Council of the INSPECTORS GENERAL on INTEGRITY and EFFICIENCY

Summary of Inspectors General Compliance with the Improper Payments Elimination and Recovery Act of 2010

March 2013

This report was prepared by the Social Security Administration's Office of the Inspector General on behalf of the Council of the Inspectors General on Integrity and Efficiency.

Background

OBJECTIVE

Our objectives were to (1) determine whether Offices of Inspector General (OIG) performed *Improper Payments Elimination and Recovery Act of 2010* (IPERA) reviews in a timely manner and (2) summarize the OIGs' conclusions on whether their agencies complied with IPERA.

BACKGROUND

On July 22, 2010, the President signed IPERA,[1] which amended the *Improper Payments Information Act of 2002* (IPIA)[2] by redefining the definition of "significant improper payments" and strengthening executive branch agency reporting requirements. Additionally, under IPERA, OIGs are required to determine whether their agencies complied with IPERA and issue a report on that determination.

Under IPERA, each agency shall periodically review and identify all programs and activities it administers that may be susceptible to significant improper payments based on guidance provided by the Office of Management and Budget (OMB).[3] Significant improper payments are those that exceed (a) both 2.5 percent of program outlays and \$10 million of all program or activity payments made during the fiscal year reported or (b) \$100 million regardless of the improper payment percentage of total program outlays.[4] For each program and activity identified, the agency is required to produce a statistically valid estimate, or an otherwise OMB-approved estimate, of the improper payments and include such estimates in the accompanying materials to the agency's annual financial statements. The agency is also required to prepare a report on actions it planned to take, or it took to reduce improper payments for programs or activities with significant improper payments.[5]

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[1] Pub. L. No. 111-204, 124 Stat. 2224 (2010).

[2] Pub. L. No. 107-300, 116 Stat. 2350 (2002). IPIA requires that Federal agencies estimate the amount of improper payments made each year. The agencies must report to Congress on the causes and the steps taken to reduce improper payments and address whether they have the information systems and other infrastructure needed to reduce improper payments. Agencies must also describe the steps taken to hold managers accountable for reducing improper payments.

[3] OMB issued Government-wide guidance on implementation of IPERA in April 2011. OMB Circular A-123, *Management's Responsibility for Internal Controls*, Appendix C, Parts I and II, April 2011.

[4] Id. at Appendix C, Part I § A 7, Step 1a.

[5] Pub. L. No. 111-204 §§ 2(a),(b), and (c), 124 Stat. 2224.

OIG Responsibilities Under IPERA

IPERA calls for each agency's OIG to determine whether its respective agency complied with key IPERA requirements and report on their findings annually.[6] Under OMB guidance, OIGs should review their agencies' Performance and Accountability (PAR) or Agency Financial Reports (AFR) and accompanying materials, within 120 days of their publication.[7] Each year, agencies are required to submit a PAR or AFR by November 15; therefore, OIGs should complete their IPERA reviews by March 15.

According to OMB guidance, compliance with IPERA means the agency has

- published a PAR or AFR for the most recent fiscal year and posted that report and any accompanying OMB required materials on the agency's Website;
- conducted a risk assessment for each program or activity that conformed with section 3321 of Title 31 of the United States Code (if required);
- published improper payment estimates for all programs and activities identified as susceptible to significant improper payments under its risk assessment (if required);
- published program corrective action plans in the PAR or AFR (if required);
- published, and met, annual reduction targets for each program assessed to be at risk and measured for improper payments;
- reported a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the PAR or AFR; and
- reported information on its efforts to recapture improper payments.[8]

If an agency does not meet one or more of these requirements, it does not comply with IPERA. Also, the agency's OIG should evaluate the accuracy and completeness of agency reporting and performance in reducing and recapturing improper payments.[9]

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[6] OMB Circular A-123, *supra*, note 3, at Appendix C, Part II § A 1.

[7] OMB Circular A-123, *supra*, note 3, at Appendix C, Part II § A 2.

