



BUDGET EXECUTION IN THE UNITED STATES MARSHALS SERVICE DURING FISCAL YEARS 2002 AND 2003

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EXECUTIVE SUMMARY

The Office of the Inspector General has completed this audit of the budget execution process in the United States Marshals Service (USMS) for fiscal year (FY) 2002 and FY 2003. The primary purpose of the audit was to determine whether the USMS executed its appropriated budgets for FY 2002 and FY 2003 in accordance with Congressional intent. In addition, during our review we identified a number of budget execution and appropriations-related issues that we discuss in this audit, including the age of the USMS fleet of vehicles.

Among other duties, the USMS provides security for federal court facilities; provides secure confinement, transportation, and production of prisoners for judicial proceedings; apprehends fugitives; and ensures the long-term safety of protected government witnesses. The current Director and Deputy Director of the USMS have been in office since 2001. The USMS's operations extend across 94 judicial districts and a Headquarters office in Arlington, Virginia.

In FY 2002, the USMS received approximately \$1.5 billion in Congressional appropriations. In FY 2003, the USMS received approximately \$879 million in Congressional appropriations. The significant decrease from FY 2002 to FY 2003 is due to the transfer of funds for detention services from the USMS to the Office of the Federal Detention Trustee.

The USMS budget formulation process normally begins 18 months prior to the start of each fiscal year. Officials from the USMS's Management and Budget Division (MBD) stated that their office begins examining the language included in the House and Senate budget bills even before the final appropriations are enacted. Throughout the bills' progress, MBD staff examines the language as it changes to try to determine approximately how much funding the USMS may receive, what Congress intends for the use of the funds, and which USMS programs will receive increases or decreases. Once the funds are appropriated, MBD staff said they examine the law and the conference report side-by-side in an effort to identify the Congressional intent of the appropriation, including whether new positions are associated with the funding.

Beginning in FY 2002, the USMS began centralizing certain spending and budget authority at the USMS Headquarters. For example, until

FY 2002, the MBD operated on the assumption of a base budget adjusted annually to reflect increases. However, for FY 2002 only, the USMS implemented “zero-based budgeting” under which a new base amount was calculated for each decision unit and program area. With the base amount calculated, MBD officials stated that they provide each cost center, including the 94 districts, with an initial allocation amount. Each cost center must then create a work plan that details the amount of money the cost center plans to spend during each quarter of the fiscal year. That work plan is sent to the MBD for review and approval. The work plan does not include salary and benefits, because these funds are held and disbursed centrally by the MBD.

In addition, districts previously could realign funds between project codes or object classes without the approval of MBD officials. However, beginning in FY 2003, the districts were required to notify and obtain approval from Headquarters whenever they decide to transfer funds between or among project codes or object classes.

In conducting this audit, we reviewed the FY 2002 and FY 2003 appropriation laws, and the corresponding House, Senate, and conference reports. Using the laws and conference reports, we focused our review on the Congressional spending instructions for FY 2002 and FY 2003. We reviewed the USMS’s documentation of its allocations and obligations and, whenever possible, tested judgmental samples of ten percent of the transaction universes to verify the accuracy of the USMS’s records and to determine if the charges were allocable to the appropriations bills. We also reviewed the USMS’s budget execution reports submitted to the Office of Management and Budget for FY 2002 and FY 2003 to determine whether the USMS’s total spending in these years was within its total budget authority.

We conclude that the USMS cannot demonstrate clearly that budgeted funds are executed in accordance with Congressional instructions. In FY 2002 the USMS appropriations included 17 spending instructions from Congress, and for FY 2003, 22 spending instructions. In our judgment, the USMS could not demonstrate adherence to 7 of the 17 FY 2002 spending instructions and 9 of the 22 in FY 2003, in the following areas:

FY 2002

- Prisoner Information System
- Electronic Surveillance Unit
- East Coast/West Coast Task Forces
- Courthouse Security Personnel
- Prisoner Transportation
- Courthouse Security Equipment
- Construction

FY 2003

- Courthouse Security Positions
- Prisoner Information System
- Special Assignments
- Positions for Protection of the Judiciary
- Positions for High Priority Districts
- Annualization of Existing Task Forces
- Task Forces for the Heartland
- ESU Personnel, Training, and Equipment
- Foreign Offices

Generally, these deficiencies were due to two factors. First, the USMS does not track changes, obligations, and expenditures to cost centers or against estimates developed from cost modules. Second, while USMS records document that funds were allocated for the purpose intended by Congress, the USMS could not document that the funds actually were expended for these purposes.

Similar to other Department of Justice agencies, the USMS uses cost modules to develop estimates of the total cost for new positions. The cost module contains line items and allows the USMS to budget for costs associated with positions, such as salaries, benefits, weaponry, vehicles, furniture, computers, travel, telephones, postage, and background investigations. A cost module is based on an average. Although the cost module may allocate \$100,000 for each new position, some new positions may cost more than that amount and some less. This could be due to any number of variables in the estimate. For instance, the cost of travel in New York City is different from the cost of travel in Houston. Furthermore, personnel in these two cities do not receive the same pay increases.

The USMS allocates its budget based on the cost modules. Specifically, the USMS allocates the appropriation directly to the cost centers where the expense will be incurred. For example, for the appropriation relating to new positions in a unit, the amount representing vehicles in the cost module is allocated directly to the Business Services Division (BSD),

training funds to the Training Academy, and computer network funds to the Information Technology Department.

However, we found that once the funds are allocated to individual cost centers, the MBD is unable to track the related expenditures. For instance, the MBD is unable to determine whether the BSD actually spends all of the funds for vehicles specifically allocated for a unit. To further complicate the situation, because the cost module is based on an average, it is not necessarily improper for the BSD to be spending less than the allocated amount for the unit's vehicles. Thus, the USMS's use of a cost module for allocation purposes, without expenditure tracking, reduces or eliminates from the outset the possibility that the USMS will be 100 percent in compliance with Congressional intent.

In addition, because the USMS cannot trace corresponding expenditures, the USMS cannot verify the accuracy of the estimates formulated by the cost module, on which the USMS bases its allocations to cost centers. Thus, any errors in the cost module may be perpetuated year after year. For example, a variation between formulated costs and actual costs for vehicles for a particular unit required the BSD to compensate for over \$32,000 of expenses for which it had received no funding. While the actual costs of other vehicles the BSD acquired in FY 2002 may have fallen short of their estimates and offset any loss to the BSD, under its current system, the USMS cannot track these expenditures to ensure that the vehicles line item, as well as the other line items in the cost module, remain accurate.

When questioned, MBD officials asserted their support for the use of the cost modules, which they have been using consistently for the last four years. MBD officials also stated that they do not have the staff available to track expenditures related to the cost modules, and that the practice would be an inefficient use of resources. In our opinion, by allocating funds using cost modules without being able to track actual expenditures to the cost module estimates, the USMS could not demonstrate that the funds provided by Congress were used for the specific purposes identified in the estimates. Therefore, we conclude that the USMS needs to implement a methodology for tracking expenditures to cost module estimates in order to demonstrate to Congress that it is adhering to its spending instructions.

During our audit, we also reviewed the resources used by the USMS to maintain its vehicle fleet in accordance with replacement criteria established by the General Services Administration (GSA), in response to Congressional interest in this area. We found that the average mileage of the USMS motor vehicle fleet was about 105,000 miles. According to the GSA criteria, sedans

and station wagons may be replaced every 3 years or 60,000 miles, whichever comes first; and, 4 to 6 wheel drive motor vehicles and trucks weighing less than 12,500 pounds may be replaced every 6 years or 40,000 miles, whichever comes first. We determined that 55 percent of the vehicles in the USMS districts and 37 percent of the vehicles at the USMS Headquarters exceeded the GSA minimum mileage replacement criteria. Although the USMS has a vehicle maintenance plan, it does not have a regular vehicle replacement plan to address needed vehicle upgrades. In order to reduce the average mileage of the USMS motor vehicle fleet from the current 105,000 miles and to increase the safety of the staff who use the vehicles, we recommend that the USMS develop and implement a vehicle replacement plan.

Finally, we reviewed the Justice Detainee Information System (JDIS) as part of our review of the Congressional spending instructions. The JDIS is an automated prisoner information system. Since FY 1997, Congress has allocated the USMS up to \$4 million annually, or \$28 million in total, to develop the JDIS. However, to date the USMS has allocated the JDIS only \$5.5 million of the available \$28 million over the past 7 years. According to MBD officials, the JDIS remains in the preliminary planning phase.

While we understand from the appropriations language that the USMS is not required to obligate the full \$4 million to JDIS each fiscal year, we believe the USMS should clarify the need for and intent of this annual appropriation to ensure that it is meeting congressional expectations with respect to development of the JDIS.

These issues are discussed in detail in the Findings and Recommendations section of the report.

**BUDGET EXECUTION IN THE
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TABLE OF CONTENTS

| | <u>Page</u> |
|--|-------------|
| INTRODUCTION | 1 |
| FINDINGS AND RECOMMENDATIONS | 4 |
| I. ADHERENCE TO CONGRESSIONAL SPENDING INSTRUCTIONS..... | 4 |
| Use Of Cost Modules..... | 5 |
| Congressional Spending Instructions..... | 7 |
| FY 2002 Budget | 8 |
| FY 2003 Budget | 18 |
| USMS Planned Improvements | 27 |
| Conclusion | 27 |
| Recommendations..... | 30 |
| II. MOTOR VEHICLE FLEET | 31 |
| Recommendation | 33 |
| OTHER MATTERS..... | 34 |
| APPENDIX I - OBJECTIVES, SCOPE, AND METHODOLOGY..... | 38 |
| APPENDIX II - SAMPLE OF A COST MODULE..... | 39 |
| APPENDIX III - APPROPRIATION AND CONFERENCE REPORT LANGUAGE..... | 40 |
| APPENDIX IV - USMS RESPONSE TO THE DRAFT AUDIT REPORT..... | 50 |
| APPENDIX V - OFFICE OF THE INSPECTOR GENERAL ACTIONS NECESSARY TO CLOSE THE REPORT..... | 60 |

INTRODUCTION

Congress established the United States Marshals Service (USMS) through the Judiciary Act of 1789. The mission of the USMS is to protect the federal courts and ensure the effective operation of the judicial system. Among other duties, the USMS provides security for federal court facilities; provides secure confinement, transportation, and production of prisoners for judicial proceedings; apprehends fugitives; and ensures the long-term safety of protected government witnesses. The current Director and Deputy Director of the USMS have been in office since 2001. The USMS's operations extend across 94 judicial districts and a Headquarters office in Arlington, Virginia.

In FY 2002, the USMS received approximately \$1.5 billion in Congressional appropriations. In FY 2003, the USMS received approximately \$879 million in Congressional appropriations. The significant decrease from FY 2002 to FY 2003 is due to the transfer of funds for detention services from the USMS to the Office of the Federal Detention Trustee.

Officials from the Management and Budget Division (MBD) of the USMS stated that their office begins examining the language included in the House and Senate budget bills even before the final appropriations are enacted. Throughout the bills' progress, MBD staff examine the language as it changes to try to determine approximately how much funding the USMS may receive, what Congress intends as the use of the funds, and whether programs will receive increases or decreases. Once the funds are appropriated, MBD staff examines the law and the conference report side-by-side in an effort to define the Congressional intent of the appropriation, including whether new positions are associated with the funding.

During the budget execution process, the USMS manages allocations, obligations and expenditures through an accounting system called the Standardized Tracking, Accounting, and Reporting System (STARS). The USMS's Headquarters offices are able to access financial information through a reader version of STARS called the STARS Web. The districts use the Financial Management System (FMS) accounting system, and this data is uploaded into STARS on a daily basis.

Spending Centralization

During our audit, we found that the USMS centralized certain spending authority and budget execution under the administration of current Director Reyna. Prior to FY 2002 under former Director John Marshall, the USMS

planned to decentralize salary funding from Headquarters control to the districts. The USMS scheduled this decentralization initiative to be phased in over two years by having fifty percent of the districts participate in FY 2001 and the remaining fifty percent included in FY 2002. However, Director Reyna discontinued the Salary Decentralization Pilot Project on February 7, 2002.

Until FY 2002, the MBD operated on the assumption of a base budget, meaning that the MBD automatically assumed that the base amount of funding for a particular program would remain the same as the previous year. However, for FY 2002 only, under instructions from the Director, the MBD implemented zero-based budgeting, under which a new base amount was calculated. With a base amount calculated, MBD officials stated that the MBD staff provide each cost center, including the 94 districts, with an initial allocation amount. Each cost center must then create a work plan that details the amount of money the cost center plans to spend during each quarter of the fiscal year. That work plan is sent to the MBD for review and approval. The work plan does not include salary and benefits, because these funds are held and disbursed centrally by the MBD.

In addition, in FY 2003, based on Director Reyna's instructions and because of the timing of the FY 2003 appropriation law, MBD personnel only loaded 75 percent of the project codes' annual allocations into the STARS system, and allowed spending only through the first three quarters of the fiscal year. MBD officials explained that the Director made this change when he learned MBD's practice was to issue the project codes an allocation amount and then have the project codes create a work plan around that amount. Instead, in FY 2003, the Director had the project codes create their full year work plan using only 75 percent of the fiscal year's funding and informed the project codes that they may not receive the other 25 percent. MBD officials noted that this change in practice was simply a way to require the project codes to add more justification to their budget requests.

In a related matter, in FY 2003, the Comptroller of the USMS further centralized budget control by informing all U.S. Marshals and Headquarters senior staff that any changes to spending plans, including changes to object classes, quarterly distributions, or programmatic requirements, now have to be approved by MBD, in advance. In the past, districts could realign funds between "decision units" without the approval of MBD officials. However, for FY 2003, the districts are required to notify and obtain approval from Headquarters whenever they decide to transfer funds between or among or object classes. The MBD budget analysts monitor the cost centers through monthly reports to observe spending levels and detect any misuse of funds.

The budget analysts meet quarterly with supervisory MBD officials to discuss the monthly reports and any issues or concerns.

The primary purpose of the audit was to determine whether the USMS executed its appropriated budgets for FY 2002 and FY 2003 in accordance with Congressional intent. In addition, during our review we identified a number of budget execution and appropriations-related issues that we discuss in this audit, including the age of the USMS fleet of vehicles and the establishment of a USMS Hazardous Response Unit.¹

Our Audit Approach

We reviewed the FY 2002 and FY 2003 appropriation laws, and the corresponding House, Senate, and conference reports. Using the laws and conference reports, we focused our review on the Congressional spending instructions for FY 2002 and FY 2003. We reviewed the USMS's documentation of its allocations and obligations and, whenever possible, tested samples of ten percent of the transaction universes to verify the accuracy of the USMS's records and the relevancy of the transactions to the appropriations bills. We also reviewed the USMS's Standard Form 133 Reports on Budget Execution (SF-133) submitted to the Office of Management and Budget (OMB) for FY 2002 and FY 2003 to determine whether the USMS's total spending in these years is within its total budget authority. In this regard we accepted the amounts reported on the SF-133s based on our reliance on the results in the Office of the Inspector General Audit Report Number 03-26, the United States Marshals Service Annual Financial Statement Audit, Fiscal Year 2002, July 2003, which resulted in an unqualified opinion.

Our audit objectives, scope, and methodology appear in Appendix I. The language of the FY 2002 and FY 2003 appropriation laws and conference reports that we audited against appears in Appendix III.

¹ In FY 2002 and FY 2003, Congress directed the USMS to submit a detailed spending plan identifying how the USMS intended to allocate its appropriations. For further discussion, see the finding on Adherence to Congressional Spending Instructions.

