

Executive Summary

Between early 2010 and late 2011, a series of complaints was received by the Department of Commerce (DOC) Office of the Inspector General (OIG), officials from the National Oceanic and Atmospheric Administration (NOAA), DOC Office of the Chief Financial Officer, and the Government Accountability Office (GAO), alleging an array of misconduct on the part of [REDACTED]

[REDACTED] These complaints resulted in a preliminary investigation conducted at the request of NWS leadership that found reason to believe that [REDACTED] may have engaged in the unauthorized reprogramming of NWS program funds in fiscal year (FY) 2010 and FY 2011, in violation of those years' Federal Appropriations Acts. The present executive level inquiry was initiated in light of these preliminary findings.

The present inquiry team conducted more than 30 interviews of over 20 witnesses, performed extensive financial analysis, consulted with the IG's Office, NOAA CFO's Office and the DOC General Counsel's Office, and examined large numbers of documents, e-mails, memoranda, and spreadsheets pertinent to the allegations against [REDACTED]. Ultimately, the inquiry team finds that [REDACTED] to engage in the unauthorized reprogramming of NWS funds in FY 2010 and FY 2011, in violation of the FY 2010 and 2011 Federal Appropriations Acts. The inquiry team further finds that significant management, leadership, budget, and financial control problems led to an environment where such activity could occur.

The inquiry team found no evidence that [REDACTED] committed fraud or personally gained from [REDACTED] conduct. Instead, [REDACTED] appeared motivated by a desire to keep a variety of NWS programs operational despite what [REDACTED] believed to be inadequate funding to maintain these programs at necessary levels of performance. To keep certain NWS programs functioning, in FY 2010 and FY 2011 [REDACTED] failed to assess NWS programs or Financial Management Centers (FMCs) evenly or in appropriate amounts to cover NWS common services, leaving a significant shortfall in the Management and Administration (M&A) account handled by the Office of the Assistant Administrator (OAA). To make up for this shortfall, along with additional NWS budget deficits, [REDACTED] inappropriately transferred past expenses out of the Local Warnings and Forecasts base budget (LWF), which contained flexible Operations, Research, and Facilities (ORF) funds, to programs such as the Advanced Weather Interactive Processing System Program (AWIPS) and the Weather Radio Improvement Program (WRIP), thereby freeing money in the LWF to address shortfalls elsewhere within NWS operations. [REDACTED] used summary level transfers (SLTs) to shift these expenses, thereby avoiding obvious detection and "colorizing" tightly controlled Procurement, Acquisition, and Construction (PAC) funds by converting them to ORF funds that could be used for a variety of purposes.

██████████ was able to continue ██████████ inappropriate activities for the time period covered by this inquiry despite repeated employee complaints, in large part because of the dynamic that existed among ██████████. ██████████ was nervous to challenge ██████████ directly and, when ██████████ did, ██████████ questionable responses were accepted and ██████████ actions went unreported. ██████████ trusted ██████████ guidance, rarely questioned ██████████ and allowed ██████████ to work without significant oversight. At the same time, there was a lack of transparency regarding budget policies and procedures throughout NWS, leading to an atmosphere of distrust in NWS leadership and the NWS CFO's Office.

Looking back, it is clear that several complaints concerning ██████████ activities went unheeded, allowing ██████████ activities to continue for much longer than should have been possible. NOAA officials, the Office of the Inspector General (OIG), and the DOC CFO's Office all received complaints alleging possible reprogramming activities in FY 2010, and yet the activity continued until late FY 2011.

Finally, two unrelated complaints about ██████████ are not supported by the evidence. The first involves an allegation that ██████████ allowed NWS to spend five hundred thousand dollars to conduct a space consolidation study using funds from other NWS programs, at a time when the NWS budget was facing shortfalls. In fact, money spent by NWS in this study was reimbursed by the Acquisitions and Grants Office (AGO), which was the beneficiary of the work. Moreover, the space consolidation project was designed to save NWS significant money in future years. The second complaint involves a claim that ██████████ inappropriately influenced the outcome of a competitive acquisition to have an award made to the company ██████████. The inquiry finds that a NOAA contracting officer was present for all meetings between ██████████ and representatives from ██████████, who believes that ██████████ actions were appropriate.

The inquiry team was instructed to concentrate primarily on financial records and events arising in FY 2010 and FY 2011. This period is the focus of the earlier draft investigation report, was referenced by complaints and allegations and is the period in which most of the alleged inappropriate conduct arose. The inquiry team recognizes that there are clearly defined questions regarding this matter that remain unanswered, and that NOAA may need to initiate an additional investigation into actions arising in prior years, and into tangential issues. At the end of this report are listed areas that NOAA may consider appropriate for further review.

REPORT

I. Procedural History

This inquiry is the result of a series of complaints filed with the leadership of the National Oceanic and Atmospheric Administration (NOAA), the Department of Commerce (DOC) Office of Inspector General (OIG), DOC Office of Chief Financial Officer, and the Government Accountability Office (GAO), involving alleged mismanagement of funds within the National Weather Service (NWS). The complaints assert a series of wrongful acts, but focus primarily on the decisions of the [REDACTED] to keep a variety of NWS programs operational by inappropriately transferring funds from other NWS programs, including the Advanced Weather Interactive Processing System Program (AWIPS), the Weather Radio Improvement Program (WRIP), and the Next Generation Radar Program (NEXRAD). As described more fully below, NOAA has worked with the support and guidance of the OIG to complete its investigation into these allegations.

A. **The Complaints**

In early 2010, an undated, unsigned, anonymous letter was sent to [REDACTED] [REDACTED] complaining about financial mismanagement within NWS. (Exhibit 43). Although [REDACTED] recalls seeing the letter, [REDACTED] cannot confirm when [REDACTED] received it or exactly what was done with it.¹ (Exhibit 43). However, [REDACTED] says that [REDACTED] typically would have given a copy of such a complaint to [REDACTED] along with the OIG. (Exhibit 43). Staff from the NWS CFO's Office drafted a response to the complaint addressed to [REDACTED] dated April 30, 2010; accordingly, [REDACTED] must have received a copy of the complaint prior to that time. (Exhibit 80). No response to the complaint was ever given to [REDACTED].

The complaint letter stated that the NWS was “practicing financial deceit,” and that “[i]n each of the last several years, NWS/CFO has moved appropriated funds around from program to program, PAC to ORF, into labor etc. to pay for unanticipated, underfunded, underestimated, or mismanaged programs, actions, etc.” (Exhibit 43) The complaint further stated that this practice had detrimental effects on NWS programs, as it “increases costs in many situations, delays improvements or needed maintenance, allows spares to drop below needed levels, and puts the manager at risk.” (Exhibit 43) Finally, the complaint referenced an NWS office space assessment, posing the question, “[s]ince we are short of money, why is [REDACTED] spending on the order of \$500K [REDACTED] to do a ‘space assessment’ study?” (Exhibit 43).

¹ At the time, [REDACTED] did not have a coordinated approach to handling such anonymous complaints. Since then, [REDACTED] put in place a tracking system that provides information about all correspondence that comes through [REDACTED] (Exhibit 43).

On May 25, 2010, GAO referred an almost identical anonymous complaint letter that it received on the GAO FraudNET website to the DOC OIG for further investigation. This complaint included [REDACTED] under “cc:” (Exhibit 42). According to [REDACTED] the individual handling the OIG Hotline at the time, who is no longer employed by OIG, improperly coded this complaint as “Z” (“zero file,” i.e., no referral/action), thus failing to comply with OIG’s protocol for such complaints. Accordingly, this complaint was not referred to NOAA until July 2011.

In late 2010, the IG’s Office apparently received a similar complaint, alleging that substantial funds had been inappropriately shifted from the AWIPS program to fund other NWS activities. This complaint is referenced in a November 18, 2011 letter to [REDACTED] from [REDACTED] (Exhibit 44). This complaint was also not referred to NOAA. However, between January and April 2011, OIG staff conducted a limited inquiry into the complaint, which resulted in a request to [REDACTED] for additional information in light of what appeared to be a reprogramming of approximately \$10.0 million, without necessary congressional approval. (Exhibit 44). In May 2011, [REDACTED] sent an e-mail to [REDACTED], stating that [REDACTED] should expect a member of the NWS CFO’s Office to provide [REDACTED] with an explanation of how the transfer was accomplished without the need for a reprogramming request. (Exhibit 45). [REDACTED] never provided additional information to the OIG or [REDACTED].

On June 15, 2011, the OIG received another anonymous complaint on its e-mail Hotline, alleging that:

Rumors about about your investigating [REDACTED] for diverting AWIPS funds. Also that [REDACTED] spending many hours building a cover story. Do not let them hide the facts! Ask other programs and OOS too. Also ask about how much has been spent on the crazy office space thing!

(Exhibit 46). On July 13, 2011, the OIG referred this matter to the [REDACTED] [REDACTED] for further investigation. (Exhibit 46).

On November 9, 2011, the OIG referred another complaint to [REDACTED], alleging that [REDACTED] had inappropriately redirected NEXRAD funds to cover NWS shortfalls in two separate programs. (Exhibit 47). The complaint was filed through the OIG hotline by [REDACTED] and alleged that “a few years ago, DOC specifically zeroed the NWS NEXRAD Product Improvement (PI) Program beginning FY 11 . . . [but] the NWS CFO has redirected O&M funding to continue these efforts.” (Exhibit 47). The complaint further charged that [REDACTED] used “Weather Radio Improvement Program (WRIP) procurement funding to cover shortfalls in the NWS base budget.” (Exhibit 47). [REDACTED] concluded that:

██████████ continues to rely on questionable and improper financial practices to “manage” the NWS budget instead of sound, well thought out budget plans. This is resulting in increasing budget shortfalls, numerous acquisition programs (AWIPS and WRIP) with ██████████ budget issues, and increased risks to NWS operations.

(Exhibit 47).

Finally, on January 24, 2012, the OIG referred an anonymous complaint to NOAA that it had received on its internet hotline. ██████████

██████████

B. NOAA’s Preliminary Investigation

In response to the July 13, 2011 OIG referral to ██████████ and consistent with the internal NOAA process for such referrals, on August 17, 2011 the ██████████ requested that the ██████████ direct an inquiry into the complaint. (Exhibit 49). Recognizing the need for an independent office to direct this inquiry, ██████████ asked ██████████ to lead the investigation. ██████████ agreed and subsequently asked two additional NOAA employees to join the fact finding team: ██████████ and ██████████

The investigation led by ██████████ focused primarily on whether ██████████ “had ‘diverted’ funding allocated for the [AWIPS] program,” but also touched on allegations surrounding the NWS Acquisitions and Grants (AGO) office space study and ██████████ contacts with a private company, ██████████ that had business before the Agency. (Exhibit 50, at p. 1). During the course of ██████████ investigation, ██████████ and ██████████ team interviewed a number of NWS employees familiar with the AWIPS program and its budget, looked at emails and other exhibits provided by these witnesses, and made a preliminary examination of financial data regarding the AWIPS program. On November 28, 2011, ██████████ issued a draft report, in which ██████████ made preliminary conclusions, *inter alia*, that:

² ██████████

- (1) [REDACTED] engaged in the unauthorized reprogramming of AWIPS and other program funds in FY 2010 and FY 2011, a violation of the provisions of these years' Federal Appropriations Acts. (Exhibit 50, at p. 3);
- (2) [REDACTED]
- (3) [REDACTED]
- (4) [REDACTED] and [REDACTED]
- (5) [REDACTED]

Based on the significance of these preliminary findings, NOAA immediately placed [REDACTED] on indefinite administrative leave and assigned the CFO for NOAA Fisheries to act as the NWS CFO pending the outcome of further investigation. DOC and NOAA leadership then established a senior investigative team led by senior executives from NOAA and DOC to review and expand upon the investigative work done by [REDACTED]

[REDACTED], and [REDACTED], were assigned to conduct the investigation for the senior investigative team, and NOAA Assistant Secretary Kathryn Sullivan and DOC Deputy Assistant Secretary for Resource Management Hari Sastry were assigned to provide leadership and oversight. (Exhibit 51). Throughout this Report, these individuals are referred to as the “investigative team” or “inquiry team.”³

C. Scope of Present Investigation

The senior investigative team was initially charged with clarifying or expanding upon a number of findings in the preliminary report, including:

³ Initially, [REDACTED] and [REDACTED] were tasked with conducting the investigation, and [REDACTED] and [REDACTED] were assigned to provide “day-to-day support and guidance” over the investigative team. NOAA Assistant Secretary Kathryn Sullivan and [REDACTED] were charged with providing leadership over the investigation. (Exhibit 51). As the scope of the inquiry evolved, the inquiry team determined that it was necessary to interview both [REDACTED] and [REDACTED] and they were therefore removed from the investigation team. Moreover, [REDACTED] left NOAA at the end of 2011. Thereafter, [REDACTED] was assigned to conduct the investigation with [REDACTED] and [REDACTED] were not replaced.

- What role NWS senior leadership had in the transactions, and whether NWS, NOAA and Department senior leadership had knowledge of the financial transactions under review;
- The role of the NWS CFO's staff in the transactions;
- Whether there was any indication of fraud;
- The identification of internal controls that could have or should have prevented the transactions from occurring; and
- The determination of whether there were possible violations of the Procurement Integrity Act or Standards of Conduct.

