# FY 2017 Compliance with Improper Payment Requirements

FINAL REPORT NO. OIG-18-019-I

MAY 2, 2018


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

UNITED STATES DEPARTMENT OF COMMERCE
Office of Inspector General
Washington, D.C. 20230

May 2, 2018

**INFORMATION MEMORANDUM FOR SECRETARY ROSS**

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

**SUBJECT:** *FY 2017 Compliance with Improper Payment Requirements*
Final Report No. OIG-18-019-I

This memorandum provides our final report on fiscal year (FY) 2017 improper payment reporting. Our review objectives were to (1) evaluate the Department's FY 2017 compliance with the Improper Payments Information Act of 2002 (IPIA), as amended, and (2) review the accuracy and completeness of the Department's improper payment reporting in the *U.S. Department of Commerce FY 2017 Agency Financial Report* (*AFR*).

Our review found that the Department did not comply with IPIA, because it did not meet one of the six criteria for compliance. Nonetheless, nothing came to our attention during our review suggesting that the improper payments reporting within the *FY 2017 AFR* was inaccurate and incomplete.

On April 19, 2018, we received the Department's response to the draft report's findings and recommendations, which we include within the report as appendix B. Department management agreed with both recommendations and noted actions it has and will take to address them.

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. 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 Government Reform; Comptroller General of the United States; and Director, 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: Lisa Casias, Acting Chief Financial Officer/Assistant Secretary for Administration, and Deputy Assistant Secretary for Administration
Steve Kunze, Deputy Chief Financial Officer and Director for Financial Management
MaryAnn Mausser, Audit Liaison

# Report in Brief

May 2, 2018

## 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 Effective Estimation and Remediation of Improper Payments"—government-wide guidance on detecting and preventing improper payments—we initiated this review to determine whether the Department complied with the Improper Payments Information Act of 2002 (IPIA), as amended by the Improper Payments Elimination and Recovery Act of 2010 (IPERA) and the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA). We also reviewed whether the Department complied with applicable provisions of OMB Circular A-136 (revised August 2017), and OMB Circular A-123, Appendix C, as amended by OMB Memorandum M-15-02.

Broadly defined, *improper payments* (IPs) are those the federal government has made for the wrong amount, to the wrong entity, or for the wrong reason. Congress enacted IPIA to require 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 IPs, (2) estimate IP amounts for such programs and activities, and (3) report these estimates along with actions taken to reduce IPs 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 objectives were to (1) evaluate the Department's FY 2017 compliance with IPIA, as amended, and (2) review the accuracy and completeness of the Department's improper payment reporting in the *U.S. Department of Commerce FY 2017 Agency Financial Report* (*AFR*).

OFFICE OF THE SECRETARY

# FY 2017 Compliance with Improper Payment Requirements

OIG-18-019-I

## WHAT WE FOUND

To comply with IPIA, the Department must adhere to six requirements, four of which relate specifically to programs and activities susceptible to significant IPs. The Department's annual risk assessment process did not identify such programs and activities, however, the Department receives funds under the Disaster Relief Appropriations Act of 2013 (Disaster Relief Appropriations Act) which are deemed susceptible to significant IPs for the purposes of IPIA.

Our review found that the Department did not comply with IPIA, because it did not meet one of the six criteria for compliance. Nonetheless, nothing came to our attention during our review suggesting that the IP reporting within the *FY 2017 AFR* was inaccurate or incomplete.

## WHAT WE RECOMMEND

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

1. Develop a documented policy and methodology for establishing an IP target rate that includes consideration of factors that could affect the IP rate.

2. Implement a process to address cause(s) of increases in the estimated IP rates.

# Contents



*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 Effective Estimation and Remediation of Improper Payments"—government-wide guidance on detecting and preventing improper payments—we initiated this review to determine whether the Department complied with the Improper Payments Information Act of 2002 (IPIA), as amended by the Improper Payments Elimination and Recovery Act of 2010 (IPERA) and the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA). We also reviewed whether the Department complied with applicable provisions of OMB Circular A-136 (revised August 2017), and OMB Circular A-123, Appendix C, as amended by OMB Memorandum M-15-02.

