

FEDERAL TRADE COMMISSION

OFFICE OF INSPECTOR GENERAL



SEMIANNUAL REPORT TO CONGRESS

April 1, 2009 – September 30, 2009

Report No. 42



Office of Inspector General

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580**

October 30, 2009

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

Dear Chairman Leibowitz:

I am pleased to present the attached report that covers the Office of Inspector General's (OIG) activities for the second half of fiscal year 2009 and is submitted according to Section 5 of the Inspector General Act of 1978, as amended.

During the six-month reporting period ending September 30, 2009, the OIG issued an inspection report on the FTC's Oversight of Sole Source Contracts and issued Management Challenges for inclusion in the FTC FY 2009 Performance and Accountability Report.

The OIG processed 66 consumer inquiries and complaints/allegations of possible wrongdoing during the reporting period. We opened one new criminal investigation of possible wrongdoing and closed 26 complaints/allegations during the current reporting period. We referred 36 complaints to the appropriate FTC program office and three to other federal agencies. During the reporting period, we closed two OIG criminal investigations.

As in the past, management has been responsive in working with the OIG to implement all proposed 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,

John M. Seeba
Inspector General

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INTRODUCTION

The Federal Trade Commission (FTC) seeks to ensure 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) has 5 staff members and a budget of \$1,073,700 for fiscal year 2009.



AUDIT and RELATED ACTIVITIES

During the six month reporting period ending September 30, 2009, the OIG issued an inspection report of the FTC's oversight of sole source contracts.

Completed Audits

The OIG completed the following during the second half of FY 2009:

IR 09-002 - Final Inspection Report of FTC COTR Oversight of Sole Source Contracts

This report presents the results of our inspection of the Federal Trade Commission's (FTC) Contracting Officer Technical Representative (COTR) Oversight of Sole Source Contracts. The objective of this inspection was to determine whether COTRs are monitoring sole source contractors' activities to ensure that they deliver the goods or services listed in the contract in a timely manner, meet or exceed contract requirements, and control overall contract costs.

Overall, we found that COTRs were adequately monitoring contractor activities; that the FTC received goods and services in a timely manner; contractors met or exceeded contract requirements and staff was cognizant of cost controls. We did, however, find that training for COTRs as well as training for continuing education requirements as mandated by OMB, did not meet the needs of the COTRs assigned to oversee sole source contracts for expert witnesses and consultants.

We recommended that the Assistant Chief Financial Officer (CFO) for Acquisition develop training programs, both introductory and continuing education, to address the specific needs of COTRs appointed to oversee expert witness and consultant contracts. We also recommended that the Assistant CFO for Acquisition work with the Human Resources Management Office to define the duties of a COTR and include them in the performance plans of all staff who are assigned COTR duties. Management generally agreed with the recommendations in the report.

We conducted this inspection in accordance with Quality Standards for Inspections, January 2005 as adopted by the Council of Inspectors General for Integrity and Efficiency.

Audit Activities Planned or In-Progress

The OIG plans the following audit related activities during the first half of FY 2010:

AR 09-001 - Annual FISMA Review for Fiscal Year 2009

The Federal Information Security Management Act of 2002 (FISMA) requires an annual review of federal agency information security programs and practices to determine their effectiveness. To assist us in conducting this review, we hired an independent consultant to perform this work. The OIG will act as the Contracting Officer's Technical Representative (COTR) and perform oversight during the execution of this contract. The review includes evaluating the adequacy of the FTC's computer security program and practices for its major systems. This year, the review will focus on the FTC's General Support System Infrastructure, FIPS 199 Security Categorization, the privacy report, and FTC's *Plan of Action and Milestones* to determine the extent to which the agency has implemented previously agreed upon OIG and other internally identified recommendations. This will enable the OIG to provide feedback to management on the results of its efforts to address program weaknesses.

AR 09-002 - Audit of the FTC's Financial Statements for Fiscal Year 2009

This audit is required annually under the Accountability of Tax Dollars Act of 2002. We contract out this audit to an independent public accountant to perform this work. The OIG will serve as the COTR and provide oversight on the contract. 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, 2009. The audit will also test the

internal controls associated with the FTC's financial system and assess compliance with selected laws and regulations. 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 16, 2009.

