



Office of Audits
Office of Inspector General
U.S. General Services Administration

GSA Did Not Comply with the Improper Payments Acts in Fiscal Year 2018

Report Number A180103/B/3/F19002
May 31, 2019

Executive Summary

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Why We Performed This Audit

We performed this audit as required by the Improper Payments Acts: the Improper Payments Information Act of 2002, the Improper Payments Elimination and Recovery Act of 2010, and the Improper Payments Elimination and Recovery Improvement Act of 2012. The Improper Payments Acts aim to eliminate and recover payments improperly made by federal agencies. The Improper Payments Acts require federal agencies to review their programs and identify those that are susceptible to significant improper payments. For programs identified, agencies are required to estimate, report, and reduce improper payments through corrective action. Each agency's Office of Inspector General is tasked with examining the agency's efforts.

What We Found

In Fiscal Year 2018, GSA did not comply with two of the six requirements of the Improper Payments Acts. GSA did not: (1) publish an accurate improper payment estimate in its Fiscal Year 2018 Agency Financial Report and (2) publish accurate and complete improper payments data in its Fiscal Year 2018 Agency Financial Report. In addition, GSA's risk assessment process is flawed and its procedures for the Do Not Pay initiative contain significant deficiencies and are ineffective.

What We Recommend

We recommend that GSA's Chief Financial Officer:

1. Submit a plan addressing its noncompliance within 90 days, as required by Office of Management and Budget Guidance.
2. Propose statutory changes necessary to bring the Rental of Space program into compliance within 30 days in accordance with the Improper Payments Acts.
3. Improve controls over the payment process for the Rental of Space program to ensure the contract requirements for vendor registration in the System for Award Management are followed for vendor payment pursuant to Federal Acquisition Regulation 52.204-7 and 52.204-13.
4. Improve improper payment testing criteria to include vendor eligibility based on compliance with the contract requirements for vendor registration in the System for Award Management.
5. Update the Leasing Desk Guide to include appropriate procedures for vendor verification of the System for Award Management registration in accordance with Federal Acquisition Regulation 52.204-7 and 52.204-13.
6. Improve internal controls over the Agency Financial Report review process to ensure the data included in the Agency Financial Report tables is accurate and complete.

7. Improve internal controls over the development and implementation of risk assessment procedures to ensure that assessors accurately evaluate and base their conclusions on all risk factors.
8. Develop procedures and improve internal controls over use of Do Not Pay matching to ensure proper matching of vendors registered in the System for Award Management against database information in the Excluded Parties List System.

The Chief Financial Officer disagreed with our audit findings, but generally agreed with the audit recommendations. The Chief Financial Officer's written comments are included in their entirety in **Appendix D**.

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Introduction

We performed an audit of GSA's compliance with the Improper Payments Acts in Fiscal Year (FY) 2018.

Purpose

The Improper Payments Information Act of 2002, the Improper Payments Elimination and Recovery Act of 2010, and the Improper Payments Elimination and Recovery Improvement Act of 2012 – collectively referred to as the Improper Payments Acts – aim to eliminate and recover payments improperly made by federal agencies. The Improper Payments Acts require federal agencies to review their programs and identify those that are susceptible to significant improper payments. For programs identified, agencies are required to estimate, report, and reduce improper payments through corrective action. Each agency's Office of Inspector General is tasked with examining the agency's efforts. We performed this audit as required by the Improper Payments Acts.

Objectives

The objective of our audit was to determine if GSA complied with the Improper Payments Acts in FY 2018.

See **Appendix A** – Scope and Methodology for additional details.

Background

In FY 2017, the federal government reported \$141 billion in estimated improper payments. Improper payments – payments that under statutory, contractual, administrative, or other legally applicable requirements should not have been made or were made in an incorrect amount – are a long-standing, widespread, and significant problem in the federal government. The goal of the Improper Payments Acts is for agencies to reduce and eventually eliminate improper payments in their programs.

Guidance and Regulations

The Improper Payments Acts define improper payments as overpayments, underpayments, payments to ineligible recipients, payments for ineligible goods or services, duplicate payments, payments for goods or services not received, and payments that do not account for applicable discounts. The Office of Management and Budget (OMB) has also instructed agencies to report a payment as improper if they cannot determine whether the payment was correct due to lacking or insufficient documentation. In the OMB guidance, a payment is any disbursement or transfer of federal funds to any non-federal person, non-federal entity, or federal employee

that is made by a federal agency, federal contractor, federal grantee, or a governmental or other organization administering a federal program or activity.

The Improper Payments Acts require federal agencies to review their programs and identify those that are susceptible to significant improper payments. For programs identified, agencies are required to estimate, report, and reduce improper payments through corrective action.

These requirements were expanded by Executive Order 13520, *Reducing Improper Payments and Eliminating Waste in Federal Programs*, which, among other things, required federal agencies to decrease improper payments by intensifying efforts to eliminate payment error, waste, fraud, and abuse in the major programs administered by the federal government.

OMB Memorandum M-18-20, issued on June 26, 2018, and OMB Circular No. A-136, revised on July 30, 2018 – collectively referred to as OMB guidance – provide the most updated requirements for the implementation of the Improper Payments Acts.¹

OMB guidance states that in order for an agency to eliminate improper payments it must first conduct a risk assessment to identify the programs most susceptible to significant improper payments. Improper payments are considered “significant” if, in a given year, the gross improper payments in a program: (1) exceeded both 1.5 percent of the program payments and \$10 million or (2) exceed \$100 million regardless of the improper payment percentage. An agency is required to assess each program’s risk at least every 3 years.

If a program is susceptible to significant improper payments, the agency is required to estimate and report improper payments for that program annually, in addition to implementing corrective actions to reduce its improper payments. An agency must certify to OMB that the improper payments estimate is statistically valid. The estimates are then included in the accompanying materials to the Agency Financial Report (AFR). Agencies must also provide these estimates to OMB for inclusion in government-wide improper payment estimates.

However, if a program’s estimated and reported improper payments are below the statutory thresholds for a minimum of two consecutive years, the agency may request a relief from the annual reporting requirements for that program. This request must be submitted in writing to OMB and should include an assertion from the agency’s Office of Inspector General that it concurs with the agency’s request for relief. Requests may be submitted without an assertion from the agency’s Office of Inspector General if the agency notes the reason(s) the Office of Inspector General would not provide an assertion. If OMB approves the request, it issues a waiver for reporting requirements and the agency shall incorporate that program or activity into its risk assessment cycle.

¹ OMB Memorandum M-18-20 modified “Appendix C to Circular No. A-123, *Requirements for Payment Integrity Improvement*” and provides comprehensive information regarding Improper Payments Acts processes and requirements. OMB Circular No. A-136 provides detailed instructions for the reporting of improper payments.

Since the aim of the Improper Payments Acts is to eliminate improper payments, agencies must implement a plan to reduce future improper payments. Agencies must identify root causes of improper payments and implement corrective actions to mitigate them. Agencies are also required to publish and meet annual reduction targets for programs susceptible to significant improper payments.² Finally, agencies must ensure designated program officials are held accountable for reducing improper payments.

Another fundamental requirement of the Improper Payments Acts is for agencies to recover any federal funding that was improperly expended. Any program that expends at least \$1 million should implement payment recapture audits in order to recover improper payments, if cost-effective to the agency.

Agencies provide their annual improper payments estimates and results of payment recapture efforts in two main tables in the AFR:

- “Table 1, Improper Payment Reduction Outlook” (see **Appendix B, Table 1**), shows the agency’s annual improper payment estimates and reduction targets for programs deemed susceptible to significant improper payments (high risk). For high risk programs, agencies are required to select statistically valid samples of transactions for review. For those transactions, agencies evaluate supporting documentation and determine if improper payments were made. The improper payments are then extrapolated and shown as the current year improper payment estimates in Table 1. This table also shows the prior year estimates and future reduction targets established by the agency. The information contained in this table serves as the basis for several compliance measures.
- “Table 6, Overpayment Payment Recaptures with and without Recapture Audit Programs” (see **Appendix B, Table 6**), shows the results of the agency’s payment recapture efforts. Table 6 is separated into overpayments recaptured through payment recapture audits and outside of payment recapture audits. For each, the table lists the current year’s overpayments identified and recovered. It also lists the current recovery rate and targets for future recovery. Table 6 is based on actual results, not estimates.

² OMB Memorandum M-18-20 requires agencies to set reduction targets for future improper payment levels and a timeline within which the targets will be reached. Reduction targets must be approved by OMB. Agencies are considered to have met their reduction target when they are within the precision rate of the reduction targets set in the prior year’s AFR, as long as the program tested used statistically valid and robust sampling. GSA’s sampling methodology was statistically valid and robust with a precision rate of 2.5 percent.

