Office of Inspector General
Audit Report

DOT'S FISCAL YEAR 2016 IMPROPER PAYMENT REPORTING DOES NOT COMPLY WITH IPERA REQUIREMENTS

Department of Transportation

Report Number: FI2017048

Date Issued: May 10, 2017

Memorandum

U.S. Department of Transportation

Office of Inspector General

Subject: **<u>ACTION</u>:** DOT's Fiscal Year 2016 Improper Payment Reporting Does Not Comply With IPERA Requirements
Department of Transportation
Report Number: FI2017048

Date: May 10, 2017

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

Reply to Attn. of: JA-20

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

In July 2010, Congress enacted the Improper Payments Elimination and Recovery Act[1] (IPERA)—amending the Improper Payments Information Act of 2002[2]—to encourage the elimination of payment errors, waste, fraud, and abuse in Federal programs. The Federal Government intensified its efforts to eliminate improper payments made from Federal program funds, including wrong amounts, duplicate payments, and payments with insufficient documentation, by issuing Executive Order 13520.[3]

IPERA requires Federal agencies to limit improper payments to less than 10 percent of their total program payments. It requires agencies to test annually for improper payments in their programs and to publish the results in the Agency Financial Report (AFR). The act also calls for inspectors general to review their agencies' compliance with IPERA and to submit reports to their agency heads.[4] Finally, agencies must comply with regulations the Office of Management and Budget (OMB) has developed to implement the act.

For fiscal year 2016, the Department of Transportation (DOT) reported approximately $55.5 billion in payments in programs or activities susceptible to

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[1] Public Law 111-204.
[2] Public Law 107-300.
[3] Executive Order 13520—Reducing Improper Payments and Eliminating Waste in Federal Programs (November 20, 2009).
[4] Inspectors general also submit their reports to the Senate Committee on Homeland Security and Governmental Affairs, the House of Representatives Committee on Oversight and Government Reform, the Comptroller General, and the Controller of the Office of Management and Budget.

significant improper payments. In addition, DOT estimated $207.4 million as improper payments in these programs or activities. DOT hired a consulting firm (Contractor) to help it implement IPERA's annual estimation requirements. To meet IPERA's and OMB's requirements, we reviewed DOT's improper payment testing results in the fiscal year 2016 AFR to determine whether DOT complies with IPERA's requirements as implemented by OMB. We conducted this audit in accordance with generally accepted Government auditing standards. To conduct our work, we retested a statistical sample of 66 of the 673 payments that the Contractor or DOT's employees previously tested and found to be not improper. See exhibit A for details on our scope and methodology.

RESULTS IN BRIEF

The Department's AFR accurately reflects and includes all of the required reporting elements in its IPERA section; however, DOT is not in compliance with IPERA requirements because three programs did not meet their improper payment reduction targets in fiscal year 2016. Specifically, the Federal Aviation Administration (FAA) program funded by the Facilities and Equipment—Disaster Relief Appropriations Act (F&E-DRAA), the Federal Railroad Administration's (FRA) High-Speed Intercity Passenger Rail (HSIPR) program, and the Federal Transit Administration's (FTA) Formula Grants and Passenger Rail Investment and Improvement Act (FG-PRIIA) program did not achieve their own targets to reduce improper payments. This occurred due to administrative or procedural errors, such as incorrect labor rates. As a result of these errors, DOT estimated that it had exceeded its target reduction goals by $140,000, $5.6 million, and $83.9 million for the F&E-DRAA, HSIPR and FG-PRIIA programs, respectively.

We are making three new recommendations to improve DOT's ability to meet payment reduction targets for some of its programs. See exhibit B for a summary of recommendations that remain open from our prior IPERA reports.

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 appendix C to Circular A-123[5] defines improper payments as:

[5] Circular A-123, Appendix C, Requirements for Effective Estimation and Remediation of Improper Payments (October 20, 2014).

