REVENUE PROTECTION:
Customs Oversight Of General Order Merchandise Needs Improvement

OIG-01-042 February 15, 2001

Office of Inspector General

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The Department of the Treasury

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Abbreviations

OIG	Office of Inspector General
FY	Fiscal Year
GO	General Order
LAX	Los Angeles International Airport
TD	Treasury Directive

February 15, 2001

Mr. Charles W. Winwood
Acting Commissioner
U.S. Customs Service

The United States Customs Service (Customs) oversees the processing and disposing of General Order (GO) merchandise. Imported goods become GO merchandise when an importer does not file an entry with Customs or pay applicable duties. If unresolved for 6 months, GO merchandise may be sold at auction. The proceeds from these auctions go to the United States Treasury's General Fund after claim holder interests are satisfied. In Fiscal Year (FY) 1999 GO merchandise auctions grossed $6.3 million, with $0.8 million deposited in the General Fund.

In conjunction with the Customs Modernization Act, Customs issued new regulations in October 1998 that were designed to process GO merchandise more quickly. We conducted an audit to determine if Customs effectively implemented the new regulations. We conducted our work from May 1999 through April 2000 at Customs Headquarters in Washington, D.C.; Customs Accounting Services Division in Indianapolis, Indiana; and at six ports handling the bulk of GO merchandise. These ports were JFK Airport in New York; Newark, New Jersey; Miami International Airport, Florida; Miami Seaport; San Francisco, California; and Los Angeles International Airport, California. A more detailed description of our objective, scope and methodology is provided as Appendix 1.

Results in Brief

Since the October 1998 regulatory changes, GO merchandise has been identified and processed for auction more timely. However, the processing time has fallen short of meeting the new regulatory timeframes. We found that 56 percent of the GO lots imported after

October 26, 1998, were not placed in a GO warehouse within the 25-day regulatory limit and merchandise from many ports was not sent to auction within 180 days.

We also found that Customs did not effectively identify and penalize carriers that failed to provide prompt notification of unclaimed merchandise. This occurred even though many carriers did not comply with the regulations and despite the fact that Customs had at its disposal documents from the carriers that clearly showed non-compliance. These deficiencies occurred due to inadequate Customs monitoring and oversight resulting from a lack of priority assigned to the GO program.

We made recommendations to address the deficiencies we found. These recommendations include: (1) requiring ports to monitor compliance as part of their self-inspection program, (2) initiating reviews of the feasibility of using certain local software tracking sysems which have been relatively successful, (3) issuing guidelines on assessing penalties, and (4) performing carrier education campaigns.

Customs concurred with our findings and outlined a set of corrective actions that when fully implemented will satisfy our recommendations. Customs' response to our draft audit report is provided as Appendix 2.

Background

GO Merchandise And Customs Responsibility

Customs is responsible for overseeing the processing and disposing of imported goods known as GO merchandise. These imported goods are placed in a Customs-approved GO warehouse when an importer has not filed an entry with Customs or paid applicable duties. If entry documentation and payments are not received by Customs within 6 months from the date of importation, GO merchandise may be sold at auction. Approximately 80 percent of the 40,000 annual GO entries are cancelled because importers eventually make formal entry for their merchandise. The merchandise pertaining to the remaining 20 percent is either destroyed or sold at auctions performed by a Customs contractor. Large auctions take place approximately every 9 weeks at sites located in Edison, New Jersey; Ft. Lauderdale, Florida; and

Rancho Dominguez, California. Smaller auctions take place sporadically at other locations.

Disposition Of Proceeds

The net proceeds from GO merchandise auctions go to the U.S. Treasury's General Fund, following the satisfaction of claim holder interests. Because one of the major expenses of processing GO merchandise is the cost of storage, it is incumbent on Customs to insure that merchandise goes to auction as expeditiously as possible. In FY 1999, GO merchandise auctions grossed approximately $6.3 million, of which $2.2 million was used to pay for contract and sales expenses, $3.2 million was used or reserved to settle carrier and warehouse claims, and $0.8 million was deposited in the General Fund.

