

Department of Homeland Security **Office of Inspector General**

Customs and Border Protection's
Office of Regulatory Audit





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

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MEMORANDUM FOR: Allen Gina
Assistant Commissioner for International Trade
U.S. Customs and Border Protection

FROM: Anne L. Richards *Anne L. Richards*
Assistant Inspector General for Audits

SUBJECT: *Audit of Customs and Border Protection's Office of
Regulatory Audit*

Attached for your action is our final report, *Audit of Customs and Border Protection's Office of Regulatory Audit*. We incorporated the formal comments from the Customs and Border Protection's (CBP) Office of Regulatory Audit in the final report.

The report contains five recommendations aimed at improving CBP's Office of Regulatory Audit. Your office concurred with all five recommendations. Based on information provided in your response to the draft report, we consider the recommendations resolved. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions and of the disposition of any monetary amounts.

Consistent with our responsibility under the *Inspector General Act*, we are providing copies of our report to appropriate congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination

Please call me with any questions, or your staff may contact Mark Bell, Deputy Assistant Inspector General for Audits, at (202) 254-4100.

Attachment



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Abbreviations

CBP	U.S. Customs and Border Protection
DHS	Department of Homeland Security
FY	fiscal year
GAO	Government Accountability Office
GAGAS	Generally Accepted Government Auditing Standards
OIG	Office of Inspector General
ORA	Office of Regulatory Audit
PTI	Priority Trade Issue
SOP	Standard Operating Procedures



Executive Summary

U.S. Customs and Border Protection's (CBP) Office of Regulatory Audit advises collection officials of revenue underpayments and importer noncompliance. The Office of Regulatory Audit conducts diverse audits, including audits to ensure the protection of U.S. Government revenues and compliance with customs laws, as well as audits to protect the rights of the public transacting business. To ensure compliance with customs laws, the Office of Regulatory Audit selected importers to determine whether they have accurately declared the value and classification of their merchandise for entry into U.S. commerce. In 2010, CBP provided oversight for more than \$30 billion in revenue to the U.S. Government. The Office of Regulatory Audit is part of CBP's oversight function. Senator Charles Grassley expressed concerns about alleged deficiencies in CBP's revenue collection program and requested an audit of the entire oversight process.

Our audit objectives were to determine whether the Office of Regulatory Audit is conducting audits with reasonable assurance that they meet current Government Auditing Standards and whether the office has an effective process for audit selection. The Office of Regulatory Audit is not conducting audits that meet all July 2007 Government Auditing Standards, does not have an effective audit selection process, and needs to improve CBP's ability to recoup unpaid duties identified during audits. These problems are due to outdated audit policies, poorly implemented field quality control mechanisms, a lack of current importer information for audit selection, and insufficient collaboration with CBP collection officials.

We recommend that the CBP Office of Regulatory Audit ensure that its audits comply with current Government Auditing Standards, update its audit manual, strengthen its internal quality control program, revise its audit selection process, and improve collaboration with CBP collection officials and other Department of Homeland Security (DHS) stakeholders. The CBP Office of Regulatory Audit concurred with all five recommendations.



Background

CBP collects more than \$30 billion in duties, fees, and taxes annually and is the second largest revenue generator for the U.S. Government. Since 2002, revenue has been identified as one of CBP's eight Priority Trade Issues (PTIs) that have a high risk of threatening or harming U.S. interests. The goal of the revenue-related PTI is to ensure that CBP has effective procedures to protect the duties and taxes it collects. The Office of Regulatory Audit (ORA), which is under CBP's Office of International Trade, enforces compliance. ORA conducts post-entry audits of importers and other parties involved in importing goods and provides special technical audit assistance in CBP priority trade and security areas. ORA's core responsibility is to conduct in-depth reviews of importers to determine whether they account for and declare accurate and complete information for merchandise imported into the United States. ORA's audit tracking system showed that the office completed 1,053 audits from fiscal years (FYs) 2008 to 2010.

In FY 2010, DHS received correspondence from Senator Charles Grassley expressing concerns about alleged deficiencies in CBP's revenue collection program. He requested that the Office of Inspector General (OIG) conduct an audit of ORA's operations. This audit was initiated in response.

Results of Audit

ORA needs to ensure that its audits are conducted in accordance with current Government Auditing Standards and improve the effectiveness of its audit selection process. In addition, to improve CBP's ability to recoup unpaid duties identified during audits, ORA needs to improve its collaboration with CBP collection officials.

