



Office of Inspector General

U.S. Consumer Product Safety Commission

Audit of the CPSC's Grants Program

September 25, 2020

20-A-06

Vision Statement

We are agents of positive change striving for continuous improvements in our agency's management and program operations, as well as within the Office of Inspector General.

Statement of Principles

We will:

Work with the Commission and the Congress to improve program management.

Maximize the positive impact and ensure the independence and objectivity of our audits, investigations, and other reviews.

Use our investigations and other reviews to increase government integrity and recommend improved systems to prevent fraud, waste, and abuse.

Be innovative, question existing procedures, and suggest improvements.

Build relationships with program managers based on a shared commitment to improving program operations and effectiveness.

Strive to continually improve the quality and usefulness of our products.

Work together to address government-wide issues.



September 25, 2020

TO: Robert S. Adler, Acting Chairman
Elliot F. Kaye, Commissioner
Dana Baiocco, Commissioner
Peter A. Feldman, Commissioner

FROM: Christopher W. Dentel, Inspector General *Christopher W. Dentel*

SUBJECT: Audit of the CPSC's Grants Program

I am pleased to present this report containing the results of our Audit of the U.S. Consumer Product Safety Commission's (CPSC) Grants Program.

We conducted this audit in accordance with generally accepted government auditing standards. The objectives of this audit were to assess agency compliance with the laws and regulations that govern the Pool Safety Grants Program (PSGP), the overall effectiveness of the PSGP, the adequacy of the PSGP's internal control environment, and management's monitoring and administration of the program. Overall, we found that the CPSC's Grants Program does not fully comply with either government-wide grant requirements or its own procedures and there was limited oversight of the grants management program. In addition, there was insufficient oversight of the grant selection process, inadequate monitoring of grantees, and poor control over grant related spending. We note that since September 2018, the program has remained in one office, staffing is stable, and progress has begun on some of the issues we identify in this report.

We make 22 recommendations which, when implemented, will provide management the tools to improve internal controls over the PSGP and provide a more effective program.

In the next 30 calendar days, in accordance with Office of Management and Budget Circular A-50, the CPSC is required to provide me with management's Corrective Action Plan describing the specific actions they anticipate taking to implement each recommendation.

Thank you for the courtesy and cooperation extended to my staff during this audit.



Audit of the CPSC's Grants Program Summary

September 25, 2020

Objectives:

The objectives of this audit were to assess agency compliance with the laws and regulations that govern the *Pool Safety* Grants Program (PSGP), the overall effectiveness of the PSGP, the adequacy of the PSGP's internal control environment, and management's monitoring and administration of the program.

Background:

The CPSC is an independent federal regulatory agency with a public health and safety mission to protect the public from unreasonable risks of injury and death from consumer products.

The goal of the Virginia Graeme Baker Pool and Spa Safety Act (VGB Act), enacted on December 19, 2007, is to "improve pool and spa safety through the use of anti-entrapment devices and to encourage State adoption of minimum mandatory swimming pool and spa safety laws." The VGB Act includes a grants program, referred to as the PSGP, where at least 50 percent of grant funds must be used to hire and train enforcement personnel. The rest may be used for education related to drain cover safety and administration of the training and education program.

Grants must be administered in accordance with government-wide guidance and any grant-specific conditions defined by the CPSC. The VGB Act grants are the first grants the CPSC ever administered. During the audit period the CPSC awarded ten grants. The first five grants were awarded in December 2016 for \$781,536. The second five grants were made in September 2018 for \$940,548.

For most of the period under review, October 1, 2014, to September 30, 2018, the CPSC did not have a grants management specialist. At various times, three different offices had responsibility for the grants program. The program began in the Office of Communications in 2014 and early in 2018 some of the functions moved to the Office of Executive Director. Later that year, the program moved again to the Division of Procurement Services when a new grants management specialist was hired.

The report addresses:

CPSC Strategic Goal #3

Respond quickly to address hazardous consumer products both in the marketplace and with consumers

OIG Management Challenge #2:

Adequacy of Internal Controls

Findings:

Overall, we found that the CPSC's Grants Program does not fully comply with government-wide grant requirements and its own procedures. As a result, we find that, during the period under review, the program was not effective.

The selection committee did not consistently follow its own guidelines in reviewing and scoring applications. In three cases the applications were incorrectly scored which led to one ineligible grantee receiving an award. The CPSC did not effectively monitor the grants after award. They did not require the use of mandated reporting forms and did not consistently confirm the accuracy of grantee reports.

During the initial award process, as well as at later points, potential grantees raised questions about possible uses of grant funding. Grant staff initially did not seek a legal interpretation from the CPSC's Office of General Counsel but instead, incorrectly, relied on their own judgement when responding to applicant queries.

Because the grants program lacked dedicated staff and a permanent organizational "home," the program lacked adequate oversight and an effective control environment. Further, the CPSC has not adequately tracked internal costs associated with administering the program.