[8] OMB Circular A-123, *supra*, note 3, at Appendix C, Part II § A 4. If an agency estimates less than $10 million in improper payments, it is not required to complete all steps; *see* OMB Circular A-123, *supra* note 3, at Appendix C, Part I § A 7, Step 4c.

[9] OMB Circular A-123, *supra*, note 3, at Appendix C, Part II § A 4.

For this report, we reviewed OIG IPERA reports due in March 2012. If necessary, we obtained information directly from OIG staff and/or reviewed OIG Semiannual Reports to Congress and agency PARs or AFRs.

Results of Review

Most OIGs completed IPERA compliance reviews in a timely manner. Additionally, many OIGs concluded that their agencies had complied with IPERA.[10]

All but three OIG IPERA reports were published in March 2012—meeting the 120-day requirement.[11] The three reports not issued in March 2012 were issued within 2 months of the IPERA requirement. Specifically, the

- Defense Intelligence Agency OIG issued its report on April 20, 2012;
- National Aeronautics and Space Administration (NASA) OIG issued its report on May 1, 2012; and
- Office of the Director of National Intelligence OIG issued its report on May 10, 2012.

Additionally, of the 64 OIGs reviewed, we found that

- 27 concluded that their agencies complied with IPERA,
- 11 concluded that their agencies did not comply with IPERA,
- 21 did not have to issue a report because their agencies did not report significant improper payments under IPERA,[12] and
- 5 did not make their reports available to the public.[13]

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[10] Four OIGs contracted with third parties, such as a certified public accounting firm, to perform the IPERA review.

[11] IPERA guidance requires that OIGs issue a report within 120 days of the PAR or AFR, which would have been by March 15, 2012; see OMB Circular A-123, *supra*, note 3, at Appendix C, Part II § A 2. The OIGs for the U.S. Agency for International Development and National Security Agency issued their report on March 16, 2012, and the Securities and Exchange Commission OIG issued its report on March 29, 2012. We considered these reports to be issued timely since they were issued within 1 and 14 days of March 15, 2012.

[12] If an executive branch agency estimates less than $10 million in improper payments, it is not required to complete all IPERA steps; *see* OMB Circular A-123, *supra* note 3, at Appendix C, Part I § A 7, Step 4c. Therefore, OIGs for some executive branch agencies—such as the Department of the Interior, Farm Credit Administration, Federal Election Commission, Federal Maritime Commission, Federal Trade Commission, National Endowment for the Arts, National Labor Relations Board, National Science Foundation, Peace Corps, and Postal Regulatory Commission—did not have to conduct a review under IPERA.

[13] OIGs for the intelligence agencies did not make their reports publicly available.

See Appendix B for a list of the OIGs, the dates of their reports, and the overall conclusion on their agencies' compliance with IPERA.

COMPLIED WITH IPERA

While 27 OIGs concluded that their agencies complied with IPERA, the OIGs for 16 of these 27 agencies reported that improvements were needed. Examples follow.

- The Environmental Protection Agency (EPA) OIG reported that EPA complied with IPERA in that it reported all required information on improper payments, but it could have improved the accuracy and completeness of the information. For example, EPA did not report all improper payments identified in audits and reviews of certain grants. Therefore, EPA understated grant improper payments by thousands of dollars.

- The Department of Commerce (DoC) OIG reported that DoC complied with IPERA but made two recommendations for improvement. One recommendation was to expand the scope of its review of grants and contracts to include those for which the period of performance ended and last payment was made but for which the closeout process has not been completed. The second recommendation was to research items identified in payment recapture audits as lacking sufficient documentation, and report amounts as improper payments in its PAR when it is unable to discern the propriety of the payment.

- The Department of Education (ED) OIG reported that ED complied with IPERA, but its reporting of improper payment data was not always accurate and complete, and it had limitations in its estimated improper payment rate methodology. The OIG recommended that ED consider revising the methodologies used to develop estimated improper payment rates and obtain and review supporting documentation for calculations from contractors before issuing the AFR.

