing.

The record will remain open for two weeks for additional comments from Members. The witnesses are excused and the hearing is now adjourned.

[Whereupon, at 4:55 p.m., the Subcommittee was adjourned.]

Appendix I

Answers to Post-Hearing Questions

ANSWERS TO POST-HEARING QUESTIONS

Responses by Dr. Kathryn D. Sullivan

U.S. House of Representatives
Committee on Science, Space, and Technology
Subcommittee on Investigations & Oversight

Questions for the Record

"Mismanagement of Funds at the National Weather Service and the Impact on the Future of Weather Forecasting"

Wednesday, September 12, 2012
2:00 p.m. – 4:00 p.m.
2318 Rayburn House Office Building

Dr. Kathryn D. Sullivan
Assistant Secretary of Commerce for Environmental Observation and Prediction, and Deputy Administrator for the National Oceanic and Atmospheric Administration, U.S. Department of Commerce

Questions submitted by Dr. Paul Broun, Chairman, Subcommittee on Investigations & Oversight

1) When can the Committee expect to receive the staff briefing on all disciplinary actions regarding this issue, and materials (listed below) that were requested as long as six months ago? As you will recall from the hearing, Congresswoman Adams, Vice-Chairman of the Investigations and Oversight Subcommittee, requested that you deliver the materials to us before Congress reconvened in November. To be clear, I expect these documents - and a staff briefing - prior to November 13, 2012:
    - NWS CFO spend plan (requested during the initial NOAA/DOC staff briefing on May 25, 2012);
    - Reprogramming requests or any other mechanism by which additional funds were requested of Congress for NWS going back 10 years (requested during the July 13, 2012 staff briefing);
    - All documents presented to the NWS Corporate Board by former CFO Bob Byrd in the September 2010 meeting (requested during the July 13, 2012 staff briefing);
    - Privacy Act briefing on all disciplinary actions regarding this issue (requested during the July 13, 2012 staff briefing);
    - CFO Council minutes and summaries going back to when Bob Byrd was hired as NWS CFO (requested during the July 13, 2012 staff briefing);
    - MCR (Management Control Review) minutes (requested during the July 13, 2012 staff briefing);
    - All records associated with AWIPS and WRIP from the CFO Council going back to when Bob Byrd was hired as NWS CFO (requested during the July 19, 2012 staff briefing);
    - A list of all Financial Management Centers (FMCs) in NOAA (requested during the July 19, 2012 staff briefing);
    - A description of how NOAA differentiates between "common services" and "M&A" (requested during the July 19, 2012 staff briefing);

- Program Oversight Board review presentations, templates, etc (requested during the July 24, 2012 staff briefing).

2) The NOAA and DOC May 2012 decision memos create the impression that NOAA and DOC have both concluded that this was an isolated issue at NWS, and that NOAA leadership had no way of knowing what was happening because of inadequate financial transparency, and insufficient supervisory control over subordinates.

   Regarding financial transparency, the NOAA CFO job description states:
   - "The [Finance] Office is responsible for establishing and **assuring the adequacy** of financial internal controls…" (Emphasis added.)
   - "S/he is responsible for managing NOAA's accounting system, and developing overall financial management guidance."
   - "The incumbent ensures adherence to financial limitations as well as statutory/regulatory requirements, and manages the use of NOAA's assets."

   With regard to supervisory control over subordinates, that same job description states:
   - "It [the NOAA CFO] provides financial management and budget support to the Under Secretary and several NOAA Staff Offices as well as policy and management to the **organization as a whole.**" (Emphasis added.)
   - "The CFO provides centralized guidance and control of financial management activities **at all levels of operations**…". (Emphasis added.)
   - "Provides administrative oversight and coordinates the activities of **subordinate organizations**…" (Emphasis added.)

   I am aware that the NOAA CFO did not write the performance plans and evaluations for Line Office CFOs at the time, but why wasn't there any supervision at all? How were these job requirements carried out in this instance?

3) Keeping in mind that NOAA recently asked for a $35 million reprogramming that only covered approximately four months of this fiscal year, and that the IG's testimony references a November 18, 2011 memo to the NWS OCFO concluding that $10 million in Advanced Weather Interactive Processing System (AWIPS) funds were shifted to other accounts without a reprogramming request, can you provide the Committee with an estimate on the amount of NWS funds inappropriately allocated during FY 2010 and FY 2011?

4) While I understand that NOAA and DOC have concluded their investigation, and that some NWS employees retired as a result of the NWS situation, do you anticipate taking any further disciplinary action?
   a) When do you expect final resolution on the disciplinary review process?

5) What additional information can you provide about the Grant Thornton financial review?
   a) Who at NOAA or DOC is the point of contact?
   b) How long will the review take?
   c) How far back will the review go?

d) Will the IG's office or GAO be involved, either during the review, or at its conclusion?

6) The May 24, 2012 NOAA decision memo instructed the Chief of Resources and Operations Management (CROM) to initiate the process of contracting with outside independent firms to conduct a financial audit and a program audit of the NWS. This financial audit was directed to determine whether a "structural deficit" existed at the National Weather Service.
   a) Do you believe it is appropriate for Ms. Maureen Wylie, as the CROM and former NOAA CFO, to oversee an audit of whether or not Ms. Wylie, in her previous position, was able to manage the development and execution of NOAA's and the NWS' budget?
   b) What controls are in place to prevent a conflict of interest?

7) Regarding the charge of the Investigative Report, you state in your testimony that, "From the outset of the investigation, clear instructions were given that we were to determine if improper actions were taken by individuals within the NWS CFO's office and NWS leadership, and if so how best to correct these improprieties."
   a) Did these instructions preclude the Investigating Team from determining if improprieties were conducted by anyone at NOAA or DOC? If they did, why? If they did not, did the Team consider broadening the investigative charge?

8) What percentage of the NWS budget goes to labor costs? At any point in your investigation, did anyone insinuate that these labor costs were the reason for this improper financial activity?

9) What do the terms 'structural deficit' or 'structural shortfall' mean to you, and does one exist at the National Weather Service?
   a) How do you respond to the claims of one of our witnesses on the second panel, Mr. Richard Hirn, that the structural deficit was common and public knowledge?

10) One of the central reasons stated for the inappropriate transfers was that Management and Administration costs were not 'taxed' on programs evenly throughout the agency because no policy existed. This meant that some programs could be 'taxed' more for M&A than others. Once the money became part of the M&A account, it could be used however the managers wanted because it was essentially 'generic' at that point. This technique allowed managers to move money between accounts without congressional notification – a problem GAO pointed out in January 2011. In response to GAO's report, NOAA indicated that it has since developed standard policies for M&A 'taxing.'
   a) When did these policies take effect?
   b) Can you briefly describe the procedures for determining the levels NOAA will 'tax' each individual project?
   c) Will they be consistent?
   d) How much latitude will leadership have in changing or making exceptions to those levels?
   e) Please provide copies of these policies.

11) What is your reaction to information in the IG's testimony that his office has received two complaints since the issuance of the Investigative Report claiming that unauthorized reprogramming of funds continues unabated, and that senior NOAA and NWS officials were aware that this practice extends to earlier than 2010?
    a) What is NOAA doing to address these allegations?

12) In the fiscal year (FY) 2012 Appropriations conference report language, Congress recognized the need for, and directed, a follow-on study to examine the structure of the NWS. I recently learned that the contract was awarded to the National Academy of Public Administration (NAPA), instead of the National Academies, which produced the first two reports in this series.
    a) Why did the award go to NAPA instead of the National Academies?
    b) How do you anticipate incorporating NAS and NAPA recommendations, especially if they differ or conflict with each other?
    c) Which set of recommendations will NWS be expected to follow and why?

13) Is the NWS fully funded? In other words, does NWS have all the funds necessary to carry out its mission; keep its workforce fully trained; keep up-to-date with technology; and keep existing facilities and equipment fully maintained?

14) What is the current level of lapsed labor at NWS?
    a) Are any of the NWS positions being intentionally held vacant to save money at local forecast offices that are classified as "emergency essential?" If so, why aren't they being filled as soon as they become vacant?
    b) Are NWS and NOAA workforce management saving any money by not filling these vacancies?

15) During a briefing at the end of September sponsored by the University Corporation for Atmospheric Research (UCAR) and the Weather Coalition, a recommendation was made to establish a U.S. Weather Commission, based on the NRC's recommendations in its August report titled, "*Weather Services for the Nation: Becoming Second to None*." What is your reaction to this suggestion?

Responses by Ms. Maureen Wylie

U.S. House of Representatives
Committee on Science, Space, and Technology
Subcommittee on Investigations & Oversight

Questions for the Record

"Mismanagement of Funds at the National Weather Service and the Impact on the Future of Weather Forecasting"

Wednesday, September 12, 2012
2:00 p.m. – 4:00 p.m.
2318 Rayburn House Office Building

Ms. Maureen Wylie
Chief, Resource and Operations Management, and
former Chief Financial Officer, National Oceanic and Atmospheric Administration,
U.S. Department of Commerce

Questions submitted by Dr. Paul Broun, Chairman, Subcommittee on Investigations & Oversight

1) When did you first become aware of the allegations at NWS?

2) When did you first become aware that a potential unauthorized reprogramming occurred?

3) What are the reporting requirements for an agency when it identifies a potential unauthorized reprogramming?

4) Who is/was the NOAA official responsible for making that notification to OMB and Congress?
   a) Is that different now?

5) When did you first find out about a structural deficit at NWS?

6) Over the years, how many reprogramming requests has NOAA sent to the Appropriations Committees under your tenure?
   a) How many requests were for NWS?
   b) How many requests were sent relative to Continuing Resolutions?
   c) Please explain the circumstances surrounding the above-mentioned requests.

7) When was the last time NOAA attempted to deal with the structural deficit in a formal manner?
   a) How did NOAA attempt to do so?

8) Have you seen the Investigative Report produced by the NWS in the Fall of 2011? When did you first see it?

9) Have you seen the Investigative Report produced by senior NOAA and Department of Commerce staff, and completed in May of 2012? When did you first see it?

10) How did you first hear about the allegations in the investigative report?
    a) What did you do in response to those allegations?

11) Explain how the CFO council operates.
    a) What does it look at - budget formulation, or execution?
    b) Do you take down minutes?
    c) Are there formal presentations?
    d) How often does it meet?

12) What is your role in supervising Line Office (LO) CFOs?

13) Have you ever contributed to any LO CFO's Performance Review?
    a) Whose Performance Reviews did you review as NOAA CFO?

14) As NOAA CFO, were you involved in Line Office budget formulation or budget execution?

15) How can the NOAA CFO ensure that the budget is being implemented appropriately if it is not involved in budget execution?

16) Without having any insight into budget execution, how can the NOAA CFO conduct budget formulation?

17) If you don't have supervisory authority over Line Office CFOs, why did you meet with the NWS CFO after you heard the allegations?

18) Does the NOAA CFO sign-off on Summary Level Transfers (SLTs)?

19) Has a Line Office ever submitted a SLT that did not conform to accepted business practices, such as exceeding the allowable $500,000 threshold?
    a) If so, how did you respond to those requests?
    b) If you rejected those requests, did you ever conduct any follow-up to see how that shortfall was addressed?

20) Who generates Budget Operating Plans (BOPs)?
    a) Does the NOAA CFO sign off or approve them?
    b) Has this always been the case?

21) Are you aware of the GAO report "Financial Management: NOAA Needs to Better Document its Policies and Procedures for Providing Management and Administration Service," from January 2011?
    a) When did NOAA switch from allowing all M&A funds to be taken from one account to taxing all Programs, Projects, and Activities (PPAs)?

b) How many Financial Management Centers (FMCs) are there in NOAA?
c) How many FMCs are there in NWS?

22) How do Line Offices develop M&A budgets from Operations, Research, and Facilities (ORF) and Programs, Acquisitions, and Constructions (PAC) accounts for Programs, Projects, and Activities (PPAs)?

23) In the report, GAO states that, "NOAA's documentation of its policies and procedures for M&A Services does not always conform to applicable federal standards." It also states that "... the five line offices and the FMCs have no or limited documentation of their policies and procedures for the M&A services they provide." NOAA agreed to the recommendations and stated that it has already created an Administrative Cost Working Group chaired by one of the Line Office CFOs.
   a) Who was that Chair?
   b) Please provide the new NOAA policy and directives related to M&A services, including how the costs are developed, as well as how those costs are covered.

24) The NOAA Finance Office handbook states that "preparers of SLTs are required to maintain adequate supporting documentation for each SLT."
   a) Was this done at NWS?
   b) Who is responsible for ensuring the Line Offices follow the NOAA Finance Office handbook?

25) What are Periodic Program Reviews?
   a) As part of your monthly meetings with Line Office CFOs, did you conduct a Periodic Program Review regarding any aspect of NWS (AWIPS, NEXRAD, WRIP, etc)?

26) Dr. Lubchenco's decision memorandum indicates that management controls were ineffective and that, "the NWS operated with an unacceptable lack of transparency relating to budgeting..." This wasn't new. GAO told you in December 2010 and NOAA agreed this was an issue. Based on your position as former CFO and now CROM, what should be done better?

27) Please comment on the following statements from Dr. Lubchenco's decision memo:
   a) "...[I]n addition to the reprogramming violations, the investigation also found that these actions went unchecked in large part due to various management issues. It is clear that this issue would have been discovered and corrected earlier had senior leadership within the NWS exercised appropriate oversight."
   b) "...[T]here is no doubt that financial controls in place at the department, NOAA, and NWS were ineffective at detecting this practice.'
   c) "...[T]he NOAA CFO did not play a supervisory role, even though she was clearly in the best position to understand the line office CFO's financial decisions."

28) Dr. Lubchenco's decision memo goes on to direct that that the "DAA, AA, and NOAA CFO serve as reviewing officials on the NWS CFO performance plan and evaluation," and that the "NOAA CFO's office expand its current supervision of the SLT process to ensure that SLT transactions are provided appropriate higher level review."
    a) How do you respond to those directives?
    b) What prevented you from monitoring the SLT process in the past?

29) Dr. Lubchenco's decision memo states that, "the NWS did not have a documented transparent process to address emerging budget issues." The report recommended that, "NWS create a well documented process, vetted by stakeholders, and include explicit programmatic decisions allowing the bureau to align its budget formulation and execution with the available funds."
    a) The position description for the NOAA CFO states, "[t]he Office of the Chief Financial Officer (CFO) provides guidance and staff support to NOAA organizations in the areas of **budget formulation** and execution, resources management, financial systems development and financial management." (Emphasis added.) If budget formulation is already the responsibility of the NOAA CFO, why is this directive necessary?

30) SLTs are examined at the NOAA CFO's office level but only for particular "business rules."
    a) Should there be a greater role for the CFO?

31) Who is responsible for providing budget training for Line Office personnel?

32) The Acting NWS CFO reviewed the state of the NWS budget and found that it needed $35 million in FY12.
    a) Did you review this as well?
    b) Do you concur?

33) When did you assume the role of Chief of Resources and Operations Management (CROM)?

34) Explain what the CROM does and how it is different than the NOAA CFO.

35) Was the NWS CFO taking from AWIPS procurement, or limiting the forward funding of the procurement? Does this matter in terms of allowable transfers?

36) Do you consider "moving programs to the right" a "reprogramming?"

37) Do any other agencies (to your knowledge) use similar interpretations for reprogramming as they pertain to "moving to the right" and "forward funding?"

38) What additional controls are required to identify this type of activity, prevent it from happening, and ensure that budget formulation and execution are based on accurate information?

39) How would you characterize the NOAA CFO's office under your leadership? Was it open and candid with respect to raising concerns?

40) Would you consider the NOAA Corporate Board an appropriate venue to raise detailed concerns?

Responses by Inspector General Todd J. Zinser

U.S. House of Representatives
Committee on Science, Space, and Technology
Subcommittee on Investigations & Oversight

Questions for the Record

"Mismanagement of Funds at the National Weather Service and the Impact on the Future of Weather Forecasting"

Wednesday, September 12, 2012
2:00 p.m. – 4:00 p.m.
2318 Rayburn House Office Building

Inspector General Todd J. Zinser,
U.S. Department of Commerce,
Office of Inspector General

Questions submitted by Dr. Paul Broun, Chairman, Subcommittee on Investigations & Oversight

1) The two May 24, 2012 decision memos from NOAA and DOC appear to go to great lengths to segregate NWS from NOAA and Commerce.
   a) Are you satisfied with the extent of responsibility and accountability at NOAA and DOC regarding mismanagement at one of the most important line offices within one of the largest bureaus at the Department of Commerce?

   b) To what extent will your office review accountability by either NOAA or DOC personnel?

   c) Are you satisfied with both the timing and manner in which NOAA has responded and investigated the claims of mismanagement of funding at the weather service?

We have undertaken a review of Departmental and NOAA corrective actions and will issue a report upon the completion of our work. The Department and NOAA are making changes to NOAA's reporting structure as a result of the unauthorized reprogramming, indicating that they too are not satisfied. NOAA's response to initial complaints of unauthorized reprogramming has left us concerned. Other potential Antideficiency Act (ADA) violations have arisen, increasing our concern.

2) What is your initial reaction to having received two additional complaints about unauthorized reprogramming of funds at NWS since the issuance of the Investigative Report?

Once a problem becomes public and management takes actions to address complaints, often there are subsequent complaints. The audit of the Department's fiscal year (FY) 2012 financial statements disclosed a material weakness and issues with NOAA's oversight of financial

management, including indications of additional unauthorized reprogramming and potential ADA violations that require further review and analysis for a determination.

Questions submitted by Ranking Member Paul Tonko, Subcommittee on Investigations & Oversight

1) Please explain the hotline system in place in May 2010--you told Committee staff that the Hotline system consisted of two operators and a manager. How were calls/tips aggregated, assigned and reviewed? Did this system change substantially at any point prior to November 2011? If so, please explain how. Provide the names and titles of all current or former staff who worked to manage allegations between May 2010 and November 2011.

In May 2010, senior-level career federal employees at OIG were responsible for initial hotline intake and review. Complaints are reviewed on a case-by-case basis and based on the judgment of staff then assigned accordingly. We review our processes and personnel performance regularly, making enhancements and staff assignments for continual improvement. The Inspector General's (IG's) testimony addressed some key enhancements to our complaint handling function, including the hiring of contractor support for 24-hours/7-days-a-week coverage.

With respect to providing the names and titles of OIG employees for public record, we identify the IG as the overall responsible official.

2) Please explain why three of the four allegations regarding financial misconduct triggered referrals to agency management and yet one of the allegations triggered a decision to open your own investigation. There appears to have been no awareness, from one allegation to another, that similar allegations were coming in to your office.
   a) Why was there no systematic cross-tabulating of these allegations so that they could easily be aggregated?

   b) What guidance was provided for staff to make decisions on how to handle allegations that came into your office?

   c) Why do similar allegations end up in such different baskets of work? How do you explain such inconsistent handling of essentially the same complaint?

   d) Have you instituted steps to guarantee that cross-checking will occur in the future?

As noted in the testimony, NOAA received the initial anonymous complaint some 2 months prior to OIG. NOAA assigned it internally to the NWS chief financial officer (CFO) for review. The agency followed this course of action without notifying OIG and without following up with the NWS CFO to obtain inquiry results. We initiated our review after receiving the second anonymous complaint a few months later.

In his testimony, the IG addressed OIG's handling of complaints in this matter. He recounted how OIG staff "zero-filed" the first complaint sent anonymously to GAO FraudNet, setting it aside for future action in the event of additional complaints on the same subject. As the IG has testified, he would not have chosen to handle the first complaint in this manner.

At the time this complaint was "zero-filed," OIG investigative policy was applicable and decisions on how to handle such complaints were based on the judgment of OIG staff responsible for the hotline at the time. However, this complaint and all incoming complaints have been and will continue to be cross-referenced through our indices with previously received complaints.

Without being able to go back and explore the rationale for why this first NWS complaint was "zero-filed," OIG has nonetheless conducted a risk assessment on our hotline intake and review processes, instituted a number of process improvements, and provided training to OIG staff and the Department. In addition, it has been OIG practice since June 2011 to provide the Deputy Secretary quarterly updates on hotline performance.

3) In your testimony you spoke of an allegation in late 2010. We assume you were referring to the October 2010 allegation. Please specify which allegation sparked the January-to-April 2011 preliminary investigation by your office, when the allegation came in, how it got to your office (through the Hotline or some other method?) and provide any documentation of that allegation that your office possesses.

The OIG complaint follow-up and review completed in 2011 stemmed from the October 2010 hotline allegation. The anonymous complaint was assigned to OIG's audit group for research and follow-up with NOAA management.

4) Since opening a preliminary investigation appears to require an allocation of IG staff in a way that a management referral may not, we would like to better understand how the one NWS allegation came to become a preliminary investigation.
    a) In the chain between the recipient of the relevant tip (we assume the hotline staff) and your deputies, please identify who recommended and who approved that a preliminary investigation be opened. How was that communicated to the line staff who carried out that preliminary work?

    b) Please provide the name or names of the person(s) on the OIG staff, whether current or former OIG employees, who played any role in conducting this preliminary investigation.

    c) Did the person or persons who recommended, approved and assigned that preliminary investigation ever inform their superiors about this issue? Who was told, and when, about the allegations being investigated?

The anonymous complaint was assigned to OIG's audit group for further assessment. Because the complaint was anonymous, our staff first completed research to fully understand NOAA's budget and budgetary processes with respect to NWS. This required both a review of policy

and procedures and numerous interviews with senior NOAA officials responsible for the financial management of NWS, as well as Departmental financial officials. Throughout the process, NOAA officials stated that the actions they took to manage NWS funds were not improper. Our audit team questioned this response and—during a meeting in April 2011 with the NWS Director of the Budget Accountability Office and the Deputy CFO for NWS—we offered them the opportunity to confirm, with the Department official responsible for reprogramming requests, that the questioned funding shifts did not violate any applicable appropriations law or regulation. Despite sending follow-up e-mails, we did not receive a response to our request. OIG followed up again in the November 2011 memorandum, which we attached to the IG's testimony, communicating our preliminary determination that the shift of money was to fund the NWS shortfall and thus would likely require Congressional approval. We again requested that NOAA officials provide us the results of their meeting with the Department regarding this issue.

Our process was consistent with (a) the ADA, (b) OMB's Circular A-11, Section 145—Requirements for Reporting Antideficiency Act Violations—which states that agency staff must contact department counsel and budgetary offices to assess potential ADA violations, and (c) the Department's *Accounting Principles and Standards Handbook*, which states that "a determination concerning liability" under the ADA "is within the province of the Department's Office of General Counsel." In May 2012, approximately 1 year after OIG's April 2011 request, we were provided the results of the Department's internal inquiry into the alleged mismanagement of funds within the NWS. In November 2012, the Department notified OIG that its review has confirmed our initial concern that NOAA violated the ADA.

With respect to providing the names and titles of OIG employees for the public record, we identify the IG as the overall responsible official.

