
Office of Inspector General

Audit Report

DOT'S FY 2014 IMPROPER PAYMENT REPORTING GENERALLY COMPLIES WITH IPERA REQUIREMENTS

Department of Transportation

Report Number: FI-2015-043

Date Issued: May 15, 2015






Memorandum

**U.S. Department of
Transportation**

Office of the Secretary
of Transportation
Office of Inspector General

Subject: **ACTION:** DOT's FY 2014 Improper Payment
Reporting Generally Complies with
IPERA Requirements
Department of Transportation
Report Number FI-2015-043

Date: May 15, 2015

From: Louis C. King 
Assistant Inspector General for Financial and
Information Technology Audits

Reply to
Attn. of: JA-20

To: Acting Assistant Secretary for Budget and Programs/
Chief Financial Officer

In recent years, the Federal Government has intensified efforts to eliminate improper payments made from Federal program funds, including wrong amounts, duplicate payments, and payments with insufficient documentation. In July 2010, President Obama signed the Improper Payments Elimination and Recovery Act¹ (IPERA), which amended the Improper Payments Information Act of 2002,² to encourage the elimination of payment errors, waste, fraud, and abuse in Federal programs. IPERA requires Federal agencies to limit improper payments to less than 10 percent of their total program payments. It also requires agencies to test annually for improper payments in their programs and to publish the results in their Agency Financial Reports (AFR). The act calls for inspectors general to review their agencies' compliance with IPERA and to submit reports to their agency heads.³ Agencies must also comply with the regulations that the Office of Management and Budget (OMB) has developed to implement the act.

To meet IPERA's requirements, we reviewed the Department of Transportation's (DOT) improper payment testing results in the fiscal year 2014 AFR to determine whether (1) DOT complied with IPERA's reporting requirements as implemented

¹ Public Law 111-204 (2010).

² Public Law 107-300 (2002).

³ Inspectors general also submit their reports to the Senate Committee on Homeland Security and Governmental Affairs, the House of Representatives Committee on Oversight and Governmental Reform, the Comptroller General, and the Controller of the Office of Management and Budget.

by OMB; (2) the improper payment information in the AFR was accurate; and (3) the tested programs met IPERA's 10 percent or less rate for improper payments as well as the programs' own improper payment reduction targets for 2014.

DOT hired a consulting firm (Contractor) to assist in its implementation of IPERA's annual estimation requirements. To conduct our work, we retested a statistical sample of 80 of the 781 payments that the Contractor or DOT's employees had tested and found to be not improper. We conducted this audit in accordance with generally accepted Government auditing standards. See exhibit A for details on our scope and methodology.

RESULTS IN BRIEF

DOT's AFR included all of OMB's required reporting elements. Specifically, DOT reported on its assessments of programs' risks for significant improper payments; improper payment estimates; the Federal Transit Administration's (FTA) corrective action plans to reduce future improper payments; and annual improper payment reduction targets for the nine tested programs. DOT also included a description and evaluation of its payment recovery⁴ audit programs and the amounts collected from these programs.

In fiscal year 2014, DOT improved the accuracy of its improper payment testing by better screening payment data files and implementing procedures to ensure its reporting was complete. However, a Federal Highway Administration (FHWA) employee and DOT's Contractor did not perform sufficient work for us to determine that DOT's conclusions were accurate for two of the nine programs we retested. We retested 80 sample payments from the nine programs and found the work performed was not sufficient for two payments that DOT concluded were not improper. The employee did not describe the work performed to conclude a \$9,200 FHWA Fed-aid payment was not improper. For the other program—the Federal Railroad Administration's (FRA) Disaster Relief Act appropriations—the Contractor did not collect sufficient documentation to conclude a \$36,000 payment was not improper. This lack of documentation occurred because DOT did not conduct sufficient oversight and/or training to ensure the contractor's work was complete and did not establish proper audit trails.

According to DOT, its programs met IPERA's requirement that less than 10 percent of total payments be improper. However, FTA's Formula Grants (FG) and FRA's High Speed Intercity Passenger Railroad (HSIPR) programs did not achieve their own fiscal year 2014 targets to reduce improper payments to 0.50

⁴ OMB uses the term "recapture" for payment recoveries.

percent or less and 0.25 percent or less respectively. In the fiscal year 2013 AFR, FTA reported four planned corrective actions to reduce the risk of future improper payments but did not complete them. According to FTA, it is taking action to reduce the risk of future improper payments for two grantees that lacked supporting documentation in this year's testing. However, it is unlikely that FTA will minimize the risk of improper payments by addressing just these two grantees. A DOT official attributed the cause of these two programs not meeting their reduction targets to a lack of grantees awareness on the documentation required to support payments.

