



# OFFICE OF THE SECRETARY

## FY 2015 Compliance with Improper Payment Requirements

FINAL REPORT OIG-16-027-I  
MAY 11, 2016

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

**FOR PUBLIC RELEASE**





May 11, 2016

**INFORMATION MEMORANDUM FOR SECRETARY PRITZKER**

A handwritten signature in cursive script, appearing to read "D. Smith".

**FROM:** David Smith  
Deputy Inspector General

**SUBJECT:** *FY 2015 Compliance with Improper Payment Requirements*  
Final Report No. OIG-16-027-I

This memorandum provides our final report on fiscal year (FY) 2015 improper payment reporting. We conducted this review to comply with the requirements of 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)—and Office of Management and Budget (OMB) Circular A-123, Appendix C, “Requirements for Effective Estimation and Remediation of Improper Payments,” as amended.

Our review focused on assessing whether the Department’s improper payment reporting in its FY 2015 *Agency Financial Report (AFR)* complied with all applicable reporting requirements. We also evaluated the accuracy and completeness of the Department’s reporting, as well as its performance in reducing and recapturing improper payments.

Overall, we found that the Department met the applicable OMB criteria for compliance with IPIA, as amended, for FY 2015. However, we determined that the Department should improve its process for evaluating unsupported costs identified in OIG reports and enhance reporting of its payment recapture audit efforts described in the *AFR*. Our final report contains recommendations to address these conditions. In accordance with Department Administrative Order 213-5, within 60 days of the date of this memorandum, we request an action plan that responds to our recommendations.

We are also issuing a copy of this report to the Senate Committee on Homeland Security and Governmental Affairs; House Committee on Oversight and Government Reform; Comptroller General of the United States; and Controller, OMB.

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: Ellen Herbst, Chief Financial Officer and Assistant Secretary for Administration  
MaryAnn Mausser, Audit Liaison



# Report in Brief

MAY 11, 2016

## Background

The **Improper Payments Information Act of 2002 (IPIA)** requires federal agencies to (1) identify programs that may be susceptible to significant improper payments; (2) estimate improper payment amounts for such programs; and (3) report these estimates along with actions taken to reduce improper payments for programs with estimates that exceed \$10 million. The **Improper Payments Elimination and Recovery Act of 2010** and **Improper Payments Elimination and Recovery Improvement Act of 2012** amended IPIA by expanding on these previous requirements and broadening recovery requirements for overpayments.

Broadly defined, *improper payments* are those the federal government has made for the wrong amount, to the wrong entity, or for the wrong reason. In FY 2015 the Department reported \$32.3 million in overpayments, as well as \$6.9 million in recaptured overpayments identified through its ongoing improper payment monitoring and minimization efforts.

## Why We Did This Review

We initiated this engagement to review the Department's compliance with IPIA, as amended—as required by the Office of Management and Budget's (OMB's) government-wide implementation guidance, Circular A-123, *Management's Responsibility for Internal Control*, Appendix C, "Requirements for Effective Estimation and Remediation of Improper Payments." Specifically, we (1) assessed whether the Department complied with all applicable reporting requirements and (2) evaluated the accuracy and completeness of its reporting, as well as its performance in reducing and recapturing improper payments.

## OFFICE OF THE SECRETARY

### FY 2015 Compliance with Improper Payment Requirements

OIG-16-027-I

## WHAT WE FOUND

To meet the requirements of IPIA, as amended, and OMB Circular A-123, Appendix C, the Department performed procedures and reported the results of its FY 2015 actions to detect and prevent improper payments, including: (1) risk assessments of selected programs and activities; (2) engagement of a contractor to obtain the status of sustained disallowed costs for grants and other cooperative agreements and perform payment recapture audits; (3) engagement of a contractor to develop a statistical sampling methodology and test a sample of disbursements made under the Disaster Relief Appropriations Act; (4) routine monitoring procedures; (5) disclosure of improper payment data in the FY 2015 *Agency Financial Report (AFR)*; and (6) publication and posting of the FY 2015 *AFR*.

Each year, the Department evaluates a subset of its programs and activities based on a 3-year rotational schedule for conducting risk assessments. During the FY 2015 risk assessment process, the Department did not identify any programs or activities susceptible to significant improper payments. However, as required by the Disaster Relief Appropriations Act of 2013, the Department identified in its *AFR* that the \$326 million received by NOAA under the Act is susceptible to significant improper payments. OMB requires the Department to calculate and report a statistically valid improper payment estimate for the FY 2015 reporting period. Accordingly, the Department engaged an independent contractor to perform the statistical sampling of disbursements under the Disaster Relief Appropriations Act resulting in an improper payment estimate for these funds. The independent contractor found no improper disbursements and provided an improper payment estimate of zero percent.

