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Office of Inspector General

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AUD-FM-17-53

Office of Audits

September 2017

Audit of the Bureau of Consular Affairs Fee-Setting Methodology for Selected Consular Services

FINANCIAL MANAGEMENT DIVISION

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OIG HIGHLIGHTS

AUD-FM-17-53

What Was Audited

The Bureau of Consular Affairs (CA) charges user fees for many of the consular services it provides. Congress allows the Department of State (Department) to retain the revenue generated from certain consular fees, although other fees are required to be remitted to the Department of the Treasury (Treasury). Both retained and remitted fees must be set at an amount determined in accordance with Office of Management and Budget (OMB) Circular A-25, "User Charges" and with fee-governing statutes.

Acting on behalf of the Office of Inspector General (OIG), Kearney & Company, P.C. (Kearney), an independent public accounting firm, conducted this audit to determine whether CA complied with cost recovery requirements of OMB Circular A-25. Kearney evaluated the revenues and costs for the Machine Readable Visa (MRV) fee, Passport Security Surcharge, and Western Hemisphere Travel Initiative Surcharge, for FYs 2014 and 2015.

What OIG Recommends

OIG made 11 recommendations to address issues identified in the report. On the basis of the Department's responses to a draft of this report, OIG considers nine recommendations resolved, pending further action, and two recommendations unresolved. A synopsis of the Department's response and OIG's reply follow each recommendation. The Department's responses to a draft of this report are reprinted in their entirety in Appendices B and C. A summary of the Department's general comments and OIG's replies are presented in Appendix D.

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September 2017

OFFICE OF AUDITS

Financial Management Division

Audit of the Bureau of Consular Affairs Fee-Setting Methodology for Selected Consular Services

What Was Found

Kearney found that CA collected revenue from consular fees in FYs 2014 and 2015 of \$3.7 billion and \$4.1 billion, respectively. The cost for providing consular services in FYs 2014 and 2015, however, was \$3.3 billion each year. Because it recovered more than the full cost of providing services, CA did not fully comply with OMB Circular A-25 or with fee-governing statutes.

One reason that CA collected revenue in excess of costs during this time period was that CA had not adjusted one class of the MRV fee since April 2012, even though the unit price to provide this service had decreased by \$20. One notable change was that the Department as of FY 2013 no longer received an appropriation to cover consular service costs related to fees that CA was not legislatively authorized to retain. Therefore, CA needed additional funds. During the audit, CA officials provided conflicting information on whether the decision not to lower the fee was related to the loss of appropriated funds. By not reducing one class of the MRV fee to align with costs, CA collected revenue that offset some, if not all, of the lost funding. CA does not have the legal authority to charge more than the estimated cost for providing each specific consular service. As a result, CA charged visitors from other countries more than necessary to cover the costs of services rendered. Moreover, to the extent that CA expended funds collected in excess of cost, CA may have violated the Antideficiency Act and appropriations law.

Another reason that CA's revenues exceeded costs for selected consular services was its flawed fee-setting methodology. Kearney concluded that the data used was insufficient, which would affect the accuracy of the calculated fee amounts. Although Kearney was unable to determine what amount of revenue collected in excess of costs was attributable to the flaws, at the beginning of FY 2017, the unobligated balance from consular fees was almost \$1.4 billion. Annually, CA intends to carry 25 percent of its expenses in unobligated balances forward; however, the FY 2017 beginning balance is 31.4 percent, or \$284 million more than CA anticipates needing. CA should address the flaws in its methodology and remit the \$284 million to Treasury to be put to better use across the Federal Government.

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Audit of the Bureau of Consular Affairs Fee-Setting Methodology for Selected Consular Services

Office of Inspector General
U.S. Department of State
Washington, D.C.

Kearney & Company, P.C. (Kearney), has performed an audit of the Bureau of Consular Affairs Fee-Setting Methodology for Selected Consular Services. This performance audit, performed under Contract No. SAQMMA14A0050, was designed to meet the objective identified in the report section titled "Objectives" and further defined in Appendix A, "Scope and Methodology," of the report.

Kearney conducted this performance audit in accordance with *Government Auditing Standards*, 2011 Revision, issued by the Comptroller General of the United States. Those standards require that Kearney plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. Kearney believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

Kearney appreciates the cooperation provided by personnel in Department of State offices during the audit.

A handwritten signature in blue ink that reads "Kearney & Company". The signature is written in a cursive, flowing style.

Kearney & Company, P.C.
Alexandria, Virginia
August 10, 2017

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OBJECTIVE

The objective of this audit was to determine whether the Bureau of Consular Affairs (CA) recovers the full cost of selected consular services in accordance with Office of Management and Budget (OMB) Circular A-25, "User Charges."

BACKGROUND

CA is responsible for the welfare and protection of U.S. citizens abroad and for the issuance of passports, visas, and other documentation to citizens and foreign nationals, as well as for the protection of U.S. border security and the facilitation of legitimate travel to the United States. CA charges user fees for many of the consular services it provides to U.S. citizens and foreign nationals, including fees for services associated with issuing passports and for non-immigrant visas.¹ Congress permits the Department of State (Department) to collect and retain revenue generated from certain consular fees, but CA is required by law to remit other amounts collected for consular fees to the Department of the Treasury (Treasury). The retained consular fees are used to fund the Consular and Border Security Program (CBSP).²

Department of State Consular Fees

During FY 2014, the Department collected \$3.7 billion in consular fees, and in FY 2015, the Department collected \$4.1 billion in consular fees.³ These amounts came from many different fees that cover a variety of services, ranging from fraud prevention fees that are charged to particular visa applicants to fees charged to American citizens for expedited processing of passports. Consular revenue also includes surcharges that are imposed on some services: for example, each Machine Readable Visa (MRV) fee includes a legislatively imposed \$2 surcharge to support programs to combat human immunodeficiency virus, acquired immune deficiency syndrome, tuberculosis, and malaria. Kearney & Company, P.C. (Kearney), limited its audit scope to the three highest-earning Department-retained fees during FYs 2014 and 2015: Western Hemisphere Travel Initiative (WHTI) fee, Passport Security Surcharge (PSS), and MRV fees. In FYs 2014 and 2015, the Department collected \$303 million and \$336 million, respectively, for WHTI; \$494 million and \$549 million, respectively, for PSS; and \$1.9 billion and \$2.1 billion,

¹ A non-immigrant visa is a U.S. Government document that permits individuals who travel to the United States to request entry for a particular purpose, including to work, study, or participate in a cultural exchange program.

² CA's objectives and responsibilities are accomplished through the CBSP, which is managed by CA and supported by the contributions of other Department bureaus, such as the Bureau of Diplomatic Security. Since the beginning of FY 2013, the CBSP was completely funded using consular fees collected and retained by CA, meaning that appropriated funds were not used for CA operations.

³ The total amount of consular fees collected includes funds retained by the Department and funds returned to Treasury.

respectively, for MRV. Table 1 provides details on these three fees, which are highlighted, as well as other significant consular fees charged by CA.⁴

Table 1: Details of Consular Fees

Fee Type	Description of Fee	Fee Retained ^a	Fee Remitted to Treasury
Passport Fees			
Application Fee	The fee charged for filing each passport application.		X
Western Hemisphere Travel Initiative	The surcharge collected to offset program costs related to the increased demand of passports arising from the expansion of travel requirements to certain countries such as Canada and Mexico. ^b	X	
Passport Security Surcharge	The surcharge collected for the support of enhanced border security.	X	
Expedited Passports	The fee charged for expediting passport processing.	X	
Execution Fee	The fee charged for the execution of each application for a passport.		X
Non-Immigrant Visa Fees			
Machine Readable Visas	The fee charged for processing the MRV-type non-immigrant visas and used to recover the costs of providing consular services (no further specific legislative restrictions apply to the use of MRV fees).	X	
HIV/AIDS/Tuberculosis/Malaria Surcharge	The surcharge collected along with MRV fees to support programs to combat human immunodeficiency virus, acquired immune deficiency syndrome, tuberculosis, and malaria.		X
Special Immigrant Visa Surcharge	The surcharge collected to support the Iraqi and Afghan Special Immigrant Visa Program.		X
Non-immigrant Visa Issuance Fee (Reciprocity Fee)	The fee charged to the non-immigrant visa applicants of certain countries whose governments impose certain visa fees on U.S. citizens. It is only charged to applicants after their visa interview.		X
H and L Fraud Prevention and Detection	The fee charged to applicants for H and L visas for the prevention and detection of visa fraud.	X	

⁴ CA charges fees for other American Citizen Services that are not included in this table. CA's website, <<https://travel.state.gov>> (accessed on January 25, 2017), provides information on all types of consular fees.

Fee Type	Description of Fee	Fee Retained ^a	Fee Remitted to Treasury
Immigrant and Special Visa Fees			
Immigrant Visa Application Fee	The fee charged for each immigrant visa application.		X
Immigrant Visa Security Surcharge	The surcharge collected for the support of enhanced border security.	X	
Diversity Visa Lottery	The fee collected from Diversity Visa lottery selectees applying for visas or change of status. All fee collections are to be used for providing consular services.	X	
Affidavit of Support	The fee charged for services provided by the Department to any sponsor who provides an affidavit of support under the Immigration and Nationality Act (Pub. Law 89-236).	X	
J-Waiver Fee	The fee charged for waiving the requirement for exchange visitors to return to their home country for at least 2 years at the end of their exchange visitor program.	X	

^a CA's retained fees are all available as "no-year" funds, meaning that the fees are available for use until expended, as permitted by the statutes establishing each retained fee. However, agencies must still follow appropriations law when expending no-year funds.

^b WHTI implemented part of the Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. Law 108-458), which required all travelers leaving and entering the United States to have a valid passport. Prior to this requirement, U.S. citizens were able to travel to certain countries, such as Mexico and Canada, without a U.S. passport. Because of this new requirement, the Department had a surge of passport applications, particularly in 2006. WHTI allowed CA to collect and retain additional revenue to meet the increased demand.

Source: Generated by Kearney & Company, P.C., on the basis of information provided by CA.

Fee-Setting Guidance

Specific statutes permit CA to establish and retain certain consular fees. These statutes require that fees for services be set at either a specified amount⁵ or at the cost of providing such services. In addition, CA is required to comply with OMB Circular A-25⁶ when setting rates for user fees, to the extent that the requirements of OMB Circular A-25 are not inconsistent with the requirements of the consular fee statutes.

OMB Circular A-25, which derives its authority from and implements the Independent Offices Appropriations Act,⁷ establishes Federal policy regarding fees assessed for Government services.

⁵ As of January 2017, the following consular fees are legislatively set by Congress: Border Crossing Card Application Fee for Minors under 15 (Pub. Law 105-277), Special Immigrant Visa Surcharge (Pub. Law 113-42), Fraud Prevention and Detection Fee (Pub. Law 108-447), and the HIV/AIDS/Tuberculosis Surcharge (Pub. Law 110-293).

⁶ OMB Circular A-25, "User Fees," July 8, 1993.

⁷ 31 U.S. Code § 9701, *Fees and charges for Government Services and things of value*. This law allows agencies to charge fees for certain services provided to individuals in the absence of a specific statute and establishes standards for setting those fees as well as fees permitted by statute.

For example, OMB Circular A-25 provides information on the scope and types of activities subject to user charges and the basis upon which user charges are to be set, including guidance on determining an agency's full costs for providing the particular services for which the fees are charged. OMB Circular A-25 also provides guidance for proposing legislative changes to establish new fees as well as determining what to do with collected funds (such as remittance to Treasury).

According to OMB Circular A-25, agencies must recover the full cost to the Federal Government for any service, resource, or good provided to a customer. To determine the correct amount, agencies are to review user fees biennially.

Cost of Service Model

Although the amount of some consular fees is established by Congress, most consular fees are set by the Department, including each of the three fees that were audited. CA is responsible for recommending the fee amount for consular services to the Under Secretary for Management for approval. To determine the amount to charge for each type of consular service, CA has developed a Cost of Service Model (COSM) using commercial, off-the-shelf software. To comply with OMB Circular A-25, the COSM uses an activity-based costing methodology,⁸ which is used to determine the full cost of each consular service. The COSM requires three types of inputs to calculate a unit cost for each service: (1) cost represents the various costs of providing consular services incurred both by CA and other Department bureaus that contribute to CBSP, (2) workload volume represents the number of times each service was provided in a given fiscal year, and (3) level of effort represents the amount of time spent by staff on consular activities.

For the period under audit, FYs 2014 and 2015, each time a unit cost was calculated, CA included 3 years of actual data (that is, information from the prior 3 years) and 2 years of forecasted data (that is, what is expected for the next 2 years) in the COSM. CA officials assess the unit cost provided by the COSM and make adjustments as deemed necessary to determine the recommended fee.

CA uses the COSM annually to calculate consular services unit costs. According to CA officials, although COSM unit costs are calculated annually, CA recommends adjusting existing fee amounts once every 2 years,^{9,10} as appropriate, on the basis of the results of the modeling exercise, which may take up to a year to complete. Because of the time required to perform the

⁸ The Chartered Institute of Managerial Accountants defines activity-based costing as "an approach to the costing and monitoring of activities, which involves tracing resource consumption and costing final outputs. Resources are assigned to activities, and activities to cost objects based on consumption estimates. The latter utilize cost drivers to attach activity costs to outputs." Activity-based costing methodology recognizes the relationship between costs, activities, and products or services.

⁹ OMB Circular A-25 § 8(e) requires agencies to review user charges for agency programs biennially for "assurance that existing charges are adjusted to reflect unanticipated changes in costs or market values."

¹⁰ As reported in the "Audit Results" section of this report, Kearney found that, in practice, the rates are not always updated biennially, even when the unit cost identified by the COSM decreases significantly.

calculations and reassessments, fee change recommendations made by CA will generally not become effective until the year after the reassessment occurs. Any changes to fees proposed by CA and approved by the Under Secretary for Management are then approved by OMB during the process to finalize changes in the Federal Register, where the final schedule of fees is published.

Roles and Responsibilities

CA comprises various offices that carry out the CBSP mission. Table 2 describes CA offices that have a primary role in calculating user fees for consular services.

Table 2: Roles and Responsibilities of Selected Bureau of Consular Affairs Offices

CA Office	Roles and Responsibilities
Office of the Comptroller	Monitors consular revenues and ensures that revenue is applied to correct accounts.
Office of the Executive Director	Collects and provides data on overseas consular activities, such as the number of consular officers, for use in the consular fee-setting process.
Office of Passport Services	Collects and provides data on passport activities, such as the number of passports processed, for use in the consular fee-setting process.
Office of Visa Services	Collects and provides data on visa activities, such as the number of visas processed by type, for use in the consular fee-setting process.
Office of the Comptroller, Strategic Policy and Planning Division	Gathers data for the COSM inputs from various sources and enters data into the COSM. Conducts the cost analysis and recommends consular fees for all CA services.

Source: Generated by Kearney & Company, P.C., using information from the Bureau of Consular Affairs intranet site.