Finally, CPSC staff did not accurately report grant information in government-wide reporting systems as required by law, thus hindering oversight by Congress and the American people.

Recommendations:

This report makes 22 recommendations to improve the grants program. When implemented, these recommendations will improve the CPSC's compliance with federal laws and regulations and improve transparency over the use of VGB Act funds.

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Abbreviations and Short Titles

Commission	U.S. Consumer Product Safety Commission
CPSC	U.S. Consumer Product Safety Commission
FOA	Funding Opportunity Announcement
FY	Fiscal Year
IAA	Interagency Agreement
MIS	Management Information System
NOA	Notice of Award
OIG	Office of Inspector General
OGC	Office of General Counsel
OMB	Office of Management and Budget
ORC	Objective Review Committee
PSGP	<i>Pool Safely</i> Grant Program
Uniform Guidance	Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
VGB Act	Virginia Graeme Baker Pool and Spa Safety Act

Objectives

The objectives of this audit were to assess agency compliance with the laws and regulations that govern the *Pool Safety* Grants Program (PSGP), the overall effectiveness of the PSGP, the adequacy of the PSGP's internal control environment, and management's monitoring and administration of the program.

Background

The U.S. Consumer Product Safety Commission (Commission or CPSC) is an independent federal regulatory agency created in 1972 by the Consumer Product Safety Act which was amended in 2008 by the Consumer Product Safety Improvement Act. The CPSC has a public health and safety mission to protect the public from unreasonable risks of injury and death from consumer products. The CPSC administers other laws related to consumer safety including the Virginia Graeme Baker Pool and Spa Safety Act (VGB Act). The VGB Act was enacted on December 19, 2007, to:

...improve pool and spa safety through the use of anti-entrapment devices and to encourage State adoption of minimum mandatory swimming pool and spa safety laws.

The VGB Act includes a grants program to assist states in enforcing provisions of state laws that meet the safety provisions of section 1406 of the VGB Act and educate affected parties about the law. These grants are made available under the PSGP. At least 50 percent of each grant's funds must be used to hire and train enforcement personnel. The remainder can be used to educate pool construction and installation companies as well as pool owners, pool operators, and other members of the public about the safety standards in the VGB Act. Grant funds can also be used to cover administrative costs associated with all training and education programs.

According to the CPSC, the VGB Act, as originally drafted, presented challenges to potential awardees which prevented them from qualifying for a VGB Act grant. The biggest challenge was the requirement that grants could only be made to jurisdictions where "state law" addressed the requirements of the VGB Act. However, states generally address pool safety through local ordinance, or adoption of national codes, not state law. The VGB Act was amended to address these challenges in December 2014. Once this change was made to the VGB Act, the CPSC promptly began to work on the Funding Opportunity Announcement (FOA) package and began the process of awarding grants.

All federal grants to non-federal entities must comply with *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, 2 CFR § 200 (Uniform Guidance). This Uniform Guidance is the authoritative set of rules and requirements for federal agencies and their non-federal grantees. It provides a government-wide framework for grants management that is meant to streamline the grant issuance process with a goal of reducing the administrative burden for awardees and reducing the potential for fraud, waste, and abuse. This guidance also lays the groundwork for federal agencies to standardize the processing of data and clarifies the cost reporting guidelines for award recipients.

In addition, the Office of Management and Budget (OMB) created standardized forms and reports for the use by grantees and federal agencies in order to reduce the administrative burden required to create and maintain agency-specific forms and to ensure consistency in grant reporting. All federal grantors must require recipients to use the OMB-approved forms for monitoring grant performance.

Grants are generally awarded, monitored, and closed out according to widely-used processes and templates. The CPSC prepares an FOA from a standard template to inform potential grantees of the availability of funds. Once proposals are received the CPSC convenes an Objective Review Committee (ORC) to review and rate proposals against criteria in the VGB Act and the FOA. The ORC then forwards the results of its evaluation to the agency to award funds. Once the award decisions are made, grants staff prepare a Notice of Award (NOA) and inputs the award information into GrantSolutions and USAspending.gov. Agency staff then monitors the use of funds and overall grantee compliance with the terms of the award until the grant is ready for closeout. During the closeout process agencies confirm that all applicable administrative actions and all required work associated with the award have been completed.

Pool Safely Grants

As the CPSC prepared to issue its first grants, they needed to select one of the federally-approved grant tracking solutions.¹ Therefore, the CPSC established an Interagency Agreement (IAA) with Denali Commission which provided them access to GrantSolutions. As part of this IAA, Denali Commission, an experienced grant-making agency, also assists the CPSC with the administration of the PSGP.

Initially, the day-to-day management of the VGB Act grants program was to be handled by a CPSC grants management specialist, with additional technical

¹ <https://www.grants.gov/learn-grants/grant-systems.html>

assistance provided by Denali Commission staff; however, this has not always been the case.

The grants program has had turnover both in terms of its staffing and the CPSC office charged with primary responsibility for its management. This history is shown below beginning in Fiscal Year (FY) 2014.