Customs Modernization Act And Treasury Regulations

The Customs Modernization Act of 1993 contained several provisions designed to create uniformity among Customs ports and to reduce the amount of time needed to process GO merchandise. However, it was not until October 26, 1998, that Customs, in the form of Treasury Directive (TD) 98-74, issued implementing regulations. According to TD 98-74:

- Carriers, truckers, and container freight stations must notify Customs and the appropriate GO warehouse between the 15th and 20th day following importation of any merchandise not formally entered and remaining at the place of lading or arrival.
- Late notifications to Customs and/or the GO warehouse subjects carriers, truckers, and container freight operators to a $1,000 penalty per bill of lading. When Customs and the GO warehouse are both notified late, dual $1,000 penalties may be assessed.
- Penalty cases may be mitigated but mitigation is not an option in cases where carriers fail to provide **any** notification.
- A warehouse has 5 calendar days to have the merchandise transported to its facility. Local Customs officials are prohibited from granting time extensions or exemptions .
- The amount of time required before merchandise becomes eligible for auction was reduced from 1 year to 6 months.

Findings and Recommendations

Finding 1 General Order Merchandise Was Not Processed Timely

Since the October 26, 1998, regulatory change, GO merchandise has been identified and processed for auction more timely. However, processing has exceeded the timeframes established by the new regulations. We found that 56 percent of the lots imported after the regulatory change were not placed in GO warehouses within the 25-day regulatory timeframe.

We also found that merchandise was stored longer than necessary before being sent to auction. Current regulations allow merchandise to be auctioned 180 days from date of importation, but at 7 of 9 ports we reviewed, merchandise was sent to auction an average of 191 days (port of Baltimore) to 256 days (Los Angeles Seaport) from the date of importation.

Interestingly, of the six larger ports in our review, the most timely in moving lots were two ports with locally developed automated tracking systems. The most timely in moving lots to GO warehouses was Los Angeles International Airport (LAX), with an average of 25 days from importation, and the most timely in moving lots from the warehouse to auction was the port of San Francisco, with an average of 166 days to auction. Both of these ports developed their own automated GO merchandise tracking systems.

The processing of GO merchandise fell short of regulatory timeframes primarily due to inadequate Customs monitoring and oversight. Customs is in the process of developing a national GO tracking system but, pending completion of this system, Customs has done little to monitor GO merchandise. We believe that Customs needs to do more monitoring now because prolonged periods of storage may adversely affect the amount of revenue realized by the Federal Government through the auction of GO merchandise.

GO Merchandise Is Being Processed Quicker But Not In Compliance With Regulatory Timeframes

Our review of 1,852 GO lots sent to auction between March 24, 1999, to October 6, 1999, revealed that TD 98-74 has resulted in more timely processing of GO merchandise. Merchandise is being identified and placed in GO warehouses quicker and is spending less time in storage before being sent to auction. However, more needs to be done, because the amount of time spent processing GO merchandise still exceeds regulatory timeframes.

Untimely Identification And Movement of Merchandise to GO Warehouses

TD 98-74 requires unclaimed merchandise to be placed in a GO warehouse within 25 days of importation and prohibits the prior practice of allowing port directors to grant extensions. As depicted in Table 1 below, we found that TD 98-74 has had a positive impact. At all Customs ports where data was available, merchandise imported after October 26, 1998, was moved to GO warehouses more timely than in the past. In some locations, such as Baltimore, Philadelphia, and Newark, dramatic improvements occurred.

Table 1. Average Time Moving Merchandise To Warehouse

Customs Port	# Lots Imported Prior to 10/26/98	Avg. # of Days to GO Warehouse	# Lots Imported after 10/26/98	Avg. # of Days to GO Warehouse
LAX	245	35	246	25
Miami Airport	198	92	162	50
JFK Airport	131	69	*	*
Newark	158	133	117	50
Salt Lake City	104	**	**	**
LA Seaport	60	40	56	21
San Francisco	88	102	13	40
Miami Seaport	66	101	65	40
Baltimore	29	329	12	41
Dulles Airport	27	159	*	*
Philadelphia	27	272	30	47
Detroit	8	88	3	68
Pittsburgh	4	72	*	*
Chicago	3	276	*	*
Total Lots	1,148		704	

* As of August 19, 1999 no GO lots, imported after October 26, 1998, were sent to public auction.
**Unable to calculate due to insufficient information.

Even though improvements have been realized, Customs is far from attaining an acceptable level of carrier compliance. All ports except LAX and Los Angeles Seaport averaged more than 25 days in moving merchandise to GO warehouses, and as shown in Table 2 below, 56 percent of the lots imported after October 26, 1998, did not meet the 25-day regulatory requirement.

Table 2. Percent of Lots Not Sent To Warehouse Timely

Customs Port	# Lots Imported after 10/26/98	# Lots >25 days to GO Warehouse	% Lots >25 days to GO Warehouse
LAX	246	80	33
Miami Airport	162	148	91
Newark	117	78	67
LA Seaport	56	6	11
San Francisco	13	11	85
Miami Seaport	65	38	58
Baltimore	12	7	58
Philadelphia	30	23	77
Detroit	3	3	100
Total	704	394	56

Note: Salt Lake City was not included because of missing data.

