United States General Accounting Office

GAO

Testimony
Before the Subcommittee on Trade,
Committee on Ways and Means,
House of Representatives

For Release on Delivery
Expected at 10 a.m. EDT
Tuesday July 17, 2001

# U.S. CUSTOMS SERVICE

# Observations on Selected Operations and Program Issues

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GAO-01-968T

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss (1) an update of our work on the Automated Commercial Environment (ACE), which is intended to be Customs' new import processing system, (2) findings from our report on the timeliness of Customs' Office of Regulations and Rulings (OR&R)[1] in issuing headquarters rulings on such things as the proper classification and valuation of imported goods, and (3) findings from our recent report on the effects of proposed legislation (H.R. 1833, sections 123 (a) and (b), 106th Cong.) on Customs officers' night pay.[2] Our report on Customs officers'[3] night pay was requested by Senator Grassley as Chairman of the Senate Caucus on International Narcotics Control.[4] At the close of fiscal year 2000, Customs had a permanent work force of about 20,000 employees, including about 8,000 officers.

In summary, on our first issue, concerning ACE, a more capable import processing system designed to replace Customs' current aging and error-prone system, we concluded that Customs' plan constituted a reasonable first step on a complex, long-term modernization program. Pursuant to our obligation to review ACE expenditures, we plan to continue monitoring Customs' ongoing modernization efforts. Second, we found that OR&R headquarters did not issue the majority of its rulings in a timely manner. Third, we found that if proposed legislation on Customs officers' night pay had been in effect during fiscal year 1999, the officers would have received about $6 million in night differential pay—about $5 million less than what they actually received during that year. Further, across the five ports we reviewed, the impact on officers' pay varied widely because of the differences in shift patterns.

[1] *U.S. Customs Service: OR&R Needs to Resolve Timeliness and Data Problems Involving Headquarters Rulings* (GAO/GGD-00-181, Sept. 7, 2000).

[2] *Customs Service: Effects of Proposed Legislation on Officers' Pay* (GAO-01-304, Jan. 2001).

[3] For the purposes of this testimony, when we used the term Customs officers, we are referring to both inspectors and canine enforcement officers.

[4] The Caucus has been concerned for some time about the manner in which Customs provides compensation to its officers, who are on the front line of the nation's drug interdiction efforts. Customs' responsibilities include preventing the smuggling of drugs into the United States.

## Customs Is Taking a Reasonable First Step on Long-Term ACE Modernization Program

Let me start by updating you on the progress of Customs' ACE. As we have previously testified, the need for Customs to modernize its import processing is undeniable.[5] In the face of burgeoning trade workload forecasts, a commensurate increase in Customs' human capital resources is neither planned nor the appropriate solution. Moreover, Customs' current system for import processing, the Automated Commercial System, is paper-intensive, error-prone, transaction-based, and out of step with the just-in-time inventory practices of the trade community. To address this challenge, and consistent with our prior recommendations on ACE, Customs plans to incrementally acquire and invest in a more capable import processing system known as the Automated Commercial Environment, or ACE, and retire its existing system. Also consistent with our past recommendations, Customs plans to acquire on behalf of the many federal agencies that collect, use, and disseminate trade data, a system known as the International Trade Data System, or ITDS, that is to provide importers with a single interface into the federal government.

For fiscal year 2001, the Congress appropriated $130 million and $5.4 million as the first installments on the ACE and ITDS investments, respectively.[6] In the act appropriating these funds, the Congress also stated that the ACE funds may not be obligated until Customs submits to the Congress for approval an ACE expenditure plan that meets a number of management and oversight requirements, including review by us.

Customs submitted its first expenditure plan seeking release of $45 million on March 26, 2001. On April 23, 2001, we provided the results of our review of the plan to the Customs' appropriations subcommittees.[7] In sum, we reported that Customs' expenditure plan satisfied the appropriations act's conditions and was consistent with our open recommendations concerning ACE, and we thus concluded that the plan constituted a reasonable first step on a complex, long-term modernization program. However, we also reported that (1) opportunities for improving modernization management existed because the expenditure plan excluded relevant ITDS investment activities and allowed these activities to proceed outside of the scope of the modernization program without

[5] *U.S. Customs Service: Observations on Selected Operations and Program Issues* (GAO/T-GGD/AIMD-00-150, Apr. 20, 2000).

