

Statement of
Mr. Richard Keegan
Associate Deputy Administrator
National Aeronautics and Space Administration

before the

Subcommittee on Space
and
Subcommittee on Oversight
Committee on Science, Space and Technology
U. S. House of Representatives

Mr. Chairmen and Members of today's respective Subcommittees, I am pleased to have this opportunity to discuss NASA's efforts to manage and safeguard the Agency's export-controlled technologies and information from unauthorized access and use. The recent independent reviews that form the basis of this hearing provide invaluable guidance in support of the Agency's efforts to protect sensitive information.

As the world's premier aerospace Agency with expertise in space launch vehicles, satellites, aircraft and other advanced technologies, we recognize that NASA has a unique responsibility to safeguard sensitive technologies. As NASA employees, we have each been entrusted with access to valuable resources, talent, capabilities and technologies, all of which demand careful stewardship, including compliance with the Nation's export control laws, regulations, and policies.

Cooperation with other nations is one of NASA's founding principles. The Agency has always sought the widest practical and appropriate distribution of information about our programs. Accordingly, the NASA Export Control Program is devoted to maximizing the benefits of our international and informational efforts while ensuring that we comply with all U.S. export control laws and regulations. The continuing success of this program for the protection of sensitive technologies is the personal responsibility of all NASA employees and a responsibility that every NASA manager, right up to and including the Administrator himself, takes very seriously.

Indeed, just last month, Administrator Bolden directly addressed those officials from across the Agency who manage the implementation of NASA's Export Control Program about the critical role they play in safeguarding sensitive NASA technologies. He also issued a communication to all NASA employees reminding them of their responsibility to comply with all export control regulations and foreign national access management requirements. His message stressed that safeguarding sensitive information is a serious matter and that penalties for noncompliance can include fines and imprisonment, as well as administrative personnel actions, such as reduction-in-grade or even termination. The Administrator also encouraged employees to meet with their local export control officials to learn more about NASA's Export Control Program and their responsibilities in protecting sensitive technologies. From the Agency's top management down to its newest employee, we are redoubling our efforts to perfect export control compliance through enhanced communication and training.

NASA Export Control Program

Established in 1995, the NASA Export Control Program, one of the first of its kind in the Federal Government, is an Agency-wide system established to ensure that exports and transfers to foreign parties in the course of approved international activities are consistent with the U.S. Export Administration Regulations (EAR) administered by the U.S. Department of Commerce and the International Traffic in Arms Regulations (ITAR) administered by the U.S. Department of State. Using proven policies and procedures, the NASA Export Control Program provides essential safeguards at key steps throughout NASA's program development and implementation process in a manner that supports robust international cooperation and foreign national access to NASA. Specifically, the NASA Export Control Program provides requirements, instructions and responsibilities for all NASA employees and support contractors engaged in activities that involve the transfer of commodities, software, or technologies to foreign individuals or organizations on behalf of the Agency. To implement this program NASA relies on a network of designated and fully trained export control administrators and counsel located at every NASA Field Center and NASA Headquarters. The longstanding success of this program can also be attributed to a well-established system of annual independent audits and voluntary self-disclosure of errors or noncompliance with export activities.

Recent Reviews

In April 2014, the Government Accountability Office (GAO) released its report entitled "Export Controls: NASA Management Action and Improved Oversight Needed to Reduce the Risk of Unauthorized Access to its Technologies." The GAO report complements a review conducted by the National Academy of Public Administration (NAPA), which provided its final report to NASA in February 2014.

Following its review of NASA's Export Control Program and the management functions of that program, the GAO made seven recommendations intended to ensure consistent implementation and improve oversight, including the establishment of guidance to define the appropriate rank and organizational placement of those who manage the NASA Export Control Program at our Centers, taking better advantage of resources to identify targeted technologies, having NASA's Center Directors oversee implementation of our annual internal export control audit recommendations, addressing issues and suggestions for improvement provided during our annual Export Control Program Review, clarifying requirements on how and when to report potential voluntary disclosures, assessing export control management workload and resources, and developing plans to monitor improvements in NASA's Foreign National Access Management (FNAM) program. NASA concurred with each of these recommendations and immediately began work to implement them in a timely manner. The Agency anticipates completion of most actions by next spring, and will provide a 60-day progress report to the GAO and the relevant Congressional Committees by July 15, 2014. The NASA initial response to the GAO report is enclosed as Enclosure 1.

