



Audit of the United States Trustee Program's
Administration of the Panel Trustee and Debtor
Audit Programs and Associated Procurements
Awarded to Tronconi Segarra & Associates LLP



AUDIT DIVISION

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EXECUTIVE SUMMARY

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Objectives

The Department of Justice Office of the Inspector General (OIG) conducted an audit of the U.S. Trustee Program's (USTP) administration of panel trustee and debtor audit programs and associated procurements awarded to Tronconi Segarra & Associates LLP (Tronconi). The audit's objectives were to evaluate: (1) the USTP's administration and oversight of its panel trustee and debtor audit programs; (2) the USTP's management, oversight, and monitoring of the Tronconi awards; and (3) Tronconi's performance and compliance with the terms, conditions, laws, and regulations applicable to these awards.

Results in Brief

USTP officials consider debtor audits to be a valuable tool to identify and deter fraud, abuse, and error in the bankruptcy system. However, we found the USTP has not completed the number of random debtor audits required by law, which USTP said has been primarily due to budget constraints. USTP also conducts "exception" audits targeting debtors whose bankruptcy filings are outside of statistical norms. These audits are more likely to identify a material misstatement than a random audit. We found that the USTP does not assess all eligible cases when selecting debtors for exception audits, nor does it apply a risk-based selection approach.

Tronconi generally complied with the requirements of each Statement of Work (SOW). However, we found the USTP has not ensured that quality assurance procedures are performed by Tronconi or USTP, did not complete performance assessment reports, and did not properly document Tronconi's extension requests. The USTP also improperly charged \$133,795 to the wrong award.

Recommendations

We made 8 recommendations to improve USTP's administration of panel trustee and debtor audit programs, and its oversight of related procurements.

Audit Results

USTP contracts with audit firms to perform both debtor and panel trustee audits. The purpose of the debtor audits is to determine the accuracy and completeness of the filing information submitted by debtors. These audits are designed to identify and deter cases of fraud, abuse, and error. Chapter 7 trustee audits focus primarily on a panel trustee's internal controls, some limited asset administration procedures, financial transactions, and compliance with reporting requirements. Chapter 7 trustees are private individuals, not government employees.

Tronconi is one of several audit firms contracted to perform debtor and trustee audits. Tronconi's two awards in the scope of our audit have a total value of \$3.7 million.

USTP's Administration and Oversight of its Debtor and Trustee Audit Programs

Federal law requires USTP to audit at least 1 out of every 250 randomly selected debtor cases in each federal judicial district served by U.S. Trustees, and to audit "exception" cases where there is a variance in the debtor's income or expenses from the district's statistical norm. The law does not explicitly define the exception criteria to be used. We found that between fiscal years (FY) 2016 and 2019, USTP had not met the statutory requirement for randomly selected debtor audits. Its nationwide annual audit ratios during this timeframe ranged from a low of 1 out of every 1,876 randomly selected debtor cases to a high of 1 out of every 406.

USTP estimated that to comply with the statutory requirement of random audits and conduct 1,500 exception audits, it would need \$5.1 million. Ultimately, after the Executive branch budget process, the DOJ budget submitted to Congress requested just \$2 million for USTP to perform 795 random audits and 795

exception audits. We believe USTP should assess its random audit activity and its historical noncompliance with the mandated number of audits and develop a strategy focused on aligning funding levels and the statutory audit requirements. Options the USTP should consider include, but are not limited to: (1) reallocating existing funds within the USTP specifically towards debtor audits, (2) consulting with the Department about whether there are any additional funding sources the USTP could pursue, and (3) seeking a legislative remedy.

According to the USTP's annual public reports, exception audits, which target bankruptcy cases with filings outside of statistical norms, are historically more likely than a random audit to identify material misstatements. However, the USTP does not assess all eligible cases when selecting debtors for exception audits. In addition, USTP determined the number of exception audits it would perform in the coming year based solely on its available funding and did not utilize risk factors in determining the number or selection of exception audits. We believe a more risk-based approach to exception audit selection would ensure more efficient oversight with its available funds.

In addition, we found that certain USTP guidance provided to auditors of bankruptcy cases may need to be reevaluated. During the debtor audit process, contractors are required to assess whether discrepancies found in a debtor's petitions, schedules, and other information are significant enough to be designated as material misstatements. Many USTP personnel told us that these materiality thresholds were set too low by the Executive Office for U.S. Trustees, and that material misstatements identified by Tronconi and other audit firms during debtor audits often were later determined to be insignificant to the case. USTP issued updated materiality thresholds with slightly higher dollar amounts in March 2023 and

plans to monitor how the updates affect the outcomes of audits.

USTP's Management, Oversight, and Monitoring of the Tronconi Awards

We determined that the USTP improperly charged \$133,795 for 165 debtor audits that were not allocable to the current award because they were initiated under a prior award. In accordance with Federal Acquisition Regulation (FAR) Part 31, USTP should have charged those audits to the award under which they were started.

In addition, we identified concerns with the USTP's quality assurance practices. For debtor audits, the USTP did not ensure that quality assurance was performed by USTP or Tronconi to ensure the contractor complied with the SOW. For Chapter 7 trustee audits, the USTP did not document the quality assurance procedures it performed to ensure contractor compliance with the SOW. We also found that USTP personnel did not complete contractor performance assessment reports for either of the two Tronconi awards under our review. Such assessments document performance information to assist federal agencies in future offeror evaluations and procurements.

Tronconi's Performance and Compliance with Laws, Regulations, and the Terms and Conditions of the Contract

We concluded that Tronconi generally complied with the requirements contained in each SOW. Tronconi often issued its debtor audit reports after the specified SOW deadline, but USTP officials concluded that Tronconi's justifications for the additional time were acceptable. Nevertheless, we determined that the USTP should improve its documentation process regarding contractors' requests for debtor audit extensions and the corresponding approvals.

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Introduction

The mission of the U.S. Trustee Program (USTP) is to promote the integrity and efficiency of the bankruptcy system for the benefit of all stakeholders — debtors, creditors, and the public. The USTP consists of an Executive Office for U.S. Trustees (EOUST) in Washington, D.C., and 21 regions with 89 field office locations nationwide and has jurisdiction in all judicial districts except those within Alabama and North Carolina.¹ To further the public interest in the just, speedy, and economical resolution of cases filed under the Bankruptcy Code, the USTP is responsible for monitoring the conduct of bankruptcy parties and case administrators (known as “trustees”), overseeing related administrative functions, and ensuring compliance with applicable laws and procedures.

Debtor Audit Program

Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), Pub. L. No. 109-8, 119 Stat. 23 (2005), the USTP is authorized to contract with independent firms to perform audits of Chapter 7 and 13 bankruptcy cases in which the debtor is an individual (i.e., not a corporation or other strictly commercial entity).² The purpose of these “debtor audits” is to determine the accuracy, veracity, and completeness of the petitions, schedules, and other information required to be provided by the debtor. Debtor audits are designed to identify and deter cases of fraud, abuse, and error. From October 2019 to March 2023 USTP spent approximately \$1.3 million on debtor audits.

Chapter 7 Panel Trustee Audit Program

The USTP is responsible for monitoring and supervising the administration of cases under Chapter 7 of Title 11 of the U.S. Bankruptcy Code, 28 U.S.C. § 586 (2022), including establishing, maintaining, and supervising panels of trustees that perform the day-to-day administration of bankruptcy cases. The goal of the USTP in Chapter 7 cases is to establish a system of oversight that allows for the complete, economical, equitable, and expeditious administration of Chapter 7 cases, while allowing panel trustees (hereafter referred to as trustees) to exercise appropriate business and professional judgment in performing the necessary fiduciary duties. Trustees are not government employees but are subject to USTP appointment and supervision to promote the efficiency and integrity of the bankruptcy system. The trustee collects debtor assets that are not exempt under the Bankruptcy Code, liquidates the assets, and distributes the proceeds to creditors. As of August 2023, there were 677 Chapter 7 trustees.

A trustee is subject to USTP oversight, including “Chapter 7 trustee audits” performed through contracts with independent Certified Public Accountant (CPA) firms and field examinations performed by USTP personnel. Chapter 7 trustee audits focus primarily on a panel trustee’s internal controls, some limited asset administration procedures, financial transactions, and compliance with reporting requirements. Field

¹ In the six judicial districts within Alabama and North Carolina, bankruptcy court officials called Bankruptcy Administrators perform a similar function as the USTP.

