

# FEDERAL TRADE COMMISSION

## OFFICE OF INSPECTOR GENERAL



## SEMIANNUAL REPORT TO CONGRESS

**April 1, 2004 - September 30, 2004**

**Report #31**



OFFICE OF  
INSPECTOR GENERAL

FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

The Honorable Deborah Majoras  
Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

Dear Chairman Majoras:

The attached report covers the Office of Inspector General's (OIG) activities for the second half of fiscal year 2004 and is submitted according to Section 5 of the Inspector General Act of 1978, as amended.

During this six-month reporting period ending September 30, 2004, the OIG completed audits of the FTC's (i) transit subsidy program, (ii) use of United States Agency for International Development (USAID) funds to provide technical assistance to developing countries, and (iii) implementation of the Federal Information Security Management Act for FY 2004. The OIG also began an audit of the FTC's Financial Statements for FY 2004 and an audit survey of select aspects of the national Do-Not-Call registry.

In addition, the OIG processed 128 complaints/allegations of possible wrongdoing during the period, opened two new investigations into wrongdoing, and closed one investigation. The results of this closed investigation was reported to management for ultimate disposition.

As in the past, management has been responsive in attempting to implement all OIG recommendations. I appreciate management's support and I look forward to working with you in our ongoing efforts to promote economy and efficiency in agency programs.

Sincerely,

Frederick J. Zirkel  
Inspector General

## TABLE OF CONTENTS

	<b>Page</b>
TRANSMITTAL	
INTRODUCTION .....	1
AUDIT ACTIVITIES .....	1
Completed Audits .....	1
Summary of Findings for Reviews Issued During the Current Period .....	2
Audits in Which Fieldwork is In Progress .....	4
Planned Audits .....	6
INVESTIGATIVE ACTIVITIES .....	7
Investigative Summary .....	7
Matters Referred for Prosecution .....	8
OTHER ACTIVITIES .....	8
Significant Management Decisions .....	8
Access to Information .....	8
Internet Access .....	9
Audit Resolution .....	9
Review of Legislation .....	9
Contacting the Office of Inspector General .....	9
TABLES	
Table I: Summary of Inspector General Reporting Requirements.....	10
Table II: Inspector General Issued Reports With Questioned Costs.....	11
Table III: Inspector General Issued Reports With Recommendations That Funds Be Put To Better Use .....	12

## INTRODUCTION

The Federal Trade Commission (FTC) seeks to assure that the nation's markets are competitive, efficient, and free from undue restrictions. The FTC also seeks to improve the operation of the marketplace by ending unfair and deceptive practices, with emphasis on those practices that might unreasonably restrict or inhibit the free exercise of informed choice by consumers. The FTC relies on economic analysis to support its law enforcement efforts and to contribute to the economic policy deliberations of Congress, the Executive Branch and the public.

To aid the FTC in accomplishing its consumer protection and antitrust missions, the Office of Inspector General (OIG) was provided five work years and expended approximately \$710,000 for Fiscal Year 2004.

## AUDIT ACTIVITIES

During this semiannual period, the OIG issued an audit of the FTC's transit subsidy program and an audit of the implementation of an agreement with the United States Agency for International Development (USAID) to provide technical assistance to developing countries. The OIG also completed its fourth annual audit of information security pursuant to requirements contained in the Federal Information Security Management Act (FISMA). The OIG also began an audit of the FTC's Financial Statements for FY 2004 and a survey of select aspects of the national Do-Not-Call registry. Detailed information regarding these audits and reviews is provided below.

