



Audit Report



OIG-11-057

The Failed and Costly BSA Direct R&S System Development Effort Provides Important Lessons for FinCEN's BSA Modernization Program

January 5, 2011

Office of
Inspector General

Department of the Treasury

Contents

Audit Report	1
Results in Brief.....	2
Findings	7
Poor Project Management, Insufficient Departmental Oversight, and Contractor Performance Impaired BSA Direct R&S Development.....	7
FinCEN Did Not Adequately Plan the BSA Direct R&S Project	20
FinCEN Used Funds from Various Sources to Cover BSA Direct R&S Development Costs	29
Concluding Remarks and Recommendations	32

Appendices

Appendix 1: Objectives, Scope, and Methodology	40
Appendix 2: Background.....	43
Appendix 3: Chronology of Significant BSA Direct R&S Events	46
Appendix 4: FinCEN’s Management Response	50
Appendix 5: Treasury’s Office of the Chief Information Officer Management Response	54
Appendix 6: Major Contributors to This Report.....	56
Appendix 7: Report Distribution.....	57

Abbreviations

BSA	Bank Secrecy Act
CIO	chief information officer
CO	contracting officer
COTR	contracting officer’s technical representative
D-TAR	Department of the Treasury Acquisition Regulation
EDS	Electronic Data Systems Corporation
EVM	earned value management
FAR	Federal Acquisition Regulation
FinCEN	Financial Crimes Enforcement Network

Contents

GAO	Government Accountability Office
IRS	Internal Revenue Service
IT	information technology
IV&V	independent verification and validation
OCIO	Office of the Chief Information Officer
OIG	Office of Inspector General
OMB	Office of Management and Budget
PM	project manager
PSC	personal services contractor
RFP	request for proposal
R&S	retrieval and sharing
SOW	statement of work
TFF	Treasury Forfeiture Fund
WebCBRS	Web-based Currency and Banking Retrieval System

*The Department of the Treasury
Office of Inspector General*

January 5, 2011

James H. Freis, Jr., Director
Financial Crimes Enforcement Network

Diane C. Litman, Acting Deputy Assistant Secretary for Information
Systems/Chief Information Officer
Department of the Treasury

The Financial Crimes Enforcement Network (FinCEN) is responsible for overseeing the management, processing, storage, and dissemination of Bank Secrecy Act (BSA) data. In 2004, FinCEN embarked on a major initiative, known as BSA Direct, to improve the usefulness and functionality of the BSA data and transition the BSA data from the Internal Revenue Service (IRS). As part of this effort, FinCEN awarded a contract to Electronic Data Systems Corporation (EDS) to design, develop, implement, and provide Web hosting and support for the retrieval and sharing component of the project, known as BSA Direct Retrieval and Sharing (BSA Direct R&S). FinCEN terminated BSA Direct R&S in July 2006, after determining that the project had no guarantee of success. The total amount of funding expended on the failed project was \$17.4 million.

This report presents our review of FinCEN's efforts to develop and implement BSA Direct R&S and the Treasury Office of the Chief Information Officer's (OCIO) monitoring of the project. Our specific objectives were to (1) determine why the system development initiative failed, (2) evaluate the project's planning, (3) determine the amount and source of funds spent on BSA Direct R&S development, and (4) provide recommendations to increase the likelihood of successful initiatives of this nature going forward.

We performed our fieldwork in 2006 to 2007, though we continued to clarify information through 2009. Appendix 1 provides a detailed description of our audit objectives, scope, and methodology.

Issuance of this report was delayed considerably due to a high volume of unprecedented mandated work by our office. That work principally relates to the number of reviews of failed financial institutions that we are required to perform under the Federal Deposit Insurance Act. While this report is being issued later than we would have liked, we believe its message remains relevant and that the lessons learned from the BSA Direct R&S failure should be taken into consideration as FinCEN undertakes its new BSA Information Technology (IT) Modernization Program that it began planning for in fiscal year 2007 and implementing in fiscal year 2010.¹ That said, it is important to note that FinCEN's senior management team has changed since the BSA Direct R&S project was terminated and it is not our intent to imply, and we do not imply, that the problems experienced with BSA Direct R&S project are reflective of the current BSA IT modernization effort.

Results in Brief

BSA Direct R&S failed for a number of reasons. The primary cause was poor project management. FinCEN inappropriately allowed a personal services contractor (PSC),² who lacked prior experience or expertise, to be the de facto manager of the project. FinCEN also did not sufficiently define functional and user requirements,

¹ FinCEN's appropriation for fiscal year 2010 included a \$10 million increase to modernize the BSA technical environment. House Report 111-366 directs FinCEN to submit a semiannual report to the House and Senate Appropriations Committees summarizing the agency's progress regarding its information technology modernization effort, including milestones planned and achieved, progress on cost and schedule, management of contractor oversight, strategies to involve stakeholders, and acquisition management efforts.

² A personal services contract is characterized by the employer-employee relationship it creates between the Government and the contractor's personnel. The Government is normally required to obtain its employees by direct hire under competitive appointment or other procedures required by the civil service laws. Obtaining personal services by contract, rather than by direct hire, circumvents those laws unless Congress has specifically authorized acquisition of the services by contract. Congress authorized FinCEN in the annual appropriations acts to procure personal services contracts.

misjudged the complexity of the project, and failed to establish a realistic development completion date. Furthermore, FinCEN senior management in place at the time was not willing to accept constructive criticism and take the necessary corrective actions throughout the project as recommended by MITRE Corporation.³ FinCEN hired MITRE, at a cost of approximately \$1 million, to perform independent verification and validation (IV&V)⁴ of EDS's development efforts and results. Also problematic was EDS's inability to properly staff the project because certain personnel lacked the security clearances required by the contract even after FinCEN had made certain accommodations to the contractor. However, available documentation was very incomplete about the extent to which matters involving security clearances impacted project delays. Furthermore, we also found that Treasury's OCIO did not actively oversee the project and instead relied on reporting from FinCEN.

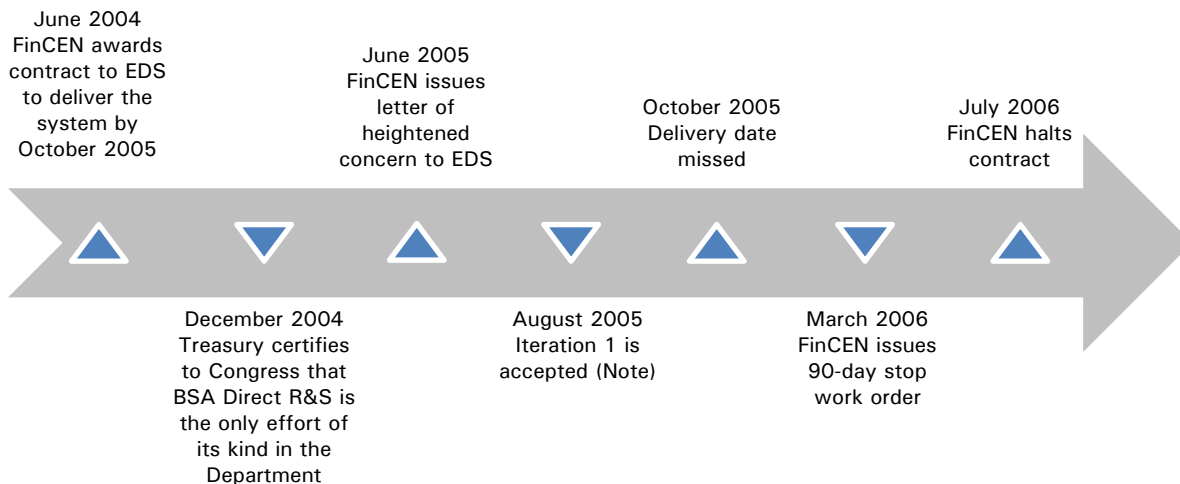
FinCEN also poorly planned BSA Direct R&S. FinCEN initiated the project without adequately coordinating with the IRS, which was developing a similar system, or Treasury's OCIO. Proper planning should have included, among other things, working closely with the IRS to develop a comprehensive strategy for managing BSA data and avoiding the duplication and added costs that occurred.

Appendix 2 shows a chronology of significant events involving BSA Direct R&S. Figure 1 below, provides a timeline identifying several significant events in the BSA Direct R&S project.

³ The MITRE Corporation is a not-for-profit organization chartered to work in the public interest with expertise in systems engineering, information technology, operational concepts, and enterprise modernization. MITRE was responsible for providing monthly status reports detailing progress made and anticipated for the project, resources expended, any significant problems or issues encountered, actions needed to resolve problems that were identified, and any variances from the proposed schedule.

⁴ IV&V are services that include assessing the quality of the system design and software code written; validation and monitoring of application development support activities; reviewing and evaluating all deliverables for consistency, accuracy, completeness and conformity with predefined deliverable acceptance criteria and project standards; and reviewing and monitoring system, integration and acceptance testing.

Figure 1. Timeline of Significant Events in the BSA Direct R&S Project



Source: OIG review of FinCEN data.

Note: BSA Direct R&S was to be developed in 3 Iterations. Iteration 1 referred to the gathering and enhancement of data with limited system functionality.

By the time FinCEN terminated the contract in July 2006, it had spent \$17.4 million on BSA Direct R&S efforts, representing a significant escalation from the nearly \$9 million contract awarded to EDS. It should also be noted that FinCEN had only \$2 million available for the project when the contract was awarded in June 2004, making funding uncertain from the very beginning of the project and contrary to budgeting principles for capital projects issued by the Office of Management and Budget (OMB).

To ensure FinCEN's use of funds from other available budget program activities and the Treasury Forfeiture Fund (TFF) was legal and appropriate, we requested an opinion from the Government Accountability Office (GAO). GAO concluded that FinCEN could legally draw on fiscal year 2003 and 2004 appropriations to fund BSA Direct R&S, but had improperly charged certain obligations to its fiscal year 2005 and 2006 appropriations in violation of the bona fide needs rule.⁵ GAO said that FinCEN needed to adjust its

⁵ The bona fide needs rule provides that an appropriation or fund limited for obligation to a definite period is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made within that period of availability of the appropriation.

accounts to correct the violation. GAO also said if funds were not available, FinCEN would need to report an antideficiency law violation. FinCEN adjusted its accounts as recommended by GAO. FinCEN also asserted that there were no known antideficiency act violations.⁶ We discuss the details of these matters in Finding 3 of this report.

We are recommending that FinCEN (1) ensure that future system development projects, including the current BSA modernization project, are properly planned and the necessary expertise for project management is in place; (2) coordinate with Treasury's OCIO concerning the current BSA modernization project as well as any future information technology initiatives; (3) coordinate with IRS for a consolidated solution to meeting the data needs of FinCEN's customers; (4) ensure that the security clearance requirements established in contracts are appropriate for the services and physical access requirements of contractor personnel, and ensure contractors fully comply with those requirements; (5) ensure that adequate contract and financial records are maintained for the current BSA modernization project to allow for audit and accurate reporting; and (6) assess the controls over FinCEN's use of personal services contracts to ensure that such contracts are appropriate to FinCEN's mission, and that individuals hired under personal services contracts perform duties that are appropriate and within their expertise. We are also recommending that Treasury's OCIO closely monitor the current BSA modernization project to ensure sound project management principles are followed.

FinCEN stated in its management response that it has gone through many changes since the BSA Direct R&S effort began in 2004 and ended in 2006. FinCEN is under new leadership and now has project management expertise. It has implemented a number of management tools and techniques to ensure successful implementation of the current BSA IT Modernization Program. FinCEN notes that the problems experienced with the BSA Direct R&S are not reflective of the current program.

⁶ We did not, as part of this audit, verify the adjustments made by FinCEN.

FinCEN now routinely coordinates with Treasury and OMB to ensure adequate oversight and planning for the program. FinCEN's newly restructured information technology division, Technology Solutions and Services Division (TSSD), employs a system development life cycle (SDLC) approach. Also, FinCEN utilizes a master schedule to monitor program cost and schedule, allowing for optimum project planning and control.

