

Fiscal Year 2021 Compliance with Improper Payment Requirements

FINAL REPORT NO. OIG-22-024-I
JUNE 23, 2022



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



INFORMATION MEMORANDUM FOR SECRETARY RAIMONDO

FROM: Peggy E. Gustafson, Inspector General, (202) 793-3331

DATE: Thursday, June 23, 2022

CC: Stephen Kunze, Deputy Chief Financial Officer and Director for Financial Management, Office of Financial Management, Office of the Secretary
MaryAnn Mausser, Audit Liaison, Office of the Secretary
Mark B. Daley, Deputy for Acquisition Program Management, Office of the Secretary
Rehana Mwalimu, Risk Management Officer and Primary Alternate Department GAO/OIG Liaison, Office of the Secretary

RE: **FY 2021 Compliance with Improper Payment Requirements
Final Report No. OIG-22-024-I**

This memorandum provides our final report on fiscal year (FY) 2021 improper payment reporting. Our review objective was to determine the U.S. Department of Commerce's (the Department's) compliance with the Payment Integrity Information Act of 2019 (PIIA). To determine FY 2021 compliance, we reviewed the "Payment Integrity" section of the Department's FY 2021 *Agency Financial Report (AFR)*, accompanying materials to the *AFR*, and other improper payment-related documentation. We also assessed the Department's efforts related to preventing and reducing improper payments and unknown payments.

Based on our review, we concluded that the Department complied with the PIIA criteria for FY 2021. We did not identify any actions needed to further improve prevention and reduction measures within the Department.

This final report will be posted on the Office of Inspector General'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 PIIA, we are also issuing a copy of this final report to the U.S. Senate Committee on Homeland Security and Governmental Affairs; the U.S. House Committee on Oversight and Reform; the U.S. Senate Committee on Appropriations; the U.S. House Committee on Appropriations; the Comptroller General of the United States; and the Controller of the Office of Management and Budget.

We would like to thank the Department's staff and management for their cooperation during our review. Please contact me at (202) 793-3331 if you would like to discuss the results of this review.

Attachment



Report in Brief

June 23, 2022

Background

As mandated by the Payment Integrity Information Act of 2019 (PIIA) and in accordance with guidance issued by the Office of Management and Budget (OMB), we initiated this review to determine whether the U.S. Department of Commerce (the Department) complied with PIIA, which is intended to improve efforts to identify and reduce government-wide improper payments.

Broadly defined, *improper payments* are those the federal government has made for the wrong amount, to the wrong entity, or for the wrong reason. PIIA set forth improper payment requirements for executive agencies including, but not limited to, (1) conducting program-specific risk assessments for each program or activity, (2) publishing improper payment estimates for programs susceptible to significant improper payments, and (3) reporting on corrective actions to reduce improper payments. To meet improper payment requirements, the Department followed *OMB Circular A-123, Appendix C*, and *OMB Annual Data Call Instructions*. It also performed procedures to detect and prevent improper payments and unknown payments, including (1) risk assessments of selected programs and activities and (2) routine monitoring and minimization activities, such as post-payment reviews. During fiscal year (FY) 2021, the Department identified approximately \$5.11 million in overpayments and recaptured approximately \$3.09 million in overpayments.

Why We Did This Review

Our objective was to determine the Department's compliance with PIIA. To determine FY 2021 compliance, we reviewed the "Payment Integrity" section of its *FY 2021 Agency Financial Report (AFR)*, accompanying materials to the *AFR*, and other improper payment-related documentation. We also assessed the Department's efforts related to preventing and reducing improper payments and unknown payments.

