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

Report of Inspection

U.S. Section of the
International Boundary and
Water Commission

Report Number ISP-I-05-26, March 2005

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KEY JUDGMENTS

- The U.S. Section of the International Boundary and Water Commission (USIBWC) deserves credit for helping to initiate resolution of major policy issues, including the Mexican Rio Grande water debt and improved sanitation in the San Diego region. On the other hand, management actions have undermined the morale of the agency, led to an alarming departure of key personnel, and raised fundamental questions about the lack of U.S. government oversight of the USIBWC.
- Internal management problems have engulfed USIBWC, threatening its essential responsibilities for flood control and water management in the American Southwest.
- The Department of State (Department) bears clear foreign policy oversight of USIBWC. The time has come, however, for stricter Department or other U.S. government oversight of how the commission manages matters related to its personnel. The situation worsened dramatically under the present Commissioner, prompting the Office of Inspector General (OIG) to make a significant recommendation that the U.S. Section's personnel structure and policies be aligned more closely with those of the Department.
- USIBWC also requires continuity in professional management of resources to support operations. Such management has been inconsistent for several years, and, at present, the USIBWC has no senior management officer. Disarray is the consequence.
- The Department needs to be far more insistent that USIBWC keep it informed of its dealings with Mexico in both a timely and candid fashion.
- The inspection report addresses a wide variety of administrative, security, and safety concerns. The Commissioner has expressed his determination to address those issues, and a failure to do so appropriately will further undermine an already weak USIBWC.

The inspection took place in Washington, DC, between January 10 and 29, 2005, and in El Paso, Texas, and USIBWC field offices and facilities in Arizona, California, New Mexico, and Texas, between January 31 and March 3, 2005. Ambassador Fernando Rondon (team leader), Siobhan Hulihan (deputy team leader), Emmitt Candler, Jacqueline James, and Robert Steven conducted the inspection.

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CONTEXT

The International Boundary and Water Commission (IBWC) was established under the provisions of a treaty between the United States and Mexico and related protocol, both from The 1944 Treaty.¹ This treaty was the direct descendent of the Convention of 1889,² which established an International Boundary Commission for the two countries. The 1944 Treaty added water responsibilities, in response to the growth of population and activity along the border and the need for improved binational water supply and flood control management.

The United States and Canada also maintain an International Joint Commission, which has quite different functions and organization. It has few of the direct operating responsibilities of the IBWC.

Under the 1944 Treaty, an Engineer Commissioner, who is supported by two principal engineers, a legal adviser, and a foreign affairs secretary, heads each section. Other staffing and organization has been left to the discretion of each side. The U.S. Section (USIBWC) is headquartered in El Paso, Texas. The Mexican Section is located directly across the border, in Ciudad Juarez. Both sections have field offices and facilities, including high dams, hydroelectric power plants, and flood control works, stretching along the border from the Gulf of Mexico to the Pacific. USIBWC operates wastewater treatment plants and a potable water treatment plant, and oversees the operation of a Mexican wastewater treatment plant. The U.S. and Mexican sections work under the foreign policy oversight of the Department and the Mexican Secretariat of Foreign Relations, respectively. The USIBWC operates with a FY 2005 budget of \$33.6 million for salaries and expenses and \$9 million for construction. It has 243 employees.

The agency has an unusual relationship with the Department. While its budget is included within the Department's budget request to Congress, issues of oversight, and who might exercise that oversight in areas apart from foreign policy, have

¹Treaty relating to the utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande, signed February 3, 1944, and supplementary protocol, signed November 14, 1994, 59 Stat. 1219, TS 994, 9 Bevans 1166, 3 UNTS 313.

²United States-Mexico Convention to Avoid the Difficulties Occasioned by Reason of the Changes Which take Place in the Beds of the Rio Grande and Colorado River[s], signed March 1, 1889, TS 232, 26 Stat. 1512. See also United States-Mexico Convention Touching the Boundary Line Where It Follows the Bed of the Rio Grande and the Rio Colorado signed November 12, 1884, TS 226, 24 Stat. 1011.

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never been adequately defined. Over the years, USIBWC has been largely independent in terms of internal management and operations.

In addition to foreign policy oversight and budget processing, the commission comes under the responsibility of the Department's OIG. Although USIBWC was last inspected in 1977, OIG has conducted financial audits regularly, and Public Law 106-457 (Nov. 7, 2000) requires OIG to monitor implementation of a pending fee for services contract for the construction of a secondary wastewater treatment plant in Tijuana, Mexico.

In contrast to internal management, issues such as water and sanitation can reach the highest levels of the U.S. and Mexican governments. Such issues involve questions with very immediate domestic consequences in the border region where burgeoning population growth, industrialization, and cross-border issues such as sewage disposal have greatly increased the interest and demands of state and local governments, other federal agencies, and the courts. Water management, and the environmental consequences, will remain key policy issues for the foreseeable future, not to mention border security and immigration issues that are not subjects of this report.

EXECUTIVE DIRECTION

MANAGEMENT PROBLEMS

USIBWC has a long history of quiet, acknowledged technical competence. For over 100 years, the American and Mexican Commissioners of the IBWC - civil engineers - found appropriate solutions to most of the water and sanitation issues affecting both sides of the border. In other words, the commission worked as the treaties intended. More recently, USIBWC has gone through several years of internal management turmoil. It is only fair to acknowledge the situation faced by the new American Commissioner when he took office in January 2004.

The incumbent Commissioner is a chemical engineer, a break from the long practice of assigning civil engineers to oversee the commission. The new Commissioner has not served in any comparable management role, but brings a good knowledge of the Southwest to the position, with roots in both the United States and Mexico. He brings several years of environmental management experience with the U.S. Environmental Protection Agency in Texas and was manager of the Lower Valley Water District in El Paso. With a background of political and public affairs activism, he is clearly an individual who enjoys outreach activities. Such outreach was needed at a Commission whose reputation in Congress was suffering, largely as a result of perceived inaction on San Diego County's water sanitation problems and Texas' unhappiness over the sharing of Rio Grande waters.

The Commissioner wasted no time in initiating a series of actions, some contributing to major policy successes, but some seriously undermining the agency he was chosen to lead. If anything, the internal management turmoil inherited by the Commissioner worsened dramatically under his leadership.

Soon after assuming office, the Commissioner dismissed or encouraged the retirement of several key commission executives, including a principal engineer, the legal adviser, and the foreign affairs secretary. He retained one principal engineer but essentially concentrated decision making in his own hands, while replacing departed employees with his own selections. He eliminated virtually an entire layer of middle management, including the senior officer responsible for overall administration.

As of early 2005, USIBWC's front office included the five positions stipulated by the 1944 Treaty: a new engineer-commissioner, two (one new) principal engineers, a new foreign affairs secretary, and a new legal adviser. The Commissioner designated one of his counsels to serve as a deputy, contrary to the past practice of having the senior principal engineer serve as deputy commissioner. An administrative assistant, two public affairs specialists, another counsel, and a contractor-adviser completed the front office. While the Commissioner replaced departed executive suite personnel with some qualified choices of his own, he also rewarded long-time friends with ranking positions and corresponding salaries. One friend was hired under a consultant appointment, without convincing justification, and at a salary higher than that of USIBWC's senior engineer.

POLICY SUCCESSES

As this report is written, the United States and Mexico are on the verge of settling a long-standing, sometimes acrimonious dispute over Mexico's treaty obligation to provide Rio Grande water to the United States, as the United States has provided Colorado River waters to Mexico. Current rainfall has swollen the Rio Grande after years of drought, making it far easier for Mexico to settle its water debt, but bilateral diplomacy between the two countries has been a strong contributory factor. The IBWC provided a venue for the two countries to come together, and both the American and Mexican Commissioners reached a long sought after resolution, under the watchful eye of Texas and other stakeholders, with attentive oversight by the Department and the Mexican Secretariat of Foreign Relations.

The U.S. Commissioner also deserves credit for helping break a logjam affecting sewage treatment on the California border with Mexico. The State of California had filed an action against the USIBWC alleging federal and state water quality law violations in connection with discharges of Tijuana sewage treated at the USIBWC's South Bay International Wastewater Treatment Plant only to the advanced primary level, and Congress had passed related legislation. While Congress passed a law in 2000 addressing wastewater treatment of sewage originating from the Tijuana region and requesting that USIBWC negotiate a new treaty minute or amendment to a prior treaty minute with Mexico, USIBWC had not yet finalized such a new treaty minute or amendment when the U.S. Commissioner took office. Legislation passed by Congress in 2004 to amend the 2000 law, California's court case, and the Commissioner's energy, got the Tijuana Sanitation Project moving.

The Commissioner has been focusing on other difficult border issues, including wastewater in Nogales, Arizona, the pollution of the New River in California, and trying to jumpstart a proposal for more cooperative environmental planning along the border. The Commissioner has made countless trips to Washington, visiting Capitol Hill offices as well as U.S. government agencies, announcing his readiness to undertake needed projects along the border.

MANAGEMENT MISSTEPS

While the politically minded Commissioner quickly sensed the priorities of his Congressional and state stakeholders, and merits recognition for his outreach efforts, he displayed little apparent interest in the realities of his own agency. Beyond policy priorities, his focus appeared to be somewhat unrealistic as he proposed a five-person office in Washington, and sometimes petty as he tinkered with the employee ratings system. He did not visit most of the U.S. Section's field offices,³ where his employees oversaw very important water management and sanitation facilities. He ordered a series of controls on hiring, purchasing, hours of employment, travel, training, and employee ratings that stripped headquarters and field managers of responsibility and initiative, hampered the operations of the field offices, and demeaned all employees. Serious operational and personnel consequences were the result and are discussed further in this report.

Morale plummeted at USIBWC where a climate of fear and disaffection spread. The wave of personnel changes prompted a letter writing campaign by former and present employees, begging for outside oversight of the Commissioner's action. This inspection is one result. The very stakeholders the Commissioner first cultivated have begun to realize that the Commissioner has provoked a hemorrhage of qualified personnel, personnel who protect against floods, monitor the safety of water, and assure backup electrical power for Texas. In private conversations with OIG, stakeholders begged that experienced personnel be retained. In Washington, senior federal agency officials expressed doubts to OIG about the Commissioner's management skills.

Communication within USIBWC is very poor. The Commissioner does not usually document his instructions or wishes in writing, leading to considerable confusion over what he wants. He told OIG that subordinate managers misinter-

³There are field offices at American Dam (El Paso, TX), Amistad Dam (Del Rio, TX), Falcon Dam (TX), Las Cruces (NM), Mercedes (TX), Nogales (AZ), Presidio (TX), San Diego (CA), Yuma (AZ), and Fort Hancock (TX).

