

# Fiscal Year 2019 Compliance with Improper Payment Requirements

FINAL REPORT NO. OIG-20-029-I

JUNE 15, 2020



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



June 15, 2020

**INFORMATION MEMORANDUM FOR SECRETARY ROSS**

A handwritten signature in black ink that reads "Peggy E. Gustafson".

**FROM:** Peggy E. Gustafson  
Inspector General

**SUBJECT:** *FY 2019 Compliance with Improper Payment Requirements*  
Final Report No. OIG-20-029-I

This memorandum provides our final report on fiscal year (FY) 2019 improper payment reporting. Our review objective was to determine the Department's FY 2019 compliance with the Improper Payments Information Act of 2002 (IPIA), as amended. In determining compliance, we also evaluated the accuracy and completeness of the Department's improper payment reporting in the *U.S. Department of Commerce FY 2019 Agency Financial Report (FY 2019 AFR)* and its performance in reducing and recapturing improper payments.

Based on our review, we concluded that the Department complied with IPIA compliance criteria. Additionally, our review did not identify any significant issues regarding the accuracy or completeness of the improper payment reporting data described in the *FY 2019 AFR* or the Department's performance in reducing or recapturing improper payments. However, Departmental management informed us of three items that were not included in the data presented in the *FY 2019 AFR*, and identified corrective actions taken to prevent this type of oversight in the future. We will review these corrective actions as part of our FY 2020 compliance review.

The Department's May 28, 2020, comments are included within the report as appendix B. This final report will be posted on OIG's website pursuant to sections 4 and 8M of the Inspector General Act of 1978, as amended (5 U.S.C. App., §§ 4 & 8M).

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

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

Enclosure

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



# Report in Brief

June 15, 2020

## Background

As required by the Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, Appendix C, "Requirements for Payment Integrity Improvement"—guidance focused on preventing improper payments—we initiated this review to determine whether the U.S. Department of Commerce (Department) complied with the Improper Payments Information Act of 2002 (IPIA), as amended by the Improper Payments Elimination and Recovery Act of 2010 (IPERA) and the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA).

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

## Why We Did This Review

Our review objective was to determine the Department's fiscal year (FY) 2019 compliance with IPIA. To accomplish our objective, we focused on the Department's efforts to identify and report programs and/or activities that are susceptible to significant improper payments.

## OFFICE OF THE SECRETARY

### FY 2019 Compliance with Improper Payment Requirements

OIG-20-029-I

### WHAT WE FOUND

To comply with IPIA, the Department must adhere to the following six criteria, four of which relate specifically to programs and activities susceptible to significant improper payments:

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

Based on our review, we concluded that the Department complied with the compliance criteria. For additional details, a summarization of our conclusion is provided in table I.

**Table I. Improper Payment Requirements**

Program <sup>a</sup>	Compliance Criteria					
	Published the AFR	Conducted a Risk Assessment	Published Improper Payment Estimate	Published Corrective Action Plan	Published and Is Meeting Reduction Target	Reported an Improper Payment Rate of Less Than 10 Percent
National Telecommunications and Information Administration's State and Local Grant Implementation	Yes	Yes	Not Applicable (NA) <sup>b</sup>	NA <sup>b</sup>	NA <sup>b</sup>	NA <sup>b</sup>
National Technical Information Service's Collect and Disseminate Technical information – Clearinghouse Program	Yes	Yes	NA <sup>b</sup>	NA <sup>b</sup>	NA <sup>b</sup>	NA <sup>b</sup>
Office of the Secretary's Departmental Management	Yes	Yes	NA <sup>b</sup>	NA <sup>b</sup>	NA <sup>b</sup>	NA <sup>b</sup>

Source: OIG analysis of Departmental data

<sup>a</sup> We assessed Departmental data related to the risk assessments completed for these programs. Additional program risk assessments were completed during FY 2019, as described in the *FY 2019 AFR*.

<sup>b</sup> The Department was not required to report improper payment data for this program in FY 2019, as the Department's risk assessment process did not identify the program as susceptible to significant improper payments.