FinCEN coordinates with Treasury's OCIO through governance boards that have regular meetings to discuss status, risks, and issues, and provide the required approval or denial for the program at the completion of each milestone in the SDLC. FinCEN also coordinates with IRS through a council and with integration of one another in the governance structures that support BSA information technology systems.

To address security clearance concerns, FinCEN's Security Office has procedures in place to ensure that contracting personnel have security clearances after a contract is awarded but prior to commencement of work. To ensure adequate records are maintained, FinCEN outsources the maintenance of complete program contract files to the Department of Interior, National Business Center Acquisition Services Directorate, and utilizes the Bureau of the Public Debt accounting and financial systems to maintain financial records. The systems allow for the use of project codes to track expenditures and general reports with line item accounting. FinCEN will use these agencies' systems through March 2013, which is the end of the contract performance period.

Regarding the use of personal services contracts, FinCEN has restricted their use to situations in which no other contractual vehicle is possible, subject to the approval of the Bureau Chief Procurement Officer. The scope of these contracts is focused on the unique and specific skill set of the individual with whom the contract is performed. FinCEN currently has no personal services contract and does not anticipate one in the future.

The Acting Deputy Assistant Secretary for Information Systems/Chief Information Officer stated in a separate management response that Treasury's OCIO Capital Planning and

Investment Control desk officer is closely monitoring major Information Technology investments including the current BSA IT Modernization Program. Additional oversight mechanisms have been put into place to monitor the project, including (1) a BSA Information Technology Executive Group to review the project milestones and direct corrective actions; (2) a BSA Executive Steering Committee to review risks, issues and challenges associated with the project; (3) quarterly status reviews by the Treasury Deputy Secretary and the Assistant Secretary for Management; and (4) the use of Treasury's High Visibility List to subject the BSA IT Modernization Program to extra scrutiny and attention. In addition, OMB monitors the project through periodic status review and reports provided by the OCIO.

The actions taken and planned by FinCEN and Treasury's OCIO meet the intent of our recommendations. It should be noted that we have initiated an audit of FinCEN's BSA IT Modernization Program, and plan to assess these actions as part of that audit. The FinCEN management response is provided in appendix 4 and the Treasury's OICO management response is provided in appendix 5.

Findings

Finding 1 Poor Project Management, Insufficient Departmental Oversight, and Contractor Performance Impaired BSA Direct R&S Development

FinCEN's poor management of BSA Direct R&S, lack of Departmental oversight, and untimely response to contractor performance problems contributed to project failure and cost overruns. FinCEN senior management impeded the duties of the project manager (PM) and contracting officer (CO)⁷ by inappropriately allowing the PSC, who had no information technology experience, project management expertise, or authority, to usurp the duties of the PM and CO. Also, FinCEN management

⁷ COs have the authority to enter into, administer, and/or terminate contracts and make related determinations and findings.

failed to properly monitor the BSA Direct R&S development effort or report to Treasury's OCIO on the status of the project. In addition, FinCEN hired MITRE to oversee project development through IV&V, but over time discounted MITRE's input and excluded MITRE from progress meetings. Treasury's OCIO also did not actively oversee the project and allowed FinCEN to exclude OCIO representatives from progress meetings. Furthermore, when EDS performance problems could not be ignored any longer, FinCEN senior management did not take timely or strong action to resolve them.

GAO has identified efficient and effective project management as a necessary best practice for any information technology business systems acquisition. Project management is the process for planning, organizing, staffing, directing, and managing all project-office-related activities. Project management begins when the project office is formed and ends when the acquisition is completed.⁸ Moreover, the Project Management Institute, the leading membership organization of project management professionals in the world, has determined that effectively managing a project requires the application of knowledge, skills, tools, and techniques to a range of activities in order to meet predefined objectives within scope, quality, time, and cost constraints.

FinCEN Senior Management Limited the Roles of Key Project Officials and Elevated the Role of the PSC

The PM is responsible for initiating, planning, executing, monitoring, controlling, and completing the project. FinCEN's PM on BSA Direct R&S believed that she lacked the support of senior management to make major project decisions.⁹ For example, she said she was not allowed to decide who would attend meetings with EDS and was even excluded from some of those meetings. Further hampering the PM's role was the fact that so many different people at FinCEN were providing direction to EDS.

⁸ GAO, *Information Technology: DOD's Acquisition Policies and Guidance Need to Incorporate Additional Best Practices and Controls*, GAO-04-722 (July 2004).

⁹ BSA Direct R&S actually had three FinCEN employee PMs over the life of the project. The reference here is to the third PM, who served in that role from spring 2005 to the project's termination.

The PM's role was so minimized that in April 2005, she was even admonished by the PSC for sending FinCEN's former Director information regarding input from IRS's Criminal Investigations Division for user requirements and for questioning the October 2005 timeframe for completing the BSA Direct R&S project. She received an e-mail from the PSC the next day strongly suggesting that she avoid sending e-mails to the Director.

In July 2005, MITRE reported that schedule slippage, cost overruns, and poor project performance resulted from weak project management and controls. MITRE reported the same in October 2005, the month originally set for project deployment. The schedule continued to slip, task items were not being tracked, and project issues and action items were not being managed or resolved timely. In both August and November 2005, MITRE reported that the pattern of repeated slippage and weak program management was intensifying its concerns about EDS's capacity to deliver as planned. MITRE's program manager told us that MITRE provided recommendations for improving key processes, discipline, and oversight of EDS.¹⁰ According to MITRE's program manager, FinCEN's PM was receptive to MITRE's work but lacked authority to make changes.

The CO Expressed Concern About Others Providing Direction on Contract Issues to EDS

The CO for the BSA Direct R&S contract was concerned that FinCEN personnel, other than him, were inappropriately giving EDS direction regarding contract issues. In one e-mail, the CO expressed concern that the PM had given improper direction to EDS regarding contract issues, ignoring instructions that he had given about the same matter. In another e-mail, the CO provided similar comments to the PM regarding a letter to the contractor she had drafted that set forth various expectations.

¹⁰ MITRE had both a PM and a program manager assigned to BSA Direct R&S. The PM reported to the program manager.

The CO said that for a time FinCEN's senior management prevented him from raising his concerns about the project to FinCEN's legal counsel. He told us that the contracting office was made irrelevant and that FinCEN officials closest to the Director of FinCEN were holding discussions directly with EDS about requirements under the contract.

In fact, early in the project, during the fall of 2004, the CO began expressing concerns to FinCEN senior management about the project and wanted to issue a "cure notice."¹¹ He cautioned that not addressing the issues with EDS regarding the quality and timeliness of deliverables in a timely manner would diminish FinCEN's ability to protect its interests going forward. In short, the CO wanted to address the issues in writing as soon as possible and reestablish delivery dates. FinCEN's senior management objected to the plan and no cure notice or other formal notification was issued. Given the contract issues involved, we believe that it was a mistake not to issue the cure notice as had been recommended by the CO.

The PSC Provided Direction On and Made Numerous Decisions Concerning BSA Direct R&S

The PSC served as the former Director's point of contact on BSA Direct R&S.¹² The PSC was a member of the evaluation team, prepared and maintained the project's risk management plan, and dealt extensively with the user requirements process. According to FinCEN documentation, the PSC was the individual most responsible for defining the project, explaining the concept, and dealing with daily project issues. He was perceived by EDS to have

¹¹ Federal Acquisition Regulation (FAR), part 49, provides guidance on the procedures federal agencies are to follow when they seek to terminate a contract due to vendor default. Either a cure notice or a show cause notice is used to convey to the vendor that the government considers the contract to be in default and that termination of the contract is imminent unless the default conditions are cured or an acceptable reason for the cause of default is provided within 10 days.

¹² The PSC, a retired federal law enforcement officer, was under a 5-year personal contract with FinCEN that began in December 2004. According to his personnel file at FinCEN, he did not have prior experience in the acquisition, development, or project management of major IT systems or applications. After the former Director left FinCEN to take a job with a major bank, the PSC also left and went to work for the same bank.

more authority than the PM and the contracting officer's technical representative (COTR).¹³

In an interview, the PSC acknowledged that he was very involved in the BSA Direct R&S project, although he emphasized that he was not the PM. He told us that he communicated often with project participants, including EDS, but his role was as a consultant, not a decision maker.

However, documentation we reviewed showed that the PSC in fact did provide direction and made decisions on a wide range of matters relating to BSA Direct R&S. We found that the PSC

- provided direction to EDS regarding the scope of work and changes in the delivery schedule;
- recommended that the PM accept the contractor's revised schedule;
- advised the senior adviser to Treasury's Under Secretary for Terrorism and Financial Intelligence that if funding was not provided for the project, FinCEN would reallocate funds at the expense of other programs;
- opined on the reasonableness of EDS's proposed fees for a significant contract modification to add Gateway, a \$1 million obligation, contrary to the CO's position and direction;¹⁴
- met with EDS's PM and discussed the possibility of adding information to each monthly brief, including language to the effect that EDS expected to exceed contract requirements and would develop a system that had an estimated capacity of 400 concurrent users at each site; and

¹³ A COTR's role is to ensure government-contractor business relationships are mutually beneficial and provide exactly those products and services the government needs. To fulfill the role, the COTR is a technical information conduit, contracting and regulatory liaison, and business partnership manager.

¹⁴ Gateway allows FinCEN to identify and track users who access BSA data and allows law enforcement and intelligence users to coordinate their investigations and share information. See p. 29 of this report for further discussion of Gateway.

-
- had direct access to EDS officials through meetings and e-mails, which in many instances provided contract direction.

In fact, the role and authority of the PSC was even questioned by EDS. Specifically, EDS's PM wrote to FinCEN's COTR in July 2005 expressing concern that the PSC's involvement could affect BSA Direct R&S. She asked about the PSC's involvement and emphasized that the COTR should be the point of contact for contract issues. In October 2005, FinCEN's PM also communicated her concern to FinCEN's CO about the PSC's communications with EDS.

When we asked about the role of the PSC, the former Director told us that the PCS oversaw BSA Direct R&S and served as his "eyes" on the project. He said the PSC was a conduit of information, offering advice, counsel, and guidance to the team, but was not the PM.

We understand the desire by the former Director for an independent assessment of the project development activities. However, we believe that the authority of the FinCEN's CO, PM, COTR and other FinCEN employees were undermined by the duties assigned to the PSC and the perceived if not actual authority of that individual. We also believe that the PSC was essentially duplicating what was the appropriate role of MITRE, and the PSC was not qualified in that capacity.

FinCEN Did Not Adequately Monitor BSA Direct R&S

FinCEN did not maintain a contract file for BSA Direct R&S, a fundamental FAR requirement. FinCEN also did not effectively apply earned value management (EVM)¹⁵ reporting to monitor the system development effort or ensure a positive return on its investment.

¹⁵ EVM analysis measures actual work performed against a project's baseline plan (milestones) and actual costs against budgeted costs.

Key Project Documents Were Not Retained in a Consolidated Contract File

According to the FAR, the head of each contracting office is to establish files of all contractual actions.¹⁶ The documentation is to provide a contractual history for the purpose of (1) providing a complete background as a basis for informed decisions at each step in the acquisition process, (2) supporting actions taken, (3) providing information for reviews and investigations, and (4) furnishing essential facts in the event of litigation or congressional inquiries. The FAR also states that if the contract files or file segments are decentralized, responsibility for their maintenance must be assigned.

FinCEN did not maintain an official contract file for the project. In fact, we were informed by FinCEN that they had no written internal policy for capital acquisitions and no documented contract oversight plan. FinCEN also could not provide us with written project management processes and procedures. The records FinCEN maintained for BSA Direct R&S were fragmented and decentralized, with no single point of accountability. After we repeatedly requested the contract file, FinCEN provided us with an unofficial, recreated contract file in April 2007, 11 months after our initial request (and after we informed FinCEN what should be included in the file). FinCEN's Acting Bureau Chief Procurement Officer initially told us that the Bureau of the Public Debt was FinCEN's contracting service provider and was responsible for maintaining the contract file, while Bureau of the Public Debt officials told us that it was FinCEN's responsibility. Regardless, the file FinCEN gave us was incomplete and missing key required documentation such as documents related to pre-solicitation, solicitation, pre-award, post-award, and contract administration, and to contract, delivery order, and task order closeout.

