

Fiscal Year 2020 Compliance with Improper Payment Requirements

FINAL REPORT NO. OIG-21-026-I

MAY 13, 2021



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



May 13, 2021

DECISION MEMORANDUM FOR SECRETARY RAIMONDO

FROM: 
Peggy E. Gustafson
Inspector General

RE: *FY 2020 Compliance with Improper Payment Requirements*
Final Report No. OIG-21-026-I

This memorandum provides our final report on fiscal year (FY) 2020 improper payment reporting. Our review objective was to determine the U.S. Department of Commerce's (the Department's) compliance with the Payment Integrity Information Act of 2019 (PIIA). To determine FY 2020 compliance, we reviewed the "Payment Integrity" section of the Department's *FY 2020 Agency Financial Report (AFR)*, accompanying materials to the *AFR*, and other improper payment-related documentation. We also assessed the Department's efforts related to preventing and reducing improper payments.

Based on our review, we concluded that the Department did not comply with all criteria and therefore is not compliant under PIIA. We did not identify any actions needed to further improve prevention and reduction of improper payments. However, we made recommendations related to improving the Department's annual risk assessment process.

The Department's April 28, 2021, comments are included within the report as appendix B. Pursuant to Department Administrative Order 213-5, please submit to us an action plan that addresses the recommendations in this report within 60 calendar days. The 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 PIIA, we are also issuing a copy of this report to the U.S. Senate Committee on Homeland Security and Governmental Affairs; the U.S. House Committee on Oversight and Reform; the Comptroller General of the United States; and the 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: Stephen Kunze, Deputy Chief Financial Officer and Director for Financial Management
Performing the Non-exclusive Functions and Duties of the Chief Financial Officer,
Office of Financial Management, Office of the Secretary
MaryAnn Mausser, Audit Liaison, Office of the Secretary
Albert Moesle, Director of Enterprise Risk Management and Deputy Chief Risk Officer,
Office of the Secretary
Rehana Mwalimu, Risk Management Officer and Primary Alternate Department GAO/OIG
Liaison, Office of the Secretary



Report in Brief

May 13, 2021

Background

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

Broadly defined, *improper payments* are those the federal government has made for the wrong amount, to the wrong entity, or for the wrong reason. PIIA set forth improper payment requirements for executive agencies including, but not limited to, (1) conducting program-specific risk assessments for each program or activity, (2) publishing improper payment estimates for programs susceptible to significant improper payments, and (3) reporting on corrective actions to reduce improper payments. We initiated our fiscal year (FY) 2020 annual compliance review using a combination of the requirements in *OMB Circular A-123, Appendix C (M-18-20, June 2018)*; *OMB Circular A-136 (August 2020)*; the *OMB Annual Data Call Instructions* and *OMB Supplemental Data Call Instructions* (September 2020); the *OMB Payment Integrity Question and Answer Platform*; and the Council of the Inspectors General on Integrity and Efficiency's *Guidance for Payment Integrity Information Act Compliance Reviews* (November 2020).

Why We Did This Review

Our review objective was to determine the Department's compliance with PIIA. To determine FY 2020 compliance, we reviewed the "Payment Integrity" section of its FY 2020 Agency Financial Report (AFR), accompanying materials to the AFR, and other improper payment-related documentation. We also assessed the Department's efforts related to preventing and reducing improper payments.

OFFICE OF THE SECRETARY

FY 2020 Compliance with Improper Payment Requirements

OIG-21-026-I

WHAT WE FOUND

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

1. Publish improper payment information with the agency's AFR for the most recent FY and post the AFR and accompanying materials required by OMB on the agency's website.
2. Conduct improper payment risk assessments for each program with annual outlays greater than \$10 million at least once in the last 3 years and adequately conclude whether the program is likely to make improper payments above or below the statutory threshold.
3. Publish improper payment estimates for programs susceptible to significant improper payments in the accompanying materials to the AFR.
4. Publish corrective action plans for each program for which an estimate was above the statutory threshold.
5. Publish improper payment reduction targets and meet improper payment targets (published in FY 2019) for each program for which an estimate was above the statutory threshold and develop a plan to meet the improper payment reduction targets.
6. Report an improper payment estimate of less than 10 percent for each program for which an estimate was published.

We found that the Department did not conduct risk assessments for all required programs. Risk assessments for two programs under the U.S. Census Bureau were not performed as frequently as required. PIIA requires agencies to conduct risk assessments for covered programs and activities at least once every 3 years. Risk assessments play an important role in determining whether the program is susceptible to significant improper payments and, consequently, are important for reasonably ensuring that payment integrity information reported by the Department is complete and accurate.