The Department reported these results in its FY 2015 *AFR*, along with other required information. Based on these activities, we found that the Department met the applicable OMB criteria for compliance with IPIA. However, the Department can further improve the accuracy and completeness of the improper payment and payment recapture data reported in the *AFR*.

## WHAT WE RECOMMEND

We recommend that the Acting Deputy Chief Financial Officer and Director for Financial Management develop control procedures to ensure that

1. the evaluation of unsupported costs identified in OIG reports and final determination of the propriety of these payments are made within a reasonable timeframe (for example, 3 months); and
2. the *AFR* describes all required aspects of the Department's payment recapture audit efforts identified in OMB Circular A-136.

# Contents

Introduction ..... 1

Objectives and Conclusion.....2

Finding and Recommendations .....3

    The Department is Compliant with IPIA, but AFR Reporting Can Be Improved.....3

        The Department should improve its process for evaluating and reporting unsupported costs identified in OIG reports.....4

        The Department should expand its reporting of payment recapture efforts .....4

    Recommendations.....5

Summary of Agency Response and OIG Comments.....6

Appendix A: Scope and Methodology.....7

Appendix B: Agency Response .....8

*COVER: Detail of fisheries pediment,  
U.S. Department of Commerce headquarters,  
by sculptor James Earle Fraser, 1934*

## Introduction

As required by the Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Internal Control*, Appendix C, "Requirements for Effective Estimation and Remediation of Improper Payments" government-wide guidance on detecting and preventing improper payments—we initiated this review to determine whether the 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 August 2015), and OMB Circular A-123, Appendix C, as amended by OMB Memorandum M-15-02.

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

During fiscal year (FY) 2015, the Department made approximately \$20.5 billion in total outlays. As mandated by IPIA, the Department implemented various internal control procedures intended to detect and prevent significant improper payments. As a result, during FY 2015 the Department reported \$32.3 million in overpayments, as well as \$6.9 million in recaptured overpayments identified through its ongoing improper payment monitoring and minimization efforts. A summary of the Department's FY 2015 improper payment practices and results appears in the "Other Information" section of the *U.S. Department of Commerce FY 2015 Agency Financial Report (AFR)*.

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<sup>1</sup> 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, and 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, or (5) that does not account for credit for applicable discounts. 31 U.S.C. § 3321 note.

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

<sup>3</sup> 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. 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, 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. 2391-92. In addition, IPERIA's mandated OMB guidance requires agencies to include all improper payments, regardless of whether the improper payment has been or is being recovered, in the reported improper payment estimate. *Id.* at § 3(b)(2)(D).

## Objectives and Conclusion

Our review focused on the Department's efforts to identify programs/activities that are susceptible to significant improper payments and report improper payment related information in the *AFR* as required by OMB Circular A-123. Specifically, our objectives were to (1) assess whether the Department complied with all applicable reporting requirements and (2) evaluate the accuracy and completeness of its reporting, as well as its performance in reducing and recapturing improper payments.

OMB Circular A-123<sup>4</sup> instructs OIG to review the Department's adherence to six requirements for compliance with IPIA. Four of the requirements relate to programs and activities susceptible to significant improper payments. The Department is responsible for determining whether its programs and activities are susceptible to the risk of significant improper payments. In accordance with the Disaster Relief Appropriations Act of 2013,<sup>5</sup> the Department identified in its *AFR* that programs and activities receiving funds under the Disaster Relief appropriation are susceptible to significant improper payments. Because the Department identified a program susceptible to significant improper payments during FY 2015, all of the OMB compliance requirements were applicable to the Department in FY 2015.

We reviewed the results of the Department's actions to detect and prevent improper payments, as well as improper payment data reported in the *AFR*, and found that the Department met the six OMB criteria for compliance with IPIA, as described in table I.