FINDINGS AND RECOMMENDATIONS

I. ADHERENCE TO CONGRESSIONAL SPENDING INSTRUCTIONS

The USMS needs to improve its budget execution process to ensure that it is executing its budgets in accordance with Congressional spending instructions. In FY 2002, the USMS budget included 17 spending instructions, and in FY 2003, 22 spending instructions. We found that the USMS could not demonstrate adherence to 7 of the 17 FY 2002 spending instructions and 9 of the 22 in FY 2003. Generally, these deficiencies were due to two factors. First, the USMS does not track changes, obligations, and expenditures to cost centers or against estimates developed from cost modules. Second, the USMS records do not document that certain funds were expended for the purpose intended by Congress.

As part of the budget execution process for FY 2002 and FY 2003, the USMS was directed to submit spending plans to Congress for its appropriations. According to the FY 2002 Conference Report:

The Conferees are concerned that, even with a reformed budget execution process, a small budget shortfall in the Marshals Service at the beginning of the year was left unaddressed until well into the fourth quarter, despite sharp prompting from the Committees on Appropriations. Therefore, the conferees direct the Marshals Service to submit, through the Justice Management Division, within 30 days of enactment of this Act, an overall agency spending plan for the full amount appropriated for fiscal year 2002.

MBD officials stated that they believe the request for a detailed spending plan came from the Senate due to its reservations about the USMS's cost module process. In addition, MBD officials offered that Congress was concerned about the USMS's budget management when the Appropriations Committees received a \$9 million reprogramming request four days before the end of FY 2001. In this regard, MBD officials stated that the USMS submitted a request to the Justice Management Division (JMD) and OMB to reprogram \$9 million of funding for rent on August 25, 2001, one month before the end of the fiscal year. However, the request was not sent to the Hill until the end of the fiscal year.

MBD officials also stated that tensions with Congress intensified over the detailed spending plans that Congress had requested in connection with the FY 2002 appropriation. The MBD submitted the plan to OMB within 30 days of the passage of the appropriation bill, as required, but OMB did not immediately forward the plan to Congress. We reviewed documentation and verified that the USMS submitted its FY 2002 spending plan to OMB on January 4, 2002, and that OMB forwarded the spending plan to the Hill on April 10, 2002, 132 days after passage of the appropriations law.

Use Of Cost Modules

Similar to other Department of Justice components, the USMS uses cost modules to develop estimates of the budgetary resources needed to fund new positions and to annualize the second-year funding of new positions. The USMS varies its cost modules based on the series of the new position, rather than the program offices to which the positions will be assigned. For example, there are different cost modules for job series 1811 (Criminal Investigator) and job series 0082 (Deputy Marshal) positions. (For a sample of a cost module, see Appendix II.)

The USMS prepares its cost modules based on written guidance provided by the Department of Justice (DOJ). The cost module is used to develop an estimate of the total cost for new positions. The cost module contains line items and allows the USMS to budget for costs associated with positions, such as salaries, benefits, weapons, vehicles, furniture, computers, travel, telephones, postage, and background investigations. Some of the line items in the cost module are based on flat amounts that the USMS is required to use, while other line items are based on actual past spending of the USMS. There is no clear rule for why something is, or is not, included in a cost module. However, items that will be shared among several positions (i.e. fax machines, copiers) are usually not included.

The cost module is based on averages. Although the cost module may allocate \$100,000 for each new position, some new positions may cost more than that amount and some less. This could be due to any number of variables in the estimate. For instance, the cost of travel in New York City is different from the cost of travel in Houston. Similarly, personnel in these two cities do not receive the same pay raise increases. Therefore, the cost for like positions based on locations could be different from each other.

If the Congressional appropriation is less than the amount developed in the cost module, the USMS does not adjust the cost module or the number of new positions. Instead, the USMS delays the hiring for the new

positions until as late in the fiscal year as necessary. The DOJ's cost module guidelines instruct that only 50 percent of the salaries and benefits funding needed for a new position be requested for the first year under the theory that it will take at least six months for the position to be filled. This practice allows the USMS to purchase the items that accompany the new positions, such as weaponry, but manage the appropriation by avoiding the full first-year salaries and benefits expense.

The USMS allocates its budget based on the cost modules. Specifically, the USMS allocates the appropriation directly to the cost centers where the expense will be incurred. For example, for the appropriation relating to the new positions in the ESU, the amount representing vehicles in the cost module is allocated directly to the Business Services Division (BSD), training funds to the Training Academy, and computer network funds to the Information Technology Services (ITS). However, once the funds are allocated to the individual cost centers, the MBD is unable to track the related expenditures. For instance, the MBD is unable to determine whether the BSD actually spends all of the funds allocated on behalf of the ESU (e.g. vehicles only for the ESU). To further complicate the situation, because the cost module is based on an average, it is not necessarily improper for the BSD to be spending less than the allocated amount on the ESU vehicles. Thus, the USMS's use of a cost module for allocation purposes, without expenditure tracing, reduces or eliminates from the outset the possibility that the USMS will be 100 percent in compliance with Congressional intent.

In addition, because the USMS cannot trace corresponding expenditures, the USMS cannot verify the accuracy of the estimates formulated by the cost module, on which the USMS bases its allocations to cost centers. Thus, any errors in the cost module may be perpetuated year after year. For example, the cost module used for the FY 2002 new positions in the ESU included \$228,384 of funding for nine vehicles, or \$25,376 of funding per vehicle. However, based on BSD records, we determined that these nine vehicles were acquired for the ESU at a total cost of \$260,861, or \$28,985 per vehicle. This variation between formulated costs and actual costs required the BSD to compensate for over \$32,000 of expenses for which it had received no funding. While the actual costs of other vehicles the BSD acquired in FY 2002 may have fallen short of their estimates and offset any loss to the BSD, under its current system, the USMS cannot track these expenditures to ensure that the vehicles line item, as well as the other line items in the cost module, remain accurate.

The USMS used cost modules for the following Congressional spending instructions:

FY 2002

- \$3,150,000 for ESU personnel and equipment (15 new positions);
- \$5,825,000 for the East Coast/West Coast Task Forces (24 new positions); and
- \$3,625,000 for courthouse security personnel (52 new positions).

FY 2003

- \$15,800,000 for 106 supervisory deputies;
- \$5,650,000 for 40 additional positions for protection of the judiciary;
- \$2,259,000 for 18 positions for high priority districts;
- \$2,916,000 for two new task forces in the Heartland (24 new positions); and
- \$2,750,000 for ESU personnel, training, and equipment (10 new positions).

When questioned, MBD officials asserted their support for the use of the cost modules, which they have been using consistently for the last four years. MBD officials also stated that they do not have the staff available to track expenditures related to the cost modules, and that the practice would be an inefficient use of resources. In our opinion, by allocating funds using cost modules without being able to track actual expenditures to the cost module estimates, the USMS could not demonstrate that the funds provided by Congress in response to the cost module estimates were used for the specific purposes identified in the estimates. Therefore, we conclude that the USMS needs to implement a methodology for tracking expenditures to cost module estimates in order to demonstrate to Congress that it is adhering to its spending instructions.

Congressional Spending Instructions

In order to determine whether the USMS executed its budgets for FY 2002 and FY 2003 in accordance with Congressional spending instructions, we reviewed the USMS's allocation and obligation of the funds specifically mentioned in the appropriation laws and conference reports, and tested 10 percent of the related transactions whenever possible. In many cases, the USMS provided worksheets that identified how funds were allocated to various cost centers. The USMS uses these worksheets to develop and track its budget allocations, and to record the allocations into the STARS. Accordingly, we had to rely on the worksheets to trace the

allocations to the STARS because the USMS does not use an automated budget system that is integrated with its accounting system. We present the results of our review by fiscal year.

FY 2002 Budget

Congress provided funding for the USMS in four appropriations: 1) Salaries and Expenses; 2) Construction; 3) Federal Prisoner Detention; and 4) Fees and Expenses of Witnesses.² Furthermore, Congress provided the USMS with additional funding for FY 2002 under a supplemental appropriations act. To determine whether the USMS's total obligations for FY 2002 were within its total budget authority, we reviewed the SF-133s that the USMS submitted to the OMB at the end of FY 2002. Based on these SF-133s, we determined that the USMS had approximately \$663 million of budgetary resources available for Salaries and Expenses in FY 2002. The USMS obtained these resources from the two FY 2002 appropriation laws and from funding remaining from prior year appropriations. With this same SF-133 report, the USMS reported about \$656 million of obligations for Salaries and Expenses in FY 2002. Accordingly, we concluded that the USMS expended funds for Salaries and Expenses in FY 2002 within its budget authority. Similarly, based on the USMS's SF-133 reports submitted to the OMB at the end of FY 2002, we found that the USMS's spending on Construction, Federal Prisoner Detention, and Fees and Expenses of Witnesses to be within its budget authority. We therefore focused our review on the specific Congressional spending instructions within the budget categories.

We found that the USMS could not demonstrate adherence to the following 7 of the 17 FY 2002 spending instructions:

- Prisoner Information System
- Electronic Surveillance Unit
- East Coast/West Coast Task Forces
- Courthouse Security Personnel
- Prisoner Transportation
- Courthouse Security Equipment
- Construction

Following are the results of our audit of USMS activities against the 17 spending instructions.

² The FY 2002 Appropriation Law is P.L. 107-77. The accompanying Conference Report is House Report 107-278.

Salaries and Expenses

In FY 2002, Congress appropriated \$619,429,000 to the USMS for Salaries and Expenses. Within this funding, Congress included spending instructions for nine specific items that total \$33,407,000. We reviewed the nine spending instructions to determine if the USMS allocated and obligated funds in compliance with Congressional intent.

| Spending Instruction |
|--|
| \$6,000 for official reception |
| \$4,000,000 for a prisoner information system |
| \$500,000 for the Special Operations Group |
| \$583,000 for permanent changes of station |
| \$3,150,000 for the ESU |
| \$5,825,000 for two fugitive task forces |
| \$3,625,000 for courthouse security personnel |
| \$1,451,000 for prisoner transportation |
| \$14,267,000 for courthouse security equipment |

Official Reception: Congress instructed that a maximum of \$6,000 be made available for official reception and representation expenses. A MBD official stated that the USMS did not make a specific allocation of \$6,000 to any cost center for Official Reception, but rather this funding comes from funds allocated to the Director's and Deputy Director's office. The obligations against this spending instruction are also not segregated from other Director and Deputy Director obligations through a project code in STARS. However, officials in the Office of the Director and the Finance Office monitor the obligations made against this spending instruction to ensure the expenses do not exceed the allowed amount. For FY 2002, the USMS provided us with a worksheet listing seven transactions for Official Reception expenses that totaled \$5,969. From these seven transactions, we judgmentally selected one transaction for testing and found that this transaction was fully supported.

Prisoner Information System: In FY 2002 Congress provided an appropriation for an automated prisoner information system for "which not to exceed \$4,000,000 shall be available." A MBD official stated that the USMS allocates funds for the Justice Detainee Information System (JDIS), which is the system the USMS is developing in response to the spending instruction, but only when the fiscal year is closed out and available funds are identified. According to the MBD,

the USMS did not allocate any FY 2002 funding for the JDIS in FY 2002.

We reviewed the JDIS as part of our review of the Congressional spending instructions. The JDIS is an automated prisoner information system. Since FY 1997, Congress has appropriated up to \$4 million annually, or \$28 million in total, to develop the JDIS. However, to date the USMS has allocated the JDIS only \$5.5 million of the available \$28 million over the past 7 years. According to MBD officials, the JDIS remains in the preliminary planning phase.

While we understand from the appropriations language that the USMS is not required to obligate the full \$4 million to JDIS each fiscal year, we believe the USMS should clarify the need for and intent of this annual appropriation to ensure that it is meeting congressional expectations with respect to development of the JDIS.

Special Operations Group: In FY 2002, Congress appropriated a one-time program increase of \$500,000 to the Special Operations Group (SOG) for training, equipment, and facilities maintenance. We found that the USMS allocated a total of \$1,578,000 to the SOG in FY 2002, which included \$495,000 of the one-time increase. In addition, we found that the other \$5,000 of the increase was reallocated to the Training Academy, where training funding is centralized.

Permanent Changes of Station: In FY 2002, Congress appropriated a one-time increase of \$583,000 to the USMS for permanent changes of station (PCS) to assist with relocating USMS employees from one duty station to another. We found that the USMS allocated a total of \$918,050 to its Human Resources Division (HRD) for PCS by combining the \$583,000 one-time increase with the PCS base amount of \$335,050. We obtained a worksheet from MBD personnel that listed the 38 PCS moves the USMS funded in FY 2002; however, the \$918,050 only covered 15 of these moves. The remaining PCS moves were paid through funding identified from a mid-year review of all or object classes. Of the 15 moves, we tested 3 for supporting documentation and found these transactions were fully supported.

Electronic Surveillance Unit: Congress provided an increase of \$3,150,000 to the Electronic Surveillance Unit (ESU) for personnel and equipment. MBD personnel provided documentation showing that \$1,490,000 of the \$3,150,000 was allocated among several cost

centers in accordance with the cost module for 15 new positions. Because of the USMS's use of the cost module, we could not perform testing of specific expenditures.

MBD personnel also provided documentation showing an allocation of \$1,660,000 to the ESU for equipment. The ESU prepared a worksheet listing the 18 equipment purchases it made against the appropriation, which totaled \$1,543,902. From these 18 transactions, we selected 2 transactions for testing and both of these transactions were properly supported.

East Coast/West Coast Task Forces: Congress provided an increase in funding of \$5,825,000 to the USMS for the creation of dedicated fugitive task forces on both coasts of the United States. We obtained a worksheet from the MBD that showed an allocation of \$5,882,278, or \$57,278 more than the spending instruction, for establishment of these fugitive task forces, including the creation of 24 new positions. Based on the worksheet provided by the MBD, we determined that these funds were divided in accordance with the cost module, specifically through transfers to the Investigative Services Division (ISD), the BSD, the HRD, the ITS, the Training Academy, the Central Courthouse Management Group (CCMG), the ESU (for radios), and the MBD (for salaries and benefits). Because of the USMS's use of the cost module, we could not perform testing of specific expenditures.

Courthouse Security Personnel: Congress provided an increase in funding of \$3,625,000 to the USMS for courthouse security personnel at existing and new courthouses. A MBD official provided a worksheet showing the allocation of the funds to create 52 new positions in 6 districts. This cost module contains 65 line items, including \$278,772 for background investigations, \$90,272 for desktop computers, \$488,523 for vehicles, and \$8,060 for postage. Based on the worksheet provided by the MBD, we determined that these funds were divided in accordance with the cost module, specifically through transfers to the ISD, the BSD, the HRD, the ITS, the Prisoner Services Division (PSD), the SOG, the Judicial Security Division (JSD), the Training Academy, the CCMG, the ESU, and the MBD. However, because of the USMS's use of the cost module, we could not perform testing of specific expenditures.

Prisoner Transportation: Congress appropriated an additional \$1,451,000 for prisoner transportation in FY 2002 compared to FY 2001. A MBD official provided us with a worksheet that shows an

allocation of \$1,451,000 to the Justice Prisoner and Alien Transportation System (JPATS) Air Movement account for Salaries and Expenses. We also obtained a STARS report for this account and were informed that the \$1,451,000 was included in the total budget authority for this account of \$26,054,000, of which the entire amount was obligated. Although a cost module was not involved with this spending instruction, we could not test transactions because the USMS could not distinguish which expenditures were made with the \$1,451,000 funding increase.