(Exhibit 51). Initially, the team was to produce a report by December 30, 2011. (Exhibit 51).

After further discussions both internally within NOAA and with the OIG, the initial charge to the senior investigative team was modified in a document dated December 13, 2011. (Exhibit 52). This further charge made clear that "the DOC Office of Inspector General will actively engage" in the investigation. Since this document was issued, the OIG has provided guidance to the senior investigative team, giving advice on a variety of issues, including recommendations for witness interviews, lines of questioning, and the overall scope and timing of the investigation.

In consultation with the OIG and senior DOC and NOAA leadership, the senior investigative team has focused on six areas in answering the questions under its charge outlined above: (1) the AWIPS allegations; (2) the NEXRAD allegations; (3) the WRIP allegations; (4) the Office Renovation allegations; (5) the improper contact with NGOs allegations; and (6) the [REDACTED] allegations. Although the initial target date for completion of a final investigative report was January 13, 2012, the complexity of the financial analysis involved and the expanded scope of the investigation required extension of the completion date until May 9, 2012.

The investigation team has concentrated primarily on financial records and events arising in FY 2010 and FY 2011, the focus of the earlier draft investigation report, and the period in which most of the alleged inappropriate conduct arose. The team curtailed its investigation into prior years in an effort to complete its investigation and report expeditiously, so that NOAA could take this report into account in its budget planning for FY 2012 and FY 2013, and could quickly make appropriate personnel decisions. The investigation team recognizes that certain questions regarding this matter remain unanswered, and that additional inquiries may need to be made into actions arising in prior years, and into tangential issues. At the end of this report are listed areas that NOAA may consider appropriate for further review.

D. Methodology of Present Investigation

To answer the questions posed in its charge, the investigative team conducted a series of interviews and completed an extensive review of NWS financial records. In addition, the inquiry team has reviewed large numbers of emails, financial information, memoranda, and other documents provided by witnesses in support of their testimony. The inquiry team consulted with

the IG's Office, the NOAA CFO's Office, and the DOC General Counsel's Office during the course of its investigation.

1. Witness Interviews

Interviewees were selected based on a number of factors, including potential knowledge of the allegations, financial knowledge, and management roles within NWS, NOAA, and DOC. Interviewees were selected and lines of questioning were formulated with the assistance of the OIG. Many witnesses were interviewed more than once, as the scope of the investigation expanded. As a result, some 30 interviews were conducted of 21 witnesses. Following the interview of each witness, the witness' statement was shared with the OIG for review.⁴

In addition to interviews, the sworn affidavits of 14 witnesses interviewed during the course of the [REDACTED] Investigation were reviewed. Relevant portions of these affidavits were considered as evidence in the present inquiry.

Witness interview summaries are attached as exhibits and referenced throughout this report. Position descriptions of all key witnesses are attached to their witness summaries. The inquiry team interviewed the following DOC employees:

a. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

b. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁴ In some cases, the witness' statement was also shown to the interviewee. However, in mid-December, 2011, the OIG recommended ending this practice, and the investigate team stopped allowing witnesses to review their own statements.

[REDACTED]

c. [REDACTED]

[REDACTED]

[REDACTED]

d. [REDACTED]

[REDACTED]

[REDACTED]

e. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

f. [REDACTED]

[REDACTED]

[REDACTED]

2. Financial Analysis

The analysis of NWS financial records was led by investigator [REDACTED] based on [REDACTED] [REDACTED], in consultation with the NOAA CFO’s Office. The inquiry team reviewed extensive financial records including, most notably, the Commerce Business Systems (CBS) Report entitled “Program Authority and Allotment by Quarter by Program” (BE521D). Using this report, the team conducted CBS queries for: (1) Structured Query Language (SQL) – Budget Operating Plans (BOPs) for Select P4 - BOP Data for all NWS CBS Program4 Codes for FY 2010 and FY 2011; and (2) SQL – Summary Level Transfers (SLTs) by Batch - SLT query for all NWS Program4_code values on the FROM side. To complete the review, the inquiry team sorted the queries by NWS Program Group (e.g., ASOS, AWIPS, Local Warnings and Forecasts) and then isolated all transactions related to Organization Code 20-01. Organization Code 20-01 represents the National Weather Service, Office of the Assistant Administrator (OAA).

The inquiry team compared the total amounts represented in the BOPs query for each Program Group to report BE521 to ensure consistency. Once relative consistency was established, the inquiry team compared each program’s total amount to appropriated amount. Differences

between these amounts were likely the result of carryover funds from the previous year and other adjustments made throughout the year to match BOP totals to the appropriated amounts.

The inquiry team further filtered the BOP data to include only transactions that appeared related to mitigating the NWS budget shortfall. These transactions had identifying words such as “mitigate”, “shortfall”, and “overrun” in the Notes section of the transaction. The team then derived a percentage of the amounts related to the shortfall in comparison to the total Office of AA amount by Program Group, to test for a possible reprogramming of funds.

A similar analysis was performed of Summary Level Transfers (SLTs). Using a query, data was sorted by program group and then further filtered to isolate transactions that appeared to be related to mitigating the NWS budget shortfall. In addition to identifying words used in the BOP transactions noted above, the SLTs also described “moving expenses” or “moving charges” from one program to another. Transactions were netted coming “From” the program group and those going “To” the program group. These amounts were then compared to appropriated amounts to determine if the percentage was below or above the 10% reprogramming threshold. The results of this analysis appear consistent with evidence provided by witness testimony.

Finally, a sample of high-dollar SLT transfers was selected to trace to expenditure documents to confirm that the transferred expenses had no relationship to the program to which the charges were moved.

The results of this process are described in Section III(B)(1), *infra*.

3. Document Review

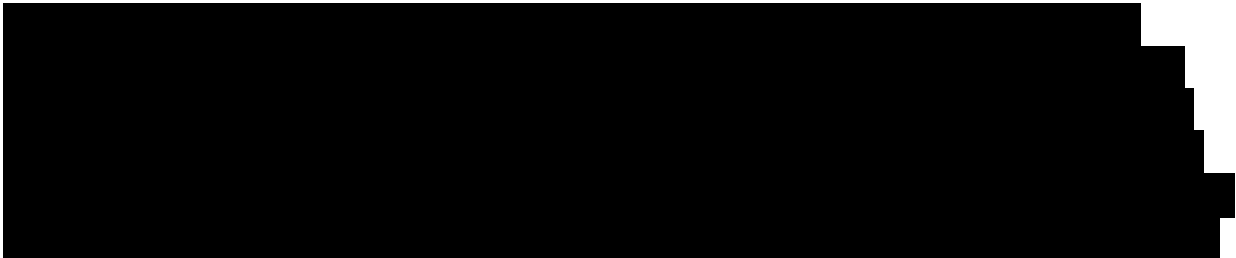
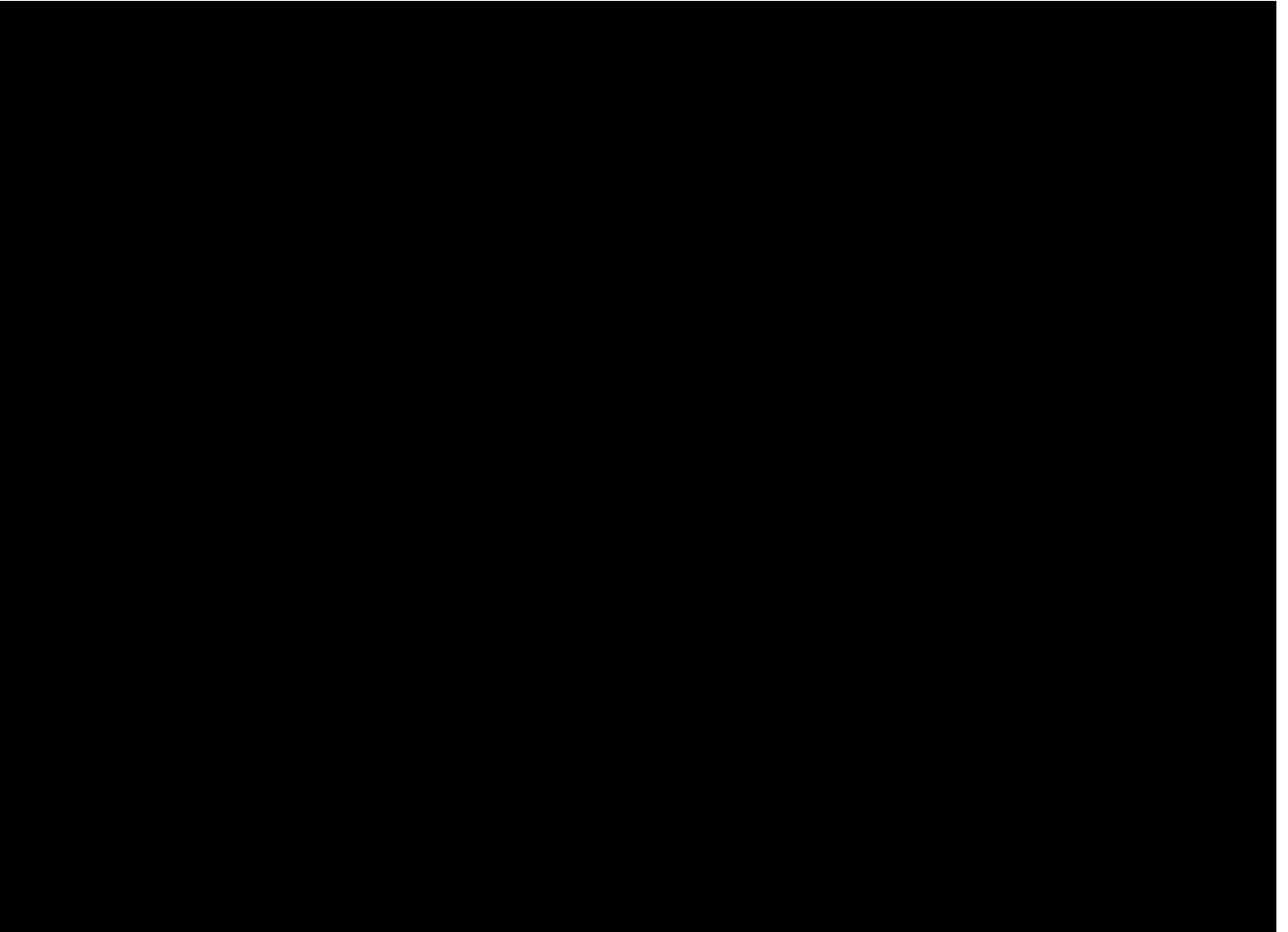
Many witnesses provided emails, financial information, memoranda, and other documents in support of their allegations, either independently or at the request of the inquiry team. This information was reviewed carefully, and makes up several exhibits attached to this report.

II. Factual Findings

A. **Background**

1. NWS and NWS CFO Management Structure

[REDACTED]



[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

2. The NWS Budget

a. **Background**

As shown below in Figure 2, the overall NWS budget for FY 2011 was approximately \$976.0 million. Approximately \$879.0 million of FY 2011 funds were Operations, Research, and Facilities (ORF) funds, while the remainder, approximately \$97.0 million, was Procurement, Acquisitions, and Construction (PAC) funds. As a general rule, ORF funds are more flexible

than PAC funds, in that they can be spent on “a wide variety of labor and systems operations.” (Exhibit 17). In contrast, PAC funds may be used only for procurement, acquisition and construction of capital assets.

NWS Appropriation 2005 – 2011
(in thousands)

NWS Spend Plans	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
ORF	\$703,926	\$746,844	\$774,963	\$808,300	\$847,938	\$892,118	\$879,582
LWF Base (ORF subset)	\$522,948	\$526,470	\$564,729	\$578,424	\$601,876	\$617,842	\$628,121
PAC	\$79,055	\$101,400	\$109,429	\$106,923	\$110,951	\$107,727	\$96,899
Total	\$782,981	\$848,244	\$884,392	\$915,223	\$958,889	\$999,845	\$976,481

All years depicted exclude supplemental funding

FY 2009 exclude ARRA funding of \$16.4M

Figure 2

Within the NWS budget, appropriations are allocated into different accounts termed Programs, Projects and Activities (PPAs). The PPAs are executed by NWS’ 13 Financial Management Centers (FMC’s), which include OST and OOS. A list of all NWS PPAs is attached as Exhibit 87.⁵

The NWS budget is designed to have considerable flexibility, and is made up primarily of a single large PPA line item called “Local Warnings and Forecasts Base” (LWF). As shown in Figures 3 and 4, in FY 2010 and FY 2011 LWF contained over \$600 million in ORF funds. NOAA created a flexible budget for NWS to allow it to respond to weather emergencies quickly and efficiently, and to allow for rapid improvements in meteorological technology. (Exhibit 17).

⁵ NWS has an established process for allocating funds to FMCs and PPAs, which is managed by the NWS CFO’s Office’s Budget Formulation and Program Analysis Division (Formulation Division). This process begins with the final congressionally enacted appropriation. Initially, the Formulation Division reverses prior-year, one time allocation actions to establish current year start points for each PPA by FMC. The Formulation Division maintains a control table that ties appropriation level changes to each PPA that is updated to meet the enacted appropriations for each given year. This control table becomes the foundation for current year allocations and the subsequent allotment process. The Formulation Division applies current year modifications, both internal and external, to the allocations by PPA and FMC. External funding level modifications are comprised of programmatic changes, enacted rescissions, inflationary adjustments to base (ATBs), enacted pay adjustments, inclusion of congressionally directed projects and Hollings Scholarship assessments. Internal funding level modifications include shifting program and/or project responsibilities between FMCs, changes to labor costs, spread of the NOAA direct bill assessment, spread of NWS’s corporate/common services (CS) assessment, and any shortfall mitigation strategies.

