

FEDERAL ELECTION COMMISSION

OFFICE OF INSPECTOR GENERAL



FINAL REPORT

**INSPECTION OF THE COMMISSION'S
WESTLAW DATABASE SERVICE**

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ASSIGNMENT 01-05

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Background

The Office of Inspector General (OIG) initiated an Inspection of the Westlaw database service after learning that a separated employee's Westlaw account remained open several months after the employee left the agency. The OIG expanded the Inspection to review the payment process for the service after discovering improper¹ duplicate payments had been made to the Westlaw vendor.

The Federal Election Commission (FEC), established in 1975, is an independent regulatory agency that enforces and administers the Federal Election Campaign Act (FECA). Enforcement of FECA includes the following: facilitating public disclosure of finance activity; providing information and policy guidance to the public and elected officials; encouraging voluntary compliance with the disclosure and other requirements of the Act; and enforcing the statute through audits, investigations, and civil litigation. In addition, the Commission manages the public funding programs for Presidential campaigns and conventions. The FEC is located in Washington, D.C., and has approximately 338 permanent and temporary employees.

The FEC contracts with West Group, a division of the Thomson Corporation, to receive the Westlaw research service. Westlaw provides FEC staff with on-line access to legal and business databases, information such as Federal court decisions, Congressional information, and Federal statutes.

Management approves access for Commission staff whose jobs would benefit from the Westlaw database service, such as attorneys in the Office of General Council (OGC). The Westlaw contract amount for fiscal year 2001 is \$130,608, which generally provides FEC users unlimited access to databases designated in the "fixed rate" plan. Premium databases, not included in the "fixed rate" plan, are also accessible to all FEC Westlaw users, and result in additional charges to the FEC.

Exhibit 1-Westlaw.com Internet Login Screen



Individuals with active Westlaw user accounts are able to access the Westlaw service virtually anywhere; at work, home, or on travel status. The Westlaw service is accessible using a personal computer (PC) with access to the Internet. Primarily, FEC Westlaw users access the service using the West Group software Westmate, installed on FEC computers. In addition, user accounts can also access the Westlaw service using a Web based service on the Internet. [See Exhibit 1]

¹ The General Accounting Office defines improper payments as payments that should not have been made or were made for incorrect amounts. U.S. General Accounting Office, *Billions in Improper Payments Continue to Require Attention*, (GAO-01-44, page 5, October 27, 1999).

Therefore, as long as a user has access to the Internet, regardless of location, the Westlaw service, including premium services, are accessible with a valid user account.

The Office of General Counsel's Library Office is responsible for administration of the FEC's Westlaw program. Management of the Westlaw program by the Library includes the following responsibilities:

- Negotiation of the annual contract fees with the West Group vendor.
- Training of Commission staff on the use of the Westlaw service, or coordination of training provided by West Group.
- Notifications to add or remove employee Westlaw user accounts.
- Review and approval of receiving reports to ensure proper billing and to enable the payment for services received.

Objectives, Scope, and Methodology

The objectives of the Inspection were to:

- (1) Ensure that the Westlaw accounts of separated staff are properly canceled; and
- (2) Review the improper Westlaw financial payments to determine the cause and evaluate the payment process.

The OIG reviewed the following documentation in order to achieve the stated Inspection objectives:

- Westlaw purchase orders, receiving reports, and invoices;
- Active Westlaw user list and Westlaw database usage reports;
- FEC employee clearance forms for separated staff;
- FEC current employee list and separation dates of prior staff;
- U.S. Department of Treasury Financial Manual;
- 31 U.S. Code, section 3324(d), Advances; and
- Decision of the Comptroller General of the United States, *Authority to Make Advance Payments for Technical Support Associated with Computer Software Packages*, B-256692, June 22, 1995 (1995 Westlaw 373859).

The OIG communicated with the following internal and external individuals to conduct the Inspection:

- (1) West Group vendor employees;
- (2) FEC Accounting Officer;
- (3) FEC Administrative Officer; and
- (4) FEC Library Director.