In March 2013, NASA commissioned a focused independent security review by the NAPA to assess the effectiveness of selected aspects of NASA programs and processes relevant to foreign national access management. NASA received the final NAPA report, entitled "An Independent Review of Foreign Access Management" in February 2014. The NAPA review focused on five areas: Information Technology, Security, Counterintelligence, Export Control and Organizational and Functional Relationships. NASA is fully engaged in responding to the recommendations in the NAPA report using a risk-based prioritization. NASA will systematically and incrementally address the NAPA recommendations and the identified risks through a series of initiatives executed in accordance with a

multi-year program, with the ultimate goal of substantially strengthening foreign national access management across the Agency. As part of the Agency's response to the NAPA report, NASA on March 10, 2014, established a FNAM Program within the Office of Protective Services. The FNAM Program will work to increase the efficiency and effectiveness of NASA processes and procedures and develop and implement improved procedures as required. The Program will also ensure that clear and consistent guidance is provided for FNAM activities across the Agency. On April 2, 2014, the Program established an interim policy strengthening Agency-wide guidance with respect to FNAM. NASA is working to incorporate this strengthened guidance in an update to its procedural requirements for identity and credential management. NASA's initial response to the NAPA report is enclosed as Enclosure 2.

NASA takes the responsibility of securing sensitive, export-controlled information at our facilities very seriously. Prior to receiving copies of the GAO report and the NAPA review, Administrator Bolden had already directed a number of actions to further secure sensitive, export-controlled information at NASA facilities in order to enhance overall security, consistent with recommendations made in recent reviews conducted by the NASA Office of the Inspector General (OIG). NASA's active responses to the GAO, OIG, and NAPA recommendations are assisting in our continuing efforts to enhance all aspects of NASA's foreign national access management, as well as NASA's export control compliance program.

The Proposed NASA FOIA Exemption

Last year, NASA submitted a legislative proposal to our authorization committees that is relevant to our shared export control focus. If adopted, the proposal would authorize NASA to withhold from public disclosure certain technical data with aeronautic or space application from release under the Freedom of Information Act (FOIA) if such data may not be exported lawfully outside the United States without an approval, authorization, or license under the provisions of the Export Administration Act (EAA) of 1979 or the Arms Export Control Act (AECA) of 1976. At present, there is no particular exemption in the FOIA that applies to export-controlled information under the EAA and AECA, nor is there any statute that specifically allows NASA to withhold it from public disclosure, which could include release to non-U.S. persons. The new statutory authority NASA has requested would put the Agency on par with the U.S. Department of Defense, which is able, through its own Title 10 provisions, to protect export-controlled information from public disclosure. NASA is requesting this new statutory authority in order to protect export-controlled information in its possession from public disclosure, and we would therefore appreciate the Subcommittee's support for this authority as the reauthorization continues through the legislative process.

Conclusion

In conclusion, I would like to thank you for this opportunity to testify today and note our agreement with the GAO's core finding – that it is important for the Agency to strike the right balance between needing to protect sensitive export-controlled technologies and information, and the Agency's need to share important scientific information to further our international and public partnerships. In striking the appropriate balance, NASA recognizes that we must have clear export control policies and that all NASA employees must understand and abide by those policies and procedures designed to protect sensitive technologies whose loss or theft could have grave national security implications. NASA will continue to follow through on the recommendations made by the GAO, NAPA, and our own Inspector General to safeguard access to NASA facilities by foreign nationals and to improve the protection of sensitive technologies. We will also continue to implement appropriate changes that we ourselves identify in the course of our own internal audits and reviews.

National Aeronautics and Space Administration
Headquarters
Washington, DC 20546-0001



ENCLOSURE 1

Reply to Attn of: Office of International and Interagency Relations

Ms. Belva Martin
Director
Acquisition and Sourcing Management
United States Government Accountability Office
Washington, DC 20548

Dear Ms. Martin:

The National Aeronautics and Space Administration (NASA) appreciates the opportunity to review and comment on the Government Accountability Office (GAO) draft report entitled, "Export Controls: NASA Management Action and Improved Oversight Needed to Reduce the Risk of Unauthorized Access to Its Technologies" (GAO-14-315) dated March 7, 2014.

In the draft report, GAO makes seven recommendations to the NASA Administrator intended to ensure consistent implementation and improve oversight of NASA's export control program. NASA takes the responsibility of securing sensitive, export-controlled information at our facilities very seriously. Recognizing the growing threat of espionage aimed at Government agencies by hostile nation-states and foreign adversaries, the NASA Administrator has already directed a number of actions to further secure sensitive, export-controlled information at NASA facilities and to enhance overall security.