Audit Process

Our review of a sample of 30 audits showed that ORA cannot be assured that these audits were documented or conducted in accordance with the Government Auditing Standards in effect at the time of our review.¹

The audits we reviewed were conducted and documented using an outdated audit manual that did not fully comply with current Government Accountability Office (GAO) Government Auditing Standards, commonly referred to as Generally Accepted Government Auditing Standards (GAGAS). Furthermore, the

¹ GAO Government Auditing Standards (July 2007 Revision), GAO-07-731G.



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ORA field internal quality control system did not adequately ensure that the audits were performed and documented in accordance with July 2007 GAGAS. In a separate review of other ORA audits issued in November 2009, ORA headquarters' internal quality control team noted that audit reports and supporting documentation contained mathematical and sampling calculation errors, contradictions, and insufficient audit evidence at the field office level. The November 2009 report also noted that these same deficiencies were found previously.

In 2010, ORA received a peer review rating of "Pass" from a certified public accountant and consulting firm, whose stated opinion was that ORA's FY 2009 system of quality control was suitably designed and complied with professional standards. However, this peer review covered data from only 1 year and did not include many audit reports we reviewed during our audit. According to the firm, noncompliance with the system of quality control may occur and not be detected. ORA's internal quality control team noted GAGAS deficiencies in FY 2009 and FY 2010.

In an earlier peer review conducted in FY 2006, the same consulting firm noted GAGAS deficiencies, including report findings not supported by audit documentation; audit sampling not appropriately documented, evaluated, and reported; and issues with GAGAS reporting consistency and adequacy of audit programs. The review also noted that the internal quality assurance checklists were not properly updated and were not consistent with current policies and procedures.

As a U.S. Government auditing organization, ORA's work must adhere to GAGAS. These standards provide guidance for performing high-quality audit work with competence, integrity, objectivity, and independence and ensure that users of U.S. Government audit reports can rely on report information.

Audit Manual

ORA has not fully updated its audit manual to comply with 2007 Government Auditing Standards. ORA published its audit manual in accordance with GAGAS issued in 2003. ORA has updated four chapters, but six chapters have not been fully updated to comply with GAGAS issued in 2007.² Thus, ORA is not providing its auditors with clear guidance to perform audits that comply with current

² GAO has issued a 2011 revision of Government Auditing Standards (December 2011), GAO-12-331G. These updated standards were not applicable to the work we reviewed, but ORA must also include the 2011 updated standards when revising its audit manual and applicable guidance.



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GAGAS. We compared the ORA audit manual with the July 2007 GAGAS and found areas of noncompliance such as the following:

- The manual does not include the audit risk assessment requirements from the July 2007 revision of GAGAS. Performing audit risk assessments helps to ensure that auditors do not draw improper conclusions.
- The ORA manual states that individuals who conduct quality assurance checks of audits prior to issuance do not need to complete an independence certification. However, July 2007 GAGAS state that all auditors participating in an audit must be free of personal impairments; they also state that procedures should provide reasonable assurance that the audit organization and its personnel maintain independence.

ORA staff periodically issue updated sections of the audit manual; however, the office does not compile the information to provide auditors with a complete, organized, and easily accessible manual. Instead, each update is published separately and is not clearly referenced to a specific section of the audit manual. ORA needs clearly organized and accessible standards to ensure that its auditors have the necessary guidance to conduct audits in accordance with current Government Auditing Standards. During our review, ORA agreed that the audit manual should be completely updated to reflect the current version of GAGAS and is taking action to address the most significant updates from the 2007 revision. ORA has since provided training to its audit staff on the July 2007 GAGAS requirements.

Internal Quality Control System

ORA has several quality assurance mechanisms to evaluate its audits and audit processes and to ensure compliance with both GAGAS and its own policies. For example, ORA's Quality Assurance Division at headquarters conducts internal quality control reviews of each field office every 3 years. ORA also has numerous quality assurance processes at the field office level. ORA relies on five standard checklists to review audit work for accuracy and completeness prior to report issuance; two checklists are used twice. July 2007 GAGAS state that quality control systems should be designed to provide reasonable assurance that the audit organization and its personnel comply with professional standards and legal and regulatory requirements. Furthermore, for quality control, GAO requires an organization performing audits in accordance with GAGAS to undergo an external peer review at least once every 3 years. The external peer review determines whether the organization's system of quality control is suitably designed and complies with professional standards. Our review of 30



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audits showed that controls were not collectively implemented at the field office level to provide reasonable assurance that ORA's audits were performed in accordance with July 2007 Government Auditing Standards. As a result, ORA may not be able to ensure that report deficiencies are identified and corrected before report issuance. ORA should strengthen and revise its internal quality control review processes to provide additional assurance that its audits are conducted and documented in accordance with current Government Auditing Standards.