GSA's Assessment and Reporting of Improper Payments

GSA's Office of the Chief Financial Officer (OCFO) is responsible for GSA's compliance with the Improper Payments Acts. In FY 2017, the OCFO reported on three programs and subprograms susceptible to significant improper payments: (1) Rental of Space, (2) Purchase Cards, and (3) Hurricane Sandy Disaster Relief Funds. In FY 2017, GSA requested and received an OMB waiver to exclude Hurricane Sandy Disaster Relief from reporting requirements. For the two programs GSA tested for improper payments in FY 2017, the OCFO estimated \$109.08 million in improper payments. The OCFO reported that GSA was noncompliant with the Improper Payments Acts in FY 2017 because it missed its reduction target for the Rental of Space program.

In FY 2018, the OCFO reported on two programs susceptible to significant improper payments: (1) Rental of Space and (2) Purchase Cards. In FY 2018, GSA requested and received an OMB waiver to exclude Purchase Cards from reporting requirements. Accordingly, GSA only reported prior year figures for the Purchase Card program, not current year improper payment estimates or future reduction targets. The Rental of Space program was the only program the OCFO tested for improper payments in FY 2018; reporting an estimated \$16.7 million in improper payments.

GSA's FY 2018 AFR tables are provided under **Appendix B**.

The Office of Inspector General's Role

The Improper Payments Acts require the Office of Inspector General to test for compliance by determining if an agency:

- Published an AFR for the most recent fiscal year and posted it on the agency's website;
- Conducted a program-specific risk assessment for each program or activity;
- Published improper payment estimates for all programs and activities identified as susceptible to significant improper payments;
- Published programmatic corrective action plans;
- Published and met annual reduction targets for each program assessed to be at risk and measured for improper payments; and
- Reported 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.

According to OMB Memorandum M-18-20, when determining compliance with the Improper Payments Acts, the agency Inspector General should evaluate the accuracy and completeness of agency reporting and evaluate agency performance in reducing and recapturing improper payments.

In our FY 2017 audit, we determined that GSA did not comply with the Improper Payments Acts because GSA did not meet its improper payment reduction target for the Rental of Space

program. In addition, we determined that GSA did not accurately test its Purchase Card program payments, resulting in several errors in reported estimates and figures in the FY 2017 AFR.³ In response to our FY 2017 audit report, the OCFO has taken constructive measures towards compliance. These measures include:

- Monthly reviews of the vendor database to identify the System for Award Management (SAM) registrations that have expired or are expiring within 30 to 60 days;
- Revisions to standard operating procedures to increase the accuracy of improper payment testing for the Purchase Card program;
- Communication of testing results between OCFO and Office of Administrative Services; and
- Issuance of a Purchase Card Policy update.

³ *GSA Did Not Comply with the Improper Payments Acts in FY 2017* (Report Number A170104/B/3/F18004, May 11, 2018)

Results

In FY 2018, GSA did not comply with two of the six requirements of the Improper Payments Acts, see Figure 1. GSA did not: (1) publish an accurate improper payment estimate in its FY 2018 AFR and (2) publish accurate and complete improper payments data in its FY 2018 AFR. In addition, GSA’s risk assessment process is flawed and its procedures for the Do Not Pay initiative contain significant deficiencies and are ineffective.

Figure 1 – Summary of GSA’s FY 2018 Compliance with the Improper Payments Acts

Program Name	Published an AFR	Conducted Risk Assessment	Published an Improper Payment Estimate	Published Corrective Action Plans	Published and Is Meeting Reduction Targets	Reported an Improper Payment Rate Less Than 10 Percent
Rental of Space	Noncompliant	Compliant	Noncompliant	Compliant	Compliant	Compliant

Finding 1 – GSA did not publish an accurate improper payment estimate in its FY 2018 AFR.

GSA did not accurately estimate and report its improper payments for the Rental of Space program in FY 2018. In Table 1 of the FY 2018 AFR for the Rental of Space program, GSA reported \$16.7 million in estimated improper payments and a 0.29 percent improper payment rate. However, based on our testing of Rental of Space payments, GSA should have reported \$38.86 million in estimated improper payments and a 0.68 percent improper payment rate.⁴ Despite being inaccurate, the extrapolated audit results were still below GSA’s reduction target for FY 2018, making GSA compliant with publishing and meeting its reduction target. Our calculations are provided under **Appendix C**.

According to Federal Acquisition Regulations (FAR) 52.204-7 and 52.204-13, which are incorporated into GSA’s leases through GSA 3517B General Clauses (Acquisition of Leasehold Interests in Real Property), a vendor is required to register in SAM when submitting an offer or quotation, and shall continue to be registered until time of award, during performance, and through final payment.⁵ Specifically, vendors are required to review and update their information in SAM to ensure it is current, accurate, and complete on an annual basis, from the date of initial registration or subsequent updates. Vendors must have an active SAM

⁴ The OCFO’s contract with the accounting firm that provided professional statistician services expired on March 24, 2019. We requested updated statistical results after the contract with the firm expired. The OCFO provided updated statistical extrapolations which potentially differ in methodology and calculation from the original results provided to the OCFO by the firm and reported in the FY 2018 AFR.

⁵ GSA 3517B General Clauses (Acquisition of Leasehold Interests in Real Property) incorporates FAR 52.204-7 System for Award Management, FAR 52.204-13 System for Award Management Maintenance, and FAR 52.232-33 Payment by Electronic Funds Transfer-System for Award Management by reference.

registration in order to do business with the federal government. SAM establishes a common source of vendor data for the government and contains each contractor's banking information for electronic funds transfer. SAM is a critical control in ensuring the government is sending payments to intended parties.

The Improper Payments Acts' definition of an improper payment includes any payment made to an ineligible recipient. Vendors who do not have an active registration in SAM, including lessors, are ineligible recipients; thus, payments to such vendors constitute improper payments under the Improper Payments Acts. The OCFO used a vendor's SAM registration status to determine if a payment was improper in the FY 2017 Rental of Space improper payment testing, but eliminated that testing criteria in FY 2018 at the advice of GSA's Office of General Counsel. However, eliminating testing related to SAM registration does not change whether those payments to lessors not registered in SAM are improper, as the lease contracts still incorporate the SAM registration requirement.

The OCFO statistically sampled 364 transactions when calculating and estimating its FY 2018 improper payments. Our testing included a judgmental sample of 40 transactions covering 26 vendors, which represented 28 percent of the total dollar value of the 364 transactions the OCFO tested. In addition, we reviewed all 364 transactions to determine if the vendor was registered in SAM at the time of payment. From our sample, we found a payment to a vendor that was not registered in SAM at the time of payment, contrary to the requirement in the lease. This payment amounted to an additional \$531,354 in total improper payments; when projected across the audit universe, GSA should have reported an estimated total of \$38.86 million in improper payments and an improper payment rate of 0.68 percent.

This is a recurring issue that GSA has not corrected.

Failure to complete the FY 2017 Corrective Action Plan. GSA's failure to complete its FY 2017 Corrective Action Plan was a contributing factor to it not accurately publishing an improper payment estimate for FY 2018. In particular, in our FY 2017 Improper Payments report, we recommended that the OCFO improve controls over the payment process for the Rental of Space program to ensure that only vendors properly registered in SAM are paid. GSA's Corrective Action Plan dated May 31, 2018, stated that GSA would update its leasing guidance to reflect the appropriate procedures related to SAM by June 2018, and that it would provide documentation to the OIG of the updated leasing desk guide and management guide for vendor payments.

To support the completion of the Corrective Action Plan, the OCFO provided us with Leasing Alert LA-FY-18-02 issued on November 9, 2017. The leasing alert issued a revised Leasing Desk Guide (LDG) Chapter 17, *Lease Administration*, which replaced all references to Central Contractor Registration with SAM and retitled part 10 of the chapter to "System for Award Management (SAM)." Part 10 of the Leasing Desk Guide, which contained all guidance regarding SAM registration and payment procedures, was subsequently removed in its entirety and replaced with the statement: "This section of LDG Chapter 17 is still under development."

The leasing alert stated that the deletion of part 10 was temporary and new guidance would be issued through a subsequent leasing alert. As of April 4, 2019, GSA has not issued an update to the Leasing Desk Guide. However, the removal of part 10 does not eliminate the FAR requirements stipulated in GSA 3517B General Clauses (Acquisition of Leasehold Interests in Real Property), which requires vendors to be registered in SAM in order to be paid electronically.