EVM and Other Progress Reporting Was Not Accurate

EDS was contractually required to provide monthly project status reports and briefings for FinCEN that included EVM analysis. EDS

¹⁶ FAR, subpart 4.8.

did not report its EVM analysis for the first 6 months of the project because FinCEN and EDS could not agree on a baseline schedule for the period.

EDS presented its first EVM analysis to FinCEN in January 2005. MITRE evaluated this and other reports and found deficiencies. For example, the EVM report did not correlate with the schedule slippage experienced during the project. Furthermore, based on FinCEN's monthly meetings with EDS, MITRE found the contractor to be unfamiliar with the metrics and criteria used to calculate earned value.

We also reviewed the April 2004 and June 2005 Exhibit 300s¹⁷ prepared by FinCEN to report to OMB on the project's progress. The Exhibit 300s called for FinCEN to assign a risk rating (high, medium, or low) to various risk areas and describe the identified risks and related mitigation strategy. We concluded that FinCEN minimized the severity of risks associated with the project in its reporting to OMB. For example, FinCEN assigned a risk rating of medium to the project management risk area in both the April 2004 and June 2005 Exhibit 300s. To mitigate the risk, FinCEN stated in the April 2004 Exhibit 300 that it had assigned a strong team of experienced personnel with required skills to manage the project. As discussed in our report, this was not the case.

Additionally, FinCEN assigned a risk rating of low to the overall project failure risk area in both Exhibit 300s. It identified as a specific potential risk in the April 2004 Exhibit 300 that the project's costs had been underestimated due to inadequate initial requirements analysis. FinCEN reported that this specific risk was mitigated by market research, the development and testing of a prototype, and close monitoring of project tasks, costs, and schedule by an IV&V contractor. As discussed in our report, the project costs significantly escalated during the life of the project and findings by the IV&V contractor (MITRE) were minimized or ignored by FinCEN.

¹⁷ The Exhibit 300 is a capital plan and case summary to demonstrate to agency management and OMB a strong business case for the investment and to meet other Administration priorities to define the proposed cost, schedule, and performance goals. Major investments, as identified by OMB, must be reported in an Exhibit 300 which is to be updated annually.

Treasury's OCIO relied on FinCEN reporting and was therefore not made aware through the reports submitted by FinCEN of the extent of system development problems that were occurring. FinCEN's reports improperly showed the project to be within cost, schedule, and performance targets through the first quarter of 2006.

EDS Had Problems Meeting Security Clearance Requirements for BSA Direct R&S Project Staff Which Contributed to Project Delays

Contributing to BSA Direct R&S delays was EDS's inability to properly staff the project because certain personnel lacked the security clearances required by the contract. EDS officials told us that EDS found people meeting the requisite technical skills for the project, but could not obtain their clearances in a timely manner.

To facilitate the security clearance process, FinCEN made certain accommodations for EDS. At the time of the BSA Direct request for proposal (RFP), FinCEN's security clearance requirement for both government employees and contractor personnel was Top Secret. That requirement was later reduced to Secret. After the contract award in June 2004, the contract was modified in April 2005 to allow EDS personnel with an interim Secret clearance (pending a full background investigation) to work on the project.

According to MITRE's monthly status reports, EDS continued to have problems staffing the project with properly cleared individuals during the contract period. FinCEN documentation we reviewed showed evidence that FinCEN officials had concerns about the security clearance accommodation given to EDS, and tried to resolve the matter with EDS. Additionally, based on EDS records, a background investigation had not been completed for 14 of the 21 EDS personnel assigned to the contract as late as January 2005. It should be noted that the available documentation was very incomplete about the extent to which matters involving security clearances impacted project delays.

FinCEN Management Did Not Accept MITRE's Warnings of Problems

Throughout system development, MITRE frequently expressed significant concerns in its monthly progress reports about EDS's capability to perform the work and meet project deadlines, but FinCEN discounted those concerns. In several instances, senior FinCEN management asked MITRE to change its assessments of EDS's performance and progress. Similarly, FinCEN senior management told its own project management team to downplay negative information and accentuate positive information in its assessments of EDS's performance and progress.

FinCEN Did Not Use MITRE's Reports on BSA Direct R&S and Questioned Its Recommendations

FinCEN hired MITRE to perform IV&V of EDS's development efforts and results beginning in October 2004. According to MITRE, a spirit of collaboration between MITRE and FinCEN was lacking from the start.

MITRE questioned a number of things about the project from the beginning. MITRE reported EDS needed a complete schedule and plan with well-defined milestones and scope for the project. MITRE also reported that FinCEN had an immature project management and information technology discipline.

According to MITRE, on more than one occasion FinCEN expressed concern over MITRE's identification of high-risk areas in BSA Direct R&S and questioned MITRE's recommendations. MITRE's PM told us that FinCEN's PSC asked her to remove the high-risk label from the MITRE status report, but she refused.

We asked the PSC about MITRE's reporting on the project. All the PSC would tell us is that MITRE was always "gloom and doom" on the outlook of BSA Direct R&S.

MITRE's Concerns About System Issues and Project Delays Were Not Heeded by EDS or FinCEN Senior Management

MITRE officials told us that its analysis of the project indicated the earliest possible deployment date of the project was January 2006, not October 2005. MITRE advised FinCEN's former Director of that in an April 2005 program review meeting. Among MITRE's concerns were EDS's persistent staffing shortfalls and the fact that as early as March 2005, the project already had a 9 percent cost overrun. MITRE believed that FinCEN and EDS needed to take immediate steps to avoid compromising the project.

In August 2005, MITRE reported that EDS had not been able to meet most agreed-upon deadlines, thereby missing several milestones and causing continued schedule changes. MITRE also raised the issue that its staff was being deliberately excluded in the review and analysis of the proposed schedule.

FinCEN senior management did not heed concerns from MITRE or its own project personnel. As a result, FinCEN did not take the actions necessary to address the issues raised by MITRE that plagued the project from the beginning.

MITRE Was Excluded From Key Status Meetings and Was Told Not to Ask Questions of EDS

In September 2005, 1 month before the project was scheduled for deployment, MITRE reported to FinCEN that BSA Direct R&S program management had not always included MITRE as a participant or observer in meetings, discussions, or working sessions.¹⁸ MITRE also reported that program management and control continued to suffer on BSA Direct R&S.

MITRE officials also told us that EDS did not want MITRE on site to view or evaluate the system. When MITRE was able to finally test the system, it found that the system's response time was

¹⁸ According to the statement of work for MITRE's contract, MITRE was to participate in key working sessions for architecture, requirements, and design in order to validate and monitor the technical development and implementation of BSA Direct.

extremely slow. MITRE observed severity 1 problems in testing.¹⁹ For the project to move forward, severity 1 problems had to be corrected.

Furthermore, FinCEN officials told MITRE not to attend meetings between FinCEN and EDS. Before MITRE was excluded, one FinCEN official told MITRE not to ask questions of EDS. Both these instructions were odd considering MITRE was hired by FinCEN as the project's IV&V contractor. FinCEN's PSC also instructed MITRE not to send e-mails to the FinCEN Director.

Treasury's OCIO Did Not Actively Oversee the Project

The Clinger-Cohen Act of 1996 requires that the chief information officer (CIO) for an agency monitor the performance of information technology programs of the agency, evaluate the performance of those programs on the basis of the applicable performance measurements, and advise the head of the agency regarding whether to continue, modify, or terminate a program or project. The act provides Treasury's CIO with responsibility over the bureau's CIO but does not provide commensurate supervisory authority. The act also provides for establishing milestones for information technology projects and places responsibility for such projects with the agency's CIO.

To comply with the act, the Treasury CIO assigned a desk officer to FinCEN to monitor BSA Direct R&S. We found, however, that the desk officer did not actively oversee the project and instead relied on FinCEN progress reports and periodic meetings. The desk officer eventually began to suspect problems with the project. However, when she started asking questions about the project, FinCEN excluded her from future project meetings.

¹⁹ MITRE defines the term severity as the value assigned to the consequence of failing to achieve a system life cycle objective. EDS defined severity as follows: severity 1—we cannot make it to User Acceptance Test until the issue is resolved; severity 2—we can make it to the User Acceptance Test, but cannot go live with the unresolved issue; severity 3—we can go live with this issue, but it must be resolved as soon as possible; severity 4—we can go live with this issue, but it should be resolved as soon as possible; severity 5—we need to resolve this issue, but an acceptable workaround is in place.

Rather Than Take Strong Action, FinCEN Issued EDS a Letter of Concern When Performance Problems Became Evident

In the spring of 2005, FinCEN's counsel advised FinCEN's former Director that FinCEN needed to confront EDS about a number of contractual problems. However, because FinCEN allowed work to continue under the contract for so long without taking action against EDS, it had determined that it had constructively waived its right to terminate for default the contract with EDS. Consequently, counsel recommended that, in order to preserve contractual rights going forward, FinCEN enter into a modification to the contract. The modification would establish new deadlines for the outstanding deliverables.

Instead of sending EDS a "cure notice," as the CO had recommended in the fall of 2004, or modify the contract as recommended by counsel, FinCEN sent EDS a letter expressing FinCEN's "heightened level of concern" in June 2005. Unlike a cure notice, the letter did not state that the government intended to terminate the contract for default or ask EDS to show cause why the contract should not be terminated. Rather, the purpose of the letter was to advise EDS of FinCEN's heightened level of concern in the contractor's ability to successfully manage and deliver BSA Direct R&S.

The letter stated that FinCEN expected EDS to deliver a fully functional and tested system as required by the contract no later than October 14, 2005. EDS was to advise FinCEN in writing within 10 calendar days of the letter's date of its plan to meet its contractual obligations and to provide a revised delivery schedule within the confines of the contractually mandated final delivery date of October 14, 2005. The letter further stated that failure to address the issues brought forth in the letter could be cause for subsequent action by FinCEN.

EDS responded by submitting a proposed revision to the BSA Direct R&S schedule. The proposal was to deliver Iteration 2 in

August 2005 and Iteration 3 by October 14, 2005.²⁰ The PSC recommended that FinCEN's PM accept the schedule and that further dialogue about the schedule would be counterproductive. The schedule was accepted but followed later by new proposals to revise the schedule again and again.

As to why FinCEN chose not send a cure notice to EDS, a FinCEN official told us that FinCEN senior management believed that doing so would have had a negative effect on the project and been counterproductive.

EDS once again failed to meet the revised project schedule but FinCEN opted not to issue a cure notice. A FinCEN official told us that the decision was made because EDS was close to resolving performance issues—which ultimately proved not to be the case. FinCEN's former Director told us that FinCEN attorneys had argued for the letter, but he knew all work on the project would have stopped if FinCEN had issued a cure notice. This is a very surprising position for a senior official to take in that we believe it is paramount for a government agency to vigorously enforce its contractual rights to ensure, among other things, the proper stewardship over public monies being expended on the goods and services the contractor is obligated to provide.

Finding 2 FinCEN Did Not Adequately Plan the BSA Direct R&S Project

FinCEN did not properly plan for BSA Direct R&S. Among other things, FinCEN did not adequately coordinate with IRS or Treasury's OCIO to determine whether this system would duplicate IRS's Web-based Currency and Banking Retrieval System (WebCBRS) system development project. FinCEN also did not

²⁰ The development phase of BSA Direct R&S was to have had three iterations. In the first iteration, data would be gathered and enhanced with limited system functionality; in the second, the system would connect and transfer BSA data, resulting in additional functionality; and in the third, the system would have the capability for more functionality and problems would be resolved for rollout of the system. FinCEN was never able to produce for our review a signed document that Iteration 1 was approved and the date it was approved, but asserted in an e-mail to us that the COTR had approved the iteration on August 31, 2005.

properly determine system functional requirements or user needs prior to awarding the contract.