5) It was approximately a year between the original allegation that triggered your staff's preliminary investigation and a memorandum landing on your desk. In the intervening time, allegations of an Anti-Deficiency Act violation by the top financial official at the National Weather Service were never brought to your attention by your staff. How do you explain that this audit or investigative issue was never elevated to you in the course of an entire year? What steps have you taken to insure that similarly serious work will be briefed to you in a timely fashion?

As noted in the IG's testimony, the actions of OIG staff included alerting senior officials at NOAA and NWS of compliance questions about certain financial transactions. Department management has the ultimate responsibility for the integrity of its financial records, and routinely makes adjustments to financial records throughout the year. Although discussions between OIG staff and Departmental financial management staff are routine, such adjustments are typically not brought to the attention of OIG, and rarely are such entries handled at the IG level. However, when large general ledger adjustments become necessary, the OIG may be involved. For example, the annual financial statement audit prompted NOAA to post one large adjustment to correct a $616 million property classification and to reverse $115 million in related depreciation expense that had been recorded in fiscal year 2012.

6) Please describe the system (or systems) you had in place between May of 2010 and November 2011 for senior leadership to have access to you. Did you hold regular meetings or was some other system in place? If you did hold regular meetings, please tell us how frequently those meetings were routinely held. Please provide a copy of the agenda for each such meeting to the Committee from June 1, 2010 to the present.

I met regularly with senior leadership during this time, both formally and informally, and continue to do so.

7) You told Committee staff that you have overhauled your hotline tip review system so that all tips are aggregated each week and forwarded to you and your senior staff for direct review and assignment. When was this system put in place? What analysis went into making a decision to implement such a system? Are there other IG shops that you would point to as an inspiration for the system you have adopted?

As mentioned during the IG's testimony, OIG—at the IG's initiative—has fostered the continual improvement of the effectiveness and efficiency of our hotline operation. Prior to his current appointment, the IG was a 24-year career federal employee whose experience included overseeing hotline operations at another office of inspector general for 15 years.

8) You indicated to Committee staff that a contractor had been hired to handle and aggregate hotline allegations. Please provide the name of the contractor and the date the contract went into effect.

OIG's contract with Global Compliance Services, Inc., for 24/7 hotline complaint intake, was awarded in March 2011.

9) At the hearing you indicated that your office had gone back to review all the items that had been "z-filed" in the five years of your old system. When did this review of the z-files occur? Please provide all documents associated with the assignment to undertake a z-file review and all materials produced by that review?

The testimony addressed our analysis of complaints filed for future reference (i.e., "zero-filed"), which was completed in December 2011 and covered the preceding 2 years. The IG's testimony did not refer to a 5-year period.

10) What analysis has been done to identify all allegations that had been sent over to the agency for review during those five years? What steps have been taken to evaluate the appropriateness of those assignments and to see whether the agency had meaningfully handled them? Has your office opened or re-opened any specific cases as a result? Have you begun your own investigations of any allegations that were inappropriately referred back to the agency for them to investigate?

The analysis OIG undertook concerned a backlog of complaint referrals pending with NOAA for a substantial period of time. Based on this analysis, OIG has pulled back some complaint referrals to NOAA due to that agency's lack of responsiveness. As a result, OIG has re-opened

several cases referred to NOAA to conduct administrative inquiries. We could not identify any that we re-opened because we considered them to be inappropriately referred. OIG communicates regularly with agencies to which we refer complaints. In most cases, OIG will re-open a case due to inactivity, delinquency, or improper handling by agencies. We have also taken back complaints at the agency's request based on reasons such as the agency's inability to identify a neutral fact finder.

11) In the Committee staff briefing, you indicated that you have undertaken a new effort to more accurately track allegations that have been sent to the agency and the disposition of those cases. When was this system put in place and how does it improve on previous practices?

The testimony addressed key enhancements to our complaint handling function. In addition, please see our answers to questions 1, 2, 7, 8, and 10 for further details.

12) It is hard to understand why you allowed NOAA to investigate itself after your staff concluded that the NWS Chief Financial Officer appeared to have violated the law. Please provide a detailed explanation of why your office deferred to NOAA in running an investigation into misconduct at the National Weather Service. Be specific as to who you discussed this issue with in the Department, and on your own staff; the dates of those discussions; the key arguments offered in favor (and against) having NOAA do the investigation and what point were most compelling from your perspective. Please provide all materials regarding communications both within your office and between your office and the Agency (at any level, from the Secretary's office down to NWS) regarding who should handle the investigation.

The Department is correct to investigate these instances. The ADA requires the head of the agency—which, in this case, is the Secretary of the Department of Commerce—to report violations of the law immediately to the President and Congress, including all relevant facts and a statement of actions taken, with a copy to the Comptroller General.

The IG shared his decision regarding how OIG would handle this issue with several senior Department leaders during routine meetings.

13) After deferring to NOAA to run an investigation, your office played an advisory role to the agency. According to evidence from the agency, your staff reviewed agency interview summaries and provided advice about further issues that should be raised in questioning as well as advice on who should interview. Please provide all records of communication with the agency, and within your office, regarding whether to play an advisory role, as well as discussion about NOAA's investigation and advice offered back to the agency.

The inquiry was conducted jointly by the Department and NOAA. While this decision was not made by OIG, we advised that the assignment of NOAA's former chief administrative officer (CAO), whose retirement had already been scheduled to take place within a month, was not prudent. In addition, OIG cited concerns in December 2011 surrounding the former NOAA

CAO's interview of NOAA's chief financial officer, who indicated during the December 2011 interview that it did not seem that any ADA violation had occurred. After OIG raised these concerns, the former NOAA CAO was relieved of this assignment and replaced with NOAA's Deputy Chief Counsel.

14) Can you give us other examples from your work at Commerce where you have turned over to management the role of investigating themselves when the allegations and evidence suggest a probable violation of law? Do you believe it is a common practice within the IG community to give a potentially criminal investigation over to the management of an agency to run?

Given that allegations routinely include possible violations of rules, regulations, and laws, it is fairly common for agency management and OIG to review matters that contain both management issues and other potential violations. It is often impractical to differentiate such matters, which often result in parallel reviews.

According to OMB Circular A-123, which implements the Federal Managers' Financial Integrity Act of 1982, federal departments and agencies are responsible for establishing and maintaining internal control to achieve "effective and efficient operations, reliable financial reporting, and compliance with applicable laws and regulations." Further, with respect to fraud, the Acting Secretary of Commerce noted in her November 13, 2012, representation letter for the Department's FY 2012 financial statements: "We acknowledge our responsibility for the design and implementation of programs and controls to prevent, deter, and detect fraud." OIG respects the Department's responsibility to do so. All department secretaries or designees are responsible for making the same or similar representation annually.

15) Inspectors General are expected to promptly report to Congress all serious or flagrant issues uncovered within their agency. Chairman Issa has been concerned enough about the failure to do this that he recently wrote to all the Inspectors General to remind them of this obligation. You did not communicate with Congress regarding your belief that an Anti-Deficiency Act violation had occurred through either informal briefings, formal letters to the Chairs and Ranking Members of the Committees of jurisdiction, nor in your semi-annual report. In the meeting with Committee staff you said that you believed you had a conversation about the need to communicate to the Hill with NOAA management in the December 2011 time frame, were convinced that they would tell us, you dropped the matter. That is not what the law demands of you nor what we expect.
    a) Please explain your decision not to inform Congress of a probable violation of the Anti-Deficiency Act.

    b) Please explain why you did not follow up to insure that management actually informed Congress in a timely manner of what your office believed to be a violation of law?

    c) Please explain why neither your October 2011 nor March 2012 semiannual report to Congress contains any reference to either an ongoing investigation/audit at NWS nor the findings from that effort?

d) Please provide a copy of the letter you sent to Chairman Issa in reply to his letter of August 3, 2012.

According to the ADA, ultimate responsibility for determining whether a violation of that law has occurred and then reporting any violation lies with the "head of the agency." Accordingly, as occurs at other federal government agencies, the initial inquiry and legal determination of whether an ADA violation has occurred is performed by the Department's management and Office of General Counsel (OGC). This process is reflected in the Department's *Accounting Principles and Standards Handbook*, which states that "a determination concerning liability" under the ADA "is within the province of the Department's Office of General Counsel" and that the affected agency shall work with the OGC to "gather[ ] the pertinent facts." OGC could not begin its ADA analysis until NOAA and the Department completed their factual inquiry in May 2012; by that time, Congress had been made aware of the matter and the potential for an ADA violation. Given the complexity of this instance, the Department only made a final determination of an ADA violation in recent days.

As of the date of this response, the issue continues to receive Departmental attention, with no formal communication sent to the President and Congress, as called for by the ADA. Per the Department's *Accounting Principles and Standards Handbook*, OIG would await final assessment prior to issuing any formal communications. This policy is consistent with practices at other federal government agencies.

16) Each year the Department undergoes a financial audit to certify the integrity of its accounting. That audit is carried out by a private firm under contract to your office. While it is impossible to expect that any audit would have discovered the shenanigans at NWS without some tip to look very closely, the fact was that your office was receiving those tips. If the June 2010 tip had been acted upon more promptly by your office, it may well be the case that not only would the ADA activity been stopped through your intervention--saving the country another fiscal year of shell-game accounting--but you may also have been able to leverage the accounting effort to better understand where the money came from and where it went.

    a) What office within your shop manages the annual financial review? To whom do they report?

    b) Was there any effort in your office to connect tips regarding financial misconduct, or your own investigation, to the work being undertaken by your outside auditing firm?

    c) If there was no consideration of using the auditing firm in this way, why not?

OIG has a financial statement audit team that works with an independent audit firm under contract. After the full report on the NWS financial misconduct was issued in May 2012, our financial statement audit team and independent audit firm were able to direct resources appropriately. The May 2012 Departmental review provided important indicators that allowed us to work with our contractor to test and analyze highest risk areas. These indicators included

the identification of risk areas such as "summary level transfers" for the improper movement of expenses, as well as the identification of CFO-level involvement in the execution of this financial mismanagement. We also worked with our independent audit firm to assess areas that had potential for additional possible mismanagement.

NOTE:

Given the investigative nature of many of the documents that you request, we would be pleased to provide those documents in accordance with the procedures for document requests required under the Privacy Act.

Responses by Dr. William B. Gail

Mismanagement of Funds at the National Weather Service and the Impact on the Future of Weather Forecasting
Wednesday, September 12, 2012
House of Representatives
Subcommittee on Investigations and Oversight
Committee on Science, Space, and Technology
Washington, D.C.

Testimony of William B. Gail, Corrections
Line 1160, change "Council and the National" to "Council of the National"
Line 1178, change "its role in how" to "its role and how"
Line 1184, change "forecasted warnings" to "forecasts and warnings"
Line 1240, change "effective in a constrained" to "effective. In a constrained"

Questions for the Record
Response to questions submitted by Dr. Paul Broun, Chairman

1) How important are programs like AWIPS and NEXRAD to the future of weather forecasting?

As discussed in the Committee's first report, "The National Weather Service Modernization and Associated Restructuring: A Retrospective Assessment" both AWIPS and NEXRAD, key technologies in the Modernization, led to improvements in weather forecasting. For example, the NEXRAD network is largely responsible for the improvement in the NWS capability to detect severe weather such as tornadoes. AWIPS allows forecasters to integrate all sources of weather data and aids them in preparing and issuing forecasts and warning. These technologies remain critical to the future of weather forecasting and will require updates to keep up with advancing technology. The Committee's recommendation that the NWS maintain infrastructure through continuous technology infusion applies to both the AWIPS and NEXRAD systems.

2) The other witness on the second panel, Mr. Richard Hirn, disagrees with the NRC's recommendations that routine public forecasts be regionalized stating, "80 percent of the workload of creating a forecast involves the forecaster orienting himself to the weather and developing an awareness of weather conditions." How do you respond to that?

The Committee did not explicitly recommend that the NWS regionalize its forecasting, rather that the NWS consider ways in which better utilization of improved technologies could allow for regionalization or automation to free up forecaster work hours for other tasks such as the increasingly important role of communicating weather information to emergency management and the public. The Committee was careful to note that "[l]ocal knowledge of phenomena, terrain, and infrastructure is an important factor in forecasting, and it needs to be accounted for in any potential regionalization of functions." The Committee also noted that the NWS should conduct a careful analysis of the value added by forecasters to numerical weather prediction-produced forecast guidance before pursuing regionalization and/or automation of forecasting.

3) Improvements from the NWS' MAR are rather impressive given your statistic that the probability of flash floods detection increased from about 40 percent to about 90 percent.
    a) How much more of an improvement can we expect at the NWS if, say, all the NRC's recommendations could be fulfilled?

The Committee's analysis did not include quantifying the improvements that would result from its recommendations. Among its recommendations, the Committee suggested that the NWS pursue more incremental improvements in technology and workforce skillsets. It also suggested that the NWS develop measurable performance metrics to determine the value of these incremental improvements. Such metrics would allow the NWS to better prioritize investments in technology and workforce training to achieve the greatest benefit to its forecasts and other products.

    b) How much would it cost to implement all the NRC's recommendations?

A cost analysis was beyond the charge of the Committee.

    c) Is this something that requires immediate attention or is there a time frame by which the NWS could address the NRC's recommendations?

The Committee recognizes that implementation of its recommendations will require significant changes within the NWS and expects these changes to require as much as a decade. Among its recommendations, there are some "low-hanging fruit" that could be implemented in the near term. In the main recommendation category of core capability prioritization, this includes the continuation of existing, successful technology improvement programs, and the expanded use of prototyping and testbeds in the introduction of new technologies. In the category of enterprise leveraging, the NWS could begin pilot or experimental projects to explore the benefits and possible pitfalls of more open access to NWS capabilities, data, and services. The Committee's second major recommendation, that the NWS evaluate its function and structure, is already underway. The NWS has partnered with the National Academy of Public Administration to conduct such an evaluation. The Committee reiterates the importance of technical input to this evaluation.

Responses by Mr. Richard Hirn

U. S. House of Representatives
Committee on Science, Space and Technology
Subcommittee on Investigations and Oversight

Questions for the Record

"Mismanagement of Funds at the National Weather Service and the Impact on the Future of Weather Forecasting"

Wednesday, September 12, 2012
2:00 p.m. – 4 p.m.
2318 Rayburn House Office Building

Mr. Richard J. Hirn
General Counsel and Legislative Director
National Weather Service Employees Organization

Questions submitted by Dr. Paul Broun, Chairman,
Subcommittee on Investigations and Oversight

1. To the best of your knowledge, do any of the other line offices within NOAA have the same "structural deficit" issue as NWS?

Although I am very familiar with other NOAA programs (and, in fact, NWSEO also represents employees in four other NOAA line offices), I am not in a position to state authoritatively whether there are any other NOAA line offices that have the same structural deficit issue as the NWS; however, I am not aware of any.

2. You talk about dangerous staffing levels because of lapsed labor, yet, by all accounts, there doesn't appear to have been a detrimental impact on services provided by Weather Forecasting Offices. Is this a case of wanting more staff versus needing more? Can you identify areas that have been impacted by staffing levels?

Regrettably, the detrimental impact of understaffing on services provided by local Forecast Offices and River Forecast Centers is well documented and not hypothetical.

As the National Research Council noted in its *Retrospective Assessment of the NWS Modernization and Associated Restructuring* (2011, at 83-84):

"The quality of the NWS's warning capability corresponds with its capacity to muster an ample, fully trained local staff at its WFOs as severe weather unfolds. With current staff levels, there are always two people working each shift. Though this works fine in fair weather, it can be problematic during severe weather . . . Several recent Service Assessments (e.g., NWS, 2003, 2009, 2010) illustrate the critical role that adequately enhanced staffing (or lack thereof) plays in the success (or weakness) of NWS warning performance during major events."

The Service Assessments to which the NRC refers are conducted by the NWS after major storm events where there are multiple fatalities or a major economic impact, in order to evaluate its performance. Assessment teams, composed of experts from within and outside the NWS, evaluate activities before, during, and after events to determine the usefulness of NWS products and services. The team generates a report, which serves as an evaluative tool to identify and share best practices in operations and procedures, and identify and address service. Numerous service assessments conducted since 2002 reveal that the ability of the NWS to protect lives during these major events was compromised due to inadequate staffing at Forecast Offices or River Forecast Centers. Relevant portions of these Service Assessments are excerpted below. The entirety of these reports can be found at: **http://www.nws.noaa.gov/om/assessments/index.shtml**

In addition, after the April, 2011 major tornado outbreak in the southeastern United States, the NWS Southern Region conducted an analysis to quantify the degree of understaffing at seven Forecast Offices during the event and concluded that there was a demonstrated staffing shortfall equivalent to 6 or 7 workshifts per day. A copy of that internal report is attached.

1. *Service Assessment,* Veterans Day Weekend Tornado Outbreak of November 9-11, 2002

WFO Cleveland:

FINDING 4: The Cleveland WFO did not have enough staff on duty to handle the workload during the event.

(p. 16).

WFO Nashville:

Two operational problems at WFO Nashville were identified by the service assessment team during this event. First, after warning operations were sectorized on Sunday afternoon, November 10, an erroneous warning was issued and never corrected.

This warning was for Van Buren County and was issued with coding for Coffee County. The warning also stated storms were stationary but in fact were moving at 50 mph. Second, no warning was issued for the third supercell (the third in a series of five supercells mentioned above) as it moved over Bedford County and produced a tornado. This supercell then moved into Coffee County. A severe thunderstorm warning was issued for Coffee County after a tornado was on the ground. Since tornado warnings had been in effect for Coffee County previously (Coffee County was under tornado warnings from 5:15 until 6:30 p.m. CST), local officials and the media interviewed perceived the public was warned for the tornado which began in Coffee County at 6:52 p.m. CST. **The service assessment team concluded these operational problems might not have occurred if additional staff had been working this event with someone in the role of warning coordinator. (Finding 6)**

FINDING 6: Between 6:15 and 7 p.m. CST, Sunday, November 10, an erroneous warning was issued for Coffee County and never corrected. Also, no warning was issued for the third supercell (in a series of five) as it moved over Bedford County producing a tornado. A severe thunderstorm warning was issued for this third supercell after it moved into Coffee County and produced another tornado. With three forecasters, an HMT, and the ITO, additional staffing, including a warning coordinator, may have mitigated these problems.

(pp. 22, 24).

2. *Service Assessment,* Southeast United States Floods, September 18-23, 2009.

WFO Peachtree City (Atlanta):

Shift Leaders augmented staffing to cover increased operational workload by holding over staff from the previous shift and bringing in additional help. The augmented night and weekend WFO staffing levels were adequate for providing basic forecast and warning services, but not for aggressively soliciting feedback reports on rain/flood impacts. There were an insufficient number of staff members to provide the full level of decision-support services typically available for a high impact event during normal weekday business hours when other administrative personnel would have been pressed into duty.

(p. 29).

3. *Service Assessment,* Central United States Flooding of June 2008

In June 2008, many locations in Illinois, Indiana, Iowa, Missouri, South Dakota, and Wisconsin experienced record and major flooding. Flooding also affected Kansas, Michigan, Minnesota, Nebraska, and Oklahoma. Numerous counties in many states received Disaster Declarations from FEMA. The damage affected the lives and livelihoods of many people in many communities, some places at a catastrophic level. Eleven people in six states died.

(p. 50)

Major floods extending for periods of weeks or months create a considerable challenge. In June 2008, extensive overtime and significant, long-duration flooding placed tremendous stress on office staff. As the duration of an event increased, it became more difficult to maintain peak performance because fatigue started to offset adrenaline. Even offices with full staffing had to work very hard to sustain quality services.

(p. 15)

The extent and duration of flooding proved a serious challenge to operations at WFOs and RFCs. At WFO Des Moines, the Senior Service Hydrologist position was vacant. Hydrologists from three other offices temporarily rotated through the office during the flood event. NCRFC was also short-staffed and was supplemented by staff from two other RFCs.

(p. 16)

4. *Service Assessment,* The Historic Tornadoes of April 2011.

The sheer magnitude of the outbreak left a significant emotional scar on many WFO staff members. Numerous hours spent issuing tornado warnings for killer tornadoes that were destroying the communities in which they lived, and losing contact with family and friends during the event, took a dramatic toll on staff. Employees worked strings of long days in the aftermath, conducting damage surveys, which added to fatigue and stress. Fact: Staff members at WFOs HUN and BMX were affected personally by the tornadoes; many had their homes damaged or had friends who died or were injured.

WFO personnel conducted storm surveys while search and rescue or recovery operations were ongoing. After the surveys, employees stated they were ill-prepared for interacting with survivors and the impact on themselves. MICs at WFOs HUN and BMX obtained counseling services from the NOAA Employee Assistance Program (EAP).

(p. 38)

5. *Service Assessment,* The Missouri/Souris River Floods of May – August 2011.

Similar to the June 2008 central United States flood event (reference the *NWS Service Assessment* entitled, "Central United States Flooding of June 2008), strained staffing resources led to extensive overtime and personnel fatigue, especially as the duration of the event became prolonged. Some offices were challenged to an extreme level due to staff vacancies in their operational cadre of personnel. Many offices limited their ancillary program development work to focus efforts on ensuring quality services associated with flood event operations.

(pp. 19-20)

The performance of on-site DSS [Decision Support Services] had an impact on the availability of human resources for other important activities at local NWS offices. DSS personnel were unavailable to contribute to routine operations, program development and other activities. Because of that, other staff members were required to cover the routine operations, and were unable to perform their own ancillary program responsibilities. . . DSS staffing, ongoing workload with local flood issues and, in some cases, short-staffing at the WFO, created significant challenges at most offices.

Personnel providing on-site DSS, who work long hours many consecutive days, can become mentally and physically fatigued. NWS forecasters are accustomed to working additional hours of overtime during significant events on an occasional basis. However, the DSS personnel worked long hours over an extended period of time, with little opportunity to recharge mentally and physically. This can also impact the quality of service provided.

(pp. 58-59)

6. *Service Assessment,* Spring 2011 Middle & Lower Mississippi River Valley Floods.

Despite the extra resources made available to the LMRFC [Lower Mississippi River Forecast Center] (i.e., support of the management team and persons deployed on a temporary duty assignment), many staff members worked long and consecutive daytime and evening/midnight shifts to respond to the operational and decision-support demands.

(p. 29)

7. *Service Assessment,* Record Floods of Greater Nashville: Including Flooding in Middle Tennessee and Western Kentucky, May 1-4, 2010.

Despite pre-event actions, the increased staffing during the event at the two NWS offices most impacted, WFO Nashville and OHRFC, [Ohio River Forecast Center] was not sustained consistently at levels required to respond comprehensively to the extreme flooding.

(p. xii)

OHRFC was in a reactive mode over the weekend with respect to flooding on the Cumberland River at Nashville. Record-breaking rains over largely unregulated (uncontrolled) basins of the Cumberland River, inadequate communication with USACE LRN concerning releases from Old Hickory Dam, less than optimum staffing at critical times and an overall lack of heightened situational awareness resulted in operational staff not staying abreast of record and catastrophic flooding. As a result, the flood warnings for the Cumberland River at Nashville had negative lead times in initial forecasts for Flood Stage, Moderate Flood Stage, and Major Flood Stage.