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preted his instructions on the preparation of employee evaluations, yet changes in something as basic as employee evaluations should have been preceded by the widest consultation. The Commissioner does not favor staff meetings and prefers to closet himself in his office with his “inner circle.” Unsurprisingly, a “we versus them” atmosphere pervades the El Paso office.

The U.S. government’s “A-76 process,” encouraging as much private sourcing of work as possible, adds considerably to job insecurity at USIBWC. The effect is particularly noticeable at the field offices, where employees fear the Commissioner wants to shut down many offices. The Commissioner informed OIG that he would do everything possible to compensate any affected employees, but the Commissioner’s record on previous separations or transfers is well known within USIBWC and is not reassuring. The Commissioner and his senior staff need to visit the field offices and meet with rank and file employees, as well as host periodic sessions with all the project managers. Communication must be improved. The Commissioner told OIG that he had every intention of “healing” his organization and so promised at a general staff meeting at the end of the inspection.

ETHICS

The Commissioner instituted strict financial management controls affecting employee expenditures, overtime, attendance at work, and procurement. However, he did not apply the same strictness to his own use of U.S. government funds. For example, he spent most of USIBWC’s representational allotment on his swearing-in ceremony. While the purpose of introducing himself to key USIBWC contacts appeared justifiable, the nature of an event costing \$4,896 was questionable. U.S. government funds should not have been used to host a gathering of mostly American citizens, however distinguished they might have been. OIG was troubled also by the Commissioner’s apparent involvement in the awarding of contracts, his selection of several friends for lucrative positions at USIBWC, and his frequent use of hotels that exceeded approved per diem rates. Recommendations on these issues are contained in the Financial Management section.

OVERSIGHT REQUIRED

USIBWC considers itself an independent federal government agency whose leader is answerable only to the President. While the Commission historically operated independently in administrative matters, classifying positions and setting

salaries without oversight, it did follow generally accepted government-wide personnel practices. The Commissioner's self-selected salary grade is now at the Executive Level II, equivalent to that of a Cabinet deputy secretary or armed forces secretary. He feels he can fire and hire, set salaries including his own, and generally run his agency without reference to other authority. The Commissioner does acknowledge the foreign policy oversight authority of the Department of State and accepts the jurisdiction of OIG. The Commissioner has also complied with the provisions of the federal Managers Financial Integrity Act (as discussed further under the Management Controls section of this report).⁴

While foreign policy, financial, and OIG oversight appear to be in place, there is little human resources oversight or support from outside. This is in contrast to USIBWC's Mexican counterpart, often described as a mirror image across the border, which has placed the Mexican Section within the Secretariat for Foreign Affairs.

USIBWC lacks continuity and expertise in its senior management. There have been five commissioners, permanent or acting, in the past five years, contrasting dramatically with the stability of the past. Throughout most of this latter period a core of long-time "career" employees helped to stabilize the organization and carry on its work. The current Commissioner, in his year in office, eliminated much of that core strength, leaving a weakened management structure. This has undermined his own ability to manage his organization.⁵ Although a commissioner must be able to name a few trusted aides to assist him/her in the discharge of duties, the ability to hire or fire (discussed further under Human Resources Management) requires oversight. The Commissioner has failed to adhere to core Civil Service merit system principles. (See 5 USC § 2301.) Key personnel, such as a formally designated deputy commissioner with engineering qualifications and experience, an overall executive officer with proven organizational management skills, and a secretary/foreign affairs officer with diplomatic expertise and experience, would provide the Commissioner with invaluable support and allow him to concentrate his efforts at the appropriate policy level. The organization lacks recourse to an oversight body with the resources and credibility to assure the continuity and good management of the agency.

⁴In a 1998 U.S. General Accounting Office report (GAO/NSIAD-98-238) it was stated that "...greater oversight of the U.S. Section's financial and program operations is needed."

⁵USIBWC's veteran Director of Human Resources submitted his resignation from the organization on March 18, 2005.

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Because all USIBWC actions can have large or small foreign policy consequences, the Department of State clearly has a stake in the performance of USIBWC. Throughout its long history as a specialized, primarily technical, semi-independent agency, oversight in areas other than foreign policy and finance has been of little concern.

USIBWC has been something of an orphan agency, left to its own resources except for guidance on foreign policy issues and some limited financial oversight. It has experienced, professional human resources specialists, but they have not had the freedom to administer procedures in keeping with normal federal practice. The result has been confusion, some abuse, and certainly a severe morale impact. The personnel of USIBWC are in limbo, with questions on all sides as to their status and rights, if any.

Effective oversight of the personnel function in USIBWC is overdue, and should be established. OIG and others have considered a range of possibilities for solving this problem. Two of these emerge as most likely to succeed in providing such oversight. One involves the Department asserting control of USIBWC personnel decisions. The other involves staffing of the senior positions in the agency by the Department.

If the Department were to take charge of the full range of normal personnel procedures for USIBWC, protections could be extended and USIBWC would enjoy the benefits of the Department's human resources management capabilities. Oversight of financial operations would be facilitated. The Department itself would be encouraged, if not forced, to provide greater support to the organization, support that USIBWC now lacks.

Given the complex statutory authorities relied on by the USIBWC to carry out its work, it is possible that legislation would be required to permit the Department to take on personnel administration for the U.S. Section. Legal steps needed to transfer personnel authority, and to protect the interests of USIBWC employees, should be reviewed by lawyers at relevant agencies, including the Department of State, Department of Justice, Office of Special Counsel, Office of Personnel Management (OPM), and Office of Government Ethics.

An alternative to this plan is integration of the senior staff of the organization. The Commissioner would remain an appointee of the administration, just as is an ambassador. This proposal would encompass the five treaty positions of commissioner, secretary/foreign affairs officer, counsel, and two principal engineers. To

this group should be added a chief management officer (see Recommendation 13). These persons, appointed by the Department, could be found in the Department's ranks, in other government agencies, in the private sector, or in the USIBWC itself, but they would become regular Department employees upon appointment.

In realistic terms, it might be expected that the persons in this integrated group of executives would remain with USIBWC for extended periods, as have such employees over its history. The remainder of the USIBWC staff would remain in its present excepted personnel system, but under the immediate administration of Department employees themselves subject to oversight by the Department.

OIG encourages consideration of any solution that guarantees effective oversight of the personnel functions of USIBWC. It is critical that such oversight be established promptly, before there is further degradation of USIBWC's capabilities.

Recommendation 1: The Bureau of Western Hemisphere Affairs, in coordination with the Bureau of Human Resources and the Office of the Legal Adviser, should develop and implement a plan to ensure effective oversight of the personnel structure of the U.S. Section of the International Boundary and Water Commission and its adherence to applicable laws and regulations governing personnel administration. (Action: WHA, in coordination with DGHR and L)

Appointment by the President of the U.S. Commissioner does not require the advice and consent of the Senate. Thus it is possible, and was in the case of the current Commissioner, for the incumbent to assume his position with very little preparation or briefings by the Department or the USIBWC, and with none of the vetting inherent in the advice and consent process. He arrived on the job without a security clearance, although USIBWC affects the foreign policy of the United States (and Mexico) and it must cooperate with Department of Homeland Security (DHS) agencies in the protection of the border. (Security clearances are recommended separately.) The Commissioner had to do a lot of on-the-job training. Were the position of Commissioner subject to the advice and consent of the Senate, a possibility that the Senate contemplated,⁶ the status, preparation, and accountability of the Commissioner would be enhanced.

⁶“Nothing contained in the treaty or protocol shall be construed as impairing the power of the Congress of the United States to define the terms of office of members of the United States Section on the International Boundary and Water Commission or to provide for their appointment by the President by and with the advice and consent of the Senate or otherwise.” Senate ratification, Paragraph (b) understandings attached to Senate Resolution of April 18, 1945.

Recommendation 2: The Bureau of Western Hemisphere Affairs, in coordination with the Bureau of Legislative Affairs, should request that the position of Commissioner, U.S. Section of the International Boundary and Water Commission, be made subject to the advice and consent of the Senate. (Action: WHA, in coordination with H)

BUREAU PERFORMANCE PLAN

OIG's 1977 inspection called for inclusion of the border region in Embassy Mexico City's planning documents. As of 2004, USIBWC was neither mentioned in Embassy Mexico City's Mission Performance Plan nor in WHA's Bureau Performance Plan. Nobody would question the importance of the border region to the security and well being of the United States and Mexico, but it would appear that USIBWC plays no role. This is clearly not the case. WHA's Bureau Performance Plan already incorporates homeland security and immigration concerns, and should also acknowledge the role of the USIBWC. It is no longer a small agency operating independently and out of sight in El Paso, but is of growing importance to the region and to U.S. - Mexican relations.

Recommendation 3: The Bureau of Western Hemisphere Affairs should incorporate the role of the U.S. Section of the International Boundary and Water Commission into the Bureau Performance Plan. (Action: WHA)

FOREIGN AFFAIRS OVERSIGHT

Oversight by the Department of USIBWC's relations with Mexico is based in the 1944 Treaty. The commission has at times sought a more independent role than envisioned by the Department, but the bilateral relationship appears to have been effective. It still is, but requires definition.

One of the prescribed treaty positions of the commission is a secretary, who also bears the title "foreign affairs officer." At one time, this position was held by a Foreign Service officer detailed from the Department. Reportedly, the assignment was not considered career-enhancing, and the practice lapsed. For many years the position has been held by regular USIBWC employees. The incumbent supports the

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Commissioner in his contacts with Mexican authorities, and documents such contacts for the U.S. Section and the Department. A long-serving secretary who retired in 2003 established an excellent reputation for competence in his field and set the standard for effective relations with the Department.

With the departure of this officer, an engineer from within USIBWC was appointed to the position. The new Commissioner, who assumed his duties in January 2004, soon transferred the incumbent to an engineering position in the field. A new secretary was appointed from outside the agency in July 2004. This officer had an extensive background in border affairs and interest in foreign affairs in general. He had no actual experience with IBWC and no experience with the Department. In addition to learning his new job, his duties were expanded in late 2004 to include responsibility for three major administrative divisions in USIBWC. No individual can do justice to the secretarial and foreign affairs duties under these circumstances. The position needs full-time attention. OIG considered, and rejected, reestablishment of the secretarial position for a Foreign Service officer detail, but believes that establishment of qualifications and performance standards for this position, in consultation with the Department, is appropriate.

