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# INSPECTOR GENERAL

*Audit Report*

*Review of the Commission's Workers' Compensation Program*

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# UNITED STATES INTERNATIONAL TRADE COMMISSION

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## REVIEW OF THE COMMISSION'S WORKERS' COMPENSATION PROGRAM

The Office of Inspector General has completed a review of the Commission's Workers' Compensation Program. This review, which was not in the Fiscal Year 1992 Audit Work Plan, was scheduled in response to a request from Senator Jim Sasser, Chairman of the Subcommittee on General Services, Federalism and the District of Columbia, of the Committee on Governmental Affairs. The objective of the review was to evaluate the Commission's workers' compensation program established in accordance with the Federal Employees Compensation Act (FECA). Senator Sasser requested that we provide the latest available numbers on total annual cost and the number of people participating in the FECA program; estimate the number of fraudulent or erroneous claims; identify obstacles the Commission encountered concerning this program; and make suggestions for improving the system.

The Commission has been fortunate in having very few FECA claims. In fiscal years 1991, 1990 and 1989 respectively, only two, five, and four accidents occurred for which a FECA report was filed and not all of these accidents resulted in payments. The annual statistics at the time of our review showed 55 days charged to continuation of pay (COP) at a cost of $7,137; medical costs of $27,520; and compensation costs of $63,679.

In the following paragraphs and the body of this report, we identify multiple problems, which we attribute to errors rather than fraud, with the administration of the Commission's FECA program. The number of problems was high in comparison with the number of claims, which is an inverse relationship that we could probably have anticipated. FECA is a fairly complex program and the guidance is not always as clear as one would like so errors are likely to occur when few claims are filed. If the Commission had a large number of claims, possibly more attention would have been given to the program and fewer errors made. We believe that a

better FECA program needs to be developed so that the Commission can avoid the experience of other agencies that have implemented better controls only after incurring steeply escalating FECA costs.

We found that the Commission has not developed a comprehensive plan to manage the FECA program in order to provide good service to employees while containing costs. We found multiple problems with the program administration including an excessive amount of time charged to COP and inaccurate reporting of COP benefits, improper leave buy-back, and inadequate verification and improper recording of payments in the financial records.

Furthermore, the Commission does not have aggressive, informed management of the worker compensation system. The Commission has not officially designated or assigned responsibilities in connection with the FECA program and the staff informally assigned responsibilities did not have sufficient training. Finally, except for a link with the safety and health program, an effective program has not been developed to control workers' compensation costs.

We believe that a major obstacle to the implementation of an efficient cost effective program is the relationship with the Department of Labor's Office of Workers' Compensation Programs (OWCP). Commission staff reported that they had considerable difficulty in obtaining case numbers and information on claims from OWCP and we found a mixed welcome in our effort to review the reports and case files. We believe that in order for there to be any real cost containment in the FECA program, increased coordination and cooperation will be needed between the agencies and OWCP.

A synopsis of our recommendations based on the above findings is that the Director of Administration:

-- Amend the time charged to COP, provide instruction on the proper procedures for recording and reporting COP, and obtain quarterly reports from the payroll system to use in preparing the quarterly reports on COP;

-- Properly complete an employee's repurchase of leave or reverse the conversion of leave;

-- Assign responsibility for reviewing the chargeback billings for FECA expenses and correctly record the expenses;

-- Incorporate responsibility for the FECA program into the Office of Personnel mission and functions statement, position descriptions and performance plans, provide training to staff with FECA program responsibilities, and develop policies for the FECA program designed to control workers' compensation costs.

We appreciate the Commissioner's support and the Office of Administration's response in concurring on the need to address these issues promptly. In the two months since this audit report was issued in draft format, four employees have filed notices of work related injuries. An efficient and effective FECA program is needed to ensure that any claims resulting from these injuries are handled in a manner fair to the employee and to the Commission.

The Director of Administration generally agreed with the findings and recommendations. A summary of the Director's comments on the findings and our responses are presented on pages 8, 9, 12 and 16 of the report. The Director's comments are presented in their entirety as an appendix to the report.

Jane E. Altenhofen
Inspector General

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1. Summary of FECA Costs

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Memorandum from the Director of Administration, dated August 12, 1992, on Draft Report

## INTRODUCTION AND SCOPE

The Office of Inspector General has completed a review of the Commission's Workers' Compensation Program. This review, which was not in the Fiscal Year (FY) 1992 Audit Work Plan, was scheduled in response to a request from Senator Jim Sasser to evaluate the Commission's workers' compensation program. As requested by Senator Sasser, we identified potentially fraudulent or erroneous claims, obstacles the Commission encountered concerning this program and suggestions for improving the system.

Our review was conducted in February through May 1992. The fieldwork was performed at Commission Headquarters in Washington, D.C. We interviewed agency officials, primarily in the Offices of Personnel (PN), Finance and Budget (OFB), and Management Services (OMS) to determine policy and procedures concerning the administration of the workers' compensation program and the relationship with the Commission's safety and health program. We contacted employees of the Department of Labor's Office of Workers' Compensation Program (OWCP) and the Office of Inspector General for information and clarification of guidance. We also interviewed current Commission employees who have received benefits.

We evaluated compliance with the Federal Employees' Compensation Act (FECA), as amended (5 U.S.C. 8101 et seq.); applicable regulations on claims for compensation under the Act (20 C.F.R. part 10); and Chapter 810 of the Federal Personnel Manual (FPM) on Injury Compensation. We also used a report issued by the President's Council on Management Improvement (PCMI) entitled "Creating a Safer, Healthier, More Productive Federal Workplace" which identifies actions that agencies can take to improve their worker's compensation program.