Table 1: Key Events in the CPSC’s Grants Program FY 2014 – FY 2018

Date	Event
October 2014	First grants management specialist hired in Office of Communications
May 2015	First Funding Opportunity Announcement
December 2015	First awards made
August 2016	First grants management specialist left
November 2017 – March 2018	First three grants closed out
January 2018	Second Funding Opportunity Announcement
April 2018	Grants program transferred to Office of Executive Director
August 2018	Fourth grant closed out
September 2018	Second grants management specialist hired and program moved to the Office of Procurement
September 2018	Second awards made

Source: Office of Inspector General (OIG) summary of CPSC information

From August 2016 until September 2018, grants management was treated as a collateral duty for staff who had no formal training in grants management. This lack of trained personnel dedicated to performing grant management tasks may have contributed to the CPSC’s non-compliance with Uniform Guidance requirements and many of the findings discussed below.

Despite these challenges, during the period under audit, CPSC awarded 10 individual grants for \$1,722,084 through two FOAs to eight individual grantees.

Table 2: Grants Awarded During the Audit Period

FY 2016 awards - December 2015	
Grantee	Award Amount
Grantee 1	\$74,973.00
Grantee 2	\$170,250.00
Grantee 3	\$250,000.00
Grantee 4	\$155,061.00
Grantee 5	\$131,252.00
Total awards in FY 2016	\$781,536.00

FY 2018 awards - September 2018	
Grantee	Award Amount
Grantee 1	\$152,000.00
Grantee 2	\$106,202.00
Grantee 6	\$182,388.00
Grantee 7	\$249,958.00
Grantee 8	\$250,000.00
Total awards in FY 2018	\$940,548.00

Source: OIG summary of CPSC information

Findings

Overall, we found that the CPSC's Grants Program does not fully comply with government-wide grant requirements and its own procedures. The grants program policies and procedures are lacking, there was limited oversight of staff performing grants management duties, significant turnover among grants management staff, and the program migrated among several offices during the audit period. In addition, there was a lack of due diligence around the grantee selection process, an insufficient monitoring of grantees during the period of grant award, and poor controls over grants administration and grant related spending. As a result, we find that during our period of review, the PSGP was not effective. We note that since September 2018, the program has remained in one office, staffing is stable, and progress has begun on some of the issues we identify in this report.

Finding 1: Incompetent Grantee Selection Process

In order to receive an award, an applicant must meet the terms of eligibility as spelled out in the FOA. The FOA noted "applications will be independently reviewed and rated by an ORC panel" comprised of "federal employees qualified by training and experience in particular fields or disciplines related to the VGB Act." In practice there was a two-step review process. First, each participating ORC member individually assessed each application. Then the ORC met as a body to develop a final consensus score based on the merits of each application. Applications receiving a consensus score of 70 or more were then recommended for award to CPSC program officials responsible for final selections.

In addition to specific VGB Act requirements, Uniform Guidance states that "for competitive grants or cooperative agreements, the Federal awarding agency must have in place a framework for evaluating the risks posed by applicants before they receive Federal awards." This risk assessment helps the grantor determine the appropriate level of oversight required to safeguard federal funds.

Another safeguard of federal funds is the Uniform Guidance requirement that the grantor clearly identify reporting requirements sufficient to provide the federal entity with a standard against which grantee performance can be measured.

During a review of the scoring sheets for the 2016 awards, mathematical errors were noted in the scores of three of the five recipients. These errors occurred at both the individual reviewer level as well as the consensus scoring level. In two of the three cases these mathematical errors had no impact on the outcome. However, the third grantee received an average score of 69.75. In

fact, it appears the at least one person was aware of the potential math errors for this particular grantee and asked everyone to “Double check your match[sic].”

Also, as part of the pre-award process, management performed a financial assessment on the selected grantees, categorized grant proposals based on risk, and assigned special conditions accordingly. However, although the CPSC performed risk assessments related to the grantee’s financial condition, they did not apply the results. A low risk grantee, who should have been allowed looser reporting requirements, received the same quarterly reporting requirements as moderate risk awardees.

We also noted that the ORC did not consistently require grant applications to include measurable performance metrics in order to be selected, as required by the Uniform Guidance. Half of the applications approved for award in 2016 and 2018 did not include a clear standard with which management could measure the performance of the award.

This occurred because the CPSC did not provide adequate oversight to the selection process and did not ensure all requisite information was included in the grant applications prior to approval. There was no effective review of the scoring of grant application reviews. Nor did the grants management staff note and use the results of the required financial risk rating when drafting reporting requirements in the NOAs.

This lack of oversight over the award selection process led to a grant being awarded to a grantee which did not meet the minimum eligibility requirements outlined in the FOA. Further, the CPSC’s failure to properly apply the results of its risk assessment resulted in a low risk grantee wasting its resources complying with more time-consuming reporting requirements more appropriate for a medium or high risk grantee. Nor did all grantees provide measurable performance metrics for review.