### Completed Audits

<u>Audit Report Number</u>	<u>Subject of Audit</u>
<b>AR 04-059</b>	<b>Audit of the FTC's Transit Subsidy Program for Fiscal Year 2003</b>
<b>AR 04-060</b>	<b>Review of FTC's Management of Funds Transferred from the United States Agency for International Development in Fiscal Year 2003 for Technical Assistance to Developing Countries</b>
<b>AR 04-061</b>	<b>Office of Inspector General Independent Evaluation of FTC Implementation of the Federal Information Security Management Act for FY 2004</b>
<b>AR 04-061A</b>	<b>Executive Summary: Federal Information Security Management Act</b>

## **Summary of Findings for Reviews Issued During the Current Period**

In AR 04-059, *Audit of the FTC's Transit Subsidy Program for Fiscal Year 2003*, the objective of the audit was to determine whether controls were in place to ensure that (i) Department of Transportation (DOT) accurately billed the FTC for the subsidy its contractors distributed to agency staff; (ii) transit subsidy payments were properly reflected on the agency's books and records and that all monthly adjustments were properly accounted for; (iii) employees were following program guidelines when calculating their monthly subsidy request and received only the amount of subsidy authorized under the program; and (iv) only eligible authorized agency staff received a subsidy.

The OIG determined that the agency was accurately billed for the subsidy provided to FTC employees through the DOT, and that these amounts were accurately reflected in the agency's budgetary accounts. However, the OIG identified duplicate subsidies paid to six FTC staff in select months. After satisfying ourselves that FTC staff were not implicated in any wrongdoing (i.e., no staff received more than one duplicate payment) the OIG referred the finding to the program coordinator for followup with DOT staff to identify and correct weaknesses in controls that permitted these duplicate payments.

While the program costs are accurately reflected in the agency's financial records, the OIG found that the agency is slightly over-subsidizing a significant number of its staff. The application form used by all staff to enroll in the program provides for a maximum monthly subsidy assuming no leave is taken by the employee. To arrive at a correct subsidy amount, the process requires employees to perform monthly adjustments. Failure to perform such calculations is rewarded with a full subsidy. While employees are asked to make monthly adjustments for leave resulting in a reduction to their base subsidy, the OIG found that most employees do not make such adjustments, resulting in an OIG-estimated over payment to the agency's 700 plus subsidy recipients of between \$30,000 and \$50,000 annually.

Finally, the OIG performed steps to identify fraud, as required by Government Auditing Standards. Tests performed by the OIG in high risk areas did not identify any instances of fraud in the program.

The OIG believes that shortcomings inherent in the current transit subsidy program can be effectively addressed by redesigning the application form to consider likely leave usage when the base monthly subsidy is originally calculated. Based on years of service and agency sick/annual leave averages, employees need only make appropriate adjustments one time, e.g., when completing the application. The advantages of this approach are threefold: it would (i) eliminate the need for agency employees to recalculate their monthly subsidy entitlement, (ii) substantially reduce after-the-fact review costs by management to ensure compliance, and (iii) save the agency a significant sum of money.

The OIG provided management with one possible calculation approach that, if adopted, would provide employees with a far more accurate estimate of the subsidy amounts they would be entitled to over a year's time. The calculation considers, in addition to holidays, annual and sick leave, along with some administrative leave usage. If such an approach was taken to

develop the original subsidy amount, employees would only need to make adjustments for extraordinary events, such as extended travel and/or sick leave.

In AR 04-060, *Review of FTC's Management of Funds Transferred from the United States Agency for International Development in Fiscal Year 2003 for Technical Assistance to Developing Countries*, the objectives of the audit were to determine whether, for fiscal year ending 9/30/03, the payroll and other related program costs charged against USAID funds were (i) supported by approved documentation, and that these allocations appeared proper and reasonable; and (ii) used only for the purposes stipulated by USAID in formal agreements with the FTC.

The review was undertaken pursuant to requirements contained in H. J. Res. 2, the Consolidated Appropriations Resolution, 2003 (P.L. 108-7). Section 509(d) of the Appropriations Act requires that any agreement entered into by USAID with another agency must include periodic financial and program audits of the transferred funds by that agency's Office of Inspector General.

