

Federal Trade Commission

OFFICE OF INSPECTOR GENERAL

August 9, 2024



***Audit of FTC Redress
Program Data Management
and Oversight of Contractors***

IN SUMMARY

Why We Performed This Audit

A core mission of the agency's law enforcement actions is to stop illegal business practices. As part of this mission, the agency's Bureau of Consumer Protection (BCP) Division of Consumer Response and Operation's (DCRO's) Office of Claims and Refunds delivers refunds, via the Redress Program, to consumers who lost money because of these practices. Once an FTC lawsuit or settlement is finalized—and the defendant has paid what the court orders—the Office of Claims and Refunds develops a plan for refunding that money to the appropriate consumers.

The distribution of the funds received from judgments is a complex and sizable undertaking necessitating that the FTC, through the DCRO Office of Claims and Refunds, engage contracted distribution agents' (redress contractors) support for a portion of the claims processing and fund distribution activities.

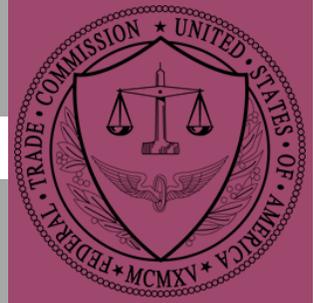
We conducted this audit as a follow-up evaluation of the FTC's progress on, and effectiveness of, changes that the agency implemented in its Redress Program following our March 4, 2020, OIG report *Audit of Federal Trade Commission Redress Process Controls*. For the current audit, we narrowed our audit objective to focus specifically on the Redress Program's effectiveness of contractor oversight and program data management.

What We Found

Our audit found that the Redress Program's current approach to contractor oversight, including a combination of legacy and alternative practices, is not integrated into policy. We found that the program's current oversight is effective—and could potentially be enhanced by a policy framework that supports consistent oversight processes and promotes the overarching goals of DCRO.

What We Recommend

We recommend that the Director of BCP, in coordination with DCRO management, more formally integrate its legacy practices, standard operating procedures, and alternative procedures into a single source that clarifies how oversight activities of all contractors interrelate to support DCRO's goals.



Office of
Inspector
General

AUDIT
REPORT

*Audit of
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AUDIT RESULTS SUMMARY

We conducted a performance audit to assess the effectiveness of Federal Trade Commission (FTC) Bureau of Consumer Protection (BCP) data management and oversight of contractors—specifically, within the BCP Division of Consumer Response and Operations' (DCRO's) administration of the FTC Redress Program. During the course of our audit, we reviewed prior OIG reports related to the FTC Redress Program (including OIG report *Audit of Federal Trade Commission Redress Process Controls*, issued on March 4, 2020) for insights into areas of improvement, referencing U.S. Government and Accountability Office (GAO) and Office of Management and Budget (OMB) criteria to assess compliance with established standards and best practices. Further, we conducted internal control testing to evaluate the effectiveness of the FTC's implemented controls in overseeing contractors and managing program data. Additionally, we conducted interviews with Redress Program officials to gather insights into program operations challenges and areas for improvement. (Refer to appendix A for further information on our audit's objective, scope, and methodology. See appendix B for a list of acronyms and abbreviations used in this report.)

For our current audit of the Redress Program, we noted significant progress over the last 3 years that BCP DCRO has made across several key program areas. DCRO has made program enhancements with standardization of contract deliverables, ensuring consistency and quality in the output from contractors. The program has prioritized improvements in data analytics, exemplified by the implementation of retroactive data capabilities and the addition of geographic regions to the Redress Program's public dashboard. In addition, DCRO has made efforts to improve communication and transparency, such as by establishing a communication tracking system which allows all DCRO team members to see all approved external communications. Further, the program acted on our 2020 audit report recommendation, which called for contractors to provide detailed monthly bank statement information to the Redress Program for open cases.¹

With the FY 2020 suspension of contractor visits (due to the pandemic), DCRO became increasingly reliant on various alternative oversight measures.² Based on our review and analysis of DCRO's oversight of program contractors, we noted that DCRO's oversight of the contractors would benefit from a cohesive policy structure that supports a consistent methodology.

