



Audit Report



OIG-22-033

REVENUE COLLECTION

The U.S. Customs and Border Protection's Oversight of the Merchandise Transported In-Bond Program Needs Improvement to Better Ensure the Protection of Revenue

March 31, 2022

Office of Inspector General
Department of the Treasury

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Abbreviations

ACE	Automated Commercial Environment
ATS	Automated Targeting System
ATS4	Automated Targeting System (old version of system)
CBP	U.S. Customs and Border Protection
COAC	Commercial Customs Operations Advisory Committee
CORE	Commercial Operations Revenue & Entry
CSC	Cargo Security and Controls Division
DHS	Department of Homeland Security
FIRMS	Facility Information and Resources Management System
FTZ	Foreign-Trade Zone
FY	fiscal year
GAO	Government Accountability Office
GAO principles	Government Accountability Office Standards for Internal Control in the Federal Government Principles
IE	immediate exportation

In-bond	Merchandise Transported In-bond
IT	Immediate Transportation
MID	Management Inspections Division
MMM	Multi-Modal Manifest
NTC	National Targeting Center
OF	Office of Finance
OFO	Office of Field Operations
OIG	Office of Inspector General
OIT	Office of Information and Technology
OT	Office of Trade
Ports	Ports of Entry
SIP	Self-Inspection Program
SIW	Self-Inspection Worksheets
T&E	Transportation & Exportation
TFTEA	Trade Facilitation and Trade Enforcement Act of 2015
Treasury	Department of the Treasury
TSN	Trade Support Network
TTO	Trade Transformation Office

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Audit Report

March 31, 2022

Chris Magnus
Commissioner
U.S. Customs and Border Protection

This report presents the results of our audit of the U.S. Department of Homeland Security (DHS), Customs and Border Protection's (CBP) Merchandise Transported In-Bond (In-Bond) Program. We performed this audit to meet biennial reporting requirements of Section 112 of the Trade Facilitation and Trade Enforcement Act of 2015¹ (TFTEA), which identifies specific areas relating to CBP's effectiveness of protecting revenue for the Department of the Treasury (Treasury) Office of Inspector General (OIG) to review.² The statute required Treasury OIG to first report no later than June 30, 2016 and then to report biennially, starting in March 2018. Treasury OIG provided letters to Congress to satisfy the first reporting requirements, which focused on Treasury's Customs revenue functions.³ This report meets Treasury OIG's March 2022 mandate.

¹ P.L. 114-125, Trade Facilitation and Trade Enforcement Act of 2015 (February 24, 2016)

² Section 112 of TFTEA requires Treasury OIG to submit to the Senate Committee on Finance and House Committee on Ways and Means reports assessing (1) the effectiveness of measures taken by CBP with respect to protection of revenue, including the collection of antidumping and countervailing duties; the assessment, collection, and mitigation of commercial fines and penalties; the use of bonds to secure that revenue; and the adequacy of CBP policies with respect to the monitoring and tracking of merchandise transported in-bond and collecting duties, as appropriate; (2) the effectiveness of actions taken by CBP to measure accountability and performance with respect to protection of revenue; (3) the number and outcome of investigations instituted by CBP with respect to the underpayment of duties; and (4) the effectiveness of training with respect to the collection of duties for personnel of the CBP.

³ The Homeland Security Act of 2002 established DHS and dissolved the legacy United States Customs Service in Treasury while transferring all of its functions from Treasury to DHS, except the Customs revenue functions which were to be retained by Treasury. Section 412 of the Homeland Security Act of 2002 stated that Treasury, at its discretion, could delegate - but not transfer - its Customs revenue functions to DHS and retain any duties that were not delegated.

The overall objective of our audit was to assess the effectiveness of CBP's protection of revenue in accordance with Section 112 of TFTEA. As part of this audit, we focused on assessing the adequacy of policies and procedures with respect to the monitoring and tracking of merchandise transported in-bond and collecting respective duties. We also assessed the effectiveness of actions taken by CBP to measure accountability and performance with respect to its In-Bond Program, as well as the effectiveness of training with respect to the program. We will also issue a report later this year on the number and outcome of investigations instituted by CBP with respect to the underpayment of duties, as specifically required of us under Section 112 of TFTEA.

To accomplish this objective, we interviewed CBP officials and staff from CBP's Headquarters and ports of entry (ports) and reviewed relevant CBP documentation during audit fieldwork conducted from October 2020 through December 2021. The scope of our review covered CBP's In-Bond Program for fiscal years (FY) 2019 and 2020. Appendix 1 contains a more detailed description of our objectives, scope, and methodology.

Results in Brief

We found CBP's policies and procedures to be inadequate with respect to the monitoring and tracking of merchandise transported in-bond and collecting respective duties, taxes, and fees. Accordingly, we are making 20 recommendations to improve CBP's In-Bond Program.

As further discussed in finding 1, CBP's Cargo Security and Controls Division (CSC), within the Office of Field Operations (OFO), is responsible for overseeing the operations of the In-Bond Program, which includes, but is not limited to, writing operational policies, directing and requesting system programming, and drafting regulations. During our audit, we determined that CSC's oversight of the In-Bond Program at the field offices and ports needs improvement. Specifically, we found CSC did not establish in-bond performance measures related to the In-Bond Program for the ports. In addition, CSC did not provide sufficient or effective guidance to the field offices and ports on how they should oversee in-bond shipments within their purview. Furthermore, CSC did not

review available data in the Automated Commercial Environment (ACE), the system of record for in-bond merchandise, to hold the field offices and ports accountable.

In addition, within CBP's Office of Trade (OT), the Trade Transformation Office (TTO) administers ACE and the databases that house in-bond information. The Office of Information and Technology (OIT) manages CBP's technology infrastructure and information and technology operations, which includes ACE. We noted that there is no central repository, or capabilities in ACE, allowing CSC, field offices, and ports to store and access in-bond information. Without a centralized repository, these offices could not easily share ACE reports, compliance examination documentation, and other in-bond related information, including training materials, maintained by the ports. This made it more difficult for CSC to oversee in-bond activity at the ports.

Instead of analyzing data, CSC relied on information self-reported by the ports through the Self-Inspection Program (SIP), which is administered by the Management Inspections Division (MID) to evaluate performance. MID administers the SIP and performs SIP Validation Inspections to assess the accuracy and completeness of self-inspection worksheets (SIW) results. As part of the inspections, MID samples SIWs and their respective audit trails, or documentation supporting the SIW responses. The CSC In-Bond Program Manager develops the in-bond SIW questions and establishes SIW guidance for random sampling and answering questions in the in-bond SIWs.

We found the SIW questions to be insufficient for the oversight of the in-bond program. The in-bond SIW for FY 2020 required ports to answer questions on in-bond compliance examinations and waivers on a biannual basis. The SIP is used to monitor performance of agency programs, operations, and offices; promotes management accountability and operational integrity; and complements other internal control monitoring activities.

We recommend that the CBP Commissioner:

1. Ensure CSC officials develop and disseminate performance measures specific to the In-Bond Program so that CSC, field offices, and port personnel are aware of program

expectations. These measures should be used to regularly assess port performance and hold ports accountable.

2. Ensure CSC officials develop written procedures for CSC's oversight of port performance relating to the In-Bond Program to include, but not be limited to, regular data analytics and review of ACE reports.
3. Ensure CSC officials work with TTO officials to implement a central repository to store ACE reports, compliance examination documentation, and other in-bond related information, including training materials, maintained by the ports so that CSC can oversee in-bond activity. Additionally, CSC should regularly notify field offices and ports that these documents are available in this repository.
4. Ensure CSC officials expand the SIP in-bond SIW questions to cover key program areas, such as the ports' use of ACE reporting to oversee overdue in-bond shipments and training for CBP officers on in-bond compliance examinations and audits.
5. Ensure CSC officials provide guidance to the ports on how to respond to in-bond SIW questions to include scenarios and the appropriate response given those scenarios.

As further discussed in finding 2, CBP's ports did not adequately monitor and track in-bond movements. This was partly due to ACE having limited automation and visibility of cargo and not being intended to track in-bonds in real-time. In addition, CSC did not issue written procedures for the ports to regularly monitor data in ACE or use ACE reporting functions to oversee overdue in-bond shipments. The ports told us that ACE frequently crashed or stalled when running reports because too much data existed in the in-bond universe to process. Additionally, CBP did not require proof of export to be provided by importers to support that cargo was not illegally entered into commerce.

As a result of lacking visibility of cargo in ACE, the collection of duties, taxes, and fees associated with in-bond cargo is at risk. Because CBP could not provide us a reliable universe of open in-bond shipments, we had unreconcilable differences with CBP's number of open and past due in-bond shipments. We believe that the unreliable data due to system limitations results in potential for lost Customs revenue. We queried the data, but due to the failure

of CBP to maintain updated information in the system, there was no way for us to determine the magnitude of uncollected revenue. Therefore, we plan to review this matter in a future audit.

We recommend that the CBP Commissioner:

6. Ensure OIT officials assess and address each port's need for infrastructure and equipment upgrades to effectively operate and meet information system requirements.
7. Ensure CSC officials issue policies and procedures for ports on ACE reports they are expected to run regularly to oversee in-bond shipments and ensure in-bonds are closed out. This should include guidance necessary to monitor shipments in ACE as well as review proof of exports.
8. Ensure CSC officials issue policies and procedures for CSC to regularly review the monitoring and tracking of in-bond shipments conducted by the ports.
9. Ensure CSC officials update in-bond regulations to require a standardized proof of export to be uploaded to ACE for all cargo exported.
10. Ensure CSC officials provide TTO officials business requirements after regulations are updated so that TTO can update ACE to require proof of export for closure of in-bonds that are exported.

As further discussed in finding 3, ACE was not configured to capture and report reliable data necessary to meet the needs of CBP and the trade community for the In-Bond Program. We also noted that inadequate coordination between CSC and TTO hindered deployment of necessary ACE capabilities for in-bond oversight.

The Commercial Customs Operations Advisory Committee (COAC), a group of various trade representatives, also noted the lack of visibility of in-bond transactions and statuses in one of its White

Papers.^{4,5} They described how the in-bond regulatory framework was developed with manual and paper in-bond processes in mind and had not kept pace with the vision of ACE. To make changes in ACE and in overall in-bond operations, regulations must be updated. In addition, many different data systems fed into ACE, causing interoperability issues. Without appropriate system capabilities, CBP could not collect and analyze quality data to effectively manage the In-Bond Program.

We recommend that the CBP Commissioner:

11. Ensure OT officials, with input from CSC officials, update regulations to support ACE functionality and data quality to modernize the in-bond process. This includes improving the report processing time, improving the quality of reports, and addressing COAC concerns regarding the system.
12. Ensure CSC officials provide TTO officials with business requirements after regulations are updated so that TTO can implement changes in ACE to modernize in-bond tracking and automation processes and enhance data quality to meet user needs.

As further discussed in finding 4, CSC required only a limited number of in-bond compliance examinations be performed to ensure accurate reporting of in-bond shipments. Specifically, CSC's memorandum providing guidance on compliance examinations issued on September 20, 2018, and made effective on October 1, 2018, required ports to perform a certain number of compliance examinations each month. We also noted that ports did not perform a sufficient number of compliance examinations to meet CBP's minimal in-bond examination requirements. Furthermore, CSC did not oversee compliance examinations at the ports or provide the ports with written procedures to ensure compliance examinations were adequate and consistent. As a result, ports did not maintain adequate documentation of

⁴ COAC advises the Secretaries of the Treasury and DHS on the commercial operations of CBP and related Treasury and DHS functions. COAC consists of 20 members who are all trade representatives from various industries. Treasury and DHS personnel serve as co-chairs and deputy co-chairs, presiding over meetings but are non-voting members.

⁵ COAC, *Secure Trade Lanes Subcommittee 4Q2020 Inbond Modernization White Paper V12* (December 16, 2020), p.6

compliance examinations or track examination results in a consistent manner.

We recommend that the CBP Commissioner:

13. Direct CSC officials to consider updating guidance on compliance examinations to require ports to examine a statistically valid sample of in-bond shipments so that cargo reviewed is more representative of all in-bond shipments. Additionally, the guidance should contain instructions on waivers of examination including documenting the justification for these waivers.
14. Ensure CSC officials provide the ports with written policies and procedures to ensure compliance examinations are adequate and consistent. These procedures should include selecting cargo for review, conducting examinations, documenting the process used for the review and the results, and storing the records.
15. Ensure CSC officials regularly sample and review compliance examinations conducted by the ports to ensure ports are complying with CBP policy.

As further discussed in finding 5, CBP's training program for oversight of in-bond shipments needs improvement. CBP did not provide adequate training on the oversight of in-bond shipments at the national level, including training covering the use of the ACE system. This resulted in inconsistent in-bond processes at the ports posing a risk to in-bond revenue.

We recommend that the CBP Commissioner:

16. Ensure CSC and TTO officials formalize standardized in-bond training for Headquarters' offices, field offices, and ports to ensure all ports are operating under national policy. Training should cover key areas such as compliance examinations and audits, ACE reports, bonding requirements, and risk assessments of the trade community.
17. Ensure CSC and TTO officials require ACE training related to the oversight of in-bond cargo for all CBP officers.
18. Ensure that CSC and TTO officials coordinate to provide regular and comprehensive ACE training course offerings

related to the oversight of in-bond cargo to satisfy employee training needs.

We also noted a matter of concern from our review of CBP's In-Bond Program related to custodial bonding. The Commercial Operations Revenue & Entry (CORE) Division develops bonding policy for custodial bonds. We found CBP's custodial bonding used for in-bond shipments did not adequately protect Customs revenue associated with in-bond cargo, the custodial policy was outdated, and ports had a general lack of understanding related to custodial bonding policy.⁶

We recommend that the CBP Commissioner:

19. Ensure the CORE Division coordinates with the Revenue Division and CSC officials to improve custodial bonding to address the risks of merchandise transported in-bond and update CBP's bonding policy. The policy should improve the connectivity between in-bond shipments and respective duties, taxes, and fees by considering estimated duties when determining the appropriate bond coverage.
20. Ensure the CORE Division provides general bond training to include setting the appropriate bond amounts.

As part of our reporting process, we provided a draft of this report to CBP to obtain management's views and comments. Management concurred with all of our recommendations. We provide the corrective actions management has outlined in its response below and have summarized management's response in the recommendations sections of this report. Management's written response, in its entirety, is included in appendix 2 of this report.

Regarding finding 1 and in response to recommendation number 1, management stated that Cargo Conveyance and Security is currently updating policies and collaborating with the National Targeting Center (NTC) to establish more efficient monthly in-bond accountability. In response to recommendation number 2, CSC will design and implement a new in-bond management and compliance

⁶ We determined we would not look at bonding policy in depth as part of our March 2022 audit work. We limited the scope due to extensive coverage in audits conducted by DHS OIG and the Government Accountability Office (GAO). CBP is aware that it needs a more robust bonding policy.

oversight standard operating procedure for CBP officers in the field offices. In response to recommendation number 3, CSC will work with the ACE Business Office in the TTO to provide system functionality requirements for future enhancements, based on competing priorities and yearly appropriation funding allocations. In response to recommendation number 4, CSC will add a new question to the SIW assigned in even years that will relate to ACE report compliance activity, to make port personnel demonstrate their awareness and use of the ACE reports correctly. In response to recommendation number 5, CSC will incorporate more detailed SIW Guidance for responding to all questions on its updated SIW, assigned during even years.

Regarding finding 2 and in response to recommendation number 6, management stated that OIT Field Support Directorate's local field support personnel will evaluate and analyze desktops and laptops at the facilities supporting the ACE system, and will initiate actions to address any issues identified in the port site assessments. Further, OIT will engage OFO through existing business processes to address the deficiencies. In response to recommendation number 7, management stated that CSC will enhance the in-bond post-audit oversight area of responsibility by working with OIT to provide requirements within the ACE Report Module, along with field office guidance pursuant to enforcement measures. In response to recommendation number 8, CSC will implement a quarterly in-bond reporting oversight protocol, which will include: (1) reports being submitted by the ports to CSC; (2) follow up meetings with selected ports and field offices to facilitate process improvements and issue corrective guidance; and (3) performance metrics implemented for each port. In response to recommendation number 9, CSC will collaborate with OT, Office of Regulations and Rulings to obtain legal guidance pursuant to the possibility of changing current policy and procedures pursuant to 19 Code of Federal Regulations (CFR) Section 190.72, *Proof of exportation*. In response to recommendation number 10, CSC is currently developing an Electronic Export Manifest Outbound Enforcement process module for the Automated Export System to address proof of export.

Regarding finding 3 and in response to recommendation number 11, CSC will work with the TTO ACE Business Office to provide system functionality requirements for future

enhancements, as appropriate based on competing priorities and yearly appropriation funding allocations. In response to recommendation number 12, CSC will work with the TTO ACE Business Office to provide system functionality requirements for future enhancements, as appropriate based on competing priorities and yearly appropriation funding allocations.