FinCEN Did Not Adequately Coordinate With IRS or Treasury’s OCIO on Duplication Between BSA Direct R&S and WebCBRS

At the time of the BSA Direct R&S contract award, IRS was developing a very similar system—WebCBRS. Project-related documentation indicated that FinCEN wanted to control BSA data and implement BSA Direct R&S before IRS could implement WebCBRS. Treasury’s OCIO accepted FinCEN’s opinion that BSA Direct R&S and WebCBRS were not duplicative systems. After the BSA Direct R&S development effort was terminated, FinCEN found WebCBRS to be an acceptable alternative for BSA data users.

IRS Was Already Developing WebCBRS When the Contract for BSA Direct R&S Was Awarded

IRS began WebCBRS development in March 2003. Several months later, in October 2003, FinCEN provided plans to OMB to develop BSA Direct R&S. In June 2004, FinCEN awarded EDS the contract to develop BSA Direct R&S. FinCEN’s position was that BSA Direct R&S offered more sophisticated analytical tools and would be implemented sooner than WebCBRS. However, as noted in a December 2006 GAO report, FinCEN did not adequately communicate and coordinate its BSA data management reengineering efforts with IRS. GAO recommended that FinCEN, in cooperation with IRS, develop a long-term plan before moving forward with BSA Direct R&S.²¹

Documentation we obtained showed that FinCEN knew as early as December 2003 that IRS was creating a new database system. Although IRS estimated a completion date of 2009 at the time, IRS sent a letter to FinCEN in February 2004 that formally changed the completion date to 2005. FinCEN’s former Director said he attended a WebCBRS briefing at IRS in Detroit in May 2004, but

²¹ GAO, *Bank Secrecy Act: FinCEN and IRS Need to Improve and Better Coordinate Compliance and Data Management Efforts*, GAO-07-212 (Dec. 15, 2006).

decided to move forward with BSA Direct R&S because he considered the control of BSA data as crucial to FinCEN.

Treasury's OCIO Did Not Fully Explore the Issue of System Duplication with IRS

The Conference Report (H.R. 108-792) for FinCEN's fiscal year 2005 appropriation included language that restricted FinCEN's use of fiscal year 2005 funds for BSA Direct R&S until Congress received a letter from Treasury certifying that BSA Direct R&S was the only system that would provide general access to BSA data.²² In a December 7, 2004, memorandum to the Deputy Secretary, the Treasury CIO at the time recommended that the Secretary sign a letter certifying that the FinCEN BSA Direct R&S development program was the only effort of its kind within the department.

In that memorandum, the former Treasury CIO summarized a September 2004 meeting between the FinCEN Director and the IRS Commissioner, agreeing to eliminate any redundancies between BSA Direct R&S and the existing IRS systems. The CIO went on to outline the steps to eliminate the duplication. With that recommendation, the Treasury Secretary certified in a letter to Congress dated December 9, 2004, prepared by the CIO, that FinCEN's BSA Direct R&S development program was the only effort of its kind within the Department. In our opinion, the information the CIO provided to the Deputy Secretary, which was relied on for the Secretary's certification to Congress, was not accurate.

We attempted to interview the former Treasury CIO who made that recommendation for clarification about his memorandum to the Secretary, and his office's oversight of the project. The former CIO, who had retired from federal service, accepted our initial interview request but later canceled and did not respond to subsequent interview requests.

²² Senate Committee on Appropriations Report 108-342, Transportation, Treasury and General Government Appropriations Bill, 2005.

FinCEN Implements IRS's WebCBRS System for Accessing BSA Data

After stopping work on BSA Direct R&S in March 2006, FinCEN, under the leadership of a new Director, determined that WebCBRS was sufficiently suitable to meet the needs of the large majority of its database users. FinCEN's customers began using WebCBRS in fiscal year 2007 and FinCEN received a customer satisfaction rating of 81 percent for the system in 2008 and 74 percent in 2009. According to FinCEN, the cost to FinCEN to add FinCEN users to WebCBRS, including training and end-user support, was \$300,000.

FinCEN Did Not Properly Define Functional Requirements and User Needs

Federal agencies are required to adequately define system functional requirements and user needs before initiating a development project. FinCEN did not sufficiently obtain customer input when defining the functional requirements for BSA Direct R&S.

Customer Involvement Is Required in Defining User Needs

The FAR states, among other things, that the acquisition team should include the customers being served and the contractors providing the products and services.²³ Furthermore, Clinger-Cohen requires an acquisition plan that defines the functional requirements of the information technology's intended users. Finally, Treasury's *Information System Life Cycle Manual* requires that an integrated project team be established to define a system's functional requirements.²⁴

The acquisition plan for BSA Direct R&S did not adequately discuss all elements required by the FAR, including all the milestones for the acquisition cycle. It should be noted that FinCEN provided us with only a draft acquisition plan. Although FinCEN said the draft

²³ FAR, subpart 1.102(c).

²⁴ Treasury Directive Publication 84-01, p. 8.

was the final version, the document was clearly labeled draft and did not bear the CO's signature, as required by the Department of the Treasury Acquisition Regulation (D-TAR).²⁵

Users Were Not Adequately Consulted and Functional Requirements Were Not Fully Defined

FinCEN prepared a preliminary analysis of BSA Direct R&S user needs in July 2004. However, the preliminary analysis lacked sufficient detail to accurately scope and plan the work. FinCEN expected EDS to conduct in-depth user sessions to augment its preliminary analysis. EDS, however, based its requirements for the first phase of the project only on limited user requirements sessions. Representatives from EDS told us that FinCEN should have more accurately defined user requirements and said that it was FinCEN's responsibility, not EDS's, to consult with users.

FinCEN's former Director told us that the intent was to take the preliminary analysis and follow up with users to fully determine their needs. He did not know why that was not done.

After the project was under way, FinCEN learned that certain users had not been adequately consulted about their needs. For example,

- Approximately 1 year after beginning the BSA Direct R&S project, FinCEN met with Office of the Comptroller of the Currency representatives to present a demonstration of BSA Direct R&S. During the presentation, it was discovered that FinCEN did not have a full understanding of the bank regulator's needs.
- In February 2005, IRS informed FinCEN that IRS's Small Business/Self-Employed Division was excluded from user needs discussions. IRS was concerned that no one from BSA Direct R&S had contacted IRS about its requirements. IRS's Small Business/Self-Employed Division had more than 1,300 users.

²⁵ The D-TAR contains Treasury acquisition and procurement policy that implements and supplements the FAR. FinCEN is required to adhere to the policies and procedures of both the FAR and the D-TAR.

Among other things, FinCEN believed that BSA Direct R&S would eliminate the need to give bulk downloads of BSA data to users such as the Federal Bureau of Investigation and U.S. Secret Service.²⁶ However, FinCEN did not fully consult with them either. As a result, we learned that these downloads would still be provided. BSA Direct R&S was also supposed to provide data cleansing.²⁷ FinCEN may have oversold this benefit because certain users find value in looking at the irregularities in uncleaned data.

Lack of Understanding of BSA Data Complexity and Unclear Expectations Delayed the Project's Development

Before the contract was awarded, neither EDS nor FinCEN fully understood the complexity and size of BSA data and how those factors would affect system development. For example, the format of the data and the size of the database presented difficulties in creating a data warehouse. EDS project officials told us that the actual amount of data to be cleansed was twice the amount stated in the RFP.

EDS officials said that there were many misunderstandings about the requirements in the SOW and that FinCEN officials often changed their minds about what they wanted. According to EDS, FinCEN's frequent changes to system requirements affected the project's time schedule and increased the project's cost and risk.

For example, FinCEN and EDS officials had different interpretations of the 5-second response time requirement in the contract. EDS explained that the contract required that the system would provide users with an estimate of how long the search would take within 5 seconds of launching a search. FinCEN officials disagreed with that interpretation and wanted a search completion time of 5 seconds. According to EDS officials, what FinCEN wanted was impossible.

²⁶ Bulk downloads are transfers of entire BSA data sets or large subsets to a user's site.

²⁷ Data cleansing refers to technologies used to enhance the integrity and validity of data in a database management system.

When asked if there was anything FinCEN could have done differently to help EDS meet the October 14, 2005, deadline for completing the project, EDS officials said that FinCEN should have identified the business users so the contractor could have worked with them directly when developing the system. In addition, FinCEN could have had a stronger technical team, held EDS only to the requirements in the original SOW, provided better leadership, and made fewer changes to system requirements.

EDS purchased equipment and software for BSA Direct R&S immediately after the contract was awarded without having final user requirements. For example, purchase orders showed that EDS took delivery of about \$500,000 in computer software less than 30 days after the contract award and before developing the concept of operation²⁸ and meeting with users to determine requirements. In an internal e-mail to project team members, a FinCEN official questioned purchasing all of the hardware and software before completing the requirements analysis. Unforeseen requirements and enhancements resulted in about \$1 million in additional hardware and software costs. To cover these costs, FinCEN postponed planned regulatory outreach and other information technology efforts.

Project Completion Date Was Unrealistic and Deadlines Continued to Change

EDS was under contract to provide a complete and tested system to FinCEN no later than October 14, 2005. This schedule was unrealistic.

In November 2004, just 1 month after beginning IV&V services, MITRE reported to FinCEN that the project was chaotic and expressed concern over a number of things, most notably deliverables that were already past due. Moreover, MITRE reported that EDS did not have a process to conduct and approve reviews, changes, and releases. As the project progressed, MITRE reported that EDS's pattern of schedule slippages and its lack of staff with

²⁸ The concept of operation is a document used to guide the analysis, design, and development of the system.

requisite system engineering skills intensified its concerns about EDS's capacity to deliver a system. MITRE also reported its increased concerns about the IRS Database Platform Migration Plan²⁹ and schedule changes.

FinCEN did not document the inspection and acceptance of deliverables for adherence to contract requirements, or have written policies and procedures for inspecting and accepting information technology work. The D-TAR states that the contract file documentation should contain inspection, acceptance, and receiving reports. It also states that an authorized government representative should sign off that all requirements have been inspected, received, and accepted, and that the work met the terms of the contract.

MITRE recommended that FinCEN develop BSA Direct R&S acceptance criteria and in June 2005 gave FinCEN a draft set for review.³⁰ According to MITRE, agreed-upon acceptance criteria were critical to ensure that BSA Direct R&S system implementation and deployment met requirements. Over the next 6 months, through December 2005, MITRE continually recommended in its monthly progress reports that FinCEN engage EDS in discussions regarding the development of acceptance criteria.

Although we were told FinCEN accepted Iteration 1 of BSA Direct R&S (this iteration refers to the gathering and enhancement of data with limited system functionality) on August 31, 2005, FinCEN continued testing it into mid-September 2005. As a result, EDS started working on Iteration 2 before Iteration 1 problems had been resolved. We asked FinCEN for documentation showing acceptance of Iteration 1, but FinCEN did not provide it and we could not determine if FinCEN ever documented its acceptance of Iteration 1.

Furthermore, EDS revised its estimated completion date of Iteration 2 by 9 months, from July 2005 to April 2006. Additionally, Iteration 3 was also pushed-back 6 months, from October 2005 to

²⁹ MITRE said it was critical that FinCEN have a back-up plan for business continuity if IRS's old system was terminated before BSA Direct R&S became operational.

³⁰ FAR, subpart 46.501, states that acceptance constitutes acknowledgment that the supplies or services conform to applicable contract quality and quantity requirements.

April 2006. Ultimately, EDS proposed combining Iterations 2 and 3 after requirements were reduced. BSA Direct R&S delivery was to culminate upon completion of Iteration 3. Neither iteration 2 nor 3 had been delivered when the stop work order was issued in March 2006.