Courthouse Security Equipment: The CCMG manages the allocation for Courthouse Security Equipment. In FY 2002, Congress appropriated \$14,267,000 to the USMS for Courthouse Security Equipment, including furnishings, relocations, and telephone systems and cabling. In the conference report, Congress identified 30 specific courthouse locations and funding distributions for the USMS. Of the \$14,267,000 identified in the spending instructions, the CCMG obligated \$10,423,757 for the specified locations. The CCMG obligated the total amount of funds allocated in the conference report in only 3 instances, deviating from the conference report instructions for the following 27 items:

| Courthouse Locations Specified in Conference Report | Amount Allocated in Conference Report | Amount Obligated by the USMS | Difference from Conference Report |
|--|--|-------------------------------------|--|
| Fort Smith, AR | \$200,000 | - ¹ | (\$200,000) |
| Denver, CO | \$1,090,000 | \$1,544,957 | (\$454,957) |
| Washington, DC | \$75,000 | - ² | (\$75,000) |
| Jacksonville, FL | \$1,065,000 | \$483,999 | \$581,001 |
| Dublin, GA | \$432,000 | \$182,511 | \$249,489 |
| Moscow, ID | \$50,000 | \$10,000 | \$40,000 |
| Bowling Green, KY | \$330,000 | \$230,537 | \$99,463 |
| Bay City, MI | \$175,000 | \$25,000 | \$150,000 |
| Detroit, MI | \$450,000 | \$763,442 | (\$313,442) |
| Cape Girardeau, MO | \$75,000 | - ² | (\$75,000) |
| East St. Louis, MO | \$10,000 | - ² | (\$10,000) |
| Greenville, MS | \$645,000 | \$121,336 | \$523,664 |
| Gulfport, MS | \$540,000 | - ¹ | (\$540,000) |
| Hattiesburg, MS | \$590,000 | \$193,031 | \$396,969 |
| Oxford, MS | \$1,095,000 | \$780,384 | \$314,616 |
| Newark, NJ | \$300,000 | \$246,875 | \$53,125 |
| Columbus, OH | \$300,000 | - ² | (\$300,000) |
| Muskogee, OK | \$920,000 | \$852,555 | \$67,445 |
| Florence, SC | \$321,000 | \$159,253 | \$161,747 |
| Spartanburg, SC | \$555,000 | \$163,242 | \$391,758 |
| Columbia, SC | \$195,000 | \$201,524 | (\$6,524) |
| Amarillo, TX | \$450,000 | - ² | (\$450,000) |
| Houston, TX | \$1,063,000 | \$1,220,000 | (\$157,000) |
| Laredo, TX | \$700,000 | \$810,536 | (\$110,536) |
| Waco, TX | \$423,000 | \$458,640 | (\$35,640) |
| Cheyenne, WY | \$800,000 | \$558,172 | \$241,828 |
| Security Survey ³ | \$180,000 | \$179,764 | \$236 |

Source: Data provided by CCMG.

¹ Project funded by prior year Task Order.

² Project on hold due to construction and/or design delays.

³ Security Survey is for all courthouse locations.

A CCMG official indicated that the Congress was aware of the changes. However, we found no documentation that disclosed the formal advisory to the Congress or acknowledgement by the Congress. Therefore, we cannot with any certainty determine that the USMS actions complied with the overall intent of the instructions.

We asked CCMG officials about the differences between the conference report allocations and the CCMG's obligations. A CCMG official stated that the dollar figures in the conference report originated from estimates developed by the CCMG two years earlier. According to this official, many times projects are changed or completed and the money is moved to another project. The reasons provided by CCMG officials for not allocating any funding to a location specified in the conference report were that projects were completed using prior year funds or that projects were delayed due to construction and design delays. CCMG personnel provided us with a worksheet showing a total of \$14,266,423 of obligations against the \$14,267,000 allocation. Of this amount, \$10,423,757 of the obligations resulted from instructions in the conference report while the other \$3,842,665 of obligations resulted from the CCMG's decision to realign funding to 29 other locations. From the 55 transactions identified for FY 2002, we selected 6 Courthouse Security Equipment transactions for testing. We found that all transactions were properly supported.

Construction

The CCMG also oversees the USMS's Construction appropriations. In FY 2002, Congress appropriated \$15 million to the USMS for Construction and listed specific courthouse locations and funding distributions for the USMS to follow in the conference report. The Construction appropriation is considered "no-year" funding, meaning that it is available for spending even after the fiscal year ends. Of the \$15 million identified in the spending instructions, the CCMG obligated \$14,998,701. The CCMG obligated the funds in accordance with the 33 spending instructions, except for six locations.

CCMG officials noted that, generally, the CCMG spends its Construction appropriation exactly how it is allocated in the conference report. However, in FY 2002 the \$250,000 earmarked for New York City was not used because this project was still in the preliminary planning phase. Instead, the CCMG redirected the funding to three other projects: Baltimore, Maryland; Midland, Texas; and San Francisco, California. In addition, the CCMG made deviations from the spending instructions for the Hot Springs, Arkansas and Raleigh, North Carolina locations. CCMG officials noted that, again, these changes stemmed from the fact that Construction estimates were two years old. Also, a CCMG official stated that the USMS advised Congress that the funds would be shifted to the three projects. However, we found no documentation evidencing that advisory. Therefore, we cannot state with

confidence that the USMS complied with the Conference Report spending instructions.

A CCMG official provided us with a worksheet listing a total of \$14,998,701 of obligations through 32 reimbursable work authorizations (RWA) against the \$15,000,000 appropriation. We tested 3 of the 32 RWA's for supporting documentation and found the RWA's to be fully supported.

Federal Prisoner Detention

Congress appropriated approximately \$706 million for Federal Prisoner Detention for FY 2002. It included no specific spending instructions for this account. With additional funding from prior year recoveries and carryovers, and other cooperative agreements, the USMS advised us that the total budget authority for Federal Prisoner Detention by the USMS for FY 2002 was about \$743 million.

The MBD provided us with a worksheet that showed \$729 million in obligations against the \$743 million. The obligations consisted mostly of payments for housing prisoners (\$633 million), medical costs for prisoners (\$35 million), guards (\$10 million), and cooperative agreements (\$35 million). We compared the obligations from the worksheet to the STARS and found no material difference. We also reviewed the reimbursable agreements the USMS had with the Federal Bureau of Prisons and the Department of Health and Human Services and verified that the obligations did not exceed the estimated amounts of the agreements. As noted previously, we reviewed the obligations in the SF-133 report to OMB for Federal Prisoner Detention for FY 2002. Based on this report, we determined that the USMS's spending for Federal Prisoner Detention in FY 2002 was within its total budget authority.

Fees and Expenses of Witnesses

In FY 2002, Congress appropriated \$156,145,000 to the USMS for Fees and Expenses of Witnesses. With this funding, Congress included spending instructions for three specific items.

- \$6,000,000 for witness safesites
- \$1,000,000 for armored vehicles
- \$5,000,000 for telecommunications equipment

These appropriations are classified as no-year funds and, therefore are available until expended. The USMS provided a listing of obligations and

expenditures from FY 2002 for Fees and Expenses of Witnesses. We totaled these obligations and expenditures, matched them to the spending instructions, and selected eight transactions from the list to review in detail. We documented the transactions selected and verified the input of the obligations for these transactions in STARS, as follows:

Witness Safesites: Congress instructed that \$6 million of funding may be made available for witness safesites, including the planning, construction, renovation, remodeling, and repair of witness safesites. We verified \$5,064,118 in total obligations and expenditures for this spending instruction for FY 2002.

Armored Vehicles: Congress instructed that a maximum of \$1 million may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses. We verified \$968,261 in total obligations and expenditures for armored vehicles against this spending instruction in FY 2002.

Telecommunications Equipment: Congress instructed that a maximum of \$5 million may be made available for secure telecommunications equipment, including a secure automated information network to store and retrieve the identities and locations of protected witnesses. We verified \$4,884,656 in total obligations and expenditures against this spending instruction in FY 2002.

FY 2002 Supplemental

In FY 2002, Congress provided supplemental appropriations to the USMS totaling \$19,325,000, to be spent in accordance with the following instructions.³

- \$5,000,000 for courthouse security equipment
- \$4,000,000 for additional protection at trials
- \$1,200,000 for courthouse security expenses
- \$9,125,000 for Construction

Courthouse Security Equipment: In the FY 2002 Supplemental, Congress provided an additional \$5 million for Courthouse Security Equipment, but did not provide specific courthouse locations for the funds. As instructed by the conference report, the USMS transferred \$200,000 of the \$5 million to the Eastern District of Virginia to pay for

³ The FY 2002 Supplemental appropriations law is P.L. 107-117. The accompanying Conference Report is House Report 107-350.

the terrorism trials being held there. We obtained a STARS report from MBD personnel that showed a \$200,000 allocation to the Eastern District of Virginia and a STARS Web report showing \$256,800 of obligations made against this account. We also obtained a STARS Web report from MBD personnel that showed \$4,770,943 of obligations against the \$4.8 million of remaining funding. These obligations were incurred through 36 RWAs.

Additional Protection at Trials: Congress appropriated \$4 million for additional protection of the federal judiciary in New York City involved in the World Trade Center bombing and embassy bombing trials. We obtained a STARS report from MBD personnel that showed a \$4 million allocation being transferred from the Special Assignments account to the Judicial Security account for the embassy bombing trials. We also obtained a STARS Web report from MBD personnel that showed \$4,001,126 of obligations under the project code for the embassy bombing trials.

Courthouse Security Expenses: Congress appropriated \$1.2 million for Courthouse Security Expenses at the Foley Square (New York City) and Brooklyn federal courthouses. We obtained a STARS report from MBD personnel, which showed that \$700,000 was allocated to the Southern District of New York, where Foley Square is located, and that \$500,000 was allocated to the Eastern District of New York, where Brooklyn is located. MBD personnel also provided a STARS Web report showing \$1,187,652 of obligations made against the \$1.2 million spending instruction.

Construction: As part of the supplemental appropriation, Congress provided the USMS with \$9,125,000 for Construction for the highest priority districts as determined by the USMS. We obtained a STARS report from a MBD official that showed an allocation of \$9,125,000 to the CCMG. In addition, a CCMG official provided us with a worksheet that listed the 30 RWAs that the \$9,125,000 was divided among. We tested three of these RWAs for supporting documentation and found the transactions to be fully supported.

FY 2003 Budget

Congress provided the FY 2003 funding for the USMS in three appropriations: 1) Salaries and Expenses; 2) Construction; and 3) Fees and Expenses of Witnesses.⁴ Beginning in FY 2003, Congress transferred funding for Federal Prisoner Detention to the Office of the Detention Trustee. As part of the FY 2003 budget, Congress included a departmentwide rescission, or cancellation, of 0.65 percent of the total funding in this law. The USMS implemented this rescission across its agency. Congress also provided the USMS with funding under the Emergency Wartime Supplemental Appropriations Act of 2003, bringing total FY 2003 funding to about \$879 million, before the rescission. The President signed the FY 2003 appropriation law on February 20, 2003.

On May 8, 2003, the USMS issued allocation amounts to the district offices and issued allocation amounts to the other cost centers six days later. We compared the amount of time used to execute the FY 2003 budget to the amount of time used to execute the FY 2002 budget. Specifically, by reviewing a timeline of the budget events for FY 2002, we determined that a period of 10 weeks (November 28, 2001, through February 8, 2002) elapsed from when the President signed the appropriation law to when the USMS provided the districts and cost centers with the amount of their allocations. Thereafter, another 3 weeks elapsed before all the allocations were signed and issued to the districts and cost centers. In comparison, according to the timeline for FY 2003, a period of 11 weeks (February 20, 2003, through May 8, 2003) elapsed from when the President signed the FY 2003 appropriation law to when the districts were issued the amounts of their allocations.

The MBD is still assessing the funding requirements for the districts and Headquarters in order to finalize the FY 2003 allocations. In addition, USMS officials noted that the release of annual allocations at this point in the fiscal year is exacerbated by the simultaneous mid-year review of funding. During the mid-year review, the MBD and the Director review the spending of all districts and cost centers to determine whether funding can be moved to support "unfunded" programs. Thus, USMS officials are reluctant to issue funding which could soon be withdrawn. Based on the timelines and explanations provided by USMS officials, we concluded that any delay in the

⁴ The FY 2003 Appropriation Law is P.L. 108-7. The accompanying Conference Report is House Report 108-010.

release of the allocations to the costs centers in FY 2003 was due mainly to the delayed passage of the appropriation law.

To determine whether the USMS's total obligations for FY 2003 are within its FY 2003 total budget authority, we reviewed the SF-133 Report on Budget Execution reports the USMS submitted to the OMB for the quarter ended June 30, 2003. The USMS reported total budgetary resources of about \$732 million for Salaries and Expenses in FY 2003. The USMS obtained these resources from the first FY 2003 appropriation law and from remaining funding from prior year appropriations. The USMS reported about \$493 million of obligations against the appropriation for Salaries and Expenses. Based on these numbers, we concluded that the USMS's spending for Salaries and Expenses until the end of April 2003 was within its budget authority. Similarly, based on the USMS's SF-133 reports submitted to OMB for the second quarter of FY 2003, we found the USMS's spending on Construction and Fees and Expenses of Witnesses to be within its budget authority.

Based on our review of the USMS compliance with the Congressional spending instructions, we found that the USMS could not demonstrate adherence to 9 of the 22 FY 2003 spending instructions, as follows:

- Courthouse Security Positions
- Prisoner Information System
- Special Assignments
- Positions for Protection of the Judiciary
- Positions for High Priority Districts
- Annualization of Existing Task Forces
- Task Forces for the Heartland
- ESU Personnel, Training, and Equipment
- Foreign Offices

Salaries and Expenses

In FY 2003, Congress appropriated \$680,474,000 to the USMS for Salaries and Expenses. With this funding, Congress included spending instructions for 15 specific items. We reviewed the 15 spending instructions to determine if the USMS allocated and obligated funds in compliance with Congressional intent.

| Spending Instruction |
|---|
| \$15,800,000 for courthouse security positions |
| \$6,000 for official reception |
| \$4,000,000 for a prisoner information system |
| \$12,061,000 for courthouse security equipment |
| \$3,300,000 for ESU base funding |
| \$1,000,000 for leg/handcuffs |
| \$10,015,000 for special assignments |
| \$2,766,000 for the Warrant Information Network |
| \$5,650,000 for 40 additional positions for protection of judiciary |
| \$2,259,000 for 18 positions for high priority Districts |
| \$2,268,000 to annualize the two existing task forces |
| \$2,916,000 for two new task forces in the "Heartland" |
| \$2,750,000 for ESU personnel, training, & equipment |
| \$1,715,000 to create a permanent USMS presence in Jamaica, Dominican Republic, and Mexico. |
| \$10,424,000 for motor vehicles |

Courthouse Security Positions: Congress provided \$15.8 million for the creation of 106 supervisory Deputy Marshal positions for courthouse security. We reviewed the worksheet from MBD personnel that provided the allocations the USMS made for these 106 positions, totaling \$15.8 million. According to a MBD official, the 106 positions will be divided with 1 position assigned to each of the 94 districts, except Guam, and 1 position assigned to each of the 13 circuits. These allocations were based on the USMS's cost module, but on a per-position basis. Among the items listed, the cost module included \$182 for random drug tests, \$806 for firearms, and \$24,126 for a vehicle per new position. We reviewed the cost module and determined that the \$15.8 million of funds was allocated in accordance with the cost module, specifically through transfers to the BSD, the HRD, the ITS, the ISD, the Training Academy, the MBD, and the individual districts receiving the positions. Because of the USMS's use of the cost module, we could not perform testing of specific expenditures.