AUDIT RESULTS

Finding A: The Bureau of Consular Affairs Recovered More Than the Full Cost of Providing Consular Services

Kearney found that CA recovered more than the full cost of providing consular services. In FYs 2014 and 2015, CA collected revenue from consular fees of \$3.7 billion and \$4.1 billion, respectively; however, the cost for providing consular services in FYs 2014 and 2015 was approximately \$3.3 billion each year. These figures show that CA did not fully comply with OMB Circular A-25 or Federal statutes that allow CA to charge and retain certain fees at the cost of providing those services. Although some of the revenue recovered in excess of cost may have been allowable, some was unallowable because it resulted from aspects of the fee-setting methodology that did not comply with OMB Circular A-25.

This occurred, in part, because CA had not adjusted the “other non-petition-based” MRV fee¹¹ to reflect significant decreases in the unit price determined by the COSM since April 2012.¹² Specifically, as of FY 2015, the MRV unit cost determined by the COSM decreased by \$20 since the rate was set in FY 2012. According to CA officials, the Department believed that the fee amount was appropriate and did not believe any changes were needed. However, Kearney noted that, during the same time period, the Department modified numerous other fees, sometimes for far less than \$20. One significant change to CA’s operations during this time period was that, beginning in FY 2012, CA received less appropriated funds, and, as of FY 2013, the Department no longer received any appropriated funds to cover consular service costs. Accordingly, CA needed additional funds to cover the costs of consular services related to fees that CA was not legally authorized to retain. During the audit, CA officials provided conflicting information on whether the decision not to lower the fee was related to the loss of appropriated funds. However, by not reducing the non-petition-based MRV fee to align with the unit cost calculated by the COSM, CA collected additional revenue that would have offset some, if not all, of the required remittance to Treasury. Regardless of the rationale for leaving the fee unchanged, CA’s decision meant that it charged visitors from other countries more than necessary to cover the costs of services rendered and more than permitted by law. CA did not have the authority to charge a fee that was significantly higher than MRV costs, and it should not have used the excess revenue to cover additional, non-MRV-related costs. Moreover, to the extent that CA expended funds collected in excess of cost, CA may have violated the Antideficiency Act¹³ and appropriations law.

Aside from failing to adjust non-petition-based MRV fees to reflect costs, CA also generally collected revenues in excess of costs because of several flaws in its fee-setting methodology. Although CA considered relevant factors during the fee-setting process, such as costs, levels of effort, and workload volumes, CA’s process did not sufficiently consider carry forward balances¹⁴ during the fee-setting process. In addition, CA’s process did not sufficiently analyze the long-term net financial results of its operations to determine whether adjustments to the fee-setting methodology were needed. Kearney also identified issues concerning whether the data used were sufficient to set the fees, which would affect the accuracy of the calculated fee amounts. For example, CA did not have policies or procedures that required the staff to maintain historical data or to document methodologies used to calculate the fee. Moreover, CA did not have a sufficient process in place to perform quality control activities related to the data. Although Kearney is unable to assign a specific portion of the CBSP revenue collected in excess of costs in

¹¹ In setting fees, CA has two classifications of non-petition-based non-immigrant visas: E-class visas and all other non-petition-based visas. The other non-petition-based non-immigrant visas make up the majority of all non-immigrant visa applications processed by CA, accounting for approximately 94 percent of the total non-immigrant visa workload. For the purposes of this report, Kearney will hereinafter refer to the “other non-petition-based” non-immigrant visas simply as “non-petition-based” non-immigrant visas, exclusive of E-class visas.

¹² MRV fees for petition-based H, L, O, P, Q, and R visas and Border Crossing Card fees for applicants older than 15 years of age have also not been changed since April 2012.

¹³ 31 U.S. Code § 1341, *Limitations on expending and obligating amounts*.

¹⁴ Carry forward funds are funds available for spending at the end of a fiscal year that will be carried over and made available for spending at the beginning of a new fiscal year.

FYs 2014 and 2015 to the flaws in CA's methodology, at the beginning of FY 2017, the total CBSP unobligated balance was almost \$1.4 billion. Annually, CA intends to carry 25 percent of its anticipated expenses in unobligated balances forward; however, the FY 2017 balance is 31.4 percent of expenses, or \$284 million more than CA anticipated needing. CA should address the flaws in its methodology, determine whether 25 percent is an adequately precise and adequately explained estimate of costs, and remit the \$284 million and any other amounts determined to be excessive to Treasury to be put to better use across the Federal Government to the benefit of the taxpayers.

Revenue From Fees Exceeded the Cost of Providing Consular Services

OMB Circular A-25 states that "user charges will be sufficient to recover the full cost to the Federal Government...of providing the service."¹⁵ Full cost includes all direct and indirect costs¹⁶ for providing the service, including personnel salaries and benefits, physical overhead, materials, supplies, utilities, and management and supervisory costs. Kearney found that CA collected funds in excess of full cost for fees that it retains.

CA generated approximately \$3.7 billion in revenue from consular fees in FY 2014 and \$4.1 billion in FY 2015. However, the total cost for providing consular services in FYs 2014 and 2015 was approximately \$3.3 billion each year. Table 3 shows the revenues and expenses for consular services in FYs 2014 and 2015.

Table 3: FY 2014 and FY 2015 Revenues and Costs for the Consular and Border Security Program

Fiscal Year	Total Revenue*	Total Cost*	Difference
2014	\$3,690,448,833	\$3,299,719,741	\$390,729,092
2015	\$4,147,052,082	\$3,309,302,456	\$837,749,626

* Kearney did not include revenue or costs from the H & L Fraud Prevention and Detection Fee in this table. This fee is collected by both CA and the Department of Homeland Security. CA received one-third of all collections. The revenue is tracked using a Department of Homeland Security fund code and, therefore, that financial information was not readily available to Kearney during the audit. Kearney notes that, according to other sources of financial data, revenues from the Fraud Prevention and Detection Fee make up less than 2 percent of the total CBSP revenues.

Source: Generated by Kearney using information from the Department's Global Financial Management System and information provided by CA.

During discussions regarding the results of the audit, CA officials stated that they disagreed with the method used by Kearney to conclude that CA had collected more revenue than was needed to cover costs. Specifically, CA officials stated that OMB Circular A-25 does not specify that revenue must equal expenses in any given fiscal period and that some of the excess

¹⁵ OMB Circular A-25 § 6(a)(2).

¹⁶ A direct cost is a cost that can be attributed specifically to providing a service. An indirect cost is a cost that cannot be easily attributed to providing a service, such as rent for a multi-purpose facility.

revenue may have been allowable. Kearney agrees with this contention as a general matter: as with any fee that is based on estimates, a degree of imprecision exists, and it would be reasonable to see fiscal periods in which the amount collected exceeded costs or fiscal periods in which the amount collected was less than costs. However, as described throughout this report,¹⁷ Kearney found that some of the excess revenue resulted from aspects of the fee-setting methodology that did not comply with OMB Circular A-25.

CA officials also questioned Kearney's conclusion because they believed that the amount CA was required to remit to Treasury for some consular fees should not be considered in the calculation. Specifically, of the total revenue collected for consular fees in FYs 2014 and 2015, CA was required to remit \$699 million and \$817 million, respectively, to Treasury. CA officials believe that the amount remitted should not be considered as revenue from fee collections. This belief is incorrect. Both OMB Circular A-25 and the fee-setting statutes require that CA collect fees in the first place on the basis of the cost of providing services. The ultimate use of the funds collected is not a consideration when setting the fees, and no basis exists to treat the funds remitted to Treasury differently than any other funds collected.

Machine Readable Visa Fees Were Not Adjusted to Reflect Estimated Cost

The consular fees collected inappropriately exceeded costs in part because the Department had not adjusted the MRV fee amount to reflect significant decreases in the unit price determined by the COSM for more than 5 years. Despite representations from CA officials that fees are adjusted every 2 years when needed, CA had not adjusted the non-petition-based MRV fee since April 2012.¹⁸ As shown in Table 4, the unit cost determined by CA's COSM has decreased by \$20 since the rate was set in FY 2012. As of June 2017, however, the fee charged for a non-petition-based MRV remained at \$160.

Table 4: Non-Petition-Based Machine Readable Visa Fee and Cost of Service Model Unit Costs from FY 2012 through FY 2015

Category	FY 2012	FY 2013	FY 2014	FY 2015
MRV Fee Charged	\$160	\$160	\$160	\$160
Calculated Unit Cost	\$159	\$145	\$147	\$140
Amount Overcharged	\$1	\$15	\$13	\$20

Source: Generated by Kearney using information from COSM unit cost outputs provided by CA and the Federal Register.

CA officials stated that they were aware of requirements to establish fees that would recover only the costs of services. They also stated that they believed that CA had complied with these requirements, because the unit cost charged was based on information from the FY 2011 COSM

¹⁷ See the "Machine Readable Visa Fees Were Not Adjusted to Reflect Estimated Cost," "Fee-Setting Methodology Was Flawed," and "Data Used in Fee-Setting Was Insufficient" sections of this report for details.

¹⁸ The MRV fee amount set in April 2012 was based on the unit cost identified by the FY 2011 COSM.

and was also supported by the FY 2012 COSM. According to CA officials, the Department believed that the fee amount was appropriate and did not believe any changes since that time were needed. In fact, one CA official stated that if CA believed a fee change was necessary at that time, it would have initiated the rule-making process.¹⁹ Kearney notes, however, that the Department made changes to other consular service fees since 2012, which calls CA's decision not to modify the MRV fee into question. During FY 2013 to FY 2015, the Department revised the fee amounts for numerous other consular services, often for less than \$20 (the amount the COSM showed that the unit price had decreased for the MRV fee from 2012 to 2015). For example, in September 2015, the Department raised the cost of the PSS from \$40 to \$60 and also decreased the cost of a WHTI Surcharge for a Minor Passport Book from \$22 to \$20. Further, from January 2008 to April 2012, the Department updated the MRV fee every 2 years, which was consistent with CA officials' description of how the fee-setting process was designed to function.

Kearney also notes that the period of time that the MRV fee amount was unchanged coincided with the period of time during which CA's operating environment changed significantly. In particular, beginning in FY 2012, CA received less appropriated funds, and it eventually lost such funding entirely. The information obtained during the audit did not fully explain the circumstances or decisions that led to this result. However, Kearney learned that the Department's FY 2011 Congressional Budget Justification stated that CBSP's "FY 2011 budget request includes a proposal that would allow the Department to retain all user fees collected from the provision of consular services for FY 2011 and all future years to cover the full cost of immigration, passport, and other consular services." The language allowing the Department to retain additional fees was not included in the 2011 appropriations act (Pub. Law 112-10), and the Department requested appropriated funds for certain CA operational costs in both the FY 2012 and FY 2013 Congressional Budget Justifications. However, Congress reduced funding to CA for FY 2012 and provided no appropriated funds for FY 2013. In the FYs 2014 and 2015 Congressional Budget Justifications, the Department did not make a request for appropriated funds to cover the cost of any CA operations, and the Department received no such appropriations. Despite the loss of appropriated funds, no legislation was ever enacted that allowed the Department to retain all consular fees collected.²⁰

Because CA no longer received appropriated funds, it needed additional funds to cover the costs of consular services related to fees that relevant statutes did not authorize CA to retain. For example, CA is required to remit to Treasury all passport application fees,²¹ which amount to

¹⁹ CA officials stated that CA is considering an MRV fee change on the basis of data from the FY 2016 COSM.

²⁰ During discussions regarding the results of this audit, CA officials stated that they have continued to request that Department officials who prepare the Department's congressional budget request include language that would allow CA to retain all consular fees collected. According to CA officials, the requested revised language has not been included in the final Congressional Budget Justifications. CA did not provide documentation related to any other efforts to change the legislation.

²¹ 22 U.S. Code § 214, "Fees for execution and issuance of passports; persons excused from payment."

approximately 20 percent of the cost of providing passport services. By not reducing the non-petition-based MRV fee to align with the unit cost calculated by the COSM, CA collected additional revenue that would have offset some, if not all, of the required remittance to Treasury for which CA no longer had appropriated funds. Although CA elected to continue to charge a significantly higher rate than was supported by its own cost model, CA officials nonetheless stated that this decision was unrelated to the loss of appropriated funding. In fact, according to one CA official, the Department had simply “lucked into” being able to fund its operations during the years when the MRV fee was being overcharged.^{22,23} However, other information that Kearney obtained in the course of the audit²⁴ suggested that fortuitousness alone did not explain the decision to leave the MRV fees unchanged. For example, in documentation provided to Kearney from the FY 2013 COSM, CA specifically calculated the “fee over cost recoupment ([1] year)” amount for MRV, which totaled nearly \$154 million, because of the nearly \$15 difference in the fee and cost. Moreover, an official from CA’s Office of the Comptroller, Strategic Policy and Planning Division told Kearney during the audit that the MRV fees were higher than costs because CA had to make up (1) some of the money that it lost by remitting passport fees to Treasury and (2) for the lack of appropriations.

Written questions and answers related to testimony provided by the Deputy Secretary of State for Resources and Management in April 2015 recognized that the current process for covering CBSP costs was inadequate. Specifically, the Deputy stated that:

As a sound business practice, the Department collects fees based on a full cost recovery model; however, a significant portion of the total revenue collected is, by law, currently deposited in the General Treasury and is not retained by the Department. Costs associated with funds deposited in the Treasury must be supported using retained fees. This is not a sustainable business model [emphasis added].

Regardless of the rationale for leaving the MRV fee unchanged and the role that the loss of appropriated funding may have played, CA did not have authority to charge a fee that was significantly higher than MRV costs and it should not have used the excess revenue to cover additional, non-MRV-related costs. OMB Circular A-25 states that “when there are statutory prohibitions or limitations on charges, legislation to permit charges to be established should be proposed. In general, legislation should seek to remove restraints on user charges and permit

²² Certain fees that CA collects and uses are legislatively limited as to the types of activities that can be funded with those fees, such as WHTI and PSS. However, money collected through MRV fees may be used to fund any consular services (not just costs related to the MRV fee). This provides CA with considerable flexibility in using the fees. Although other fees had statutes that provided a similar level of flexibility, the MRV fee had the highest volume.

²³ 8 U.S. Code § 1713 states that MRV fees collected can be credited to any Department appropriation to “recover costs of providing consular services,” and amounts collected “shall be available, until expended, for the same purposes as the appropriation to which credited.”

²⁴ Kearney notes that statements and documents in support of CA’s contention that the MRV fee decision was unrelated to the loss of appropriated funding were provided only after the audit had been completed.

their establishment under the guidelines provided in this Circular.”²⁵ Despite its inability to obtain legislative authority to retain all consular fees, as of June 2017, CA is still required by law to remit a portion of consular collections to Treasury.