In complying with this new mandate, the OIG found that, for items selected for review, procedures were in place to allocate costs among USAID programs consistently and correctly, and that funds were spent in compliance with the agreements between USAID and the FTC for the period reviewed. The OIG found only a few instances where some costs were incorrectly coded into the accounting system despite program staff's proper classification of these expenses. The OIG also noted that the agency lacks a policy to allocate airfare in select circumstances.

In AR 04-061, *OIG Evaluation of FTC Implementation of the Federal Information Security Management Act (FISMA) for FY 2004*, the review objectives were to assess compliance with FISMA and related information security policies, procedures, standards and guidelines, and to test their effectiveness on a representative subset of the agency's information systems. Specifically, this review (1) evaluated the implementation of the FTC's information security program; (2) assessed agency progress towards correcting weaknesses addressed within the 2004 Plan of Action and Milestones (POA&M); (3) verified and tested information security and access controls for the General Support System, the Federal Financial System and the Premerger System, and (4) evaluated FTC's recently-established vulnerability assessment scanning and remediation program.

The FTC continues to make progress in developing a mature information security program, and has implemented or addressed many of the OIG-identified security vulnerabilities discussed in the prior year evaluation. For example, the FTC (i) certified and accredited (C&A) one Major Application and one General Support system by the close of fieldwork, and planned to complete C&A's on all remaining systems by fiscal year end; (ii) made significant improvements in the POA&M tracking and reporting process; (iii) developed policies and procedures that addressed various security issues; and (iv) developed a scanning and remediation program for system vulnerabilities. As importantly, management appears to be tailoring its security approach to conform to procedures and guidance issued by the National Institute of Standards and Technology (NIST), the Federal Government's recognized IT security expert.

In addition to numerous technical improvements, FTC also made selected structural improvements. As of mid-June 2004, the ITM Operations Section assumed responsibility for all production systems. Prior to this time and contrary to recommended industry practices, developers

had substantial privileges on production applications and data. Software is being secured in a locked room and all new and revised hardware and software are authorized, tested, and approved prior to implementation. Finally, default system passwords have been changed and Change Management procedures are now in use to manage and track system changes.

While the agency has made many needed changes and improvements in its IT security program, the OIG has also identified some new vulnerabilities that could impact the overall effectiveness of the IT security program. The Office of Management and Budget (OMB), in FY 2004 FISMA reporting guidance, has instructed OIG's to distinguish these vulnerabilities based on the level of risk they represent to the agency's ability to safeguard its information. Specifically, OMB uses the category "*significant deficiency*" to refer to a weakness in an agency's overall information security program or management control structure, or within one or more information systems, that significantly restricts the capability of the agency to carry out its mission, or compromises the security of its information, information systems, personnel, or other resources, operations or assets. Immediate corrective action must be taken. Somewhat lower on the scale of urgency are "*reportable conditions*," or security or management control weaknesses that do not rise to the level of a significant deficiency, yet are still sufficiently important to be reported to internal management.

For FY 2004, unlike in prior years, the OIG found no significant deficiencies in the FTC's overall information security program. Yet, we did identify a number of reportable conditions, many of which ITM management is now in the process of addressing. For example, ITM needed to make changes to several security-related policies and procedures to bring them in line with OMB, NIST and security best practices.

The OIG also identified selected weaknesses in ITM's ability to control access to data. Specifically, the evaluation team found a few former employees who still had active network accounts months after leaving the agency. In addition, some current employees who transferred to different positions within the agency did not routinely lose their access to formerly-needed data. The OIG provided the names of individuals to the appropriate staff within ITM for removal from the network or from select databases.

### **Audits in Which Field Work is In Progress**

#### **Audit Report Number**

**AR05-XXX**

#### **Subject of Review**

**Audit of the FTC's Financial Statements for Fiscal Year 2004** The purpose of the audit is to express an opinion on the financial statements of the Federal Trade Commission for the fiscal year ending September 30, 2004. The principal statements to be audited include the (a) Balance Sheet; (b) Statement of Net Cost; (c) Statement of Changes in Net Position; (d) Statement of Budgetary Resources; (e) Statement of Financing; (f) Statement of Custodial Activity, and notes to the financial statements. The OIG will also test the internal

controls associated with the movement of transactions through the FTC's financial system, and assess compliance with selected laws and regulations.