The principal reason for not meeting the 25-day regulatory requirement was that Customs has not considered the GO program to be a high-risk, high-priority program. While various ports made considerable efforts to educate the carriers of the new regulations, once the regulations took effect, port personnel were reluctant to dedicate resources to carry out consistent monitoring.

To illustrate, Newark personnel did not initiate any reviews of carrier compliance until approximately 6 months after the new regulations went into effect. Customs personnel at JFK Airport waited 4 months before monitoring compliance but allowed carriers three violations before imposing any type of penalty actions. At LAX and the port of San Francisco, Customs did not begin to actively monitor the program until October 1999, and at Miami International Airport, monitoring efforts did not begin until 14 months after the effective date of the new regulations.

At other ports, Customs did not make an effort to determine carrier compliance rates. While data was available, it was not used to monitor and determine overall compliance or to target major violators. As a result, port personnel were unable to quantify or document overall carrier compliance.

Also, the fact that JFK Airport, the ports of Pittsburgh and Chicago, and Dulles Airport have not sent to auction any lots imported after

October 26, 1998, could suggest problems. It is possible that warehouse personnel may still be adhering to former port guidelines, or carriers may be reluctant to transfer merchandise to the warehouses without giving importers additional time to make entry with Customs and settle their storage charges.

Merchandise Stored Longer Than Needed

As was the case in the movement of merchandise to GO warehouses, we found that merchandise was being sent from warehouse to auction much more timely after TD 98-74 became effective. However, with the exception of the ports of Detroit and San Francisco, GO merchandise was still stored longer than necessary. The other ports had GO merchandise sent to auction an average of 191 to 256 days from the date of importation.

Table 3. Timeliness Of Moving Lots To Auction

Customs Port	Lots-Imported Prior to 10/26/98-Avg. # of Days Importation to Final Date of Storage	Lots Imported After 10/26/98-Avg.# of Days Importation to Final Date of Storage
LAX	230	212
Miami Airport	298	254
JFK Airport	543	*
Newark	295	200
Salt Lake City	Unknown	Unknown
LA Seaport	490	256
San Francisco	406	166
Miami Seaport	305	232
Baltimore	801	191
Dulles Airport	520	*
Philadelphia	456	234
Detroit	221	167
Pittsburgh	231	*
Chicago	844	*

*No lots, imported after October 26, 1998, were sent to public auction.

Like the identification of GO merchandise, the principal cause of the prolonged storage of merchandise was the lack of Customs oversight. Reluctance on the part of warehouse proprietors to process merchandise for public auction, and a sense of confusion regarding changes in the regulatory holding period, are factors that also contributed to the problem.

From a financial perspective, it is understandable that warehouse proprietors may want to hold merchandise for long periods of time on the chance that the merchandise will eventually be claimed. Claimed merchandise generates more income for them than merchandise sent to GO auction. As stated earlier, about 80 percent of merchandise is eventually claimed, whereas GO merchandise that is auctioned rarely generates sufficient revenue to satisfy warehouse claims. In fact, warehouse proprietors have historically collected only about 27 percent of the amount they billed.

Also, the prolonged period of time it took Customs to formulate regulatory changes to reflect the provisions of the Customs Modernization Act has contributed to confusion. Warehouse proprietors were unsure what effect the new regulation had on merchandise imported before the effective date of the new regulation and already in storage. In addition, there appeared to be some confusion as to whether merchandise was eligible for sale 6 months after date of importation or 6 months after being stored in the warehouse.

Better Monitoring Needed

Customs did not have an automated system to track, control, and manage GO merchandise from arrival at a Customs port until its final disposition. Of the larger ports in our review, however, the most efficient were LAX (high carrier compliance rate in getting merchandise moved to GO warehouses) and the port of San Francisco (timely movement of merchandise to auction), both of which use locally-developed automated tracking systems.

Customs has recognized the need for a tracking system, and at the time of our review was in the beginning stages of developing a national system based upon a March 1999 recommendation of the Customs Process Improvement Team. As Customs moves to the development of a national system, we believe that Customs should review the current systems in place in San Francisco and LAX and determine whether either can be adapted for interim use by other Customs ports.