We recommend management:

1. Implement and document awardee reporting requirements based on the results of the financial risk assessments.
2. Develop, implement, and document a procedure to formally reconcile Objective Review Committee individual scoring documentation to the summary document to identify any transcription and calculation errors prior to awarding a grant.
3. Ensure that the awardee goals, objectives, and performance measures

- approved by the CPSC include measurable standards.
4. Ensure that the CPSC require awardees measure performance against outcomes as well as specific objectives.

Finding 2: Ineffective Monitoring Of Grantees' Performance

Each agency that awards and administers grants is required to implement the Uniform Guidance, the government-wide authoritative source for grants management guidance. This guidance includes many provisions to help federal agencies effectively monitor their grants. Among the many provisions are those directing federal agency grants management staff to:

- require the recipient to relate financial data to performance accomplishments of the federal award
- require the recipient to use OMB-approved government-wide standard information collection forms when providing financial and performance information
- require written notification of extensions at least 10 calendar days before the end of the period of performance specified in the federal award
- disapprove an extension merely for the purpose of using unobligated balances
- provide prior approval for changes in the scope or the objective of the project, budget, or key person specified in the grant application or award
- require grantees to charge only allowable costs incurred during the period of performance to an award

According to the VGB Act, at least 50 percent of each grant must be spent on enforcement tasks and no more than 50 percent should be spent on education tasks.

The PSGP FOA required awardees to complete the form described in one of its appendices, in addition to reporting “[o]ther observations or comments regarding success or recommended improvements to the implemented methodology” within 90 days of the end of the project period.

However, the CPSC did not adequately monitor the performance of all grantees. The CPSC did not consistently:

- require grantees to relate financial data to performance accomplishments
- require awardees to complete and submit OMB-approved government-wide standard forms when providing financial and performance information

- require written notification from the awardees for extensions at least 10 days before the end of the award’s period of performance
- appropriately approve grant extension requests, instead offering extensions solely to use unobligated balances
- require prior approval for key personnel changes
- review grantee’s financial data and ask for clarification on the errors present in the supporting documentation provided to ensure spending met VGB Act rules
- substantiate that all the award costs were incurred before the conclusion of the grant’s period of performance
- require grantees to submit final programmatic reports in the proper form and within the 90 day window following the end of the period of performance

This occurred because the CPSC did not prioritize monitoring to ensure grantee compliance with administrative requirements and has not dedicated the resources necessary to ensure that all grant monitoring tasks were performed in a consistent, timely, and accurate manner.

As a result of ineffective grant monitoring, taxpayer funds were inappropriately spent. Further, the CPSC was not in compliance with Uniform Guidance. The table below shows the instances of non-compliant payments.

Table 3: Overpayment Summary

Jurisdiction	Overpayment	Cause
Grantee 1	\$15,526.00	inappropriate grant term extension
Grantee 1	\$73.00	exceeded 50% education spending
Grantee 3	\$9,962.60	exceeded 50% education spending
Total Overpayment	\$25,561.60	

Source: OIG analysis of CPSC data

We recommend management:

5. Require awardees to report and relate financial and performance information using Office of Management and Budget-approved government-wide standard forms prior to approving disbursements.
6. Complete and implement grant monitoring policies and procedures which include prior notice and approval requirements for grant changes that are in accordance with Uniform Guidance.
7. Establish a process to thoroughly review financial information provided by grantees to ensure compliance with Virginia Graeme Baker Act requirements before approving payments.
8. Require invoices which include the dates goods and services are provided

for all awards in order to substantiate that all costs were allowable and incurred within the award's Period of Performance.

9. Establish a process to require timely and complete reporting from *Pool Safely* Grant Program awardees. Such a process may include withholding the final award remittance until after all required reports are submitted.

Finding 3: Tardy Request for Legal Opinions

The PSGP grants were issued in accordance with legal criteria in the VGB Act which requires that at least 50 percent of the funds provided to grantees be used to hire and train enforcement personnel for implementation and enforcement of standards under the state's swimming pool and spa safety law. The remaining funds may be used to educate pool construction and installation companies, pool service companies, pool owners, pool operators, and other members of the public about the standards under VGB Act section 1406; and additionally to defray administrative costs associated with such training and education programs.

At the CPSC, the Office of General Counsel (OGC) staff provides legal advice to offices of the Commission on matters of law arising from operations and provides legal review of certain procurement, personnel, and administrative actions.

OGC staff performed a review of the FOAs issued in 2016 and 2018. These FOAs include the text from the law outlining the allowable purposes of the grant funds. However, the initial guidance from the CPSC to grantees and potential grantees concerning appropriate use of grant funds included an additional restriction: grant funds could be used to pay for the hiring process and training of enforcement staff but not their salaries and benefits. This restriction on the use of VGB Act funds was CPSC's grants management staff's interpretation of the law until February 12, 2019. On that date OGC opined that grant funds could be used to pay enforcement staff salaries and benefits.