A contractor, i2S, hired by FinCEN to provide a review and analysis of the project from inception through the stop-work order, reported that Iteration 1 functionality was less than FinCEN anticipated and that its performance was notably slow, with some queries taking up to tens of minutes to complete. Additionally, the data provided was considered inadequate. Iteration 1 was to have 10-plus years of historical data; however, it contained less than one percent of that amount.

i2S also found that during the course of the contract, FinCEN added tasks, which were agreed to by EDS, without modifying the final delivery date. FinCEN moved the final delivery date with a contract modification dated September 12, 2005, which changed the delivery date from October 14, 2005, for *full* operating capacity to January 25, 2006, for *initial* operating capacity. Under the modification, Iteration 2 was scheduled to be delivered on January 25, 2006, and Iteration 3 was scheduled to be delivered on April 28, 2006. As discussed above, however, EDS proposed to combine Iterations 2 and 3 when system requirements were reduced, resulting in an April 2006 final delivery date.

i2S reported that the major issues it uncovered were poor requirements analysis and definition, and major disagreements between EDS and FinCEN about key areas of the program, including query definition and system performance. According to i2S, EDS asserted FinCEN and MITRE had pushed EDS to implement a "final" data model at a stage it considered premature. Overall, i2S concluded that there was lack of a common understanding of requirements between FinCEN and EDS throughout the project.³¹

³¹ BSA Direct Review and Report, Prepared for Financial Crimes Enforcement Network (FinCEN) of the US Treasury, by ideas to Solutions (i2S), June 19, 2006.

Our audit reaffirmed the findings and conclusions of i2S's review.

Gateway Requirements Were not Sufficiently Outlined in the Original Contract

Gateway is a FinCEN program that allows law enforcement and intelligence users to coordinate their investigations and share information. The related Gateway technology, Secure Outreach, enables FinCEN to identify and track users who access BSA data, which is important for, among other things, ensuring that sensitive BSA financial data is not misused. FinCEN identified the need to provide for Gateway in the original scope of BSA Direct R&S, but did not include specific requirements. FinCEN added those specific requirements as a contract modification almost a year after the initial contract was awarded. The addition of the Gateway interface increased project costs by approximately \$1 million and contributed to major delays.

Finding 3

FinCEN Used Funds from Various Sources to Cover BSA Direct R&S Development Costs

FinCEN spent \$17.4 million to develop BSA Direct R&S. At the time of the nearly \$9 million contract award to EDS in fiscal year 2004, FinCEN had only \$2 million available, from TFF, to fund the BSA Direct R&S project. To cover the additional contract and other costs of the project, FinCEN used funds from both TFF and its fiscal years 2005 and 2006 appropriations. Because we had concerns about whether FinCEN's use of funds from these other sources and fiscal years to meet this large cost overrun was appropriate and legal, we referred the matter to GAO for a decision.³²

In a June 2009 decision,³³ GAO concluded that FinCEN improperly charged certain obligations to its fiscal year 2005 and 2006 appropriations. GAO found this to be a violation of the bona fide needs rule and said FinCEN would have to adjust its accounts to

³² GAO issues legal decisions and opinions on appropriations law and other issues of federal law.

³³ GAO, *Financial Crimes Enforcement Network—Obligations under a Cost-Reimbursement, Nonseverable Services Contract*, B-317139 (Jun. 1, 2009).

correct the violation. The violation centered on GAO's determination that FinCEN's contract with EDS was for a nonseverable service³⁴ thereby requiring that FinCEN obligate the estimated cost of the contract at the time of award from available funds at the time.

The adjustments included obligating \$6.9 million to appropriations available in fiscal year 2004 (the fiscal year of the contract award to EDS) and deobligating that amount from the fiscal year 2005 appropriation. GAO said FinCEN could legally draw on its fiscal year 2003 and 2004 appropriations to the extent that there were sufficient unobligated balances still available for costs related to the BSA Direct project. If funds were not available, FinCEN would need to report an antideficiency act violation.

FinCEN adjusted its accounts and its fiscal year 2004 and 2005 appropriations. FinCEN also asserted in a December 2009 management representation letter to KPMG LLP, in connection with its financial statement audit, that there were no known antideficiency act violations.³⁵

Funding Sources Were Uncertain From the Beginning of the Project

A FinCEN official told us that budgeting for BSA Direct R&S was challenging from the beginning. Only \$2 million was available for BSA Direct R&S when FinCEN awarded EDS the nearly \$9 million cost-plus-fixed-fee contract in June 2004 for the design, implementation, and deployment of the system.

By not securing full funding at the onset of the project, FinCEN did not follow OMB Circular A-11 principles.³⁶ According to the circular, when capital projects are incrementally funded, without certainty of if or when future funding will be available, the result is

³⁴ A nonseverable service is one that requires the contractor to complete and deliver a specific end product. The general rule is that a nonseverable service is considered a *bona fide* need at the time the agency orders the service and, therefore, should be charged to an appropriation current at the time the agency enters into the contract.

³⁵ KPMG LLP performed the audit of FinCEN's 2009 financial statements under the supervision of our office.

³⁶ OMB Circular No. A-11, *Principles of Budgeting for Capital Assets*, part 7, app. J, (2003).

sometimes poor planning, acquisition of assets not fully justified, higher acquisition costs, cancellation of major investments, the loss of sunk costs, or inadequate funding to maintain and operate the assets. In the case of BSA Direct R&S, all these potential adverse consequences happened.

In fiscal year 2005, Congress appropriated \$7.5 million to fund the ongoing project. In addition, because of the project's escalating costs, FinCEN found itself using funds for system development that had been intended for other projects.

Project Costs Escalated

Costs escalated significantly throughout the BSA Direct R&S development effort. The nearly \$9 million contract awarded to EDS for the design, implementation, and deployment of BSA Direct R&S increased by about \$5.8 million, or 65 percent, to \$14.8 million, after adding the costs for additional scope, labor, hardware, and software expenses incurred during system development. The \$14.8 million, however, did not include all costs associated with BSA Direct R&S. Nearly \$2.6 million in additional costs were incurred that included, for example, the project's planning phase and MITRE's services, raising the total to \$17.4 million. EDS had been paid \$14.2 million by the time the project was finally halted and the contract terminated for convenience of the government on July 13, 2006.³⁷

In January 2008, a negotiated settlement of approximately \$14.8 million was reached between EDS and FinCEN to terminate the \$15.1 million contract obligation. This settlement included all of the fees payable under the contract.

Table 1 shows a breakdown of the costs incurred by FinCEN for BSA Direct R&S.

³⁷ FAR, subpart 49, prescribes contract termination clauses. One clause is termination for convenience of the government. With this clause, the government may cancel part or all of a contract when a contractor's services are no longer needed. The contract is not terminated by fault of the contractor. A settlement is negotiated between the government and the contractor to determine an equitable compensation for the contractor.

Table 1: BSA Direct R&S Costs as of March 2008 (*\$ in thousands*)

Type	Cost
Planning phase	\$525
Initial award of contract to EDS	8,983
Additional scope, labor, hardware, software, and overrun expense added to EDS contract	5,844
MITRE IV&V contract	991
Personal services contract	150
FinCEN labor	572
Other incidental expenses	119
Assessment phase	185
Total	\$17,369

Source: OIG review of FinCEN data.

Concluding Remarks and Recommendations

BSA Direct R&S was an unnecessary system development failure that resulted in millions of dollars being wasted. The FinCEN senior leadership at the time did not ensure the proper planning and management of the project. They also did not heed warnings from staff and contractors regarding bad news about the progress of the development effort. This is the most important lesson that should be taken from BSA Direct R&S and avoided by FinCEN in pursuing its current BSA modernization effort as well as any future investments of this nature. Also important going forward, FinCEN should fully partner with the Treasury's OCIO and ensure the funding is in place and the most appropriate contract vehicle is used when undertaking system development projects. Likewise, Treasury OCIO should more closely monitor FinCEN's progress than was done with BSA Direct R&S. FinCEN should also fully partner with IRS for a fully consolidated solution.

There were two other troublesome matters regarding the BSA Direct R&S project that FinCEN must avoid going forward. The first matter was the extent of the PSC's involvement in the project. The blanket authorization to hire PSCs as granted in FinCEN's annual appropriation is not common. We believe that authorization was abused by FinCEN in the way the individual was used on the project and the perceived and apparent authority that the individual exercised over FinCEN staff and contractors. The second matter

was the failure by FinCEN to maintain adequate contract and financial records for BSA Direct R&S. Complete and accurate records of the current BSA modernization program will be critical to, among other things, allow for an appropriate audit trail and provide for complete and accurate semiannual reporting to the Congress as directed by House Report 111-366.

We recommend that the Director of FinCEN do the following:

1. Ensure that future information technology projects, including the current BSA modernization project, are properly planned and the necessary expertise for project management is in place.

Management Response

FinCEN stated that it has restructured its information technology division, TSSD, to better align with delivery of information technology services to its customers. This division established SDLC to guide and institute common practices across the division for the latest Information Technology Modernization Program. SDLC focuses on requisite planning activities that result in documentation to include, but are not limited to, the Enterprise Transition Strategy and associated Business Case, Program Management Plan, and Business System Requirements Report.

FinCEN stated that it has also added senior staff to the TSSD over the past 3 years. These include a CIO who has 20 years of information technology and contracting experience working on large-scale information technology modernization efforts in the private and public sectors. Also, the Program Manager has the certifications of Program Management Professional, Senior Project Manager from the Treasury CIO, and COTR. Four individual program managers in the division have extensive information technology project management experience and are also certified COTRs. FinCEN stated that the TSSD has instituted a Technical Review Board, Project Review Board, Modernization Management Office Board and Enterprise Planning Board to oversee the new program. FinCEN also established a Project Management Office to provide guidance

and perform select assessments, and provide subsequent feedback on the program to the CIO and Program Manager.

OIG Comment

The actions taken as described by FinCEN meet the intent of our recommendation. We have initiated an audit of FinCEN's BSA IT Modernization program, and plan to assess these actions as part of that audit.

2. Ensure ongoing and appropriate coordination with the Treasury's OCIO concerning the current BSA modernization project as well as future information technology initiatives.

Management Response

FinCEN stated that Treasury's OCIO has played an integral part in establishing the BSA IT Modernization Program as a priority and in obtaining endorsement from the Treasury Executive Investment Review Board. FinCEN also has ongoing coordination through two of FinCEN's governance boards. One board is the Modernization Executive Group, which is comprised of the Treasury CIO, the FinCEN Director, and IRS Deputy Commissioner of Operations and Management. The second board is the Executive Steering Committee, which includes FinCEN's Associated Directors, IRS Senior Leadership, and a senior representative from Treasury's OCIO. These boards meet on a regular basis and discuss the status, risks, and issues with the program and provide approval for completion of milestone phases in FinCEN's SDLC. FinCEN stated that Treasury's OCIO also reviews monthly status reports of the program from the Federal IT Dashboard and provides a rating on the cost/schedule information. In addition, FinCEN's BSA IT Program Manager serves as FinCEN's Capital Investment and Planning Coordinator and has ongoing communication and face-to-face meetings with the Treasury Capital Investment and Planning Control office.

OIG Comment

The actions taken as described by FinCEN meet the intent of our recommendation. We plan to assess these actions as part of our audit of the BSA IT Modernization Program.

3. Coordinate with IRS for a consolidated solution to meeting the data needs of FinCEN and its customers.

Management Response

FinCEN stated that it has coordinated with IRS representatives from various offices from the inception of the BSA IT Modernization Program. IRS representatives have reviewed and commented on the final draft of the Information Technology Modernization documents and FinCEN has had meetings with IRS about the documents. FinCEN's Data Management Council includes representatives from IRS's Criminal Investigation, Small Business/Self-Employed, and Large and Mid-Size Business divisions who regularly participate in monthly meetings. The BSA IT Modernization governance structure includes IRS, FinCEN, and Treasury representation to help ensure that the bureaus collaborate on any new BSA efforts. In addition, FinCEN stated that IRS and FinCEN agreed to have MITRE perform an independent study to demonstrate that the current structure does not meet the needs of BSA customers, to ensure involvement of IRS's Modernization and Information Technology Services and Enterprise Service organizations in reviews of foundational program documents, and to establish ongoing coordination between FinCEN and IRS.