Risk assessments for the Census Bureau's Working Capital Fund and Geographic Support programs were last performed during FY 2017 and, therefore, should have been performed during FY 2020, but were not. The FY 2020 gross outlays for the Working Capital Fund and Geographic Support programs were approximately \$850 million and \$60 million, respectively. As a result, the Department did not comply with criterion 2 above, and is therefore noncompliant with PIIA. The Department explained that it made an error updating its risk assessment schedule, resulting in the oversight, and communicated plans to revise its scheduling process to reduce the risk of future errors.

WHAT WE RECOMMEND

We recommend that the Deputy Chief Financial Officer and Director for Financial Management do the following:

1. Include the Census Bureau's Geographic Support and Working Capital Fund programs in the next risk assessment during FY 2021.
2. Implement a revised risk assessment scheduling process so the Department can ensure risk assessments are completed at least once every 3 years.

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

Introduction

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

Broadly defined, *improper payments* are those the federal government has made for the wrong amount, to the wrong entity, or for the wrong reason.² In fiscal year (FY) 2020, agencies across the federal government made an estimated \$206 billion in improper payments. Improper payments can negatively impact the public's trust in the federal government and distract from the benefits of federal programs. Accordingly, resolving the problem of improper payments is of the utmost importance.

On March 2, 2020, PIIA repealed the Improper Payments Elimination and Recovery Act of 2010 (IPERA)³ and other laws, but set forth similar improper payment requirements for executive agencies including, but not limited to, (1) conducting program-specific risk assessments for each program or activity, (2) publishing improper payment estimates for programs susceptible to significant improper payments, and (3) reporting on corrective actions to reduce improper payments. Because final OMB guidance related to PIIA was not expected to be issued until February 2021,⁴ we initiated our FY 2020 annual compliance review using a combination of the requirements in *OMB Circular A-123, Appendix C (M-18-20, June 2018)*; *OMB Circular A-136 (August 2020)*; the *OMB Annual Data Call Instructions* and *OMB Supplemental Data Call Instructions* (September 2020); the *OMB Payment Integrity Question and Answer Platform*;⁵ and the Council of the Inspectors General on Integrity and Efficiency's *Guidance for Payment Integrity Information Act Compliance Reviews* (November 2020).

To meet improper payment requirements, the Department followed *OMB Circular A-123, Appendix C* (from June 2018), *OMB Annual Data Call Instructions*, and *OMB Supplemental Data Call Instructions*. It also performed procedures to detect and prevent improper payments, including (1) risk assessments of selected programs and activities and (2) routine monitoring and minimization activities, such as post-payment reviews. The Department reported the results of

¹ Public Law 116-117, § 3353(a)(1), 134 Stat. 123.

² An *improper payment* is any payment that should not have been made or that was made in an incorrect amount, including an overpayment or underpayment, under a statutory, contractual, administrative, or other legally applicable requirement. It includes any payment (1) to an ineligible recipient, (2) for an ineligible good or service, (3) that is duplicate, (4) for a good or service not received (except for those payments where authorized by law), and (5) that does not account for credit for applicable discounts. See 31 U.S.C. § 3351.

³ IPERA amended the Improper Payments Information Act of 2002 and required agencies to identify and review all programs and activities they administer that may be susceptible to significant improper payments based on guidance provided by OMB.

⁴ Final OMB guidance related to PIIA was not issued until March 5, 2021.

⁵ The *OMB Payment Integrity Question and Answer Platform* is constantly updated. We last accessed the platform on March 14, 2021.

these FY 2020 actions and other required improper payment data to OMB for inclusion on PaymentAccuracy.gov.⁶ During FY 2020, as a result of its ongoing improper payment monitoring and minimization efforts, the Department identified approximately \$12.08 million in overpayments and recaptured approximately \$7.05 million in overpayments.

⁶ PaymentAccuracy.gov is a website created by the U.S. Department of the Treasury, in coordination with the U.S. Department of Justice and OMB, to serve as a centralized location for publishing information about improper payments made by the federal government to individuals, organizations, and contractors.

Objective, Finding, and Recommendations

Our review objective was to determine the Department's compliance with PIIA. To determine FY 2020 compliance, we reviewed the "Payment Integrity" section of its *FY 2020 Agency Financial Report (AFR)*, accompanying materials to the *AFR*, and other improper payment-related documentation. We also assessed the Department's efforts related to preventing and reducing improper payments. Appendix A contains additional details on the objective, scope, and methodology of this evaluation.