In addition, Customs should monitor at the port and national level its effectiveness in meeting the regulatory timeframes for identifying GO merchandise, and for moving the merchandise to auction. Further,

Customs Headquarters should issue a memorandum to port personnel and warehouse proprietors reminding them that merchandise should be processed for auction 6 months from importation.

All of these steps are necessary because the untimely identification of GO merchandise combined with prolonged periods of storage may adversely affect the amount of revenue realized by the Government. For example, the market value and the amount of revenue realized from the sale of certain merchandise may be dependent upon its timely sale. This is particularly true for wearing apparel, which goes out of fashion quickly, and computer-related merchandise, which is quickly subject to obsolescence.

Our review revealed that Customs had yet to maximize benefits resulting from the changes in GO merchandise regulations. The changes in regulations were designed to reduce Customs operational role while emphasizing its oversight responsibilities. However, the numerous examples of untimely identification and prolonged periods of storage provide evidence that Customs has not effectively carried out its assigned responsibilities under this program.

Recommendations

1. The Commissioner of Customs needs to ensure that ports, as part of their self-inspection programs, monitor compliance and evaluate performance in processing GO merchandise

   Management Comment. Customs has performed self-inspection reviews and the latest results indicate carrier compliance with Treasury Directive 98-74.

   OIG Comment. We consider this recommendation to have a satisfactory management decision with final action completed.

2. The Commissioner of Customs should issue a reminder memorandum or otherwise communicate to field personnel and warehouse proprietors that GO merchandise needs to be processed for sale at auction within 6 months from the date of importation.

   Management Comment. Customs is conducting a GO satellite broadcast in March 2001. As part of that broadcast, ports will be

reminded of the need to ensure that GO merchandise is sent to auction promptly.

OIG Comment. We consider this recommendation to have a satisfactory management decision with a projected final action date of March 31, 2001.

3. The Commissioner of Customs should review the software tracking systems currently being used in the ports of San Francisco and Los Angeles to determine whether either of these systems could be used at other Customs ports until a national tracking system is developed.

   Management Comment. Customs will evaluate the Los Angeles and San Francisco local systems for interim use until the national system is operational in the Fall of 2001.

   OIG Comment. We consider this recommendation to have a satisfactory management decision. However, final action is pending, because Customs did not provide a projected date for evaluating the local tracking systems.

Finding 2 Customs Has Not Been Effective Or Consistent In Assessing Penalties To Bring Carriers Into Compliance With GO Regulations

Customs has not effectively identified and penalized those who fail to provide prompt notification of the presence of unclaimed merchandise. TD 98-74 authorizes Customs to assess $1,000 penalties when carriers, truckers, and freight stations do not notify Customs and a GO warehouse by the 20th day following importation of the presence of abandoned merchandise. When notice is provided late to both Customs and the warehouse, dual $1,000 penalties may be assessed.

At the six major ports that we visited, only JFK Airport assessed penalties with any degree of frequency and only the port of San Francisco had been active in informing and educating carriers of their responsibilities under the new regulations. This lack of enforcement activity occurred even though many carriers were not complying with the regulations and despite the fact that Customs had

at its disposal facsimile notifications from the carriers that clearly documented non-compliance. Specifically, we found

- four ports established very few penalty cases;
- one port issued no penalties;
- four ports did not assess any dual penalties;
- four ports did not utilize facsimile notifications to identify carriers not in compliance; and
- one port improperly mitigated penalties.

The inconsistent and uneven enforcement efforts at the various ports occurred due to confusion, a lack of priority assigned to the GO program, and insufficient guidance. We believe Customs needs to take corrective action to ensure that carriers comply with the timeliness provisions of the new GO regulations. Until improvements are made, revenue from penalties will be minimal, GO merchandise will not be processed in a timely manner, and Customs will be at risk to claims by certain carriers who may believe that they are being unfairly targeted.

Customs May Assess Monetary Penalties

Treasury Directive 98-74 requires carriers, truckers, and freight stations to notify Customs and a GO warehouse of merchandise remaining unclaimed beyond 15 calendar days. If notification is not provided by the 20th calendar day Customs may assess a monetary penalty of $1,000 per bill of lading. In cases where notice is provided late to both Customs and the warehouse, dual $1,000 penalties may be assessed. In both situations the penalties can be mitigated. However, when no notification is provided, the $1,000 penalty cases can not be mitigated and the penalty must be paid in full.

Lack of Enforcement Activity At Six Ports

Through a review of GO auction documents, we found that merchandise was not placed in GO warehouses in a timely manner. In order to further evaluate the extent of the problem and to determine if Customs was assessing penalties, we visited the six ports that provide the great majority of GO merchandise.