OFFICE OF THE SECRETARY

FY 2021 Compliance with Improper Payment Requirements

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WHAT WE CONCLUDED

To comply with PIIA, the Department must adhere to the following criteria:

1. Publish payment integrity information with the agency's *AFR* for the most recent FY and post the *AFR* and accompanying materials required by OMB on the agency's website.
2. Conduct improper payment risk assessments for each program with annual outlays greater than \$10 million at least once in the last 3 years and adequately conclude whether the program is likely to make improper payments and unknown payments above or below the statutory threshold.
3. Publish improper payment and unknown payment estimates for programs susceptible to significant improper payments and unknown payments in the accompanying materials to the *AFR*.
4. Publish corrective action plans for each program for which an estimate above the statutory threshold was published in the accompanying materials to the *AFR*.
5. Publish an improper payment and unknown payment reduction target for each program for which an estimate above the statutory threshold was published in the accompanying materials to the *AFR*, demonstrate payment integrity improvements or reach a tolerable improper payment and unknown payment rate, and develop a plan to meet the improper payment and unknown payment reduction target(s).
6. Report an improper payment and unknown payment estimate of less than 10 percent for each program for which an estimate was published in the accompanying materials to the *AFR*.

We performed our FY 2021 annual compliance review based on a combination of the requirements in *OMB Circular A-123, Appendix C*, as revised by *OMB Memorandum M-21-19*, dated March 5, 2021; *OMB Circular A-136*, revised, dated August 10, 2021; the *OMB Annual Data Call Instructions* dated October 5, 2021; the *OMB Payment Integrity Question and Answer Platform*; and the Council of the Inspectors General on Integrity and Efficiency's *Guidance for Payment Integrity Information Act Compliance Reviews*, dated October 26, 2021.

Based on our review, we concluded that the Department complied with the PIIA criteria for FY 2021. Additionally, as part of our review, we evaluated the adequacy of the Department's efforts to prevent and reduce improper payments and unknown payments. We did not identify any actions needed to further improve prevention and reduction measures within the Department.

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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 mandated by the Payment Integrity Information Act of 2019¹ (PIIA) and in accordance with guidance issued by the Office of Management and Budget (OMB), we initiated this review to determine whether the U.S. Department of Commerce (the Department) complied with PIIA, which is intended to improve efforts to identify and reduce government-wide improper payments.

Broadly defined, *improper payments* are those the federal government has made for the wrong amount, to the wrong entity, or for the wrong reason.² In fiscal year (FY) 2021, agencies across the federal government made an estimated \$281 billion in improper payments. Improper payments can negatively impact the public's trust in the federal government and distract from the benefits of federal programs. Accordingly, resolving the problem of improper payments is of the utmost importance.

On March 2, 2020, PIIA set forth improper payment requirements for executive agencies including, but not limited to, (1) conducting program-specific risk assessments for each program or activity, (2) publishing improper payment estimates for programs susceptible to significant improper payments, and (3) reporting on corrective actions to reduce improper payments. We performed our FY 2021 annual compliance review based on a combination of the requirements in *OMB Circular A-123, Appendix C*, as revised by *OMB Memorandum M-21-19*, dated March 5, 2021; *OMB Circular A-136*, revised, dated August 10, 2021; the *OMB Annual Data Call Instructions* dated October 5, 2021; the *OMB Payment Integrity Question and Answer Platform*;³ and the Council of the Inspectors General on Integrity and Efficiency's *Guidance for Payment Integrity Information Act Compliance Reviews*, dated October 26, 2021.

To meet improper payment requirements, the Department followed *OMB Circular A-123, Appendix C* (from March 5, 2021), and *OMB Annual Data Call Instructions*. It also performed procedures to detect and prevent improper payments and unknown payments,⁴ including (1) risk assessments of selected programs and activities and (2) routine monitoring and minimization activities, such as post-payment reviews. The Department reported the results of these FY 2021 actions and other required improper payment data to OMB for inclusion on

¹ Pub. L. No. 116-117, § 2, 134 Stat. 113, 123 (2019) (codified at 31 U.S.C. § 3353(a)(1)).

² An *improper payment* is any payment that should not have been made or that was made in an incorrect amount, including an overpayment or underpayment, under a statutory, contractual, administrative, or other legally applicable requirement. 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 those payments where authorized by law), and (5) that does not account for credit for applicable discounts. See 31 U.S.C. § 3351(4).

³ The *OMB Payment Integrity Question and Answer Platform* is constantly updated. We last accessed the platform on March 10, 2022.

⁴ A payment whose propriety cannot be determined by the agency as a result of insufficient or missing documentation.