Official Reception: In FY 2003, Congress again instructed that a maximum of \$6,000 be made available for official reception and representation expenses. As noted previously, MBD personnel do not

specifically allocate the \$6,000 to any cost center, but rather this funding comes out of the Director and Deputy Director's funds. The USMS provided us with a worksheet that showed 16 transactions totaling \$4,239 against the \$6,000 limit in FY 2003. We tested two of these transactions for supporting documentation and found that the transactions were fully supported.

Prisoner Information System: In FY 2003, Congress again provided an appropriation of no more than \$4 million for an automated prisoner information system. As noted previously, the USMS only allocates money for the JDIS at the end of each fiscal year. Thus, the USMS has not yet allocated funding for the JDIS for FY 2003; however, MBD personnel requested permission from the OMB in July 2003 to move \$1.5 million from the USMS's FY 1999 and FY 2000 appropriations to the no-year account for the JDIS.

If the OMB approves the \$1.5 million reapportionment, this will result in the JDIS receiving a total of \$5.5 million out of a possible \$28 million since FY 1997. As we previously stated, we believe the USMS should clarify the need for and intent of this annual appropriation to ensure that it is meeting congressional expectations with respect to development of the JDIS.

Courthouse Security Equipment: In FY 2003, Congress appropriated \$12,061,000 to the USMS for Courthouse Security Equipment but did not list specific courthouse locations or funding distributions. CCMG staff provided us with a worksheet showing a total of \$5,619,276 of obligations made against this \$12,061,000 allocation as of June 2003. These obligations leave \$6,441,724 of the \$12,061,000 allocation unobligated. From the 34 transactions available for FY 2002, we selected 3 transactions for testing and found these transactions were fully supported.

ESU Base Funding: In FY 2003, Congress appropriated \$3.3 million to the ESU for recurring costs that the USMS considered as establishing the program's base funding. We reviewed the budget worksheets and determined that a total of \$3,146,450 was allocated to the ESU after deductions for the across-the-board rescission and administrative expenses. A total of \$1,728,071 of this funding has been obligated as of June 30, 2003. Because this is considered base funding, this allocation could be used for any ESU expense to include awards; travel; rental payments; communication, utilities and miscellaneous; other services; and supplies and equipment.

Hand/Leg Cuffs: Congress appropriated \$1 million to the USMS for hand and leg cuffs. On June 23, 2003, the MBD authorized \$922,483 of funds for the purchase of hand and leg cuffs. The PSD sought the requisition for 9,985 sets of full restraints, 500 sets of over-size cuffs, and 165 sets of over-size leg irons. On June 25, 2003, the MBD also received a requisition for the purchase of 9,985 locks to accompany the sets of hand and leg cuffs at a total cost of \$70,993. Based on these requisitions, only \$6,523 of the \$1 million appropriation remains unobligated.

Special Assignments: Congress earmarked \$10,015,000 of the Salaries and Expenses appropriation for Special Assignments. MBD personnel provided a copy of a workplan to show that a total of \$9,949,903 was allocated for special assignments in FY 2003. This amount reflects the departmentwide rescission of \$65,098 from the \$10,015,000 spending instruction. MBD staff also provided a worksheet showing total obligations of \$7,118,588 made against the \$9,949,903 of funding. The MBD did not provide any STARS documents for these expenditures and could not provide a breakdown of actual transactions for testing purposes.

Warrant Information Network: Congress instructed that not less than \$2,766,000 be allocated for the Warrant Information Network (WIN) and subscriptions to various networks and on-line systems. We obtained a STARS report from MBD staff that showed an allocation of \$2,850,707 to WIN for FY 2003. MBD staff also provided a STARS report that showed total budget authority of \$2,930,527 for this program and total obligations of \$987,032 as of July 8, 2003.

Protection of the Judiciary: Congress provided \$5,650,000 for 40 additional personnel and equipment for the protection of the Judiciary for high threat trials. A MBD official provided a copy of the cost module for these 40 positions and the locations where the positions will be assigned. We reviewed the cost module and determined that MBD personnel allocated \$4,273,440 for 40 positions for the protection of the Judiciary in accordance with the cost module. We also determined that MBD personnel allocated \$1,350,000 for screening devices, monitoring equipment for courtrooms, crowd and vehicle barriers, guard and command posts, portable badging stations and identification cards for visitors, light and heavy duty armored vehicles, and armored vests. However, because of the USMS's use of the cost module, we could not perform testing of specific expenditures.

High Priority Districts: Congress appropriated \$2,259,000 for 18 positions for those districts with the highest priority needs. A MBD official provided a copy of the cost module for these 18 positions and the locations where the positions will be assigned. We reviewed the cost module and determined that MBD personnel allocated \$1,402,776 for 18 positions for the districts that the USMS deemed as high priority. MBD officials stated that when the budget was originally formulated, the MBD requested \$2,259,000 of funding for 22 Criminal Investigator positions for the Joint Terrorism Task Force. However, Congress instead provided a program increase for 18 Deputy Marshals for high priority districts. Although Deputy Marshal positions cost less than Criminal Investigator positions, Congress still provided the full amount of funding the USMS had originally requested. As a result, the USMS had a surplus of \$856,224. A MBD official could not provide documentation on how this surplus was used but speculated that the surplus was used to cover a shortfall in funding for the FY 2003 pay raise. However, because of the USMS's use of the cost module, we could not perform testing of specific expenditures.

Annualization of Existing Task Forces: This spending instruction allocating \$2,268,000 was not formally requested by the USMS, but provided by Congress to annualize the funding for the East Coast and West Coast Fugitive Task Forces that were created in FY 2002. A MBD official provided us with a worksheet showing how the \$2,268,000 of funding was allocated among several cost centers. A MBD official also provided documentation from some of these cost centers to show how each cost center's portion of the \$2,268,000 was included in that cost center's funding. We did not test transactions because expenditures cannot be traced to the source of funding once the funding is allocated to various cost centers.

Heartland Task Forces: Congress earmarked \$2,916,000 to the USMS for the creation of two additional task forces in the "Heartland." Congress did not define the term Heartland and the USMS officials chose to create task force locations in Chicago and Atlanta. The USMS used a cost module to estimate the funds needed for these positions. We reviewed the worksheets provided to us by MBD personnel and determined that MBD personnel allocated \$2,538,846 for the creation of two new fugitive task forces with a total of 24 new positions. This allocation reflects a deduction for the rescission and a transfer of funds to the Wireless Management Office (WMO) for centralized radio purchases. We reviewed documentation of the allocation through a

STARS report. However, since the USMS used a cost module to estimate the costs for these new positions, we could not perform testing of specific expenditures.

ESU: Congress appropriated a \$2,750,000 increase to the ESU for personnel, training, and equipment. Consistent with its estimating of costs for ESU positions in FY 2002, the USMS used a cost module to estimate the funds needed in FY 2003 for these positions. We reviewed the worksheet and STARS report and determined that the USMS allocated \$2,310,976 to the ESU. This allocation reflects the agency-wide rescission, a transfer of funds to the WMO, and an allocation to the MBD where salaries and benefits are centralized. In addition, we obtained from MBD personnel a copy of a memorandum that discusses the planned breakdown of the spending instruction. Since the USMS used a cost module to estimate the costs for these new positions, we could not perform testing of specific expenditures.

Foreign Offices: Congress provided an increase in the USMS's funding for the establishment of permanent foreign offices in Jamaica, the Dominican Republic, and Mexico. We obtained a STARS report from MBD personnel that showed that the USMS allocated \$1,703,853, after the rescission, for the opening of these foreign offices. MBD staff also provided a copy of the Investigative Services Division's (ISD) spending plan for the foreign offices. Based on a STARS report, ISD has spent \$25,613 of the \$1,703,853 allocation on the foreign offices to date. The expenditures were classified as travel and transportation of persons and other services; however, MBD officials were unable to identify through their accounting system the specific transactions for testing purposes.

Vehicles: In FY 2003, Congress provided a program increase of \$10,424,000 to the USMS for vehicles. We received a STARS report from MBD staff that showed an allocation, after the rescission, of \$10,356,244 to the BSD for vehicles. The BSD provided a list of the 88 vehicles it has purchased, through 51 transactions, in FY 2003, and the estimated costs of these transactions. We added the costs provided and calculated a total of \$1,876,639 in FY 2003 obligations as of June 30, 2003. We tested 5 of these 51 transactions, which included 5 vehicles, for supporting documentation. These transactions were fully supported, but only three of the purchases were made with appropriated funds; the other two purchases were made from lease savings and proceeds from vehicle auctions. One of the five vehicle purchases was for a USMS Headquarters office while the other four

purchases were for districts. Of the 88 vehicles purchased, 6 vehicles were for the USMS's Headquarters and 82 vehicles were for the districts.

Construction

In FY 2003, Congress appropriated \$15,126,000 to the USMS for Construction, but did not list specific courthouse locations or funding distributions for the USMS to follow. We received a STARS report from MBD staff that showed an allocation, after the rescission, of \$15,028,000. CCMG staff provided us with a total of \$14,378,000 of obligations through 40 RWAs, which it has made against the allocation. We tested 4 of the 40 RWAs for supporting documentation and found the transactions to be fully supported.

Fees and Expense of Witnesses

In FY 2003, Congress appropriated \$175,645,000 of no-year funding to the USMS for Fees and Expenses of Witnesses. With this funding, Congress included spending instructions for four specific items.

- \$19,500,000 for the Witness Security program
- \$6,000,000 for witness safesites
- \$1,000,000 for armored vehicles
- \$5,000,000 for telecommunications equipment

A USMS official provided us with a listing of obligations and expenditures for Fees and Expenses of Witnesses in FY 2003. We totaled these obligations and expenditures, matched them to the spending instructions, and selected six transactions from the list to review in detail. We documented the transactions selected and verified the input of the obligations for these transactions in STARS, as follows:

Witness Security Program: Congress instructed that a maximum of \$19.5 million may be made available for the Witness Security program. We received a copy of the USMS's Reimbursable Agreement (RA) with JMD for the Witness Security Program. The estimated amount listed on the RA is \$19.5 million. The MBD estimated that as of mid-August 2003 the USMS has obligated about \$16.3 million of this amount.

Witness Safesites: Congress instructed that \$6 million of funding may be made available for witness safesites, including the planning,

construction, renovation, remodeling, and repair of witness safesites. We verified \$4,896,422 in total obligations for FY 2003 for this spending instruction.

Armored Vehicles: Congress instructed that a maximum of \$1 million may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses. We verified \$14,067 in total obligations for armored vehicles against this spending instruction in as of July 15, 2003.

Telecommunications Equipment: Congress instructed that a maximum of \$5 million may be made available for secure telecommunications equipment, including a secure automated information network to store and retrieve the identities and locations of protected witnesses. We verified \$2,642,123 in total obligations for this spending instruction as of July 15, 2003.

Wartime Supplemental

In FY 2003, Congress provided additional funding to the USMS through the Wartime Supplemental Act.⁵ Through this Act, Congress appropriated the USMS \$8 million for Salaries and Expenses that remains available until September 30, 2004. The conference report instructed that of this amount:

- \$5.8 million be allocated to those districts with the highest priority needs for protection of the judicial process; and
- \$2.2 million be allocated to upgrade the Marshals Service secure communications capability.

According to a MBD official, as of July 1, 2003, the USMS had not yet received the apportionment for this appropriation from OMB. However, MBD has received the Warrant from Treasury that provides notification that the funds are available and prepared the apportionment request to OMB. The MBD has also prepared cost modules for the division of the \$5.8 million for new positions, as well as a breakdown of the locations where the new positions will be assigned. Similarly, the MBD has also prepared a plan for how the \$2.2 million of secure communications funding will be spent. Because these funds have not been released, no expenditures have been made, and we could not perform any testing of transactions.

⁵ The FY 2003 Wartime Supplemental law is P.L. 108-11. The accompanying Conference Report is House Report 108-076.

USMS Planned Improvements

On September 27, 2002, the USMS Comptroller issued a memorandum to the USMS Headquarters senior staff and USMS district offices that incorporated changes to the USMS's financial management and budget allocation approach for FY 2003. The memorandum implemented the use of project codes in the budget execution process, to enhance the USMS's ability to trace expenditures to their corresponding budget allocations. An official in the USMS's Office of Finance stated that the use of project codes would help link budget allocations to expenditures that are made in the same cost center but would not track expenditures across cost centers. For instance, expenditures incurred directly by ESU for its nine new positions would all carry the same project code; however, the vehicle expenditures made by the BSD on behalf of the ESU's new positions would carry a different project code. Thus, Congressional spending instructions that relate to a program area that uses a cost module would still not be traceable to their corresponding expenditures.

Conclusion

After reviewing the USMS's execution of funds in light of Congressional spending instructions in the appropriation laws and conference reports for FY 2002 and FY 2003, we conclude that the USMS needs to implement a budget execution system that tracks changes, obligations, and expenditures to the budget estimates included in spending instructions. As a result, we cannot attest to the USMS's adherence to a total of 16 spending instructions for FY 2002 and FY 2003.

With regard to the tracking of changes, obligations, and expenditures to the budget estimates included in spending instructions, we found that when the USMS used a cost module for estimating and allocating costs associated with new positions, the accounting system did not accumulate costs in parallel fashion. Therefore, we could not attest with any degree of certainty that funds were expended for the purposes estimated in the associated cost module. This opinion applies to six specific USMS purposes, two of which existed in both fiscal years, as follows:

- ESU – FY 2002 and FY 2003
- East Coast/West Coast Task Forces - FY 2002
- Courthouse Security Personnel - FY 2002 and FY 2003
- Positions for Protection of the Judiciary – FY 2003
- Positions for High Priority Districts - FY 2003
- Heartland Task Forces – FY 2003

Notwithstanding the use of the cost module, we also found other cases where we could not track expenditures to instructions for a variety of reasons, as follows:

- Prisoner Transportation - FY 2002: We could not test transactions because the USMS could not identify the specific expenditures against the \$1.45 million funding increase.
- Courthouse Security Equipment – FY 2002: The CCMG deviated from the conference report instructions for 27 of 30 locations. We acknowledged that federal agencies may deviate from spending instructions in conference reports, but we also are aware that by doing so they create a greater risk for criticism from the Congress. A CCMG official indicated that the Congress was aware of the changes. However, without some document that discloses this, we could not with any certainty determine that the USMS actions complied with the overall intent of the instructions.
- Construction – FY 2002: The CCMG obligated almost all of the \$15 million as indicated in the spending instructions. The one issue of note was that \$250,000 originally earmarked for New York City was redirected to three other locations because the New York City project was still in the planning phase. Again, a CCMG official stated that the USMS advised Congress that the funds would be shifted to the three projects. However, we had no documentation evidencing the advisory. Therefore, as we indicate in Courthouse Security Equipment above, without such we cannot attest that the USMS complied with the spending instructions relative to the project.
- Special Assignments – FY 2003: MBD staff provided a worksheet showing total obligations of \$7.1 million against the \$9.9 million of funding but could not provide a breakdown of actual transactions for testing purposes.
- Annualization of Existing Task Forces – FY 2003: We did not test transactions because expenditures could not be traced to the source of funding once the funding was allocated to cost centers.
- Foreign Offices – FY 2003: The ISD spent about \$26,000 of the \$1.7 million allocation. The expenditures were classified as travel and transportation of persons and other services; however, MBD officials

were unable to identify through their accounting system the specific transactions for testing purposes.