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

# Introduction

As required by the Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, Appendix C, "Requirements for Payment Integrity Improvement"—guidance focused on preventing improper payments—we initiated this review to determine whether the U.S. Department of Commerce (Department) complied with the Improper Payments Information Act of 2002 (IPIA), as amended by the Improper Payments Elimination and Recovery Act of 2010 (IPERA) and the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA).

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

To meet the requirements of IPIA and OMB Circular A-123, Appendix C, the Department performed procedures to detect and prevent improper payments, including risk assessments of selected programs and activities and routine monitoring and minimization activities such as post-payment reviews. The Department reported the results of these fiscal year (FY) 2019 actions and other required improper payment data in the *U.S. Department of Commerce FY 2019 Agency Financial Report (FY 2019 AFR)*. During FY 2019, as a result of its ongoing improper payment monitoring and minimization efforts, the Department identified approximately \$4.3 million in overpayments, as well as recaptured approximately \$7.9 million in overpayments.<sup>4</sup>

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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, or other legally applicable requirements. It includes any payment (1) to an ineligible recipient, (2) for an ineligible good or service, (3) that is duplicate, (4) for a good or service not received (except for such payments where authorized by law), or (5) that does not account for credit for applicable discounts. 31 U.S.C. § 3321 note.

<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. 2224, 2225; see also 31 U.S.C. § 3321 note. IPERIA amended the definition of *payments* to include payments to federal employees, and required OMB guidance to address payments to employees (e.g., salary, locality pay, travel pay, purchase card use, and other payments to federal employees) in risk assessments, and, where appropriate, in improper payments estimates. See Pub. L. No. 112-248, §§ 3(a)(5), 3(b)(2)(E), 126 Stat. 2390, 2391, 2392. In addition, IPERIA's mandated OMB guidance requires agencies to include all identified improper payments, regardless of whether the improper payment in question has been or is being recovered, in the reported improper payment estimate. *Id.* at § 3(b)(2)(D).

<sup>4</sup> Amounts recaptured in FY 2019 include overpayments reported in FY 2019 and prior years.



## Objective and Conclusion

Our review objective was to determine the Department's FY 2019 compliance with IPIA. To accomplish our objective, we focused on the Department's efforts to identify and report programs and activities that are susceptible to significant improper payments.<sup>5</sup> Appendix A contains additional details on the objective, scope, and methodology of this evaluation.

To comply with IPIA, the Department must adhere to the following six criteria, four of which relate specifically to programs and activities susceptible to significant improper payments:<sup>6</sup>

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

Based on our review, we concluded that the Department complied with the compliance criteria. For additional details, a summarization of our conclusion is provided in table I.

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<sup>5</sup> The Department is responsible for determining whether its programs and activities are susceptible to the risk of significant improper payments. No such programs or activities were identified in FY 2019.

<sup>6</sup> Pub. L. No. 111-204, § 3, as amended by Pub. L. No. 112-248, § 3(c)(2); see also 31 U.S.C. § 3321 note; OMB Circular A-123, Appendix C.

**Table I. Improper Payment Requirements**

Program <sup>a</sup>	Compliance Criteria					
	Published the AFR	Conducted a Risk Assessment	Published Improper Payment Estimate	Published Corrective Action Plan	Published and Is Meeting Reduction Target	Reported an Improper Payment Rate of Less Than 10 Percent
National Telecommunications and Information Administration's State and Local Grant Implementation	Yes	Yes	Not Applicable (NA) <sup>b</sup>	NA <sup>b</sup>	NA <sup>b</sup>	NA <sup>b</sup>
National Technical Information Service's Collect and Disseminate Technical information – Clearinghouse Program	Yes	Yes	NA <sup>b</sup>	NA <sup>b</sup>	NA <sup>b</sup>	NA <sup>b</sup>
Office of the Secretary's Departmental Management	Yes	Yes	NA <sup>b</sup>	NA <sup>b</sup>	NA <sup>b</sup>	NA <sup>b</sup>

Source: OIG analysis of Departmental data

<sup>a</sup> We assessed Departmental data related to the risk assessments completed for these programs. Additional program risk assessments were completed during FY 2019, as described in the *FY 2019 AFR*.

<sup>b</sup> The Department was not required to report improper payment data for this program in FY 2019, as the Department's risk assessment process did not identify the program as susceptible to significant improper payments.