The OIG Inspection was conducted in accordance with the President's Council on Integrity and Efficiency's Quality Standards for Inspections.

Inspection Results

Overall, the OIG found weaknesses in the oversight of the Westlaw service by the Library Office responsible for the program. A pattern of improper payments occurred over a four year period. Specifically, four duplicate payments were approved for payment, totaling approximately \$33,772. All of the duplicate payments were subsequently recovered from the vendor after discovery of the improper payments.

In addition, the OIG found inadequate management of user accounts. Over 42% of all current accounts were assigned to separated FEC staff. This weakness created an unnecessary financial exposure to the FEC due to the potential for separated staff to access premium databases billed to the FEC. The OIG review revealed user accounts of former employees were accessed after the employees' separation from the FEC; however, all access occurred in the "fixed rate" databases; therefore no additional direct expense was found as a result of the unauthorized access.

The OIG concluded the weaknesses were the result of inadequate internal controls of the Westlaw program. The OIG also concluded the four improper duplicate payments were inadvertent errors, and not the result of fraud or abuse.

Management of Westlaw User Accounts

The OIG initiated this Inspection after learning that a separated employee's Westlaw account remained open several months after the employee left the agency. The Inspection included a review of all current Westlaw user accounts to identify whether an appropriate process is in place to ensure Westlaw user accounts are canceled upon an employee's separation from the FEC. Current Westlaw user accounts found assigned to separated staff were further reviewed to determine whether the accounts were accessed after the employees left the FEC, and whether the access resulted in unauthorized charges billed to the FEC.

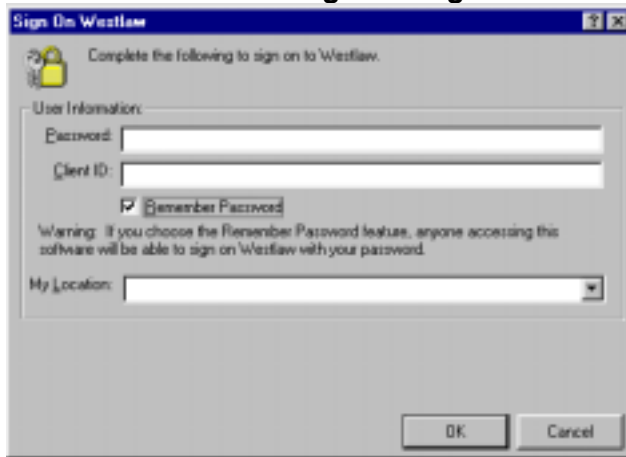
The OIG contacted the Westlaw vendor and obtained a list of all current user accounts. This list was compared to reports of current and separated FEC staff to identify whether current Westlaw accounts were assigned to separated staff. Westlaw reported a total of 262 current FEC user accounts. The OIG found 111 of the 262 accounts, or 42%, were assigned to former FEC staff. Several current accounts were assigned to staff that separated from the Commission as far back as 1992. A further review of the 111 separated staff accounts revealed six users' accounts had been accessed subsequent to the employees' separation.

Account activity on three of the six accounts accessed after the employee separations were the result of an automatic Westlaw search capability called Westclip. Westclip allows a user to configure the Westlaw service to automatically search for keywords at a predetermined frequency (daily, weekly, etc.). For example, the Westclip service could search the Westlaw databases for the keywords "Federal Election Commission" on a daily basis. The user would then be notified by the Westclip service when the keywords appeared in one of the databases selected, such as a recent court case.

Apparently, the three separated employees did not cancel the Westclip service upon leaving the FEC. Since the employees' accounts were not properly canceled upon their separation, the Westclip searches continued. In one instance, the Westclip service was active on an account for approximately eighteen months, involving over 4264 Westclip searches. Fortunately, the Westclip service is included in the FEC fixed rate, and did not result in any direct additional cost to the FEC.

Three other Westlaw accounts were accessed after the employees' separation. None of the three resulted in additional charges to the FEC. The OIG could not determine whether the separated employees were the individuals who actually accessed the accounts. It is possible current employees who inherited the personal computers of the separated employees, may have been able to use the separated employees' accounts.