PaymentAccuracy.gov.⁵ During FY 2021, as a result of its ongoing improper payment monitoring and minimization efforts, the Department identified approximately \$5.11 million in overpayments and recaptured approximately \$3.09 million in overpayments.

⁵ PaymentAccuracy.gov is a website created by the U.S. Department of the Treasury, in coordination with the U.S. Department of Justice and OMB, to serve as a centralized location for publishing information about improper payments made by the federal government to individuals, organizations, and contractors.

Objective and Conclusion

Our review objective was to determine the Department's compliance with PIIA. To determine FY 2021 compliance, we reviewed the "Payment Integrity" section of its FY 2021 *Agency Financial Report (AFR)*, accompanying materials to the *AFR*, and other improper payment-related documentation. We also assessed the Department's efforts related to preventing and reducing improper payments and unknown payments. Appendix A contains additional details on the scope and methodology of this evaluation.

To comply with PIIA, the Department must adhere to the following criteria:

1. Publish payment integrity information with the agency's *AFR* for the most recent FY and post the *AFR* and accompanying materials required by OMB on the agency's website.
2. Conduct improper payment risk assessments for each program with annual outlays greater than \$10 million at least once in the last 3 years and adequately conclude whether the program is likely to make improper payments and unknown payments above or below the statutory threshold.⁶
3. Publish improper payment and unknown payment estimates for programs susceptible to significant improper payments and unknown payments in the accompanying materials to the *AFR*.
4. Publish corrective action plans for each program for which an estimate above the statutory threshold was published in the accompanying materials to the *AFR*.
5. Publish an improper payment and unknown payment reduction target for each program for which an estimate above the statutory threshold was published in the accompanying materials to the *AFR*, demonstrate payment integrity improvements or reach a tolerable improper payment and unknown payment rate, and develop a plan to meet the improper payment and unknown payment reduction target(s).
6. Report an improper payment and unknown payment estimate of less than 10 percent for each program for which an estimate was published in the accompanying materials to the *AFR*.

Based on our review and as summarized in table I, we concluded that the Department complied with the PIIA criteria for FY 2021. Additionally, as part of our review, we evaluated the adequacy of the Department's efforts to prevent and reduce improper payments and unknown payments. We did not identify any actions needed to further improve prevention and reduction measures within the Department.

⁶ Public Law 116-117, § 3352(a)(3)(A), 134 Stat. 113, 115. Programs are considered to be above the statutory threshold if they are reporting improper payments and unknown payments above (1) \$10 million and 1.5 percent of the program's total annual outlays or (2) \$100 million.

Table I. PIIA Compliance Reporting

Program Name ^a	Compliance Criteria									
	Published payment integrity information with the AFR	Posted the AFR and accompanying materials on the agency website	Conducted improper payment risk assessments for each program with annual outlays greater than \$10 million at least once in the last 3 years	Adequately concluded whether the program is likely to make improper payments and unknown payments above or below the statutory threshold	Published improper payment and unknown payment estimates for programs susceptible to significant improper payments in the accompanying materials to the AFR	Published corrective action plans for each program for which an estimate above the statutory threshold was published in the accompanying materials to the AFR	Published improper payment and unknown payment reduction target(s) for each program for which an estimate above the statutory threshold was published in the accompanying materials to the AFR	Demonstrated improvements to payment integrity or reached a tolerable improper payment and unknown payment rate	Developed a plan to meet the improper payment and unknown payment reduction target(s)	Reported an improper payment and unknown payment estimate of less than 10% for each program for which an estimate was published in the accompanying materials to the AFR
<i>Bureau of Industry and Security's Dual Use Export Administration and Enforcement</i>	Yes	Yes	Yes	Yes	Not Applicable (NA) ^b	NA ^b	NA ^b	NA ^b	NA ^b	NA ^b
<i>U.S. Census Bureau's Geographic Support</i>	Yes	Yes	Yes	Yes	NA ^b	NA ^b	NA ^b	NA ^b	NA ^b	NA ^b
<i>U.S. Census Bureau's Working Capital Fund</i>	Yes	Yes	Yes	Yes	NA ^b	NA ^b	NA ^b	NA ^b	NA ^b	NA ^b
<i>U.S. Economic Development Administration's Disaster Funds</i>	Yes	Yes	Yes	Yes	Yes	NA ^c	NA ^c	NA ^c	NA ^c	Yes
<i>National Institute of Standards and Technology's Grants</i>	Yes	Yes	Yes	Yes	NA ^b	NA ^b	NA ^b	NA ^b	NA ^b	NA ^b
<i>National Oceanic and Atmospheric Administration's Disaster Funds Received Under Bipartisan Budget Act of 2018</i>	Yes	Yes	Yes	Yes	Yes	NA ^c	NA ^c	NA ^c	NA ^c	Yes
<i>National Telecommunications and Information Administration's Information Infrastructure Grants</i>	Yes	Yes	Yes	Yes	NA ^b	NA ^b	NA ^b	NA ^b	NA ^b	NA ^b