**Table I. Improper Payment Requirements**

Requirement	Compliance Requirement Met
Published the <i>AFR</i> and posted on agency website	Yes
Conducted program-specific risk assessments	Yes
Published improper payment estimates for all programs and activities identified as susceptible to significant improper payments in the <i>AFR</i>	Yes
Published programmatic corrective action plans for all programs and activities susceptible to significant improper payments in the <i>AFR</i>	Not reported <sup>a</sup>
Published and met annual reduction targets for each program assessed to be at risk and estimated for improper payments (OMB Circular A-123 requirement for all programs and activities identified as susceptible to significant improper payments in the <i>AFR</i> )	Yes <sup>a</sup>
Reported a gross improper payment rate of less than 10 percent for each program or activity for which an improper payment estimate was obtained and published in the <i>AFR</i> (OMB Circular A-123 requirement for all programs and activities identified as susceptible to significant improper payments in the <i>AFR</i> )	Yes <sup>a</sup>

Source: OIG analysis of Departmental data

<sup>a</sup> Because the Department's testing of Disaster Relief Appropriation Act funds identified no improper payments, the Department reported an estimated improper payment amount and rate of zero in its *AFR*. As a result, the Department is not required to complete corrective action plans. In addition, the Department reported annual reduction targets for prior and future years as zero in the *AFR*.

<sup>4</sup> OMB Circular A-123, Appendix C, Part II(A)(3).

<sup>5</sup> Disaster Relief Appropriations Act of 2013, Pub. L. No. 113-2, § 904(b), 127 Stat. 17.

In addition, our evaluation of the Department's performance and reporting related to improper payments revealed that the Department can improve its *AFR* reporting of improper payment related data by ensuring that unsupported costs<sup>6</sup> identified in *OIG* reports are evaluated and reported in a timely manner, as well as ensuring that the description of its payment recapture audit efforts meet the requirements of *OMB Circular A-136, Financial Reporting Requirements* (revised August 2015).

## Finding and Recommendations

### The Department is Compliant with IPIA, but *AFR* Reporting Can Be Improved

To meet the requirements of IPIA and *OMB Circular A-123, Appendix C*, the Department performed procedures and reported the results of its FY 2015 actions to detect and prevent improper payments, including

- risk assessments of selected programs and activities;
- engagement of a contractor to obtain the status of sustained disallowed costs for grants and other cooperative agreements and perform payment recapture audits of
  - closed and expired<sup>7</sup> contracts and obligations of selected bureaus and
  - expired grants and other cooperative agreements;
- engagement of a contractor to develop a statistical sampling methodology and test a sample of disbursements made under the Disaster Relief Appropriations Act;
- routine monitoring procedures, such as post-payment reviews;
- disclosure of improper payment data in the FY 2015 *AFR*; and
- publication and Internet posting of the FY 2015 *AFR*.

Each year, the Department evaluates a subset of its programs and activities based on a 3-year rotational schedule for conducting risk assessments. During the FY 2015 risk assessment process, the Department did not identify any programs or activities susceptible to significant improper payments. However, as required by the Disaster Relief Appropriations Act of 2013, the Department identified in its *AFR* that the \$326 million received by the National Oceanic and Atmospheric Administration under the Act is susceptible to significant improper payments. *OMB* requires the Department to calculate and report a statistically valid improper payment estimate for the FY 2015 reporting period. Accordingly, the Department engaged an independent contractor to perform the statistical sampling of disbursements under the Disaster Relief Appropriations Act resulting in an improper payment estimate for these funds. The independent contractor found no improper disbursements and provided an improper payment estimate of zero percent.

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<sup>6</sup> An *unsupported cost* is one questioned by an *OIG* because the *OIG* found that, at the time of the audit, such cost was not supported by adequate documentation. See 5 U.S.C. app. § 5(f)(2).

<sup>7</sup> *Closed* contracts and obligations have completed the closeout process; *expired* contracts refer to those for which the period of performance has ended, and last payment was made, but the closeout process has not been completed.

The Department reported these results in its FY 2015 AFR, along with other required information. Based on these activities, we found that the Department met the applicable OMB criteria for compliance with IPIA as described in table I. However, the Department can further improve the accuracy and completeness of the improper payment and payment recapture data reported in the AFR.

*The Department should improve its process for evaluating and reporting unsupported costs identified in OIG reports*

OMB Circular A-123, Appendix C, Part I(A)(2) states “when an agency’s review is unable to discern whether a payment was proper as a result of insufficient or lack of documentation, this payment must also be considered an improper payment.” In addition, according to OMB Circular A-136, Part II.5.8, Section X(d), “agencies should also report on [improper payments] identified and recovered through sources other than payment recapture audits.” This includes improper payments identified by OIG and other reviews.

Our review found that the Department’s AFR did not include approximately \$25 million in unsupported costs identified in OIG audit reports issued during FY 2015. These unsupported costs represent amounts paid by the Department without proper documentation. The Department’s improper payment reporting process includes evaluating the validity of the unsupported costs identified in OIG reports prior to reporting these amounts as improper payments in the AFR. Because the Department is still reviewing the \$25 million—more than 1 year after the OIG report was issued—it was not included in the AFR as an improper payment. As a result of this lengthy follow-up process, the Department has delayed the reporting of apparent improper payments and may have underreported FY 2015 improper payments. The Department needs to improve its improper payment reporting process by expediting follow-up on OIG reports and reporting unsupported costs in a timelier manner.