[6] The Consolidated Appropriations Act, 2001 (P.L. 106-554, Dec. 21, 2000).

[7] *Customs Service Modernization: Results of Review of First Automated Commercial Environment Expenditure Plan* (GAO-01-696, June 5, 2001).

justification for doing so and (2) the plan provided for conflicting roles and responsibilities for the modernization program's independent verification and validation agent.[8]

Accordingly, we recommended that Customs (1) transfer responsibility and accountability for the ITDS pilot to the ACE modernization program manager; (2) include further ITDS investment plans and supporting information in the next ACE expenditure plan; and (3) clarify the roles and responsibilities of the ACE modernization IV&V contractor to ensure independence. Customs agreed with our recommendations, and to date has either implemented or is in the process of implementing these recommendations. Currently, Customs is working with its recently selected modernization integration contractor to define the initial contract task orders, which the $45 million is to fund. In fall 2001, Customs plans to submit its second expenditure plan seeking release of funding to carry the program through its next increment. Pursuant to our obligation to review ACE expenditure plans, we are currently monitoring Customs ongoing modernization efforts.

## OR&R Headquarters Did Not Issue the Majority of Its Prospective Rulings Within Its Timeliness Goal

Last year, we responded to your Committee's request that we examine the timeliness with which Customs' OR&R issues rulings on such things as the proper classification and valuation of imported goods. OR&R issues rulings to advise importers of Customs regulations and assist importers in making marketing and pricing decisions.

We found that OR&R headquarters did not issue the majority of its prospective rulings—those requested by an importer on goods that are proposed for entry into U.S. markets—in a timely manner. Our review of a random sample of 70 hard-copy case files representing approximately 610 rulings showed that about two-thirds of the rulings that were requested and issued between January 1, 1997, and October 26, 1999, were not completed within OR&R's 120-day benchmark for those rulings. We estimated that about 16 percent of the rulings took longer than 365 days to process and issue.

[8]The purpose of independent verification and validation is to provide an independent review of system processes and products to ensure that quality standards are being met. The use of independent verification and validation is a recognized best practice for large and complex system development and acquisition projects, like ACE.

OR&R acknowledged problems with the timeliness of headquarters rulings, and attributed many of these problems to staffing shortages and competing workload demands. We made several recommendations regarding actions to address the problems and improve OR&R's performance. In commenting on a draft of the report, Customs officials discussed actions they intended to take to implement each of our recommendations. We concluded that while most of the actions proposed by Customs appeared to be steps in the right direction, they may not fully resolve the problems discussed in our report.

## Most Customs Officers Would Receive Less Night Differential Pay Under Proposed Changes

In January 2001, we reported on the extent that Customs officers' night differential[9] pay would be increased or decreased by proposed legislation introduced by this Subcommittee. Specifically, our report focused on the effects of sections 123 (a) and (b) of Subtitle C of H.R. 1833,[10] introduced in the 106th Congress, which would change how Customs officers' night differential pay is calculated.

We compared current law to proposed changes in H.R. 1833 and analyzed Customs data nationally and at five ports of entry.[11] Section 123 (a) would have prohibited Customs officers who are scheduled for night shifts from receiving night differential pay when they take annual, sick, or other leave. Section 123 (b) would have changed the times and reduced the number of hours in a day that Customs officers could earn night differential pay. Night differential pay would be limited to hours worked on a midnight-to-8 a.m. shift, and for all other shifts, hours worked between 6 p.m. and 6 a.m. Table 1 below shows the decreases, and to a lesser extent increases, in the number of available hours that Customs officers could earn night differential pay for various 8-hour shifts in a day if the proposed change was enacted.

[9]Night differential pay for Customs officers consists of a 15- or 20-percent differential above the basic hourly rate.

