

U.S. CONSUMER PRODUCT SAFETY COMMISSION



OFFICE OF THE INSPECTOR GENERAL

SEMIANNUAL REPORT TO CONGRESS

October 1, 2011 - March 31, 2012

## EXECUTIVE SUMMARY

This semiannual report summarizes the major activities performed by the Office of the Inspector General during the reporting period, October 1, 2011 through March 31, 2012. During the reporting period, this office worked on eight audits or reviews. At the end of the reporting period, five audits or reviews and two investigations were in progress.

The Office of the Inspector General received four complaints during the reporting period, each of which resulted in the initiation of a formal investigation. Seven 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 Office of the Inspector General 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 regulatory agency created in 1972, under the provisions of the Consumer Product Safety Act (P.L. 92-573) to protect the public against unreasonable risks of injuries associated with consumer products. Under the Consumer Product Safety Act and the Consumer Product Safety Improvement Act, 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 \$114.5 million and 548 authorized full-time equivalent positions for FY 2012.

### **OFFICE OF THE INSPECTOR GENERAL**

The Office of the Inspector General 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 related to the administration of CPSC programs and operations and the need for progress or corrective action.

The Office of the Inspector General 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 concerned individuals. The objective of this program is to ensure the integrity of the CPSC and guarantee individuals fair, impartial, and independent investigations.

The Office of the Inspector General also reviews existing and proposed legislation and regulations related 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 Office of the Inspector General was authorized seven full-time equivalent positions for FY 2012: 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 Office of the Inspector General worked on eight audits and reviews. A summary of each follows:

### **AUDIT OF FINANCIAL STATEMENTS**

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 was performed to meet this statutory requirement.

The objectives of this audit were to ensure that the CPSC was meeting its responsibilities for: (1) preparing the financial statements in conformity with generally accepted accounting principles; (2) establishing, maintaining, and assessing internal control 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.

The financial statements including the accompanying notes presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles, the Commission's assets, liabilities, and net position as of September 30, 2011; and net costs; changes in net position; budgetary resources; and custodial activity for the year ended September 30, 2011. In regards to fiscal year 2010, the scope of our work was not sufficient to enable us to express an opinion on the Commission's financial statements.

The Commission restated its financial statements for fiscal year 2010 due to material errors affecting the Commission's Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, Statement of Custodial activity, and the accompanying notes. The Commission reported that, "The errors were the result of improper accounting application of records in the financial system in preparing the financial statements." Management's disclosures were not sufficiently timely so as to allow us to fully evaluate the effectiveness of management's

actions to determine and correct misstatements in the previously issued financial statements.

Management reported that: the financial reporting procedures had been strengthened, those procedures included employing additional reviews to strengthen the statement reporting process; the restatement resulted in the proper reporting of the financial position of the FY2010 for comparative purposes in FY 2011; and the Commission transitioned to having the service provider provide "full service accounting" in May of 2011.

The Commission maintained, in all material respects, effective internal control over financial reporting (including safeguarding assets) and compliance as of September 30, 2011 that provided reasonable assurance that misstatements, losses, or noncompliance material in relation to the financial statements would be prevented or detected on a timely basis.

However, our work identified the need to improve certain internal controls, described in detail in the report. Significant deficiencies were identified in the following areas:

- Financial Management and Reporting
- Fund Balance with Treasury
- Property, Plant, and Equipment
- Accounts Payable and Expenses
- Earned Revenue

The results of certain tests of compliance, disclosed the following two instances of non-compliance required to be reported under U.S. Generally Accepted Government Auditing Standards or OMB audit guidance:

- The Prompt Payment Act, as implemented by the Prompt Payment Final Rule (formerly OMB Circular A-125, "Prompt Payment") requires Executive departments and agencies to pay commercial obligations within certain time periods and to pay interest penalties when payments are late. Based on our review of a control sample, interest was not always paid when payments were late, as required by the Prompt Payment Act. This deficiency was first reported as a

Notice of Finding and Recommendation of the FY 2010 financial statement audit on November 19, 2010.

- The Debt Collection Improvement Act of 1996 states that a non-tax debt or claim owed to the United States that has been delinquent for a period of 180 days shall be transferred to the Secretary of the Treasury for collection or termination of collection actions. The Commission is not properly reviewing and transferring debt related receivables resulting from individuals' failure to pay fees associated with the CPSC Freedom of Information Act program to the Department of the Treasury's Financial Management Service for collection. This deficiency was first reported as a Notice of Finding and Recommendation of the FY 2010 financial statement audit on October 25, 2010.

The CPSC's management concurred with the facts and conclusions cited in our report. The CPSC has begun work on implementing our recommendations.

#### **FEDERAL INFORMATION SECURITY MANAGEMENT ACT**

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 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.