Our audit covered aspects of the FECA program from FY 1988 to date. We analyzed quarterly and annual financial reports from OWCP and Commission accounting reports. We reviewed case files for three individuals at the OWCP office in Washington D.C. Based on the analysis and reviews, we evaluated the validity of FECA charges.

The workers' compensation program was not specifically addressed in any of the assessable units identified as part of the Federal Managers' Financial Integrity Act (FMFIA) process. We reviewed FMFIA reports for the Personnel and Accounts Payable assessable units for FYs 1989, 1990 and 1991. No weaknesses relevant to the workers' compensation program were identified in these reports.

This review was performed in accordance with applicable generally accepted government auditing standards. Accordingly, the review included an examination of internal controls and other auditing procedures that were considered necessary under the circumstances.

## BACKGROUND

FECA was passed in 1916 to provide compensation benefits to civilian employees of the United States for disability due to personal injury sustained while in the performance of duty or to employment-related disease. Benefits include payments for medical, temporary total disability, permanent effects of injury and death.

FECA benefits are administered by the OWCP in the Employment Standards Administration of the Department of Labor. The program benefits are paid from the Employees' Compensation Fund managed by OWCP and replenished through chargeback billings sent to each Federal agency.

The Commission has been fortunate in having very few FECA claims. In FYs 1991, 1990 and 1989 respectively, only two, five, and four accidents occurred for which a FECA report was filed and not all of these accidents resulted in payments. The annual statistics, according to reports prepared by OFB and OWCP at the time of our review, showed 55 days charged to COP at a cost of $7,137; medical costs of $27,520; and compensation costs of $63,679. The costs over the last three years are presented in Attachment 1.

An employee who is injured on the job must file a claim within 30 days to ensure FECA coverage. If an injured employee is diagnosed by a physician as temporarily disabled, the employee may be entitled to 45 days of continuation of pay (COP) benefits to cover wage loss due to disability and/or medical treatment. Employees receive full pay on COP as opposed to workers' compensation which is approximately 2/3 or 3/4 of regular pay.

An employee who cannot return to work within 45 days must file a claim for extended benefits. OWCP is responsible for adjudicating these claims to determine the individual's compensation status. Individuals may continue to receive FECA benefits as long as they are disabled. Even upon becoming eligible for retirement, the individual may choose to continue receiving FECA benefits rather than retirement benefits if still disabled.

In the Commission, employees in PN, OFB and OMS have roles in the FECA program. Two group leaders in PN provide guidance to employees on the program and assist in preparing claims prior to sending them to OWCP. The safety officer, who is an OMS employee, keeps a log of all accidents and refers individuals with potential FECA claims to the group leaders. The safety officer maintains a file of accident reports and the group leaders maintain claim files for each individual. OFB is responsible for making the necessary accounting entries based on quarterly and annual reports received from OWCP and preparing reports for submission to OWCP.

## FINDINGS AND RECOMMENDATIONS

We found that the Commission has not developed a comprehensive plan to manage the FECA program in order to provide good service to employees while containing costs. The Commission has very few accidents and resulting FECA claims annually. However, our evaluation of those few claims found multiple problems with the program administration including an excessive amount of time charged to COP and inaccurate reporting of COP benefits, improper leave buy-back, and inadequate verification and improper recording of OWCP payments in the financial records.

Furthermore, the Commission does not have aggressive, informed management of the worker compensation system. The Commission has not officially designated or assigned responsibilities in connection with the FECA program and the staff informally assigned responsibilities did not have sufficient training. Finally, except for a link with the safety and health program, an effective program has not been developed to control workers' compensation costs.

We believe that a major obstacle to the implementation of an efficient cost effective program is the relationship with OWCP. Commission staff reported that they had considerable difficulty in obtaining case numbers and information on claims from OWCP and we found a mixed welcome in our effort to review the reports and case files. We believe that in order for there to be any real cost containment in the FECA program, increased coordination and cooperation will be needed between the agencies and OWCP.

## CONTINUATION OF PAY BENEFITS

We found that 37 days were improperly charged to COP and that an excessive number of hours were charged to COP on another 30 days. In addition, quarterly reports submitted by the Commission to OWCP were not prepared in accordance with Federal regulations or OWCP guidelines.

### Excess Charges

We found that 37 days were improperly charged to COP, 18 of which exceeded the FECA time limit for receiving COP, 1 for which a claim was not filed, and 18 that were errors. In addition, the full 8 hours for 30 days were charged to COP rather than the actual time absent from work to receive medical treatment. The errors discussed in the following section may give the impression that a

lot of claims are involved. In actuality, all findings except the lack of claim documentation, relate to two claims each of which had multiple errors.

**Time limitations.** Injured employees are entitled to 45 days of COP which may be used continuously or intermittently if the employee suffers a recurrence of disability within 90 days after the date of first return to work. As stated in FPM chapter 810 subchapter 5-7, if the recurrence of an injury occurs later than 90 days after the first return to work, the agency should not pay COP even though some days of entitlement remain unused.

One employee charged 5 days intermittently to COP when receiving medical treatment for an injury, after which time the case was closed. The employee experienced a recurrence of disability approximately 4 months after the initial injury. Even though the case was officially closed, over the next 3 months, the employee charged 18 intermittent days to COP for medical treatment related to the first injury.