It would be to the benefit of the Department, USIBWC, and the current incumbent of the position of secretary/foreign affairs officer to familiarize the officer with the operations of the Department and the conduct of foreign relations in general. This might be accomplished in part by enrolling the officer in the Department's basic Foreign Service officer training course - the A-100 course, or in another appropriate course on the Department and diplomatic practice. While attending such training, the officer could be exposed more fully to the operations of WHA/MEX and the USIBWC liaison function. This presumes the granting of a national security clearance, as discussed below. In the process of establishing familiarity with Department operations, the incumbent could facilitate the clarification of roles and communication in the relationship between the Department and USIBWC.

Recommendation 4: The U.S. Section of the International Boundary and Water Commission, in coordination with the Bureau of Western Hemisphere Affairs, should define qualification and performance standards for appointments to the position of secretary/foreign affairs officer in the commission. (Action: USIBWC, in coordination with WHA)

Recommendation 5: The Bureau of Western Hemisphere Affairs, in coordination with the Foreign Service Institute and the U.S. Section of the International Boundary and Water Commission, should arrange for the secretary/foreign affairs officer of the U.S. Section of the International Boundary and Water Commission to attend a basic Foreign Service officer training course or other appropriate course that would provide familiarization with the Department and with diplomatic practice. (Action: WHA, in coordination with FSI and USIBWC)

Until 2004, the office included a language specialist who acted as interpreter in meetings with Mexican interlocutors, and as translator of documents between English and Spanish. This position was effectively eliminated when the language specialist was directed to transfer to the Mercedes, Texas field office, ostensibly as part of an effort to strengthen regional offices. He declined to accept the transfer and left USIBWC. No such position was established in the Mercedes office, and the usefulness of such a position in the field is unclear.

Interpretation at formal IBWC meetings is now provided by contractors, and translations are sent out to contractors or accomplished informally by bilingual employees. The elimination, or transfer, of this position was recommended in a USIBWC contract study submitted in December 2004. It held that the duties of the position could be taken up by the foreign affairs assistant. However, this employee, who is willing, does not have the professional qualifications of a conference interpreter or trained translator and is not performing in those capacities. There are significant delays in translation of documents.

Many USIBWC employees speak Spanish, with varying degrees of fluency. This encourages the belief that official business can be conducted in Spanish by persons not trained in formal interpretation and translation. Employees who do not speak fluent Spanish are handicapped in meetings, and even Spanish-speaking employees may not have the command of technical vocabulary needed. Official discussions with Mexican authorities, preparation of formal minutes, and translation of official documents, should be supported by a professional language specialist who is a USIBWC employee.

As the inspection ended, USIBWC declared its intention to reestablish the foreign affairs assistant position, which is to include formal interpretation and translation qualifications. When this process has been completed, OIG will close the following recommendation.

Recommendation 6: The U.S. Section of the International Boundary and Water Commission should reestablish the position of language specialist in the foreign affairs office. (Action: USIBWC)

The tone of communication between the U.S. and Mexican Sections on some occasions has become less courteous, even somewhat confrontational, under the new Commissioner. This in part reflects his view that a firmer U.S. stance is needed in the relationship but may also reflect a lack of full appreciation of diplomatic practice. The influence of an experienced language specialist, and training in the Department for the secretary/foreign affairs officer, should improve the tone, if not the substance, of exchanges with the Mexican government.

The Department has not been receiving the volume and quality of information from USIBWC it needs to exercise its responsibility for oversight. Conversely, the Department has not provided USIBWC guidance on its needs and wishes in this regard. Communication between the Department and USIBWC must be improved to properly coordinate foreign policy affairs.

USIBWC is under the foreign policy guidance of the Department. To facilitate this, USIBWC maintains a liaison officer in WHA/MEX. A Senior Foreign Service officer heads a small staff as Coordinator, U.S.-Mexico Border Affairs, within WHA/MEX. An estimated one-third of the border affairs section's time is devoted specifically to IBWC concerns. The coordination and relationship between the USIBWC liaison office and WHA/MEX appears effective and cordial, but it is essential for the performance of the oversight role that the Department be regularly and fully informed of communications with the Mexican section and any other Mexican entities. This ensures that the Department can relate IBWC initiatives and activities to overall relations with Mexico and that USIBWC can benefit from the Department's broader knowledge and experience in foreign affairs as they involve Mexico.

Decisions reached by the two IBWC sections are required by the 1944 Treaty to be recorded in formal treaty minutes, which are then submitted to the respective foreign ministries for approval or for further negotiation at the ministry level. To enable the Department to understand and follow the commission's work, it had long been the practice to routinely send copies of all documentary exchanges between the sections to the Department through the USIBWC liaison office in WHA/MEX. Past secretaries supplemented these copies with memoranda informing and alerting the Department to developments. This system is not being used. Documents are not sent to Washington, and there are no accompanying memos.

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In addition, there are other meetings between the IBWC's sections that deal with matters of significance to the Department. While copies of routine letters are supplied to the Department, other documents of interest are released to the Department only with individual approval by management, including communications from the Mexican section. Informal USIBWC minutes of meetings with the Mexican section, dated in early December 2004 and early January 2005, had not been shared with the Department in late February. These have been held by USIBWC pending full agreement with the Mexican section. All significant information should be shared with the Department without waiting for completion of the full process.

Recommendation 7: The Bureau of Western Hemisphere Affairs, in coordination with the U.S. Section of the International Boundary and Water Commission, should develop standard operating procedures governing the sharing of foreign affairs material, including communications from the Mexican Section and records of meetings and consultations with the Mexican Section. (WHA, in coordination with USIBWC)

The liaison officer maintained in WHA/MEX by USIBWC is its only full-time link with the Department and a very valuable resource. If and when the incumbent is away for any reason, such as leave, USIBWC is severely handicapped in its ability to inform the Department of developments and to receive timely guidance on foreign affairs. The liaison officer has a national security clearance, essential to work effectively in WHA/MEX. Because there is no other USIBWC employee with such clearance, it is impossible to second a temporary replacement or even to allow the Commissioner to consult freely in the Department and view classified documents concerning relations with Mexico.

The Commissioner will increasingly have to work with DHS agencies in the new security environment, and he and his secretary/foreign affairs officer should have access to classified material relevant to their duties. This access need not include retention of classified material in USIBWC facilities; it can be limited to the viewing of material in the Department or in federal facilities at other meeting sites.

Recommendation 8: The Bureau of Western Hemisphere Affairs, in coordination with the Bureau of Human Resources, should designate the positions of Commissioner and secretary/foreign affairs officer in the U.S. Section of the International Boundary and Water Commission as requiring SECRET national security clearances, and arrange such clearances for the current incumbents. (Action: WHA, in coordination with DGHR)

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POLICY AND PROGRAM IMPLEMENTATION

The advent of new management in USIBWC in early 2004 brought changes in organization and staffing which, regardless of intent or justification, have resulted in confusion and depressed morale. This situation is discussed elsewhere in this report; its effects on field operations are discussed in more detail below.

USIBWC has operations and engineering departments headed by the two principal engineers. As currently structured, the operations department includes a general operations and maintenance division, a water accounting division, which tracks and administers the distribution of water between the United States and Mexico, an occupational health and safety division, a boundary and realty division, and the field project offices. The engineering department has consolidated into an engineering services section which supports planning and construction of new projects as well as the continuing needs of the existing structure, and a compliance section (formerly environmental management division), which monitors environmental protection issues.

Within the last year, most of these units have lost their leaders through dismissal, retirement, resignation, or forced transfer, and with that, a great store of IBWC experience. The operations and maintenance section lost its supervisory general engineer; the boundary and realty section lost its realty officer, leaving one specialist; health and safety lost its sole officer to military service for some two years. The senior supervisor of the two large dam/reservoirs took early retirement. The senior environmental engineer was transferred to a field office as part of a restructuring exercise aimed at creating strengthened regional offices. (This effort appears to be stalled, and few if any benefits resulting from the transfer are evident.) The engineering department lost the heads of both of its major divisions, as well as the heads of two subordinate sections now absorbed into the major offices.

The USIBWC described the elimination of the middle-management layer: “Unnecessary layers of bureaucracy/supervision are eliminated...” Decentralization of headquarters functions and concentration of expertise and resources at the local level were cited as improvements. The concept of decentralization may be valid, but it has not yet been tried. In the meantime, the removal of so many key

supervisory personnel has left employees confused over lines of supervision and with reduced access to management decision levels. In most cases, the personnel moved into responsibilities as acting heads of sections have not been given the promotions and pay commensurate with the jobs. For example, the project managers at the major Amistad and Falcon dam sites have not been given the rank and pay of their predecessors. The rationale for this is not clear, and the negative affect on morale is evident.

The overall staffing of USIBWC has been permitted to dwindle for many years. The situation is currently worsened by the Commissioner's decision to allow most open positions to remain vacant indefinitely. OIG's brief visit confirmed the view of many of USIBWC's managers, and of some informed outsiders, that staffing and other resources have fallen to unacceptably low levels. It should not be necessary for OIG to call attention to the major deficiencies, as the new Commissioner himself contracted for a study of the situation in late 2004. OIG noted the major conclusions of the study,⁷ as paraphrased below:

- Retirements from the aging workforce in the near future will "erode" the ability to keep up with operations and maintenance.
- Outsourcing to contractors may eventually yield some savings, but reduction in the core USIBWC staffing would jeopardize critical functions.
- Staffing levels already are at or below minimum levels needed to keep facilities in operating condition. Infrastructure rehabilitation and major repair projects are being deferred.
- Levee and flood management projects are hampered by permit and environmental restrictions on channel maintenance, increasing the likelihood of levee failure in event of major flooding.
- IBWC wastewater treatment plants face many legal, political, and technical problems, which will become more acute as they spread to more border areas.

There is little indication that USIBWC was moving to address these concerns before the inspection. The Commissioner has indicated his intention to address these concerns promptly, and states that he has initiated actions to hire new personnel in key positions.

⁷Field Office Assessments, November 12, 2004, William G. Fraser.

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The Commissioner has removed from his managers much of their authority and ability to do their jobs. In what can only be described as severe micro-management, crippling limits have been placed upon purchase authority, use of official credit cards, approval of travel and training, and filling personnel vacancies, among other things. OIG found records of mechanics siphoning fuel from one piece of equipment to another to keep work going and trucking fuel from one project site to another because supplies had run far below normal levels. Field communications, a vital consideration in the border environment, depend partly upon official USIBWC cell phones for supervisors and work crews. The Commissioner apparently arbitrarily cut their numbers in half, leaving crews scrambling to parcel out the remaining devices according to short-term needs.

Training needs are discussed elsewhere in this report, but it is evident that all but legally mandated training or training paid for by other organizations has been suspended, whatever its obvious value to employees and the organization. Official travel is similarly restricted, although some loosening of restrictions is reported since the beginning of the inspection.

