



GAO

Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

September 24, 2008

The Honorable Robert C. Byrd
Chairman
The Honorable Thad Cochran
Ranking Member
Committee on Appropriations
United States Senate

The Honorable David R. Obey
Chairman
The Honorable Jerry Lewis
Ranking Member
Committee on Appropriations
House of Representatives

Subject: *Audit of Special Counsel Expenditures for the 6 Months Ended March 31, 2008*

This report presents the results of our audit of the expenditures of the Office of Special Counsel-Patrick J. Fitzgerald (OSC-Fitzgerald) for the 6 months ended March 31, 2008. The expenditures we audited were those made by the Department of Justice (DOJ) between October 1, 2007, and March 31, 2008, from the permanent, indefinite appropriation (fund) for OSC-Fitzgerald. DOJ determined that the appropriation established by Public Law 100-202¹ to fund expenditures by independent counsels appointed pursuant to the independent counsel law or other law is available to fund the expenditures of U.S. Attorney Patrick J. Fitzgerald, who was appointed as a special counsel within the Department of Justice by the then-Acting Attorney General.² Under this law, we are required to perform semiannual financial reviews of expenditures from the fund and report our findings to the House and Senate Appropriations Committees. To satisfy this requirement, we audit each expenditure processed by DOJ to determine whether it was: properly authorized and approved,

¹The permanent, indefinite appropriation was established by Pub. L. No. 100-202, § 101(a), title II, 101 Stat. 1329, 1329-9 (Dec. 22, 1987), 28 U.S.C. § 591 note.

²We reviewed the legal authority for the Department of Justice to use the permanent, indefinite appropriation to fund the expenditures relating to Special Counsel Fitzgerald's investigation and, in our opinion to the Chairmen of the House and Senate Appropriations Committees, concluded that such use was not an illegal, improper, or unauthorized use of the appropriation. B-302582 (Sept. 30, 2004).

supported by appropriate documentation, recorded accurately, and made in accordance with selected provisions of laws and regulations.

Background

On December 30, 2003, the then-Acting Attorney General appointed U.S. Attorney Patrick J. Fitzgerald as a Special Counsel to investigate whether officials of the current administration illegally disclosed the identity of an undercover Central Intelligence Agency officer. In March 2007, after a jury trial, an administration official was convicted of perjury, lying to the Federal Bureau of Investigation, and obstruction of justice in the investigation. In July 2007, the President of the United States commuted the prison term imposed by the sentencing judge upon the administration official. The administration official dropped his appeal of his convictions in December 2007.

Expenditures during this period relate to the official's appeal of his conviction of perjury and obstruction of justice charges, as well as some expenses paid during this period that were reimbursements of travel and lodging incurred during the trial and sentencing. The activities of the special counsel were, for all practical purposes concluded as of March 2008, but the office of the special counsel will continue for limited purposes, such as responding to congressional requests for information.

Results of Our Audit

Our audit of the expenditures on behalf of Special Counsel Fitzgerald covering the 6 months ended March 31, 2008, found that DOJ processed expenditures totaling \$72,465. We found that all of the expenditures were supported by appropriate documentation, contained proper authorizations and approvals, and were properly recorded. The expenditures consisted primarily of personnel compensation and benefits, travel, and contract services. A breakdown of Special Counsel Fitzgerald's expenditures for the 6 months ended March 31, 2008, is presented in table 1 below.

Table 1: Special Counsel Expenditures for the 6 Months Ended March 31, 2008

Description	Amount
Personnel compensation and benefits	\$ 22,020
Travel and lodging	7,268
Contractual office space related services	43,177
Total	\$ 72,465

Source: DOJ Financial Management Information System.

For the period of our review, personnel compensation and benefits of employees assigned to work with the special counsel amounted to \$22,020. The special counsel also incurred travel expenditure of \$7,268, primarily consisting of travel to Washington, D.C., during the appeal process as well as some travel expenses paid during the current period that were reimbursements of travel and lodging expenses previously incurred during the trial and sentencing. In addition, the special counsel paid \$43,177 for contractual services incurred during the investigation, trial, sentencing, and appeal process. These services relate primarily to charges from the

General Services Administration (GSA) for heating, ventilating, and air-conditioning services in the building that housed the Washington, D.C., special counsel offices. GSA charged the special counsel for these extra hours of ventilation services because the offices were left open especially for the special counsel office, so that personnel could work evenings and weekends during the 10-month period from October 1, 2006, to August 1, 2007. Although most of these charges were incurred primarily before the current 6-month reporting period, they were billed by GSA and paid by the special counsel during the current audit period.

Our tests for compliance with selected provisions of laws and regulations disclosed no instances of noncompliance with respect to the expenditures processed by DOJ on behalf of OSC-Fitzgerald that would be reportable under U.S. generally accepted government auditing standards.

Objectives, Scope, and Methodology

Our objectives were to determine whether the expenditures processed by DOJ on behalf of OSC-Fitzgerald for the 6-month period were properly authorized and approved, supported by appropriate documentation, recorded accurately, and made in accordance with selected provisions of laws and regulations.

To perform our audit, we obtained expenditure data files from the DOJ and traced the recorded expenditures to supporting documentation including payroll records, travel vouchers, and invoices. We reviewed all expenditures made between October 1, 2007, and March 31, 2008, for proper authorization and approval and ensured they were supported by appropriate documentation and recorded accurately by DOJ on behalf of OSC-Fitzgerald. We also reviewed expenditures to ensure they were made in accordance with selected provisions of Title 5 of the United States Code, the Prompt Payment Act, and selected provisions related to pay administration and travel regulations. We were not required to, nor did we test, the appropriateness of the expenditures.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We performed our review in Washington, D.C., and Chicago, Illinois, from February 2008 to August 2008. We provided a draft of this correspondence to Special Counsel Fitzgerald and the Department of Justice-Justice Management Division. These entities agreed with the facts and conclusions in our correspondence.

We are sending copies of this report to the Chairman and Ranking Members of the Senate and House Committees on Appropriations, the Attorney General, the Special Counsel, and other interested parties. In addition, the report is available at no charge on GAO's Web site at <http://www.gao.gov>. Please contact me at (202) 512-3406 or

sebastians@gao.gov if you or your staff have any questions concerning this report. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are Julie Phillips, Assistant Director; Kwabena Ansong; and Richard Cambosos.

A handwritten signature in black ink, reading "Steven J. Sebastian". The signature is written in a cursive style with a large, stylized initial "S".

Steven J. Sebastian
Director
Financial Management and Assurance

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's Web site (www.gao.gov). Each weekday, GAO posts newly released reports, testimony, and correspondence on its Web site. To have GAO e-mail you a list of newly posted products every afternoon, go to www.gao.gov and select "E-mail Updates."

Order by Mail or Phone

The first copy of each printed report is free. Additional copies are \$2 each. A check or money order should be made out to the Superintendent of Documents. GAO also accepts VISA and Mastercard. Orders for 100 or more copies mailed to a single address are discounted 25 percent. Orders should be sent to:

U.S. Government Accountability Office
441 G Street NW, Room LM
Washington, DC 20548

To order by Phone: Voice: (202) 512-6000
TDD: (202) 512-2537
Fax: (202) 512-6061

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: www.gao.gov/fraudnet/fraudnet.htm

E-mail: fraudnet@gao.gov

Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Ralph Dawn, Managing Director, dawnr@gao.gov, (202) 512-4400
U.S. Government Accountability Office, 441 G Street NW, Room 7125
Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, DC 20548

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.