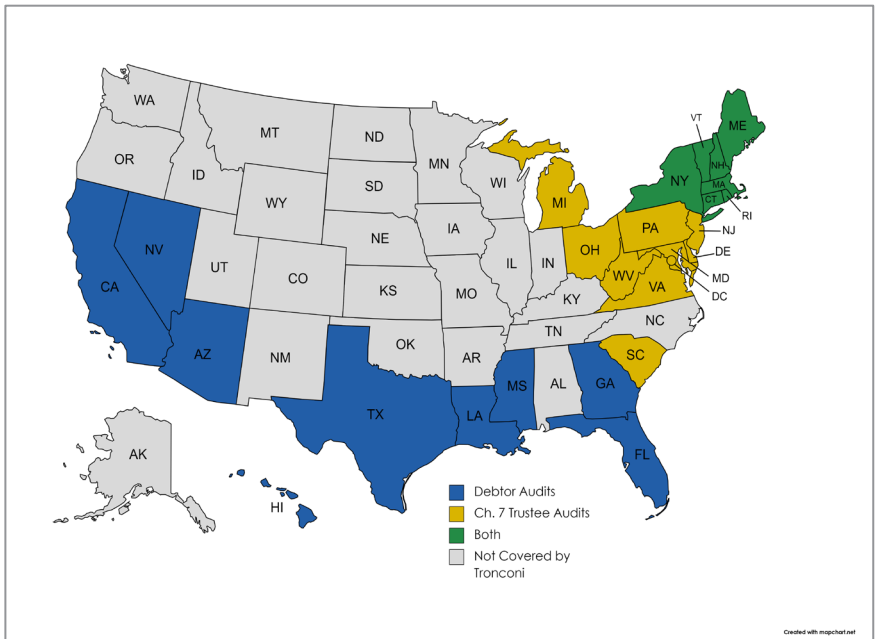
² In a Chapter 7 “liquidation” proceeding, those assets that are not exempt from creditors are collected and liquidated. The proceeds are distributed to creditors by a private trustee appointed to administer the debtor’s estate under Chapter 7 of the Bankruptcy Code. Chapter 13 proceedings reorganize the debtor’s financial affairs under a repayment plan that must be completed within 3 to 5 years.

examinations review the trustee’s financial management, internal control procedures, organizational support, and legal administration of cases. USTP policy requires that each trustee receive either an audit or a field examination at least once every 4 years, and each trustee is required to receive an audit (not a field examination) at least once every 8 years. Between January 2021 and March 2023 USTP spent approximately \$1.9 million on Chapter 7 trustee audits.

Contractor Background

Tronconi Segarra & Associates LLP (Tronconi), located in Williamsville, New York, was founded in 1985 and its mission is “to provide the best and most appropriate professional accounting, auditing, tax, and consulting services to private industry, publicly traded companies, not-for-profit organizations, governmental entities and individuals in the geographical markets [it] serve[s].” Tronconi consists of 138 associates, including 79 CPAs, 20 partners, and 11 principals. The USTP has contracted with Tronconi to provide debtor and trustee audits since 2003 and 2004 respectively. Tronconi is one of five CPA firms with which the USTP has contracted to perform debtor audits, and one of three CPA firms contracted to perform Chapter 7 trustee audits. Tronconi performs debtor audits across 10 USTP regions and performs Chapter 7 trustee audits across 5 USTP regions, as shown in Figure 1.

Figure 1
Tronconi’s Audit Coverage



Source: USTP data. Tronconi also covers Guam, Northern Mariana Islands, Puerto Rico, and U.S. Virgin Islands which are not included on the map. Map template obtained from MapChart (mapchart.net)

Overview of Debtor Audit and Chapter 7 Audit Awards to Tronconi

We reviewed two procurements that the USTP awarded to Tronconi for the purpose of performing debtor and Chapter 7 trustee audits. Under these awards, the USTP pays a fixed price per audit determined by the audit type. The USTP awarded each procurement as a 1-year award with four option years. We summarize the awards reviewed in Table 1.

Table 1

Summary of USTP Procurements Awarded to Tronconi
for Debtor and Chapter 7 Trustee Audits
(as of March 2023)

Awards	Start Date	End Date (with option years)	Total Award	Amount Spent	Number of Audits Paid for by the Award
Debtor Audits	09/30/2019	09/29/2024	\$1,651,025	\$292,145	457
Chapter 7 Trustee Audits	01/01/2021	12/31/2025	\$2,051,041	\$695,200	158
Total	-	-	\$3,702,066	\$987,345	615

Source: USTP

Note: The number of debtor audits completed includes 132 audits that were suspended and ultimately cancelled due to the COVID-19 pandemic; USTP paid a reduced rate for these cancelled audits. In addition, the number of debtor audits includes 29 reports of no audit, which are similarly billed at a reduced rate. As allowed by the contract, the contractor issued a report of no audit when the debtor failed to respond or failed to provide a sufficient response to the contractor’s request for information; therefore, the contractor was not able to complete an audit. Bankruptcy cases with non-responsive debtors often result in dismissal.

OIG Audit Approach

The objectives of this audit were to evaluate: (1) the USTP’s administration and oversight of its panel trustee and debtor audit programs; (2) the USTP’s management, oversight, and monitoring of the Tronconi awards; and (3) Tronconi’s performance and compliance with the terms, conditions, laws, and regulations applicable to these awards. Our audit generally covered but was not limited to the period of September 2019 through July 2023.

To address these objectives, we interviewed EOUST personnel, USTP contracting officials, USTP field personnel, and Tronconi staff. We assessed compliance with policies and procedures related to each subject area of our audit objectives including administration and oversight of the Chapter 7 trustee and debtor audit programs, contract requirements, quality assurance, and contractor performance. Appendix 1 contains further details on our audit objectives, scope, and methodology.

Audit Results

Our audit found that the USTP needs to improve its debtor audit program to help ensure that it continues to be a valuable tool in managing the bankruptcy system. Specifically, although USTP officials consider debtor audits to be a valuable oversight tool, the USTP has not been completing the statutorily required quantity of randomly selected debtor audits, which EOUST said was largely due to budgetary constraints. We believe the USTP needs to assess its random audit activity and its historical noncompliance with the mandated number of audits and develop a strategy focused on aligning funding levels and the statutory requirement. In addition, its method for selecting exception audits—audits of cases where a debtor’s reported income or expenditures vary from a statistical norm—does not assess all eligible cases, nor does it apply a risk-based selection approach. Implementing a more risk-based methodology to exception audit selection that considers all eligible cases and that considers factors other than just whether there is a variance from the statistical norm of the judicial district would ensure more efficient oversight with its available funds. We also found that the USTP should regularly reassess the thresholds it uses in debtor audits to judge whether a misstatement is material. Doing so would help avoid inefficiencies and better identify the most significant discrepancies.

Additionally, we found that in managing and overseeing the Tronconi awards, the USTP improperly allocated \$133,795 in charges to the current award for debtor audits that were initiated under the prior award. The USTP also did not include Federal Acquisition Regulation clauses related to government and contractor inspection responsibilities, did not document quality assurance procedures to be performed by USTP or Tronconi, and did not complete annual past performance evaluations for the audited awards.

Finally, although Tronconi generally adhered to each statement of work, officials from both Tronconi and the USTP told us that Tronconi frequently requested and received USTP concurrence to issue debtor audit reports beyond the 63-day timeline required by the contract. USTP officials said that they determined the additional time was justified. Nevertheless, we concluded that the USTP could enhance its process for documenting the request and approval of extensions to ensure that each request from the contractor and the USTP’s consideration of it is adequately supported.

USTP’s Administration and Oversight of its Debtor and Panel Trustee Audit Programs

USTP’s Execution of the Debtor Audit Program

According to USTP personnel, debtor audits are a valuable oversight tool that, used in conjunction with other oversight mechanisms, can identify inaccuracies in bankruptcy filings and act as a deterrent for fraud. As required by the BAPCPA, the USTP uses two approaches to select bankruptcy cases for audit – (1) randomly selected audits and (2) exception case audits.