*The Department should expand its reporting of payment recapture efforts*

OMB Circular A-136, Part II.5.8, Section X(a), requires agencies to discuss their payment recapture audit efforts. The discussion should:

- i. describe the agency’s payment recapture audit program;
- ii. describe the actions and methods used by the agency to recoup overpayments;
- iii. include a justification of any overpayments that have been determined not to be collectable;
- iv. describe any actions the agency has taken during the current fiscal year or intends to take in future fiscal years to recapture and/or prevent improper payments;
- v. include a list of all agency recapture audit contract programs; and

- vi. describe any conditions giving rise to improper payments and how those conditions are being resolved (e.g., the business process changes and internal control procedures instituted and/or strengthened to prevent further occurrences).

Our review found that although the Department described its overall payment recapture efforts in the FY 2015 *AFR*, the discussion did not include the methodology used to recoup overpayments, current or future actions to recapture and prevent improper payments, and the conditions that cause such payments and related resolution activities. The Department should disclose this information in the *AFR*, unless it is not applicable. For FY 2015, the Department did not believe that it was necessary to provide this information as only a small dollar value of overpayments (\$4 thousand) was identified during the payment recapture audits. However, without this information, the *AFR* does not provide a comprehensive summary of the key activities involved in the payment recapture process at the Department. The Department should expand its reporting of payment recapture efforts in order to comply with the requirements of OMB Circular A-136.

### *Recommendations*

We recommend that the Acting Deputy Chief Financial Officer and Director for Financial Management develop control procedures to ensure that

1. the evaluation of unsupported costs identified in OIG reports and final determination of the propriety of these payments are made within a reasonable timeframe (for example, 3 months); and
2. the *AFR* describes all required aspects of the Department's payment recapture audit efforts identified in OMB Circular A-136.

# Summary of Agency Response and OIG Comments

The Department's response to the draft report is included as appendix B of this report. Departmental management concurred with all of the report findings and recommendations. We look forward to receiving the Department's corrective action plan, which will identify steps it plans to take to address these issues.

## Appendix A: Scope and Methodology

In order to assess the Department's compliance with applicable improper payment requirements and evaluate the accuracy and completeness of its reporting, as well as its performance in reducing and recapturing improper payments, we reviewed Departmental processes and practices for assessing and identifying programs and activities susceptible to significant improper payments, along with the procedures in place to detect, prevent, and recapture improper payments, during FY 2015.

To meet our objectives, we obtained an understanding of internal control procedures and practices by

- communicating with officials in the Department's Office of Financial Management to gain an understanding of risk assessment, improper payment reporting, and payment recapture processes;
- requesting, obtaining, and analyzing documents related to the FY 2015 risk assessment, improper payment reporting, and payment recapture processes—including relevant procedures, assessment results, summary of improper payment and amounts recaptured by quarter, and contractor reports; and
- reviewing the "Improper Payments Information Act (IPIA) of 2002, as Amended, Reporting Details" section in the *AFR*.

We also reviewed the Department's compliance with applicable provisions of IPIA, OMB Circular A-136 (revised August 2015), and OMB Circular A-123, Appendix C, as amended by OMB Memorandum M-15-02.

We conducted our field work from January 2016 to April 2016 in Washington, DC. We performed this review under 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.

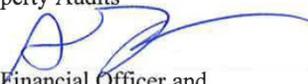
# Appendix B: Agency Response



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

MAY 5 2016

MEMORANDUM FOR Richard Bachman  
Assistant Inspector General for Financial  
and Intellectual Property Audits

FROM: Gordon T. Alston   
Acting Deputy Chief Financial Officer and  
Director for Financial Management

SUBJECT: Comments on Draft Report Entitled, "*Office of the Secretary FY 2015  
Compliance with Improper Payment Requirements*"

This memorandum responds to the draft report from the Office of Inspector General (OIG), entitled "Office of the Secretary FY 2015 Compliance with Improper Payment Requirements," issued on April 28, 2016. I am pleased the draft report states that the Department has met the Office of Management and Budget Circular No. A-123, Appendix C criteria for compliance with the Improper Payments Information Act of 2002, as amended.

We plan to implement the two recommendations on page 5 to improve the timeliness of the Department's evaluations of unsupported costs in OIG reports and to include information on the Department's efforts to recapture improper payments in the Department's annual Agency Financial Report.

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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