



*U.S. DEPARTMENT OF COMMERCE
Office of Inspector General*



Office of the Secretary

*Commerce Needs to Strengthen
Its Improper Payment Practices
and Reporting*

Final Report No. OIG-11-021-A

March 25, 2011

FOR PUBLIC RELEASE

Office of Audit and Evaluation





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

March 25, 2011

MEMORANDUM FOR: Scott B. Quehl
Assistant Secretary for Administration
and Chief Financial Officer

FROM: Ann C. Eilers *Ann C Eilers*
Principal Assistant Inspector General
For Office of Audit and Evaluation

SUBJECT: *Commerce Needs to Strengthen
Its Improper Payment Practices and Reporting*
Final Report No. OIG-11-021-A

This memorandum transmits our final report on the Department's need to strengthen improper payment practices and improve improper payment reporting.

We based our audit on the review of grant fraud prevention and detection in four bureaus receiving American Recovery and Reinvestment Act of 2009 grant funding: the Economic Development Administration (EDA), National Institute of Standards and Technology (NIST), National Oceanic and Atmospheric Administration (NOAA), and National Telecommunications and Information Administration (NTIA). Since our January 26, 2011, draft report recommendations affect all Commerce bureaus, we addressed our recommendations to you as the Department's Chief Financial Officer.

We found that the bureaus were generally in compliance with OMB guidance on improper payments and preventing and detecting grant fraud, waste, and abuse; however, several improvements should be made. All four bureaus provided improper payment reporting as required; however, the reporting was incomplete because the bureaus did not consider all sources of improper payment information when compiling their reports. Additionally, the Department's recovery audit efforts did not elect to include several categories of payments, thus reducing the audits' effectiveness at detecting improper payments. We discussed these issues with senior Commerce, EDA, NIST, NOAA, and NTIA officials during our exit conferences.

Your March 16, 2011, response concurs with our draft report's recommendations and states that the Department is improving its processes to successfully implement the Improper Payments Elimination and Recovery Act of 2010, which provides more clarity about improper payment categories. We are encouraged by your outreach to the Office of Management and Budget for guidance and your prompt action to develop an audit action plan.

In accordance with Department Administrative Order 213-5, please provide us with your audit action plan with 60 days of the date of this memorandum. We extend our thanks to the Department and its bureaus for the courtesies shown to us during our fieldwork. If you have any questions, please contact me at (202) 482-2754 or John Bunting at (303) 312-7663.

Attachment

cc: Gordon Alston, Deputy Director for Financial Management
Joshua Barnes, Audit Liaison, EDA
William F. Broglie, Chief Administrative Officer, NOAA
Milton Brown, Audit Liaison, NTIA
Lisa Casias, Deputy Chief Financial Officer
Mack Cato, Audit Liaison, NOAA
John R. Fernandez, Assistant Secretary for Economic Development
Patrick D. Gallagher, Director, National Institute of Standards and Technology
Trudy Gallic, Audit Liaison
Usha Ganti, Chief, Grants and Agreements Management Division, NIST
Rachel Kinney, Audit Liaison, NIST
Rhonda C. Lawrence, Audit Program Manager, NOAA
Dr. Jane Lubchenco, Under Secretary of Commerce for Oceans and Atmosphere, NOAA
Aimee Meacham, Compliance and Audit Team, NTIA
Mitchell J. Ross, Director, Acquisitions and Grants Office, NOAA
Lawrence E. Strickling, Assistant Secretary for Communications and Information
and NTIA Administrator



Report In Brief

U.S. Department of Commerce Office of Inspector General

March 25, 2011



Why We Did This Review

The Office of Inspector General (OIG) initiated this audit to review the Department's compliance with Office of Management and Budget (OMB) guidance for preventing and detecting grant fraud, waste, and abuse.

We focused on the Department's practices for reporting improper payments—payments that either should not have been made, or that were made to ineligible recipients or for ineligible goods and services—related to American Reinvestment and Recovery Act of 2009 (ARRA) funds.

In particular, we assessed whether the bureaus we reviewed (1) had processes in place to accurately report and recover improper payments; (2) completed risk assessments of ARRA grant programs and included risks specifically addressing fraud, waste, and abuse; (3) completed thorough internal controls assessments; and (4) complied with OMB's ARRA website requirements.