We are making four recommendations to improve the reliability of DOT's improper payment reporting and the effectiveness of corrective actions in FRA and FTA programs.

BACKGROUND

IPERA defines a payment as any transfer or commitment for future transfer of Federal funds, including cash, securities, loans, loan guarantees, and insurance subsidies, to a non-Federal person or entity, made by a Federal agency, Federal contractor, Federal grantee, or a governmental or other organization administering a Federal program or activity.

OMB's Circular A-123 defines improper payments as:

- Payments to ineligible recipients;
- Duplicate payments;
- Payments in incorrect amounts;
- Payments for ineligible services and services not received; and
- Payments with insufficient documentation.⁵

Furthermore, OMB's Circular A-136⁶ requires agencies' reports on annual improper payment testing to include program risk assessments, estimates of improper payment dollar amounts made during the current year and the prior year, corrective action plans, and annual improper payment reduction targets.

Circular A-136 also requires agencies' reports to include (1) descriptions and evaluations of payment recapture audit programs that analyze programs' accounting records and supporting documentation to identify and recover overpayments; (2) amounts identified for recapture; (3) descriptions of and

⁵ Payments must also be considered an improper payment when an agency's review is unable to discern whether a payment was proper as a result of insufficient or lack of documentation.

⁶ OMB Circular A-136, Financial Reporting Requirements, establishes reporting requirements for payment recapture audits.

justifications for the classes of payments excluded from payment recapture audits; and (4) amounts recaptured and those outstanding and uncollectable.

In January 2013, the President signed the Disaster Relief Appropriations Act,⁷ which provides aid for Hurricane Sandy (Sandy) victims and their communities. OMB issued implementing guidance⁸ that states that programs receiving funds under the act are automatically considered susceptible to significant improper payments, and are required to calculate and report an improper payment estimate.

This year, DOT tested the following programs for improper payments:

- FHWA's Federal-Aid Highway Program
- FHWA's Disaster Relief Act (Sandy related only)
- FTA's Formula Grants Program
- FTA's Capital Investment Grants Program
- FTA's Disaster Relief Act
- Federal Aviation Administration's (FAA) Airport Improvement Program
- FAA's appropriations under the Disaster Relief Act
- FRA's High-Speed Intercity Passenger Rail Program
- FRA's appropriations under the Disaster Relief Act

The Contractor developed the sampling plans for testing improper payments, tested selected invoice payments to determine whether or not they were improper (except for FHWA payments),⁹ and projected improper payment estimates for these major grant programs. Improper payments and estimates of improper payments do not necessarily indicate fraud in Federal agencies' programs and activities.

DOT'S AGENCY FINANCIAL REPORT INCLUDED OMB'S REQUIRED REPORTING ELEMENTS

The Department met OMB's reporting requirements by including the following in its AFR: assessments of programs' risk of significant improper payments; improper payment estimates; corrective action plans for FTA to reduce future improper payments; and annual improper payment reduction targets for the nine tested programs. DOT also included a description and evaluation of its payment recovery audit programs and the amounts collected from these programs.

⁷ Public Law 113-2 (2013).

⁸ OMB M-13-07, Accountability for Funds Provided by the Disaster Relief Appropriations Act, March 12, 2013.

⁹ FHWA used its employees to test its payments.

DOT'S EMPLOYEES AND CONTRACTOR DID NOT ALWAYS PERFORM SUFFICIENT WORK TO DETERMINE IF PAYMENTS WERE NOT IMPROPER

In fiscal year 2014, DOT improved the accuracy of its improper payment testing by better screening payment data files and implementing procedures to ensure its reporting was complete. However, a FHWA employee and DOT's Contractor did not perform sufficient work for us to determine that DOT's conclusions were accurate for two of the nine programs we retested.¹⁰ We could not fully rely on DOT's work for FHWA's Federal-Aid Highway Program and FRA's Disaster Relief Act (DRA) appropriations. Specifically, a FHWA employee and DOT's Contractor did not perform sufficient work on two payments.