- The Department of Transportation (DoT) OIG reported that DoT generally complied with IPERA requirements but reported that some improvements were necessary. First, DoT did not include in the Fiscal Year 2011 AFR its planned or actual completion dates for corrective actions taken for improper payments in certain DoT programs. Second, the Federal Aviation Administration did not achieve its 2011 improper payment target rate for the Airport Improvement Program. Third, the AFR's section of DoT's payment recapture program did not identify changes to internal controls or business processes that DoT implemented to prevent future overpayments. Furthermore, DoT did not have a process to verify that all grant and contract payments were subject to the payment recapture audit.

DID NOT COMPLY WITH IPERA

The following list summarizes why the 11 OIGs concluded their agencies did not comply with IPERA.

1. The Consumer Product Safety Commission (CPSC) OIG reported CPSC did not comply with any of the requirements of IPERA other than to publish a PAR.

2. The Department of Energy (DoE) OIG reported DoE did not conduct a program-specific risk assessment and did not publish improper payment estimates for all programs and activities identified as susceptible to significant improper payments.

3. The Department of Labor (DoL) OIG reported DoL did not meet annual reduction targets for the Unemployment Insurance program and the *Workforce Investment Act* grants. Additionally, DoL reported an actual improper payment rate of 12 percent for the Unemployment Insurance program.

4. The Export-Import Bank of the United States (EXIM) OIG reported EXIM initially appeared to comply with IPERA, but the OIG found that EXIM did not include all necessary payments in its improper payment risk assessment. Had these payments been included, EXIM would have had to take further steps to identify and implement a plan to reduce improper payments.

5. The Department of Health and Human Services (HHS) OIG reported HHS had four programs that did not meet all IPERA requirements. For two of these programs, HHS did not report improper payment estimates, and for the other two programs, HHS reported improper payment rates that were greater than 10 percent.

6. The Office of Personnel Management (OPM) OIG reported OPM did not include in its AFR a discussion on accountability for reducing and recovering improper payments and did not discuss its efforts under its recapture audit program.

7. The Small Business Administration (SBA) OIG reported SBA did not report an improper payment rate of less than 10 percent for two programs.

8. The Treasury Inspector General for Tax Administration reported the Internal Revenue Service (IRS) did not publish annual reduction targets, discuss progress toward meeting those targets, or report an improper payment rate of less than 10 percent for the Earned Income Tax Credit Program.

9. The Department of the Treasury (Treasury) OIG reported Treasury did not comply with IPERA because of the IRS' noncompliance discussed in previous bullet.

10. The U.S. Department of Agriculture (USDA) OIG reported USDA did not always report estimates for high-risk programs, report complete information about program corrective actions, meet annual reduction targets, or report error rates below specific thresholds.

11. The Department of Veterans Affairs (VA) OIG reported VA identified improper payment rates greater than 10 percent for three programs; however, the VA OIG found that VA did not report a fourth program that had improper payment rates greater than 10 percent. The VA OIG also reported that reduction targets were not met for two programs.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Inspector General *Improper Payments Elimination and Recovery Act of 2010* Reports

Acronyms

AFR	Agency Financial Report
CPSC	Consumer Product Safety Commission
DoC	Department of Commerce
DoE	Department of Energy
DoL	Department of Labor
DoT	Department of Transportation
ED	Department of Education
EPA	Environmental Protection Agency
EXIM	Export-Import Bank of the United States
HHS	Department of Health and Human Services
IPERA	*Improper Payments Elimination and Recovery Act of 2010*
IPIA	*Improper Payments Information Act of 2002*
IRS	Internal Revenue Service
NASA	National Aeronautics and Space Administration
OIG	Office of Inspector General
OMB	Office of Management and Budget
OPM	Office of Personnel Management
PAR	Performance and Accountability Report
Pub. L. No.	Public Law Number
SBA	Small Business Administration
SSA	Social Security Administration
Treasury	Department of the Treasury
USDA	U.S. Department of Agriculture
VA	Department of Veterans Affairs

Inspector General *Improper Payments Elimination and Recovery Act of 2010* Reports

The *Improper Payments Elimination and Recovery Act of 2010* (IPERA)[1] calls for each agency's Office of Inspector General (OIG) to determine whether its respective agency is in compliance with key IPERA requirements and report on its determinations annually. Under Office of Management and Budget guidance, OIGs should review the agency's Performance and Accountability (PAR) or Agency Financial Reports (AFR) and accompanying materials, within 120 days of the PAR or AFR's publication.[2] Each year, agencies are required to submit a PAR or AFR by November 15; therefore, OIGs should complete their IPERA review by March 15. Table B-1 shows the date and conclusion of each OIG IPERA report due in March 2012.