(In Thousands)

PPA's	NWS FY 11 Budget	Percentage
Local Warnings & Forecasts Base	\$628,121	64%
Other ORF PPAs	\$251,461	26%
PAC PPA's	\$ 96,899	10%
Total Budget	\$976,481	100%

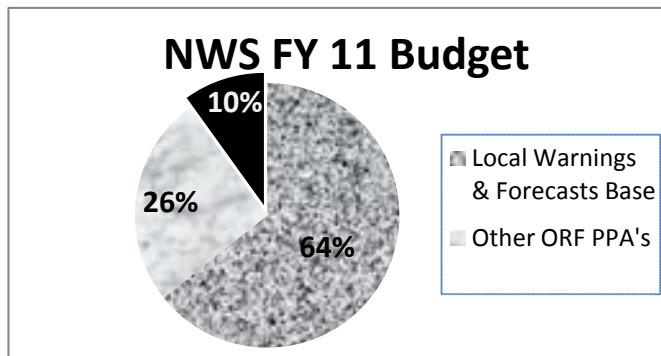


Figure 3

(In Thousands)

PPA's	NWS FY 10 Budget	Percentage
Local Warnings & Forecasts Base	\$617,842	62%
Other ORF PPA's	\$274,276	27%
PAC PPA's	\$107,727	11%
Total Budget	\$999,845	100%

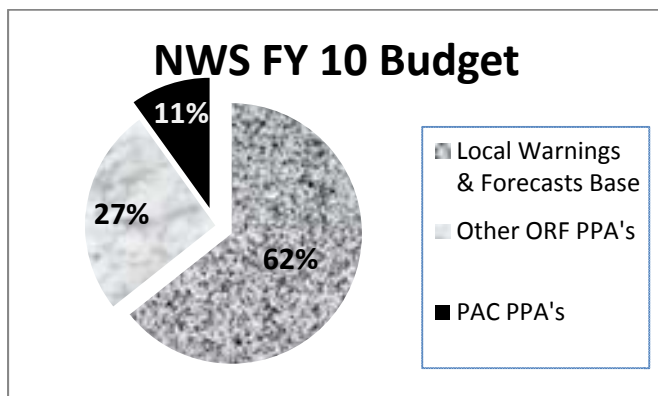


Figure 4

Despite the intended budget flexibility, witnesses familiar with the NWS budget have stated that increases in labor costs and constraints on management's ability to reshape the workforce have impinged on the flexibility in managing the NWS budget and in handling NWS budget deficits. (Exhibits 17, 23, 25). Indeed, NOAA senior leadership has believed for many years that the NWS business operations model is unsustainable because it relies too heavily on labor, and that high labor costs negate the flexibility created by the LWF. (Exhibit 17). Accordingly, NOAA senior leadership has instructed NWS to no longer create new positions, so they must find ways to move forward with the same number of employees, or less (Exhibit 17).⁶

b. NWS Budget Deficits

1. The Office of the Assistant Administrator (OAA) Account

Each year, NWS is responsible for paying a number of overhead costs, including common service expenses (e.g., rent and utilities), management and administration (M&A) expenses (e.g., costs to run the Assistant Administrator's Office and information technology support), and direct bill expenses (e.g., NOAA overhead costs, general counsel's office fees, and AGO fees). Prior to FY 2008, many of these expenses were paid for through the NWS Local Warnings and Forecasts (LWF) PPA account. (Exhibit 54). However, in FY 2008 growing common service expenses required NWS to create a "common services assessment" across most NWS PPAs, including those overseen by OST and OOS. (Exhibits 4, 23, 25). Since then, the common services assessment levied against the NWS PPAs has averaged in the 4-5% range, which is charged against the program's enacted budget authority. (Exhibits 23, 25). Collectively, those within NWS term the account where these assessments are collected the "Office of the Assistant Administrator Account" or the "OAA Account."⁷

NWS does not assess a standard percentage for each PPA for the common services assessment. Instead, [REDACTED] determined that some PPAs, including those overseen by field and "operational" offices, should not pay an assessment because it would "cripple mission performance." (Exhibits 4, 10, 23, 25). In particular, two PPAs have always been excluded from the OAA account assessment, the Weather & Climate Supercomputing Program and the Central

⁶ Understanding the challenges facing NWS, in the fall of 2010 NOAA asked the National Research Council of the National Academy of Sciences to study the past and future of NWS' operations and provide a two-part report. The first part of the report, entitled "National Weather Service Modernization and Associated Restructuring: A Retrospective Assessment," was issued in September 2011. The second part of the report, which will discuss future steps to improve NWS, is due in the summer of 2012. (Exhibit 17). **NOTE: The language in this footnote, and the text of the paragraph preceding this footnote in the body of the Report, were added by the inquiry team after the final version of this Report was submitted for review, to clarify points in the Report and address concerns raised by reviewers.**

⁷ In fact, there is no actual OAA account, since funds stay within the PPA in which they were allotted, but the funds are accounted for under the AA's Office FMC. (Exhibits 25, 29).

Forecast Guidance Program. Moreover, the LWF PPA has a specific dollar amount taken from it, instead of a percentage. (Exhibit 25).

Each year, the NWS CFO's Office calculates the assessment rate for the OAA Account by dividing the total cost of common services and direct bills by the total enacted NWS budgetary authority after subtracting the enacted budget authority for Weather & Climate Supercomputing and Central Forecast Guidance. The assessment rate in FY 2010 was set at 5.7% and in FY 2011 at 4.81%.

The amounts assessed to the PPAs do not cover the full costs of the OAA account, which was significantly underfunded at the beginning of FY 2010 and FY 2011. (Exhibits 4, 15). In both FY 2010 and FY 2011, the estimated total common service expenses were approximately \$40.0-\$42.0 million. (Exhibits 23, 25). However, in its initial budget allocation, NWS assessed its PPAs only approximately \$30.0 - \$32.0 million. (Exhibits 23, 55). Accordingly, in both fiscal years the NWS CFO's Office underfunded the OAA account by approximately \$10.0 million. (Exhibits 10, 12, 23, 25).

The gap that was left in the OAA account was covered by identifying funds thought not to be needed by programs, and transferring them via a Budget Operating Plan transfer (a direct transfer known as "BOPing") to the OAA. As such, the shortfalls in the OAA account were handled through budget execution instead of budget formulation. (Exhibits 10, 12, 23, 25). As stated by [REDACTED] when asked about the appropriate assessment rate for the OAA account:

5% was the goal, because more than that and you would attract questions about the cost of overhead, and they were always looking to reduce overhead. I knew it wasn't sufficient, but there was often money left over at the end of the year – plans fell through, projects weren't fully executed – and I knew the money could be used for the [OAA] account. . .

(Exhibit 8). [REDACTED] believed that funding the OAA account through execution was appropriate to carry out operations to meet a broad array of operational requirements in an uncertain environment of weather and water events. (Exhibit 4). That said, [REDACTED] acknowledges that this practice was never formally documented within NWS. (Exhibit 4). Moreover, [REDACTED] all advised [REDACTED] that the appropriate way to handle the OAA common services shortfall was to spread it proportionately across all NWS programs instead of targeting programs with end of year fund balances. (Exhibit 23).

2. Additional NWS Budget Deficits

Beyond the shortfalls in the OAA account, for many years NWS has operated with what many of those interviewed term a "structural deficit," dating back to at least 2004, meaning that the NWS budget has begun each of the last several fiscal years with a shortfall that must be addressed

through execution during the course of the year.⁸ (Exhibit 26, 40). The size of this perceived budget shortfall has never been clearly defined, in large part because it is based on what NWS leadership and program managers deem essential to NWS operations. As such, estimates of the size of the deficit from NWS program managers and financial analysts range from \$35.0 million to \$99.0 million. (Exhibits 1, 10, 40). [REDACTED]

[REDACTED] (Exhibit 56). The perceived NWS budget deficits were not a secret, and managers within NWS and throughout NOAA had heard that such a shortfall existed. (Exhibits 1, 19, 40).

Witnesses presented several explanations for the NWS “structural deficit.” First, the NWS budget increased only modestly between FY 2005 and FY 2011, at an average rate of approximately 3.5% per year. At the same time, labor costs increased as statutorily mandated pay raises grew. Meanwhile, NWS overhead costs increased, as NWS had to pay for unfunded IT mandates, including expenses for NOAANet, and other programs.⁹ (Exhibits 23, 25). There are also certain core NWS observational programs that appear underfunded – for example, [REDACTED] [REDACTED] has opined that GPS radiosondes require \$5.0 million more each year than appropriated. (Exhibit 25).

One other reason cited for the NWS budget shortfall involves Congressional actions in FY 2009 to prevent NWS from holding field forecaster positions open. [REDACTED]

[REDACTED] At the same time, Congress forbade NWS from closing field offices or reducing field office hours. As a result, funds within the LWF PPA that could have been spent on NWS programs were instead spent on increased labor costs. By FY 2010, NWS’ was absorbing an additional \$10.0 million on unfunded labor costs. By FY 2011, this number rose to \$11.3 million. (Exhibit 23).

3. [REDACTED] Handling of NWS Budget Deficits

In September 2010, [REDACTED] made a presentation to the NWS Corporate Board in which [REDACTED] described looming NWS funding deficits beginning in FY 2011, in the range of \$47 million. (Exhibits 4, 15, 29, 32, 57). The Board charged [REDACTED] to work with members of an “Investment Assessment Team” (IAT) made up of resource managers from several NWS offices, to look at how to address the shortfall. (Exhibits 1, 4, 15, 29).

⁸ **NOTE: Portions of the sentence attached to this footnote in the text of the Report were added by the inquiry team after the final version of this Report was submitted, to clarify points in the Report and address concerns raised by recipients.**

⁹ Overhead costs increased significantly in FY 2010 and FY 2011, particularly in the Alaska and Pacific Regions, where there were increases in mandatory non-labor costs, IT, communications, rent and utilities. (Exhibit 23).

[REDACTED]

[REDACTED] says that the draft plan was presented to [REDACTED] in December 2010, but acknowledges that a revised “final plan” was never created. (Exhibit 4). Instead, according to [REDACTED] each office was to make their best efforts to follow the draft plan. (Exhibit 4). [REDACTED] acknowledges that [REDACTED] saw the draft plan, but says that [REDACTED] never saw a final plan that had clearly established dates and milestones. (Exhibit 20). After reviewing the draft, [REDACTED]

[REDACTED] No integrated plan to address NWS shortfalls was ever presented to the Corporate Board. (Exhibit 1).

Regardless, near the end of FY 2010, there was still a projected shortfall, and [REDACTED]

[REDACTED]

[REDACTED] In [REDACTED] mind, it was appropriate to remove future funding from certain contracts that had performance periods crossing into a new fiscal year, with the idea that when NWS received appropriations in the new fiscal year it could refund the contract. [REDACTED]

[REDACTED] In a June 7, 2010, e-mail to [REDACTED], [REDACTED] provided his rationale for these measures:

There is a tendency for FMCs (some more than others) to allow for a comfortable cushion going into the next fiscal year by forward funding some contracts to be sure money is available for operations in case of unforeseen events, or just to bank “excess” funds. It is exacerbated by each FMC optimizing their flexibility at the expense sometimes of Corporate. This can be seen in some instances as purchasing more inventory than needed – both supplies and services depending upon individual’s risk tolerance as opposed to a Corporate rationale. As you and they know, the private sector minimized this practice long ago.

(Exhibit 59). Notably, according to [REDACTED], there is nothing inherently wrong with shortening a contract period, and there may be legitimate reasons to do so; however, the funds taken from shortening a contract can only be used for congressionally authorized purposes. (Exhibit 41).

In addition to cutting contract performance periods, as the end of FY 2010 and FY 2011 approached and operational needs and shortfalls became more precise, [REDACTED] acknowledged that [REDACTED] moved program funds that were not needed within the fiscal year, or that could be deferred, to the OAA account or to other programs that were running deficits. (Exhibit 4). Typically, program funding was funneled through the Office of the AA (the “OAA account”) and exchanged for LWF funds that could be used more flexibly. Funds were moved from FMCs to the OAA account via the “BOPing” process, a term used to indicate a direct transfer of funds, thus increasing the program line under the OAA and decreasing the funding line in the FMC’s. The CFO’s office would then move expenses charged to the Local Warnings and Forecasts Base (LWF) PPA to the increased OAA program line via a Summary Level Transfer (SLT) to free up LWF funds, which it would in turn “BOP” back to programs that had funding gaps.

SLTs are designed to provide financial officers with the flexibility to reassign accounting codes on past expenses, most notably to fix errors or mistakes in account coding. Here, SLTs were used to change accounting codes on expenses previously paid out of the LWF to those of other PPAs, thereby freeing up flexible LWF funds that could be used for almost any purpose. Several witnesses called this process “colorizing” money, because PAC or ORF funds would be sent to the OAA, and SLTs would be used to convert these funds to flexible LWF funds that could be used for any purpose, thus “losing their color.” (Exhibits 13, 25, 37). See Section III(B)(1), *infra*, for a more detailed explanation of this process.