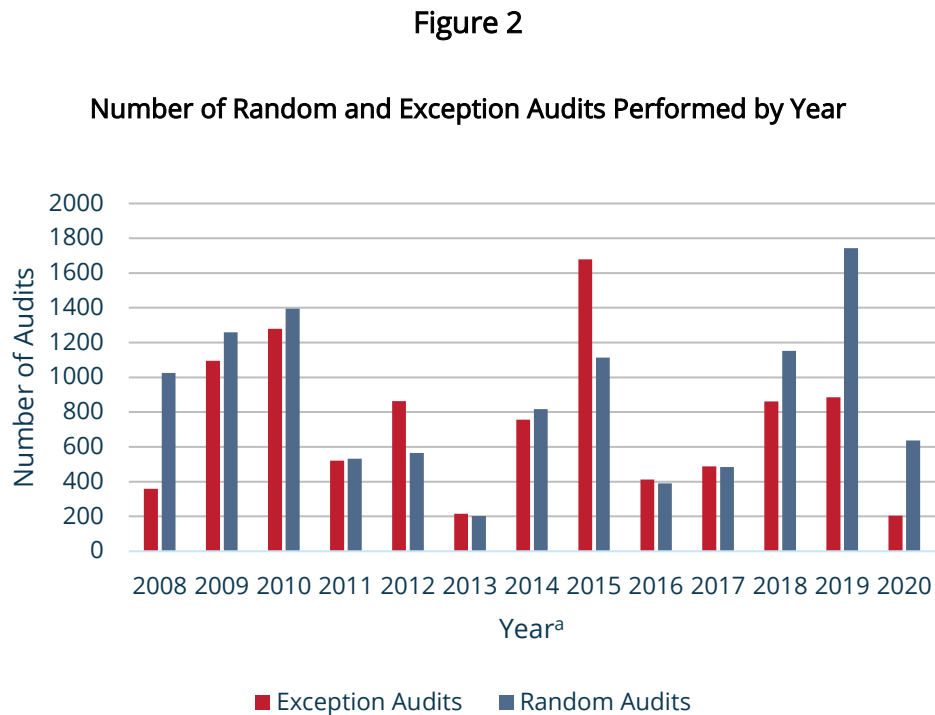
The USTP suspended all debtor audits in March 2020 due to health and safety risks associated with the COVID-19 pandemic. In August 2022, the USTP cited the uncertainty in funding for FY 2023 and the ongoing possible community spread of COVID-19 as the two main limitations to re-starting the debtor audit program. However, on March 14, 2023, during our audit, the USTP resumed the selection of cases for audit.

USTP Suspensions of Debtor Audits

1. January 2008 – May 2008
2. June 2011 – January 2012
3. March 2013 – March 2014
4. April 2016 – June 2017
5. March 2020 – March 2023

The debtor audit pause due to the COVID-19 pandemic was not the first such pause the USTP had implemented. Previously, the USTP suspended the selection of debtor cases for audit on four other occasions, attributing these suspensions to budgetary limitations.

Figure 2 shows the number of random and exception audits performed each year between FY 2008 and FY 2020 (the last year for which data is available).



Source: [Debtor Audits by the U.S. Trustee Program \(Public Reports\)](#)

^a More current data was not available because debtor audits were suspended in March 2020 and were not resumed until March 2023.

Randomly Selected Debtor Audits

Under the BAPCPA, the USTP is required to audit at least 1 out of every 250 randomly selected consumer bankruptcy cases in each federal judicial district served by U.S. Trustees.³ The statute also requires the USTP to provide public reports on its debtor audit activity. According to USTP officials, it sets audit levels based on filing totals at the district level, but does not consistently track the ratio of audits to bankruptcy cases by judicial district; instead, the USTP tracks and reports on its efforts to meet the requirement as a nationwide average.

In its 2019 public report, the most recent report before the suspension related to the COVID-19 pandemic and therefore the last year for which there is a full year’s worth of data, the USTP reported that it

³ Public Law 109-8 Sec 603(a)(2)(B) requires USTP “establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit.”

“designated cases for random audit at the rate of approximately 1 out of every 930 cases filed during the first half of fiscal years (FY) 2019 and 1 out of every 250 cases during the second half of 2019.” In earlier public reports, the USTP reported rates of approximately 1 out of every 580 in FY 2018, 1 out of every 440 in FY 2017, and 1 out of every 925 cases in FY 2016. However, because the USTP suspended all debtor audits between April 2016 and June 2017, and did not include filings during that period in its ratio calculations for those years, the reported ratios for 2016 and 2017 are distorted. As shown in Table 2, between FY 2016 and 2019, the USTP’s nationwide ratio of audits to cases—when counting all eligible case filings for the year—was significantly worse than the statutory requirement of auditing not less than 1 out of every 250 for each judicial district.

Table 2

**Eligible Bankruptcy Filings Subject to Random Debtor Audits
Fiscal Years 2016 through 2019**

Fiscal Year	Number of Filings Eligible for Audit ^a	Number of Random Audits Performed	Ratio of Random Audits to Total Filings Eligible for Audit
2019	708,752	1,744	1 out of 406
2018	704,090	1,153	1 out of 611
2017	716,797	485	1 out of 1,478
2016	731,624	390	1 out of 1,876

^a These totals include filings during periods in FY 2016 and FY 2017 when debtor audits were suspended due to USTP budget limitations. Only individual filings under chapters 7 or 13 are eligible for audit.

Source: USTP

Based on this data, we concluded that the USTP did not achieve its statutory requirement for the number of random debtor audits for any fiscal year covered by our audit. Given the USTP’s view that debtor audits are an important tool for identifying and deterring cases of fraud, abuse, and error, and for managing the bankruptcy system, its inability to consistently meet the legislative mandate poses significant risks. These risks include the increased likelihood of material misstatements of income or expenditures not being identified or addressed; or of fraud, abuse and error going unnoticed.

Exception Case Audits

The USTP is also required to audit “exception” cases, meaning those bankruptcy case filings in which a debtor’s income or expenses fall outside the statistical norm for the judicial district in which the schedules were filed.⁴ The BAPCPA does not explicitly define the exception criteria. Therefore, USTP officials

⁴ Public Law 109-8 Sec 603(a)(2)(C) requires “audits of schedules of income and expenses that reflect greater than

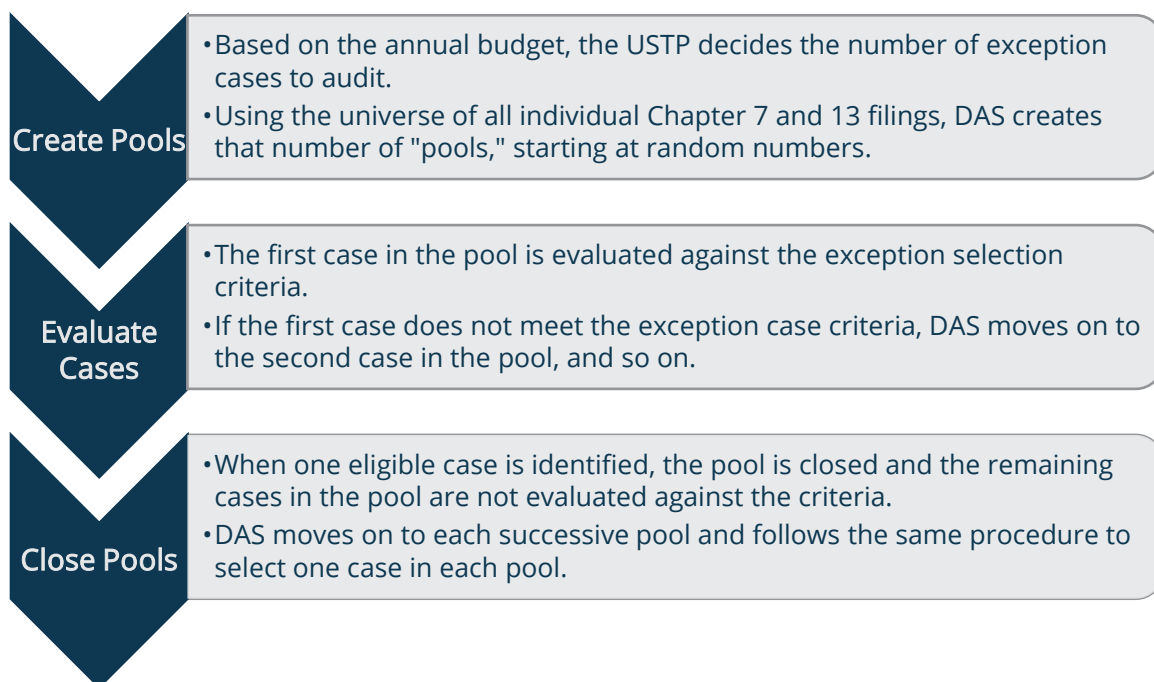
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determine the statistical norm and variance to be applied when identifying exception cases. These are commonly referred to as exception audits. According to USTP officials, approximately 5 percent of cases per district meet USTP's exception criteria.⁵ USTP officials said they determine the number of exception audits to conduct for the year that aligns with the funding resources available to perform this work.⁶ This historically has not included all cases that would have been eligible for exception audit selection. Further, exception case audits were suspended when the USTP paused debtor audits due to budgetary constraints and the COVID-19 pandemic.