Background

The overarching goal of ARRA was to stimulate the U.S. economy by creating new jobs, investing in long-term growth, and encouraging accountability and transparency in government spending.

The Improper Payments Information Act of 2002 was enacted to increase public trust in government spending. The act requires the head of each agency to review its programs, which now include ARRA grants and contracts, for significant improper payments, and to report these payments to Congress.

Office of the Secretary

Commerce Needs to Strengthen Its Improper Payment Practices and Reporting (OIG-11-021-A)

What We Found

We sampled four bureaus—the Economic Development Administration (EDA), National Institute of Standards and Technology (NIST), National Oceanic and Atmospheric Administration (NOAA), and National Telecommunications and Information Administration (NTIA)—that received funding and awarded grants through ARRA. We found that the bureaus were generally in compliance with OMB guidance on improper payments and preventing and detecting grant fraud, waste, and abuse; however, several improvements should be made. We concluded that

1. Commerce did not have a comprehensive policy addressing all categories of improper payments; as a result, the four bureaus did not have practices in place to accurately report and recover improper payments. While the previous OMB guidance lacked clarity, recent draft guidance clearly identifies additional categories of payments.
2. Commerce did not elect to include grants in its improper payments reporting or annual recovery audits. By not including grants, the Department missed an opportunity to find and recover erroneous payments.
3. NIST, NOAA, and NTIA completed program risk assessments, but the assessments did not adequately measure the risk of fraud; EDA identified program risks, but did not determine a risk rating, which is an integral part of a risk assessment and is required by OMB guidance.
4. All of the bureaus we reviewed had completed internal controls assessments; however, these assessments were not included in the program risk assessments. The assessments also did not include specific fraud risk scenarios as a best practice.
5. All of the bureaus we reviewed were in compliance with OMB requirements to link their websites to the OIG website to report fraud, waste, and abuse.

What We Recommended

While we focused our review on the practices of these four bureaus, we addressed our recommendations to the Department as a whole since improper payments reporting is required for all programs and bureaus. We recommend the Department's Chief Financial Officer work with bureaus and programs to

1. provide additional improper payment guidance and training to Commerce bureaus to identify the categories, including grants, of improper payments that are required for improper payment reporting, and ensure that all categories are accurately and completely reported;
2. include grant payments in future recovery audits; and
3. expand internal control and program risk assessments to include specific fraud scenarios so that increased program and financial management attention can be focused on the likeliest risks for fraud, waste, and abuse.

Contents

Introduction.....	1
Findings and Recommendations	4
I. Department of Commerce Needs to Improve Improper Payment Practices	4
A. Bureaus' Improper Payment Practices Are Incomplete	4
B. OMB Criteria Encourage Inclusion of Grants in Recovery Audits	7
II. Program Risk Assessments Need Increased Emphasis on Fraud Scenarios	8
Summary of Agency Comments and OIG Response.....	10
Appendix A: Objectives, Scope, and Methodology	11
Appendix B: Agency Comments to Draft Report.....	13

Introduction

The Office of Inspector General (OIG) initiated this audit to review the Department's compliance with Office of Management and Budget (OMB) guidance for preventing and detecting grant fraud, waste, and abuse. We targeted our review toward American Reinvestment and Recovery Act of 2009 (ARRA) funds because Department of Commerce bureaus received significant funds under ARRA and were encouraged to obligate and spend them expediently; as a result, these funds have a higher risk for waste, fraud, and abuse. In order to ensure Commerce is using the appropriate procedures to guard against, report, and recover improper payments, our audit included a review of the improper payments process.

Federal agencies make more than \$2 trillion in payments to individuals and a variety of other entities each year.¹ In fiscal year 2010, improper payments made by the federal government totaled \$125 billion.² The President has given his administration the aggressive goal of reducing government-wide improper payments by \$50 billion and recapturing under existing criteria and authorities at least \$2 billion in actual improper payments by FY 2012.³

The Improper Payments Information Act of 2002, Pub. L. No. 107-300, was enacted to increase public trust in government spending. The act requires the head of each agency to annually review its programs, which now include ARRA grants and contracts, to identify programs or activities that are susceptible to significant improper (or "erroneous") payments.⁴ The act also requires agencies to report improper payments to Congress and provide an action plan to reduce further erroneous payments.

