

U.S. CONSUMER PRODUCT SAFETY COMMISSION



OFFICE OF THE INSPECTOR GENERAL

SEMIANNUAL REPORT TO CONGRESS

April 1, 2015 - September 30, 2015



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
BETHESDA, MD 20814

Memorandum

Date: October 30, 2015

TO : Elliot F. Kaye, Chairman
Robert S. Adler, Commissioner
Marietta S. Robinson, Commissioner
Ann Marie Buerkle, Commissioner
Joseph P. Mohorovic, Commissioner

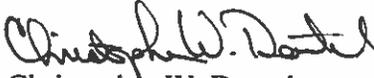
FROM : Christopher W. Dentel
Inspector General

SUBJECT : Semiannual Report, April 1, 2015 through September 30, 2015

I hereby submit the Semiannual Report for the Office of the Inspector General for the period April 1, 2015 through September 30, 2015. 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,


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, 2015 through September 30, 2015. During the reporting period, this office worked on 9 audits or reviews. At the end of the reporting period, 6 audits or reviews and 1 investigation were in progress.

The OIG received a number of complaints during the reporting period, two of which resulted in the initiation of formal investigations. One investigation was closed or transferred during the reporting period. Management officials acted on the recommendations made in the previously completed investigations.

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 \$123 million and 567 authorized full-time equivalent positions for FY 2015.

OFFICE OF THE INSPECTOR GENERAL (OIG)

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 the CPSC's 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 the CPSC's programs and operations; and
- keep the Chairman and Congress fully and currently informed about problems and deficiencies relating to the administration of the CPSC's 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 the CPSC's 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 2015: the Inspector General, a Deputy Inspector General for Audits, an Attorney-Investigator, an office manager, an Information Technology auditor, and two line auditors.

AUDIT PROGRAM

During this period, the OIG worked on 9 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 (GAGAS) and the Financial Audit Manual.

This audit is scheduled for completion in November 2015.

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 2015.

CIVIL PENALTIES PROGRAM AUDIT

The CPSC holds violators accountable for hazardous consumer products by using its enforcement authorities. The Consumer Product Safety Improvement Act of 2008 (CPSIA) provides the CPSC with significant new regulatory and enforcement tools as part of amending and enhancing several CPSC statutes, including the Consumer Product Safety Act of 1972. The CPSIA included provisions addressing, among other things, lead, phthalates, toy safety, durable infant or toddler products, third-party testing and certification, tracking labels, imports, ATVs, civil and criminal penalties, and www.SaferProducts.gov, a publically-searchable database of reports of harm.

The OIG conducted this audit in accordance with GAGAS. The audit covered civil penalty collection transactions at the CPSC during the period from October 1, 2011 through September 30, 2014. This included reviewing applicable documents to understand the financial and legal operations of the CPSC's civil penalties collection process and related internal controls. Furthermore, we performed procedures over the agency's compliance with identified applicable laws, regulations, policies, and contractual provisions.

Overall, we found that the CPSC had a functioning Civil Penalties Collection Program; however, we did identify instances of weaknesses in internal control and non-compliance with contract provisions.

We found that the CPSC did not have policies and procedures documented in an agency Directive or Standard Operating Procedures (SOP) to address the responsibilities and internal controls established by management over civil penalty collections. We specifically noted the lack of policies and procedures in the following areas: the tracking of Civil Penalties Assessed; final Settlement Agreement Payment Terms; and Communication of the Final Settlement Agreements

We found there to be a lack of communication/understanding of CPSC policies and procedures between offices at the CPSC. The Division of Financial Management Services (FMFS) had an SOP in place to monitor and record civil penalty collections. The process detailed in the SOP required the Office of General Counsel (OGC) to verify the validation report as a confirmation over the initial balances; however, the OGC had not received the proper training to allow them to carry out the duties expected of them and described in the SOP.

We identified instances of ineffective internal controls over the civil penalties collection process within FMFS. We found that: Provisional Settlement Agreements (not Final Settlement Agreements) had been sent to the CPSC's accounting service provider, Enterprise Service Center, to initiate the recording of the collection; and that interest penalties for delinquent collections were not properly billed by the CPSC

Overall, management concurred with our findings and recommendations.

