October 14, 2014

MEMORANDUM

TO: Edith Ramirez
             Chairwoman, Federal Trade Commission

FROM: Kelly C. Tshibaka
             Acting Inspector General

SUBJECT: FY 2014 FTC Management Challenges

The *Reports Consolidation Act of 2000* requires that the Inspector General provide a summary of our perspective on the most serious management and performance challenges facing the agency and a brief assessment of the agency's progress in addressing those challenges. The management challenges in this document are based on work conducted by the Office of Inspector General (OIG) and discussions with senior leaders at the Federal Trade Commission (FTC).

We highlight the following as the most significant challenges facing the FTC:
- Securing the Agency's Information Systems and Networks from Destruction, Data Loss, or Compromise
- Leveraging the Value of Investments and Work Performed
- Recruitment, Retention, and Staff Size
- Ensuring Compliance with Digital Records Management Requirements

These challenges do not reflect areas in which the FTC is failing; rather, they represent opportunities for mission advancement. Some of these challenges will always exist and require the agency's continued attention. Others are a priority for this time in the agency's development, but may become less of a priority in the future. For example, last year the OIG identified "Consolidating satellite offices into the Constitution Center" as a top management challenge. This year, however, we have not included any aspects of the move to Constitution Center in the Management Challenges because the FTC did a remarkable job of accomplishing that consolidation on time and within budget.

The FTC has made progress in addressing each of these challenges in FY 2014. As the FTC continues to focus energy and resources on addressing these challenges, it will significantly enhance its performance and success.

The attached document provides the rationale for our assessment. We provided a draft of our assessment to management and its comments are incorporated into the section headings "Agency Progress in Addressing the Challenge."

We appreciate the ongoing support the OIG receives from agency leadership and will continue to work with you in addressing these and other challenges the FTC faces in achieving its mission.

Attachment

1. **Securing the Agency's Information Systems and Networks from Destruction, Data Loss, or Compromise**

The Federal Trade Commission (FTC) Office of Inspector General (OIG) conducts annual Federal Information Security Management Act (FISMA) reviews, which evaluate the effectiveness of FTC information security and privacy programs. While the OIG has found the FTC to be in substantial compliance with FISMA and other applicable privacy and security requirements, the ability to protect information assets is a complex challenge for the FTC.

In an environment where technology is changing at an increasing rate, the FTC faces emerging vulnerabilities as it integrates new technologies (e.g., cloud and mobile computing) into its Information Technology (IT) infrastructure, encounters changing and pervasive threats, and is targeted by individuals incentivized to disrupt or compromise its operations. In addition, guidance for federal agencies has become more flexible, which allows agencies to tailor information protection solutions specific to their needs, but provides less direction as to what solutions are effective.

The information security and privacy environment is fluid and ever-changing, which means it will pose a constant challenge for the FTC. In addition to an ever-changing environment, the FTC experienced obstacles to its efforts to improve the information security and privacy programs when senior management turned over (the Executive Director and Chief Information Officer retired), and when the FTC consolidated its two Washington, D.C. satellite offices into one location at Constitution Center. The FTC's reactive security measures were strong during these disruptions, but heavily relied on the workforce to maintain information security and privacy programs. Developing more mature information processes will ensure that the FTC security and privacy programs continue to provide high levels of protection for FTC information assets, but with less workforce stress, greater operational consistency, and improved security.

<u>Agency Progress in Addressing the Challenge</u>

The OCIO and the Chief Privacy Officer (CPO) continue to work with FTC system owners and managers to ensure that information security and privacy requirements are identified, documented, communicated appropriately, and incorporated into the design and implementation of each system. System owners and managers are reminded that periodic test and evaluation of information security and privacy controls is necessary to ensure effective implementation and operation of those controls. They are also reminded that maintaining and, as necessary, updating the corresponding information security and privacy documentation (such as system security plans and Privacy Impact Assessments) is a pre-requisite to issuance and retention of the system's authorization to operate. OCIO staff, along with the Office of General Counsel staff and

the CPO, continue to meet with system owners to make sure that contract language addresses information security and privacy controls and related FTC practices and procedures, including continuous monitoring, so that Contracting Officer Representatives (CORs) can manage and assist in evaluating the compliance of contractor-hosted systems and services. As the OCIO and the CPO continue to work closely to implement and coordinate privacy controls with information security controls, as required by NIST Special Publication 800-53 rev. 4, the FTC will continue to develop and improve its risk-based assessments of information security and privacy as new technologies are integrated into the FTC infrastructure.

