OFFICE OF INSPECTOR GENERAL

U.S. INTERNATIONAL TRADE COMMISSION'S ADMINISTRATION OF WESTLAW® LEGAL RESEARCH SERVICE

Inspection Report
OIG-IR-02-02

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TABLE OF CONTENTS

I. INTRODUCTION 1

II. OBJECTIVES 2

III. METHODOLOGY & SCOPE 2

IV. FINDINGS 2

V. CONCLUSIONS 7

VI. SUGGESTIONS 7

I. INTRODUCTION

Westlaw® is an online legal research service provided by West Group, a division of the Thomson Corporation. Since Fiscal Year (FY) 2000, the International Trade Commission (Commission) had subscribed to Westlaw® under a Federal Library and Information Network (FEDLINK[1]) fixed price agreement. The fixed price allowed unlimited access to certain databases and services. Access to databases and services not included in the fixed price plan were billed at an hourly/transactional rate. The fixed price for Calendar Year (CY) 2002 was $7,303 per month, or $87,636 for the year. For a given calendar year, the fixed price was calculated by comparing the previous calendar year's fixed price with the actual charges that would have been incurred under the FEDLINK hourly/transactional pricing rates.

To use Westlaw®, a Commission employee needed an assigned Westlaw® password.[2] He or she could then access Westlaw® from his or her computer using either Westmate® software or via the Westlaw® website.[3] Of the approximately 365 Commission employees, 90 to 100 (about 27 percent) of them were in the legal field and were issued Westlaw® passwords.[4]

The Law Library administered the Commission's Westlaw® usage.[5] The staff were responsible for managing passwords, providing assistance to Commission employees using the service, and being the contact people for the Westlaw® representative. The Law Librarian was responsible for reviewing monthly Westlaw® invoices.

Before FY 2000, the Commission had been billed for all Westlaw® usage under hourly/transactional rates. During that time, Westlaw® was accessed only from dedicated stations located in the Law Library, the Office of Unfair Import Investigations, the Office of the Administrative Law Judges, the Office of Inspector General, and the Office of Tariff Affairs and Trade Agreements. In 1999, when West Group offered the option of switching to a fixed price plan, the Commission accepted for two reasons: (1) anticipated savings and (2) the opportunity for any Commission employee needing to do research on it to have Westlaw® at the employee's workstation.

To avoid problems associated with possible delays in the annual budget process, the Commission based the Westlaw® agreements on the calendar year instead of the fiscal year. Therefore, the

[1]FEDLINK is a network for purchasing, training, and resource sharing among federal libraries and information centers.

[2]In this context, "employee" was intended to include all Commission staff including volunteers, temporary/summer employees, and contractors.

[3]Westlaw's website address is http://www.westlaw.com.

[4]There was no additional charge for adding new users if theywere added to one of the six established offices (Administrative Law Judges' Office, Finance and Budget Office, Inspector General's Office, General Counsel's Law Library, Tariff Affairs Office, and Unfair Import Investigation Division). However, West Group would charge $115 per month per password issued at any new location.

[5]Separate from Library Services, the Law Library was staffed by a Law Librarian and a Librarian.

FY 2000 fixed price agreement included the first 3 months of FY 2001.

II. OBJECTIVES

We reviewed the Commission's: (1) actual Westlaw® usage in relation to the annual fixed price; (2) use of databases and services not included in the fixed price; and (3) procedures for deactivating separating employees' Westlaw® passwords.

III. METHODOLOGY AND SCOPE

We interviewed the Commission's Law Librarian in the Law Library and the Personnel Information and Security Assistant in the Office of Personnel. We also reviewed the Westlaw® annual agreements and monthly invoices for the current and prior calendar years and the weekly reports on resource transactions from the Office of Administration.