Using its Debtor Audit System (DAS), the USTP uses a process described in Figure 3 to select cases for an exception audit.⁷

Figure 3

Exception Audit Case Selection Process



Source: USTP, adapted by OIG

average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed.”

⁵ A USTP official explained that each year, court officials from the Administrative Office of the U.S. Courts provide the USTP with debtor bankruptcy filing statistics, such as income and expenses, by judicial district. USTP inputs this information into its Debtor Audit System to identify cases that are eligible for exception audit selection.

⁶ Figure 2 provides the number of exception audits performed each year between FY 2008 and FY 2019.

⁷ The DAS is a web-based application that assists the USTP with selecting and assigning debtor cases for audit, paying contractor invoices, collecting information for reporting purposes, and generating reports.

To provide a simplified example, if the USTP planned to perform 3 exception audits in a district with 1,500 anticipated filings, DAS would select 3 random numbers between 1 and 1,500 and create three separate pools of cases starting with each random number. If the first random number selected was 100, then a pool would be opened starting with the 100th filing and that filing will be assessed against the established norm for that district. If the 100th filing fails to meet the exception audit criteria, it is skipped and the evaluation proceeds to the 101st filing. That process continues within each pool until a case meets the exception audit criteria, a selection is made, and that pool is closed. The system is not designed to identify the entire universe of cases that would have been eligible for exception audits, nor is it designed to identify the cases that deviate most significantly from the established statistical norm for each district. Additionally, although the USTP selected cases for exception audit based on variances from the statistical norm, it had not incorporated any other risk factors, such as property ownership or debt ratio, into its audit selection criteria. USTP officials stated it could be beneficial to review historical cases of fraud or misstatement to identify common factors that could be used to select cases for audit that would more likely uncover misstatements or fraud. However, according to USTP, its ability to implement this approach may be affected by what data DAS can automatically extract and analyze.

USTP Materiality Thresholds for Misstatements Identified in Debtor Audits

As part of auditing debtor filings, contracted CPA firms must determine whether discrepancies found in a debtor's petitions, schedules, and other information reach the level of being labeled material misstatements within the audit report. EOUST provides contractors with six types of audit findings that could be identified as material misstatements—such as underreported or unreported total combined monthly income, unreported real property, and understated or omitted gifts—and specifies dollar-amount materiality thresholds associated with each type of misstatement. When an audit report identifies any of these material misstatements in a bankruptcy case, USTP field personnel are required to follow up to ensure that debtors update schedules, if necessary, and to determine the overall impact of the misstatement on the bankruptcy case. We reviewed the USTP's follow up actions and results for 15 audits containing material misstatements and found USTP took adequate follow up action and properly documented its actions in DAS.

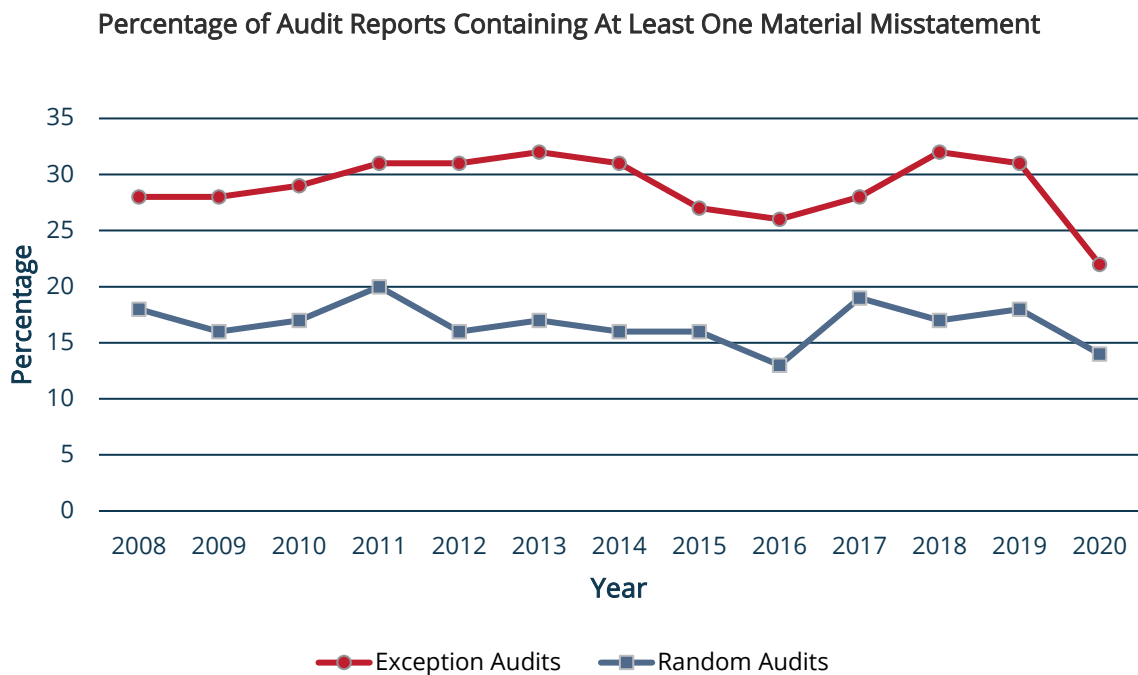
For most of our audit period, EOUST instructed Tronconi and other audit firms to use materiality thresholds that had been in place since 2015. USTP personnel remarked that they believed those materiality thresholds were too low, and that material misstatements identified by Tronconi and other audit firms during debtor audits often were later determined to be insignificant to the case when USTP field personnel performed follow-up work.

When the debtor audits were restarted in March 2023, USTP provided updated materiality thresholds with slightly higher dollar amounts to the audit firms. USTP stated that it plans to monitor how those updates affect the outcomes of the audits to determine if additional changes are necessary. We believe that monitoring the thresholds is important because if thresholds are set too low, USTP field personnel follow-up work adds little value to the bankruptcy case and the USTP's already limited resources are diverted from addressing more risky bankruptcy matters. Therefore, we recommend that USTP: (1) evaluate the process for setting materiality thresholds to ensure relevant USTP personnel are consulted and (2) establish a schedule to periodically reassess the thresholds provided to contractors to help ensure debtor audit reports identify—and USTP personnel follow up on—the most significant issues.

Recommended Improvements to the USTP's Debtor Audit Program

Based on interviews with USTP officials, the program has never received base budget resources to conduct the statutorily required number of debtor audits, forcing USTP officials to determine the number of random and exception debtor audits that can be performed based on its budget each year. According to the USTP's public reports about its debtor audits, an exception audit is historically more likely to identify a material misstatement than a random audit; however, under the current awards, an exception audit costs approximately two times the amount of a random audit. Figure 4 shows the percentage of exception and random debtor audits that contained at least one material misstatement by year.

Figure 4



Source: [Debtor Audits by the U.S. Trustee Program \(Public Reports\)](#)

The USTP receives annual appropriations from Congress, which are then offset primarily by fee revenues derived from filing fees and quarterly fees paid by debtors and deposited into the U.S. Trustee System Fund. Carryover is the unobligated balance of funds from a prior fiscal year appropriation that is permitted by law to be obligated in a current or future fiscal year. Debtor audits have historically been funded with carryover funding, when available, and when carryover funding has not been available, USTP has paused these audits. When aligned with broader administration funding priorities, the USTP requests dedicated funding, such as in the FY 2024 President's Budget request. Due to a recent decline in fee revenue, the USTP anticipates that carryover funding will no longer be available in FY 2024 or in subsequent years. Without sufficient carryover or dedicated funding, the USTP will have insufficient funding to support the debtor audit program.

The DOJ's FY 2017 through FY 2020 congressional budget submissions highlighted this concern, listing the funding of debtor audits as a challenge for the USTP. But these submissions did not specifically request additional resources to perform the number of debtor audits required by the BAPCPA. In its FY 2021

through FY 2023 congressional budget submissions, debtor audits were not mentioned as a challenge, even though the audits had been suspended. For FY 2024, USTP officials stated its initial budget request to OMB did include a request for an additional \$5.1 million in appropriated funds for debtor audits, which USTP told us would be sufficient to meet the current statutory mandate for random debtor audits and also perform 1,500 exception audits.⁸ However, subsequent to the Executive Branch budget process, the DOJ's FY 2024 congressional budget submission included just \$2 million in additional funding for USTP debtor audits, which it said would allow it to perform 795 random audits (which would be well below the current statutory mandate) and 795 exception audits.⁹

Although USTP officials believe debtor audits are a valuable oversight tool, under current conditions budgetary constraints are likely to remain an obstacle to the USTP's efforts to meet its statutory requirements. Given the USTP's historical noncompliance with the statutory requirement for random audits, we recommend that the USTP develop a strategy focused on aligning funding levels and the statutory requirements for debtor audits. The strategy should consider options including, but not limited to: (1) reallocating existing funds within the USTP specifically towards debtor audits, (2) consulting with the Department about whether there are any additional funding sources the USTP could pursue, and (3) seeking a legislative remedy.