Table B-1: OIG IPERA Reports

OIG	Date of OIG IPERA Report	OIG Conclusion
Central Intelligence Agency	3/12/2012	Report not publicly available
Commodity Futures Trading Commission	3/14/2012	Complied with IPERA
Consumer Product Safety Commission	3/6/2012	Did not comply with IPERA
Corporation for National and Community Service	3/7/2012	Complied with IPERA - needs improvement
Defense Intelligence Agency	4/20/2012	Report not publicly available
Department of Commerce	3/15/2012	Complied with IPERA - needs improvement
Department of Defense	3/15/2012	Complied with IPERA - needs improvement
Department of Education	3/15/2012	Complied with IPERA - needs improvement
Department of Energy	3/15/2012	Did not comply with IPERA
Department of Health and Human Services	3/14/2012	Did not comply with IPERA
Department of Homeland Security	3/13/2012	Complied with IPERA - needs improvement
Department of Housing and Urban Development	3/15/2012	Complied with IPERA - needs improvement
Department of Justice	3/8/2012	Complied with IPERA - needs improvement
Department of Labor	3/15/2012	Did not comply with IPERA
Department of State	3/14/2012	Complied with IPERA - needs improvement

[1] Pub. L. No. 111-204, 124 Stat. 2224 (2010).

[2] OMB Circular A-123, *Management's Responsibility for Internal Controls*, Appendix C, Part II § A 2, April 2011.

Table B-1: OIG IPERA Reports		
OIG	Date of OIG IPERA Report	OIG Conclusion
Department of the Treasury	3/15/2012	Did not comply with IPERA
Department of Transportation	3/15/2012	Complied with IPERA - needs improvement
Department of Veterans Affairs	3/14/2012	Did not comply with IPERA
Environmental Protection Agency	3/1/2012	Complied with IPERA - needs improvement
Equal Employment Opportunity Commission	3/12/2012	Complied with IPERA
Export-Import Bank of the United States	3/12/2012	Did not comply with IPERA
Federal Communications Commission	3/15/2012	Complied with IPERA
Federal Housing Finance Agency	3/9/2012	Complied with IPERA
Federal Labor Relations Authority	3/12/2012	Complied with IPERA
General Services Administration	3/9/2012	Complied with IPERA - needs improvement
National Aeronautics and Space Administration	5/1/2012	Complied with IPERA - needs improvement
National Archives and Records Administration	2/23/2012	Complied with IPERA
National Endowment for the Humanities	3/14/2012	Complied with IPERA
National Geospatial-Intelligence Agency	3/13/2012	Report not publicly available
National Security Agency	3/16/2012	Report not publicly available
Nuclear Regulatory Commission	3/15/2012	Complied with IPERA
Office of Personnel Management	3/14/2012	Did not comply with IPERA
Office of the Director of National Intelligence	5/10/2012	Report not publicly available
Pension Benefit Guaranty Corporation	3/15/2012	Complied with IPERA - needs improvement
Railroad Retirement Board	3/8/2012	Complied with IPERA - needs improvement
Securities and Exchange Commission	3/29/2012	Complied with IPERA
Small Business Administration	3/15/2012	Did not comply with IPERA
Social Security Administration	3/14/2012	Complied with IPERA - needs improvement
Tennessee Valley Authority	3/12/2012	Complied with IPERA
Treasury Inspector General for Tax Administration	3/2/2012	Did not comply with IPERA
U.S. Agency for International Development	3/16/2012	Complied with IPERA - needs improvement
U.S. Department of Agriculture	3/14/2012	Did not comply with IPERA
U.S. International Trade Commission	3/15/2012	Complied with IPERA