OHRFC staff exhibited dedication to the NWS mission. This historic event generated an extreme workload for an extended period of time. The staff worked diligently to meet the demands of river forecast operations. Inadequate staffing at times, specifically on Sunday, contributed to difficulties with Cumberland River forecasts. Additional staff was needed to maintain situational awareness and enhanced coordination and communication with WFOs and external partners. Staff augmentation would also have allowed for more frequent updates of river forecasts and critical, in-depth evaluation of observational data and assessment of hydrologic model results.

By extending its operations to 24-hour coverage, the OHRFC demonstrated awareness that a serious flood event could develop over the weekend. Despite this increase, several operational decisions/actions over the weekend indicated inadequate staffing, especially during a critical period on Sunday, and left staff unprepared to deal effectively with a rapidly changing and catastrophic flood scenario.

* * *

Additional personnel were needed to maintain situational awareness, for timely updates to river forecasts as needed, and for forecast diagnosis to reduce the significant uncertainty of river projections, especially with respect to the Cumberland River. . .

Additional staff on Sunday would have allowed for in-depth review of data and critical forecast processes and procedures by senior operational forecasters, enhanced communication with WFOs and partners, including obtaining real-time rainfall observations, and more frequent updates of river crest forecasts that had been exceeded.

(pp. 40-41, 42)

WFO Nashville:

Staffing resources were not adequately allocated to assist with hydrologic warning services given the magnitude of this event. Staffing was not adequate on the overnight shifts during the event.

OHX [WFO Nashville] staffing was adequately augmented during the day and evening hours of Saturday and Sunday, including using the Information Technology Officer (ITO) and a Student Career Employment Program (SCEP) student to assist in operations; however, the overnight shift lacked additional operational staff. From midnight to noon Saturday, no additional forecasters were on duty; however, the WFO OHX SDM recommended additional staffing due to tornado watches and a flash flood watch in effect, numerous warnings issued and heavy rainfall forecast for Saturday. From midnight to 6:00 a.m. Sunday, staffing included only one additional forecaster, although there was a Particularly Dangerous Situation (PDS) Tornado Watch in effect, there had been severe flash flooding with fatalities Saturday and more heavy rain was forecast for Sunday. By Monday night there was no additional staffing, although the Cumberland River at Nashville had crested earlier that evening, many rivers were still in flood, and officials had evacuated the Waterford subdivision in Old Hickory (northeast of Nashville along the Cumberland River.)

(pp. 49-50)

3. During a briefing at the end of September sponsored by the University Corporation for Atmospheric Research (UCAR) and the Weather Coalition, a recommendation was made to establish a U.S. Weather Commission, based on the NRC's recommendations in its August report, titled, "*Weather Services for the Nation: Becoming Second to None.*" What is your reaction to this suggestion?

After the publication of the Oceans Commission report several years ago, NOAA and many in the Congress seemed solely focused on those aspects to NOAA's mission that were related to the oceans, to the near exclusion of weather. In fact, the prior Administration's proposal for a NOAA Organic Act, which was based on the Ocean Commission recommendations, would have literally abolished the NWS as a separate line office or agency. (That version was rightfully rejected by the House Science Committee). The proposed Weather Commission might be a good vehicle to bring a better balance to NOAA's perception of its mission and to educate Congress and the nation about the untapped opportunities that exist for improving the nation's safety and commerce through enhanced weather services.

Those who have proposed the Weather Commission have actively engaged us in discussions, seeking our ideas and support. Additional work needs to be done to define the objectives and role of such a commission, and to clarify how it will supplement rather than duplicate the fine work recently done by the National Research Council. NWSEO would likely support such a commission provided that its goals include addressing the role and interests of the NWS and its employees and not just the role and interests of the commercial and academic sectors.

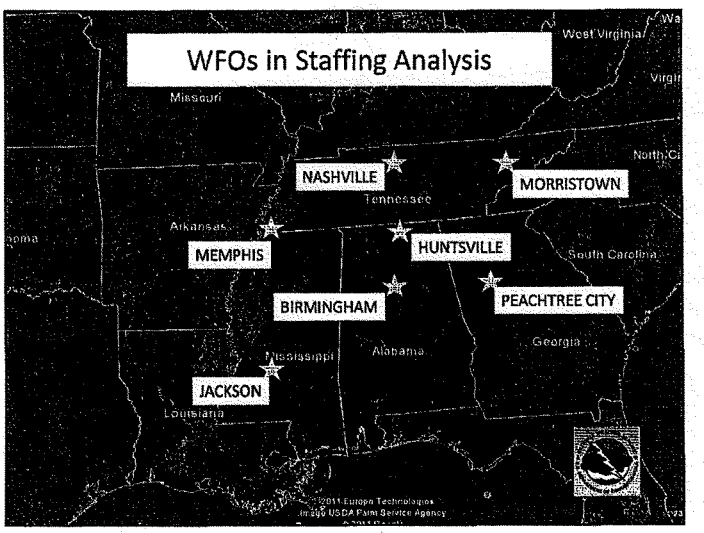
WFO Staffing Shortfall Verified April 27, 2011 - Tornado Outbreak

NATIONAL WEATHER SERVICE
Southern Region Headquarters

Methodology

- 7 WFOs within outbreak area examined
  - *Memphis, Jackson, Huntsville, Birmingham, Peachtree City, Nashville, and Morristown*
- NWS base staffing at each office is noted each day from April 25-30, 2011 (Mets +HMTs)
- NWS office overtime/comp time used was compiled each day from April 25-30, 2011
- Total office staffing is the base staffing plus overtime/comp time staffing
- Staffing 'shortfall' is defined as the difference: i.e. total staffing less the base staffing

6/2/2011



National Weather Service OT/CT hours per day per office

	T-2	T-1	T+0	T+1	T+2	T+3	Total
	Mon	Tue	Wed	Thu	Fri	Sat	
Birmingham	19.8	10.8	66.0	66.5	39.0	78.3	280.1
Atlanta	4.0	8.0	24.0	63.0	15.0	0.0	114.0
Huntsville	3.0	12.5	59.5	58.8	82.5	119.8	354.1
Jackson	1.0	26.8	75.3	54.8	75.8	79.8	313.5
Memphis	41.5	65.5	66.5	30.5	36.8	30.0	270.8
Morristown	2.5	19.0	59.0	31.5	47.5	69.0	228.5
Nashville	10.5	16.0	66.5	19.0	27.0	7.0	146.0
Totals	80.3	158.3	416.8	324.1	323.6	383.9	1687.0

Total Overtime/Comp-time (OT/CT) Hours

Explanation of NWS Staffing Graph

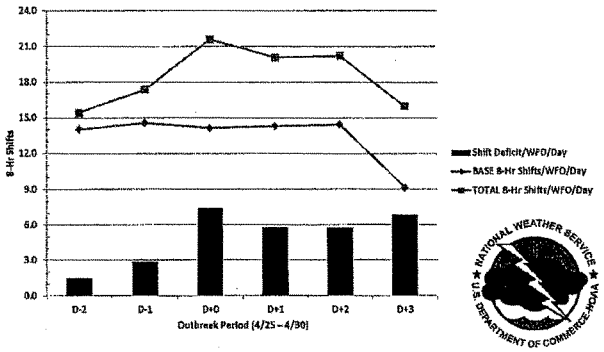
- The following image depicts the 24-hour staffing for the 7 WFOs for the period 4/25 (D-2) through 4/30 (D+3). The 27th, the day of tornadoes, is D+0
- 'BASE' ('Fair Weather') staffing (blue line) represents the average number of 8-hour shifts our staffing level provides daily at each of the 7 WFOs
- 'TOTAL' staffing (red line) represents the average amount of overtime/comp time (OT/CT) accrued by each of the 7 WFOs during the outbreak period. The daily values are normalized by 8 to depict the equivalent number of additional full-time shifts

Explanation of Staffing Graph (Continued)

- 'Deficit' (black bar graph) represents the average difference between 'Base' staffing and 'Total' outbreak staffing. Each bar represents the minimum shortfall in 8-hour shifts we experienced daily from 4/25 through 4/30. In other words, the staffing shortfall shown is the minimum required to bridge our NWS office between 'Fair Weather' staffing and the minimum required severe weather WFO staffing
- The drop-off at D+3 is Saturday.

6/2/2011

Daily Eight-Hour Shift Shortages Determined During Outbreak Period



Findings

- Workload needs first increased with pre-event decision support for emergency response partners, (D-2, D-1)
- Workload demands were extremely high during 4/27 (D+0) with tornado outbreak as all 7 WFOs fully engaged in exhaustive warnings operations
- By late evening, preliminary storm survey operations, post-event rescue/recovery support, and media needs, contributed to office workload

Findings (continued)

- Workload requirements remained very high for the first 3 days after the 4/27 outbreak (D+1 through D+3)
- In addition to warning operations, storm damage assessment operations dominated the total of post storm OT/CT, followed by EM partner weather support for recovery operations and, media response activities

Conclusions

- A significant staff deficit at NWS Forecast Offices (WFOs) was demonstrated between base office staffing and required pre, during and post severe weather staffing, 4/25 through 4/30
- This staffing deficit was equivalent to about 6-7 work shifts per day from D+0 through D+3 which was met through exhaustive OT/CT
- This demonstrated staffing shortfall requires 3 to 6 additional meteorologists per office...the ER-Met program requires 3 at each of 122 offices

Appendix II

Additional Material for the Record

DEPARTMENT OF COMMERCE ACTING SECRETARY, MS. REBECCA BLANK, MAY 24, 2012
MEMORANDUM SUBMITTED BY DR. KATHRYN D. SULLIVAN

UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary of Commerce
for Oceans and Atmosphere
Washington, D.C. 20230

May 24, 2012

Under Secretarial Decision Memorandum

FROM: Jane Lubchenco, Ph.D.
Under Secretary of Commerce for
Oceans and Atmosphere

SUBJECT: Corrective Actions re: Internal Inquiry into Alleged Mismanagement of Funds Within the National Weather Service

On November 29th, 2011 NOAA's Deputy Under Secretary for Operations (DUS/O), informed me that a preliminary review of allegations about potential improper budget execution within the National Weather Service (NWS) had uncovered evidence supporting the allegations. Because of the seriousness of these allegations and the preliminary evidence, I immediately took four actions or directed the DUS/O to take them:

1) I informed the Deputy Secretary of Commerce, Dr. Rebecca Blank, of this information.
2) The CFO of NOAA Fisheries, Gary Reisner, was asked to serve as Acting CFO of NWS. I believed it was imperative that someone from outside NWS immediately assume responsibility for NWS budget execution and formulation that were underway for FY 2012 and FY 2013 respectively. Mr. Reisner understood that his responsibilities included ensuring that funds were used consistent with appropriations law and other applicable sound financial principles.
3) On December 2, the then-Acting Deputy Secretary of Commerce, Dr. Rebecca Blank, and I initiated an investigation led by senior executives from NOAA and the Department Office of Budget to review the preliminary findings and expand upon the work of the internal review.

Dr. Blank and I agreed to appoint senior leaders within NOAA and the Department of Commerce to lead the Investigative Team. After adjustment, the leaders were my Deputy, Assistant Secretary for Observation and Prediction Dr. Kathryn Sullivan; and the Department's Deputy Assistant Secretary for Resource Management Hari Sastry, respectively. Dr. Blank and I gave clear instructions from the outset that the leaders were to determine to the best of their ability what actions were taken by individuals within the NWS CFO's office and NWS leadership, what should be done to correct any improprieties, and why any improper actions were not detected and corrected sooner. Dr. Blank, the Investigative Team, and I sought and received advice and guidance from the Department of Commerce Office of the Inspector General during this investigation.

Background

Prior to this investigation, senior officials inside NOAA and elsewhere in the Department of Commerce received but failed to follow up on a series of anonymous complaints about improper activity in the NWS in 2010 and early 2011.

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THE DEPUTY SECRETARY OF COMMERCE
Washington, D.C. 20230

During the last two years, I believe we have made great strides to improve the budget formulation and execution process, bringing more rigor and transparency to the process. The problems identified in the Investigative Report indicate that we have more work to do to ensure that these reforms are making their way to the sub-bureau levels. In addition, there need to be controls in place to detect and review such significant movement of expenses at an earlier stage in the process. One reason why this investigation took more time than expected was that resources were moved between units in the NWS in very indirect ways (that is, no allocated money was directly moved and no expenses were initially charged to an inappropriate program.) We need to make sure such activities are caught at an earlier stage in the future. I discuss below some steps I propose to institute to accomplish this.

Finally, the failure of senior officials both inside and outside the NWS to respond appropriately and in a timely fashion to the repeated complaints regarding the questionable financial transactions is unacceptable. Questions and complaints from employees who challenged questionable directions were disregarded within the NWS, and several efforts to complain anonymously outside the NWS did not receive appropriate attention. That these complaints were not taken seriously is a significant failure that allowed the conduct to continue much longer than it should have. I am hopeful that the reforms I announce below will begin to address this problem and that no other complaint of this nature will be missed.

Set forth below are my decisions regarding the Investigative Report's recommendations. In summary, I adopt the Investigative Team's recommendations for reforms at the Departmental level, with some modifications, and direct a few additional actions be taken that Secretary Bryson and I believe are also necessary to prevent this type of problem from occurring in the future.

1. **NOAA Decision Memo (Recommendations Nos. 1, 2, 3, 4, 5, 7, 8, and 12).** I am in receipt of Under Secretary Lubchenco's Decision Memo dated May 24, 2012, which acts upon the NOAA-specific recommendations contained in the Investigative Report. I concur in each of these decisions and ***direct that NOAA provide an implementation plan for each of the decisions contained in Under Secretary Lubchenco's memo, with a timetable and milestones, no later than 30 days after the date of this memo. In addition, I want briefings regarding the process made in implementing these decisions within two months and again within six months of the date of the memo.***

2. **Review of Use and Approval of Summary Level Transfers (SLTs) across the Department with a focus on automated controls. (Recommendation No. 6).** The Investigative Team found that NWS misused SLTs to switch accounting codes assigned to past expenses from

detecting or preventing this inappropriate reprogramming. I have taken immediate actions – detailed at the end of this memorandum - to address these failures.

Importantly, the Team did not find any evidence that any NWS employee committed fraud or received personal financial gain through their actions. This fact does not excuse, or reduce the seriousness of the employees' actions.

The Investigative Team did identify personnel-related issues; NOAA is addressing those issues separately and concurrently.

The actions taken by the NWS employees were not immediately apparent to the Investigative Team because they were buried in difficult-to-detect transactions. The Investigative Team took pains to do a thorough analysis of the relevant and extensive financial records to fully understand what actions took place and to be able to make recommendations about steps to take to prevent similar transgressions in the future.

The Investigative Team found that in FY 2010 and FY 2011 the NWS employees used a variety of financial mechanisms during budget execution. Specifically, they did not assess NWS programs evenly or in appropriate amounts to cover NWS common services. This left a shortfall in the Management and Administration account, an account handled by the Office of the Assistant Administrator. In response to this shortfall, and other operational needs, the employees moved expenses out of Local Warnings and Forecasts (LWF) base budget and into other NWS programs. This in turn freed up funds to cover expenses in other programs within LWF.

In addition, while the NWS employees did not transfer obligation authority between accounts, they inappropriately used summary level transfers (SLTs)--meant under normal circumstances to allow corrections to accounting errors--to transfer previous expenses from one NWS program to another. To accomplish this, NWS employees switched accounting codes on expenses paid out of the LWF base budget to codes for programs outside of LWF. Because of these actions, funds appropriated for programs like the Advanced Weather Interactive Processing System Program and the Weather Radio Improvement Project were used to pay for NWS expenses within LWF. And separate funds within LWF were in turn freed up to pay for shortfalls in other NWS operations.

In addition to the reprogramming violations, the investigation also found that these actions went unchecked in large part due to various management issues. It is clear that this issue would have been discovered and corrected earlier had senior leadership within the NWS exercised appropriate oversight. The NWS operated with an unacceptable lack of transparency relating to budgeting and without mechanisms for staff to air their concerns about budget formulation and execution within NWS, creating an environment of mistrust.

There is no doubt that financial controls in place at Department, NOAA and NWS were ineffective at detecting this practice. The automated controls within the financial management system were not configured to flag transactions such as these SLTs. SLTs are examined at the NOAA CFO's Office level but only for particular "business rules"; none of which were triggered by these transactions. Moreover,

THE DEPUTY SECRETARY OF COMMERCE
Washington, D.C. 20230

4. **Appropriations law training for financial staff and managers with budget oversight roles, including the proper use of SLTs. (Recommendation No. 9).** The Investigative Team found that pertinent NWS employees had not received sufficient training on reprogramming or appropriations law. While the evidence suggests that most if not all of the employees who were involved were aware they were acting contrary to sound financial management procedures, it is important that we provide our financial staff with appropriate training for the issues they face. While appropriations law training has been provided to certain staff members, it was not as widely-available or as broadly designed as it needs to be.

Accordingly, I direct the Department of Commerce Office of the General Counsel and Office of Budget to collaborate to develop a training program that addresses core appropriations law concepts, including reprogramming, the Anti-Deficiency Act, and the appropriate use of SLTs. This training program should be in place no later than August 1, 2012 and should either be available on-line when needed or be provided at least twice each year. Each bureau should designate staff that would benefit from this training and require it as part of their performance plans.

5. **Review of the sufficiency of financial management and oversight experience in the Senior Executive Service cadre. (Recommendation No. 10).** As the Investigative Report notes, it is imperative for members of the Senior Executive Service (SES) to be prepared to discharge the financial oversight duties that are required of their positions. While some of the employees who enter the SES have experience with financial oversight, it is important that we not assume this knowledge. This is equally true for certain non-SES political appointees.

I therefore direct the Department of Commerce Office of Budget and the Office of the General Counsel to work with the Department of Commerce Director of Human Resources to develop a training program that addresses financial oversight and basic tenets of appropriations law for appropriate SES employees and political appointees who oversee any budget processes. This training should either be available on-line when needed or be made available at least twice each year and shall be mandatory for all employees who enter the SES. Bureaus should develop a list of political appointee positions that require this training as well.

6. **Review the adequacy of training provided to SES and political leadership in the Department regarding how to address complaints in an appropriate and timely manner. (Recommendation No. 11).** As discussed at length in the Investigative Report, the first complaint regarding the questionable financial actions was made in early 2010. However, it was not until late 2011 that a thorough review of the allegations was conducted. The failure of officials to respond appropriately and in a timely manner to complaints allowed this conduct to

"We recommend that, as part of [the Acting NWS CFO's] review, he determine how best to assess NWS programs to fully fund the NWS OAA common services account."

"We recommend that [the Acting NWS CFO] harmonize NWS practices with those of other line offices and NOAA Finance policies, ensuring that NWS programs are assessed uniformly and that the OAA account is fully funded at the beginning of each fiscal year."

ADMINISTRATOR DECISIONS #2:

I instruct the NWS CFO to fully fund the NWS Office of the Assistant Administrator common services account at the beginning of each fiscal year.

I instruct the NWS CFO to assess NWS programs equably for common services beginning immediately.

I further instruct the NOAA CFO to work with each line office CFO to ensure all program offices within a line office are assessed equably for common services accounts. I expect the NOAA Acting CFO to consult with NOAA's Assistant Secretary for Environmental Observations and Prediction, Chief of Staff and General Counsel before providing me an update by July 1 on his progress towards ensuring programs within line offices are assessed for common services equably and expect this work to be completed no later than August 1.

I instruct the NOAA CFO to ensure there is a training procedure for staff in Line CFO Offices to make staff aware that it is NOAA policy to ensure program offices are assessed equably for common services accounts. This procedure must be in place no later than July 1.

The investigation found that:

> Existing budget controls failed to prevent [NWS employees] from engaging in questionable financial practices and failed to promptly identify ... behavior. Clearly, NOAA must have adequate budget controls in place to prevent such behavior in the future. Currently, some line office CFOs report to the DAA and others, as in this case, report directly to the AA. ... The Deputy AA had no direct supervisory role over the CFO and, despite significant efforts, was unable to get even basic financial information that could have revealed a problem earlier. Nor did the NOAA CFO play a supervisory role, even though she was clearly in the best position to understand the line office CFO's financial decisions.

Investigative Team Recommendations 4 and 5:

"We recommend that NOAA modify the supervisory structure of the NWS to ensure that there is appropriate oversight over the CFO, and that NOAA reviews the CFO reporting structure in all its line offices."

"We recommend that NOAA adjust the supervisory structure of each line office so that the AA and DAA, along with the NOAA CFO, each play a part in supervising their respective line office CFO."

ADMINISTRATOR DECISIONS #3:

I instruct the NOAA Deputy Undersecretary for Operations to change the supervisory structure of the NWS so that the financial process is directly supervised by the NWS DAA and the NWS AA and NOAA CFO serve as reviewing officials on the NWS CFO performance plan and evaluation.

I instruct the NOAA Deputy Undersecretary for Operations to review the supervisory structure in all other NOAA line offices to ensure the Line Office AA, DAA and NOAA CFO all play a role in the rating and reviewing of Line Office CFO performance plans and evaluations. I expect an update from the Deputy Undersecretary for Operations no later than July 1.

I instruct the NWS AA to examine the membership, roles, and responsibilities of the Corporate Board for providing budget review and oversight going forward, and in consultation with the Assistant Secretary for Environmental Observations and Prediction and the Deputy Undersecretary for Operations provide to me an analysis and proposal by August 1.

The investigation found that:

> Summary Level Transfers (SLTs) Were Used Improperly to Facilitate the Inappropriate Transfer of Funds. In this case, SLTs were used to switch accounting codes assigned to past expenses from one account to another, a purpose for which they were never intended...The [NWS employee's] use of SLTs accomplished two objectives. First, the [employees] believed that SLTs allowed any "color" of money (PAC or ORF) to be converted into flexible LWF or other funds...Second, SLTs made detection of movement between funds difficult, and prevented clear reprogramming transactions from being flagged in project reviews or audits.
>
> [T]here was a breakdown in controls intended to prevent the misuse of SLTs.

Investigative Team Recommendation 6 and 7:

"We recommend that the DOC CFO be tasked with reviewing the use of and approval rights for SLTs across the Department, to determine whether they are an appropriate financial tool and, if so, what changes to controls at either at the bureau or the Departmental level may be warranted. In particular, we recommend that the DOC CFO focus on automated controls within the DOC financial management system, if feasible, that might flag SLTs involving large dollar amounts or SLTs used to transfer funds between PPAs. "

"We further recommend that the NOAA CFO's Office expand its current supervision of the SLT process to ensure that SLT transactions are provided appropriate higher level review."

ADMINISTRATOR DECISION #4:

Recommendation 6 is outside my purview as NOAA Administrator but I fully concur with the recommendation.

I instruct the NOAA CFO's Office to expand its current supervision of SLTs to ensure the transactions are provided appropriate review. I expect a memo from NOAA's Acting CFO detailing the current review of SLTs and a timeline for implementing procedures to ensure a higher level review no later than date July 1.