Regarding finding 4 and in response to recommendation number 13, management stated that CSC will issue a new memorandum to the field and ports that will update the ACE in-bond report oversight process. Further, CSC will enhance the in-bond post-audit oversight area of responsibility, in coordination with OIT, by providing requirements within the ACE Report Module and associated field office guidance related to enforcement measures. In response to recommendation number 14, CSC will develop and implement a new in-bond exam and audit user guide for CBP field personnel, as well as an audit program of port's in-bond exam-audit activity. In response to recommendation number 15, CSC, in coordination with OIT, will enhance the in-bond post-audit oversight area of responsibility by providing requirements within the ACE Report Module, along with field office guidance related to enforcement measures. Further, CSC will establish accountability of bonded carriers and create findings processes, as well as establish a compliance measure program that will include the enhancements to "in and out" type reviews.

Regarding finding 5 and in response to recommendation number 16, CBP management stated that CSC and TTO are currently working with academy administrators and course developers at the CBP Trade and Cargo Academy, to create a new in-bond program training course. In response to recommendation number 17, CSC, in coordination with TTO, will co-produce webinars addressing in-bond compliance report oversight and training for CBP field office personnel. In response to recommendation number 18, CSC will create a new in-bond program training course and, in coordination with TTO, will co-produce webinars addressing in-bond compliance report oversight and training for CBP field personnel.

Regarding the matter of concern and in response to recommendation number 19, CBP management stated that OT, OFO, and the OF Revenue Division will continue to leverage

existing authorities pursuant 19 CFR Section 113 to enforce the requirements for custodial bonds to protect revenue, by: (1) collaborating to ensure policies and procedures are updated; and (2) exploring efforts to improve appropriate bond coverage. In response to recommendation number 20 and as described further below, OT CORE is in the process of providing bond training to enhance CBP personnel's understanding of bond authority and corresponding enforcement options.

Management's response and planned and taken corrective actions meet the intent of our recommendations. In addition, CBP management expressed concern in their response regarding statements made in our report that: (1) characterize CBP in-bond data as being unreliable; (2) conclude unreconcilable differences existed with CBP's number of open and past due in-bond shipments; and (3) conclude there was no way for us to determine the magnitude of uncollected revenue. Management stated that CBP devotes extensive efforts to ensure data integrity and believes that differences in the number of open and past due in-bond shipments are fully explainable. Management further stated that sufficient time was not available for program officials and subject matter experts to fully explain how CBP maintains data integrity and the reasons for differences.

We disagree with CBP management's interpretation of the statements we made in the report regarding unreliable data and the magnitude of uncollected revenue resulting from in-bond shipments that were not properly closed out. We detail how we performed data analytics to identify data anomalies, and include CBP officials' explanations of data issues and system limitations. Throughout the audit, CBP officials could not provide us comfort in their ability to evaluate data to make strategic decisions and oversee the In-Bond Program. We also provided CBP ample time to comment on the issues we identified, having notified CBP of our preliminary findings and recommendations in November 2021. As described in our report, CBP officials could not provide us comfort that in-bond shipments were properly closed out or that they had a mechanism capable of providing an accurate dollar amount of uncollected revenue.

Background

Merchandise Transported In-Bond

An in-bond movement is a transaction that allows for the movement of foreign cargo through the United States without payment of duty or taxes prior to the entry into domestic consumption or for exportation to foreign countries. In-bond transactions were established by statute and the process is set forth pursuant to regulation.^{7,8}

The in-bond process provides flexibility and supply chain efficiencies by allowing importers and other interested parties options for when and where to: (1) enter their goods into U.S. commerce and pay associated duties; (2) enter the goods into a bonded warehouse or foreign-trade zone (FTZ); or (3) export the merchandise without needing to follow the consumption entry requirements.⁹ CBP also benefits from the in-bond process because it helps to alleviate congestion at large ports, since in-bond shipments are transferred to onward modes of transportation upon arrival at those ports.

There are three main types of in-bond transactions. Immediate exportation (IE) allows foreign merchandise arriving at one U.S. port to be exported from the same U.S. port without payment of duties. Transportation & exportation (T&E) allows foreign merchandise arriving at one U.S. port to be transported through the United States and exported from another U.S. port without payment of duties. Lastly, immediate transportation (IT) allows cargo to transit through the country without payment of duties until the cargo is entered into U.S. commerce at a port, entered into an FTZ, entered into a bonded warehouse, or a new in-bond entry is filed.

⁷ 19 U.S.C. 1551, *Designation as carrier for bonded merchandise*; 1552, *Entry for immediate transportation*; 1553, *Entry for transportation and exportation, lottery material from Canada*

⁸ 19 CFR part 18, *Transportation In-Bond and Merchandise in Transit*

⁹ A Customs bonded warehouse is a building or other secured area in which imported dutiable merchandise may be stored or undergo manufacturing operations without payment of duty for up to 5 years from the date of importation.

Cargo can be transported by ocean, rail, truck, air, or any combination of modes by carriers covered by a CBP-approved custodial bond. CBP regulations require cargo to be covered by a custodial bond while being transported, which protects the interests of CBP should there be instances of noncompliance with regulations.¹⁰

In-Bond Program Statistics

According to CBP, approximately 40.62 million and 51.27 million in-bond transactions occurred during FY 2019 and FY 2020, respectively. IT transactions were the most common in-bond type, followed by T&E and IE. Table 1 shows the breakout of in-bond types.

Table 1. Number of In-Bond Transactions by Type

In-Bond Type	FY 2019	FY 2020
IT	17,947,777	22,678,473
T&E	11,537,297	14,493,693
IE	11,138,375	14,100,486
TOTAL	40,623,449	51,272,652

Source: CBP data.

The total value of merchandise transported in-bond was \$509.47 billion and \$716.76 billion in FY 2019 and FY 2020, respectively. Table 2 below shows the total value for in-bond cargo, as well as the value and the estimated duties, taxes, and fees paid for the total number of in-bond cargo that entered into U.S. commerce for FYs 2019 and 2020.¹¹

¹⁰ 19 CFR part 18.1(e), *Bond required*, a custodial bond on CBP Form 301, containing the bond conditions set forth in Section 113.63 of this chapter, is required in order to transport merchandise in-bond under the provisions of this part.

¹¹ Duties, taxes, and fees are not collected for T&E or IE since that cargo does not enter commerce.

Table 2. Total Value; Total Estimated Duties, Taxes, and Fees; and Total Number of In-Bond Cargo that entered U.S. Commerce

Fiscal Year	Total Value of In-Bond Cargo	Total Value of In-Bond Cargo that Entered U.S. Commerce	Total Estimated Duties, Taxes, and Fees with Respect to In-Bond Cargo	Number of In-Bond Entries that Entered U.S. Commerce
2019	\$509.47 billion	\$269.87 billion	\$13.32 billion	4.75 million
2020	\$716.76 billion	\$239.75 billion	\$14.17 billion	4.23 million

Source: CBP data.

The five ports that process the largest numbers of in-bond movements are the United Parcel Service hub located at Anchorage, Alaska; Cincinnati, Ohio; the Federal Express hub located in Memphis, Tennessee; Miami International Airport, Florida; and the United Parcel Service hub located in Louisville, Kentucky.¹² Table 3 below shows the total in-bond count for each port by in-bond types for FY 2019 and FY 2020.

¹² Louisville was not included in the five ports sampled in this audit. As described in Appendix 1, we selected the four ports with the most in-bond activity and Otay Mesa because it had been part of a recent major legal case involving in-bond cargo.

Table 3. Number of In-Bond Shipments for the Ports of Anchorage, Cincinnati, Memphis, Miami, and Louisville

Port	IT		T&E		IE		Total In-Bond Count	
	FY 2019	FY 2020	FY 2019	FY 2020	FY 2019	FY 2020	FY 2019	FY 2020
Anchorage	10,387,053	15,024,826	1,737,174	2,432,797	35,466	290,578	12,159,693	17,748,201
Cincinnati	117,952	152,174	2,873,351	3,558,617	5,293,599	6,949,732	8,284,902	10,660,523
Memphis	251,535	249,107	991,398	1,430,570	3,055,121	3,533,105	4,298,054	5,232,782
Miami	58,417	60,166	604,608	766,254	988,499	1,554,886	1,651,524	2,381,306
Louisville	2,407	4,356	908,879	1,313,122	497,320	684,544	1,408,606	2,002,022

Source: CBP data.

ACE Processing of In-Bond Transactions

All in-bond movements for the ocean, rail, and truck modes of transportation are processed electronically by the trade community through systems that feed into ACE, the system of record for in-bond data. The air mode of transportation is still primarily a paper-based process.

The trade community is responsible for submitting information to CBP when cargo arrives at a port and is moved again, entered into commerce, or is exported, among other things. CBP closes or “reconciles” an in-bond transaction automatically in ACE.¹³

In-bond cargo is tracked at either the master bill level or house bill level in ACE. A master bill of lading is a high-level document issued by carriers to shippers detailing the receipt of goods and conditions for transporting and delivering goods. A master bill can contain one or several house bills and in-bond movements. A house bill is a bill of lading issued consisting of the individual shipments and the specific shippers and consignees. The ocean mode of transportation is tracked at the master level, while air, truck, and rail modes are tracked at the house bill level.

¹³ Reconciliation is when CBP closes out the in-bond when the merchandise enters commerce, is exported, or is entered into an FTZ or bonded warehouse.

Failure to file information required by CBP or any other noncompliance can result in liquidated damages (type of contractual damage) being issued against the party responsible for, or in custody of, the in-bond cargo.

Primary Offices Involved with the In-Bond Program

Several CBP offices are involved with the In-Bond Program. OFO is responsible for facilitating lawful trade and travel at U.S. borders and ports of entry. OFO oversees 20 field offices that provide managerial oversight and operational assistance to 328 ports around the nation.

CSC is responsible for overseeing the operations of the In-Bond Program. CSC writes operational policies, directs and requests system programming, and drafts regulations.

Ports are responsible for inspecting pedestrians, passengers, and cargo and are provided guidance by CSC on how to conduct their work. However, port directors are also allowed discretion to operate in a manner appropriate for their unique environment and associated risks. CBP officers at the ports oversee in-bond activity by running reports in ACE on in-bond shipments, conducting compliance examinations, and initiating enforcement actions for any form of noncompliance.¹⁴

OT develops policies to guide CBP's trade enforcement efforts, which are then implemented by OFO. Within OT, TTO administers ACE and the databases that house in-bond information. The CORE Division develops bonding policy for custodial bonds. The Revenue Division, within OF, administers the bonding policy set by CORE.

2017 Final Rule Changes to the In-Bond Process

In 2017, CBP issued a final rule amending sections of title 19 of the CFR, which cover merchandise transported in-bond.^{15,16} The

¹⁴ ACE reports show which in-bond shipments are overdue for arrival at the port or for exportation. Compliance examinations ensure accurate reporting of quantity, merchandise description, and proper entry or export resolution to mitigate this risk.

¹⁵ 82 Fed. Reg. 45366, *Changes to In-Bond Process* (September 28, 2017)

¹⁶ 19 CFR, *Customs Duties* parts 4, 10, 18, 19, 113, 122, 123, 141, 142, 143, 144, 146, 151, and 181 were amended by the 2017 Final Rule Change.

amendments changed the in-bond process from a primarily paper-dependent process to an automated paperless process (except for air). The amendments were to provide CBP with tools necessary to better track in-bond merchandise and to improve security and trade compliance. These changes were made to address certain weaknesses in the in-bond system identified by the Government Accountability Office (GAO) in a 2007 audit report, including the need to better collect and use in-bond information, assess and address systemic problems for identifying open in-bonds, and ensure compliance measurements are performed.¹⁷

The final rule was to be effective on November 27, 2017; however, parts of the changes were delayed. Specifically, the electronic creation of in-bond transactions did not go into effect until July 2018 and the electronic reporting did not go into effect until August 2018. In addition, in August 2018, the electronic request and authorization for diversions and the reporting of the Facilities Information and Resources Management System (FIRMS) code came into effect.¹⁸

CBP delayed enforcement of these regulations by 6 months in order to provide the trade community with sufficient time to adjust to the new requirements. Enforcement of the changes to the in-bond regulations were initially scheduled to begin on February 6, 2019, but were postponed due to the government funding hiatus. Enforcement was rescheduled to begin on July 29, 2019 for all new requirements. However, CBP would not yet enforce the requirements for the trade community to provide the FIRMS code at the time of arrival or the six-digit Harmonized Tariff Schedule number for IT movements.¹⁹ As long as carriers were making satisfactory progress toward compliance and a good faith effort to comply with the rule to the extent of their ability, CBP would not strictly enforce the rules. This flexible enforcement was to last for 90 days after the effective date of the rule. However, we found

¹⁷ GAO, *Persistent Weaknesses in the In-Bond Cargo System Impede Customs and Border Protection's Ability to Address Revenue, Trade, and Security Concerns*, GAO-07-561 (April 2007), p.4

¹⁸ A FIRMS code is a unique, CBP-assigned code given to any facility or place in or at which un-entered (including in-bond) merchandise is located.

¹⁹ The Harmonized Tariff Schedule of the United States is a nomenclature system used to classify traded goods based on their material composition, product name, and/or intended function. It sets out the tariff rates and statistical categories for all merchandise imported into the United States. Each product is designated by 4, 6, 8, or 10 digits.

during our fieldwork that CBP was still not enforcing the requirements of the 2017 rulemaking.

Audit Results

Finding 1 **CSC's Oversight of the In-Bond Program Operations at the Field Offices and Ports Needs Improvement**

As discussed above, CSC, within OFO, is responsible for overseeing the operations of the In-Bond Program. During our audit, we determined that CSC's oversight of the In-Bond Program at the field offices and ports needs improvement. Specifically, CSC did not establish performance measures related to the In-Bond Program for the ports. In addition, CSC did not provide sufficient guidance or written procedures to the field offices and ports on how they should oversee in-bond shipments within their purview. Furthermore, CSC did not review available data in ACE to hold these groups accountable. Instead, CSC relied on self-reported information by the ports through the SIP. Without established performance measures, sufficient guidance, and adequate oversight, field offices and ports are unaware of CSC's expectations and cannot be held accountable, which could result in the In-Bond Program not being as effective.

In-Bond Performance Measures Were Not Established

We found that CSC had not established performance measures for the In-Bond Program. Per GAO's *Standards for Internal Control in the Federal Government*, management should establish activities and design controls to monitor performance measures and indicators. This may include comparing and assessing data sets so that appropriate actions may be taken.²⁰

As discussed above, CSC is responsible for overseeing the operations of the In-Bond Program, which includes, but is not limited to, writing operational policies, directing and requesting system programming, and drafting regulations. However, although

²⁰ GAO, *Standards for Internal Control in the Federal Government* (Sep. 2014) p. 47

CSC oversees in-bond operations, it had no performance measures specific to the In-Bond Program at the time of our audit. We noted that CSC program managers are responsible for developing goals and measures to evaluate performance. This includes implementing quantitative and qualitative methods for reporting results.

The CSC Director told us that they were working on creating a performance measurement system, attempting to identify where there were deficiencies, and obtaining resources to address them. However, CSC did not provide documentation supporting such initiatives. In addition, the Audit Program Management Branch Chief for Quality Assurance Enterprise Division within OFO told us that OFO would consider instituting performance measures suggested in response to our audit, but also noted the In-Bond Program is complex and may not be suitable for traditional performance measures. However, in the absence of performance measures, the ports are unaware of CSC's expectations; and CSC can't effectively evaluate the performance of or hold the field offices or ports accountable.

CSC Did Not Provide Sufficient Guidance for the Ports

CSC described other methods used to measure performance and provide oversight of the ports in place of establishing performance measures. However, CSC did not provide sufficient guidance or issue written procedures to ensure these methods were taking place. In fact, we noted several of these methods were not being performed or overseen.

For example, CSC officials described that their primary goal was to ensure in-bonds were closed within regulatory timeframes and that they ran reports on an as-needed basis to oversee in-bond activity. However, we saw no support that these reviews occurred. CSC personnel could not provide us documentation showing that they regularly reviewed open and closed in-bond activities or the amount of time for which in-bond transactions were overdue.

As another example and as further discussed in finding 2, CSC told us that ports ran reports in ACE, specifically the INBND-005 and

INBND-006 reports, to monitor overdue in-bond movements.²¹ However, we were not provided any support to demonstrate that CSC provided the ports with guidance or training on how to run the reports or ensure that this was done prior to our audit. Furthermore, we also found that the ports we reviewed did not run the ACE in-bond reports.²² Instead, some ports said they ran alternative reports either in ACE or in their own tracking systems.²³

To further support the fact CSC does not provide sufficient guidance, CSC provided us a compliance examination memorandum it issued to field offices and ports requiring ports to select a minimum of 10 percent or a quantity of no less than five in-bond entries for compliance examinations each month. CSC described to us how ports were conducting these examinations; but, as further discussed in finding 4, we found this not to be the case.²⁴ We also were provided no evidence that CSC regularly evaluated port performance to ensure ports complied with guidance issued by CSC.