We requested that the OCFO provide documentation and an explanation to support its assertion that its guidance was updated to reflect appropriate procedures pursuant to its FY 2017 Corrective Action Plan. In response to our request, the OCFO stated:

The policy document is going through internal clearance and cannot be provided until it has been cleared through the Office of General Counsel.

GSA's Office of General Counsel (OGC) determined that GSA is contractually obligated to pay the lessor for the Government's use and occupancy of leased space, and that such payment, even without an active SAM registration, is required by the lease contract. OGC has reiterated and confirmed its findings and conclusions in this regard, and continues to advise that payment to a lessor that has failed to maintain its SAM registration should not be considered an "improper payment" when otherwise supported by the lease. Based on OGC guidance GSA no longer tests SAM registration as part of its improper payments testing.

The statement makes clear that GSA has not yet updated its leasing guidance regarding SAM registration and payment procedures to ensure compliance with the FAR. Instead, GSA has removed the procedures in their entirety from its Leasing Guide. As described below, this adversely affected GSA's improper payments reporting for FY 2018.

The OCFO's improper payments testing was flawed. The OCFO's testing for improper payments was flawed because it did not account for payments to lessors that were not registered in SAM. As a result, the OCFO did not accurately report the amount of improper payments made under the Rental of Space program in its published FY 2018 AFR as follows:

Table 1 – Improper Payment Reduction Outlook

- The OCFO reported an incorrect figure of Rental of Space estimated improper payments. This resulted in all related information based on this figure to be incorrect. Therefore, the current year improper payments percentage and reduction targets were also inaccurate.

Table 2 – CY Estimate Statistical Information

- The inaccurate Rental of Space improper payment estimate is based on the extrapolation performed by the OCFO. The published variance and precision levels are inaccurate.

Table 3 – Improper Payment Root Cause Category Matrix

- The inaccurate Rental of Space improper payment estimate from Table 1 is carried over into Table 3.

To reduce the amount of improper payments under the Rental of Space program, the OCFO should improve its internal controls over the payment process to ensure the contract requirements for vendor registration in SAM are followed, pursuant to FAR 52.204-7 and 52.204-13. To increase the accuracy of the improper payment estimate for the Rental of Space program, the OCFO should include vendor eligibility as a result of compliance with the contract requirements for vendor registration in SAM in its improper payment testing criteria. In addition, the OCFO should update the Leasing Desk Guide to include appropriate procedures for vendor verification of SAM registration in accordance with FAR 52.204-7 and 52.204-13.

Required actions. As a result of GSA’s noncompliance with the Improper Payments Acts and in accordance with OMB requirements, GSA must submit a plan to the Senate Committee on Homeland Security and Governmental Affairs, the House Committee on Oversight and Government Reform, and OMB, within 90 days of the determination of noncompliance, describing the actions that GSA will take to become compliant with the Improper Payments Acts.

GSA’s action plan must include: (1) the establishment of measurable milestones to be accomplished in order to achieve compliance for each program area, (2) the designation of a senior agency official who shall be accountable for GSA’s progress towards compliance, and (3) the establishment of an accountability mechanism with appropriate incentives and consequences tied to the success of the designated senior agency official in leading GSA’s efforts to achieve compliance for each program area.

This is the third year in a row that GSA is noncompliant for the Rental of Space program. In accordance with the Improper Payments Acts, agencies that are not compliant for three consecutive fiscal years must submit, within 30 days: (1) reauthorization proposals for each (discretionary) program or activity that has not been in compliance for three consecutive fiscal years or (2) propose statutory changes necessary to bring the program into compliance.

GSA’s Comments

GSA did not concur with *Finding 1*. GSA stated in its response that:

GSA does not agree that lessors that fail to maintain an active SAM registration are ineligible for payment or that payment to them is not permitted if there is no clause in the contract that requires withholding of rent for a lessor’s failure to be registered in SAM or to maintain their registration in SAM.

However, GSA agreed to implement 4 of 5 audit recommendations related to this finding. For the fifth recommendation, GSA stated that it will contact OMB for clarifying guidance regarding the payment eligibility of lessors not registered in SAM.

OIG Response

We reaffirm our finding, which is based on the determination that GSA paid a lessor that was not registered in SAM contrary to its contractual requirement to be registered.

According to SAM.gov, a vendor must have an active registration in SAM to do business with the federal government. GSA's leases contain FAR 52.204-7 and 52.204-13, which specifically require that vendors register in SAM and maintain registration through final payment of the contract.

The requirement for contractors to register in SAM and update their SAM information annually to ensure it is current, accurate, and complete is a critical control in ensuring payments are routed to the appropriate party. GSA's position that payments to unregistered vendors are not improper under the Improper Payments Act subjects it to undue risk of making payments that will not be recoverable. Its failure to replace Chapter 17 Part 10 of its Leasing Desk Guide to ensure compliance with the SAM registration requirements and the FAR exacerbates this risk.

Ample regulations and guidance support our conclusion that GSA made an improper payment to the lessor in question. OMB Memorandum M-18-20 provides that: "An improper payment is any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements." It also holds that:

An improper payment also includes any payment that was made to an ineligible recipient or for an ineligible good or service, or payments for goods or services not received (except for such payments authorized by law). A payment for an ineligible good or service includes a payment for any good or service that is not permitted under any provision of a contract, grant, cooperative agreement, lease or other funding mechanism.

Similarly, the Paymentaccuracy.gov website GSA refers to in its comments states: "An improper payment is any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements." Based on Paymentaccuracy.gov, OMB M-18-20, FAR 52.204-7, and 52.204-13, if a contractor does not have an active SAM registration, which it is contractually and legally required to do, it is (a) not in compliance with the contractual requirements of its lease and (b) not eligible for payment.

Likewise, FAR 52.232-33, Payment by Electronic Funds Transfer – System for Award Management, which GSA incorporates into currently awarded leases through GSA 3517B

General Clauses, specifically requires SAM registration as a condition for payment. In particular, FAR 52.232-33 (b) states the following “[t]he Government shall make payment to the Contractor using the EFT [electronic funds transfer] information contained in the System for Award Management (SAM).” FAR 52.232-33(d), Suspension of payment, states “[i]f the Contractor’s EFT information in the SAM is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the SAM; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract.” A vendor that is not registered in SAM is non-compliant with the payment terms of the lease contract and as such, ineligible for payment under the Improper Payment Acts. Therefore, in accordance with the Improper Payments Acts, payments to contractors without an active SAM registration are improper payments.

Furthermore, prior to FY 2018, GSA’s OCFO identified SAM registration as one of the testing criteria for improper payments and concluded that payments made to lessors not registered in SAM are improper. This year, GSA changed its position based on advice from its OGC regarding whether lessors not registered in SAM are nevertheless contractually entitled to payment. However, eligibility under the Improper Payments Acts is not the same as contractual entitlement to payment or performance. If the lessor has registered in SAM, as required by the FAR clauses incorporated in the lessor’s contract, the lessor is eligible for payment under the Improper Payments Acts. If the lessor is not registered in SAM, the lessor is an ineligible recipient for the purposes of the Improper Payments Acts.

GSA did not accurately estimate and report its improper payments for the Rental of Space Program in its FY 2018 AFR as cited in *Finding 1*; therefore, it was not in compliance with the Improper Payments Acts. GSA should develop methods to ensure vendors comply with the FAR requirements regarding SAM registration prior to payment and accurately report those payments to vendors not registered in SAM as improper.

Finding 2 – GSA did not publish accurate and complete improper payment data in the FY 2018 AFR.

OMB Memorandum M-18-20 requires the agency Inspector General to evaluate the accuracy and completeness of agency reporting when determining compliance with the Improper Payments Acts. The OCFO’s FY 2018 AFR was not entirely accurate or complete regarding over payment information and the number of risk assessments performed.

GSA’s AFR contained the following errors:

- The Rental of Space outlays in Table 1 do not match the Rental of Space outlays reported in the table “Outlays/Over Payment Information for Rental of Space and 11 Other Programs.”
- The table entitled “Outlays/Over Payment Information for Rental of Space and 11 Other Programs” on page 146 lists the average three year overpayment

program dollars for Operating Expenses (Reimbursable) in the amount of \$339,146. On page 148 of the AFR in the untitled table, the average three year amount reported for the same program is \$338,105.

- The table entitled “Outlays/Over Payment Information for Rental of Space and 11 Other Programs” on page 146 lists the average three year overpayment program dollars for Repairs and Alterations in the amount of \$338,105. On page 148 of the AFR in the untitled table, the average three year amount reported for the same program is \$339,146.
- The OCFO reported that it performed risk assessments on 36 programs, when it actually only assessed 33 programs for risk.

