

U.S. CONSUMER PRODUCT SAFETY COMMISSION



OFFICE OF THE INSPECTOR GENERAL

SEMIANNUAL REPORT TO CONGRESS

April 1, 2013 - September 30, 2013



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
BETHESDA, MD 20814

Memorandum

Date: Oct 30, 2013

TO : Inez Moore Tenenbaum, Chairman
Nancy A. Nord, Commissioner
Robert S. Adler, Commissioner
Marietta Robinson, Commissioner
Ann Marie Buerkle, Commissioner

FROM : Christopher W. Dentel
Inspector General

SUBJECT : Semiannual Report, April 1, 2013 through September 30, 2013

I hereby submit the Semiannual Report for the Office of the Inspector General for the period April 1, 2013 through September 30, 2013. The report, which is required by the Inspector General Act of 1978, as amended, summarizes the activities of this office during this six-month period. Section 5 of the Act requires that the head of the agency transmit this report to the appropriate Congressional committees within 30 days of its receipt.

I appreciate the cooperation and support received from the Commission staff during the reporting period.

Sincerely,

A handwritten signature in black ink that reads "Christopher W. Dentel".

Christopher W. Dentel
Inspector General

EXECUTIVE SUMMARY

This semiannual report summarizes the major activities performed by the Office of the Inspector General (OIG), during the reporting period April 1, 2013 through September 30, 2013. During the reporting period, this office worked on seven audits or reviews. At the end of the reporting period, six audits or reviews and no investigations were in progress.

The OIG received a number of complaints during the reporting period, seven of which resulted in the initiation of formal investigations. Nine investigations were closed or transferred during the reporting period. Management officials acted on the recommendations made in the completed investigations from the previous reporting period.

The OIG continues to be involved with the Council of the Inspectors General on Integrity and Efficiency and the Council of Counsels to the Inspectors General.

INTRODUCTION

U. S. CONSUMER PRODUCT SAFETY COMMISSION

The U.S. Consumer Product Safety Commission (CPSC) is an independent federal regulatory agency created in 1972, under the provisions of the Consumer Product Safety Act (CPSA) (P.L. 92-573) to protect the public against unreasonable risks of injuries associated with consumer products. Under the CPSA and the Consumer Product Safety Improvement Act of 2008 (CPSIA), Congress granted the CPSC broad authority to issue and enforce standards prescribing performance requirements, warnings, or instructions regarding the use of consumer products. The CPSC also regulates products covered by a variety of other acts, such as the Virginia Graeme Baker Pool and Spa Safety Act, the Children's Gasoline Burn Prevention Act, the Flammable Fabrics Act, the Federal Hazardous Substances Act, the Poison Prevention Packaging Act, and the Refrigerator Safety Act.

The CPSC is headed by five Commissioners appointed by the President with the advice and consent of the Senate. The Chairman of the CPSC is designated by the President. The CPSC's headquarters is located in Bethesda, MD. The agency has field personnel stationed throughout the country. The CPSC had a budget of \$108.6 million and 548 authorized full-time equivalent positions for FY 2013.

OFFICE OF THE INSPECTOR GENERAL

The OIG is an independent office, established under the provisions of the Inspector General Act of 1978, as amended by the Inspector General Act Amendments of 1988, and the Inspector General Reform Act of 2008. The Inspector General Act gives the Inspector General the authority and responsibility to:

- conduct and supervise audits and investigations of CPSC programs and operations;

- provide leadership, coordination, and recommend policies for activities designed to: (i) promote economy, efficiency, and effectiveness in the administration of the CPSC's programs and operations; and (ii) prevent and detect fraud, waste, and abuse of CPSC programs and operations; and
- keep the Chairman and Congress fully and currently informed about problems and deficiencies relating to the administration of CPSC programs and operations and the need for progress or corrective action.

The OIG investigates complaints and information received concerning possible violations of laws, rules, and regulations, mismanagement, abuse of authority, and waste of funds. These investigations are in response to allegations, complaints, and information received from CPSC employees, other government agencies, contractors, and other concerned individuals. The objective of this program is to ensure the integrity of the CPSC and ensure individuals fair, impartial, and independent investigations.

The OIG also reviews existing and proposed legislation and regulations relating to the programs and operations of the CPSC concerning their impact on the economy and efficiency in the administration of such programs and operations.