Audit Performance—Conducting the Audit

To review the ORA audit process, we selected 30 audits conducted from FY 2008 to FY 2010 by six field offices and one sub-office. We determined that ORA did not complete all these audits according to all performance auditing standards. Therefore, based on our review of audits in the sample, we concluded that ORA cannot be assured that all its audits were conducted according to performance auditing standards.

In regard to internal control for performance audits, GAGAS 7.16 (July 2007) states that government auditors should obtain an understanding of internal controls that is significant within the context of the audit objectives. Internal control assessments evaluate whether an organization has measures in place to conduct business in compliance with applicable standards. ORA staff did not conduct appropriate testing of internal controls to obtain an understanding of the internal controls significant within the context of the audit objectives in 19 of 30 audits (63 percent) we reviewed. As a result, ORA may not have had sufficient and appropriate evidence to support its assessment of the effectiveness of importer operations.

For example, one audit concluded that a company was commingling seafood of different origins and therefore owed approximately \$6.9 million to CBP. The audit analyzed 15 company records to determine whether seafood of different origins was being commingled. ORA staff selected eight reports in which the seafood weight going into the processing plant was less than the weight leaving the plant. ORA staff reasoned that seafood of an unknown origin had been added during processing because some reports showed that the seafood weight was greater after processing. However, other reports showed that the weight was greater before processing.

ORA staff did not include in the methodology a step to determine the reasons for weight variances between shipments entering and leaving the plant. Because ORA staff did not analyze the company's internal control operations for weighing



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the seafood, the evidence is not sufficient and appropriate to support the findings and conclusions. Collection officials reduced the amount of additional payment owed to CBP to zero. ORA noted that many other factors may affect CBP's ability to collect ORA-identified duty underpayments, including a company's ability to pay the duty owed to the U.S. Government and settlement offers in which a company agrees to pay a reduced amount.

Audit Design

According to GAGAS 7.10 (July 2007), government auditors should design their audit methodology to obtain sufficient, appropriate evidence to address the audit objectives. ORA staff did not design a methodology to obtain adequate evidence for the audit objective in 10 of 30 audits (33 percent) we reviewed. As a result, ORA may not be able to provide reasonable assurance that evidence collected for these audits was sufficient to support its findings and conclusions.

For example, in one audit we reviewed, ORA staff did not design a methodology to obtain sufficient, appropriate evidence to address the audit objective. The objective was to determine whether the importer was able to sufficiently support the accuracy of its importation information declared to CBP and whether the importer owed additional duty payments. From its audit, ORA concluded that the company owed \$4.5 million in additional duty payments because it could not support the accuracy of its claims. However, ORA reached this conclusion by applying its audit work to similar, yet more recent, importations that required CBP to provide less proof. ORA did not design its audit to provide sufficient information on the transactions it used to calculate duty underpayment of \$4.5 million. As a result, ORA could not support its claim for duty underpayment, and collection officials reduced the amount of additional payment owed to CBP to zero.

Data Quality

According to GAGAS 7.57 and 7.68 (July 2007), government auditors should evaluate whether the evidence taken as a whole is sufficient and appropriate to address the audit objectives and support findings and conclusions. ORA staff did not document the work performed to ensure that audit data were accurate and complete in 11 of 30 audits (37 percent) we reviewed. As a result, we were unable to verify whether the audit work conducted to support findings and conclusions for these audits was sufficient.

For example, an ORA audit sampled 30 transactions for 2006 to ensure that transaction classifications were accurately reported. The audit identified three



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transactions that had been misclassified for a total underpayment of \$2,351; the underpaid amount projected to the entire data population for that time period resulted in an estimated underpayment of \$215,712. ORA identified internal control deficiencies as the reason for the misclassifications. However, ORA completed testing of internal controls in 2005 and did not do additional testing to determine if the identified deficiencies were applicable in 2006. The audit report did not document the circumstances for the three errors in transaction classification or relate them back to other transactions in the universe of data. Therefore, although ORA used a statistically appropriate methodology, the projection was not reliable. The company agreed with the classification errors identified but disagreed with the projected underpayment calculated in the audit report. At the time of our audit, \$32,379.91 had been collected.

Insufficient Documentation

In the audits reviewed, we also identified areas in which ORA's audit work was not sufficiently documented in accordance with Government Auditing Standards. Each area and the number of audits in which the deficiency was noted are explained below.

Program Risk Assessment

According to GAGAS 7.13 through 7.15 (July 2007), government auditors should obtain an understanding of the relevant risks associated with the program under audit. External risk assessments evaluate external factors or conditions that could directly affect the program under audit. ORA staff did not document their assessment of external risk in 8 of 30 audits (27 percent) we reviewed. As a result, ORA may not be documenting all the high-risk areas of the importers' operations it reviewed. ORA provided examples of its risk assessment procedures, including team strategy meetings to identify risk; analysis and review of previous audits, types of importations, and trade agreements; and reviews of stockholder information. However, ORA does not always document these risk assessments or its overall conclusion of external risk.