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

1. Publish improper payment information with the agency's *AFR* for the most recent fiscal year and post the *AFR* and accompanying materials required by OMB on the agency's website.
2. Conduct improper payment risk assessments for each program with annual outlays greater than \$10 million at least once in the last 3 years and adequately conclude whether the program is likely to make improper payments above or below the statutory threshold.⁷
3. Publish improper payment estimates for programs susceptible to significant improper payments in the accompanying materials to the *AFR*.
4. Publish corrective action plans for each program for which an estimate was above the statutory threshold.
5. Publish improper payment reduction targets and meet improper payment targets (published in FY 2019) for each program for which an estimate was above the statutory threshold and develop a plan to meet the improper payment reduction targets.
6. Report an improper payment estimate of less than 10 percent for each program for which an estimate was published.

Based on our review, we concluded that the Department did not comply with criterion 2 previously detailed, and therefore is not compliant under PIIA. We summarize our conclusion in table I and discuss it further within the finding of this report.

⁷ Public Law 116-117, § 3352(a)(3)(A), 134 Stat. 115. Programs are considered to be above the statutory threshold if they are reporting improper payments and payments whose propriety cannot be determined and the payments are above (1) \$10 million and 1.5 percent of the program's total annual outlays or (2) \$100 million.

Table I. Improper Payment Requirements

Program Name ^a	Compliance Criteria									
	Published improper payment information with the AFR	Posted the AFR and accompanying materials on the agency website	Conducted improper payment risk assessments for each program with annual outlays greater than \$10M at least once in the last 3 years	Adequately concluded whether the program is likely to make improper payments above or below the statutory threshold	Published improper payment estimates for programs susceptible to significant improper payments in the accompanying materials to the AFR	Published corrective action plans for each program for which an estimate was above the statutory threshold	Published improper payment reduction targets for each program for which an estimate was above the statutory threshold	Met improper payment reduction targets (published in FY 2019) for each program for which an estimate was above the statutory threshold	Developed a plan to meet the improper payment reduction targets	Reported an improper payment estimate of less than 10% for each program for which an estimate was published
U.S. Census Bureau's Enterprise Data Collection & Dissemination Systems/Center for Enterprise Dissemination Services and Consumer Innovation	Yes	Yes	Yes	Yes	Not Applicable (NA) ^b	NA ^b	NA ^b	NA ^b	NA ^b	NA ^b
U.S. Census Bureau's Geographic Support	Yes	Yes	No	No	NA ^c	NA ^c	NA ^c	NA ^c	NA ^c	NA ^c
U.S. Census Bureau's Working Capital Fund	Yes	Yes	No	No	NA ^c	NA ^c	NA ^c	NA ^c	NA ^c	NA ^c
U.S. Economic Development Administration's Disaster Funds	Yes	Yes	Yes	Yes	NA ^b	NA ^b	NA ^b	NA ^b	NA ^b	NA ^b
U.S. Economic Development Administration's Grants	Yes	Yes	Yes	Yes	NA ^b	NA ^b	NA ^b	NA ^b	NA ^b	NA ^b
National Oceanic and Atmospheric Administration's Disaster Funds	Yes	Yes	Yes	Yes	Yes	NA ^b	NA ^b	NA ^b	NA ^b	NA ^b
United States Patent and Trademark Office	Yes	Yes	Yes	Yes	NA ^b	NA ^b	NA ^b	NA ^b	NA ^b	NA ^b

Source: OIG analysis of Departmental data

^a We assessed Departmental data related to the risk assessments completed for these programs. The Department completed 17 program risk assessments during FY 2020, as described on PaymentAccuracy.gov.

^b The Department was not required to report improper payment data for this program in FY 2020, as the Department's risk assessment process did not identify the program as susceptible to significant improper payments.

^c The program was not identified as susceptible to significant improper payments because the Department did not conduct a risk assessment and adequately conclude the program was likely to make improper payments above the statutory threshold during FY 2020.

As part of determining the Department's compliance with PIIA, we also evaluated the adequacy of the Department's efforts to prevent and reduce improper payments. We did not identify any actions needed to further improve prevention and reduction of improper payments. However, we made recommendations related to improving the Department's annual risk assessment process.

The Department Did Not Conduct Risk Assessments for All Required Programs

Risk assessments for two programs under the U.S. Census Bureau were not performed as frequently as required. PIIA requires agencies to conduct risk assessments for programs and activities⁸ at least once every 3 years. Risk assessments play an important role in determining whether the program is susceptible to significant improper payments and, consequently, are important for reasonably ensuring that payment integrity information reported by the Department is complete and accurate.