- Payments to ineligible recipients;
- Duplicate payments;
- Payments in incorrect amounts;
- Payments for ineligible services and services not received; and
- Payments with insufficient documentation.[6]

In addition, OMB permits agencies to request relief when a program reduces its improper payment estimates below the statutory threshold for 2 consecutive years. For fiscal year 2016, DOT requested and received OMB approval for relief from the annual improper payment reporting requirements for FAA's Airport Improvement Program (AIP).

OMB's Circular A-136[7] requires agencies' reports on annual improper payment testing to include the programs' (1) risk assessment, (2) sampling and estimation, (3) improper payment reporting, (4) improper payment root cause categories, (5) corrective actions, (6) internal control over payments, (7) accountability, (8) agency information systems and other infrastructure, (9) barriers, and (10) recapture of improper payments. (See exhibit A for the complete list of OMB requirements.)

In January 2013, Congress enacted the Disaster Relief Appropriations Act (DRAA),[8] which provides aid for Hurricane Sandy victims and their communities. OMB issued implementing guidance[9] that states that programs receiving funds under the act are automatically considered susceptible to significant improper payments and are required to calculate and report improper payment estimates.

For fiscal year 2016, DOT tested the following programs for improper payments[10]:

- FAA's F&E-DRAA;*
- FHWA's Highway Planning and Construction (HPC);*
- FRA's Grants to the National Railroad Passenger Corp. (Amtrak);*
- FRA's HSIPR;
- FTA's Emergency Relief Program (ERP-DRAA);*
- FTA's FG-PRIIA;
- Maritime Administration's Electronic Invoicing System (MARAD-EIS);

[6] OMB Circular A-123 defines payments with insufficient documentation as "a situation where there is a lack of supporting documentation necessary to verify the accuracy of a payment identified in the improper payment testing sample. For example, a program does not have documentation to support a beneficiary's eligibility for a benefit (in this case, the beneficiary may have been eligible, but the documentation is not present to confirm it during the review period."

[7] OMB Circular A-136 Revised, Financial Reporting Requirements (October 7, 2016).

[8] Public Law 113-2.

[9] OMB M-13-07, Accountability for Funds Provided by the Disaster Relief Appropriations Act.

[10] An asterisk (*) indicates the program received DRAA funds.

- Office of Inspector General's (OIG) DRAA.*[11]

The Contractor developed sampling plans for testing improper payments and tested selected invoice payments, with the exception of FHWA's payments.[12] The results of the tests were documented in a workbook prepared by the Contractor,[13] which then presented the results to each Operating Administration's (OA) management to determine whether they were improper. With guidance from the OAs, the Contractor projected improper payment estimates for these programs. Improper payments and estimates of improper payments do not necessarily indicate fraud in programs and activities.

DOT IS NOT COMPLIANT WITH IPERA REQUIREMENTS

Although AFR reporting is complete and accurate, and the Department continues to maintain an improper payment rate of less than 10 percent, DOT is not compliant with IPERA requirements because three programs did not meet their improper payment reduction targets. In fiscal year 2016, programs funded by FAA's F&E-DRAA, FRA's HSIPR, and FTA's FG-PRIIA did not achieve their own reduction targets. However, the Department's five other tested programs were compliant with OMB's IPERA requirements.

DOT's IPERA Reporting Was Complete and Accurate

The Department met OMB's IPERA reporting requirements by including the following in its AFR:

- Assessments of programs' risk of significant improper payments;
- Improper payment estimates;
- Corrective action plans for FHWA to reduce future improper payments;
- Annual improper payment reduction targets for the eight tested programs; and
- Improper payment rate of less than 10 percent for each program reporting improper payment estimates.

According to DOT, each tested program achieved an improper payment rate of less than 10 percent. DOT also included a description and evaluation of its payment recovery[14] audit programs and the amounts collected from these programs. Finally, DOT improved the accuracy of its improper payment testing by reporting correct estimates and including all the documentation required to deem a payment as not improper.