In addition, it appears that at least two grantees have been allowed to use VGB Act funds to pay for general swimming lessons, a use of the funds that does not appear to be authorized by the VGB Act. There is no evidence that OGC was ever asked to provide a legal opinion on the appropriateness of this use of the funds.

These errors were caused because grants management staff made legal determinations without seeking OGC guidance.

The overly restrictive interpretation of allowable costs may have caused some potential grantees to not apply for VGB Act funds. This misinterpretation impacted grant award selection and spending for both FY 2016 and FY 2018 grants. Additionally, money spent on swimming lessons may have been improper. Between these two issues, goals of the VGB Act may not have been fully met.

As a result, we question the total disbursements of \$1,722,084 for the 2016 and 2018 grants. The term “questioned cost” means a cost that is questioned by the OIG because of an alleged violation of a provision of a law governing the expenditure of funds.

The decision to interpret the grant’s requirements to allow the use of grant funds to pay for swimming lessons, without first seeking legal guidance from OGC, may mean that additional grant funds have been expended improperly leading to a potential Anti-Deficiency Act violation.

We recommend management:

10. Ensure grants management staff obtain timely written opinions from Office of General Counsel staff on issues of legal interpretation.
11. Obtain a written opinion from Office of General Counsel staff on the appropriateness of using VGB Act grant funds to pay for swimming lessons, whether such use violated the Purpose Act and, if a violation of the Purpose Act occurred, whether or not this violation constitutes an Anti-Deficiency Act violation.

Finding 4: Inadequate Grants Program Oversight

Government Accountability Office's *Standards for Internal Control in the Federal Government* requires management to establish an effective control environment to ensure that the organization’s goals and objectives are achieved. Examples of control environment activities include:

- program leadership demonstrating the organization's values, philosophy, and operating style
- overseeing a management structure put in place to provide program supervision
- establishing an organizational structure, delegating authority, assigning responsibility for key roles, and documenting the internal control system
- recruiting, developing, and maintaining key personnel
- holding personnel accountable for actions through performance appraisals

The CPSC did not establish and maintain an effective grants management program during the audit period. There was no actual oversight of the PSGP. CPSC documentation governing the PSGP implementation is unclear regarding who is responsible to provide oversight to the PSGP and, when questioned, management was unable to identify the person responsible for overall program oversight. During the audit period, the PSGP lacked both an official management structure and formal directives. From October 2014 to September 2018 the program has moved between the Office of Communications, Office of Executive Director, and Division of Procurement.

When the CPSC stood up the grants program they hired a grants management specialist who began work in October 2014. This person left the CPSC in August 2016. The replacement grants management specialist was not hired until September 2018. During that more than two year gap the duties of the position were split among staff in multiple offices and were considered a collateral duty. In addition, the staff responsible for the day-to-day operations of the grants program did not have grants duties enumerated in their position descriptions. Therefore, these employees were not formally held accountable for grants duties.

This occurred because the CPSC did not prioritize creating and maintaining an organizational structure to effectively manage this program.

This lack of program control environment led to questioned costs of \$1,722,084 and documented non-compliance with laws and regulations.

We recommend management:

12. Formalize and implement written directives and policies and procedures to govern the *Pool Safely* Grants Program.
13. Identify *Pool Safely* Grants Program roles and responsibilities in the formal directive.
14. Include specific grants governance responsibilities in all position descriptions and performance plans for persons with a role in the *Pool Safely* Grants Program.

Finding 5: Inaccurate Grant Information Reporting

Uniform Guidance requires the CPSC to publish the required grant information on a publicly available OMB-designated government-wide web site (at time of publication www.USAspending.gov).

The CPSC inaccurately reported the dates that the PSGP funds were obligated and de-obligated and misidentified a grantee on USAspending.gov.

This occurred because the CPSC did not adequately review its own reporting on USAspending.gov. Without complete and valid information about the distribution of federal grant funds as shown on USAspending.gov, Congress and the public do not have information needed to engage in effective oversight of federal grants.

We recommend management:

15. Perform a second level review of the *Pool Safely* Grants Program information reported on USAspending.gov and reconcile this information to source documents prior to posting in order to confirm the information's accuracy.

Finding 6: Inadequate Controls Over Costs Related to the Grants Program

Government Accountability Office's *Standards for Internal Control in the Federal Government* recommends that organizations clearly record all transactions and significant events in a manner that allows the documentation to be readily available for review. Further, these same standards require management to obtain quality information from the entity's information system and then use this information to help the agency meet its objectives and report results.

The agency's Management Information System (MIS) was implemented to track the work performed by the CPSC and to facilitate management's accounting of that work. Projects that support the objectives of a program or the goals of the agency as a whole are documented through the use of MIS codes. The MIS project information is then used to monitor the progress against the operating plan, support the budgeting process, and serve other management needs.

The coding described in the MIS manual provides employees with guidance on how to account for their hours. Employees are supposed to input their hours into the CPSC's time and attendance solution, WebTA, with enough precision to permit management to track employee time against specific projects. Managers and supervisors should review MIS reports on a monthly basis to verify staff are coding their time properly and to identify any variances in order to allow management to make the proper adjustments.