To its credit, in September 2002 the USMS Controller issued a memorandum to the USMS Headquarters senior staff and USMS District Offices incorporating changes to the USMS financial management and budget allocation approach for FY 2003. The memorandum implemented the use of project codes in the budget execution process to enhance the ability of the USMS to trace expenditures to the corresponding budget allocations. However, according to an official in the USMS Office of Finance, the use of the project codes would track expenditures made from the same cost center, but not across cost centers. Therefore, the USMS still needs to address the issue of tracking expenditures across cost centers.

Lastly, in our judgment the USMS needs to reassess its financial needs for implementing the JDIS to ensure that it meets Congressional expectations. Since FY 1997, the USMS had the option to allocate to the JDIS up to \$4 million annually, or \$28 million in total. Yet, the USMS has only provided the JDIS with \$4 million as a result of a FY 2001 OMB reapportionment from FY 1997 funds. The USMS did schedule the JDIS to receive an additional \$1.5 million in FY 2003, but as of our audit fieldwork, that had not been accomplished.

As a result of the issues disclosed herein, we cannot provide assurance to Congress that the USMS adhered to all of its spending instructions for FY 2002 and FY 2003.

Recommendations

We recommend that the Director of the USMS:

1. Develop a budget execution system that tracks changes, obligations, and expenditures to the budget estimates included in spending instructions.
2. Reexamine its annual Congressional request of \$4 million for JDIS, in light of the USMS's record of not allocating more than \$5.5 million of the available \$28 million of these funds over the past seven years.

II. MOTOR VEHICLE FLEET

We determined that 55 percent of the vehicles in the districts and 37 percent of the vehicles at the USMS's Headquarters exceeded the GSA's minimum mileage replacement criteria. The average mileage of the USMS motor vehicle fleet is 105,000 miles. Although the USMS has a vehicle maintenance plan, it does not have a regular vehicle replacement plan to address the needed vehicle upgrades. In order to reduce the average mileage of the USMS motor vehicle fleet from the current 105,000 miles, the USMS needs to develop and implement a vehicle replacement plan.

According to a BSD summary report, the USMS spent approximately \$15.9 million during FY 2002 to lease and purchase vehicles. The amount included about \$4.8 million from an end-of-year realignment of funds (also see Other Matters), but did not include a program increase for replacement of vehicles. In addition to acquiring vehicles for use by operational units, during FY 2002 the USMS also purchased two new sedans for the Director and Deputy Director at a cost of \$56,268. These vehicles augment a utility vehicle with secure communications equipment, also purchased in FY 2002. According to the Headquarters' vehicle listing provided by the BSD, these vehicles are assigned to USMS Headquarters. There are no vehicles in the USMS Motor Pool officially designated for use by specific offices or persons. However, only the Director, the Deputy Director or their designee, can use this utility vehicle because of the secure communications equipment in the vehicle. The Director's Office provided a brief narrative showing when the Suburban was received, its current mileage, and the ways in which the vehicle is used.

In FY 2003, Congress provided the USMS with a one-time increase of \$10.4 million to purchase motor vehicles. When providing this increase, the Senate expressed concerns that the USMS's "approach to fleet management is 'run to failure'." The BSD provided us with a prioritized list of their planned purchases using the \$10.4 million.

We received a STARS report from MBD staff that showed an allocation, after the rescission, of about \$10.4 million to the BSD for vehicles. The BSD provided a list of 88 vehicles the USMS purchased for approximately \$1.9 million as of June 30, 2003. We reviewed the transactions for five of the vehicles and found that they were supported. However, only three of the purchases were made with appropriated funds. The other two purchases were made from lease savings and proceeds from vehicle auctions. One of

the five vehicle purchases was for a USMS Headquarters office while the other four purchases were for districts. Of the 88 vehicles purchased, 6 vehicles were for the USMS's Headquarters and 82 vehicles were for the districts.

The GSA minimum mileage replacement criteria for motor vehicles provides that an agency may replace sedans and station wagons at 60,000 miles or three years of age, whichever comes first. Similarly, an agency may replace 4 to 6 wheel drive motor vehicles and trucks weighing less than 12,500 pounds at 40,000 miles or at 6 years of age, whichever comes first. We found that the mileage for about 55 percent of the USMS district fleet vehicles and 37 percent of the USMS headquarters exceeded the GSA mileage replacement criteria. USMS officials advised us that the USMS does not have a vehicle replacement plan in place. According to an official in the BSD, creating a regular replacement plan is difficult because in the past the USMS has not been able to obtain the funding necessary to replace the high-mileage vehicles in its fleet. This BSD official stated that the current average mileage of the vehicles in the USMS's motor vehicle fleet was 105,000 miles. According to the same official, to reduce the average mileage of the vehicles in the USMS's motor vehicle fleet from 105,000 miles to 80,000 miles, the USMS would need to receive at least \$10 million per year for the next 4 to 5 fiscal years. Notwithstanding the \$10.4 million in FY 2003, USMS officials indicated that the lack of a replacement plan is due to the USMS not being able to obtain the funding necessary to replace the higher-mileage vehicles.

We assessed whether the USMS motor vehicle fleet was adequately funded and managed. We reviewed vehicle logs to identify the universe of vehicles, their current mileage, and their assigned locations (district or headquarters). Not including forfeited and transferred-in vehicles, 2,186 vehicles were assigned to the districts and 54 vehicles were assigned to USMS Headquarters. Fifty-five percent (1,210) of the 2,186 vehicles in the districts and 37 percent (20) of the 54 vehicles at USMS Headquarters exceeded the GSA minimum mileage replacement criteria. Of the 2,240 vehicles, which are in the USMS's motor vehicle fleet, 1,799 were purchased vehicles and 441 were leased vehicles. Of the 1,230 vehicles in the USMS's motor vehicle fleet that exceeded GSA's minimum mileage standards, 1,081 are purchased vehicles and 149 are leased vehicles. Thus, about 60 percent of the USMS's purchased vehicles and about 34 percent of the USMS's leased vehicles exceed the GSA's minimum mileage criteria.

Absent a regular vehicle replacement plan, many of the vehicles in the USMS's motor vehicle fleet pose a possible safety threat to USMS

employees. In addition, the maintenance requirements of higher-mileage vehicles may result in a reduction in the number of vehicles in service. Further, the lack of a regular vehicle replacement schedule affects the USMS's ability to budget effectively for vehicle replacement and may result in the costs of replacing vehicles to be bunched within one or two fiscal years. The USMS needs to develop and implement a vehicle replacement plan to ensure the continual use of reliable and safe vehicles.

Recommendation

We recommend that the Director of the USMS:

3. Develop and implement a formal vehicle replacement policy that includes replacement criteria such as vehicle age and mileage.

OTHER MATTERS

As part of our review, we examined the USMS's establishment of the Hazardous Response Unit, its opening of foreign offices, and its reprogramming activities in FY's 2002-2003 in light of Congressional interest in these issues.

Hazardous Response Unit

In a memorandum issued June 30, 1999, the Acting Director of the USMS established the Chemical/Biological Office of Preparedness (CBOP) under the Judicial Security Division (JSD). The USMS created the CBOP to coordinate policies and related programs concerning biological and chemical events. The CBOP was responsible for: 1) developing chemical and biological policy; 2) training; 3) conducting exercises; 4) tracking events; 5) identifying required equipment; 6) participating in interagency activities; and 7) establishing a liaison with the Federal Bureau of Investigation and other federal agencies. At that time, only two people were assigned to the CBOP and their work for the unit was a collateral duty assignment.

According to a USMS official, after the September 11, 2001, terrorist attacks, the CBOP began receiving many questions from judges and United States Attorney's Offices concerning chemical and biological threats. In response to this increased demand, USMS decided to place an emphasis on staffing and training the unit. As part of this emphasis, the USMS transferred the CBOP from JSD to the District Affairs division in the Office of the Director and reclassified the two collateral duty positions as permanent. In addition, on July 8, 2002, the CBOP announced position openings for 12 collateral duty personnel, and changed the name of the unit to the Hazardous Response Unit (HRU).

According to a USMS official, each of the 14 HRU team members is trained as an Emergency Medical Technician for tactical situations, meaning that HRU team members are armed and can enter dangerous situations to treat victims. When HRU team members are faced with a threat, they attempt to determine what is happening, where the threat has been released, and how to treat the threat. In addition, HRU team members can enter the threatened location immediately because they are armed. The HRU team members are also hazardous material technicians. Most of the HRU's work involves two-person teams traveling to courthouses to survey the courthouses' disaster plans. The same USMS official asserted that no other law enforcement organization is performing these kinds of surveys or preparing to respond to chemical and biological attacks in this manner.

The HRU is currently staffed with 2 permanent staff members and 12 collateral duty members who split their time between the Eastern District of Virginia and the HRU. We reviewed the timesheets of these 12 collateral duty personnel to determine the amount of time spent on HRU duties versus district duties. However, on the timesheets, duty at both the HRU and the Eastern District of Virginia falls under the "Judicial Security" heading. Because the timesheets do not list specific tasks under Judicial Security, we were not able to determine the workload distribution.

A listing of HRU operations, provided by the HRU, showed that the HRU performed 31 operations from September 4, 2002, through June 28, 2003. These operations included protective sweeps, chemical and biological monitoring, and sniper detail. Additionally, the HRU took part in 27 presentations and assessments from November 11, 2002, through July 10, 2003. These tasks included briefings, training of USMS deputies, and chemical and biological awareness classes. Along with these operations, each member of the HRU is expected to take 600 hours of training over the fiscal year.

According to a MBD official, the USMS did not prepare a Congressional Relocation Report (CRR) for the opening of the CBOP or the HRU. The official stated that the creation of the CBOP under the JSD supported the judicial protection mission of the USMS and the JSD. The official asserted that the USMS did not need to prepare a CRR at that time because the CBOP was using pre-existing space at USMS Headquarters and the two personnel positions were collateral duty assignments. The MBD official also stated that, similarly, the USMS did not need to prepare a CRR when the CBOP changed its name to the HRU because the 14 current staff members of the HRU are still using pre-existing space at USMS Headquarters.

JMD guidelines state that a CRR needs to be filed when there are: 1) new offices (physical space) to be opened; 2) offices proposed for closing; 3) office relocations from one Congressional district to another; or 4) expansion or relocation of central Headquarters of over 10,000 square feet. To confirm the USMS's interpretation of the guidelines, we contacted a JMD official and explained the history of the CBOP and the HRU. The JMD official stated that the USMS would not have had to file a CRR for the following reasons: 1) the HRU was using existing space at Headquarters and was not expanding or relocating Headquarters space of over 10,000 square feet; 2) the HRU was a part of the USMS, and thus the HRU was not reimbursing the USMS for the use of the space; and 3) the HRU did not

move between Congressional districts or open another office in a new Congressional district.

A USMS official also stated that the USMS is working on establishing a fugitive task force in Springfield, Virginia, that is comprised of the 12 collateral-duty HRU team members. These 12 people would split their time between the HRU and the new task force, and no longer be assigned to the Eastern District of Virginia. The USMS is planning to establish this task force under authority it was granted in the Presidential Threat Protection Act of 2000⁶, but also is preparing a request to DOJ to make the HRU a permanent unit.

Foreign Offices

In 1999, the USMS began implementing a plan to open foreign offices in Mexico, Jamaica, and the Dominican Republic. According to USMS officials, the Ambassadors to these countries and Attorney General Reno requested the opening of these offices due to the large number of United States fugitives in these countries. To staff these offices, the USMS placed series 1811 criminal investigators, who were assigned to USMS districts, on temporary duty, six-month rotations in these locations.

However, in the FY 2002 Conference Report, Congress called for the closing of these foreign offices after learning that the USMS had failed to file a CRR. During our interviews, several USMS officials acknowledged that the USMS's opening of the offices without filing a CRR had been incorrect. The USMS closed the foreign offices in December 2001. The criminal investigators assigned to Jamaica and the Dominican Republic returned to the United States in January 2002. The criminal investigators assigned to Mexico returned to the United States in March 2002.

Subsequently, in the FY 2003 Conference Report, Congress instructed the USMS to open permanent foreign offices in Mexico, Jamaica, and the Dominican Republic. The FY 2003 appropriation also included an additional \$1,715,000 of funding for these offices; however, USMS officials noted that they were informed that this amount did not include funding for new positions. Thus, when the foreign offices reopen, the USMS will staff the offices with personnel reassigned from districts on a three-year basis with an optional one-year extension. As of June 30, 2003, none of the foreign offices are open; however, the USMS expects to have all three offices reopened by the end of calendar year 2003.

⁶ The Presidential Protection Act of 2000 is P.L. 106-544.

Reprogramming Activities

According to MBD officials, the USMS neither requested nor initiated reprogramming actions during FY 2002 or FY 2003.⁷ However, the USMS sought to reprogram \$9 million near the end of FY 2001 to cover a rent shortfall. In addition, at the end of FY 2002, funds were transferred out of various cost centers, including the Training Academy, to provide funds for unfunded items in the FY 2002 budget. According to MBD officials, these transfers did not require a reprogramming because of their low dollar amounts and because they did not involve the transfer of funds among decision units.

However, as part of its authority, the USMS regularly realigns funds among costs centers in order to compensate for unfunded items when reprogramming authority is not required. After the Director selects the programs to be funded, the MBD updates the list to indicate those programs that were funded and those that remain unfunded. If a particular item did not get funded after the mid-year review or if a new requirement arises, cost centers may request funding during the third quarter review. As the end of the fiscal year approaches, the "unfunded" list is updated and forwarded to the Director on almost a daily basis. For FY 2002, we reviewed documentation of the budget reviews and determined that a total of \$24,321,343 was realigned to various cost centers to fund projects that were not budgeted for, or not funded, at the beginning of the fiscal year. As an example of an item that was funded through the unfundeds list, the BSD received over \$4,800,000 for the purchase of new vehicles at the end of FY 2002. As an example of a source of funding for the unfundeds list, \$90,000 was transferred from the Training Academy's account for use towards unfunded programs at the end of FY 2002.

⁷ A reprogramming is the transfer of funds of funds between decision units, which exceeds \$500,000 or 10 percent of the total budget. The nine decision units at the USMS are: 1) Protection of the Judicial Process, 2) Prisoner Transportation, 3) Fugitive Apprehension, 4) Seized Assets Management, 5) D.C. Superior Court, 6) Service of Legal Process, 7) Training Academy, 8) ADP and Telecommunications, and 9) Management and Administration.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objective of the audit was to determine if the USMS executed its approved budgets for FY 2002 and FY 2003 in accordance with Congressional spending instructions. We conducted our audit in accordance with Government Auditing Standards and included such tests as were considered necessary to accomplish our objectives. Our audit concentrated on, but was not limited to, FY 2002 and FY 2003.

We reviewed listings of transactions obtained from the USMS STARS accounting system and judgmentally selected transactions for review. We did not perform testing to express an opinion on the STARS system, and therefore we do not express an opinion on the system. However, as a part of the annual financial statement audit for the USMS, the USMS financial management systems are reviewed to determine their compliance with the federal financial management systems requirements, applicable federal accounting standards, and the United States General Ledger. These systems were found to comply with these requirements for the FY 2002 financial statement audit. Therefore, we believe that data used was adequate our sampling and testing purposes.

We obtained an understanding of the USMS's budget execution process by reviewing pertinent documents including the FY 2002 and 2003: 1) appropriations laws; 2) conference reports; 3) House reports; 4) Senate reports; and 5) DOJ and OMB publications. We also reviewed the USMS's documentation of its allocations and obligations and relevant policy memoranda. We conducted interviews with officials from various offices in the USMS, including the MBD, the BSD, the CCMG, the ISD, the Office of District Affairs, and the Office of the Director. Our fieldwork was performed from June 2, 2003, through July 24, 2003, at the Arlington, Virginia offices of the USMS. In all cases, our samples were judgmentally selected and represented ten percent of the available universe.