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[11] OIG management conducted a census of OIG-DRAA payments instead of performing a statistical sample.
[12] FHWA employees tested the Agency's payments.
[13] The testers (Contractor and FHWA) then submitted their results to a Contractor's reviewer.
[14] OMB uses the term "recapture" for payment recoveries.

The Department Did Not Meet the Reduction Targets for Three Programs

While DOT met most IPERA requirements and five of the eight programs tested were fully compliant, DOT was not compliant with IPERA because three programs did not reach their target reduction rates. OMB policy states that if an agency does not meet one or more of its requirements, then the agency is noncompliant.

In fiscal year 2016, FAA determined that 5 of the 53 tested transactions in FAA's F&E-DRAA program were improper payments totaling about $103,600. The five improper payments identified by the Contractor resulted from administrative or process errors made by FAA employees. Specifically, due to the lack of consistency in following proper procure-to-pay procedures, FAA projected the total amount of improper payments to be approximately $140,000 or 1.59 percent of the total program's payment amount. The previous year FAA had established a reduction target of 0.00 percent, which was exceeded by 1.59 percent.

The Contractor tested 78 transactions in the HSIPR program, and FRA determined that 10 of these transactions were improper payments totaling about $124,000. Six of the 10 improper payments resulted from administrative or process errors made at the grantee level. FRA reported that some of the root causes for these errors were that the grantee requested the incorrect amount; included ineligible costs; or showed differences between the supporting percentage of completion calculation amounts and the balance billed on the invoice. The other four improper payments occurred because grant recipients were unable to provide sufficient documentation to substantiate the charges. The projection of these 10 improper payments totaled $5.95 million or 0.51 percent of the total FRA-HSIPR payment amount. The program had established a target for fiscal year 2016 of 0.029 percent or $320,000. The amount of improper payments over the target was 0.481 percent or $5.63 million.

DOT also reported that FTA identified 8 of the 170 tested transactions in its FG-PRIIA program as improper payments totaling about $11,600. Over 90 percent of these improper payments resulted from an administrative or process error made by the grant recipient, such as using rates that were not approved in contract or grant agreement terms to calculate payments related to labor, overhead, and price per unit. This error was the major contributor for the program's projection of $88.12 million or 0.95 percent in improper payments. The target that had been established for the program was $4.18 million or 0.045 percent. The amount of improper payments exceeded $83.94 million or 0.905 percent.

The table summarizes DOT's compliance with IPERA by program.

Table. DOT's Compliance With Improper Payment Criteria By Program

Program	Overall Assessment for Program	Required Information Published in DOT AFR	Conducted program-specific risk assessment[a]	Published IP Estimates	Published CAPs[b]	Published and Met Reduction Goals	Reported IP rate(s) below 10%
FAA F&E-DRAA	Noncompliant	Yes	N/A	Yes	N/A	No	Yes
FHWA HPC	Compliant	Yes	N/A	Yes	Yes	Yes	Yes
FRA Amtrak	Compliant	Yes	N/A	Yes	N/A	Yes	Yes
FRA HSIPR	Noncompliant	Yes	N/A	Yes	N/A	No	Yes
FTA ERP-DRAA	Compliant	Yes	N/A	Yes	N/A	Yes	Yes
FTA FG-PRIIA	Noncompliant	Yes	N/A	Yes	N/A	No	Yes
MARAD-EIS	Compliant	Yes	N/A	Yes	N/A	Yes	Yes
OIG-DRAA	Compliant	Yes	N/A	Yes	N/A	Yes	Yes

[a] Per OMB Circular A-136, all agencies must assess the improper payment risk level for each program that is not already reporting an improper payment estimate at least once every 3 years. In fiscal year 2014, DOT conducted a risk assessment that identified these programs as susceptible to significant improper payments; therefore, it does not need to conduct a new risk assessment. Accordingly, we have deemed the requirement as non-applicable for fiscal year 2016.