We found that at these ports, carriers and truckers notify Customs via facsimile transmissions that merchandise is ready for housing in a GO warehouse. The facsimile identifies the location of the merchandise, the date of importation, the bill of lading and the date on which the facsimile was sent. Therefore, through review of the facsimiles, one can easily discern whether or not Customs was notified of the availability of GO merchandise in a timely manner.

At each of the six ports, we reviewed facsimiles and penalty case files, and spoke with Customs officials. As detailed below, we found few penalties were being assessed and a lack of uniformity among ports in addressing non-compliance.

JFK Airport Established Penalty Cases, But Did Not Assess Dual Penalties And Improperly Mitigated Others

Custom officials at JFK Airport supervise over 200 carriers, truckers, and freight stations, and of the ports we visited, they were the most active in establishing penalty cases. As of November 1999, JFK had established 407 penalty cases against 37 carriers for untimely notification. The majority of these cases were set up based upon a comparison of the date of importation and the date of notification contained on the facsimiles sent by the carriers. (Due to time constraints and the fact that the port was active in establishing cases, we did not review facsimiles to see if more penalties could have been assessed).

However, JFK was somewhat lenient in that the port allowed three violations before assessing penalties. In addition, JFK established dual penalties against only one carrier, and erroneously mitigated 63 cases in which penalties were assessed for failure to provide any notification of abandoned merchandise. The erroneous mitigation of cases occurred due to a misunderstanding between the inspectors and the Fines, Penalties and Forfeitures personnel, who assumed the violations involved untimely notification and therefore were subject to mitigation. As a result, $6,300 in mitigated penalties was assessed instead of $63,000. After we brought this to their attention, JFK personnel took appropriate steps to rectify this condition.

Newark Established Very Few Cases, Did Not Issue Dual Penalties, And Did Not Utilize Facsimile Notifications

The port of Newark, like JFK, has approximately 200 carriers, truckers, and freight stations under its jurisdiction. Although the port receives facsimile notifications, it uses them to close out open bills of lading on cargo manifests, but doesn't use them as a basis to establish penalty cases for untimely notification. Because the port discards these facsimiles after 2 months, we were unable to determine the potential penalty cases that could have been assessed.

Newark personnel had set up approximately 140 penalty cases involving GO violations. These cases were the result of targeted audits carried out by Customs personnel who visited various carriers and found unclaimed old merchandise on the premises. Most of the penalties were for failure to provide any notification. Approximately two-thirds of these cases involved one carrier. Also, no dual penalties were assessed, and all were for failure to notify Customs. None were issued for failure to notify the GO warehouse.

Miami Seaport And International Airport Established Few Cases, Did Not Issue Dual Penalties, And Did Not Utilize Facsimile Notifications

At Miami Seaport, only five penalty cases were established and facsimiles were received but not utilized to identify and address untimely notifications. The Miami Airport used the facsimiles only to initiate cases just prior to our visit, when they initiated all of their 53 penalty cases. As with Newark, no dual penalties were assessed and all 58 cases were for failure to notify Customs.

Our review of facsimile notifications covering the period October 26, 1998, to December 31, 1999, showed that as many as 1,421 more penalty cases could have been established. Of 2,133 facsimiles on file, 1,421, or 67 percent, were late notifications.

LAX Did Not Utilize Fax Notifications And Established Few Penalty Cases

As with the other ports, LAX did not utilize facsimiles to identify penalty cases. Rather, penalties were established as a result of a Customs inspector visiting the various carriers. Nevertheless, through the time of our visit, LAX had established only 10 penalty cases-all of which

were dual penalties against carriers failing to provide any notification. No penalty cases were established for untimely notification, even though we found 912 late facsimile notifications out of a total of 3,586 on file for Calendar Year 1999 and February-March 2000.

San Francisco Did Not Utilize Fax Notifications, Established No Penalty Cases, But Performed An Effective Compliance Campaign

Customs personnel in the port of San Francisco also did not utilize facsimile notifications, and did not establish any penalty cases even though many notifications were untimely. However, beginning in October 1999, San Francisco port personnel undertook a comprehensive informed compliance campaign to educate carriers concerning their responsibilities under the new regulations. Our review of facsimiles showed that this effort provided positive results, with the carrier compliance rate rising from 56 percent to 85 percent. To illustrate, we reviewed facsimiles for the periods:
(1) January-March 1999, (2) August-December 1999, and
(3) January-March 2000. For the two 1999 periods, we found 826 late notifications out of 1,886 facsimiles (44 percent late or a compliance rate of 56 percent). Conversely, for the period January-March 2000, only 78 of 548 facsimiles were late (14 percent late or 86 percent compliance).