Audit Risk Assessment

According to GAGAS 7.05 through 7.07 (July 2007), government auditors should assess the possibility that their findings, conclusions, recommendations, or assurance may be improper or incomplete. Internal risk is assessed to evaluate the possibility that an audit team will reach incorrect conclusions. ORA staff did not document their assessment of internal risk in 30 of 30 audits (100 percent) we reviewed. As a result, ORA may not have adequate evidence to support the



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steps taken to prevent or mitigate the potential issues identified in its assessments. ORA agrees that a formalized process to evaluate internal risk would improve the audit process; therefore, it plans to include guidance in its audit manual on internal risk and provide training to its staff.

Fraud Assessment

According to GAGAS 7.30 (July 2007), government auditors should assess the risk of the occurrence of fraud that is significant within the context of the audit objectives. Fraud assessments evaluate the possibility that an audit team may uncover fraudulent activities while conducting an audit. ORA staff did not document their assessment of fraud in 29 of 30 audits (97 percent) we reviewed.

As a result, ORA may not have adequate evidence to support the steps taken to identify fraud risks and whether the risks in these audits were properly detected and mitigated. ORA agrees that the audit procedures for documenting fraud assessments were deficient and has revised its auditor planning checklist to include guidance on assessing and documenting the risk of fraud. All auditors are required to complete training on the revised auditor planning checklist.

Competence

According to GAGAS 3.49 (July 2007), government auditors who use the work of external specialists should assess the professional qualifications of such specialists and document their findings and conclusions.³ Specialists should be qualified and maintain professional competence in their areas of specialization. In addition, GAGAS 7.45 (July 2007) states that if planning to use the work of specialists, auditors should document the nature and scope of the work the specialists will perform.

ORA staff did not document the professional qualifications and work to be performed by external specialists in 27 of 27 audits (100 percent) we reviewed; ORA did not use external specialists in the remaining 3 reviewed audits. As a result, ORA may not be able to ensure that specialists selected possess the necessary knowledge, skills, and experience to conduct the required audit work.

ORA disagrees with this finding because, according to chapter 4 of the ORA audit manual, "DHS employees assigned to an audit will be assumed qualified to

³ GAGAS were revised in December 2011; however, they still require government auditors to determine that external specialists assisting in performing a GAGAS audit are qualified and competent in their areas of specialization (GAGAS 3.79).



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participate in the audit.” However, we believe the ORA audit manual should require staff to identify the audit work specialists will perform and ensure that selected specialists are capable of performing the audit work.

Data Testing

According to GAGAS 7.64 (July 2007), when government auditors use information gathered by officials of the audited entity as part of their evidence, they should determine what the officials or other auditors did to ensure that the information was reliable. ORA staff did not document the work performed to ensure that data used in audit work were accurate and complete in 7 of 30 audits (23 percent) we reviewed.

Specifically, ORA did not have adequate documentation to support the steps it took to test the reliability of the data. Auditors must test each data set used in an audit to ensure that the data used to conduct the audit are accurate and complete. Since ORA did not document its testing methods, we were unable to verify whether the data used to support findings and conclusions in the reviewed audits were accurate and complete.

Other Opportunities for Improvement

Independence

According to GAGAS 3.07 and 3.08 (July 2007), government auditors must be free from personal impairments to independence and should maintain documentation of the steps taken to identify potential personal independence impairments. Although ORA documents the steps it takes to determine auditors’ independence, its supervisors certify independence for all team members, so it is not possible to ascertain whether each individual is actually free from impairments to independence.

ORA staff did not complete individual declarations indicating their independence for all staff assigned to a given audit in 29 of the 30 audits (97 percent) we reviewed. As a result, ORA may not be able to ensure that its audit work was not weakened by personal impairments to independence. ORA staff should prepare individual personal impairment statements to ensure that all staff are independent before beginning each audit assignment.

Although ORA disagrees with this finding, its Audit Policy division plans to develop and issue a standardize independence form as part of its updated ORA audit manual.



Conclusion

ORA needs to ensure that its audit work is sufficient and appropriate to support audit findings and conclusions as required by GAGAS, and it needs to document any exceptions to those requirements. ORA should revise and update its audit manual and internal quality control process, which should allow it to provide reasonable assurance that its audit work is complete and accurate.

Audit Selection Process

ORA needs to improve the effectiveness of its audit selection process to ensure that the highest risk importers are selected for audit. ORA has not documented its audit selection methodology and has not formalized audit selection procedures to ensure that staff use similar criteria to select the highest risk importers.

