

Fiscal Year 2018 Compliance with Improper Payment Requirements

FINAL REPORT NO. OIG-19-013-I
JUNE 3, 2019




U.S. Department of Commerce
Office of Inspector General
Office of Audit and Evaluation



June 3, 2019

INFORMATION MEMORANDUM FOR SECRETARY ROSS

FROM: Peggy E. Gustafson 
Inspector General

SUBJECT: *FY 2018 Compliance with Improper Payment Requirements*
Final Report No. OIG-19-013-I

This memorandum provides our final report on fiscal year (FY) 2018 improper payment reporting. Our review objective was to determine the Department's FY 2018 compliance with the Improper Payments Information Act of 2002 (IPIA), as amended. In determining compliance, we also evaluated the accuracy and completeness of the Department's improper payment reporting in the *U.S. Department of Commerce FY 2018 Agency Financial Report (FY 2018 AFR)* and its performance in reducing and recapturing improper payments.

Based on our review, we concluded that the Department complied with IPIA compliance criteria. Additionally, our review did not identify any deficiencies regarding the accuracy or completeness of the improper payment reporting data described in the *FY 2018 AFR* or the Department's performance in reducing or recapturing improper payments.

The Department's May 13, 2019 response to the draft report is included within the report as appendix B. This final report will be posted on OIG's website pursuant to sections 4 and 8M of the Inspector General Act of 1978, as amended (5 U.S.C. App., §§ 4 & 8M).

As required by IPIA, as amended, we are also issuing a copy of this report to the U.S. Senate Committee on Homeland Security and Governmental Affairs; U.S. House Committee on Oversight and Reform; Comptroller General of the United States; and Controller, Office of Management and Budget.

We would like to thank the Department's staff and management for its cooperation during our review. Please contact me at (202) 482-4661 if you would like to discuss the results of this review.

Enclosure

cc: Thomas F. Gilman, Chief Financial Officer/Assistant Secretary for
Administration
Steve Kunze, Deputy Chief Financial Officer and Director for Financial
Management
MaryAnn Mausser, Audit Liaison



Report in Brief

June 3, 2019

Background

As required by the Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, Appendix C, "Requirements for Payment Integrity Improvement"—government-wide guidance focused on preventing improper payments—we initiated this review to determine whether the Department of Commerce (Department) complied with the Improper Payments Information Act of 2002 (IPIA), as amended by the Improper Payments Elimination and Recovery Act of 2010 (IPERA) and the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA). We also reviewed whether the Department complied with applicable provisions of OMB Circular A-136 (revised July 30, 2018), and OMB Circular A-123, Appendix C, as amended by OMB Memorandum M-18-20.

Broadly defined, improper payments are those the federal government has made for the wrong amount, to the wrong entity, or for the wrong reason. Congress enacted IPIA to require agency management to plan and take actions to reduce such payments. It requires federal agencies to (1) identify programs and activities that may be susceptible to significant improper payments, (2) estimate improper payment amounts for such programs and activities, and (3) report these estimates along with actions taken to reduce improper payments for programs and activities with estimates that exceed \$10 million. IPERA and IPERIA amended IPIA by expanding on these previous requirements and broadening recovery requirements for overpayments.

Why We Did This Review

Our review objective was to determine the Department's FY 2018 compliance with IPIA. In determining compliance, we also evaluated the accuracy and completeness of the Department's improper payment reporting in the FY 2018 AFR and its performance in reducing and recapturing improper payments.

OFFICE OF THE SECRETARY

FY 2018 Compliance with Improper Payment Requirements

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WHAT WE FOUND

To accomplish our objective, we focused on the Department's efforts to identify and report programs and/or activities that are susceptible to significant improper payments. Based on our review, we concluded that the Department complied with IPIA compliance criteria as summarized in the table below.

Additionally, our review did not identify any deficiencies regarding the accuracy or completeness of the improper payment reporting data described in the FY 2018 AFR or the Department's performance in reducing or recapturing improper payments.