Impact of Overcharging Applicants and Potential Violations of the Antideficiency Act

Because CA maintained fee levels above the estimated cost of the MRV services, CA is charging visitors from other countries more than necessary for those services. Kearney cannot quantify the exact amount that MRV fees exceeded MRV-related costs or the overall effect of overcharging. For example, because MRV fees may be used to pay other CA costs that are not related to MRV services, some expenses in the Department’s accounting system that appear to be MRV costs may actually not be related to MRV. In addition, Kearney identified weaknesses in the overall fee-setting methodology,²⁶ and therefore Kearney cannot verify the overall unit costs calculated by the COSM.

Moreover, to the extent that CA allowed MRV fees to remain at a level above the cost of providing the service, whether purposefully or because of insufficient oversight, and then expended the excess collections, CA risks non-compliance with the Antideficiency Act and appropriations law. According to OIG, fee collections are treated as regular appropriations, with all their attendant restrictions. CA was required to remit any amount of fee collections in excess of those permitted by law (that is, those fees above estimated costs) to Treasury as miscellaneous receipts. OIG noted that failure to do so is an improper augmentation of the agency’s appropriation and, because excess collections would not constitute appropriations available to the agency, obligating those funds would constitute a violation of the Antideficiency Act.

Recommendation 1: OIG recommends that the Bureau of Consular Affairs immediately set the fee amounts charged for Machine Readable Visas in accordance with Office of Management and Budget Circular A-25 and applicable fee statutes.

Management Response: CA concurred with this recommendation “with explanation.”^{27,28} CA stated that it “has incorporated lessons learned and will implement a majority of . . . recommendations in the 2016 Cost of Service Model (COSM) and fee setting recommendation process” and that it will recommend new fees “based on these updates and improvements.”

²⁵ OMB Circular A-25, § 7(b).

²⁶ See the “Fee-Setting Methodology Was Flawed” and “Data Used in Fee-Setting Was Insufficient” sections of this report for details.

²⁷ Kearney has addressed many of the detailed “explanations” provided by CA associated with this and other recommendations in Appendix D.

²⁸ OIG notes that its treatment of the Department’s response to any given recommendation as a “concurrence” should not be taken as acceptance of any particular claim made by the Department in its response.

OIG Reply: OIG considers this recommendation resolved pending further action. This recommendation will be closed when OIG receives and accepts documentation demonstrating that CA has recommended new fees for MRVs on the basis of the results of its most recent COSM and demonstrates that the COSM complied with OMB Circular A-25 and the applicable fee statutes. Notwithstanding CA's statement that it concurs with this recommendation, CA's full response (see Appendix B) seemingly asserts that numerous aspects of the underlying report were inaccurate and that CA's conduct did, in fact, comply with relevant guidance. Kearney addresses many of the Department's claims in Appendix D. OIG emphasizes that it stands by the report's recommendations, including this recommendation to set fees in accordance with OMB Circular A-25 and applicable fee statutes. OIG will take the reported deficiencies with CA's fee-setting into account when assessing whether remedial actions fulfill this recommendation. OIG may change the status of this recommendation to "unresolved" if CA's actions do not sufficiently demonstrate that fees for MRVs are set in accordance with applicable criteria.

Recommendation 2: OIG recommends that the Bureau of Consular Affairs, in coordination with the Bureau of Budget and Planning, (a) propose legislative changes, as suggested by Office of Management and Budget Circular A-25, to allow it to retain all consular fees collected or (b) seek appropriated funds during the annual budgeting process for any projected funding shortfalls created by not being allowed to retain all consular fees collected.

Management Response: CA concurred with this recommendation, stating that it will "continue to consider legislative changes to create a sustainable model for consular fee retention." CA further stated that it will seek "appropriated funds as necessary during the annual budgeting process for projected funding shortfalls."

OIG Reply: OIG considers this recommendation resolved pending further action, although, as discussed in more detail in Appendix D, Kearney found no evidence that CA had put forward such legislative changes during the time period set forth in the report. As further detailed in Appendix D, CA indicated during the audit that legislative proposals are routed through the Bureau of Budget and Planning. Therefore, OIG redirected the recommendation to include the Bureau of Budget and Planning as a coordinating office for implementation. This recommendation will be closed when OIG receives and accepts documentation demonstrating that CA has (a) proposed legislative changes allowing it to retain all consular fees collected, (b) requested appropriated funds during the next annual budgeting process, or (c) a combination of (a) and (b).

Recommendation 3: OIG recommends that the Bureau of the Comptroller and Global Financial Services determine whether the Bureau of Consular Affairs violated the Antideficiency Act, 31 U.S. Code § 1341, for each year in which it spent funds from any fee collections in excess of cost, and report any violations as required by 31 U.S. Code § 1351 and in accordance with Office of Management and Budget Circular A-11, Section 145.

Management Response: The Bureau of the Comptroller and Global Financial Services (CGFS) stated that “consular fees established in accordance with the relevant statutory and regulatory authorities would not raise augmentation or [A]ntideficiency [A]ct concerns, even if the fee collections in any given year are in excess of total actual costs for that year.” CGFS also stated that “notwithstanding, CGFS will work with the Bureau of Consular Affairs to examine their cost-of-services models estimates for Consular and Border Security Program cost-recovery purposes, including MRV fees, for the years indicated in the Report.”

OIG Reply: OIG considers this recommendation unresolved. Although OIG appreciates CGFS’s plans to work with CA to examine various aspects of the consular fee-setting methodology, OIG does not consider CGFS’s reply to be responsive to the recommendation, because CGFS did not explicitly state that it plans to examine CA’s fee-setting methodologies to determine whether an Antideficiency Act violation occurred. As reported in the Audit Results section of this report, the audit concluded that CA did not establish MRV fees in accordance with relevant statutory and regulatory authorities. In fact, information suggests this was done purposefully to fund consular costs related to areas for which CA was not allowed to retain fees. This recommendation will be resolved when CGFS clearly demonstrates that it plans to assess whether CA violated the Antideficiency Act on the basis of the findings in this report. This recommendation will be closed when OIG receives and accepts documentation showing that CGFS determined whether CA violated the Antideficiency Act on the basis of the findings in this report.

Fee-Setting Methodology Was Flawed

Aside from failing to adjust non-petition-based MRV fees to reflect costs, CA’s revenues exceeded set costs for MRV, PSS, and WHTI in FYs 2014 and 2015 because of its flawed methodology for determining the fee amounts. The factors considered by the COSM were costs, levels of effort, and workload volumes. Kearney reviewed the categories of cost inputs used for the FYs 2012 and 2013 COSMs²⁹ and found that CA had considered appropriate categories of costs as required by OMB Circular A-25, including salaries and benefits, rents and utilities, and other categories of direct and indirect costs. Although the COSM considered required cost categories, CA’s process does not sufficiently consider carry forward balances during the fee-setting stage.

Each year, CA has a significant amount of carry forward, unobligated funds³⁰ that may be available for use. At the beginning of FY 2017, CA had almost \$1.4 billion in unobligated funds

²⁹ The scope of Kearney’s work was the FYs 2014 and 2015 fees, which were set using the results of the FYs 2011, 2012, and 2013 COSMs. Kearney did not perform audit procedures for the results of the FY 2011 COSM because, according to CA, the results of the FY 2012 COSM were consistent with the 2011 results. See Appendix A: Purpose, Scope, and Methodology for additional details.

³⁰ OMB Circular A-11, “Preparation, Submission, and Execution of the Budget” (July 2016), defines unobligated balances as “the cumulative amount of budget authority that remains available for obligation under law in unexpired accounts.” Unobligated balances are funds available from year to year that have not otherwise been committed by contract or other legally binding action by the Government.

that were carried forward from prior years. According to CA officials, the carry forward balance is needed to fund consular operations during the first quarter of the next fiscal year (before substantial revenue is collected for the year), as well as to offset potential revenue deficits in future fiscal years. In addition, CA officials stated that the number of consular services requested during FY 2010 through FY 2015 (particularly in FYs 2014 and 2015) surged unexpectedly, which led to more revenue being collected than was expected. However, CA officials considered these years to be unrepresentative of the trend for consular services requests. CA officials stated that they expected a significant decrease in consular services requests in FY 2017 and FY 2018, which could lead to potential deficits of revenues when compared to costs.

The Government Accountability Office has issued guidance on user fees in a number of products, including *Federal User Fees: Fee Design Options and Implications for Managing Revenue Instability*.³¹ In this guidance, the Government Accountability Office states that:

When Congress provides an agency unlimited access to its fee collections (that is, makes the fee collections available until they are expended) agencies have greater flexibility and can carry over unobligated amounts to future fiscal years. This enables agencies to align fees and costs over a longer horizon and to better prepare for, and adjust to, fluctuations in collections and costs. Carrying over unobligated balances from year to year, if an agency has multi- or no-year fee collections, is one way a reserve can be established. Set aside or reserved funds can sustain operations in the event of a sharp downturn in collections or increase in costs.

Despite CA's claims that carry forward balances may be needed to cover unexpected deficits, CA did not have a documented plan to monitor its carry forward, unobligated balance until October 2016. In the October 2016 plan,³² CA acknowledges that it should set maximum carry forward amounts for future funding deficits and that carry forward balances should not exceed a reasonable amount deemed necessary for the needs of the program. However, the policy does not state what the maximum carry forward balance will be or provide guidance on how to calculate an acceptable amount of carry forward balance.

When Kearney discussed the significant carry forward balance with CA officials, they stated that CA intends to annually carry forward an unobligated fund balance equaling approximately 25 percent³³ of its estimated costs for the next fiscal year, which would allow CA to cover

³¹ GAO-13-820, September 2013.

³² CA, "Governance of Retained Consular Fee Resources."

³³ CA officials stated that CA did not document an analysis or justification for needing a 25-percent carry forward balance, and Kearney did not assess whether 25 percent was, in fact, an appropriate carry forward balance, as doing so was beyond the scope of the audit. The Government Accountability Office's report, *2016 Annual Report: Additional Opportunities to Reduce Fragmentation, Overlap, and Duplication and Achieve Other Financial Benefits* (GAO-16-375SP, April 2016), stated that CA exceeded its own target of 25 percent for unobligated balances carried forward. The Government Accountability Office's report did not critique the 25-percent target, only that the Department had exceeded this target in FY 2015.

expenses incurred during the first quarter of the fiscal year before significant revenues are earned. In addition, the officials stated that the carry forward amount would also offset any shortfalls in the anticipated demand for consular services. However, as shown in Table 5, Kearney found that CA continues to maintain carry forward balances of unobligated funds that exceed its target of 25 percent of anticipated costs.

Table 5: Percentage of Anticipated Costs Covered by Carry Forward Balances from FY 2013 through FY 2017

Fiscal Year	Anticipated Costs*	Unobligated Balance at the Beginning of the Fiscal Year	Percent
2013	\$2,641,347,000	\$1,043,419,662	39.5
2014	\$3,034,908,000	\$1,178,811,052	38.8
2015	\$3,352,937,000	\$1,324,341,824	39.5
2016	\$4,439,288,000	\$1,414,201,100	31.9
2017	\$4,430,521,000	\$1,391,372,781	31.4

* Kearney used anticipated cost figures from the Department's Congressional Budget Justifications, rather than actual expenses, because CA's 25-percent target is based on expected costs for the following fiscal year.

Source: Generated by Kearney from data obtained from the Global Financial Management System, CA, and the Department's Congressional Budget Justifications.

The extensive carry forward balances exist, in part, because CA does not have a sufficient process to analyze the net financial results of its operations over time to determine whether adjustments to the fee-setting methodology are needed. For example, if revenues significantly exceed costs over a period of several years, it is possible that estimates or assumptions in the COSM are inaccurate. Periodic analysis of long term financial results should be part of the fee-setting process. Although CA includes prior-year cost information in the COSM to develop unit costs for consular services, CA does not perform a routine comparison of total revenues and total expenses.

Kearney discussed this type of review with CA officials, who stated that they believed that the exercise would not add value to the overall fee-setting methodology because demand for consular services, and therefore revenues, are influenced by external factors. Although Kearney acknowledges that customer demand may be difficult to predict, without analysis of the long-term net financial results of operations, CA is neglecting a practice that could provide useful feedback on the model as well as inform decisions about appropriate fee levels. To ensure that a reasonable fee is calculated, CA needs to develop a process that, at a minimum, requires a review of carry forward balances for fees that it can retain and prior-year net financial results to determine if the fee-setting methodology needs adjustment.

Data Used in Fee-Setting Were Insufficient

OMB Circular A-25 requires that agencies maintain readily accessible records of the information used to establish surcharges and the specific methods used to determine user charges.³⁴ Moreover, the Government Accountability Office's *Standards for Internal Control in the Federal Government*³⁵ requires agencies to document significant events "in a manner that allows documentation to be readily available for examination." In addition, the standards state that management should obtain "relevant data from reliable internal and external sources" and such data should be "reliably free from error." The standards further state that management should evaluate both internal and external sources of data for reliability.³⁶ Kearney identified issues with the sufficiency of data used for the three factors considered by CA when developing a fee amount: cost, level of effort, and workload. These three factors affect the accuracy of the fee amounts calculated. CA did not have policies or procedures that require staff to maintain historical data or document methodologies used to calculate the fee. Furthermore, CA had not established a sufficient process to perform quality control activities related to the data.

Cost Inputs

One factor that CA considers when setting its fees is the cost of providing a consular service. Kearney analyzed the information in the FYs 2012, 2013, and 2015³⁷ COSMs and identified issues with the sufficiency of the cost data used by CA. For all three fees included in the audit, Kearney obtained CA cost information from the Global Financial Management System (GFMS), which is the Department's official accounting system, and found differences between the costs recorded in GFMS and the costs in the source financial information that CA used to populate the COSM (for FYs 2012 and 2013 the costs were higher in GFMS than in the source financial information, and for FY 2015 the costs in GFMS were lower than in the source financial information). Kearney also found that not all costs from CA's source financial information were entered into the COSM. Table 6 shows the differences identified in the 2015 cost data for the three fees audited.

³⁴ OMB Circular A-25, § 8(g).

³⁵ GAO-14-704G, September 2014.

³⁶ Government Accountability Office, *Standards for Internal Control in the Federal Government*, Sections 10.03, "Design of Appropriate Types of Control Activities," and 13.04, "Reliable Data from Reliable Sources."

³⁷ The scope of Kearney's work was FYs 2014 and 2015 fees, which were set using the results of the FYs 2011, 2012, and 2013 COSMs. Kearney did not perform audit procedures for the results of the FY 2011 COSM, because, according to CA, the results of the FY 2012 COSM corroborated the 2011 results. However, additional work was performed on the FY 2015 COSM, which was the model in place during audit fieldwork.

Table 6: Cost Data for Three Types of Consular Services – 2015 Cost of Service Model

Fee Type	CA Source Financial		
	COSM Input	Information	GFMS
WHTI	\$269,626,496	\$269,761,007	\$262,244,163
PSS	\$549,043,919	\$609,079,545	\$557,324,575
MRV	\$2,213,449,899	\$2,574,826,179	\$1,674,458,918

Source: Generated by Kearney from data obtained from GFMS and CA.

