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# *Office of Inspector General*

# *Audit Report*

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## **DOT'S FISCAL YEAR 2015 IMPROPER PAYMENT REPORTING DOES NOT COMPLY WITH IPERA REQUIREMENTS**

*Department of Transportation*

*Report Number: FI-2016-066*

*Date Issued: May 13, 2016*





# Memorandum

U.S. Department of  
Transportation

Office of the Secretary  
of Transportation  
Office of Inspector General

Subject: **ACTION:** DOT's Fiscal Year 2015 Improper  
Payment Reporting Does Not Comply With  
IPERA Requirements  
Department of Transportation  
Report Number: FI-2016-066

Date: May 13, 2016

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 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 Act<sup>1</sup> (IPERA)—amending the Improper Payments Information Act of 2002<sup>2</sup>—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.<sup>3</sup> Agencies must also comply with the regulations that the Office of Management and Budget (OMB) has developed to implement the act.

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<sup>1</sup> Public Law 111-204.

<sup>2</sup> Public Law 107-300.

<sup>3</sup> 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.

To meet IPERA's and OMB's requirements, we reviewed the Department of Transportation's (DOT) improper payment testing results in the fiscal year 2015 AFR to determine whether (1) DOT complies with IPERA's requirements as implemented by the Office of Management and Budget, (2) the improper payment information in DOT's Annual Financial Report is accurate, and (3) DOT is meeting its improper payment reduction targets for fiscal year 2015.

DOT hired a consulting firm (Contractor) to assist in its implementation of IPERA's annual estimation requirements. We conducted this audit in accordance with generally accepted Government auditing standards. To conduct our work, we retested a statistical sample of 68 of the 943 payments that the Contractor or DOT's employees had tested and found to be not improper. See exhibit A for details on our scope and methodology.

## **RESULTS IN BRIEF**

While DOT's AFR included all of the required reporting elements, we found errors that constitute noncompliance. As required, DOT reported on its assessments of programs' risks for significant improper payments; improper payment estimates; the Federal Highway Administration's (FHWA) corrective action plans to reduce future improper payments; and annual improper payment reduction targets for the eight tested programs. DOT also included a description and evaluation of its payment recovery<sup>4</sup> audit programs and the amounts collected from these programs. However, we found several errors and/or inaccuracies in the improper payment reports. For example, DOT's future year outlays reported in the Department's 2015 AFR do not match the future outlays reported in the 2016 Presidents Budget estimates as required by OMB. Additionally, DOT did not complete testing of 1 payment or meet its improper payment reduction targets for 1 of 8 programs. As a result, DOT is not compliant with IPERA requirements.

We found one instance in which DOT's AFR improper payment information was not accurate. Specifically, an FHWA employee and DOT's Contractor did not perform sufficient work to test one payment to determine if it were not improper. FHWA did not collect adequate documentation to determine whether the hourly rate paid to a grantee's employee was correct. Without this documentation, FHWA should not have concluded that a payment of \$245.56 was not improper. In its reporting for the future outlook of improper payment reductions, DOT included future outlays. OMB requires that future outlays match the President's budget.

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<sup>4</sup> OMB uses the term "recapture" for payment recoveries.

However, we found a number of instances where this was not the case. In one instance, the discrepancy exceeded \$700 million.

According to DOT, its programs met IPERA's requirement that less than 10 percent of total payments be improper. However, FHWA's Highway Planning and Construction (HPC) program did not achieve its own target to reduce improper payments to 0.25 percent or less for fiscal year 2015 as required by OMB guidelines. DOT officials estimated HPC's 2015 improper payments were \$479.2 million, or 1.08 percent of the total FHWA Federal-aid payment amount. Therefore, the amount of improper payments exceeded FHWA's target amount (\$112.93 million) by \$366.27 million and the reduction target (0.25 percent) by 0.83 percent.

We are making two new recommendations to improve DOT's compliance with IPERA reporting requirements. 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 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.<sup>5</sup>

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<sup>5</sup> 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).