The investigation found that:

> Many of the problems in this matter arose because of a lack of budget process transparency and a culture within NWS that did not encourage questioning or provide independent channels for reporting dubious budget decisions.

Investigative Team Recommendation 8:

"We recommend that the NWS AA create an action plan to address these issues, to be reviewed by the NOAA Deputy Undersecretary for Operations. The plan should focus on ensuring adequate input into NWS budget decisions from senior program managers and NWS leadership, and creating avenues to raise concerns about budget issues to senior NWS or NOAA leadership without fear of retaliation. Furthermore, we recommend that the DOC CFO examine these issues in the other bureaus and other NOAA line offices."

ADMINISTRATOR DECISION #5:

I instruct the NWS AA to create an action plan to address the issues outlined in Recommendation 8 that ensures proper input into NWS budget decisions from senior program managers and NWS leadership and creates avenues to raise concerns about budget issues to both senior NWS and NOAA leadership without fear of retaliation. Additionally the plan should

explicitly concern itself with the structure and function of the NWS Corporate Board. This plan is due no later than July 1 to the Deputy Undersecretary for Operations.

I instruct the Deputy Undersecretary for Operations to review this plan and make changes or approve the plan no later than August 15. Prior to approval I expect the Deputy Undersecretary for Operations to brief me on the action plan.

I further instruct the Deputy Undersecretary for Operations to examine issues outlined in Recommendation 8 within the other NOAA Line Offices and report the findings to me no later than August 15.

The investigation found that:

> Those interviewed ... were clear that NWS did not have a documented, transparent process to address emerging budget issues.

Investigative Team Recommendation 9:

"We recommend that NWS create a process that is well-documented, vetted with stakeholders, and includes explicit programmatic decisions allowing the bureau to align its budget formulation and execution with the available funds."

ADMINISTRATOR DECISION #6:

I accept this recommendation and instruct the NWS AA to create a well-documented process that includes explicit time for programmatic decisions that align its budget formulation and execution with available funds. Each year this process must include a formal briefing for the NOAA Administrator and Deputy Administrator on the NWS budget execution plan after a budget is enacted. The goal is to ensure NWS leadership is planning budget execution based on the available funds.

The process for explicit programmatic decisions that align formulation and execution with available funds must be complete no later than September 1 and must be briefed to NOAA leadership including the NOAA Administrator, Deputy Administrator, Deputy Undersecretary for Operations, Chief Resource and Operations Manager, and NOAA CFO prior to that date.

The investigation found that:

> Those interviewed during the course of the Team's inquiry agreed that neither the NWS CFO staff nor senior NWS leadership had received formal reprogramming or appropriations law training. It is imperative that those making financial decisions fully understand basic

appropriations concepts so that they can recognize and prevent illicit activity when it arises.

Further, members of the Senior Executive Service (SES) must be prepared to discharge properly the duties of financial oversight that SES positions entail. Individuals are promoted to the SES from an array of backgrounds, often more technical and programmatic than financial management experience. It should not be assumed that their prior experiences equip them fully for the new dimensions of financial oversight responsibility they are assuming.

Investigative Team Recommendation 11:

"We recommend that NOAA and the DOC review the sufficiency of financial management and oversight experience in the SES cadre."

ADMINISTRATOR DECISION #7:

I instruct the Director of NOAA Workforce Management and the NOAA Chief Resource and Operations Manager (CROM) with consultation with the Assistant Secretary of Environmental Observations and Prediction to undertake a review of the financial management and oversight experience within NOAA AA, DAA, and any other SES leadership positions they identify as having budget formulation and execution oversight roles. (This information is to be used only to inform the level of additional training needed and not as a metric for promotion or continued service.) I further instruct the Director to propose the additional training necessary to ensure all NOAA personnel who are involved in financial transactions have the requisite knowledge to perform their duties responsibly. This report should be reviewed and approved by the Deputy Undersecretary for Operations and the Assistant Secretary for Environmental Observations and Prediction and is due to me no later than August 1.

I reviewed the Investigative Team's recommendation for increased training on appropriations law. The Deputy Secretary's decisions speak to this important recommendation.

The investigation found that:

NOAA may need to initiate additional investigation into actions arising in prior years, and into tangential issues. Issues that NOAA may seek to investigate further include:

(1) A full audit of the NWS budget for FY 2010 and FY 2011, to determine the full extent of unlawful fund reprogramming;
(2) An audit of NWS financial practices prior to FY 2010, to determine when and how the NWS budget shortfall began,

and whether there was improper reprogramming of funds prior to 2010; and

(3) An NWS program review, to determine (a) the impact of Mr. Byrd's financial decisions on NWS programs; and (b) whether financial problems existed within NWS because of program dysfunction.

Investigative Recommendation 13:

"We concur with these recommendations and endorse a full NWS financial and program audit."

ADMINISTRATOR DECISION #8:

I agree a full NWS financial and program audit is warranted.

I instruct NOAA's CROM to initiate the process of contracting with outside independent firms to conduct a financial audit and a program audit of the NW S. These audits will look at FY 2006 through the first quarter of FY 2012 and are to begin no later than July 15. The financial audit must investigate whether the belief held by NWS employees that there is a "structural deficit" within the NWS budget bears merit. In addition it must examine if any other Line Offices were involved in or harmed by these unauthorized transactions. I instruct the CROM to obtain the concurrence of the Deputy Undersecretary for Operations on the audit scope and schedule.

The investigative team reported to me that:

The Hill has been notified of the on-going NWS investigation and is anxious to learn the results. Once Congress learns of the activity that occurred in this matter, it will be imperative to begin restoring Congress' and the public's confidence in the NWS' ability to appropriately manage its budget.

Investigation Recommendation 14:

"We recommend that NOAA immediately notify Congress of any unlawful reprogramming of funds within NWS of which it has knowledge. At the same time, NOAA should provide Congress with a corrective action plan, in line with this Report and Recommendations, outlining how NOAA intends to address the problems that led to NWS' unlawful reprogramming of funds. NOAA's submission to Congress should include a clear picture of the current state of the NWS budget, as well as any necessary modifications to the FY 2012 and FY 2013 spend plans."

ADMINISTRATOR DECISION #9:

I have instructed my staff including my Chief of Staff, Deputy Director of Legislative Affairs, and NOAA CFO to work with Department officials to notify Congress of the inappropriate

reprogramming found in this report. I instruct my staff to work with Department officials to determine whether an Anti-Deficiency Act violation occurred and if so, to make appropriate notifications to Congress. I have also instructed my staff to provide our Appropriations and Authorizing Committees with our FY 2012 reprogramming request, which include a clear picture of the current state of the NWS budget, and to begin discussions with them about a FY 2013 reprogramming. In addition I have instructed my staff to release this Decision Memorandum to Congress and to ensure that I and my staff are available to brief interested Members.

The Investigation found that:

> [The NWS employees that were interviewed] believe there is a "structural deficit" with the NWS budget. This, along with apparent shortfalls in the NWS OAA account, created a motive for [the NWS employee's] actions. Accordingly, it is imperative to determine if such a structural deficit exists and, if so, the causes and extent of that shortfall.

ADMINISTRATOR DECISION #10:

I instruct the Acting NWS CFO to examine each program office to determine if [the government employee's] belief that a "structural deficit" existed is supported by evidence and if so, to determine the causes and extent of that shortfall. I expect a time line and plan of action to complete this review no later than July 1.

I expect the outside independent financial and programmatic audits to be appointed in response to Investigation Recommendation #13 to examine this issue as well.

The Investigative Team found that:

> NOAA, DOC, and the OIG did not take timely action when notified of alleged improprieties within the NWS CFO's Office. Although hindsight is 20-20, it is clear that NOAA Officials, DOC Office of the Chief Financial Officer, and the Inspector General's Office were all made aware that there were allegations of significant problems within the NWS CFO's Office throughout 2010 and 2011, but failed to act in time to stop the activity until the very end of FY 2011.

ADMINISTRATOR DECISION #11:

The senior NOAA officials , Department of Commerce Office of the CFO, and the Office of the Inspector General all failed to act on earlier anonymous complaints relating to this matter. In order to ensure all NOAA personnel understand how to deal with and where to send anonymous

complaints NOAA will review the current system of filing, logging, and responding to the type of fiscal complaints that prompted this investigation and recommend any further changes in consultation with Department officials and the Office of the Inspector General. NOAA will also reaffirm through yearly all hands messages where and how employees should send anonymous complaints, and what steps managers can take to quickly evaluate such complaints and ensure appropriate and timely follow-up. In addition NOAA will institute a yearly training for all NOAA SES employees regarding how to handle anonymous complaints.

ADMINISTRATOR DECISION #12:

This report raises the issue of the delegation of authority into NOAA's Line Offices without sufficient oversight. During my tenure as Administrator I have been confronted with other instances within NOAA in which authority was delegated before my time to Line Offices and Program Offices within our Lines without providing sufficient oversight from Headquarters. It has been my goal to find those instances and to take action. Today I instruct my Deputy Undersecretary for Operations to review delegations of authority into all NOAA Line Offices that lack sufficient oversight. I expect this review to be completed within the next three months. It should include existing mechanism for controls and structures of reporting and recommendations for the appropriate levels of oversight and control. In addition I instruct the Deputy Undersecretary for Operations to ensure that sufficient avenues exist within NOAA for employees to raise serious concerns to headquarters without fear of retaliation from their immediate supervisors.

I hereby instruct all officers and employees of NOAA to take all steps necessary to implement these actions.

UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE, DR. LUBCHENCO, MAY 24, 2012 MEMORANDUM SUBMITTED BY DR. KATHRYN D. SULLIVAN

THE DEPUTY SECRETARY OF COMMERCE
Washington, D.C. 20230

May 24, 2012

DEPUTY SECRETARIAL DECISION MEMORANDUM

Subject: Decisions regarding Recommendations Contained in Report entitled "Internal Inquiry into Alleged Mismanagement of Funds within the National Weather Service"

I have received and conducted a comprehensive review of the report entitled "Internal Inquiry into Alleged Mismanagement of Funds within the National Weather Service" (Investigative Report), which is the result of a comprehensive effort to investigate certain allegations that were made regarding financial misconduct within the National Weather Service (NWS). While complaints regarding these activities were made to various persons beginning in early 2010, I was first made aware of these problems on November 30, 2011, when Under Secretary for Oceans and Atmosphere Jane Lubchenco briefed me on the preliminary findings of an internal review of one such complaint. In recognition of the seriousness of the allegations and preliminary findings as well as the potential impact such conduct could have on a program of critical importance to the Nation, Under Secretary Lubchenco and I took immediate action to establish an investigative team led by senior executives from NOAA and the Department's Office of Budget ("Investigative Team") to review the preliminary findings and expand upon the work of the internal review. Their charge was simple: to immediately begin an internal inquiry into the alleged mismanagement of funds and provide recommendations for corrective action.

The Investigative Team spent the next five months interviewing over twenty witnesses, and reviewing and analyzing over one thousand pages of financial documents and other relevant material. While the process took longer than I initially anticipated, it was important that this investigation produce a comprehensive understanding of the extent of the problem and how it arose. The complicated nature of the transactions at issue and the number of programs and actions involved required more time than any of us could have expected when the investigation began.

The Investigative Report, which is comprised of 60 pages and over 88 exhibits, chronicles a financial unit that, for at least the past two fiscal years, operated outside the bounds of acceptable financial management. The fact that the Team did not find any evidence of fraud or personally financial gain does not lessen the severity of the misconduct. The actions of the employees involved are contrary to the high standards and appropriate behavior which Secretary Bryson and I expect from Department of Commerce employees. Under Secretary Lubchenco has assured me that appropriate disciplinary action is being taken regarding those involved.

The current set of actions was set in motion on July 13, 2011 when the Office of Inspector General referred an anonymous complaint to NOAA's Chief Administrative Officer through the OIG's normal procedure for referring anonymous hotline complaints. The complaint was not flagged in any extraordinary manner. That complaint resulted in a preliminary review of budget execution within NWS launched on August 17, 2011. I received a verbal report of their findings on November 29, 2011 and took the actions described above. As early as December 6, the Investigative Team was in communication with the Office of the Inspector General to seek advice and guidance; on December 13 – with the OIG's cooperation - language was explicitly added to the Charge for the investigation that the OIG would "actively engage in this effort." The Investigative Team was charged with immediately beginning an internal inquiry into the alleged mismanagement of funds at the National Weather Service during Fiscal Years 2010 and 2011 and to provide recommendations for corrective action.

Over the course of the past five months the Investigative Team conducted thirty interviews of over twenty Department of Commerce employees, completed an extensive review of NWS financial records, and reviewed a large number of documents including emails, financial information, memoranda, and other material provided by witnesses in support of their testimony. Throughout the investigative process the Team consulted with the Office of the Inspector General regarding the conduct of the investigation, including whom to interview and what lines of questioning to pursue. The investigation focused on FY2010 and FY2011 because that was the time period referenced in the complaints received. The Team has since noted that NOAA may need additional inquiry into activities in prior years. Later in this memo I direct additional inquiry.

On May 11, 2012 the Investigative Team provided me with its report, including its findings and recommendations. I have fully reviewed the report and carefully considered each recommendation. Any inappropriate action at the National Weather Service is serious and a matter of grave concern. I consider the improper and irresponsible actions described in the report to be wholly unacceptable and to require swift corrective actions. At the end of this memo, I set forth my decisions about the corrective actions needed to address the problems identified.

I have reviewed the report with the knowledge that our nation relies on NOAA's National Weather Service to be a trusted source of real-time information. I have been assured that none of the local forecasts and warnings --life- and property- saving services provided by NWS on a daily basis-- was jeopardized by the misconduct. I consider NOAA's responsibility to provide these services to the nation to be one of NOAA's most important missions.

Findings

The Investigative Team found that NWS employees engaged in the reprogramming of NWS funds without Congressional notification during the years in question. These actions may be a violation of the Anti-Deficiency Act. The Team also found failure of management and oversight by NWS leadership. In addition, the Team found significant problems with budget and financial controls at the National Weather Service and that Departmental financial and management controls were ineffective at

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one account to another, which allowed them to free up funds in accounts that they believed were underfunded. The use of SLTs made it more difficult to detect the movement of funds and prevented the transactions from being flagged during program reviews and audits.

When used properly, SLTs are a useful tool which provides financial officers with the flexibility to fix errors or mistakes in accounting codes for past expenses. Thus, it would be inappropriate to prohibit their use. However, this case shows the danger presented when these tools are misused.

Over the past six months, the Department of Commerce CFO/ASA has led a process to improve real-time business intelligence within the bureaus and between bureaus and the central Departmental C offices. This effort needs to be explicitly expanded to assure that the misuse of SLTs cannot recur. ***Accordingly, I direct the Department of Commerce CFO/ASA to conduct a comprehensive review of how SLTs are used across the Department with a view to ensuring that they are being used appropriately and that there are proper procedures in place for approving and monitoring such transactions. In addition, I direct the Department of Commerce CFO/ASA to explore whether automated controls can be added to the existing departmental financial management system to flag SLTs that deserve additional review. Finally, I direct the Department of Commerce CFO/ASA to provide me with the results of this review no later than three months from the date of this report.***

3. **Examination of bureau and line office budget formulation processes to ensure transparency and accountability. (Recommendation No. 7).** The Investigative Team found that the current budget process at NWS lacked transparency and that the culture within NWS did not encourage the questioning of assumptions or provide a process for reporting questionable budget decisions. As discussed above, we have implemented a number of reforms during the past two years at the Department to bring greater rigor and transparency to the budget process but it is clear from the Investigative Report that more needs to be done.

Accordingly, I direct the Department of Commerce CFO/ASA to examine the budget formulation processes being utilized in the bureaus and, where appropriate, in line offices within bureaus to determine whether the reforms are being appropriately implemented and cascaded. I also direct the Department of Commerce CFO/ASA to ensure that there are appropriate avenues for financial managers within the Department to raise concerns about budget issues without fear of retaliation. Finally, I direct the Department of Commerce CFO/ASA to provide me with an update on these matters no later than three months from the date of this report.

there had been insufficient training for NWS budget personnel or NWS leadership on reprogramming and appropriations law.

While certain mechanisms existed that ultimately allowed employees to report improprieties to a number of different sources outside of NWS, NOAA headquarters, the Office of the Inspector General and the Department of Commerce Chief Financial Officer's Office all bear responsibility for missing and mishandling early complaints about the questionable financial transactions.

The section below details the twelve decisions I find necessary to address the problems uncovered in the investigation. Below, I first summarize an investigation finding(s) and the recommendation(s) made by the Investigative Team, then I present the action I hereby direct.

Decisions

The investigation found that:

> Acting NWS CFO has reviewed the state of the NWS budget and has determined a reprogramming of $26 million is needed into LWF and an additional $9 million is needed to complete the NEXRAD Dual Polarization upgrade for FY 2012.

Investigative Team Recommendation 1:

"We recommend presenting this reprogramming to Congress and discussing options to appropriately fund these accounts in FY 2013."

ADMINISTRATOR DECISION #1:

I instruct my staff to immediately deliver the FY 2012 reprogramming requests to our Appropriations and Authorizing Committees, to begin a discussion on changes needed to the FY 2013 budget and to include a clear picture of the current state of the NWS budget and any adjustments that may be needed to ensure continuity of core NWS operating activities. The FY 2012 reprogramming and changes needed in the FY 2013 budget have been prepared by the Acting NWS CFO, the NWS Assistant Administrator (AA), the Acting NOAA CFO and the Department of Commerce Deputy Assistant Secretary for Resource Management. They have been briefed to senior officials within the NWS, NOAA and the Office of the Secretary including myself and Deputy Secretary Blank.

Investigative Recommendations 2 and 3:

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continue for at least a year and half longer than it should have. Such lapses cannot be tolerated.

To address this problem, ***I direct the Department of Commerce General Counsel to ensure that that both SES and political leadership within the Department are trained on the proper process for reviewing and responding to complaints made regarding misconduct allegedly occurring under their supervision. In addition, I will ask the Department of Commerce Inspector General to review his processes to ensure that complaints received by his office are appropriately addressed.***

*****

In addition to the foregoing decisions based on recommendations made by the Investigative Team in the Investigative Report, I also want to address two other issues.

First, the selective method being used by the NWS to tax line offices for common services created a situation in which certain line offices were not paying their fair share while others were paying more than their fair share. This allowed the movement of money in a nontransparent way. Such a practice is untenable. Under Secretary Lubchenco has instructed the Acting CFO of the NWS to institute a fairer allocation method and to harmonize NWS practices with those of other NOAA line offices. In addition, ***I direct the Department of Commerce CFO/ASA to conduct a review of procedures currently used by bureaus to allocate funds from sub-bureaus and line offices to common central service funds and ensure that the procedures are transparent and result in fair and objective allocations. I further direct the Department of Commerce CFO/ASA to provide me with the results of this review no later than three months from the date of this report.***

Second, the Investigative Report notes that there was inadequate supervision of financial staff within the NWS, with no clear oversight from the NOAA CFO, and no oversight within NWS except by the Assistant Administrator (AA). The Deputy AA had no oversight authority. In her decision memo, Under Secretary Lubchenco instructs the NOAA Deputy Under Secretary for Operations to review the supervisory structure of all NOAA line offices (including NWS) to ensure that line office CFO offices receive oversight from multiple sources. ***I direct the Department of Commerce CFO/ASA to oversee a similar review of the reporting structure of all Bureaus within DOC that contain line offices to make sure that all line CFOs are appropriately supervised. I further direct the Department of Commerce CFO/ASA to provide me with the results of this review no later than three months from the date of this report.***

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I hereby instruct all officers of the Department of Commerce and the National Oceanic and Atmospheric Administration to take all steps necessary to implement these decisions.

Rebecca M. Blank

Deputy Secretary Rebecca Blank

All redactions are pursuant to FOIA Exemption (b)(6).

Executive Summary

Between early 2010 and late 2011, a series of complaints was received by the Department of Commerce (DOC) Office of the Inspector General (OIG), officials from the National Oceanic and Atmospheric Administration (NOAA), DOC Office of the Chief Financial Officer, and the Government Accountability Office (GAO), alleging an array of misconduct on the part of [redacted] These complaints resulted in a preliminary investigation conducted at the request of NWS leadership that found reason to believe that [redacted] may have engaged in the unauthorized reprogramming of NWS program funds in fiscal year (FY) 2010 and FY 2011, in violation of those years' Federal Appropriations Acts. The present executive level inquiry was initiated in light of these preliminary findings.

The present inquiry team conducted more than 30 interviews of over 20 witnesses, performed extensive financial analysis, consulted with the IG's Office, NOAA CFO's Office and the DOC General Counsel's Office, and examined large numbers of documents, e-mails, memoranda, and spreadsheets pertinent to the allegations against [redacted] Ultimately, the inquiry team finds that [redacted] to engage in the unauthorized reprogramming of NWS funds in FY 2010 and FY 2011, in violation of the FY 2010 and 2011 Federal Appropriations Acts. The inquiry team further finds that significant management, leadership, budget, and financial control problems led to an environment where such activity could occur.

The inquiry team found no evidence that [redacted] committed fraud or personally gained from [redacted] conduct. Instead, [redacted] appeared motivated by a desire to keep a variety of NWS programs operational despite what [redacted] believed to be inadequate funding to maintain these programs at necessary levels of performance. To keep certain NWS programs functioning, in FY 2010 and FY 2011 [redacted] failed to assess NWS programs or Financial Management Centers (FMCs) evenly or in appropriate amounts to cover NWS common services, leaving a significant shortfall in the Management and Administration (M&A) account handled by the Office of the Assistant Administrator (OAA). To make up for this shortfall, along with additional NWS budget deficits, [redacted] inappropriately transferred past expenses out of the Local Warnings and Forecasts base budget (LWF), which contained flexible Operations, Research, and Facilities (ORF) funds, to programs such as the Advanced Weather Interactive Processing System Program (AWIPS) and the Weather Radio Improvement Program (WRIP), thereby freeing money in the LWF to address shortfalls elsewhere within NWS operations. [redacted] used summary level transfers (SLTs) to shift these expenses, thereby avoiding obvious detection and "colorizing" tightly controlled Procurement, Acquisition, and Construction (PAC) funds by converting them to ORF funds that could be used for a variety of purposes.

All redactions are pursuant to FOIA Exemption (b)(6).

[redacted] was able to continue [redacted] inappropriate activities for the time period covered by this inquiry despite repeated employee complaints, in large part because of the dynamic that existed among [redacted] was nervous to challenge [redacted] directly and, when [redacted] did, [redacted] questionable responses were accepted and [redacted] actions went unreported. [redacted] trusted [redacted] guidance, rarely questioned [redacted] and allowed [redacted] to work without significant oversight. At the same time, there was a lack of transparency regarding budget policies and procedures throughout NWS, leading to an atmosphere of distrust in NWS leadership and the NWS CFO's Office.

Looking back, it is clear that several complaints concerning [redacted] activities went unheeded, allowing [redacted] activities to continue for much longer than should have been possible. NOAA officials, the Office of the Inspector General (OIG), and the DOC CFO's Office all received complaints alleging possible reprogramming activities in FY 2010, and yet the activity continued until late FY 2011.