CA officials were unable to fully explain the variances in the cost data, and CA did not maintain documentation that described how the source financial information was manipulated for formatting and input into the COSM. CA officials attributed some of the variances to the fact that they used data from the Consular Affairs Budget Services system,³⁸ which according to officials from CA's Office of the Comptroller had not been finalized and did not contain data that had been reviewed. Officials in CA's Strategic Policy and Planning Division were unaware of the status of the Consular Affairs Budget Services system data until Kearney questioned the data during the audit.³⁹ In addition, Kearney found that some of the differences between the GFMS data and the source financial information were due to the fact that source financial information in the COSM included obligation⁴⁰ amounts as costs, although GFMS does not include obligations as costs. Although obligations represent transactions with anticipated payments required at some point in the future, agencies do not always disburse the entire amount of an obligation and, in some instances, may cancel an obligation entirely. As such, obligated amounts do not represent true costs within a given fiscal period.

CA officials were unable to explain why obligations were included as costs in the COSM or why they did not make adjustments for de-obligated or canceled amounts. Moreover, CA officials had not considered that by including obligation information, they were overstating costs. Although CA officials understood that obligations were not actual costs, they thought that obligations should be included because the funds would be expended at some point. However, they stated that they did not consider de-obligated or canceled amounts in the COSM.

In addition to differences in the data, Kearney found issues with the methodologies used to report some cost data. For example, other Department bureaus that contribute to the CBSP

³⁸ The Consular Affairs Budget Services system is CA's internally developed financial and budget record-keeping system. The system is intended to query financial data from GFMS and present it in a more understandable manner for various CA personnel who need financial information.

³⁹ As a result of the concerns raised during the audit, officials in CA's Strategic Policy and Planning Division stated that fees will not be adjusted on the basis of the FY 2015 COSM, and the cost input for the FY 2016 COSM will be taken from GFMS, not the Consular Affairs Budget Services system.

⁴⁰ According to the Department's Foreign Affairs Manual (4 FAM 087.1, "Definition of Obligations Incurred"), "Obligations incurred are defined as amounts of orders placed, contracts awarded, services rendered, and similar transactions during a given period that will require payments during the same or a future period." Obligations remain open until they are fully reduced by a disbursement, de-obligated by the agency, or exceed their period of availability.

mission, known as “partner bureaus,” receive funding from CA as an allotment.⁴¹ Kearney noted that for the FY 2015 COSM, CA input the total allotment amount as the costs related to the partner bureaus rather than using the bureaus’ actual costs. The bureaus’ actual costs are tracked and available in GFMS. Similar to obligations, an allotment does not necessarily reflect true costs because the allotment may not be spent in its entirety within a given fiscal year. According to CA officials, allotments were used because CA officials did not have GFMS access permission to view actual spending data related to CBSP for other bureaus. CA officials stated that they had requested read-only permission to view other bureaus’ CBSP spending from the Bureau of the Comptroller and Global Financial Management, who is responsible for GFMS, but they were not granted access.

Level-of-Effort Inputs

Another factor considered by CA when setting fees is the level of effort needed (that is, time spent) to provide a consular service. Kearney analyzed the information in the FYs 2012 and 2013 COSMs and identified issues with the sufficiency of the level-of-effort data used by CA. Specifically, Kearney found variances in the level-of-effort data when comparing figures entered in the COSM to the source information used by CA. For example, CA used a Summary Overseas Time Survey⁴² to determine overseas level of effort and Passport Agency Task Reports⁴³ to determine domestic level of effort. Kearney found that some figures from the Summary Overseas Time Survey had been changed when input in the COSM. CA officials were able to explain most of the variances. CA officials explained that they had changed certain information outside the original source file by entering average times for responses that were incomplete (rather than leaving items blank). However, CA did not maintain documentation to support the changes that were made.

Workload Volume Inputs

The final factor that CA considers when setting fees is the workload volume for each service (that is, the number of customer requests for a service). Kearney analyzed the information in the FYs 2012 and 2013 COSMs and was unable to confirm that the workload volumes entered were complete and accurate. CA populates workload counts in the COSM using information provided by CA’s Office of Consular Systems and Technology, which queries the information from various consular systems. Kearney compared the data used by CA to populate the COSM for passport and visa application workload counts to reports from the Travel Documents Issuance System

⁴¹ According to the Department’s Foreign Affairs Manual (4 FAM 221.1, “Department of State Funds”), “Allotment authority authorizes the recipient to issue advice of allotments for specific amounts and period(s). Advice of allotment authorizes an allottee to establish obligations and their subsequent liquidations within stated amounts and periods.”

⁴² The Summary Overseas Time Survey is a compilation of the results of individual Overseas Time Surveys sent to various overseas posts. CA sent individual Overseas Time Surveys to consular employees at overseas posts to determine how much time (that is, hours) was spent on various consular activities. The survey has since been replaced by another survey that queries level-of-effort information from overseas posts.

⁴³ Passport Agency Task Reports track the hours spent by all domestic passport operations personnel on various consular activities.

and Consular Consolidated Database, which were provided by CA's Office of Consular Systems and Technology. Kearney also compared the COSM workload counts to the Comptroller Workload Analytic, which is prepared by CA's Office of the Comptroller.⁴⁴ In comparing the workload volume counts, Kearney found variances among all three sources of information for all types of services reviewed. The workload counts varied from less than 1 percent to 34 percent. Kearney was unable to determine which of the sources, if any, contained accurate workload volume information that could be used to calculate consular fees.

The workload information provided by CA's Office of Consular Systems and Technology was generated from the consular systems on an ad hoc basis. Officials in CA's Strategic Policy and Planning Division stated that, although their workload volume requests may not have changed from one request to another, they have encountered instances where the queries of data from consular systems were modified. Despite CA officials knowing of previous issues with queries of workload information from consular systems, they have not implemented standard report templates or other quality control measures to check the data before it is entered in the COSM.

Policies and Procedures and Quality Control Measures

CA had some standard operating procedure documents that described the fee-setting process, including timelines for executing the COSM; however, these procedures were not sufficient because they did not require the staff to maintain historical data or to sufficiently document the methodology used to obtain and modify the data used in the COSM. Having historical data available is essential for assessing the accuracy and completeness of inputs into the COSM. In addition, without documented methodologies, CA officials would be unable to assess the validity and accuracy of the COSM. CA officials stated that CA had identified the lack of historical data as an issue during a May 2015 management controls review and that CA was in the process of remediating the issue. In addition, CA did not have quality control measures in place to ensure that data used for the fee-setting process were accurate and complete. Quality control measures could have identified the insufficient data. Further, because quality control measures were not sufficient, Kearney was unable to determine whether any data were manipulated inappropriately during the fee-setting process to support particular fee decisions.

Noncompliance With Office of Management and Budget Circular A-25

Because CA is not complying with the OMB Circular A-25 requirement to cover the full cost of services, CA cannot ensure that consular fees are reasonable. Consequently, both U.S. citizens and overseas visitors may be charged more than necessary for consular services rendered. Although Kearney is unable to assign a specific portion of the CBSP revenue collected in excess of costs in FYs 2014 and 2015 to the identified flaws in CA's methodology, at the beginning of

⁴⁴ The Comptroller Workload Analytic is an analysis conducted by officials from CA's Office of the Comptroller to compare consular revenues recognized in GFMS with consular services performed. The analytic contains workload information for passports and visas so that CA can develop revenue expectations. According to officials from CA's Office of the Comptroller, CA uses this analytic to monitor whether it needs to examine discrepancies between the amounts of services CA is providing and revenue earned.

FY 2017, the CBSP unobligated balance was almost \$1.4 billion. Annually, CA intends to carry 25 percent of its anticipated expenses in unobligated balances forward; however, the FY 2017 balance is 31.4 percent of expenses or \$284 million more than CA anticipated needing. CA should address the flaws in its methodology and remit the \$284 million to Treasury to be put to better use across the Federal Government for the benefit of the taxpayers.

Recommendation 4: OIG recommends that the Bureau of Consular Affairs conduct an analysis to determine and formally document in its procedures, a reasonable maximum threshold for carry forward balances for each consular fee. Carry forward balances should be adequately precise and adequately explained estimates of actual costs. This determination should consider known and anticipated Consular and Border Security Program costs.

Management Response: CA concurred with this recommendation with explanation, stating that it will work with the Department to “formalize guidance” regarding its carry forward balance “by further analyzing and formally documenting reasonable target carry forward balances for each consular fee based on appropriate factors.” It also stated that “[g]oing forward, CA will work to build a reserve into the MRV fee, consistent with A-25 principles, in order to ensure that CA can continuously provide the MRV service in the event of [non-immigrant visa] demand fluctuations. CA will evaluate building reserves into other fees as well so that adequate carry forward is available to ensure uninterrupted provision [of] all consular services.”

OIG Reply: OIG considers this recommendation resolved pending further action. This recommendation will be closed when OIG receives and accepts documentation demonstrating that CA performed an analysis to determine and has formally documented in its procedures a reasonable target carry forward balance for each consular fee. This determination should consider known and anticipated costs.

Recommendation 5: OIG recommends that the Bureau of Consular Affairs design, implement, and formally document a procedure to review prior-year net financial results annually to determine whether the fee-setting methodology should be adjusted. The procedure should include a process to determine the effect of excess revenue and carry forward balances on the fee levels.

Management Response: CA concurred with this recommendation with explanation, stating that it “will continue to enhance, implement, and formally document a procedure to review prior year net financial results annually, including the process used to determine the effect of excess revenue and carry forward balances on fee levels.”

OIG Reply: OIG considers this recommendation resolved pending further action, although OIG notes that, as set forth in the report, Kearney could identify no meaningful procedure regarding a review of prior-year net financial results that could be “continued.” This recommendation will be closed when OIG receives and accepts documentation demonstrating that CA has designed, implemented, and formally documented a procedure

to review financial results annually to determine whether the fee-setting methodology should be adjusted. The documented procedures should include a process to determine the effect of excess revenue and carry forward balances on the fee amounts.

Recommendation 6: OIG recommends that the Bureau of Consular Affairs remit unobligated balances that exceed the carry forward threshold (Recommendation 4), which OIG reported as \$284 million in funds that could be put to better use for FY 2017, to the Department of the Treasury.

Management Response: CA did not concur with this recommendation, stating that it believes that consular fees were established in accordance with statutory and regulatory authorities and, therefore, there is no requirement to remit the \$284 million to Treasury. CA further stated that "it is unclear what legal authority the Department would rely on to return fees to the Treasury, which Congress has explicitly authorized the Department to retain until expended."

OIG Reply: OIG considers this recommendation unresolved. CA's comment that Congress explicitly authorized the Department to retain the funds until expended assumes that the Department collected the funds in accordance with congressional authority. The report, however, shows that the Department collected fees above the levels authorized by Congress (that is, levels sufficient to cover the costs of rendering consular services), and therefore the Department is not permitted to "retain [those fees] until expended." Moreover, as reported, Kearney found that CA's fee-setting methodology was flawed because it did not consider carry forward balances during the fee setting process. During the audit, CA officials stated that the significant amount of funds that were available to CA may be needed in the future to cover unexpected deficits. However, CA did not have a plan for how these excess funds would be used. During the audit, CA officials also agreed with the report's conclusion that CA needed to establish a maximum amount of funds that it would carry forward. As a result, CA estimated the carry forward amount it needed to be 25 percent of estimated costs for the following year. On the basis of statements from CA officials, Kearney determined the amount of current carry forward funds that CA would not need, which was \$284 million.

Because CA stated that these funds exceeded what it needed to perform its work, these funds should be provided to Treasury so the U.S. Government can put them to better use. This recommendation will be resolved when CA agrees to remit carry forward balances in excess of the target established as part of Recommendation 4 to Treasury or explains that carry forward balances are no longer at a level exceeding that target. This recommendation will be closed when OIG receives and accepts documentation demonstrating that excess carry forward balances were remitted to Treasury or documentation evidencing that carry forward balances no longer exceed the target threshold established as part of Recommendation 4.

Recommendation 7: OIG recommends that the Bureau of Consular Affairs develop and implement policies and procedures that standardize the documentation used to determine

consular fees and develop retention guidance for the supporting documentation to ensure historical source files and other information supporting consular fee calculations are available. The policy and procedures should include guidance on documenting changes made to data before the data are entered into the Bureau of Consular Affairs Cost of Service Model.

Management Response: CA concurred with this recommendation, with explanation stating that it “will continue to enhance and implement policies and procedures to standardize documentation and retention guidance including with respect to documenting changes made to data before the data is entered into the COSM.”

OIG Reply: OIG considered this recommendation resolved pending further action. This recommendation will be closed when OIG receives and accepts documentation demonstrating that CA developed and implemented policies and procedures to standardize documentation and retention guidance.

Recommendation 8: OIG recommends that the Bureau of Consular Affairs develop and implement a quality control program to ensure data entered into the Cost of Service Model are complete and accurate. This program should include processes to validate data obtained from one source by comparing it to data maintained in other systems or databases.

Management Response: CA concurred with this recommendation with explanation, stating that it will “continue to expand on and improve” its quality control program to ensure data entered into the COSM are as complete and accurate as possible.

OIG Reply: OIG considers this recommendation resolved pending further action, although OIG notes that, as set forth in the report, Kearney concluded that there was no meaningful quality control program that could be “expanded” or “improved.” This recommendation will be closed when OIG receives and accepts documentation demonstrating that CA has developed and implemented a quality control program to ensure data entered into the COSM are complete and accurate. This program should include processes to validate data obtained from one source by comparing it to data maintained in other systems or databases.

Recommendation 9: OIG recommends that the Bureau of Consular Affairs develop standardized reports within the Travel Documents Issuance System and Consular Consolidated Database to ensure the complete, accurate, and consistent generation of workload counts related to providing consular services.

Management Response: CA concurred with this recommendation, stating that it “developed standardized reports for generation of workload counts” and “will continue to work with stakeholders to refine reporting mechanisms.”

OIG Reply: OIG considers this recommendation resolved pending further action. This recommendation will be closed when OIG receives and accepts documentation

demonstrating the development and implementation of standardized reports within the Travel Documents Issuance System and the Consular Consolidated Database to ensure the complete, accurate, and consistent generation of workload counts related to providing consular services.

Recommendation 10: OIG recommends that the Bureau of Consular Affairs develop and implement procedures to include only actual expenditures in the Cost of Service Model and eliminate non-expenditure items (such as obligations and allotments) from the cost inputs entered into the model.

Management Response: CA partially concurred with this recommendation, stating that it is "currently developing and improving procedures to ensure that, when possible, only actual expenditures are represented in the cost inputs used in the COSM, and to ensure that expenditures are not counted more than once." CA further noted that it "will work with partner bureaus to enhance tracking of CBSP-funded expenditures. Historically, CA has only used allotments when CA does not have access to actual expenditure data. This issue will be resolved when CA is granted the necessary financial system access noted in Recommendation 11. CA will explore the impact of using only actual expenditure data when calculating and predicting COSM unit costs and how [expenditure data] relates to cash flow."