As part of our review of the intermittent days charged to COP for this employee, we compared medical records that were in the Commission's personnel files with time sheets. We found that the employee received medical treatment on four days for which she would have been gone several hours but there was no charge to COP or a leave category. The employee's absences should have been charged to a leave category as the time limitations for COP had been exceeded.

The employee, who happens to be one of the Commission staff involved with administration of the FECA program, thought employees were entitled to 45 days of COP and was unaware of any time limitations. The employee was also not aware of the requirement in FPM chapter 810 subchapter 2-3 that a form must be filed to reopen the case and did not do so. The employee's timekeeper and the OFB accounting technician were also unaware of the time limitation even though the Timekeeper's Handbook states that the COP termination date should be annotated in the remarks section of the timesheet 45 calendar days after the first full day of disability.

**Claim documentation.** FPM chapter 810 subchapter 5-3 states that the agency may not continue pay under certain circumstances, including when the injury was not reported on an approved form within 30 days following the accident. We found one day of COP was charged for an employee for whom neither an accident report or claim form was on file in OMS or PN. This employee has since left the Commission.

**Recording errors.** One employee was injured on the last Friday in a pay period and became eligible for COP benefits. Due to some confusion in recording the COP, the employee, who was his own timekeeper, originally charged the days following the accident to sick or annual leave or leave without pay and later amended the time sheets to charge the hours to COP. Two errors resulted. First, the time sheet for the period prior to the accident was amended to charge hours on 9 days to COP. Second, all work days after the accident and within the 45 day calendar limitation were charged to COP even though on 9 days the employee was working in a light duty status.

**Partial day charges.** As stated in FPM chapter 810 subchapter 5-5, COP should be charged only for those hours that the employee is absent from work; for example, if an employee who has returned to work must lose 3 hours in order to receive physical therapy, he/she is entitled to only 3 hours of COP.

We found that the entire day was charged to COP rather than just the hours gone for two employees who received medical treatment on 30 separate intermittent days. (These are the same two employees previously discussed in the sections on time limitations and recording errors.) One employee had 5 days of COP for which 40 hours were charged to COP when only 10 to 15 hours should have been charged. The other employee had 25 days of COP for which the entire day, a total of 200 hours, was charged to COP rather than the actual time absent of 97 hours.

The timekeeper for the first employee had recorded the exact hours the employee was absent, and was told by the OFB accounting technician to amend the time sheets to charge the entire day to COP. The other employee was also told by the OFB accounting technician to record the entire day to COP and not just the hours gone from work.

The Timekeeper's Handbook is quite clear on how to record COP hours. The guidance on recording COP hours states: (1) (a) Record the actual number of hours absent each workday with transaction code 81-COP hours. (f) ... If an employee is absent for part of a day, annotate the beginning and ending clock times. However, a payroll center representative had advised the OFB accounting technician to record eight hours whenever an employee was on COP, based on guidance in a training manual from the U.S. General Services Administration (GSA) Office of Finance. The payroll center notified OFB on June 12, 1992, that as of the pay period ending May 30, 1992, the actual hours used for COP can be recorded on the time sheet instead of eight hours. OFB implemented this change immediately.

## Reporting

We found that the quarterly reports submitted by the Commission to OWCP were not prepared in accordance with Federal regulations or OWCP guidelines. Reports were not submitted for over a year and a half and when they were submitted retroactively, the figures were inaccurate. Errors included listing the same employee in more than one quarter, counting weekend days as COP workdays and overstating the cost amount.

Federal regulations state that each agency having an employee who is in a COP status during the calendar quarter shall submit a report to OWCP within 30 days after the end of the quarter. The reports are to include three figures: the number of employees on COP, a workday count and the total cost.

We found that the Commission had not submitted the required reports in a timely manner. In April 1987, OWCP notified a personnel management specialist, who is no longer at the Commission and whose ties to the FECA program are unknown, that the required reports had not been submitted for at least the last two quarters. In July 1991, OWCP notified the Chief of the Finance Division that reports had not been received for three quarters of FY 1989 or any of FY 1991. OFB submitted these reports and has submitted the first two quarterly reports for FY 1992 on time. (A schedule of the quarterly reports from FY 1988 to date is presented in Attachment 2.)

Even though the Commission has had minimal COP activity, the reports have contained multiple errors as discussed below.

**Employees on COP.** The agency is to report the total number of employees provided COP during the quarter and who have either returned to work or exceeded the 45 day period. We found that three of the five employees who received COP since FY 1989 were included in two or three quarterly reports rather than just the one in which they returned to work.

**Workday count.** The agency is to report the total number of workdays or shifts for which the employees on COP were paid during the quarter and the earlier quarter if return to work did not occur during such earlier reporting quarter. We found that weekends were included in the count for the one employee absent for a continuous extended period.

**Total cost.** The agency is to report the total amount paid under the COP provisions to all employees during the quarter and the earlier quarter if applicable. This should be only the actual amount of cost incurred. However, since the Commission was overreporting the hours spent on COP, (see prior section on partial day charges) the amount of cost reported was also overstated.

