



November 8, 2024

TO: Alexander Hoehn-Saric, Chair  
Peter A. Feldman, Commissioner  
Richard Trumka Jr., Commissioner  
Mary T. Boyle, Commissioner  
Douglas Dziak, Commissioner

FROM: Christopher W. Dentel, Inspector General

***THE CPSC MUST BRING ITS FITNESS FACILITIES INTO COMPLIANCE WITH  
STATUTORY AND REGULATORY GUIDELINES***

This management alert notifies you of an urgent issue that requires immediate attention and action. A Management Alert is an Office of Inspector General (OIG) independent assessment that provides timely and useful information to CPSC stakeholders. The Consumer Product Safety Commission (CPSC) is not in compliance with the Americans with Disabilities Act as well as several General Services Administration (GSA) Public Buildings Services (PBS) and Office of Personnel Management (OPM) regulations for agency operated fitness centers. The CPSC must act to remedy this non-compliance going forward.

**Background**

Federal agencies may provide space for fitness programs designed to promote and maintain employee health. Currently, the CPSC operates fitness centers at each of its three facilities: Headquarters (HQ), the National Product Testing and Evaluation Center (NPTEC), and the Sample Storage Facility (SSF).

*Headquarters*

The CPSC HQ fitness center is approximately 3,000 usable square feet (USF) consisting of men's and women's locker rooms and exercise space equipped with treadmills, exercise bikes, ellipticals, stair steppers, and both free weights and weightlifting machines. The fitness center is non-staffed and accessible via key card readers.

During the period May 2, 2022, through June 2, 2023, 162 employees and 25 contractors entered the CPSC fitness facility at HQ.

*National Product Testing and Evaluation Center*

The NPTEC fitness center is approximately 220 USF, equipped with an elliptical machine, treadmill, stationary bike, rowing machine, and both free weights and a

MANAGEMENT ALERT

weightlifting machine. The NPTEC fitness center does not have shower facilities. The fitness center is non-staffed and is accessible via a standard unlocked door.

As the CPSC does not control access to the NPTEC fitness center, the OIG was unable to obtain attendance data for this fitness facility.

#### *Sample Storage Facility*

The SSF fitness center is approximately 100 USF and contains limited aerobics and weightlifting equipment. The SSF fitness center does not have shower facilities. The fitness center is non-staffed and is accessible via a standard unlocked door.

As the CPSC does not control access to the SSF fitness center, the OIG was unable to obtain attendance data for this fitness facility.

### **The CPSC Failed to Adequately Secure Access to Its Fitness Facilities**

The GSA PBS Fitness Center Services Policy requires all fitness centers operating in GSA controlled spaces to limit fitness center access. For non-staffed fitness centers, an access control system (i.e. key card control, combination pad, etc.) must be installed to control access to the facility.<sup>1</sup> The CPSC's NPTEC and SSF fitness centers are not equipped with an access control system.

Additionally, the GSA PBS Fitness Center Services Policy prohibits fitness center use by contractors.<sup>2</sup> While the fitness center at HQ is equipped with an access control system, contractors can use the facility. During the period May 2, 2022, through June 2, 2023, 25 contractors accessed the HQ fitness center, including the number one user of the fitness center who represented ten percent of all usage during the period.

### **The CPSC Failed to Assure Fitness Centers are Safe, Appropriate, and meet Legal Requirements**

OPM's Employee Health Service's handbook states that it is the agency's responsibility to assure that fitness programs are safe, appropriate and meet legal requirements.<sup>3</sup> The CPSC failed to meet the following health, safety, and legal requirements.

#### *Pre-Activity Screenings*

OPM instructs agencies to use health industry strategies for safe fitness facility operation, these include requiring pre-activity screening to identify individuals who need medical clearance to participate in fitness activities and to identify risks for certain activities.<sup>4</sup> The CPSC does not require employees to obtain a pre-activity screening

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<sup>1</sup> See *GSA PBS Fitness Center Services Policy*, effective December 16, 2020

<sup>2</sup> *Id.*

<sup>3</sup> See *OPM Employee Health Services Handbook*

<sup>4</sup> *Id.*

before utilizing any of its fitness centers.