OIG Comment

The actions taken as described by FinCEN meet the intent of our recommendation. We plan to assess these actions as part of our audit of the BSA IT Modernization Program.

4. Ensure that the security clearance requirements established in contracts are appropriate for the services and physical access

requirements of contractor personnel, and ensure all contractor personnel fully comply with those requirements.

Management Response

FinCEN stated that its Security Office establishes clearance or background levels for logical and/or physical access to FinCEN's facilities, information, and information systems for all FinCEN contracts in accordance with applicable requirements. The Security Office meets with the COTR and information Security Office staff and IT Security staff for all contracts to determine the proper background check or clearance level needed for contractors. Based on the clearance recommendations made, the Security Office outlines the contract security requirements. After the contract is awarded but prior to commencement of work, the contractor must send FinCEN a clearance certification letter and a copy of a current Joint Personnel Adjudication System printout for all contractor personnel to certify background investigation and clearance information.

OIG Comment

The process for establishing security clearance requirements and ensuring their compliance, if followed as described, meet the intent of our recommendation.

5. Ensure that adequate contract and financial records are maintained for the current BSA modernization projects to allow for audit as well as accurate reporting to FinCEN management, Treasury's OCIO, and the Congress.

Management Response

FinCEN stated that the Department of the Interior's National Business Center Acquisition Services Directorate (AQD) provides acquisition support for the BSA IT Modernization Program and is serving as the CO of record. AQD maintains the complete contract file. FinCEN's Acquisition Office is responsible for monitoring contract progress and performance, and also maintains a working contract file. Regarding financial

records, FinCEN is using the Bureau of the Public Debt accounting and financial system to record FinCEN's project costs. This system allows FinCEN to use project codes to track expenditures and generate reports showing line item accounting. This system will be used throughout the program so this recommendation will remain open through the end of the contract period of performance in March 2013.

OIG Comment

The actions taken and planned by FinCEN meet the intent of our recommendation. We plan to assess these actions as part of our audit of the BSA IT Modernization Program.

6. Assess the controls over FinCEN's use of personal services contracts to ensure that such contracts are appropriate to FinCEN's mission, and that individuals hired under personal services contracts perform duties that are appropriate and within their expertise.

Management Response

FinCEN stated that its current acquisition policy allows for the use of personal services contracts only when no other type of contractual vehicle is possible. The contract needs to be approved by the Bureau Chief Procurement Officer. If this type of contract is necessary, it is to be used strictly for certain purposes and the scope of the contract is to be narrowly focused on the unique and specific skill sets of the individual with whom the contract is formed. FinCEN stated that it currently has no personal services contracts and none are anticipated in the future.

OIG Comment

The actions taken by FinCEN meet the intent of our recommendation.

Additionally, we recommend that the Treasury CIO do the following:

-
7. Ensure Treasury's OCIO closely monitors the BSA modernization project. Among other things, OCIO's monitoring should ensure that FinCEN is following sound project management principles and if not, appropriate corrective action is promptly taken.

Management Response

The Acting Deputy Assistant Secretary for Information Systems/Chief Information Officer stated that in addition to routine monitoring by Treasury's OCIO Capital Planning and Investment Control desk officer, several enhanced oversight mechanisms are in place. Senior Treasury executives are involved in structured governance forums to review the progress of the BSA IT Modernization effort and keep cost, schedule, and performance on track. As cited examples, the FinCEN Director, Treasury CIO, and IRS Deputy Commissioner formed the BSA IT Modernization Executive Group, the highest-level joint recommendation and decision-making body overseeing the project. This group is responsible for reviewing the project at critical junctures and authorizing the project to proceed to the next milestone or directing that corrective actions be taken (i.e., modify/suspend/halt program). Also, the Treasury Deputy Secretary and the Assistant Secretary for Management monitor and direct the progress of the BSA IT Modernization Program through periodic (generally quarterly) status reviews. In addition, the OCIO has included the project on the Treasury High Visibility List. This list is comprised of major information technology investments that are subjected to extra OCIO scrutiny and attention. In addition to these oversight mechanisms, OMB conducted status reviews in the spring of 2010 before authorizing BSA IT Modernization to proceed. Periodic status reviews and reports are provided to OMB on the project, through monthly updates to the OMB IT Dashboard, meetings, and email and voice correspondence.

OIG Comment

The actions being taken by Treasury's OICO meet the intent of our recommendation. As part of our audit of the BSA IT

Modernization Program, we plan to assess the oversight exercised by Treasury's OCIO.

* * * * *

We would like to extend our appreciation to FinCEN personnel for the cooperation and courtesies extended to our staff. If you have any questions, please contact me at (617) 223-8640 or Sharon Torosian, Audit Manager, at (617) 223-8642.

/s/
Donald P. Benson
Director

The overall objective of our audit was to assess the Financial Crimes Enforcement Network's (FinCEN) efforts in planning, awarding, monitoring, resolving problems, and reporting performance for the BSA Direct Retrieval & Sharing (R&S) contract, as well as to evaluate why the project was not successfully completed and the lessons learned from this effort. We also assessed the monitoring of the project by Treasury's Office of the Chief Information Officer (OCIO). Our specific objectives were to (1) determine why system development failed, (2) evaluate the project's planning, (3) determine the amount and source of funds spent on BSA Direct R&S development, and (4) provide recommendations to increase the likelihood of successful initiatives of this nature going forward.

To gain an understanding of the BSA Direct R&S project, we interviewed senior-level management and project staff at FinCEN Headquarters in Vienna, Virginia. In addition, we interviewed former directors of FinCEN, including the individual who served as the director from December 1, 2003, to February 3, 2006, to obtain his knowledge and views on why the project was not successfully completed. The interviews enabled us to gain information on BSA Direct R&S history, the procurement process, perspective on each individual's knowledge and level of involvement, contractual concerns, and events leading up to the stop work order.

We also interviewed

- representatives from Electronic Data Systems Corporation (EDS), the contractor for the project, at EDS's offices in Herndon, Virginia, to determine their understanding of why the project failed to meet its performance milestones.
- officials from MITRE Corporation in McLean, Virginia, who provided independent validation and verification support for BSA Direct R&S, to gain information on their level of involvement with the project, as well as issues, concerns, and other significant matters they observed during the life of the project.

- Treasury's Associate Chief Information Officer, Capital Planning and Management, and the Desk Officer within the Treasury OCIO assigned to monitor the project, to obtain their perspectives on BSA Direct R&S and to determine what was communicated to OCIO about issues encountered during the project. We also met with a former assistant to the CIO to discuss his work and time spent on-site at FinCEN working on BSA Direct R&S.

We also wanted to talk to the individual who served as the Treasury Chief Information Officer (CIO) at the time the project was being developed about his role with BSA Direct R&S. The former Treasury CIO, who had retired from federal service, did not respond to our request.

It should be noted that we experienced significant delays in obtaining documentation from FinCEN regarding the project. We asked FinCEN for all documentation related to BSA Direct R&S. We made our initial request in May 2006 but did not begin to receive documentation from FinCEN until more than 2 months later, in August 2006. After that, FinCEN provided the information to us over the course of several months. Our audit fieldwork was also extended because we experienced significant delays from FinCEN officials when we submitted any additional requests for information.

We reviewed the project-related information that FinCEN provided to us, including e-mail correspondence; documents pertaining to the procurement process; management reports from FinCEN, MITRE, and EDS; and various memoranda. FinCEN did not provide the complete contract file for BSA Direct R&S but later gave us a re-created electronic version of the contract file that was incomplete. We also requested, received, and reviewed all information related to BSA Direct R&S from the Bureau of the Public Debt, FinCEN's contracting office for the project.

All FinCEN officials involved with BSA Direct R&S individually confirmed in writing that all BSA Direct R&S-related materials were made available to OIG. There were no other audit procedures that

we could perform to ensure that the documentation provided was complete.

In addition to documentation received from FinCEN, we reviewed background information including (1) the Federal Acquisition Regulation; (2) FinCEN's 5-year Strategic Plan and 2005 Annual Report; and (3) laws, regulations, guidance, and Treasury directives applicable to capital planning and investment control and managing information systems and information technology.

We performed our fieldwork from May 2006 to June 2007, though we continued to clarify information through 2009. Issuance of our final report was also delayed due to other priority work by our office. That work principally relates to an unprecedented number of reviews of failed financial institutions that we are required to perform under the Federal Deposit Insurance Act. We performed our audit in accordance with generally accepted government auditing standards.

Bank Secrecy Act

BSA, enacted in 1970, requires that financial institutions file certain reports and maintain specific records to, among other things, provide a paper trail of the activities of money launderers and others who commit financial crimes. Approximately 18 million BSA reports of various types are filed each year by about 200,000 financial institutions currently subject to BSA reporting and recordkeeping requirements.³⁸ The vast majority of these reports are currency transaction reports (CTR), which are required (unless exempted) for cash transactions exceeding \$10,000. SARs are filed when transactions are suspicious in nature because they appear to involve such activity as structuring (using transactions under \$10,000 to avoid being the subject of a CTR), bribery, fraud, use of counterfeit instruments, identity theft, terrorist financing, and the like. SARs generate leads that law enforcement agencies use to initiate or help complete money-laundering and terrorist financing investigations. The purpose of such documentation is to enable law enforcement and regulatory agencies to investigate criminal, tax, and regulatory violations and provide evidence in prosecuting financial crimes. FinCEN, a bureau within the Department of the Treasury, administers and enforces BSA. As part of this responsibility, FinCEN provides information to law enforcement and regulatory officials.

BSA Direct R&S Contract

In February 2004, FinCEN issued a request for proposals for BSA Direct R&S with full and open competition. In June 2004, FinCEN awarded a cost-plus-fixed-fee contract³⁹ to EDS for the design,

³⁸ For purposes of this report, the term financial institution refers to depository institutions, such as banks, credit unions, and thrifts; money services businesses (e.g., money transmitters; issuers, redeemers, and sellers of money orders and travelers' checks; check cashers and currency exchangers); casinos and card clubs; brokers or dealers in securities and futures; insurance companies; and mutual funds. At the time of our audit, SARs were required of all the aforementioned groups, with the exception of insurance companies and mutual funds.

³⁹ Cost-reimbursement types of contracts such as that used for BSA Direct R&S provide for payment of allowable incurred costs, to the extent prescribed in the contract. These contracts establish an estimate

development, and deployment of BSA Direct R&S. The winning bid totaled just under \$9 million.⁴⁰ The contractor planned to complete system development and begin operation in October 2005.

Beginning in October 2004, FinCEN employed MITRE to monitor BSA Direct R&S project milestones and report findings to FinCEN as part of its independent verification and validation function.

Congressionally Approved Funding

In 2004 and 2005, Congress approved \$9.5 million for BSA Direct R&S. This amount included \$2 million transferred from TFF in fiscal year 2004 and \$7.5 million that Congress earmarked specifically for BSA Direct R&S in FinCEN's fiscal year 2005 appropriation.⁴¹

An additional \$2.3 million of TFF funding was approved for BSA Direct R&S in fiscal year 2006. FinCEN applied \$2 million of this amount to the BSA Direct project and the remaining \$300,000 to WebCBRS.⁴²

FinCEN's Purpose for Initiating BSA Direct R&S

FinCEN wanted to develop BSA Direct R&S because it would make robust, state-of-the-art, data-mining capabilities and other analytic tools available directly to law enforcement. FinCEN's plan was to

of total cost for the purpose of obligating funds and establishing a ceiling that the contractor may not exceed (except at its own risk) without the approval of the CO. Cost-reimbursement contracts are suitable for use only when uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use any type of fixed-price contract.