Finally, two unrelated complaints about [redacted] are not supported by the evidence. The first involves an allegation that [redacted] allowed NWS to spend five hundred thousand dollars to conduct a space consolidation study using funds from other NWS programs, at a time when the NWS budget was facing shortfalls. In fact, money spent by NWS in this study was reimbursed by the Acquisitions and Grants Office (AGO), which was the beneficiary of the work. Moreover, the space consolidation project was designed to save NWS significant money in future years. The second complaint involves a claim that [redacted] inappropriately influenced the outcome of a competitive acquisition to have an award made to the company [redacted] The inquiry finds that a NOAA contracting officer was present for all meetings between [redacted] and representatives from [redacted], who believes that [redacted] actions were appropriate.

The inquiry team was instructed to concentrate primarily on financial records and events arising in FY 2010 and FY 2011. This period is the focus of the earlier draft investigation report, was referenced by complaints and allegations and is the period in which most of the alleged inappropriate conduct arose. The inquiry team recognizes that there are clearly defined questions regarding this matter that remain unanswered, and that NOAA may need to initiate an additional investigation into actions arising in prior years, and into tangential issues. At the end of this report are listed areas that NOAA may consider appropriate for further review.

REPORT

I. Procedural History

This inquiry is the result of a series of complaints filed with the leadership of the National Oceanic and Atmospheric Administration (NOAA), the Department of Commerce (DOC) Office of Inspector General (OIG), DOC Office of Chief Financial Officer, and the Government Accountability Office (GAO), involving alleged mismanagement of funds within the National Weather Service (NWS). The complaints assert a series of wrongful acts, but focus primarily on the decisions of the [redacted] to keep a variety of NWS programs operational by inappropriately transferring funds from other NWS programs, including the Advanced Weather Interactive Processing System Program (AWIPS), the Weather Radio Improvement Program (WRIP), and the Next Generation Radar Program (NEXRAD). As described more fully below, NOAA has worked with the support and guidance of the OIG to complete its investigation into these allegations.

A. **The Complaints**

In early 2010, an undated, unsigned, anonymous letter was sent to [redacted] complaining about financial mismanagement within NWS. (Exhibit 43). Although [redacted] recalls seeing the letter, [redacted] cannot confirm when [redacted] received it or exactly what was done with it.[1] (Exhibit 43). However, [redacted] says that [redacted] typically would have given a copy of such a complaint to [redacted] along with the OIG. (Exhibit 43). Staff from the NWS CFO's Office drafted a response to the complaint addressed to [redacted] dated April 30, 2010; accordingly, [redacted] must have received a copy of the complaint prior to that time. (Exhibit 80). No response to the complaint was ever given to [redacted].

The complaint letter stated that the NWS was "practicing financial deceit," and that "[i]n each of the last several years, NWS/CFO has moved appropriated funds around from program to program, PAC to ORF, into labor etc. to pay for unanticipated, underfunded, underestimated, or mismanaged programs, actions, etc." (Exhibit 43) The complaint further stated that this practice had detrimental effects on NWS programs, as it "increases costs in many situations, delays improvements or needed maintenance, allows spares to drop below needed levels, and puts the manager at risk." (Exhibit 43) Finally, the complaint referenced an NWS office space assessment, posing the question, "[s]ince we are short of money, why is [redacted] spending on the order of $500K [redacted] to do a 'space assessment' study?" (Exhibit 43).

[1] At the time, [redacted] did not have a coordinated approach to handling such anonymous complaints. Since then, [redacted] put in place a tracking system that provides information about all correspondence that comes through [redacted] (Exhibit 43).

On May 25, 2010, GAO referred an almost identical anonymous complaint letter that it received on the GAO FraudNET website to the DOC OIG for further investigation. This complaint included [redacted] under "cc:" (Exhibit 42). According to [redacted] the individual handling the OIG Hotline at the time, who is no longer employed by OIG, improperly coded this complaint as "Z" ("zero file," i.e., no referral/action), thus failing to comply with OIG's protocol for such complaints. Accordingly, this complaint was not referred to NOAA until July 2011.

In late 2010, the IG's Office apparently received a similar complaint, alleging that substantial funds had been inappropriately shifted from the AWIPS program to fund other NWS activities. This complaint is referenced in a November 18, 2011 letter to [redacted] from [redacted] (Exhibit 44). This complaint was also not referred to NOAA. However, between January and April 2011, OIG staff conducted a limited inquiry into the complaint, which resulted in a request to [redacted] for additional information in light of what appeared to be a reprogramming of approximately $10.0 million, without necessary congressional approval. (Exhibit 44). In May 2011, [redacted] sent an e-mail to [redacted], stating that [redacted] should expect a member of the NWS CFO's Office to provide [redacted] with an explanation of how the transfer was accomplished without the need for a reprogramming request. (Exhibit 45). [redacted] never provided additional information to the OIG or [redacted]

On June 15, 2011, the OIG received another anonymous complaint on its e-mail Hotline, alleging that:

> Rumors abound about your investigating [redacted] for diverting AWIPS funds. Also that [redacted] spending many hours building a cover story. Do not let them hide the facts! Ask other programs and OOS too. Also ask about how much has been spent on the crazy office space thing!

(Exhibit 46). On July 13, 2011, the OIG referred this matter to the [redacted] for further investigation. (Exhibit 46).

On November 9, 2011, the OIG referred another complaint to [redacted], alleging that [redacted] had inappropriately redirected NEXRAD funds to cover NWS shortfalls in two separate programs. (Exhibit 47). The complaint was filed through the OIG hotline by [redacted] and alleged that "a few years ago, DOC specifically zeroed the NWS NEXRAD Product Improvement (PI) Program beginning FY 11 . . . [but] the NWS CFO has redirected O&M funding to continue these efforts." (Exhibit 47). The complaint further charged that [redacted] used "Weather Radio Improvement Program (WRIP) procurement funding to cover shortfalls in the NWS base budget." (Exhibit 47). [redacted] concluded that:

[redacted] continues to rely on questionable and improper financial practices to "manage" the NWS budget instead of sound, well thought out budget plans. This is resulting in increasing budget shortfalls, numerous acquisition programs (AWIPS and WRIP) with [redacted] budget issues, and increased risks to NWS operations.

(Exhibit 47).

Finally, on January 24, 2012, the OIG referred an anonymous complaint to NOAA that it had received on its internet hotline. [redacted]

B. **NOAA's Preliminary Investigation**

In response to the July 13, 2011 OIG referral to [redacted] and consistent with the internal NOAA process for such referrals, on August 17, 2011 the [redacted] requested that the [redacted] direct an inquiry into the complaint. (Exhibit 49). Recognizing the need for an independent office to direct this inquiry, [redacted] asked [redacted] to lead the investigation. [redacted] agreed and subsequently asked two additional NOAA employees to join the fact finding team: [redacted] and [redacted]

The investigation led by [redacted] focused primarily on whether [redacted] "had 'diverted' funding allocated for the [AWIPS] program," but also touched on allegations surrounding the NWS Acquisitions and Grants (AGO) office space study and [redacted] contacts with a private company, [redacted] that had business before the Agency. (Exhibit 50, at p. 1). During the course of [redacted] investigation, [redacted] and [redacted] team interviewed a number of NWS employees familiar with the AWIPS program and its budget, looked at emails and other exhibits provided by these witnesses, and made a preliminary examination of financial data regarding the AWIPS program. On November 28, 2011, [redacted] issued a draft report, in which [redacted] made preliminary conclusions, *inter alia*, that:

[2] [redacted]

(1) [redacted] engaged in the unauthorized reprogramming of AWIPS and other program funds in FY 2010 and FY 2011, a violation of the provisions of these years' Federal Appropriations Acts. (Exhibit 50, at p. 3);

(2) [redacted]

(3) [redacted]

(4) [redacted] and

(5) [redacted]

Based on the significance of these preliminary findings, NOAA immediately placed [redacted] on indefinite administrative leave and assigned the CFO for NOAA Fisheries to act as the NWS CFO pending the outcome of further investigation. DOC and NOAA leadership then established a senior investigative team led by senior executives from NOAA and DOC to review and expand upon the investigative work done by [redacted]

[redacted], and [redacted], were assigned to conduct the investigation for the senior investigative team, and NOAA Assistant Secretary Kathryn Sullivan and DOC Deputy Assistant Secretary for Resource Management Hari Sastry were assigned to provide leadership and oversight. (Exhibit 51). Throughout this Report, these individuals are referred to as the "investigative team" or "inquiry team."[3]

C. **Scope of Present Investigation**

The senior investigative team was initially charged with clarifying or expanding upon a number of findings in the preliminary report, including:

[3] Initially, [redacted] and [redacted] were tasked with conducting the investigation, and [redacted] and [redacted] were assigned to provide "day-to-day support and guidance" over the investigative team. NOAA Assistant Secretary Kathryn Sullivan and [redacted] were charged with providing leadership over the investigation. (Exhibit 51). As the scope of the inquiry evolved, the inquiry team determined that it was necessary to interview both [redacted] and [redacted] and they were therefore removed from the investigation team. Moreover, [redacted] left NOAA at the end of 2011. Thereafter, [redacted] was assigned to conduct the investigation with [redacted] [redacted] and [redacted] were not replaced.

- What role NWS senior leadership had in the transactions, and whether NWS, NOAA and Department senior leadership had knowledge of the financial transactions under review;
- The role of the NWS CFO's staff in the transactions;
- Whether there was any indication of fraud;
- The identification of internal controls that could have or should have prevented the transactions from occurring; and
- The determination of whether there were possible violations of the Procurement Integrity Act or Standards of Conduct.

(Exhibit 51). Initially, the team was to produce a report by December 30, 2011. (Exhibit 51).

After further discussions both internally within NOAA and with the OIG, the initial charge to the senior investigative team was modified in a document dated December 13, 2011. (Exhibit 52). This further charge made clear that "the DOC Office of Inspector General will actively engage" in the investigation. Since this document was issued, the OIG has provided guidance to the senior investigative team, giving advice on a variety of issues, including recommendations for witness interviews, lines of questioning, and the overall scope and timing of the investigation.

In consultation with the OIG and senior DOC and NOAA leadership, the senior investigative team has focused on six areas in answering the questions under its charge outlined above: (1) the AWIPS allegations; (2) the NEXRAD allegations; (3) the WRIP allegations; (4) the Office Renovation allegations; (5) the improper contact with NGOs allegations; and (6) the [redacted] allegations. Although the initial target date for completion of a final investigative report was January 13, 2012, the complexity of the financial analysis involved and the expanded scope of the investigation required extension of the completion date until May 9, 2012.

The investigation team has concentrated primarily on financial records and events arising in FY 2010 and FY 2011, the focus of the earlier draft investigation report, and the period in which most of the alleged inappropriate conduct arose. The team curtailed its investigation into prior years in an effort to complete its investigation and report expeditiously, so that NOAA could take this report into account in its budget planning for FY 2012 and FY 2013, and could quickly make appropriate personnel decisions. The investigation team recognizes that certain questions regarding this matter remain unanswered, and that additional inquiries may need to be made into actions arising in prior years, and into tangential issues. At the end of this report are listed areas that NOAA may consider appropriate for further review.

D. Methodology of Present Investigation

To answer the questions posed in its charge, the investigative team conducted a series of interviews and completed an extensive review of NWS financial records. In addition, the inquiry team has reviewed large numbers of emails, financial information, memoranda, and other documents provided by witnesses in support of their testimony. The inquiry team consulted with

the IG's Office, the NOAA CFO's Office, and the DOC General Counsel's Office during the course of its investigation.

1. Witness Interviews

Interviewees were selected based on a number of factors, including potential knowledge of the allegations, financial knowledge, and management roles within NWS, NOAA, and DOC. Interviewees were selected and lines of questioning were formulated with the assistance of the OIG. Many witnesses were interviewed more than once, as the scope of the investigation expanded. As a result, some 30 interviews were conducted of 21 witnesses. Following the interview of each witness, the witness' statement was shared with the OIG for review.[4]

In addition to interviews, the sworn affidavits of 14 witnesses interviewed during the course of the [redacted] Investigation were reviewed. Relevant portions of these affidavits were considered as evidence in the present inquiry.

Witness interview summaries are attached as exhibits and referenced throughout this report. Position descriptions of all key witnesses are attached to their witness summaries. The inquiry team interviewed the following DOC employees:

a. [redacted]

b. [redacted]

[4] In some cases, the witness' statement was also shown to the interviewee. However, in mid-December, 2011, the OIG recommended ending this practice, and the investigate team stopped allowing witnesses to review their own statements.

[redacted]

c. [redacted]

[redacted]

d. [redacted]

[redacted]

e. [redacted]

[redacted]

f. [redacted]

[redacted]

2. Financial Analysis

The analysis of NWS financial records was led by investigator [redacted] based on [redacted], in consultation with the NOAA CFO's Office. The inquiry team reviewed extensive financial records including, most notably, the Commerce Business Systems (CBS) Report entitled "Program Authority and Allotment by Quarter by Program" (BE521D). Using this report, the team conducted CBS queries for: (1) Structured Query Language (SQL) – Budget Operating Plans (BOPs) for Select P4 - BOP Data for all NWS CBS Program4 Codes for FY 2010 and FY 2011; and (2) SQL – Summary Level Transfers (SLTs) by Batch - SLT query for all NWS Program4_code values on the FROM side. To complete the review, the inquiry team sorted the queries by NWS Program Group (e.g., ASOS, AWIPS, Local Warnings and Forecasts) and then isolated all transactions related to Organization Code 20-01. Organization Code 20-01 represents the National Weather Service, Office of the Assistant Administrator (OAA).

The inquiry team compared the total amounts represented in the BOPs query for each Program Group to report BE521 to ensure consistency. Once relative consistency was established, the inquiry team compared each program's total amount to appropriated amount. Differences

between these amounts were likely the result of carryover funds from the previous year and other adjustments made throughout the year to match BOP totals to the appropriated amounts.

The inquiry team further filtered the BOP data to include only transactions that appeared related to mitigating the NWS budget shortfall. These transactions had identifying words such as "mitigate", "shortfall", and "overrun" in the Notes section of the transaction. The team then derived a percentage of the amounts related to the shortfall in comparison to the total Office of AA amount by Program Group, to test for a possible reprogramming of funds.

A similar analysis was performed of Summary Level Transfers (SLTs). Using a query, data was sorted by program group and then further filtered to isolate transactions that appeared to be related to mitigating the NWS budget shortfall. In addition to identifying words used in the BOP transactions noted above, the SLTs also described "moving expenses" or "moving charges" from one program to another. Transactions were netted coming "From" the program group and those going "To" the program group. These amounts were then compared to appropriated amounts to determine if the percentage was below or above the 10% reprogramming threshold. The results of this analysis appear consistent with evidence provided by witness testimony.

Finally, a sample of high-dollar SLT transfers was selected to trace to expenditure documents to confirm that the transferred expenses had no relationship to the program to which the charges were moved.

The results of this process are described in Section III(B)(1), *infra*.

3. Document Review

Many witnesses provided emails, financial information, memoranda, and other documents in support of their allegations, either independently or at the request of the inquiry team. This information was reviewed carefully, and makes up several exhibits attached to this report.

II. Factual Findings

A. Background

1. NWS and NWS CFO Management Structure

[redacted]

[redacted]

[redacted]

[redacted]

2. The NWS Budget

a. **Background**

As shown below in Figure 2, the overall NWS budget for FY 2011 was approximately $976.0 million. Approximately $879.0 million of FY 2011 funds were Operations, Research, and Facilities (ORF) funds, while the remainder, approximately $97.0 million, was Procurement, Acquisitions, and Construction (PAC) funds. As a general rule, ORF funds are more flexible

than PAC funds, in that they can be spent on "a wide variety of labor and systems operations." (Exhibit 17). In contrast, PAC funds may be used only for procurement, acquisition and construction of capital assets.

NWS Appropriation 2005 – 2011
(in thousands)

NWS Spend Plans	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
ORF	$703,926	$746,844	$774,963	$808,300	$847,938	$892,118	$879,582
LWF Base (ORF subset)	$522,948	$526,470	$564,729	$578,424	$601,876	$617,842	$628,121
PAC	$79,055	$101,400	$109,429	$106,923	$110,951	$107,727	$96,899
Total	$782,981	$848,244	$884,392	$915,223	$958,889	$999,845	$976,481

All years depicted exclude supplemental funding

FY 2009 exclude ARRA funding of $16.4M

Figure 2

Within the NWS budget, appropriations are allocated into different accounts termed Programs, Projects and Activities (PPAs). The PPAs are executed by NWS' 13 Financial Management Centers (FMC's), which include OST and OOS. A list of all NWS PPAs is attached as Exhibit 87.[5]

The NWS budget is designed to have considerable flexibility, and is made up primarily of a single large PPA line item called "Local Warnings and Forecasts Base" (LWF). As shown in Figures 3 and 4, in FY 2010 and FY 2011 LWF contained over $600 million in ORF funds. NOAA created a flexible budget for NWS to allow it to respond to weather emergencies quickly and efficiently, and to allow for rapid improvements in meteorological technology. (Exhibit 17).

[5] NWS has an established process for allocating funds to FMCs and PPAs, which is managed by the NWS CFO's Office's Budget Formulation and Program Analysis Division (Formulation Division). This process begins with the final congressionally enacted appropriation. Initially, the Formulation Division reverses prior-year, one time allocation actions to establish current year start points for each PPA by FMC. The Formulation Division maintains a control table that ties appropriation level changes to each PPA that is updated to meet the enacted appropriations for each given year. This control table becomes the foundation for current year allocations and the subsequent allotment process. The Formulation Division applies current year modifications, both internal and external, to the allocations by PPA and FMC. External funding level modifications are comprised of programmatic changes, enacted rescissions, inflationary adjustments to base (ATBs), enacted pay adjustments, inclusion of congressionally directed projects and Hollings Scholarship assessments. Internal funding level modifications include shifting program and/or project responsibilities between FMCs, changes to labor costs, spread of the NOAA direct bill assessment, spread of NWS's corporate/common services (CS) assessment, and any shortfall mitigation strategies.

(In Thousands)

PPA's	NWS FY 11 Budget	Percentage
Local Warnings & Forecasts Base	$628,121	64%
Other ORF PPAs	$251,461	26%
PAC PPA's	$ 96,899	10%
Total Budget	$976,481	100%

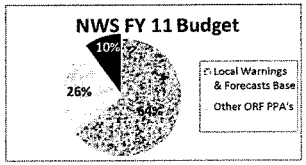

Figure 3

(In Thousands)

PPA's	NWS FY 10 Budget	Percentage
Local Warnings & Forecasts Base	$617,842	62%
Other ORF PPA's	$274,276	27%
PAC PPA's	$107,727	11%
Total Budget	$999,845	100%

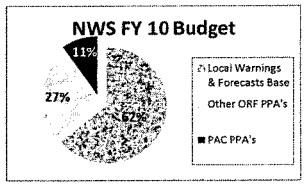

Figure 4

Despite the intended budget flexibility, witnesses familiar with the NWS budget have stated that increases in labor costs and constraints on management's ability to reshape the workforce have impinged on the flexibility in managing the NWS budget and in handling NWS budget deficits. (Exhibits 17, 23, 25). Indeed, NOAA senior leadership has believed for many years that the NWS business operations model is unsustainable because it relies too heavily on labor, and that high labor costs negate the flexibility created by the LWF. (Exhibit 17). Accordingly, NOAA senior leadership has instructed NWS to no longer create new positions, so they must find ways to move forward with the same number of employees, or less (Exhibit 17).[5]

b. **NWS Budget Deficits**

1. The Office of the Assistant Administrator (OAA) Account

Each year, NWS is responsible for paying a number of overhead costs, including common service expenses (e.g., rent and utilities), management and administration (M&A) expenses (e.g., costs to run the Assistant Administrator's Office and information technology support), and direct bill expenses (e.g., NOAA overhead costs, general counsel's office fees, and AGO fees). Prior to FY 2008, many of these expenses were paid for through the NWS Local Warnings and Forecasts (LWF) PPA account. (Exhibit 54). However, in FY 2008 growing common service expenses required NWS to create a "common services assessment" across most NWS PPAs, including those overseen by OST and OOS. (Exhibits 4, 23, 25). Since then, the common services assessment levied against the NWS PPAs has averaged in the 4-5% range, which is charged against the program's enacted budget authority. (Exhibits 23, 25). Collectively, those within NWS term the account where these assessments are collected the "Office of the Assistant Administrator Account" or the "OAA Account."[7]

NWS does not assess a standard percentage for each PPA for the common services assessment. Instead, [redacted] determined that some PPAs, including those overseen by field and "operational" offices, should not pay an assessment because it would "cripple mission performance." (Exhibits 4, 10, 23, 25). In particular, two PPAs have always been excluded from the OAA account assessment, the Weather & Climate Supercomputing Program and the Central

[5] Understanding the challenges facing NWS, in the fall of 2010 NOAA asked the National Research Council of the National Academy of Sciences to study the past and future of NWS' operations and provide a two-part report. The first part of the report, entitled "National Weather Service Modernization and Associated Restructuring: A Retrospective Assessment," was issued in September 2011. The second part of the report, which will discuss future steps to improve NWS, is due in the summer of 2012. (Exhibit 17). **NOTE: The language in this footnote, and the text of the paragraph preceding this footnote in the body of the Report, were added by the inquiry team after the final version of this Report was submitted for review, to clarify points in the Report and address concerns raised by reviewers.**

[7] In fact, there is no actual OAA account, since funds stay within the PPA in which they were allotted, but the funds are accounted for under the AA's Office FMC. (Exhibits 25, 29).

Forecast Guidance Program. Moreover, the LWF PPA has a specific dollar amount taken from it, instead of a percentage. (Exhibit 25).

Each year, the NWS CFO's Office calculates the assessment rate for the OAA Account by dividing the total cost of common services and direct bills by the total enacted NWS budgetary authority after subtracting the enacted budget authority for Weather & Climate Supercomputing and Central Forecast Guidance. The assessment rate in FY 2010 was set at 5.7% and in FY 2011 at 4.81%.

The amounts assessed to the PPAs do not cover the full costs of the OAA account, which was significantly underfunded at the beginning of FY 2010 and FY 2011. (Exhibits 4, 15). In both FY 2010 and FY 2011, the estimated total common service expenses were approximately $40.0-$42.0 million. (Exhibits 23, 25). However, in its initial budget allocation, NWS assessed its PPAs only approximately $30.0 - $32.0 million. (Exhibits 23, 55). Accordingly, in both fiscal years the NWS CFO's Office underfunded the OAA account by approximately $10.0 million. (Exhibits 10, 12, 23, 25).