Source: OIG analysis of Departmental data

^a We assessed Departmental improper payment risk assessments completed for these programs. The Department completed 22 program risk assessments during FY 2021, as described on PaymentAccuracy.gov.

^b The Department was not required to report improper payment data for this program in FY 2021, as the Department's risk assessment process did not identify the program as susceptible to significant improper payments and unknown payments.

^c This criterion did not apply because the estimate was below the statutory threshold.

Appendix A: Objective, Scope, and Methodology

Our review objective was to determine the Department's compliance with PIIA. To determine FY 2021 compliance, we reviewed the "Payment Integrity" section of its FY 2021 AFR, accompanying materials to the AFR, and other improper payment-related documentation. We also assessed the Department's efforts related to preventing and reducing improper payments and unknown payments.

To accomplish our objective, we performed the following:

- Reviewed relevant laws, regulations, and other guidance, including
 - *Payment Integrity Information Act of 2019* (Public Law 116-117), dated March 2, 2020
 - *OMB Circular A-123, Appendix C*, as revised by *OMB Memorandum M-21-19*, dated March 5, 2021
 - *OMB Circular A-136, Revised*, dated August 10, 2021
 - *OMB Annual Data Call Instructions*, dated October 5, 2021
 - *OMB Payment Integrity Question and Answer Platform*
 - Council of the Inspectors General on Integrity and Efficiency, *Guidance for Payment Integrity Information Act Compliance Reviews*, dated October 26, 2021
 - *OMB Memorandum M-18-14 on Implementation of Internal Controls and Grant Expenditures for the Disaster-Related Appropriations*, dated March 30, 2018
- Reviewed the "Payment Integrity" section in the FY 2021 AFR and the Department's accompanying materials (Annual Improper Payments 2021 Dataset) included on PaymentAccuracy.gov.
- Interviewed Department officials in the Office of the Secretary's Office of Financial Management responsible for improper payment oversight and reporting.
- Obtained and analyzed documents related to the FY 2021 risk assessments and improper payment reporting—including the FY 2021 risk assessment tracking log, completed risk assessments, and the FY 2021 improper payments and amounts recaptured summary.
- Reviewed Departmental processes and practices for identifying, assessing, and reporting programs and activities susceptible to significant improper payments.
- Reviewed the Departmental processes and practices in place to prevent, reduce, and recapture improper payments during FY 2021.
- Reviewed the Department's compliance with applicable provisions of PIIA.

In addition, we assessed the reliability of the Department's FY 2021 improper payments data by identifying the data sources, understanding how the data was extracted, and analyzing the data. We also traced data to source documents. We determined that the data was sufficiently reliable for the purposes of this report.

We conducted our review from December 2021 through April 2022 under the authority of the Inspector General Act of 1978, as amended (5 U.S.C. App.), and Department Organization Order 10-13, as amended October 21, 2020. We performed our fieldwork in Seattle and Washington, DC.

We conducted this evaluation in accordance with *Quality Standards for Inspection and Evaluation* (January 2012) issued by the Council of the Inspectors General on Integrity and Efficiency. Those standards require that the evidence supporting the evaluation's findings, conclusions, and recommendations should be sufficient, competent, and relevant and should lead a reasonable person to sustain the findings, conclusions, and recommendations. We believe that the evidence obtained provides a reasonable basis for our conclusion based on our review objective.

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