Related to the implementation and coordination of controls, in FY 2014 the FTC launched a process improvement initiative to track and monitor the agency's open audit findings and recommendations through a data-driven monthly review process. Management officials report on the status and progress of their items to senior management, and FMO ensures that relevant documentation is gathered and maintained in a limited-access reporting tool. This regular review process strengthens the agency's internal controls and enhances transparency of operations.

Also in FY 2014, the FTC consolidated its satellite offices into the newly renovated Constitution Center and the FTC Headquarters building. The OCIO relocated select IT services and applications previously hosted in the New Jersey and Headquarters buildings, to the Constitution Center, consolidating applications and services in proximity of the user and to provide for future expansion. The move also allowed OCIO to upgrade and replace aging infrastructure components with newer, more secure products with better performance including replacing the agency's firewall infrastructure and upgrading equipment in the OCIO's Acceptance Testing and Development environments. In FY 2015 and FY 2016, the OCIO will continue to replace and upgrade aging infrastructure equipment and operating systems to decrease risk of system failure and security vulnerabilities.

The control of IT assets during the move to Constitution Center was critical, and included the movement of desktop equipment (e.g., laptops, workstations, telephones, TVs, and computer monitors) for over 700 FTC staff, as well as all network (data center) and audio/video equipment (e.g., servers, switches, routers, storage, cameras, VTCs). The IT Asset Management Team performed a full physical inventory of all assets moved and coordinated with system administrators to decommission and dispose of assets that were deemed "end of life". In FY 2015 and FY 2016, the IT Asset Management Team will continue to refine policy and procedure, formalize reporting and statistical sampling requirements, and incorporate a variety of electronic tools to assist with mandatory inventory requirements.

In FY 2015 and FY 2016, the FTC will begin to move select core IT services to the cloud to improve service offerings and resolve outstanding security vulnerabilities. The FTC recognizes the need to improve the availability of core IT services in a secure and cost effective manner. As part of the evaluation of potential cloud service offerings, the FTC has utilized the standards set forth by the Federal Risk Authorization and Management Program (FedRAMP) to ensure the most stringent security measures are in place to protect agency data. The use of cloud services will also decrease risk of data loss and service interruption if the FTC's main data center is unavailable.

2. Leveraging the Value of Investments and Work Performed

The FTC must make effective use of limited resources by targeting its law enforcement and education efforts to maximize its desired outcome to protect consumers and promote competition. A complex marketplace, ever-evolving fraud schemes, declining budgets, and increasing workloads require continuous reassessment of management practices in achieving that objective.

The OIG performed an evaluation of the FTC's Bureau of Consumer Protection's (BCP) enforcement and non-enforcement strategies, goals, policies and procedures. This evaluation found that the BCP's strategic planning is a best practice in comparison to other agencies the OIG examined. This evaluation also identified opportunities, including better leveraging the value of investments and work performed, that could further maximize consumer protection and enhance an already strategic and successful program. While the review only looked at the BCP, we believe that leveraging the value of investments and work performed is a challenge across the FTC.

For example, the FTC has a Management Data Dashboard (MDD) that provides financial reports and certain information on staff activity, matters management, etc. While the evolution of the MDD is headed in the right direction, the data collected is from disparate systems that are not integrated to provide agency leaders with a broad perspective on the status of their operations. Integrated data on costs would better equip agency leadership to plan and monitor its work. When data management systems are not integrated and compatible, excessive use of resources and inconsistent analysis of program results can occur. In order to make informed decisions and ensure accountability, the FTC needs data management systems that can generate timely, accurate, and useful information.