Under [REDACTED] direction, in both FY 2010 and FY 2011 [REDACTED] [REDACTED], worked with FMCs to determine whether there were contracts that could be shortened or program funds that could be cut without negative consequences, so that the NWS CFO’s Office could move these funds elsewhere within NWS. (Exhibit 10). In FY 2011, for example, [REDACTED] asked [REDACTED] [REDACTED] OST created a spreadsheet of programs and contracts, prioritizing the most important. (Exhibit 60). Ultimately, money was taken from a number of OST programs: the AWIPS program,¹¹ the Complete and Sustain NOAA Weather Radio program (specifically a part of this program called the Weather Radio Improvement Program, or WRIP), the Automated Surface Observing System program (ASOS),

¹¹ Money was removed from the AWIPS PX processor program, one of OST’s top priorities, with a promise that the money would be returned in FY 2012, which it was. (Exhibit 13).

and the Central Forecast Guidance (specifically the Hurricane Forecast Improvement Program-HFIP),¹² for a total of \$15.4 million, to fund other NWS shortfalls. (Exhibit 13, 61).¹³

[REDACTED] and found the “NWS funds allocation process to be very complicated and difficult to understand.” (Exhibit 25). [REDACTED] remembers raising concerns about moving funds between programs with [REDACTED] and [REDACTED] stating that [REDACTED]

(Exhibit 25). Similarly, [REDACTED] raised concerns about the reallocation of funds with [REDACTED] in FY 2010, after [REDACTED]

When [REDACTED] later raised concerns about reprogramming again, [REDACTED] said [REDACTED]

[REDACTED] was worried about this activity for a different reason – because [REDACTED] believed that it would create larger financial problems in the future. As [REDACTED] explains it:

I had discussed this management deficiency with [REDACTED] and was surprised by [REDACTED] response. [REDACTED] explained to me that by moving certain acquisitions into the next fiscal year, the NWS would still be able to do what it needed to do by using the new fiscal year budget, and the same operations can be repeated year after year. I tried, but was not able to make him understand that his action equivalently moved these residual requirements into the next fiscal year, adding to the existing requirements for the new fiscal year, and creating an even bigger budget deficit for the new fiscal year.

¹² Because of the transfer of funds, the HFIP program had to delay awarding grants, although money was put back into the program at the beginning of the following fiscal year. (Exhibit 36).

¹³ According to [REDACTED], money was taken from so many programs in FY 2011 because the appropriation came so late in the fiscal year, and many programs could not spend their appropriations in the short time allotted. (Exhibit 36).

(Exhibit 14). Similarly, [REDACTED] raised concerns with [REDACTED] about the “forward funding” strategy not being sustainable over multiple fiscal years, but [REDACTED] response was [REDACTED] (Exhibit 29).

[REDACTED] financial management techniques took a toll on NWS program managers. As [REDACTED] explained:

The way program funding is being managed by [REDACTED] is having a negative effect on my program managers’ ability to run their programs effectively. The program and project managers and I are tired of struggling to understand what will be deferred and when. It seems there are more and more cuts and the continued battles are wearying. [REDACTED] was extremely frustrated . . .the funds deferral issues were key to his decision to leave NWS. . . The decisions coming out of the OCFO about what to cut and when appear to be willy-nilly, ad hoc decisions without understanding the complex interdependencies of schedules and funds.

(Exhibit 18). [REDACTED] was equally blunt, stating that, “the NWS has a train wreck coming,” and that [REDACTED] (Exhibit 38)

B. **The Advanced Weather Interactive Processing System Program (AWIPS)**

1. Background

The Advanced Weather Interactive Processing System (AWIPS) is an advanced information processing, display, and telecommunications system that integrates all meteorological, hydrological, radar, and satellite data, enabling a forecaster to prepare and issue more accurate forecasts and warnings. AWIPS is the centerpiece of modern NWS forecasting operations, allowing a forecaster to view, analyze, and combine large amounts of weather data to quickly arrive at an accurate forecast. Within NWS, OST oversees the AWIPS program. In general, program oversight within NWS is split between two offices, with OST handling implementation and improvement (typically termed “Product Improvement” or “PI”), and OOS handling operations and maintenance (typically termed “O&M”). However, AWIPS is the exception; OST handles both the AWIPS PI and the AWIPS O&M programs. (Exhibit 13).¹⁴

The AWIPS O&M budget pays for maintenance costs, periodic technology refreshment, and government FTE and contractor positions necessary to maintain the AWIPS system. (Exhibit

¹⁴ In the past, there have been attempts to transfer the AWIPS O&M program to OOS. However, due to a disagreement between OST and OOS over the resources necessary to run the O&M program the transfer never took place.

29). The largest percentage of maintenance costs goes to fund a contract between NWS and the Raytheon Company (Raytheon) to maintain and service the AWIPS system. The contract began in 2005 and is a ten year contract (5 year base with five 1-year options), worth approximately \$1.2 million per month, or \$14.4 million per year. (Exhibit 62). Prior to FY 2010, the AWIPS O&M contract with Raytheon ran annually from August to August, and under the contract Raytheon was paid in monthly installments.

2. Reallocation of FY 2009 AWIPS Funding to Cover Shortfalls in the WRIP Program

An early attempt by [REDACTED] to transfer money from the AWIPS program to another NWS program was flagged as a potential reprogramming of funds by [REDACTED]. In late 2009, during the course of a regularly scheduled program review, [REDACTED] noted that approximately \$611 thousand was taken from the AWIPS program to cover a shortfall in the Weather Radio Improvement Program (WRIP). (Exhibit 11). [REDACTED] asked [REDACTED] to look into this matter, because [REDACTED] was concerned that it was an unlawful reprogramming of funds without congressional approval. (Exhibit 10).

[REDACTED] asked [REDACTED] to investigate the matter. (Exhibits 10, 11). [REDACTED] called [REDACTED], and learned that any transfer of funds between programs in excess of \$500 thousand was potentially a reprogramming. (Exhibits 10, 11). When [REDACTED] learned this information, [REDACTED] asked [REDACTED] to transfer money back to the AWIPS program, so that the transfer would be under \$500 thousand and beneath the reprogramming cap. (Exhibits 10, 11). Accordingly, [REDACTED] transferred \$112 thousand back to the AWIPS program. (Exhibit 11). [REDACTED] told [REDACTED] that [REDACTED] had informed [REDACTED] when this was done. (Exhibit 11).

3. Reallocation of FY 2010 AWIPS Funds to Cover the NWS Budget Shortfall

Thereafter, in FY 2010 and FY 2011, [REDACTED] directed that OST reallocate millions of dollars from the AWIPS program to cover shortfalls elsewhere within the NWS budget. The money was taken primarily from the AWIPS O&M contract with Raytheon, but also from other AWIPS programs. (Exhibits 4, 10, 25, 29, 3). Instead of directly moving funds to other programs as in 2009, which raised reprogramming concerns, the AWIPS program transferred funds to the OAA account, a move that could be viewed as covering common NWS expenses. These funds were used to either reduce the OAA budget shortfall or, through the use of SLTs, to pay for expenses already incurred by the LWF, thus freeing up flexible LWF funds that could be used elsewhere

within NWS. Using this method, money was moved between programs indirectly, without the possibility of tracing how and why funds were transferred.¹⁵

As described, *supra*, beginning in FY 2010, [REDACTED]

[REDACTED] identified the AWIPS O&M contract with Raytheon as an appropriate contract to begin de-funding, since the contract had a period of performance well into the next fiscal year and could therefore be reduced without affecting services. (Exhibits 25, 30).

Accordingly, near the end of FY 2010 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. Reallocation of FY 2011 AWIPS Funds to Cover the NWS Budget Shortfall

In early FY 2011, [REDACTED] and [REDACTED] [REDACTED] approached [REDACTED] with concerns about the reallocation of funds from the AWIPS program. (Exhibit 19). [REDACTED] says that [REDACTED] was never presented documentation to establish a significant negative effect on the program, only increased risk. (Exhibits 19, 20). [REDACTED]

¹⁵ [REDACTED] continues to argue that this was not a reprogramming of funds because [REDACTED] believes that the AWIPS program had not been paying its fair share into the OAA Account, and because some of the transferred money was used to cover the shortfall in this account. (Exhibit 4).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] says that [REDACTED] had instructed her that it was necessary to take money from the AWIPS program because it was the end of the fiscal year, and NWS had to “make ends meet.” (Exhibit 16). [REDACTED] explained that certain AWIPS contracts were “forward funded,” and that money needed to be taken from these contracts to cover other NWS shortfalls. (Exhibit 16). At the time, [REDACTED] thought that taking money from the AWIPS program was a reasonable approach, and trusted the expertise of [REDACTED] (Exhibit 16).

[REDACTED]

¹⁶ [REDACTED]

[REDACTED]

[REDACTED] As previously described, under this proposal, instead of directly transferring funds from the AWIPS O&M account, SLTs would be used to change the accounting codes on expenses incurred outside of the AWIPS O&M program to the AWIPS O&M accounting code. Because these expenses were previously billed to the Local Warnings and Forecast (LWF) line item, this would free up money in the LWF account, which contained flexible ORF funds that could be used for any purpose.

[REDACTED] understood that the purpose of using SLTs was to “wash the color” of the funds, so that they could be used anywhere within NWS. [REDACTED]

[REDACTED]

[REDACTED] In the end, OST was directed to transfer the funds directly from OST to the OAA account. (Exhibit 13). As previously noted, [REDACTED] then used SLTs to transfer previously paid expenses from the LWF PPA to the OAA account, thus freeing LWF funds that could be used for other programs within NWS.

[REDACTED]

In the end, a total of approximately \$5.5 million was transferred from the AWIPS program in FY 2011. Three months of the Raytheon contract was de-obligated, for approximately \$3.8 million, and the remainder came from a fund to purchase new AWIPS processors. (Exhibit 13). [REDACTED] [REDACTED] says that the money taken from AWIPS in the closing days of FY 2011 went “to pay shortfalls in Permanent Change of Station (PCS) moves for the Regions . . . [and] to buy a depleted supply of radoisondes and balloons.” (Exhibit 12). [REDACTED] understood that this transaction could pose a problem:

Could this be perceived as reprogramming? In my opinion absolutely, but if it had not been done the NWS would have certainly been anti-deficient in fiscal year 2011.

(Exhibit 12).

[REDACTED]

[REDACTED] believes that there was a significant programmatic impact in reducing the contract

period with Raytheon, a concern [REDACTED] raised with [REDACTED]. (Exhibit 1). Specifically, in FY 2011, the AWIPS program had to defer planned upgrades to AWIPS servers until FY 2012, thereby increasing the risk that the systems could fail and making it impossible to upgrade to newer software. (Exhibit 1). [REDACTED] agrees, stating that “[t]his is having a drastic impact on the AWIPS program . . . [f]or example, the LDAP servers need attention . . . [i]t will take draconian measures to fix this.” (Exhibit 22). Lillian O’Dell, Program Analyst for OST, takes a broader view, noting that:

This constant uncertainty about the budget allotments has had a negative effect on our programs. Our spend plans keep changing . . . it requires constantly realigning things, and re-planning. All this has definitely resulted in added risk to our programs. And as the years go by and the amounts needed are getting larger, there is no way all of this borrowed funding can be returned. I fear when all this comes due, there will be no funds there.

(Exhibit 31).

[REDACTED]

[REDACTED] agrees, stating that [REDACTED] does not believe that there were any adverse programmatic impacts to the AWIPS program from the reallocation of contract funds. (Exhibit 23). [REDACTED] similarly says that there may have been increased risk to the AWIPS program, there was no evidence of any direct negative impact.

Ultimately, [REDACTED] actions clearly brought significant risk to the AWIPS program. It is beyond the scope of this inquiry to conduct a program review to determine whether there was actual damage to the AWIPS program. NWS will need to make this determination in the future as the ramifications of [REDACTED] financial decisions unfold.

C. The Weather Radio Improvement Program (WRIP)

1. Background

The Weather Radio Improvement Program (WRIP) was created in 2008 to update NOAA’s weather radio network, which transmits severe weather warnings to 98% of the United States population. The Department of Homeland Security also has access to the radio network, allowing it to broadcast warnings in case of national emergency. The NOAA radio network utilizes a text to speech system, which allows computer generated weather reports to be broadcast throughout the country. Among other improvements, the WRIP program was created to update this system, replacing the outdated computerized voice modules on the existing radio network. The WRIP program exists within OST, and is overseen by [REDACTED]

█ it is part of the “Complete and Sustain NOAA Weather Radio” PPA and uses almost exclusively PAC funds.

2. Reallocation of FY 2011 WRIP Funds to Cover the NWS Budget Shortfall

On November 1, 2011, █ filed a complaint on the OIG Web Hotline alleging, *inter alia*, that at the end of FY 2011 █ improperly transferred approximately \$4.6 million from the WRIP program to the NWS “base budget” (i.e., the LWF PPA). (Exhibit 47). According to █, this created a “huge” FY 2012 budget shortfall in the WRIP program. (Exhibit 37).