OMB's Circular A-136<sup>6</sup> 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 audits that analyze programs' accounting records and supporting documentation to identify and recover overpayments; (2) amounts identified for recapture; (3) descriptions of and 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,<sup>7</sup> which provides aid for Hurricane Sandy (Sandy) victims and their communities. OMB issued implementing guidance<sup>8</sup> 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. In fiscal year 2014's AFR, DOT reported separately on two FHWA's program including the Emergency Relief Fund (Hurricane Sandy only) payment results. In fiscal year 2015, OMB approved DOT's request to combine its reporting on Hurricane Sandy-related relief work under the FHWA Disaster Relief Act and the FHWA Federal-aid Highways improper payment program.

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

- The Federal Aviation Administration's (FAA) Airport Improvement Program (AIP);
- FAA's appropriations under the Disaster Relief Act (Sandy);
- FHWA's HPC Program
- The Federal Railroad Administration's (FRA) grants to Amtrak;<sup>9</sup>
- FRA's High Speed and Intercity Passenger Rail Program (HSIPR);
- The Federal Transit Administration's (FTA) Formula Grants Program (FG);
- FTA's Disaster Relief Act (Sandy); and
- The Maritime Administration's (MARAD) Ready Reserve Force Program (RRF) Electronic Invoicing System.

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<sup>6</sup> OMB Circular A-136 Revised, Financial Reporting Requirements.

<sup>7</sup> Public Law 113-2.

<sup>8</sup> OMB M-13-07, Accountability for Funds Provided by the Disaster Relief Appropriations Act.

<sup>9</sup> Program includes Disaster Relief Appropriation Act of 2013 funding.

The Contractor developed sampling plans for testing improper payments, and tested selected invoice payments with the exception of FHWA's payments.<sup>10</sup> The results of the tests were documented in a workbook prepared by the Contractor.<sup>11</sup> The Contractor then presented the results to each Operating Administration's management to determine whether or not they were improper. The Contractor projected improper payment estimates for DOT's major grant programs. Improper payments and estimates of improper payments do not necessarily indicate fraud in programs and activities.

## **DOT'S REPORTING INCLUDED REQUIRED ELEMENTS, BUT ERRORS RESULTED IN NONCOMPLIANCE**

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<sup>12</sup> 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.

DOT also included a description and evaluation of its payment recovery audit programs and the amounts collected from these programs.

OMB policy states that if an agency does not meet one or more of its requirements, then the agency is noncompliant. As noted below, DOT did not sufficiently test all transactions and inaccurately reported some future outlays. Moreover, DOT did not meet its improper payment reduction targets for 1 of 8 programs tested. As a result, DOT is not compliant with IPERA requirements.

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<sup>10</sup> FHWA employees tested the Agency's payments.

<sup>11</sup> The testers (Contractor and FHWA) then submitted their results to a Contractor's reviewer.

<sup>12</sup> OMB Circular A-136 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). HPC was the only program that exceeded the statutory threshold.

## **THE DEPARTMENT'S IPERA REPORTING WAS NOT ALWAYS ACCURATE**

We found instances where DOT's AFR improper payment information was not accurate. Specifically, in one instance, a transaction was not sufficiently tested, and DOT incorrectly reported future outlays.

### **DOT Did Not Always Perform Sufficient Work to Determine Whether Payments Were Improper**

An FHWA employee and the Contractor did not perform sufficient work to test one transaction. As a result, we could not determine that DOT's management conclusions were accurate for FHWA's HPC program. Specifically:

- An FHWA employee did not collect adequate documentation to verify that a grantee employee's hourly rate of \$32.31 was correct. The Contractor, who reviewed the FHWA employee's work, did not note that the documentation needed to support the hourly rate was missing. Without the evidence of the hourly rate, DOT should not have concluded that the related payment of \$245.56 was not improper. Not verifying payment information against supporting documentation increases the risk that improper payments will go undetected, and that the improper payment estimates will be understated.