Additionally, the BAPCPA does not explicitly define the exception criteria. USTP determined the number of exception audits it would perform in the coming year based solely on its available funding and did not utilize other potential risk factors in determining the number or selection of exception audits, such as property ownership, debt ratio, cases that represent the most significant variances from the established statistical norm per district, and other criteria that may be more likely to uncover material misstatements or fraud. We believe including a broader set of risk factors would ensure more efficient oversight with its available funds. Therefore, we recommend that the USTP implement a risk-based methodology for selecting exception audits that extends beyond solely evaluating variances from the statistical norm of the judicial district, to include a broader set of risk factors.

USTP Audit Oversight of Chapter 7 Trustees

The USTP is responsible for providing oversight of Chapter 7 trustees to ensure appropriate business and professional judgment is used in performing the trustee's fiduciary duties. In Chapter 7 trustee audits, an independent CPA firm conducts a review of a trustee's operations, with a focus on the trustee's internal controls. While debtor audits were suspended throughout the COVID-19 pandemic, the Chapter 7 trustee audits were only postponed for 4 months before being restarted at the end of FY 2020. We selected a sample of 20 Chapter 7 trustees to review the USTP's oversight of the Chapter 7 trustee audit program. We determined that the USTP ensured that Chapter 7 trustees were audited within a timely manner in compliance with its established cycle, took appropriate action based on the opinion within the audit report, and timely closed and properly documented the audit report.

⁸ USTP's FY 2024 estimates were based on filing levels from 2019. USTP said the 1,500 exception audits represented the number necessary to ensure adequate coverage.

⁹ As of October 1, 2023, the FY 2024 appropriation had not been passed by Congress. Should Congress approve additional funds for random and exception debtor audits, we believe it would improve the USTP's ability to comply with the audit requirements in the BAPCPA.

USTP's Management, Oversight, and Monitoring of the Tronconi Awards

In addition to assessing the USTP's administration and oversight of its panel trustee and debtor audit programs, our audit specifically focused on the USTP's management, oversight, and monitoring of contracts awarded to Tronconi. USTP has contracted with Tronconi for debtor and Chapter 7 trustee audit services for approximately 20 years and currently has two awards to Tronconi, valued at \$3.7 million. In the following sections, we assess the USTP's compliance with requirements pertaining to billings and payments, quality assurance, and contractor performance assessments within the context of these Tronconi awards.

Billings and Payments

We reviewed the invoices from Tronconi paid by the USTP to determine if the invoices were accurate, supported, and properly authorized. Federal Acquisition Regulation (FAR) Subpart 31.201-4 states that a cost is allocable or chargeable to one or more cost objectives based on relative benefits received or other equitable relationship. A cost is allocable to a government contract if it: (1) is incurred specifically for the contract; (2) benefits the contract and other work and can be distributed to them in reasonable proportion to the benefits received; or (3) is necessary to the overall operation of the business, although a direct relationship to any cost cannot be shown.

We determined that the USTP improperly handled the expenditure of \$133,795 for 165 debtor audits that were started prior to the current contract award start date of September 30, 2019. These 165 debtor audits were not allocable to the current award because the audits were initiated under the prior award, and as such were allocable entirely to that award. This noncompliance occurred due to audits that extended beyond the period of performance for the prior contract. When we brought this to their attention, USTP officials stated that any audit assigned to Tronconi or other audit suppliers during the last 60 to 120 days of the previous contract that was not completed and submitted to the USTP prior to the previous contract end date was billed and paid for via the current contract. However, this method of allocating costs does not comply with FAR Subpart 31. Given that the contractor, the statement of work (SOW), and the pricing structure are subject to change when issuing a new award, the USTP's noncompliance with the FAR introduced the risk of more significant financial administration issues, including the possibility of overspending its current obligations.¹⁰ When we discussed this concern with the USTP, its procurement office stated it planned to modify its process to align with the FAR.¹¹ We recommend the USTP establish a control to ensure that contract costs are charged against the award to which they directly relate, in accordance with the FAR.

Quality Assurance

FAR Subpart 46.401 states that government contract quality assurance shall be performed at such times as may be necessary to determine that the supplies and services conform to contract requirements. Additionally, FAR Subpart 46.202 states that the government shall rely on the contractor to accomplish all inspection and testing needed to ensure that commercial services acquired conform to the contract

¹⁰ An obligation is an action by an authorized individual that creates a liability on the part of the government to disburse payment immediately or in the future.

¹¹ Because the funds utilized for this contract were not appropriated funds tied to a specific fiscal year, this noncompliance with the FAR did not impact the financial administration of the program and no corrections to the transactions were required.

requirements before they are tendered to the government. Given that the debtor audits and Chapter 7 trustee audits contracted for by the USTP are commercial services, this requirement would mandate that Tronconi execute an internal inspection and quality assurance process to ensure its work was meeting the contract requirements.

However, for fixed-priced service contracts, the FAR also requires contracting officers to include clause 52.246-4, *Inspection of Services-Fixed-Price*, which provides government and contractor inspection responsibilities. Such inspection clauses are important for laying out conditions under which parties agree to the terms in the contract. They also provide direction on how the contract will be enforced under different conditions or events. We found that for both awards reviewed, USTP contracting personnel did not include FAR clause 52.246-4, *Inspection of Services-Fixed-Price*.

As a result, the SOW does not contain any expectations for Tronconi's internal quality assurance procedures. According to Tronconi officials, they do perform some quality assurance procedures, such as the use of a checklist for supervising, reviewing, and approving auditor workpapers. We selected a judgmental sample of 10 debtor audits that Tronconi performed, and we observed evidence of these checklists in the working paper files associated with the audits we reviewed.¹²

Moreover, we found that the USTP was not performing any documented formal quality assurance reviews to ensure contractor compliance with the SOW for either award. While not outlined in policy or any official documentation, EOUST stated that for Chapter 7 trustee audits, USTP staff members monitor contractor performance by ensuring audits are completed and both the field office and EOUST review the contractors' draft audit reports prior to their final issuance. In addition, EOUST officials stated that they review contractor audit working paper files every few years, but there is no formal process in place for this practice and the most recent working paper review of Tronconi's Chapter 7 trustee audits was conducted in June 2018. In addition, USTP personnel validate contractor invoices by verifying the audit has been closed in the DAS, which is used to track and review debtor audits and to input notes related to the bankruptcy case.

It is important for the USTP to formalize the inspection and quality assurance procedures over contracted audits to include a clear understanding of the role each party is expected to perform. Therefore, we recommend the USTP ensure that adequate quality assurance procedures are being performed to confirm that Tronconi is complying with the relevant SOW requirements. Additionally, we recommend USTP establish a control to ensure that the proper inspection clauses in FAR 52.246 are included in future awards.

Contractor Performance Assessments

FAR Subpart 42.15 states that past performance evaluations shall be prepared at least annually and at the time the work under a contract or order is completed. Past performance evaluations shall be entered in the Contractor Performance Assessment Reporting System (CPARS), the government-wide evaluation reporting tool for all past performance reports on contracts and orders. Past performance is relevant information for future source selection purposes, specifically the contractor's actions under previously awarded contracts.

¹² Our review of a sample of 10 debtor audits is further referenced in the Tronconi's Performance and Compliance with Laws, Regulations, and the Terms and Conditions of the Contract section of this report. Additional information about our sample selection methodology is provided in Appendix 1.

Additionally, CPARS assists contracting personnel in determining the quality and timeliness of past performance. However, we found that USTP personnel did not complete any performance reports for either of the Tronconi awards under our review.

We discussed this concern with USTP personnel, and they stated that it was their goal to hire additional staff in FY 2023 and address outstanding past performance evaluations in FY 2024. We recommend the USTP complete overdue performance evaluations in CPARS for Tronconi and establish a control to help ensure that future performance evaluations are completed in CPARS at least annually and at the time a contract or order is completed.

