



March 23, 2023

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

FROM: Christopher W. Dentel, Inspector General

***THE CPSC IS OUT OF COMPLIANCE WITH OMB MEMORANDUM M-22-14***

This management alert notifies you of urgent issues that require immediate attention and action. A Management Alert is an Office of Inspector General (OIG) independent assessment that provides timely and useful information to CPSC stakeholders. The Office of Management and Budget (OMB) required the Consumer Product Safety Commission (CPSC) to complete an annual capital plan identifying its real property resource needs by December 16, 2022. The CPSC failed to do so. The CPSC must promptly complete this required capital plan.

**Background**

In November 2019, OMB issued a memorandum instructing all heads of executive departments and agencies to submit a capital plan outlining their real property management strategy on August 15<sup>th</sup> of each year starting in 2020.<sup>1</sup> Specifically, each agency is required to detail both their immediate real property resource needs and their property needs for the future in conjunction with their annual budget formulation process. On August 6, 2021, OMB paused the annual capital plan reporting requirement due to the COVID-19 pandemic. On July 20, 2022, OMB issued a memorandum requiring agencies to restart their annual capital plan reporting by December 16, 2022; but exempted non-CFO Act agencies, such as the CPSC, from submitting their capital plans to OMB.<sup>2</sup> Instead, the CPSC was merely required to complete the capital plan by that date.

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<sup>1</sup> See OMB Memorandum M-20-03, *Implementation of Agency-wide Real Property Capital Planning*.

<sup>2</sup> See OMB Memorandum M-22-14, *FY 2024 Agency-wide Capital Planning to Support the Future of Work*.

MANAGEMENT ALERT

## **The CPSC Must Complete Its Required Annual Capital Plan**

The CPSC must complete its overdue annual capital plan. OMB Memorandum M-22-14 clearly stated that non-CFO Act agencies, such as the CPSC, must complete their annual capital plan by December 16, 2022, and instructed all agencies to develop their capital plan in tandem with their annual budget request. The relevant passage of the memorandum states:

This memorandum requires agencies to restart their annual planning process by developing . . . their FY 2024 – FY 2028 capital plans . . . no later than **December 16, 2022** . . . Non-CFO Act agencies are also required to complete their capital plan by that date . . . The development of the capital plan should run parallel to and be in alignment with the development of the annual President’s budget request. The capital plan should define the real property resources required for the immediate post-reentry workplace environment and in the future of work context.<sup>3</sup>

Though the CPSC timely submitted its annual budget request on March 9, 2023, it has yet to complete its required annual capital plan. Moreover, the CPSC’s annual budget request does not contain any information on the agency’s real property resource needs.<sup>4</sup> When asked about the required annual capital plan, CPSC management stated that they previously believed the CPSC was exempt from OMB’s requirement because the CPSC has no real property and does not have the authority to directly lease real property. Based on our inquiry, CPSC management has reconsidered this position and now state that they are working on completing the plan.

### **Conclusion**

The CPSC must complete its annual capital plan, as required by OMB Memorandum M-22-14, assessing its real property resource needs now and into the future.

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<sup>3</sup> See OMB Memorandum M-22-14, p. 2 of 3 (emphasis in original).

<sup>4</sup> See the CPSC’s Fiscal Year 2024 Performance Budget Request to Congress.

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

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

The objective of this Management Alert is to immediately notify the CPSC of an area of non-compliance that requires urgent attention. Specifically, the CPSC did not complete its annual capital plan as required by OMB Memorandum M-22-14. We gathered information for this matter from December 2022 to March 2023.

### **A.2 Methodology**

We performed the work for this matter from December 2022 to March 2023 and conducted this management alert in accordance with OIG procedures and not generally accepted audit standards. Those procedures require we obtain sufficient evidence to provide a reasonable basis for our conclusions. We reviewed responses to questions sent to key CPSC personnel, analyzed relevant criteria, and reviewed supporting documentation to determine the status of the CPSC's annual capital plan.

We are issuing this management alert under the authority conferred by the Inspector General Act of 1978, as amended, Section 2(2), "to promote economy, efficiency, and effectiveness in the administration of, and . . . to prevent and detect fraud and abuse in, [CPSC] programs and operations."<sup>5</sup>

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

## APPENDIX B. Management Response

**From:** Levine, Jason <[JLevine@cpsc.gov](mailto:JLevine@cpsc.gov)>  
**Sent:** Monday, March 20, 2023 5:52 PM  
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**Cc:** Yaung, Michelle <[MYaung@cpsc.gov](mailto:MYaung@cpsc.gov)>  
**Subject:** RE: Management Alert Regarding OMB Memo 22-14

Chris –

Please see below.

Management Response:

Management concurs with the OIG that CPSC is not in compliance with OMB MEMORANDUM M-22-14's requirement for agencies to complete an annual capital plan identifying its real property resource needs. Management did not believe the requirement applied to CPSC since CPSC does not have any real property, nor does the agency have leasing authority and thus is prohibited from entering into lease agreements for real property. The General Services Administration (GSA) enters into all real property lease agreements for CPSC's requirements. In accordance with the Federal Real Property Council's (FRPC) guidance, GSA reports annually to FRPC as the leaseholder of the real property which is utilized by CPSC. Following this inquiry by the OIG, Management is in the process of developing the CPSC's real property capital plan required by M-22-14 and expects to complete this process by the end of Fiscal Year 2023.

Best,

Jason

**Jason Levine**  
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