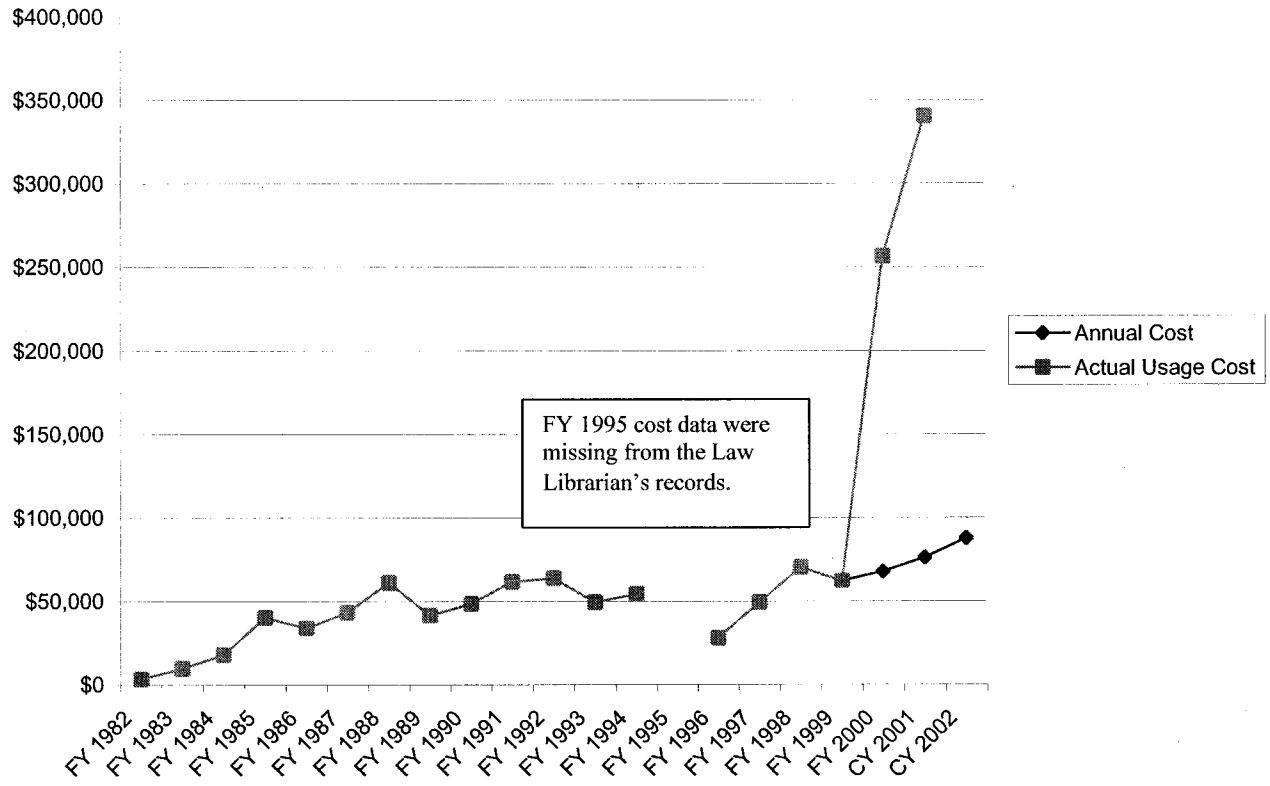
Our inspection, conducted from June 6, 2002 through June 28, 2002, was in accordance with the Quality Standards for Inspections of the President's Council on Integrity and Efficiency.

IV. FINDINGS

A. The Effect of Actual Westlaw® Usage on the Annual Fixed Price

As summarized in Table 1 on the next page, Westlaw® usage and costs rose and fell together in the years prior to FY 2000; however, usage costs had increased sharply and annual costs had risen consistently since the Commission switched to the fixed price plan in FY 2000.

Table 1. Commission's Annual Cost and Actual Usage for Westlaw®



- FY 2000, CY 2001, and CY 2002 annual cost figures included ancillary charges from the use of databases and services that were excluded from the fixed price plan.
- FY 2000 and CY 2001 actual usage cost figures were based on the monthly average that Westlaw® used to calculate the fixed price for the succeeding year.
- CY 2002 actual usage cost figures were not available.

Under the fixed price plan, the Commission's actual Westlaw® usage affected annual costs. West Group calculated the Commission's fixed price for a given calendar year by comparing the previous year's fixed price with the actual charges that would have been incurred under the FEDLINK hourly/transactional pricing plan during that same calendar year. First, West Group calculated the monthly average of the Commission's actual Westlaw® charges at the FEDLINK hourly/transactional rates during the first 9 months of the prior calendar year. Next, the monthly average of actual charges from the prior calendar year was divided by the prior calendar year's monthly fixed price. Finally, a percent increase was determined as set out in Table 2 on the next page.