We acknowledge that the reporting requirements in the federal regulations and the instructions provided by OWCP are not clear, but believe a bigger problem is that the manner in which OFB obtains information about COP is inefficient and prone to errors. OFB has informally assigned the responsibility for compiling the data for the report to an accounting technician who is also responsible for reviewing the Commission's time sheets prior to sending them to the payroll center for processing. The accounting technician's process for gathering the information for the COP report is to record any COP hours that are observed while reviewing the timesheets. The technician may also call a timekeeper for input on an employee whom she is aware of being on COP. The information is given to the operating accountant to prepare the quarterly report. Usually, the information gathered by the technician does not identify the name of the employees on COP or the exact days and hours.

A simpler and more accurate method would be to have a COP report generated in connection with the payroll process. At one time, the payroll center did provide verbal input for the COP report, but this may only have been upon request for specified persons. A report generated by the payroll system would ensure that all COP charges were identified and provide support for the report. OFB officials have arranged for the payroll center to send a report to the Chief of the Finance Division every pay period that has sufficient detail to properly report and sufficiently document COP charges. This change was implemented in June 1992.

**Recommendations**

We recommend that the Director of Administration:

1. Amend the time sheets to reverse unallowable days charged to COP and consider amending the partial days inappropriately charged to COP;

2. Instruct the accounting technician on the proper procedures for recording and reporting COP on time sheets and require that, in the future, any guidance given to timekeepers about COP is cleared with the operating accountant or division chief to ensure that it is accurate; and

3. Determine whether OWCP has any need for revised prior period reports, and if so, submit corrected reports.

### Commission Comments

The Director of Administration reported that the time and attendance records are being amended in accordance with the audit findings. He noted correctly that these changes will not result in any increases to the Commission expenditures. However, the need to charge 56 hours to administrative leave and the partial days off on unofficial light duty are expenses that did not have to be incurred if FECA guidelines were being followed.

The Director also reported that the accounting technician was aware of the proper procedures for recording and reporting COP on time sheets, but did not follow these procedures because they were not compatible with the GSA payroll system. GSA corrected the payroll system effective the pay period ending May 30, 1992, so that COP time can be properly recorded.

OFB filed amended quarterly reports with OWCP that correctly reflected the COP charges. The number of employees, workdays and total costs were a third to a half of what was reported originally. As noted by the Director of Administration, the statistical reporting does not affect the Commission's expenditures. However, accurate statistics are needed in order to properly evaluate the program and make policy decisions.

## LEAVE BUY-BACK

We found that the Commission had improperly applied the provisions under which employees can buy-back leave. An employee was improperly credited with 126 hours of leave rather than paying his share to repurchase 168 hours of leave, calculated as $433.33 by GSA.

Federal regulations provide that an employee who takes sick or annual leave to avoid possible interruption of income may repurchase that leave, subject to agency concurrence, if the injury claim is approved. Because leave is paid at 100% of the usual wage rate and compensation is paid as a percentage, the employee will generally owe the agency money for the leave repurchase.

One employee chose to go on leave after the COP benefits were exhausted. Over a 6 week period, the employee charged 168 hours to sick and annual leave with the balance of time charged to leave without pay. Several months later, the employee filed a claim to repurchase the 168 hours of leave. In January 1992, OWCP notified the employee and the Commission that he was entitled to $1,805.58, but would have to pay a balance in order for the leave to be restored. The employee authorized OWCP to send the compensation check directly to the Commission to be used for the leave buy-back.

The Commission did receive the check from OWCP. However, the employee did not pay the balance of the amount due. Instead, the accounting technician in OFB calculated that the $1,805.58 was sufficient to cover 126 hours of leave and allowed the employee to convert 83 hours of annual leave and 43 hours of sick leave to leave without pay. The technician's supervisor, the operating accountant, said that she was unaware that the employee's portion should have been refunded and therefore did not object to the transaction.

### Recommendation

We recommend that the Director of Administration:

- Obtain the employee's share for the leave buy-back and adjust the remaining leave authorized to be repurchased or reverse the conversion of 126 hours of leave and return the compensation funds to OWCP.

### Commission Comments

The Director of Administration reported that OFB was working with GSA to complete the buy-back cost computation. On August 17, 1992, the employee was notified that his share of the cost was $433.33 which is to be paid to the Commission.

## FECA PAYMENTS

Even though the FPM states that agencies are to pay special attention to chargeback billings, we found that the Commission performs a minimal review. Furthermore, we found that one of three years of FECA expenses charged to the FY 1991 appropriation is not a valid expense for the FY in which it is recorded.

### Verification

FPM chapter 810 subchapter 9-1 states that agencies are to pay special attention to the chargeback billings. FPM chapter 810 subchapter 9-2 provides that OWCP will give each agency a quarterly report with a breakdown of cases and costs for which charges will appear on the yearly chargeback bill. The interim quarterly reports are intended to provide early notification of cases paid and payments made so as to permit agency review, verification, and correction before the final bills are produced.

OWCP provides additional guidance on the need to review chargeback billings in the Resource Book for the Advanced Course For Federal Agency Compensation Specialists. As stated in the book:

> "The compensation specialist should review the annual and quarterly chargeback lists which OWCP sends to all Federal agencies to make sure the agency is being charged correctly for its compensation costs. The list can also help you identify cases to review.
>
> <u>There are three reasons to review the Chargeback List</u>
>
> 1. Verify that claimants listed actually work or worked for the agency.
>
> 2. Identify payments that may be in error.
>
> 3. Identify cases where the medical status should be examined because claimants may not be totally disabled."

The Resource Book provides several pages on how to accomplish the above objectives.