APPENDIX II

SAMPLE OF A COST MODULE

| | | | | | |
|---|----------------------------|-------------------------------|---------------------|-------------------------|-----------------|
| GS-1811-07/12 (DUSM) | 40 | GS-1811-07/12 (DUSM) | | | |
| GS-0082-07/11 (DUSM) | 0 | | | | |
| GS-0082-07/11 Salary Diff GS-14 & 13 (DUSM) | 0 | | | | |
| GS-0082-07/11 Salary Diff GS-13 & 12 (DUSM) | 0 | | | | |
| GS-0082-07/11 Salary Diff GS-12 & 11 (DUSM) | 0 | | | | |
| GS-xxx-13 (Pro Admin) | 0 | | | | |
| GS-xxx-12/13 (Pro Admin) | 0 | | | | |
| GS-xxx-09/12 (Pro Admin) | 0 | | | | |
| Number of Positions | 40 | | | | |
| FTE - First Year (50% Lapsed) | 20 | Protection of Judges | | | |
| Object | | Allocation Per Pos | Base Per Pos | One-Time Per Pos | |
| Class | Item | Recipient | 1st Year | 1st Year | 1st Year |
| 11.1 | Regular Salary | Salary Funding - MBD | \$18,278 | \$18,278 | \$0 |
| 11.5 | LEAP | Salary Funding - MBD | \$4,570 | \$4,570 | \$0 |
| 11.5 | Awards | Salary Funding - MBD | \$0 | \$0 | \$0 |
| 11.5 | Overtime | Salary Funding - MBD | \$0 | \$0 | \$0 |
| 12.1 | Benefits/Insurance | Salary Funding - MBD | \$9,518 | \$9,518 | \$0 |
| | | Subtotal Personnel | \$32,366 | \$32,366 | \$0 |
| 21.0 | PCS | HRD | \$0 | \$0 | \$0 |
| 21.0 | Travel | Receiving Office | \$0 | \$0 | \$0 |
| 23.3 | Telephone | ITS | \$1,845 | \$1,845 | \$0 |
| 23.3 | Postage | Receiving Office | \$122 | \$122 | \$0 |
| 23.3 | Utilities | CCMG | \$10 | \$10 | \$0 |
| 25.2 | Payroll Services | Salary Funding MBD | \$89 | \$89 | \$0 |
| 25.2 | Recruitment | HRD | \$1,799 | \$469 | \$1,330 |
| 25.2 | Drug Tests | HRD | \$182 | \$36 | \$146 |
| 25.6 | Background Investigation | HRD | \$4,824 | \$192 | \$4,632 |
| 25.6 | Physical Exam | HRD | \$573 | \$268 | \$305 |
| 25.6 | Psychological Exam | HRD | \$625 | \$0 | \$625 |
| 25.6 | Medical Care | HRD | \$125 | \$125 | \$0 |
| 26.0 | Common Supplies | Receiving Office | \$1,054 | \$1,054 | \$0 |
| 26.0 | Fuel | Receiving Office | \$763 | \$763 | \$0 |
| | Ammunition | Training Academy | \$478 | \$0 | \$478 |
| | Ammunition | Receiving Office | \$221 | \$221 | \$0 |
| 26.0 | Safety/Protective Equip. | Receiving Office | \$718 | \$289 | \$429 |
| | Safety/Protective Equip. | Training Academy | \$853 | \$0 | \$853 |
| | Safety/Protective Equip. | CCMG | \$139 | \$139 | \$0 |
| | Safety/Protective Equip. | HRD | \$59 | \$14 | \$45 |
| 26.0 | Uniforms/Clothing | Receiving Office | \$626 | \$347 | \$279 |
| | Uniforms/Clothing | Training Academy | \$415 | \$0 | \$415 |
| 31.0 | Furniture/Fixtures | CCMG | \$4,352 | \$435 | \$3,917 |
| 31.0 | Vehicles | BSD | \$27,443 | \$9,148 | \$18,295 |
| | Vehicle Maintenance | Receiving Office | \$0 | \$0 | \$0 |
| 31.0 | Radios | DOJ WMO | \$10,631 | \$1,063 | \$9,568 |
| | Radio Maintenance | Receiving Office | \$0 | \$0 | \$0 |
| 31.0 | Desktop Computer | ITS | \$1,772 | \$443 | \$1,329 |
| | Desktop Software | ITS | \$797 | \$199 | \$598 |
| | Printer | ITS | \$105 | \$26 | \$79 |
| | Network Equip | ITS | \$2,891 | \$723 | \$2,168 |
| | Desktop Maintenance | ITS | \$0 | \$0 | \$0 |
| | Enterprise Maintenance | ITS | \$0 | \$0 | \$0 |
| 31.0 | Portable Computer/Software | ITS | \$2,349 | \$587 | \$1,762 |
| | Portable Maintenance | ITS | \$0 | \$0 | \$0 |
| 31.0 | Tech/Investigative Equip. | Receiving Office | \$648 | \$219 | \$429 |
| | Tech/Investigative Equip. | Training Academy | \$445 | \$0 | \$445 |
| 31.0 | Firearms | Training Academy | \$96 | \$96 | \$0 |
| | Firearms | Receiving Office | \$548 | \$64 | \$484 |
| 32.0 | Buildout | MBD Escrow for DD | \$1,451 | \$0 | \$1,451 |
| Multiple | Basic Officer Training | Training Academy | \$5,422 | \$542 | \$4,880 |
| Multiple | Advanced Officer Training | Training Academy | \$0 | \$0 | \$0 |
| Multiple | Other Training | Training Academy | \$0 | \$0 | \$0 |
| Multiple | Operational Expenditures | ISD | \$0 | \$0 | \$0 |
| Multiple | Operational Expenditures | Special Assignments | \$0 | \$0 | \$0 |
| | | Subtotal Non-Personnel | \$74,470 | \$19,528 | \$54,942 |
| | | Total Position Cost | \$106,836 | \$51,894 | \$54,942 |

APPROPRIATION AND CONFERENCE REPORT LANGUAGE

FY 2002 Spending Instructions⁸

1. Salaries and Expenses

For necessary expenses of the United States Marshals Service, including the acquisition, lease, maintenance, and operation of vehicles, and the purchase of passenger motor vehicles for police-type use, without regard to the general purchase price limitation for the current fiscal year, \$619,429,000:

Official Reception

Of which not to exceed \$6,000 shall be available for official reception and representation expenses;

Prisoner Information System

Of which not to exceed \$4,000,000 shall be available for development, implementation, maintenance and support, and training for an automated prisoner information system shall remain available until expended;

Special Operations Group

\$500,000 for Special Operations Group training, equipment, and facilities maintenance;

Permanent Changes of Station

\$583,000 for permanent changes of station;

Electronic Surveillance Unit

[An increase] of \$3,150,000 for Electronic Surveillance Unit personnel and equipment;

East Coast/West Coast Task Forces

[An increase of] \$5,825,000 for the establishment of dedicated fugitive task forces on both coasts as proposed by the Senate;

⁸ The FY 2002 Appropriation Law is P.L. 107-77. The accompanying Conference Report is House Report 107-278.

Courthouse Security Personnel

[An increase] \$3,625,000 for courthouse security personnel for existing and new courthouses;

Prisoner Transportation

[An increase of] \$1,451,000 for prisoner transportation;

Courthouse Security Equipment

For the costs of courthouse security equipment, including furnishings, relocations, and telephone systems and cabling, \$14,267,000, to remain available until expended.

Funding for courthouse security equipment is provided as follows:

| Courthouse Security Equipment | Amount Allocated in Conference Report |
|---------------------------------------|--|
| <u>Detainee Facilities</u> | |
| Fort Smith, AR | \$ 200,000 |
| Denver, CO | 1,090,000 |
| Washington, DC | 75,000 |
| Jacksonville, FL | 1,065,000 |
| Dublin, GA | 432,000 |
| Moscow, ID | 50,000 |
| Bowling Green, KY | 330,000 |
| Bay City, MI | 175,000 |
| Detroit, MI | 450,000 |
| Cape Girardeau, MO | 75,000 |
| East St. Louis, MO | 10,000 |
| Greenville, MS | 645,000 |
| Gulfport, MS | 540,000 |
| Hattiesburg, MS | 590,000 |
| Oxford, MS | 1,095,000 |
| Newark, NJ | 300,000 |
| Columbus, OH | 300,000 |
| Muskogee, OK | 920,000 |
| Aiken, SC | 220,000 |
| Florence, SC | 321,000 |
| Spartanburg, SC | 555,000 |
| Columbia, SC | 195,000 |
| Amarillo, TX | 450,000 |
| Houston, TX | 1,063,000 |
| Laredo, TX | 700,000 |
| Waco, TX | 423,000 |
| Cheyenne, WY | 800,000 |
| Subtotal, Detainee Facilities | 13,069,000 |
| Minor Repair | 375,000 |
| Engineering Services | 643,000 |
| Security Survey | 180,000 |
| Total, USMS Security Equipment | \$14,267,000 |

2. Construction

For planning, constructing, renovating, equipping, and maintaining United States Marshals Service prisoner-holding space in United States courthouses and Federal buildings, including the renovation and expansion of prisoner movement areas, elevators, and sallyports, \$15,000,000 to remain available until expended.

The conference agreement includes the following distribution of funds:

| Construction | Per Conference Report |
|---|------------------------------|
| <u>Construction</u> | |
| Hot Springs, AR | \$ 1,328,000 |
| Prescott, AZ | 550,000 |
| Grand Junction, CO | 450,000 |
| Davenport, IA | 856,000 |
| Sioux City, IA | 100,000 |
| Moscow, ID | 200,000 |
| Rock Island, IL | 1,250,000 |
| Rockford, IL | 24,000 |
| Springfield, IL | 85,000 |
| Bay City, MI | 685,000 |
| Flint, MI | 248,000 |
| Natchez, MS | 1,000,000 |
| Billings, MT | 850,000 |
| Raleigh, NC | 2,446,000 |
| Sante Fe, NM | 500,000 |
| New York, NY (40 Foley) | 250,000 |
| Columbus, OH | 1,000,000 |
| Dayton, OH | 150,000 |
| Muskogee, OK | 280,000 |
| Sioux Falls, SD | 680,000 |
| Cheyenne, WY | 200,000 |
| Subtotal, Construction | 13,132,000 |
| <u>Planning, Design, & Relocation:</u> | |
| El Dorado, AR | 100,000 |
| Fayetteville, AR | 100,000 |
| El Centro, CA | 32,000 |
| Ocala, FL | 475,000 |
| Billings, MT | 200,000 |
| Wilmington, NC | 125,000 |
| Columbia, SC | 46,000 |
| Casper, WY | 100,000 |
| Subtotal, Planning, Design, & Relocation | 1,178,000 |
| Security Specialists/Construction Engineers | 690,000 |
| Total, Construction | \$15,000,000 |

3. Federal Prisoner Detention

For expenses, related to United States prisoners in the custody of the United States Marshals Service, but not including expenses otherwise provided for in appropriations available to the Attorney General, \$706,182,000, to remain available until expended.

4. Fees and Expense of Witnesses

For expenses, mileage, compensation, and per diems of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, \$156,145,000, to remain available until expended:

Witness Safesites

Of which not to exceed \$6,000,000 may be made available for planning, construction, renovations, maintenance remodeling, and repair of buildings, and the purchase of equipment incident thereto, for protected witness safesites;

Armored Vehicles

Of which not to exceed \$1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses;

Telecommunications Equipment

Of which not to exceed \$5,000,000 may be made available for the purchase, installation, and maintenance of secure telecommunications equipment and a secure automated information network to store and retrieve the identities and locations of protected witnesses.

5. FY 2002 Supplemental⁹

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses, United States Marshals Service", \$10,200,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38:

⁹ The FY 2002 Supplemental appropriations law is P.L. 107-117. The accompanying Conference Report is House Report 107-350.

Courthouse Security Equipment

Of which \$5,000,000 shall be for courthouse security equipment;

Additional Protection at Trials

\$4,000,000 is provided for additional protection of the Federal Judiciary in New York City involved in the World Trade Center bombing and embassy bombing trials; and

Courthouse Security Expenses

\$1,200,000 is for Foley Square and Brooklyn Federal courthouse security expenses.

Construction

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction", \$9,125,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38. The Marshals Service is directed to apply this funding to the highest priority locations.

FY 2003 Spending Instructions¹⁰**1. Salaries and Expenses**

For necessary expenses of the United States Marshals Service, including the acquisition, lease, maintenance, and operation of vehicles, and the purchase of passenger motor vehicles for police-type use, without regard to the general purchase price limitation for the current fiscal year, \$680,474,000:

106 Courthouse Security Positions

Of which \$15,800,000 shall be available for 106 supervisory deputy marshal positions for courthouse security;

Official Reception

Of which not to exceed \$6,000 shall be available for official reception and representation expenses;

Prisoner Information System

Of which not to exceed \$4,000,000 shall be available for development, implementation, maintenance and support, and training for an

¹⁰ The FY 2003 Appropriation Law is P.L. 108-7. The accompanying Conference Report is House Report 108-010.

automated prisoner information system shall remain available until expended;

Courthouse Security Equipment

\$12,061,000 shall be available for the costs of courthouse security equipment, including furnishings, relocations, and telephone systems and cabling, and shall remain available until expended;

Electronic Surveillance Unit Base Funding

\$3,300,000 for Electronic Surveillance Unit recurring costs;

Hand/Leg Cuffs

\$1,000,000 for hand/leg cuffs;

Special Assignments

\$10,015,000 for special assignments;

Warrant Information Network

Not less than \$2,766,000 . . . for the Warrant Information Network and subscriptions to various networks and on-line systems;

40 Positions for Protection of the Judiciary

\$5,650,000 for 40 additional personnel and equipment, as requested, for the protection of the Judiciary for high threat trials;

18 Positions for High Priority Districts

\$2,259,000 for 18 positions to be allocated to those districts with the highest priority needs;

East Coast/West Coast Task Forces

\$2,268,000 to fully annualize the two existing fugitive task forces;

Heartland Task Forces

\$2,916,000 to establish two additional centrally-managed fugitive task forces in the heartland;

Electronic Surveillance Unit

\$2,750,000 for Electronic Surveillance Unit personnel, training, and equipment;

Foreign Offices

[An increase] of \$1,715,000 to establish a permanent Marshals Service presence in Jamaica, the Dominican Republic, and Mexico;

Vehicles

[An increase] of \$10,424,000 for vehicles.

2. Construction

For planning, constructing, renovating, equipping, and maintaining United States Marshals Service prisoner-holding space in United States courthouses and Federal buildings, including the renovation and expansion of prisoner movement areas, elevators, and sallyports, \$15,126,000 to remain available until expended.

3. Fees and Expense of Witnesses

For expenses, mileage, compensation, and per diems of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, and for United States Marshals Service Witness Security program expenses, \$175,645,000, to remain available until expended:

Witness Safesites

Of which not to exceed \$6,000,000 may be made available for planning, construction, renovations, maintenance remodeling, and repair of buildings, and the purchase of equipment incident thereto, for protected witness safesites;

Armored Vehicles

Of which not to exceed \$1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses;

Witness Security Program

Of which not to exceed \$19,500,000 may be made available for the United States Marshals Service Witness Security program;

Telecommunications Equipment

Of which not to exceed \$5,000,000 may be made available for the purchase, installation, and maintenance of secure telecommunications equipment and a secure automated information network to store and retrieve the identities and locations of protected witnesses.