¹ Subsequently, the Redress Program verified its access to comprehensive monthly bank statements through an online account. This access is now being leveraged to enhance program oversight.

² In our 2020 OIG audit report, we recommended that DCRO develop and formalize a structured program for contractor site visits, encompassing both IT security and operational site visits. The Redress Program has drafted formal policy and procedures.

Our report contains one recommendation for bringing a more unified and clearer approach to Redress Program contractor oversight. In addition, we note in an “Other Matter” that Redress Program policy—while outlining a general approach for fund distribution in instances when the court does not provide direction—does not fully capture the specifics of the methodology applied. We conclude that a more comprehensive policy would benefit the program.

WHY WE PERFORMED THIS AUDIT

Background

As noted on the FTC’s website, a core mission of the agency’s law enforcement actions is to stop illegal business practices. As part of this mission, the agency’s Bureau of Consumer Protection (BCP) Division of Consumer Response and Operation’s (DCRO’s) Office of Claims and Refunds delivers refunds, via the Redress Program, to consumers who lost money because of these practices. Once an FTC lawsuit or settlement is finalized—and the defendant has paid what the court orders—the Office of Claims and Refunds develops a plan for refunding that money to the appropriate consumers. In calendar years (CYs) 2021, 2022, and 2023, refunds to consumers directly from the FTC have totaled \$403.4 million, \$392.9 million, and \$137.7 million, respectively. The issuance of these refunds resulted in millions of FTC payments cashed annually—in CY 2021 alone, by as many as 3.5 million consumers.

The FTC Office of Claims and Refunds’ success in delivering refunds to the appropriate consumers depends on whether it has reliable information about eligible customers, including contact information and amounts of money that customers spent.³ In most cases, the agency has sufficient information to mail checks out (or send electronic payments) to a list of known customers. In other cases, with no list of known customers or insufficient customer contact information, the agency must use a claims process to identify people who are eligible for a refund. A claims process, which requires affected customers to apply for refunds, might entail a media campaign or paid advertisements steering applicants to the FTC’s website for information on the process.⁴

³ An FTC court order typically requires the company to provide a list of customers, their contact information, and how much each customer paid.

⁴ Lacking sufficient data from the company, the agency can also consult its Consumer Sentinel Network database to find eligible recipients. Consumer Sentinel Network contains millions of complaints from people who have contacted the FTC, the Better Business Bureau, or other federal, state, and local law enforcement offices. The FTC may search for complaints related to the defendants and use the contact information in those complaints to create a list of potential refund recipients.

Whenever possible, the FTC uses the money it collects from defendants to provide refunds to injured consumers. If there is any money left in the settlement fund after the first distribution, the FTC may send a second round of payments. Subsequently, the FTC sends any leftover funds (or amount of settlement insufficient to provide affected consumers meaningful refunds) to the U.S. Treasury for deposit into its General Fund, or to co-plaintiffs, as required by court order and law.

The distribution of the funds received from judgments is a complex and sizable undertaking necessitating that the FTC, through the DCRO Office of Claims and Refunds, engage contracted distribution agents' (redress contractors) support for a portion of the claims processing and fund distribution activities. When the Office of Claims and Refunds engages a distribution agent, it sends a memorandum with supporting documentation to the FTC Financial Operations Division (FO), requesting the funds transfer to the appropriate contractor to perform the redress distribution. The FO then oversees the wire transfer from the agency to the distribution agent.

Relevant Recommendations from Prior OIG Products

On March 4, 2020, we issued *Audit of Federal Trade Commission Redress Process Controls*, a report on the FTC's Redress Program controls over redress funds. Our objective was to examine BCP's controls over Redress Program funds, particularly to examine whether controls are adequately designed and working effectively.