[b] OMB Circular A-123, Appendix C, requires corrective actions for all programs with improper payments exceeding the statutory thresholds (1.5 percent of program outlays and $10 million or $100 million). FHWA's HPC was the only program that exceeded the statutory threshold. Other programs are shown as "N/A" for this requirement.

Source: OIG Analysis. IP: Improper Payments. CAP: Corrective Action Plans.

CONCLUSION

In fiscal year 2016, DOT made approximately $55.5 billion in payments in programs or activities susceptible to significant improper payments. Of this amount, DOT estimates there was $207.4 million in improper payments. Although DOT has taken actions to improve the accuracy of its reporting, and reports improper payments below the 10 percent threshold established by IPERA, it continues to miss improper payment reduction targets for some of its programs. Until additional actions are taken to address these targets, DOT will remain in noncompliance with IPERA.

RECOMMENDATIONS

We recommend that DOT's Assistant Secretary for Budget and Programs/Chief Financial Officer take action on the following recommendations as well as the three recommendations still open from prior IPERA reports (see exhibit B):

1. Implement procedures to ensure selected Federal Aviation Administration employees receive additional guidance on procure-to-pay procedures needed to support Facilities and Equipment—Disaster Relief Appropriation Act program payments as proper.

2. Implement procedures to ensure the Federal Railroad Administration provides training to select grant recipients regarding the root causes of administrative errors and the identification and retention of required documentation to support a payment as proper in the High-Speed Intercity Passenger Rail program.

3. Implement procedures to ensure the Federal Transit Administration distributes guidance to grant recipients on the proper procedure for submitting payments that adhere to the grant agreement terms in the Formula Grants and Passenger Rail Investment and Improvement Act program.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

We provided the Department with a draft copy of this report on April 25, 2017, and received its response on May 5, 2017, which is included as an appendix to this report. DOT concurred with recommendations 1 through 3 and provided appropriate planned actions and completion dates. We consider recommendations 1 through 3 resolved but open pending completion of planned actions.

We appreciate the courtesies and cooperation of DOT and its OAs' representatives during this audit. If you have any questions concerning this report, please call me at (202) 366-4350, or Kevin Dorsey, Program Director, at (202) 366-8543.

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cc: The Secretary
DOT Audit Liaison, M-1

EXHIBIT A. SCOPE AND METHODOLOGY

We conducted this audit from September 2016 through April 2017, 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 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.

In October 2016, OMB revised its Circular A-136, which establishes the IPERA reporting details each agency must include, specifically: (1) risk assessment, (2) statistical sampling, (3) improper payment reporting (formatted in tables), (4) improper payment root cause categories, (5) corrective actions, (6) internal control over payments, (7) accountability, (8) agency information systems and other infrastructure, (9) barriers, (10) recapture of improper payments, (11) additional comments, and (12) the Do Not Pay initiative.[15]

Additionally, OMB established Circular A-123, appendix C, to require reports from inspectors general to include summaries on their agencies' compliance. Specifically, inspectors general must report on whether their agencies:

1. Publish an AFR or Performance Accountability Report (PAR) for the most recent fiscal year and any accompanying materials required by OMB on the agency's Web site;

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;

[15] The Do Not Pay initiative requires each agency to review various databases to verify program or award eligibility before the release of any Federal funds.

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 evaluated the quality of the improper payment estimates and methodology and concurred with DOT's sampling methodology and extrapolation results. The Senior Statistician also selected a stratified random attribute sample of 66 of 673 transactions with an amount of $181.2 million of $689.1 million that the Department and its Contractor had tested and found not to be improper. The sample design would have allowed us to estimate the number of transactions that should have been classified as improper with 90-percent confidence and a precision no greater than +/-10 percent. We retested the propriety of those conclusions in (1) FAA's F&E-DRAA, (2) FHWA's HPC program, (3) FRA's Grants to the National Railroad Passenger Corporation (Amtrak), (4) FRA's HSIPR, (5) FTA's ERP-DRAA, (6) FTA's FG-PRIIA, (7) MARAD-EIS, and (8) OIG's DRAA. The supporting documentation included, among other documents, summary schedules, grant agreements, invoices, checks, and payment vouchers. We found no issues in the samples we tested.