#### *The Use of Informed Consent and Waivers*

The GSA PBS Fitness Center Services Policy requires all fitness centers operating in GSA controlled spaces to “use informed consent statements to advise of the benefits and risks of participation, screenings, evaluations and fitness testing, and physical activity.”<sup>5</sup> Moreover, OPM instructs agencies to use waivers and informed consent forms for participation in agency sponsored fitness facilities or events; and that the waivers should 1) outline the terms of the event, 2) inform the participant of the risks, and 3) limit liability exposure.<sup>6</sup> The agency stated it instructs staff that they exercise at their own risk and recommends exercising with a partner or at a time when other staff are in the fitness center. However, the CPSC does not require participants to sign waivers and informed consent forms for participation in any of its agency-sponsored fitness facilities.

#### *Providing Adequate Orientation and Instruction*

The GSA PBS Fitness Center Services Policy requires all fitness centers operating in GSA controlled spaces to “provide a fitness facility orientation and review manufacturers written instructions on how to safely use the facility and equipment.”<sup>7</sup> Furthermore, OPM instructs agencies to develop safety policies and follow health industry strategies which include providing a fitness facility orientation and detailed instructions on how to safely use the facility and equipment.<sup>8</sup> The CPSC does not provide fitness center orientations to its employees. The agency stated that during orientation for new employees the location of the HQ fitness center is mentioned, and new employees are directed to address any fitness center questions to the Director of Facility Services.

#### *Provide an appropriate Fitness Center layout*

OPM instructs agencies to develop safety policies and follow health industry strategies which includes providing an appropriate and safe equipment and facility layout.<sup>9</sup> Furthermore, the Americans with Disabilities Act (ADA) Accessibility Standards requires that exercise machines and equipment shall have a clear floor space for transfer or for use by an individual seated in a wheelchair.<sup>10</sup> The ABA requires clear floor space to be a minimum of 30 inches by 48 inches.<sup>11</sup>

The current layout of the CPSC’s NPTEC fitness center does not comply with the clear floor space minimum requirement as there is no clear space for a wheelchair to access the free weights at the back of the room.

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<sup>5</sup> See *GSA PBS Fitness Center Services Policy*, effective December 16, 2020

<sup>6</sup> See *OPM Employee Health Services Handbook*

<sup>7</sup> See *GSA PBS Fitness Center Services Policy*, effective December 16, 2020

<sup>8</sup> See *OPM Employee Health Services Handbook*

<sup>9</sup> *Id.*

<sup>10</sup> ADA standard 1004.1

<sup>11</sup> ADA standard 305.3



Source: OIG photograph of NPTEC facility on September 27, 2024

*Documentation of ongoing inspection maintenance and repair of fitness facilities*

The GSA PBS Fitness Center Services Policy requires all fitness centers operating in GSA controlled spaces to document ongoing inspection, maintenance and repair of the fitness facility and equipment.<sup>12</sup> Furthermore, OPM instructs agencies to ensure and document ongoing inspection, maintenance and repair of the fitness facility.<sup>13</sup>

The OIG requested documentation of ongoing inspection, maintenance, and repair for all CPSC fitness facilities for Fiscal Years 2022, 2023, and 2024. Agency management was only able to provide a single instance of inspection, maintenance, and repair documentation of the NPTEC fitness facility equipment during the three-year period. No further information was provided for any of the other fitness facilities.

*Cleaning and maintenance systems that ensure a sanitary and safe environment*

OPM instructs agencies to incorporate a cleaning and maintenance system that ensures a sanitary and safe environment.<sup>14</sup> Additionally, the GSA PBS Fitness Center Services Policy requires all fitness centers operating in GSA controlled spaces that are managed by a single tenant to receive above standard custodial services. The GSA PBS Fitness Center Services Policy provides examples of above standard custodial services for fitness centers, which include but are not limited to:

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<sup>12</sup> See *GSA PBS Fitness Center Services Policy*, effective December 16, 2020