Our audit report included the following recommendations:

1. Develop a contract deliverable requiring some form of detailed monthly bank statement information be provided to the FTC on open cases.

Status of Finding: Closed on October 2, 2020

2. Develop a uniform set of Redress Program data that can be used to compare disbursement activity across cases for closed case check audits, and develop a contract deliverable requiring contractors to provide this information, including check registers and disbursement lists, to the FTC.

Status of Finding: Closed on October 2, 2020

3. Develop and formalize, in policy, a structured program for contractor site visits for both IT System Security and operational site visits.

Status of Finding: Closed on October 2, 2020

The Current Audit

We conducted this audit as a follow-up evaluation of the FTC's progress on, and effectiveness of, changes that the agency implemented in its Redress Program following our March 4, 2020, OIG report. That audit evaluated the controls over Redress Program funds and made recommendations for enhancements to the uniformity of contract deliverables and contractor site visits. For the current audit, we narrowed our audit objective to focus specifically on the Redress Program's effectiveness of contractor oversight and program data management.

FINDING AND RECOMMENDATION

The Redress Program's Current Approach to Contractor Oversight, Including a Combination of Legacy and Alternative Practices, Is Not Integrated into Policy

In FY 2020, DCRO suspended contractor site visits, in response to the global pandemic.⁵ More recently, budget constraints have interrupted DCRO's contractor site visit schedule. These contractor site visits had served as a component of the Redress Program's oversight strategy: gaining insight on the operations of contractors, ensuring compliance with established standards, and identifying potential risks. With the suspension of site visits, DCRO became increasingly reliant on various interim alternative oversight measures, such as System and Organization Controls (SOC) reports,⁶ security scans, and risk assessments.⁷

In the interim, DCRO's alternative oversight measures helped maintain a responsible degree of oversight over the Redress Program, well before site visits resumed in 2024. As a result, the current oversight program, in practice, combines legacy and alternative oversight measures that have not been integrated formally into the program's documented protocols. While our audit found that the program's current approach appears effective, a more formal integration of these alternative practices into DCRO's existing policy structure would better ensure their continuation over the multiple current and future contractors charged with executing the program for the FTC.

Our review included a variety of documents, such as security reports conducted by the program's five contractors and independent assessments like NIST 800-171 gap assessment reports. Additionally, several third-party auditors—engaged by program contractors—issue SOC 1 and SOC 2 reports on contractor operations. We noted, as part of our review, that DCRO has established several stand-alone Standard Operating Procedures (SOP) guiding the program's oversight of the contractors. Our audit found that the program's current oversight is effective—and could

⁵ In 2024—after an approximately 4-year suspension—DCRO resumed contractor site visits. DCRO conducted physical site visits to all 5 contractors from February 2024 through June 2024.

⁶ System and Organization Controls (SOC) reports, governed by the American Institute of Certified Public Accountants (AICPA), are audit products that provide assurance on organization controls related to the security, availability, processing integrity, confidentiality, and privacy of a system. SOC reports are classified into various types (e.g., SOC 1 reports, which focus on internal control over financial reporting, and SOC 2 reports, which evaluate the effectiveness of controls related to specific criteria).

⁷ These provide structured qualitative analyses of contractors' operational environments. Conducted based on NIST Special Publication (SP) 800-30, Revision 1, *Guide for Conducting Risk Assessments*, these risk assessments address threats, vulnerabilities, risks, and safeguards.

potentially be enhanced by a policy framework that supports consistent oversight processes and promotes the overarching goals of DCRO.

As demonstrated by the federal government's response to the global pandemic, as well as budget uncertainties, conditions affecting agencies and their environments continually change. GAO's *Standards for Internal Control in the Federal Government* (the Green Book) advises agency management to anticipate and plan for significant changes by using a forward-looking process for identifying change. The Green Book asserts that, if there is a significant change in an agency's process, management should review the process in a timely manner after the change to determine whether the control activities are designed and implemented appropriately. Management should identify changes that could significantly impact the entity's internal control system. Identifying, analyzing, and responding to change is similar to, if not part of, the entity's regular risk assessment process. In a similar vein, OMB Circular No. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control* (OMB Circular No. A-123, Appendix A) advises agency management to consider potential risks to achieving agency objectives and develop appropriate responses to the risks, as a part of "continuously monitor[ing], assess[ing], and improv[ing] the effectiveness of internal control associated with those internal control objectives identified as part of their risk profile."