The OIG will use guidance contained in OMB Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*, in performing this audit. This year, the audited financial statements are required to be included in the financial section of the agency's Performance and Accountability Report to be issued on or before November 15, 2004.

**Audit Report Number**  
**AR05-XXX**

**Survey of Do-Not Call Registry Removal Procedures**

The OIG has learned of a small number of consumers claiming to have been inadvertently removed from the Do-Not-Call Registry without their knowledge or consent. DNC officials informed the OIG that on occasion, when a caller makes changes to his/her phone service the local companies might mistakenly identify such requests as a disconnect. In turn, when the agency's contractor routinely scrubs the registry, it might inadvertently identify such numbers as disconnects and removes them from the DNC registry.

The objective of this survey is to determine whether registered consumers are being properly removed from the registry, and if not, what is the reason for their removal. To complete this objective, the OIG will (i) verify that the information the contractor provides to the FTC monthly on the number of disconnects and deletions is complete and accurate; (ii) document criteria used to remove numbers from the registry, (iii) define the role played by local phone companies in the removal process, (iv) determine whether the removals were made for reasons that are in keeping with contractual agreements and program objectives, and (v) analyze and explain any discrepancies.

## Planned Audits

### Audit Report Numbers

**AR05-XXX**

### Subject Review

#### **Review of Annual Performance Measures Under the**

**Government Performance and Results Act** Under the Government Performance and Results Act of 1993 ("GPRA"), virtually every federal agency is required to develop a five-year strategic plan, an annual performance plan and performance measures to assess how well the agency is meeting its performance objectives. Like many other agencies, the FTC strives to capture all of the activities that FTC staff perform to achieve the agency's mission.

On an annual basis, the OIG reviews the agency's performance measures to determine whether systems are in place to accurately capture this information for external reporting. The OIG plans to expand the scope of the required review in a separate effort to look at whether selected measures (i) are relevant to the agency's missions; (ii) cover the work of all direct enforcement staff ; and (iii) are correctly matched to current year budgetary resources.

**AR 05-XXX**

#### **Review of Assistance Provided to FTC Regional Offices**

The Federal Trade Commission maintains a regional presence with offices in seven geographical areas across the country. Together, FTC's Regional office operations consume approximately 15 to 20 percent of agency resources.

The objectives of this review are twofold. First, the OIG will evaluate the manner in which the FTC regional offices manage operational and administrative responsibilities, and maintain a system of internal controls in areas including, but not limited to (i) time and attendance reporting, (ii) procurement, (iii) property management, (iv) use of experts and consultants, (v) contract administration, and (vi) physical and information security. Each will be reviewed in accordance with the FTC Administrative Manual, GSA policy, and Department of Treasury requirements. Second, the OIG will also assess how well the FTC central offices, located in Washington DC, are supporting the regional offices. Specifically, the OIG will interview administrative, enforcement and management staff to obtain their views on the quality, timeliness and sufficiency of support provided by headquarters personnel.

## INVESTIGATIVE ACTIVITIES

The Inspector General is authorized by the IG Act to receive and investigate allegations of fraud, waste and abuse occurring within FTC programs and operations. Matters of possible wrongdoing are referred to the OIG in the form of allegations or complaints from a variety of sources, including FTC employees, other government agencies and the general public.

Reported incidents of possible fraud, waste and abuse can give rise to administrative, civil or criminal investigations. OIG investigations might also be initiated based on the possibility of wrongdoing by firms or individuals when there is an indication that they are or were involved in activities intended to improperly affect the outcome of particular agency enforcement actions. Because this kind of wrongdoing strikes at the integrity of the FTC's consumer protection and antitrust law enforcement missions, the OIG places a high priority on investigating it.