█ explained that in FY 2011 there was a \$20.0 million shortfall in the NEXRAD O&M Budget, and that █ wanted to move money from the WRIP program into the NEXRAD O&M program to cover this deficit. Because the WRIP budget was made up of PAC funds, WRIP monies could not be directly transferred to the NEXRAD O&M budget without raising eyebrows.

█

Notably, █ acknowledges that █ knows that all but a small percentage of money in the WRIP program was made up of PAC funds. (Exhibit 8). When █ was asked directly if using SLTs to transfer PAC money out of the WRIP program to free up ORF money in the NEXRAD O&M fund would be a reprogramming, █ admitted that it would be. (Exhibit 8).

█

[REDACTED]

[REDACTED] does not know

how much money was taken from the WRIP program or where it went, and does not know whether it was PAC or ORF money. [REDACTED] does not believe that there was a negative effect on the WRIP program, but acknowledges that there was increased risk to the program by removing funds. (Exhibit 20).

Others disagree with [REDACTED] assessment, and believe that the WRIP program will not survive because of the funds that were removed. [REDACTED]

[REDACTED]

[REDACTED] only recently learned that the WRIP program has only approximately \$4.0 million left in its budget and does not believe that the program will survive. (Exhibit 16).

Similarly, [REDACTED] explained that approximately \$8.0 million was removed from the WRIP program, and that [REDACTED] does not believe that the WRIP program will ever be implemented because of this deficit. (Exhibit 2).

D. The Next Generation Weather Radar Program (NEXRAD)

1. Background

NEXRAD is a network of approximately 160 high resolution Doppler weather radars deployed throughout the country that are operated by NWS. NEXRAD radars detect precipitation and wind patterns, and allow the weather service to track storms, tornadoes, and cold fronts, among other capabilities.¹⁸ In 2007, NWS created the NEXRAD Product Improvement Program (NEXRAD PI), funded by PAC funds, to upgrade NEXRAD radars with dual polarization capabilities, allowing for increased radar data and an ability to provide improved severe weather warnings, flood and flash flood warnings, and general forecast services. [REDACTED] is primarily responsible for the NEXRAD PI program.

The NEXRAD Operations and Management Program (NEXRAD O&M) is a maintenance program that keeps NEXRAD radars operational by providing day-to-day repairs and upgrades. The NEXRAD O&M program has a budget of approximately \$46.0 million per year. Until

¹⁷ [REDACTED]

¹⁸ NEXRAD is part of the "PAC NEXRAD" PPA (See Exhibit 87).

recently, [REDACTED] oversaw the NEXRAD O&M Program. [REDACTED] [REDACTED], and oversees the assets in the O&M program, distributing funds among six regions for radar repairs, and providing funds for emergency and periodic maintenance of NEXRAD radars.

2. Use of NEXRAD O&M Funds to Pay for NEXRAD PI

[REDACTED]

[REDACTED] confirmed that funds were stopped for the NEXRAD PI program in FY 2013 “without prejudice,” meaning that the program was not defunded because it had problems, but only because of higher budgetary priorities. (Exhibit 17, 82). Although not “zeroed out” until FY 2013, the NEXRAD PI program has depleted all of its funds. (Exhibit 20). [REDACTED] [REDACTED] acknowledge that NEXRAD O&M funds are currently being used to implement software purchased through the NEXRAD PI program, and that this will continue in coming years. (Exhibits 1, 20, 33, 41).

[REDACTED] and is aware that NWS is implementing software purchased through the program. (Exhibit 41). [REDACTED] says that the purpose of “zeroing out” the PI program was to stop further development, but that it was always the intent to continue with implementation. (Exhibit 41). [REDACTED] believes that it is perfectly appropriate to use NEXRAD O&M funds to pay these implementation costs. (Exhibit 41).

[REDACTED] agrees, noting that the NEXRAD PI program is no longer running because there are no funds left in the program. However, [REDACTED] believes that installation of dual polarization software is appropriately funded by the NEXRAD O&M program. (Exhibit 20). [REDACTED] emphasizes that the software being installed is not tailored to each radar, which would require funds from the NEXRAD PI program. [REDACTED]

[REDACTED]

Similarly, [REDACTED] does not believe that it is a problem for the NEXRAD O&M program to pay for implementation of the dual polarization updates to the NEXRAD radars because this falls into the category of “sustained re-engineering.” (Exhibit 2). While not as firm, [REDACTED] notes that the question of whether paying for installation of the dual polarization software with NEXRAD O&M funds is appropriate turns on whether the funds are being used for “sustaining” the program (permitted) or “product improvement” (not permitted). [REDACTED] believes that you can “argue it both ways.” (Exhibit 33).

It is beyond the scope of this inquiry to make a final determination of whether using NEXRAD O&M funds to pay for implementation of the dual polarization updates to the NEXRAD radars is appropriate. However, at the end of this report, the inquiry team recommends that NWS conduct a program review, in which such a determination may be made.¹⁹

E. AGO Office Consolidation Efforts

On May 25, 2010, an anonymous complaint was filed with GAO that, in part, referenced an NWS office space assessment, posing the question, “[s]ince we are short of money, why is CFO spending on the order of \$500K ([REDACTED]) to do a ‘space assessment’ study?” (Exhibit 42). The complaint was referencing a 2009 office space consolidation study that was conducted by NOAA staff. (Exhibit 4). Based on the results of this internal study, NWS decided to move forward with consolidating space with the NOAA Acquisition and Grants Office (AGO).

NWS and AGO signed an MOU spelling out the terms of the space consolidation agreement. (Exhibit 74). Under the MOU, NWS will provide one floor of space in SSMC 2 to AGO and provide facilities support and infrastructure, in exchange for full reimbursement for all services provided by NWS. (Exhibit 74). AGO will also pay NWS \$250 thousand for “move requirement costs,” and then an additional \$950 thousand over the course of the next year to reimburse NWS’s initial outlay. (Exhibit 74).

The cost to implement the space consolidation was approximately \$1.0 million, for cabling, movers, installation costs, and contractor staff support. (Exhibit 75). The work was initially paid for by NWS, and was completed by Earth Resources Technology, Inc., which received four

¹⁹ **NOTE: The language in the paragraph preceding this footnote in the body of the Report was added by the inquiry team after the final version of this Report was submitted, to clarify points in the Report and address concerns raised by recipients.**

payments between December 2009 and November 2011. (Exhibit 76). However, AGO refunded NWS \$1.2 million, as provided under the MOU. (Exhibit 25).

In the long term, the space consolidation effort was projected to save NWS approximately \$1.0 million per year, and [REDACTED]

[REDACTED]

F. [REDACTED] **Grant Solicitations**

During the course of the initial [REDACTED] investigation, the investigation team interviewed [REDACTED]

[REDACTED] During the course of that interview, [REDACTED] alleged that [REDACTED] had attempted to “steer” most of each year’s appropriated Mesonet funds to [REDACTED]

Mesonets are small scale networks of meteorological observing sites, often coordinated by small governments or private entities, which normally cover only a very distinct, compact geographical area. Earth Networks has been involved in a number of NWS grant and contract solicitations over the last few years involving Mesonets. (Exhibit 24). [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] states that [REDACTED] actions in bringing this matter to [REDACTED] attention were appropriate, and could result in reducing potential liabilities against the Government. (Exhibit 24). [REDACTED] states that [REDACTED] never shared procurement sensitive information with [REDACTED] and that all meetings [REDACTED] attended with representatives from the company were conducted with [REDACTED] present.

G. [REDACTED]

[REDACTED]

III. Findings

A. **No Evidence of Fraud**

The inquiry team did not find any evidence that money that [REDACTED] or others transferred out of NWS programs was used for corrupt or fraudulent purposes. Although some interviewees expressed anger or frustration that program funds were depleted, not one alleged that [REDACTED] gained personally from their actions. [REDACTED]

[REDACTED]

B. [REDACTED] Directed the Unlawful Reprogramming of Funds From Various NWS Programs to Cover Perceived Shortfalls Within the NWS Budget

It is the conclusion of this inquiry that [REDACTED] did not follow legally acceptable financial management practices and policies in their management of appropriated funds, and that NWS funds were reprogrammed unlawfully.

1. Reprogramming

a. **Background**

The requirements for reprogramming are defined by statute, in Section 505 of the annual Appropriations Act, and the process for requesting and approving a reprogramming of funds is discussed in the DOC Budget Handbook. (Exhibit 40). As noted in the Senate Committee Report for the Department of Commerce 2011 Appropriations Bill, to “reprogram” under Section 505 is to “change the use of funds from the specific purposes provided for in the act . . . or, in the absence of direction from the Committee on Appropriations, from the specific purposes provided for in the administration’s budget request.” *See Senate Report 112-078, Departments of Commerce and Justice, Science, and Related Agencies Appropriations Bill 2011*. Section 505 requires that the Committee on Appropriations “be notified by letter, at least 15 days prior to reprogramming of funds, whether permanent or temporary, in excess of \$500,000 or 10 percent, whichever is less, between programs, projects or activities.” *Id.* Importantly, the Senate Committee Report notes that “[t]he Committee also expects that any items that are subject to interpretation will be reported . . . [and] expects that each department and agency . . . will follow these notification policies precisely . . .” *Id.* [REDACTED] says that it is “finance 101” that if you are going to move money between PPA’s, that this is a reprogramming and you must first seek permission from Congress. (Exhibit 41).²⁰

b. **Financial Analysis**

There were approximately 4700 SLTs used by NWS in 2010 and 2011 to move expenses between PPAs, several of which required a reprogramming notification to Congress that never occurred. Notably, [REDACTED] is aware of only one reprogramming

²⁰ Notably, in FY 2010, Congress arguably passed even more stringent reporting requirements for a reprogramming of funds. The full explanatory statement for this requirement is found in H.R. Rep. 111-366 (Conf. Rep.) (2009). The 7th proviso of both ORF and PAC appropriations stated:

Provided further, That any deviation from the amounts designated for specific activities in the explanatory statement accompanying this Act, or any use of deobligated balances of funds provided under this heading in previous years, shall be subject to the procedures set forth in section 505 of this Act.

DOC GC appropriations lawyers are determining whether, under this proviso, the typical \$500 thousand or 10% rule does not apply, requiring a notice of reprogramming for any reallocation of funds between programs.

request from ██████ in either FY 2010 or FY 2011, a \$4.7 million request involving the Profiler PAC account in FY 2011.²¹ (Exhibits 8, 40). NWS did not submit any other reprogramming requests to ██████ office during these years. (Exhibit 40). In fact, ██████ clearly recognizes the process necessary to pursue a reprogramming of funds, and explained it clearly when interviewed. (Exhibit 8).

As noted previously, it is beyond the scope of the current inquiry to examine every transfer of funds or expenses within NWS, either historically or in FY 2010 and FY 2011. Such a review would require a full audit of the NWS budget, and the inquiry team was tasked with expeditiously completing its work.

Instead, using the methodology described *supra* in Section I(D)(2), the inquiry team examined the total amounts moved between programs using SLTs, as both a whole dollar amount and a percentage of each programs' total appropriated funds, and examined a sampling of specific expense transfers between programs that either involved large dollar amounts or appeared questionable, possibly violating reprogramming laws. A synopsis of the inquiry team's analysis is found in Figures 5 through 8 below. A disc containing spreadsheets supporting this synopsis is attached as Exhibit 85.

Figure 5 shows the total amounts moved from various NWS programs using SLTs in FY 2010, in terms of both whole dollar amounts and a percentage of each program's total appropriated funds. Figure 6 shows some of the specific transactions that may involve the unlawful reprogramming of funds in FY 2010. Figure 7 shows the total amounts moved from various NWS programs using SLTs in FY 2011, in terms of both whole dollar amounts and a percentage of each programs total appropriated funds. Figure 8 shows some of the specific transactions that may involve the unlawful reprogramming of funds in FY 2011.

²¹Of course, ██████ is also aware of ██████ attempt to transfer funds from the AWIPS program in 2009, which ██████ flagged as a potential reprogramming, and ██████ corrected. (See Section I(B)(2), *supra*).