More serious is the effect upon the basic operations of USIBWC. The inspection did not and could not survey levees, measure water depths, or follow up each allegation of neglect. There is disturbing evidence, discussed above, that maintenance of infrastructure is falling behind. Silting behind American Dam at El Paso should have been cleared by now, in anticipation of the coming flood season. Farmers in the Las Cruces area have expressed concern over the current state of levee maintenance. Managers in some project areas state that they are keeping up with minimum flood control infrastructure maintenance but are not confident that they have the resources to cope with storm or excessive flood conditions.

The limitations on hiring, travel, training, and other staff practices, and centralized control of the most minor expenditures, are reducing the effectiveness of the organization. These measures were announced or implied to be temporary, while the new management assessed the organization. That temporary assessment has gone on for a year, and there is little evidence that any relief is contemplated.

There appear to be two factors that explain this situation. The Commissioner has embraced the concept of competitive outsourcing of governmental functions, under the provisions of Office of Management and Budget Circular A-76. A preliminary study of USIBWC by a contractor was concluded in December 2004. It recommended decreases in staffing, primarily in USIBWC headquarters and identified areas where commercial outsourcing competition was indicated. OIG

does not attempt to assess or challenge this study, for the most part. It may well be that some USIBWC functions can better be handled by contractors. Supervisors and project managers in the organization readily concede the probable value of contracting some services.

However, implementation of this A-76 competition could under the best of circumstances take many months to several years to implement. Management has done little or nothing to explain the process to the employees, who are left to wonder if any of them will have jobs in a year. Whatever the intent of the Commissioner, he has left his staff with the impression that their service, and welfare, is regarded with contempt and disinterest. As noted elsewhere, many employees of this small organization have never met the Commissioner, and gain their impressions of his intentions largely through hearsay and rumor.

Secondly, the conclusion cannot be avoided that the Commissioner simply distrusts the majority of his supervisors and project managers. His comments to this effect have been reported by too many sources to be ignored or discounted, and the perception of this distrust is widely held in the organization. His withdrawal of authority from his supervisors to manage elementary aspects of their work has had serious effects upon efficiency, to say nothing of morale.

There is little or no evidence that managerial discretion was being abused significantly in the past, or that the current micro-management has resulted in any significant improvement in efficiency or in monetary savings. Some decisions must, of course, be made at headquarters. Most routine management can and should be left to the designated managers.

The critical issue is that, for whatever reason, the suspension of the ability of managers to do their jobs is steadily draining efficiency and morale. The work of the commission is not being done in many instances, and its valuable store of experienced personnel is being depleted as employees seek jobs elsewhere. By the time any A-76 process is completed, the organization may be so damaged as to be unable to carry out its mandate. It is time to return normal authority to supervisors and project managers and let them get on with the work.

Recommendation 9: The U.S. Section of the International Boundary and Water Commission should restore normal, historic authorities to its supervisors and project managers to permit them to carry out their assigned missions. (Action: USIBWC)

As the inspection ended, the Commissioner stated his intention to “empower and support” field operations while the A-76 process gets underway. Preliminary steps were being undertaken to return some authorities to project managers and other supervisors.

ABSENTEE MANAGEMENT

A striking feature of the new management of USIBWC is its isolation from its work force. The Commissioner has never visited most of the projects under his authority. On the few occasions when he has visited a field site, the visit has been perfunctory and in connection with other duties in the area. While visits by the Commissioner have been scheduled repeatedly, they are cancelled as frequently.

This situation is exacerbated by the severe restrictions imposed upon travel in the last year. Visits to the field by headquarters supervisors and by specialists used to be routine and regular. The principal engineer for operations and maintenance would visit the projects at least two or three times a year. Other headquarters staff visited as required. Project managers met on a roughly quarterly schedule, rotating between El Paso headquarters and the major project sites, interacting with headquarters staff and with each other. In the past year, most of this interaction has ceased, as the Commissioner has refused to approve most travel requests except for those from his own more recent appointments.

One result of this isolation has been to leave field personnel, in particular, with little or no information about developments in the organization. The reduction in human contact has not been compensated by any increase in written information. That too has diminished. The predictable outcome has been a proliferation of rumor and misinformed speculation about management and the future of the organization.

Recommendation 10: The U.S. Section of the International Boundary and Water Commission should institute a program of regular visits by the Commissioner and headquarters staff to its field projects and reestablish regular project manager meetings with the Commissioner. (Action: USIBWC)

SECURITY

The overall security posture of USIBWC is in need of prompt review. Responsibilities are unclear, both within and outside of the commission, and should be clarified.

Security concerns for the IBWC, before the galvanizing terrorist attacks of September 11, 2001, were limited largely to prevention of petty theft from its equipment yards and the protection of its facilities from incursion by illegal migrants and smugglers in transit. The Mexican side has long depended on its police and military for security of its border facilities. The picture on the U.S. side is remarkably unclear in the heightened security environment of the post September 11, 2001, era.

The IBWC is not a “classified” environment. It holds no U.S. government national security documents, and its personnel generally hold no security clearances. Security concerns focus on physical protection against crime and, potentially, terrorism aimed at its dams and power plants. The Department’s security arm, the Bureau of Diplomatic Security (DS), has neither taken nor been charged with responsibility for the security of USIBWC.

USIBWC itself maintains a handful of security guards, primarily at its dams. Their number and adequacy require review. The guards have no arrest powers and can do little more in the face of illegal border crossings and smuggling across and around IBWC facilities than call the U.S. Border Patrol and/or local police for intervention. The project managers praise the cooperation they get from these other agencies, but the arrangements are informal and inadequate. A Memorandum of Understanding between USIBWC and the U.S. Border Patrol would be in the interests of both agencies. It should define the extent of protection to be provided by the Patrol and the limit of its responsibilities.

Recommendation 11: The U.S. Section of the International Boundary and Water Commission, in coordination with the Bureau of Western Hemisphere Affairs and the Bureau of Diplomatic Security, should seek a Memorandum of Understanding with the U.S. Border Patrol defining the security support that the border patrol is able and willing to provide to commission field facilities. (Action: USIBWC, in coordination with WHA and DS)

DS informed OIG that security oversight for USIBWC rests with the Federal Protective Service (FPS). However, FPS does not appear to have a mandate to

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oversee security for USIBWC as a whole. It does oversee a USIBWC contract with a private security firm that provides guards at the headquarters and at the nearby American Dam facility in El Paso. In the event of an incident, a call can be placed to FPS in El Paso who will respond. Another private security firm services an alarm system in the headquarters, for which FPS appears to have no responsibility.

Efforts have been undertaken in USIBWC to draw up proposals for surveys of security needs for the headquarters building, but these have not been completed, and it has not been clear whether such surveys should be undertaken by private firms or by one or another of U.S. government agencies. FPS responsibility for USIBWC facilities beyond the headquarters is unclear to FPS, USIBWC, and OIG. DHS has involved itself with IBWC only as described below.

In 2003 a major effort was undertaken under DHS to survey security needs along the border in conjunction with Mexican authorities. The group headed by the USIBWC developed a Critical Infrastructure Protection Plan to survey security of the dams, power plants, and levees, and estimate costs for recommended improvements. The USIBWC role in producing the plan has been praised by other U.S. federal agencies.

Costs for the recommended measures on the U.S. side were submitted by USIBWC, through the Department, to the Office of Management and Budget. The Office of Management and Budget removed the request from the USIBWC budget, stating that funding should come from DHS. That agency, in turn, has rejected the proposal to fund the proposed USIBWC security work. The Department has not involved itself. There the matter appears to stand at this writing.

Clarification of the security situation is needed. All parties need to know what agencies are responsible for the overall security of IBWC on both the U.S. and Mexican sides. USIBWC does not have professionally qualified security officers able to develop and administer the extraordinary security measures called for in the current environment. A single coordinating agency for USIBWC security oversight should be designated. If FPS is the appropriate agency, all concerned should be formally notified, and FPS should be asked to determine and help implement an overall security program for USIBWC. If FPS is not the indicated agency, who is? The Department and USIBWC should make this determination. If necessary, in the absence of another authority, DS should assume oversight of USIBWC security

A full-time professional security officer may be needed at USIBWC. This determination should be made as part of the clarification of security responsibilities herein recommended. (As the inspection ended, the Commissioner directed

the recruitment of a person for such a position, to be filled if possible within the near future. It is intended that the position be combined with that of occupational health and safety officer. OIG believes, and so informed the Commissioner, that it would be advisable to complete the process recommended below, before deciding upon a new hire.)

Recommendation 12: The U.S. Section of the International Boundary and Water Commission, in coordination with the Bureau of Western Hemisphere Affairs and the Bureau of Diplomatic Security, should determine responsibility for security operations in the U.S. Section of the International Boundary and Water Commission and ensure coordinated oversight of all aspects of security including physical protection of U.S. Section International Boundary and Water Commission facilities. (Action: USIBWC, in coordination with WHA and DS)

HEALTH AND SAFETY

USIBWC is without a safety and occupational health officer, a situation that should not be allowed to persist. A regular program of visits and inspections was run in the past, which, according to project managers, was effective and appreciated. However, the program has been in suspense for two years, because the officer was called away for military reserve duty. He is not due to return to work with USIBWC until at least June 2005.

In 2004, headquarters sent a memorandum to the field posts calling upon them to conduct a form of self-inspection based upon the findings of the last review conducted by the health and safety officer. This was helpful, but no substitute for a professional inspection of the current circumstances at each project. Some of the project managers report local use of safety committees, which are of limited value in that they do not have professional qualifications and experience.

Fieldwork in USIBWC is often hazardous, as it is in any organization using heavy equipment in remote and dangerous areas. Vehicles, earth moving equipment, chain saws, heavy lifting, extreme heat, and snakes can hurt workers. Most workers in the field projects report encounters with illegal entrants and smugglers, who wield guns and threats. Rocks are thrown at workers close to the border or in the river. By great good fortune, no USIBWC worker, at least in recent years, has been seriously hurt in the field. These latter threats are as much a security as a

safety issue but can be mitigated by assigning two-person crews to work in the more dangerous areas. This is difficult to do with the overall reduction in crews at the projects in recent years.

USIBWC cannot be held responsible for the loss of its health and safety officer to military service. It should not, however, have allowed a two-year period to go by without remedial action. A contractor could have been engaged, or a temporary transfer of a health and safety specialist from another federal or state agency could have been sought to fill the gap.

Given that the health and safety officer is expected to return to USIBWC duty fairly soon, OIG does not make a formal recommendation to fill the position. If there is any extended further delay in filling the position, however, USIBWC should make arrangements to supply professional health and safety expertise to the organization. An informal recommendation to this effect has been left with USIBWC.