[10]An Act to authorize appropriation for the United States Customs Service, and for other purposes. In May 1999, the House of Representatives passed H.R. 1833 that contained amendments to change Customs officers' night pay. In August 1999, the Senate passed another version of H.R. 1833, which did not contain the pay amendments.

[11]We judgmentally selected, based on the number of air and land passengers processed, three large airports, one medium airport/seaport, and one large land border crossing. The ports selected were John Fitzgerald Kennedy International Airport (JFK), Los Angeles International Airport (LAX), Miami International Airport, Baltimore-Washington International Airport and Seaport, and San Ysidro land border crossing near San Diego.

**Table 1: Comparison of the Number of Night Differential Hours Currently Available and as Proposed**

| | Night differential hours available | | | |
|---|---|---|---|---|
| 8-hour shift starting and ending time | Current law | Proposed changes | Increase under proposed changes | Decrease under proposed changes |
| 12 noon to 8 p.m. | 8 | 2 | | 6 |
| 1 p.m. to 9 p.m. | 8 | 3 | | 5 |
| 2 p.m. to 10 p.m. | 8 | 4 | | 4 |
| 3 p.m. to 11 p.m. | 8 | 5 | | 3 |
| 4 p.m. to 12 midnight | 8 | 6 | | 2 |
| 5 p.m. to 1 a.m. | 8 | 7 | | 1 |
| 6 p.m. to 2 a.m. | 8 | 8 | | |
| 7 p.m. to 3 a.m. | 8 | 8 | | |
| 8 p.m. to 4 a.m. | 8 | 8 | | |
| 9 p.m. to 5 a.m. | 8 | 8 | | |
| 10 p.m. to 6 a.m. | 8 | 8 | | |
| 11 p.m. to 7 a.m. | 8 | 7 | | 1 |
| 12 midnight to 8 a.m. | 8 | 8 | | |
| 1 a.m. to 9 a.m. | 8 | 5 | | 3 |
| 2 a.m. to 10 a.m. | 8 | 4 | | 4 |
| 3 a.m. to 11 a.m. | 8 | 3 | | 5 |
| 4 a.m. to 12 Noon | 0 | 2 | 2 | |
| 5 a.m. to 1 p.m. | 0 | 1 | 1 | |
| 6 a.m. to 2 p.m. | 0 | 0 | | |
| 7 a.m. to 3 p.m. | 0 | 0 | | |
| 8 a.m. to 4 p.m. | 0 | 0 | | |
| 9 a.m. to 5 p.m. | 0 | 0 | | |
| 10 a.m. to 6 p.m. | 0 | 0 | | |
| 11 a.m. to 7 p.m. | 0 | 1 | 1 | |

Source: GAO analysis of current law—U.S.C. 267 (b) (1)—and proposed changes—section 123 (b) of H.R. 1833.

Our analysis of Customs data showed the extent to which sections 123 (a) and (b) of H.R. 1833 would affect Customs officers' pay. Nationwide, our analysis of the Customs data showed that 6,510 Customs officers received about $13.5 million in night differential pay in fiscal year 1999. Over 80 percent of the $13.5 million in night differential pay was concentrated in six shifts, which generated $11 million in night differential pay (see table 2 below). Had sections 123 (a) and (b) of H.R. 1833 been in effect for these six shifts during fiscal year 1999, Customs officers would have received about $6 million in night differential pay, about $5 million less than what they actually received that year.

**Table 2: Total and Average per Officer Amount of Night Differential Pay Under Current Law and Under H.R. 1833 Sections 123 (a) and (b) for the Six Top "Differential Earning" Shifts Nationwide During Fiscal Year 1999**