### **DOT Incorrectly Reported Future Outlays**

DOT's future year outlay estimates in its 2015 AFR do not match the outlay estimates for those years in the fiscal year 2016 President's Budget. OMB Circular A-136 policy instructs agencies to include future year outlays and states that they should match the outlay estimates for those years as reported in the most recent President's Budget. See table 1 for details of the difference in the FAA AIP, FTA FG, FRA HSIPR and MARAD RRF programs.

**Table 1. Future Outlay Discrepancies by Select Programs  
(in millions)**

Year	Source of Outlays	FAA AIP	FTA FG	FRA HSIPR	MARAD RRF
2015	AFR	\$3,168	\$9,070	\$1,100	\$116
	President's Budget	\$3,800	\$9,344	\$1,812	\$111
	<b>Difference</b>	<b>(\$632)</b>	<b>(\$274)</b>	<b>(\$712)</b>	<b>\$5</b>
2016	AFR	\$3,652	\$9,705	\$3,386	\$205
	President's Budget	\$3,580	\$10,382	\$2,688	\$1
	<b>Difference</b>	<b>\$72</b>	<b>(\$677)</b>	<b>\$698</b>	<b>\$204</b>
2017	AFR	\$3,428	\$12,816	\$1,596	\$134
	President's Budget	\$3,426	\$12,816	\$1,596	\$0
	<b>Difference</b>	<b>\$2</b>	<b>\$0</b>	<b>\$0</b>	<b>\$134</b>

Source: DOT's 2015 AFR, DOT's Fiscal Year 16 President's Budget, and OIG Analysis

According to a DOT official, the use of the net outlay numbers in the President's budget would have resulted in understating future outlay improper payment estimates. Therefore, the Department used a combination of information from the President's budget, the Operating Administration's budget data and other sources to compute future outlays based on disbursements and collections. The Department then added gross disbursements plus the absolute values of collections and reported that as future outlays. However, this has resulted in discrepancies as large as \$712 million. Not using the correct outlay data can result in reporting future improper payment outlooks that are neither realistic nor achievable.

## **FHWA HPC PROGRAM DID NOT MEET ITS 2015 IMPROPER PAYMENT REDUCTION TARGET**

According to DOT officials, the Department's programs met IPERA's requirement that less than 10 percent of total payments be improper. Moreover, DOT reported that FTA's FG and FRA's HSIPR programs, which had missed improper payment reduction targets in fiscal year 2014, had reduced improper payments and met their fiscal year 2015 targets. However, the HPC program did not achieve its target for reducing improper payments to 0.25 percent or less for fiscal year 2015 as required by IPERA and OMB.

To estimate improper payments in the HPC program, FHWA tested 123 invoices totaling \$391,144,275. FHWA found 16 improper payments in its sample and projected the total amount of improper payments to be approximately \$479.20 million or 1.08 percent of the total FHWA Federal-aid payment amount. This exceeded FHWA's reduction target dollar amount (\$112.93 million) by \$366.27 million and the reduction target percentage (0.25) by 0.83. As a result, DOT was not in compliance with IPERA requirements.

FHWA attributed these improper payments to administrative or process errors made by State and local Agencies. DOT reported in its AFR that FHWA plans to redistribute guidance to ensure grant recipients request payments in accordance with terms and conditions of grant awards. FHWA identified two corrective actions in the AFR: (1) advise select grant recipients of the root cause for their improper payments and coordinate issue specific corrective actions, and (2) proactively distribute guidance to select grant recipients on requesting payments in accordance with grant terms. We confirmed the first corrective action was completed on December 31, 2015, and the second corrective action is due for completion on September 30, 2016.

## **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. While DOT has consistently maintained its programs' improper payment rate significantly below the 10 percent threshold established by OMB, reduction of improper payments was a challenge for FHWA's Highway Planning and Construction Program. DOT also continues to meet most of the OMB reporting requirements. Still, until it provides better guidance and oversight, DOT will remain at risk of not complying with IPERA.