The Commission has performed a very minimal review of the OWCP quarterly reports since 1988. OWCP sends the quarterly reports to OFB, and until 1988, the Budget Division did a minimal review to confirm the legitimacy of employees identified as receiving payments. In 1988, the responsibility to review the reports was informally transferred to a supervisor in PN who would request copies of the quarterly reports from OFB to review. When this supervisor left the Commission in May 1989, the responsibility was not assumed by anyone else in PN or resumed by OFB. The two group leaders in PN had never seen the quarterly reports and were not aware of any responsibility to review chargeback billings. The Director of OFB said that he has continued to at least review the names on the chargeback billings as being individuals who were or are employees of the Commission.

Since August 1989, each quarterly chargeback billing has included a notice that OWCP has a computer file with information on payment transactions (medical expenses only) which is provided to a number of Federal agencies and available upon request. The Commission had not requested to receive the computer file information.

We obtained and reviewed the computer file of medical payments and spent one day reviewing files at OWCP which resulted in several questions about the validity of OWCP charges for the current FY.

- We identified 11 payments totalling $575 that appear to be duplicates. These 11 payments had duplicate entries with the same procedure code, service date, amount, and payee.

- We identified one payment for $6,397.16 and a second payment for $6,397.15 with the same procedure code, service date and payee. We believe the one cent difference is likely to be a coding error and that this is likely to also be a duplicate payment.

- An ex-employee suffered a minor injury in February 1988 that required only one treatment according to the OWCP file. Three payments totalling $255 were made from July through December 1991 for treatment received in 1991. The doctor's office could only confirm the initial treatment.

The examples cited above indicate the need to review the chargeback billings in accordance with the same principle that all payments should be reviewed and authorized. If the reviews were done by someone who was familiar with the cases, we believe unauthorized or excessive payments, such as the second example, would be identified in addition to the obvious errors of potential duplicate payments.

## Accounting Classification

As stated in the GAO Principles of Federal Appropriations Law: Second Edition Volume I, three elements determine whether appropriated funds are legally available: purpose, time and amount. Simply stated, 31 U.S.C. 1301 prohibits charging authorized items to the wrong appropriation.

Until FY 1991, OFB was charging the FECA expenses to the FY in which the transaction was recorded even though the expense was incurred and notification received two FYs previously. For example, the Commission was notified in FY 1989 of the amount for that year's expenses which would be charged to the Commission in FY 1991. A recommendation was made as part of the financial statements audit that an obligation should be established in the FY that the Commission receives the notice of FECA expenses. Accordingly, a change in accounting policy was adopted in FY 1991.

In implementing the new accounting policy, three years of FECA expenses were charged to FY 1991. The FY 1989 expenses of $66,933 were charged to FY 1991 consistent with the prior accounting policy. The FY 1991 expenses of $91,200 were obligated in FY 1991 consistent with the new accounting policy.

The FY 1990 expenses of $91,677 were also charged to FY 1991 which is not consistent with the prior or the new accounting policy. Under the prior policy, this expense would have been recorded in FY 1992; under the new policy an obligation would have been recorded in FY 1990. OFB officials said that the decision was made to charge the FY 1991 appropriation because that was the year that

the change was being implemented. After we brought this issue to OFB's attention, an adjusting entry was made to charge the FY 1990 expenses to FY 1992 in accordance with the prior accounting policy.

The Director of OFB said that the decision to change accounting procedures needs to be reconsidered in light of this experience. We have no objection to returning to the prior accounting policy with the understanding that an adjusting entry would usually be required as part of the financial statement audit.

### Recommendations

We recommend that the Director of Administration:

1. Assign responsibility for reviewing the chargeback billings; and

2. Determine what accounting policy will be used for recording FECA expenses and correct the accounting entry for the FY 1991 FECA expenses if the prior accounting policy is chosen.

### Commission Comments

The Director of Administration agreed that the responsibility to review charge-back billings will be assigned to the Director of Personnel with the support of the Director of Finance and Budget. OFB decided to record FECA expenditures in accordance with the prior accounting policy and made adjusting entries for FYs 1990 and 1991 FECA expenses to reflect the prior accounting policy.

## COMPENSATION MANAGEMENT

We found that the Commission does not have aggressive, informed management of the worker compensation system. The Commission has not officially designated or assigned responsibilities in connection with the FECA program and the staff informally assigned responsibilities did not have sufficient training. Furthermore, except for a link with the safety and health program, an effective program has not been developed to control workers' compensation costs.

## Program Responsibility

FPM chapter 810 subchapter 9-1 states that agencies should designate a representative with each organizational unit who will serve as a liaison with OWCP concerning unusually difficult claims. In most agencies the FECA program is administered by personnel specialists or safety officers or a combination of both.

The Commission has not officially designated or assigned any responsibilities in connection with the FECA program. Responsibility for administration of the FECA program is not addressed in the mission and function statements for any of the three offices (OFB, OMS or PN) that we worked with in conducting this review. The two group leaders in PN have been informally assigned FECA-related duties, but these are not included in their position descriptions or performance plans.

In our opinion, PN should have primary responsibility for the administration of the FECA program. These responsibilities should be set forth in the appropriate documents including the PN mission and functions statement and the group leaders' position descriptions and performance plans.

## Training

FPM chapter 810 subchapter 9-1 states that agencies should ensure that sufficient training in technical and managerial skills is provided to those personnel who will routinely handle compensation claims and that resource materials are available to those who handle them infrequently. OWCP has developed several kinds of instructional materials to assist agencies in processing compensation claims ranging from several hours to several days.