4. Wartime Supplemental¹¹

For an additional amount for 'Salaries and Expenses, United States Marshals Service' for necessary expenses, \$8,000,000, to remain available until September 30, 2004:

High Priority Districts

\$5,800,000 to be allocated to those districts with the highest priority needs for the protection of the judicial process;

Secure Communications Capability

\$2,200,000 to upgrade the Marshals Service secure communications capability.

¹¹ The FY 2003 Wartime Supplemental law is P.L. 108-11. The accompanying Conference Report is House Report 108-076.

APPENDIX IV

USMS RESPONSE TO THE DRAFT AUDIT REPORT



U.S. Department of Justice


United States Marshals Service

Management and Budget Division
1000

Washington, DC 20530-1000

October 1, 2003

MEMORANDUM TO: Guy K. Zimmerman
Assistant Inspector General For Audit

FROM: 
Edward Dolan
Comptroller

SUBJECT: Draft Audit Report, "Budget Execution In The United States
Marshals Service During Fiscal Years 2002 And 2003"

Thank you for the opportunity to review the Draft Audit Report, "Budget Execution In The United States Marshals Service During Fiscal Years 2002 And 2003." My staff has fully read and reviewed the report. Our response disagrees with the recommendation to develop a revised budget execution system, agrees with the recommendation to have a motor vehicle replacement plan, and agrees with the recommendation to re-evaluate the Justice Detainee Information System (JDIS) appropriation language.

However, we believe there are numerous instances regarding conclusions that are drawn from incomplete analysis, contradictory statements, and inaccurate facts. We have addressed these issues, and strongly encourage the Inspector General (IG) to consider modifying the draft report to incorporate these changes in order to improve the quality of the final report.

For your review, I have attached the following: I. Response to IG Recommendations; II. Clarification and Correction of Inaccuracies and Misstatements (this section only addresses the Executive Summary), and; III. Summary. Additional suggested technical edits and corrections to the report will be provided directly to the audit team.

Please contact me on extension 7-9027 with any questions.

Attachments

I. USMS Response To Findings And Recommendations

Recommendation I (a): *We recommend the Director of the USMS develop a budget execution system that tracks changes, obligations, and expenditures to the budget estimates included in spending instructions.*

USMS Response: **The USMS disagrees with Recommendation I (a).**

We believe that the USMS has a budget execution system that fully tracks obligations, changes and expenditures. Further, it is *inaccurate* to assert, "the USMS *can't* clearly demonstrate that budgeted funds are allocated in accordance with Congressional intent." Every allocation requirement identified by the audit staff was addressed with supporting documentation. In addition, the body of the report itself supports item-by-item USMS allocations that adhere to Congressional items identified by the audit. Therefore, it is unclear why this statement was made throughout the report.

Further, there has been no direction from DOJ, OMB, or the Congress to DOJ components to establish a system that would track a specific increment of funding. Therefore, it has not been a USMS priority to track a specific increment of funding. However, the USMS can verify that each new Deputy United States Marshal (DUSM) receives training, a weapon, computer, a drug test, a background investigation, etc. But, having the capability to know the increase in agency costs (for example, the rent) that results from every increase in personnel would require project code tracking for every program increase. This strategy was *not* pursued since it has not been directed, would create a significant administrative burden on both financial and program office staffs, and would be of questionable benefit.

Recommendation I (b): *Reexamine its (USMS) annual Congressional request of \$4 million for JDIS (Justice Detainee Information System), in light of the USMS's record of not allocating more than \$5.5 million of the available \$28 million of these funds over the past seven years.*

USMS Response: **The USMS agrees with Recommendation I (b) to the extent that the USMS will "reexamine its annual Congressional request of \$4 million for JDIS" prior to the submission of the FY 2005 President's Budget Request to the Congress.**

Justice Detainee Information System (JDIS)

The report states the following, "the JDIS is an automated prisoner information system. Since FY 1997, Congress has *allocated* the USMS up to \$4 million annually, or \$28 million in total, to develop the JDIS. However, to date the USMS has *allocated* the JDIS only \$5.5 million of the available \$28 million over the past 7 years."

I. USMS Response To Findings And Recommendations

By including the language, "of which not to exceed \$4,000,000 shall be available for development, implementation, maintenance and support, and training for an automated prisoner information system and shall remain available until expended," the Congress provides the USMS "passive authority" to identify funding for JDIS from within the total amount appropriated. The language, "available until expended" is significant because it indicates "no-year" funding as opposed to annual funding. The USMS's Salaries and Expenses annual funding is the "source" for this requirement. Our practice has been to determine "availability" after the annual appropriation has "expired" for some time. Funding for JDIS is made available after expired annual funding has been identified. This funding is then transferred, through DOJ and Treasury via an SF 1151, from the USMS Salaries and Expenses annual appropriation to the Salaries and Expenses "no-year" appropriation.

Recommendation II: *Develop a vehicle replacement plan to ensure that the USMS motor vehicle fleet is brought into, and then remains, in compliance with the GSA mileage requirements.*

USMS Response: **The USMS agrees with Recommendation II concerning the value of a motor vehicle replacement plan. As reported to the audit staff, this plan has been implemented to the extent possible within funding available to the USMS. Further, this plan is in accordance with standards established by the USMS.**

Vehicle Replacement Plan

The report states the following, "*The USMS motor vehicle fleet is aging beyond replacement criteria established by the General Services Administration (GSA). We determined that 55 percent of the vehicles in the districts and 37 percent of the vehicles at the USMS's Headquarters exceeded the GSA's minimum mileage replacement criteria. Although the USMS has a vehicle maintenance plan, it does not have a regular vehicle replacement plan to address the needed vehicle upgrades. In order to reduce the average mileage of the USMS motor vehicle fleet from the current 105,000 miles to the mileage criteria set by the GSA, the USMS needs to develop and implement a vehicle replacement plan.*"

As cited in the report, the GSA mileage criteria is for a minimum replacement cycle of 3 years/60,000 miles. This is *not* the point at which GSA vehicles *must* be replaced, but the point at which they *may be replaced*. Further, this replacement criteria is not binding.

I. USMS Response To Findings And Recommendations

The USMS believes that the quality of today's vehicles, coupled with the Service's maintenance program, makes it unnecessary to replace vehicles so soon. We believe that vehicles used for general operations need only be replaced at 4 years or 80,000 miles. Vehicles used for daily prisoner transportation are currently replaced at 3 years or 60,000. Since FY 2002, the Marshals Service has reduced the average mileage of the motor vehicle fleet from 115,000 to the current level. During FY 2003, the USMS has purchased 435 new vehicles to replace high mileage ones. Further, the Marshals Service has instituted a policy to replace older vehicles with new vehicles without the option of "retaining" the older vehicle. This enables the USMS to continue to lower the average mileage of vehicles and reduce funding needs associated with maintaining an older fleet. The USMS will continue to implement its vehicle replacement plan and, with adequate funding, we project our vehicle fleet average mileage can be reduced to 80,000 miles within the next 3 fiscal years.

II. Clarification And Correction Of Inaccuracies and Misstatements

Before addressing each of the particular issues within the Executive Summary narrative, the two paragraphs below clarify the ability and use of the USMS cost modules.

Cost Module

Within the report, there are repeated references to deficiencies within USMS Budget Execution procedures that are recommended for improvement to the cost *model* allocation process. The report indicates that the USMS *cannot* identify expenses to individual cost *model* allocations.

Throughout the report, the OIG uses the term "cost model" rather than the appropriate term "cost module." DOJ has worked diligently to make the cost modules for all of its components as precise as possible, but in the end, they are budget estimates used as budget development tools.

Page ii

Paragraph (1) states, "Beginning in FY 2002, the USMS has undertaken an initiative to reorganize and centralize spending and budget execution at the USMS Headquarters. For example, until FY 2002, the MBD operated on the assumption of a base budget adjusted annually to reflect increases. However, in FY 2002 the USMS implemented "zero-base budgeting" under which a new base amount is calculated each fiscal year for each decision unit and program area. Once a base amount is calculated, MBD officials stated that they provide each cost center, including the 94 districts, with an initial allocation amount. Each cost center must then create a workplan that details the amount of money the cost center plans to spend during each quarter of the fiscal year. That workplan is sent to MBD for review and approval. The workplan does not include salary and benefits, because these funds are held and disbursed centrally by the MBD."

The USMS is not re-organizing via centralization. Also, a Zero Based Budgeting (ZBB) process was implemented during FY 2002. This is not an annual process; instead, the ZBB established a new base allocation for HQ offices. Cost centers are no longer in use (FY 2002 was the last year); project codes are now used in FY 2003. Further, neither cost centers nor project codes create workplans. A workplan is an allocation of funding to a district or program office that includes project codes.

II. Clarification And Correction Of Inaccuracies and Misstatements

Paragraph (2) states, "in addition, districts previously could realign funds between accounts without the approval of MBD officials."

The term "account" is usually referred to in the same context as an appropriation. The USMS never independently realigns funding between appropriations. District and HQ offices are issued funding by project code and object class. These workplan holders must seek approval to re-align funding by object class or project code, but *never* had authority to move funding between accounts.

Paragraph (4) states, "the USMS needs to improve its budget execution process in order to more clearly demonstrate that budgeted funds are allocated in accordance with Congressional intent."

As stated previously, the USMS has clearly demonstrated and provided supporting documentation to the IG Audit Staff that funding appropriated by Congress for specific purposes was fully allocated in accordance with Congressional direction.

Page iii

*Paragraph (1) states, "Generally, these deficiencies were due to two factors. First, the USMS does not track changes, obligations, and expenditures to cost centers or against estimates developed from cost models." Second, the USMS records **do not document** that certain funds were allocated to the purpose intended by Congress.*

The USMS is **strongly opposed** to the term "**deficiency**." The USMS has a system that specifically identifies funding for every program office (that receives cost module funding) in accordance with DOJ and OMB approved cost modules. Further, the USMS employs an additional internal control that is used to systematically document every allocation change made in STARS.

The USMS disagrees with the continued reference to "USMS records do not document that certain funds were allocated to the purpose intended by Congress." Without a further explanation, this statement appears to be associated with an **incomplete analysis**.

Page iv

Full paragraph (2) states, "In addition, because the USMS cannot trace corresponding expenditures, the USMS cannot verify the accuracy of the estimates formulated by the cost model, on which the USMS bases its allocations to cost centers. Thus, any errors in the cost model may be perpetuated year after year. For example, a variation between formulated costs and actual costs for vehicles for a particular unit

II. Clarification And Correction Of Inaccuracies and Misstatements

required the BSD to compensate for over \$32,000 of expenses for which it had received no funding. While the actual costs of other vehicles the BSD acquired in FY 2002 may have fallen short of their estimates and offset any loss to the BSD, under its current system, the USMS cannot track these expenditures to ensure that the vehicles line item, as well as the other line items in the cost model, remain accurate."

Underlined portions are addressed below:

First, OMB, DOJ, and USMS use cost modules to develop budget estimates. Modules set the standards for each category of expenses for agents, attorneys, computer specialists, and other types of administrative positions.

Second, cost modules have been used for over 20 years in the DOJ budget process. In 1997, at the request of OMB, a joint working group was established to examine the cost module and update the standards for law enforcement positions. The working group included representatives from OMB, JMD, USMS, FBI, DEA, and INS.

Attached is the June 4, 1997 memorandum from Adrian Curtis, Director, JMD Budget Staff, requesting comments to the revised law enforcement cost module. Also attached is the July 16, 1997 memorandum from Stephen Colgate, Assistant Attorney General for Administration, finalizing the working group's recommendations. Each year since then, the cost module standards have been used consistently. Further, the costs associated with each line item are updated based on the preceding year's actual obligations and/or expenditures. For example, the FY 2002 budget request included cost modules that had been approved by OMB in November 2000. These cost modules reflected refined estimates from the fiscal year that ended on September 30, 2000.

The example highlighted in the report refers to the FY 2002 enacted budget that included a program increase of "\$3,150,000 for Electronic Surveillance Unit (ESU) personnel and equipment." The fact that Congress provided \$3,150,000 implies that the USMS had formulated this request. This is not the case. The USMS had requested \$3,437,000 for ESU in its spring call request to DOJ. However, DOJ denied the request and no additional resources were included as part of the President's Budget request to Congress. To conclude that the cost module understated the funding for 9 ESU vehicles is factually incorrect. Instead, it is more important to determine if the USMS had obligated the program increase to hire and equip additional ESU personnel. The conference language provided \$3,150,000 for ESU personnel and equipment. Upon enactment, the USMS determined that hiring 15 personnel would be the best use of resources. The balance of the program increase was used to purchase necessary ESU equipment. This USMS allocated the entire program increase as Congress intended, and to imply that the funding was not allocated in support of ESU is incorrect.

II. Clarification And Correction Of Inaccuracies and Misstatements

Full paragraph (3) states, "when questioned, MBD officials asserted their support for the use of cost models, which they have been using for the last four years. MBD officials also stated that they do not have the staff available to track expenditures related to the cost models, and that practice would be an inefficient use of resources. In our opinion, without being able to track expenditures related to the cost models, the USMS could not demonstrate to us that the funds provided by Congress in response to the cost model were used for the specific purposes in the estimates. Therefore, we conclude that the USMS needs to implement a methodology for tracking expenditures to cost model estimates in order to demonstrate to Congress that it is adhering to its spending instructions."

The USMS does not agree that additional project codes to track the specific expenses associated with the cost module portion of program increases is an efficient use of staff resources or the accounting system. Further, the USMS disagrees with the assertion that, *"the USMS needs to implement a methodology for tracking expenditures to cost model estimates in order to demonstrate to Congress that it is adhering to its spending instructions."* The USMS believes that it has fully complied with established guidelines with regard to budget execution of appropriated funding.

Pages iv-v

Paragraph (4) states, *"according to the criteria (established by the General Services Administration - GSA), sedans and wagons should be replaced every 3 years or 60,000 miles, whichever comes first."* It further states, *"in order to reduce the average mileage of the USMS motor vehicle fleet from the current 105,000 miles to the GSA criteria, and to increase the safety of the staff who use the vehicles, we recommend that the USMS develops and implements a vehicle replacement plan."*

As stated above, the USMS agrees with the value of having a vehicle replacement plan. However, the USMS does not agree to develop a plan that meets the GSA standard of 3 years and 60,000 miles. GSA does not provide the funding to implement a plan to these standards. And as stated previously, a standard of 4 years and 80,000 miles provides adequate value for a vehicle replacement plan.

Page v

Full paragraph (2) states, *"since 1997, Congress has allocated the USMS up to \$4 million annually, or \$28 million in total, to develop JDIS."*

This is *inaccurate*. The Congress appropriates funding, it does not allocate.

II. Clarification And Correction Of Inaccuracies and Misstatements

Full paragraph (3) states, *“while we understand from the appropriation language that the USMS is not required to obligate the full \$4 million to JDIS each fiscal year, we believe the USMS should clarify the need for and intent of this annual appropriation to ensure that it is meeting congressional expectations with respect to the development of JDIS.”*

The USMS has not received appropriated funding specifically for JDIS. This funding was to be identified after all other requirements have been met. The USMS has operated fully within the “umbrella” of Congressional expectation and intent.

Full paragraph (4) states, *“As a result of our review, we recommend that the USMS develop a budget execution system that allows expenditures to be traced accurately to their corresponding allocations.”*

The USMS does trace expenditures to corresponding allocations by project code. However, the USMS does not trace by each individual program increase, but rather by the total program. The USMS will comply with any additional JMD guidance issued to all components on this issue.