In light of these standards, a more formal approach to oversight can be particularly crucial—given the program involves five different contractors, each presenting unique oversight challenges. The current approach, with oversight of multiple contractors relying on separate reports and activities executed independently, could present a challenge to DCRO gaining a comprehensive view of the Redress Program's organizational risk landscape. This may result in missed opportunities for improvement and increased exposure to potential risks

RECOMMENDATION

We recommend that the Director of BCP, in coordination with DCRO management, more formally integrate its legacy practices, standard operating procedures, and alternative procedures into a single source that clarifies how oversight activities of all contractors interrelate to support DCRO's goals.

OTHER MATTER

Redress Program Policy Does Not Fully Capture the Specifics of the Methodology Applied

The FTC's Redress Program does provide an outline for distribution of redress funds in instances when the court does not provide direction. However, it does not fully capture the specifics of the methodology applied. A more comprehensive policy—which could provide improved detail on the decision-making hierarchy and procedural steps for distribution—may help the program develop thorough records of pivotal decisions, increasing both transparency and accountability.

When the court does not provide specifics on refund distribution, FTC staff must determine who is eligible and how payments are calculated, based on the details of each case. During our audit, we noted that, in such cases, agency staff coordinate with the original case team to ensure fairness and equity of the redress distribution. With typical redress cases, staff decide to use a proportional allocation method (i.e., pro rata). According to the FTC website, agency staff analyze the data to establish individual refund amounts, considering the necessary administrative costs of the fund, the range of losses between the lowest and highest amount once lost by customers, and other relevant case information. However, deviations from this approach occur, based on the specific circumstances of each case.

For consistency—along with fairness and equity—a protocol that provides procedural guidance for determining refund recipient eligibility could direct decision makers to capture and commemorate the key decisions and thinking behind the decisions. Given the substantial amounts refunded and, therefore, the importance of distribution decisions, we assert that a more comprehensive policy would benefit the program—and, especially, the eligible customers whose consumer harm the FTC seeks to redress.

SUMMARY OF AGENCY RESPONSE AND OIG COMMENTS

In its written response to this report, FTC management concurred with the recommendation and described planned actions in response. The FTC response to our report is included in its entirety in appendix C.

APPENDIX A: OBJECTIVE, SCOPE, AND METHODOLOGY

We conducted a performance audit to assess the effectiveness of FTC BCP data management and oversight of contractors—specifically, within DCRO’s administration of the FTC Redress Program. To accomplish our audit objective, we conducted interviews and process reviews with program officials; reviewed the program policies and procedures; and analyzed relevant supporting documentation.

Our criteria included the Federal Acquisitions Regulations; OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Controls*; the GAO *Standards for Internal Control in the Federal Government*; and internal BCP policies. In addition to relevant criteria, we reviewed prior audit reports issued by other OIGs and GAO.

In planning our audit, we identified the internal control components relevant to our objective. With FTC BCP staff, we conducted detailed reviews of the key redress processes to gain understanding of controls and performed analysis on redress policies. As part of our audit fieldwork, we conducted interviews with FTC officials on the Redress Program; examined the roles and responsibilities of DCRO staff charged with managing and carrying out the tasks within the Redress Program; and performed analysis of contractor oversight reports.

As part of audit field work, we reviewed documentation and verified that contractors engaged in the Redress Program are bonded to mitigate risks associated with criminal activities. Additionally, we sampled and summarily reviewed monthly check audits of program distributions. We sampled 9 of the 33 monthly check audits conducted by Office of Claims and Refunds during FY 2023 and examined the documentation related to fund distributions, check registers, and reconciliation reports (see Table 1, next page, for greater detail).