CSC also described other processes not actually occurring at the ports. For example, CSC stated ports have standard operating procedures for in-bond oversight. However, as discussed in finding 2, we noted that ports did not have written procedures for monitoring and tracking cargo or overseeing reconciliations in ACE. We found four of the five ports we reviewed did not have their own procedures and instead relied on CSC and field offices to provide them guidance. The other port provided us an informal document that briefly covered how to document compliance reviews in CBP's Automated Targeting System (ATS) Import Cargo

²¹ The INBND-005: List of In-Bond Shipments Overdue lists bills overdue at the destination port sorted first by origination port and then by the number of days overdue. The INBND-006: List of In-Bond Shipments Overdue for Export lists T&E and IE shipments that have arrived at destination ports but have not been exported timely.

²² Only one port regularly ran the INBND-006 report and none of the ports ran the INBND-005 report.

²³ We detail the ports' limited monitoring and tracking of in-bond shipments in *Finding 2: Ports Did Not Adequately Monitor and Track In-Bond Movements*. We also detail how ACE cannot be relied upon for the oversight of in-bond shipments in *Finding 3: ACE System Limitations Impeded Data Quality for the In-Bond Program*.

²⁴ In *Finding 4: Ports Performed Limited In-Bond Compliance Examinations*, we describe our reviews of documentation and meetings with port personnel to determine compliance examinations at the ports were limited and did not meet CBP's minimal in-bond examination requirements.

module, but we found this insufficient to cover in-bond processes.²⁵

In response to our concerns, CSC officials explained that they had delegated the responsibility for overseeing in-bond activities to the ports due to the large volume of in-bond shipments. However, as discussed above, CSC is responsible for overseeing the In-Bond Program and should regularly review in-bond processes at the ports. Per GAO's *Standards for Internal Control in the Federal Government*, management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.²⁶ We also noted there were no written procedures or training explaining how to run reports to oversee in-bond shipments, contrary to GAO's *Standards for Internal Control in the Federal Government*, which states that management should document in policies each unit's responsibilities for internal control activities.²⁷

Throughout our fieldwork, we presented CSC multiple opportunities to provide us written procedures for the In-Bond Program. CSC provided us limited procedures and assurance that they were overseeing in-bond activity at the ports. Without effective oversight and guidance, CSC cannot ensure ports meet program expectations to mitigate the risk of illicit in-bond activity.

In-Bond Data Captured in ACE Was Not Used to Measure Performance

Despite improvements being needed, as discussed further below, to make ACE, the primary system that houses in-bond data, a more effective tool, there are data and reports that can be run currently from ACE that CSC can use to oversee the In-Bond Program. CSC personnel recognized that there are gaps in the system, but they stated that they believe the information is reliable. However, we noted CSC did not regularly run reports in ACE to oversee in-bond activity at the ports or assess risks of the In-Bond Program.

²⁵ CBP implemented ATS Import Cargo in 2018 to enhance CBP's targeting capabilities. ATS is a decision support tool that compares traveler, cargo, and conveyance information against law enforcement, intelligence, and other enforcement data using risk-based scenarios and assessments.

²⁶ GAO, *Standards for Internal Control in the Federal Government* (Sep. 2014) p. 65

²⁷ GAO, *Standards for Internal Control in the Federal Government* (Sep. 2014) p. 56

Specifically, the CSC In-Bond Program Manager stated that he ran reports on an as-needed basis to oversee in-bond activity but did not keep records of these reports.

With that said, as further described in findings 2 and 3, we found ACE capabilities were limited and did not meet the needs of CSC and the ports.²⁸ Finding 3 details how CBP needs to implement changes in ACE to modernize in-bond automation processes and enhance data quality to meet user needs, which includes improving the quality of reports.

Per GAO's *Standards for Internal Control in the Federal Government*, management designs information systems to obtain and process information to meet each operational process' information requirements and to respond to the entity's objectives and risks. Management should use quality information that is relevant to monitor and oversee a program and make informed decisions.²⁹

We noted that CSC did not review in-bond data unless requested by external parties. Specifically, CBP reported statistics to Congress for FY 2016, FY 2017, and FY 2018 in response to CBP's Section 113 TFTEA reporting requirement, but discontinued the reporting after addressing its mandate. Specifically, Section 113 required the Secretaries of Homeland Security and Treasury to provide an update on the status of the agency's efforts to strengthen the capabilities and operations of the in-bond process. CBP was to provide certain data elements laid out in TFTEA as part of this reporting.

However, we reviewed these reports and found CBP did not address three of the seven elements requested by Congress. These included: (1) the average time taken to reconcile in-bond shipments to demonstrate that the merchandise reaches its final destination or is re-exported, (2) the average time taken to transport merchandise in-bond from the port at which the merchandise arrives in the

²⁸ We detail ACE's limited monitoring and tracking capabilities, including ACE reporting functions, in *Finding 2: Ports Did Not Adequately Monitor and Track In-Bond Movements*. We also detail how data in ACE cannot be relied upon for the oversight of in-bond activities in *Finding 3: ACE System Limitations Impeded Data Quality for the In-Bond Program*.

²⁹ GAO, *Standards for Internal Control in the Federal Government* (Sep. 2014) pp. 51, 60

United States to its final destination in the United States, and (3) the total number of notifications by carriers of merchandise being transported in-bond that the destination of the merchandise has changed. CBP explained they did not build capabilities to track this data.³⁰

We also requested updated data for the Section 113 elements for FY 2019 and FY 2020 to gain an understanding of the trends of the In-Bond Program. However, CBP still could not provide the same three elements described above, showing they still did not have the necessary capabilities to analyze in-bond trends. Furthermore, we questioned the reliability of data elements that CBP provided to Congress and to us. CSC worked with TTO to rebuild the queries for our request since the original queries used were unavailable. However, the new queries pulled inconsistent figures, so data was not comparable.

We noted that ACE could not track the data necessary for some elements we requested; therefore, we could not analyze the trends of the In-Bond Program. For example, we requested the number of entries that remained unreconciled for FY 2019 and FY 2020 as of the months immediately following each of those years.³¹ This would show us the pace at which in-bond activities were closed out after year-end. However, CBP only had the ability to look at the status of in-bonds unreconciled as of the date the report was run and could not take a snapshot from an earlier point in time.

CSC also could not oversee in-bond activity because ACE did not store reports run by the ports or compliance examination documentation. CSC could run the same reports in ACE, but it did not have access to the ports' systems and reports run by the ports in ACE, because this documentation was not maintained in a centralized repository. As a result, CSC could not retrieve certain data without requesting it from the ports and other offices within

³⁰ The other data elements requested by Congress were the (1) overall number of entries of merchandise for transportation in-bond through the United States; (2) ports at which merchandise arrives in the United States for transportation in-bond and at which records of the arrival of such merchandise are generated; (3) total amount of duties, taxes, and fees owed with respect to shipments of merchandise transported in-bond and the total amount of such duties, taxes, and fees paid; and (4) number of entries that remain unreconciled.

³¹ For example, for in-bond shipments opened and not closed in FY 2019, we wanted to look at the status, or aging, of those in-bond shipments in October 2019, November 2019, December 2019, etc.

CBP. Therefore, CSC put the burden on the ports and relied on the ports to notify them of any issues. However, the ports were not provided adequate tools to perform their own analysis. In fact, TTO and the ports told us that ACE often crashed when running reports due to the size of the in-bond universe.

CSC personnel recognize that there are gaps in the system and told us that additional funding is needed to implement necessary tracking capabilities in ACE. The CSC Director told us they were looking at the data flow and were working to enhance the data and perform data analytics, as well as considering using new technology like blockchain to collect more quality data.³² It is imperative that CSC utilizes the data already available to them, and ensures these changes and the proper system capabilities are implemented. Without utilizing data and appropriate system capabilities, CBP can neither collect nor use data to know the true state of the In-Bond Program nor determine if the policies governing it are adequate.

CSC Relied on Self-Reported Information Through the SIP to Evaluate Performance

CSC relied on information self-reported by the ports, as required, through the SIP to oversee in-bond activity. However, we found the questions asked of the ports did not sufficiently cover the In-Bond Program, and that port responses were questionable and likely inaccurate.

The SIP is used to monitor performance of agency programs, operations, and offices; promotes management accountability and operational integrity; and complements other internal control monitoring activities. MID administers the SIP, which includes in-bond SIW submitted by the ports on a biannual basis. Per a MID directive, MID performs SIP Validation Inspections to evaluate the effective implementation of SIP; assess the accuracy and

³² Blockchain is a shared, immutable ledger that facilitates the process of recording transactions and tracking assets in a business network.

completeness of the reported self-inspection results; and conduct additional sampling to verify worksheet responses.³³

The CSC In-Bond Program Manager is responsible for developing the in-bond SIW questions and establishing SIW guidance for random sampling and answering questions in the in-bond SIW. MID told us that each program manager is also responsible for reviewing the SIP responses for his respective program. The CSC In-Bond Program Manager was responsible for putting together a report on his own analysis of the In-Bond Program results.

There were 138 in-bond SIWs submitted as part of the 2020 SIP. CSC only wrote two questions for the 2020 in-bond SIWs to capture policy and the areas on which CSC needs the ports to direct their focus. One question asked the ports whether no less than five in-bond compliance examinations were performed each month and the second question asked if the Port Director had documented the justification for any waivers issued for the examination of cargo. We found the two questions asked in the 2020 in-bond SIW insufficient to assess port performance or determine In-Bond Program weaknesses. These questions do not cover other relevant topics related to in-bond activities, such as running regular reports to oversee overdue in-bond shipments or training for CBP officers on how to conduct compliance examinations.

Of the 138 ports that submitted in-bond SIWs, we found that 80 answered “yes” to the first question to indicate they were performing at least five compliance examinations a month, while 37 answered “no” and 21 answered “no activity (N/A).” This resulted in a modified compliance rate of 68.4 percent.³⁴

We found the accuracy of the ports’ responses to the in-bond SIWs questionable. We found 53 of the ports that answered they were compliant for the first question in the in-bond SIWs had explanations in the SIWs that did not support compliance. We note

³³ CBP, Directive 1520-001E, “U.S. Customs and Border Protection Self-Inspection Program” (December 20, 2019)

³⁴ The modified compliance rate is calculated by first subtracting the “no activity” responses from the total number of responses; then dividing the number of “yes” responses by the modified total number of responses.

that our review was limited, and we did not have access to the audit trail documentation provided by the ports to support their SIW responses. Nevertheless, we determined there are likely inaccurate responses based on this review.³⁵

MID officials stated that over 13,000 SIWs were returned to MID for the 2020 SIP, and that they should not be expected to validate the accuracy of each SIW due to the high volume of SIWs submitted. For FY 2020, MID conducted SIP Validation Inspections for eight ports that submitted in-bond SIWs. MID officials stated it did not generate any findings from this validation. The MID Field Director also stated that the CSC In-Bond Program Manager should have reviewed the in-bond SIW results.

CSC personnel cited the in-bond SIWs as one of the primary means to oversee In-Bond Program performance. CSC's In-Bond Program Manager told us he only looked at trends and particular responses.

Because of the reliance on self-reported results and minimal review, MID and CSC only ensured ports that answered "no" to the two in-bond SIW questions took corrective actions to resolve deficiencies.³⁶ We believe CSC should not rely on the limited questions asked in the in-bond SIWs to ensure ports are in compliance with CBP's policies and procedures.

Recommendations

We recommend that the CBP Commissioner:

1. Ensure CSC officials develop and disseminate performance measures specific to the In-Bond Program so that CSC, field offices, and port personnel are aware of program expectations. These measures should be used to regularly assess port performance and hold ports accountable.

³⁵ The audit trail documentation was stored on CBP's internal network, and we did not pursue access due to time constraints. Our determinations were based solely on the information included in the SIWs.

³⁶ CBP noted that in-bond SIW responses must have supporting documentation to justify the responses provided. SIP uses a tiered approach to validate and certify the responses have the necessary documentation to justify the response provided. These validations and certifications occur prior to either MID or CSC validations.

Management Response

Management concurred with our recommendation. Management stated that Cargo Conveyance and Security is currently updating policies, and collaborating with the NTC, to establish more efficient monthly in-bond accountability. Management expects to close this recommendation by February 28, 2023.

OIG Comment

Management's response and corrective actions currently being taken meet the intent of our recommendation.

2. Ensure CSC officials develop written procedures for CSC's oversight of port performance relating to the In-Bond Program to include, but not be limited to, regular data analytics and review of ACE reports.

Management Response

Management concurred with our recommendation. Management stated that CSC will design and implement a new in-bond management and compliance oversight standard operating procedure for CBP officers in the field offices. Management expects to close this recommendation by February 28, 2023.

OIG Comment

Management's response and planned corrective action meet the intent of our recommendation.

3. Ensure CSC officials work with TTO officials to implement a central repository to store ACE reports, compliance examination documentation, and other in-bond related information, including training materials, maintained by the ports so that CSC can oversee in-bond activity. Additionally, CSC should regularly notify field offices and ports that these documents are available in this repository.

Management Response

Management concurred with our recommendation. Management stated that CSC will work with the ACE Business Office in the TTO to provide system functionality requirements for future enhancements, subject to competing priorities and yearly appropriation funding allocations. Management expects to close this recommendation by February 28, 2023.

OIG Comment

Management's response and planned corrective action meet the intent of our recommendation.

4. Ensure CSC officials expand the SIP in-bond SIW questions to cover key program areas, such as the ports' use of ACE reporting to oversee overdue in-bond shipments, and training for CBP officers on in-bond compliance examinations and audits.

Management Response

Management concurred with our recommendation. Management stated that CSC will add a new question to the SIW assigned in even years that will relate to ACE report compliance activity, to make port personnel demonstrate their awareness and use of the ACE reports correctly. Management expects to close this recommendation by February 28, 2023.

OIG Comment

Management's response and planned corrective action meet the intent of our recommendation.

5. Ensure CSC officials provide guidance to the ports on how to respond to in-bond SIW questions to include scenarios and the appropriate response given those scenarios.

Management Response

Management concurred with our recommendation. Management stated that CSC will incorporate more detailed SIW Guidance for responding to all questions on its updated SIW, assigned during even years. Management expects to close this recommendation by February 28, 2023.

OIG Comment

Management's response and planned corrective action meet the intent of our recommendation.

Finding 2 Ports Don't Adequately Monitor and Track In-Bond Movements

CBP's ports do not adequately monitor and track in-bond movements. This was partly due to ACE having limited automation and visibility of cargo and not being intended to track in-bond merchandise in real-time. In addition, ports did not have procedures to regularly monitor data in ACE or use ACE reporting functions to oversee overdue in-bond shipments. CBP also did not require proof of export to be provided by importers to support that cargo was not illegally entered into commerce. Without adequate visibility of cargo in ACE, the collection of duties, taxes, and fees associated with in-bond cargo is at risk.

ACE Did Not Have Adequate Visibility of Cargo

Due to the lack of automation and visibility in ACE, CBP could not view an in-bond transaction throughout the whole duration of the movement— specifically while the cargo was in transit. CBP explained that ACE was not intended to track in-bond merchandise in real-time because the trade community manually enters the information into the system.

Per GAO's *Standards for Internal Control in the Federal Government*, management should design information systems to obtain and process information to meet information requirements and to respond to objectives and risks. Data should be obtained from reliable internal and external sources.³⁷

In 2007, GAO issued a report stating CBP did not adequately monitor and track in-bond goods and described issues with cargo visibility.³⁸ We found this continued to be a weakness at the time

³⁷ GAO, *Standards for Internal Control in the Federal Government* (Sep. 2014), pp. 51, 59

³⁸ GAO, *Persistent Weaknesses in the In-Bond Cargo System Impede Customs and Border Protection's Ability to Address Revenue, Trade, and Security Concerns*, GAO-07-561 (April 2007), p.3

of our audit. CBP only had the ability to view in-bond merchandise at discrete periods of time when information on the movement was filed by the trade community. The trade community notified CBP when in-bond cargo arrived at a port, or was exported, among other times, per the in-bond regulations.³⁹

In addition, the trade community and CBP were not notified in ACE when in-bond cargo transferred to another party while in transit.⁴⁰ The trade community wanted the capability to view merchandise for which they were liable but not in their custody.⁴¹ Though CBP pursues liquidated damages against the party whose bond is obligated, this capability would aid the trade community in litigation against a non-bonded carrier in civil court.⁴²

COAC also noted in their White Paper the lack of visibility of in-bond transactions and statuses.⁴³ The COAC In-Bond Working Group described how different systems were causing interoperability issues. Each mode of transportation (ocean, rail, truck, and air) used separate electronic data interchange systems to submit data to CBP.⁴⁴ An in-bond shipment transferring modes

³⁹ 19 CFR 18.1(j), *In-bond application and entry; general rules* and 18.7(a)(3), *Lading for exportation; notice and proof of exportation*

⁴⁰ CBP regulations require that this notification be made to CBP, at least when liability for the shipment transfers from the initial carrier to the subsequent carrier. Per 19 C.F.R. Section 8.3(b), without such a report, the initial bonded carrier remains responsible for the merchandise despite the transfer of the merchandise.