In addition to tracking time and the costs of employee salaries and benefits, the MIS coding structure also covers reporting the costs of supplies and services.

The MIS manuals, going back to 2013, identify three project codes related to the VGB Act. While the exact wording of the codes has changed over the years, below is a sample:

22662 – Virginia Graeme Baker Pool and Spa Safety Act (VGB Act) (P.L. 110-140) – Grants Administration – Activities related to implementation of section 1405 (State Swimming Pool Grant Program) of P.L. 110-140. Issue funding opportunity announcement and make grant awards to eligible applicants. Evaluate progress of grant awardees, including appropriate activities, timeline milestones, and results.

32223 - Virginia Graeme Baker Pool and Spa Safety Act (VGB Act) (Pub. L. No. 110-140) – Provides resources for compliance and remediation activities to address risks of drowning and entrapment hazards in pools and spas.

44790 - Virginia Graeme Baker Pool and Spa Safety Act (VGB Act) (Pub. L. No. 110-140) – Project provides resources for the Pool Safely information and education campaign to prevent child drownings and drain entrapments in pools and spas.

The CPSC received two appropriations, the primary appropriation is for general salaries and expenses, the second is specific to VGB Act. Fiscal law requires that when there is more than one available appropriation, an agency must use the more specific appropriation, in this case, VGB Act funds as opposed to the general salaries and expense appropriation for VGB Act activities. Below is the appropriations language for each of the three grant appropriations CPSC received during our audit period. The initial appropriation language for the VGB Grant reads as follows for FY 14:

\$1,000,000 shall remain available until expended to carry out the program required by section 1405 of the Virginia Graeme Baker Pool and Spa Safety Act (Public Law 110–140; 15 U.S.C. 8004).

The FY 17 appropriation language included a modification:

\$1,300,000 shall remain available until expended to carry out the program, including administrative costs, required by section 1405 of the Virginia Graeme Baker Pool and Spa Safety Act

The FY 18 appropriation language essentially mirrored the FY 2017 language:

\$1,100,000 shall remain available until expended to carry out the program, including administrative costs, required by section 1405 of the Virginia Graeme Baker Pool and Spa Safety Act

A review of expenditures charged to the VGB Act codes based on the agency's year end Statement of Net Cost reports for 2013 – 2018 shows total expenditures of \$12,275,041.25. These were charges to the MIS codes identified above, regardless of the source of funds. Most charges were paid for through the CPSC's unrestricted general salaries and expenses funds. Only \$649,142.68 was charged to restricted grant funds.

Table 4: Expenses Charged to VGB Act MIS Codes

Codes	Personnel Costs	Non-personnel Costs	Grants	Total
22662	\$1,985.29	\$88,994.90		\$90,980.19
32223	\$4,184,881.03	\$719,806.85		\$4,904,687.88
44790	\$834,912.27	\$5,795,318.23	\$649,142.68	\$7,279,373.18
Total	\$5,021,778.59	\$6,604,119.98	\$649,142.68	\$12,275,041.25

Source: OIG analysis of CPSC information

When asked to confirm these amounts, the staff in Financial Management, Planning and Budget provided different information. This information, showing expenditures charged to VGB Act grant funds, has the following obligations through the end of budget year 2018:

Contractual expenses	\$152,738
Grants expended	<u>\$781,536</u>
Total	\$934,274

In addition, the CPSC incurred \$279,107 in charges from the Denali Commission for the use of the GrantSolutions system and for grant consulting services. These expenditures were charged to project code 44790 and the general salaries and expense appropriation beginning in 2015 rather than being charged to VGB Act funds. Agency records also show no grants-related personnel costs were charged to the VGB Act even though staff managed VGB Act grant activity during the period. Financial Management, Planning and Budget staff provided estimates for grants-related staff costs of \$224,300 during the years 2015, 2016, and 2018; those costs were charged to general salaries and expenses funds rather than to VGB Act funds.

Additionally, based on conversation with Financial Management, Planning and Budget staff it appears that the difference between the amounts charged to the three VGB Act MIS codes and the amounts attributed to grants expenses largely relates to non-VGB Act activities being charged to the VGB Act MIS codes.

This occurred because the CPSC's cost accounting system and system of internal controls were not sufficiently robust to ensure that charges are made to the proper MIS codes and appropriations.

The CPSC cannot produce accurate records of costs related to the VGB Act. They have not captured the cost of staff time spent administering VGB Act grants and did not appropriately charge all grants-related administrative costs to grant funds. Further, they charged non-VGB Act costs to MIS codes defined for VGB Act activities, thus making it impossible to identify the full extent of CPSC support for the VGB Act. By choosing the more general appropriation when a more specific appropriation was available, there are possible violations of the Purpose Act and the Anti-Deficiency Act.