⁴⁰ The total amount of the contract with EDS, \$8,982,985, had the potential to reach \$19 million. FinCEN obligated about \$9 million for the design, implementation, and deployment of the system. The balance of \$10 million related to additional services for operations and maintenance and Web-hosting services. These additional services consisted mainly of options extending out 5 years after system deployment.

⁴¹ The President's fiscal year 2005 budget had IRS transferring \$2.5 million to FinCEN for maintenance of the BSA Direct R&S system. Congress provided the \$2.5 million in FinCEN's budget along with one-time funding of \$5 million for initial design and development of the system. These funds were explicitly identified in the Fiscal Year 2005 Consolidated Appropriation Act (Pub. L. No. 108-447) for BSA Direct; the amount was later reduced to \$7.44 million as the result of Congressional Rescission H.R. 4818.

⁴² Web-based Currency and Banking Retrieval System (WebCBRS) is IRS's data warehouse and information retrieval system.

provide all users with access to these data through BSA Direct R&S, working with law enforcement customers to ensure that their systems extracted the maximum value from information reported in accordance with BSA.

FinCEN's plan would reduce IRS's BSA data management responsibilities. Since BSA's enactment in 1970, IRS has collected and maintained BSA data at its Enterprise Computing Center in Detroit, Michigan. In 1993, FinCEN initiated Project Gateway to provide state law enforcement agencies with online access to BSA data through a computer modem and telephone lines. This modem access was later replaced with Web-based access available via FinCEN's Secure Outreach Web system.

Appendix 3
Chronology of Significant BSA Direct R&S Events

The following chronology describes significant events in the history of the Financial Crimes Enforcement Network's (FinCEN) efforts to develop and implement the BSA Direct Retrieval and Sharing (BSA Direct R&S) project.

Date	Event
February 24, 2003	FinCEN issued a request for information, which asked for (1) conceptual technical architecture alternatives; (2) technical feasibility alternative assessments; (3) approximate cost information; (4) schedule estimates; and (5) ideas and suggestions providing alternative approaches to designing, developing, acquiring, operating, and managing the system.
June 16, 2003	A FinCEN contractor performed a gap analysis that recommended FinCEN make improvements, such as creating a BSA Program Office and improving its relationship with the Internal Revenue Service (IRS). The contractor's report recommended that FinCEN seek to work jointly with IRS to reduce overlapping development efforts between the two organizations.
October 6, 2003	FinCEN's Director announced the BSA Direct R&S effort.
November 2003	FinCEN began developing the proof of concept prototype. ⁴³
December 1, 2003	A new Director of FinCEN is appointed. The individual served in this capacity until February 2006.
February 2004	FinCEN learned that IRS had accelerated the implementation of the Web-based Currency and Banking Retrieval System (WebCBRS) from 2009 to 2005.
February 13, 2004	FinCEN issued the request for proposals and solicitation for BSA Direct R&S.
May–June 2004	A FinCEN technical evaluation panel evaluated the proposals.
June 30, 2004	FinCEN awarded the BSA Direct R&S contract to Electronic Data Systems Corporation (EDS).
July 9, 2004	EDS conducted a BSA Direct R&S kick-off briefing conducted to introduce key personnel and high-level project schedule, milestones, and work plan.
July 2004	EDS was unable meet the requirements for contractual security clearance requirements.

⁴³ A proof of concept prototype is intended to demonstrate how a system will work and to enhance knowledge of technical and management issues. This is to more effectively manage the development and deployment of the system. FinCEN developed a proof of concept and had a planned performance goal in its Exhibit 300 for the contractor to deliver a complete proof of concept prototype in fiscal year 2004 as well. None was ever provided, however, and the BSA Direct R&S contract did not identify the proof of concept prototype listed as a deliverable item. Time constraints were given as to the reason why there was no prototype or pilot for testing. FinCEN's Senior Information Technology Specialist/Senior Advisor told us that every information technology system started at FinCEN had begun as a pilot, with the exception of BSA Direct R&S.

Appendix 3
Chronology of Significant BSA Direct R&S Events

Date	Event
July 2004	FinCEN's second BSA Direct R&S project manager (PM) was assigned.
August 2004	EDS was contractually required to submit a baseline plan. EDS, however, provided a project schedule that was not baselined (i.e., it did not include planned milestones as required by the contract). ⁴⁴ EDS did not provide a baseline schedule that was accepted by FinCEN until December 2004.
September 2004	Senate Report 108-342 recommended supporting the President's fiscal year 2005 budget request of \$2.5 million and providing another \$5 million to complete BSA Direct R&S by October 2005. The report further directed that no fiscal year 2005 funding be expended before Congress received certification from Treasury that FinCEN and IRS were not constructing duplicate information technology systems for BSA data. The Secretary of the Treasury was to provide this certification within 30 days.
October 2004	The MITRE Corporation began independent verification and validation activities.
October 7, 2004	The first modification to the BSA Direct R&S contract obligated \$1.5 million in additional incremental funding.
November 2004	MITRE issued its first report on the project, describing it as chaotic and citing numerous past due deliverables and failures to document and manage critical path activities.
November 17-18, 2004	FinCEN and EDS held their first contracting meeting to discuss concerns associated with the contract—past due deliverables, project schedule, and staffing. FinCEN officially informed EDS of the less-than-acceptable status of some of its deliverables.
November 19, 2004	House Report 108-792 modified the direction proposed by the Senate regarding duplicate FinCEN and IRS systems. The conferees directed the Secretary to certify within 30 days of enactment of the Consolidated Appropriations Act that FinCEN's BSA information collection system was the only system of its sort under development. The report also stated that none of the funds provided to IRS for information technology projects could be obligated until the Secretary provided such certification.
December 2004	FinCEN's contracting officer for BSA Direct R&S drafted a letter to EDS addressing EDS's failure to meet contract deliverable dates and quality issues. The letter was not sent.
December 8, 2004	The Consolidated Appropriation Act, 2005 (Pub. L. No. 108-447) provided \$7.5 million funding explicitly for BSA Direct R&S.
December 9, 2004	The Secretary of the Treasury certified by letter to Congress that the BSA development program was the only effort of its kind within the Department.

⁴⁴ A baseline schedule was required no later than 20 business days after the approval of the preliminary schedule, which was July 20, 2004.

Appendix 3
Chronology of Significant BSA Direct R&S Events

Date	Event
January 6, 2005	The second modification to the BSA Direct R&S contract obligated approximately \$5.5 million in additional incremental funding to fully fund the base period of the project.
January 2005	EDS's second BSA Direct R&S PM was assigned.
February 16, 2005	FinCEN's third BSA Direct R&S PM was assigned.
March 17, 2005	The third modification to the BSA Direct R&S contract changed the PM for EDS and revised security clearance procedures.
March 21, 2005	The fourth modification to the BSA Direct R&S contract incorporated specific requirements for Gateway and made security revisions to comply with Treasury mandates that the contractor conduct system certification and accreditation requirements in accordance with NIST 800-37. ⁴⁵
April 18, 2005	The fifth modification to the BSA Direct R&S contract permitted EDS project staff to obtain interim security clearances based on a National Agency Check.
April 25, 2005	MITRE briefed FinCEN's Director about its concerns related to EDS's ability to meet the October 14, 2005, delivery date.
May 10, 2005	MITRE presented to EDS the same briefing given to the Director on April 25.
May 20, 2005	The FinCEN Chief Counsel sent a memorandum to FinCEN's Director describing actions FinCEN must take to enforce and preserve its contractual rights.
June 3, 2005	FinCEN issued a letter to EDS on the government's heightened concern about EDS's ability to successfully deliver the BSA Direct R&S system on time and in accordance with the operational capabilities and requirements.
June 13, 2005	EDS responded to FinCEN's letter, claiming that many delays were directly attributable to FinCEN.
August 31, 2005	FinCEN, we were told, accepted Iteration 1 of BSA Direct R&S.
September 1, 2005	FinCEN's second contracting officer's technical representative for BSA Direct R&S was assigned.
September 1, 2005	The sixth modification to the BSA Direct R&S contract obligated additional incremental funding.
September 12, 2005	The seventh modification to the BSA Direct R&S contract established the new FinCEN contracting officer's technical representative and obligated approximately \$2.8 million in additional incremental funding to the contract. The delivery date for full operating capacity was changed from October 14, 2005, to having an Initial operating capacity at Iteration 2 completed on January 25, 2006, and Iteration 3 scheduled to be delivered on April 28, 2006.

⁴⁵ The National Institute of Standards and Technology (NIST) developed this special publication in accordance with its statutory responsibilities under the Federal Information Security Management Act of 2002.

Appendix 3
Chronology of Significant BSA Direct R&S Events

Date	Event
September 13, 2005	The eighth modification to the BSA Direct R&S contract obligated additional incremental funding.
September 13, 2005	The ninth modification to the BSA Direct R&S contract obligated additional incremental funding and increased the contract value for hardware/software maintenance.
October 14, 2005	The initial contractual delivery date for BSA Direct date R&S passed.
October 21, 2005	The second EDS PM for BSA Direct R&S resigned. The third EDS PM for BSA Direct R&S was assigned.
November 16, 2005	A review of test scripts by FinCEN indicated that fewer than 10 percent of the test scripts were acceptable.
December 2005	FinCEN's Assistant Director of the Office of BSA Data Services met with FinCEN's Director and informed him that the project was at a crossroad in deciding whether or not to terminate the BSA Direct R&S.
December 14, 2005	FinCEN called a meeting with EDS senior management. EDS committed to additional staffing and expertise at no additional cost to the government.
January 2006	MITRE projected that BSA Direct R&S would not be completed until September 2006. The FinCEN Director requested that work start on the use of the IRS Web-based Currency Banking and Retrieval System contingency.
January 13, 2006	MITRE raised concerns that BSA Direct R&S had not been sufficiently tested.
January 30, 2006	EDS proposed to change Initial operating capacity date for Iteration 2 from January 25, 2006, to March 31, 2006.
February 3, 2006	The FinCEN Director resigned to take a position in private industry.
February 17, 2006	A new FinCEN Director was appointed. At the time of his appointment, the individual was serving as the Director of Treasury's Office of Foreign Assets Control.
February 22, 2006	EDS proposed a revised Initial Operating Capacity for Iteration 2 to April 28, 2006, which was the same due date for Iteration 3.
March 15, 2006	FinCEN issued a 90-day stop work order for BSA Direct R&S.
May 30, 2006	FinCEN extended the stop work order by 30 days.
July 13, 2006	FinCEN permanently halted all work on BSA Direct R&S.
March 2007	Mr. James Freis is appointed as FinCEN's Director and currently serves in that position. At the time of his appointment, Mr. Freis was serving in the Treasury Department as Deputy Assistant General Counsel for Enforcement and Intelligence. (The Director appointed in February 2006 resigned the position in December 2006 to take a job in private industry.)

Source: OIG analysis of FinCEN data.



DEPARTMENT OF THE TREASURY
FINANCIAL CRIMES ENFORCEMENT NETWORK

November 8, 2010

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FREEDMAN

FROM: James H. Freis, Jr. /s/
SUBJECT: *Management Response to the Draft Report –The Failed and Costly BSA Direct R&S System Development Effort Provides Important Lessons for FinCEN's BSA Modernization Program*

Thank you for the opportunity to review the Office of Inspector General (OIG) draft audit report on the bureau's past BSA Direct effort. FinCEN has gone through many changes since the BSA Direct effort began in 2004 and ended in 2006, over four years ago. In addition to new leadership and project management expertise, FinCEN has implemented a number of project management tools and techniques to ensure successful implementation of the current Information Technology (IT) Modernization program. The bureau routinely coordinates with Treasury and the Office of Management and Budget (OMB) to ensure adequate oversight and planning of the current Information Technology (IT) Modernization program, and is fulfilling the new Congressional program reporting obligations as directed by both Committees on Appropriations and raised by the OIG in written testimony before a House Subcommittee on Oversight and Investigations hearing in April 2010. I am confident that FinCEN is on the right track, and I appreciate the OIG's recognition that the problems experienced with the BSA Direct project are not reflective of our current IT Modernization program.