OIG Reply: OIG considers this recommendation resolved pending further action. Although CA only partially concurred with the recommendation, OIG considers the planned steps sufficient to resolve the recommendation. For example, CA represents that it is working to develop and improve its procedures related to using actual expenditures, and CA stated that it will explore the impact of using only actual expenditure data when populating the COSM. This recommendation will be closed when OIG receives and accepts documentation demonstrating the development and implementation of procedures to include only actual expenditures in the COSM and the elimination of non-expenditure items.

Recommendation 11: OIG recommends that the Bureau of Consular Affairs, in coordination with the Bureau of the Comptroller and Global Financial Services, obtain read-only access within the Department's financial management system to all financial information related to the Consular and Border Security Program fund codes, including revenue and expenditure information from other Department of State bureaus.

Management Response: CA concurred with this recommendation, stating that "in December 2016, CGFS provided one CA employee with a temporary, expanded profile in GFMS's Data Warehouse." Further, CA stated that "global, read-only access in the GFMS system itself would facilitate timely retrieval of CBSP spending data. CA will work with partner bureaus to achieve a shared consensus on how the partner bureaus' program expenditures are linked to consular-related activities included in the COSM."

OIG Reply: OIG considers this recommendation resolved pending further action. This recommendation will be closed when OIG receives and accepts documentation

demonstrating that CA, in coordination with CGFS, has obtained read-only access within GFMS to all financial information related to CBSP fund codes, including information from other Department bureaus.

RECOMMENDATIONS

Recommendation 1: OIG recommends that the Bureau of Consular Affairs immediately set the fee amounts charged for Machine Readable Visas in accordance with Office of Management and Budget Circular A-25 and applicable fee statutes.

Recommendation 2: OIG recommends that the Bureau of Consular Affairs, in coordination with the Bureau of Budget and Planning, (a) propose legislative changes, as suggested by Office of Management and Budget Circular A-25, to allow it to retain all consular fees collected or (b) seek appropriated funds during the annual budgeting process for any projected funding shortfalls created by not being allowed to retain all consular fees collected.

Recommendation 3: OIG recommends that the Bureau of the Comptroller and Global Financial Services determine whether the Bureau of Consular Affairs violated the Antideficiency Act, 31 U.S. Code § 1341, for each year in which it spent funds from any fee collections in excess of cost, and report any violations as required by 31 U.S. Code § 1351 and in accordance with Office of Management and Budget Circular A-11, Section 145.

Recommendation 4: OIG recommends that the Bureau of Consular Affairs conduct an analysis to determine and formally document in its procedures, a reasonable maximum threshold for carry forward balances for each consular fee. Carry forward balances should be adequately precise and adequately explained estimates of actual costs. This determination should consider known and anticipated Consular and Border Security Program costs.

Recommendation 5: OIG recommends that the Bureau of Consular Affairs design, implement, and formally document a procedure to review prior-year net financial results annually to determine whether the fee-setting methodology should be adjusted. The procedure should include a process to determine the effect of excess revenue and carry forward balances on the fee levels.

Recommendation 6: OIG recommends that the Bureau of Consular Affairs remit unobligated balances that exceed the carry forward threshold (Recommendation 4), which OIG reported as \$284 million in funds that could be put to better use for FY 2017, to the Department of the Treasury.

Recommendation 7: OIG recommends that the Bureau of Consular Affairs develop and implement policies and procedures that standardize the documentation used to determine consular fees and develop retention guidance for the supporting documentation to ensure historical source files and other information supporting consular fee calculations are available. The policy and procedures should include guidance on documenting changes made to data before the data are entered into the Bureau of Consular Affairs Cost of Service Model.

Recommendation 8: OIG recommends that the Bureau of Consular Affairs develop and implement a quality control program to ensure data entered into the Cost of Service Model are

complete and accurate. This program should include processes to validate data obtained from one source by comparing it to data maintained in other systems or databases.

Recommendation 9: OIG recommends that the Bureau of Consular Affairs develop standardized reports within the Travel Documents Issuance System and Consular Consolidated Database to ensure the complete, accurate, and consistent generation of workload counts related to providing consular services.

Recommendation 10: OIG recommends that the Bureau of Consular Affairs develop and implement procedures to include only actual expenditures in the Cost of Service Model and eliminate non-expenditure items (such as obligations and allotments) from the cost inputs entered into the model.

Recommendation 11: OIG recommends that the Bureau of Consular Affairs, in coordination with the Bureau of the Comptroller and Global Financial Services, obtain read-only access within the Department's financial management system to all financial information related to the Consular and Border Security Program fund codes, including revenue and expenditure information from other Department of State bureaus.

APPENDIX A: PURPOSE, SCOPE, AND METHODOLOGY

The objective of this audit was to determine whether the Bureau of Consular Affairs (CA) recovers the full cost of selected consular services in accordance with Office of Management and Budget (OMB) Circular A-25, "User Charges." An external audit firm, Kearney & Company, P.C. (Kearney), acting on behalf of the Office of Inspector General (OIG), performed the audit.

Kearney conducted fieldwork for this performance audit from July 2016 to August 2017 in the Washington, DC, metropolitan area. Kearney conducted audit work in accordance with the Government Accountability Office's *Government Auditing Standards*, 2011 revision. These standards require that Kearney plan and perform the audit to obtain sufficient, appropriate audit evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. Kearney believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit evidence.

To obtain background information, Kearney researched and reviewed Federal laws and regulations, as well as prior OIG and Government Accountability Office reports. Kearney also reviewed the U.S. Code, the Federal Register, OMB Circulars, the Department of State's (Department) Foreign Affairs Manual and Foreign Affairs Handbook, the Department's Congressional Budget Justifications, and information available on the Department's intranet.

Kearney met with CA officials to gain an understanding of CA's operations related to the audited user fees—Western Hemisphere Travel Initiative (WHTI), Passport Security Services (PSS), and Machine Readable Visa (MRV)—including consular activities that are fee funded, financial and IT systems, fee-setting methodology, and operational and financial processes.

To draw conclusions regarding whether the in-scope fees were reasonable to cover all applicable costs required to sustain operations, Kearney attempted to obtain a complete and accurate picture of the financial results and assumptions used to determine the fee structure set in FYs 2012 and 2013, which set the fees for FYs 2014 and 2015.¹

Prior Reports

In August 2012, OIG reported² that it was unable to determine whether the Department was using border security funds for priority items because the Department's management structure for the Border Security Program was decentralized. In addition, OIG reported that the program-related roles and responsibilities were not clearly defined, funding decisions were not based on prioritization factors, and overall accomplishments were not being tracked. The Department also did not have sufficient guidance on the use of Border Security Program funds and did not have

¹ Fees for WHTI, PSS, and MRV for FYs 2014 and 2015 fees were set using the results of the FYs 2011, 2012, and 2013 COSMs. Kearney did not perform audit procedures for the results of the FY 2011 COSM because, according to CA, the results of the FY 2012 COSM corroborated the 2011 results.

² OIG, *Audit of Department of State Use of Consular Fees Collected in Support of the Border Security Program* (AUD-FM-12-39, August 2012).

an adequate process established to monitor Border Security Program expenditures. OIG also reported that some border security funds were used for items that were not in compliance with either CA's guidelines or other approved financial instructions.

Use of Computer-Processed Data

Cost Inputs

Kearney obtained details on consular fee revenues, expenses, and spending from the Global Financial Management System (GFMS). The Department has controls in place to ensure that the expenditures recorded in GFMS are accurate and complete. Kearney performed procedures to evaluate the accuracy and completeness of the information in GFMS during the audits of the Department's FY 2012 through FY 2015 financial statements and concluded that the data were sufficiently reliable.

Kearney attempted to reconcile FYs 2012 and 2013 expenditure information from the GFMS Data Warehouse³ to costs entered into the FYs 2012 and 2013 Cost of Service Model (COSM). CA leverages the information provided in the GFMS Spending Lines Reports.⁴ As reported in Finding A of this report, Kearney was unable to verify the completeness and accuracy of the cost data entered into the FYs 2012 and 2013 COSM. As an alternative analysis, Kearney reviewed supporting documentation and cost information related to the FY 2015 COSM.

Kearney reconciled the expenditure totals from the FY 2015 Spending Lines Reports for WHTI, PSS, and MRV to GFMS expense detail, using Department of the Treasury account symbols.⁵ On the basis of the results of the reconciliation, Kearney determined the Spending Lines Report data were sufficiently reliable for Kearney's use. As reported in Finding A of this report, Kearney noted that the spending information from GFMS Data Warehouse did not match the cost information that CA entered in the COSM.

Level-of-Effort Inputs

Kearney performed procedures to assess the completeness and accuracy of the level-of-effort inputs in the COSM. Specifically, Kearney obtained the Passport Agency Task Report and the Summary Overseas Time Survey, which are the source files for level-of-effort information for the COSM.

The Summary Overseas Time Survey is a compilation and summarization of the results of individual Overseas Time Surveys sent to various overseas posts. Kearney selected a sample of

³ GFMS Data Warehouse is a database used to create reports from the Department's financial records. All transactions recorded in the Department's GFMS are stored in Data Warehouse and can be accessed, queried, downloaded, and analyzed.

⁴ The Spending Lines Report shows a breakout of historical obligation and expenditure activity.

⁵ The Department of the Treasury account symbols represent (by agency and bureau) individual appropriations, receipts, and other fund accounts. All Department financial transactions have an associated Department of the Treasury account symbol.

individual surveys to assess whether the information from the individual surveys was compiled and summarized accurately and completely in the Summary Overseas Time Survey. Kearney did not find any issues in this testing (see the "Detailed Sampling Methodology" section for additional details).

Kearney then compared information from the Passport Agency Task Report and the Summary Overseas Time Survey to the actual inputs in the COSM. Kearney noted no issues with the Passport Agency Task Report inputs in the COSM. However, Kearney found that some figures had been changed from the Summary Overseas Time Survey in the COSM. CA officials stated that they had changed certain information outside the Summary Overseas Time Survey file by entering average times for responses that were incomplete (rather than leaving items blank). However, these changes were not reflected in the source summary file, nor did CA maintain other documentation to support the changes that were made, as reported in Finding A of this report.

Workload Volumes Inputs

Kearney performed procedures to ensure the completeness and accuracy of the workload counts that were entered in the COSM. Specifically, Kearney obtained passport and visa workload information from the Travel Documents Issuance System and the Consular Consolidated Database from CA's Office of Consular Systems and Technology. During the Department's annual financial statement audit, Kearney performed various procedures to ensure the completeness and accuracy of the passport and visa workload counts. Kearney did not identify any significant issues with these data and concluded they were sufficiently reliable for the purpose of this audit.

Kearney also obtained a workload analytic performed by CA's Office of the Comptroller as part of its internal control activities, which also presents workload counts for passport and visa services. Kearney compared the workload volumes provided in these sources (counts provided by CA's Office of Consular Systems and Technology from the Travel Documents Issuance System and the Consular Consolidated Database as well as counts from the workload analytic) to the workload volumes included in the FYs 2012 and 2013 COSMs. Kearney noted numerous discrepancies among the workload volumes in all three files. For every year reviewed, the workload volumes differed for each service among all three sources. Therefore, Kearney was unable to determine which workload volumes were complete and accurate for the purposes of the model. This issue is presented in Finding A of this report.

Model Calculations and Outputs

The COSM was created using an off-the-shelf software product that provides CA the platform to build a model specific to consular fees. For example, the software requires that the user assign level-of-effort inputs, which CA has defined as time spent on a multitude of consular-related activities.

Kearney tested the reasonableness of the software and the structure and calculations of the model by changing various COSM inputs and evaluating whether the effects of the changes on the outputs (that is, unit costs) met Kearney's expectation. For example, Kearney adjusted workload count inputs for passports and verified that the changes did not affect the unit costs for visas. To isolate the effects of the changes, Kearney only adjusted one area of input at a time before resetting the model to its original inputs. Kearney ran a total of 13 different scenarios. Through this test work, Kearney was able to conclude that the COSM software operation and model calculations were sufficient. However, as reported in Finding A of this report, because of its inability to validate data used in the model, Kearney is unable to determine whether data were inappropriately manipulated by CA during the fee-setting process to support particular fee decisions.

Work Related to Internal Controls

Kearney divided the overall audit objective into the three sub-objectives:

- Whether CA recovered the full cost of providing selected consular services, as required by OMB Circular A-25.
- Whether CA's fee-setting methodology was reasonable.
- What the financial effect was if CA's fee-setting methodology was not reasonable.

On the basis of information obtained during preliminary audit procedures, Kearney performed a risk assessment that identified audit risks within each sub-objective as well as controls in place to address those risks.

When Kearney identified key controls, it reviewed documentation and performed procedures to assess the design of the controls. When Kearney found CA designed controls properly, Kearney performed procedures to test the operating effectiveness of the controls. On the basis of the assessed level of risk for each audit sub-objective and the results of control testing, Kearney designed procedures that would enable it to obtain sufficient and appropriate evidence to address each audit sub-objective. In certain instances, these procedures required sampling (see the following Detailed Sampling Methodology section for additional information). Any significant internal control deficiencies noted during the audit are presented in the Audit Results section of this report.

Detailed Sampling Methodology

Kearney's sampling objectives were to determine (1) whether CA's financial data used in the COSM were complete and accurate for the purposes of determining WHTI, PSS, and MRV fees and (2) whether the level-of-effort input into CA's FY 2015 COSM was complete and accurate. Kearney obtained the universe of CA's WHTI, PSS, and MRV revenue and expenditure data, as well as detailed Spending Lines Reports, which CA used for inputs in the COSM, from GFMS Data Warehouse. For level-of-effort and workload volumes, Kearney obtained Overseas Time Surveys used to allocate personnel costs to consular fees.

Cost Inputs

From the universe of CA's FY 2015 WHTI, PSS, and MRV Spending Lines Reports, totaling \$2.5 billion, Kearney selected the 25 largest expenditures (approximately \$125.7 million) for testing. Specifically, Kearney reviewed the expenditures to determine whether the transactions in GFMS that were attributed to the Consular Border Security Program funds were actually related to consular activities. Kearney selected 6 WHTI expenditures totaling approximately \$18.8 million, 6 PSS expenditures totaling approximately \$18.5 million, and 13 MRV expenditures totaling approximately \$88.4 million. The tested transactions accounted for 5 percent of the total population. For each sampled expense transaction, Kearney obtained supporting documentation (such as contracts, receiving reports, and invoices) and reviewed the documentation to verify that it was related to consular activities supporting the Consular Border Security Program. Kearney did not note any instances in which the expenditures did not relate to consular activities. Kearney was able to conclude that the Consular Border Security Program expenditures entered in GFMS were appropriately related to consular activities. However, as reported in Finding A and in the "Use of Computer-Processed Data" section of this appendix, discrepancies were noted between the costs CA entered in the COSM, GFMS, and CA's source financial information.