The gap that was left in the OAA account was covered by identifying funds thought not to be needed by programs, and transferring them via a Budget Operating Plan transfer (a direct transfer known as "BOPing") to the OAA. As such, the shortfalls in the OAA account were handled through budget execution instead of budget formulation. (Exhibits 10, 12, 23, 25). As stated by [redacted] when asked about the appropriate assessment rate for the OAA account:

> 5% was the goal, because more than that and you would attract questions about the cost of overhead, and they were always looking to reduce overhead. I knew it wasn't sufficient, but there was often money left over at the end of the year – plans fell through, projects weren't fully executed – and I knew the money could be used for the [OAA] account. . .

(Exhibit 8). [redacted] believed that funding the OAA account through execution was appropriate to carry out operations to meet a broad array of operational requirements in an uncertain environment of weather and water events. (Exhibit 4). That said, [redacted] acknowledges that this practice was never formally documented within NWS. (Exhibit 4). Moreover, [redacted] all advised [redacted] that the appropriate way to handle the OAA common services shortfall was to spread it proportionately across all NWS programs instead of targeting programs with end of year fund balances. (Exhibit 23).

2. Additional NWS Budget Deficits

Beyond the shortfalls in the OAA account, for many years NWS has operated with what many of those interviewed term a "structural deficit," dating back to at least 2004, meaning that the NWS budget has begun each of the last several fiscal years with a shortfall that must be addressed

through execution during the course of the year.[8] (Exhibit 26, 40). The size of this perceived budget shortfall has never been clearly defined, in large part because it is based on what NWS leadership and program mangers deem essential to NWS operations. As such, estimates of the size of the deficit from NWS program managers and financial analysts range from $35.0 million to $99.0 million. (Exhibits 1, 10, 40). [redacted] (Exhibit 56). The perceived NWS budget deficits were not a secret, and managers within NWS and throughout NOAA had heard that such a shortfall existed. (Exhibits 1, 19, 40).

Witnesses presented several explanations for the NWS "structural deficit." First, the NWS budget increased only modestly between FY 2005 and FY 2011, at an average rate of approximately 3.5% per year. At the same time, labor costs increased as statutorily mandated pay raises grew. Meanwhile, NWS overhead costs increased, as NWS had to pay for unfunded IT mandates, including expenses for NOAANet, and other programs.[9] (Exhibits 23, 25). There are also certain core NWS observational programs that appear underfunded – for example, [redacted] has opined that GPS radiosondes require $5.0 million more each year than appropriated. (Exhibit 25).

One other reason cited for the NWS budget shortfall involves Congressional actions in FY 2009 to prevent NWS from holding field forecaster positions open. [redacted] At the same time, Congress forbade NWS from closing field offices or reducing field office hours. As a result, funds within the LWF PPA that could have been spent on NWS programs were instead spent on increased labor costs. By FY 2010, NWS' was absorbing an additional $10.0 million on unfunded labor costs. By FY 2011, this number rose to $11.3 million. (Exhibit 23).

3. [redacted] Handling of NWS Budget Deficits

In September 2010, [redacted] made a presentation to the NWS Corporate Board in which [redacted] described looming NWS funding deficits beginning in FY 2011, in the range of $47 million. (Exhibits 4, 15, 29, 32, 57). The Board charged [redacted] to work with members of an "Investment Assessment Team" (IAT) made up of resource managers from several NWS offices, to look at how to address the shortfall. (Exhibits 1, 4, 15, 29).

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[8] **NOTE: Portions of the sentence attached to this footnote in the text of the Report were added by the inquiry team after the final version of this Report was submitted, to clarify points in the Report and address concerns raised by recipients.**

[9] Overhead costs increased significantly in FY 2010 and FY 2011, particularly in the Alaska and Pacific Regions, where there were increases in mandatory non-labor costs, IT, communications, rent and utilities. (Exhibit 23).

[redacted] says that the draft plan was presented to [redacted] in December 2010, but acknowledges that a revised "final plan" was never created. (Exhibit 4). Instead, according to [redacted] each office was to make their best efforts to follow the draft plan. (Exhibit 4). [redacted] acknowledges that [redacted] saw the draft plan, but says that [redacted] never saw a final plan that had clearly established dates and milestones. (Exhibit 20). After reviewing the draft, [redacted] No integrated plan to address NWS shortfalls was ever presented to the Corporate Board. (Exhibit 1).

Regardless, near the end of FY 2010, there was still a projected shortfall, and [redacted] In [redacted] mind, it was appropriate to remove future funding from certain contracts that had performance periods crossing into a new fiscal year, with the idea that when NWS received appropriations in the new fiscal year it could refund the contract. [redacted] In a June 7, 2010, e-mail to [redacted], [redacted] provided his rationale for these measures:

> There is a tendency for FMCs (some more than others) to allow for a comfortable cushion going into the next fiscal year by forward funding some contracts to be sure money is available for operations in case of unforeseen events, or just to bank "excess" funds. It is exacerbated by each FMC optimizing their flexibility at the expense sometimes of Corporate. This can be seen in some instances as purchasing more inventory than needed – both supplies and services depending upon individual's risk tolerance as opposed to a Corporate rationale. As you and they know, the private sector minimized this practice long ago.

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[10] [redacted]

(Exhibit 59). Notably, according to [redacted], there is nothing inherently wrong with shortening a contract period, and there may be legitimate reasons to do so; however, the funds taken from shortening a contract can only be used for congressionally authorized purposes. (Exhibit 41).

In addition to cutting contract performance periods, as the end of FY 2010 and FY 2011 approached and operational needs and shortfalls became more precise, [redacted] acknowledged that [redacted] moved program funds that were not needed within the fiscal year, or that could be deferred, to the OAA account or to other programs that were running deficits. (Exhibit 4). Typically, program funding was funneled through the Office of the AA (the "OAA account") and exchanged for LWF funds that could be used more flexibly. Funds were moved from FMCs to the OAA account via the "BOPing" process, a term used to indicate a direct transfer of funds, thus increasing the program line under the OAA and decreasing the funding line in the FMC's. The CFO's office would then move expenses charged to the Local Warnings and Forecasts Base (LWF) PPA to the increased OAA program line via a Summary Level Transfer (SLT) to free up LWF funds, which it would in turn "BOP" back to programs that had funding gaps.

SLTs are designed to provide financial officers with the flexibility to reassign accounting codes on past expenses, most notably to fix errors or mistakes in account coding. Here, SLTs were used to change accounting codes on expenses previously paid out of the LWF to those of other PPAs, thereby freeing up flexible LWF funds that could be used for almost any purpose. Several witnesses called this process "colorizing" money, because PAC or ORF funds would be sent to the OAA, and SLTs would be used to convert these funds to flexible LWF funds that could be used for any purpose, thus "losing their color." (Exhibits 13, 25, 37). See Section III(B)(1), *infra,* for a more detailed explanation of this process.

Under [redacted] direction, in both FY 2010 and FY 2011 [redacted], worked with FMCs to determine whether there were contracts that could be shortened or program funds that could be cut without negative consequences, so that the NWS CFO's Office could move these funds elsewhere within NWS. (Exhibit 10). In FY 2011, for example, [redacted] asked [redacted] OST created a spreadsheet of programs and contracts, prioritizing the most important. (Exhibit 60). Ultimately, money was taken from a number of OST programs: the AWIPS program,[11] the Complete and Sustain NOAA Weather Radio program (specifically a part of this program called the Weather Radio Improvement Program, or WRIP), the Automated Surface Observing System program (ASOS),

[11] Money was removed from the AWIPS PX processor program, one of OST's top priorities, with a promise that the money would be returned in FY 2012, which it was. (Exhibit 13).

and the Central Forecast Guidance (specifically the Hurricane Forecast Improvement Program-HFIP),[12] for a total of $15.4 million, to fund other NWS shortfalls. (Exhibit 13, 61).[13]

[redacted] and found the "NWS funds allocation process to be very complicated and difficult to understand." (Exhibit 25). [redacted] remembers raising concerns about moving funds between programs with [redacted] and [redacted] stating that [redacted] (Exhibit 25). Similarly, [redacted] raised concerns about the reallocation of funds with [redacted] in FY 2010, after [redacted] When [redacted] later raised concerns about reprogramming again, said [redacted] was worried about this activity for a different reason – because [redacted] believed that it would create larger financial problems in the future. As [redacted] explains it:

> I had discussed this management deficiency with [redacted] and was surprised by [redacted] response. [redacted] explained to me that by moving certain acquisitions into the next fiscal year, the NWS would still be able to do what it needed to do by using the new fiscal year budget, and the same operations can be repeated year after year. I tried, but was not able to make him understand that his action equivalently moved these residual requirements into the next fiscal year, adding to the existing requirements for the new fiscal year, and creating an even bigger budget deficit for the new fiscal year.

[12] Because of the transfer of funds, the HFIP program had to delay awarding grants, although money was put back into the program at the beginning of the following fiscal year. (Exhibit 36).

[13] According to [redacted], money was taken from so many programs in FY 2011 because the appropriation came so late in the fiscal year, and many programs could not spend their appropriations in the short time allotted. (Exhibit 36).

(Exhibit 14). Similarly, [redacted] raised concerns with [redacted] about the "forward funding" strategy not being sustainable over multiple fiscal years, but [redacted] response was [redacted] (Exhibit 29).

[redacted] financial management techniques took a toll on NWS program managers. As [redacted] explained:

> The way program funding is being managed by [redacted] is having a negative effect on my program managers' ability to run their programs effectively. The program and project managers and I are tired of struggling to understand what will be deferred and when. It seems there are more and more cuts and the continued battles are wearying. [redacted] was extremely frustrated . . .the funds deferral issues were key to his decision to leave NWS. . . The decisions coming out of the OCFO about what to cut and when appear to be willy-nilly, ad hoc decisions without understanding the complex inderdependencies of schedules and funds.

(Exhibit 18). [redacted] was equally blunt, stating that, "the NWS has a train wreck coming," and that [redacted] (Exhibit 38)

B. The Advanced Weather Interactive Processing System Program (AWIPS)

1. Background

The Advanced Weather Interactive Processing System (AWIPS) is an advanced information processing, display, and telecommunications system that integrates all meteorological, hydrological, radar, and satellite data, enabling a forecaster to prepare and issue more accurate forecasts and warnings. AWIPS is the centerpiece of modern NWS forecasting operations, allowing a forecaster to view, analyze, and combine large amounts of weather data to quickly arrive at an accurate forecast. Within NWS, OST oversees the AWIPS program. In general, program oversight within NWS is split between two offices, with OST handling implementation and improvement (typically termed "Product Improvement" or "PI"), and OOS handling operations and maintenance (typically termed "O&M"). However, AWIPS is the exception; OST handles both the AWIPS PI and the AWIPS O&M programs. (Exhibit 13).[14]

The AWIPS O&M budget pays for maintenance costs, periodic technology refreshment, and government FTE and contractor positions necessary to maintain the AWIPS system. (Exhibit

[14] In the past, there have been attempts to transfer the AWIPS O&M program to OOS. However, due to a disagreement between OST and OOS over the resources necessary to run the O&M program the transfer never took place.

29). The largest percentage of maintenance costs goes to fund a contract between NWS and the Raytheon Company (Raytheon) to maintain and service the AWIPS system. The contract began in 2005 and is a ten year contract (5 year base with five 1-year options), worth approximately $1.2 million per month, or $14.4 million per year. (Exhibit 62). Prior to FY 2010, the AWIPS O&M contract with Raytheon ran annually from August to August, and under the contract Raytheon was paid in monthly installments.

2. Reallocation of FY 2009 AWIPS Funding to Cover Shorfalls in the WRIP Program

An early attempt by [redacted] to transfer money from the AWIPS program to another NWS program was flagged as a potential reprogramming of funds by [redacted] In late 2009, during the course of a regularly scheduled program review, [redacted] noted that approximately $611 thousand was taken from the AWIPS program to cover a shortfall in the Weather Radio Improvement Program (WRIP). (Exhibit 11). [redacted] asked [redacted] to look into this matter, because [redacted] was concerned that it was an unlawful reprogramming of funds without congressional approval. (Exhibit 10).

[redacted] asked [redacted] to investigate the matter. (Exhibits 10, 11). [redacted] called [redacted], and learned that any transfer of funds between programs in excess of $500 thousand was potentially a reprogramming. (Exhibits 10, 11). When [redacted] learned this information, [redacted] asked [redacted] to transfer money back to the AWIPS program, so that the transfer would be under $500 thousand and beneath the reprogramming cap. (Exhibits 10, 11). Accordingly, [redacted] transferred $112 thousand back to the AWIPS program. (Exhibit 11). [redacted] told [redacted] that [redacted] had informed [redacted] when this was done. (Exhibit 11).

3. Reallocation of FY 2010 AWIPS Funds to Cover the NWS Budget Shortfall

Thereafter, in FY 2010 and FY 2011, [redacted] directed that OST reallocate millions of dollars from the AWIPS program to cover shortfalls elsewhere within the NWS budget. The money was taken primarily from the AWIPS O&M contract with Raytheon, but also from other AWIPS programs. (Exhibits 4, 10, 25, 29, 3). Instead of directly moving funds to other programs as in 2009, which raised reprogramming concerns, the AWIPS program transferred funds to the OAA account, a move that could be viewed as covering common NWS expenses. These funds were used to either reduce the OAA budget shortfall or, through the use of SLTs, to pay for expenses already incurred by the LWF, thus freeing up flexible LWF funds that could be used elsewhere

within NWS. Using this method, money was moved between programs indirectly, without the possibility of tracing how and why funds were transferred. [15]

As described, *supra*, beginning in FY 2010, [redacted] identified the AWIPS O&M contract with Raytheon as an appropriate contract to begin de-funding, since the contract had a period of performance well into the next fiscal year and could therefore be reduced without affecting services. (Exhibits 25, 30). Accordingly, near the end of FY 2010 [redacted]

4. Reallocation of FY 2011 AWIPS Funds to Cover the NWS Budget Shortfall

In early FY 2011, [redacted] and [redacted] approached [redacted] with concerns about the reallocation of funds from the AWIPS program. (Exhibit 19). [redacted] says that [redacted] was never presented documentation to establish a significant negative effect on the program, only increased risk. (Exhibits 19, 20). [redacted]

[15] [redacted] continues to argue that this was not a reprogramming of funds because [redacted] believes that the AWIPS program had not been paying its fair share into the OAA Account, and because some of the transferred money was used to cover the shortfall in this account. (Exhibit 4).

[redacted]

[redacted] says that [redacted] had instructed her that it was necessary to take money from the AWIPS program because it was the end of the fiscal year, and NWS had to "make ends meet." (Exhibit 16). [redacted] explained that certain AWIPS contracts were "forward funded," and that money needed to be taken from these contracts to cover other NWS shortfalls. (Exhibit 16). At the time, [redacted] thought that taking money from the AWIPS program was a reasonable approach, and trusted the expertise of [redacted] (Exhibit 16).

[redacted]

[16] [redacted]

[redacted] As previously described, under this proposal, instead of directly transferring funds from the AWIPS O&M account, SLTs would be used to change the accounting codes on expenses incurred outside of the AWIPS O&M program to the AWIPS O&M accounting code. Because these expenses were previously billed to the Local Warnings and Forecast (LWF) line item, this would free up money in the LWF account, which contained flexible ORF funds that could be used for any purpose.

[redacted] understood that the purpose of using SLTs was to "wash the color" of the funds, so that they could be used anywhere within NWS. [redacted] In the end, OST was directed to transfer the funds directly from OST to the OAA account. (Exhibit 13). As previously noted, [redacted] then used SLTs to transfer previously paid expenses from the LWF PPA to the OAA account, thus freeing LWF funds that could be used for other programs within NWS.

[redacted]

In the end, a total of approximately $5.5 million was transferred from the AWIPS program in FY 2011. Three months of the Raytheon contract was de-obligated, for approximately $3.8 million, and the remainder came from a fund to purchase new AWIPS processors. (Exhibit 13). [redacted] says that the money taken from AWIPS in the closing days of FY 2011 went "to pay shortfalls in Permanent Change of Station (PCS) moves for the Regions . . . [and] to buy a depleted supply of radoisondes and balloons." (Exhibit 12). [redacted] understood that this transaction could pose a problem:

> Could this be perceived as reprogramming? In my opinion absolutely, but if it had not been done the NWS would have certainly been anti-deficient in fiscal year 2011.

(Exhibit 12).

[redacted] believes that there was a significant programmatic impact in reducing the contract

period with Raytheon, a concern [redacted] raised with [redacted]. (Exhibit 1). Specifically, in FY 2011, the AWIPS program had to defer planned upgrades to AWIPS servers until FY 2012, thereby increasing the risk that the systems could fail and making it impossible to upgrade to newer software. (Exhibit 1). [redacted] agrees, stating that "[t]his is having a drastic impact on the AWIPS program . . . [f]or example, the LDAP servers need attention . . . [i]t will take draconian measures to fix this." (Exhibit 22). [redacted] takes a broader view, noting that:

> This constant uncertainty about the budget allotments has had a negative effect on our programs. Our spend plans keep changing . . . it requires constantly realigning things, and re-planning. All this has definitely resulted in added risk to our programs. And as the years go by and the amounts needed are getting larger, there is no way all of this borrowed funding can be returned. I fear when all this comes due, there will be no funds there.

(Exhibit 31).

[redacted] agrees, stating that [redacted] does not believe that there were any adverse programmatic impacts to the AWIPS program from the reallocation of contract funds. (Exhibit 23). [redacted] similarly says that there may have been increased risk to the AWIPS program, there was no evidence of any direct negative impact.

Ultimately, [redacted] actions clearly brought significant risk to the AWIPS program. It is beyond the scope of this inquiry to conduct a program review to determine whether there was actual damage to the AWIPS program. NWS will need to make this determination in the future as the ramifications of [redacted] financial decisions unfold.

C. The Weather Radio Improvement Program (WRIP)

1. Background

The Weather Radio Improvement Program (WRIP) was created in 2008 to update NOAA's weather radio network, which transmits severe weather warnings to 98% of the United States population. The Department of Homeland Security also has access to the radio network, allowing it to broadcast warnings in case of national emergency. The NOAA radio network utilizes a text to speech system, which allows computer generated weather reports to be broadcast throughout the country. Among other improvements, the WRIP program was created to update this system, replacing the outdated computerized voice modules on the existing radio network. The WRIP program exists within OST, and is overseen by [redacted]

[redacted] it is part of the "Complete and Sustain NOAA Weather Radio" PPA and uses almost exclusively PAC funds.

2. Reallocation of FY 2011 WRIP Funds to Cover the NWS Budget Shortfall

On November 1, 2011, [redacted] filed a complaint on the OIG Web Hotline alleging, *inter alia*, that at the end of FY 2011 [redacted] improperly transferred approximately $4.6 million from the WRIP program to the NWS "base budget" (i.e., the LWF PPA). (Exhibit 47). According to [redacted], this created a "huge" FY 2012 budget shortfall in the WRIP program. (Exhibit 37).

[redacted] explained that in FY 2011 there was a $20.0 million shortfall in the NEXRAD O&M Budget, and that [redacted] wanted to move money from the WRIP program into the NEXRAD O&M program to cover this deficit. Because the WRIP budget was made up of PAC funds, WRIP monies could not be directly transferred to the NEXRAD O&M budget without raising eyebrows. [redacted]

Notably, [redacted] acknowledges that [redacted] knows that all but a small percentage of money in the WRIP program was made up of PAC funds. (Exhibit 8). When [redacted] was asked directly if using SLTs to transfer PAC money out of the WRIP program to free up ORF money in the NEXRAD O&M fund would be a reprogramming, [redacted] admitted that it would be. (Exhibit 8). [redacted]

[redacted] does not know how much money was taken from the WRIP program or where it went, and does not know whether it was PAC or ORF money. [redacted] does not believe that there was a negative effect on the WRIP program, but acknowledges that there was increased risk to the program by removing funds. (Exhibit 20).

Others disagree with [redacted] assessment, and believe that the WRIP program will not survive because of the funds that were removed. [redacted] only recently learned that the WRIP program has only approximately $4.0 million left in its budget and does not believe that the program will survive. (Exhibit 16). Similarly, [redacted] explained that approximately $8.0 million was removed from the WRIP program, and that [redacted] does not believe that the WRIP program will ever be implemented because of this deficit. (Exhibit 2).

D. **The Next Generation Weather Radar Program (NEXRAD)**

1. Background

NEXRAD is a network of approximately 160 high resolution Doppler weather radars deployed throughout the country that are operated by NWS. NEXRAD radars detect precipitation and wind patterns, and allow the weather service to track storms, tornadoes, and cold fronts, among other capabilities.[18] In 2007, NWS created the NEXRAD Product Improvement Program (NEXRAD PI), funded by PAC funds, to upgrade NEXRAD radars with dual polarization capabilities, allowing for increased radar data and an ability to provide improved severe weather warnings, flood and flash flood warnings, and general forecast services. [redacted] is primarily responsible for the NEXRAD PI program.

The NEXRAD Operations and Management Program (NEXRAD O&M) is a maintenance program that keeps NEXRAD radars operational by providing day-to-day repairs and upgrades. The NEXRAD O&M program has a budget of approximately $46.0 million per year. Until

[17] [redacted]

[18] NEXRAD is part of the "PAC NEXRAD" PPA (See Exhibit 87).

recently, [redacted] oversaw the NEXRAD O&M Program. [redacted], and oversees the assets in the O&M program, distributing funds among six regions for radar repairs, and providing funds for emergency and periodic maintenance of NEXRAD radars.

2. Use of NEXRAD O&M Funds to Pay for NEXRAD PI

[redacted]

[redacted] confirmed that funds were stopped for the NEXRAD PI program in FY 2013 "without prejudice," meaning that the program was not defunded because it had problems, but only because of higher budgetary priorities. (Exhibit 17, 82). Although not "zeroed out" until FY 2013, the NEXRAD PI program has depleted all of its funds. (Exhibit 20). [redacted] acknowledge that NEXRAD O&M funds are currently being used to implement software purchased through the NEXRAD PI program, and that this will continue in coming years. (Exhibits 1, 20, 33, 41).

[redacted] and is aware that NWS is implementing software purchased through the program. (Exhibit 41). [redacted] says that the purpose of "zeroing out" the PI program was to stop further development, but that it was always the intent to continue with implementation. (Exhibit 41). [redacted] believes that it is perfectly appropriate to use NEXRAD O&M funds to pay these implementation costs. (Exhibit 41).

[redacted] agrees, noting that the NEXRAD PI program is no longer running because there are no funds left in the program. However, [redacted] believes that installation of dual polarization software is appropriately funded by the NEXRAD O&M program. (Exhibit 20). [redacted] emphasizes that the software being installed is not tailored to each radar, which would require funds from the NEXRAD PI program. [redacted]

[redacted]

Similarly, [redacted] does not believe that it is a problem for the NEXRAD O&M program to pay for implementation of the dual polarization updates to the NEXRAD radars because this falls into the category of "sustained re-engineering." (Exhibit 2). While not as firm, [redacted] notes that the question of whether paying for installation of the dual polarization software with NEXRAD O&M funds is appropriate turns on whether the funds are being used for "sustaining" the program (permitted) or "product improvement" (not permitted). [redacted] believes that you can "argue it both ways." (Exhibit 33).