Tronconi's Performance and Compliance with Laws, Regulations, and the Terms and Conditions of the Contract

We evaluated a sample of 10 audits performed by Tronconi for both debtor and Chapter 7 trustee awards to assess its compliance with several requirements outlined in the SOW for each award. For the 10 Chapter 7 trustee audits, we reviewed a sample of Tronconi's audit working papers to ensure it obtained and reviewed documentation related to conflicts of interest, segregation of duties, the trustee's internal control questionnaire, receipts and disbursements, and trustee case management. For the 10 debtor audits, we reviewed a sample of Tronconi's working papers to ensure it obtained and reviewed debtors' tax returns, account statements, and wage statements to confirm the accuracy of debtors' filings. We concluded that Tronconi generally complied with these SOW requirements for the files we reviewed. However, we identified concerns related to the timeliness of issuance of the final debtor audit reports.

The debtor audit SOW states that the contractor's audit report (or report of no audit) should be filed with the court and transmitted to the local USTP and case trustee electronically, no later than 63 calendar days after the date of the debtor audit notification letter. We determined that 139 of the 160 reports (87 percent) for audits initiated by Tronconi under this award as of March 2023 did not comply with this SOW requirement.¹³ On average, Tronconi filed the audit report with the court 79 days after issuing the debtor audit notification letter. USTP personnel did not express any concerns with this outcome, and they attributed the untimeliness to debtors and debtors' attorneys being unresponsive or not providing sufficient documentation by the requested due dates. However, for the 10 debtor audits we reviewed, the USTP could not provide documentation to support extension requests by the contractor or approval by USTP personnel. According to USTP training materials prepared for the resumption of debtor audits in March 2023, all extension requests made by audit firms—including the reason for the request and USTP field personnel's approval—should be documented in DAS. Although the USTP conveyed this information to contractors and USTP field personnel through training, we did not identify this expectation in any USTP policy documents. We believe this expectation should be formalized to help ensure that contractors provide the necessary justification for extension requests and that USTP personnel document this information along with its evaluation of the request. Such documentation can be used to provide documentation for the evaluation of contractors and recording of this information in CPARS. Therefore, we recommend the USTP document the

¹³ Our analysis of timeliness was limited to these 160 reports of the total of 457 debtor audit reports identified in Table 1 as having been paid through the current award because we did not include the aforementioned 165 audits that should have been charged to the previous award and, as noted in Table 1, 132 audits were cancelled.

delineation of the roles and responsibilities of USTP personnel and its contractors in requesting, approving, and documenting debtor audit extensions.

Conclusion and Recommendations

According to the USTP, debtor audits identify and deter cases of fraud, abuse, and error and are an important tool for USTP to manage the bankruptcy system. However, we found that the USTP is not completing the statutorily required number of randomly selected debtor audits, which according to USTP officials is primarily due to budget constraints. Additionally, although exception audits targeting bankruptcy cases with filings outside of statistical norms are historically more likely to identify a material misstatement than a random audit, the USTP's methodology for selecting exception cases does not include all cases that would have been eligible for exception audit selection, nor does it apply a risk-based selection approach.

Given these issues, we believe that the USTP needs to improve its debtor audit program to help ensure that it continues to be a valuable tool in managing the bankruptcy system. Specifically, the USTP should develop a strategy to align its funding levels and the statutory requirement. The strategy should consider options including, but not limited to: (1) reallocating existing funds within the USTP specifically towards debtor audits, (2) consulting with the Department about whether there are any additional funding sources the USTP could pursue, and (3) seeking a legislative remedy. In addition, implementing a strategy that incorporates a more risk-based methodology to exception audit selection that extends beyond solely evaluating variances from the statistical norm of the judicial district, to include a broader set of risk factors would help USTP execute more efficient oversight with its available funds. We also found that many USTP personnel believed the debtor audits' materiality thresholds were set too low by the USTP, which risks creating inefficiencies, and these thresholds should be regularly reassessed to help ensure debtor audit reports identify—and USTP personnel follow up on—the most significant misstatements identified in bankruptcy cases.

With regard to USTP's management, oversight, and monitoring of Tronconi's awards to perform debtor and Chapter 7 trustee audits, we found that the USTP: (1) improperly charged \$133,795 to the current award for 165 debtor audits that were started under the prior award, (2) did not document quality assurance procedures were performed by USTP or Tronconi to ensure Tronconi was complying with the SOW for either award, (3) did not include in their contracts Federal Acquisition Regulation clauses related to government and contractor inspection responsibilities, and (4) did not complete contractor performance assessment reports for the two Tronconi awards, which are used when evaluating contractors for future procurements.

Lastly, we concluded that Tronconi generally complied with the requirements contained in each SOW. However, Tronconi often issued its debtor audit reports after the specified SOW deadline. While USTP officials considered the additional time taken by Tronconi to be warranted, it could not provide documentation to support an extension was requested and approved.

We recommend that the USTP:

1. Evaluate the process for setting materiality thresholds to ensure relevant USTP personnel are consulted and establish a schedule to periodically reassess the thresholds provided to contractors to help ensure debtor audit reports identify—and USTP personnel follow up on—the most significant issues.
2. Develop a strategy focused on aligning funding levels and the statutory requirements for debtor audits.

3. Implement a risk-based methodology for selecting exception audits that extends beyond solely evaluating variances from the statistical norm of the judicial district, to include a broader set of risk factors.
4. Establish a control to ensure that contract costs are charged against the award to which they directly relate, in accordance with the FAR.
5. Ensure that adequate quality assurance procedures are being performed to confirm that Tronconi is complying with the relevant SOW requirements.
6. Establish a control to ensure that the proper inspection clauses in FAR 52.246 are included in future awards.
7. Complete overdue performance evaluations in CPARS for Tronconi and establish a control to help ensure that future performance evaluations are completed in CPARS at least annually and at the time a contract or order is completed.
8. Document the delineation of the roles and responsibilities of USTP personnel and its contractors in requesting, approving, and documenting debtor audit extensions.

APPENDIX 1: Objectives, Scope, and Methodology

Objectives

The objectives of the audit were to evaluate: (1) the USTP’s administration and oversight of its panel trustee and debtor audit programs; (2) the USTP’s management, oversight, and monitoring of the Tronconi awards; and (3) Tronconi’s performance and compliance with the terms, conditions, laws, and regulations applicable to these awards.

Scope and Methodology

Our audit generally covered but was not limited to September 2019 through July 2023. We reviewed two procurements made by the USTP to Tronconi to perform debtor and chapter 7 trustee audits as detailed in Table 3 below.

Table 3

Summary of Procurements Awarded to Tronconi for Debtor and Chapter 7 Trustee Audits

Award	Start Date	End Date	Total Award	Amount Spent	Number of Audits Paid for by the Award
Debtor Audits	09/30/2019	09/29/2024	\$1,651,025	\$292,145	457
Chapter 7 Trustee Audits	01/01/2021	12/31/2025	\$2,051,041	\$695,200	158
Total	-	-	\$3,702,066	\$987,345	615

Source: USTP (current as of 03/31/2023)

Note: The number of debtor audits completed includes 132 audits that were suspended and ultimately cancelled due to the COVID-19 pandemic; USTP paid a reduced rate for these cancelled audits.

To address our objectives, we interviewed EOUST personnel, USTP contracting officials, USTP field personnel, and Tronconi staff. We reviewed USTP documentation from the contract file, policies and procedures, and training to assess compliance related to acquisition, contract management, and oversight. We traced invoices to supporting documentation to ensure they were accurate, supported, and authorized. We also reviewed a sample of Tronconi workpapers for both debtor and Chapter 7 trustee audits to assess contractor compliance with the SOWs. Lastly, we reviewed USTP’s policies and procedures related to the oversight and administration of the debtor and Chapter 7 trustee audit programs.

Statement on Compliance with Generally Accepted Government Auditing Standards

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, 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.

Internal Controls

In this audit, we performed testing of internal controls significant within the context of our audit objectives. We did not evaluate the internal controls of the USTP to provide assurance on its internal control structure as a whole. USTP management is responsible for the establishment and maintenance of internal controls in accordance with OMB Circular A-123. Because we do not express an opinion on the USTP's internal control structure as a whole, we offer this statement solely for the information and use of the USTP.¹⁴

The internal control deficiencies we found are discussed in the Audit Results section of this report. Specifically, we identified internal control deficiencies related to USTP's selection of audits and the continuity of its debtor audit program. Additionally, we identified concerns related to USTP's oversight of the contracts such as CPARs and quality assurance. However, because our review was limited to those internal control components and underlying principles that we found significant to the objectives of this audit, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

Compliance with Laws and Regulations

In this audit we tested, as appropriate given our audit objectives and scope, selected transactions, records, procedures, and practices, to obtain reasonable assurance that USTP's management complied with federal laws and regulations for which noncompliance, in our judgment, could have a material effect on the results of our audit. Our audit included examining, on a test basis, USTP's compliance with the following laws and regulations that could have a material effect on USTP's operations:

- Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, 119 Stat. 23 (2005)
- FAR Part 7 Acquisition Planning
- FAR Part 8 Required Sources of Supplies and Services
- FAR Part 12 Acquisition of Commercial Products and Commercial Services
- FAR Part 15 Contracting by Negotiation
- FAR Part 31 Contract Cost Principles and Procedures
- FAR Subpart 3.9 Whistleblower Protections for Contractor Employees
- FAR Subpart 32.9 Prompt Payment

¹⁴ This restriction is not intended to limit the distribution of this report, which is a matter of public record.