Environmental Health

An issue deserving of special note is the concern of USIBWC employees, past and present, serving at the American Dam site in El Paso. The site, comprising the dam itself and associated offices, equipment sheds, warehouses, and storage yards, lies immediately below the abandoned plant and grounds of a metals smelting and refining company. For over a century, this plant spewed out smoke and slag over the area, leaving toxic waste piles looming over the USIBWC facility. In connection with the recent construction of a guardhouse on the site, it was found that concentrations of waste metals and chemicals in the soil exceeded safe limits at least when disturbed by digging. USIBWC employees were offered medical testing, which did not fully clarify the situation. Elevated levels of contamination were found in some cases, which some medical opinions had held were still within safe limits, while personal doctors in some cases warned their patients to leave their employment on the site. The city of El Paso evacuated a residential area next to the site some years ago on the grounds that pollution levels were too high for safety.

OIG cannot assess the medical situation but finds the concerns of the employees to be entirely rational. It is in this area that USIBWC does not appear to have been adequately responsive. Steps should have been taken much earlier to bring in a respected independent medical authority to review the situation and to address employee concerns, if for no other reason than to protect USIBWC and the

U.S. government from potential liability. This situation has been discussed with USIBWC management, which has promised to take prompt action. On that basis, OIG is prepared to leave the matter in USIBWC hands but will recommend OIG follow-up to ensure that action has been taken.

FLEXIBLE WORK SCHEDULES

The termination of flexible work schedules by management has had a particularly counterproductive impact upon efficiency in the field.

Project managers used to have authority to set work schedules to fit the circumstances of each facility. For example: USIBWC overseers should be present during the same hours as those of contractors, if there is to be meaningful oversight. Motor pool workers at some sites used to arrive well before the work crews to service and prepare needed vehicles and equipment. The elimination of this flexibility has everyone arriving at 8:00 AM and crews left standing while their vehicles and equipment are prepared.

In many cases, work sites are distant from field bases, with workers having to travel one to two hours simply to reach the sites. If they follow current instructions and return at the designated time of 4:30 PM, they may have only four or five hours for actual work. This may require a return trip to the site to complete the necessary work. Previously, project managers could specify (four) 10-hour day schedules, when these were more efficient. This has been permitted at one or two sites but should be left to the discretion of project managers at all sites.

A particularly important benefit of flexibility was adaptation to the fierce heat of border summer. Work could start early in the morning and end by mid-afternoon, avoiding at least some of the worst of the heat and increasing the efficiency of the workers. As noted in this report's section on administration, authority for flexible work scheduling should be restored to supervisors, particularly to those managing work crews in the field.

CLEAN RIVERS PROGRAM

A major contract with the State of Texas should have been managed more attentively by USIBWC. The agency participates with the Texas Commission on Environmental Quality (TCEQ) in a program monitoring water quality along the

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Rio Grande and segments of the Pecos River. The participation of the USIBWC is essential given the international status of the river-border. In essence, Texas, USIBWC, and other federal agencies, local and state governmental entities, and nongovernmental organizations gather water quality data along the Texas river border and transmit it to a central collection point in USIBWC. Here it is compiled, analyzed, and distributed to participating agencies. The program appears to have been effective and to have met the expectations of the parties in the past.

Since 1998 a contract between the two agencies has been renewed annually. It will terminate, unless again renewed, on August 31, 2005. TCEQ obligates itself to reimburse USIBWC for the costs of running the program. In the latest amendment to the contract, in May 2004, a total budget of \$617,946 was stipulated. Any monies not expended are to be returned, not to the TCEQ, but under Texas law to the state's general treasury. They are thus lost to the TCEQ if not used.

The Clean Rivers Program (CRP) office in USIBWC was established with four staff positions: a head of the office, two technicians, and a part-time secretary. These positions originally were temporary, given the time limitations of the contract. With the understanding that the contract probably would be renewed regularly, and the need to attract and employ qualified staff, the three regular positions became permanent in USIBWC. This had the perhaps unintended effect of permitting transfers of CRP personnel to other offices within USIBWC.

The original head of the office did transfer to another USIBWC office, as did his successor. For about two years, one of the two CRP technicians has acted as head of the program, without, however, the commensurate rank or pay. The other technician left the CRP in January 2005, and the secretary left at about the same time. Thus, for two years the CRP has been without a permanent head, and since January, has been run by its one remaining technician. This sole remaining CRP member has managed to maintain the essential work of the program. TCEQ is informally aware of the situation but has chosen not to intervene, apparently awaiting USIBWC action. Given that the budget was predicated on fuller staffing and activities, it may be necessary to return a substantial unused sum to the state.

An example of the inattention of USIBWC is seen in regard to Article 5, Section 6.2, which designates the person within USIBWC who is to be the contact point for the contract. Written notice of reassignment of this duty is to be given to TCEQ. The Project Representative named in the contract vacated that position some months ago, but no formal notification has been given to TCEQ, and no formal designation of a new Project Representative has been made.

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In the course of the inspection, USIBWC undertook to correct the deficiencies identified. It has determined that the CRP should have three staff positions, and it is moving to fill them. It is consulting with TCEQ on the status of the program, and is expected to formally designate a new Project Representative. As corrective action is underway, and OIG is assured of renewed USIBWC attention to the program, no recommendation is necessary.

RESOURCE MANAGEMENT

RESOURCES

USIBWC has 243 full-time employees. The total budgetary resources for the Commission for FY 2005 are \$33.6 million for salaries and expenses, \$9.0 million for construction, and \$6,000 for representation. Commission officials believe that the current level of resources is adequate except for infrastructure maintenance. The Commissioner stated that financial savings is one of his goals. While savings were achieved through hiring freezes, staff turnover, and suspension of travel and training for most employees, those savings were offset by the creation or reinstatement of positions and the outsourcing of some functions.

POOR MANAGEMENT OVERSIGHT

As noted earlier in this report, the commission has taken a number of management missteps during the past year - and by many reports, in previous years also. The presence of a senior, qualified management officer, or chief executive officer, might have precluded many of these missteps. Over the years the duties of such a position were shuffled among the commissioners themselves, performed by one or more of the principal engineers, and even by an *ad hoc* executive board. When the current Commissioner arrived in January 2004, many of the responsibilities were being managed by a senior administrative officer. The incumbent of that position retired in July 2004 after being told that his position was being abolished.

At the time of the inspection, the finance, general services, and information management sections were reporting to the foreign affairs secretary for the commission. The secretary position was never intended to include administrative responsibilities. The present situation should not have been allowed to develop. To make matters worse, the incumbent does not have an accounting or financial management background.

In another anomaly, the budget and contracting offices are reporting to the senior budget officer, in contravention of generally accepted practices regarding separation of duties (as discussed under Management Controls). The human resources management staff reports to the director of human resources. All three of these supervisors report directly to the Commissioner, rather than to a management/executive officer, adding greatly to the Commissioner's already impossible span of control and straining his ability to manage any one function effectively.

USIBWC should have one individual devoting full attention to overall management of USIBWC resources, with expert knowledge of administrative practices and procedures. USIBWC agrees and is in the process of preparing a position description for a chief executive officer to be filled competitively. The 1944 Treaty specified five key positions for the section, but did not further address the management of the organization. There is no need to amend the treaty, but a sixth key position related to administration is long overdue.

Recommendation 13: The U.S. Section of the International Boundary and Water Commission should combine all administrative activities into one office under a qualified administrative officer/chief executive officer position and fill the position through competitive procedures. (Action: USIBWC)

HUMAN RESOURCES MANAGEMENT

Office of Personnel Management Assessments

OPM conducted a series of on-site evaluations of small agencies in FY 2002, including USIBWC, to determine how well their human resources management (HRM) programs promoted mission accomplishment within the merit system principles contained in 5 USC 2301(b).⁸ In February 2003, OPM issued its report on USIBWC, which commended the commission on its HRM program, noting that the OPM review team was impressed by the commitment of USIBWC's human resources staff to providing the best possible service to management and employees.

⁸The merit system principles include recruitment via fair and open competition; equitable treatment of all employees; appropriate incentives and recognition for excellent performance; high standards of integrity; efficient and effective use of the workforce; retention on the basis of adequate performance, with opportunity to correct inadequate performance; provision of education and training for employees; protection against arbitrary action or personal favoritism; and protection against reprisal for lawful disclosure of information regarding mismanagement, waste of funds, abuse of authority, or danger to public health or safety.

In May 2003, in a letter approving USIBWC's request for a personnel interchange agreement, OPM stated that its approval was based on "significant positive aspects of the commission's human resources program." In granting its approval, OPM relied on the February 2003 report and a review of USIBWC's human resources-related regulations and directives. As a further indication of its confidence in the commission's HRM program, the interchange agreement was approved by OPM for a three-year period, vice the customary one-year period.

In contrast to these positive findings by OPM, some of the most controversial issues encountered during OIG's inspection were in the area of human resources management, including hiring, termination, and transfer of employees, performance ratings, training and employee development, and hours of duty. On paper, there have been no changes in the basic HRM program, policies, or directives. Under the current Commissioner, however, adherence to the existing policies and directives has been seriously lacking.

Excepted Service vs. Competitive Service

Perhaps the HRM issue of greatest concern to employees throughout USIBWC was a finding in OPM's February 2003 report that the commission, because it was established by various treaties and conventions, is not covered by the statutory provisions of Title 5 of the U.S. Code. The result of this finding was that all USIBWC employees were retroactively converted from competitive, career-conditional or career status to excepted service in October 2003. OPM noted in its report that this corrective change would have no impact on employee entitlement to retirement and other employee benefits. Although this reassurance was passed on to employees at the time of the conversion, it was done on an *ad hoc* basis without a comprehensive or uniform explanation of the reasons for the conversion and its impact on other employee rights and protections, including job security. This lack of information, and subsequent actions by the Commissioner following his appointment in January 2004, has led to widespread confusion and uncertainty on the part of the employees and is a major contributor to the low morale that exists at USIBWC.

Recommendation 14: The U.S. Section of the International Boundary and Water Commission should update its 1999 Employee Information Guide to reflect the conversion of all employees to the excepted service. (Action: USIBWC)

Recommendation 15: The U.S. Section of the International Boundary and Water Commission should conduct orientation sessions on the excepted service for all headquarters and field office employees, and request that the Office of Personnel Management provide a knowledgeable subject matter expert to assist with the sessions. (Action: USIBWC)

Performance Management

Another major morale issue at USIBWC was the Commissioner's decision to sharply restrict the number of employees who could be rated above "Fully Successful" on their performance evaluations for the appraisal period that ended on June 30, 2004. The fact that this decision was made at the end of the rating period, when many employees had already been rated "Excellent" or "Outstanding" by their supervisors, compounded the problem. Although the written evaluations had not yet been distributed to these employees, periodic reviews and counseling sessions held throughout the rating period had assured them that their performance was above fully successful.