The OIG was authorized seven full-time equivalent positions for FY 2013: the Inspector General, a Deputy Inspector General for Audits, an office manager, an Information Technology auditor, and three line auditors.

AUDIT PROGRAM

During this period, the OIG worked on seven audits and reviews. A summary of each follows:

AUDIT OF FINANCIAL STATEMENTS (ongoing)

The Accountability of Tax Dollars Act of 2002 requires that the CPSC and other smaller agencies, which had not been required to perform annual financial audits in the past, begin performing annual audits of their financial statements. This audit is being performed to meet this statutory requirement.

The objectives of this audit are to ensure that the CPSC is meeting its responsibilities for: (1) preparing the financial statements in conformity with generally accepted accounting principles; (2) establishing, maintaining, and assessing internal controls to provide reasonable assurance that the broad control objectives of the Federal Managers' Financial Integrity Act are met; (3) ensuring that the CPSC's financial management systems substantially comply with statutory requirements; and (4) complying with other generally applicable laws and regulations.

To conduct this audit, the CPSC OIG contracted with CliftonLarsonAllen, an independent certified public accounting firm. The contract requires that the audit be performed in accordance with generally accepted government auditing standards and the Financial Audit Manual.

This audit is scheduled for completion in November 2013.

FEDERAL INFORMATION SECURITY MANAGEMENT ACT REPORTING REQUIREMENTS (ongoing)

The Federal Information Security Management Act of 2002 (FISMA) requires each federal agency to develop, document, and implement an agency-wide program to provide information security for the information and information systems that support the

operations and assets of the agency, including those provided or managed by another agency, contractor, or other source.

FISMA requires agency program officials, chief information officers, and inspectors general to conduct annual reviews of the agency's information security program and report the results to the Office of Management and Budget (OMB). OMB uses this data to assist in its oversight responsibilities and to prepare this annual report to Congress on agency compliance with the Act.

FISMA assigns specific responsibilities to federal agencies, the National Institute of Standards and Technology (NIST), and OMB to strengthen information system security.

This review will measure agency compliance with FISMA requirements and is scheduled for completion in November 2013.

AWARDS PROGRAM AUDIT (ongoing)

The goal of the CPSC's Awards program is to motivate employees by recognizing and rewarding those who attain high levels of performance, thereby contributing to the accomplishment of management goals and objectives. The Awards Program was designed to encourage employees, both as individuals and in groups, to increase productivity and improve the efficiency and economy of federal government operations.

The objectives of this audit are to ascertain the program's compliance with laws and regulations and to measure the effectiveness of the program.

To conduct this audit, the CPSC OIG contracted with WithumSmith+Brown (WS+B), an independent certified public accounting firm. The contract requires that the audit be performed in accordance with generally accepted government auditing standards.

AUDIT OF TRAVEL CHARGE CARD PROGRAM

The Government Travel Charge Card program is designed to provide travelers with a safe and efficient way to pay for expenses associated with official travel. The General Services Administration (GSA) administers government travel cards through its SmartPay program. Each agency selects one of the five banks contracted by GSA as their travel card provider and negotiates their own task order under the SmartPay master contract. The task order identifies the specific charge card services the selected bank will provide the agency, and it documents the agreed-upon fees, including additional negotiated rebate percentages.

While responsibility for payment rests with the individual, agencies also have a responsibility, as well as a financial incentive, to ensure that accounts are paid timely and in full. GSA's master contract describes the agencies' travel card program responsibilities. These include ensuring that cardholders use the card only for authorized purposes, notifying the employee and management of delinquent accounts, taking appropriate disciplinary action, and, as a last resort, collecting the overdue amount from the employee through salary offsets. Because unpaid account balances reduce the amount of the rebate the agency receives, it is important that the agency minimize delinquent accounts. Monitoring and managing delinquencies also helps the agency avoid potential negative publicity that can come from unpaid accounts.

Overall, we found that the CPSC does have a functioning Travel Card Program. However, management officials have not fully implemented all of the internal controls mandated by the Federal Travel Regulations (FTR) and the Office of Management and Budget (OMB) to mitigate risks associated with the Travel Card Program.

We found that some CPSC employees used their government-issued travel cards in ways that are not appropriate, including: purchasing meals while not on official travel; using the travel card to pay a government license renewal fee; and purchasing sample items with cash obtained from automated teller machines (ATM). Other employees made ATM cash withdrawals that exceeded the amount authorized (no employee is authorized to make a cash

withdrawal exceeding the total per diem amount to which they were entitled for the trip as a whole). These inappropriate uses totaled \$7,993.20. Furthermore, we found that the CPSC had not properly designed internal controls to monitor improper and erroneous transactions; nor had the CPSC developed written guidance to address improper card usage.