The OIG continues its work on the following audit:

FTC Travel Program

The objective of this audit is to determine compliance with applicable travel regulations. We will determine whether internal controls are in place and operating effectively to deter fraud, waste and abuse regarding travel program funds. We will also review the FTC travel card program, the electronic FedTraveler system, and other systems related to the FTC travel program. This audit was originally scheduled to cover the period through March 2008, but has been extended to include data through the end of the fiscal year 2009.

FTC External Peer Review

In accordance with auditing standards, an independent federal OIG performs a qualitative peer review of FTC OIG's system of quality control to determine whether the OIG's audit process is suitably designed and operating effectively. The external peer review includes a review of audit documentation, tests of functional areas, and staff interviews.

The most recent performance and financial audit peer review was issued in December 2007. The review found that our quality control system for the audit function of the FTC OIG in effect for the 18 months ended March 31, 2007, was suitably designed and operating effectively, to provide the FTC OIG with reasonable assurance of conforming with the United States Government Auditing Standards.

The quality control system of the FTC OIG is currently being reviewed for the three years ended March 31, 2009. This review is being conducted in accordance with the guidelines established by the Council of the Inspectors General on Integrity and Efficiency.

Other Potential Reviews

During the upcoming year we will also conduct research on the following program functions to determine the need for further audit work:

- Review of the redress payment process
- Review of inventory controls over accountable property
- Design of new data center, business impact assessments, and disaster recovery for information technology resources
- Review of the effectiveness of infrastructure and security management



INVESTIGATIVE ACTIVITIES

The Inspector General is authorized by the IG Act to receive and investigate allegations of employee misconduct as well as 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.

Investigative Summary

During this reporting period, the OIG received 66 consumer and other inquiries and reports of possible wrongdoing. Of the 66 complaints 36 involved issues that fall under the jurisdiction of FTC program components (identity theft, credit repair, etc.). These matters were referred to the appropriate FTC component for disposition.

Of the remaining complaints, the OIG opened one new investigation and 11 complaints were closed with no further OIG action. Fifteen of the remaining complaints involved a preliminary OIG inquiry that consumed considerable OIG resources but did not result in a full phase OIG investigation. Three complaints to the OIG were referred to another federal or state agency with appropriate jurisdiction.

Following is a summary of the OIG's investigative activities for the six-month period ending September 30, 2009:

Cases pending as of 3/31/09	3
PLUS: New cases	1
LESS: Cases closed	(2)
Cases pending as of 9/30/09	2

Investigations Closed

During this reporting period, the OIG closed two criminal investigations. The first investigation involved alleged unauthorized disclosure of nonpublic information to the press. The OIG received separate allegations from independent sources concerning the disclosure of nonpublic information by a member of Commission staff. The unauthorized disclosure was made to a news service which published an online article reporting that the Commission intended “as early as today” to file a complaint against Cephalon for violations that ultimately were included in the complaint. The online news article published by the news service was available to the public more than three hours prior to issuance of the FTC’s press release. Stock values for the affected company declined sharply for several hours until their return to pre-disclosure levels on the following day when markets opened. The OIG investigation revealed no conclusive evidence regarding the source of the press leak and the matter was closed.

The second investigation closed during this reporting period involved alleged misuse of Government property by contractor staff working at the FTC. The OIG conducted an investigation that confirmed misuse of Government property. During the investigation, the OIG obtained evidence of false statements made by the contractor employee, in violation of 18 U.S.C. §1001. The OIG informed FTC management and a contractor official about the employee’s false statement. The contractor immediately removed its employee from the FTC contract. The OIG closed the investigation regarding misuse of Government property. The OIG is continuing its inquiry into additional possible misconduct revealed during the closed investigation.

Investigative Concern

For more than a year, the OIG has received numerous consumer complaints related to lottery and sweepstakes scams where names of federal agencies and agency staff are being used to add an air of legitimacy, and solicit consumer participation. The OIG continues to work with FTC and with outside law enforcement agencies in addressing these scams. In addition, the OIG has posted a scam alert on the OIG website at <http://www.ftc.gov/oig/>.

Matters Referred for Prosecution

During this reporting period the OIG did not refer any new matters to the Department of Justice (DOJ) for consideration of potential criminal action. The OIG consulted with DOJ prosecutors regarding pending OIG investigations.

A matter referred to DOJ during the previous reporting period remains pending at DOJ (Office of Public Integrity), with no final action to date.