Improper Payment Requirements

Program	Compliance Criteria					
	Published the AFR	Conducted a Risk Assessment	Published Improper Payment Estimate	Published Corrective Action Plan	Published and Is Meeting Reduction Target	Reported an Improper Payment Rate of Less Than 10 Percent
Disaster Relief Appropriation Act of 2013 Funding	Yes	Not Applicable (NA) ^a	NA ^b	NA ^b	NA ^b	NA ^b
Bipartisan Budget Act of 2018 Funding	Yes	NA ^a	NA ^c	NA ^c	NA ^c	NA ^c

Source: OIG analysis of Departmental data

^a A risk assessment is not required for this program.

^b The Department did not report improper payment related data because OMB approved the Department's request for relief from improper payment reporting for the Disaster Relief Appropriations Act of 2013 funding.

^c The Department is not required to report improper payment data for this program in FY 2018. Per OMB Memorandum M-18-14, if the program expends more than \$10 million, an improper payment estimate will be reported in FY 2019.

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Cover: Herbert C. Hoover Building main entrance at 14th Street Northwest in Washington, DC. Completed in 1932, the building is named after the former Secretary of Commerce and 31st President of the United States.

Introduction

As required by the Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, Appendix C, "Requirements for Payment Integrity Improvement"—government-wide guidance focused on preventing improper payments—we initiated this review to determine whether the Department of Commerce (Department) complied with the Improper Payments Information Act of 2002 (IPIA), as amended by the Improper Payments Elimination and Recovery Act of 2010 (IPERA) and the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA). We also reviewed whether the Department complied with applicable provisions of OMB Circular A-136 (revised July 30, 2018), and OMB Circular A-123, Appendix C, as amended by OMB Memorandum M-18-20.

Broadly defined, *improper payments* are those the federal government has made for the wrong amount, to the wrong entity, or for the wrong reason.¹ Congress enacted IPIA to require agency management to plan and take actions to reduce such payments. It requires federal agencies to (1) identify programs and activities that may be susceptible to significant improper payments, (2) estimate improper payment amounts for such programs and activities, and (3) report these estimates along with actions taken to reduce improper payments for programs and activities with estimates that exceed \$10 million. IPERA and IPERIA amended IPIA² by expanding on these previous requirements³ and broadening recovery requirements for overpayments.

To meet the requirements of IPIA and OMB Circular A-123, Appendix C, the Department performed procedures to detect and prevent improper payments, including risk assessments of selected programs and activities; sample testing of disbursements; and routine monitoring and minimization activities such as post-payment reviews. The Department reported the results of these fiscal year (FY) 2018 actions and other required improper payment data in the "Other Information (Unaudited)" section of the *U.S. Department of Commerce FY 2018 Agency Financial Report (FY 2018 AFR)*. During FY 2018, as a result of its ongoing improper payment monitoring

¹ An *improper payment* is any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. It includes any payment (1) to an ineligible recipient, (2) for an ineligible good or service, (3) that is duplicate, (4) for a good or service not received (except for such payments where authorized by law), or (5) that does not account for credit for applicable discounts. 31 U.S.C. § 3321 note.

² Going forward, unless otherwise indicated, the term *IPIA* will denote *IPIA, as amended by IPERA and IPERIA* throughout this report.

³ Beginning in FY 2013, IPERA defines *significant improper payments* as exceeding (1) 1.5 percent of program outlays and \$10 million of all program or activity payments made during the fiscal year or (2) \$100 million. See Pub. L. No. 111-204, § 2(a), 124 Stat. 2224, 2225; see also 31 U.S.C. § 3321 note. IPERIA amended the definition of *payments* to include payments to federal employees, and required OMB guidance to address payments to employees (e.g., salary, locality pay, travel pay, purchase card use, and other payments to federal employees) in risk assessments, and, where appropriate, in improper payments estimates. See Pub. L. No. 112-248, §§ 3(a)(5), 3(b)(2)(E), 126 Stat. 2390, 2391-92. In addition, IPERIA's mandated OMB guidance requires agencies to include all identified improper payments, regardless of whether the improper payment in question has been or is being recovered, in the reported improper payment estimate. *Id.* at § 3(b)(2)(D).

and minimization efforts, the Department identified approximately \$8.7 million in overpayments, as well as recaptured approximately \$4 million in overpayments.⁴

⁴ Amounts recaptured in FY 2018 include overpayments reported in FY 2018 and prior years.