According to the OCFO, the differing Rental of Space outlay amounts reported in the AFR are accurate because they are based on different data sources. Specifically, Table 1 of the AFR is based on the Rental of Space testing and used data that originated from the Financial Management Information System; in contrast, the “Outlays/Over Payment Information for Rental of Space and 11 Other Programs” table is based on cost-effectiveness analysis and used data submitted for the Digital Accountability and Transparency Act. However, using different data sources for the same outlay amounts without any explanation results in a misleading and incomplete AFR that appears to be inaccurate.

In addition, the OCFO explained that it determined risk assessments were not necessary for 3 of the 36 programs because 2 programs had zero outlays and the other was very low risk. The OCFO then conducted detailed risk assessments on 33 programs and reported in its AFR that it performed risk assessments on all 36 programs based on its determination that 3 were not necessary. The AFR is still inaccurate in this respect because the OCFO did not conduct risk assessments on 36 programs, as stated.

The OCFO should improve internal controls over the AFR review process to ensure the data included in AFR tables is accurate and complete. In addition, GSA must complete the required actions identified in *Finding 1*.

GSA Comments

GSA did not concur with *Finding 2*. GSA stated in its response that:

GSA published an AFR in accordance with OMB guidance and did not, to paraphrase the OMB guidance, omit a program or significantly misrepresent it to such an extreme that the AFR was in need of a restatement.

- a. The FY 2018 AFR was published based on the guidance received in OMB A-136. The AFR was submitted to OMB and Congress on November 15, 2018 and posted on the agency website in accordance with the guidance. The AFR included all the tables required in the OMB guidance.

The information required in the A-136 was complete. We do agree there were two numbers that were off by one thousand dollars, but this immaterial amount should not result in a conclusion that GSA was not compliant with the Improper Payments Act.

However, GSA agreed to implement the recommendation related to *Finding 2*.

OIG Response

We reaffirm our finding. OMB Memorandum M-18-20 specifically provides that “In determining compliance, the agency Inspector General should evaluate the accuracy and completeness of agency reporting...For example, when determining compliance, the agency Inspector General should evaluate whether the program improper payment rate estimates are accurate and whether the sampling and estimation plan used is appropriate given program characteristics.” It does not state that the OIG should determine whether the inaccuracies significantly misrepresent the AFR. The OMB statements paraphrased by GSA as guidance in its response were obtained from a footnote which OMB provided as an extreme example of prior Inspector General findings warranting an entire restatement of the AFR. This footnote was not provided as guidance for materiality when evaluating the AFR for accuracy and completeness.

GSA’s AFR was inaccurate in regards to the errors cited in *Finding 2*; therefore, it was not in compliance with the Improper Payments Acts.

Finding 3 – GSA’s FY 2018 risk assessment process is flawed.

GSA’s risk assessment process is flawed because it uses a standard conclusion statement that does not take into account the evaluation of individual risk factors. In addition, the questionnaires and risk scoring matrix are susceptible to inaccurate responses. While the OCFO’s FY 2018 risk assessments complied with OMB requirements, these flaws should be corrected in order to ensure reliable results.

Incomplete and misleading conclusion statements. We identified flaws in the way the OCFO documented its risk assessment conclusions. The scoring matrices were intended to assist in the OCFO’s determination of program risk when evaluating the 11 questionnaire risk factors. However, despite the varying levels of risk determined for each program through the questionnaire and scoring matrix, all 33 risk assessments had an identical conclusion and certification, as follows:

Significant improper payments is defined as gross annual improper payments in a program exceeding both the threshold of 1.5 percent and \$10 million of total program funding, or \$100 million in improper payments regardless of the improper payment percentage. Based on this risk assessment I certify that this

program area does not exceed the defined significant improper payments thresholds.

The conclusion stated above does not include any statement regarding the risk factors identified in OMB Memorandum M-18-20 that were evaluated during the risk assessment, such as the age of the program; the volume of payments made; level, experience, and training of program employees; and written documentation of program payment processing controls. The OCFO stated that this was a standard statement that it included in the risk assessment template and admitted that it could have been worded better. A conclusion statement based solely on the thresholds is misleading and does not accurately account for the analysis performed. Further, an assessor's conclusion should be based on their individual conclusions and not a standard statement drafted by the OCFO.

Questionnaires and the risk scoring matrix are susceptible to inaccurate responses. In our FY 2015 audit, we examined the risk assessment questionnaires and determined that the risk assessment results were unreliable and required corrective action.⁶ The FY 2015 risk assessment questionnaires did not ask if the programs experienced improper payments and the questionnaires were distributed to individuals who lacked specific knowledge of improper payments. The OCFO included corrective actions to address our recommendations related to these issues in its FY 2015 Corrective Action Plan in response to our FY 2015 audit; however, those corrective actions were not sufficient.⁷ Nevertheless, the OCFO's FY 2018 risk assessments used the same qualitative approach it used in FY 2015 – employing questionnaires to determine program risk – but also incorporated a weighted quantitative analysis of six factors to assist in determining each program's overall risk in FY 2018.

The OCFO's risk assessment questionnaire is still unreliable and susceptible to inaccurate responses because it relies on assessors to accurately mark responses in the questionnaire and then tie their responses to the risk scoring matrix based on groupings within each operating environment element. In several cases, we found that the questionnaire responses did not align to the scoring matrix for the level of risk assessed and the discrepancies were not addressed through the OCFO's review. For example, there were seven assessors whose questionnaire responses reflected a medium risk but whose scoring matrices reflected low risk. Those assessors' scoring matrices were then reviewed and approved by the OCFO.

The discrepancies likely occurred because the risk scoring matrix document provided to assessors was confusing, as questionnaire responses were not recorded in the matrix in sequential order. Further exacerbating the problem was program assessors' limited experience in conducting risk assessments. Of the four assessors we interviewed, two had limited to no knowledge conducting risk assessments and admitted to being confused while completing the

⁶ For additional information, see our audit report *GSA Did Not Fully Comply with the Improper Payments Acts in FY 2015* (Report Number A160018/B/5/F16002, May 11, 2016).

⁷ For additional information, see our audit report *GSA Did Not Comply with the Improper Payments Acts in FY 2016* (Report Number A160141/B/5/F17001, May 4, 2017).

questionnaire and scoring matrix. Further, questionnaires can be vulnerable to inherent biases and conflicts of interest because assessors have incentives to consider their programs to be low risk.

The OCFO should improve its internal controls over the development and implementation of its risk assessment procedures to ensure that assessors accurately evaluate and base their conclusions on all risk factors. In addition, GSA must complete the required actions identified in Finding 1.

GSA Comments

GSA did not concur with *Finding 3*. GSA stated in its response that:

OIG commented that questionnaires are susceptible to inaccurate responses. The OCFO's confidence in using questionnaires to collect information comes in part from GAO audit guidance. The GAO Government Auditing Standards lists questionnaires as an acceptable method for gathering evidence.

We concur that the template needs to be modified in the future to ensure that the certifications are clear that all factors were considered in determining whether the program is susceptible to significant payments and to mitigate the risk of scoring discrepancies. Our supporting documentation provided to the OIG during the audit provided evidence that the assessments were completed based on all factors as required by IPERA.

However, GSA agreed to implement the recommendation related to *Finding 3*.

OIG Response

We reaffirm our finding. We noted in the finding that GSA's risk assessments met OMB requirements by including the risk factors identified. In addition, GSA met IPERA requirements by performing risk assessments. However, GSA's risk assessment process is flawed and needs to be improved because it uses a standard conclusion statement that does not take into account the evaluation of individual risk factors and is susceptible to inaccurate responses. GSA agreed with the recommendation related to this finding and will be implementing improvements.

Finding 4 – GSA's procedures for the Do Not Pay initiative contain significant deficiencies and are not effective.

In addition to the Improper Payments Acts noncompliance, the OCFO's Do Not Pay (DNP) initiative process contains significant deficiencies which hinder GSA's ability to effectively prevent debarred vendors from receiving improper payments. The DNP initiative is a no-cost analytical tool operated by the Treasury department which helps federal agencies detect and prevent improper payments made to vendors, grantees, loan recipients, and beneficiaries. To

mitigate and eliminate improper payments, agencies can utilize DNP at four crucial payment phases: pre-award, pre-payment, at time of payment, and post-payment.