⁴¹ Per 19 CFR 18.8(a), *Liability*, the party whose bond is obligated on the transportation entry will be liable for breach of any of the requirements found in this part, any other regulations governing the movement of merchandise in bond, and any of the other conditions specified in the bond.

⁴² Per 19 CFR 18.8(b), *Liquidated Damages*, the party whose bond is obligated on the transportation entry is liable for payment of liquidated damages if there is a failure to comply with any of the requirements found in this part, any other regulations governing the movement of merchandise in bond, and any of the other conditions specified in the bond. Liquidated damages occur when there is a breach of the terms and conditions of a bond posted with CBP as laid out in 19 CFR 113.61-113.75, CBP Bond Conditions. The principal (e.g., importer of record or party in custody of the in-bond merchandise) and surety (underwriter of debt) of the bond are jointly and severally liable for liquidated damages. In addition, 19 CFR 113.63, *Basic Custodial Bond Conditions*, lists conditions of a custodial bond.

⁴³ COAC, *Secure Trade Lanes Subcommittee 4Q2020 Inbond Modernization White Paper V12* (December 16, 2020), p. 8

⁴⁴ Electronic data interchange is an electronic communication system that provides standards for exchanging data via any electronic means. It is the means in which the trade community transmits, receives data, or interfaces with CBP.

of transportation would switch systems and the exchange of information was not always communicated and put into ACE.

In lieu of automation, CBP focused on ensuring that bills of lading for in-bond cargo were reconciled within the prescribed timeframes of the in-bond regulations.^{45, 46} Reconciliation occurs when CBP closes out the in-bond transaction, which occurs automatically in ACE at the end of the process when merchandise is entered into commerce, exported, or entered into a FTZ or bonded warehouse.⁴⁷

The CSC Director explained that master bills of lading and house bills of lading are used for reconciling in-bond cargo.⁴⁸ The ocean mode of transportation is reconciled at the master bill level. The air, rail, and truck modes of transportation are reconciled at the house bill level. The CSC Director stated that ACE automatically reconciles the master and house bills to ensure all of the goods that came into the country were accounted for and have been exported or entered into U.S. commerce.

Despite CBP's explanations, we did not gain comfort in the reconciliation of in-bond movements.⁴⁹ The CSC Director described that there were different CBP officers reviewing each piece of information to ensure in-bond information reconciled and that CBP officers ensured the information was accounted for in ACE.

⁴⁵ We did not trace in-bond transactions through the collections process because cargo is no longer under CSC's purview once it reaches its destination and an entry is filed and CSC is not responsible for collecting duties. Per 19 C.F.R. Section 18.1(k), once an in-bond entry has arrived at the port of destination, it must be entered, exported, or admitted to a FTZ within 15 calendar days from the date of arrival, or the merchandise will become subject to general order requirements.

⁴⁶ Per 19 CFR 18.1(i)(1), *Maximum in-transit time*, merchandise to be transported in-bond must be delivered to CBP at the port of destination or port of exportation within 30 days from the date of conveyance arrival at the origination port or the date CBP provides movement authorization to the in-bond applicant, whichever is later. Movements by barge are given 60 days.

⁴⁷ FTZs are secured, designated locations around the United States in or near a U.S. port where foreign and domestic merchandise is generally considered to be in international commerce and outside of U.S. Customs territory.

⁴⁸ A master bill is a high-level document issued by carriers to shippers detailing the receipt of goods and conditions for transporting and delivering goods. A master bill can contain one or several house bills and in-bond movements. A house bill consists of the individual shipments and the specific shippers and consignees. CBP plans to have all in-bond merchandise tracked at the house bill level in the future.

⁴⁹ In its 2007 report, GAO noted that CBP did not consistently reconcile the in-bond documents, collect appropriate data, or analyze available data to adequately manage the in-bond system. We could not perform an in-depth review on unreconciled in-bond shipments due to tracking limitations in ACE.

However, we noted that CSC did not have written procedures for the ports related to monitoring and tracking cargo or overseeing reconciliations in ACE. We also saw limited support that Headquarters provided training to port personnel related to tracking cargo or performing reconciliations.

The CSC Director stated that he was confident that the data was in ACE and that system validations were in place to ensure in-bond transactions reconciled. We told the CSC Director we had not gained comfort with his verbal explanations and provided CSC multiple opportunities to demonstrate to us how automatic reconciliation processes occurred.

We asked CSC officials to demonstrate how ACE reconciled in-bond transactions and to provide documentation to support this process. However, CSC officials did not provide screenshots or documentation showing us how these validations occurred. Instead, the CSC Director pointed us to the INBND-001 report, an ACE report that lists all open in-bond merchandise within chosen parameters. Though this is a tool to oversee open in-bond merchandise, it does not adequately support that in-bond transactions are automatically reconciled in ACE.

Without adequate visibility of cargo in ACE, the collection of duties, taxes, and fees associated within-bond cargo is at risk. Because CBP could not provide us a reliable universe of open in-bond shipments, we had unreconcilable differences with CBP's number of open and past due in-bond shipments. We believe that unreliable data due to system limitations results in potential for lost Customs revenue. We queried the data, but due to the failure of CBP to maintain updated information in the system, there was no way for us to determine the magnitude of uncollected revenue. Therefore, we plan to review this matter in a future audit.

Ports Did Not Run Established ACE Reports

The CSC Director told us that due to the high volume of in-bond shipments, they relied on the ports to oversee in-bond activity. The CSC Director also told us that ports used ACE reports to oversee in-bond shipments, and that this was a stopgap measure until a new system was created. However, we found the ports we reviewed did not run these reports to monitor and track in-bond

shipments. In addition, CBP officers had minimal policies, procedures, and training information to follow on how to run the ACE reports.

Per GAO's *Standards for Internal Control in the Federal Government*, managers should continually monitor the internal control system and document the results of an evaluation of the monitoring.⁵⁰ The in-bond regulations give CBP the authority to verify export entries and withdrawals against a carrier's export records.⁵¹

CSC's priority was to ensure that bills of lading for in-bond cargo that are outstanding are reconciled within the prescribed timeframes of the in-bond regulations.⁵² Therefore, CSC implemented reporting functions in ACE for ports to view in-bond cargo movements that were overdue. Based on the overdue reports, ports could contact the carrier/broker and request documentation, such as an entry summary to show cargo was entered into U.S. commerce or documentation proving cargo was exported. If the carrier does not prove exportation or that it properly disposed of merchandise subject to an IT entry, CBP could issue liquidated damages and additionally pursue duties, taxes, and fees.

CSC personnel told us that ports were running the INBND-005 and INBND-006 reports to determine which in-bond shipments were overdue, or not reconciled within prescribed timeframes. We requested the INBND-005 and INBND-006 reports from the five ports in our sample for FY 2019 and FY 2020. None of the ports provided copies of their INBND-005 reports, since they have never run this report. Only one of the ports regularly ran the INBND-006 report. Four ports never used any of the ACE reports to oversee in-

⁵⁰ GAO, *Standards for Internal Control in the Federal Government* (Sep. 2014) pp. 65-66

⁵¹ 19 CFR 18.7(c), *Lading for exportation; notice and proof of exportation; verification*

⁵² Per 19 CFR 18.1(i)(1), *Maximum in-transit time*, merchandise to be transported in-bond must be delivered to CBP at the port of destination or port of exportation within 30 days from the date of conveyance arrival at the origination port or the date CBP provides movement authorization to the in-bond applicant, whichever is later. Movements by barge are given 60 days.

bond shipments. We learned that two of the five ports were not aware of these reports prior to our data request.⁵³

Instead of running these ACE reports, some ports generated their own ad hoc reports. One port told us they used an ACE search module to monitor open in-bonds because it was quicker, more detailed, and easier to use than the ACE reports. Another port's personnel told us they used an external proprietary system instead of ACE for their in-bond monitoring and tracking.⁵⁴

We found the ACE reports were limited and did not fully address CBP's in-bond monitoring and tracking needs. ACE reports did not accurately portray outstanding or overdue in-bond information. For example, the reports were based on a 30-day transit time. This is the time given for the ocean, rail, truck and air modes of transportation to transport cargo. Because barge cargo is allowed a 60-day transit timeframe, it was identified by the reports as overdue.

CSC personnel did not have access to the ACE reports run by the ports and told us they did not review them unless provided by the ports. The CSC In-Bond Program Manager told us that he did not keep records of his reviews of port documents because his reviews were done on an ad hoc basis.

The ports told us that ACE frequently crashed or stalled when running the ACE reports, because too much data existed in the in-bond universe to process. CBP guidance suggested that when running reports in ACE, ports should only pull data for a day or no longer than a week at a time.⁵⁵

Additionally, the information technology infrastructure and bandwidth were challenged because technology was rapidly changing. Therefore, any update or change prevented CBP officers from running reports as they relearned the system. One port officer

⁵³ We noted that CBP guidance mentions the old reports in ACE but was not updated to include the INBND-005 and INBND-006 reports.

⁵⁴ We did not validate that the ports actually used these methods they described outside of ACE reports.

⁵⁵ CBP, *Automated In-Bond Processing Business Process Document* (July 26, 2019), p.21

compared the port's network capabilities to a dial-up modem and said the network would shut down if it pulled too much data.

It is imperative that each port's information technology infrastructure be updated so that CSC, field offices, and ports can efficiently collect and use data to oversee the In-Bond Program. Without a modern information technology infrastructure, ports cannot avail themselves of capabilities deployed in ACE to oversee in-bond movements.

CBP Did Not Require Proof of Export

CBP did not require importers to provide proof of export to support that cargo that should have been exported was not illegally entered into U.S. commerce. Instead, a carrier would notify CBP in ACE that a shipment was exported, automatically closing the transaction in ACE.

Per the in-bond regulations, CBP may verify export entries and withdrawals against the records of the exporting carriers. Such verification may include an examination of the carrier's records of claims and settlement of export freight charges and any other records that may relate to the transaction. The exporting carrier must maintain these records for 5 years from the date of exportation of the merchandise.⁵⁶

Though CBP personnel had the authority, CBP did not require proof of export be provided by the trade community. The in-bond regulations did not require importers to provide proof of export unless requested by CBP as it is only considered a reporting requirement. We found CBP officers at the ports often did not verify documentation proving the cargo was exported. CBP personnel told us they did not have the capacity to manually review each export notification because millions of transactions occurred each year.

CSC personnel told us they were developing an electronic export manifest for ACE to include proof of export. However, CBP did not provide documentation supporting this initiative. At the time of our

⁵⁶ 19 CFR 18.7(c), *Lading for exportation; notice and proof of exportation; verification*

review, there was no capability built into ACE to support the submission of a proof of export.

In summary, CBP depended on the trade community to report in ACE that merchandise was exported. However, without validating proof of export, CBP could not ensure cargo was actually exported. There was no assurance that cargo did not illegally enter into U.S. commerce without payment of duties, taxes, and fees.

Recommendations

We recommend that the CBP Commissioner:

6. Ensure OIT officials assess and address each port's need for infrastructure and equipment upgrades to effectively operate and meet information system requirements.

Management Response

Management concurred with our recommendation. Management stated that CBP's OIT Field Support Directorate's local field support personnel will evaluate and analyze desktops and laptops at the facilities supporting the ACE system, and will initiate actions to address any issues identified in the port site assessments. OIT will engage OFO through existing business processes to address the deficiencies. Management expects to close this recommendation by September 30, 2022.

OIG Comment

Management's response and planned corrective actions meet the intent of our recommendation.

7. Ensure CSC officials issue policies and procedures for ports on ACE reports they are expected to run regularly to oversee in-bond shipments and ensure in-bond shipments are closed out. This should include guidance necessary to monitor shipments in ACE as well as review proof of exports.

Management Response

Management concurred with our recommendation. Management stated that CSC will enhance the in-bond post-

audit oversight area of responsibility by working with OIT to provide requirements within the ACE Report Module, along with field office guidance pursuant to enforcement measures. Management expects to close this recommendation by February 28, 2023.

OIG Comment

Management's response and planned corrective action meet the intent of our recommendation.

8. Ensure CSC officials issue policies and procedures for CSC to regularly review the monitoring and tracking of in-bond shipments conducted by the ports.

Management Response

Management concurred with our recommendation. Management stated that CSC will implement a quarterly in-bond reporting oversight protocol, which will include: (1) reports being submitted by the ports to CSC; (2) follow up meetings with selected ports and field offices to facilitate process improvements and issue corrective guidance; and (3) performance metrics implemented for each port. Management expects to close this recommendation by February 28, 2023.

OIG Comment

Management's response and planned corrective actions meet the intent of our recommendation.

9. Ensure CSC officials update in-bond regulations to require a standardized proof of export to be uploaded to ACE for all cargo exported.

Management Response

Management concurred with our recommendation. Management stated that CSC will collaborate with OT, Office of Regulations and Rulings to obtain legal guidance on the possibility of changing current policy and procedures pursuant

to 19 CFR Section 190.72, *Proof of exportation*. Management expects to close this recommendation by February 28, 2023.

OIG Comment

Management's response and planned corrective action meet the intent of our recommendation.

10. Ensure CSC officials provide TTO officials business requirements after regulations are updated so that TTO can update ACE to require proof of export for closure of in-bond shipments that are exported.

Management Response

Management concurred with our recommendation. Management stated that CSC is currently developing an Electronic Export Manifest Outbound Enforcement process module for the Automated Export System to address proof of export. Management expects to close this recommendation by February 28, 2023.

OIG Comment

Management's response and corrective action currently being taken meet the intent of our recommendation.

Finding 3

ACE System Limitations Impede Data Quality for the In-Bond Program

ACE was not configured to capture and report reliable data necessary to meet the needs of CBP and the trade community for the In-Bond Program. We also noted that inadequate coordination between CSC and TTO hindered deployment of necessary ACE capabilities for in-bond oversight. Without appropriate system capabilities, CBP could not collect and analyze quality data to effectively manage the In-Bond Program.

ACE Was Not Configured to Oversee In-Bond Data

ACE did not have the capabilities necessary to analyze and oversee in-bond data. CSC officials were aware that data in ACE was

incomplete and system processes needed to be improved to better oversee the In-Bond Program. As noted in GAO's *Standards for Internal Controls in the Federal Government*, management should consider information processing objectives in their oversight, and transactions should be promptly recorded to maintain their relevance and value to management in controlling operations and making decisions.⁵⁷

We noted in finding 1 that CSC could not use ACE to oversee performance and risks of the In-Bond Program. ACE could not create reports necessary to analyze how the in-bond system is used, how trade flows, or what diversion risks existed.⁵⁸ In finding 2, we described how ACE had limited in-bond tracking capabilities because ACE was not designed to track in-bond shipments in real-time.

COAC also reported in their White Paper that the system did not meet their needs.⁵⁹ It identified significant system gaps and the need to modernize the in-bond process. COAC stated that the in-bond regulatory framework was developed with manual and paper in-bond processes in mind and had not kept pace with the vision of ACE. In addition, COAC reported that these system limitations impacted cost, resulted in inefficiency, and impeded full compliance with in-bond requirements.

The CSC Director told us that CBP was working on better data and automation in ACE in response to COAC's recommendations. CSC was designing and updating a strategy for future in-bond processes that would provide better automation and visibility for the trade community. We were also told that once data was in a manageable format and CSC had solidified their processes, CSC could begin using the data for analytics.

We found, however, a lack of coordination between CBP personnel hindered deployment of necessary ACE capabilities for in-bond oversight. CSC personnel — the business owners of the In-Bond Program — did not effectively identify user needs for ACE. As a

⁵⁷ GAO, *Standards for Internal Control in the Federal Government* (Sept. 2014), pp. 48, 51-53

⁵⁸ Diversion is when merchandise is diverted while in-transit from the origination port to the port of destination.

⁵⁹ COAC, *Secure Trade Lanes Subcommittee 4Q2020 Inbond Modernization White Paper V12* (Dec. 16, 2020), p.2

result, TTO — the business owners of ACE — could not deploy functionalities necessary for CSC’s in-bond oversight.