ORA's audit selection process draws candidates, on average, from a pool of approximately 321,000 importers nationwide. Each year, ORA uses a risk-based approach to identify which importers it will audit. ORA primarily conducts two types of audits:

- Focused Assessments—comprehensive audits of major importers that evaluate controls to identify importer strengths, weaknesses, and compliance with applicable laws and regulations.
- Quick Response Audits—narrowly scoped audits of importers in high-risk trade areas identified by CBP and other officials.

The general objective of these audits is to protect U.S. Government revenue and to ensure compliance with applicable laws, regulations, and trade agreements. ORA management did not provide adequate evidence that ORA had a formalized and documented method to select audit candidates for Focused Assessments and Quick Response Audits.

Focused Assessments and Quick Response Audits

According to ORA's charter, the purpose of the regulatory audit function is to concentrate CBP's resources on high-payoff and high-risk transactions. ORA uses a database composed of information from other CBP systems to help identify high-risk importers for Focused Assessments.



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For Focused Assessments, ORA's audit selection process takes approximately 10 months. Once it makes its initial selections, ORA narrows the field of potential audit candidates, first at a conference of ORA staff and stakeholders, and second at individual field offices, after which ORA adds the audit candidates to the annual audit plan.

Before ORA auditors begin a new audit, they perform additional analysis of importer data to determine if the importer is still a viable audit candidate. According to ORA officials, importers may no longer be good candidates for audit for multiple reasons. For instance, the importer may no longer import merchandise into the United States, may be importing under a new name or importer number, or may have merged with another company. ORA has not documented and formalized the current methodology for audit selection to ensure that staff use the same criteria to select the highest risk importers for audit.

In addition to Focused Assessments, ORA headquarters receives Quick Response Audit referrals from U.S. ports, Immigration and Customs Enforcement, and various CBP offices. According to ORA officials, the Field Directors are responsible for overseeing the audit selection process in their field offices. Headquarters provides the Quick Response referrals annually to the field offices. According to ORA management, when the lists of referrals are received, the field office contacts the referring official to determine whether the importer is still considered high risk.

Currently, ORA's policies and procedures do not document the Quick Response Audit referral process. In addition, criteria affecting the adequacy of information collected and the ability to make informed decisions are not fully established.

Without a documented plan outlining prioritized criteria, it is difficult for ORA to ensure that it is selecting the highest risk candidates for audit. ORA should document best practices from each field office to develop a standardized process for selecting Quick Response Audits. By standardizing the process, ORA could ensure that its field offices consistently apply its methodology to identify the highest risk importers for audit and improve continuity, regardless of organizational changes such as staff departures, new hires, or reorganizations.

ORA's current audit selection process for both Focused Assessments and Quick Response Audits resulted in the cancellation of 413 audits from FY 2008 to FY 2010; audit staff charged approximately 17,391 hours to those canceled audits. ORA cancels audits for a number of reasons. For instance, the importer may no longer import merchandise into the United States, may have filed for



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bankruptcy, or the CBP referring official may no longer require audit services on the audit. Without established and documented selection criteria, ORA staff have selected audits that cannot be performed and as a result are canceled.

Conclusion

We believe ORA can better manage the audit selection process and reduce the number of cancellations by establishing and documenting audit selection criteria and streamlining its audit selection process. With an established, documented process, ORA will have greater assurance that the highest risk importers are selected for audit.

ORA agrees that the process can be streamlined and indicated that it is planning to develop a Web-based system to improve the process and provide the capability to regularly update importer information. In addition, ORA will develop a Standard Operating Procedure (SOP) to document the annual audit planning process. ORA also agrees that the Quick Response Audits process can be improved by using best practices and developing a structured SOP.

Guidance for Collaborating with Collection Officials

When an ORA audit identifies duty owed to the U.S. Government, ORA issues its report to the pertinent CBP Port Director (action official). The action official may then decide to pursue collection of unpaid duties or revenues. ORA's audit manual outlines the procedures for collaborating with and providing collection information to action officials. ORA reports that it has a number of procedures to communicate, coordinate, and follow up with collection officials. The current ORA audit manual provides a broad overview of the collection process;⁴ however, it does not—

- Fully explain the roles and responsibilities of ORA personnel;
- Provide timelines for issuing collection requests; and
- Adequately explain special issuance procedures in the event of delays or disagreements.

ORA's unclear collection referral policy may affect auditors' ability to provide adequate information for collection officials to take action. If CBP officials do not

⁴ Chapter 12, Enforcement Issues, Section 6: Violations Discovered During an Audit.



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have sufficient evidence to initiate collections, they may not be able to collect duty underpayments.