The draft GAO report complements recent reviews conducted by the NASA Office of the Inspector General in October 2013 and the National Academy of Public Administration (NAPA), which provided its findings to the NASA Administrator in January 2014. Each of these recent reviews evaluated the effectiveness of select aspects of NASA programs relevant to Foreign National Access Management. At the request of the NASA Administrator, the NAPA review focused on five areas: Information Technology, Security, Counterintelligence, Export Control, and Organizational and Functional Relationships. Your recommendations, together with those previously provided to NASA, are assisting in our continuing efforts to enhance all aspects of our Foreign National Access Management, including NASA's export control compliance program.

With regard to the specific recommendations contained in the GAO's draft report, NASA provides the following responses, including planned corrective actions:

Recommendation 1: Establish guidance defining the appropriate level and organizational placement of the CEA function.

Management's Response: NASA concurs. We will revise the NASA Procedural Requirements (NPR 2190.1B) governing the NASA Export Control Program (ECP) to specify the level of senior-level officials, at GS-15 or above, for the Center Export Administrator (CEA) function. We will also require that CEAs report directly to Center Directors or designees in the performance of their functions. Coupled with this, NASA will address a related recommendation from the January 2014 NAPA report that a Headquarters (HQ) endorsement be sought before any CEA position is filled by working with the human resources and Center management to ensure that NASA HQ endorsement is obtained for CEA appointments.

Estimated Completion Date: April 30, 2015.

Recommendation 2: Assess CEA workload and other factors to determine appropriate resources needed to support the CEA function at each Center.

Management's Response: NASA concurs. We have already begun to assess the need for additional resources to support the CEA function, with the understanding that, like all agencies, we are in a very constrained budget environment. We will explore strategies to enhance support of export control functions through both civil service and contractor efforts, and will work to expand the model of Center Export Control Representatives (ECRs) that has been successfully employed at more than half of NASA's Centers, and which was noted in the draft report.

Estimated Completion Date: April 30, 2016.

Recommendation 3: Implement a risk-based approach to the export control program by using existing information sources, such as counterintelligence assessments, to identify targeted technologies and then direct that the types and location of those export-controlled technologies are identified and managed by CEAs within each Center.

Management's Response: NASA concurs. Consistent with the recommendation, we will implement a risk-based approach for targeted technologies of particular concern, working with CEAs, program managers, and counterintelligence professionals to identify key technologies and catalog those key technologies at each Center. This balanced, focused approach follows the discussion on page 20 of the draft report and should not require significant additional resources to implement.

This recommendation is also consistent with the NAPA report's recommendation that NASA provide a detailed export control manual to serve as a standardized guide to CEAs, ECRs, and Center project managers, and to mandate the use of certain practices that have proven effective at various Centers. Subject to additional funding availability, NASA plans to develop an

export control manual in order to ensure greater consistency in implementation of the NASA ECP across the Agency. We will include provisions for a dynamic, risk-based assessment of key technologies in the manual.

Estimated Completion Date: First-draft of a manual to be prepared by April 30, 2015.

Recommendation 4: Direct Center Directors to oversee implementation of export-related audit findings which could involve collaboration among several Center offices.

Management's Response: NASA concurs. We will revise NPR 2190.1B to specify that Center Directors shall oversee the completion of annual ECP audits, and report their implementation or progress to the Associate Administrator for International and Interagency Relations (OIIR) and to the NASA Headquarters Export Control Administrator (HEA).

Estimated Completion Date: April 30, 2015.

Recommendation 5: Develop a plan, including timeframes for addressing CEA issues and suggestions for improvement provided during the annual export control conference, and share the plan with CEAs.

Management's Response: NASA concurs. This is a subject that will be addressed at the forthcoming Annual NASA ECP Review at Langley Research Center in May 2014. Following the engagement and agreement with CEAs on the subject, the HEA will formulate the recommended plan for inclusion in revisions to NPR 2190.1B.

Estimated Completion Date: April 30, 2015.

Recommendation 6: Re-emphasize to CEAs the requirements on how and when to notify the HEA about potential voluntary disclosures to ensure more consistent reporting of potential export control violations at NASA Centers.

Management's Response: NASA concurs. We will revise NPR 2190.1B to clarify the thresholds and standards for reporting voluntary disclosures to the HEA. Because of the linkage to both effective NASA ECP operations and to the NAPA report's recommendation to develop an export control manual in order to ensure greater consistency of proven best practices, we will also include provisions regarding voluntary disclosure standards in an export control handbook which we expect to produce. The timeline for the development of this handbook will be driven by the availability of additional resources.

Estimated Completion Date: April 30, 2015.