Recent Laws and Guidance for Preventing Improper Payment Fraud, Waste, and Abuse

Public Law 111-204, *Improper Payments Elimination and Recovery Act of 2010 (IPERA)*, updates and amends the Improper Payments Information Act of 2002. IPERA requires the head of each agency to identify programs that may be susceptible to significant improper payments by considering a variety of risk factors. IPERA also imposes stricter improper payment reporting requirements on the agencies.

Office of Management and Budget (OMB) Memorandum M-11-04, issued November 2010, *Increasing Efforts to Recapture Improper Payments by Intensifying and Expanding Recapture Audits*, lowers the threshold for conducting payment recapture audits to \$1 million in annual outlays if conducting such audits would be cost effective.

Executive Order 13520, issued November 2009, *Reducing Improper Payments*, directs agencies to reduce improper payments, and requires OMB to identify high-priority programs, establish targets for improper payment reduction, and issue government-wide guidance.

Presidential Memorandum, *Enhancing Payment Accuracy Through a "Do Not Pay List"*. The June 28, 2010, memorandum emphasized the importance of prevention of improper payments as compared to detection and recovery, and directed agencies to review recipient eligibility in prepayment and pre-award procedures before making payments or awards.

¹ White House, Office of Management and Budget. *Office of Federal Financial Management Improper Payments* [online], www.whitehouse.gov/omb/financial_fia_improper/ (accessed January 21, 2011).

² Payment Accuracy. *Learn More About Improper Payments The Problem* [online]. www.paymentaccuracy.gov/content/about-improper-payments (accessed January 21, 2011).

³ Office of Management and Budget, November 16, 2010. *Increased Efforts to Recapture Improper Payments by Intensifying and Expanding Payment Recapture Audits*. Memorandum M-11-04, 1.

⁴ Significant erroneous payments are defined as annual erroneous payments in the program that exceed both 2.5 percent of program payments and \$10 million.

As ARRA increased the focus on government spending and transparency, new legislation, executive orders, and improper payment guidance were issued to increase improper payment requirements, as detailed in the textbox on the previous page. The Improper Payments Elimination and Recovery Act of 2010 (IPERA), passed in July 2010, enhanced the 2002 act by expanding the criteria for determining whether a program may be susceptible to improper payments, expanding the types of programs required to conduct recovery audits, lowering the review threshold for programs and activities from \$500 million to \$1 million in payments, and providing steps for federal agencies to take in order to improve their error reduction efforts should they be found to be non-compliant.⁵ The new legislation and guidance highlight the importance of and increased emphasis on prevention, detection, and reporting of improper payments made with all appropriations, including ARRA funds.

The overarching goal of ARRA was to stimulate the U.S. economy by creating new jobs, investing in long-term growth, and encouraging accountability and transparency in government spending. As part of the plan to reach that goal, ARRA provided more than \$5.1 billion in grants and almost \$2.8 billion for contracts and staffing to five of Commerce’s bureaus—the Census Bureau, the Economic Development Administration (EDA), the National Institute of Standards and Technology (NIST), the National Oceanic and Atmospheric Administration (NOAA), and the National Telecommunications and Information Administration (NTIA)—as well as OIG. (See table 1 for a breakdown of the funds that went to these bureaus.) NTIA appropriations, for the Broadband Technology Opportunity Program (BTOP) and the Digital-to-Analog Converter Box Program, made up 67 percent of Commerce’s total ARRA appropriations. Census, EDA, NIST, NOAA, and OIG received the rest.

**Table 1. Department of Commerce Appropriations
American Recovery and Reinvestment Act of 2009**

Bureau	Grants (Millions)	Contracts & Staffing (Millions)	Total (Millions)
Census		\$1,000	\$1,000
EDA	\$ 150		150
NIST	257	353	610
NOAA	207	623	830
NTIA	4,549	801	5,350
OIG		6	6
Total	5,163	2,783	7,946

Source: American Recovery and Reinvestment Act of 2009 and the Department of Commerce Program Tracking Report, June 22, 2010.

⁵ White House, Office of the Press Secretary, July 22, 2010.