In conducting criminal investigations during the past several years, the OIG has sought assistance from, and worked jointly with, other law enforcement agencies, including other OIG's, the Federal Bureau of Investigation (FBI), the U.S. Postal Inspection Service, the U.S. Secret Service, the U.S. Marshal's Service, the Internal Revenue Service, Capitol Hill Police, as well as state agencies and local police departments.

### Investigative Summary

During this reporting period, the OIG received 128 complaints/allegations of possible wrongdoing. Of the 128 complaints, 87 involved issues that fall under the jurisdiction of FTC program components (identity theft, credit repair, etc.). Consequently, the OIG referred these matters to the appropriate FTC component for disposition. Another 18 complaints were referred to other government and/or law enforcement agencies for ultimate disposition.

Of the remaining 23 complaints, 17 were closed without any action and 4 are still under review while the OIG obtains additional information to determine whether they warrant a full investigation. The two remaining complaints are matters that are now under investigation by the OIG.

Following is a summary of the OIG's investigative activities for the six-month period ending September 30, 2004.

<b>Cases pending as of 3/31/04.....</b>	<b>5</b>
<b>Plus: New cases.....</b>	<b>+2</b>
<b>Less: Cases closed.....</b>	<b>(1)</b>
<b>Cases pending as of 9/30/04.....</b>	<b>6</b>

During the current period the OIG opened an investigation into possible wrongdoing by a staff attorney after receiving a security violations report from the Information Technology

Management Office. The report indicated that, in violation of agency policy, the employee had visited pornographic websites and downloaded pornographic images onto his FTC computer. The OIG obtained the employee's hard drive and sought assistance from the FBI forensic unit that specializes in the identification of child pornography. After jointly reviewing the downloaded material it was determined that the hard drive contained only adult content material and thus did not support referral to a prosecutor. The OIG informed management of its findings and closed the case. Management recommended a 30 day suspension without pay as disciplinary action for the employee's violation of agency computer and internet use policy.

### **Matters Referred for Prosecution**

During the current reporting period the OIG did not refer any cases to a federal prosecutor. However, the OIG consulted with a prosecutor on two investigations.

### **OTHER ACTIVITIES**

#### **Significant Management Decisions**

Section 5(a)(12) of the Inspector General Act requires that if the IG disagrees with any significant management decision, such disagreement must be reported in the semiannual report. Further, Section 5(a)(11) of the Act requires that any decision by management to change a significant resolved audit finding must also be disclosed in the semiannual report. For this reporting period there were no significant final management decisions made on which the IG disagreed and management did not revise any earlier decision on an OIG audit recommendation.

#### **Access to Information**

The IG is to be provided with ready access to all agency records, information, or assistance when conducting an investigation or audit. Section 6(b)(2) of the IG Act requires the IG to report to the agency head, without delay, if the IG believes that access to required information, records, or assistance has been unreasonably refused, or otherwise has not been provided. A summary of each report submitted to the agency head in compliance with Section 6(b)(2) must be provided in the semiannual report in accordance with Section 5(a)(5) of the Act.

During this reporting period, the OIG did not encounter any problems in obtaining assistance or access to agency records. Consequently, no report was issued by the IG to the agency head in accordance with Section 6(b)(2) of the IG Act.

### **Internet Access**

The OIG can be accessed via the Internet at: <http://www.ftc.gov/oig>. A visitor to the OIG home page can download recent (1996-2004) OIG semiannual reports to Congress, the FY 1998 - 2003 financial statement audits, and other program and performance audits issued beginning in FY 1999. A list of audit reports issued prior to FY 1999 can also be ordered via an e-mail link to the OIG. In addition to this information resource about the OIG, visitors are also provided a link to other federal organizations and office of inspectors general.

### **Audit Resolution**

As of the end of this reporting period, all OIG audit recommendations for reports issued in prior periods have been resolved. That is, management and the OIG have reached agreement on what actions need to be taken.