We recommend management:

16. Improve the VGB Act code definitions in the Management Information System Guide to limit ambiguity and post the updated Management Information System Guide on cpscnet.
17. Provide training on the updated Management Information System Guide to those who are likely to charge their time to VGB Act codes.
18. Enforce the proper coding of time and attendance and other charges related to the VGB Act. For example, Office of Financial Services may require managers and supervisors to demonstrate they are reviewing the monthly reports.
19. Determine what grant costs qualify as administrative costs and charge them to VGB Act funds.
20. Implement a cost accounting methodology to enable the CPSC to more accurately report on the costs associated with the VGB Act.
21. Ensure previous costs related to section 1405 of the VGB Act are charged to the correct appropriation.
22. Have Office of General Counsel provide a written determination of whether there are any Purpose Act or Anti-Deficiency Act violations related to any of the VGB Act administrative expenditures.

Consolidated List of Recommendations

We recommend CPSC Management:

1. Implement and document awardee reporting requirements based on the results of the financial risk assessments.
2. Develop, implement, and document a procedure to formally reconcile Objective Review Committee individual scoring documentation to the summary document to identify any transcription and calculation errors prior to awarding a grant.
3. Ensure that the awardee goals, objectives, and performance measures approved by the CPSC include measurable standards.
4. Ensure that the CPSC require awardees measure performance against outcomes as well as specific objectives.
5. Require awardees to report and relate financial and performance information using Office of Management and Budget-approved government-wide standard forms prior to approving disbursements.
6. Complete and implement grant monitoring policies and procedures which include prior notice and approval requirements for grant changes that are in accordance with Uniform Guidance.
7. Establish a process to thoroughly review financial information provided by grantees to ensure compliance with Virginia Graeme Baker Act requirements before approving payments.
8. Require invoices which include the dates goods and services are provided for all awards in order to substantiate that all costs were allowable and incurred within the award's Period of Performance.
9. Establish a process to require timely and complete reporting from *Pool Safely* Grant Program awardees. Such a process may include withholding the final award remittance until after all required reports are submitted.
10. Ensure grants management staff obtain timely written opinions from Office of General Counsel staff on issues of legal interpretation.
11. Obtain a written opinion from Office of General Counsel staff on the appropriateness of using VGB Act grant funds to pay for swimming lessons, whether such use violated the Purpose Act and, if a violation of the Purpose Act occurred, whether or not this violation constitutes an Anti-Deficiency Act violation.
12. Formalize and implement written directives and policies and procedures to govern the *Pool Safely* Grants Program.
13. Identify *Pool Safely* Grants Program roles and responsibilities in the formal directive.
14. Include specific grants governance responsibilities in all position descriptions and performance plans for persons with a role in the *Pool*

Safely Grants Program.

15. Perform a second level review of the *Pool Safely Grants Program* information reported on USAspending.gov and reconcile this information to source documents prior to posting in order to confirm the information's accuracy.
16. Improve the VGB Act code definitions in the Management Information System Guide to limit ambiguity and post the updated Management Information System Guide on cpscnet.
17. Provide training on the updated Management Information System Guide to those who are likely to charge their time to VGB Act codes.
18. Enforce the proper coding of time and attendance and other charges related to the VGB Act. For example, Office of Financial Services may require managers and supervisors to demonstrate they are reviewing the monthly reports.
19. Determine what grant costs qualify as administrative costs and charge them VGB Act funds.
20. Implement a cost accounting methodology to enable the CPSC to more accurately report on the costs associated with the VGB Act.
21. Ensure previous costs related to section 1405 of the VGB Act are charged to the correct appropriation.
22. Have Office of General Counsel provide a written determination of whether there are any Purpose Act or Anti-Deficiency Act violations related to any of the VGB Act administrative expenditures.

Appendix A: Scope and Methodology

Scope

All PSGP grants issued during the period from October 1, 2014, to September 30, 2018, and activities during this four year period related to issuing, monitoring, reporting on, and closing out grants.

Methodology

To accomplish the objectives of this audit, we reviewed and gained an understanding of the following criteria:

- Virginia Graeme Baker Pool and Spa Safety Act, Pub. L. No. 110-140, as amended
- *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, 2 CFR § 200
- Government Accountability Office, *Standards of Internal Control in the Federal Government*
- Grants Oversight and New Efficiency Act, Pub. L. No. 114–117
- Digital Accountability and Transparency Act of 2014, Pub. L. No. 113-101
- OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*
- PSGP policies, procedures, funding announcements, and grant agreements

Additionally, we:

- confirmed with OIG investigative staff that there were no allegations or investigations involving the grants program
- interviewed the CPSC and Denali Commission personnel responsible for program management and oversight to gain an understanding of the program
- interviewed grantee staff to gain an understanding of their views of the program
- reperformed calculations related to ORC scoring and grantee expenditure reports to confirm their accuracy and compliance with evaluation scoring criteria and grant requirements
- compared FOA and NOA documentation to Uniform Guidance to confirm they included all required elements
- compared USAspending.gov grant data to source documents

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix B: Internal Controls Summary

The Government Accountability Office, *Standards of Internal Control in the Federal Government*, is the primary criteria used for internal control testing purposes. These criteria are the standard that federal agencies must follow to maintain effective internal controls for both financial and non-financial programs. Internal control is a process used by management to help a program achieve its goals. Below are the results of the internal control assessment for the grants program according to the 5 internal control components and 17 principles.