Agency Progress in Addressing the Challenge

Given the breadth of the agency's jurisdiction, it is essential for the FTC to target its enforcement and education efforts to achieve the agency's goals and maximize results. As the OIG noted, BCP, as an example, conducts strategic planning to identify priority areas and to focus its resources. BCP also takes steps to leverage the value of its investments and the work it performs. With respect to enforcement actions, one of BCP's largest investments is its Consumer Sentinel database of consumer complaints. BCP uses this database to help target and develop its cases. BCP is implementing several OIG recommendations from the OIG's recent evaluation to ensure that it is maximizing the value of its investment. With respect to educational efforts, BCP leverages its resources and the work it performs by partnering with other governmental and non-governmental organizations. These organizations are well placed to get the information that the FTC produces into the hands of the people or businesses that need it. For example, in the three months since the FTC launched *Pass It On* – its paradigm-shifting campaign to educate older Americans about fraud – organizations in all 50 states ordered 500,000 copies of the materials. These organizations include state departments of aging, individual residential centers, banks, libraries, and social services agencies – each of whom have relationships with older consumers and can distribute the materials directly to them.

In regard to the Management Data Dashboard (MDD), the OCIO continues to work with bureaus and offices to develop MDD as the agency's management information analysis and decision support system. Since February 2012, MDD has provided increasingly more matter, staff activity and financial information, reports and dashboards to BCP, BC and BE to enable various types of operations analysis and decision making. For example, in FY 2012, MDD integrated matter information from several disparate agency matter and matter event tracking systems and provided bureau managers with a full view of many stages of a case, such as investigation, consent negotiation, court litigation, administrative adjudication, order compliance and consumer redress. MDD integrates staff hours information with matter information and enables managers to analyze resource allocation by matter, by program, by topic, by issue, etc. MDD also enables managers to receive periodic email notification of matter events such as issuance of subpoenas and Civil Investigative Demands. In FY 2013, MDD integrated official commission document information into the system, enabling bureau managers to search and retrieve commission documents based on a wealth of matter and program information, in addition to document metadata.

In FY 2014, MDD integrated FTC core financial transaction data into the system and enabled bureau managers to analyze their respective organization's status of funds and spending categories. In September 2014, MDD further integrated detailed stenographic service and litigation support cost data into the system. For example, bureau managers are able to analyze different types of costs (expert witness, court reporting, litigation support, travel, etc.) associated with a particular enforcement actions, determine the average cost of matters within a particular program, and many other analysis scenarios that leverage integrated matter, staff activity and cost data. In FY 2015, MDD will expand to provide financial reporting and analytics to FTC non-bureau offices such as OIA, OPP, and OED. The MDD team will also continue to work with the three Bureaus in FY 2015 to enhance bureau reports and dashboards to make them more intuitive and relevant to specific management decision-making.

3. **Recruitment, Retention, and Staff Size**

The FTC has a productive workforce replete with high performers. While it achieves impressive accomplishments for its size, it faces challenges in recruitment and retention in mission support areas, and having enough positions (Full Time Equivalents) across the FTC to perform its mission. The FTC has managed this challenge by triaging its projects and by relying on high performing employees and contractor support. This works as a short-term solution, but it is not sustainable long-term and it comes at the cost of mission effectiveness.

The area in which the FTC most experienced this challenge in FY 2014 is the Office of the Executive Director (OED). The OED provides critical mission support services for the FTC, including facilities, security, budget, acquisitions, human resources, information technology, and records management. When OED key positions are vacant, or when it does not have the human resources it needs to operate effectively and efficiently, the whole agency is detrimentally affected. While the FTC consistently is rated one of the best places to work in the government,

the FTC has experienced difficulty recruiting and retaining highly qualified individuals in some OED positions.