Finally, the following is stated on page 31, *“in addition to acquiring vehicles for use by operational units, during FY 2002 the USMS also purchased two new sedans for the Director and Deputy Director at a cost of \$56,268.”*

Although we fail to understand the relevance of this statement, it is inaccurate. The Director was assigned a vehicle that was purchased with FY 2002 funds, but the Deputy Director was not assigned a vehicle purchased with FY 2002 funds.

III. SUMMARY

The scope of the Inspector General (IG) Audit was broadly based on "budget execution", without identifying criteria or benchmarks that define appropriate and "auditable" DOJ, OMB, or Congressional standards. Since there are no budget execution allocation standards, the USMS follows its own internal procedures. Because these are internal procedures, the USMS is not obligated by law, or even Executive Branch guidelines to follow them.

What the IG Report failed to state is that the USMS does follow Congressional funding direction, and issues proper notification to Congress when reprogramming actions are necessary. In addition to meeting these requirements at lower levels of financial operation, the USMS takes extra measures to ensure full accountability. Several USMS practices go beyond government standards. And, most importantly, the USMS did not exceed its appropriated funding in FY 2002 or FY 2003. As the IG report finally stated on page 3 of the introduction, *"we also reviewed the USMS's Standard Form 133 Reports on Budget Execution (SF-133) submitted to the Office of Management & Budget for FY 2002 and FY 2003 to determine whether the USMS's total spending in these years is within its total budget authority. And it is in this regard we accepted the amounts reported on the SF-133s based on our reliance on the results in the Office of the Inspector General Audit Report Number 03-26, the United States Marshals Annual Financial Statement Audit, Fiscal Year 2002, July 2003, which resulted in an unqualified opinion."*

During the past fiscal year, MBD has implemented project code budgeting that has further strengthened the USMS's financial management. This process has improved the USMS's capability to programmatically track obligations and expenses, and has improved program office and MBD oversight of funds. This new process was not required by law or Executive Branch guidelines. Similarly, the USMS bases funding for new position allocations on the cost module. Unless something changes, the cost module approach *is* the DOJ module for developing fully burdened costs associated new positions. As stated and inferred, the USMS expanded the use of this module in order to better link budget execution and budget formulation. The IG has incorrectly criticized the USMS's use of the module, instead of acknowledging the positive and independent adoption of its implementation.

In summary, the USMS is confident that its budget execution procedures fully comply with DOJ, OMB, and Congressional financial management policies, procedures, and appropriation law.

**OFFICE OF THE INSPECTOR GENERAL ACTIONS
NECESSARY TO CLOSE THE REPORT**

In its response to the draft audit report, the USMS agreed with two of our three recommendations, but disagreed with many of our comments and conclusions, stating that they were based on incomplete analysis, contradictory statements, and inaccurate facts. Before we discuss the status of each of the three recommendations, we respond to the general report comments made by the USMS. The status of each recommendation and our discussion of the USMS response to the recommendations will follow thereafter.

First, it is important that we clarify what we audited and what we did not audit. The USMS response mistakenly focuses on its budget formulation process rather than the budget execution process – the subject of our audit. To reiterate, as we state in the Executive Summary:

The objective of the audit was to determine if the USMS executed its appropriated budgets for FY 2002 and FY 2003 in accordance with Congressional spending instructions.

To accomplish this task, we relied on the FY 2002 and FY 2003 appropriation laws and the corresponding House, Senate, and conference reports. We then focused our review on the Congressional spending instructions contained in those reports and how the USMS executed its budget in light of these instructions. Our audit was designed to examine whether the USMS's recorded expenditures were consistent with the congressional instructions.

USMS Financial Statement Audit

The USMS response cites the USMS Annual Financial Statement Audit for FY 2002 (OIG Report No. 03-26), in which the USMS received an unqualified opinion, as evidence that it is in compliance with congressional spending instructions. However, the USMS's reliance on this unqualified opinion as an indication that it has followed Congressional spending instructions is not valid because the purpose of the Financial Statement Audit is to express an opinion only on the agency's financial statements, internal control, and compliance with certain provisions of laws and

regulations. As we state on page 3 of the draft audit report on USMS budget execution practices:

We also reviewed the USMS's Standard Form 133 Reports on Budget Execution (SF-133) submitted to the Office of Management and Budget (OMB) for FY 2002 and FY 2003 to determine whether the USMS's total spending in these years is within its total budget authority. In this regard we accepted the amounts reported on the SF-133s based on our reliance on the results in the Office of the Inspector General Audit Report Number 03-26, the United States Marshals Service Annual Financial Statement Audit, Fiscal Year 2002, July 2003, which resulted in an unqualified opinion.

The financial statement auditors do not compare agency spending against Congressional spending instructions when performing testing for the financial statement audit. We relied on the auditors' opinion in the FY 2002 Annual Financial Statement only to determine that the USMS did not exceed its overall budget authority.

Cost Module

The USMS objected to our use of the term "cost model" rather than the term "cost module" in the report. However, in numerous interviews and discussions with USMS personnel, the term cost model was used rather than cost module. The cost module exists in budget formulation, which we did not audit. Notwithstanding that fact, we will accept the terminology suggested by USMS management and consequently have replaced all references in the report to cost model with cost module.

Page ii

The USMS response stated that it "is not re-organizing via centralization" and that its use of zero-base budgeting in FY 2002 "is not an annual process." In addition, the USMS stated that starting in FY 2003 it used project codes rather than cost centers and that neither project codes nor cost centers "create workplans." Although the USMS may not have undertaken a formal plan to centralize spending and budget execution, as noted in the report, the USMS has centralized spending in key areas at Headquarters and has limited the authority of officials to transfer funds between or among object classes or project codes. The MBD determines the amount of the annual allocation the cost center (FY 2002) or project code (FY 2003) will receive. Further, officials from the cost centers or project

codes determine the amount of funding that will be spent in each quarter of the fiscal year and, thus, those officials create the document entitled "workplan." We have clarified this point in the report and explained that the USMS only used zero-base budgeting in FY 2002.

The USMS also objected to our use of the term "account" when we stated in the report that "districts previously could realign funds between accounts without the approval of MBD officials." The USMS stated that "[t]he term 'account' is usually referred to in the same context as an appropriation" and, in this sense, cost centers and project codes "never had authority to move funding between accounts." We have amended the audit report to replace "accounts" with "project codes or object class."

The USMS response also stated, "the USMS has clearly demonstrated and provided supporting documentation to the IG Audit Staff that funding appropriated by Congress for specific purposes was fully allocated in accordance with Congressional direction." As detailed in the audit report, however, the USMS could not demonstrate that budgeted funds were expended in accordance with specific congressional instructions. The USMS could not provide either accounting records or a management information system report supported by accounting records that demonstrated expenses incurred were for the specific purpose described in the spending instructions. By not being able to provide independently verifiable records of expenditures for the specific purposes cited in the congressional spending instructions, the USMS could not show that it had expended its funds in accord with specific congressional directives contained in appropriation laws and committee reports. We have amended the audit report to clarify that while the USMS was able to demonstrate allocation of funding in accordance with congressional spending instructions, it could not demonstrate that funds were expended in accordance with congressional spending instructions

Page iii

In our audit report we state that the USMS could not demonstrate its adherence to the congressional spending instructions in FY 2002 and FY 2003. The USMS response stated that it "strongly opposed" our use of the term "deficiency" and stated that its system "identifies funding for every program office" in accordance with "approved cost modules." In addition, the USMS stated that it has an "additional internal control . . . to systematically document every allocation change made in STARS." This additional internal control, which we considered to be ineffective, is a Lotus Notes spreadsheet used by the USMS to track budget allocations. We found that the USMS was generally able to demonstrate its allocation of funds; however, it often was unable to demonstrate the obligation and expenditure

of these funds in accordance with Congressional intent. In our opinion, because the USMS cannot clearly demonstrate obligation and expenditure of these funds they cannot give assurance that the funds were spent in accordance with congressional spending instructions.

The USMS also disagreed with our continued assertion that the "USMS records do not document that certain funds were expended to the purpose intended by Congress," and noted that "this statement appears to be associated with an incomplete analysis." We do not concur that our review was based on an incomplete analysis. Our analysis was thorough and, throughout the audit, we worked closely with MBD staff when analyzing worksheets and reports that were provided to us. We have provided the details of the budget execution process as gathered from the USMS and disclosed our analyses in the report. We attempted to match expenditures against what Congress specified in spending instructions but were unable to do so. Similarly, the USMS could not do so. As a result, we concluded that USMS records do not document that certain funds were expended for the purpose intended by Congress. The specific spending instructions and expenditures are identified on pages 8 and 19 of the report. Our detailed analysis regarding this process appears in the body of the report.

Page iv

In its response, the USMS provided additional information about its use of cost modules and the circumstances surrounding its \$3,150,000 program increase for the ESU in FY 2002. The USMS stated that it "allocated the entire program increase as Congress intended, and to imply that the funding was not allocated in support of ESU is incorrect." In addition, the USMS stated that "[t]o conclude that the cost module understated the funding for 9 ESU vehicles is factually incorrect."

We found that the USMS allocated the entire program increase in support of the ESU as detailed in the body of the report. However, based on our review of the BSD records, we found that while the BSD spent about \$28,985 per vehicle for the 9 ESU vehicles, the cost module allocated only about \$25,376 per vehicle. Therefore, we concluded that the BSD was required to compensate for this difference. We stand behind this statement and our conclusion that the USMS cannot track expenditures to ensure that the vehicles line item, as well as other line items in the cost module, remains accurate.

The USMS also stated that it "does trace expenditures to corresponding allocations by project code," but "does not trace by each individual program increase." The USMS stated it "will comply with any

additional JMD guidance issued to all components on this issue." As noted previously, we found the USMS was generally able to demonstrate the allocation of funds; however, it often was unable to demonstrate the obligation and expenditure of these funds in accordance with congressional intent. To its credit in September 2002 the USMS Comptroller issued a memorandum to the USMS Headquarters Senior Staff and USMS District Offices incorporating changes to the USMS financial management and budget allocation approach for FY 2003. The memorandum implemented the use of project codes to enhance the ability of the USMS to trace expenditures to the corresponding budget allocations. In our audit report we noted that the use of project codes would help link budget allocations to expenditures, but the use of project codes would not track expenditures across cost centers. Consequently, we stand behind our recommendation that the USMS develop a budget execution system that will allow all expenditures to be traced to corresponding allocations

The USMS asserted that adding additional project codes to track the specific expenses associated with the cost module portion of program increases is not an efficient use of staff resources or the accounting system. The USMS also disagreed with our statement that, "the USMS needs to implement a methodology for tracking expenditures to cost module estimates in order to demonstrate to Congress that it is adhering to its spending instructions. The USMS believes that it has fully complied with established guidelines with regard to budget execution of appropriated funding." However, we found that the USMS could not demonstrate that the funds provided by Congress in response to the cost module were used for the specific purposes in the estimates. Therefore, we reassert that the USMS needs to implement a methodology for tracking expenditures to cost module estimates in order to demonstrate to Congress that it is adhering to its spending instructions.

Pages iv-v

In our draft report, we recommended that the USMS develop a vehicle replacement plan to ensure that the USMS motor vehicle fleet is brought into, and then remains, in compliance with the GSA mileage requirements. In its response, the USMS said it "agrees with the value of having a vehicle replacement Plan," but "does not agree to develop a plan that meets the GSA standard of 3 years and 60,000 miles." The USMS stated that the "GSA does not provide the funding to implement a plan to these standards," and that "a standard of 4 years and 80,000 miles provides adequate value for a vehicle replacement plan." Based on the USMS's response to the draft report, and additional information obtained on the GSA vehicle replacement criteria, we have modified our recommendation to read that the USMS develop and implement a formal

motor vehicle replacement policy that includes replacement criteria such as vehicle age and mileage.

Page v

The USMS stated that it “has not received appropriated funding specifically for JDIS,” and that the JDIS “funding was to be identified after all other requirements have been met.” In addition, the USMS asserted that it “has operated fully within the ‘umbrella’ of Congressional expectation and intent.” In our review of the FY 2002 and FY 2003 appropriation laws and conference reports, we could not identify language that specified that the JDIS should be funded “after all other requirements have been met,” or that this appropriation should be treated differently than any other USMS “no-year” appropriations.

The USMS also asserted that our report inaccurately stated that the USMS assigned a vehicle to the Deputy Director that was purchased with FY 2002 funds. As noted on page six of the USMS’s response, the USMS stated that it “employs an additional internal control that is used to systematically document every allocation change made in STARS.” This additional internal control is a Lotus Notes spreadsheet that the USMS maintains to track budget allocations. We based our report comment on the following entry from the spreadsheet:

| FY | Directorate | Start Date | Type of Funding | Current Amount Available | Description |
|-----------|--------------------|-------------------|------------------------|---------------------------------|----------------------------------|
| FY02 | | 1/25/2002 | Direct One Time | \$56,268.00 | Funding for Director/DD Vehicles |

Based on our review of this document, the Deputy Director’s vehicle was purchased with FY 2002 funds. Any inaccuracy in this statement is the result of an inaccuracy in the USMS’s records and a weakness in the additional internal control referred to by the USMS.

Summary

We focused our review on the Congressional spending instructions contained in the FY 2002 and FY 2003 appropriation laws and the corresponding House, Senate, and conference reports, and how the USMS executed its budget in light of these instructions. Based on comments provided by the USMS in its response to the draft audit report and additional information obtained, we made some revisions to the final report including modifying our recommendation for the USMS motor vehicle fleet. We found that while the USMS was able to demonstrate its allocation of funds, it could not demonstrate that funds were expended in accordance with congressional intent. Specifically, it could not provide either accounting records, or a management information system report supported by accounting records, that demonstrated obligations and expenditure of funds for the specific purposes described in the spending instructions. By not being able to provide independently verifiable records of expenditures for the specific purposes cited in the congressional spending instructions, the USMS could not show that it had expended its funds in accordance with specific congressional instructions contained in the FY 2002 and FY 2003 appropriation laws and committee reports. Therefore, we concluded that the USMS needed to improve its budget execution process in order to demonstrate more clearly that budgeted funds are executed in accordance with Congressional intent.

Status of Recommendations

1. **Unresolved.** The USMS disagreed with our recommendation that it develop a budget execution system that tracks changes, obligations, and expenditures to the budget estimates included in congressional spending instructions. Further, in its response, the USMS stated, "it is inaccurate to assert, 'the USMS can't clearly demonstrate that budgeted funds are allocated in accordance with Congressional intent'." As noted previously, the USMS generally was able to demonstrate the allocation of funds; however, it often was unable to demonstrate the obligation and expenditure of these funds in accordance with congressional intent. Specifically, the USMS could not provide accounting records identifying the obligations or expenditures. We have amended the audit report to clarify this point.

The USMS also stated that it has not pursued the establishment of a budget execution system that tracks specific increments of funding because it has not received direction to do so from the DOJ, the OMB, or Congress. The USMS asserted that establishing such a system without direction "would create a significant administrative burden on both financial and program

office staffs, and would be of questionable benefit.” However, due to congressional interest in the USMS’s budget execution process, the OIG believes that the USMS needs to develop a budget execution system that will track changes, obligations, and expenditures to budget estimates to resolve and close this recommendation.

2. **Resolved.** The USMS agreed with our recommendation to reexamine its annual congressional request of \$4 million for JDIS, in light of the USMS’s record of not allocating more than \$5.5 million of the available \$28 million of these funds over the past seven years. We consider this responsive to the intent of the recommendation. To close this recommendation, the USMS needs to provide the OIG with documentation showing the status of the JDIS project and projected spending requirements for completion.

3. **Resolved.** To close this recommendation, the USMS needs to provide the OIG with documentation that it has implemented a vehicle replacement policy.