Amounts Moved Between PPAs Using SLTs In FY 2010

In thousands					
PPA	SLTs TO	SLTs FROM	TOTAL	Appropriated Amount	Percentage
ASOS (PAC)	179	(336)	(157)	1,635	-9.60% ²²
AWIPS**					
ORF	7,463	(97)	7,366	39,346	18.72%
PAC	791	-	791	24,000	3.30%
NEXRAD					
ORF	1,259	(1,047)	212	46,121	0.46%
PAC	733	(300)	433	7,976	5.43%
LWF	8,955	(17,211)	(8,256)	617,842	-1.34%

Figure 5

Sample Problematic FY 2010 SLT Transactions

Fiscal Year	From / To	ORF / PAC	Program Group	Program4 Descr.	Amount	Reason Provided	Approved Date
2010	FROM	ORF	Other	CENTRAL FORECAST GUIDANCE	\$ 1,400,000.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010
	TO	ORF	AWIPS	AWIPS	\$ 1,400,000.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010
2010	FROM	ORF	Other	CENTRAL FORECAST GUIDANCE	\$ 88,497.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010
	TO	ORF	AWIPS	AWIPS	\$ 88,497.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010

²² A negative percentage indicates that more expenses were removed from the program budget using SLTs than were added to the program budget using SLTs. Because expenses were removed, the result of a negative percentage is a net increase in funds available to the program. Accordingly, in 2010, ASOS received 9.6% over its appropriated allotment of funds, as \$336,000 in expenses was removed from the program. In contrast, in 2010 AWIPS had 18.72% of its appropriated ORF funds transferred to other programs, as approximately \$7,463,000 in SLT expenses was transferred to AWIPS. **NOTE: The language in this footnote was added by the inquiry team after the final version of this Report was submitted, to clarify points in the Report and address concerns raised by recipients.**

2010	FROM	ORF	Other	CENTRAL FORECAST GUIDANCE	\$ 464,365.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010
	TO	ORF	AWIPS	AWIPS	\$ 464,365.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010
2010	FROM	ORF	Other	CENTRAL FORECAST GUIDANCE	\$ 190,000.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010
	TO	ORF	AWIPS	AWIPS	\$ 190,000.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010
2010	FROM	ORF	Other	CENTRAL FORECAST GUIDANCE	\$ 1,392,600.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010
	TO	ORF	AWIPS	AWIPS	\$ 1,392,600.00	To move charges out of CFG into AWIPs in order to gain CFG availability-EOY Corrections	7/22/2010
2010	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	\$ 2,301,250.00	To move expenses out of LWF in order to free up availability for EOY costs	9/13/2010
	TO	ORF		NATIONAL SEA GRANT COLLEGE PROGRAM BASE ²³	\$ 70,000.00	To move expenses out of LWF in order to free up availability for EOY costs	9/13/2010
	TO	ORF	COMPETITIVE RESEARCH PROGRAM	\$ 231,250.00	To move expenses out of LWF in order to free up availability for EOY costs	9/13/2010	
	TO	ORF	LABORATORIES & COOPERATIVE INSTITUTES ²⁴	\$ 500,000.00	To move expenses out of LWF in order to free up availability for EOY costs	9/13/2010	
	TO	ORF	AWIPS	AWIPS	\$ 1,500,000.00	To move expenses out of LWF in order to free up availability for EOY costs	9/13/2010
Total:					\$11,673,424.00		

Figure 6

²³ The National Sea Grant College Program Base and Competitive Research Program are part of another line office, the Office of Oceanic and Atmospheric Research.

²⁴ The Laboratories & Cooperative Institutes is part of the Advanced Hydrological Prediction Services PPA.

Amounts Moved Between PPAs Using SLTs In FY 2011

FY 2011					
PPA	SLTs TO	SLTs FROM	TOTAL	Appropriated Amount	Percentage
ASOS					
ORF	604	(608)	(4)	11,186	-0.04%
PAC	275	-	275	1,632	16.85%
AWIPS**					
ORF	4,497	(44)	4,453	39,273	11.34%
PAC	130	(33)	97	23,952	0.40%
NEXRAD					
ORF	4,247	(2,048)	2,199	46,145	4.77%
PAC	534	-	534	11,104	4.81%
LWF	8,170	(21,069)	(12,899)	628,121	-2.05%

Figure 7

Sample Problematic FY 2011 SLT Transactions

	From / To	ORF / PAC	Program Group	Program4 Descr.	Amount	Reason Provided	Approved Date
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	\$ 1,374,223.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from \$27M to \$20M Per [REDACTED] Guidance on 15 Jun 2011.	6/16/2011
	TO	ORF	NEXRAD	NEXRAD	\$ 1,374,223.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from \$27M to \$20M Per [REDACTED] Guidance on 15 Jun 2011.	6/16/2011

2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	\$ 366,777.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from \$27M to \$20M Per [REDACTED] Guidance on 15 Jun 2011.	6/16/2011
	TO	ORF	NEXRAD	NEXRAD	\$ 366,777.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from \$27M to \$20M Per [REDACTED] Guidance on 15 Jun 2011.	6/16/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	\$ 408,000.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from \$27M to \$20M Per [REDACTED] Guidance on 15 Jun 2011.	6/16/2011
	TO	ORF	ASOS	ASOS	\$ 408,000.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from \$27M to \$20M Per [REDACTED] Guidance on 15 Jun 2011.	6/16/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	\$ 2,418,000.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from \$27M to \$20M Per [REDACTED] Guidance on 15 Jun 2011.	6/16/2011
	TO	ORF	AWIPS	AWIPS	\$ 2,418,000.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from \$27M to \$20M Per [REDACTED] Guidance on 15 Jun 2011.	6/16/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	\$ 349,000.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from \$27M to \$20M Per [REDACTED] Guidance on 15 Jun 2011.	6/16/2011
	TO	ORF	Other	WEATHER RADIO TRANSMITTERS & COMMS	\$ 349,000.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from \$27M to \$20M Per [REDACTED] Guidance on 15 Jun 2011.	6/16/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	\$ 659,000.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from \$27M to \$20M Per [REDACTED] Guidance on 15 Jun 2011.	6/16/2011

	TO	ORF	NWSTG Backup - CIP	NWSTG BACKUP - CIP	\$ 659,000.00	To move expenses out of Local warnings into systems accounts to properly adjust the Local warnings over-run from \$27M to \$20M Per [REDACTED] Guidance on 15 Jun 2011.	6/16/2011
2011	FROM	ORF	NEXRAD	NEXRAD	\$ 2,000,000.00	To move charges	7/12/2011
	TO	ORF	AWIPS	AWIPS	\$ 2,000,000.00	To move charges	7/12/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	\$ 1,218,333.00	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
	TO	PAC	Complete and Sustain NOAA Weather Radio	COMPLETE AND SUSTAIN NOAA WEATHER RADIO	\$ 1,218,333.00	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	\$ 719,611.35	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
	TO	PAC	Complete and Sustain NOAA Weather Radio	COMPLETE AND SUSTAIN NOAA WEATHER RADIO	\$ 719,611.35	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	\$ 719,611.35	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
	TO	PAC	Complete and Sustain NOAA Weather Radio	COMPLETE AND SUSTAIN NOAA WEATHER RADIO	\$ 719,611.35	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	\$ 538,180.60	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
	TO	PAC	Complete and Sustain NOAA Weather Radio	COMPLETE AND SUSTAIN NOAA WEATHER RADIO	\$ 538,180.60	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	\$ 60,000.00	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011

	TO	PAC	Complete and Sustain NOAA Weather Radio	COMPLETE AND SUSTAIN NOAA WEATHER RADIO	\$ 60,000.00	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
2011	FROM	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	\$ 276.84	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
	TO	ORF	Local Warnings & Forecasts	LOCAL WARNINGS & FORECASTS	\$ 276.84	TRANSF to FREE UP FUNDING IN LWF ACCOUNT & CORRECT PCARD TRANS	9/20/2011
Total:					\$21,662,026.28		

Figure 8

As noted throughout this report, witness statements corroborate the finding that the NWS CFO’s Office engaged in the unlawful reprogramming of funds. [REDACTED]

[REDACTED] all expressed concerns over reprogramming violations to [REDACTED] (Exhibits 12, 13, 19, 25, 29, 37, 70). As [REDACTED] stated, the transfers were “not in accordance with Congressional intent for appropriations, and in my mind this represented a reallocation of the budget authority.” (Exhibit 12). Similarly, program managers refused to participate in the scheme to use SLTs to transfer money between programs, calling such methods “money laundering,” and “washing money.” (Exhibits 13, 31, 37). In short, the purpose of moving funds through SLTs was clear to those involved in the transactions.

In light of the financial documentation and witness statements, and in consultation with financial attorneys with the Department of Commerce General Counsel’s Office, the inquiry team finds that [REDACTED] did not follow legally acceptable financial management practices and policies in their management of appropriated funds, and that NWS funds were unlawfully reprogrammed.

2. Anti-Deficiency Act (ADA) Violations

The Anti-Deficiency Act (ADA) is a funds control statute that restricts amounts available for obligation and mandates administrative procedures to control rates of obligation. *See* 31 U.S.C. § 1341, *et seq.* The Act’s central prohibition, set out at 31 U.S.C. § 1341(a)(1), provides in relevant part: “An officer or employee of the United States Government or the District of Columbia government may not—(A) make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation; or (B) involve the government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law.” A violation of this section requires “appropriate administrative discipline,” *id.* § 1349(a), including possible suspension without pay or removal from office, and, if the violation was knowing and willful, a fine of up to \$5 thousand and/or imprisonment of up

to two years. *Id.* at § 1350. The Government Accounting Office (GAO) provides guidance on following the ADA in its “Red Book,” Principles of Appropriations Law.

Whether a reprogramming of funds violates the ADA is a question that must be determined by the DOC GC’s Office, in consultation the NOAA CFO, and is beyond the scope of this report. The inquiry team, in consultation with NOAA leadership, has been instructed that the findings in this report will be provided to DOC GC and the NOAA CFO to determine if an ADA violation has occurred.

3. Violations of Federal Financial Management Standards

Beyond violations of appropriations law, [REDACTED] actions, along with those of [REDACTED] [REDACTED] that facilitated the unlawful reprogramming of funds, were adverse to a series of financial management standards established by statute and policy. For example, the Office of Management and Budget (OMB) has issued policies stating that:

The proper stewardship of Federal resources is a fundamental responsibility of agency managers and staff. Federal employees must ensure that government resources are used efficiently and effectively to achieve intended program results. Resources must be used consistent with agency mission, in compliance with law and regulation, and with minimal potential for waste, fraud and mismanagement.

Management and Budget (OMB) Circular A-123, Section 1, *Management Accountability and Control* (1995). Similarly, the Federal Managers’ Financial Integrity Act of 1982 mandates that “internal accounting and administrative controls . . . shall be established . . . and shall provide reasonable assurances that . . . funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation . . .” 31 U.S.C § 3512. Moreover, the Federal Financial Management Improvement Act of 1996 requires that all agency financial transactions “be consistently and accurately recorded, monitored, and uniformly reported throughout the Federal Government.” 31 U.S.C § 3512.²⁵

The actions of [REDACTED] also violated policies outlined in NOAA’s Finance Office Handbook, which states that “NOAA management is responsible for establishing and maintaining internal controls to achieve the objectives of effective and efficient operations, reliable financial reporting, and compliance with applicable laws and regulations.” *NOAA Finance Office Handbook*, §6-03. The Handbook notes that, “internal controls should be designed to provide reasonable assurance regarding prevention of or prompt detection of unauthorized acquisition, use or disposition of assets,” and that NOAA management is responsible for developing and maintaining organizational structures and methods that address control environment, risk assessment, information and communications, and monitoring. *Id.*, § 6-

²⁵ [REDACTED]

04. As described *supra*, [REDACTED] actions, along with the actions of those that facilitated his conduct, violated these NOAA financial policies.

C. Summary Level Transfers (SLTs) Were Used Improperly to Facilitate the Inappropriate Transfer of Funds

As previously noted, SLTs are designed to provide financial officers with the flexibility to reassign accounting codes on past expenses, most notably to fix errors or mistakes in account coding. In this case, SLTs were used to switch accounting codes assigned to past expenses from one account to another, a purpose for which they were never intended, thereby restoring flexible funds in the LWF that had already been spent.

The CFO Office's use of SLTs accomplished two objectives. First, the CFO's Office believed that SLTs allowed any "color" of money (PAC or ORF) to be converted into flexible LWF or other funds. (Exhibits 13, 37). [REDACTED] acknowledged as much, [REDACTED] (Exhibit 25). Second, SLTs made detection of movement between funds difficult, and prevented clear reprogramming transactions from being flagged in project reviews or audits. (Exhibit 30). As [REDACTED], has stated, "SLTs make tracking the use of funding more difficult, if not impossible." (Exhibit 30).

Tracking SLT fund transfers is extraordinarily difficult because, unless specified in the SLT record through a "reason code" and supporting documentation, an SLT transfers expenses between programs as a flat dollar amount, without specifying which expenses are involved in the transaction. In this case, the NWS CFO's Office did not maintain detailed records for SLT transactions, and there is no supporting documentation to determine which expenses were transferred between programs.²⁶ Even so, as shown in figures 6 and 8 above, many of the explanations provided in the "reason codes" establish an inappropriate purpose for using SLTs (e.g., "To move charges out of CFG into AWIPs in order to gain CFG availability – EOY Corrections"). [REDACTED] has stated that there was no need to provide a better explanation in the SLT reason codes because "we knew what the SLT(s) were for." (Exhibit 88).

As described above, the CFO's Office approached program and resource managers within OST and OOS and tried to convince them to use SLTs to transfer charges between programs. In at least three cases, NWS employees refused to do so. [REDACTED] told the CFO's Office that [REDACTED] would not use SLTs to "colorize" money and was "not going to launder money for you." (Exhibit 13). [REDACTED] also refused to use SLTs, saying that [REDACTED] would not participate in

²⁶ Notably, this lack of documentation violates NOAA's internal financial policies, which state that "preparers of SLTs are required to maintain adequate supporting documentation for each SLT . . . [consisting] of budget reports and/or any other documentation that provides sufficient justification for the SLT. The documentation should be available for audit by internal and external auditors when necessary." *NOAA Finance Office Handbook*, § 15-04 (3)(f).

“washing” the money. (Exhibit 37). Moreover, the CFO’s Office approached [REDACTED], asking ‘will you do SLTs and send us the [LWF] monies?’” (Exhibit 31). [REDACTED] said “no,” because “[i]n my opinion, it is a form of laundering the money.” (Exhibit 31).