AUDIT OF THE COMMISSION'S COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT (FOIA)

The purpose of the audit was to determine whether the CPSC had developed and implemented proper internal controls, policies, and procedures to ensure the program complies with the FOIA and related regulations. The FOIA is a Federal law that provides any person the right to submit a written request for access to records or information maintained by the Federal Government. Within the CPSC, the Office of the Secretariat (GCOS), administers the FOIA Program. In addition, the CPSC's National Injury Information Clearinghouse

(Clearinghouse), under the Office of Epidemiology, has direct responsibility for providing responses to requests for incident reports, specifically In Depth Investigation (IDI) Reports. Under Title 16 of the Code of Federal Regulations (CFR), Part 1015.20, requests for IDI Reports are to follow the same procedures used for requests for information processed under the FOIA.

The OIG conducted this audit in accordance with GAGAS. The audit covered FOIA requests, including fee assessments, processed during the period between October 1, 2008 and September 30, 2013. This included reviewing applicable documents to understand the operations of the FOIA Program and related internal controls, as well as conducting a review of the FOIAXpress, a database used to track the CPSC's FOIA activity, system's general and application controls. Finally, we assessed the CPSC's compliance with identified applicable laws, regulations, and provisions of the FOIA.

Overall, we found that the CPSC had a functioning program, but we identified several internal control weaknesses. In addition, we found that the program did not comply with certain policies and procedures mandated by the FOIA.

We determined that the CPSC could improve the FOIA program by strengthening operational internal controls to ensure that requests are completed both within the statutory deadlines and accurately. Based on our assessment of internal controls, we identified several areas where effective internal controls did not exist and/or implementation was not complete, these included but were not limited to: untimely updating of the CPSC FOIA Directive; a failure to develop a formal training program to ensure individuals charged with completing FOIA requests were adequately educated on current FOIA legislation and were conscious of the CPSC's policies and procedures regarding the FOIA program; a lack of internal controls over IDI request, CPSC's Clearinghouse Management having not developed written procedures to ensure the proper processing of requests for IDI Reports in accordance with the FOIA; and inadequate Recordkeeping, which resulted in the CPSC reporting 13,761 more FOIA requests to the Department of Justice than were actually entered into the FOIAXpress system used by the CPSC to track its FOIA requests.

The FOIA requires agencies to publish records in an "indexed" electronic format for public inspection. The CPSC had created an electronic reading room via the CPSC public website (www.cpsc.gov). However, the information available was not current; having not been updated since 2012, and was not indexed using a systematic method, nor was an assessment over the information performed to determine frequently requested information. Therefore, the Electronic Reading Room did not meet the requirements of the FOIA.

The FOIA establishes guidelines for agencies to develop and publish a fee schedule. While GCOS had developed a fee schedule, which was published in the CFR, the fee schedule did not include all of the statutorily required criteria.

The FOIA requires that, on or before February 1 of each year, Agencies submit a report to the Attorney General summarizing their annual FOIA activity. In our review of the FY 2013 Report, we discovered that GCOS had not established appropriate internal controls to ensure the report's completeness and accuracy. The report contained all the required elements, but the discarding of supporting documentation prevented the OIG from verifying the completeness and accuracy of the report's data metrics. In addition, we were unable to verify the accuracy of the report and we also discovered that the CPSC FOIA Specialists were not following internal guidelines on processing requests, which resulted in the understatement of response times on requests conveyed in the report.

The OIG noted that GCOS management had not trained and/or dedicated resources to implement and maintain system security access controls for FOIAXpress. The security control weaknesses identified could potentially result in the unauthorized viewing and/or altering of critical agency documents.

Management generally concurred with our findings and recommendations.