As of December 12, 2010, ARRA obligations totaled \$6.8 billion; total disbursements were \$1.9 billion; and transfers, memorandums of understanding, and rescissions were \$1.1 billion.⁶ The Department expects disbursements to increase exponentially once NTIA receives and finalizes all BTOP environmental assessments.⁷ Since all BTOP grants were required to be awarded by September 30, 2010, and completed within 3 years, the amount of payments or disbursed funds is expected to increase through 2013.⁸

The objective of our audit was to determine whether the Commerce bureaus that received ARRA funds for grants complied with OMB ARRA guidance (OMB M-09-15) to mitigate the potential for grant fraud, waste, error, and abuse. In particular, we assessed whether the bureaus (1) had processes in place to accurately report and recover improper payments; (2) completed risk assessments of ARRA grant programs and included risks specifically addressing fraud, waste, and abuse; (3) completed thorough internal controls assessments; and (4) complied with OMB's ARRA website requirements. The audit scope included ARRA grant processes for EDA, NIST, NOAA and NTIA. We sampled only these four bureaus since each received ARRA funding and awarded grants, but we addressed our recommendations to the Department as a whole since improper payments reporting is required for all programs and bureaus. Appendix A contains a full description of our objectives, scope, and methodology for this audit. We found that the bureaus were generally in compliance with OMB guidance on improper payments and preventing and detecting grant fraud, waste, and abuse; however, several improvements should be made. We concluded that

1. Commerce did not have a comprehensive policy addressing all categories of improper payments, and as a result, EDA, NIST, NOAA, and NTIA did not have practices in place to accurately report and recover improper payments. While the previous OMB guidance lacked clarity, recent draft OMB guidance on implementing IPERA of 2010 clearly identifies additional categories of payments.
2. Commerce did not elect to include grants in its improper payments reporting or recovery audits.
3. NIST, NOAA, and NTIA completed program risk assessments, but the assessments did not adequately measure the risk of fraud; EDA identified program risks, but did not determine a risk rating, which is an integral part of a risk assessment and is required by OMB guidance.
4. All of the bureaus we reviewed completed internal controls assessments; however, these assessments were not included in the program risk assessments and did not include a best practice of specific fraud risk scenarios.
5. All of the bureaus we reviewed had complied with OMB M-09-15 requirements to link their websites to the OIG website to report fraud, waste, and abuse.

⁶ Department of Commerce, December 12, 2010, *Bureau Spending Report*.

⁷ Department of Commerce Office of Inspector General, November 4, 2010. *Broadband Program Faces Uncertain Funding, and NTIA Needs to Strengthen Its Post-Award Operation*, OIG-11-005-A, 2.

⁸ OIG, *Broadband Program Faces Uncertain Funding*, 6.

Findings and Recommendations

I. Department of Commerce Needs to Improve Improper Payment Practices

A. Bureaus' Improper Payment Practices Are Incomplete

The Improper Payments Information Act of 2002 provides the following definition of *improper payments*:

(A) means 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; and (B) includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, payments for services not received, and any payment that does not account for credit for applicable discounts.

Appendix C of OMB Circular A-123 (2006) defines *payment* as any payment that is

- derived from federal funds or other federal sources,
- ultimately reimbursed from federal funds or resources; or
- made by a federal agency, a federal contractor, a governmental or other organization administering a federal program or activity.

Appendix C of the circular further states that this includes federal awards subject to the Single Audit Act Amendments of 1996 that are expended by both recipients and sub-recipients.

The Department's improper payment reporting does not include all types of improper payments. The Department's reporting includes overpayments, underpayments, duplicate payments, or erroneous vendor payments made through the Department's accounts payable system, but the Department does not consider a grant recipient's cash drawdown from Treasury accounts to be a payment, or an improper payment, even if the drawdown results in disallowed cost. However, the broad definition of improper payments includes the recipient's use of the funds to pay for services not received, or for an ineligible service such as questioned or unsupported costs that result in disallowed costs identified in OIG grant audits, single audits⁹ of grants, or Defense Contract Audit Agency contract audits. In a conference call with OIG and Commerce's Office of Financial Management, an OMB Federal Financial Management official concurred with this definition of improper payments.