Broadly defined, *improper payments* (IPs) are those the federal government has made for the wrong amount, to the wrong entity, or for the wrong reason.[1] Congress enacted IPIA to require 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 IPs, (2) estimate IP amounts for such programs and activities, and (3) report these estimates along with actions taken to reduce IPs for programs and activities with estimates that exceed $10 million. IPERA and IPERIA amended IPIA[2] by expanding on these previous requirements[3] 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 IPs, including risk assessments of selected programs and activities; payment recapture audits; statistical sampling of program disbursements; and routine monitoring and minimization activities such as pre- and post-payment reviews. The Department reported the results of these fiscal year (FY) 2017 actions and other required IP data in the "Other Information (Unaudited)" section of the *U.S. Department of Commerce FY 2017 Agency Financial Report* (*AFR*). During FY 2017, the Department made approximately $15 billion in total outlays. As a result of its ongoing IP

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[1] 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.

[2] Going forward, unless otherwise indicated, the term *IPIA* will denote *IPIA, as amended by IPERA and IPERIA* throughout this report.

[3] 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, 2391-92. 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).

monitoring, minimization, payment recapture efforts, in FY 2017 the Department identified approximately $2.2 million in overpayments, as well as $2.1 million in recaptured overpayments.[4]

[4] Amounts recaptured in FY 2017 include overpayments reported in FY 2017 and prior years.

# Objectives, Finding, and Recommendations

Our review objectives were to (1) evaluate the Department's FY 2017 compliance with IPIA, as amended, and (2) review the accuracy and completeness of the Department's improper payment reporting in the *AFR*. To accomplish these objectives, we focused on the Department's efforts to identify programs and/or activities that are susceptible to significant IPs and to report accurate and complete IP information within its *FY 2017 AFR*. For further discussion regarding our objectives, scope, and methodology, see appendix A.

To comply with IPIA, the Department must adhere to six requirements, four of which relate specifically to programs and activities susceptible to significant IPs.[5] The Department's annual risk assessment process did not identify such programs and activities, however, the Department receives funds under the Disaster Relief Appropriations Act of 2013 (Disaster Relief Appropriations Act) which are deemed susceptible to significant IPs[6] for the purposes of IPIA. Therefore, since the funds received by the National Oceanic and Atmospheric Administration (NOAA) under the Disaster Relief Appropriations Act are deemed susceptible to significant IPs, all of the OMB compliance requirements were applicable to the Department in FY 2017.

Our review found that the Department did not comply with IPIA, because it did not meet one of the six criteria for compliance, as described in table 1. Nonetheless, nothing came to our attention during our review suggesting that the IP reporting within the *FY 2017 AFR* was inaccurate or incomplete.

**Table 1. IP Requirements**

| Compliance Requirement | Compliance Requirement Met |
|---|---|
| Published the *AFR* and posted on agency website | Yes |
| Conducted program-specific risk assessments | Yes |
| Published IP estimates for all programs and activities identified as susceptible to significant IPs in the *AFR* | Yes |
| Published programmatic corrective action plans for all programs and activities identified as susceptible to significant IPs in the *AFR* | Not reported[a] |
| Published and met annual reduction targets[b] for each program assessed to be at risk and estimated for IPs | No |
| Reported a gross IP rate of less than 10 percent for each program or activity for which an IP estimate was obtained and published in the *AFR* | Yes |

*Source*: OIG analysis of Departmental data

[a] The Department is not required to complete corrective action plans because the testing of FY 2016 outlays under the Disaster Relief Appropriations Act did not identify IPs that, in total, met the statutory thresholds required by OMB.

[b] *Reduction targets* identify a program's estimated future level of improper payments.