Agency Progress in Addressing the Challenge

The FTC is committed to maintaining its high performance standards in protecting American consumers and remaining among the best places to work by developing strategies that address our recruitment, retention, and staff size challenges.

The FTC continues to recruit highly talented individuals into our workforce. Last winter, the agency opened a buy out and early-out window as one means to reshape the workforce, reduce skills gaps, and recruit individuals with the right skills to meet our mission. Twenty-one employees accepted our offer and left in early January. While in the short-term the loss of these employees required the agency to triage projects or use contractor support, in the long-term the agency is hiring individuals with the skills necessary for mission accomplishment now and in the future. This phenomenon was particularly acute in the Office of the Executive Director in which half of its leadership team retired in January 2013, including the Executive Director. The new Executive Director who came on board in late summer 2013 has made it a priority to fill all key OED positions, which will be accomplished in the very near future. To retain talented staff, the agency established a workforce flexibility team in FY 2014 to create a vision for future workplace initiatives. The FTC will continue to provide family friendly benefits for employees in balancing work and life issues and annually assess employee satisfaction to meet our recruitment and retention challenges. In FY 2014, the agency undertook an analysis of the use of full-time equivalents (FTEs) that assessed high priority program requirements and funding sources available to determine if any plus up of authorized FTE could be supported. Based on this analysis, an additional ten FTE were allocated across the agency to support long-term mission accomplishment. The agency will assess and adjust this decision in FY 2015 and beyond.

4. **Ensuring Compliance with Digital Records Management Requirements**

In November 2011, President Obama signed a Presidential Memorandum, *Managing Government Records*, instituting a government-wide effort to reform records management policies and practices. In August 2012, the Office of Management and Budget and the National Archives and Records Administration issued a "Managing Government Records Directive" that requires agencies to eliminate paper and use electronic recordkeeping to the greatest extent possible. This Directive requires the FTC to make several transitions in its records management processes, including managing both permanent and temporary email records in an accessible electronic format by December 31, 2016.

The FTC already has begun efforts to fully comply with the OMB directive and other legal requirements regarding electronic recordkeeping. The transition to digital records management will require the FTC's continued focus in FY 2015.

Agency Progress in Addressing the Challenge

As noted above, the National Archives and Records Administration (NARA) approved a new comprehensive records retention schedule for the FTC in 2012. This new records retention schedule is media neutral and thus gives the FTC the legal authority to maintain its federal records in electronic format. The transition to maintaining agency records in electronic format is well underway. FTC staff currently store and access electronic information in shared network drives, following the FTC's Shared Network Space policy that was established in 2006. This policy establishes a high-level folder structure and enhances the ability to control access privileges to information. In 2013, FTC's Records and Filings Office (RFO) issued guidance to agency staff that federal records—including email records--can be stored on shared drives as part of the matter file. Use of shared drives to store records is consistent with the agency's business process and with NARA Bulletin 2012-02 (December 6, 2011), on "Guidance on Managing Content on Shared Drives."

As part of the transition to maintaining agency records in electronic format, the FTC continues to use our Electronic Recordkeeping Certification Review (ERCR) process to evaluate recordkeeping requirements for existing and new systems. RFO has certified two systems to house permanent electronic records -- the Matter Management System 2 and the E-Filing system -- for public filings in FTC administrative litigation. In FY 2015, RFO is enhancing the E-Filing system to include electronic service of filings by the parties and an electronic docket of public filings that will accessible by the parties, as well as expanding the system to include non-public filings. These enhancements will make the FTC administrative litigation process and its official records virtually fully electronic.

FTC plans to utilize an Enterprise Content Management System (ECMS) to maintain agency records in electronic format for the required retention period and to transfer permanent agency records to NARA. RFO is working with agency stakeholders to develop information governance for FTC records. This includes taxonomy, common vocabulary, access controls, and retention triggers. FTC plans to incorporate the management of email records in the ECMS. In FY 2015, the agency will develop its strategic plan for transition to an ECMS, as part of FTC's overall IT modernization strategy.