The Department does not include ineligible services in its reporting on improper payments in the annual *Performance and Accountability Report*; it also states that additional OMB guidance is needed to define ineligible services as a disallowed cost. While past OMB guidance did not provide complete direction on ineligible services being reported as improper payments, the OMB

⁹ OMB A-133 defines a "single audit" as an audit that includes both the audited entity's financial statements and federal awards. Office of Management and Budget, June 2007. *Circular No. A-133*, 7.

official with whom we spoke confirmed that OMB is drafting additional guidance for including disallowed costs as improper payments. Also, IPERA clearly defines an ineligible service as “a payment for any good or service that is rejected under any provision of any contract, grant, lease, cooperative agreement, or any other funding mechanism.”¹⁰

The Department has several other considerations to address in its improper payment reporting. NIST, for example, considers payments improper only if detected as such in its accounts payable system, not including grants. EDA informed us that recovery audits, OIG reviews and audits, single audit reports, and reports from the public are included in its reporting; however, single audits with more than \$1.1 million in disallowed costs for EDA grants had not been considered for reporting under the 2002 act. NOAA does not search OIG audits, single audits, or investigations for further improper payment information.

Commerce has not addressed all categories of improper payments so that bureaus can report payments consistently and completely. Such a policy should include a comprehensive list of improper payments that might occur as a result of grant disbursements as well as those discovered through publicly released audit reports. Appendix C of OMB Circular No. A-123 provides a list of improper payments that should be included in bureau and department tracking and reporting as well as other requirements for addressing improper payments. Table 2 (on the next page) summarizes this list and illustrates the bureaus’ current practice with each requirement.

To ensure compliance with the new IPERA and OMB guidance, and a more complete reporting of improper payments, the Department must expand the scope of its reporting and include improper payment categories that exceed minimum reporting requirements. For example, Commerce bureaus reported about \$3.5 million in erroneous payments to the Department in fiscal year 2010, with the Census Bureau reporting and recovering almost \$3.4 million of that amount. Additional sources of improper payment data, however, such as more than \$7 million in disallowed costs published in the Department’s FY 2010 *Performance and Accountability Report*,¹¹ were not included. If the additional \$7 million in disallowed costs were included, total improper payments would be three times the amount currently being reported.

¹⁰ Pub. L. No. 111-204, § 2(e).

¹¹ Department of Commerce, *FY 2010 Performance and Accountability Report*, II, 38.

Table 2. Reporting Requirements and Bureau Practices

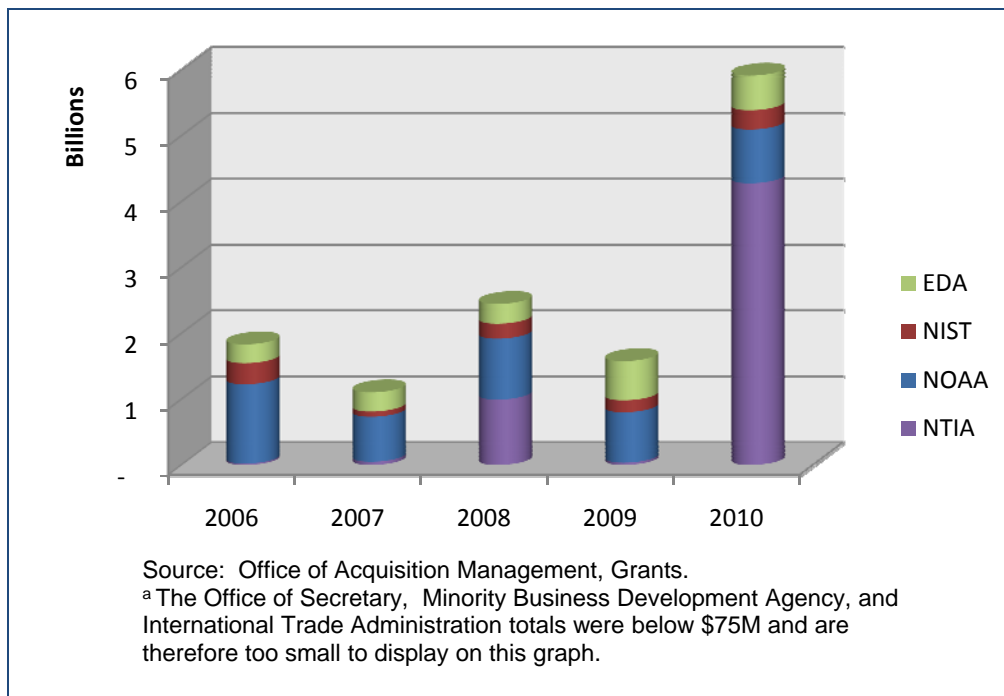
OMB A123 Requirement	EDA	NIST	NOAA	NTIA
Report estimated annual amount of improper payments in programs and activities and make progress in reducing them.	Limited to accounts payable	Limited to accounts payable	Limited to accounts payable	Limited to accounts payable
Track and report improper payments identified and recovered through various agency endeavors such as <ul style="list-style-type: none"> agency post-payment reviews to determine the accuracy of payments, OIG reviews/audits, single audit reports, self-reported overpayments, and reports from the public submitted through online websites, telephone hotlines, or other methods.^a 	Yes No No Yes No	Yes No No Yes No	Yes No No Yes No	No No No Yes No
Implement a plan to reduce erroneous payments. ^b	Yes	Yes	Limited to pre-award due diligence	Yes
Implement and maintain a cost-effective program of internal control to prevent, detect, and recover overpayments to contractors resulting from payment errors. ^c	Yes	Yes	Yes	Yes ^d
Determine, prior to payment, if the recipient is on a do-not-pay list (fugitive felons, master death file, debarred, etc.) that precludes them from receiving a government payment. ^e	Yes	Yes	Yes	Yes ^f
Source: OIG analysis. ^a OMB Circular, Appendix C, Part III (B) (3) (o) ^b OMB Circular A-123, Appendix C, Part I (E), Step 3 ^c OMB Circular A-123, Appendix C, Part II (A) ^d NTIA relies on NIST and NOAA for practices. ^e OMB Circular A-123, Appendix C, Part III (A) (1) (c) ^f NTIA relies on NIST and NOAA for practices.				