Table 2. Annual Percent Increase

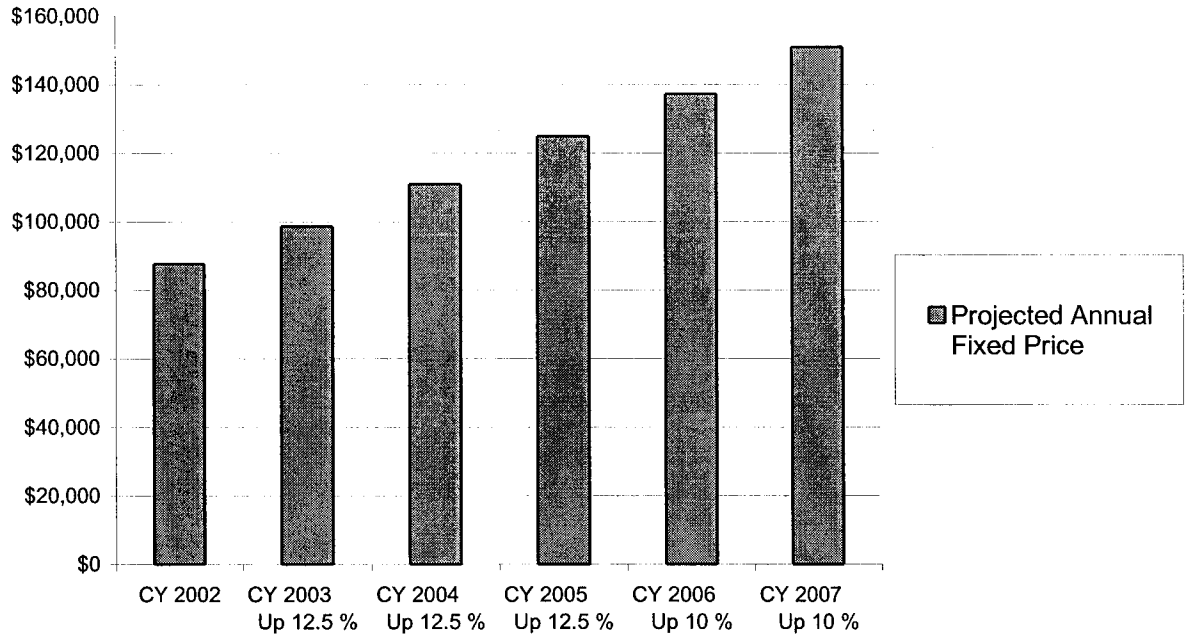
Monthly Average of Actual Charges Divided by Monthly Fixed Price	Percent Increase
Less than or equal to 1.0	0.0%
Greater than 1.0 but less than 1.5	5.0%
Equal to or greater than 1.5 but less than 2.0	7.5%
Equal to or greater than 2.0 but less than 3.0	10.0%
Equal to or greater than 3.0 but less than 4.0	12.5%
Equal to or greater than 4.0 but less than 5.0	15.0%
Equal to or greater than 5.0 but less than 6.0	17.5%
Equal to or greater than 6.0	20.0%

For example, in order to calculate the CY 2001 fixed price, West Group determined that from October 1999 to June 2000, the Commission would have averaged $21,359 per month in actual charges. By dividing the monthly average with the FY 2000 fixed price of $5,644 per month, West Group calculated that the FY 2000 actual charges were 3.78 times the FY 2000 fixed price. According to the terms of the fixed price plan summarized in the table above, the CY 2001 fixed price would be 12.5 percent higher than the FY 2000 fixed price. The CY 2001 fixed price was calculated to be $6,350 per month, or $76,200 for the entire year.

In order to calculate the CY 2002 fixed price, West Group determined that from January 2001 to September 2001, the Commission would have been billed an average of $28,366 per month. This was 4.4 times the CY 2001 fixed price of $6,350 per month. Accordingly, the CY 2002 fixed price was $7,303 per month or $87,636 for the entire year, which is a 15 percent increase over the CY 2001 fixed price.

Holding constant the CY 2001 monthly average of $28,366 of actual usage, Table 3 on the next page illustrates that the projected annual fixed price of Westlaw® for the next 5 years will grow from $87,636 to $150,984 (72 percent increase) if the amount of usage remains static.

Table 3. Projected Fixed Price for Westlaw® Assuming No Increase in Usage



The annual fixed price percent increases are a function of actual Westlaw® usage. The Law Librarian who administered the Commission's Westlaw® usage had a system for reducing actual charges that would be incurred under the FEDLINK hourly/transactional pricing plan. First, he periodically reminded Commission employees—as he did by email on June 21, 2002[6]—to use Westlaw® responsibly and prudently. Second, he checked monthly invoices for abnormally large usage and followed up with the users. Third, everyone's copy of the Westmate® software was set to hourly billing and per document printing which the Law Librarian deemed most cost efficient.

These same controls did not apply to employees that used the Westlaw® website. Also, after 7 minutes of non-use, the Westmate® software was set to log off whereas the Westlaw® website was set to log off after 15 minutes of non-use when billing transactionally and after 7 minutes when billing hourly. In commenting on our draft report, the General Counsel informed us that all Westlaw® accounts are now set for hourly billing whether through Westmate® or Westlaw.com.