ORA does not have the authority to collect underpayments, but it has the responsibility to advise the appropriate CBP collection officials of the amounts to collect. From FY 2008 to FY 2010, ORA identified approximately \$154.2 million in lost revenue to CBP. As of June 2011, CBP had collected approximately \$63.8 million, or 41 percent of the revenue identified. Of the remaining \$90.4 million—

- \$35.7 million was reduced for various reasons such as mitigation, statutes of limitation, changes in applicable laws, legal rulings, or companies' financial positions; and
- \$54.7 million is still outstanding, pending mitigation or collection.

Conclusion

ORA works with other CBP organizations in the CBP collection process. ORA needs to update its guidance on collection referrals to clearly identify roles and responsibilities of ORA personnel, provide timelines for collection requests, and define special issuance procedures to improve collaboration. In addition, ORA should improve collaboration with other components involved in CBP's collection process. With improved guidance and collaboration, ORA may be able to maximize collections and better protect U.S. Government revenues. ORA agrees with this finding and is developing a directive to improve in this area. The directive will provide ORA personnel and CBP collection officials with specific instructions to resolve ORA audit findings and recommendations. The directive will also establish procedures to facilitate implementing audit recommendations, monitor the progress of implementation, and report results of resolved audits.

Recommendations

We recommend that the Assistant Commissioner for International Trade direct the Office of Regulatory Audit to:

Recommendation #1:

Identify audit standards to be followed and ensure that all audit activities are conducted in compliance with those standards or identify exceptions in audit reports.



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Recommendation #2:

Revise and update ORA's audit manual to comply with all current GAGAS.

Recommendation #3:

Revise the internal quality control process to ensure that the new ORA audit manual and GAGAS are followed.

Recommendation #4:

Develop formal guidance outlining the current audit selection process for ORA's audits.

Recommendation #5:

Update, issue, and implement guidance to improve coordination with ORA stakeholders involved in the revenue collection process.

Management Comments and OIG Analysis

The OIG conducted an objective assessment of the CBP ORA program using the standards outlined by the Council of Inspectors General on Integrity and Efficiency. The OIG audit work was conducted according to current professional audit standards for performance audits outlined in GAGAS. The audit report provides examples to help illustrate and clarify the deficiencies identified. The OIG met with CBP to address the issues raised concerning the audit information presented in the report. CBP has agreed with all five recommendations and is taking corrective actions to address the deficiencies identified in this report.

CBP Comments to Recommendation #1

Concur. According to CBP, ORA is revising its audit manual and training staff to address the requirements related to the areas identified in this audit report. ORA is also reassessing certain types of assignments and will determine whether those activities should be classified as something other than an audit. CBP plans to have its corrective action implemented by March 31, 2013.

OIG Analysis

We consider the recommendation resolved because CBP's actions satisfy the intent of the recommendation, and CBP has provided a plan of action and



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milestones to implement corrective actions. However, the recommendation will remain open until we can verify, through review of supporting documentation, that the revised ORA audit manual and associated training have been completed.

CBP Comments to Recommendation #2

Concur. According to CBP, the ORA audit manual will be fully updated to reflect the current version of GAGAS. Specifically, the issuance of updated chapters will address the revisions that have been made to the Field Work and Reporting Standards in the December 2011 revision of GAGAS. In the interim, ORA has updated the existing chapters to line out superseded sections and provide references to where the current policies and procedures can be found in order to provide a more complete, organized, and easily accessible audit manual. CBP plans to have its corrective action implemented by March 31, 2013.

OIG Analysis

We consider the recommendation resolved because CBP's actions satisfy the intent of the recommendation, and CBP has provided a plan of action and milestones to implement corrective actions. However, the recommendation will remain open until we can verify, through review of supporting documentation, that the revised ORA audit manual and associated training have been completed.

CBP Comments to Recommendation #3

Concur. According to CBP, it will establish a working group to evaluate the current field quality assurance program and develop a proposal to strengthen and revise its internal quality control process. CBP plans to have its corrective action implemented by March 31, 2013.

OIG Analysis

We consider the recommendation resolved because CBP's actions satisfy the intent of the recommendation, and CBP has provided a plan of action and milestones to implement corrective actions. However, the recommendation will remain open until we can verify, through review of supporting documentation, that the internal quality control process has been strengthened based on the working group's recommendations.



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CBP Comments to Recommendation #4

Concur. According to CBP, it is developing formal guidance and documenting the current audit selection process. CBP plans to have its corrective action implemented by March 31, 2013.

OIG Analysis

We consider the recommendation resolved because CBP's actions satisfy the intent of the recommendation, and CBP has provided a plan of action and milestones to implement corrective actions. However, the recommendation will remain open until we can verify, through review of supporting documentation, that the formal guidance outlining the planning processes has been completed.