[REDACTED]

[REDACTED]

Manifestly, SLTs were not meant to be used to transfer funds between programs and to obfuscate paper trails. The inquiry team can only conclude that [REDACTED] were knowingly using SLTs to do so. The result was not only the reprogramming of funds without congressional authorization, but the alienation of a number of NWS resource and program managers who were outraged at the requests to use SLTs to “colorize” money.

D. [REDACTED] did not Appropriately Assess PPAs for Common Services

As noted, *supra*, the NWS CFO’s Office did not assess a standard percentage for each PPA to pay into the OAA common services/M&A account. [REDACTED]

The PPA assessments did not cover the full costs of the OAA account, which was significantly underfunded at the beginning of FY 2010 and FY 2011, with a projected shortfall of \$10.0 million in each year. (Exhibits 4, 10, 12, 15, 23, 25). [REDACTED]

The process of not assessing some programs, designating dollar amounts below the assessed rate, and handling shortfalls through execution, created an environment where some programs were paying for joint expenses that should have been borne by other programs. Moreover, intentionally leaving a gap in the OAA office budget at the beginning of each fiscal year and later pulling funds from various programs burdened those programs with more than their fair

share of OAA account costs. [REDACTED]

The inquiry team concludes that it was not appropriate for [REDACTED] as this method created financial problems within NWS programs and did not provide for “effective and efficient operations” as required under NOAA policy. *See NOAA Office Finance Handbook*, § 6-03. Any assessment should have been made proportionately across all PPAs, using a valid algorithm, to ensure a fair distribution of costs to the PPAs, and a fully funded OAA account.

E. [REDACTED] Objected, but Ultimately Participated in, the Unlawful Reprogramming of Funds

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

F.

[Redacted]

[Redacted]

[Redacted]

1.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[REDACTED]

[REDACTED]

[REDACTED]

Finally, the NWS Corporate Board does not appear to play a significant oversight role in the NWS budget, and the NWS Corporate Board’s attempt to address the NWS shortfall was ineffectual. As described above, in September 2010 [REDACTED] gave a presentation to the Corporate Board in which [REDACTED] described the NWS shortfall. In response, the Corporate Board tasked [REDACTED] with working with a team of program and financial managers to address the shortfall. However, it does not appear that the Corporate Board ever followed up on its request. [REDACTED] created a two-page draft plan to address the shortfall that was never finalized, and continued with his practices of handling the shortfall using questionable tactics. When asked whether [REDACTED] ever told the Corporate Board about his movement of funds out of AWIPS, [REDACTED] stated that “we communicated to [REDACTED] but not the Corporate Board.” (Exhibit 9).

According to [REDACTED], employees are often hesitant to provide detailed information and documents to the Corporate Board because pre-decisional information and documents often make their way to the Union, or in some cases to the Hill and to the public. (Exhibit 15). If true, this may have affected the ability of the Corporate Board to get necessary information to effectively oversee the NWS budget shortfall.

27

[REDACTED]

2. ██████████ Overly Relied on ██████████, and the ██████████
Failed to Consider Seriously Complaints About
Behavior

██████████

██████████

██████████

██████████

██████████

[REDACTED]

[REDACTED]

3. The Absence of a Structured Process to Address Budget Issues led to a Lack of Transparency Regarding the NWS Budget and to Mistrust in the Budget Process [REDACTED]

Several witnesses interviewed by the inquiry team expressed frustration over the lack of transparency that existed over NWS budget issues, which led to a mistrust of [REDACTED]

[REDACTED], believes that “the lack of a more transparent budget formulation process within NWS hinders a more systemic and proactive approach to addressing . . . budget shortfalls.” (Exhibit 32). [REDACTED] does not even know how funds were made available to address operational shortfalls within OOS in FY 2011 or prior years. (Exhibit 32). If OOS was short of funds at the end of the year, [REDACTED] would give OOS a charge code to use for charging expenses without explanation. (Exhibit 32).

Similarly, [REDACTED] feels that there was not an environment within the NOAA CFO’s Office that was conducive to being open and candid with respect to raising concerns or issues. (Exhibit 1). [REDACTED] also says that there was a lack of communication “due to impatience with details” [REDACTED], resulting in decisions being made with incomplete information. (Exhibit 1).

[REDACTED] says that [REDACTED] “would like to see more transparency in the NWS budgeting process” because [REDACTED] feels like “[REDACTED] does not know what is going on” and was never told “how the budget works.” (Exhibit 13).

[REDACTED] In FY 2011, the Corporate Board made a decision to remove dollars from OST budget allocations before they became available to the program. [REDACTED] notes that “[i]t was not 100% clear at the time that the funds held back were part of the annual percentage taken to support front office operations,” although [REDACTED] decided that this is what it must have been for. (Exhibit 13). More money was taken out of OST later, [REDACTED] assumed that “the additional dollars were needed to pay NWS labor bills,” although [REDACTED] was never told.” (Exhibit 13).

██████████ made clear that “the program managers were not informed where and how the re-allocated budget was expended.” (Exhibit 14). ██████████ further noted that “the AWIPS Program (and other programs too) was not informed about how and where these withheld funds were used, even after several requests to the OCFO for information.” (Exhibit 14).

██████████, is even more pointed in ██████████ remarks, stating that “frankly, we feel like we are being asked to obfuscate or obscure the movement of money in this organization . . . [t]he OCFO puts very little in writing and most communication from them, is not in writing.” (Exhibit 18). ██████████ repeats this assertion, stating that “The OCFO does a lot ‘verbally’; they don’t document these decisions to us.” (Exhibit 22). ██████████ also notes that “██████████ tends to not put things concerning these reallocations and funding manipulations in writing . . . CFO staff will come down and talk to us about funding manipulations ██████████ want us to do and avoid the emails.” (Exhibit 38). ██████████ concurs, noting that “██████████ are hard pressed to put anything in writing (email).” (Exhibit 27).

These examples point to significant communication and transparency problems regarding budget issues within the NWS, which led to frustration and mistrust on the part of program and financial managers. Ultimately, it falls upon the ██████████ to make sure that appropriate budget information is provided to staff and that the budget process is open and transparent. *See NOAA Finance Office Handbook*, § 6-04 (NOAA management is responsible for establishing internal controls that promote information sharing and communication).

G. NOAA, DOC, and the OIG Did Not Take Timely Action When Notified of Alleged Improprieties Within the NWS CFO’s Office

Although hindsight is 20-20, it is clear that NOAA Officials, DOC Office of the Chief Financial Officer, and the Inspector General’s Office were all made aware that there were allegations of significant problems within the NWS CFO’s Office throughout 2010 and 2011, but failed to act in time to stop the activity until the very end of FY 2011.

1. Early Complaints

In early 2010, ██████████ received an anonymous letter complaint that alleged, *inter alia*, that “[i]n each of the last several years, ██████████ has moved appropriated funds around from program to program, PAC to ORF, into labor etc. to pay for unanticipated, underfunded, underestimated, or mismanaged programs, actions, etc.” (Exhibit 43). At the time, ██████████ remembers not taking the letter seriously, because ██████████ assumed that the writer did not understand the flexibility of the NWS budget that might allow for such transfers. ██████████ has no record of when ██████████ received this letter or what ██████████ did with it, but believes that ██████████ sent the letter to the IG’s Office and Congress, since they were listed as “cc’s” on the letter, along with ██████████ (Exhibit 17). Clearly, the complaint ended up in the hands of ██████████

[REDACTED] (Exhibit 80). Although not clear how [REDACTED] received the complaint, it does not appear that the response was ever sent to [REDACTED] or that any other action was taken in response.

Thereafter, on May 25, 2010, the IG's Office received an almost identical complaint. (Exhibit 42). Again, it does not appear that any action was taken by the IG on this complaint. Although standard protocol requires the IG's Office to provide a copy of this complaint to NOAA for review, according to the OIG's Office this complaint was not provided to NOAA until later complaints arose in July 2011.

2. The Anonymous Complaint to DOC

On October 29, 2010, [REDACTED] received an anonymous "postcard" or "index card" in office mailbox that stated that [REDACTED] should ask about the "missing \$8 to \$10 million from the AWIPS program." (Exhibit 39). [REDACTED]

According to [REDACTED], minutes after receiving the card, [REDACTED], came into [REDACTED] office. (Exhibit 39). [REDACTED] handed the card to [REDACTED]

[REDACTED] did not hear anything further about the card and assumed that [REDACTED] had sent it to the IG's Office. (Exhibit 39).

[REDACTED] says that [REDACTED] has no memory of receiving the index card from [REDACTED] (Exhibit 35). According to [REDACTED] the IG's office has no record of ever receiving it.

The inquiry team found no one within NOAA that was notified of this incident. As noted in Section III(H)(2)(d) below, [REDACTED] is expected to report any complaints or information that it receives regarding a potential reprogramming to NOAA or the IG's Office.

3. A Second Complaint to the IG's Office

In "late 2010," the OIG apparently received another complaint, alleging that substantial funds had been inappropriately shifted from the AWIPS program to fund other NWS activities. This complaint is referred to in a November 18, 2011 letter from [REDACTED] to [REDACTED] (Exhibit 44). It is not clear how the IG's Office received this complaint, whether orally or in writing, but it too appears to have never been referred to NOAA.

Based on the “late 2010” complaint, between January and April 2011, OIG staff conducted a limited review of the allegations, which resulted in a request to [REDACTED] for additional information in light of what appeared to be an inappropriate transfer of \$10.0 million from the AWIPS program to cover shortfalls within the NWS budget. (Exhibit 44). In addition, on May 24, 2011, [REDACTED], sent an e-mail to [REDACTED] stating that:

[Y]ou should expect a visit from [REDACTED] or someone on behalf of the National Weather Service, regarding the movement of funding from AWIPS to the National Weather Service, during or around FY 2010. They should be armed with explanations on just how the movement of funding from the AWIPS program was accomplished without the need for reprogramming, which the [REDACTED] insists is the case.

During a meeting with [REDACTED] and a separate meeting with [REDACTED] we could not establish that the movement of AWIPS funds, as explained to us, could be accomplished without the need for reprogramming. [REDACTED]

[REDACTED] accompanied me on the interviews with [REDACTED]. [REDACTED]

(Exhibit 45).

[REDACTED] never received information from NWS regarding the alleged reprogramming. [REDACTED] recalls receiving a phone call in the summer of 2011 from [REDACTED] asking if [REDACTED] had received information from NWS, but otherwise [REDACTED] did not hear from the IG’s Office again. (Exhibits 39, 83). Accordingly, in July 2011, [REDACTED] approached [REDACTED] to discuss the IG Office’s allegations, and to see if [REDACTED] could get NWS to provide [REDACTED] with additional information. (Exhibit 41). This was the first time that [REDACTED] had heard of these allegations, and [REDACTED] took further action, as described below.

On November 18, 2011, almost seven months after [REDACTED] sent the e-mail to [REDACTED] [REDACTED] sent a letter to [REDACTED], outlining the results of the April investigation, and stating that:

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

(Exhibit 44). [REDACTED]

4. NOAA is Notified of Allegations

In July 2011, [REDACTED] reported to [REDACTED] that the IG had concerns about NWS practicing "illegal reprogramming," and asked [REDACTED] if [REDACTED] was going to provide additional information to him as requested by the IG (See Section (II)(F)(2), below). (Exhibit 40). This was the first time that [REDACTED] became aware of allegations of improprieties in the transfer of funds within the NWS. (Exhibit 40).

In response, [REDACTED] went to [REDACTED] who explained that the OIG had come to talk to [REDACTED] about potential reprogramming of funds from the AWIPS program, and that [REDACTED] disagreed with the OIG's rationale. (Exhibit 40). [REDACTED]

[REDACTED] asked several specific questions regarding use of the funds in the OAA account, and asked [REDACTED] to provide further documentation. [REDACTED] cautioned [REDACTED] about the need to document all transfers of funds to justify [REDACTED] actions, but did not tell [REDACTED] to stop [REDACTED] practices in FY 2011, because [REDACTED] could not believe that [REDACTED] would continue this practice after [REDACTED] talked to [REDACTED] (Exhibit 41). [REDACTED] did not immediately bring back documents to [REDACTED], and continued his financial practices. [REDACTED] did not press [REDACTED] after [REDACTED] heard that an internal investigation had begun, but now says "that was my mistake." (Exhibit 41).

H. **Financial and Management Controls Were Ineffective at Preventing an Unlawful Reprogramming of Funds**

It is clear that financial controls that were in place within DOC, NOAA, and NWS were ineffective at preventing the NWS CFO's Office from engaging in questionable and unlawful transfers of funds between programs. To understand why, the inquiry team examined the various controls in place during FY 2010 and FY 2011. For purposes of this report, the inquiry team has separated these controls into two categories: automated controls and manual controls. It appears that weaknesses in the way various manual controls were applied contributed significantly to the problems that arose in the NWS CFO's Office.