The OCFO provided a brief narrative on its DNP process in its FY 2018 AFR, stating:

When enrolling in Do Not Pay (DNP), GSA elected to match against the Death Master File (DMF) and the General Services Administration's Excluded Parties List System (EPLS) database. The GSA vendor table is transmitted to DNP on the 10th of every month. GSA compares the vendor file to the EPLS and the DMF. Vendors that have exclusions are annotated and deactivated in the GSA vendor master database file. No corrections to the SAM/EPLS Private database have been identified by GSA in our review process....The SAM Data Universal Numbering System (DUNS) registrations interface directly into GSA's accounting vendor database ensuring vendors with debarments do not receive improper payments. Once they are reviewed, the payments are adjudicated as proper or improper.

We verified GSA's DNP process as stated in the FY 2018 AFR; however, we noted the following deficiencies:

- The DMF is a check against individual payees and does not check records against vendor company names. This is not an effective check for the Rental of Space program because generally lessors are not individuals, but rather corporations.
- GSA has two methods of performing SAM debarment testing, both of which we determined were deficient:
 - The first is by matching the DUNS number against the EPLS. GSA obtains a listing of debarred vendors from their shared service provider, USDA, and uses the DUNS number to locate matches. GSA does not include DUNS numbers for every vendor in its accounting system, Pegasys. If a DUNS number is not listed for a vendor, the vendor cannot be adequately matched against the EPLS to check for debarment.
 - The second is by checking SAM directly. If a vendor is debarred, SAM will show "exclusion" next to the vendor name. However, as stated in *Finding 1*, GSA no longer tests payments to ensure that vendors are registered in SAM. If a vendor is not registered in SAM, GSA cannot perform this check and ensure that it is not paying debarred vendors. In addition, if the vendor is not registered in SAM it will not be included in the EPLS database.

The identified deficiencies render GSA's participation in the DNP initiative ineffective and the statements made in GSA's FY 2018 AFR misleading. The OCFO should ensure that all vendors in Pegasys have a DUNS number with a valid SAM registration to ensure that its DNP process is effective in mitigating and eliminating improper payments.

GSA Comments

GSA did not concur with *Finding 4*. GSA stated in its response that:

Based on the OGC opinion GSA pays lessors with inactive registrations in SAM after independent verification that the lessor had not been debarred.

GSA's financial shared service provider (FSSP), USDA continues to perform processes in support of Do Not Pay activities. Additionally, USDA's FY 2018 post payment adjudication and analysis did not identify any payments made to disbarred individuals or vendors.

SAM sends vendors reminders to renew registrations and USDA also monitors SAM expiration dates and the Public Buildings Service sends reminders to renew registrations 30 and 60 days prior to expiration.

GSA also disagreed with our recommendation related to *Finding 4*.

OIG Response

We reaffirm our finding. The generalized response provided by GSA in reference to *Finding 4* does not address the significant deficiencies or ineffectiveness of GSA's DNP program. In its written comments GSA did not explain or provide examples of the independent verification performed to determine if the lessors have been debarred.

GSA did not provide specific examples of the other processes performed by USDA in support of GSA's DNP program. In addition, GSA states that USDA's post payment adjudication procedures identified no payments to debarred vendors in FY 2018. However, USDA relies on information obtained from GSA, which may not contain the vendor DUNS or ensure the vendor is registered in SAM.

In addition, GSA fails to acknowledge that lack of identified payments does not translate to program effectiveness. As stated in *Finding 4*, the current procedures would not identify payments made to debarred vendors because vendors not registered in SAM would not be included in EPLS.

Lastly, sending reminders to vendors to renew registration and monitoring SAM expiration dates has no impact on the deficiencies identified in GSA's DNP program. GSA's DNP procedures rely on vendors to be registered in SAM in order to identify debarred vendors. SAM reminders can only be sent to vendors who have previously registered in SAM, not those who have never registered. As evidenced in *Finding 1*, GSA does not ensure that lessors are registered in SAM. Therefore, GSA is unable to verify if a vendor is debarred through checking SAM directly.

Conclusion

In FY 2018, GSA did not comply with two of the six requirements of the Improper Payments Acts, see Figure 1. GSA did not: (1) publish an accurate improper payment estimate in its FY 2018 AFR and (2) publish accurate and complete improper payments data in its FY 2018 AFR. In addition, GSA's risk assessment process is flawed and its procedures for the DNP initiative contain significant deficiencies and are ineffective.

Recommendations

We recommend that GSA's Chief Financial Officer:

1. Submit a plan addressing its noncompliance within 90 days, as required by Office of Management and Budget Guidance.
2. Propose statutory changes necessary to bring the Rental of Space program into compliance within 30 days in accordance with the Improper Payments Acts.
3. Improve controls over the payment process for the Rental of Space program to ensure the contract requirements for vendor registration in SAM are followed for vendor payment pursuant to FAR 52.204-7 and 52.204-13.
4. Improve improper payment testing criteria to include vendor eligibility based on compliance with the contract requirements for vendor registration in SAM.
5. Update the Leasing Desk Guide to include appropriate procedures for vendor verification of SAM registration in accordance with FAR 52.204-7 and 52.204-13.
6. Improve internal controls over the AFR review process to ensure the data included in AFR tables is accurate and complete.
7. Improve internal controls over the development and implementation of risk assessment procedures to ensure that assessors accurately evaluate and base their conclusions on all risk factors.
8. Develop procedures and improve internal controls over use of DNP matching to ensure proper matching of vendors registered in SAM against database information in the EPLS.

GSA Comments

The Chief Financial Officer disagreed with our audit findings, but generally agreed with the audit recommendations. The Chief Financial Officer's written comments are included in their entirety in **Appendix D**.

Audit Team

This audit was managed out of the Mid-Atlantic Region Audit Office and conducted by the individuals listed below:

Thomas P. Tripple	Regional Inspector General for Auditing
Michael M. Sinclair	Audit Manager
Ashley Cavalcanto	Auditor-In-Charge

Appendix A – Scope and Methodology

We examined the OCFO's processes related to its evaluation, reduction, reporting, and recapture of improper payments in FY 2018.

To accomplish our objectives, we:

- Examined relevant criteria, including public laws, executive orders, OMB memorandums, and GSA directives;
- Evaluated the OCFO's actions to address recommendations in last year's audit report;
- Evaluated the OCFO's processes to identify and reduce improper payments;
- Selected and tested a judgmental sample of 40 Rental of Space transactions covering 26 vendors, representing 28 percent of the total dollar value of the 364 transactions the OCFO tested to determine if the OCFO reached correct determinations;
- Accessed GSA systems to pull lease agreements and other supporting documents to verify lease payments;
- Accessed GSA systems to verify payment information for Rental of Space program payments;
- Examined supporting documentation for the OCFO's reporting of improper payments in GSA's FY 2018 AFR;
- Held discussions with OCFO officials regarding improper payment identification, risk assessment, reporting, and recapture;
- Reviewed relevant criteria, including the FAR, GSAM, GSA lease contract requirements, and Agency guidance; and
- Reviewed previous OIG Improper Payment reports.

We conducted the audit between August 2018 and February 2019 in accordance with generally accepted government auditing standards. 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

Our assessment of internal controls was limited to those necessary to address the objectives of the audit.

Appendix B – GSA’s FY 2018 Agency Financial Report Improper Payments Tables

This appendix provides GSA’s prior year (PY) and current year (CY) reported improper payments (IP) information published in its FY 2018 AFR. Dollar amounts in all tables are presented in millions.

Table 1 Improper Payment Reduction Outlook (\$ in millions)

12 month Sampling Timeframe for FY 2018 data

Program Name	FY2017 Outlays (\$M)	FY 2017 IP Amount (\$M) ¹	FY 2017 IP Rate ¹	FY 2018 Outlays (\$M)	FY 2018 IP Amount (\$M) ²	FY 2018 IP Rate	FY 2018 Over-payment \$	FY 2018 Under-payment \$	FY 2019 Est. Outlays ⁴	FY 2019 Est. IP % ⁵	FY 2019 Est. IP \$	Start Date for data	End date for data
Rental of Space ²	\$ 5,486.41	\$ 107.80	1.96%	\$ 5,683.11	\$ 16.70	0.29%	\$ 16.56	\$ 0.14	\$ 5,615.97	1.40%	\$ 78.62	10/1/16	9/30/2017
Purchase Cards ⁶	\$ 28.56	\$ 1.28	4.47%	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

¹ The amount GSA reported in FY17 included leases with expired SAM registrations. GSA has been advised by the Office of General Counsel that issues with SAM registrations should not be considered improper payments. Reclassifying these leases from improper to proper would result in an improper payment rate of 0.72% and improper payment amount of \$39.4 million.