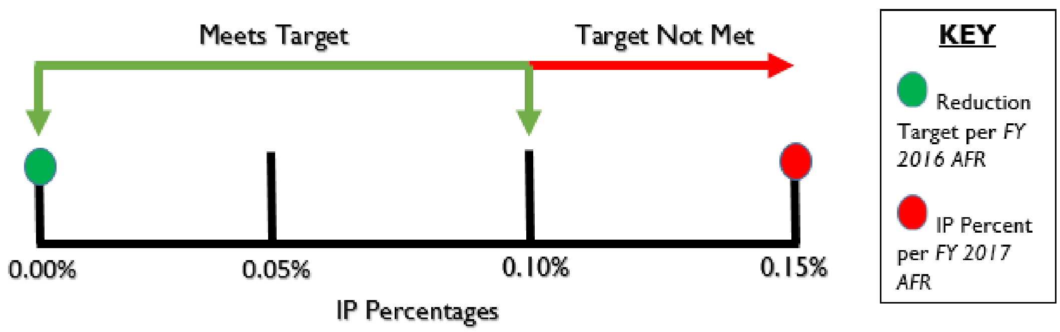
[5] Pub. L. No. 111-204, § 3, as amended by Pub. L. No. 112-248, § 3(c)(2); see also 31 U.S.C. § 3321 note; OMB Circular A-123. The Department is responsible for determining whether its programs and activities are susceptible to the risk of significant improper payments.

[6] As required by the Disaster Relief Appropriations Act of 2013, Pub. L. No. 113-2, § 904(b), 127 Stat. 4, 17 (2013).

## The Department Is Not Compliant with IPIA, as Amended

Although the Department met five of the six IPIA requirements, the Department did not satisfy the requirement to meet the reduction target rate for the funding received under the Disaster Relief Appropriations Act. To meet this specific requirement, IPIA requires agencies to both publish and meet annual reduction targets for all programs and activities assessed to be at risk and estimated for IPs. Annual reduction targets are considered met when the estimated IP rate falls within plus or minus 0.1 percent[7] of the reduction target set in the previous year's *AFR*. The Department set an IP reduction target of 0.00 percent in the *FY 2016 AFR* and reported an estimated IP rate of 0.15 percent in the *FY 2017 AFR*, a rate which falls outside the threshold for meeting the reduction target (see figure 1).

**Figure 1. Reduction Target Requirements for NOAA Disaster Relief Appropriations Act Funds**




*Source*: OIG analysis of IP percent and compliance criteria

To gain an understanding of the reduction target setting process, we requested related policies and procedures from the Department, but such documentation did not exist. Department officials communicated that, in order to set the reduction target reported in the *FY 2016 AFR*, they reviewed the results of FY 2015 IP testing (which estimated an error rate of 0.05 percent)—as well as the results of IP testing from all prior fiscal years—and concluded that the reduction target of 0.00 percent was reasonable considering the low error rates.

However, without a documented reduction target setting policy or methodology, the Department cannot demonstrate that it thoroughly considers all relevant factors affecting the IP rate. Moreover, the Department does not have a process to analyze and correct causes of increases in IPs, as it believes it would not be cost effective considering the low dollar amounts associated with the IPs under the Disaster Relief Appropriations Act. Although the IP rates and amounts reported in the *FY 2016 AFR* (0.05 percent and $51,000) and *FY 2017 AFR* (0.15 percent and $85,000) are relatively low, the IPs are increasing

[7] OMB Circular A-123, Appendix C, Part II.A.3e, as amended by OMB Memorandum M-15-02, states that a program will have met a reduction target if the improper payment rate for that program in the current year falls within plus or minus 0.1 percentage points of the reduction target set in the previous year's *AFR* or *Performance and Accountability Report*.

despite the decreases in program outlays. Currently, the Department has neither (1) a documented policy or methodology to develop its IP reduction targets, nor (2) a process to identify and correct the causes of these increases, which puts the Department at risk for continued increases in IPs and noncompliance with IPIA.