CBP Comments to Recommendation #5

Concur. According to CBP, it is coordinating with stakeholders and has developed a draft CBP Directive, which establishes procedures for the implementation and resolution of ORA audit findings and recommendations. CBP plans to have its corrective action implemented by March 31, 2013.

OIG Analysis

We consider the recommendation resolved because CBP's actions satisfy the intent of the recommendation, and CBP has provided a plan of action and milestones to implement corrective actions. However, the recommendation will remain open until we can verify, through review of supporting documentation, that the draft Directive has been finalized and the ORA audit manual has been updated to reflect the revised process.



Appendix A

Objectives, Scope, and Methodology

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the Department.

The ranking member of the Senate Committee on Finance requested that we conduct an audit of trade compliance and revenue collection programs, including management enforcement of laws, regulations, and procedures designed to ensure revenue collection and protection for the CBP ORA. To address the Senator's request, we reviewed (1) compliance with GAGAS, (2) audit selection, and (3) revenue collection.

We reviewed audits completed from FY 2008 through FY 2010. We visited six field offices (Charlotte, Chicago, Philadelphia, Long Beach, New York, and San Francisco) and one branch office (Denver) to conduct our review. The locations were selected based on the highest amounts of uncollected revenue from audit findings. We evaluated internal controls that were pertinent to the audit objective by reviewing ORA policies and quality assurance procedures.

Our analysis of ORA's audit tracking system showed that the office completed 1,053 audits during FYs 2008, 2009, and 2010. To determine whether ORA is complying with GAGAS, we reviewed 30 audits. We judgmentally selected the audits based on the different types of audits performed at the offices we visited and the amounts of uncollected revenue from audit findings. Our review included analysis of audit reports and audit documentation, as well as interviews with key staff. As part of our audit sample, we also reviewed two randomly selected audits that did not result in recommended collection of revenue. To review each audit and identify any departures from GAGAS, we analyzed audit documentation using applicable and selected portions of the *Guide for Conducting Peer Reviews of the Audit Organizations of Federal Offices of Inspector General*, dated March 2009. We also compared the ORA audit manual with 2007 GAGAS to identify areas of deficiency in ORA's policy.

To determine how ORA analyzes risk for each importer, we reviewed the audit selection process; reviewed ORA's audit manual; interviewed ORA management officials, Field Office Directors, Assistant Directors, and Program Managers at sites visited; conducted a survey of all Field Office Program Managers; reviewed the audit selection database and criteria used; and analyzed audit results reported in ORA's management information system.



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To determine whether ORA is structured to be independent of the importers, we reviewed the audit reporting process. We interviewed Port Directors to determine their role in collecting the money that ORA has determined is due to the U.S. Government. We interviewed Import Specialists to determine their role in collecting funds that ORA has determined are owed to the U.S. Government. We interviewed Fines, Penalties, and Forfeitures Officials at five of the seven sites visited to determine the nature of their role in the collection process; these interviews allowed us to better establish ORA's independence.

We conducted this performance audit between April and October 2011 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.



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Appendix B
Management Comments to the Draft Report

1300 Pennsylvania Avenue NW
Washington, DC 20229



**U.S. Customs and
Border Protection**

August 7, 2012

Mr. Charles K. Edwards
Acting Inspector General
U.S. Department of Homeland Security
245 Murray Drive, SW, Building 410
Washington, DC 20528

Re: Draft OIG Report, "Audit of Customs and Border Protection's Office of Regulatory Audit" (Project No. 10-100-AUD-CBP)

Dear Mr. Edwards:

Thank you for the opportunity to review and comment on this report. The U.S. Customs and Border Protection (CBP) appreciates the Department of Homeland Security Office of Inspector General's (OIG's) work in planning and conducting its review and issuing this report.

The draft report included several recommendations that the CBP Office of International Trade, Office of Regulatory Audit (ORA) can take to enhance its overall effectiveness, and actions are already underway to implement these recommendations. We believe, however, that the report needs additional context and perspective to help ensure a "cold reader" is not left with any mistaken impressions about ORA audit efforts.

For example, the report states that ORA is responsible for enforcing compliance; however, it is important to note that ORA, with only about 400 auditors nationwide, represents just one small part of a much larger CBP trade processing, oversight, and enforcement process related to the collection of revenue underpayments and importer noncompliance. Over half the merchandise for sale in U.S. markets comes from abroad, and in 2011 the total value of all imports into the United States was more than \$2.3 trillion. For CBP—whose mission is to prevent terrorists and terrorist weapons from entering the United States, while facilitating the flow of legitimate trade and travel—processing these imports means handling 29.5 million entry summaries with over 117.8 million lines and collecting \$37.2 billion in revenues. ORA's primary focus is on fact-finding in support of other port and program offices charged with the actual processing of entries and collection of duties. Many other levels of targeting, verification, and enforcement occur in real time beyond the scope of ORA's area of influence and audit practices.