- FAR Subpart 42.15 Contractor Performance Information
- FAR Subpart 46 Quality Assurance
- FAR Subpart 52.246-4 Inspection of Services-Fixed-Price

This testing included analyzing award files and related documentation, interviewing agency and contractor officials, reviewing invoices and supporting documentation, and examining USTP and Tronconi's policies and procedures. As noted in the Audit Results section of this report, we noted matters of noncompliance concerning the number of audits performed and certain FAR requirements.

Sample-Based Testing

To accomplish our audit objectives, we performed sample-based testing for: (1) USTP's administration and oversight of its panel trustee and debtor audit programs; and (2) Tronconi's performance and compliance with the terms, conditions, laws and regulations applicable to the contract awards. To test contractor compliance with the SOW we selected 10 out of 160 debtor audits and 10 out of 158 Chapter 7 trustee audits performed by Tronconi. To test USTP oversight of Chapter 7 trustees we selected 20 out of 462 total trustees audited by USTP contractors, one of which was Tronconi. We employed a judgmental sampling design to obtain broad exposure to numerous facets of the areas we reviewed. This non-statistical sample design did not allow projection of the test results to the universe from which the samples were selected.

Computer-Processed Data

During our audit, we obtained information from the Department of Justice's Unified Financial Management System (UFMS) and the USTP's Debtor Audit System (DAS). We did not test the reliability of those systems as a whole, therefore any findings identified involving information from those systems were verified with documentation from other sources such as invoices, other supporting documentation, and interviews.

APPENDIX 2: U.S. Trustee Program's Response to the Draft Audit Report



U.S. Department of Justice

Executive Office for United States Trustees

Office of the Director

Washington, DC 20530

December 21, 2023

MEMORANDUM

TO: Jason R. Malmstrom
Assistant Inspector General for Audit
Office of the Inspector General

FROM: Tara Twomey
Director

**TARA
TWOMEY**

Digitally signed by TARA
TWOMEY
Date: 2023.12.20 09:53:57
-05'00'

SUBJECT: United States Trustee Program's Administration of the Panel Trustee and Debtor Audit Programs and Associated Procurements Awarded to Tronconi Segarra & Associates LLP

Thank you for the opportunity to review and comment on the Office of the Inspector General's (OIG) draft report on the U.S. Trustee Program's (USTP) Administration of the Panel Trustee and Debtor Audit Programs and Associated Procurements Awarded to Tronconi Segarra & Associates LLP (Tronconi). The report noted the challenges in administering these programs and includes thoughtful insights and recommendations that we endorse.

Pursuant to your memorandum dated November 30, 2023, we provide the following comments and list of actions that we will take in response to your recommendations.

I. United States Trustee Program's Administration of the Debtor Audit Program

a. Key Findings and Conclusions

The OIG report notes that the USTP has found value in the debtor audit program, particularly through exception audits of debtors falling outside of the statistical norms for income or expenses in their districts. USTP staff follow up in cases with material misstatements, as appropriate, after assessing the impact of the material misstatement on the case. Results of the audit as well as any follow-up actions are documented in the internal Debtor Audit System (DAS).

Noting the lack of dedicated funding for the debtor audit program, the report also states that the USTP has historically performed random audits at less than the statutory rate of at least one in 250 per judicial district. Meeting the statutory rate can require upwards of \$5

million annually depending on filing levels, and the report acknowledges that budgetary constraints are likely to remain an obstacle to the USTP’s ability to meet statutory requirements.

OIG’s report also offers helpful observations on operational matters that could improve the efficacy of the process. For instance, OIG noted that the USTP was following statutory guidelines on the selection of exception audits but suggested that the use of additional risk factors in the exception audit selection process would be beneficial. Likewise, while the term “material misstatement” is not statutorily defined, OIG concluded that the USTP could derive additional value from audits by regularly ensuring that its material misstatement definitions help uncover the types of findings that most impact case outcomes.

Additionally, OIG found that Tronconi generally complied with the operational requirements outlined in the Statement of Work (SOW) but that the USTP could improve documentation of audit deadline extension requests. Similarly, while the USTP has a tracking process in place to ensure audit reports have been properly issued, OIG observed that a formal quality assurance process would ensure that Tronconi and other firms are consistently complying with audit requirements.

b. Recommendations

The report makes five recommendations related to debtor audits:

- i. Evaluate the process for setting materiality thresholds to ensure relevant USTP personnel are consulted and establish a schedule to periodically reassess the thresholds provided to contractors to help ensure debtor audit reports identify – and USTP personnel follow up on – the most significant issues.
- ii. Develop a strategy focused on aligning funding levels and the statutory requirements for debtor audits.
- iii. Implement a risk-based methodology for selecting exception audits that extends beyond solely evaluating variances from the statistical norm of the judicial district, to include a broader set of risk factors.
- iv. Ensure that adequate quality assurance procedures are being performed to confirm that Tronconi is complying with the relevant SOW requirements.
- v. Document the delineation of the roles and responsibilities of USTP personnel and its contractors in requesting, approving, and documenting debtor audit extensions.

The USTP supports each of these recommendations and will take the following steps to implement the OIG’s recommendations:

- i. Establish a dedicated group of subject matter experts tasked with evaluating materiality thresholds in 2024, and on a biennial basis thereafter, adjusting the thresholds as needed to improve the efficacy of debtor audits.
- ii. USTP leadership will work with DOJ leadership to determine the feasibility of requesting legislative adjustments on the statutory requirements for debtor audits given the cost associated with the current statutory rates. Because debtor audits have no dedicated funding source and bankruptcy filing levels vary from year to year, it is not possible to

- come up with a funding level that would cover all scenarios. However, possible adjustments include a legislative proposal to change the statutory selection rate with a focus on exception audits rather than random audits, along with greater flexibility in establishing audit procedures.
- iii. Establish a dedicated group of subject matter experts to formulate additional criteria to incorporate into the exception audit selection process and evaluate the feasibility of automating such a process within the Debtor Audit System.
 - iv. Establish procedures by which USTP personnel will audit the work of debtor audit contractors on a scheduled basis, including examination of audit work papers for compliance with the SOW.
 - v. Formalize an audit extension reporting process for inclusion in the SOW and the USTP's internal systems, to provide clear scheduling guidance, acceptable reasons for extension, an extension form, and extension reporting procedures within the Debtor Audit System.

II. United States Trustee Program's Administration of the Panel Trustee Audit Program

a. Key Findings and Conclusions

Chapter 7 trustee audits focus primarily on a panel trustee's internal controls, some limited asset administration procedures, financial transactions, and compliance with reporting requirements. Chapter 7 trustees are private individuals, not government employees.

OIG reported that the USTP's panel trustee audit program ensured that trustees were audited in a timely manner in compliance with its established cycle, took appropriate action based on audit outcomes, and timely closed and properly documented the audit report.

While USTP staff members monitor contractor performance through tracking as well as periodic work paper reviews, the OIG report observed that the USTP had not fully documented the quality assurance process to ensure the most consistent application and the most complete record keeping of these efforts.

b. Recommendations

The report makes one recommendation related to trustee audits: Ensure that adequate quality assurance procedures are being performed to confirm that Tronconi is complying with the relevant SOW requirements.

The Program supports this recommendation and will take the following actions: Effective in August 2023, the USTP has implemented a written policy to formalize USTP review of work papers for trustee audits as an additional quality assurance measure to ensure that auditors are complying with the relevant SOW requirements.

III. United States Trustee Program's Administration of the Procurements Awarded to Tronconi Segarra & Associates LLP for Panel Trustee Audits and Debtor Audits

a. Key Findings and Conclusions

OIG found that Tronconi generally complied with the audit requirements specified in the

SOW. However, the report noted that the quality assurance process could be bolstered through additional protocols. For example, Federal Acquisition Regulation (FAR) clause 52.246-4, which outlines government and contractor inspection responsibilities, was not included in the panel trustee and debtor audit contracts, and the USTP has not completed formal Contractor Performance Assessment Reporting System (CPARS) evaluations for these contracts.