The CPSC was not in compliance with various requirements mandated by OMB Circular A-123, Appendix B. The Division of Financial Services (FMFS) had not established proper initial training for the approving, authorizing, and certifying officials; nor had FMFS established the required refresher training courses. We found that FMFS had not adhered to the guidelines for travel card recovery procedures set out in OMB Circular A-123, Appendix B. Finally, we found that the CPSC had not properly assessed the risks associated with the Travel Card Program, as required by OMB; nor had the CPSC implemented the risk management controls, policies, and practices required by the OMB.

We found that the Travel Card Program lacked adequate oversight to prevent fraud and other forms of waste and abuse. The OIG found problems with the design, implementation, and/or operational effectiveness of the internal controls tested. We identified internal control weaknesses in multiple areas of the Travel Card Program. FMFS did not adequately update the directives associated with the Travel Card Program; we found these directives to be inconsistent with the current versions of the FTR and OMB Circular A-123, Appendix B. FMFS had not established oversight controls that properly monitored centrally billed account (CBA) activity, specifically, FMFS had not ensured proper and effective use of the CBA account, monitored CBA account activity, or ensured proper supporting documentation of CBA charges and reconciliations. As a result, we found two transactions that were improperly charged and paid on the CPSC's behalf. In addition, the CPSC did not have adequate oversight controls over travel transactions. The Accounting Service Provider could not locate the proper documentation to support travel transactions totaling \$11,324.22. We also identified \$665.96 in improper travel voucher reimbursements.

The CPSC's management concurred with the findings and recommendations cited in our report but noted that they had already undertaken corrective actions.

GOVERNMENT PERFORMANCE AND RESULTS ACT AUDIT (ongoing)

The Government Performance and Results Act of 1993 (GPRA 1993), as amended by the GPRA Modernization Act of 2010 (P.L. 111-352), requires the CPSC to report annual performance data. GPRA is intended to improve the efficiency and effectiveness of Federal Programs through the establishment of specific goals for program performance. Specifically, the act requires the CPSC to prepare multi-year Strategic Plans, Annual Performance Plans, and Annual Performance Reports.

The objectives of this audit are to verify and validate (reliability) a sample of performance data published in the CPSC's annual performance reports used to measure the performance of CPSC's programs. This audit should both ascertain CPSC's compliance with GPRA, as amended, and determine whether the performance data published complies with established guidance, and is reliable.

To conduct this audit, the CPSC OIG contracted with WithumSmith+Brown (WS+B), an independent certified public accounting firm. The contract requires that the audit be performed in accordance with generally accepted government auditing standards.

INFORMATION TECHNOLOGY INVESTMENT MANAGEMENT AUDIT (ongoing)

The CPSIA calls for upgrades of the CPSC's information technology architecture and systems and the development of a database of publicly available information on incidents involving injury or death. The CPSIA also calls for the OIG to review the agency's efforts in these areas.

To assess objectively the current status of the CPSC's efforts in this area, and to help provide the agency with a road map to meet the goals set out in the CPSIA, this office has relied upon the Government Accountability Office's (GAO's) Information Technology Investment Maturity (ITIM) model. The

ITIM framework is a maturity model composed of five progressive stages of maturity that an agency can achieve in its IT investment management capabilities. The maturity stages are cumulative; that is, in order to attain a higher stage of maturity, the agency must have institutionalized all of the requirements for one stage, in addition to the requirements for all of the lower stages.

The framework can be used to assess the maturity of an agency's investment management processes as a tool for organizational improvement.

The GAO's ITIM maturity model framework offers organizations a road map for improving their IT investment management processes in a systematic and organized manner. These processes are intended to: improve the likelihood that investments will be completed on time, within budget, and with the expected functionality; promote better understanding and management of related risks; ensure that investments are selected based upon their merits by a well-informed decision-making body; implement ideas and innovations to improve process management; and increase the business value and mission performance of investments.

Under a contract monitored by the OIG, the independent certified public accounting firm WithumSmith+Brown (WS+B), performed an audit of the CPSC's Information Technology (IT) investment management processes, using the GAO's ITIM framework.