I want to take this opportunity to update you on some of the changes associated with our current IT Modernization effort. First, FinCEN is employing a system development life cycle methodology and proven program management methodologies to manage the IT Modernization program. Before FinCEN can proceed through each phase of the program, it must demonstrate completion of all requisite activities and receive approval from Treasury. In May 2010, after completing the project-level work to thoroughly identify the system requirements, FinCEN received approval from Treasury and OMB to begin the design phase. Second, the bureau is utilizing an integrated master schedule to stay abreast of program cost and schedule, which enables optimum project planning and control. Cost and schedule information for FinCEN's IT Modernization Program are also publicly available on www.USAspending.gov.

The changes outlined above, in combination with the attached response to each of the audit recommendations, effectively demonstrate FinCEN's commitment to proper planning and management of the current IT Modernization program. If you have any questions or need additional information, please contact Becky Martin, Assistant Director, Office of Financial Management, on 703-905-3860.

Attachment

www.fincen.gov

Attachment: FinCEN – Planned Corrective Actions

- 1. Ensure that future information technology projects, including the current BSA modernization project, are properly planned and the necessary expertise from project management is in place.**

FinCEN Response: Concur. In 2007, FinCEN restructured its information technology division (now the Technology Solutions and Services Division—TSSD) to better align with delivery of IT services to its customers. In support of this reorganization, TSSD established a System Development Life Cycle (SDLC), which is being leveraged to guide the BSA IT Modernization Program, as well as instituting common practices across the division. The first phase (Initiation and Domain Architecture) of the SDLC focuses on all the requisite planning activities that result in documentation to include, but is not limited to, the Enterprise Transition Strategy and associated Business Case, Program Management Plan, and Business System Requirements Report.

In terms of expertise, FinCEN has added a number of new senior staff to TSSD over the past three years. The sponsor of the BSA IT Modernization is FinCEN's Chief Information Officer (CIO), a Senior Executive Service member, who has 20 years of information technology and contracting experience in the Federal Government. The BSA IT Modernization Program Manager has over fourteen years of experience working on large-scale IT Modernization efforts in the private and public sector, of which nine years has been in a management capacity. The Program Manager is a certified Program Management Professional (PMP), has been certified by the Treasury CIO as a Senior Project Manager (FAC-PM Level 3), and is a certified Contracting Officer's Technical Representative (COTR). The four, individual project managers are all GS-15s and have extensive IT-project management experience and are certified COTRs. TSSD has also instituted rigorous governance/oversight to its internal processes to include a Technical Review Board, Project Review Board, Modernization Management Office Board, and Enterprise Planning Board. FinCEN has also established a Project Management Office to provide guidance as necessary, and also performs select assessments and subsequent feedback on the Program to the CIO and Program Manager.

Status: Closed

- 2. Ensure ongoing and appropriate coordination with the Treasury's OCIO concerning the current BSA modernization project as well as future information technology initiatives.**

FinCEN Response: Concur. The Treasury OCIO has played an integral part in establishing the BSA IT Modernization as a priority program for the Agency and in obtaining endorsement from the Treasury Executive Investment Review Board. Two of FinCEN's governance boards (with signed charters) that provide oversight to the BSA IT Modernization Program include the Treasury OCIO. The first governance board is the Modernization Executive Group and is comprised of the Treasury CIO, the FinCEN Director, and the IRS Deputy Commissioner of Operations and Management. The second board is the Executive Steering Committee and includes FinCEN Associate Directors, IRS Senior Leadership, and a senior representative from the Treasury OCIO. These boards meet on a regular basis to discuss status, risks, and issues and provide either approval/denial at the completion of each milestone phase outlined in FinCEN's SDLC. The Treasury OCIO also reviews the program's monthly status as reported in the Federal IT Dashboard and provides his/her rating based on cost/schedule information.

Attachment: FinCEN – Planned Corrective Actions

Lastly, the BSA IT Program Manager is also the Capital Investment and Planning Coordinator (CPIC) for FinCEN and has ongoing communication and face-to-face meetings with the Treasury CPIC office.

Status: Closed

3. Coordinate with IRS for a consolidated solution to meeting the data needs of FinCEN and its customers.

FinCEN Response: Concur. FinCEN has coordinated not only with IRS, but with all of its Federal partners, so that it is well positioned to meet customer requirements. More specifically, FinCEN has coordinated with IRS representatives from various offices from the inception of the BSA IT Modernization program. The IRS has participated through both the Data Management Council (DMC), as well as through governance that has been established between the two bureaus. Through both avenues, IRS representatives have reviewed and commented on final draft BSA IT Modernization documents, and FinCEN has held follow-up meetings with the IRS reviewers to disposition the feedback provided. FinCEN's DMC is comprised of members from FinCEN's Regulator and Law Enforcement communities, as well as FinCEN employees, to perform a review/validation of all user requirements and design for the program. The IRS Criminal Investigation, IRS Small Business/Self-Employed, and IRS Large and Mid-Size Business divisions have representatives on the DMC and regularly participate in the monthly meetings. In addition to IRS involvement in the DMC, FinCEN and IRS have integrated one another into the governance structures supporting BSA IT systems. First, FinCEN is included in the governance of the legacy WebCBRS system – and is a member of the IRS CI Executive Steering Committee (ESC) with oversight of that system. In addition, the BSA IT Modernization governance structure includes IRS, FinCEN, and Treasury representation to help ensure collaboration between the bureaus on any new BSA efforts, and OMB E-Government also provides oversight to the coordination efforts between legacy and future BSA systems. Through this governance structure, the IRS and FinCEN agreed to have a Federally Funded Research and Development Center (MITRE) perform an independent study to demonstrate that the current BSA data architecture will not meet the future needs of BSA customers; ensure involvement of the IRS Modernization and Information Technology Services (MITS) and Enterprise Services organizations in reviews of foundational BSA IT Modernization documentation; and establish ongoing coordination between FinCEN and the IRS MITS organizations and governance bodies.

Status: Closed

4. Ensure that the security clearance requirements established in contracts are appropriate for the services and physical access requirements of contractor personnel, and ensure all contractor personnel fully comply with those requirements.

FinCEN Response: Concur. FinCEN's Security Office establishes clearance or background levels for logical and/or physical access to FinCEN's facilities, information and information systems for all FinCEN contracts in accordance with the National Industrial Security Program and Executive Order 12829. To accomplish this, Security staff meet with the Contracting Officers Technical Representative and IT Security staff for all contracts to determine the

Attachment: FinCEN – Planned Corrective Actions

proper background check or clearance level that a contractor may need. Based on clearance recommendations made at these meetings, Security staff complete a DD Form 254 (Department of Defense Contract Security Classification Specification) to outline the contract security requirements. After contract award but prior to commencement of work, the contracting company must send FinCEN Security staff a clearance certification letter and copy of a current Joint Personnel Adjudication System printout for all contractor personnel to verify background investigation and clearance information.

Status: Closed

- 5. Ensure that adequate contract and financial records are maintained for the current BSA modernization projects to allow for audit as well as accurate reporting to FinCEN management, Treasury's OCIO, and the Congress.**

FinCEN Response: Concur. Acquisition support for the current BSA IT Modernization is outsourced to the Department of the Interior, National Business Center Acquisition Services Directorate (AQD). AQD acquisition staff serve as the responsible Contracting Officer of record for the IT modernization program and maintain the complete contract file for audit purposes. FinCEN's Acquisition Office is responsible for monitoring contract progress and performance, and also maintains a working contract file. In regard to financial records, when planning for BSA Direct began, FinCEN utilized accounting services and financial reporting systems provided by the U.S. Customs Office. In FY 2005, FinCEN transitioned to the Bureau of the Public Debt (BPD) for accounting services and financial reporting systems. Therefore, total costs for BSA Direct were in two systems. For the current IT Modernization effort, all of FinCEN's costs are in the BPD accounting and financial system, which allows the bureau to use project codes to track expenditures and generate reports showing line item accounting.

Status: Open through the end of the contract period of performance, which runs through March 2013.

- 6. Assess the controls over FinCEN's use of personal services contracts to ensure that such contracts are appropriate to FinCEN's mission, and that individuals hired under personal services contracts perform duties that are appropriate and within their expertise.**

FinCEN Response: Concur. Current FinCEN acquisition policy requires use of personal services contracts only to satisfy requirements when no other type of contractual vehicle is possible, and each case must be approved by the Bureau Chief Procurement Officer. In those cases where a personal services contract is determined to be necessary, its use shall be in strict accordance with the purpose as set forth in the appropriation statute allowing FinCEN to procure personal services, and the scope of the contract shall be narrowly focused on the unique and specific skill sets of the individual with whom the contract is formed. FinCEN currently does not have any personal services contracts and none are anticipated in the future.

Status: Closed

November 23, 2010

**MEMORANDUM FOR DONALD BENSON
DIRECTOR**

FROM: Diane C. Litman /s/
Acting Deputy Assistant Secretary for Information Systems
and Chief Information Officer

SUBJECT: Management Response to Draft Report – The Failed and Costly BSA
Direct R&S System Development Effort Provides Important Lessons
for FinCEN's BSA Modernization Program

Thank you for the opportunity to review and provide comment to the draft report on the Financial Crimes Enforcement Network (FinCEN)'s Bank Secrecy Act (BSA) Direct Retrieval & Sharing System. Treasury concurs with the Office of the Inspector General recommendation to *closely monitor the BSA Information Technology (IT) Modernization project* now underway. In addition to routine monitoring by the Treasury Office of the Chief Information Officer (OCIO) Capital Planning and Investment Control (CPIC) desk officer on major IT investments, the following enhanced oversight mechanisms are in place:

- Structured governance forums to review BSA IT Modernization (Mod) progress and ensure the effort stays on track from a cost, schedule, and performance perspective. Involvement by senior Treasury executives in BSA IT Mod includes:
 - The BSA IT Mod Executive Group (MEG) is the highest-level joint recommendation and decision-making body overseeing the project. The MEG is responsible for reviewing the project at critical junctures and authorizing the project to proceed to the next milestone or directing that corrective actions be taken (i.e., modify/suspend/halt program). It is comprised of the FinCEN Director, the Treasury Chief Information Officer (CIO), and the Internal Revenue Service Deputy Commissioner.
 - The BSA Executive Steering Committee (ESC) advises the BSA IT Mod MEG of risks, issues, and challenges associated with the project. The ESC is comprised of the FinCEN CIO and subject matter expert Senior Executive Service members from IRS and OCIO.
- Both the Treasury Deputy Secretary and the Assistant Secretary for Management (ASM) monitor and direct the progress of BSA IT Mod through periodic (generally quarterly) status reviews -- the Deputy Secretary through BureauSTATs and IT STATs and the ASM through Treasury STATs.
- OMB conducted status reviews (including a Federal CIO TECH STAT meeting) in the spring of 2010 before authorizing BSA IT Mod to proceed. Periodic status reviews/reports continue to be provided to the Office of Management and Budget

(OMB) on the project, through monthly updates to the OMB IT Dashboard, meetings, and email/voice correspondence.

- The OCIO has included BSA IT Modernization on the Treasury High Visibility List (THVL). The THVL is comprised of a subset of major IT investments that are subjected to extra scrutiny and attention by OCIO.

If you have any comments or questions please feel free to reach out to me via telephone at 202-622-1200.

Office of Inspector General

Sharon Torosian, Audit Manager

Mark Ossinger, Audit Manager

Jeanne Degagne, Auditor

Jenny Hu, Auditor

Terri Nabiam, Auditor

Kenneth O'Loughlin, Auditor

Jaideep Mathai, Referencer

Department of the Treasury

Deputy Secretary
Under Secretary for Terrorism and Financial Intelligence
Acting Chief Information Officer
Office of Strategic Planning and Performance Management
Office of Accounting and Internal Control

Financial Crimes Enforcement Network

Director

Office of Management and Budget

OIG Budget Examiner