### **Review of Legislation**

Section 4(a)(2) of the IG Act authorizes the IG to review and comment on proposed legislation or regulations relating to the agency or upon request affecting the operations of the OIG. During this reporting period, the OIG provided comments to the PCIE/ECIE on matters concerning expanded law enforcement authority for ECIE OIG's.

### **Contacting the Office of Inspector General**

Employees and the public are encouraged to contact the OIG regarding any incidents of possible fraud, waste, or abuse occurring within FTC programs and operations. The OIG telephone number is **(202) 326-2800**. To report suspected wrongdoing, employees and the public should call the OIG's investigator directly on **(202) 326-2618**. A confidential or anonymous message can be left 24 hours a day. Complaints of allegations of fraud, waste or abuse can also be email directly to [chogue@ftc.gov](mailto:chogue@ftc.gov).

The OIG is located in Suite 1110, 601 New Jersey Avenue, Washington, D.C. Office hours are from 8:00 a.m. to 6:00 p.m., Monday through Friday, except federal holidays. Mail should be addressed to:

Federal Trade Commission  
Office of Inspector General  
Room NJ-1110  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

**TABLE I**  
**SUMMARY OF INSPECTOR GENERAL**  
**REPORTING REQUIREMENTS**

<b><u>IG Act Reference</u></b>	<b><u>Reporting Requirement</u></b>	<b><u>Page(s)</u></b>
Section 4(a)(2)	Review of legislation and regulations	9
Section 5(a)(1)	Significant problems, abuses and deficiencies	1-4
Section 5(a)(2)	Recommendations with respect to significant problems, abuses and deficiencies	2-4
Section 5(a)(3)	Prior significant recommendations on which corrective actions have not been made	9
Section 5(a)(4)	Matters referred to prosecutive authorities	8
Section 5(a)(5)	Summary of instances where information was refused	8
Section 5(a)(6)	List of audit reports by subject matter, showing dollar value of questioned costs and funds put to better use	1
Section 5(a)(7)	Summary of each particularly significant report	1
Section 5(a)(8)	Statistical tables showing number of reports and dollar value of questioned costs	11
Section 5(a)(9)	Statistical tables showing number of reports and dollar value of recommendations that funds be put to better use	12
Section 5(a)(10)	Summary of each audit issued period before this reporting period for which no management decision was made by the end of the reporting period	9
Section 5(a)(11)	Significant revised management decisions	8
Section 5(a)(12)	Significant management decisions with which the inspector general disagrees	8

**TABLE II  
INSPECTOR GENERAL ISSUED REPORTS  
WITH QUESTIONED COSTS**

	Number	Dollar Value	
		<u>Questioned Costs</u>	<u>Unsupported Costs</u>
A. For which no management decision has been made by the commencement of the reporting period	0	0	0
B. Which were issued during the reporting period	0	0	0
<b>Subtotals (A+B)</b>	0	0	0
C. For which a management decision was made during the reporting period	0	0	0
(i) dollar value of disallowed costs	0	0	0
(ii) dollar value of cost not disallowed	0	0	0
D. For which no management decision was made by the end of the reporting period	0	0	0
Report for which no management decision was made within six months of issuance	0	0	0
	0	0	0

**TABLE III  
INSPECTOR GENERAL ISSUED REPORTS  
WITH RECOMMENDATIONS THAT FUNDS BE PUT TO BETTER USE**

	<u>Number</u>	<u>Dollar Value</u>
A. For which no management decision has been made by the commencement of the reporting period	0	0
B. Which were issued during this period	1	30,000
C. For which a management decision was made during this reporting period	1	30,000
(i) dollar value of recommendations that were agreed to by management	1	30,000
- based on proposed management action	1	30,000
- based on proposed legislative action	0	0
(ii) dollar value of recommendations that were not agreed to by management	0	0
D. For which no management decision has been made by the end of the reporting period	0	0
Report for which no management decision was made within six months of issuance	0	0