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Additionally, while the OIG's report focused on ORA involvement in revenue protection, it should be noted that there are many factors considered outside the ORA audit process that impact CBP's ability to collect recommended revenue. For instance, recommended amounts are sometimes reduced because of the acceptance of compromise offers when an importer demonstrates an inability to pay the full amount recommended. It also should be recognized that many other ORA efforts have resulted in valuable nonrevenue impacts. In FY 2011, for example, ORA completed more than 350 engagements addressing a diverse range of areas including revenue protection, intellectual property rights, agriculture, import safety, antidumping and countervailing duties (AD/CVD), free trade agreements, and airline user fees. In fulfilling CBP's responsibility for enforcing the AD/CVD law, ORA helped U.S. companies compete with foreign industry by conducting audits of importers suspected of willfully circumventing the provisions of the AD/CVD law. ORA also helped combat trade fraud and other criminal activities by providing technical assistance related to money laundering, illegal immigration, visa fraud, and human smuggling.

In addition, OIG reported that ORA needs to ensure that its audits are conducted in accordance with current government auditing standards—CBP agrees and, as previously stated, is taking actions to do so, especially in regards to ensuring that ORA work is appropriately documented in accordance with these standards. However, we believe the report could more clearly state the scope and objectives of OIG's review, which did not include validating the propriety of ORA's audit findings and conclusions, with which the OIG has not taken exception.

ORA is committed to ensuring the accuracy and completeness of its findings and to communicating, coordinating, and following up with others to resolve and implement its recommendations, as appropriate. This includes:

- working closely with the responsible CBP officials throughout the audit to ensure they have the information and documents needed to implement the enforcement action and audit recommendations, such as including CBP Office of Field Operations Import Specialists on audit teams;
- obtaining concurrence with audit findings and recommendations from Action Officials prior to report issuance;
- using the Commercial Enforcement Analysis Response process to ensure that significant commercial violations identified in ORA audits receive priority; and
- monitoring the status of the implementation of audit recommendations by following up with the responsible CBP officials every 90 days and recording the information in ORA's management information systems.

The draft report contained five recommendations with which CBP concurs. Specifically, OIG recommended that the Assistant Commissioner for International Trade direct ORA to:



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Recommendation #1: Identify audit standards to be followed and ensure that all audit activities are conducted in compliance with those standards or identify exceptions in audit reports.

Response: Concur. ORA will ensure that the updated audit manual and associated training emphasizes the requirements related to the areas in which OIG cited deficiencies. ORA is also reassessing certain types of assignments and will determine whether those activities should be classified as something other than an audit. Estimated Completion Date (ECD): March 31, 2013.

Recommendation #2: Revise and update ORA's audit manual to comply with all current GAGAS.

Response: Concur. The audit manual will be fully updated to reflect the current version of Generally Accepted Government Auditing Standards (GAGAS). More specifically, the issuance of updated chapters will address the revisions that have been made to the Field Work and Reporting Standards in the December 2011 Revision of GAGAS. In the interim, ORA has updated the existing chapters to line out superseded sections and provide references to where the current policies and procedures can be found in order to provide a more complete, organized, and easily accessible audit manual. ECD: March 31, 2013.

Recommendation #3: Revise the internal quality control process to ensure the new ORA audit manual and GAGAS are followed.

Response: Concur. ORA will establish a working group to evaluate the current field quality assurance program and develop a proposal to strengthen and revise its internal quality control process. ECD: March 31, 2013.

Recommendation #4: Develop formal guidance outlining the current audit selection process for ORA's audits.

Response: Concur. ORA is developing formal guidance and documenting the current process it has in place. ECD: March 31, 2013.

Recommendation #5: Update, issue, and implement guidance to improve coordination with ORA stakeholders involved in the revenue collection process.

Response: Concur. ORA is coordinating with stakeholders and has developed a draft CBP Directive, which establishes procedures for the implementation and resolution of ORA audit findings and recommendations. ECD: March 31, 2013.



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Again, thank you for the opportunity to review and comment on this draft report. Technical comments were previously provided under separate cover. Please feel free to contact me or Mr. Joseph Westmoreland, Deputy Director, Management Inspections Division, at (202) 325-7556, if you have any questions. We look forward to working with you in the future.

Sincerely,

A handwritten signature in cursive script that reads "James F. Tomsheck For:".

James F. Tomsheck
Assistant Commissioner
Office of Internal Affairs



Appendix C

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Appendix D

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The OIG seeks to protect the identity of each writer and caller.