B. OMB Criteria Encourage Inclusion of Grants in Recovery Audits

Every year, Commerce conducts a recovery audit as part of its management responsibility directed at recapturing improperly made payments. From fiscal years 2006 through 2010, Commerce has identified and reported only one recovery, for less than \$100,000.

Since 2006, OMB guidance on improper payments has encouraged, but not required, that grants be included in recovery audits. The Department’s recovery audit sampling method includes examining disbursements that exceed \$100,000, but excludes travel payments, bankcard transactions, purchase card transactions, all procurements with other federal agencies, and grants. In FY 2010, the Department awarded almost \$6 billion in grants (including over \$5 billion in ARRA funds) amounting to about 27 percent of the \$21.8 billion in FY 2010 Commerce budget authority of \$13.9 billion and \$7.9 billion one-time ARRA appropriations. Because the Department did not elect to include grants in its recovery audits from 2006 to 2010, annual grant totals ranging from \$1 to \$6 billion were not tested—eliminating an opportunity to find and report significant erroneous payments.

Figure 1. FY 2006-2010 Grant Awards^a



New requirements set forth in IPERA and Executive Order 13520 specifically include grants as an improper payment category and lower the threshold for recapturing improper payments to activities with more than \$1 million in annual outlays (if conducting such audits would be cost effective). Since most FY 2010 grant awards are for BTOP grants, which have payments extending up to 3 years, the Department has an opportunity to include these awards in its FY 2011 through 2013 testing. The existing audit resolution process for grants and cooperative agreements in Department Administrative Order 213-5 provides a cost-effective approach to recovery audits for disallowed costs for grants and cooperative agreements. Because this

coverage is mandatory beginning in FY 2011, Commerce bureaus need to prepare for the more stringent compliance requirements by including grant payments in their recovery audits.

Recommendations

We recommend that the Chief Financial Officer work with bureaus and programs to

1. provide additional improper payment guidance and training to Commerce bureaus to identify the categories, including grants, of improper payments that are required for improper payment reporting, and ensure that all categories are accurately and completely reported; and
2. include grant payments in future recovery audits.