Exhibit 2-Westmate Login Dialogue Box



The Westlaw software Westmate used by the FEC allows users to configure the software to remember their username and login password so that the user does not have to re-enter the information each time the service is used. [See Exhibit 2] Therefore, the separated employees may have used the remember password option, allowing anyone with access to their PC the ability to logon as the separated employee.

The remember password capability is not recommended since anyone with physical access to a user's PC could access the service using someone else's account.

The failure to cancel Westlaw accounts of former employees created an unnecessary financial risk to the Commission. All current user accounts have access to both the "fixed rate" and premium Westlaw databases. As a result, it would have been possible for a separated employee to access premium databases and incur costs charged to the FEC.

Employee Clearance Process

The Library Director indicated a possible contributing factor for the failure to cancel Westlaw accounts was inadequate notification of separating employees. Without such notification, the OIG agreed it would be difficult for the Library to maintain an adequate subscriber list of current staff.

The OIG performed a limited review of the FEC's employee clearance process to determine whether the statement by the Library Director had merit. The FEC has a clearance process, administered by the Personnel Office, to ensure employees separating from the Commission have satisfied all obligations and surrendered all government property upon separation from the FEC. Several designated divisions are required to date and initial on an employee clearance form for each separating employee. Government property, such as building keys, FEC credentials, and Library materials are required to be returned to the appropriate division. The employee clearance form also serves as a notification to divisions. For example, the notification is necessary for the Data Systems Development Division so that computer passwords are disabled to prevent access to the FEC computer system by a separated employee.

Based on the OIG's review of the employee clearance process, and an examination of clearance forms for separated staff with current Westlaw accounts, the OIG was unable to find sufficient evidence to support the Library Director's assertion that inadequate notice of separating employees to the Library had occurred.

Conclusion

During the Inspection, the OIG conveyed to the Library a concern for the active accounts of separated employees. The Library Director stated the accounts of separated employees had not been canceled because the responsibility has "*not been a priority*" of the Library. Based on the OIG's discussions with the Library Director, the OIG believes the Director did not fully understand the potential for unauthorized access and additional charges that could occur as a result of the failure to cancel the user

accounts of separated staff. The OIG would have serious concern if the Library Director had a full understanding of the potential financial exposure and continued to believe the responsibility should not be a priority of the Library.

The Library Office, during the Inspection, took appropriate steps to cancel all user accounts of separated employees and agreed to cancel user accounts of separating employees in the future. As an additional measure, the OGC informed the OIG the Library Office will provide quarterly reports to the General Counsel detailing Westlaw user account cancellations of departing employees to ensure the prompt cancellation of accounts.

Suggestion

The OIG suggested to the Personnel Office Director that a section be added to the FEC employee clearance form to require the signature and date of Library staff for cancellation of Westlaw user accounts upon an employee's separation from the FEC. The Personnel Director agreed to make the change.

Review of Financial Transactions

During the Inspection, the OIG discovered a pattern of improper duplicate payments made to the Westlaw vendor. To determine the extent and cause of the improper payments, the OIG reviewed the Westlaw payment history and documentation for fiscal years 1998 to 2001, through March 2001. The OIG also conducted meetings with the Library Director, Accounting Officer, and Administrative Officer. West Group employees were contacted for additional information.

Based on a review of Westlaw payments and supporting documentation, the OIG found four improper duplicate payments had been made in three of the four FYs reviewed (1998, 1999, and 2001). A fifth invoice in FY 2001 was improperly approved for payment by the Library Director, but did not obtain the necessary approval by the Administrative Officer for payment and therefore was not paid.