We found that the two group leaders did not have sufficient training. Both of the PN group leaders estimated that the last time they had attended training on FECA was approximately five years ago. Neither of them was even aware of two seminars sponsored by the Small Agency Council on FECA within the last year.

At a training course that we attended on the program, OWCP mentioned that they have a mailing list and hold quarterly meetings to discuss the FECA program. Neither of the group leaderrs was aware of these quarterly meetings and they were not on the list to receive notices. As part of this same training course we obtained copies of booklets issued several years ago that describe the FECA program and were written to be given to injured employees. The group leaders did not have copies of these booklets and did not even know they were available.

The Commission did not have a copy of the Resource Book "Advanced Course for Federal Agency Compensation Specialists". This book addresses topics such as claim processing and review, case review, controversion, light duty, review of the chargeback list, long term case review, and rehabilitation. Even though the Commission's personnel do not spend their entire day on FECA related matters, they must be familiar with these areas when the need arises and the training and resource material should be provided.

We understand that maintaining expertise on the FECA program is difficult when the Commission only has three or four new claims a year and a minimal level of continuing activity. However, we believe that it is important to maintain a basic knowledge of the FECA program in order to monitor cases and provide advice to injured employees, supervisors and program administrators. The problems identified in this review clearly indicate a need for Commission personnel to have a better understanding of the FECA program.

## Cost Controls

FPM chapter 810 subchapter 9-1 states that agencies are encouraged to develop comprehensive plans for managing their compensation programs in order to provide good service to employees while containing costs. As stated in a PCMI report, the largest percentage of worker compensation costs go to pay those who were injured in the past and are on the long term worker compensation rolls. Therefore, the key to significant cost reductions is bringing individuals back to productive employment as soon as possible.

Federal regulations are quite specific about the employing agency's responsibilities in returning the employee to work. As stated in 20 CFR 10.123, the employing agency shall monitor the employee's medical progress and duty status by obtaining periodic medical reports. To facilitate an injured employee's return to suitable employment, the employing agency may correspond in writing with the employee's physician concerning the work limitations and restrictions imposed by the effects of the injury and possible job assignments.

As discussed in the prior sections of this report, the Commission does not have a comprehensive plan for managing the FECA program. Based on our review of case files, we think the Commission's annual costs could have been significantly lower if a comprehensive plan with policies on monitoring, light duty assignments and return to work had been in place. For example:

> An individual filed a stress related claim in 1971. The supervisor submitted a memorandum stating that there had been no indication of a problem but the Commission did not actively

oppose the claim. Shortly after filing the claim, the individual said he was capable of working a different job. The file has no indication that light duty or alternative work was offered. The individual has been on long term disability ever since.

An individual injured her back when she fell at work in 1982. The original diagnosis was that she would be able to return to work in six months. However, the back injury did not improve and the individual's overall condition seemed to worsen. In addition to treatment for the back injury, she is under medical care for hypertension and depression. She is on an extended weight loss and exercise program for extreme obesity, a pre-existing condition. She also receives vocational rehabilitation benefits including counseling, language training and clerical skills. After eight years, the doctor objected to the length of time this injury was being treated, with the result that the individual changed doctors. At no point did the Commission ever question the benefits awarded or attempt to reemploy the individual.

An individual injured a finger and after two weeks absence on COP was given light duty in accordance with a doctors statement. After five weeks of light duty, the individual took eight weeks of leave. In March 1992, the leave was converted to workmen's compensation which is a greater cost to the government because no service is received as when light duty is performed.

The PCMI report stated that, by reducing accidents, workers' compensation costs are also reduced providing a compelling reason for accident prevention and workers' compensation costs to be managed together. We found that the Commission's safety and health and FECA programs are informally coordinated. Employees suffering an accident can report to either the safety officer in OMS or to the group leaders in PN. The office contacted would advise the employee to complete the appropriate FECA forms and then notify the other office of the accident. Each accident is reviewed to determine whether any changes can be made to prevent a reoccurrence. For instance, foul weather mats were laid in the building entryway permanently after an employee slipped on a wet floor early in the morning before the building was officially opened and the mats laid.

## Recommendations

We recommend that the Director of Administration:

1. Incorporate responsibility for the FECA program into the PN mission and functions statement and the performance descriptions and performance plans of the group leaders;

2. Send PN group leaders to training on the FECA program and instruct them to attend the quarterly OWCP meetings; and

3. Develop policies for the FECA program designed to control workers' compensation costs.

### Commission Comments

The Director of Administration has agreed to take several steps to further the informed management of the Commission's FECA program. A published directive setting forth FECA policy, procedures, responsibilities, and authorities, which we agree is an essential instrument, is scheduled to be completed by December 1992. Thereafter, the PN mission and functions statement and the performance descriptions and performance plans of the group leaders will be revised. The group leaders will be sent to training as soon as possible depending on course availability.

The Director agreed to develop a program that contains measures for controlling program costs efficiently and effectively. He proposes that the measures will concentrate on actions at the time of the initial claim and during chargeback reviews. We concur that review and followup action at these points are good controls over workers' compensation costs.

## OBSTACLES ENCOUNTERED

The FPM describes a cooperative process between OWCP and the agencies in which they work together to manage the FECA program, but this is not exactly how it works according to agency personnel or in our experience.