² To determine improper payments for Rental of Space: (1) For Pegasys financial testing, GSA compared Lease Digest Actions (GSA Form R620) to actual payments in Pegasys to identify discrepancies. (2) For GSA Outside Payment Recapture testing, GSA reviewed lease documents including amendments, Lease Digest Actions with particular attention to document execution dates, agreement effective dates, and payment dates. (3) For Payment Recapture testing, using lease contracts, supplemental lease agreements, lease agreements, R620s and other lease documents, a detailed monthly rental schedule was developed from lease commencement to the most recent rent payment. This schedule was then compared to actual payments, by month, to identify any discrepancies.

³ IP estimate for the Rental of Space program was based on 3 different categories: (1) Projected IP amount from Pegasys financial sample plus (2) Projected IP amount in error from Outside Payment recapture sample plus (3) 100% of amount in error from Payment Recapture audit report.

⁴ The Rental of Space FY 2019 estimated outlays are based on payments made in FY 2018.

⁵ GSA reduced its target to 1.40% for FY 2019. This represents a significant reduction from the prior year's target rate of 1.80%. GSA will be reviewing more tenant improvement (TI) reconciliations during FY 2019. There is uncertainty around the effect these TI transactions will have on next year's IP rate as a small number of errors can lead to large IP percentage increases.

⁶ GSA requested relief from IP reporting for the Purchase Card Program for FY 2018. OMB reviewed and approved our request.

Table 2 CY Estimate Statistical Information

Program or Activity	CY Confidence Level	CY Margin of Error
Rental of Space	95%	0.12%

Appendix B – GSA’s FY 2018 Agency Financial Report Improper Payments Tables (cont.)

Table 3 Improper Payment Root Cause Category Matrix (\$ in millions)

Reason for Improper Payment		Rental of Space	
		Overpayments	Underpayments
Program Design or Structural Issue			
Inability to Authenticate Eligibility: Inability to Access Data			
Inability to Authenticate Eligibility: Data Needed Does Not Exist			
Failure to Verify:	Death Data		
	Financial Data		
	Excluded Party Data		
	Prisoner Data		
	Other Eligibility Data (explain)		
Administrative or Process Error Made by:	Federal Agency	\$14.46	\$0.14
	State or Local Agency		
	Other Party (e.g., participating lender, health care provider, or any other organization administering Federal dollars)		
Medical Necessity			
Insufficient Documentation to Determine			
Other Reason ¹		\$2.10	
TOTAL		\$16.56	\$0.14

¹ Other Reason constitutes improper payments that occurred based on Real Estate Tax Credits - Tax Bills\Refunds not Submitted and Tax Bills Reassessed.

Table 4 Improper Payment Classification (\$ in millions)

Program or Activity ¹	Actual Monetary loss to the Government identified in Sample	Estimated Total Monetary loss to the Government
Rental of Space Pegasys Financial testing	\$0.004	\$0.598
Rental of Space Outside Payment Recapture testing	\$8.165	\$11.158
Rental of Space Payment Recapture testing	\$4.802	\$4.802
Rental of Space Total	\$12.971	\$16.558

¹ The actual and estimated monetary loss to the Government is based on three categories:

(1) Pegasys financial improper overpayment testing errors;

(2) Outside Payment recapture improper overpayment testing errors;

(3) Payment Recapture audit report. (Since 100% of the Payment Recapture Audit identified amount constitutes improper overpayments; the actual monetary loss to the Government identified in the Payment Recapture audit report is the same as the estimated total monetary loss to the Government).

*We note that there is no Table 5 in the FY 2018 AFR because the number was inadvertently skipped.

Appendix B – GSA’s FY 2018 Agency Financial Report Improper Payments Tables (cont.)

Table 6 Overpayment Payment Recaptures with and without Recapture Audit Programs
(\$ in millions)

Funds recaptured from a High-Priority Program? (Y/N)	Program or Activity	Overpayments Recaptured through Payment Recapture Audits				Overpayments Recaptured outside of Payment Recapture Audits ³		
		Amount Identified in FY 2018 ¹	Amount Recovered in FY 2018 ²	Recapture Rate in FY 2018 ³	FY 2019 Recapture Rate Target ³	Amount Identified in FY 2018	Amount Recovered in FY 2018	Recapture Rate in FY 2018
N	Rental of Space	\$ 7.97	\$ 11.01	138%	79%	\$ 23.09	\$ 21.95	95%
N	Other ⁴					\$ 3.73	\$ 3.80	102%
	TOTAL	\$ 7.97	\$ 11.01	138%		\$ 26.82	\$ 25.75	96%

¹ Our vendor, in addition to performing Payment Recapture Audit on Rental of Space, performed duplicate/erroneous payment data reviews across GSA programs as a whole. The amount identified from these reviews is \$24,095. For simplicity GSA combined this amount with the overall Rental of Space identified amount.

² Includes both recaptures of overpayments during FY 2018 and overpayments that were reported prior to FY 2018.

³ The collections amount and recapture rate relates more to the effects from the amount identified changing from year to year than to successful recapture efforts. A claim typically takes between 4 and 6 months to fully process after it is submitted. There was a smaller collections percentage (74%) in FY 2017 than in FY 2018 (138%) primarily because the over payment amount reported in 2017 (\$15.55M) was higher than that in FY 2018 (\$7.97M). GSA expects the Payment Recapture Auditor to identify a higher over payments amount in FY 2019 than in FY 2018, which would drive down the recapture rate. Thus, GSA is setting a realistic target rate of 79% for FY 2019.

⁴ Other includes several programs activities. Over 97% of the \$3.73M amount of the listed programs under Other relates to the following four program activities: building operations, acquisition services fund - operating, repairs and alterations, and construction and acquisition of facilities.

Table 7 Disposition of Funds Recaptured Through Payment Recapture Audit Programs
(\$ in millions)

Program or Activity	Amount Recaptured	Agency Expenses to Administer the Program	Payment Recapture Audit Fees ¹	Financial Management Improvement Activities	Original Purpose	Office of Inspector General	Returned to Treasury	Other (please explain in footnote)
Rental of Space	\$ 11.01	NA	\$ 1.85	NA	\$ 9.16	NA	NA	NA
TOTAL	\$ 11.01	NA	\$ 1.85	NA	\$ 9.16	NA	NA	NA

¹ Fees based on invoices submitted by Payment Recapture Audit firm in FY 2018.

Appendix B – GSA’s FY 2018 Agency Financial Report Improper Payments Tables (cont.)

Table 8 Aging of Outstanding Overpayments Identified in the Payment Recapture Audit Programs¹
 (\$ in millions)

Program or Activity	Amount Outstanding (0 – 6 months)	Amount Outstanding (6 months to 1 year)	Amount Outstanding (over 1 year)	Amount determined to not be collectable ²
Rental of Space ³	\$ 1.59	\$1.63	\$3.39	\$3.17
TOTAL	\$1.59	\$1.63	\$3.39	\$3.17

¹ The aging of an overpayment begins at the time the overpayment is detected, which is the date that the Payment Recapture Audit GSA Contracting Officer Representative executes final approval on the claim form. Thus, GSA is reporting aging of outstanding overpayments based on the final approval date on claim forms, rather than the date that the accounts receivable record related to a claim is established in the accounting system.

If GSA reported aging of outstanding overpayments based on the date a receivable claim is established in the accounting system, the aging amounts would be as follows:

Amount Outstanding (0-6 months): \$1.14
 Amount Outstanding (6 months to 1 year): \$1.58
 Amount Outstanding (over 1 year): \$3.37
 Amount Determined not to be Collectable: \$3.17

² Uncollectable accounts are written off based on the Accounts Receivable Policy Handbook, CFO P 4253.1B, as amended, Chapter 4, Servicing Non-Federal Accounts Receivable. GSA writes off claims with a remaining principal balance under \$100 at 120 days old; claims above \$100 are written off after they have been referred to Treasury for collection for 60 days. Amount determined to not be collectable is cumulative, based on OMB Town Hall guidance, and includes all current and prior amounts determined to not be collectable dating back to October 2010.

³ As follows are the percent such amounts represent of the total overpayments from recapture audits of the agency (i.e., overpayments that have been identified but not recaptured):

Amount Outstanding (0-6 months): 16.24%
 Amount Outstanding (6 months to 1 year): 16.71%
 Amount Outstanding (over 1 year): 34.70%
 Amount Determined not to be Collectable: 32.35%

Note: The percentages are based on full numbers and not the rounded outstanding dollar amounts listed hereon.