Customs Needs To Take Action To Improve The Processing Of GO Merchandise

TD 98-74 provides Customs with the authority to assess penalties. This authority was intended to address the past problems of lack of uniformity and timeliness in the processing of GO merchandise. We found, however, that Customs has not sufficiently used its enforcement powers to identify and penalize carriers in order to bring them into compliance. The uneven and inconsistent enforcement efforts described above occurred due to confusion, insufficient guidance, and a lack of priority assigned to the GO program. We believe Customs needs to take several actions to address these inconsistencies.

We believe Customs should issue guidelines clarifying the dual penalties and mitigation provisions of TD 98-74. Customs ports also need to identify, track, and begin penalizing carriers. Ports should use the facsimile notices sent by carriers to identify non-compliance, and ports should undertake efforts to educate carriers when compliance

rates are unacceptable. All of these actions are needed to ensure consistent and timely processing of GO merchandise.

Recommendations

1. The Commissioner of Customs needs to ensure that guidelines are developed defining circumstances for issuing dual penalties.

   Management Comment. In lieu of issuing new guidelines, Customs will conduct a class in the spring or summer of 2001. In addition, the March 2001 satellite broadcast on the GO program will be taped and cassettes issued to local ports.

   OIG Comment. We consider this recommendation to have a management decision meeting the intent of our recommendation, with a projected action date of August 31, 2001.

2. The Commissioner of Customs needs to ensure that port personnel are informed that penalties for failure to *notify* Customs cannot be mitigated.

   Management Comment. Customs will address this issue as part of the March 2001 satellite broadcast, and also in any other training that may be provided later.

   OIG Comment. We consider this recommendation to have a satisfactory management decision with a projected final action date of March 31, 2000,

3. The Commissioner of Customs needs to ensure that ports use facsimiles sent by the carriers that identify the presence of unclaimed merchandise as a means of identifying non-compliance and establishing penalty cases.

   Management Comment. Customs agreed that the facsimiles should be used, and will cover this subject in the March 2001 satellite broadcast.

   OIG Comment. We consider this recommendation to have a satisfactory management decision with a projected final date of March 31, 2001.

4. The Commissioner of Customs needs to ensure that ports with significant GO merchandise establish compliance rates for the timely identification of this merchandise and require the ports to undertake efforts to educate carriers whenever compliance rates are unacceptable.

Management Comment. The ports have implemented this recommendation and headquarters will continue to monitor the results of the Self-Inspection programs to ensure continuing compliance.

OIG Comment. We consider this recommendation to have a satisfactory management decision with final action completed.

5. The Commissioner of Customs needs to ensure that ports identify, track, and penalize carriers that chronically violate GO merchandise regulations.

   Management Comment. The ports have implemented this recommendation and headquarters will continue to monitor the results of the Self-Inspection programs to ensure continuing compliance.

   OIG Comment. We consider this recommendation to have a satisfactory management decision with final action completed.

* * * * * *

We would like to extend our appreciation to Customs for the cooperation and courtesies extended to our staff during the review. If you have any questions, please contact me at (617) 223-8640 or Richard Tyler, Audit Manager, at (617) 223-8643. Major contributors to the report are listed in Appendix 3.

Donald P. Benson
Regional Inspector General for Audit

The objective of this audit was to determine if Customs had effectively implemented the new GO regulations by ensuring that (1) carriers, truckers, container freight operators, and warehouses were processing GO merchandise in accordance with the prescribed timeframes, and (2) penalty cases were established against those not in compliance. To achieve this objective, we reviewed applicable laws, regulations, directives, and manuals. We interviewed numerous Customs officials at headquarters, field offices and the Accounting Service Division in Indianapolis, Indiana. We also met with and reviewed records of warehouse proprietors located in Boston, Massachusetts; Newark, New Jersey; San Francisco, California; and Los Angeles, California. Further, we attended an auction held in Edison, New Jersey.

We visited the six Customs ports from which the greatest majority of GO merchandise originates. At the ports, we met with Customs officials and reviewed various records, including those relating to the establishment of penalty cases. We also reviewed the methods used by Customs ports to track GO merchandise, including automated database systems developed by local personnel. The ports we visited were:

- JFK Airport, New York;
- Newark, New Jersey;
- Miami International Airport, Florida;
- Miami Seaport, Florida;
- San Francisco, California; and
- Los Angeles International Airport, California.