II. Program Risk Assessments Need Increased Emphasis on Fraud Scenarios

Fraud, by definition, entails intentional misconduct, designed to evade detection. Fraud risk is “[t]he vulnerability that an organization has to those with motive and ability to commit fraud.”¹² According to the American Institute of Certified Public Accountants’ *Managing the Business Risk of Fraud: A Practical Guide*, an effective fraud risk management assessment should identify “...where fraud may occur and who the perpetrators might be.” The guide identifies three steps in assessing risk:

1. Identify inherent fraud risk: “...explicit consideration of all types of fraud schemes and scenarios; incentives, pressures, and opportunities to commit fraud; and IT fraud risks specific to the organization.”
2. “Assess the relative likelihood and potential significance of identified fraud risks based on historical information, known fraud schemes, and interviews with staff, including business process owners.”
3. “Decide what the response should be to address the identified risk...”¹³

The bureaus’ program risk assessments do not adequately assess fraud risk. Each of the four bureaus included in our audit completed a risk assessment; however, the assessments focused on program management risks and did not include comprehensive assessments of fraud risk scenarios. Although OMB guidance does not require the inclusion of specific fraud scenarios within the program risk assessments, the Institute of Internal Auditors, American Institute of Certified Public Accountants, and Association of Certified Fraud Examiners name identifying and assessing the risk of specific fraud scenarios as a best practice. Our examination of the bureaus’ risk assessments revealed the following:

¹²Definition taken from the Association of Certified Fraud Examiners, 2010. *Fraud Examiners Manual*, Section 4, Fraud Risk Assessment, 801.

¹³*Managing the Business Risk of Fraud*, 20.

- Of the four bureaus, only NTIA included fraud risk as part of its risk assessment; however, that assessment included only one line item focused on overall fraud risk and did not consider specific fraud scenarios.
- EDA identified program risks, but they did not determine a risk rating, which is an integral part of a risk assessment and is required by OMB guidance. EDA chose to address the risks they identified through pre-award due diligence and pre-payment cost review. While these actions can help an organization prevent or detect fraud, EDA's processes did not consider other fraud risks, such as the potential for grantees' management override and collusion. EDA also lacked a process to reassess and respond to risks throughout the grant period.
- NIST's risk assessment and mitigation plan did not take into account the risk of fraud, despite the high risk of grant fraud typically associated with construction projects. The risk assessments for NOAA Habitat Restoration and NIST focused on three types of risks—technical, schedule, and budgetary—and did not include fraud risk.

Fraud scenarios and other internal controls can focus increased program and financial management attention on the likeliest fraud risks. Section 3.11 of OMB M-09-15 encourages agencies to address, in their initial risk assessments, the adequacy of existing controls in mitigating the risk of waste, fraud, and abuse. While the four bureaus completed internal control assessments, the assessments did not specifically measure fraud risk, nor were they incorporated into the bureaus' overall program risk assessments.

Recommendation

We recommend that the Chief Financial Officer work with bureaus and programs to

1. expand internal control and program risk assessments to include specific fraud scenarios so that increased program and financial management attention can be focused on the likeliest risks for fraud, waste, and abuse.

Summary of Agency Comments and OIG Response

The Department maintains that it is in full compliance with OMB requirements to date. However, in its response to our draft report (appendix B), the Department concurs with our recommendations for further improvement. Specifically,

- **Recommendations 1 and 2.** The Department will improve the processes for implementing IPERA requirements. The Department also states that disallowed costs have not been considered in improper payments reporting and has requested clarification from OMB to ensure compliance with IPERA requirements.
- **Recommendation 3.** The Department's Office of Acquisition Management had previously established a management review process for ARRA grants and will include our recommendations in their future plans and review guidelines.

We are encouraged by the Department's prompt actions to address our recommendations, and where appropriate have adjusted our final report to reflect its comments.

Appendix A: Objectives, Scope, and Methodology

The American Recovery and Reinvestment Act of 2009 (ARRA) includes about \$5 billion in grant funding for the Economic Development Administration (EDA), the National Institute of Standards and Technology (NIST), the National Oceanic and Atmospheric Administration (NOAA), and the National Telecommunications and Information Administration (NTIA). The objective of our audit was to determine whether Department of Commerce bureaus complied with the Office of Management and Budget's (OMB's) ARRA guidance to mitigate the potential for fraud, waste, error, and abuse. In particular, we assessed whether the bureaus (1) had processes in place to accurately track and report improper payments; (2) completed risk assessments of ARRA grant programs and included risks specifically addressing fraud, waste, and abuse; (3) completed thorough internal controls assessments; and (4) complied with OMB's ARRA website requirements.