Level-of-Effort Inputs

The Summary Overseas Time Survey for 2012 (used for the FYs 2012 and 2013 COSMs) was compiled using individual survey responses from the consular sections of 236 overseas posts. To evaluate whether the summary report was complete and accurate, Kearney selected a random sample of 15 (6 percent) source surveys for testing. Kearney was able to verify that the summary report was supported by the original individual surveys submitted by posts without exception. However, as reported in Finding A, discrepancies were noted between the Summary Overseas Time Survey and the inputs in the COSM.

APPENDIX B: BUREAU OF CONSULAR AFFAIRS RESPONSE



United States Department of State

Washington, D.C. 20520

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August 2, 2017

INFORMATION MEMO FOR NORMAN P. BROWN - OIG/AUD

FROM: CA – Edward J. Ramotowski 

SUBJECT: Response to *Audit of the Bureau of Consular Affairs Fee-Setting Methodology for Selected Consular Services*

Thank you for the opportunity to review the OIG's report on its inspection of the Bureau of Consular Affairs (CA). We have reviewed the recommendations and provided responses below.

Recommendation 1: *OIG recommends that the Bureau of Consular Affairs immediately set the fee amounts charged for Machine Readable Visas in accordance with Office of Management and Budget Circular A-25 and applicable fee statutes.*

CA Response: CA concurs with this recommendation with explanation. CA has incorporated lessons learned and will implement a majority of the OIG's recommendations in the 2016 Cost of Service Model (CoSM) and fee setting recommendation process. CA also will continue to consider legislative changes as suggested in recommendation two. CA will recommend new Machine Readable Visa (MRV) fees in the next few months based on these updates and improvements, and will continue to be consistent with OMB Circular A-25 and applicable fee statutes. However, CA would like to highlight several areas of disagreement with the assumptions and facts related to this recommendation while concurring with the recommendation itself. Further, CA would also like to take this opportunity to reiterate several areas of concern about the findings pursuant to this recommendation.

First, the report's comparison of revenue and cost figures to conclude that CA recovered more than the full cost of providing consular services is misleading. The report recognizes that it is not possible to achieve perfect parity between annual revenue and costs, and yet proceeds with applying an inaccurate methodology to draw conclusions that such perfect parity is feasible. We consider this an impractical standard, which no fee-funded program could realistically achieve. However, the issue with relying on a comparison of cost to revenue goes beyond the question of whether it is possible to set fees in a way that results in revenue exactly equaling costs.

Revenue collected is based on actual demand, whereas the fees generating revenue in a particular year are calculated based on unit costs from a CoSM at least one to two years prior, due to the lag caused by the underlying analysis and rulemaking process. For example, FY 2014 MRV fees were calculated based on unit costs from the FY 2012 CoSM, which used data from FY 2010-2012 and predictions about FY 2013-2014 to calculate unit costs. While CA uses best practices

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to predict costs and demand, it is inevitable that actual costs, demand, and other factors will change between the time the CoSM is completed and the year in which revenue from fees based on that CoSM is collected. Therefore, revenues exceeding costs are not necessarily reflective of problems with the CoSM, but may instead simply reflect unexpected changes in demand or costs. For example, a surge in foreign travel to the U.S. would increase visa workload and revenues relative to the CoSM assumptions two years prior.

Comparing current year revenue to current year cost is not relevant as previously explained because the cost and volume for revenue and cost in the same year is based on different data sets. Therefore, the comparison reflected in Table 3 of the report appears to be based on incorrect or misleading numbers, including fee levels not set by the CoSM. The report references collected revenues in FY 2014 and 2015 of \$3.7 billion and \$4.1 billion, respectively. However, these revenue figures include \$43 million and \$59 million in FY 2014 and FY 2015 respectively from nonimmigrant visa (NIV) reciprocity fees and NIV surcharges. These fees and surcharges are set by law on a basis other than cost and therefore no costs associated with these fees are included in the CoSM. Any revenue from these fees should be removed from the revenue figure for the purpose of comparing revenue to costs. Further, OIG used \$3.3 billion for FY 2015 costs but the FY 2015 model costs were \$3.6 billion.

While correction of these inaccuracies would not change the fact that revenues exceeded costs in FY 2014 (although by a lesser extent than indicated in the report), the unexpectedly high revenue in these years is attributable to factors unknowable to the Department at the time it set fees in 2011-2012, such as increased visa demand due to economic factors and changes in visa policy with respect to China. Unpredictable changes in demand can also result in unexpectedly low revenue. As evidence of this, flattening visa demand in FY 2017 is resulting in a period in which CA's revenue is barely exceeding costs.

For the above reasons, a current year revenue-cost comparison should not be used as a basis to conclude that CA failed to comply with Circular A-25 and applicable fee statutes. A more appropriate standard would be to assess the CoSM using the data available at the time it was developed.

Second, CA disagrees with the figures used in Table 4, on which OIG bases its conclusion that consular fees collected inappropriately exceeded costs. The OIG specifically cites a \$20 difference in NIV unit costs in 2015 versus collections, which is the result of the interim 2015 report. The data OIG should use is based off of the final 2015 unit cost report. The final 2015 unit cost report used in CA's CoSM fee recommendation calculations reads as follows:

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Non-Immigrant Visas (NIVs) Adjusted Unit Cost for Fee-Setting	Average FY 2015 Budgeting Model Unit Cost	Average FY 2014 Full Model Unit Cost
Other Non-Petition-Based NIV	\$ 149.42	\$ 147.40
H/L/O/P/Q/R NIV	\$ 208.64	\$ 229.13
K NIV	\$ 515.42	\$ 589.78
E NIV	\$ 308.17	\$ 427.81

Therefore, the table of MRV fee and CoSM unit costs should read:

Model Year				
Non-Petition-Based NIV	2012	2013	2014	2015
Raw Unit Costs	\$ 153	\$ 142	\$ 144	\$ 146
Offsets and Surcharges	\$ 3	\$ 3	\$ 3	\$ 3
Total Unit Costs	\$ 156	\$ 145	\$ 147	\$ 149
Fiscal Year Fee Went into Effect				
Fee	\$160			

Each model year is a weighted average of all years in the model. For FY 2014, this included 2012, 2013, 2014, projected 2015 and projected 2016. The difference between total unit costs and the consular fee in FY 2015 is \$11, not \$20 as stated in the table in the Report.

While CA plans to adjust the MRV fee based on the FY 2016 model results to ensure the fee accurately reflects costs, CA does not believe that maintaining the fee at \$160 from FY 2012-FY 2015 was unreasonable, nor contrary to OMB guidance or applicable fee statutes. For example, costs in FY 2012 were almost \$160. While costs declined in the FY 2013 model, inputs at the time suggested costs would go back up. Had CA immediately adjusted the fee to \$145 based on the FY 2013 model, it would not have had enough revenue in 2015, when unit costs went up to \$149, to sustain operations. While carry forward may be used to cover shortages when costs exceed the fee collected, CA still has to be able to compensate for demand fluctuations in the short term, which may also deplete carry forward available. Reducing the fee in 2013 would have resulted in a net loss with fee below costs as shown in the years following. Customer service is a priority to CA, and ensuring sufficient cash flow to provide continuous, high quality service is critical to our mission.

The report states that the Department made changes to reflect even the smallest cost changes in other fees, citing as examples the minor border crossing card (BCC) fee, the passport security surcharge, and the Western Hemisphere Travel Initiative (WHTI) surcharge for a minor passport book. However, these fee changes are not comparable and thus should not be used to suggest the Department should have changed the MRV fee to reflect even the smallest cost differences. The minor BCC fee is set at the amount of \$13 by law (Pub. L. 105-277); therefore, anytime a new surcharge is added by law, as in 2014 with the imposition of a new Special Immigrant Visa surcharge (Pub. L. 113-160), the fee must be changed. The minor WHTI surcharge was changed by \$2 because when CA made \$20 adjustments in the passport application fee and passport

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security surcharge in 2014, CA decided to decrease the portion of the minor passport fee attributable to the WHTI surcharge in keeping with its longstanding policy of maintaining a reduced passport application fee for minors, as explained in the federal register notice implementing the fee change. See 80 F.R. 53706.

The report notes that the period of time during which the MRV fee was unchanged coincided with the time period during which CA no longer received appropriated funds. CA maintains that the two events are unrelated, and emphasizes that non-MRV costs are not included in the CoSM used to determine the MRV fee recommendation. While CA does not disagree that MRV revenue funds some critical non-MRV services, this funding is consistent with the statutory expenditure authority, which authorizes the Department to use MRV fees to fund costs of providing consular service (8 U.S.C. 1713(d); 8 U.S.C. 1351). In the meantime, recognizing that using MRV fees to fund non-MRV services was unsustainable, CA and the Department consistently advocated for legislative changes to enable it to better align revenue and costs.

***Recommendation 2:** OIG recommends that the Bureau of Consular Affairs (a) propose legislative changes, as suggested by Office of Management and Budget Circular A-25, to allow it to retain all consular fees collected or (b) seek appropriated funds during the annual budgeting process for any projected funding shortfalls created by not being allowed to retain all consular fees collected.*

CA Response: CA concurs with this recommendation. CA and the Department have put forward legislative proposals to increase fee retention authority and broadened expenditure authority for certain fees every year since 2009. CA and the Department will continue to consider legislative changes to create a sustainable model for consular fee retention. CA will recalculate projected revenue and will begin seeking appropriated funds as necessary during the annual budgeting process for projected funding shortfalls.

***Recommendation 4:** OIG recommends that the Bureau of Consular Affairs conduct an analysis to determine and formally document in its procedures, a reasonable maximum threshold for carry forward balances for each consular fee. Carry forward balances should be adequately precise and adequately explained estimates of actual costs. This determination should consider known and anticipated Consular and Border Security Program costs.*

CA Response: CA concurs with this recommendation with explanation. CA previously articulated an ideal carry forward balance of 25 percent. CA will work with the Department to formalize this guidance by further analyzing and formally documenting reasonable target carry forward balances for each consular fee based on appropriate factors.

CA would like to highlight areas of disagreement with assumptions related to this recommendation, while concurring with the recommendation itself. CA would also like to take this opportunity to directly address areas of concern in the report related to this recommendation. The statement “[a]ccording to CA officials, the carry forward balance *may* be needed to fund

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consular operations during the first quarter of the next fiscal year” (emphasis added) underplays the importance of carry forward funds to CA’s operations. Without carry forward funds, CA would not be able to pay its bills in the first quarter of the fiscal year and thus provide uninterrupted services. The Consular and Border Security Program operates entirely from collected revenues and does not have the authority to obligate funds based on anticipated collections. Therefore, beginning the fiscal year with an available balance of revenue is not just something that “may” be needed, but rather is an essential part of our operation.

The report states that CA’s process did not sufficiently consider carry forward balances during the fee-setting process. CA would like to clarify that while the Cost of Service Model does not currently include carry forward, CA and the Department did and continues to analyze current and projected carry forward in the fee recommendation process. For example, in 2011 and 2012, CA/C conducted in-depth analysis of carry forward based on 2010 and 2011 revenues and noted at the time that a portion of that carryover was due to limitations imposed by certain fee expenditure authorities. CA’s current policy is to maintain a carry forward at or around 25 percent, and CA has shown consistent movement towards that goal since 2014, unforeseen world circumstances affecting volume notwithstanding. Table 6 - Percentage of Anticipated Costs Covered by Carry Forward Balances from FY 2013 through FY 2017 - does not include FY 2018 and FY 2019. Under current assumptions of a negative 3 percent growth for NIV workload in FY 2017, CA is projecting a carry forward percentage significantly lower than 25 percent for FY 2018.

Going forward, CA will work to build a reserve into the MRV fee, consistent with A-25 principles, in order to ensure that CA can continuously provide the MRV service in the event of NIV demand fluctuations. CA will evaluate building reserves into other fees as well so that adequate carry forward is available to ensure uninterrupted provision all consular services.

***Recommendation 5:** OIG recommends that the Bureau of Consular Affairs design, implement, and formally document a procedure to review prior-year net financial results annually to determine whether the fee-setting methodology should be adjusted. The procedure should include a process to determine the effect of excess revenue and carry forward balances on the fee levels.*

CA Response: CA concurs with this recommendation with explanation. In coordination with the Department, CA will continue to enhance, implement, and formally document a procedure to review prior year net financial results annually, including the process used to determine the effect of excess revenue and carry forward balances on the fee levels.

CA would like to highlight areas of disagreement with assumptions related to this recommendation while concurring with the recommendation itself. CA would also like to take this opportunity to directly address areas of concern in the report related to this recommendation. The report incorrectly suggests that CA is not currently analyzing the long-term net financial results of operations and using such analysis to provide feedback on the model and inform fee

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decisions. CA currently reviews prior-year net financial results annually to determine whether fees should be adjusted. CA routinely reviews future estimated revenues and expenses, and CA regularly re-evaluates customer demand, including by working to project and anticipate external influences on workload (recognizing that many global events impacting demand for consular services are impossible to predict). Steadily decreasing carry forward reductions each year is evidence of CA and the Department analyzing the long term net financial results of operations.

Recommendation 6: *OIG recommends that the Bureau of Consular Affairs remit unobligated balances that exceed the carry forward threshold (Recommendation 4), which OIG reported as \$284 million in funds that could be put to better use for FY 2017, to the Department of the Treasury.*

CA Response: CA does not concur with this recommendation. As described above, CA has established consular fees in accordance with the relevant statutory and regulatory authorities. Having established those fees consistent with those authorities, the Department does not agree that fee revenue in excess of targeted carry forward levels must be returned to the Treasury as a miscellaneous receipt. An agency may retain moneys it receives if it has statutory authority to do so. Here, statutory authorities permit the Department to retain certain consular fees. There is no cap on the amount of those fees authorized to be retained by the Department, nor any statutory requirement that any fees in excess of a certain amount of carry forward be remitted to the Treasury. Further, the applicable statutory authorities make those retained fees “no year funds” which remain available until expended. Unless canceled in accordance with 31 U.S.C. § 1555 or rescinded by another law, there are no time limits as to when no-year funds may be obligated and expended and the funds remain available for their original purposes until expended. As such, it is unclear what legal authority the Department would rely on to return fees to the Treasury which Congress has explicitly authorized the Department to retain until expended.

CA also notes the problematic operational impact of this recommendation. A remittance of \$284 million in FY 2017 would reduce overall carry forward in FY 2017 well below the 25 percent threshold given the downward trend in visa demand over the last year and a half. This could result in CA being unable to pay some of its bills in the first quarter of FY 2018. In the absence of adequate fee revenue, the Department would be forced to reduce consular services, thereby undercutting CA’s ability to timely conduct the secure vetting and adjudication of visa and passport applications. No appropriated funds for these consular services were included in the Administration’s FY 2018 budget request.

Recommendation 7: *OIG recommends that the Bureau of Consular Affairs develop and implement policies and procedures that standardize the documentation used to determine consular fees and develop retention guidance for the supporting documentation to ensure historical source files and other information supporting consular fee calculations are available.*

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The policy and procedures should include guidance on documenting changes made to data before the data are entered into the Bureau of Consular Affairs Cost of Service Model.