Background

The FEC's vendor payment approval process involves several offices. The requisition office, for example the Library, orders goods or services for their individual division/office or the Commission as a whole. The requisition offices are required to perform an administrative review of invoices for payments to be processed. Vendor invoices are normally first received at the FEC by the Accounting Office. The Accounting Office then matches the invoice with the original purchase order and a blank receiving report to be completed by the requisition office. The documents are then forwarded to the requisition office for review. To enable the FEC to pay the vendor, the requisition office must complete the receiving report acknowledging proper receipt of the goods or services. Acceptance by the requisition office includes two primary requirements: (1) assurance the item(s) ordered have been inspected and are consistent with the original order; and (2) confirmation the vendor has not already been paid for the goods or services. Upon acceptance of the receiving report, the requisition office forwards the completed receiving report, along with copies of the purchase order and invoice to the Administrative Office. The Administrative Officer and Certifying Officer then perform additional reviews of all documentation associated with the invoice to ensure a proper and legal transaction has occurred allowing for payment of Federal funds.

Three primary situations may occur in the receipt of goods or services. A full receipt of goods and services may occur, in which case, all goods or services ordered have been received and the payment may be made to the vendor. A full receipt is normally associated with a regular purchase order, for example an order for a computer. The regular purchase order form establishes the terms of the order for goods and services. Funds are then obligated, or set aside, at the time of the order. Once a valid invoice is received and approved, the set aside funds are used to pay the invoice.

A partial receipt of goods or services may also occur. The requisition office must acknowledge partial receipt on the receiving report, and the appropriate amount to be paid to the vendor. Partial receipt of goods or services is often associated with a blanket purchase agreement (BPA), a type of reoccurring open purchase that does not require a new purchase order form to be completed each time a similar item is purchased. Monthly services, such as the Westlaw service, are a type of order that can be purchased using a BPA. Accounting for a BPA involves the obligation of funds, and then, as partial receipt of the order for goods and services are delivered, portions of the original set-aside funds are used to pay the vendor until eventually all or most of the funds are expended. BPAs require the requisition office to maintain an accurate and ongoing record of the payments, including the original order amount, and the subsequent receipt and payment for the partial goods and services. Effectively managed, this process provides a mechanism to decrease the likelihood invoices are paid twice.

Lastly, a rejection of an invoice may occur, such as the non-receipt of goods or services, or an incorrect invoice. Rejection of an invoice requires the requisition office to contact the vendor to discuss the invoice.

Finding

Three of the four fiscal years (FYs) reviewed utilized a BPA to procure the Westlaw service; 1998, 1999, and 2001, the same years duplicate payments occurred. The following is a summary of the duplicate payments:

| <u>Fiscal Year</u> | <u>Duplicate Payment(s)</u> |
|---------------------------|------------------------------------|
| 1998 | 2 payments, totaling \$13,650 |
| 1999 | 1 payment, \$9,214 |
| 2000 | None |
| 2001 | <u>1 payment, \$10,908</u> |
| | Total \$33,772 |

The OIG concluded the duplicate payments were the result of ineffective internal controls in the Library Office to monitor payments. The OIG concluded the Library did not have a system in place to track ongoing, open purchase orders.

The Office of Management and Budget (OMB) Circular A-123, *Management Accountability and Control*, requires the establishment of internal controls by Federal agencies to reasonably ensure that (i) programs achieve their intended results; (ii) resources are used consistent with agency mission; (iii) programs and resources are protected from waste, fraud, and mismanagement; (iv) laws and regulations are followed; and (v) reliable and timely information is obtained, maintained, reported and used for decision making.

Internal controls are an integral part of managing the FEC and provide reasonable assurance the Commission will operate in an effective and efficient manner, and comply with applicable laws and regulations. In a broad context, internal controls are the methods, procedures, and safeguards adopted by management to ensure that its goals are met. Examples of internal controls include the physical control over vulnerable assets, such as laptop computers, and the segregation of key duties and responsibilities among different people to reduce the risk of error or fraud.

A standard internal control procedure contained in A-123 requires the accurate and timely recording of transactions by management. According to A-123, "*transactions should be promptly recorded to maintain their relevance and value to management in controlling operations and making decisions. This applies to the entire life cycle of a transaction or event; from the initiation and authorization, through its final classification in summary records.*"

The Library Office did not have an effective system in place to monitor and record the events related to the open purchase orders. An effective system would have enabled the Library to account for the original order, or obligation, and also subsequent approvals for payment of the monthly/yearly invoices. As a result, upon receipt of an invoice for acceptance, the Library Office would be able to review a record of previously approved payments, and recognize whether the monthly or yearly payment had already been approved for payment.