IMPROPER PAYMENTS ELIMINATION AND RECOVERY ACT (IPERA) INSPECTION

According to the Government Accountability Office, improper Federal payments to individuals, organizations, and contractors totaled an estimated \$127.4B during fiscal year (FY) 2014. The

Improper Payments Information Act of 2002 (IPIA), as amended by the Improper Payments Elimination and Recovery Act of 2010 (IPERA), further amended by the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA), as implemented by OMB Memorandum M-15-02, requires that Federal agencies take several steps to reduce improper payments and that Inspectors General review annually their agency's improper payment reporting in their agency's Performance and Accountability Report (PAR) or Agency Financial Report (AFR) as appropriate.

In 2011, as a result of an OIG review, the CPSC acknowledged that it was not in compliance with IPERA. The agency did not conduct an initial estimate of improper payments or a formal program risk assessment. The PAR did not include any information regarding the agency's efforts to recapture improper payments. The CPSC indicated in their 2011 PAR that in 2012 they planned to refine the risk assessment criteria such that a, ". . . gross estimate is included and to be more substantially compliant with OMB's guidance and IPERA."

In 2012, the OIG retained the services of Withum, Smith & Brown (WS+B) an independent certified public accounting firm, to assess the CPSC's compliance with IPERA. Under a contract monitored by the OIG, WS+B concluded that the CPSC was in compliance with IPERA. They found that the CPSC had taken several steps to identify risk and establish a systematic method to estimate improper payments. However, they also identified certain areas where they believed that the CPSC could improve its process of estimating improper payments and better comply with OMB guidance.

In 2013, the CPSC OIG retained the services of Kearney & Company (Kearney) an independent certified public accounting firm. Under a contract monitored by the OIG, Kearney concluded that the CPSC was in compliance with IPERA. Kearney found that the CPSC had performed a program-specific risk assessment for those activities identified as susceptible to significant improper payments. Kearney also found that the CPSC had developed standard operating procedures for the performing risk assessment and expanded the assessment to include each of the risk factors suggested by OMB guidance. However, Kearney found that the CPSC had not adequately address all of the IPERA disclosure requirements in its Fiscal Year (FY) 2013 AFR, as required by OMB Memorandum M-11-16, and that the

methods the CPSC used to perform its quantitative evaluation and extrapolate the gross estimate of improper payments needed improvement.

To assess agency compliance with IPERA for FY 2014, the OIG again retained the services of Kearney. Under a contract monitored by the Office of Inspector General, Kearney issued an inspection report regarding the CPSC's compliance with IPERA. The contract required that the inspection be performed in accordance with the Council of the Inspectors General on Integrity and Efficiency's (CIGIE), Quality Standards for Inspection and Evaluation (QSIE).

Kearney found the CPSC was not compliant with IPERA, as amended by IPERIA, and OMB M-15-02. Although the CPSC performed a program-specific risk assessment for those activities identified as susceptible to significant improper payments, Kearney found that the risk assessment provided was not compliant with IPERIA. The support provided for the risk assessment was not consistent with the conclusions of the risk assessment itself, as required by OMB M-15-02. Inconsistencies were also found between the documentation of the SOP for the IPERIA review and the actual procedures performed for the risk assessment. Specifically, Kearney noted that the documented procedures received for the risk assessment could not be re-performed by following the procedures listed in its SOP.

In addition, Kearney found that the improper payment estimate developed by the CPSC was not in compliance with IPERIA as it was based on FY 2013 data instead of FY 2014 data, as required by OMB M-15-02. OMB M-15-02 allows improper payment estimates to be developed on financial data that is not concurrent with the reporting FY, as long as OMB has approved it in advance and in writing. The CPSC could not provide documentation of the OMB's approval for using FY 2013 data instead of FY 2014 data.

Finally, Kearney noted that the CPSC's AFR did not include all of the relevant OMB required disclosures.

Kearney did find that the CPSC had made several improvements to its IPERA review process, to include a robust statistical sampling of all payment activities, centralization

of documentation, and enhanced documentation for performance of the annual IPERA review. Additionally, Kearney found the CPSC had performed a very robust sampling procedure as a detective internal control for improper payments. Kearney noted that the CPSC did exhibit internal controls in place that were designed effectively and operating effectively to identify and address improper payments after they occur. As such, the CPSC was able to provide substantial amounts of support for its conclusion in the FY 2014 AFR of a 0% improper payment error rate on its FY 2013 data.