According to the Commissioner, performance ratings at USIBWC were overly generous in past years and needed to be adjusted. A comparison of USIBWC's rating statistics for the past few years with government-wide rating statistics does not support this argument. In 2002, for example, 20.1 percent of USIBWC employees were rated "Fully Successful." According to OPM's Central Personnel Data File for 2001, the most recent year for which statistics are available, only 16.3 percent of employees government-wide were rated "Fully Successful." In 2003, USIBWC's rate climbed to 23.5 percent. Under the Commissioner's new guidelines for 2004, the percentage of "Fully Successful" ratings at USIBWC jumped sharply to 88.3 percent. Although the Commissioner believes that setting such strict limits is a good incentive for employees to perform better, almost every employee that OIG interviewed during the inspection stated that the new restrictions were actually a disincentive.

For the current rating cycle, the Commissioner was planning to transition USIBWC from a four-tier rating system to a two-tier system, with employee performance being rated either "Acceptable" or "Unacceptable." While it appears to be within the commission's authority to establish such an appraisal system, much of the government is now moving away from "Pass/Fail" systems. In an August 15, 2003, interview with Government Executive Magazine, the head of Government Accountability Office urged agencies to set up performance evaluation systems

that make meaningful distinctions between top, good, mediocre, and poor performance. Moreover, OPM advises agencies that when an agency is midway through the rating period, as USIBWC is, and the new appraisal program has fewer summary ratings than the old, “it may be advisable to delay implementing the new program until the next appraisal period.”⁹ At the conclusion of the inspection, however, the Commissioner announced that he was canceling the proposed move to a two-tier system and retaining the four-tier rating system for USIBWC employees.

Training and Employee Development

In March 2004, the Commissioner directed that all training requests for USIBWC employees be approved by him and indicated that only mandatory (legally required) training would be approved. According to the Commissioner, this was to be a temporary restriction, pending the development of an agency-wide training plan. A year later, the restriction is still in place, and there is no record that the Commissioner formally requested a training plan. While some offices have developed plans for their immediate staff, they have received no feedback or approval from the Commissioner or other executive staff.

The use of education and training to enhance organizational and individual performance is one of the merit system principles that apply to all government agencies (5 USC § 2301(b)(7)). Employee training and development is particularly important in an agency such as USIBWC where a significant number (almost 40 percent) of its employees are eligible for retirement in the next five years and where many of the jobs require specialized skills. The current restriction on training is affecting employees’ ability to maintain the knowledge and skills required to do their jobs, and managers’ ability to develop employees to take on higher levels of responsibility or move into other areas of specialization.

Recommendation 16: The U.S. Section of the International Boundary and Water Commission should formally request training plans from all divisions and field offices, promptly review and approve the plans, and return authority to approve training to supervisors and managers. (Action: USIBWC)

⁹“Appraisal System/Program Transitions” from OPM’s web site.

Hours of Duty/Alternative Work Schedules

Effective September 5, 2004, the Commissioner cancelled USIBWC's policy regarding alternative work schedules and required all employees in headquarters and most field offices to adhere to an 8:00 to 5:00 schedule. This change was presented as a temporary, three-month measure to better evaluate the resources of the agency. At the end of the three-month period, employees were informed that the new hours would remain in effect indefinitely.

Although the Commissioner has the authority to disallow alternative work schedules, the use of such schedules is encouraged by OPM as an important employee recruitment, retention, and morale tool. Except for a limited number of positions, there is no advantage to USIBWC in adhering to a rigid schedule. In fact, the lack of flexibility in setting alternative hours is counterproductive in some cases, particularly in the field offices (see Policy and Program Implementation). The loss of flexibility has been a major morale problem for commission employees, many of whom have scrambled to make alternative arrangements for childcare, medical appointments, and other personal and family needs.

On March 2, 2005, as the inspection was ending, the Commissioner issued a notice authorizing supervisors to allow flexi-tour work schedules in their work units - a laudable step in the right direction. The Commissioner should consider allowing other alternative work schedules, such as compressed workweeks, for employees whose duties do not preclude such arrangements.

TROUBLING PERSONNEL ACTIONS

As discussed above, OPM indicated during a 2002 review of the commission's HRM program that USIBWC is not covered by certain statutory provisions of Title 5 of the U.S. Code. While excepted service status is intended to grant agencies some latitude in conducting their HRM programs, it does not exempt them from adhering to the merit system principles in 5 USC § 2301, nor does it exempt them from following their own established HRM policies and procedures.

In a 1998 study on "HRM Policies and Practices in Title-5 Exempt Agencies," which reviewed HRM practices in 18 exempt agencies (including the Department of State), OPM found few differences from nonexempt agencies in the exempt agencies' recruitment, hiring, and promotion practices. Most exempt agencies have developed HRM policies and practices that mirror Title 5 requirements. This is

also true at USIBWC, based on a review of its HRM-related policies and directives. In fact, this adherence to merit system principles and Title 5 guidelines was a major factor in the commission's successful bid to establish a personnel interchange agreement with OPM in 2003.¹⁰

A review of personnel actions taken during the past year, however, indicate that USIBWC is failing to adhere in many cases to its own policies or to good management practices regarding recruitment, hiring, and promotions. Some examples are provided below.

Consultant Appointments

On March 21, 2004, the Commissioner hired a part-time consultant for a period not to exceed one year at an annual salary rate of \$113, 674 (equivalent to a GS-15, step 10, the highest rate allowed for consultant appointments). The SF-52 personnel action states that this was a superior qualifications appointment made under regulation 531.203(b). Under this regulation, an agency must document the superior qualifications of the appointee and the factors used in establishing the pay rate. The file does not contain any of this supporting documentation. The consultant's application states that his highest level of completed education is a high school degree, although he did take some college-level courses. He was previously employed as a consultant, organizing and monitoring meetings between business and local government entities, earning an annual salary of \$26,000. The consultant's appointment was terminated on September 4, 2004, with a total of 480 hours billed to the commission. There is no position description in the file to indicate what his duties were.

On May 17, 2004, the Commissioner hired another consultant as a full-time employee, with an annual salary of \$113, 674 and full government benefits (including eight hours of annual leave per pay period and enrollment in the federal Employee Health Benefits program). Prior to this appointment, the consultant worked with the Commissioner at the Lower Valley Water District at an annual salary rate of \$43,000. A position description for this position was not developed until after November 2004, six months after the incumbent's appointment.

¹⁰ The personnel interchange agreement allows USIBWC employees to move between the Commission's excepted service positions and other agencies' competitive service positions on a noncompetitive basis. Before approving the agreement for the commission, OPM first ensured that its system was comparable to competitive service agencies and that the agreement would be in the interest of good administration and consistent with the intent of the civil service and other applicable laws.

Although the consultant has an engineering degree from a Mexican university, he is not licensed as an engineer in the United States. As the inspection was ending, the Commissioner informed OIG that he was terminating this consultant's appointment effective April 1, 2005.

A third consultant appointment, a part-time, one-year appointment, was made on June 4, 2004, again at an annual salary rate of \$113,674. As in the cases above, there is no documentation in the file of this individual's superior qualifications, justification for the high salary, the need for his services, or a position description. Prior to his appointment at USIBWC, the consultant was employed by the U.S. Postal Service at an annual rate of \$31,000, supplemented by a teaching salary of \$3,000 per course.

New Hires

On January 26, 2004, shortly after he arrived at USIBWC, the Commissioner announced a freeze on hiring actions until further notice, while retaining the authority to grant exceptions to the freeze as necessary. At the time of the inspection, the freeze was still in place.

The Commissioner made several exceptions to the freeze to fill some urgent field office positions and positions on his executive staff. While it appears that it was within his authority to make these exceptions, the decision to add to the executive staff while other positions went unfilled was viewed as a double standard by most of the rank-and-file employees of the commission. In addition, the Official Personnel Files indicate that some of the selections for the executive staff positions were not done in accordance with established USIBWC policies and procedures. For example, there is no position description for the Schedule C Special Assistant, who was hired on July 1, 2004, at a GG-13, step 10, salary level (\$90,602). According to documents in the file, as of June 30, 2004 this employee was being paid an annual salary of \$41,200 by the U.S. House of Representatives.

Another employee was hired on July 19, 2004, as a GG-11 Support Services Supervisor at an annual salary rate of \$48,947. Although this position was initially advertised as a competitive job opportunity, competitive procedures were not followed, and the employee was selected by the Commissioner as a noncompetitive hire. The employee was previously employed at the Lower Valley Water District at an annual salary of \$36,000.

At the conclusion of the inspection, the Commissioner was planning to fill approximately 24 vacant and new positions, ranging in grade from GG-3 to senior executive service equivalent. As noted elsewhere in this report, understaffing in some areas of USIBWC is affecting operations. However, the commission should prepare a comprehensive hiring plan before creating new positions or filling long-vacant positions to ensure effective and efficient management of its operations.

Recommendation 17: The U.S. Section of the International Boundary and Water Commission should prepare a hiring plan before creating new positions or filling long-vacant positions. (Action: USIBWC)

Promotions

On October 6, 2002, USIBWC hired a Schedule A attorney-adviser, under competitive procedures, at a GG-11 salary level with promotion potential to GG-13. After meeting the one-year time-in-grade, the employee was promoted to GG-12. Less than seven months later, on June 13, 2004, the Commissioner promoted the employee to GG-13. Four months after that, on October 17, 2004, the employee was promoted again by the Commissioner to GG-14. There is no documentation in the Official Personnel Files justifying these last two promotions.

On July 11, 2004, USIBWC hired a second Schedule A attorney-adviser at the GG-13 level. Six weeks later, on August 22, 2004, the Commissioner promoted the employee to GG-14. Again, there is no documentation to indicate the reasons for this rapid promotion.

LABOR - MANAGEMENT RELATIONS

The American Federation of Government Employees is the recognized bargaining agent for the employees of USIBWC. The agreement between USIBWC and the federation dates from October 1990. Article IV, Section 1, states that the "...Employer is obligated to meet and confer ... (on) such matters as safety, training, labor management cooperation, employee services, methods of adjusting grievances and appeals, granting of leave ... and hours of work." Managers and union representatives are aware of the agreement and its requirements, although it is not clear that effective consultations have taken place. Some employees told

OIG that they feared management retaliation if they became involved in union activism. Fear of such retaliation is not new at USIBWC and may help explain the small number of union members.