Objective, Findings, and Recommendations

Our review objective was to determine the Department's FY 2018 compliance with IPIA. In determining compliance, we also evaluated the accuracy and completeness of the Department's improper payment reporting in the FY 2018 AFR and its performance in reducing and recapturing improper payments. To accomplish our objective, we focused on the Department's efforts to identify and report programs and/or activities that are susceptible to significant improper payments. For further discussion regarding our objective, scope, and methodology, see appendix A.

Based on our review, we concluded that the Department complied with IPIA compliance criteria as summarized in the table below. Additionally, our review did not identify any deficiencies regarding the accuracy or completeness of the improper payment reporting data described in the FY 2018 AFR or the Department's performance in reducing or recapturing improper payments.

Improper Payment Requirements

Program	Compliance Criteria					
	Published the AFR	Conducted a Risk Assessment	Published Improper Payment Estimate	Published Corrective Action Plan	Published and Is Meeting Reduction Target	Reported an Improper Payment Rate of Less Than 10 Percent
Disaster Relief Appropriation Act of 2013 Funding	Yes	Not Applicable (NA) ^a	NA ^b	NA ^b	NA ^b	NA ^b
Bipartisan Budget Act of 2018 Funding	Yes	NA ^a	NA ^c	NA ^c	NA ^c	NA ^c

Source: OIG analysis of Departmental data

^a A risk assessment is not required for this program.

^b The Department did not report improper payment related data because OMB approved the Department's request for relief from improper payment reporting for the Disaster Relief Appropriations Act of 2013 funding.

^c The Department is not required to report improper payment data for this program in FY 2018. Per OMB Memorandum M-18-14, if the program expends more than \$10 million, an improper payment estimate will be reported in FY 2019.

The Department Is Compliant with IPIA

The Department is in compliance with IPIA for FY 2018 because it met the applicable compliance criteria, as described in table 1. To comply with IPIA, the Department must

adhere to the following six criteria, four of which relate specifically to programs and activities susceptible to significant improper payments.⁵

- Publish an AFR for the most recent fiscal year and post the report and any accompanying materials required by OMB on its website;
- Conduct a program specific risk assessment for each program or activity not susceptible to significant improper payments at least once every 3 years;
- Publish improper payment estimates for all programs and activities identified as susceptible to significant improper payments;
- Publish programmatic corrective action plans in the AFR for all programs and activities identified as susceptible to significant improper payments;
- Publish and meet annual reduction targets for each program assessed to be at risk and estimated for improper payments; and
- Report a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate is obtained and published in the AFR.

We found that the Department published the *FY 2018 AFR*, and the required accompanying materials, on its website and conducted risk assessments for selected Departmental programs. The Department's annual risk assessment process did not identify any programs and activities susceptible to significant improper payments. Despite receiving funds under the Disaster Relief Appropriations Act of 2013 (Disaster Relief Appropriations Act)⁶ and the Bipartisan Budget Act of 2018,⁷ which are considered susceptible to significant improper payments for the purposes of IPIA, the Department was not required to report improper payment related data for these programs in FY 2018.

Although the funds received under the Disaster Relief Appropriations Act are susceptible to significant improper payments, the Department requested relief from improper payment reporting based on its analysis of the Departmental burden in measuring and reporting data for this program, related OIG and U.S. Government Accountability Office (GAO) audit findings, and ongoing internal controls to mitigate the risk of fraud and error. In July 2018, OMB approved the Department's request. Thus, the Department did not report any improper payment related data for these funds in the *FY 2018 AFR*.

Additionally, in FY 2018 the Department received funds for disaster relief efforts under the Bipartisan Budget Act of 2018. The Department was not required to report improper payment data for this program in its *FY 2018 AFR* as OMB requires an improper payment estimate to be reported starting in FY 2019 for this program when expenditures in the fiscal year exceed \$10 million.

⁵ Pub. L. No. 111-204, § 3, as amended by Pub. L. No. 112-248, § 3(c)(2); see also 31 U.S.C. § 3321 note; OMB Circular A-123, Appendix C. The Department is responsible for determining whether its programs and activities are susceptible to the risk of significant improper payments.