In determining whether GO merchandise was processed timely, and whether the new time standards had resulted in merchandise being processed more quickly, we reviewed 1,852 GO lots sent to auction from 14 Customs ports during the period March 24, 1999, to October 6, 1999. Our methodology for this portion of the audit consisted of reviewing Customs Form 5251, *Order To Transfer Merchandise For Public*

Auction (Sale)[1], and warehouse billing information. From these documents we separated the lots into (1) those imported prior to October 26, 1998, and therefore not subject to the more stringent regulations, and (2) those for which the new regulations apply, i.e. imported on or after October 26, 1998. We then calculated for each group the:

- number of days it took for the merchandise to be placed in a GO warehouse;
- amount of time the merchandise remained in storage prior to auction, and
- total number of days from date of importation to auction.

In determining whether penalty cases were established against those not in compliance, we focused only on the six large ports that we visited. At these ports, we reviewed facsimiles sent by carriers notifying Customs that merchandise was unclaimed and should be moved to a GO warehouse. Since the facsimiles showed the date of importation, we were able to identify cases for which Customs could have imposed a $1,000 penalty for late notification. We then reviewed Customs files to determine if penalties had been imposed.

We also reviewed the results of a study commissioned by Customs Office of Finance Quality Control. This study, designed to improve the processing of GO merchandise, sampled merchandise processed between October 1, 1996, and March 31, 1998, at JFK Airport, Newark, Miami, Los Angeles, and Laredo, Texas.

Audit field work was performed from May 1999 through April 2000. We conducted our audit in accordance with generally accepted government auditing standards.

[1] This form, maintained at the Accounting Systems Division, accompanies each GO lot sent to public auction and includes information such as date of importation and date sent to the GO warehouse.

U.S. Customs Service

Memorandum

DATE: **January 24, 2001**

FILE: AUD-1-OP SMT

MEMORANDUM FOR DONALD P. BENSON
REGIONAL INSPECTOR GENERAL FOR AUDIT

FROM: Director, Office of Planning

SUBJECT: Draft Audit Report of U.S. Customs Service Oversight of General Order Merchandise Processing and Disposition

Thank you for providing us with a copy of your draft report entitled "U.S. Customs Service Oversight of General Order Merchandise Processing and Disposition" and the opportunity to discuss the issues in this report.

Customs had taken a number of steps to address the issues identified during your review. These steps, and additional on-going actions, are outlined in the attached document, as are Customs comments on this draft report.

In general, we believe that we have made progress in the GO Program since the audit has been completed, but there is room for further improvement. We hope to do so with training provided by Headquarters, FLETC, and a new Bonded Warehouse Manual to be issued in July.

We have determined that the information in the audit does not warrant protection under the Freedom of Information Act.

If you have any questions, please have a member of your staff contact Sandy Thompson on (202) 927-2096.

William F. Riley

Attachment

TRADITION
★
SERVICE
★
HONOR

General Order Merchandise

Page 3, Background. The draft audit report states that approximately 80 percent of the 40,000 annual General Order (GO) Merchandise entries are cancelled because importers make formal entry of the merchandise. It is unclear where the Office of Inspector General (OIG) auditors obtained these figures. A report by the General Accounting Office (GAO) published in 1981 stated that about 75,000 of the 92,700 GO items in FY 1981 were formally entered. GAO stated that for the 5 ports they reviewed, 77.5 percent of the items were formally entered within the first 6 months from the date the items were placed into storage at a GO warehouse. An Office of Finance led Process Improvement Team (PIT) tracked 40,000 items at 5 ports that were sent to GO storage from December 1, 1996, to March 31, 1998. The tracking process revealed that those GO warehouses reported a low of 50 percent to a high of 70 percent of GO entries were cancelled because importers made formal entry of merchandise. The PIT's most recent information shows that approximately 60 percent of GO entries are cancelled because importers make formal merchandise entry.

Page 4, Disposition Of Proceeds. The figures noted in this paragraph are generally correct, but due to rounding the $3.2 million used or reserved to settle carrier and warehouse claims may be understated by $100,000 based on FY 1999 financial information.

Page 7, Table 1. Average Time Moving Merchandise to Warehouse. The reference to JFK Airport not sending items to auction was an issue that was identified late in calendar year 1999. The problem was determined to be with the sales contractor, EG&G and the airport warehouseman and was centered on the movement of goods. After several meetings, this issue appears to have been resolved as of October 2000.

Recommendation 1.1 The Commissioner of Customs needs to ensure that ports, as part of their self-inspection programs, monitor compliance and evaluate performance in processing GO merchandise.