It is beyond the scope of this inquiry to make a final determination of whether using NEXRAD O&M funds to pay for implementation of the dual polarization updates to the NEXRAD radars is appropriate. However, at the end of this report, the inquiry team recommends that NWS conduct a program review, in which such a determination may be made. [19]

E. **AGO Office Consolidation Efforts**

On May 25, 2010, an anonymous complaint was filed with GAO that, in part, referenced an NWS office space assessment, posing the question, "[s]ince we are short of money, why is CFO spending on the order of $500K ([redacted]) to do a 'space assessment' study?" (Exhibit 42). The complaint was referencing a 2009 office space consolidation study that was conducted by NOAA staff. (Exhibit 4). Based on the results of this internal study, NWS decided to move forward with consolidating space with the NOAA Acquisition and Grants Office (AGO).

NWS and AGO signed an MOU spelling out the terms of the space consolidation agreement. (Exhibit 74). Under the MOU, NWS will provide one floor of space in SSMC 2 to AGO and provide facilities support and infrastructure, in exchange for full reimbursement for all services provided by NWS. (Exhibit 74). AGO will also pay NWS $250 thousand for "move requirement costs," and then an additional $950 thousand over the course of the next year to reimburse NWS's initial outlay. (Exhibit 74).

The cost to implement the space consolidation was approximately $1.0 million, for cabling, movers, installation costs, and contractor staff support. (Exhibit 75). The work was initially paid for by NWS, and was completed by Earth Resources Technology, Inc., which received four

[19] **NOTE: The language in the paragraph preceding this footnote in the body of the Report was added by the inquiry team after the final version of this Report was submitted, to clarify points in the Report and address concerns raised by recipients.**

payments between December 2009 and November 2011. (Exhibit 76). However, AGO refunded NWS $1.2 million, as provided under the MOU. (Exhibit 25).

In the long term, the space consolidation effort was projected to save NWS approximately $1.0 million per year, and [redacted]

F. [redacted] **Grant Solicitations**

During the course of the initial [redacted] investigation, the investigation team interviewed [redacted] During the course of that interview, [redacted] alleged that [redacted] had attempted to "steer" most of each year's appropriated Mesonet funds to [redacted] Mesonets are small scale networks of meteorological observing sites, often coordinated by small governments or private entities, which normally cover only a very distinct, compact geographical area. Earth Networks has been involved in a number of NWS grant and contract solicitations over the last few years involving Mesonets. (Exhibit 24). [redacted]

[redacted] states that [redacted] actions in bringing this matter to [redacted] attention were appropriate, and could result in reducing potential liabilities against the Government. (Exhibit 24). [redacted] states that [redacted] never shared procurement sensitive information with [redacted] and that all meetings [redacted] attended with representatives from the company were conducted with [redacted] present.

G. [redacted]

[redacted]

III. Findings

A. **No Evidence of Fraud**

The inquiry team did not find any evidence that money that [redacted] or others transferred out of NWS programs was used for corrupt or fraudulent purposes. Although some interviewees expressed anger or frustration that program funds were depleted, not one alleged that [redacted] gained personally from their actions. [redacted]

B. [redacted] **Directed the Unlawful Reprogramming of Funds From Various NWS Programs to Cover Perceived Shortfalls Within the NWS Budget**

It is the conclusion of this inquiry that [redacted] did not follow legally acceptable financial management practices and policies in their management of appropriated funds, and that NWS funds were reprogrammed unlawfully.

1. Reprogramming

a. **Background**

The requirements for reprogramming are defined by statute, in Section 505 of the annual Appropriations Act, and the process for requesting and approving a reprogramming of funds is discussed in the DOC Budget Handbook. (Exhibit 40). As noted in the Senate Committee Report for the Department of Commerce 2011 Appropriations Bill, to "reprogram" under Section 505 is to "change the use of funds from the specific purposes provided for in the act . . . or, in the absence of direction from the Committee on Appropriations, from the specific purposes provided for in the administration's budget request." *See Senate Report 112-078, Departments of Commerce and Justice, Science, and Related Agencies Appropriations Bill 2011.* Section 505 requires that the Committee on Appropriations "be notified by letter, at least 15 days prior to reprogramming of funds, whether permanent or temporary, in excess of $500,000 or 10 percent, whichever is less, between programs, projects or activities." *Id.* Importantly, the Senate Committee Report notes that "[t]he Committee also expects that any items that are subject to interpretation will be reported . . . [and] expects that each department and agency . . . will follow these notification policies precisely . . ." *Id.* [redacted] says that it is "finance 101" that if you are going to move money between PPA's, that this is a reprogramming and you must first seek permission from Congress. (Exhibit 41).[20]

b. **Financial Analysis**

There were approximately 4700 SLTs used by NWS in 2010 and 2011 to move expenses between PPAs, several of which required a reprogramming notification to Congress that never occurred. Notably, [redacted] is aware of only one reprogramming

[20] Notably, in FY 2010, Congress arguably passed even more stringent reporting requirements for a reprogramming of funds. The full explanatory statement for this requirement is found in H.R. Rep. 111-366 (Conf. Rep.) (2009). The 7th proviso of both ORF and PAC appropriations stated:

> *Provided further*, That any deviation from the amounts designated for specific activities in the explanatory statement accompanying this Act, or any use of deobligated balances of funds provided under this heading in previous years, shall be subject to the procedures set forth in section 505 of this Act.

DOC GC appropriations lawyers are determining whether, under this proviso, the typical $500 thousand or 10% rule does not apply, requiring a notice of reprogramming for any reallocation of funds between programs.

request from [redacted] in either FY 2010 or FY 2011, a $4.7 million request involving the Profiler PAC account in FY 2011.[21] (Exhibits 8, 40). NWS did not submit any other reprogramming requests to [redacted] office during these years. (Exhibit 40). In fact, [redacted] clearly recognizes the process necessary to pursue a reprogramming of funds, and explained it clearly when interviewed. (Exhibit 8).

As noted previously, it is beyond the scope of the current inquiry to examine every transfer of funds or expenses within NWS, either historically or in FY 2010 and FY 2011. Such a review would require a full audit of the NWS budget, and the inquiry team was tasked with expeditiously completing its work.

Instead, using the methodology described *supra* in Section I(D)(2), the inquiry team examined the total amounts moved between programs using SLTs, as both a whole dollar amount and a percentage of each programs' total appropriated funds, and examined a sampling of specific expense transfers between programs that either involved large dollar amounts or appeared questionable, possibly violating reprogramming laws. A synopsis of the inquiry team's analysis is found in Figures 5 through 8 below. A disc containing spreadsheets supporting this synopsis is attached as Exhibit 85.

Figure 5 shows the total amounts moved from various NWS programs using SLTs in FY 2010, in terms of both whole dollar amounts and a percentage of each program's total appropriated funds. Figure 6 shows some of the specific transactions that may involve the unlawful reprogramming of funds in FY 2010. Figure 7 shows the total amounts moved from various NWS programs using SLTs in FY 2011, in terms of both whole dollar amounts and a percentage of each programs total appropriated funds. Figure 8 shows some of the specific transactions that may involve the unlawful reprogramming of funds in FY 2011.

[21] Of course, [redacted] is also aware of [redacted] attempt to transfer funds from the AWIPS program in 2009, which [redacted] flagged as a potential reprogramming, and [redacted] corrected. (See Section I(B)(2), *supra*).

Amounts Moved Between PPAs Using SLTs In FY 2010

In thousands

PPA	SLTs TO	SLTs FROM	TOTAL	Appropriated Amount	Percentage
ASOS (PAC)	179	(336)	(157)	1,635	-9.60%[22]
AWIPS**					
ORF	7,463	(97)	7,366	39,346	18.72%
PAC	791	-	791	24,000	3.30%
NEXRAD					
ORF	1,259	(1,047)	212	46,121	0.46%
PAC	733	(300)	433	7,976	5.43%
LWF	8,955	(17,211)	(8,256)	617,842	-1.34%

Figure 5

Sample Problematic FY 2010 SLT Transactions

Fiscal Year	From / To	ORF / PAC	Program Group	Program4 Descr.	Amount	Reason Provided	Approved Date
2010	FROM	ORF	Other	CENTRAL FORECAST GUIDANCE	$ 1,400,000.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010
	TO	ORF	AWIPS	AWIPS	$ 1,400,000.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010
2010	FROM	ORF	Other	CENTRAL FORECAST GUIDANCE	$ 88,497.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010
	TO	ORF	AWIPS	AWIPS	$ 88,497.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010

[22] A negative percentage indicates that more expenses were removed from the program budget using SLTs than were added to the program budget using SLTs. Because expenses were removed, the result of a negative percentage is a net increase in funds available to the program. Accordingly, in 2010, ASOS received 9.6% over its appropriated allotment of funds, as $336,000 in expenses was removed from the program. In contrast, in 2010 AWIPS had 18.72% of its appropriated ORF funds transferred to other programs, as approximately $7,463,000 in SLT expenses was transferred to AWIPS. **NOTE: The language in this footnote was added by the inquiry team after the final version of this Report was submitted, to clarify points in the Report and address concerns raised by recipients.**

2010	FROM	ORF	Other	CENTRAL FORECAST GUIDANCE	$ 464,365.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010
	TO	ORF	AWIPS	AWIPS	$ 464,365.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010
2010	FROM	ORF	Other	CENTRAL FORECAST GUIDANCE	$ 190,000.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010
	TO	ORF	AWIPS	AWIPS	$ 190,000.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010
2010	FROM	ORF	Other	CENTRAL FORECAST GUIDANCE	$ 1,392,600.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010
	TO	ORF	AWIPS	AWIPS	$ 1,392,600.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010
2010	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	$ 2,301,250.00	To move expenses out of LWF in order to free up availability for EOY costs	9/13/2010
	TO	ORF		NATIONAL SEA GRANT COLLEGE PROGRAM BASE[23]	$ 70,000.00	To move expenses out of LWF in order to free up availability for EOY costs	9/13/2010
	TO	ORF		COMPETITIVE RESEARCH PROGRAM	$ 231,250.00	To move expenses out of LWF in order to free up availability for EOY costs	9/13/2010
	TO	ORF		LABORATORIES & COOPERATIVE INSTITUTES[24]	$ 500,000.00	To move expenses out of LWF in order to free up availability for EOY costs	9/13/2010
	TO	ORF	AWIPS	AWIPS	$ 1,500,000.00	To move expenses out of LWF in order to free up availability for EOY costs	9/13/2010
				Total:	$11,673,424.00		

Figure 6

[23] The National Sea Grant College Program Base and Competitive Research Program are part of another line office, the Office of Oceanic and Atmospheric Research.

[24] The Laboratories & Cooperative Institutes is part of the Advanced Hydrological Prediction Services PPA.

Amounts Moved Between PPAs Using SLTs In FY 2011

FY 2011					
PPA	SLTs TO	SLTs FROM	TOTAL	Appropriated Amount	Percentage
ASOS					
ORF	604	(608)	(4)	11,186	-0.04%
PAC	275	-	275	1,632	16.85%
AWIPS**					
ORF	4,497	(44)	4,453	39,273	11.34%
PAC	130	(33)	97	23,952	0.40%
NEXRAD					
ORF	4,247	(2,048)	2,199	46,145	4.77%
PAC	534	-	534	11,104	4.81%
LWF	8,170	(21,069)	(12,899)	628,121	-2.05%

Figure 7

Sample Problematic FY 2011 SLT Transactions

	From / To	ORF / PAC	Program Group	Program4 Descr.	Amount	Reason Provided	Approved Date
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	$ 1,374,223.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from $27M to $20M Per [redacted] Guidance on 15 Jun 2011.	6/16/2011
	TO	ORF	NEXRAD	NEXRAD	$ 1,374,223.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from $27M to $20M Per [redacted] Guidance on 15 Jun 2011.	6/16/2011

2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	$ 366,777.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from $27M to $20M Per [redacted] Guidance on 15 Jun 2011.	6/16/2011
	TO	ORF	NEXRAD	NEXRAD	$ 366,777.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from $27M to $20M Per [redacted] Guidance on 15 Jun 2011.	6/16/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	$ 408,000.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from $27M to $20M Per [redacted] Guidance on 15 Jun 2011.	6/16/2011
	TO	ORF	ASOS	ASOS	$ 408,000.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from $27M to $20M Per [redacted] Guidance on 15 Jun 2011.	6/16/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	$ 2,418,000.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from $27M to $20M Per [redacted] Guidance on 15 Jun 2011.	6/16/2011
	TO	ORF	AWIPS	AWIPS	$ 2,418,000.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from $27M to $20M Per [redacted] Guidance on 15 Jun 2011.	6/16/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	$ 349,000.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from $27M to $20M Per [redacted] Guidance on 15 Jun 2011.	6/16/2011
	TO	ORF	Other	WEATHER RADIO TRANSMITTERS & COMMS	$ 349,000.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from $27M to $20M Per [redacted] Guidance on 15 Jun 2011.	6/16/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	$ 659,000.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from $27M to $20M Per [redacted] Guidance on 15 Jun 2011.	6/16/2011

	TO	ORF	NWSTG Backup - CIP	NWSTG BACKUP - CIP	$ 659,000.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from $27M to $20M Per [redacted] Guidance on 15 Jun 2011.	6/16/2011
2011	FROM	ORF	NEXRAD	NEXRAD	$ 2,000,000.00	To move charges	7/12/2011
	TO	ORF	AWIPS	AWIPS	$ 2,000,000.00	To move charges	7/12/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	$ 1,218,333.00	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
	TO	PAC	Complete and Sustain NOAA Weather Radio	COMPLETE AND SUSTAIN NOAA WEATHER RADIO	$ 1,218,333.00	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	$ 719,611.35	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
	TO	PAC	Complete and Sustain NOAA Weather Radio	COMPLETE AND SUSTAIN NOAA WEATHER RADIO	$ 719,611.35	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	$ 719,611.35	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
	TO	PAC	Complete and Sustain NOAA Weather Radio	COMPLETE AND SUSTAIN NOAA WEATHER RADIO	$ 719,611.35	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	$ 538,180.60	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
	TO	PAC	Complete and Sustain NOAA Weather Radio	COMPLETE AND SUSTAIN NOAA WEATHER RADIO	$ 538,180.60	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	$ 60,000.00	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011

	TO	PAC	Complete and Sustain NOAA Weather Radio	COMPLETE AND SUSTAIN NOAA WEATHER RADIO	$ 60,000.00	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	$ 276.84	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
	TO	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	$ 276.84	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
				Total:	$21,662,026.28		

Figure 8

As noted throughout this report, witness statements corroborate the finding that the NWS CFO's Office engaged in the unlawful reprogramming of funds. [redacted] all expressed concerns over reprogramming violations to [redacted] (Exhibits 12, 13, 19, 25, 29, 37, 70). As [redacted] stated, the transfers were "not in accordance with Congressional intent for appropriations, and in my mind this represented a reallocation of the budget authority." (Exhibit 12). Similarly, program managers refused to participate in the scheme to use SLTs to transfer money between programs, calling such methods "money laundering," and "washing money." (Exhibits 13, 31, 37). In short, the purpose of moving funds through SLTs was clear to those involved in the transactions.

In light of the financial documentation and witness statements, and in consultation with financial attorneys with the Department of Commerce General Counsel's Office, the inquiry team finds that [redacted] did not follow legally acceptable financial management practices and policies in their management of appropriated funds, and that NWS funds were unlawfully reprogrammed.

2. Anti-Deficiency Act (ADA) Violations

The Anti-Deficiency Act (ADA) is a funds control statute that restricts amounts available for obligation and mandates administrative procedures to control rates of obligation. *See* 31 U.S.C. § 1341, *et seq.* The Act's central prohibition, set out at 31 U.S.C. § 1341(a)(1), provides in relevant part: "An officer or employee of the United States Government or the District of Columbia government may not—(A) make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation; or (B) involve the government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law." A violation of this section requires "appropriate administrative discipline," id. § 1349(a), including possible suspension without pay or removal from office, and, if the violation was knowing and willful, a fine of up to $5 thousand and/or imprisonment of up

to two years. *Id.* at § 1350. The Government Accounting Office (GAO) provides guidance on following the ADA in its "Red Book," Principles of Appropriations Law.

Whether a reprogramming of funds violates the ADA is a question that must be determined by the DOC GC's Office, in consultation the NOAA CFO, and is beyond the scope of this report. The inquiry team, in consultation with NOAA leadership, has been instructed that the findings in this report will be provided to DOC GC and the NOAA CFO to determine if an ADA violation has occurred.

3. Violations of Federal Financial Management Standards

Beyond violations of appropriations law, [redacted] actions, along with those of [redacted] that facilitated the unlawful reprogramming of funds, were adverse to a series of financial management standards established by statute and policy. For example, the Office of Management and Budget (OMB) has issued policies stating that:

> The proper stewardship of Federal resources is a fundamental responsibility of agency managers and staff. Federal employees must ensure that government resources are used efficiently and effectively to achieve intended program results. Resources must be used consistent with agency mission, in compliance with law and regulation, and with minimal potential for waste, fraud and mismanagement.

Management and Budget (OMB) Circular A-123, Section 1, *Management Accountability and Control* (1995). Similarly, the Federal Managers' Financial Integrity Act of 1982 mandates that "internal accounting and administrative controls . . . shall be established . . . and shall provide reasonable assurances that . . . funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation . . ." 31 U.S.C § 3512. Moreover, the Federal Financial Management Improvement Act of 1996 requires that all agency financial transactions "be consistently and accurately recorded, monitored, and uniformly reported throughout the Federal Government." 31 U.S.C § 3512.[25]

The actions of [redacted] also violated policies outlined in NOAA's Finance Office Handbook, which states that "NOAA management is responsible for establishing and maintaining internal controls to achieve the objectives of effective and efficient operations, reliable financial reporting, and compliance with applicable laws and regulations." *NOAA Finance Office Handbook*, §6-03. The Handbook notes that, "internal controls should be designed to provide reasonable assurance regarding prevention of or prompt detection of unauthorized acquisition, use or disposition of assets," and that NOAA management is responsible for developing and maintaining organizational structures and methods that address control environment, risk assessment, information and communications, and monitoring. *Id*, § 6-

[25] [redacted]

04. As described *supra*, [redacted] actions, along with the actions of those that facilitated his conduct, violated these NOAA financial policies.

C. **Summary Level Transfers (SLTs) Were Used Improperly to Facilitate the Inappropriate Transfer of Funds**

As previously noted, SLTs are designed to provide financial officers with the flexibility to reassign accounting codes on past expenses, most notably to fix errors or mistakes in account coding. In this case, SLTs were used to switch accounting codes assigned to past expenses from one account to another, a purpose for which they were never intended, thereby restoring flexible funds in the LWF that had already been spent.

The CFO Office's use of SLTs accomplished two objectives. First, the CFO's Office believed that SLTs allowed any "color" of money (PAC or ORF) to be converted into flexible LWF or other funds. (Exhibits 13, 37). [redacted] acknowledged as much, [redacted] (Exhibit 25). Second, SLTs made detection of movement between funds difficult, and prevented clear reprograming transactions from being flagged in project reviews or audits. (Exhibit 30). As [redacted], has stated, "SLTs make tracking the use of funding more difficult, if not impossible." (Exhibit 30).

Tracking SLT fund transfers is extraordinarily difficult because, unless specified in the SLT record through a "reason code" and supporting documentation, an SLT transfers expenses between programs as a flat dollar amount, without specifying which expenses are involved in the transaction. In this case, the NWS CFO's Office did not maintain detailed records for SLT transactions, and there is no supporting documentation to determine which expenses were transferred between programs.[26] Even so, as shown in figures 6 and 8 above, many of the explanations provided in the "reason codes" establish an inappropriate purpose for using SLTs (e.g., "To move charges out of CFG into AWIPs in order to gain CFG availability – EOY Corrections"). [redacted] has stated that there was no need to provide a better explanation in the SLT reason codes because "we knew what the SLT(s) were for." (Exhibit 88).

As described above, the CFO's Office approached program and resource managers within OST and OOS and tried to convince them to use SLTs to transfer charges between programs. In at least three cases, NWS employees refused to do so. [redacted] told the CFO's Office that [redacted] would not use SLTs to "colorize" money and was "not going to launder money for you." (Exhibit 13). [redacted] also refused to use SLTs, saying that [redacted] would not participate in

[26] Notably, this lack of documentation violates NOAA's internal financial policies, which state that "preparers of SLTs are required to maintain adequate supporting documentation for each SLT . . . [consisting] of budget reports and/or any other documentation that provides sufficient justification for the SLT. The documentation should be available for audit by internal and external auditors when necessary." *NOAA Finance Office Handbook*, § 15-04 (3)(f).

"washing" the money. (Exhibit 37). Moreover, the CFO's Office approached [redacted], asking 'will you do SLTs and send us the [LWF] monies?'" (Exhibit 31). [redacted] said "no," because "[i]n my opinion, it is a form of laundering the money." (Exhibit 31).

[redacted]

Manifestly, SLTs were not meant to be used to transfer funds between programs and to obfuscate paper trails. The inquiry team can only conclude that [redacted] were knowingly using SLTs to do so. The result was not only the reprogramming of funds without congressional authorization, but the alienation of a number of NWS resource and program managers who were outraged at the requests to use SLTs to "colorize" money.

D. [redacted] **did not Appropriately Assess PPAs for Common Services**

As noted, *supra*, the NWS CFO's Office did not assess a standard percentage for each PPA to pay into the OAA common services/M&A account. [redacted]

The PPA assessments did not cover the full costs of the OAA account, which was significantly underfunded at the beginning of FY 2010 and FY 2011, with a projected shortfall of $10.0 million in each year. (Exhibits 4, 10, 12, 15, 23, 25). [redacted]

The process of not assessing some programs, designating dollar amounts below the assessed rate, and handling shortfalls through execution, created an environment where some programs were paying for joint expenses that should have been borne by other programs. Moreover, intentionally leaving a gap in the OAA office budget at the beginning of each fiscal year and later pulling funds from various programs burdened those programs with more than their fair

share of OAA account costs. [redacted]

The inquiry team concludes that it was not appropriate for [redacted] as this method created financial problems within NWS programs and did not provide for "effective and efficient operations" as required under NOAA policy. *See NOAA Office Finance Handbook*, § 6-03. Any assessment should have been made proportionately across all PPAs, using a valid algorithm, to ensure a fair distribution of costs to the PPAs, and a fully funded OAA account.

E. [redacted] **Objected, but Ultimately Participated in, the Unlawful Reprogramming of Funds**

[redacted]

All redactions are pursuant to FOIA Exemption (b)(6).

[redacted]

F. [redacted]

[redacted]

All redactions are pursuant to FOIA Exemption (b)(6).

[redacted]

1. [redacted]

[redacted]

Finally, the NWS Corporate Board does not appear to play a significant oversight role in the NWS budget, and the NWS Corporate Board's attempt to address the NWS shortfall was ineffectual. As described above, in September 2010 gave a presentation to the Corporate Board in which described the NWS shortfall. In response, the Corporate Board tasked with working with a team of program and financial managers to address the shortfall. However, it does not appear that the Corporate Board ever followed up on its request. created a two-page draft plan to address the shortfall that was never finalized, and continued with his practices of handling the shortfall using questionable tactics. When asked whether ever told the Corporate Board about his movement of funds out of AWIPS, stated that "we communicated to but not the Corporate Board." (Exhibit 9).