Further, OIG observed that USTP billing procedures for some debtor audits initiated during the prior contract were inconsistent with FAR guidelines, and the USTP has already adjusted billing guidance to audit firms based on this constructive feedback.

b. Recommendations

The report makes three recommendations related to contract oversight.

- i. Establish a control to ensure that contract costs are charged against the award to which they directly relate, in accordance with the FAR.
- ii. Establish a control to ensure that the proper inspection clauses in FAR 52.246 are included in future awards.
- iii. Complete overdue performance evaluations in CPARS for Tronconi and establish a control to help ensure that future performance evaluations are completed in CPARS at least annually and at the time a contract or order is completed.

The Program supports these recommendations and will take the following actions.

- i. USTP procurement has advised debtor audit firms of the change in billing procedures to charge audit costs against the contract in effect at the time of the assignment rather than at the time of completion.
- ii. USTP procurement will include the inspection clauses in FAR 52.246 in all future procurements.
- iii. USTP procurement will assign new staff to mitigate the outstanding CPARS issue during Fiscal Year 2024.

I would like to express my appreciation to the team conducting the audit for their diligence, helpful insights, professionalism, and collegiality, and look forward to working with your office as we implement the report's recommendations.

APPENDIX 3: Tronconi Segarra & Associates LLP's Response to the Draft Audit Report



December 14, 2023

Kimberly Rice, Regional Audit Manager
Denver Regional Audit Office
Office of the Inspector General
U.S. Department of Justice
1120 Lincoln Street, Suite 1500
Denver, CO 80203

Dear Ms. Rice:

We are in receipt of the Draft Audit Report issued by the Department of Justice ("DOJ") Office of the Inspector General ("OIG") for their recent audit of our Firm's debtor audit and Chapter 7 Trustee audit program awards. Thank you for your thorough and professional approach to performing the audit. Your audit team was detailed in their approach and respectful in their requests and questions.

We appreciate the information provided to us in the Draft Audit Report and would like to comment on the specific recommendations made regarding the matter of our timeliness of debtor audit completion/delivery as discussed in the Draft Audit Report.

- Over the past 20 years that Tronconi Segarra & Associates LLP ("Tronconi Segarra & Associates") has been providing debtor audit services to the DOJ, our main focus has been, and will always be, the quality, effectiveness and thoroughness of each audit in order to provide value to the United States Trustee Program ("USTP") debtor audit program.
- As documented in each audit, the most common reason for any delay in our providing an on-time final audit report to the USTP has been due to delays in receiving complete and thorough information from the debtors and/or their respective attorneys.
- The Draft Audit Report's discussion related to the timeliness of our audit report delivery is one which we have already taken into consideration; should we need additional time to complete an audit because we have not received full and complete information from a debtor or an attorney in order to complete the audit, we will immediately file for and receive approval of an extension of time.

We are fully committed to continuing to deliver audits of the quality that the DOJ and USTP have come to expect from Tronconi Segarra & Associates for the past 20 years of our professional working relationship.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Nicholas J. Fabozzi', is written over a light blue horizontal line.

Nicholas J. Fabozzi, CPA
Partner / Partner-In-Charge, Governmental Services
Tronconi Segarra & Associates LLP

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APPENDIX 4: Office of the Inspector General Analysis and Summary of Actions Necessary to Close the Report

The Office of the Inspector General (OIG) provided a draft of this audit report to the United States Trustee Program (USTP) and Tronconi Segarra & Associates LLP (Tronconi). The USTP's response is incorporated in Appendix 2, and Tronconi's response is incorporated in Appendix 3 of this final report. In its response to our audit report, the USTP stated that it supported our recommendations and discussed the actions it will implement in response to our findings. As a result, the status of the audit report is resolved. Tronconi did not agree or disagree with the recommendations but provided comments on one recommendation. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

Recommendations for USTP:

- 1. Evaluate the process for setting materiality thresholds to ensure relevant USTP personnel are consulted and establish a schedule to periodically reassess the thresholds provided to contractors to help ensure debtor audit reports identify—and USTP personnel follow up on—the most significant issues.**

Resolved. The USTP stated that it supported our recommendation. In its response, the USTP stated that it plans to establish a dedicated group of subject matter experts tasked with evaluating and adjusting materiality thresholds as needed to improve the efficacy of debtor audits. The USTP plans to complete the initial evaluation in 2024 and biennially thereafter. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the group has been established and its objectives and tasks, including that a reassessment will be performed every 2 years, have been documented.

- 2. Develop a strategy focused on aligning funding levels and the statutory requirements for debtor audits.**

Resolved. The USTP stated that it supported our recommendation. The USTP stated that its leadership plans to work with Department of Justice (DOJ) leadership to determine the feasibility of requesting legislative adjustments on the statutory requirements for debtor audits given the cost associated with the current statutory rates. USTP further explained that because debtor audits do not have dedicated funding and bankruptcy filing levels vary from year to year, it is not possible to come up with a funding level that would cover all scenarios. USTP stated that possible adjustments include a legislative proposal to change the statutory selection rate with a focus on exception audits rather than random audits, along with greater flexibility in establishing audit procedures. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence of USTP's efforts working with DOJ leadership on a strategy to ensure sufficient funding levels and documentation of its proposed strategy to ensure statutory compliance.

- 3. Implement a risk-based methodology for selecting exception audits that extends beyond solely evaluating variances from the statistical norm of the judicial district, to include a broader set of risk factors.**

Resolved. The USTP stated that it supported our recommendation. In its response, the USTP stated that it plans to establish a dedicated group of subject matter experts to formulate additional criteria to incorporate into the exception audit selection process and evaluate the feasibility of automating such a process within the Debtor Audit System. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the dedicated group has been established and the results of its work in implementing a risk-based methodology for selecting exception audits has been documented and implemented.

- 4. Establish a control to ensure that contract costs are charged against the award to which they directly relate, in accordance with the Federal Acquisition Regulation (FAR).**

Resolved. The USTP stated that it supported our recommendation. The USTP stated in its response that it advised debtor audit firms of the change in billing procedures to charge audit costs against the contract in effect at the time of the assignment rather than at the time of completion. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that this billing procedure change has been established and communicated to debtor audit firms.

- 5. Ensure that adequate quality assurance procedures are being performed to confirm that Tronconi is complying with the relevant Statement of Work (SOW) requirements.**

Resolved. The USTP stated that it supported our recommendation. The USTP stated in its response that it plans to establish procedures by which USTP personnel will audit the work of debtor audit contractors on a scheduled basis, including an examination of audit work papers for compliance with the SOW. Additionally, the USTP implemented a written policy in August 2023 to formalize USTP's review of work papers for trustee audits as an additional quality assurance measure to ensure that auditors are complying with the relevant SOW requirements. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the procedures have been implemented and communicated to the contractor audit firms.

- 6. Establish a control to ensure that the proper inspection clauses in FAR 52.246 are included in future awards.**

Resolved. The USTP stated that it supported our recommendation. In its response the USTP stated that it will include in all future procurements the inspection clauses in FAR 52.246. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that a control has been established to ensure the proper inspection clauses are included in future procurements.

- 7. Complete overdue performance evaluations in Contractor Performance Assessment Reporting System (CPARS) for Tronconi and establish a control to help ensure that future performance evaluations are completed in CPARS at least annually and at the time a contract or order is completed.**

Resolved. The USTP stated that it supported our recommendation. The USTP stated in its response that it plans to assign new staff to mitigate the outstanding CPARS issue during fiscal year 2024. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the outstanding CPARS for Tronconi have been completed, and a control has been established to ensure future CPARS are completed on time.

- 8. Document the delineation of the roles and responsibilities of USTP personnel and its contractors in requesting, approving, and documenting debtor audit extensions.**

Resolved. The USTP stated that it supported our recommendation. The USTP stated in its response that it plans to formalize an audit extension reporting process for inclusion in the SOW and the USTP's internal systems, to provide clear scheduling guidance, acceptable reasons for extension, an extension form, and extension reporting procedures within the Debtor Audit System. Additionally, Tronconi stated in its response that should it need additional time to complete an audit because it did not receive full and complete information to complete the audit, Tronconi will immediately file for and receive approval of an extension of time. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the procedures for debtor audit extensions have been implemented and communicated to USTP personnel and debtor audit firms for requesting, approving, and documenting extensions.