## **RECOMMENDATIONS**

We recommend that DOT's Assistant Secretary for Budget and Programs/Chief Financial Officer take the following actions in addition to the 5 recommendations that are still open from prior IPERA reports:

1. Publish future year outlays in the AFRs that match the President's Budget as required by OMB A-136.
2. Monitor FHWA's progress on the new corrective actions they initiated to reduce the HPC program improper payments and achieve the FY16 reduction target rates.

## **AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE**

We provided the Department with a draft report on May 10, 2016, and received its response on May 12, 2016, which is included as an appendix to this report. DOT officials concurred with our recommendations. The Agency stated it will provide a detailed response to each recommendation within 30 days of the final report's issuance. Therefore, we consider all recommendations open and unresolved until we receive DOT's detailed response.

## **ACTIONS REQUIRED**

We consider all recommendations open and unresolved. In accordance with DOT Order 8000.6B, 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) 366-1407 or Kevin Dorsey, Program Director, at (202) 366-1518.

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cc: DOT Audit Liaison, M-1

## **EXHIBIT A. SCOPE AND METHODOLOGY**

We conducted this audit from September 2015 through May 2016, 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 estimates 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 August 2015, OMB revised its Circular A-136 which includes a total of twelve changes from the previous version. The Circular establishes the IPERA reporting details for each agency to include: (1) Risk Assessment; (2) Statistical Sampling, (3) Improper Payment Reporting (includes the tables format required for each agency); (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) Do Not Pay Initiative.

Additionally, OMB established in its Circular A-123, Appendix C, to implement reporting requirements 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 stratified random attribute sample of 68 out of 943 transactions with an amount of \$65 million out of \$456 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 of +/-10 percent. We retested the propriety of those conclusions in (1) FAA's AIP; (2) FAA's AIP-Sandy Program; (3) FHWA's HPC Program; (4) FRA's Grants to the National Railroad Passenger Corporation (5) FRA's High Speed Intercity and Passenger Rail Program; (6) FTA's Formula Grants and Passenger Rail Investment and Improvement Projects; (7) FTA's Public Transit Emergency Relief Program—Disaster Relief Act; and (8) MARAD's Electronic Invoicing System—Ready Reserve Force. The supporting documentation included, among other documents, summary schedules; grant agreements; and invoices, checks, and payment vouchers.

## EXHIBIT B. PRIOR YEARS' RECOMMENDATIONS AND CURRENT STATUS

Prior Years' 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.	Open
		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.	Open

Source: OIG Recommendation tracking system

**EXHIBIT C. MAJOR CONTRIBUTORS TO THIS REPORT**

<b>Name</b>	<b>Title</b>
Kevin Dorsey	Program Director
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**APPENDIX. AGENCY COMMENTS**

U.S. Department of  
Transportation

Office of the Secretary  
of Transportation

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**Memorandum**

May 12, 2016

**Subject:** Management Response to Fiscal Year 2015 IPERA Compliance Report

**From:** David J. Rivait *D. Rivait*  
Deputy Chief Financial Officer

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

The Department of Transportation (DOT) has taken great strides to reduce improper payments and achieved a payment accuracy rate of 99.19% in Fiscal Year 2015, which is significantly better than the government-wide rate of 95.61%. To maintain our high accuracy rate, DOT establishes aggressive goals and target reduction rates that far exceed the required rate of 10%. With the exception of one program, DOT accomplished its goals to reduce improper payments in FY 2015.

We consider that the Department is generally compliant with the Improper Payments Elimination and Recovery Act.

Upon review of the draft report, we concur with the recommendations. The Department will provide a detailed response within 30 days of the final report's issuance.

We appreciate the opportunity to respond to the OIG draft report. Please contact Daniel King, Associate Director, Financial Reporting and CFO Audit, at (202) 366-5381 with any questions.