Appendix C – Detail of Agency Financial Report Reporting Inaccuracies

In addition to the summary level information contained in **Finding 1**, we have provided additional detail regarding AFR inaccuracies in this appendix.

Table 1 – Improper Payment Reduction Outlook

As discussed in **Finding 1**, the OCFO reported an inaccurate current year improper payment estimate for the Rental of Space program. Therefore, the current year improper payments reduction target is also inaccurate.

Figure 2 shows reported and per audit figures for the Rental of Space program (all dollar figures presented in millions).

Figure 2 – Table 1, Rental of Space Program⁸

	FY 2018 Outlays (\$M)	FY 2018 IP Amount (\$M)	FY 2018 IP Rate	FY 2018 Over-payments (\$M)	FY 2018 Under-payments (\$M)	FY 2019 Est. Outlays	FY 2019 Est. IP %	FY 2019 Est. IP \$
Reported	\$5,683.11	\$16.70	0.29%	\$16.56	\$0.14	\$5,615.97	1.40%	\$78.62
Per Audit	\$5,683.11	\$38.86	0.68%	\$38.72	\$0.14	\$5,615.97	1.40%	\$78.62
Difference	\$0.00	(\$22.16)	-0.39%	(\$22.16)	\$0.00	\$0.00	0.00%	\$0.00

The per audit figures represent amounts extrapolated based on the errors found in the OCFO's testing of Rental of Space program payments. After we extrapolated the audit results, the OCFO was still under its reduction target for FY 2018, making GSA compliant for the improper payments annual reduction target requirement.

Table 2 – CY Estimate Statistical Information

Table 2 presents the estimated variance, confidence level, and precision level for each program current year estimate. Due to the error in testing for the Rental of Space program payments that resulted in a new extrapolated estimate, that recalculation affects the estimated variance in Table 2. *Figure 3* shows the reported and per audit figures for Rental of Space program variances.

⁸ The OCFO's contract with the accounting firm that provided professional statistician services expired on March 24, 2019. We requested updated statistical results after the contract with the firm expired. The OCFO provided updated statistical extrapolations rounded to two decimal points, which are presented as current year improper payment figures in *Figure 2*. These results potentially differ in methodology and calculation from the original results provided to the OCFO by the firm and reported in the FY 2018 AFR.

Appendix C – Detail of Agency Financial Report Reporting Inaccuracies (cont.)

Figure 3 – Table 2, Rental of Space Program CY Estimate Statistical Information

	CY Confidence Level	CY Margin of Error
Reported	95%	0.12%
Per Audit	95%	1.04%
Difference	0%	-0.92%

Table 3 – Improper Payment Root Cause Category Matrix

Table 3 identifies the root cause for improper payments for the Rental of Space program. Because this table is based on extrapolated information from Table 1, the reported amounts for the Rental of Space program are incorrect in the AFR based on the testing errors found.

Appendix D – GSA Comments



GSA Office of the Chief Financial Officer

MAY 24 2019

MEMORANDUM FOR THOMAS P. TRIPPLE
REGIONAL INSPECTOR GENERAL FOR AUDITING
Mid-Atlantic Region Audit Office

FROM: GERARD BADORREK 
CHIEF FINANCIAL OFFICER (B)

SUBJECT: Response to the Office of Inspector General Draft Report *GSA Did Not Comply with the Improper Payments Act in Fiscal Year 2018* (A180103)

Thank you for the opportunity to comment on the Office of Inspector General (OIG) draft Report *GSA Did Not Comply with the Improper Payments Act in Fiscal Year 2018*.

The U.S. General Services Administration (GSA) respectfully disagrees with the OIG determination that the GSA was not in compliance with two of the six requirements of the Improper Payments Act.

The OIG concluded that GSA was non-compliant based on conflicting technical interpretations on whether lack of an active System for Award Management (SAM) registration constitutes an improper payment. This conclusion concerns *one payment (out of more than 360) to a lessor in our Rental of Space sample*. On this basis alone, the OIG found that GSA did not comply with the improper payments program.

We judge this conclusion to be disproportionate to the matter in dispute. GSA considers these payments proper since it paid the lessor in accordance with the contract and Office of Management and Budget (OMB) and Department of Treasury guidance - payments were made in the proper amounts, to the correct lessor and for eligible services and did not result in any monetary losses to the government.

Although the OIG did not conclude that GSA should not have paid this vendor, or that the amount paid was incorrect, it still determined that GSA should have *classified* the payment as improper. Reclassifying this one payment to improper based on the OIG's conclusion would change GSA's improper payment rate from 0.29% to 0.68%, well

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Appendix D – GSA Comments (cont.)

below the FY2018 target rate of 1.80% and below the OMB 1.50% threshold for improper payments testing.

In summary:

- The OIG maintains that the Federal Acquisition Regulation (FAR) requires contractors (lessors) to be registered in SAM to be eligible for payment.
- Due to this technical interpretation, the OIG concluded that GSA did not publish an accurate improper payment estimate or accurate and complete improper payment data in its FY 2018 Agency Financial Report (AFR). Based on this, the OIG failed GSA on the requirement to publish an AFR.
- GSA paid the lessor on advice from its General Counsel which concluded that payments such as these should not be considered "improper" to the extent

"the lessor has provided GSA with the space and ancillary services required under the lease and the lease does not otherwise provide a contractual basis for withholding payment."

- GSA maintains that it has met Department of Treasury guidelines at "Paymentaccuracy.gov" and paid the right recipient, in the right amount, for the right reason and at the right time, and has been successfully doing so for many years since the inception of this lease.

In terms of corrective actions GSA and the OIG need to move beyond this impasse and focus on what is most important - taking concrete steps to prevent and recover actual improper payments.

GSA believes it is necessary that guidance around this issue be clarified by OMB. GSA will adjust its testing criteria appropriately.

GSA will make the appropriate required reports to OMB and the Congressional oversight committees.

The attachment includes detailed responses for each finding. Should you have any questions regarding this matter please contact Kathy Hammer at Kathy.Hammer@gsa.gov

Attachment

Appendix D – GSA Comments (cont.)

GSA Did Not Comply with the Improper Payments Acts in Fiscal Year 2018 Report Number A180103, dated May 22, 2019

Executive Summary

The U.S. General Services Administration (GSA) respectfully disagrees with the Office of Inspector General (OIG) determination in its May 22, 2019, draft report that GSA was not in compliance with two of the six requirements of the Improper Payments Act.

The OIG erroneously concluded that GSA was non-compliant based on the OIG's incorrect interpretation that the lack of an active System for Award Management (SAM) registration for a GSA lessor makes that lessor an ineligible recipient and thus constitutes an improper payment. This conclusion concerns *one payment (out of more than 360) to a lessor in our Rental of Space sample*. On this basis the OIG deemed GSA as non-compliant with the Improper Payments Act.

GSA's payment to the lessor was correct and in accordance with the advice provided by both the Office of General Counsel and the Senior Procurement Executive. As such, the agency determined that the payment in question was not an improper payment. GSA made the payment in accordance with the contract and the Office of Management and Budget (OMB) and Department of Treasury (Treasury) guidance - the payment was made in the proper amount, to the correct lessor and for eligible services, and did not result in any monetary losses to the government.

Although the OIG did not conclude that GSA should not have paid this vendor, or that the amount paid was incorrect, it still determined that GSA should have *classified* the payment as improper. Such a classification would not have aligned with existing GSA guidance. Further, reclassifying this one payment to improper based on the OIG's conclusion would only change GSA's proper payment rate from 99.71% to 99.32% for a program of more than \$5 billion and has no impact on monetary losses to the government.

In summary:

- The OIG incorrectly maintains that the Federal Acquisition Regulation (FAR) requires contractors (lessors) to be registered in SAM to be eligible for payment; therefore, OIG opines that GSA should include SAM registration into their improper payment testing, and consider payments to lessors as improper if the registration is inactive at the time of payment. However, while the FAR requires contractors to be registered in SAM to be eligible for award and to maintain their registration, the FAR does not provide a basis for deferring or denying payment to a lessor that is otherwise in compliance with the lease.
- Due to this erroneous interpretation the OIG concluded that GSA did not publish an accurate improper payment estimate or accurate and complete improper payment data in its Agency Financial Report (AFR). Based on this, the OIG stated that GSA was "noncompliant" with the Improper Payments Act in FY 2018.

Appendix D – GSA Comments (cont.)

- GSA paid the lessor on advice from its General Counsel which concluded that payments such as these should not be considered “improper” to the extent

“the lessor has provided GSA with the space and ancillary services required under the lease and the lease does not otherwise provide a contractual basis for withholding payment.”
- GSA maintains that it has met Department of Treasury guidelines at [Paymentaccuracy.gov](https://www.paymentaccuracy.gov) and paid the right recipients, in the right amount, for the right reasons and at the right time, and has been successfully doing so for many years since the inception of this lease.