Recommendation 7: Develop plans with specific time frames to monitor corrective actions related to management of foreign national access to NASA facilities and assess their effectiveness.

Management's Response: NASA concurs. Under NASA Policy Directive (NPD) 2190.1, the Export Control Manual contains specific operational procedures related to the management of foreign national access to NASA facilities.

Additionally, as part of NASA's response to the January 2014 Focused Independent Security Review performed by NAPA, the Associate Administrator directed the Assistant Administrator for Protective Services on March 10, 2014, to establish a Foreign National Access Management (FNAM) Program, managed by the Office of Protective Services (OPS). The FNAM will seek to increase the effectiveness of NASA's existing procedures and implement improved procedures as required. Although OPS has the lead for the FNAM Program, OIIR will be engaged in the development and execution of the FNAM Program and will be the lead office in monitoring corrective actions as they relate to Export Control.

Estimated Completion Date: July 30, 2016.

Thank you for the opportunity to comment on the draft audit report. If you have any questions or require additional information, please contact David Flynn, NASA Headquarters Export Control Administrator, at 202-358-1792.



Michael F. O'Brien
Associate Administrator for
International and Interagency Relations

cc:

A/Administrator Bolden
A/Mr. Lightfoot
OPS/Mr. Mahaley
OIIR/Mr. Condes

National Aeronautics and Space Administration
Office of the Administrator
Washington, DC 20546-0001



February 7, 2014

The Honorable Richard Thornburgh
Chair
Panel on Independent Review
of NASA's Foreign National Access Management
National Academy of Public Administration
1600 K St., NW
Suite 400
Washington, DC 2006

ENCLOSURE 2

Dear Governor Thornburgh:

I would like to take the opportunity to thank you and your National Academy of Public Administration panel for the thoughtful and thorough review of NASA's Foreign National Access Management program. I deeply appreciate the panel's overall recognition of NASA's need to balance the advancement of our missions--which are prescribed by statute and national policy to include significant and valuable international involvement--with the protection of our sensitive information and technologies. Your recognition of the professionalism of NASA employees and their on-going efforts to improve our security processes is also appreciated.

NASA is committed to reviewing your recommendations thoroughly and to having them inform changes to our existing processes. To that end, I have directed the appropriate NASA offices to examine each recommendation and, where appropriate, to incorporate the panel's recommendation into our processes or identify any barriers to implementation, including resource constraints. The panel identified several broad areas of interest, with associated findings and recommendations, which I have addressed below. I would also like to bring to your attention those areas where we do not fully concur with the panel's findings.

Integration of Foreign National Access Management

Across several findings, the Report recommends the need for a more integrated Foreign National Access Management program that consolidates and standardizes various components across multiple Agency offices. NASA recognizes the value of a consolidated program to provide clear, consistent, and effective direction concerning foreign national access management. I have asked the Assistant Administrator for Protective Services to work with relevant Headquarters offices and NASA Centers on how best to accomplish this integration, with an emphasis on: (1) providing consistent guidance, training, and oversight across all NASA Centers; (2) engaging all stakeholders in the identification of best practices and creation of operational manuals and materials; and (3) incorporating stronger compliance and accountability mechanisms into NASA's existing Integrated Center Functional Reviews.

Information Technology Security

The panel rightly identifies information technology (IT) security as a major area of emphasis. The panel's findings map with the findings of several other groups and reports, including by NASA's Inspector General, analyzing the state of IT security at NASA and across the Government as a whole. Based on these assessments, NASA's Chief Information Officer (CIO) is already moving to improve security in this area overall and the panel's findings will help to further inform these efforts. Specifically, the CIO will continue to work toward improvements in areas such as: (1) focusing IT security investments in capabilities that will provide a more holistic approach to protecting NASA's critical data; (2) developing a cross-functional IT Security and IT Operations project team to design and implement a modernized, risk-based solution for role-based elevated privileges management and tracking; and (3) implementing a more effective approval and maintenance paradigm that will enforce privilege pursuant to security requirements.

Counterintelligence

The panel identifies several areas in which NASA's counterintelligence process can be enhanced in terms of awareness, resources, and coordination. I recognize the need to elevate awareness of this important program across the Agency, as well as the benefits of an enhanced counterintelligence program with increased integration of Counterintelligence Special Agents into Center Operations. I have directed my Assistant Administrator for Protective Services to examine the report's findings in this area and to develop an educational and awareness program for the Agency. The Assistant Administrator has recognized and begun to address the need for additional resources, and I have also asked him to analyze the Panel's recommendation that NASA add assets in this area and to present his recommendations in the budget planning process.