However, Kearney also found that the CPSC lacked internal controls, designed effectively and operating effectively, to ensure compliance with the requirements for Federal agencies as promulgated in IPERIA and OMB M-15-02.

The CPSC management provided a written response in which they did not concur with Kearney's finding that the agency was not in compliance with IPERA, as amended by IPERIA, and OMB M-15-02 requirements.

In connection with the contract, we reviewed Kearney's report and related documentation and inquired of its representatives. Our review was not intended to enable us to express, and we do not express, an opinion on the matters contained in the report. Kearney is responsible for the attached report. However, our review disclosed no instances where Kearney did not comply, in all material respects, with CIGIE's QSIE.

Despite agency management's decision to not concur with the conclusion of the report (that the CPSC was not compliant with IPERA), the CPSC has indicated to Congress and OMB their intention to implement the corrective action recommended in the report.

IMPORT SURVEILLANCE PROGRAM REVIEW (ongoing)

This review will ascertain whether internal controls have been placed into operation and are functioning efficiently and effectively to meet the objectives of the CPSC's Import Surveillance Program (program effectiveness). The secondary

objective of the evaluation will be to determine the CPSC's compliance with Section 222 of the CPSIA.

To conduct this review, the CPSC OIG contracted with Kearney, an independent certified public accounting firm. The contract requires that the review be performed in accordance with the CIGIE, QSIE.

AUDIT OF TRAVEL CHARGE CARD PROGRAM (ongoing)

This audit will assess the CPSC's compliance with Federal statutes and regulations governing the operations of its Travel Card Program.

To conduct this audit, the CPSC OIG contracted with Kearney, an independent certified public accounting firm. The contract requires that the audit be performed in accordance with GAGAS.

PURCHASE CARD PROGRAM AUDIT (ongoing)

This audit will assess the CPSC's compliance with Federal statutes and regulations governing the operations of its Purchase Card Program.

FLEET CARD PROGRAM REVIEW (ongoing)

This review will assess the design of the CPSC's internal controls governing the operations of its Fleet Card Program. The Fleet Card program involves the use of a Government charge card to pay for gas and related expenses related to the operation of Government Owned Vehicles.

INVESTIGATIVE PROGRAM

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

Investigations

	No. of Cases
Beginning of period	0
Opened	2
Closed	0
Transferred/Incorporated into existing investigation	1
End of the period	1

REPORTABLE INVESTIGATIONS

Alleged use of official time or resources to conduct outside activities - Although 5 CFR 2635.704 and 705 prohibit the use of official time or resources to conduct outside activities, these prohibitions are not criminal in nature. Historically, matters of this type have been resolved administratively by agency management. As management had not yet had an opportunity to resolve this matter it did not fall within the jurisdiction of the OIG. The matter was forwarded to agency management for action.

ONGOING INVESTIGATIONS

An investigation was ongoing at the end of the period dealing with allegations of abuse of the Worker's Compensation Program.

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:

- Whistle Blower Protection Act
- Whistle Blower Protection Enhancement Act
- Federal Transit Benefit Program
- Consumer Product Safety Improvement Act
- Consumer Product Safety Act
- 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
- Merit System Principles
- Prohibited Personnel Practices
- Telework Policies
- Improper Payments Elimination and Recover Act
- Inspector General Act
- Government Charge Card Abuse Prevention Act
- Inspector General Reform 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 Counsel to 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 the Office of the Inspector General, specifically. Also, the Council provided additional 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.....	15
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.....	8-11
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 March 14, 2014, and it is available on the CPSC OIG's Web page. No deficiencies were noted, no recommendations for improvement were made, no letter of comment was issued, and this office received a peer review rating of pass.

The last peer review conducted by the CPSC's OIG on another Office of Inspector General occurred on December 13, 2013, and it involved the National Endowment of the Arts Office of Inspector General (NEA OIG). No deficiencies were noted and no formal recommendations were made in that review. A letter of comment was issued to the NEA OIG.