Table 1: Sampled Monthly Check Audits

Contractor Name	Distribution Date	Month of Audit (2023)	Matter Name	Cashed Checks (\$)	Number of Checks Cashed
Contractor 1	08/22/2023	October	American Financial Benefits Center	860,512	2,074
Contractor 2	07/06/2023	September	Life Management Services, Inc.	15,585	135
Contractor 2	06/14/2023	August	American Financial Support Services Inc.	109,615	1,233
Contractor 2	03/30/2023	April	Resident Home	39,817	26
Contractor 3	03/28/2023	April	Coaching Department	4,233,419	6,339
Contractor 1	03/22/2023	April	Guidance/Lift International	419,951	971
Contractor 1	03/22/2023	May	Guidance/Lift International	111,479	255
Contractor 2	01/10/2023	February	Warrior Trading, Inc.	283,387	1,968
Contractor 2	01/10/2023	January	Warrior Trading, Inc.	1,038,010	7,094

Source: FTC BCP

We used the following criteria in the performance of our audit:

- FAR Title 48
- *GAO Standards for Internal Control in the Federal Government*
- *OMB Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control*



AUDIT REPORT

We performed the audit work remotely from November 2023 through March 2024. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

APPENDIX B: ACRONYMS AND ABBREVIATIONS

AICPA	American Institute of Certified Public Accountants
BCP	Bureau of Consumer Protection
CY	calendar year
DCRO	Division of Consumer Response Operation
FAR	Federal Acquisition Regulation
FMO	FTC Financial Management Operations Division
GAO	U.S. Government and Accountability Office
Green Book	GAO's Standards for Internal Control in the Federal Government
NIST	National Institute of Standards and Technology
OMB	Office of Management and Budget
SOC	System and Organization Controls

APPENDIX C: FTC MANAGEMENT RESPONSE



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

MEMORANDUM

TO: Andrew Katsaros
Inspector General, Office of Inspector General

VIA: Samuel Levine
Director, Bureau of Consumer Protection

FROM: Maria Mayo
Associate Director, Division of Consumer Response and Operations
Aaron Hutchinson
Assistant Director, Division of Consumer Response and Operations
Nicole Christ
Program Manager, Office of Claims and Refunds

SUBJECT: Management Response to the Draft Report on Audit of Redress Program Data Management and Oversight of Contractors

DATE: July 31, 2024

On July 18, 2024, the Bureau of Consumer Protection, Division of Consumer Response and Operations received the Office of Inspector General's Draft Report, titled *Audit of FTC Redress Program Data Management and Oversight of Contractors*. The report highlights significant improvements made by DCRO's Office of Claims and Refunds in the last three years, including implementing effective solutions in response to the OIG's previous audit conducted in 2020. The current audit report makes one specific recommendation and one observation. BCP and DCRO management agree with the recommendation and observation and provide additional responses below.

Finding: *The Redress Program's Current Approach to Contractor Oversight, Including a Combination of Legacy and Alternative Practices, Is Not Integrated into Policy*

Recommendation 1: The OIG recommends that the Director of BCP, in coordination with DCRO management, more formally integrate its legacy practices, standard operating procedures, and alternative procedures into a single source that clarifies how oversight activities of all contractors interrelate to support DCRO's goals.

Management Response: Management agrees. BCP plans to draft an overarching policy document that will integrate and formalize the program's effective use of standard operating procedures, continuous monitoring, and regular feedback to ensure consistency and efficiency in contractor performance and oversight.

Observation: Redress Program Policy Does Not Fully Capture the Specifics of the Methodology Applied

Management Response: Management agrees. BCP plans to draft a policy document that outlines the legal parameters of the Bureau of Consumer Protection's redress activities and provides guidance on applying those parameters to various scenarios.

APPROVED:

MARIA
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Maria Mayo
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Samuel Levine
Director, Bureau of Consumer Protection