In determining compliance, we also evaluated the accuracy and completeness of the Department's improper payment reporting in the *FY 2019 AFR* and its performance in reducing and recapturing improper payments. During our review, the Department brought to our attention that three items, including two overpayments identified totaling approximately \$5 million, were not included in the *FY 2019 AFR* due to an oversight when updating and reviewing its tracking document. The Department also provided a summary of the actions taken and planned in FY 2020 to address the conditions that led to this oversight. We plan to review the Department's revised improper payment practices during the FY 2020 improper payment compliance review. No other significant issues were noted with the accuracy or completeness of the information reported in the *FY 2019 AFR*. Further, our review did not identify any deficiencies in the Department's performance in reducing or recapturing improper payments.



# Summary of Agency Response and OIG Comments

The Department's comments are included as appendix B of this report. Departmental management was pleased with the OIG's conclusion on FY 2019 improper payments compliance. The Department stated that it will continue its efforts to monitor, minimize, and recapture improper payments, as well as ensure the integrity of its disbursements.

# Appendix A: Objective, Scope, and Methodology

In January 2020 we initiated an evaluation of the Department's compliance with improper payment requirements. Our objective was to determine the Department's FY 2019 compliance with IPIA. In determining compliance, we also evaluated the accuracy and completeness of the Department's improper payment reporting in the *FY 2019 AFR* and the Department's performance in reducing and recapturing improper payments.

To accomplish our objective, we performed the following:

- Reviewed relevant laws and regulations related to improper payments, including
  - IPIA
  - Bipartisan Budget Act of 2018 (Pub. L. 115–123)
  - OMB Circular A-136 (revised June 28, 2019)
  - OMB Circular A-123, Appendix C, as amended by OMB Memorandum M-18-20
  - OMB Memorandum M-18-14
- Reviewed Departmental processes and practices for identifying, assessing, and reporting programs and activities susceptible to significant improper payments.
- Reviewed the Departmental processes and practices in place to reduce and recapture improper payments during FY 2019.
- Interviewed Department officials in the Office of the Secretary's Office of Financial Management responsible for improper payment oversight and reporting.
- Reviewed the "Payment Integrity" section in the *FY 2019 AFR*.
- Obtained and analyzed documents related to the FY 2019 risk assessments and improper payment reporting—including the FY 2019 risk assessment tracking log; completed risk assessments for three programs; and the FY 2019 improper payments and amounts recaptured summary.
- Reviewed the Department's compliance with applicable provisions of IPIA, OMB Circular A-136 (revised June 28, 2019), and OMB Circular A-123, Appendix C, as amended by OMB Memorandum M-18-20.

In addition, we assessed the reliability of the Department's FY 2019 improper payments and amounts recaptured summary via discussion with Departmental officials and review of relevant documentation. We determined that the data was sufficiently reliable for this review.

We conducted our review from January 2020 through April 2020 under the authority of the Inspector General Act of 1978, as amended (5 U.S.C. App.), and Department Organization Order 10-13, dated April 26, 2013. We performed our fieldwork at Department headquarters in Washington, DC.

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

MEMORANDUM FOR Richard Bachman  
 Assistant Inspector General for Audit and Evaluation

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

SUBJECT: Comments on Draft Report entitled “*Fiscal Year 2019 Compliance with Improper Payment Requirements*”

**STEPHEN KUNZE** Digitally signed by  
 STEPHEN KUNZE  
 Date: 2020.05.28  
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This memorandum responds to the draft report from the Office of Inspector General (OIG) entitled “*Fiscal Year 2019 Compliance with Improper Payment Requirements*,” provided to my staff on May 20, 2020. We are pleased with OIG’s conclusion that the Department met, for FY 2019, the compliance criteria of the Improper Payments Information Act of 2002, as amended. The report mentions three items that my office brought to OIG’s attention, indicates that no other significant issues were noted with the accuracy or completeness of the information reported in the FY 2019 Agency Financial Report, and states that OIG did not identify any deficiencies in the Department’s performance in reducing or recapturing improper payments. The Department will continue its efforts to monitor, minimize, and recapture improper payments and ensure the integrity of its disbursements.

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

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