Specifically, from the onset of our fieldwork, it was apparent that CSC personnel did not regularly coordinate with TTO. To improve in-bond automation, CSC would forward TTO any of COAC’s in-bond related recommendations for technical changes in ACE. TTO would need to analyze the technical changes in coordination with CSC and the Trade Support Network (TSN) and then oversee the design and implementation of any updates.⁶⁰

We informed TTO personnel that the CSC Director told us CBP was looking at the in-bond data flow, trying to enhance the data, and performing data analytics. However, the TTO personnel with whom we spoke were unaware of these discussions.

CBP Had Difficulty Addressing Our Data Needs

When determining data needed for our analysis, we had difficulty gaining an understanding of data in ACE. When we walked through an in-bond movement with CSC in the ACE Multi-Modal Manifest (MMM) module, we identified data inconsistencies at the detailed transactional level.⁶¹

The CSC Director and In-Bond Program Manager could not justify inconsistencies we saw in the MMM. Specifically, we found different cargo value amounts reported on different screens of the MMM for the same transaction. CSC personnel told us that the values may have come from different sources. They explained that the carrier reported the value used for insurance valuation purposes, while the importer and broker may have reported the retail value of the goods.

⁶⁰ OT works with members of TSN to develop plans to facilitate the implementation of ACE updates. TSN provides a forum for the trade community to provide recommendations and input on Customs automation and modernization. TSN includes approximately 450 members and over 65 software developers. TSN’s responsibilities include technical and operational input on the design and development of ACE.

⁶¹ The MMM is the primary module within ACE that contains all in-bond data. The MMM allows CBP users to search for specific in-bond shipments and these searches will produce information associated with that in-bond movement.

We also found manifest quantities did not reconcile to the piece count that was entered into commerce and exported. This is concerning because inaccurate in-bond data in ACE could result in revenue losses. We found, for example, a transaction in which the carrier reported in the in-bond record that four shipment pieces were entered into commerce and two pieces were exported. Therefore, the carrier should have reported a total of six pieces on the manifest. Instead, the manifest count identified only two pieces. CBP personnel stated they were unsure why the quantities were different, but believed the risk was low since the cargo pieces were over-reported.

Additionally, CBP did not have an updated data dictionary describing how databases that fed into ACE were linked and communicated with each other.⁶² Accordingly, TTO personnel had difficulties pulling certain in-bond data, such as diversion data, because they did not know where the data was stored. As a result of our audit, the ACE Operations and Maintenance Team within OIT created an updated data dictionary. It provided a listing of each of the tables, data type, and a brief description of the data elements.

We initially planned to trace a sample of in-bond transactions throughout the duration of the whole movement through the United States. This would have provided us evidence that in-bond cargo was accounted for and reconciled. However, TTO personnel told us that creating such reports was laborious and time consuming. In addition, inadequate information technology infrastructure and bandwidth caused difficulties in extracting data. Therefore, because of system limitations, TTO was not able to provide us this data.⁶³

In lieu of this analysis, in April 2021, we requested a data extract of all in-bond shipments opened during FY 2019 and FY 2020.⁶⁴

⁶² CBP provided us documentation on data objects in ACE with object descriptions. However, the document was outdated and it did not contain information we needed on the data warehouses used for in-bond merchandise or how in-bond data was linked.

⁶³ Data limitations preventing this analysis are described in the following section.

⁶⁴ This data extract included the following fields: in-bond number, in-bond type, bill of lading number, origination port, destination port, bonded carrier, manifest carrier, filer, in-bond source type, in-bond status, arrival date, arrival time, departure date, departure time, in-bond create date, and in-bond create time.

CBP did not provide us this data until September 2021 (5 months after our request). Gathering this data was a challenge for CBP. We also found the data contained various anomalies, as described further below.

Data Quality and Reporting Issues Were Caused By System Limitations

We found that ACE had various limitations in the quality of data. From our analysis of in-bond data, we reviewed 53.63 million in-bond records for FY 2020 and identified records in which data was not fully captured in reports run by CBP personnel.⁶⁵ We also determined that data in these reports contained anomalies and could not be relied upon. Table 4 below identifies the counts of in-bond records that had data quality and reporting inconsistencies.

⁶⁵ In-bond data included transactions that were filed or deleted. We excluded deleted transactions during our data analysis.

Table 4: Data Quality and Reporting Inconsistencies for FY 2020

Description	Number of Records with Errors	Percent of Total Records
IT and T&E in-bond shipments that reported the cargo departed the origination port at the same time or after they have already arrived at the destination port. (i.e. departed on 9/12/20, arrived on 9/10/20)	4,517,876	8.42%
In-bond record was created after the cargo already departed the origination port. (i.e. in-bond created on 9/16/20, departed on 8/13/20)	2,185,191	4.07%
In-bond record was created the same time or after the cargo arrived at the destination port. (i.e. in-bond created on 9/16/20, arrived on 8/23/20)	1,853,574	3.46%
IE in-bond shipments in which it is reported the cargo departed the origination port after it already arrived at the destination port. (i.e. departed on 9/12/20, arrived on 8/13/20)	899,467	1.68%
T&E and IE in-bonds reported arrival at destination port but did not report the cargo was exported as required by CBP. (i.e. arrived on 9/12/20 but did not report it was exported)	350,775	0.65%
In-bond records that reported the cargo was exported but date of arrival at the destination port is missing. (i.e. exported on 9/12/20 but no date for when it arrived at destination port)	90,007	0.17%
IT and T&E in-bond shipments in which the origination and destination ports are the same.	67,665	0.13%

Source: OIG analysis of in-bond records.

Percentages associated with anomalies above represent a risk to a large volume of in-bond shipments. In FY 2020, about 50 million in-bond shipments transited the country totaling approximately \$14 billion in duties, taxes, and fees.⁶⁶ The average value of each in-bond shipment in FY 2020 was near \$14,000.⁶⁷ Therefore, even a small percentage of in-bond records with anomalies represent a large dollar value of Customs revenue at risk.

The data quality and reporting inconsistencies included in-bond records appearing to have the same origination and destination ports, even when they departed from different ports. CBP personnel told us that this inconsistency could occur when there

⁶⁶ We noted that \$14 billion in Customs revenue only relates to in-bond cargo that is entered into commerce and that IE and TE in-bond shipments do not result in Customs revenue unless in-bond violations occur.

⁶⁷ In FY 2020, the value of in-bond shipments was nearly \$717 billion and there were just over 51 million in-bond records, so the average dollar value of an in-bond movement was near \$14,000.

was a subsequent in-bond movement. Because CBP did not have the ability to show subsequent movements in reports, ACE would update the origination port field to reflect the destination port. Only when CBP personnel reviewed in-bond records at a transactional level could they understand the chronology and details of the whole movement of the in-bond cargo from start to finish.

Additionally, the date and time fields were not always accurate in reports of in-bond records. For example, an in-bond record showed that a shipment departed the origination port in September 2020 but arrived at the destination port in October 2019. TTO personnel stated that the system did not have validation controls in place to limit how far back the carrier could report the in-bond merchandise had arrived.

CBP's OIT personnel also told us that they did not have a fully automated process to capture in-bond information for all modes of transportation, which also contributed to date and time inaccuracies. They said an example would be in-bond merchandise transported by air, which was not automated. As a workaround, CBP officers had to manually report arrival for air cargo. They might enter all of the arrivals for the day at the end of their shifts instead of when cargo actually arrived, which could result in inaccurate reporting.

ACE had limited controls to validate the accuracy of data input into the system by the trade community. TTO personnel told us that data was validated based on rules set by CSC. However, we identified in-bond records with data quality issues, such as date anomalies discussed above that could be addressed with improved validation rules.

Per GAO's *Standards for Internal Control in the Federal Government*, management should design control activities so that all transactions are completely and accurately recorded. It is important that management uses quality information to make informed decisions and evaluate the entity's performance in achieving key objectives and addressing risks.⁶⁸

Without appropriate system capabilities, CSC could not collect adequate data or analyze existing data needed to ensure that in-

⁶⁸ GAO, *Standards for Internal Control in the Federal Government* (Sept. 2014), pp. 48, 60

bond shipments were properly exported or entered into commerce and that duties were collected. Additionally, CSC was unable to identify risks in the system associated with potential revenue losses or trade violations, and thus it could not implement compliance measures targeted at mitigating these risks.

Recommendations

We recommend that the CBP Commissioner:

11. Ensure OT officials, with input from CSC officials, update regulations to support ACE functionality and data quality to modernize the in-bond process. This includes improving the report processing time, improving the quality of reports, and addressing COAC concerns regarding the system.

Management Response

Management concurred with our recommendation. Management stated that CSC will work with the TTO ACE Business Office to provide system functionality requirements for future enhancements, as appropriate based on competing priorities and yearly appropriation funding allocations. Management expects to close this recommendation by February 28, 2023.

OIG Comment

Management's response and planned corrective action meet the intent of our recommendation.

12. Ensure CSC officials provide TTO officials with business requirements after regulations are updated so that TTO can implement changes in ACE to modernize in-bond tracking and automation processes and enhance data quality to meet user needs.

Management Response

Management concurred with our recommendation. Management stated that CSC will work with the TTO ACE Business Office to provide system functionality requirements for future enhancements, as appropriate based on competing

priorities and yearly appropriation funding allocations. Management expects to close this recommendation by February 28, 2023.

OIG Comment

Management's response and planned corrective action meet the intent of our recommendation.

Finding 4 Ports Perform Limited In-Bond Compliance Examinations

CSC required only a limited number of in-bond compliance examinations be performed. In addition, we noted that ports did not perform a sufficient number of compliance examinations and did not meet CBP's minimal in-bond examination requirements. In addition, CSC did not oversee compliance examinations at the ports or provide the ports with written procedures to ensure compliance examinations were adequate and consistent. Ports also did not maintain adequate documentation of compliance examinations or track examination results in a consistent manner. As a result, CSC did not adequately ensure in-bond cargo legally entered U.S. commerce, and that respective duties, taxes, and fees were paid.

CSC Required Only a Limited Number of In-Bond Compliance Examinations Be Performed

CSC required that only a limited number of compliance examinations be performed by the ports to address the risks related to in-bond cargo. In-bond merchandise is at risk of illegally entering commerce because it transits the United States without payment of duties. Compliance examinations of in-bond shipments ensure accurate reporting of quantity, merchandise description, and proper entry or export resolution to mitigate this risk.

Per CSC's compliance examination memorandum issued on September 20, 2018, and made effective on October 1, 2018, a port should choose 10 percent of its in-bond shipments or at least 5 shipments for examination each month. Additionally, port directors have discretion to waive examinations as long as they

maintain a list of all waivers and the justifications in support of each waiver.

We found the compliance examination requirement to be minimal and questioned CSC officials if it was sufficient to oversee in-bond cargo. The CSC Director explained that CSC's goal was to ensure there was some level of in-bond examinations. CSC did not want to require an exact number due to complexities at certain ports. The CSC Director stated CSC wanted to give ports flexibility with the number of compliance examinations they conducted to balance the workload of CBP officers so that they are not only doing compliance examinations. The CSC Director explained to us that any type of review of in-bond cargo could count toward the in-bond examination requirement, even if performed for another purpose such as an enforcement examination, physical examination, or review of entry documentation—as long as it involved in-bond cargo.

We found the examination requirement moot if port directors could easily grant waivers.⁶⁹ Some ports waived examinations simply because they had a high volume of in-bond traffic. For example, we found the ports of Memphis and Anchorage received waivers due to the high volume of cargo transiting the ports.⁷⁰ These two ports represented two of the five ports in the United States with the highest volume of in-bond traffic.

Prior to issuance of CSC's the compliance examination memorandum in 2018, CBP used the Automated Targeting System (ATS4), a module used for risk-based targeting of cargo. ATS4 included the Cargo Enforcement Reporting and Tracking System, which automatically selected cargo for examination and maintained compliance examination information. It also allowed users to view various reports and analytics corresponding to the examinations performed on all in-bond shipments.

⁶⁹ Per the CSC's compliance examination memorandum, port directors may choose to waive examinations at their discretion but should maintain a list of all waivers along with the justifications in support of each waiver.

⁷⁰ We were told that the Memphis port was exempt from certain mandatory requirements for in-bond compliance examinations, while the Anchorage port was exempt from performing any in-bond compliance examinations.

The CSC Director told us CBP planned to deploy a new system for tracking compliance examinations, but did not provide a timeline. The CSC Director said that they were first trying to solidify their in-bond processes and work out issues with the old ATS4 system—specifically, the lack of automation and unfair burden on certain ports. CBP was trying to resolve these issues before re-engaging a discussion to build a new compliance model.

CBP implemented ATS Import Cargo as a stopgap measure for compliance examinations until the new system was deployed. As part of this process, ports had discretion in the selection of in-bond cargo for examination and manually recorded examinations in spreadsheets that they maintained.

We also found other weaknesses with the compliance examination process. The CSC Director and port personnel we met with described instances when in-bond cargo departed from a port before CBP was able to place a hold on the merchandise transported in-bond, preventing the ports from conducting in-bond examinations. CBP personnel sometimes obtained information on cargo presenting risk after the cargo had already left a port, and they were unable to stop the carriers while in transit. In these instances, CBP personnel told us they could screen cargo at the final port before cargo was released.

Ports Did Not Meet CBP’s Minimal In-Bond Examination Requirements

We found ports did not conduct sufficient compliance examinations to account for in-bond cargo. Specifically, port responses for 37 of the 138 SIWs showed that ports were noncompliant with the monthly compliance examination requirement.⁷¹ As noted in Finding 1, our review of the SIWs found that there is likely a higher number of ports that are noncompliant, but we noted that our review was limited.⁷² For example, some of the ports that responded that they were compliant reported that they performed sufficient

⁷¹ This represents a modified compliance rate of 68.4%. The modified compliance rate excludes ports that responded with “No Activity.” Also, we noted that one SIW response may cover multiple local ports.

⁷² We did not have access to the documentation provided by the ports to support their SIW responses. The documentation was stored on CBP’s internal network, and we did not pursue access due to time constraints. Our determinations were based solely on the information included in the SIWs.

examinations based on a yearly period rather than the monthly period required within the compliance examination memorandum. In other SIWs, the examination frequency was unclear based on the port's written explanation.

We found port noncompliance with the monthly examination requirement resulted from a variety of factors. Of the 37 SIWs that reported ports were not conducting the minimum of five examinations, 16 were unaware of the requirement, 15 either misinterpreted the requirement or had no procedures or oversight in place, and six provided no reason for noncompliance.

From our meetings with the ports, it was evident that ports were uncertain of the compliance examination requirement. Some ports understood they had discretion to manually select in-bond cargo for review, while others thought they had to examine cargo selected for them each month by their targeting system. Personnel from one port we interviewed thought that old requirements were still in place and that they had to examine five of each of the three types of in-bond cargo (IE, IT, and T&E) for a total of 15 examinations per month.

In addition, we found not all ports were made aware of guidance issued by CSC. CSC explained that they disseminated policies and training documents through email to the field offices, who were then responsible for relaying this guidance to the ports. The CSC Director explained there was no local repository to store this information, and that one needed to be created. The Director also said that CBP encountered issues regarding this institutional knowledge when there were personnel changes.

Based on our review of the in-bond SIWs, we were unable to determine the actual number of ports that were noncompliant or understand how CSC can use in-bond SIW results to assess trends from year to year. One SIW could cover multiple local ports, and CSC provided no guidance on how the port completing the SIW for multiple ports should respond if each local port had different answers. For example, one in-bond SIW was completed for both the Cincinnati and Lawrenceburg ports in 2020. Cincinnati was required to meet the monthly compliance examination requirement, while Lawrenceburg was exempt from conducting examinations.

We question how one SIW response can be representative of both ports.

CSC did not review compliance examination documentation maintained at the ports, despite having the authority to do so. CSC's compliance examination memorandum stated that, at any point, CSC may ask each field office for lists of open examinations by port locations. CSC may also conduct a quarterly review and analysis of all in-bond entries. CSC's periodic reviews are meant to identify in-bond oversight deficiencies and to allow for resource adjustments.

The CSC Director explained that they wanted the ability to conduct reviews but had not made this a formal process. However, CSC could not support that any reviews were performed. CSC did not have access to examination documentation maintained at the ports. Instead, CSC relied on SIWs completed by the ports to assess compliance with examination requirements.⁷³

It is essential for CSC to ensure the ports are completing compliance examinations to account for in-bond cargo. CSC needs to ensure that examination requirements are clearly documented in written policies and procedures for the ports and that the ports are performing a sufficient number of examinations that is representative of the volume of in-bond cargo at the ports. It is also essential that CSC has a process for monitoring the ports' completion of these compliance examinations. These efforts will help ensure that in-bond cargo is being properly tracked for duty collection.