In terms of corrective actions GSA and the OIG need to move beyond this impasse and focus on what is most important - taking concrete steps to prevent and recover actual improper payments. Excluding this technical interpretation, the improper payment rate for Rental of Space (payments to lessors) is 0.29%; including the one payment in question raises the rate to 0.68%. Both rates are well below the OMB 1.5% threshold for improper payments testing.

GSA believes it is necessary that guidance around this issue be clarified by OMB. GSA will adjust its testing criteria appropriately.

Finding 1 – GSA did not publish an accurate improper payment estimate in its FY 2018 AFR.

GSA does not concur.

The estimates published in the AFR were based on GSA's conclusion that the one payment OIG is questioning (out of more than 360 total payments sampled) was proper instead of concluding it was improper for lack of active SAM registration.

Furthermore, OMB guidance (M-18-20 beginning on page 8) defines an improper payment to include, among other things, “any payment that was made to an ineligible recipient or for an ineligible good or service. A payment for an ineligible good or service includes a payment for any good or service that is not permitted under any provision of a contract, grant, cooperative agreement, lease or other funding mechanism.”

GSA does not agree that lessors that fail to maintain an active SAM registration are ineligible for payment or that payment to them is not permitted if there is no clause in the contract that requires withholding of rent for a lessor's failure to be registered in SAM or to maintain their registration in SAM. In addressing this question, GSA management consulted its General Counsel, who issued an opinion in 2017 that concluded:

“GSA's payment of rent to a lessor that is not registered in SAM should not be considered an “improper payment” to the extent the lessor has provided GSA

Appendix D – GSA Comments (cont.)

with the space and ancillary services required under the lease and the lease does not otherwise provide a contractual basis for withholding payment.”

And

“If the government fails to pay its monthly rent because of a lessor’s lack of SAM registration, the government will very likely be considered in default of its obligations under the lease.”

Furthermore, GSA OGC concluded that:

“...there are no financial penalties contained within the SAM clause, such as withholding rent payments, for a lessor that fails to be registered in SAM or fails to maintain its SAM registration.”

In addition, Treasury guidance at the Paymentaccuracy.gov website states that, “If during a review the agency is able to determine that the payment was made to the right recipient, for the right amount, and in accordance with applicable regulations and statute, but failed to comply with all agency policies, procedures, and/or documentation requirements surrounding the payment, *this payment may be considered proper.*”

GSA confirmed with its financial management shared service provider, U.S. Department of Agriculture (USDA), that the transaction noted by the OIG went to the correct lessor, which GSA has been making payments to since the lease was effective in 2012. There was also no monetary loss for the government associated with this payment.

During the exit conference OIG stated that they were not disputing whether or not the payment should have been made, but that it should have been considered an improper payment because the lessor was an ineligible recipient of the payment due to failure to maintain an active SAM registration.

This classification of this one payment as improper would change the improper payment rate reported by GSA in the AFR from .029% to .68%. Both rates are well below the OMB 1.5% threshold for improper payment testing. To help clarify the impact this means that GSA’s proper payment rate is 99.32% instead of 99.71%. This reclassification also changes the extrapolated improper payment estimated from \$16.7 million to \$38.8 million for a program in excess of \$5 billion.

Failure to complete the FY 2017 Corrective Action Plan.

GSA concurs that one of the ten steps in the FY 2017 Improper Payment corrective action plan (CAP) was not completed. The step was updating the Leasing Desk Guide, Chapter 17. GSA will update the guidance. As stated in the OIG report, GSA did issue a Leasing Alert on November 9, 2017. Failure to complete a CAP is not in itself a violation of the Improper Payments Act and should have been noted as such.

The OCF’s improper payments testing was flawed.

Appendix D – GSA Comments (cont.)

OIG concluded that the OCFO's testing for improper payments was flawed because it did not account for payments to lessors that were not registered in SAM.

On the basis of the previously discussed OGC opinion GSA removed SAM registration from its testing criteria.

However, even if GSA applied the OIG methodology and accounted for the lack of a current SAM registration as an improper payment, GSA's improper payment rate based on this one payment would be .68% versus .29%, well below the FY 2018 target rate of 1.8%, and OMB's 1.5% threshold for improper payment testing.

GSA does not understand why OIG has indicated table 4 was inaccurate based on the payment in question because there was no monetary loss associated with the payment.

Finding 2 – GSA did not publish accurate and complete improper payment data in the FY 2018 AFR.

GSA does not concur. GSA published an AFR in accordance with OMB guidance and did not, to paraphrase the OMB guidance, omit a program or significantly misrepresent it to such an extreme that the AFR was in need of a restatement.

- a. The FY 2018 AFR was published based on the guidance received in OMB A-136. The AFR was submitted to OMB and Congress on November 15, 2018 and posted on the agency website in accordance with the guidance. The AFR included all the tables required in the OMB guidance.

The information required in the A-136 was complete. We do agree there were two numbers that were off by one thousand dollars, but this immaterial amount should not result in a conclusion that GSA was not compliant with the Improper Payments Act.

Regarding errors in the AFR:

- a. The errors identified by OIG are not material per OMB guidance in A-123 and the OIG did not conclude that the AFR was in need of restatement.
- b. There was not a monetary recovery from the payment in question to the vendor with the lapsed SAM registration.
- c. The differences in the rental of space outlays in tables 1 and 11 should be explained in a footnote in future AFRs.
- d. GSA reviewed 36 programs to determine if they were susceptible to improper payments. The programs reviewed were aligned with the programs identified in the DATA Act as suggested by the OIG in a prior audit.

Finding 3 – GSA's FY 2018 risk assessment is flawed. Questionnaires are susceptible to inaccurate responses.

Appendix D – GSA Comments (cont.)

GSA does not concur. GSA performed detailed risk assessments on 33 of the 36 programs. GSA reviewed, but did not do a *detailed* risk assessment on three additional programs, two of which had no outlays. The remaining program was a construction program deemed not susceptible to improper payments by subject matter experts charged with overseeing program outlays.

OIG commented that questionnaires are susceptible to inaccurate responses. The OCFO's confidence in using questionnaires to collect information comes in part from GAO audit guidance. The GAO Government Auditing Standards lists questionnaires as an acceptable method for gathering evidence.

We concur that the template needs to be modified in the future to ensure that the certifications are clear that all factors were considered in determining whether the program is susceptible to significant payments and to mitigate the risk of scoring discrepancies. Our supporting documentation provided to the OIG during the audit provided evidence that the assessments were completed based on all factors as required by IPERA.

Finding 4 – GSA's procedures for the Do Not Pay initiative contain significant deficiencies and are not effective.

GSA does not concur. Based on the OGC opinion GSA pays lessors with inactive registrations in SAM after independent verification that the lessor had not been debarred.

GSA's financial shared service provider (FSSP), USDA continues to perform processes in support of Do Not Pay activities. Additionally, USDA's FY 2018 post payment adjudication and analysis did not identify any payments made to disbarred individuals or vendors.

SAM sends vendors reminders to renew registrations and USDA also monitors SAM expiration dates and the Public Buildings Service sends reminders to renew registrations 30 and 60 days prior to expiration.

Conclusion:

Actions to be taken in response to OIG's recommendations are as follows:

1. GSA will submit a corrective action plan within 90 days as required by OMB.
2. GSA disagrees with this recommendation but will work with OMB for clarifying guidance for the Rental of Space Programs within 90 days.
3. GSA agrees with this recommendation and will continue to strengthen controls over SAM registrations, and request a decision from OMB related to payment eligibility for vendors with inactive SAM registration.
4. GSA agrees to include vendor eligibility if OMB opines that payments made to inactive SAM lessors should be considered improper.
5. GSA agrees with this recommendation and will update the leasing desk guide.

Appendix D – GSA Comments (cont.)

6. GSA agrees to continue to ensure the testing results are accurately reflected in the AFR and will continue to verify the accuracy of the AFR tables.
7. GSA agrees to improve communication and training on risk assessments and continue to ensure evaluators accurately assess, conclude and base their conclusions using all risk factors. The risk assessment template will be revised, and a copy provided to the OIG.
8. GSA disagrees that procedures implemented in FY 2018 and existing controls do not address OIG's concerns, and will continue to ensure USDA's procedures over the Do Not Pay Initiative are sufficient. OIG did not find any instances where GSA paid a vendor who had been debarred.

Appendix E – Report Distribution

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