According to , employees are often hesitant to provide detailed information and documents to the Corporate Board because pre-decisional information and documents often make their way to the Union, or in some cases to the Hill and to the public. (Exhibit 15). If true, this may have affected the ability of the Corporate Board to get necessary information to effectively oversee the NWS budget shortfall.

[27]

2. Overly Relied on , and the Failed to Consider Seriously Complaints About Behavior

[redacted]

[redacted]

3. The Absence of a Structured Process to Address Budget Issues led to a Lack of Transparency Regarding the NWS Budget and to Mistrust in the Budget Process [redacted]

Several witnesses interviewed by the inquiry team expressed frustration over the lack of transparency that existed over NWS budget issues, which led to a mistrust of [redacted]

[redacted], believes that "the lack of a more transparent budget formulation process within NWS hinders a more systemic and proactive approach to addressing . . . budget shortfalls." (Exhibit 32). [redacted] does not even know how funds were made available to address operational shortfalls within OOS in FY 2011 or prior years. (Exhibit 32). If OOS was short of funds at the end of the year, [redacted] would give OOS a charge code to use for charging expenses without explanation. (Exhibit 32).

Similarly, [redacted] feels that there was not an environment within the NOAA CFO's Office that was conducive to being open and candid with respect to raising concerns or issues. (Exhibit 1). [redacted] also says that there was a lack of communication "due to impatience with details" [redacted], resulting in decisions being made with incomplete information. (Exhibit 1).

[redacted] says that [redacted] "would like to see more transparency in the NWS budgeting process" because [redacted] feels like "[redacted] does not know what is going on" and was never told "how the budget works." (Exhibit 13). [redacted] In FY 2011, the Corporate Board made a decision to remove dollars from OST budget allocations before they became available to the program. [redacted] notes that "[i]t was not 100% clear at the time that the funds held back were part of the annual percentage taken to support front office operations," although [redacted] decided that this is what it must have been for. (Exhibit 13). More money was taken out of OST later, [redacted] assumed that "the additional dollars were needed to pay NWS labor bills," although [redacted] was never told." (Exhibit 13).

[redacted] made clear that "the program managers were not informed where and how the re-allocated budget was expended." (Exhibit 14). [redacted] further noted that "the AWIPS Program (and other programs too) was not informed about how and where these withheld funds were used, even after several requests to the OCFO for information." (Exhibit 14).

[redacted], is even more pointed in [redacted] remarks, stating that "frankly, we feel like we are being asked to obfuscate or obscure the movement of money in this organization . . . [t]he OCFO puts very little in writing and most communication from them, is not in writing." (Exhibit 18). [redacted] repeats this assertion, stating that "The OCFO does a lot 'verbally'; they don't document these decisions to us." (Exhibit 22). [redacted] also notes that "[redacted] tends to not put things concerning these reallocations and funding manipulations in writing . . .CFO staff will come down and talk to us about funding manipulations [redacted] want us to do and avoid the emails." (Exhibit 38). [redacted] concurs, noting that "[redacted] are hard pressed to put anything in writing (email)." (Exhibit 27).

These examples point to significant communication and transparency problems regarding budget issues within the NWS, which led to frustration and mistrust on the part of program and financial managers. Ultimately, it falls upon the [redacted] to make sure that appropriate budget information is provided to staff and that the budget process is open and transparent. *See NOAA Finance Office Handbook*, § 6-04 (NOAA management is responsible for establishing internal controls that promote information sharing and communication).

G. **NOAA, DOC, and the OIG Did Not Take Timely Action When Notified of Alleged Improprieties Within the NWS CFO's Office**

Although hindsight is 20-20, it is clear that NOAA Officials, DOC Office of the Chief Financial Officer , and the Inspector General's Office were all made aware that there were allegations of significant problems within the NWS CFO's Office throughout 2010 and 2011, but failed to act in time to stop the activity until the very end of FY 2011.

1. Early Complaints

In early 2010, [redacted] received an anonymous letter complaint that alleged, *inter alia*, that "[i]n each of the last several years, [redacted] has moved appropriated funds around from program to program, PAC to ORF, into labor etc. to pay for unanticipated, underfunded, underestimated, or mismanaged programs, actions, etc." (Exhibit 43). At the time, [redacted] remembers not taking the letter seriously, because [redacted] assumed that the writer did not understand the flexibility of the NWS budget that might allow for such transfers. [redacted] has no record of when [redacted] received this letter or what [redacted] did with it, but believes that [redacted] sent the letter to the IG's Office and Congress, since they were listed as "cc's" on the letter, along with [redacted] (Exhibit 17). Clearly, the complaint ended up in the hands of [redacted]

(Exhibit 80). Although not clear how received the complaint, it does not appear that the response was ever sent to or that any other action was taken in response.

Thereafter, on May 25, 2010, the IG's Office received an almost identical complaint. (Exhibit 42). Again, it does not appear that any action was taken by the IG on this complaint. Although standard protocol requires the IG's Office to provide a copy of this complaint to NOAA for review, according to the OIG's Office this complaint was not provided to NOAA until later complaints arose in July 2011.

2. The Anonymous Complaint to DOC

On October 29, 2010, received an anonymous "postcard" or "index card" in office mailbox that stated that should ask about the "missing $8 to $10 million from the AWIPS program." (Exhibit 39).

According to , minutes after receiving the card, , came into office. (Exhibit 39). handed the card to did not hear anything further about the card and assumed that had sent it to the IG's Office. (Exhibit 39).

says that has no memory of receiving the index card from (Exhibit 35). According to the IG's office has no record of ever receiving it.

The inquiry team found no one within NOAA that was notified of this incident. As noted in Section III(H)(2)(d) below, is expected to report any complaints or information that it receives regarding a potential reprogramming to NOAA or the IG's Office.

3. A Second Complaint to the IG's Office

In "late 2010," the OIG apparently received another complaint, alleging that substantial funds had been inappropriately shifted from the AWIPS program to fund other NWS activities. This complaint is referred to in a November 18, 2011 letter from to (Exhibit 44). It is not clear how the IG's Office received this complaint, whether orally or in writing, but it too appears to have never been referred to NOAA.

Based on the "late 2010" complaint, between January and April 2011, OIG staff conducted a limited review of the allegations, which resulted in a request to for additional information in light of what appeared to be an inappropriate transfer of $10.0 million from the AWIPS program to cover shortfalls within the NWS budget. (Exhibit 44). In addition, on May 24, 2011, , sent an e-mail to stating that:

> [Y]ou should expect a visit from or someone on behalf of the National Weather Service, regarding the movement of funding from AWIPS to the National Weather Service, during or around FY 2010. They should be armed with explanations on just how the movement of funding from the AWIPS program was accomplished without the need for reprogramming, which the insists is the case.
>
> During a meeting with and a separate meeting with we could not establish that the movement of AWIPS funds, as explained to us, could be accomplished without the need for reprogramming. accompanied me on the interviews with

(Exhibit 45).

never received information from NWS regarding the alleged reprogramming. recalls receiving a phone call in the summer of 2011 from asking if had received information from NWS, but otherwise did not hear from the IG's Office again. (Exhibits 39, 83). Accordingly, in July 2011, approached to discuss the IG Office's allegations, and to see if could get NWS to provide with additional information. (Exhibit 41). This was the first time that had heard of these allegations, and took further action, as described below.

On November 18, 2011, almost seven months after sent the e-mail to sent a letter to , outlining the results of the April investigation, and stating that:

> your staff has not informed us of the results of a meeting with the Department on this issue. Therefore, we ask that you advise whether your office has notified the Department's budget office of the nature and extent of the movement of AWIPS funding and, if so, the results of your discussions.

(Exhibit 44). [redacted]

4. NOAA is Notified of Allegations

In July 2011, [redacted] reported to [redacted] that the IG had concerns about NWS practicing "illegal reprogramming," and asked [redacted] if [redacted] was going to provide additional information to him as requested by the IG (See Section (II(F)(2), below). (Exhibit 40). This was the first time that [redacted] became aware of allegations of improprieties in the transfer of funds within the NWS. (Exhibit 40).

In response, [redacted] went to [redacted] who explained that the OIG had come to talk to [redacted] about potential reprogramming of funds from the AWIPS program, and that [redacted] disagreed with the OIG's rationale. (Exhibit 40). [redacted] asked several specific questions regarding use of the funds in the OAA account, and asked [redacted] to provide further documentation. [redacted] cautioned [redacted] about the need to document all transfers of funds to justify [redacted] actions, but did not tell [redacted] to stop [redacted] practices in FY 2011, because [redacted] could not believe that [redacted] would continue this practice after [redacted] talked to [redacted] (Exhibit 41). [redacted] did not immediately bring back documents to [redacted], and continued his financial practices. [redacted] did not press [redacted] after [redacted] heard that an internal investigation had begun; but now says "that was my mistake." (Exhibit 41).

H. **Financial and Management Controls Were Ineffective at Preventing an Unlawful Reprogramming of Funds**

It is clear that financial controls that were in place within DOC, NOAA, and NWS were ineffective at preventing the NWS CFO's Office from engaging in questionable and unlawful transfers of funds between programs. To understand why, the inquiry team examined the various controls in place during FY 2010 and FY 2011. For purposes of this report, the inquiry team has separated these controls into two categories: automated controls and manual controls. It appears that weaknesses in the way various manual controls were applied contributed significantly to the problems that arose in the NWS CFO's Office.

1. Automated Controls

Automated financial controls are those that occur automatically, either through computerized financial systems, or because they are inherent in the budget structure. The inquiry team has identified three automated controls pertinent to the transactions at issue here: accounting system fund controls, system approval right controls, and NWS budget structure controls.

a. **Accounting System Fund Controls**

Accounting system fund controls are designed to automatically prevent an FMC from overspending available apportioned funds. To create such controls, the amount of apportioned funds available to each program must first be established in DOC's financial management system. This is accomplished by summarizing apportionment data by specified data elements, having this data reviewed by a DOC budget officer, and then entering the data into the DOC financial management system. Once this information is in the system, whenever purchase requests are made the system automatically checks the amount requested against the available funds in the project account, before allowing the process to proceed and the obligation to post. However, these controls are not designed to prevent the transfer of charges from one project to another through SLTs, as was done here, and were ineffective in flagging this activity.

b. **Approval Right Controls**

System approval rights are automatic flags in the DOC financial management system that stop certain transactions from posting pending further review. These controls are designed to ensure that certain transactions initiated in the DOC financial management system are properly approved before execution. There is no control in the system that would flag large unconventional transactions such as the SLTs used here. However, the system would not allow the execution of an SLT without proper approval within the system, and without necessary funds being available. In the present case, where the NWS CFO's Office was approving the use of SLTs in the system and adequate funds existed in the accounts at issue, system approval rights would not have flagged the transactions. However, in the future it may be possible to modify system approval rights to require higher level review of certain SLT transactions, for example, those involving a certain dollar amount or without adequate documentation, thereby removing approval authority of sensitive transactions from resting in a single party.

c. **NWS Budget Structure Controls**

The structure of the NWS budget itself can act as an automated control to discourage the unlawful reprogramming of funds. As previously described in Section II(B), the portion of the NWS budget that is not assigned to labor costs is, by design, very flexible, primarily because it is made up largely of a single large line item called Local Warnings and Forecasts Base (LWF), that contains approximately $650 million. Although LWF funds are divided loosely into categories, they can be easily transferred between programs within this PPA. [redacted] acknowledged that the flexibility of the NWS budget may have

created an environment where the NWS could easily move money between programs and projects without significant oversight. (Exhibit 17). Moreover, because of the flexibility of the budget, senior NWS and NOAA leadership assumed that, even when problems were raised, questionable transactions were permissible. (Exhibit 17).

Although the flexibility of the NWS budget may have allowed for certain transactions in this matter to have gone unnoticed, senior NOAA and NWS leadership made clear that this flexibility is imperative for addressing weather emergencies and the rapidly changing technology that defines modern meteorological operations. (Exhibits 17, 19). Creating a rigid budget structure may serve as a control to prevent reprogramming, but only at the expense of the flexibility needed to operate NWS effectively and efficiently.

2. Manual Controls

Manual controls are those that are not automatic, and involve set processes or a reliance on human intervention. [redacted][28]

There are two types of manual controls. First, transactional level controls, which include: (1) reviews of operating performance; and (2) the appropriate segregation of duties, including processes for approval and authorization. Second, entity level or environmental controls, which include: (1) the hiring and retention of competent individuals; (2) mechanisms to monitor and review operations and programs (i.e., oversight); (3) establishment of appropriate and clear internal reporting relationships, including clear documentation of these relationships, and facilitating a process by which mid-level managers are provided easy, open-communication with senior managers; and (4) requirements for the proper documentation of financial transactions.

a. **Reviews of Operating Performance**

Reviewing operating performance involves the monitoring of financial systems to ensure that they are implemented to plan. In the present matter, this involves the periodic review of spend plans to ensure that programs are obligating funds within their limits. Within the NWS CFO's Office, to ensure that spending and obligations are within approved apportionment levels, the office creates "budget operating plans" (BOPs), which are used as a basis for regular reviews of spending activity. During periods of continuing resolution, in particular, financial analysts closely monitor spending to ensure operations continue within approved levels.

[28] [redacted]

It appears that regular reviews of BOPs and operating performance were conducted within NWS. Indeed, understanding that they were working at a deficit, the CFO's Office carefully monitored spending activity to enable it to identify FMC's and programs that might overspend their funding levels, or have funding overages, by fiscal year's end. (Exhibits 82, 83). The CFO's Office would then reapportion funds to address shortfalls, which is how the problems described in this report arose.

b. **Segregation of Duties (Approval Process Controls)**

Approval process controls ensure that transactions are not executed without proper approval. At NWS, the FMC's have first approval rights in the CBS system for BOP transfers and SLT's, and the CFO's office has final approval rights over BOP transfers, and intermediate approval rights over SLTs. The NOAA CFO's Finance Office has final approval authority over SLTs; however, they only review SLTs to ensure that they fall within certain "business rules," which have no application here.[29] The SES manager at the line office level (i.e., the line office CFO), is responsible for ensuring that SLTs do not violate appropriation laws. Both BOP transfers and SLTs are subject to the same fund controls noted in the Automated Controls section above.

While the NWS CFO's Office approves all BOP transfers and SLTs, and would theoretically catch any questionable transactions initiated at the FMC level, in this case the approval control process was subverted because it was the CFO's office that directed the transactions. Accordingly, the approval control process became nothing more than a formality needed to execute the improper movement of charges in the CBS system.

c. **Hiring and Retention of Competent Staff**

Hiring and retaining staff that are adequately trained and knowledgeable in their areas of expertise and fully understand their control function helps to ensure compliance with pertinent laws and regulations. In this case, it does not appear that NWS CFO staff suffered from incompetence in understanding substantive financial issues. To the contrary. NWS CFO staff recognized problems in [redacted] financial decisions, and repeatedly brought concerns to his attention.

[redacted]

[29] According to [redacted] the Business rules include: (1) Transfers of labor dollars (object class '11') must contain the appropriate number of hours; (2) Transfers must have matching object classes as well as fund code fiscal years; (3) Transfers between FMCs requires the approval of the affected FMC; (4) No transfers will be done for any surcharge object classes or surcharge offset project codes; and (5) The FMC entering and submitting the transfers is responsible for ensuring that there are adequate resources available for the transfers. (Exhibit 81).

[redacted]

Notably, training plays an important role in the competence of staff. [redacted] have both stated that no formal training is provided to NOAA employees on appropriations law. (Exhibits 17, 41). Both now recognize that such training may be necessary, particularly for senior leaders who don't have a financial background. (Exhibit 17).

d. **Mechanisms to Monitor and Review Operations and Programs**

1. Mechanisms to Monitor and Review Operations and Programs within the NOAA Budget Structure and the NOAA CFO's Office

The NOAA CFO's Office relies heavily on line office CFOs to ensure that transactions are appropriate and appropriation laws are followed. (Exhibit 41). As such, the NOAA CFO's Office did not have established controls that would have caught the inappropriate conduct that occurred here.

The NOAA CFO's Office focuses primarily on budget formulation, with line offices focusing principally on budget execution. This separation is purposeful, and is meant to allow those with the best knowledge of an Office's programs to have more control over them, leading to greater efficiencies and flexibility in budget execution. (Exhibit 41). However, this system leaves line offices with the responsibility of establishing many financial controls. (Exhibit 41).

Budget Operating Plans (BOPs) are generated by line office CFO Offices. (Exhibit 41). The NOAA CFO's Office only tracks execution variances against line office BOPs to ensure that expenses are in line with the plans. (Exhibits 40, 41). As noted above, the NOAA CFO's Office also approves all SLTs, but only to ensure that they comply with certain business rules. (Exhibits 40, 41).

In the present matter, fund transfers did not involve expenses that could be compared against BOPs, and therefore did not raise red flags for the NOAA CFO's Office. Although the transactions did involve SLTs, those SLTs did not violate any of the "business rules" established by the NOAA CFO, and therefore passed review by the NOAA CFO's Office. This is an area where NOAA could create stronger controls over the use of SLTs.

On the positive side, within the NOAA finance structure there are effective controls to ensure good opportunities for communication between line office CFOs and the NOAA CFO and senior NOAA leadership. For example, the NOAA CFO meets with line office CFO's on a monthly basis to discuss budget issues, and conducts periodic program reviews with various line office programs. (Exhibit 17). As noted, *supra*, [redacted] caught a potential reprogramming violation in the WRIP program during one of these program reviews, showing that they are an effective

means for addressing challenging financial issues. Where particularly problematic budget issues are identified, there is a "management control review" process, which periodically looks at financial issues to ensure that they are handled appropriately. (Exhibit 17). There is also a "CFO council" on which all program CFOs participate, that addresses financial issues of concern to senior NOAA leadership. (Exhibit 17).

2. Mechanisms to Monitor and Review Operations and Programs within the DOC CFO's Office

The DOC CFO's Office plays a role in the NOAA budget formulation process and is responsible for assisting in the reporting of reprogramming requests to Congress. [redacted]

Because the DOC CFO's Office does not have day to day visibility at a level required to see these transactions, it would not necessarily be aware of unlawful reprogramming activity and therefore has a limited role in acting as a control in addressing possible reprogramming violations. However, the DOC CFO's Office is still expected to report any complaints or information that it receives regarding a potential reprogramming to NOAA or the IG's Office.

In addition, some IT based programs are reviewed by the DOC CFO's Office through the Commerce Information Technology Review Board (CITRB), which is chaired by the NOAA Chief Information Officer (CIO) and co-chaired by the DOC CFO. The CITRB provides for coordinated risk management and review, and provides advice to the Secretary and Deputy Secretary regarding IT investments that merit special attention, involve Department-wide systems, or have significant life cycle costs. During CITRB reviews, program managers discuss program funding, program scheduling and milestones, procurement related issues, program risk areas, and other issues that they deem critical to the success of their programs.

[redacted]

[redacted]

e. **Processes that Facilitate Easy, Open-communication with Senior Managers**

One of the most important controls over financial systems is the ability of employees to freely and openly report concerns to financial managers and senior leadership. *See NOAA Finance Office Handbook*, §§ 6-03, 6-04. As already described, employees repeatedly raised concerns over financial decisions made by [redacted] to both [redacted] and [redacted] but these concerns went unaddressed. Moreover, the NWS Corporate Board was not seen as a safe place to raise detailed concerns. (Exhibit 15). The lack of response by management forced employees to go outside the standard chain of command to report improprieties to the OIG, GAO fraudnet, and directly to NOAA senior leadership. This breakdown in process controls was the most significant reason that [redacted] activities continued unabated for close to two years.

In one sense, the present matter proves that certain system controls worked, since employees were able to report improprieties to a number of different sources outside of NWS, instigating the instant inquiry. However, had [redacted] and [redacted] addressed concerns as they arose, problems would have been handled more quickly, efficiently, and with less long-term consequences to NWS.

f. **Proper Documentation of Financial Transactions**

As previously described, in violation of NOAA policy, NWS did not fully document summary level transfers (SLTs), making it impossible to track what expenses were transferred between PPAs and eliminating the paper trail that would more easily have established an unlawful reprogramming of funds. *See NOAA Finance Office* Handbook, § 15-04(3)(f) ("preparers of SLTs are required to maintain adequate supporting documentation for each SLT"). NWS was not entirely at fault here, since NOAA did not have requirements in place that would have mandated better record-keeping for SLTs. Manifestly, it is imperative that all fund transfers, whether direct or indirect, be traceable, allowing for complete budget transparency. Accordingly, if NOAA intends to continue allowing the use of SLTs by line offices, it must create appropriate record-keeping protocols to ensure that SLTs are fully and completely documented.

I. [redacted]

[redacted]

J. **The Office Space Consolidation Efforts Were not Paid for Out of NWS Funds and Were an Authorized Management Decision**

There is no evidence to indicate that the NWS Office Space consolidation efforts with AGO that were conducted between 2009 and 2012 were improper. An MOU exists between NWS and AGO that spells out the terms of the space consolidation agreement, and AGO reimbursed the costs to implement the space consolidation efforts to NWS. (Exhibit 74). In the long term, the space consolidation plan was projected to save NWS approximately $1 million per year. (Exhibit 4, 77).

To the extent that there was a problem with the space consolidation project it was a problem of transparency. Like many decisions made within the NWS CFO's Office, no information was provided to employees about the purpose of the space consolidation efforts and the savings that they would convey. [redacted]

K. **Evidence Does Not Support That [redacted] Inappropriately Attempted to Influence a NOAA Contract With [redacted]**

There is no evidence that [redacted] directly or indirectly attempted to influence the outcome of a competitive acquisition to have a contract award made to [redacted] As described above, [redacted] Moreover, [redacted] says that [redacted] actions in this matter were perfectly appropriate. (Exhibit 24).

As with the space consolidation project, the allegations regarding [redacted] appear to arise from miscommunication. [redacted]

L. **Issues for further inquiry**

As mentioned previously, the inquiry team was asked to expeditiously complete its report so that NOAA could review it in time to address budget planning for FY 2012 and FY 2013, and could quickly make appropriate personnel decisions. The inquiry team recognizes that there are clearly defined questions regarding this matter that remain unanswered, and that NOAA may need to initiate additional investigation into actions arising in prior years, and into tangential issues. Issues that NOAA may seek to investigate further include:

1. A full audit of the NWS budget for FY 2010 and FY 2011, to determine the full extent of unlawful fund reprogramming;
2. An audit of NWS financial practices prior to FY 2010, to determine when and how the NWS budget shortfall began, and whether there was improper reprogramming of funds prior to 2010; and
3. An NWS program review, to determine (a) the impact of [redacted] financial decisions on NWS programs; and (b) whether financial problems existed within NWS because of program dysfunction.