In-Bond Examination Findings Lacked Supporting Documentation

We found in-bond examination findings were not supported with adequate documentation. From our review of in-bond compliance examination documentation, we could not determine how the ports selected cargo for review or the examination compliance procedures performed. CBP did not provide ports standardized procedures for selecting cargo for review, conducting

⁷³ The SIW process was covered in depth in Finding 1: CBP Did Not Oversee Performance of the In-Bond Program at the Ports.

examinations, documenting the results, or storing the records. The ports we met with also did not have port-specific standard operating procedures explaining how to conduct a compliance examination.

GAO Standards for Internal Control in the Federal Government require managers to maintain documentation of internal controls, all transactions, and other significant events that is readily available for examination. Documentation and records should be properly managed and maintained. Additionally, management documents in policies the internal control responsibilities of the organization.⁷⁴

Per CSC's compliance examination memorandum, in-bond examinations are documented in spreadsheets locally maintained at each port location. It states completed examination findings and waivers should be recorded in a spreadsheet to mirror what was formerly displayed in the Cargo Enforcement Reporting and Tracking System. The memorandum does not provide any further detail of what this documentation should include. A spreadsheet template was created for the ports to use to track in-bond examinations and findings.⁷⁵ The template was included in an email sent to the field offices for dissemination to the ports, but use of this template was not a requirement in the compliance examination memorandum. Of the five ports we selected for review, we found only one port used the template. The other four ports had their own methods for recording in-bond examinations.

Furthermore, we reviewed compliance examination documentation of the five ports and could not determine how cargo was selected for review or what procedures were performed.⁷⁶ It was unclear for three of the ports whether reviews were physical examinations of cargo or documentary reviews. The documentation that was maintained would not provide enough information for someone to re-perform the examination and reach the same conclusions.

⁷⁴ GAO, *Standards for Internal Control in the Federal Government* (Sep. 2014), p.56

⁷⁵ We found the standardized spreadsheet insufficient for documenting compliance examinations. The template did not require ports to document a detailed description of procedures performed during the examination or what was reviewed during the examination.

⁷⁶ Because one of the five ports had a waiver and was exempt from compliance examinations, we reviewed compliance examination documentation for four ports.

For example, none of the ports documented whether they ensured seals were intact to ensure in-bond cargo was kept separate from other cargo.⁷⁷ This mechanism ensures the integrity of the reported value and quantity of in-bond cargo. The CSC Director informed us that CBP was using discretion and was not always enforcing sealing requirements.

Spreadsheets generally only included identifying information such as the in-bond number, bill of lading number, in-bond type, and dates as well as the final determination of whether cargo was compliant or noncompliant. Most CBP officers did not record details or observations they noted during the exam.

CBP personnel told us that they were looking for a better way to document compliance examinations with automation. The CSC Director considered the In-Bond Program to be in a transition phase. With that said, it is imperative that CBP maintains documentation to support conclusions made from compliance examinations. Therefore, CBP should establish procedures for documenting the process used for the review and the results of examinations.

Recommendations

We recommend that the CBP Commissioner:

13. Direct CSC officials to consider updating guidance on compliance examinations to require ports to examine a statistically valid sample of in-bond shipments so that cargo reviewed is more representative of all in-bond shipments. Additionally, the guidance should contain instructions on waivers of examination including documenting the justification for these waivers.

⁷⁷ 19 CFR 18.1 (d)(1)(v), *Container number and seals*, describes sealing requirements for in-bond merchandise. Per 19 CFR 18.4(b), *Comingled merchandise*, merchandise not covered by a bond may be transported in a sealed conveyance, compartment, or container that contains bonded merchandise if the merchandise is destined for the same or subsequent port as the bonded merchandise. However, the in-bond merchandise must be corded and sealed, or labeled as in-bond merchandise.

Management Response

Management concurred with our recommendation. Management stated that CSC will issue a new memorandum to the field and ports that will update the ACE in-bond report oversight process. Further, CSC will enhance the in-bond post-audit oversight area of responsibility, in coordination with OIT, by providing requirements within the ACE Report Module and associated field office guidance related to enforcement measures. Management expects to close this recommendation by February 28, 2023.

OIG Comment

Management's response and planned corrective actions meet the intent of our recommendation.

14. Ensure CSC officials provide the ports with written policies and procedures to ensure compliance examinations are adequate and consistent. These procedures should include selecting cargo for review, conducting examinations, documenting the process used for the review and the results, and storing the records.

Management Response

Management concurred with our recommendation. Management stated that CSC will develop and implement a new in-bond exam and audit user guide for CBP field personnel, as well as an audit program of port's in-bond exam-audit activity. Management expects to close this recommendation by February 28, 2023.

OIG Comment

Management's response and planned corrective actions meet the intent of our recommendation.

15. Ensure CSC officials regularly sample and review compliance examinations conducted by the ports to ensure ports are complying with CBP policy.

Management Response

Management concurred with our recommendation. Management stated that CSC, in coordination with OIT, will enhance the in-bond post-audit oversight area of responsibility by providing requirements within the ACE Report Module, along with field office guidance related to enforcement measures. Further, CSC will establish accountability of bonded carriers and create findings processes, as well as establish a compliance measure program that will include the enhancements to “in and out” type reviews. Management expects to close this recommendation by February 28, 2023.

OIG Comment

Management’s response and planned corrective actions meet the intent of our recommendation.

Finding 5

CBP's Training Program for the Oversight of in-Bond Shipments Needs Improvement

CBP’s training program for oversight of in-bond shipments needs improvement. We noted that CBP did not provide adequate training on the oversight of in-bond shipments at the national level, including training covering the use of the ACE system. CBP considered it difficult to standardize training when each port was unique and relied on ports to train their officers. This resulted in inconsistent in-bond processes at the ports posing a risk to in-bond revenue.

CBP Did Not Provide Adequate Training on In-Bond Oversight

CSC did not standardize training to ensure ports operated under a national policy and adequately protected revenue associated with in-bond cargo. For example, CSC did not ensure port personnel received training in key areas such as compliance examinations and audits, ACE in-bond reports, bonding requirements, and risk assessments of the trade community.

GAO’s Standards for Internal Controls in the Federal Government states management should establish expectations of competence,

The U.S. Customs and Border Protection’s Oversight of the Merchandise Transported In-Bond Program Needs Improvement to Better Ensure the Protection of Revenue (OIG-22-033)

which includes ensuring that personnel possess and maintain a level of competence that allows them to accomplish their assigned responsibilities. Management should continually assess the needs of the entity and should ensure training is provided to aim at developing and retaining employee knowledge, skills, and abilities to meet changing organizational needs.⁷⁸

OFO did not develop a training requirement for port personnel or offer any formal national in-bond training at its training academies, except a bonded warehouse class in which in-bond oversight was mentioned briefly. CSC personnel noted that the in-bond segment was not a standard part of the training.

CSC did not provide us assurance that port personnel were receiving necessary training. The bonded warehouse class was part of a training for new CBP officers at the ports; however, CSC personnel told us only a limited number of CBP officers could attend the 3-day training each year.

We asked CSC personnel for tracking documentation showing who at CBP received in-bond training. Though CSC did not regularly track training attendance to ensure all employees received necessary training, they did provide a report showing who attended the bonded warehouse class. The report revealed only 52 CBP personnel from 34 ports attended the bonded warehouse training within our two-year review period. Only about 10 percent of the 328 ports were represented by these attendees. It was also not clear whether the training included the segment on in-bond oversight.

CSC officials also mentioned that they had disseminated training materials to the field offices and ports. However, we found CSC had limited training materials, and only provided us two examples of training documents related to in-bond oversight.⁷⁹ Furthermore, CSC had no central repository to store training materials for personnel to access training information when needed.

CSC officials told us they relied on ports to provide on-the-job training, which differed from port to port. Port personnel told us

⁷⁸ GAO, *Standards for Internal Control in the Federal Government* (Sept. 2014), pp. 30, 46

⁷⁹ CBP, *Automated In-Bond Processing Business Process* (July 2019) and *In-Bond Training Presentation* (Sept. 2019)

that they believed training should be improved and standardized nationwide. For example, personnel from one port expressed concern about the lack of training on how to conduct compliance examinations and believed that the training that was available was outdated and incomplete.

Without adequate training, inconsistent in-bond oversight processes could occur at the ports resulting in variances when assessing the risk of importers. For example, ports input their own targeting rules into ATS, and these rules are run against the data in ACE for targeting purposes.⁸⁰ These targeting rules flag cargo for further inspection by CBP officers upon arrival at the ports. Each port has discretion to input its own targeting rules based on what it deems to be the primary risk at its location. We were not provided written procedures on how ports should ensure appropriate and sufficient targeting rules are in place based on their assessed risk.

COAC identified and reported similar inconsistencies with port-to-port practices. Examples included port-specific requirements for additional manual processing and liquidated damage and penalty claims due to non-compliance with varying port-specific rules.

Inconsistencies among ports could result in trade community members involved in illicit activity selecting ports that lack robust oversight of in-bond cargo as a means to evade duties, taxes, and fees. Additionally, COAC noted that inconsistencies in port operations could increase costs and complexity for the trade community.⁸¹

CSC officials told us that cargo training was a weakness and that they planned to improve the training program; however, CSC did not provide documentation supporting its planned training initiatives. CSC officials told us that the Trade and Cargo Academy piloted a new 8-day course in July 2021, which covered in-bond processes, and that a new job training course was planned for FY

⁸⁰ CBP's NTC and Centers of Excellence and Expertise also input targeting rules into ATS. The Targeting Units within the NTC develop national targeting rules, and each local port also may develop port-specific rules. NTC and Centers of Excellence and Expertise are national in scope and are responsible for national-level targeting. Ports have the capability to write targeting rules that only impact their areas of responsibility.

⁸¹ COAC, *Secure Trade Lanes Subcommittee 4Q2020 Inbond Technical White Paper extract V2* (December 16, 2020), pillar 5

2022 that includes additional in-bond process training. Additionally, CSC officials told us that they planned to have a central repository of training documentation to make training materials more accessible and to provide better tracking of those who received training.

CBP Did Not Provide Adequate ACE Training for In-Bond Oversight

CBP did not provide adequate training on the use of ACE to monitor in-bond activity. Training specific to ACE is provided by TTO within OT when a new capability is deployed. TTO relied on the “train-the-trainer” model in which TTO trained representatives who then were responsible for going to ports to train personnel. Port personnel told us that they received training when the system was implemented several years ago, but that training, as well as ACE information provided in manuals, was not updated regularly and was now outdated.

TTO officials told us that ACE training was not intended to teach field personnel about CBP processes and policies, and that in-bond processes would fall under OFO’s purview. Rather, ACE training was provided by TTO to train system users on how to use new capabilities within ACE when those capabilities were deployed. Once deployed, the training materials for using the system remained available and would be updated when the system capabilities changed.

TTO provided us training documentation regarding general ACE capabilities, but they did not provide ACE training documentation specific to the in-bond process. We did see that ACE Manifest in-bond documents were made available to the public on CBP’s website but these reference guides were not necessarily used by TTO to provide trainings. Additionally, OT issued the *Customs and Trade Automated Interface Requirements Implementation Guide*, containing technical information on in-bond processing in ACE for CBP and the trade community.⁸²

In lieu of regular training provided by TTO, port personnel learned about ACE capabilities related to the in-bond process through on-

⁸² CBP, *Customs and Trade Automated Interface Requirements Implementation Guide* (Jan. 2020)

the-job-training. However, our review found this training style inadequate, because it was neither standardized nor overseen by Headquarters.

Specifically, various port personnel had never received training on how to use ACE reports to review overdue in-bond shipments. Reviewing these reports is CBP's main mechanism to monitor and track in-bond merchandise. OT sent a bulletin to CBP personnel in December 2021 stating that new in-bond reports were available in ACE, but we saw no support that CBP personnel received training on these reports. Port personnel told us that they do not receive training related to ACE reports unless they specifically requested training in this area.

Port personnel told us that they believed additional ACE training would be helpful. Because port personnel use the ACE system to monitor and track in-bond movements, we believe it is important that they receive the training needed to gain the specific knowledge to be able to fully use the system to oversee the in-bond program.

Recommendations

We recommend that the CBP Commissioner:

16. Ensure CSC and TTO officials formalize standardized in-bond training for Headquarters' offices, field offices, and ports to ensure all ports are operating under national policy. Training should cover key areas such as compliance examinations and audits, ACE reports, bonding requirements, and risk assessments of the trade community.

Management Response

Management concurred with our recommendation. Management stated that CSC is currently working with academy administrators and course developers at the CBP Trade and Cargo Academy, to create a new in-bond program training course. Management expects to close this recommendation by February 28, 2023.

OIG Comment

Management's response and planned corrective action meet the intent of our recommendation.

17. Ensure CSC and TTO officials require ACE training related to the oversight of in-bond cargo for all CBP officers.

Management Response

Management concurred with our recommendation. Management stated that CSC, in coordination with TTO, will co-produce webinars addressing in-bond compliance report oversight and training for CBP field office personnel. Management expects to close this recommendation by February 28, 2023.

OIG Comment

Management's response and planned corrective action meet the intent of our recommendation.

18. Ensure that CSC and TTO officials coordinate to provide regular and comprehensive ACE training course offerings related to the oversight of in-bond cargo to satisfy employee training needs.

Management Response

Management concurred with our recommendation. Management stated that CSC will create a new in-bond program training course and, in coordination with TTO, will co-produce webinars addressing in-bond compliance report oversight and training for CBP field personnel. Management expects to close this recommendation by February 28, 2023.

OIG Comment

Management's response and planned corrective action meet the intent of our recommendation.

Other Matter CBP's Documented Custodial Bonding Policy Doesn't Adequately Protect Customs Revenue Associated with In-Bond Cargo

We found CBP's custodial bonding used for in-bond shipments did not adequately protect Customs revenue associated with in-bond cargo, the custodial policy was outdated, and ports had a general lack of understanding related to custodial bonding policy.

CBP regulations require cargo be covered by a custodial bond while being transported, which protects the interests of CBP should there be instances of noncompliance with regulations.⁸³ A bond is a contract in which the principal, as guaranteed by the underwriting surety, agrees to perform in compliance with CBP regulations. Bonds serve as an insurance policy, protecting CBP from revenue loss when importers fail to fulfill their financial obligations. CBP can assess liquidated damages against a bond when carriers are in noncompliance.⁸⁴

CBP's Bonding Policy Doesn't Address Risks Associated with In-Bond Shipments

We found CBP's bonding policy did not adequately cover risks associated with in-bond shipments. CBP issued its bonding policy in 1991 establishing the rules for bonds and the policy was outdated.⁸⁵ Specifically, the policy was general in nature, requiring only that an in-bond movement be covered by a custodial bond of at least \$25,000 for truck and air carriers and \$50,000 for other types of carriers. Port directors could require higher bond coverage based on their assessed risk, but the policy did not include

⁸³ 19 CFR 18.1(e), *Bond required*, a custodial bond on CBP Form 301, containing the bond conditions set forth in Section 113.63 of this chapter, is required in order to transport merchandise in-bond under the provisions of this part.

⁸⁴ CBP can also pursue claims for duties, taxes, and fees against the bond. The surety's liability is always capped by the bond, but CBP may additionally pursue duties, taxes, and fees from carriers in their personal capacity in excess of the bond amount.

⁸⁵ CBP, Directive 3510-004, "Monetary Guidelines on Setting Bond Amounts" (July 23, 1991)

guidelines for how ports should assess this risk or require bonding amounts commensurate with assessed risk.

According to the GAO's *Standards for Internal Control in the Federal Government*, management documents in policies the internal control responsibilities of the organization. The policies should document responsibilities for an operational process's objectives and related risks, as well as control activity design, implementation, and operating effectiveness.⁸⁶

Additionally, CBP did not establish a custodial bond formula for the Revenue Division to determine appropriate bond amounts. Unlike other types of bonds, the custodial bond amounts were not based on the estimated duties, taxes, and fees.⁸⁷ This is because the in-bond application does not require the filer to report estimated duties and instead contains the carrier's reported cargo value, which is not necessarily the actual value of the cargo. The carrier's estimated value is for insurance valuation purposes and may differ from the actual value determined by law.

The connection between custodial bond amounts and estimated duties did not exist at the time of our audit. Without adequate bond coverage, CBP may not have enough to cover duties, liquidated damages, or other penalties should the carrier fail to comply with regulations.

A General Lack of Understanding Concerning CBP's Custodial Bonding Policy Exists at Ports

We also found a general lack of understanding of CBP's custodial bonding policy among ports. The CORE Division within OT is responsible for setting bonding policy, while the Revenue Division is responsible for overseeing the administration of bonding policy. CORE personnel told us that they had seen inconsistencies in bond amounts required by the ports. Additionally, some ports were

⁸⁶ GAO, *Standards for Internal Control in the Federal Government* (Sept. 2014), p.56

⁸⁷ For importer bonds, CBP established bond formulas to determine the appropriate bond amount. The calculation is based on the duties, taxes, and fees associated with the imported goods. Cargo must be covered by an importer bond when it enters U.S. commerce.

setting exorbitant bond amounts that could hinder trade.⁸⁸ CORE was looking into updating the level of discretion for bonding and providing at least one training session on general bonding.