The Fiscal Year 2011 FISMA evaluation found that although much progress has been made, and the Consumer Product Safety Risk Management System (CPSRMS) and International Trade Data System Risk Assessment Methodology (ITDSRAM) both received security accreditations, the agency's General Support System (GSS LAN) was no longer authorized to operate, and there remained much work to do. It was noted that the current Authorization to Operate (ATO)

for the GSS LAN expired on June 17, 2011, and management was unwilling to accept formally the risk posed by the operation of the GSS LAN with its current security posture. Therefore, an interim ATO was granted as of June 27, 2011, to allow for the continuity of operations until a full ATO could be obtained. A full ATO for the GSS LAN was anticipated by December 31, 2011. Granting a full ATO at that time was contingent upon the successful mitigation or reduction of risk associated with the three known high risk security weaknesses. The three weaknesses preventing the agency from granting a full ATO to the GSS LAN were: (1) multifactor authentication was not systematically required to access the virtual privacy network VPN; (2) an information system contingency plan was not documented and tested; and (3) baseline security configurations for agency hardware and software had not been documented and implemented.

The OIG noted 65 findings (15 of which were high-risk issues). The IT challenges facing the agency are particularly relevant at the present time, as the agency is dealing with the implementation of the Consumer Product Safety Improvement Act (CPSIA), in general, and more specifically, with the CPSIA's particular impacts on the agency's IT operations; in addition, the agency is involved in the implementation of the public facing database (CPSRMS).

Remediation strategies had been developed to address known vulnerabilities, with a priority placed on the highest risk issues. The CPSC is in the process of remediating these issues; however, the full mitigation of these risks will require a significant amount of additional effort.

However, it is important to note that many of these remediation tasks were scheduled to be implemented after the FISMA review in FY 2010, and they still have not been implemented fully.

#### **PURCHASE CARD AUDIT(ongoing)**

This audit will assess the CPSC's Purchase Card Program and determine the extent to which the agency has taken corrective action regarding the findings made in an earlier audit of its purchase card program by Withum, Smith+Brown (WS+B).

The CPSC utilizes GSA's purchase card program, which is intended to streamline federal agency acquisition processes by



providing a low-cost, efficient vehicle for obtaining goods and services directly from vendors. The CPSC, which is subject to the general guidance found in the Federal Acquisition Regulations (FAR), has also set forth agency specific purchase card policies and procedures. The CPSC has approximately 148 employees who have been issued purchase cards and whom make approximately 7,700 purchases each year. This audit will review both a sample of these transactions as well as assess both the effectiveness of the existing policies and procedures as well as the agency's actual compliance with same.

#### **AUDIT OF TRAVEL CHARGE CARD PROGRAM (In progress)**

This audit will assess the CPSC's compliance with Federal statutes and regulations governing the operations of its Travel Card Program. The Travel and Transportation Reform Act of 1998 requires Federal employees to use travel charge cards for all payments of expenses related to official Government travel, including hotels, transportation costs, and meals.

The General Services Administration (GSA) issues the Federal Travel Regulation (FTR) that implements the requirements of the Act, and 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 its 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 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 by monitoring account activity; and managing delinquencies and misuse by 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. Additionally, the negotiated rebate provides a financial incentive for the agency to act to ensure that its

employees' overdue balances are paid in full. 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.

#### **FOLLOW-UP REVIEW OF THE ADEQUACY OF PROCEDURES FOR ACCREDITING CONFORMITY ASSESSMENT BODIES AND OVERSEEING THIRD PARTY TESTING (ongoing)**

The "Consumer Product Safety Improvement Act of 2008" (CPSIA) constituted a comprehensive overhaul of consumer product safety rules, and it significantly impacted nearly all children's products entering the U.S. market.

In relevant part, the CPSIA imposed a third party testing requirement on all consumer products primarily intended for children 12 years of age or younger. Every manufacturer (including an importer) or private labeler of a children's product must have its product tested by an accredited independent testing laboratory and, based on the testing, must issue a certificate that the product meets all applicable Consumer Product Safety Commission requirements. The CPSC was given the authority to either directly accredit third party conformity assessment bodies (hereafter referred to as "third party laboratories") to do the required testing of children's products or designate independent accrediting organizations to accredit the testing laboratories. The CPSC is required to maintain an up-to-date list of accredited labs on its website. The CPSC has authority to suspend or terminate a laboratory's accreditation in appropriate circumstances and is required to assess periodically whether laboratories should continue to be accredited. The third party testing and certification requirements for children's products are phased in on a rolling schedule. The statute requires the CPSC to issue laboratory accreditation regimes for a variety of different categories of children's products.

The CPSC determined quickly that it lacked the necessary infrastructure to accredit the testing laboratories directly. Accordingly, to leverage its available resources, the CPSC decided to use an independent accrediting organization to

accredit the testing laboratories. CPSC recognition requires a laboratory to be accredited by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement. The scope of accreditation must include the test methods required by CPSC laws and regulations; and the laboratory must apply to the CPSC for recognition and also must agree to fulfill the requirements of the CPSC program.

This review will assess the CPSC's implementation of the recommendations made in last year's review.

### **INFORMATION TECHNOLOGY INVESTMENT MANAGEMENT FOLLOW-UP AUDIT (ongoing)**

The Consumer Product Safety Improvement Act (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.

In order 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 used 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 that stage, in addition to those 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, Withum, Smith & Brown (WS+B), an independent certified public accounting firm, 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 review, 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.