According to WS+B's findings, at the time of their initial audit, the CPSC had reached Stage 1 of the five-stage IT investment maturity model. The CPSC had already implemented several of the key practices and critical processes that constitute Stage 2, and WS+B provided recommendations on improving the CPSC's IT investment processes. WS+B later conducted a follow-up assessment of the CPSC's IT investment process and determined that although progress had been made, the CPSC was still at Stage 1.

Another contract has been awarded to WS+B to review the CPSC's Information Technology Architectures with a special emphasis on the public database. Once again, the review is

being conducted using the GAO's ITIM framework (A Framework for Assessing and Improving Process Maturity, GAO-04-394G).

The audit will build upon the results of the prior assessments of the CPSC's IT investment management maturity and will evaluate what improvements have been made and where additional progress is needed.

FREEDOM OF INFORMATION ACT (FOIA) AUDIT (ongoing)

The Freedom of Information Act (FOIA) provides that any person has a right, enforceable in court, to obtain access to federal agency records, except to the extent that such records (or portions of them) are protected from public disclosure by one of nine exemptions or by one of three special law enforcement record exclusions. A FOIA request can be made for any agency record.

The objectives of this audit are to ascertain the CPSC's FOIA program's compliance with laws and regulations and to measure the effectiveness of the program.

EMPLOYEE CLEARANCE PROCEDURES AUDIT (ongoing)

It is CPSC policy that employees separating from the agency be cleared by appropriate CPSC personnel prior to their departure to ensure that the employee has accounted for property entrusted to them, liquidated all debts owed to the Commission, and fulfilled any other outstanding obligations.

The objectives of this audit are to ascertain the Clearance program's compliance with laws and regulations and measure the effectiveness of the program.

INVESTIGATIVE PROGRAM

A number of individuals contacted the OIG during the reporting period to discuss their concerns about matters involving CPSC programs and activities. Seven of the individuals filed formal complaints, alleging waste, fraud, abuse, or mismanagement of CPSC resources. These complaints resulted in the initiation of seven investigations. Several matters were transferred to CPSC officials (management or EEOC) or to other government agencies for final disposition after initial investigation indicated that these cases would be dealt with more appropriately outside of IG channels. Several investigations were closed after initial investigation determined that no action was required.

Investigations

	No. of Cases
Beginning of period	2
Opened	7
Closed	5
Transferred/Incorporated into existing investigation	4
End of the period	0

REPORTABLE INVESTIGATIONS

Antideficiency Act Violation - Between on or about January 1, 1996 and September 25, 2013, the Consumer Product Safety Commission was, without legal authority, using appropriated funds to pay for residential telephone and Internet service for certain employees.¹ This constituted a violation of 31 U.S.C. § 1348, the Purpose Statute; 31 U.S.C. § 1301, which deals with the use of appropriated funds to pay for telephones in private residences; and the Antideficiency Act, 31 U.S.C. § 1341. Although Public Law 104-52 authorizes federal agencies to use appropriated funds to pay certain expenses for employees authorized to work at home, this authority exists only if an

¹ The lack of documentation regarding the program in question prevents the determination of definitive starting date, but the statute in question became effective on October 1, 1995, and CPSC employees have indicated that telephone and Internet Service reimbursements have been made since "the telecommuting program began in 1996."

appropriate agency official certifies that adequate safeguards against private misuse exist; such safeguards do, in fact, exist; and the service is necessary for direct support of the agency's mission. During the period covered by this investigation, no certification was made and adequate safeguards against private misuse did not exist at the CPSC. The agency was unable to provide adequate records to determine the extent and size of the violation. For a variety of reasons, including a change in financial management systems, relevant records were not available regarding transactions that occurred prior to fiscal year 2007. However, based on the records that are available, it is clear that since October 1, 2006, more than \$1,208,424 have been expended without legal authority. Despite the violation's lengthy and continuous nature, there is no evidence the violation was knowing and willful. Therefore, there was no requirement that the violation be referred to the U.S. Department of Justice for criminal investigation. The agency has already taken corrective action to prevent a reoccurrence.

Alleged Misconduct by a Government Employee - (This investigation was initiated to inquire about the validity of allegations that the subject inappropriately directed the purchase of iPhones, issued them to "selected IT staff" (NFI), and failed to have the iPhones entered into the property management system (PMS). These allegations were made by a complainant who wished to remain anonymous. The complainant indicated fear that he would lose his job if his identity became known to agency management. The decision-making processes regarding the selection of the iPhone for testing and the number to be acquired were undocumented but appear on their face to be reasonable. However, the manner in which the iPhones were acquired was improper, and the iPhones were not entered into the CPSC's property management system (PMS), as required by CPSC directives.