EQUAL EMPLOYMENT OPPORTUNITY

USIBWC has an experienced Equal Employment Opportunity (EEO) specialist and a cadre of trained EEO counselors. The Commissioner issued an updated directive on the EEO program on January 14, 2005, including a policy statement reaffirming the agency's commitment to Title VII of the Civil Rights Act of 1964, as amended. According to her position description, the EEO specialist reports directly to the Commissioner. However, the Commissioner has not met with the incumbent to discuss the EEO program or his expectations concerning management of the program since his appointment in January 2004. In addition, the Commissioner's agency-wide restriction on spending has limited the activities of the EEO office, such as bringing in speakers during Black History Month to address all interested employees. Previous commissioners met with the EEO specialist on a quarterly basis to keep informed on developments and discuss proposed EEO-related activities. The inspectors made an informal recommendation that the present Commissioner meet with the EEO specialist periodically, regardless of who is the designated supervisor.

ADMINISTRATIVE OPERATIONS

Administrative operations at USIBWC are currently in flux due to sweeping changes the new Commissioner has made, including reorganizing the USIBWC and concentrating oversight of most administrative functions in his front office staff. There has also been staff turnover with the elimination of middle managers, many of whom were long-term commission employees. While front office micromanagement has hindered operations, the administrative staff continues to serve the needs of the agency. The administrative staff is doing its best to be responsible to its front office while complying with laws and regulations. Customers are generally satisfied with the administrative support they receive, although a somewhat unfair perception exists that the administrative section serves only USIBWC management. Notwithstanding its inability to conduct a thorough review of all administrative operations, OIG found significant weaknesses in administrative operations needing attention, as described below.

PROCUREMENT AND CONTRACTING

The procurement and contracting office staff - well trained and knowledgeable about federal contracting policy - generally performs well. Unfortunately, OIG's review of contracts and procurement operations found significant weaknesses with the contract awards and monitoring processes, including two that are particularly troubling.

In April 2004, USIBWC awarded a sole source contract for legislative consulting, with a total dollar amount of over \$150,000. The justification for sole sourcing cites an "urgent and compelling" need - a weak justification because the Congress has always been available to past Commissioners who have sought appointments.

On another recent contract award, an indefinite-delivery, indefinite-quantity contract for architectural and engineering services, with a task order dollar limit of \$5 million, the Commissioner overturned the decision of the proposal evaluation board that reviewed and ranked the competitive bids, selecting the company the board ranked second. The justification letter signed by the Commissioner to select the second-ranked bidder is not persuasive in contrast to the recommendations of the board. Moreover, USIBWC hired as an engineer for one of the two principal engineer positions an individual who worked for the company selected by the Commissioner, two days after the winning contractor was informed of its selection. An audit may be required to determine whether USIBWC adhered to federal contracting laws.

A review of several of the monthly reports for the legislative consulting contract raised questions as to whether the contractor actually met the terms of the contract. The reports include lists of congressional hearings and sessions that are available on the Internet; copies of articles from newspapers and other publications; and other material from the Internet. It would be more cost effective to have someone on the staff performing this function. In addition to a GG-15 foreign affairs officer at the Department of State who maintains contacts with congressional offices, there is a GG-13 public affairs specialist at USIBWC headquarters, and the Commissioner has a GG-13 special assistant with extensive legislative experience. USIBWC insists, however, that it is satisfied with the contractor's work, and is in the solicitation stage for a new legislative consulting contract, this time with full and open competition.

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There are other contract monitoring issues concerning work being performed at two field offices. Because the Commissioner restricted USIBWC employees from working flexible hours and overtime, the designated construction inspectors are unable to inspect the contractors' work outside of the designated USIBWC official duty hours when much of the work is taking place. At least one of the contracts stipulates that the contractor will be charged for the inspector's overtime, which makes the restriction on overtime even more questionable. During the inspection this situation had not been resolved. An audit of USIBWC's contracting procedures to include these specific contracts is warranted due to the number and nature of the concerns.

Another procurement weakness at USIBWC is the current policy on purchases, instituted by the Commissioner, wherein the Commissioner has final approval of all contracts over \$5,000 and purchases over \$1,000. He also limited credit card purchases to \$2,500 per month at the field offices. These actions not only hamper employees in performing their day-to-day work but also reflect a lack of trust in the judgment of experienced employees. The Commissioner said he implemented the policy upon his arrival because he believed there was abuse. However, there are no indications that abuse is or was taking place, and limiting credit card purchases to \$2,500 per month and scrutinizing all purchase requests over \$1,000 are not compatible with the concept of simplified acquisitions as encouraged by procurement laws.

The new procedures have slowed down the procurement process, hindered operations, and reduced productivity and efficiencies in USIBWC operations. Several of the field offices reported running out of fuel due to restricted spending limits, seriously hampering their ability to carry out their work. At one location, employees could not perform work in the field for 10 days due to the lack of fuel. At other locations employees were siphoning fuel from one vehicle to another to get the job done. These actions make USIBWC vulnerable to unauthorized commitments and are a counterproductive way of doing business.

Recommendation 18: The U.S. Section of the International Boundary and Water Commission should develop and implement procedures to follow prescribed federal procurement practices for simplified acquisitions. (Action: USIBWC)

FINANCIAL MANAGEMENT

The experienced budget and finance staff perform their duties adequately, although time pressures permitted only a limited review of transactions and vouchers. Finance and accounting operations for USIBWC are overseen by the commission's foreign affairs secretary. The position needs full-time attention and specialized financial expertise. Accountability could be an issue as a result of combining the budget office and procurement section. While specific problems directly related to the combination of these sections were not found, it is an inappropriate separation of duties, and the commission should restructure the administrative office to combine all financial operations under one qualified manager while segregating the budget formulation and execution functions. Both of these issues are discussed in the management controls section of this report.

Travel

A review of travel vouchers submitted by the Commissioner for FYs 2004 and 2005 showed several instances where he received actual expenses to stay at hotels where the government rate was not available. On trips to Washington, DC in August and September, the Commissioner stayed at the Willard Hotel at a nightly rate of \$285 and the Marriott at a nightly rate of \$279, even though the government per diem rate for lodging was \$150 for Washington, DC. Although the Commissioner certified that no government rate was available, hotel availability in Washington, DC in those months is normally plentiful. The Commissioner should have stayed in hotels at the government per diem rate or paid the difference out-of-pocket.

Recommendation 19: The U.S. Section of the International Boundary and Water Commission should audit the Commissioner's travel vouchers, verifying the nonavailability of lodging at government rates in cases where actual expenses are claimed, and bill the Commissioner for any overcharges, if warranted. (Action: USIBWC)

Recommendation 20: The U.S. Section of the International Boundary and Water Commission should review its travel policy to ensure compliance with federal regulations and distribute it to all employees. (Action: USIBWC)

Representation

For the past two fiscal years, USIBWC has received a representation allotment of \$6,000. At the time of the inspection, only a small percentage of the 2005 representation allotment had been used. However, in FY 2004, the majority of the allotment, almost \$5,000, was used for the Commissioner's swearing-in ceremony. There were 116 guests on the guest list, including about 43 USIBWC employees, and the expense amounted to about 85 percent of the commission's representation allotment. While a reception to meet a new Commissioner is justifiable, the cost was excessive for one event. More seriously, funds in the amount of \$1,276.19 from the salaries and expenses allotment were used to pay for the airfare and lodging of two out-of-town guests to attend the swearing in ceremony. This does not comply with 31 USC § 1345 and is an improper use of government funds. At the end of the inspection, the Commissioner expressed surprise that salaries and expenses funds had been used inappropriately and promised prompt reimbursement. Before issuance of this report, the Commissioner refunded the full amount in question to USIBWC.

MANAGEMENT CONTROLS

USIBWC appears to meet the basic requirements of a management controls program. In a memorandum dated July 16, 2004, the Commissioner provided the required management controls assurance statement to the Secretary of State for the period ending June 30, 2004. USIBWC also conducted a risk assessment and developed a management controls plan for the year. In addition, a review of position descriptions for employees with internal controls responsibilities specified those responsibilities. USIBWC's prescribed management controls program is laid out fully in its accountability and controls directive (dated May 8, 2002). However, it does not appear that USIBWC is adhering to that program. OIG found several management control weaknesses as described below. OIG also made informal recommendations addressing other management controls issues.

INTERNAL AUDITOR

While USIBWC has a directive in place for internal audits and an internal auditor on the staff, the internal auditor reports to the legal adviser rather than to the Commissioner. In addition, the internal auditor serves as the internal controls administrator for USIBWC, which conflicts with his internal auditor duties and does not comply with the USIBWC accountability and controls directive. Because the internal auditor has additional responsibilities, including Privacy Act officer, Freedom of Information Act officer, tort claims administrator, and EEO counselor, he has not had the time required to carry out his internal audit duties as needed. For example, the commission has not fully addressed the recommendations of the 2003 independent financial audit even though the 2004 audit is in process.

Recommendation 21: The U.S. Section of the International Boundary and Water Commission should designate a qualified employee other than the internal auditor to serve as the internal controls administrator for the commission. (Action: USIBWC)

AUDIT FOLLOW-UP

OIG reviewed the status of the two major findings in the FY 2003 independent audit report. The first finding was that USIBWC did not maintain an accurate general ledger in accordance with federal accounting and systems requirements. USIBWC believes that this issue has been resolved and provided OIG support for its position. The second finding was that USIBWC was not in compliance with the Clean Water Act in operation of wastewater treatment plants. USIBWC provided OIG with a draft document to show that some effort has been made regarding the second audit finding. As part of the 2004 financial statement audit, which was not complete at the time this inspection report was drafted, the independent auditor will assess whether both of these findings have been closed.

ADMINISTRATIVE OPERATIONS

As discussed in the Resource Management section of this report, the absence of a chief executive officer for USIBWC has resulted in weak oversight of administrative operations, with the foreign affairs secretary overseeing some administrative functions on a part-time basis, and another officer supervising two functions - budget and contracting - that should be under separate oversight. Although the USIBWC legal office reviewed this latter action prior to its implementation, and the supervisor has exercised due care to ensure that she did not serve as the designated certifying officer or in a position to authorize purchases, the present setup is not in keeping with government guidelines on separation of duties. In addition, this supervisor serves as contracting officer's representative on one contract, apparently because at the time of the contract award there was no one else in USIBWC qualified to monitor the contract.

Recommendation 22: The U.S. Section of the International Boundary and Water Commission should separate responsibility for its budgeting and contracting functions. (Action: USIBWC)

GENERAL SERVICES AND INFORMATION MANAGEMENT

Time did not permit a full review of USIBWC's general services or information management operations. However, weaknesses with inventory controls have been

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identified by the independent auditor, and other sources, over the past several years. USIBWC is working to improve its inventory control process, and the information management staff is working on a new automated inventory system that will include field office inventory and processes such as fuel accounting and maintenance of vehicles. The computer excess program was suspended by the Commissioner, and OIG informally recommended that USIBWC update its standard operating procedures for property management, including disposal procedures.