Furthermore, we evaluated DOT's assessment of the level of risk associated with its programs, and we determined the Department is not required to conduct a risk assessment for its programs for fiscal year 2016. To assess the Agency's efforts in reducing and recapturing improper payments, we evaluated whether DOT complied with Circular A-136 requirements, and reviewed documentation which supports the amounts from the largest four overpayment recoveries. We concluded that the Department's performance in reducing and recapturing improper payments is compliant under Circular A-136. Finally, as part of this review we determined the FHWA corrective action plans presented in the AFR are (1) robust and focused on the appropriate root causes of improper payments, (2) effectively implemented with target completion dates, and (3) prioritized within the Agency to allow it to meet its reduction targets.

EXHIBIT B. PRIOR YEAR RECOMMENDATIONS AND CURRENT STATUS

Report Number	FY		Recommendation	Status
FI-2013-053	2012	1	Provide specific documentation requirements and greater oversight and review of contractors that perform improper payment testing to ensure that the work has an audit trail and is accurate	Open
		2	Implement procedures that identify all the elements required for IPERA reporting, including the documentation needed to support these elements	Closed
FI-2014-037	2013	1	Provide specific documentation requirements and greater oversight of contractors who perform improper payment testing to ensure that the work performed tests actual payments and verifies that each transaction has an audit trail and proper support	Open
		2	Implement procedures that ensure that all the elements required for IPERA reporting are accurate and supported by documentation	Closed
		3	Reinforce DOT policy that the recovery of duplicate payments must be recorded in DOT's accounting system	Closed
FI-2015-043	2014	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	Open
		2	Implement procedures to ensure DOT employees and contractors are trained before performing or reviewing improper payment test procedures	Closed
		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	Closed
		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	Closed
FI-2016-066	2015	1	Publish future year outlays in the AFRs that match the President's Budget as required by OMB A-136.	Closed
		2	Monitor FHWA's progress on the new corrective actions they initiated to reduce the HPC program improper payments and achieve the FY 2016 reduction target rates.	Closed

Source: OIG recommendation tracking system.

EXHIBIT C. MAJOR CONTRIBUTORS TO THIS REPORT

Name	Title
Kevin Dorsey	Program Director
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U.S.Department of Transportation

Office of the Secretary of Transportation

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MAY 0 5 2017

Subject: INFORMATION: Management Response to Office of Inspector General (OIG) Draft Report on Fiscal Year 2016 IPERA Compliance

From: Lana Hurdle
Acting Chief Financial Officer and Assistant Secretary
for Budget and Programs

To: Louis King
Assistant Inspector General for
Financial and Information Technology Audits

The Department of Transportation (DOT), as stewards of taxpayer dollars, exercises rigorous management and oversight over its program expenditures. DOT prioritizes reducing improper payments through robust internal control programs and by establishing aggressive goals. We are pleased that as a result of our efforts, DOT's payment accuracy rate improved to 99.63 percent in Fiscal Year (FY) 2016 from 99.19 percent in FY 2015. These positive results demonstrate that DOT maintains effective controls over its payment processes.Consequently, we consider ourselves to have been generally compliant with the Improper Payments Elimination and Recovery Act reporting requirements.

Based upon our review of the draft report, we concur with the three recommendations as written. Target action dates for implementing these recommendations are as follows: Recommendation 1 – July 31, 2017; Recommendation 2 – September 30, 2017; and Recommendation 3 – July 31, 2017.

We appreciate the opportunity to respond to the Office of Inspector General (OIG) draft report. Please contact Daniel King, Associate Director, Financial Reporting and Internal Controls, at (202) 366-5381 with any questions.