We asked Commission staff involved with administering the FECA program and employees who had filed claims to discuss their experiences with OWCP. The most frequent comment was that claims had to be submitted multiple times and an excessive amount of time was required to process payments. The problems have been so protracted on one case that a lawsuit has been filed. Commission staff reported that they had considerable difficulty in obtaining case numbers and information on claims from OWCP.

On the quarterly chargeback reports, OWCP advises the agencies to review the figures and the regulations state that OWCP welcomes authorized agency personnel to review case files at the district office. We found a mixed welcome in our effort to review the reports and case files. Some individuals at the Department of Labor, including the Office of Inspector General, were very cooperative and helpful. But, the Commission's main contact at OWCP was difficult to get in touch with, requiring repeated phone

calls and reacted negatively to questions about the cases and charges. We can certainly understand that this sort of reception would not make agency employees eager to pursue an aggressive management program.

We believe that in order for there to be any real cost containment in the FECA program, increased coordination and cooperation will be needed between the agencies and OWCP. At this time, OWCP seems to be barely able to process claims in a timely and accurate manner with minimal input from the agencies. We question how OWCP will be able to respond to agencies that adopt a more aggressive role in challenging claims and questioning charges.

Attachment 1

SUMMARY OF FECA COSTS

| | COP (FY Ending 9/30) | | Chargeback (FY ending 6/30) | |
|---|---|---|---|---|
| Year | Days | Amount | Medical | Compensation |
| 1991 | 55 | $ 7,137 (3) | $27,520 (6) | $63,679 (3) |
| 1990 | 58 | $12,283 (3) | $26,682 (7) | $64,995 (3) |
| 1989 | 21 | $2,582 (4) | $ 5,763 (12) | $61,169 (3) |

Note: The figures in parenthesis are the number of claims.

Attachment 2

SUMMARY OF COP REPORTS

| Quarter Ending | # of Empl. | # of COP Workdays | Total cost |
|---|---|---|---|
| 12/91 | 0 | 0 | 0 |
| 09/91 | 1 | 45 | $5,158.80 |
| 06/91 | 0 | 0 | 0 |
| 03/91 | 0 | 0 | 0 |
| 12/90 | 2 | 10 | 1,978.08 |
| 09/90 | 2 | 53 | 11,385.12 |
| 06/90 | 1 | 5 | 898.00 |
| 03/90 | 0 | 0 | 0 |
| 12/89 | 0 | 0 | 0 |
| 09/89 | 1 | 2 | 212.80 |
| 06/89 | 2 | 4 | 380.32 |
| 03/89 | 1 | 15 | 1,988.40 |
| 12/88 | 0 | 0 | 0 |
| 09/88 | 0 | 0 | 0 |
| 06/88 | 1 | 4 | 509.44 |
| 03/88 | 1 | 1 | 127.36 |

Note: Statistics are as of the date of our review and do not reflect revised figures submitted by OFB.

Appendix

AD-P-527

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

August 12, 1992

MEMORANDUM

TO: Inspector General

FROM: Director, Office of Administration

SUBJECT: Draft Report, "Review of the Commission's Workers' Compensation Program"

As requested by your memorandum dated June 19, 1992 (IG-P-035), submitted herewith is the Office of Administration's response to the subject draft audit report issued June 19, 1992. In accordance with Section 11 of the USITC Directive 1701, the Commissioners have had an opportunity to comment on the response and the Chairman has approved it.

The Office of Administration agrees with all the audit recommendations. The attached response includes the actions to be taken and the target completion dates.

Please call me at 205-3131 or Bill Stuchbery at 205-3135 if you have any questions.

ATTACHMENTS

cc: Director, Office of Personnel
Director, Office of Management Services
Director, Office of Finance and Budget

## ADMINISTRATION'S RESPONSE TO THE DRAFT AUDIT REPORT

### CONTINUATION OF PAY (COP) BENEFITS

RECOMMENDATION:

1. The Director of Administration should amend the time sheets to reverse unallowable days charged to COP and consider amending the partial days inappropriately charged to COP.

RESPONSE: AGREE

The audit findings state that: 37 days were improperly recorded as COP time in the GSA payroll system (18 days which exceeded the FECA time limit for receiving COP, 1 day for which a claim was not filed and 18 days that were in error); an excessive number of hours were charged to COP time on 30 days where the full 8 hours were charged to COP rather than the actual time absent from work; and on 4 days medical treatment was received however there were no charges to either COP time or a leave category.

Time and Attendance Records can be amended as follows:

(A) For the 18 days in 1990 recorded as COP time which exceeded the FECA time limit, there were only 56 hours of actual time off for medical treatment. To correct the situation, based on a request by the Director, Office of Personnel approved by the Director Office of Administration, this 56 hours will be charged to Administrative Leave. This will not result in an increase to Commission expenditures.

(B) During the summer of 1989 an intern was hurt while performing her job and was authorized 1 COP day. She would have been entitled to the excused absence, but failed to file a Workers' Compensation claim. Since the employee is no longer with the Commission no further action is being taken.

(C) For the other 18 days recorded as COP time during 1991, 9 COP days were recorded in error when an injured employee's Time and Attendance Records were amended to record the time off, 2 were non-pay COP days and 7 were COP days when the injured employee worked "light duty". The Director, Office of Management Services, in an appropriate attempt to get the injured employee back to work, authorized the injured employee to work half days as part of an informal light duty assignment. Time and Attendance Records have been amended to correct the 9 days recorded in error, however, COP time should be recorded for the non-pay days and days of light or half time duty. This recording error did not result in an increase or decrease to Commission expenditures.