Recommendations

We recommend that the CBP Commissioner:

19. Ensure the CORE Division coordinates with the Revenue Division and CSC officials to improve custodial bonding to address the risks of merchandise transported in-bond and update CBP's bonding policy. The policy should improve the connectivity between in-bond shipments and respective duties, taxes, and fees by considering estimated duties when determining the appropriate bond coverage.

Management Response

Management concurred with our recommendation. Management stated that OT, OFO, and the OF Revenue Division will continue to leverage existing authorities pursuant 19 CFR Section 113 to enforce the requirements for custodial bonds to protect revenue, by: (1) collaborating to ensure policies and procedures are updated; and (2) exploring efforts to improve appropriate bond coverage. Management expects to close this recommendation by September 30, 2022.

OIG Comment

Management's response and planned corrective action meet the intent of our recommendation.

20. Ensure the CORE Division provides general bond training to include setting the appropriate bond amounts.

⁸⁸ The Revenue Division has sole authority to approve continuous transaction bonds, and custodial bonds must be continuous transaction bonds. If CBP believes a bond is insufficient at the time of entry, CBP has authority to request additional security. Ports are likely best situated to identify relevant risks with in-bond movements, individual carriers, and specific types of merchandise. Ports coordinate with the Revenue Division to ensure appropriate continuous transaction bond amounts are required.

Management Response

Management concurred with our recommendation. Management stated that the CORE Division is in the process of providing bond training to enhance CBP personnel's understanding of bond authority and corresponding enforcement options. This initiative is a 13-part series spanning FY 2022. On February 16, 2022, CBP conducted a lesson on the Activity Type 2 – Custodian of Bonded Merchandise Bond, which focused on the: (1) responsible office for handling bond documentation; (2) purpose of the bond; (3) specific bond conditions; (4) continuous Custodial Bond minimums, formulas, and (5) other guidance for setting Custodial Bond amounts established in CBP policy documents. The CBP OT CORE Division will continue to facilitate general bond training by completing this 13-part internal bond webinar training series.

Management further stated that CBP requests that the OIG consider this recommendation resolved and closed, as implemented.

OIG Comment

Management's response and planned corrective action meet the intent of our recommendation.

* * * * *

We appreciate the cooperation and courtesies extended to our staff during the audit. If you wish to discuss the report, you may contact me at (617) 223-8638 or Mark Ossinger, Audit Manager, at (617) 223-8643. Major contributors to this report are listed in appendix 3. A distribution list for this report is provided as appendix 4.

/s/

Sharon Torosian
Audit Director, Manufacturing and Revenue

Appendix 1: Objectives, Scope, and Methodology

Section 112 of the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) mandated the Department of the Treasury (Treasury) Office of Inspector General (OIG) to assess and biennially report on the effectiveness of Customs and Border Protection's (CBP) protection of revenue. Section 112 identifies specific areas for Treasury OIG to include in its review. The statute required Treasury OIG to first report no later than June 30, 2016, and then to report biennially, starting in March 2018. Treasury OIG provided letters to Congress to satisfy the first reporting requirements, which focused on Treasury's Customs revenue functions. This report meets Treasury OIG's March 2022 mandate.

The overall objective of our audit was to assess the effectiveness of CBP's protection of revenue in accordance with Section 112 of TFTEA. As part of this audit, we focused on assessing the adequacy of CBP policies and procedures with respect to the monitoring and tracking of merchandise transported in-bond and collecting respective duties. We also assessed the effectiveness of actions taken by CBP to measure accountability and performance with respect to its In-Bond Program, as well as effectiveness of training with respect to the program.⁸⁹ The scope of our audit covered CBP's monitoring and tracking of in-bond shipments during fiscal years (FY) 2019 through 2020. In a separate report to be issued later this year, we will cover the number and outcome of investigations instituted by CBP with respect to the underpayment of duties.

To determine the focus of our audit work for the March 2022 reporting cycle, we met with Department of Homeland Security (DHS) OIG personnel and Government Accountability Office (GAO) personnel. We discussed our audit objectives and related audit work of those organizations.

To accomplish our objective, we conducted fieldwork from October 2020 through December 2021. We primarily based our work on

⁸⁹ Section 112 of TFTEA requires Treasury OIG to report on the effectiveness of actions taken by CBP to measure accountability and performance with respect to protection of revenue. Additionally, Section 112 requires Treasury OIG to report on the effectiveness of training with respect to the collection of duties provided for CBP personnel. Given these additional reporting requirements, we also reviewed performance and accountability measures and training as it relates to monitoring and tracking in-bond merchandise.

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testimonial and documentary evidence. We performed activities such as process walkthroughs of CBP's systems online because site visitations were not scheduled due to the Coronavirus Disease 2019 pandemic.

As part of our fieldwork, we interviewed the following key CBP officials, staff, and port officers to gain an understanding of their processes related to the In-Bond Program:

- Office of Field Operations' (OFO) Cargo Security and Controls Division (CSC) personnel to gain an understanding of their roles and responsibilities in overseeing the In-Bond Program. Specifically, we interviewed the CSC Director; In-Bond Program Manager; and Outbound Enforcement and Policy Branch Chief.
- OFO's Fines, Penalties, and Forfeitures Office personnel to gain an understanding of enforcement measures for the In-Bond Program. Specifically, we interviewed the Acting Director; Oversight and Uniformity Branch Chief; and Seized Assets Branch Chief.
- OFO's Quality Assurance Enterprise Division personnel to gain an understanding of performance measures CBP uses to oversee the In-Bond Program. Specifically, we interviewed the Audit Program Management Branch Chief.
- OFO personnel from the Ports of Anchorage, Cincinnati, Miami International Airport, Memphis, and Otay Mesa to obtain an overview of the port's roles and responsibilities related to in-bond merchandise oversight. We selected the five ports by non-statistical means. The ports of Anchorage, Cincinnati, Miami International Airport, and Memphis were selected because they had the most in-bond activity based on the total number of in-bond transactions. Otay Mesa was selected because it had been part of a recent major legal case involving in-bond cargo. The scope of our review of these ports was limited to the in-bond processes related to two modes of transportation because four ports were airports and one port was a land port, and we were unable to travel to these ports for observations of their processes.
- Office of Trade's (OT) Commercial Operations Revenue and Entry Division personnel to gain an understanding of CBP's bonding policy for in-bond movements. Specifically, we interviewed an International Trade Analyst.

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- OT's Trade Transformation Office personnel to gain an understanding of the data, information systems, and related training used for the In-Bond Program. Specifically, we interviewed the Deputy Executive Director; Automated Commercial Environment (ACE) Program Manager – Program Control Director; Cargo Control and Release Director; Data Visualization Branch Chief; Revenue Modernization Branch Chief; Manifest Team Technical Lead; Audit Program Manager; Communications, Training & Deployment Division Training Branch Chief; Program Management Analyst; and OFO Liaison.
- Enterprise Services' Office of Information and Technology personnel to gain an understanding of data and information systems used for the In-Bond Program. Specifically, we interviewed the Cargo Systems Program Directorate Executive Director; Business Warehouse Lead; ACE Manifest Lead; ACE Operations and Maintenance Lead; and Business Intelligence and Data Warehouse Team Lead.
- Enterprise Services' Management Inspections Division personnel to gain an understanding of CBP's Self-Inspection Program. Specifically, we interviewed the Management Investigations Division Director; Field Director; Audits and Evaluation Assistant Director; and Inspections Assistant Director.
- Office of Finance's Revenue Division personnel to gain an understanding of bond enforcement policy. Specifically, we interviewed the Director; Debt Management Branch Chief; and Surety Bonds and Accounts Branch Supervisor.
- We met with Office of Chief Counsel personnel to discuss our audit objectives and scope. Specifically, we interviewed multiple Attorneys with the Assistant Chief Counsel at the National Finance Center.

We reviewed and analyzed CBP's policies and procedures related to monitoring and tracking of in-bond shipments. We also reviewed applicable laws and regulations, government-wide guidance; CBP directives, prior audit reports of CBP, and GAO's report relating to CBP's In-Bond Program, including:

- 19 CFR Part 18, "Transportation in bond and merchandise in transit";
- 19 CFR Part 113, "CBP Bonds";

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- CBP Directive 3510-004, “Monetary Guidelines for Setting Bond Amounts”;
- CBP Directive 1420-009C, “U.S. Customs and Border Protection Management Inspections”;
- CBP Directive 1520-001E, “U.S. Customs and Border Protection Self-Inspection Program”;
- CSC’s compliance examination memorandum;
- Commercial Customs Operations Advisory Committee (COAC), “In-Bond Modernization White Paper”; and
- GAO-07-561, “Persistent Weaknesses in the In-Bond Cargo System Impede Customs and Border Protection’s Ability to Address Revenue, Trade, and Security Concerns.”

To determine specific areas for our review, we identified potential risks of key processes based on our understanding developed during our previous audit work. We developed a risk assessment and identified controls in place to mitigate identified risks. It is important to note that CBP management is responsible for the design, implementation, and operating effectiveness of internal controls. We assessed management’s design of internal controls for the In-Bond Program to satisfy the audit objective by conducting process walkthroughs, interviews, and reviewing CBP policies and procedures established for the In-Bond Program. In particular, we determined that the following GAO *Standards for Internal Control in the Federal Government* principles (GAO principles) were significant to CBP’s oversight of the In-Bond Program:

- Principle 4: *Management should demonstrate a commitment to recruit, develop, and retain competent individuals;*
- Principle 5: *Management should evaluate performance and hold individuals accountable for their internal control responsibilities;*
- Principle 7: *Management should identify, analyze, and respond to risks related to achieving the defined objectives;*
- Principle 10: *Management should design control activities to achieve objectives and respond to risks;*
- Principle 11: *Management should design the entity’s information system and related control activities to achieve objectives and respond to risks;*

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- Principle 12: *Management should implement control activities through policies;*
- Principle 13: *Management should use quality information to achieve the entity's objectives;*
- Principle 15: *Management should externally communicate the necessary quality information to achieve the entity's objectives;* and
- Principle 16: *Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.*⁹⁰

We performed tests as necessary on those controls to ensure controls were effective, as detailed below. Because our review was limited to testimonial and limited documentary evidence of the design of internal controls, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

In-Bond Monitoring and Tracking Processes

We determined how CBP Headquarters and the ports monitor and track merchandise transported in-bond and oversee the In-Bond Program. As part of this, we determined the information that CBP requires to be provided by the importer/carrier for in-bond shipments. We identified GAO principles 7, 10, and 12 as most significant to this area, and documented whether CBP adhered to these principles.

To determine whether monitoring and tracking processes in place were effective, we reviewed CBP documentation, including system manuals and elements of the In-Bond Application, and COAC documentation. We performed a walkthrough with CSC of the ACE Multi-Modal Manifest module (MMM), the primary information system used for the In-Bond Program. We note that we did not have direct observation of CBP's monitoring process and information systems. We relied on limited ACE screenshots provided by CSC personnel to facilitate our walkthrough. We documented inconsistencies noted during our observation.

We also documented our high-level understanding of systems that fed into ACE and databases that housed in-bond data, but we did

⁹⁰ GAO, *Standards for Internal Control in the Federal Government* (Sep. 2014) pp. 30, 32, 37, 45, 51, 56, 59, 62, 65

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not review these systems in depth. We also did not interview trade community members to gain their perspective on these systems.

We reviewed *INBND-005: List of In-Bond Shipments Overdue* and *INBND-006: List of In-Bond Shipments Overdue for Export* reports provided by TTO and the five ports in our sample. We assessed how the ports tracked in-bond shipments.

Because of delays in retrieving documents and information from CBP, we did not interview the National Targeting Center or do any assessment of CBP's targeting efforts. We also did not examine or assess compliance audits, which are documentary reviews performed by the ports based on overdue shipments. These audits are designed to ensure compliance by checking a carrier's records to ensure all merchandise has been properly accounted for and the revenue collected. Compliance audits are only performed on Immediate Transportation and Transportation & Exportation in-bond shipments.

Controls to Ensure Collection of Duties for In-Bond Cargo

We planned to assess and test whether identified internal controls, including information system controls, ensure duties are collected when in-bond cargo enters commerce. We identified GAO principle 10 as most significant to this area and documented whether CBP adhered to this principle.

We limited the scope of our work to the reconciliation process and related internal controls since revenue collection is not part of in-bond oversight. We learned during our fieldwork that CSC considers the in-bond process to end at the point of in-bond reconciliation, or the automatic process in ACE to close in-bond movements. CSC personnel explained that after reconciliation, revenue collection processes are no longer under their purview and fall under general Customs revenue collection.

We had initially planned to trace a sample of in-bond movements throughout their duration and test whether adequate duties, taxes, and fees were collected for in-bond shipments that entered commerce. We learned that this was not feasible because CBP systems for tracking in-bond transactions and collecting general revenue lacked connectivity.

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We gained a high-level understanding of the reconciliation process through our ACE walkthrough. We reviewed INBND-005 reports provided by TTO to identify the amount of overdue in-bond shipments for FY 2019 and FY 2020. We determined whether processes in place to reconcile in-bond transactions were adequate. As noted in the next section, we performed data analytics on in-bond records that were not reconciled in FY 2020.

ACE System Controls Necessary for In-Bond Oversight

We assessed and tested ACE information system controls necessary for in-bond oversight. Specifically, we assessed the reliability of data maintained in ACE. We identified GAO principles 11 and 13 as most significant to this area and documented whether CBP adhered to these principles.

We first gained an understanding of ACE through reviewing system documentation, including CBP's ACE Reports Data Dictionary. We also reviewed prior KPMG LLP's independent auditors' reports on DHS's financial statements and internal control over financial reporting for FYs 2018, 2019, and 2020 as well as COAC documentation to understand system issues already identified. As discussed previously, we performed a walkthrough to gain comfort with the system.

We performed data analytics on extensive in-bond data files. Before our analysis, we shaped our analytical objectives, gained an understanding of CBP's databases that house the data, and digested the extensive data universe.

We reviewed documentation of open and late in-bond records to identify the number of in-bond records from FY 2020 that were still open or unaccounted for in FY 2021. We also assessed and tested data from the in-bond universe for FY 2020 to measure data quality and evaluate the capability and effectiveness of CBP's reporting of in-bond data. We planned to perform data analytics on the whole universe of in-bond records open during FY 2019 and FY 2020. However, because CBP had difficulty providing the data, we limited our review to FY 2020. We found this was sufficient to show issues with data quality.

From CBP's data files, we identified approximately 53.63 million records from FY 2020. These records included transactions that were filed and/or deleted. We excluded deleted transactions from

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our data analysis. CBP had explained to us that sometimes the trade community would enter transactions into ACE and then the movements did not take place as planned, so these transactions were then deleted.

We examined contents of the data files to identify in-bond shipments that did not report arrival at the destination port, did not report exportation, or took over 30 days to reach the destination port. Additionally, we examined records for date anomalies in the data fields containing the create date and time; departure date and time; and arrival date and time. Further, we examined records for anomalies in the origination and destination port data fields.

We assessed the reliability of the data files that CBP provided by reconciling the data with screenshots of in-bond records from the MMM module. We also assessed the data files to verify there were no duplicate records. Based on our assessment of the reliability of the data, we believe that the data used in our review were sufficiently reliable for the purposes of this report.

Because of delays in retrieving documents and information from CBP and ACE system limitations, we could not perform all planned testing. Specifically, we had planned to trace a sample of in-bond transactions throughout the duration of the total movement through the United States. We did, however, find our testing on data quality to be adequate to show that CBP could not rely on data in ACE to oversee in-bond movements.

In-Bond Compliance Examinations

We assessed and tested controls for compliance examinations of in-bond cargo. We identified GAO principle 10 as most significant to this area and documented whether CBP adhered to this principle.

We gained an understanding of CBP's compliance examination process through review of CSC documentation disseminated to the field offices and documentation provided to us by the ports. We learned of the discontinued use of the Automated Targeting System (ATS4), a module used for risk-based targeting of cargo, in 2018. We learned about current stopgap measures in place until a new system was deployed for tracking compliance examinations.

We reviewed the 2020 Self-Inspection Program self-inspection worksheets. We reviewed CBP's responses and ensured they were

Appendix 1: Objectives, Scope, and Methodology

supported by CBP's written explanations. We gained an understanding of the causes for any noncompliance with in-bond examination requirements. Our determinations were based solely on the information included in the SIWs. The audit trail documentation to support the SIWs was stored on CBP's internal network, and we did not pursue access due to time constraints.