The Library Director informed the OIG during the Inspection that the Library did not have a system in place to monitor the open purchase orders.

Recommendation

The Library Office should develop an adequate system, in consultation with the Accounting Office, to monitor open purchase orders. For example, a computer spreadsheet could be developed to monitor open purchase orders; including obligations of funds, and partial/final receipt of goods or services.

Management Response

The Office of General Counsel agreed with the finding. The OGC also stated "*the monitoring of vendor payments is a dual responsibility - that of the requisition office and the Accounting Office.*" In addition, the OGC believes that a new FEC accounting system to be installed shortly by the Accounting Office and a recent training workshop held by the Administrative Division on the proper procedures for completion of receiving reports will enable the Commission to avoid making duplicate payments to vendors.

OIG Response

The OIG acknowledges the Accounting Office also has an important role in preventing duplicate payments. The new accounting system is expected to add additional controls, such as the ability to identify the receipt of duplicate numbered invoices in order to prevent duplicate payments. This type of automated control, in combination with the proper monitoring of open purchase orders by the requisition office, should reduce the likelihood of duplicate payments.

Advance Payments

In addition to the inspection of improper duplicate payments, the OIG also reviewed the FEC's practice of making advance payments prior to full receipt of the Westlaw service. A review of the financial payments for FYs 1998-2001 revealed advance payments in each of the four FYs. Rather than pay on a monthly basis as invoices are received, the FEC chose to pay the full cost of the annual Westlaw service, usually by the third month of the twelve-month service period.

Federal law provides an exception to the general requirement that payments to vendors be made only after goods and services have been received. 31 U.S. Code, section 3324(d)(2), states the head of an agency may pay in advance for charges for a publication printed or recorded in any way for the auditory or visual use of the agency. The Comptroller General of the United States concluded in a 1995 decision that on-line databases fall under the definition of section 3324(d)(2), acceptable charges for advance payments. Therefore, the advance payments were made consistent with Federal law. Although the payments did not violate Federal law or regulation, the OIG suggests a further analysis by management is warranted to determine whether the Westlaw advance payments are in the best interest of the FEC and the Federal government.

According to the Accounting Officer, the FEC chose to pay for Westlaw services in advance to decrease the chance of making a duplicate payment, and because "twelve payments instead of one is not cost-effective from an administrative standpoint." In addition, in FYs 1999 and 2000, the FEC received a 2% cash discount for payment in advance. However, in FY 2001, the FEC did not receive a cash discount, but did pay in advance.

According to the Accounting Officer, a more favorable rate was obtained for FY 2001 in which the cash discount was not available. In addition, the OGC asserted that the FEC negotiated access to additional Westlaw databases in lieu of a 2% discount for advance payment, an arrangement the OGC believed to be advantageous. However, the OIG found no evidence based on written documentation provided by the Library Office or obtained from the Westlaw vendor to indicate the more favorable rate or added Westlaw services were based on a requirement that payment be made in advance. The vendor informed the OIG that the FEC had the option in FY 2001 to pay in advance, or on a monthly basis. Obviously, from the vendor's business standpoint, it is preferable to receive the payment in advance.

The Department of Treasury, Financial Management Service's supplement to the Treasury Financial Manual titled: "Cash Management Made Easy," provides guidance to Federal agencies on cash management. Proper cash management by the Federal government results in the reduction of Federal borrowing, and savings of interest on Government funds. The guidance provides that Federal agencies must process payments of government obligations in a timely manner, neither early nor late.

The OIG agrees with the general concept of the administrative burden on processing twelve payments rather than one and the avoidance of duplicate payments. However; in the case of the FY 2001 payment, where no cash discount was provided for the advance payment, and considering the significant amount of the payment (\$130,608), the OIG suggests further analysis by management on whether this practice is advantageous to the government. In addition, implementation of a process to lessen the likelihood of duplicate payments will alleviate one of the two reasons given by the Accounting Office for the advance payments.