Table 5: Results of Internal Control Review

Ref	Internal Control Components and Principles	Met	Partially Met	Not Met
<i>Control Environment</i>				
1	The oversight body and management should demonstrate a commitment to integrity and ethical values			x
2	The oversight body should oversee the entity's internal control system			x
3	Management should establish an organizational structure, assign responsibilities, and delegate authority to achieve the entity's objectives.			x
4	Management should demonstrate a commitment to recruit, develop and retain competent individuals			x
5	Management should evaluate performance and hold individuals accountable for their internal control responsibilities.			x
<i>Risk Assessment</i>				
6	Management should define objectives clearly to enable the identification of risks and define risk tolerances			x
7	Management should identify, analyze and respond to risks related to achieving the defined objectives.			x
8	Management should consider the potential for fraud when identifying, analyzing and responding to risks			x
9	Management should identify, analyze and respond to significant changes that could impact the internal control system.			x
<i>Control Activities</i>				
10	Management should design control activities to achieve objectives and respond to risks			x
11	Management should design the entity's information system and related control activities to achieve objectives and respond to risks			x
12	Management should implement control activities through policies			x
<i>Information and Communication</i>				
13	Management should use quality information to achieve the entity's objectives.			x
14	Management should internally communicate the necessary quality information to achieve the entity's objectives.			x
15	Management should externally communicate the necessary quality information to achieve the entity's objectives.			x
<i>Monitoring</i>				
16	Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.			x
17	Management should remediate identified internal control deficiencies on a timely basis.			x
Source: CPSC OIG analysis based on interviews and document reviews.				

Appendix C: Agency Response

Finding 1:

Management generally concurs that CPSC did not have adequate procedures and controls in place for the grantee selection process. CPSC is taking steps to implement remedial measures consistent with the recommendations above to address such deficiencies. With respect to Recommendation #1, CPSC will evaluate whether to modify reporting requirements for grantees in recognition of financial risk, and more generally in light of changes to the Uniform Guidance that take effect in November 2020. As for the effect of the Notice of Finding and Recommendation CPSC Grants Program inadequate procedures and controls, without additional review of the facts and a corresponding legal analysis, management does not have sufficient information at this time to determine whether there was a material impact on the outcome of the awards process. Accordingly, management will seek legal review of these issues.

Finding 2:

Management agrees that the CPSC did not adequately monitor the performance of all grantees. Management is taking steps to remediate monitoring deficiencies in keeping with the recommendations in this audit. As for the specific finding of overpayment set forth above, management does not have sufficient information at this time to conclude whether any overpayment occurred. Accordingly, management is seeking legal review of the facts and circumstances associated with payments made for grants under review in this audit and any potential legal issues associated with these payments.

Finding 3:

Management concurs that the grants management staff should seek timely advice on issues of legal interpretation. Accordingly, management will seek legal review for the 2016 and 2018 grants to confirm they were awarded in accordance with the OGC guidance in place at the time of the awards. In addition, management is seeking advice from its Office of General Counsel on the appropriateness of using VGB Act grant funds to pay for swimming lessons, whether such use violated the Purpose Act and, if so, whether it would constitute an Anti-Deficiency Act violation.

Finding 4:

Management generally concurs that the PSPG program had insufficient management structure and lacked formal directives. Management has already taken steps to address these issues, including taking steps to formalize and implement written directives and clearly identify roles and responsibilities. With respect to the specific questioned costs, CPSC needs additional information to evaluate the presented rationale and conclusion and is, accordingly, seeking legal review of these issues.

Finding 5:

Management concurs that the CPSC did not adequately review information on USAspending.gov for the grants subject to this audit. CPSC has subsequently implemented measures, including second level review, to ensure that posted information is accurate. These procedures will be memorialized in SOPs.

Finding 6:

Management concurs with all of the recommendations. Management notes that CPSC had in place, and continues to have in place, an appropriate cost accounting system and methodology to report on the costs associated with the VGB Grants. In addition to MIS codes, controls exist in the current system at the appropriation, budget fiscal year, and object class levels to safeguard against costs being charged to the wrong appropriation. Management acknowledges there is room for improvement with respect to enforcement of the MIS Manual as it pertains to the VGB grants. Staff will undertake these improvements when implementing the other recommendations. Regarding possible violations of the Purpose Act and the Anti-Deficiency Act, management is seeking legal review.

CONTACT US

If you want to confidentially report or discuss any instance of fraud, waste, abuse, misconduct, or mismanagement involving CPSC's programs and operations, please contact the CPSC Office of Inspector General.



Call:

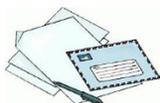
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Consumer Product Safety Commission
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