We assessed and tested CBP's compliance examinations. We reviewed compliance examination documentation for FY 2019 and FY 2020 from the ports of Anchorage, Cincinnati, Memphis, Miami Airport, and Otay Mesa. Four ports were selected because they had the largest volume of merchandise transported in-bond and the fifth port was chosen because it was involved in a major legal case involving in-bond cargo. We determined whether examinations were sufficient to oversee in-bond cargo.

Because of delays in retrieving documents and information from CBP, we did not observe compliance examination processes at the ports but relied on testimonial evidence and analysis of port documentation. As noted previously, we did not examine or assess compliance audits, which are documentary reviews (as opposed to physical examinations of cargo) performed by the ports based on overdue shipments.

Custodial Bonding Policy

We assessed CBP's policy for setting bond amounts for in-bond transportation. We identified GAO principle 10 as most significant to this area and documented whether CBP adhered to this principle.

Our assessment was high-level because we determined we would not look at bonding in depth as part of our March 2022 audit work. We limited the scope due to extensive coverage in audits conducted by DHS OIG and GAO. CBP is aware that it needs a more robust bonding policy. However, we discussed this area with CBP officials and reviewed CBP's policy because this is a measure used by CBP to ensure collection of in-bond related duties, taxes, and fees.

Enforcement to Deter Unlawful In-Bond Activity

We planned to determine CBP's policy for enforcing in-bond regulations and assess and test CBP's efforts to enforce regulations. We identified GAO principle 10 as most significant to

Appendix 1: Objectives, Scope, and Methodology

this area and we planned to document whether CBP adhered to this principle.

We limited the scope to gaining a high-level understanding of enforcement to prevent overlap of an ongoing audit conducted by DHS OIG. DHS OIG agreed to perform an audit related to CBP enforcement, so we limited our review in this area during this reporting cycle. As of March 17, 2022, DHS OIG planned to issue its final report on or by March 31, 2022. We may pursue the enforcement area in a future audit.

We gained a high-level understanding of CBP's enforcement of in-bond violations through meetings with CBP's Office of Chief Counsel and port personnel. We reviewed in-bond violation data to determine CBP's enforcement efforts. We reviewed statistics from FY 2019 and FY 2020 related to in-bond shipments that had liquidated damages assessed which exceeded the bond amount.

In-Bond Accountability and Performance Measures

We assessed actions taken by CBP to measure accountability and performance with respect to the monitoring and tracking of merchandise transported in-bond to protect revenue. We identified GAO principles 5 and 16 as most significant to this area and documented whether CBP adhered to these principles.

We reviewed CBP's performance measures and mechanisms used to hold personnel accountable for their designated responsibilities. We also reviewed data and information to assess performance related to in-bond oversight.

In-Bond Training

We identified and assessed CBP's training for CBP personnel with respect to monitoring and tracking of merchandise transported in-bond. We identified GAO principles 4, 12, and 15 as most significant to this area and documented whether CBP adhered to these principles.

We reviewed CBP training materials for in-bond cargo to determine what CBP officers are taught at the Federal Law Enforcement Training Center, the Trade and Cargo Academy, and the Field Operations Academy. We also determined what training materials are available to CBP personnel through their internal network. We

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reviewed ACE training guides to determine the ACE training available to CBP officers and the trade community.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix 2: Management Response

1300 Pennsylvania Avenue, NW
Washington, DC 20229



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

March 30, 2022

MEMORANDUM FOR: Richard K. Delmar
Deputy Inspector General
Department of Treasury
Office of Inspector General

FROM: Henry A. Moak, Jr. /s/
Senior Component Accountable Official
U.S. Customs and Border Protection

SUBJECT: Management Response to Draft Report: "REVENUE
COLLECTION: The U.S. Customs and Border Protection's
Oversight of the Merchandise Transported In-Bond Program
Needs Improvement to Better Ensure the Protection of
Revenue" (Project No. A-BT-19-044(A))

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

CBP leadership is pleased to note OIG's recognition that the in-bond process established by statute, with a process set forth pursuant to regulations, provides flexibility and supply chain efficiencies by allowing importers and other interested parties options with regard to when and where these parties may:

- Enter their goods into the U.S. commerce and pay associated duties, taxes, and fees;
- Enter the goods into a bonded warehouse or admit them into a foreign trade zone;
- Export the merchandise without following consumption entry requirements; and
- Utilize in-bond process to help alleviate congestion at large ports of entry (POE).

CBP leadership is also pleased the OIG acknowledged that CBP regulations require cargo to be covered by a custodial bond while being transported, which allows CBP to address instances of noncompliance with the in-bond regulations. Given that in fiscal year (FY) 2021 alone, CBP processed over \$2.8 trillion in imports, over 800 million cargo shipments, 36.9 million entry summaries, over 60 million in-bond entries and collected

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Appendix 2: Management Response

\$93.7 billion in duties, taxes, and fees in the course of fulfilling its mission to protect the American people, safeguard our borders, and enhance the nation's economic prosperity, it is important to note that compliant importers, carriers, and other trade partners are a valuable resource for CBP to collect information necessary to perform its essential mission.

However, CBP leadership is concerned with misleading OIG statements: (1) characterizing CBP in-bond data as unreliable; (2) that unreconcilable differences existed with CBP's number of open and past due in-bond shipments; and (3) that there was no way for OIG to determine the magnitude of uncollected revenue. To the contrary, CBP devotes extensive efforts to ensuring data integrity and believes that differences in the number of open and past due in-bond shipments are fully explainable. Unfortunately, due to the OIG's mandate¹ to publish its report by March 31, 2022, sufficient time was not available for CBP program officials and subject matter experts to fully explain how they maintain data integrity and the reasons for differences in numbers.

For example, data fluctuations in the number of records that can appear in a given report over time is a normal and expected indication of transactions being processed. If, on Monday an in-bond record is flagged as overdue, it will appear on a report that is filtered to only display records that have an "unresolved" flag, which is used to identify transactions that were improperly closed. This flag takes into account more than just arrival posting, and accordingly is a more accurate identifier for unresolved in-bonds requiring action. If, later in the week on a Friday, that in-bond record is then updated and the unresolved flag removed, that record will no longer appear on that report run on Friday. The application of such updates on a larger scale, to hundreds or thousands of in-bond records across the universe of in-bond transactions for a given time period, can result in large fluctuations in the number of records appearing on a given report on any given day.

CBP remains committed to improving the in-bond process, to provide flexibility and supply chain efficiencies to the movement of foreign cargo through the United States. For example, CBP has already begun efforts to identify additional enhancements to regulation, policy, training, and automation in cooperation with the CBP Commercial Operations Advisory Committee (COAC) In-Bond Modernization Working Group, which involves industry working in conjunction with CBP subject matter experts. Many of the Treasury OIG's recommendations align with the strategic goals established by the working group published in a white paper on CBP.gov, "COAC In-bond Working Group White Paper," dated July 15, 2020, which CBP is already making efforts to address, such as: (1) enhanced trade reporting of physical custodians; (2) full automation of all parties

¹ Public Law 114-125, "Trade Facilitation and Trade Enforcement Act of 2015," Section 112 (enacted on February 24, 2016).

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that have physical control over in-bond shipments; and (3) linkage to actual dates of export via the advanced electronic manifest.

The draft report contained 20 recommendations, with which CBP concurs. Attached find our detailed response to each recommendation. CBP previously submitted technical comments addressing several accuracy, contextual, and other issues under a separate cover for OIG's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions.

Attachment

Appendix 2: Management Response

Attachment: Management Response to Recommendations Contained in A-BT-19-044(A)

OIG recommended that the CBP Commissioner:

Recommendation 1: Ensure CSC [Cargo and Security Control] officials develop and disseminate performance measures specific to the In-Bond Program so that CSC, field offices, and port personnel are aware of program expectations. These measures should be used to regularly assess port performance and hold ports accountable.

Response: Concur. CBP's Office of Field Operations (OFO) CCS is currently updating policies, and collaborating with the National Targeting Center, to establish more efficient monthly in-bond accountability. Estimated Completion Date (ECD): February 28, 2023.

Recommendation 2: Ensure CSC officials develop written procedures for CSC's oversight of port performance relating to the In-Bond Program to include, but not be limited to, regular data analytics and review of ACE reports.

Response: Concur. CSC will design, and implement, a new in-bond management and compliance oversight standard operating procedure for CBP Officers in the Field Offices. ECD: February 28, 2023.

Recommendation 3: Ensure CSC officials work with TTO [Trade Transformation Office] officials to implement a central repository to store ACE reports, compliance examination documentation, and other in-bond related information, including training materials, maintained by the ports so that CSC can oversee in-bond activity. Additionally, CSC should regularly notify field offices and ports that these documents are available in this repository.

Response: Concur. CSC will work with the ACE Business Office in the TTO to provide system functionality requirements for future enhancements, based on competing priorities and yearly appropriation funding allocations. ECD: February 28, 2023.

Recommendation 4: Ensure CSC officials expand the SIP [Self-Inspection Program] in-bond SIW [Self-Inspection Worksheet] questions to cover key program areas, such as the ports' use of ACE reporting to oversee overdue in-bond shipments and training for CBP officers on in-bond compliance examinations and audits.

Response: Concur. CSC will add a new question to the SIW assigned in even years that will relate to ACE report compliance activity, to make POE personnel demonstrate their awareness and use of the ACE reports correctly. ECD: February 28, 2023.

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Recommendation 5: Ensure CSC officials provide guidance to the ports on how to respond to in-bond SIW questions to include scenarios and the appropriate response given those scenarios.

Response: Concur. CSC will incorporate more detailed SIW Guidance for responding to all questions on its updated SIW, assigned during even years. ECD: February 28, 2023.

Recommendation 6: Ensure OIT [Office of Information and Technology] officials assess and address each port's need for infrastructure and equipment upgrades to effectively operate and meet information system requirements.

Response: Concur. CBP's OIT Field Support Directorate's local field support personnel will evaluate and analyze desktops and laptops at the facilities supporting the ACE system, and will initiate actions to address any issues identified in the port site assessments. OIT will engage OFO through existing business processes to address the deficiencies. ECD: September 30, 2022.

Recommendation 7: Ensure CSC officials issue policies and procedures for ports on ACE reports they are expected to run regularly to oversee in-bond shipments and ensure in-bonds are closed out. This should include guidance necessary to monitor shipments in ACE as well as review proof of exports.

Response: Concur. CSC will enhance the in-bond post audit oversight area of responsibility by working with OIT to provide requirements within the ACE Report Module, along with field office guidance pursuant to enforcement measures. ECD: February 28, 2023.

Recommendation 8: Ensure CSC officials issue policies and procedures for CSC to regularly review the monitoring and tracking of in-bond shipments conducted by the ports.

Response: Concur. CSC will implement a quarterly in-bond reporting oversight protocol, which will include: (1) reports being submitted by the ports to CSC; (2) follow up meetings with selected POEs and Field Offices to facilitate process improvements and issue corrective guidance; and (3) performance metrics implemented for each POE. ECD: February 28, 2023.

Recommendation 9: Ensure CSC officials update in-bond regulations to require a standardized proof of export to be uploaded to ACE for all cargo exported.

Response: Concur. CSC will collaborate with the Office of Trade (OT), Office of Regulations and Rulings to obtain legal guidance pursuant to the possibility of changing

Appendix 2: Management Response

current policy and procedures pursuant to 19 Code of Federal Regulations (CFR) § 190.72, Proof of exportation. ECD: February 28, 2023.

Recommendation 10: Ensure CSC officials provide TTO officials business requirements after regulations are updated so that TTO can update ACE to require proof of export for closure of in-bonds that are exported.

Response: Concur. CSC is currently developing an Electronic Export Manifest Outbound Enforcement process module for the Automated Export System to address proof of export. ECD: February 28, 2023.

Recommendation 11: Ensure OT officials, with input from CSC officials, update regulations to support ACE functionality and data quality to modernize the in-bond process. This includes improving the report processing time, improving the quality of reports, and addressing COAC concerns regarding the system.

Response: Concur. CSC will work with the TTO ACE Business Office to provide system functionality requirements for future enhancements, as appropriate based on competing priorities and yearly appropriation funding allocations. ECD: February 28, 2023.

Recommendation 12: Ensure CSC officials provide TTO officials with business requirements after regulations are updated so that TTO can implement changes in ACE to modernize in-bond tracking and automation processes and enhance data quality to meet user needs.

Response: Concur. CSC will work with the TTO ACE Business Office to provide system functionality requirements for future enhancements, appropriate based on competing priorities and yearly appropriation funding allocations. ECD: February 28, 2023

Recommendation 13: Direct CSC officials to consider updating guidance on compliance examinations to require ports to examine a statistically valid sample of in-bond shipments so that cargo reviewed is more representative of all in-bond shipments. Additionally, the guidance should contain instructions on waivers of examination including documenting the justification for these waivers.

Response: Concur. CSC will issue a new memorandum to the field and ports that will update the ACE in-bond report oversight process. Further, CSC will enhance the in-bond post audit oversight area of responsibility, in coordination with OIT, by providing requirements within the ACE Report Module and associated Field Office guidance related to enforcement measures. ECD: February 28, 2023.

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Recommendation 14: Ensure CSC officials provide the ports with written policies and procedures to ensure compliance examinations are adequate and consistent. These procedures should include selecting cargo for review, conducting examinations, documenting the process used for the review and the results, and storing the records.

Response: Concur. CSC will develop, and implement, a new in-bond exam and audit user guide for CBP field personnel, as well as an audit program of POEs' in-bond exam-audit activity. ECD: February 28, 2023.

Recommendation 15: Ensure CSC officials regularly sample, and review compliance examinations conducted by the ports to ensure ports are complying with CBP policy.

Response: Concur. CSC, in coordination with OIT, will enhance the in-bond post audit oversight area of responsibility by providing requirements within the ACE Report Module, along with field office guidance related to enforcement measures. Further, CSC will establish accountability of bonded carriers and create findings processes, as well as establish a compliance measure program that will include the enhancements to "in and out" type reviews. ECD: February 28, 2023.

Recommendation 16: Ensure CSC and TTO officials formalize standardized in-bond training for Headquarters' offices, field offices, and ports to ensure all ports are operating under national policy. Training should cover key areas such as compliance examinations and audits, ACE reports, bonding requirements, and risk assessments of the trade community.

Response: Concur. CSC is currently working with academy administrators and course developers at the CBP Trade and Cargo Academy, to create a new in-bond program training course. ECD: February 28, 2023

Recommendation 17: Ensure CSC and TTO officials require ACE training related to the oversight of in-bond cargo for all CBP officers.

Response: Concur. CSC, in coordination with TTO, will co-produce webinars addressing in-bond compliance report oversight and training for CBP Field Office personnel. ECD: February 28, 2023.

Recommendation 18: Ensure that CSC and TTO officials coordinate to provide regular and comprehensive ACE training course offerings related to the oversight of in-bond cargo to satisfy employee training needs.

Response: Concur. CSC will create a new in-bond program training course and, in coordination with TTO, will co-produce webinars addressing in-bond compliance report oversight and training for CBP field personnel. ECD: February 28, 2023.

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Recommendation 19: Ensure the CORE [Commercial Operations, Revenue and Entry] Division coordinates with the Revenue Division and CSC officials to improve custodial bonding to address risk of merchandise transported in-bond and update CBP's bonding policy. The policy should improve the connectivity between in-bond shipments and respective duties, taxes, and fees by considering estimated duties when determining the appropriate bond coverage.

Response: Concur. CBP OT, OFO, and the Office of Finance Revenue Division will continue to leverage existing authorities pursuant 19 CFR § 113 to enforce the requirements for custodial bonds to protect revenue, by: (1) collaborating to ensure policies and procedures are updated; and (2) exploring efforts to improve appropriate bond coverage. ECD: September 30, 2022.

Recommendation 20: Ensure the CORE Division provides general bond training to include setting the appropriate bond amounts.

Response: Concur. CBP OT CORE Division is in the process of providing bond training to enhance CBP personnel's understanding of bond authority and corresponding enforcement options. This initiative is a 13-part series spanning fiscal year 2022. On February 16, 2022, CBP conducted a lesson on the Activity Type 2 – Custodian of Bonded Merchandise Bond, which focused on the: (1) responsible office for handling bond documentation; (2) purpose of the bond; (3) specific bond conditions; (4) continuous Custodial Bond minimums, formulas, and (5) other guidance for setting Custodial Bond amounts established in CBP policy documents. CBP OT CORE Division will continue to facilitate general bond training by completing this 13-part internal bond webinar training series.

CBP requests that the OIG consider this recommendation resolved and closed, as implemented.

Appendix 3: Major Contributors to This Report

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Appendix 4: Report Distribution

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Chairman and Ranking Member
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