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 Information Technology Investment Management (ITIM): A Framework for Assessing and Improving Process Maturity, GAO-04-394G.

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

## **REVIEW OF THE SECURITY OF THE CONSUMER PRODUCT SAFETY RISK MANAGEMENT SYSTEM (ongoing)**

The Consumer Product Safety Improvement Act of 2008 (CPSIA) requires the Consumer Product Safety Commission (CPSC) to implement a publicly accessible, searchable database of consumer product incident reports.

This database, the Consumer Product Safety Risk Management System (CPSRMS), houses personal, proprietary, and confidential data and is a major application, as defined by NIST SP 800-18. Therefore, CPSRMS is required to implement specific security controls and complete a Security Certification and Accreditation

(C&A) process. NIST SP 800-37 provides guidance and best practices for the C&A process that federal agencies are required to implement as a mandate of the Federal Information Security Management Act (FISMA). Consequently, CPSC management reviewed and validated CPSRMS's system security through the performance of a C&A assessment and formally authorized CPSRMS to operate on January 16, 2011.

This review is designed to evaluate the CPSC's C&A assessment (specifically, the six-step Risk Management Framework outlined in NIST SP 800-37) to ensure that it meets the requirements of NIST SP 800-37 and Section 212 of the (CPSIA).

#### **IMPROPER PAYMENTS ELIMINATION AND RECOVERY ACT (IPERA) REVIEW**

IPERA (Public Law 111-204) was enacted on July 22, 2010, and the Office of Management and Budget (OMB) issued implementing guidance on April 14, 2011—OMB Memorandum M-11-16. M-11-16 requires that Inspectors General review annually their agency's improper payment reporting in their agency's Performance and Accountability Report (PAR).

Although the CPSC did publish and post on its agency website a PAR, and that PAR did include some information regarding its efforts to comply with IPERA, the agency acknowledges not being 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. It is not possible for this office to formally evaluate the accuracy and completeness of agency reporting; or to evaluate agency performance in reducing and recapturing improper payments because these, and other program elements, have either not been developed or not been implemented.

The CPSC indicated in their 2011 PAR that in 2012 they plan 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." If this in fact takes place, it will be possible for our office to perform a more formal, and substantive, review of agency efforts in this area.

## INVESTIGATIVE PROGRAM

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

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

### REPORTABLE INVESTIGATIONS

**Alleged Misconduct by Government Employee** - the subject of this investigation engaged in a pattern of misconduct lasting over two years and involving thousands of dollars of the taxpayer's money. Subject violated a number of administrative rules and regulations as well as a criminal statute (18 USC 208). Subject violated Government ethics regulations by accepting a gift from a subordinate in violation of 5 CFR 2635. Subject misused the Government travel card by charging personal expenses on it. Subject failed to comply with the provisions of the Government Travel Card program dealing with the timely payment of subject's Government travel card bill. Subject violated the Basic Obligations of Public Service, set out at 5 CFR 2635.101, by failing to satisfy in good faith the obligations of a U.S. citizen by both writing insufficient fund checks to pay debts subject incurred using the Government Travel Card, failing to pay personal debts, and failing to pay Federal taxes due to the District of

Columbia. The Department of Justice was briefed about this case and declined to take criminal jurisdiction. Appropriate administrative action was taken by the agency.

**Alleged Misconduct by Government Employee** - Anonymous complainant alleged that supervisor had inappropriately detailed an employee from another agency into a supervisory position at the CPSC. Allegation was not substantiated by the evidence available.

**Alleged Misconduct by Government Employee** - An allegation was made that a management official abused their position. Allegation was not substantiated by the evidence available.

## **ONGOING INVESTIGATIONS**

Two investigations were ongoing at the end of the period. These cases involve allegations of violations of various agency or federal regulations and/or statutes.

## OTHER ACTIVITIES

### LEGISLATION AND REGULATIONS

The Office of the Inspector General reviews internal and external legislation and regulations that affect the Office of the Inspector General in specific, or the CPSC's programs and activities, in general. The OIG reviewed and commented on procedures applicable to the following subjects during the reporting period:

Consumer Product Safety Improvement Act,  
Prompt Payment Act,  
Improper Payments Elimination and Recovery Act,  
Travel Card Program,  
Debt Collection Improvement Act,  
Conflicts of Interest,  
Security Clearance and Background Check Procedures,  
Federal Information Security Management Act,  
Morale of Employees,  
Violence in the Work Place,  
National Labor Relations Act,  
Purchase Card Program,  
Changes in Agency Acquisition Policies,  
Anti-Deficiency Act, and  
Social Media.

### 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 the GAO. The Office of the Inspector General'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 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 in specific and provided other support as needed to the Inspector General.

## 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.....	4-14
Section 5(a)(2)	Recommendations With Respect to Significant Problems, Abuses, and Deficiencies.....	4-14
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.....	13
Section 5(a)(5)	Summary of Instances Where Information Was Refused.....	NA
Section 5(a)(6)	Reports Issued.....	4-14
Section 5(a)(7)	Summary of Significant Reports.....	4-14
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 it 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 on another Office of Inspector General occurred on December 9, 2010, and it 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.