OTHER ACTIVITIES

Outreach to the FTC Community

The OIG has designed its first hotline poster. These posters were distributed throughout the Headquarter and field office locations in September 2009. The posters are designed to spread awareness and staff interest about our office and mission and to let employees know that we are available to assess allegations of waste, fraud and abuse regarding agency operations. A copy of the poster is attached in this report.

Liaison with Other Agencies

During this reporting period, our investigative staff continues to assist the Legal Services Corporation (LSC) OIG in the prosecution of a matter handled by the Assistant United States Attorney in the Western District of Texas. Our staff member investigated the matter as an employee of LSC OIG prior to joining the FTC OIG.

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 OIGs, the Federal Bureau of Investigation, the U.S. Postal Inspection Service, the U.S. Secret Service, the U.S. Marshals Service, the Internal Revenue Service, U.S. Capitol Police, Federal Protective Service as well as state agencies and local police departments.

Activities within the Inspector General Community

The FTC IG is an active participant in the Council of the Inspectors General on Integrity and Efficiency (CIGIE), a council of inspectors general that promotes collaboration on integrity, economy, and efficiency issues that transcend individual agencies. The IG is also the vice-chair of the Audit Committee of the CIGIE.

The FTC Inspector General is also the chair of the audit committee overseeing the audit of the Department of Defense Inspector General's financial statements. In this capacity, the IG along with two other senior government officials provides oversight on the DOD IG's financial statement audit.

The OIG Audit Manager participates regularly in the monthly meeting of the Financial Statement Audit Network, and was part of the working group that revised the CIGIE Audit Committee Guide for External Peer Reviews.

Our IG Counsel participates regularly in the monthly meeting of the Council of Counsel to the Inspectors General (CCIG), as well as contributes to the legal discourse within that Council on matters that are germane to the entire IG community.

MANAGEMENT CHALLENGES

The Reports Consolidation Act of 2000 requires inspectors general to identify the top management challenges facing their agencies. At the close of FY 2009, FTC OIG identified four areas that posed significant challenges to agency management, based on work conducted by the OIG as well as information obtained during informal discussions with senior leaders within the Commission. The OIG prioritized the issues based on risk to the Commission.

In the past year, the impact of the recession can be seen in increased job losses, housing foreclosures and continued attacks on the safety and security of our personal data. It is no coincidence that the OIG hotline has experienced a growth in the number of calls related to mortgage and foreclosure scams, sweepstakes and lottery scams and the misuse of the bona fide names of FTC employees as a ruse to fraudulently obtain money. These issues continue to reinforce our prior year assessment that management is constantly challenged in the areas of: protection of data (both personally identifiable information and Commission sensitive data), information technology security, and case management to target the most significant problems. In addition, the Commission faces a continuing challenge of retaining and recruiting senior level managers with the expected retirement of the baby boom generation.

The OIG continues to work with management to assist in minimizing the risks in these areas.

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 its response to 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 with which the OIG disagreed, and management did not revise any earlier decisions on OIG audit recommendations.

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.

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 reviewed no legislation.

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. A confidential or anonymous message can be left 24 hours a day. Complaints or allegations of fraud, waste or abuse can also be emailed directly to OIG@ftc.gov. OIG mail should be addressed to:

Federal Trade Commission

Office of Inspector General

Room NJ-1110

600 Pennsylvania Avenue, NW

Washington, D.C. 20580

OIG reports can be accessed via the internet at: www.ftc.gov/oig. A visitor to the OIG home page can download recent (1996-2009) OIG semiannual reports to Congress, the FY 1998 - 2008 financial statement audits, and other program and performance audits issued from FY 1999 to the present. 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 Offices of Inspector General.

TABLE I: SUMMARY OF INSPECTOR GENERAL REPORTING REQUIREMENTS

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

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

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

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

	Number	Dollar Value
A. For which no management decision has been made by the commencement of the reporting period	0	0
B. Which were issued during this reporting period	0	0
C. For which a management decision was made during the reporting period	0	0
(i) dollar value of recommendations that were agreed to by management	0	0
- based on proposed management action	0	0
- 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
Reports for which no management decision was made within six months of issuance	0	0

We want to hear from you.



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efficient, responsible & trustworthy.

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Email: OIG@ftc.gov

Web: ftc.gov/OIG