B. Use of Databases and Services Not Included in the Fixed Price Plan

Access to those databases and services not included in the fixed price plan was billed at an hourly/transactional rate. However, the practice was for the Law Librarian and the librarian to

[6] The Law Librarian was not able to locate copies of other reminders dating from the switch to the fixed price plan through June 21, 2002. Before the switch, the Law Librarian sent out more frequent memoranda about Westlaw® usage.

conduct all such research because only their passwords had access to these databases and services for which ancillary charges totaled $212.72 in CY 2001.

Although OIG attempts failed to access the excluded databases, CY 2001 monthly invoices showed that one Commission employee, other than the two librarians, accessed an excluded database on September 5, 2001, and November 6, 2001. Even though the resulting ancillary charges were insignificant ($8.57), the apparent vulnerability could permit other employees to run up excessive ancillary expenses.

C. Procedures for Deactivating Passwords of Separating Employees

The Law Library staff obtained passwords for new Commission employees and deactivated them for separating employees. At his request, West Group periodically faxed a list of passwords that the librarian updated manually.

Employees separating from the Commission were supposed to complete a clearance worksheet from the Personnel Office. Failure to do so could mean the separating employee might not receive a leave check or personnel action form. In the event that the employee failed to complete the clearance worksheet, the Personnel Office would ask the office to which the person had been assigned to file it for the person.

The Law Library was a required stop on the clearance worksheets. The only official notice that the Law Librarian received, the worksheet alerted the librarian to deactivate the employee's password. If for some reason a password was not deactivated during the clearance process, the librarian would hope to discover the problem when he reviewed either the monthly invoices or his list of passwords.

Every week, the Director, Office of Administration, distributed a memorandum that reported, among other things, the employees who had separated from the Commission during the prior week. This memorandum was distributed to the Secretary, the Inspector General, the General Counsel, and the directors of all the Commission Offices. The Law Librarian commented that he was unaware of the memorandum and thought he would find it useful in reviewing the monthly invoices and his password list for passwords that should have been deactivated earlier.

Each monthly Westlaw® invoice listed only the users who actually accessed Westlaw® that month. A comparison of the weekly reports from November 2001 to April 2002 and the monthly Westlaw® invoices from December 2001 to May 2002 did not reveal any Westlaw® access by separated employees.

If, hypothetically, an employee were to have access to excluded databases and services, failure to deactivate his or her password could expose the Commission to the risk of being billed for both intentional and unintentional unauthorized use. Unauthorized use of included databases and services would affect costs because each year the fixed price was calculated by comparing the previous year's fixed price with the actual charges that would have been incurred under the FEDLINK hourly/transactional pricing plan.

V. CONCLUSIONS

The Commission had experienced a substantial increase in actual Westlaw® usage since switching to the fixed price plan in FY 2000. Because West Group used the 9-month average of the prior calendar year's actual Westlaw® usage to determine the percentage increase for a given calendar year's fixed price, the Commission's actual Westlaw® usage directly affected costs. If Commission employees continue to use Westlaw® in the same manner as they did in CY 2001, the Commission may expect 12.5 percent annual increases in the fixed price for CY 2003 through CY 2005 (See Table 3, page 5).

Otherwise, the Commission satisfactorily administered Westlaw® usage. Restricted access to databases excluded from the fixed price plan adequately controlled their use. The same likely would be true of the excluded services if West Group similarly restricted access to them. While the inspection uncovered two incidents of an employee, other than Law Library staff, accessing an excluded database, these incidents were isolated. Finally, the clearance process adequately ensured deactivation of separating employees' passwords.

VI. SUGGESTIONS

As a result of our findings and conclusions, we suggested that:

- The Law Librarian perform a cost benefit analysis of the fixed price plan for Westlaw®. Included in the analysis should be the issue of accessing materials through Westlaw® that are also available in the Law Library.

- The Law Librarian institute a more formal awareness program for the 90 to 100 Commission employees with workstation access to Westlaw®. The program could consist of periodic training sessions and emails that remind Westlaw® users of ways to keep Westlaw® usage to a minimum.

- The Director, Office of Administration, add the Law Library to the distribution list for the weekly memoranda entitled "Report on Certain Resource Transactions." The memoranda could serve as a method of verifying that the passwords of separated employees were deactivated.

The General Counsel agreed with our suggestions and responded that while the precise costs of attorneys doing research manually likely could not be calculated, an estimate could be developed.