(D) Based on GSA payroll system requirements all COP time was to be reported in full 8 hour increments. Therefore the 30 days where the full 8 hours were charged to COP time rather than the actual time absent from work was done in accordance with GSA payroll system requirements. However, for internal record keeping purposes, we will amend the appropriate Time and Attendance Reports to reflect only the actual time absent from work. This recording error did not result in an increase or decrease to Commission expenditures.

(E) The Time and Attendance Reports are being amended to charge COP time for the appropriate hours on the 4 days medical treatment was received. The time incurred for medical treatment on these days was within the 45 day period and is allowable as COP time. This recording error did not result in an increase or decrease to Commission expenditures.

TARGET COMPLETION DATE: August 31, 1992.

RECOMMENDATION:

2. The Director of Administration should instruct the accounting technician on the proper procedures for recording and reporting COP on time sheets and require that, in the future, any guidance given to timekeepers about COP is cleared with the operating accountant or division chief to ensure that it is accurate.

RESPONSE: <u>AGREE</u>

The audit findings state that the full 8 hours for 30 days were charged in the GSA payroll system to COP time rather than the actual time absent from work.

The Accounting Technician, the Operating Accountant and the Chief of the Finance Division were aware of the proper recording of COP time. However, they were also aware that the GSA payroll system REQUIRED that COP time be recorded only in 8 hour increments. While this was contrary to the instructions in the GSA Time and Attendance Handbook, the payroll system would have rejected the employees Time and Attendance Records and the employees would not have been paid if the COP time was recorded otherwise. This situation was corrected by GSA effective with the pay period ending May 30, 1992. This recording error did not result in an increase or decrease to Commission expenditures.

TARGET COMPLETION DATE: Completed.

RECOMMENDATION:

3. The Director of Administration should determine whether OWCP has any need for revised prior period reports, and if so, submit corrected reports.

RESPONSE: AGREE

The audit findings state that COP quarterly reports submitted by the Commission to OWCP were not prepared in accordance with Federal regulations or OWCP guidelines. We contacted the Department of Labor's Office of Workers' Compensation Programs and filed an amended quarterly reports.

TARGET COMPLETION DATE: Completed

## LEAVE BUY-BACK

RECOMMENDATION:

The Director of Administration should obtain the employee's share for the leave buy-back and adjust the remaining leave authorized to be repurchased or reverse the conversion of 126 hours of leave and return the compensation funds to OWCP.

RESPONSE: AGREE

We are currently conferring with the GSA National Payroll Center to complete the buy-back cost computation.

TARGET COMPLETION DATE: September 30, 1992

## FECA PAYMENTS

RECOMMENDATION:

1. The Director of Administration should assign responsibility for reviewing the charge-back billings.

RESPONSE: AGREE

The Director of Administration will by memorandum assign responsibilty for reviewing the charge-back billings to the Director of Personnel with the support of the Director of Finance and Budget until the directive covering the entire FECA program is issued. (target completion date of 12/31/92)

TARGET COMPLETION DATE: August 21, 1992

RECOMMENDATION:

2. The Director of Administration should determine what accounting policy will be used for recording FECA expenses and correct the accounting entry for the FY 1991 FECA expenses if the prior accounting policy is chosen.

RESPONSE: AGREE

A recommendation made by the independent accounting firm engaged by the Inspector General for the audit of the Commission's FY 1989 and FY 1990 financial statements was that FECA obligations should be recorded in the fiscal year that the Commission receives the notification of the liability from the Department of Labor, not in the year of payment as we had been doing for many years. We did not disagree with this change in handling of the Workers' Compensation liability, and accordingly a change in accounting policy was adopted in FY 1991.

Due to the fiscal year specificity of government appropriations we have reconsidered this recommended accounting change and returned to the prior accounting policy. The Inspector General has no objection to returning to the prior accounting policy with the understanding that an adjusting entry would usually be required as part of the financial statement audit.

TARGET COMPLETION DATE: Completed

## COMPENSATION MANAGEMENT

RECOMMENDATION:

1. Incorporate responsibility for the FECA program into the Personnel mission and function statement and performance descriptions and performance plans of the group leaders.

RESPONSE: Agree

A published directive setting forth FECA policy, procedures, responsibilities, and authorities is the essential instrument required to begin the process. After the Directive is approved (target completion date: 12/31/92) the mission and functions statement for the Office of Personnel will be revised and performance plans for assigned personnel will be modified.

TARGET COMPLETION DATE: January 15, 199~~2~~3

corrected per telecon 8/10/92 w/ Bill Stuckey

2. Send Personnel group leaders to training on the FECA program and instruct them to attend quarterly OWCP meetings.

RESPONSE: Agree.

It now appears probable, though not certain, that Department of Labor (DOL) will offer their basic training course in October 1992, and Administration's nominations have already been provided to DOL. We plan on arranging for notification of quarterly OWCP meetings in conjuction with the training.

TARGET COMPLETION DATE: October 30, 1992

3. Develop policies for the FECA program designed to control workers' compensation costs.

RESPONSE: Agree.

A ITC FECA Program directive will be developed and contain measures for controlling program costs efficiently and effectively, primarily by identifying potentially cost controlling actions at the time of initial claim and during chargeback reviews.

TARGET COMPLETION DATE: December 31, 1992