Customs Response: We concur with this recommendation. The GO Program is evaluated under the Self-Inspection program and the results indicate compliance. In the Self-Inspection cycle that ended in December of 1999, several ports indicated that carriers were not complying with the GO regulations and planned to take local corrective action. Those measures appear to be successful since the results of the latest Self-Inspection (January- June 2000) indicate that carriers are now complying with Treasury Directive 98-74.

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Scrutiny of the Office of the Inspector General and informal communication between the field and Headquarters conveyed to the ports the importance of the GO program and may have contributed to the improvements indicated by the Self-Inspection Program as well. We will monitor the results of the next Self-Inspection, which covers July to December of 2000, to ensure that compliance is maintained.

This recommendation has been addressed and is complete.

Recommendation 1.2 The Commissioner of Customs should issue a reminder memorandum or otherwise communicate to the field personnel and warehouse proprietors that GO merchandise needs to be processed for sale at auction within 6 months from the date of importation.

Customs Response: We concur with this recommendation. Guidelines have been issued to the field in the past and will be reinforced in a Satellite Broadcast that has been scheduled for March 2001. We will take that opportunity to remind the ports to ensure that their GO warehouses are turning the merchandise over to our contractor for sale 6 months after the date of importation.

Recommendation 1.3 The Commissioner of Customs should review the software tracking systems currently being used in ports of San Francisco and Los Angeles to determine whether either of these systems could be used at other Customs ports until a national tracking system is developed.

Customs Response: We concur with this recommendation. An automated tracking system would be beneficial and Customs is developing a national automated GO system in association with warehouse proprietors. The nationwide system is scheduled to be operational by the Fall of 2001. We will evaluate the local systems for interim use and will also evaluate them to see if any of their capabilities would be useful in our national system.

Recommendation 2.1 The Commissioner of Customs needs to ensure that guidelines are developed defining circumstances for issuing dual penalties.

Customs Response: We concur with this recommendation. The guidelines exist, but there is some confusion in the ports regarding the issuance of penalties, dual penalties, and mitigation. One reason may be lack of training. Due to a lack of funding, a Bonded Warehouse training class has not been held in Federal Law Enforcement Training Center (FLETC) since June 1999. The General Order Program constituted a significant part of that training.

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We will conduct a class in the spring or summer of 2001, and the guidelines will be reviewed during the Satellite Broadcast on the GO Program. The broadcast has been scheduled for March 2001 and a cassette of the broadcast will be made available for distribution to local ports. Through the broadcast and the training that will be conducted, the field will receive the direction they need and will know how to follow the guidelines established for issuing dual penalties.

Recommendation 2.2 The Commissioner of Customs needs to ensure that port personnel are informed that penalties for failure to *notify* Customs cannot be mitigated.

Customs Response: We concur with this recommendation. The mitigation guidelines covered by Treasury Decision 99-29 have been widely distributed and are taught in every Fines Penalties and Forfeiture (FP&F) training class. The problem may be that the office issuing the penalty is not making it clear to Fines Penalties and Forfeiture personnel that the penalty is for failure to notify and not a late notification. The importance of making this known to FP&F will be stressed in the broadcast scheduled for March 2001 and in any other training or materials provided to the field.

Recommendation 2.3 The Commissioner of Customs needs to ensure that ports use facsimiles sent by the carriers that identify the presence of unclaimed merchandise as a means of identifying non-compliance and establishing penalty cases.

Customs Response: We concur with this recommendation. The Ports that utilize the facsimile method of notification of the presence of unentered cargo should make use of the information contained in those documents to determine compliance and establish penalties. This procedure will be covered in the broadcast scheduled for March 2001 and in any other training.

Recommendation 2.4 The Commissioner of Customs needs to ensure that ports with significant GO merchandise establish compliance rates for the timely identification of this merchandise and require the ports to undertake efforts to educate carriers whenever compliance rates are unacceptable.

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Recommendation 2.5 The Commissioner of Customs needs to ensure that ports identify, track, and penalize carriers that chronically violate GO merchandise regulations.

Customs Response: We concur with these recommendations. Ports have already taken the steps listed in recommendations 2.4 and 2.5. Although ports admitted problems existed in their GO programs in previous Self-Inspections, the latest review indicates that they have taken the necessary corrective actions and carriers are now complying with TD 98-74. Headquarters will continue to monitor the Self-Inspection responses to ensure that compliance is maintained.

Recommendations 2.4 and 2.5 have been addressed and are complete.

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