<sup>13</sup> See *OPM Employee Health Services Handbook*

<sup>14</sup> *Id.*

- *Maintenance of group fitness room floor- if wood will require periodic stripping, buffing, and waxing*
- *Cleaning, disinfecting, and dusting fitness equipment to include free weights, machines, mats, steps, balls etc.*
- *Cleaning and disinfecting under equipment such as cardio-vascular equipment, free weights, and circuit machines*
- *Cleaning and disinfecting FC floor to ceiling mirrors where ladders are required*
- *Cleaning and disinfecting inside lockers*
- *Providing shower gel*
- *Providing cloth towel service<sup>15</sup>*

The OIG reviewed the agency's cleaning contracts for the HQ fitness facility and noted the contract did not include above standard custodial services. Furthermore, agency management did not provide OIG with cleaning contracts for NPTEC and SSF fitness facilities.

### **The CPSC Must Comply with Fitness Center Rules and Regulations**

To promote equity, inclusion, and accessibility for all its employees, the CPSC must comply with the ADA. Similarly, the CPSC must ensure it complies with the applicable regulations for agency operated fitness centers in order to ensure the health and safety of its employees. Failure to comply with health and safety regulations may also result in the violation of the agency's occupancy agreement with GSA. Additionally, the failure to: ensure only authorized users access the fitness facility, perform pre-activity screening of fitness center participants, perform fitness facility orientations to instruct participants how to properly utilize the facility and its respective equipment, provide an appropriate fitness center layout, document ongoing inspections and maintenance of fitness facilities and its equipment, adequately clean fitness facilities, and require participants of the fitness center to sign informed consent forms and waivers to utilize the fitness centers increases the agency's liability risk for health and safety related claims.

### **Conclusion**

The CPSC has not complied with the ADA as well as several GSA PBS and OPM regulations for agency-operated fitness centers. The CPSC must ensure full compliance with the applicable statute and regulations moving forward to promote the health and safety of all employees.

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<sup>15</sup> See *GSA PBS Fitness Center Services Policy*, effective December 16, 2020

## **APPENDIX A. Objective, Scope, and Methodology**

### **A.1 Objective & Scope**

The objective of this Management Alert is to immediately notify the CPSC of an area of non-compliance that requires urgent attention. Specifically, the CPSC is not in compliance with the Americans with Disabilities Act as well as several General Services Administration Public Buildings Services and Office of Personnel Management regulations for agency operated fitness centers. We gathered information for this matter from September to October 2024.

### **A.2 Methodology**

We performed the work for this matter from September to October 2024 and conducted this management alert in accordance with the CPSC OIG Standard Operating Procedure - 012: Management Alerts and not generally accepted audit standards. This standard requires that we obtain sufficient evidence to provide a reasonable basis for our conclusions. We reviewed responses to questions sent to key CPSC personnel, observed all agency fitness centers, analyzed relevant criteria, and reviewed supporting documentation to determine the status of the CPSC's compliance with the Americans with Disabilities Act, as well as General Services Administration Public Buildings Services and Office of Personnel Management regulations for agency operated fitness centers.

We are issuing this management alert under the authority conferred by the Inspector General Act of 1978, as amended, Section 2(2), "to promote economy, efficiency, and effectiveness in the administration of, and . . . to prevent and detect fraud and abuse in, [CPSC] programs and operations."<sup>16</sup>

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<sup>16</sup> See 5 U.S.C. § 402(b)(2).

# APPENDIX B. Management Response



To: Christopher Dentel  
Inspector General  
Date: November 5, 2024

Through: Austin Schlick  
Executive Director

From: Annette Evans MARGARET EVANS<sup>c</sup> Digitally signed by MARGARET EVANS  
Date: 2024.11.06 06:52:31 -0500  
Deputy Executive Director for Operations Support

Subject: Response to *OIG Management Alert Regarding CPSC Fitness Facilities*

Thank you for the opportunity to reiterate Management's commitment to conform CPSC's Bethesda Towers and 5RP fitness center operations to the GSA Fitness Center Services Policy of December 20, 2020. Management intends to ensure compliance with OPM's *Employee Health Services Handbook* and the Americans with Disabilities Act Accessibility Standards in its future operation of any CPSC fitness centers.