CA Response: CA concurs with this recommendation with explanation. CA will continue to enhance and implement policies and procedures to standardize documentation and retention guidance including with respect to documenting changes made to data before the data is entered into the CoSM.

CA would like to highlight areas of disagreement with assumptions related to this recommendation while concurring with the recommendation itself. Further, CA would also like to take this opportunity to directly address areas of concern in the report related to this recommendation.

CA would like to clarify that CA does currently maintain historical source files and other information supporting consular fee calculations. CA requires staff to maintain historical data and documentation that supports methodology to calculate fee and store historic data and notes in a cloud-based database, documenting changes in data and methodology from year to year. CA does not alter or revise CoSM data without notes. For example, when CA entered costs into the model at an individual post, prior to 2015, each post needed a specific resource driver to drive the costs to the activities. For posts with no response, we used the average response by region by post size for the same region and size as the missing post. This method was thoroughly documented and stored on the CoSM's cloud-based database.

Recommendation 8: *OIG recommends that the Bureau of Consular Affairs develop and implement a quality control program to ensure data entered into the Cost of Service Model are complete and accurate. This program should include processes to validate data obtained from one source by comparing it to data maintained in other systems or databases.*

CA Response: CA concurs with this recommendation with explanation. CA will continue to expand on and improve our quality control program to ensure data entered into the CoSM is as complete and accurate as possible.

CA would like to highlight areas of disagreement with assumptions related to this recommendation while concurring with the recommendation itself. CA would also like to take this opportunity to directly address areas of concern in the report related to this recommendation.

CA would like to clarify that while we perpetually aim to improve this process, CA already has safeguards and checks in place to ensure the quality of data entered into the CoSM. The CoSM program currently validates system data with stakeholders and compares data obtained from one source with other systems or databases where possible.

Related to this recommendation, the report states that data used in fee-setting was insufficient. For example, the report notes variances among three sources of information used to determine

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workload volume counts. We note with concern that the OIG has not shared the data underlying this finding. CA does not view such variances as evidence of insufficient data used in fee-setting because the workload counts need to align to specific activities for costing purposes. CoSM uses receipts, workload, application, and refusals to drive different activities to account for entire level of effort while others may only require one specific workload category. Without the data request parameters we do not know that the OIG's data and CoSM team's data are comparable.

Recommendation 9: *OIG recommends that the Bureau of Consular Affairs develop standardized reports within the Travel Documents Issuance System and Consular Consolidated Database to ensure the complete, accurate, and consistent generation of workload counts related to providing consular services.*

CA Response: CA concurs with this recommendation. CA has developed standardized reports for generation of workload counts. CA will continue to work with stakeholders to refine reporting mechanisms.

Recommendation 10: *OIG recommends that the Bureau of Consular Affairs develop and implement procedures to include only actual expenditures in the Cost of Service Model and eliminate non-expenditure items (such as obligations and allotments) from the cost inputs entered into the model.*

CA Response: CA partially concurs with this recommendation. CA is currently developing and improving procedures to ensure that, when possible, only actual expenditures are represented in the cost inputs used in the CoSM, and to ensure that expenditures are not counted more than once. In most cases, CA does utilize standard spending line reports out of the Department's financial system that already incorporates expenditure (rather than obligation) data into the cost model. There are exceptions, in cases for which the obligation-level data is tracked with greater fidelity as applicable to the CoSM. CA will work with partner bureaus to enhance tracking of CBSP-funded expenditures. Historically, CA has only used allotments where CA does not have access to actual expenditure data. This issue will be resolved when CA is granted the necessary financial system access noted in Recommendation 11. CA will explore the impact of using only actual expenditure data when calculating and predicting CoSM unit costs and how it relates to cash flow.

Recommendation 11: *OIG recommends that the Bureau of Consular Affairs, in coordination with the Bureau of the Comptroller and Global Financial Services, obtain read-only access within the Department's financial management system to all financial information related to the Consular and Border Security Program fund codes, including revenue and expenditure information from other Department of State bureaus.*

CA Response: CA concurs with this recommendation. In order to fulfill CA's requirement to comprehensively monitor use of CBSP funds through read access to other Department bureau financial activity, CA previously sought access to CGFS' financial management system. In

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December 2016, CGFS provided one CA employee with a temporary, expanded profile in GFMS's Data Warehouse (DW) report module. CA appreciates the assistance received from CGFS staff during these periods in providing reporting access. CA fully concurs that global, read-only access in the GFMS system itself would facilitate timely retrieval of CBSP spending data. CA will work with partner bureaus to achieve a shared consensus on how their program expenditures are linked to consular-related activities included in the CoSM.

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Approved: CA: ERamotowski ~~(CA)~~

Drafted: CA/C/SPPD: Stacy Pickard, IVG 8-921-7295

Cleared: CA: JEchard (ok)
CA/C: RArndt (ok)
CA/C/FMD: RGreen (ok)
CA/C/PPOD: BWalsh (ok)
CA/C/SPPD: TCarr (ok)
CA/R: DBenning, acting (ok)
L/CA: CPeters (ok)
BP: DPitkin (ok)
BP: LCook (ok)

CA Tracking No: T1321-17

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APPENDIX C: BUREAU OF THE COMPTROLLER AND GLOBAL FINANCIAL SERVICES RESPONSE



United States Department of State
Comptroller
Washington, DC 20520
AUG 02 2017

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MEMORANDUM

TO: .OIG – Steve A. Linick

FROM: CGFS – Christopher H. Flaggs *CH Flaggs*

SUBJECT: Draft Audit of the Bureau of Consular Affairs Fee-Setting
Methodology for Selected Consular Services AUD-FM-17-XX , July
2017

The Bureau of the Comptroller and Global Financial Services (CGFS) appreciates the opportunity to provide comments on the Inspector General's Audit of the Bureau of Consular Affairs Fee-Setting Methodology for Selected Consular Services report.

Recommendation 3: “The Bureau of the Comptroller and Global Financial Services determine whether the Bureau of Consular Affairs violated the Anti-deficiency Act, 31 U.S. Code § 1341, for each year in which it spent funds from any fee collections in excess of cost, and report any violations as required by 31 U.S. Code § 1351 and in accordance with Office of Management and Budget Circular A-11, Section 145.”

Response: CGFS notes that consular fees established in accordance with the relevant statutory and regulatory authorities would not raise augmentation or anti-deficiency act concerns, even if the fee collections in any given year are in excess of total actual costs for that year. Notwithstanding, CGFS will work with the Bureau of Consular Affairs to examine their cost-of-services models estimates for Consular and Border Security Program cost-recovery purposes, including MRV fees, for the years indicated in the Report, taking into account (but not limited to): (1) the various estimation and external factors that can affect the timing and pattern of spending and actual fee collections including revenue instability; (2) time lags caused by the rulemaking process; (3) the difficulties in setting fees in a way that results in revenue exactly equaling costs; and (4) operational needs for maintaining a reserve to address near term cost of operations and/or any sudden or

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temporary fluctuations in collections and/or costs. CGFS will then determine any next step actions, if any, consistent with this recommendation.

The operational point of contact is Paul McVicker. He may be reached by email at mcvickerpj@state.gov or by phone at (843) 202-3858.

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APPENDIX D: SUMMARIES OF AND REPLIES TO COMMENTS PROVIDED BY THE BUREAU OF CONSULAR AFFAIRS

In addition to direct responses to Office of Inspection General (OIG) recommendations, the Bureau of Consular Affairs (CA) provided general comments and “explanations” related to the draft of this report (CA’s comments in their entirety are in Appendix B). A summary of CA’s general comments and a reply from Kearney & Company, P.C. (Kearney), are presented below. Kearney did not attempt to address every issue raised by CA. More generally, Kearney has not reiterated analysis that is fully set forth in the report itself. Except for removing one example as described below, Kearney has made no substantive changes to the report on the basis of these comments.

CA Comment: CA’s response stated that “the report’s comparison of revenue and cost figures to conclude that CA recovered more than the full cost of providing consular services is misleading. The report recognizes that it is not possible to achieve perfect parity between annual revenue and costs, and yet proceeds with applying an inaccurate methodology to draw conclusions that such perfect parity is feasible. We consider this an impractical standard, which no fee-funded program could realistically achieve.”

Kearney Reply: As stated in the Audit Results section of this report, Kearney acknowledges that as with any fee that is based on estimates, a “degree of imprecision” in setting the fee exists, and it would be reasonable to see fiscal periods in which the amount collected exceeded costs or fiscal periods in which the amount collected was less than costs. Kearney also agrees that factors such as unexpected revenue surges and the imprecision of estimating costs years in advance make it difficult for an organization to set fees to ensure revenues equal expenses in a 1-year window. However, as described in the Audit Results section of the report, some of the revenue collected in excess of costs during the 2 year period audited was unallowable because it resulted from aspects of the fee-setting methodology that did not comply with the Office of Management and Budget’s (OMB) Circular A-25.¹

Furthermore, a trend in which revenue significantly exceeds costs for several years is indicative of systemic issues in the fee-setting methodology that go beyond unexpected surges in demand. Comparing revenue to expenses is not an inaccurate methodology, and CA itself should regularly compare revenue to expenses to refine its fee-setting methodology.

Kearney did not suggest that CA should achieve perfect parity between revenue and expenses. In fact, Kearney was clear that parity is not achievable. However, if CA had established a fee-setting methodology that complied with OMB Circular A-25 and fee statutes, Kearney believes that the long-term financial data would have reflected a smaller difference between revenue and costs over time. For example, in some years revenue may have exceeded costs, and, in other years, costs may have exceeded revenue. That is, over a longer period, had CA used an

¹ OMB Circular A-25, “User Fees,” July 8, 1993.

appropriate methodology, the total amount of revenue and the total amount of costs would be more closely aligned than actually occurred.

CA Comment: In summary, CA contends that it uses best practices to predict costs and demand but stated that it is inevitable that actual costs, demand, and other factors will change between the time the cost of service model (COSM) is completed and the year in which revenue from fees based on that COSM is collected. Therefore, CA stated that the fact that revenue exceeded costs does not necessarily reflect problems with the COSM but may instead simply reflect unexpected changes in demand or costs. For example, a surge in foreign travel to the United States would increase visa workload and revenues relative to the COSM assumptions 2 years prior.

Kearney Reply: Although Kearney agrees that some differences in actual revenues and costs are inevitable because of the nature of the fee-setting methodology, an effective methodology will even out these differences over time. That is, revenue may exceed costs some years and costs may exceed revenues in other years. Excess revenue from "good" years should be used to fund deficits that occur during years when expenses exceed revenue (that is, in fact, a large part of the rationale for allowing carry forward balances). Revenues that consistently exceed costs is indicative of a flawed methodology for estimating future costs and workloads and therefore a flawed fee-setting methodology.

CA Comment: CA stated that "comparing current year revenue to current year cost is not relevant" because the "cost and volume for revenue and cost in the same year is based on different data sets." Therefore, CA contends, the comparison in the Audit Results section of this report "appears to be based on incorrect or misleading numbers, including fee levels not set by the COSM."

Kearney Reply: Kearney disagrees with CA's position that comparing actual revenue to actual costs for a given year or time period is irrelevant. The consular fee-setting methodology aims to set consular fees based on the best possible estimate of current and future costs and demand at the time fees are set. For example, in part of its written response, CA states that "FY 2014 [Machine Readable Visa (MRV)] fees were calculated based on unit costs from the FY 2012 COSM, which used data from FY 2010-2012 and predictions about FY 2013-2014 to calculate unit costs." Kearney recognizes that there will inevitably be differences between what CA used as the "predicted" and actual costs and demands in those future years, which will lead to differences in actual revenue and cost from year-to-year. Over time, however, Kearney would expect to see these differences even out. This did not occur in practice, and, for the 2 years Kearney compared (FY 2014 and 2015), the revenue exceeded costs by a total of \$1,228,478,718. Examining actual revenue and costs in retrospect is an important tool for calibrating the accuracy of the COSM and the data are used in this system. For example, as previously mentioned, if retrospective analyses of revenues and costs reveal that revenue consistently exceeds costs, this suggests that changes should be made to either the model or the data in the model. Kearney disagrees that the information in the Audit Results section of the report is incorrect or misleading. Kearney included accurate information on actual revenue and costs in the report.

CA Comment: CA further stated that unpredictable changes in demand can result in unexpected revenue levels. Because of this and other reasons, CA believes that a comparison of current year revenue and costs should not be used as a basis to conclude that CA failed to comply with OMB Circular A-25 and applicable fee statutes. CA believes that a more appropriate standard would be to assess the data available at the time each COSM was developed.

Kearney Reply: Kearney agrees that unpredictable changes can result in unexpected amounts of revenue. As noted, as with any fee that is based on estimates, a degree of imprecision in setting the fee exists. Factors, such as unexpected revenue surges and the imprecision of estimating costs years in advance, make it difficult for an organization to set fees to ensure revenue equals expenses in a 1-year window. However, Kearney disagrees that comparing the actual results is an unreasonable methodology to assess compliance with OMB Circular A-25 and fee statutes. In fact, as noted, looking at actual revenue and costs in retrospect is an important tool for calibrating the accuracy of the COSM and the data that are used in the system. For example, as previously mentioned, Kearney's retrospective analyses of revenues and costs revealed that revenue consistently exceeded costs and that carry forward balances were not considered by CA during the fee setting process; accordingly, it is reasonable to conclude that CA did not comply with OMB Circular A-25 or the fee statutes. Kearney encourages CA to begin considering actual results to improve its fee-setting methodology.

CA Comment: CA stated that the revenue included in the Audit Results section of this report included revenue related to nonimmigrant visa reciprocity fees and surcharges. According to CA, "these fees are set by law on a basis other than cost and therefore no costs associated with these fees are included in the COSM." CA believes that "any revenue from these fees should be removed for the purposes of comparing revenue to costs."

Kearney Reply: Kearney understands that some fees are established by law rather than on the basis of the COSM, but assessing the overall revenue and costs for consular fees in general is a reasonable method to determine whether fees overall exceeded costs. In any event, because the costs and revenue for all fees are included in the assessment, shown in Table 3 in the Audit Results section of this report, removing the revenue and costs for two small fees would not have an impact on the overall conclusions drawn in the report.

CA Comment: CA stated that OIG used \$3.3 billion for FY 2015 costs but the FY 2015 model costs were \$3.6 billion.

Kearney Reply: As stated in the Audit Results section of this report, Kearney identified flaws with the sufficiency of the cost data used by CA. For all three fees included in the audit, Kearney obtained CA cost information from the Global Financial Management System (GFMS), which is the Department of State's (Department) official accounting system, and found differences between the costs recorded in GFMS and the costs in the source financial information that CA used to populate the COSM. For FY 2015, the costs in GFMS were lower than in the source

financial information. Table 6 in the Audit Results section of this report shows the differences identified in the 2015 cost data for the three fees audited. CA was unable to sufficiently explain or reconcile the differences between the costs identified in the financial management system and the costs used in the COSM. Kearney accordingly elected to use information from the Department's official financial system as the basis for its comparison, because it considered the data in GFMS to be more reliable than the information used by CA in the COSM.