1. Automated Controls

Automated financial controls are those that occur automatically, either through computerized financial systems, or because they are inherent in the budget structure. The inquiry team has identified three automated controls pertinent to the transactions at issue here: accounting system fund controls, system approval right controls, and NWS budget structure controls.

a. **Accounting System Fund Controls**

Accounting system fund controls are designed to automatically prevent an FMC from overspending available apportioned funds. To create such controls, the amount of apportioned funds available to each program must first be established in DOC's financial management system. This is accomplished by summarizing apportionment data by specified data elements, having this data reviewed by a DOC budget officer, and then entering the data into the DOC financial management system. Once this information is in the system, whenever purchase requests are made the system automatically checks the amount requested against the available funds in the project account, before allowing the process to proceed and the obligation to post. However, these controls are not designed to prevent the transfer of charges from one project to another through SLTs, as was done here, and were ineffective in flagging this activity.

b. **Approval Right Controls**

System approval rights are automatic flags in the DOC financial management system that stop certain transactions from posting pending further review. These controls are designed to ensure that certain transactions initiated in the DOC financial management system are properly approved before execution. There is no control in the system that would flag large unconventional transactions such as the SLTs used here. However, the system would not allow the execution of an SLT without proper approval within the system, and without necessary funds being available. In the present case, where the NWS CFO's Office was approving the use of SLTs in the system and adequate funds existed in the accounts at issue, system approval rights would not have flagged the transactions. However, in the future it may be possible to modify system approval rights to require higher level review of certain SLT transactions, for example, those involving a certain dollar amount or without adequate documentation, thereby removing approval authority of sensitive transactions from resting in a single party.

c. **NWS Budget Structure Controls**

The structure of the NWS budget itself can act as an automated control to discourage the unlawful reprogramming of funds. As previously described in Section II(B), the portion of the NWS budget that is not assigned to labor costs is, by design, very flexible, primarily because it is made up largely of a single large line item called Local Warnings and Forecasts Base (LWF), that contains approximately \$650 million. Although LWF funds are divided loosely into categories, they can be easily transferred between programs within this PPA. [REDACTED]

[REDACTED] acknowledged that the flexibility of the NWS budget may have

created an environment where the NWS could easily move money between programs and projects without significant oversight. (Exhibit 17). Moreover, because of the flexibility of the budget, senior NWS and NOAA leadership assumed that, even when problems were raised, questionable transactions were permissible. (Exhibit 17).

Although the flexibility of the NWS budget may have allowed for certain transactions in this matter to have gone unnoticed, senior NOAA and NWS leadership made clear that this flexibility is imperative for addressing weather emergencies and the rapidly changing technology that defines modern meteorological operations. (Exhibits 17, 19). Creating a rigid budget structure may serve as a control to prevent reprogramming, but only at the expense of the flexibility needed to operate NWS effectively and efficiently.

2. Manual Controls

Manual controls are those that are not automatic, and involve set processes or a reliance on human intervention. [REDACTED]

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There are two types of manual controls. First, transactional level controls, which include: (1) reviews of operating performance; and (2) the appropriate segregation of duties, including processes for approval and authorization. Second, entity level or environmental controls, which include: (1) the hiring and retention of competent individuals; (2) mechanisms to monitor and review operations and programs (i.e., oversight); (3) establishment of appropriate and clear internal reporting relationships, including clear documentation of these relationships, and facilitating a process by which mid-level managers are provided easy, open-communication with senior managers; and (4) requirements for the proper documentation of financial transactions.

a. **Reviews of Operating Performance**

Reviewing operating performance involves the monitoring of financial systems to ensure that they are implemented to plan. In the present matter, this involves the periodic review of spend plans to ensure that programs are obligating funds within their limits. Within the NWS CFO's Office, to ensure that spending and obligations are within approved apportionment levels, the office creates "budget operating plans" (BOPs), which are used as a basis for regular reviews of spending activity. During periods of continuing resolution, in particular, financial analysts closely monitor spending to ensure operations continue within approved levels.

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It appears that regular reviews of BOPs and operating performance were conducted within NWS. Indeed, understanding that they were working at a deficit, the CFO's Office carefully monitored spending activity to enable it to identify FMC's and programs that might overspend their funding levels, or have funding overages, by fiscal year's end. (Exhibits 82, 83). The CFO's Office would then reapportion funds to address shortfalls, which is how the problems described in this report arose.

b. Segregation of Duties (Approval Process Controls)

Approval process controls ensure that transactions are not executed without proper approval. At NWS, the FMC's have first approval rights in the CBS system for BOP transfers and SLT's, and the CFO's office has final approval rights over BOP transfers, and intermediate approval rights over SLTs. The NOAA CFO's Finance Office has final approval authority over SLTs; however, they only review SLTs to ensure that they fall within certain "business rules," which have no application here.²⁹ The SES manager at the line office level (i.e., the line office CFO), is responsible for ensuring that SLTs do not violate appropriation laws. Both BOP transfers and SLTs are subject to the same fund controls noted in the Automated Controls section above.

While the NWS CFO's Office approves all BOP transfers and SLTs, and would theoretically catch any questionable transactions initiated at the FMC level, in this case the approval control process was subverted because it was the CFO's office that directed the transactions. Accordingly, the approval control process became nothing more than a formality needed to execute the improper movement of charges in the CBS system.

c. Hiring and Retention of Competent Staff

Hiring and retaining staff that are adequately trained and knowledgeable in their areas of expertise and fully understand their control function helps to ensure compliance with pertinent laws and regulations. In this case, it does not appear that NWS CFO staff suffered from incompetence in understanding substantive financial issues. To the contrary. NWS CFO staff recognized problems in [REDACTED] financial decisions, and repeatedly brought concerns to his attention.

[REDACTED]

²⁹ According to [REDACTED] the Business rules include: (1) Transfers of labor dollars (object class '11') must contain the appropriate number of hours; (2) Transfers must have matching object classes as well as fund code fiscal years; (3) Transfers between FMCs requires the approval of the affected FMC; (4) No transfers will be done for any surcharge object classes or surcharge offset project codes; and (5) The FMC entering and submitting the transfers is responsible for ensuring that there are adequate resources available for the transfers. (Exhibit 81).

[REDACTED]

Notably, training plays an important role in the competence of staff. [REDACTED] have both stated that no formal training is provided to NOAA employees on appropriations law. (Exhibits 17, 41). Both now recognize that such training may be necessary, particularly for senior leaders who don't have a financial background. (Exhibit 17).

d. **Mechanisms to Monitor and Review Operations and Programs**

1. Mechanisms to Monitor and Review Operations and Programs within the NOAA Budget Structure and the NOAA CFO's Office

The NOAA CFO's Office relies heavily on line office CFOs to ensure that transactions are appropriate and appropriation laws are followed. (Exhibit 41). As such, the NOAA CFO's Office did not have established controls that would have caught the inappropriate conduct that occurred here.

The NOAA CFO's Office focuses primarily on budget formulation, with line offices focusing principally on budget execution. This separation is purposeful, and is meant to allow those with the best knowledge of an Office's programs to have more control over them, leading to greater efficiencies and flexibility in budget execution. (Exhibit 41). However, this system leaves line offices with the responsibility of establishing many financial controls. (Exhibit 41).

Budget Operating Plans (BOPs) are generated by line office CFO Offices. (Exhibit 41). The NOAA CFO's Office only tracks execution variances against line office BOPs to ensure that expenses are in line with the plans. (Exhibits 40, 41). As noted above, the NOAA CFO's Office also approves all SLTs, but only to ensure that they comply with certain business rules. (Exhibits 40, 41).

In the present matter, fund transfers did not involve expenses that could be compared against BOPs, and therefore did not raise red flags for the NOAA CFO's Office. Although the transactions did involve SLTs, those SLTs did not violate any of the "business rules" established by the NOAA CFO, and therefore passed review by the NOAA CFO's Office. This is an area where NOAA could create stronger controls over the use of SLTs.

On the positive side, within the NOAA finance structure there are effective controls to ensure good opportunities for communication between line office CFOs and the NOAA CFO and senior NOAA leadership. For example, the NOAA CFO meets with line office CFO's on a monthly basis to discuss budget issues, and conducts periodic program reviews with various line office programs. (Exhibit 17). As noted, *supra*, [REDACTED] caught a potential reprogramming violation in the WRIP program during one of these program reviews, showing that they are an effective

means for addressing challenging financial issues. Where particularly problematic budget issues are identified, there is a “management control review” process, which periodically looks at financial issues to ensure that they are handled appropriately. (Exhibit 17). There is also a “CFO council” on which all program CFOs participate, that addresses financial issues of concern to senior NOAA leadership. (Exhibit 17).

2. Mechanisms to Monitor and Review Operations and Programs within the DOC CFO’s Office

The DOC CFO’s Office plays a role in the NOAA budget formulation process and is responsible for assisting in the reporting of reprogramming requests to Congress.

[REDACTED]

Because the DOC CFO’s Office does not have day to day visibility at a level required to see these transactions, it would not necessarily be aware of unlawful reprogramming activity and therefore has a limited role in acting as a control in addressing possible reprogramming violations. However, the DOC CFO’s Office is still expected to report any complaints or information that it receives regarding a potential reprogramming to NOAA or the IG’s Office.

In addition, some IT based programs are reviewed by the DOC CFO’s Office through the Commerce Information Technology Review Board (CITRB), which is chaired by the NOAA Chief Information Officer (CIO) and co-chaired by the DOC CFO. The CITRB provides for coordinated risk management and review, and provides advice to the Secretary and Deputy Secretary regarding IT investments that merit special attention, involve Department-wide systems, or have significant life cycle costs. During CITRB reviews, program managers discuss program funding, program scheduling and milestones, procurement related issues, program risk areas, and other issues that they deem critical to the success of their programs.

[REDACTED]

[REDACTED]

e. **Processes that Facilitate Easy, Open-communication with Senior Managers**

One of the most important controls over financial systems is the ability of employees to freely and openly report concerns to financial managers and senior leadership. *See NOAA Finance Office Handbook*, §§ 6-03, 6-04. As already described, employees repeatedly raised concerns over financial decisions made by [REDACTED] to both [REDACTED] and [REDACTED] but these concerns went unaddressed. Moreover, the NWS Corporate Board was not seen as a safe place to raise detailed concerns. (Exhibit 15). The lack of response by management forced employees to go outside the standard chain of command to report improprieties to the OIG, GAO fraudnet, and directly to NOAA senior leadership. This breakdown in process controls was the most significant reason that [REDACTED] activities continued unabated for close to two years.

In one sense, the present matter proves that certain system controls worked, since employees were able to report improprieties to a number of different sources outside of NWS, instigating the instant inquiry. However, had [REDACTED] and [REDACTED] addressed concerns as they arose, problems would have been handled more quickly, efficiently, and with less long-term consequences to NWS.

f. **Proper Documentation of Financial Transactions**

As previously described, in violation of NOAA policy, NWS did not fully document summary level transfers (SLTs), making it impossible to track what expenses were transferred between PPAs and eliminating the paper trail that would more easily have established an unlawful reprogramming of funds. *See NOAA Finance Office Handbook*, § 15-04(3)(f) (“preparers of SLTs are required to maintain adequate supporting documentation for each SLT”). NWS was not entirely at fault here, since NOAA did not have requirements in place that would have mandated better record-keeping for SLTs. Manifestly, it is imperative that all fund transfers, whether direct or indirect, be traceable, allowing for complete budget transparency. Accordingly, if NOAA intends to continue allowing the use of SLTs by line offices, it must create appropriate record-keeping protocols to ensure that SLTs are fully and completely documented.

I. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

J. The Office Space Consolidation Efforts Were not Paid for Out of NWS Funds and Were an Authorized Management Decision

There is no evidence to indicate that the NWS Office Space consolidation efforts with AGO that were conducted between 2009 and 2012 were improper. An MOU exists between NWS and AGO that spells out the terms of the space consolidation agreement, and AGO reimbursed the costs to implement the space consolidation efforts to NWS. (Exhibit 74). In the long term, the space consolidation plan was projected to save NWS approximately \$1 million per year. (Exhibit 4, 77).

To the extent that there was a problem with the space consolidation project it was a problem of transparency. Like many decisions made within the NWS CFO's Office, no information was provided to employees about the purpose of the space consolidation efforts and the savings that they would convey.

[REDACTED]

K. Evidence Does Not Support That [REDACTED] Inappropriately Attempted to Influence a NOAA Contract With [REDACTED]

There is no evidence that [REDACTED] directly or indirectly attempted to influence the outcome of a competitive acquisition to have a contract award made to [REDACTED]

As described above, [REDACTED]

Moreover, [REDACTED] says that [REDACTED] actions in this matter were perfectly appropriate. (Exhibit 24).

As with the space consolidation project, the allegations regarding [REDACTED] appear to arise from miscommunication. [REDACTED]

L. Issues for further inquiry

As mentioned previously, the inquiry team was asked to expeditiously complete its report so that NOAA could review it in time to address budget planning for FY 2012 and FY 2013, and could quickly make appropriate personnel decisions. The inquiry team recognizes that there are clearly defined questions regarding this matter that remain unanswered, and that NOAA may need to initiate additional investigation into actions arising in prior years, and into tangential issues. Issues that NOAA may seek to investigate further include:

1. A full audit of the NWS budget for FY 2010 and FY 2011, to determine the full extent of unlawful fund reprogramming;
2. An audit of NWS financial practices prior to FY 2010, to determine when and how the NWS budget shortfall began, and whether there was improper reprogramming of funds prior to 2010; and
3. An NWS program review, to determine (a) the impact of [REDACTED] financial decisions on NWS programs; and (b) whether financial problems existed within NWS because of program dysfunction.