- The FHWA employee did not complete any testing results for a payment from the Agency's Federal-Aid Highway Program. Consequently, we were unable to identify and retest the steps performed to determine that the \$9,200 payment was not improper. Since we could not retest it, we cannot be sure that the work FHWA's personnel performed was complete and accurate enough for testing the Agency's Federal-Aid Highway Program payments. DOT does not ensure its employees and Contractor staff performing and reviewing improper payment testing are properly trained. Training records for 2014 indicate that the employee that tested this payment and the DOT employee and contractors that reviewed payments in the 8 states where we retested payments did not receive this training.
- The Contractor did not collect sufficient information to conclude that an FRA grantee that received DRA appropriation funds followed emergency procurement procedures. However, the results of this testing were used to determine that a \$36,000 payment was not improper. The grantee's procurement regulations require the grantee to take certain actions before making emergency procurements. First, the grantee must request a declaration of an emergency condition and authorization to resolve the condition from a member of its Executive Committee. Second, it is the responsibility of the Executive Committee member that declares the emergency to notify the grantee's chief logistics officer within 48 hours of the declaration. Without evidence of the declaration and notification, DOT should not have concluded the grantee followed its emergency procurement procedures and that the payment was not improper.

¹⁰ We retested a total of 80 out of 781 payments that DOT determined were not improper.

Because DOT did not ensure that FHWA's and FRA's improper payment testing was fully documented, we cannot be sure that the results of this testing was complete and accurate.

TWO OF DOT'S TESTED PROGRAMS DID NOT MEET THEIR 2014 TARGETS FOR REDUCTIONS IN IMPROPER PAYMENTS

According to DOT, its programs met IPERA's requirement that less than 10 percent of total payments are improper. However, FTA's Formula Grants (FG) and FRA's High Speed Intercity Passenger Rail (HSIPR) programs did not meet their own targets to reduce improper payments for fiscal year 2014 as required by OMB. See table 1 for details about these programs' target and actual amounts for fiscal year 2014.

Table 1. DOT Programs that Did Not Meet their Fiscal Year 2014 Reduction Targets

PROGRAM	FY 2014 IP Reduction Target In millions	FY 2014 IP Reduction Target In percent	FY 2014 IP Estimate In millions	FY 2014 IP Estimate In percent	Amount that Exceeded IP Target In millions	Amount that Exceeded IP Target In percent
FTA - FG	\$54.10	0.50	\$265.60	2.91	\$211.50	2.41
FRA - HSIPR	\$3.31	0.25	\$11.59	1.06	\$8.28	0.81

DOT's Contractor reported to DOT that 6 of the 36 grantees tested in FTA's FG program had improper payments totaling about \$48,000. Over 99 percent of these improper payments resulted from a lack of supporting documentation from two grantees. In fiscal year 2013's AFR, FTA reported 4 planned corrective actions to reduce the risk of future improper payments, including the development of a checklist of supporting documentation required for payments. FTA has not completed any of these corrective actions. According to FTA personnel, since the AFR was issued in November 2014, it is taking action to reduce the risk of future improper payments for two grantees that lacked supporting documentation in this year's testing. However, addressing only these two grantees does not minimize the risk of improper payments by other FTA grantees. Analysis of FTA's grantees that DOT reported had improper payments in fiscal years 2013 and 2014 shows that the five grantees with improper payments reported in fiscal year 2013 were different from the six grantees with improper payments in fiscal year 2014. Meeting its improper payment reduction goals by implementing effective corrective actions continues to be a challenge for the FTA FG program as this is

the third year in a row this program did not meet its improper payment target goals.

The Contractor also reported to DOT that 3 of the 14 grantees tested in FRA's HSIPR Program had improper payments totaling about \$102,000. Over 99 percent of these improper payments resulted from one grantee's lack of supporting documentation.

A DOT official stated that these two programs did not meet their target reduction rates because grantees lacked awareness of the documentation required to adequately support a payment. However, both FTA's FG and FRA's HSIPR grant agreements identify the types of documentation needed to support payments such as payroll, invoices, and contracts. Additionally, both grant agreements require that these records be readily available, but not all grantees have done this.

CONCLUSION

OMB has designated the reduction of improper payments as a top priority for all Federal agencies. DOT made approximately \$60 billion in payments to grantees during the reporting period, and while reduction of improper payments has been a significant challenge for FTA's FG program, DOT has met a number of IPERA requirements. DOT is making important efforts to reduce improper payments—such as increasing the level of accountability and oversight from both contractors and program officials. However, until DOT strengthens its oversight and review processes for improper payment testing, and implements procedures to enhance grantee awareness, it may continue to have difficulty fully complying with IPERA requirements.