As a result of not meeting the reduction target, the Department is not in compliance with IPIA and must submit a plan to Congress, OMB, and OIG within 90 days describing the actions that the agency will take to become compliant.[8]

### *Recommendations*

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

1. Develop a documented policy and methodology for establishing an IP target rate that includes consideration of factors that could affect the IP rate.
2. Implement a process to address cause(s) of increases in the estimated IP rates.

[8] *See* OMB Circular A-123, Appendix C, Part II.B, as amended by OMB Memorandum M-15-02.

# Summary of Agency Response and OIG Comments

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

# Appendix A: Objectives, Scope, and Methodology

Our review objectives were to (1) evaluate the Department's FY 2017 compliance with the IPIA, as amended, and (2) review the accuracy and completeness of the Department's improper payment reporting in the *AFR*. We reviewed Departmental processes and practices for identifying, assessing, and reporting programs and activities susceptible to significant IPs, along with the procedures in place to detect, prevent, and recapture IPs during FY 2017.

To accomplish our objectives, we obtained an understanding of the Department's IPIA-related procedures and practices by

- communicating with Department officials in the Office of the Secretary's Office of Financial Management, Office of Acquisition Management, and NOAA's Financial Policy and Compliance Division to gain an understanding of risk assessment, IP reporting, payment recapture processes, and IP reduction target setting;
- obtaining and analyzing documents related to the FY 2017 risk assessment, IP reporting, and payment recapture processes—including relevant procedures, risk assessment results, summary of quarterly reporting of IPs identified and amounts recaptured, statistical sampling estimation plan, sampling results, and contractor reports;
- reviewing the Department's corrective actions taken to address recommendations made in the 2016 OIG report related to compliance with improper payment requirements,[9] as well as recommendations made by the Department's independent payment recapture auditor; and
- reviewing the "Payment Integrity" section in the *FY 2017 AFR*.

We also reviewed the Department's compliance with applicable provisions of IPIA, as amended by IPERA and IPERIA, OMB Circular A-136 (revised August 2017), and OMB Circular A-123, Appendix C, as amended by OMB Memorandum M-15-02. In addition, we assessed the reliability of the Department's FY 2017 summary of overpayments identified and amounts recaptured via discussion with Departmental officials and review of relevant documentation. We determined that the data was sufficiently reliable for this review.

We conducted our fieldwork from January 2018 to March 2018 in Washington, DC. We performed this review 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. 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.

[9] U.S. Department of Commerce Office of Inspector General, May 12, 2017. *FY 2016 Compliance with Improper Payment Requirements*, OIG-17-025-I. Washington, DC: DOC OIG.

# Appendix B: Agency Response

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

MEMORANDUM FOR Andrew Katsaros
Assistant Inspector General for Audit and Evaluation

FROM: Stephen M. Kunze APR 19 2018
Deputy Chief Financial Officer and
Director for Financial Management

SUBJECT: Comments on Draft Report Entitled, "*FY 2017 Compliance with Improper Payment Requirements*"

This memorandum responds to the draft report from the Office of Inspector General (OIG), entitled "*FY 2017 Compliance with Improper Payment Requirements*," issued on April 5, 2018. The draft report indicates that the Department did not meet one of the six criteria of Office of Management and Budget Circular No. A-123, Appendix C for compliance with the Improper Payments Information Act of 2002, as amended. The draft report further indicates that nothing came to the OIG's attention during its review suggesting that the improper payments reporting included in the Department's FY 2017 Agency Financial Report was inaccurate or incomplete.

We plan to implement the recommendations on page 5, for funds received by the National Oceanic and Atmospheric Administration under the Disaster Relief Appropriations Act, to develop a documented policy and methodology for establishing an improper payments target rate that includes consideration of factors that could affect the improper payments rate, and to implement a process to address cause(s) of any increases in the estimated improper payment rates. The implementation of these recommendations will improve our formulation of improper payment target rates and our efforts to minimize improper payments.

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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