CA Comment: CA disagreed with the figures used in Table 4 in the Audit Results section of this report, which Kearney used to base its conclusion that consular fees collected inappropriately exceeded costs. CA stated that the report cited a \$20 difference in the non-petition-based MRV unit cost (that is, \$140) and the fee charged (that is, \$160) in 2015. CA stated that the information on the unit cost used in the report was from an interim report and that the data Kearney should use instead are based on the final 2015 unit cost report. That unit cost report had a non-petition-based MRV unit cost of \$149 (rather than \$140), resulting in an \$11 difference, rather than a \$20 difference.

Kearney Reply: The 2015 unit costs information included in Table 4 in the Audit Results section of this report were obtained from a document titled "FY15 Model Unit Cost Worksheet" provided by CA on September 9, 2016. On May 17, 2017, by email, Kearney requested that CA provide any updated COSM results. CA's response provided no such information. Kearney responded to CA, via email, stating "Kearney did not find any recently provided unit cost reports in the emails sent [by CA]; however, we did note that we received the 2015 Unit Cost Report earlier during the audit as a [prepared by client] request. This document contained both 2014 and 2015 unit cost figures and will be what Kearney plans to utilize for the audit unless CA intended to give us something else." CA provided no additional information. Accordingly, Kearney had no reason to believe that the information in the 2015 COSM results was not the final information. Because CA did not provide sufficient documentation showing that the information provided in Table 4 in the Audit Results section of this report is inaccurate, no changes were made to the report. Further, even if CA's modified number for FY 2015 was correct, it would not change the overall conclusion that the calculated unit cost for MRVs had decreased over time but the MRV fee amount had not been reduced.

CA Comment: According to CA, although it "plans to adjust the MRV fee based on the FY 2016 model results to ensure the fee accurately reflects costs, CA does not believe that maintaining the fee at \$160 from FY 2012-FY 2015 was unreasonable, nor contrary to OMB guidance or applicable fee statutes. For example, costs in FY 2012 were almost \$160."

Kearney Reply: CA's response on this point does not fully acknowledge the length of time that the fee remained unchanged or the changes made in other fees during that same period. According to OMB Circular A-25, agencies are responsible for "[r]eview[ing] the user charges for agency programs biennially, including: (1) assurance that existing charges are adjusted to reflect unanticipated changes in costs or market values." CA acknowledged that changes were made in April 2012 to reflect MRV fee estimates based on the 2011 COSM (which the 2012 COSM also supported). In addition, Kearney found that prior to FY 2012, CA typically updated the MRV fee

amount every 2 years. However, fee reductions identified by the FY 2013, FY 2014, and FY 2015 COSMs were never implemented by CA, as they should have been. Because the last fee adjustment was made in April 2012, according to past practice and OMB requirements, CA should have adjusted the MRV fee in early 2014 and early 2016. CA's choice to leave the MRV fees higher than the amount support by its COSM calculation for more than 4 years demonstrates that CA did not fully comply with OMB Circular A-25 or fee statutes.

CA Comment: CA stated that although "costs declined in the FY 2013 model, inputs at the time suggested costs would go back up."

Kearney Reply: The COSM already accounted for the possibility that costs might increase. As Kearney reported in the Background section of this report, COSM inputs include 3 years of projected future costs that are used to calculate an average unit cost. Kearney notes that the FY 2013 COSM included higher costs for FY 2014 and FY 2015, as noted in CA's response. However, in the FY 2013 COSM, CA also projected that the demand for services in FYs 2014 and 2015 would also increase, leaving the unit costs for FYs 2013 through 2015 substantially unchanged. Because the COSM already takes into consideration the projected increase in future costs, further, undocumented consideration of this factor outside the COSM would be duplicative.

CA Comment: CA stated that if it had "immediately adjusted the MRV fee to \$145 based on the FY 2013 model, it would not have had enough revenue in 2015, when unit costs went up to \$149, to sustain operations." CA also stated that while carry forward funds "may be used to cover shortages when costs exceed the fee collected, CA still has to be able to compensate for demand fluctuations" which would deplete the carry forward amounts available.

Kearney Reply: This response effectively disregards the substantial carry forward amount, which would have provided more than adequate funds to cover any short-term decrease in revenue. Kearney agrees that reducing the MRV fee amount to \$145 in 2014, which would have been appropriate according to CA's 2013 COSM, might have led to costs that exceeded fee collections. However, during the audit, CA officials acknowledged that a reason for establishing a carry forward target of 25 percent was to cover shortages when costs exceed fee collections. As shown in Table 5 of the Audit Results section of this report, the carry forward balance at the beginning of FY 2015, \$1.3 billion, was more than sufficient to cover any potential shortages they may have been created by lowering the MRV fee amount to match the amount calculated by CA's COSM.

CA Comment: CA noted that the Audit Results section of the report demonstrates that CA made fee changes that were smaller than the amount of the fee change calculated for MRVs. CA questioned the relevance of the cited examples, stating that, CA had to modify one fee amount (that is, for the border crossing card) because that amount was set by law. Further, according to CA, the Western Hemisphere Travel Initiative (WHTI) Surcharge was changed by \$2 because of CA's "longstanding policy of maintaining a reduced passport application fee for minors."

Kearney Reply: As noted in the Audit Results section of this report, CA changed the fee for numerous consular services, often for less than \$20 (the amount the COSM showed that the unit price had decreased). The items included in the Audit Results section were illustrative examples and not intended as a comprehensive discussion of this issue. Nonetheless, in response to CA's comments, Kearney is removing the example of the border crossing card because that amount was mandated by law. However, the fee change for the WHTI Surcharge is an appropriate example of a small fee change that was made by CA during the same period that CA elected not to change the fee for MRVs. Although CA may have had valid reasons to change that fee, CA should have also acted in compliance with OMB Circular A-25 and fee statutes for all fees, which would have led to a reduction in the fee amount for MRVs.

CA Comment: CA stated that the report "notes that the period of time during which the MRV fee was unchanged coincided with the time period during which CA no longer received appropriated funds. CA maintains that the two events are unrelated and emphasizes that non-MRV costs are not included in the COSM used to determine the MRV fee recommendation."

Kearney Reply: In the Audit Results section of the report, Kearney recounts statements by a CA official that the MRV fees had been set higher than costs to make up for fees submitted to the Department of the Treasury even though other CA officials stated that the situations were unrelated. In addition, it was not possible for Kearney to determine whether CA included non-MRV-related costs in the COSM calculation for MRV fees because of the unreliability of the data used by CA. As reported in the Audit Results section of this report, in FY 2015 the discrepancy between what CA recorded in the COSM for MRV costs and the information included in GFMS was more than \$500 million. CA officials were unable to fully explain the variance. Without reviewing each transaction individually, it would be impossible to determine whether some of these costs were attributable to another consular service.

CA Comment: CA stated that although it "does not disagree that MRV revenue funds some critical non-MRV services, this funding is consistent with the statutory expenditure authority, which authorizes the Department to use MRV fees to fund costs of providing consular services."

Kearney Reply: Kearney acknowledges that the MRV fee statute states that the Department may use MRV fees to fund the cost of providing consular services. However, OMB Circular A-25 and the fee statute also require CA to establish fees that would recover only the cost of the services related to that fee. The basis for Kearney's conclusions regarding the requirements of OMB Circular A-25 and the fee statute are fully set forth in the report itself.

CA Comment: CA stated that "recognizing that using MRV fees to fund non-MRV services was unsustainable, CA and the Department consistently advocated for legislative changes to enable it to better align revenue and costs." CA also stated that "CA and the Department have put forward legislative proposals to increase fee retention authority and broadened expenditure authority for certain fees every year since 2009."

Kearney Reply: CA did not provide information that substantiates this claim. During the audit, Kearney requested that CA provide documentation showing proposed legislative changes put forth by the Department to increase fee retention authority. CA responded by providing "Galley" reports for FYs 2012 through 2014, which CA described as a list of "the Department's proposed legislative changes and amendments." According to CA, it develops a legislative priorities list annually, which is sent to the Bureau of Budget and Planning for review. CA stated that similar to the budget formulation process, suggested legislative changes start at the bureau level and are then the suggested changes are evaluated against Department-level priorities. That is, the legislative priorities that CA proposes may or may not make it into the Galley report. During its review of the Galley reports for FYs 2012 through 2014, Kearney did not identify any proposals for legislative changes made by the Department that modified the retention authority for consular fees. Although CA may have recommended this type of legislative change be included in the Galley reports, when asked during the audit, CA did not show Kearney where in those reports it and the Department affirmatively put forward legislative proposals to increase fee retention authority every year since 2009.

CA Comment: CA stated that the statement in the Audit Results section of the report, "[a]ccording to CA officials, the carry forward balance *may* be needed to fund consular operations during the first quarter of the next fiscal year" (emphasis added) underplays the importance of carry forward funds to CA's operations. According to CA, "without carry forward funds, CA would not be able to pay its bills in the first quarter of the fiscal year and thus provide uninterrupted services. The Consular and Border Security Program operates entirely from collected revenues and does not have the authority to obligate funds based on anticipated collections. Therefore, beginning the fiscal year with an available balance of revenue is not just something that "may" be needed, but rather is an essential part of our operation."

Kearney Reply: Kearney modified the Audit Results section of this report to reflect that CA officials stated that the carry forward funds are needed. However, Kearney notes that although CA set a target carry forward balance of 25 percent of projected expenditures in *unobligated* fund balances, many expenses that an agency incurs at the beginning of a fiscal year have already been obligated in the prior year. For example, at the beginning of FY 2017, CA had *obligated* funds of approximately \$1.1 billion for the Consular and Border Security Program. The amount of obligated funds indicate that CA had planned to pay at least some of its FY 2017 first quarter expenses and would not rely entirely on the carryforward balance of unobligated funds to continue operations as suggested in its response.

CA Comment: CA stated that, although the COSM "does not currently include carry forward, CA and the Department did and continues to analyze current and projected carry forward in the fee recommendation process." According to CA, since 2014, it has made progress towards the goal of maintaining only a 25-percent carry forward amount. Further, according to CA, it is projecting "a carry forward percentage significantly lower than 25 percent for FY 2018."

Kearney Reply: Kearney acknowledges that the percentage of carry forward funds when compared to anticipated costs decreased from almost 40 percent in FY 2015 to 31 percent in

FY 2017. However, CA did not provide documentation showing that it continuously analyzed carry forward amounts in the fee recommendation process. In fact, until October 2016, CA did not have a plan for considering carry forward funds. And the October 2016 document addressing this issue did not include a maximum carry forward amount. Furthermore, CA could not provide an analysis or justification for the 25-percent maximum that CA proposed to OIG during the audit.

CA Comment: According to CA, the report “incorrectly suggests that CA is not currently analyzing the long-term net financial results of operations and using such analysis to provide feedback on the model and inform fee decisions.” According to CA, it “reviews prior-year net financial results annually to determine whether fees should be adjusted.” CA also stated that it “routinely reviews future estimated revenues and expenses, and CA regularly re-evaluates customer demand, including by working to project and anticipate external influences on workload.”

Kearney Reply: Kearney acknowledges that CA performs a number of analyses on the results of operations and future estimated revenues, expenses, and demand. However, during the audit, Kearney specifically asked CA if it performed any type of review to compare prior year revenues to prior year expenses and was told that CA did not and that CA did not believe this would be useful because CA would never expect revenues to equal expenses. As noted previously, however, the consular fee-setting methodology should seek to set consular fees according to the best possible estimate of costs. Retrospectively examining actual revenue and costs is an important tool for calibrating the accuracy of the COSM and the data that go into it. Moreover, evaluating actual revenue and expenses over time can provide insight as to whether significant differences are attributable to an unexpected change in demand or whether they are indicative of systemic issues with the fee-setting methodology.

CA Comment: CA stated that it currently maintains “historical source files and other information supporting consular fee calculations. CA requires staff to maintain historical data and documentation that supports methodology to calculate fees and store historic data and notes in a cloud-based database, documenting changes in data and methodology from year to year.” CA also stated that it “does not alter or revise COSM data without notes.”

Kearney Reply: As detailed in the Audit Results section of this report, Kearney identified numerous instances in which information in the COSM did not reconcile with supporting documentation and for which CA officials were unable to explain the differences. For example, as shown in Table 6 in the Audit Results section, Kearney identified significant discrepancies in the cost information entered into the COSM when compared to the source cost information maintained by CA and the expense information from GFMS. CA was unable to reconcile these differences.

CA Comment: CA stated that it already has “safeguards and checks in place to ensure the quality of data entered into the COSM.” CA asserted that, where possible, it currently validates data with stakeholders and compares data obtained from one source to other sources. CA also stated that,

although the report identifies variances among three sources of information used to determine workload volume counts, Kearney had not shared the data underlying this finding. CA stated that it “does not view such variances as evidence of insufficient data used in fee-setting because the workload counts need to align to specific activities for costing purposes.” The COSM “uses receipts, workload, application, and refusals to drive different activities to account for entire level of effort while others may only require one specific workload category. Without the data request parameters” CA asserts that it does not know whether the data used during the audit were comparable to the COSM team's data.

Kearney Reply: During the audit, CA was unable to show that it had sufficient safeguards and checks in place to ensure the quality of data entered into the COSM. In fact, as reported in the Audit Results section of this report, Kearney identified flaws with the reliability of data used by CA for the three factors it considers when developing unit costs. CA did not explain these discrepancies.

As for the information used to assess the workload volume data, Kearney relied on three sets of data from CA. Specifically, during a separate audit of the Department's financial statements, Kearney obtained detailed passport and visa workload information from CA's Travel Documents Issuance System and the Consular Consolidated Database as well as a workload analytic containing workload counts performed by CA's Office of the Comptroller. In addition, during this audit, CA provided information from the COSM. This data, as well as all other data used during the audit, are identified and described in the Audit Results and Appendix A sections of this report. In addition, during this audit, Kearney informed CA of the reports that it had obtained from CA that it planned to use to assess the data reliability of the information entered into the COSM. CA expressed no concerns with the data at that time. Further, Kearney met with CA officials several times to discuss the discrepancies identified during the analysis and, again, CA officials expressed no concerns with the data used by Kearney to perform its comparison. The information Kearney obtained is appropriate to assess the data reliability of the COSM workload volume data.

ABBREVIATIONS

CA	Bureau of Consular Affairs
CBSP	Consular and Border Security Program
CGFS	Bureau of the Comptroller and Global Financial Services
COSM	Cost of Service Model
GFMS	Global Financial Management System
MRV	Machine Readable Visa
OMB	Office of Management and Budget
PSS	Passport Security Surcharge
WHTI	Western Hemisphere Travel Initiative

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