RECOMMENDATIONS

We recommend that DOT's Acting Assistant Secretary for Budget and Programs/Chief Financial Officer:

1. Develop a process to provide greater oversight and review of contractors and employees that perform improper payment testing to ensure that the work has an audit trail and is accurate.
2. Implement procedures to ensure DOT employees and contractors are trained before performing or reviewing improper payment test procedures.
3. Implement procedures to verify that FTA distributes guidance which increases grantee knowledge of documentation required to support a payment as proper in the FG program.

4. Implement procedures to verify that FRA distributes guidance which increases grantee knowledge of documentation required to support a payment as proper in the HSIPR program.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

We provided a discussion draft report to DOT officials and discussed our results on May 11, 2015. DOT officials concurred with our recommendations. The Agency stated it will provide a detailed response to each recommendation at a later date. Therefore, we consider all recommendations open and unresolved until we receive DOT's detailed response.

ACTIONS REQUIRED

We consider all 4 recommendations open and unresolved. In accordance with DOT Order 8000.1C, we request that DOT provide, within 30 days of this report, the additional information requested above regarding its specific actions taken or planned for each recommendation.

We appreciate the courtesies and cooperation of Department of Transportation representatives during this audit. If you have any questions concerning this report, please call me at (202) 366-4350, or George Banks, Program Director, at (410) 962-1729.

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cc: DOT Audit Liaison, M-1

EXHIBIT A. SCOPE AND METHODOLOGY

We conducted this audit from September 2014 through May 2015, 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 reviewed applicable laws and regulations, and interviewed DOT personnel and contractors responsible for IPERA's implementation. To assess the Department's compliance with IPERA's requirements, we (1) reviewed statistical sampling plans and improper payment projections and amounts to determine whether programs susceptible to significant improper payments were tested and accurately reported, and (2) obtained supporting documents on the actions taken and reported in the AFR.

Shortly after we announced the initiation of this year's review in September 2014, OMB revised its Circular A-123, Appendix C¹ to implement an additional reporting requirement for inspectors general to include a summary in their reports on their agencies' compliance. Specifically, inspectors general are required to report on whether their agencies:

1. Publish an AFR or Performance Accountability Report (PAR) for the most recent fiscal year and post that report and any accompanying materials required by OMB on the agency Website;
2. Conduct a program specific risk assessment for each program or activity that conforms with Section 3321 note of Title 31 U.S.C. (if required);
3. Publish improper payment estimates for all programs and activities identified as susceptible to significant improper payments under its risk assessment;
4. Publish programmatic corrective action plans in an AFR or PAR;
5. Publish and meet annual reduction targets for each program assessed to be at risk and estimated for improper payments; and
6. Report in an AFR or PAR a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained.

OIG's Senior Statistician selected a statistical sample of 80 out of 781 transactions with an amount of \$30.4 million out of \$439.1 million that the Department and its Contractor had tested and found not to be improper. We retested the propriety of

¹ OMB M-15-02, Appendix C to Circular No. A-123, Requirements for Effective Estimation and Remediation of Improper Payments, October 20, 2014.

those conclusions in (1) FHWA's Federal-Aid Highway Program;(2) FHWA Federal Aid-Sandy Program; (3) FAA's Airport Improvement Program (AIP); (4) FAA's AIP-Sandy Program; (5) FRA's High Speed Intercity Passenger Rail Program; (6) FRA's High Speed Rail-Sandy Program; (7) FTA's Capital Investment Grants (CIG) Program; (8) FTA Formula and Bus Grants (FG) Program; and (9) FTA-Sandy. The supporting documentation included, among other documents, summary schedules; grant agreements; and, invoices, checks, and payment vouchers.

We obtained supporting schedules for the three largest recoveries for overpayments outside of payment recapture audits. The three payments totaled \$14.7 million—over 90 percent of the improper payments that DOT reported recovered from outside of payment recapture audits during the reporting period. We compared the reported recovery amounts of the three transactions to invoices and collections in DOT's accounting system to determine whether these amounts were recovered. DOT reported it recovered overpayments outside of payment recapture audits that totaled \$14.9 million consisting of 39 transactions during the payment period.

EXHIBIT B. MAJOR CONTRIBUTORS TO THIS REPORT

<u>Name</u>	<u>Title</u>
George Banks	Program Director
Mark Rielly	Project Manager
Scott Williams	Analyst
Francisco Ramos Hilerio	Auditor
T. Wayne Summers	Auditor
Petra Swartzlander	Senior Statistician
Susan Neill	Writer-Editor