The audit scope included ARRA grant processes for EDA, NIST, NOAA, and NTIA. We sampled only these four bureaus since each received ARRA funding and awarded grants, but we addressed our recommendations to the Department as a whole, since improper payment reporting is required for all programs and all bureaus. We conducted our audit fieldwork from July 2010 to September 2010 in Washington, D.C. (EDA and NTIA); Gaithersburg, Maryland (NIST); and Silver Spring, Maryland (NOAA). We met our objectives and obtained an understanding of internal controls by

- interviewing EDA, NIST, NOAA, NTIA and Commerce representatives to gain an understanding of risk assessment, erroneous payment reporting, and internal control assessment processes;
- reviewing risk and internal control assessments provided by each bureau; and
- reviewing bureau websites to ensure compliance with OMB's website requirements related specifically to fraud, waste, and abuse.

We reviewed bureau compliance with applicable provisions of pertinent laws and regulations, including the following:

- Improper Payments Information Act of 2002
- OMB M-09-15, Interim Guidance for the American Recovery and Reinvestment Act of 2009, sections 2.7, 2.20, 3.11, 5.4, and 5.9
- OMB Circular A-123, Appendix C, Part I L and Part III

We reviewed computer-processed data and used them in this report to illustrate improper payment and grant award information. We obtained supporting documentation for erroneous payments and verified their reasonableness with agency financial personnel. For grants, we obtained a listing of grants with bureau and fiscal year data. We compared the order of magnitude of grants by bureau and fiscal year to appropriations or performance and

accountability reports. We determined the data were sufficiently reliable for purposes of this report.

We conducted this audit 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.

We performed this audit under authority of the Inspector General Act of 1978, as amended, and Department Organization Order 10-13, August 31, 2006.

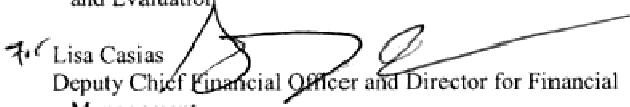
Appendix B: Agency Comments to Draft Report

MAR 15 2011



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

MEMORANDUM FOR Ann Eilers
Principal Assistant Inspector General for Office of Audit
and Evaluation

FROM:  Lisa Casias
Deputy Chief Financial Officer and Director for Financial
Management

SUBJECT: Department Comments – Draft Office of Inspector General (OIG)
Report: Commerce Needs to Strengthen Improper Payment
Practices and Improve Improper Payment Reporting – 1/26/11

Thank you for the opportunity to comment on the draft Office of Inspector General (OIG) report, *Commerce Needs to Strengthen Improper Payment Practices and Improve Improper Payment Reporting*, issued January 26, 2011. We concur with your recommendations concerning improvements to our processes to position ourselves for successful implementation of the new requirements under the Improper Payments Elimination and Recovery Act of 2010 (IPERA).

While we agree that the Department will have to expand improper payment and payment recapture audit practices as a result of the IPERA, we believe that the Department has maintained full compliance with OMB requirements to date. As discussed with your staff, the Department had recognized the importance of reviewing and updating our procedures relating to improper payments in light of the passage of IPERA and identified it as a specific task in our A-123 FY 2011 work plan. In addition, with the significant increase in grant funds and new programs as a result of the American Recovery and Reinvestment Act of 2009, beginning in FY 2010, the Office of Acquisition Management established a formal Grants Management Review Process. We will ensure that we engage your staff as we incorporate your recommendations in our plans and review process.

Although your report states (Table 2) that the individual bureaus did not review OIG reviews/audits for improper payments, the Department does perform a review of the IG semiannual and website to identify any improper payments. As discussed with your staff, although we recognized there were disallowed costs, the Department was not considering those in our improper payment reporting. Inquiries with several other federal agencies indicate that the common practice was not to include disallowed costs in their improper payment reporting. As a result of the need for clarity in this area, we have reached out to OMB and requested they specifically provide clarification to ensure we meet the requirements of IPERA. Although disallowed costs were not included in the improper payment reporting, the bureaus currently follow the audit resolution process outlined in DAO 213-5, *Audit Resolution and Follow-Up*, for recovering disallowed grant costs. We request the report clarify this to ensure readers are aware procedures are in place to follow up and recover disallowed costs.

Thank you for the opportunity to provide comments. If you have any questions or comments, please feel free to call me at 202-482-0766.

(ARRA000903)