While I appreciate the factors underlying the panel's suggestion that reporting of Special Agents be realigned to respective Center Directors, I concur with the panel's intent but not with the implementation recommendation. NASA's counterintelligence program is focused on Agency assets, and by retaining the existing reporting structure, we ensure a standardized and consistent program across the Agency. NASA believes the underlying factors for the panel's recommendation can be achieved with an increased focus on the relationship between counterintelligence personnel and their respective Center leadership teams, without eliminating the benefits of the current management approach.

Export Control

The panel found that NASA's export control processes could benefit from a more systemic and standardized approach, as well as by enhanced awareness of the program across the Agency. Accordingly, I have asked the Associate Administrator for International and Interagency Relations to review the panel's recommendations, with an emphasis on: (1) enhancing and standardizing our training and education for all Centers; and (2) exploring stronger compliance and accountability mechanisms. This review will include an assessment of additional resources that may be required to successfully implement the proposed recommendations.

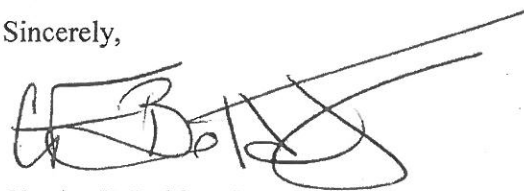
Organizational and Functional Relationships

The panel made a number of observations and findings concerning communication, accountability, alignment, and awareness -- all Agency--level areas of emphasis to which I am strongly committed. I agree with the panel's focus on the importance of senior leadership attention and cross-Agency cooperation to ensure an increasingly effective security program. As you know, I am committed to our continuous improvement in this area, including by requesting this independent assessment of our operations. I will direct all NASA senior leadership to review this important report and, as appropriate, they will be involved in the examination and execution of the above-identified actions. I will also direct all senior leadership to express regularly to the workforce that security and the appropriate management of foreign national access to our facilities, technology, and information are critical elements to the successful implementation of our mission.

Relative to the panel's general findings regarding NASA's culture, specifically about Center competition and the panel's suggestion that NASA may have a tendency not to be a "learning culture," I would share my view that NASA's culture combines the richness of diversity and appropriately healthy competition among our Centers, while fostering an overall NASA team environment. I think that the panel understands NASA's commitment to this balance. Of course, we must still ensure better consistency, alignment, and accountability among all elements of NASA. As a former astronaut and leader in NASA's independent safety oversight panel, I have seen NASA continue to grow and learn from its past triumphs and tragedies. I expect no less in this area.

I want to thank you and the panel again for a job well done. The panel's acute level of attention to the details of foreign national access management, while recognizing the unique role and importance of international engagement to NASA's mission, ensures that this Report will make an essential contribution to the Agency's efforts as we continue to move forward to open frontiers, reach new heights, partner with international entities to advance our understanding of the world, and protect the Nation's investment in our research, technology, and programs.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Bolden, Jr.', with a long horizontal stroke extending to the right.

Charles F. Bolden, Jr.
Administrator

cc:

Joseph P. Mitchell, NAPA Director of Project Develop
Joe Thompson, NAPA Project Director

Biography of Mr. Richard Keegan

Richard Keegan was appointed as NASA's Associate Administrator for Mission Support on August 11, 2013. The Mission Support Directorate enables program and institutional capabilities to conduct NASA's aeronautics and space activities. As the directorate's associate administrator, Keegan is responsible for most NASA management operations, including human capital management, strategic infrastructure, procurement, protective services, headquarters operations, the NASA Shared Services Center, cross-agency support, and construction and environmental compliance and restoration.

Mr. Keegan also serves as NASA's Associate Deputy Administrator, a role he has fulfilled since December, 2010. In this role, he assists NASA's Deputy Administrator and Administrator in day-to-day agency operations, across the broad scope of institutional and workforce issues, and with contingency and continuity of operations planning. Previously, Keegan served as Deputy Associate Administrator of the Mission Support Directorate since its creation in April, 2010. For the prior four years he was Director of NASA's Office of Program and Institutional Integration. In those roles, he served as the focal point for balancing priorities for mission directorates, mission support offices and field centers for the agency.

Since coming to NASA Headquarters in 2002, Keegan has served in senior business management positions in mission directorate and mission support offices. He also worked in a variety of jobs during 21 years at NASA's Goddard Space Flight Center in Greenbelt, Md., NASA Headquarters and the Department of Energy. He began his Federal service in June, 1980. Prior to that, he was a junior high school science teacher for two years. He has degrees in biological sciences and secondary education from the University of Maryland.