⁶ The Disaster Relief Appropriations Act of 2013, Pub. L. No. 113-2, § 904(b), 127 Stat. 4, 17 (2013).

⁷ As required by the Bipartisan Budget Act of 2018, Pub. L. No. 115-123, § 21208 (b), 132 Stat. 108 (2018).

Summary of Agency Response and OIG Comments

The Department's response to the draft report is included as appendix B of this report. In its response, Departmental management expressed that it was pleased with the OIG's conclusion on FY 2018 improper payments compliance. The Department will continue its efforts to effectively and efficiently monitor, minimize, and recapture improper payments and ensure the integrity of its disbursements.

Appendix A: Objective, Scope, and Methodology

Our review objective was to determine the Department's FY 2018 compliance with IPIA. In determining compliance, we also evaluated the accuracy and completeness of the Department's improper payment reporting in the *FY 2018 AFR* and the Department's performance in reducing and recapturing improper payments.

We reviewed Departmental processes and practices for identifying, assessing, and reporting programs and activities susceptible to significant improper payments, along with the procedures in place to reduce and recapture improper payments during FY 2018.

To accomplish our objective, we obtained an understanding of the Department's IPIA-related procedures and practices by

- interviewing Department officials in the Office of the Secretary's Office of Financial Management;
- obtaining and analyzing documents related to the FY 2018 risk assessments and improper payment reporting—including relevant procedures, risk assessment templates and results, and the summary of quarterly reporting of improper payments identified and amounts recaptured;
- reviewing the Department's corrective actions taken to address recommendations made in the OIG report related to compliance with improper payment requirements,⁸ and
- reviewing the "Payment Integrity" section in the *FY 2018 AFR*.

We also reviewed the Department's compliance with applicable provisions of IPIA, OMB Circular A-136 (revised July 30, 2018), and OMB Circular A-123, Appendix C, as amended by OMB Memorandum M-18-20. In addition, we assessed the reliability of the Department's FY 2018 summary of overpayments identified and amounts recaptured via discussion with Departmental officials and review of relevant documentation. We determined that the data was sufficiently reliable for this review.

We conducted our fieldwork from February to April 2019 in Washington, DC. We performed this review under the authority of the Inspector General Act of 1978, as amended (5 U.S.C. App.), and Department Organization Order 10-13, dated April 26, 2013. The review was conducted in accordance with the *Quality Standards for Inspection and Evaluation* (January 2012) issued by the Council of the Inspectors General on Integrity and Efficiency.

⁸ U.S. Department of Commerce Office of Inspector General, May 2, 2018. *FY 2017 Compliance with Improper Payment Requirements*, OIG-18-019-I. Washington, DC: DOC OIG.

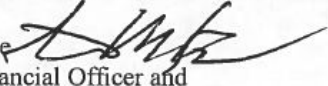
Appendix B: Agency Response



UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer and
Assistant Secretary for Administration
Washington, D.C. 20230

MAY 13 2019

MEMORANDUM FOR Carol N. Rice
Assistant Inspector General for Audit and Evaluation

FROM: Stephen M. Kunze 
Deputy Chief Financial Officer and
Director for Financial Management

SUBJECT: Comments on Draft Report Entitled, "*Fiscal Year 2018 Compliance with Improper Payment Requirements*"

This memorandum responds to the draft report from the Office of Inspector General (OIG), entitled "*Fiscal Year 2018 Compliance with Improper Payment Requirements*," issued on May 3, 2019. We are pleased with the OIG's conclusion that the Department met for FY 2018 the six compliance criteria of the Improper Payments Information Act of 2002, as amended, and with OIG's further indication that its review did not identify any deficiencies in improper payments reporting in the Department's FY 2018 Agency Financial Report and in the Department's performance in reducing or recapturing improper payments. The Department will continue its efforts to effectively and efficiently monitor, minimize, and recapture improper payments and ensure the integrity of its disbursements.

Thank you for the opportunity to provide comments. If you have any questions or comments, please feel free to call me at (202) 482-1207.

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