Alleged Misconduct by a Government Employee - The subject of the investigation resigned rather than be questioned regarding the alleged misappropriation of funds. As the Department of Justice had already declined criminal jurisdiction over the case, this office had no jurisdiction over the member once he resigned. Preliminary investigation indicated that it was more likely than not that the subject committed the offenses alleged. The investigation was closed due to a lack of jurisdiction.

ONGOING INVESTIGATIONS

No investigations were ongoing at the end of the period.

OTHER ACTIVITIES

LEGISLATION AND REGULATIONS

The OIG reviews internal and external legislation and regulations that affect the OIG specifically, or the CPSC's programs and activities, generally. Procedures applicable to the following subjects were reviewed and commented upon during the reporting period:

- Federal Transit Benefit Program
- Consumer Product Safety Improvement Act
- Consumer Product Safety Act
- Use of Social Media by the CPSC
- Training of Managers and Supervisors
- Agency Privacy Program
- Hatch Act
- Conflict of Interest
- Federal Information Security Management Act
- Purchase Card Program
- Travel Card Program
- Changes in Agency Financial Management Policies
- Anti-Deficiency Act
- Federal Service Labor-Management Relations Statute
- Merit System Principles
- Prohibited Personnel Practices
- Telework Policies
- Gift Travel
- Improper Payments Elimination and Recover Act

COUNCIL OF INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

The Inspector General, as a member of the Council of Inspectors General on Integrity and Efficiency (Council), maintains active membership with the Council and its associated activities. The Council identifies, reviews, and discusses issues that are of interest to the entire IG community. The Inspector General attended regular meetings held by the Council and joint meetings of the Council and GAO. The OIG's staff attended seminars and training sessions sponsored or approved by the Council and its associated activities.

COUNCIL OF COUNSELS TO THE INSPECTORS GENERAL

The Inspector General is a member of the Council of Counsels to the Inspectors General. The Council considers legal issues of interest to the Offices of Inspectors General. During the review period, the Council reviewed existing and pending laws affecting the CPSC, in general, and to the Office of the Inspector General, specifically; and the Council provided other support to the Inspector General, as needed.

REPORTING REQUIREMENTS SUMMARY

Reporting requirements specified by the Inspector General Act of 1978, as amended, are listed below:

<u>Citation</u>	<u>Reporting Requirements</u>	<u>Page</u>
Section 4(a)(2)	Review of Legislation and Regulations.....	14
Section 5(a)(1)	Significant Problems, Abuses, Deficiencies.....	4-13
Section 5(a)(2)	Recommendations with Respect to Significant Problems, Abuses, and Deficiencies.....	4-13
Section 5(a)(3)	Significant Recommendations Included in Previous Reports On Which Corrective Action Has Not Been Taken.....	NA
Section 5(a)(4)	Matters Referred to Prosecutive Authorities.....	NA
Section 5(a)(5)	Summary of Instances Where Information Was Refused.....	NA
Section 5(a)(6)	Reports Issued.....	4-13
Section 5(a)(7)	Summary of Significant Reports.....	4-13
Section 5(a)(8)	Questioned Costs.....	NA
Section 5(a)(9)	Recommendations That Funds Be Put to Better Use.....	NA
Section 5(a)(10)	Summary of Audit Report Issued Before the Start of the Reporting Period for Which No Management Decision Has Been Made.....	NA
Section 5(a)(11)	Significant Revised Management Decisions.....	NA
Section 5(a)(12)	Management Decisions with Which the Inspector General Is in Disagreement.....	NA
Section 845 of The NDAA of 2008	Significant Contract Audit Reports.....	NA

PEER REVIEW RESULTS

The last peer review conducted by another Office of Inspector General on the CPSC's OIG was issued on May 23, 2011, and the peer review is available on the CPSC OIG's Web page. All recommendations made in that peer review have been implemented.

The last peer review conducted by the CPSC's OIG of another Office of Inspector General occurred on December 9, 2010, and that peer review involved the National Endowment for the Humanities' Office of Inspector General (NEH OIG). No deficiencies were noted, and no formal recommendations were made in that review.