

# United States Senate

WASHINGTON, DC 20510

February 2, 2011

## Via Electronic Transmission

The Honorable Gary F. Locke  
Secretary  
U.S. Department of Commerce  
1401 Constitution Ave., NW  
Washington, DC 20230

Dear Secretary Locke:

I write to you today about a report issued by the Department of Commerce Office of Inspector General (OIG) regarding the Asset Forfeiture Fund (AFF) which is maintained at the National Oceanic and Atmospheric Administration's (NOAA) Office of Law Enforcement (OLE).<sup>1</sup>

In July 2010, the OIG issued an investigative report (Report) regarding NOAA's administration and use of the AFF. The AFF had never been audited and the books were in such disarray that an outside auditor was unable to discern the current balance, placing it somewhere between \$8.4 and \$42 million. Preliminary estimates of the amount of money passing through the fund over approximately five years range from \$30 million to \$96 million.

It is my understanding that unlike a true asset forfeiture fund, the AFF was not actually created through the sale of assets seized as a result their use in criminal enterprises. Rather, the fund consisted of money collected through administrative fines and penalties imposed with little oversight or judicial review. This has led to allegations of questionable conduct on the part of enforcement officers who had an incentive to impose exorbitant penalties and fines on fishermen.

According to the Report, the OLE leadership failed to establish proper controls on the fund, which resulted in the following questionable expenditures:

- The purchase of a \$300,000 luxury boat, purportedly to be used in undercover operations. Although OLE was unable to provide documentation to the Inspector General that the boat had ever been used for an undercover operation, it was in fact used by the executive staff for fishing trips;
- The unauthorized purchase of 200 vehicles for the OLE, even though the office only has 172 enforcement personnel;

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<sup>1</sup> U.S. Department of Commerce Office of Inspector General Report: Final Report No. OIG-19887-1, July 2010. <http://www.oig.doc.gov/oig/reports/2010/OIG-19887-1.pdf>.

- Approximately \$580,000 charged to the AFF for international travel while only 17 percent of the travel was directly related to OLE investigations or proceedings; and
- Hundreds of purchase cards, issued to nearly every OLE special agent and enforcement officer with transactions charged to the AFF, many of which remain unaccounted for throughout the United States.

Although an outside auditing firm has been engaged to determine the current balance in the fund and to audit the most recent fiscal year, there is no full forensic audit being conducted of the \$30 million to \$96 million that passed through the fund in the period during which no audits were conducted. Accordingly, please provide written answers to the following questions:

- 1) Given that the Office of Inspector General has already expended much of its limited resources bringing these issues to light and may not have the ability to conduct such an audit, what steps are you taking to assure taxpayers that the rest of the \$30 million to \$96 million was spent appropriately?
- 2) Will you seek a full forensic audit, to be paid for from the AFF? If not, please explain why not.
- 3) How do you plan to hold accountable those who mismanaged the fund for so long? Please provide a detailed status update on the cases of any individuals who have been, or will be, proposed for discipline in connection with this matter.

Thank you in advance for your prompt attention to this important matter. I would appreciate receiving your response to the questions set forth in this letter by February 16, 2011. Should you have any questions regarding this matter, please do not hesitate to contact Janet Drew or Brian Downey of my staff at (202) 224-5225. All documents responsive to this request should be sent electronically in PDF format to [Brian\\_Downey@judiciary-rep.senate.gov](mailto:Brian_Downey@judiciary-rep.senate.gov).

Sincerely,



Charles E. Grassley  
Ranking Member

cc: The Honorable Todd J. Zinser  
Inspector General  
U.S. Department of Commerce