In September 2004, a series of anonymous letters composed on USIBWC letterhead were sent to the Department, other public officials, and the media containing allegations against the Commissioner. After the letter was made public, the Commissioner ordered all except his personal staff to stop using USIBWC letterhead for any purpose, and all existing stock was turned in to his office. The letterhead was revised and since that time its use has been closely controlled. This is unnecessary, inefficient, and compounds the current atmosphere of mistrust. OIG made an informal recommendation that adequate supplies of letterhead be distributed to all offices for official use.

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FORMAL RECOMMENDATIONS

Recommendation 1: The Bureau of Western Hemisphere Affairs, in coordination with the Bureau of Human Resources and the Office of the Legal Adviser, should develop and implement a plan to ensure effective oversight of the personnel structure of the U.S. Section of the International Boundary and Water Commission and its adherence to applicable laws and regulations governing personnel administration. (Action: WHA, in coordination with DGHR and L)

Recommendation 2: The Bureau of Western Hemisphere Affairs, in coordination with the Bureau of Legislative Affairs, should request that the position of Commissioner, U.S. Section of the International Boundary and Water Commission, be made subject to the advice and consent of the Senate. (Action: WHA, in coordination with H)

Recommendation 3: The Bureau of Western Hemisphere Affairs should incorporate the role of the U.S. Section of the International Boundary and Water Commission into the Bureau Performance Plan. (Action: WHA)

Recommendation 4: The U.S. Section of the International Boundary and Water Commission, in coordination with the Bureau of Western Hemisphere Affairs, should define qualification and performance standards for appointments to the position of secretary/foreign affairs officer in the commission. (Action: USIBWC, in coordination with WHA)

Recommendation 5: The Bureau of Western Hemisphere Affairs, in coordination with the Foreign Service Institute and the U.S. Section of the International Boundary and Water Commission, should arrange for the secretary/foreign affairs officer of the U.S. Section of the International Boundary and Water Commission to attend a basic Foreign Service officer training course or other appropriate course that would provide familiarization with the Department and with diplomatic practice. (Action: WHA, in coordination with FSI and USIBWC)

Recommendation 6: The U.S. Section of the International Boundary and Water Commission should reestablish the position of language specialist in the foreign affairs office. (Action: USIBWC)

Recommendation 7: The Bureau of Western Hemisphere Affairs, in coordination with the U.S. Section of the International Boundary and Water Commission, should develop standard operating procedures governing the sharing of foreign affairs material, including communications from the Mexican Section and records of meetings and consultations with the Mexican Section. (WHA, in coordination with USIBWC)

Recommendation 8: The Bureau of Western Hemisphere Affairs, in coordination with the Bureau of Human Resources, should designate the positions of Commissioner and secretary/foreign affairs officer in the U.S. Section of the International Boundary and Water Commission as requiring SECRET national security clearances, and arrange such clearances for the current incumbents. (Action: WHA, in coordination with DGHR)

Recommendation 9: The U.S. Section of the International Boundary and Water Commission should restore normal, historic authorities to its supervisors and project managers to permit them to carry out their assigned missions. (Action: USIBWC)

Recommendation 10: The U.S. Section of the International Boundary and Water Commission should institute a program of regular visits by the Commissioner and headquarters staff to its field projects and reestablish regular project manager meetings with the Commissioner. (Action: USIBWC)

Recommendation 11: The U.S. Section of the International Boundary and Water Commission, in coordination with the Bureau of Western Hemisphere Affairs and the Bureau of Diplomatic Security, should seek a Memorandum of Understanding with the U.S. Border Patrol defining the security support that the border patrol is able and willing to provide to commission field facilities. (Action: USIBWC, in coordination with WHA and DS)

Recommendation 12: The U.S. Section of the International Boundary and Water Commission, in coordination with the Bureau of Western Hemisphere Affairs and the Bureau of Diplomatic Security, should determine responsibility for security operations in the U.S. Section of the International Boundary and Water Commission and ensure coordinated oversight of all aspects of security including physical protection of U.S. Section International Boundary and Water Commission facilities. (Action: USIBWC, in coordination with WHA and DS)

Recommendation 13: The U.S. Section of the International Boundary and Water Commission should combine all administrative activities into one office under a qualified administrative officer/chief executive officer position and fill the position through competitive procedures. (Action: USIBWC)

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Recommendation 14: The U.S. Section of the International Boundary and Water Commission should update its 1999 Employee Information Guide to reflect the conversion of all employees to the excepted service. (Action: USIBWC)

Recommendation 15: The U.S. Section of the International Boundary and Water Commission should conduct orientation sessions on the excepted service for all headquarters and field office employees, and request that the Office of Personnel Management provide a knowledgeable subject matter expert to assist with the sessions. (Action: USIBWC)

Recommendation 16: The U.S. Section of the International Boundary and Water Commission should formally request training plans from all divisions and field offices, promptly review and approve the plans, and return authority to approve training to supervisors and managers. (Action: USIBWC)

Recommendation 17: The U.S. Section of the International Boundary and Water Commission should prepare a hiring plan before creating new positions or filling long-vacant positions. (Action: USIBWC)

Recommendation 18: The U.S. Section of the International Boundary and Water Commission should develop and implement procedures to follow prescribed federal procurement practices for simplified acquisitions. (Action: USIBWC)

Recommendation 19: The U.S. Section of the International Boundary and Water Commission should audit the Commissioner's travel vouchers, verifying the nonavailability of lodging at government rates in cases where actual expenses are claimed, and bill the Commissioner for any overcharges, if warranted. (Action: USIBWC)

Recommendation 20: The U.S. Section of the International Boundary and Water Commission should review its travel policy to ensure compliance with federal regulations and distribute it to all employees. (Action: USIBWC)

Recommendation 21: The U.S. Section of the International Boundary and Water Commission should designate a qualified employee other than the internal auditor to serve as the internal controls administrator for the commission. (Action: USIBWC)

Recommendation 22: The U.S. Section of the International Boundary and Water Commission should separate responsibility for its budgeting and contracting functions. (Action: USIBWC)

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INFORMAL RECOMMENDATIONS

Informal recommendations cover operational matters not requiring action by organizations outside the inspected unit and/or the parent regional bureau. Informal recommendations will not be subject to the OIG compliance process. However, any subsequent OIG inspection or on-site compliance review will assess the mission's progress in implementing the informal recommendations.

Health and Safety

USIBWC's professional occupational health and safety officer, absent on military reserve duty for almost two years, is not scheduled to return from duty until June 2005. Meanwhile there is no qualified substitute available in USIBWC.

Informal Recommendation 1: The U.S. Section of the International Boundary and Water Commission should hire a professionally qualified occupational health and safety officer on a temporary basis if the absence of the regular incumbent of that position extends beyond June 2005.

Procurement and Contracting

USIBWC currently does not have a designated head of contracting, which does not comply with USIBWC's procurement and contracting directive.

Informal Recommendation 2: The U.S. Section of the International Boundary and Water Commission should designate a qualified official as head of contracting in accordance with the commission's procurement and contracting directive.

Certifying Officer

While USIBWC's finance office employees sign documents in the finance office as certifying officers, some of these employees have not been officially designated. Treasury and Government Accountability Office guidelines require that certifying officers be officially designated.

Informal Recommendation 3: The U.S. Section of the International Boundary and Water Commission should designate authorized certifying officers in accordance with Treasury and Government Accountability Office guidelines. Their selection should also be in accordance with Treasury and Government Accountability Office directives concerning knowledge, experience, and qualifications.

Financial System

USIBWC's financial system is not user friendly in that the system lacks a quick and efficient query capability for budget data.

Informal Recommendation 4: The U.S. Section of the International Boundary and Water Commission should revise the current financial system to improve query capability to make the system more efficient and user friendly.

Property Management

USIBWC's property management guidelines are outdated. Also, the computer excess program has been suspended.

Informal Recommendation 5: The U.S. Section of the International Boundary and Water Commission should review and update as necessary its standard operating procedures for property management, including disposal procedures, in accordance with federal property regulations.

Equal Employment Opportunity Office

The Commissioner has not met with the EEO specialist to discuss the EEO program or his expectations concerning management of the program since his appointment in January 2004. Previous commissioners met with the EEO specialist on a quarterly basis to keep informed on developments and discuss proposed EEO-related activities.

Informal Recommendation 6: The Commissioner should meet with the Equal Employment Opportunity Specialist periodically to discuss the Equal Employment Opportunity program and any issues that need to be resolved.

U.S. Section of the International Boundary and Water Letterhead

In September 2004, the Commissioner directed that all USIBWC letterhead be tightly and centrally controlled, and offices were required to turn in their existing stock.

Informal Recommendation 7: The U.S. Section of the International Boundary and Water Commission should distribute official letterhead to all offices for use on official commission business.

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PRINCIPAL OFFICIALS

	Name	Entered on Duty at IBWC
Commissioner	Arturo Q. Duran	01/04
Legal Advisers	Susan Daniel	10/02
	Richard Porras	05/04
Supervisory General Engineer	Bernardino Olague	08/04
Supervisory General Engineer	Carlos Marin	08/79
Secretary	Carlos Rivera	07/04
Director of Human Resources	Robert Komp	09/94
Budget and Acquisitions	Diana Forti	04/02
Public Affairs Officer	Sally Spener	06/01
Department of State Liaison	Mary Brandt	01/00
Field Offices:		
Mercedes, TX	Enrique Reyes	03/85
Falcon Dam, TX	Silverio Garza, Jr.	08/87
Amistad Dam, TX	Kenneth Breiten	01/86
American Dam, TX	Antonio Solo	11/90
San Ysidro, CA	Dion McMicheaux	09/87
Nogales, AZ	John Light	10/98
Yuma, AZ	Alton Goff	04/70

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ABBREVIATIONS

CRP	Clean Rivers Program
Department	Department of State
DGHR	Bureau of Human Resources
DHS	Department of Homeland Security
DS	Bureau of Diplomatic Security
EEO	Equal Employment Opportunity
FPS	Federal Protective Service
HRM	Human resource management
IBWC	International Boundary and Water Commission
OIG	Office of Inspector General
OPM	Office of Personnel Management
TCEQ	Texas Commission on Environmental Quality
USIBWC	U.S. Section, International Boundary and Water Commission
WHA/MEX	Office of Mexican Affairs, Bureau of Western Hemisphere Affairs

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