| | Total | | | Average per shift, per officer | | |
|---|---|---|---|---|---|---|
| Shift hours | Current law (actual) | Proposed (estimate) | Difference (decrease) | Current law (actual) | Proposed (estimate) | Difference (decrease) |
| 4 p.m. to 12 a.m. | $4,087,828 | $2,584,188 | $1,503,640 | $22.25 | $16.56 | $5.69 |
| 1 p.m. to 9 p.m. | 2,059,029 | 643,686 | 1,415,343 | 23.87 | 8.89 | 14.98 |
| 12 a.m. to 8 a.m.[a] | 1,956,775 | 1,706,846 | 249,929 | 29.80 | 29.69 | 0.11 |
| 12 p.m. to 8 p.m. | 1,310,974 | 276,381 | 1,034,593 | 23.18 | 5.76 | 17.42 |
| 2 p.m. to 10 p.m. | 972,762 | 410,872 | 561,890 | 22.66 | 11.27 | 11.39 |
| 3 p.m. to 11 p.m. | 654,615 | 346,833 | 307,782 | 22.69 | 14.07 | 8.62 |
| **Total** | **$11,041,983** | **$5,968,806** | **$5,073,177** | | | |

[a]This shift, 12 a.m. (midnight) until 8 a.m., is preserved in H.R. 1833 so that officers working this shift would continue to earn 8 hours of night differential. Therefore, any reduction because of the proposed legislation is attributable to section 123 (a) eliminating payment of night differential while officers are on leave.

Source: GAO analysis of Customs data.

## Extent of Night Differential Pay Reductions Varied by Port

Our analysis of the Customs data for five selected ports showed that nearly all (97 percent) of the 1,377 Customs officers receiving night differential pay at these ports would have received less night differential pay had the proposed changes been in effect. Customs officers working at ports with shifts starting in the early afternoon, such as those at JFK, would have had the largest pay decreases.

The amount of pay decreases and number of Customs officers affected varied across the five ports we analyzed, as shown in table 3 below. For example, of the 464 Customs officers who received night differential pay at JFK, 148 (32 percent) as shown in the shaded areas of the table, would have had their night differential pay decreased by over $3,000 had the proposed changes been in effect. In contrast, the proposed changes would not have had as much of an impact on Customs officers working at the Baltimore-Washington International Airport and Seaport, a smaller port with fewer officers earning night differential pay. Of the 53 Customs officers who received night differential pay at the Baltimore-Washington International Airport and Seaport, 44 (83 percent) would have had their pay decreased by $500 or less if the pay provisions in H.R. 1833 had been enacted. None would have had a pay decrease of over $3,000.

**Table 3: Potential Night Differential Pay Reductions Had Sections 123 (a) and (b) of H.R. 1833 Been in Effect in Fiscal Year 1999 at Five Selected Ports**

| | Officers at each port | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | JFK | | LAX | | Miami | | Balto.-Wash. | | San Ysidro border | |
| Potential pay reductions | No. | % | No. | % | No. | % | No. | % | No. | % |
| $500 or less | 97 | 21 | 99 | 42 | 186 | 51 | 44 | 83 | 93 | 43 |
| $501 to $1,000 | 41 | 9 | 41 | 17 | 89 | 25 | 3 | 6 | 34 | 16 |
| $1,001 to $2,000 | 87 | 19 | 63 | 27 | 74 | 20 | 5 | 9 | 55 | 26 |
| $2,001 to $3,000 | 91 | 20 | 19 | 8 | 12 | 3 | 1 | 2 | 22 | 10 |
| $3,001 to $4,000 | 83 | 18 | 11 | 5 | 2 | 1 | 0 | 0 | 8 | 4 |
| $4,001 to $5,000 | 48 | 10 | 3 | 1 | 0 | 0 | 0 | 0 | 1 | <1 |
| $5,001 and over | 17 | 4 | 1 | <1 | 0 | 0 | 0 | 0 | 1 | <1 |
| **Total** | **464** | | **237** | | **363** | | **53** | | **214** | |

Note: Percentages may not sum to 100 due to rounding.

Source: GAO analysis of Customs data.

In contrast, but to a lesser extent, 122 officers at four of the five selected ports would have received net increases in night differential pay totaling $16,943 by the end of fiscal year 1999 had the proposed changes been in effect. The net increases primarily would have resulted from early morning shifts.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions you may have.

## GAO Contacts

For further information regarding this testimony, please contact Laurie E. Ekstrand at (202) 512-8777 or Darryl Dutton at (213) 830-1000.