Risk assessments for the Census Bureau's Working Capital Fund and Geographic Support programs were last performed during FY 2017 and, therefore, should have been performed during FY 2020, but were not. The FY 2020 gross outlays for the Working Capital Fund and Geographic Support programs were approximately \$850 million and \$60 million, respectively. As a result, the Department did not comply with criterion 2 previously detailed, and is therefore noncompliant with PIIA. The Department explained that it made an error updating its risk assessment schedule, resulting in the oversight, and communicated plans to revise its scheduling process to reduce the risk of future errors.

Recommendations

We recommend that the Deputy Chief Financial Officer and Director for Financial Management do the following:

1. Include the Census Bureau's Geographic Support and Working Capital Fund programs in the next risk assessment during FY 2021.
2. Implement a revised risk assessment scheduling process so the Department can ensure risk assessments are completed at least once every 3 years.

⁸ Office of Management and Budget, March 5, 2021. OMB Memorandum M-21-19, *Transmittal of Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*. Washington, DC: OMB. Available at <https://www.whitehouse.gov/wp-content/uploads/2021/03/M-21-19.pdf> (accessed March 8, 2021). Part VI.A.2a. states that agencies must conduct risk assessments at least once every 3 years for each program with annual outlays greater than \$10 million.

Summary of Agency Response and OIG Comments

The Department's formal response is included within this report as appendix B. In its response, the Department concurred with our finding and described plans to implement both of our recommendations.

We are pleased that the Department concurs with our finding and recommendations, and look forward to reviewing its proposed action plan.

Appendix A: Objective, Scope, and Methodology

Our review objective was to determine the Department's compliance with PIIA. To determine FY 2020 compliance, we reviewed the "Payment Integrity" section of its FY 2020 AFR, accompanying materials to the AFR, and other improper payment-related documentation. We also assessed the Department's efforts related to preventing and reducing improper payments.

To accomplish our objective, we performed the following:

- Reviewed relevant laws, regulations, and other guidance, including
 - *Payment Integrity Information Act of 2019* (Public Law 116-117), dated March 2, 2020
 - *OMB Circular A-123, Appendix C*, as amended by *OMB Memorandum M-18-20*, dated June 26, 2018
 - *OMB Circular A-123, Appendix C*, as revised by *OMB Memorandum M-21-19*, dated March 5, 2021
 - *OMB Circular A-136, Revised*, dated August 27, 2020
 - *OMB Annual Data Call Instructions* and *OMB Supplemental Data Call Instructions*
 - *OMB Payment Integrity Question and Answer Platform*
 - Council of the Inspectors General on Integrity and Efficiency, *Guidance for Payment Integrity Information Act Compliance Reviews*, dated November 2020
 - *OMB Memorandum M-18-14 on Implementation of Internal Controls and Grant Expenditures for the Disaster-Related Appropriations*, dated March 30, 2018
- Reviewed the "Payment Integrity" section in the FY 2020 AFR and accompanying materials (Payment Accuracy 2020 Dataset and Supplemental Dataset) provided to OMB for inclusion on PaymentAccuracy.gov.
- Interviewed Department officials in the Office of the Secretary's Office of Financial Management responsible for improper payment oversight and reporting.
- Obtained and analyzed documents related to the FY 2020 risk assessments and improper payment reporting—including the FY 2020 risk assessment tracking log, completed risk assessments, and the FY 2020 improper payments and amounts recaptured summary.
- Reviewed Departmental processes and practices for identifying, assessing, and reporting programs and activities susceptible to significant improper payments.
- Reviewed the Departmental processes and practices in place to prevent, reduce, and recapture improper payments during FY 2020.
- Reviewed the Department's compliance with applicable provisions of PIIA.

In addition, we assessed the reliability of the Department's FY 2020 improper payments data by identifying the data sources, understanding how the data was extracted, and analyzing the data. We also traced data to source documents. We determined that the data was sufficiently reliable for the purposes of this report.

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

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

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 **STEPHEN KUNZE** Digitally signed by STEPHEN KUNZE
Deputy Chief Financial Officer and Director for Financial Date: 2021.04.28 16:00:11 -04'00'
Management Performing the Non-exclusive Functions and Duties
of the Chief Financial Officer

SUBJECT: Comments on Draft Report Entitled, "*Fiscal Year 2020 Compliance with Improper Payment Requirements*"

This memorandum responds to the draft report from the Office of Inspector General entitled "*Fiscal Year 2020 Compliance with Improper Payment Requirements*," issued on April 22, 2021. The draft report indicates that the Department did not comply with one of six criteria, and therefore is not compliant under the Payment Integrity Information Act of 2019.

The Department concurs with the finding and plans to implement the recommendations on page 5 by including the Census Bureau's Geographic Support and Working Capital Funding programs in the next improper payments risk assessment cycle during FY 2021 and implementing a revised scheduling process so the Department can ensure all risk assessments are completed at least once every three years.

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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