



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

U.S. Chemical Safety and Hazard Investigation Board Should Determine the Cost Effectiveness of Performing Improper Payment Recovery Audits

Report No. 12-P-0312

March 1, 2012



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Abbreviations

CSB	U.S. Chemical Safety and Hazard Investigation Board
FY	Fiscal year
IPERA	Improper Payments Elimination and Recovery Act
IPIA	Improper Payments Information Act
OIG	Office of Inspector General
OMB	Office of Management and Budget
PAR	Performance and Accountability Report

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At a Glance

Why We Did This Review

Office of Management and Budget (OMB) guidance for implementing the 2010 Improper Payments Elimination and Recovery Act (IPERA) specified responsibilities of agencies and inspectors general. Agencies are required to report on improper payments, and inspectors general are required to determine whether the agency is in compliance with IPERA. As the Inspector General for the U.S. Chemical Safety and Hazard Investigation Board (CSB), the U.S. Environmental Protection Agency Office of Inspector General undertook this review of CSB's compliance with IPERA.

Background

Each year, the federal government wastes billions of taxpayer dollars on improper payments to individuals, organizations, and contractors. Despite efforts to reduce improper payments, agencies reported an estimated \$125 billion in improper payments for fiscal year 2010.

For further information, contact our Office of Congressional and Public Affairs at (202) 566-2391.

The full report is at:
www.epa.gov/oig/reports/2012/20120301-12-P-0312.pdf

U.S. Chemical Safety and Hazard Investigation Board Should Determine the Cost Effectiveness of Performing Improper Payment Recovery Audits

What We Found

The CSB was not fully compliant with the reporting requirements of IPERA. IPERA requires agencies to periodically review all programs and activities that may be susceptible to significant improper payments. CSB is required to:

- Publish and post on its website the Performance and Accountability Report (PAR) for the most recent fiscal year
- Identify programs and activities that are susceptible to significant improper payments, defined as gross improper payments exceeding 2.5 percent of program outlays and \$10 million of all program or activity payments made during the fiscal year reported, and conduct a specific risk assessment for each identified program
- Determine the cost effectiveness of conducting recovery audits on each program and activity of the agency that expends \$1 million or more annually

According to the Office of Management and Budget, beginning with the fiscal year 2011 annual reporting period, inspectors general should evaluate the accuracy and completeness of agency reporting, to include reviewing agency improper payment reporting in the agency's annual PAR and determining compliance with IPERA. As required, the CSB did publish its PAR on its website, and because the CSB does not meet the minimum risk assessment threshold, it is not required to perform the risk assessment. However, the CSB had not determined the cost effectiveness of performing recovery audits for each of its programs or activities that expend \$1 million or more annually. Because the CSB did not undertake an analysis to make that determination, it may be failing to identify and recover improper payments that could be used to further its mission of chemical accident prevention. Further, we were unable to evaluate the accuracy and completeness of the CSB's reporting as well as CSB's performance in preventing, reducing, and recapturing improper payments.

What We Recommend

We recommended that the CSB's Director of Financial Operations conduct an analysis to determine the cost effectiveness of performing recovery audits on all activities with annual outlays in excess of \$1 million, and provide it to the Inspector General as required by Office of Management and Budget Memorandum M-11-16, Part I B. CSB concurred with our recommendation and has completed its analysis.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

March 1, 2012

MEMORANDUM

SUBJECT: U.S. Chemical Safety and Hazard Investigation Board Should Determine the Cost Effectiveness of Performing Improper Payment Recovery Audits
Report No. 12-P-0312

FROM: Arthur A. Elkins, Jr.
Inspector General

A handwritten signature in black ink, appearing to read "Arthur A. Elkins, Jr.", is placed to the right of the typed name.

TO: The Honorable Rafael Moure-Eraso
Chairman and Chief Executive Officer
U.S. Chemical Safety and Hazard Investigation Board

This is our report on the cost effectiveness of performing improper payment recovery audits. This report represents our final position on the subject reported. It contains a finding that describes the issues the Office of Inspector General (OIG) has identified and corrective action the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final CSB position. CSB managers will make the final determinations on matters in this report.

The Improper Payments Elimination and Recovery Act (IPERA) and Office of Management and Budget guidance require the Inspector General to distribute this report to the following individuals and organizations:

- The Senate Homeland Security and Government Affairs Committee
- The House Committee on Oversight and Governmental Reform
- The Comptroller General
- The Controller of the Office of Management and Budget

We are providing the report to these individuals and organizations under a separate transmittal.

In responding to the draft report, CSB provided corrective action plans for addressing the recommendation. Therefore, a response to the final report is not required. We will post this report to our website at <http://www.epa.gov/oig>.

If you or your staffs have any questions regarding this report, please contact Melissa Heist, Assistant Inspector General for Audit, at (202) 566-0899 or heist.melissa@epa.gov; or Michael Davis, Acting Director, at (513) 487-2363 or davis.michaeld@epa.gov.

Table of Contents

Purpose	1
Background	1
Scope and Methodology	2
Results of Review	3
CSB Did Comply With Two IPERA Requirements	3
CSB Did Not Determine Cost Effectiveness of Performing Recovery Audits.....	4
Recommendation	5
CSB Response and OIG Evaluation	6
Status of Recommendations and Potential Monetary Benefits	7

Appendices

A CSB Response	8
B Distribution	11

Purpose

The Improper Payments Elimination and Recovery Act (IPERA) became law on July 22, 2010, amending the Improper Payments Information Act of 2002 (IPIA).¹ On April 14, 2011, the Office of Management and Budget (OMB) issued government-wide guidance for implementation.² The guidance updated the requirements for measuring and remediating improper payments. The OMB guidance requires agencies to report on improper payments and requires inspectors general to review agency reporting. The U.S. Environmental Protection Agency's Office of Inspector General (OIG) is the Inspector General for the U.S. Chemical Safety and Hazard Investigation Board (CSB). Our objective was to determine whether the CSB is in compliance with IPERA.

Background

IPERA requires that each agency periodically review and identify all programs and activities that may be susceptible to significant improper payments. The Act significantly increased requirements for payment recapture efforts by expanding the types of payments that could be reviewed. It also lowered, to \$1 million, the threshold of annual outlays for each program and activity for which agencies are required to conduct recovery audits, if conducting such audits would be cost effective.

IPERA defines an improper payment, in relevant part, as any payment that should not have been made or that was made in an incorrect amount, or any payment to an ineligible recipient, for an ineligible good or service, a duplicate payment, payment for a good or service not received, or a payment that does not account for credit for applicable discounts. OMB Memorandum M-11-16 expanded the improper payment definition to include payments without sufficient documentation. Under OMB Memorandum M-11-04,³ agencies are to report on improper payments:

- Voluntarily returned by contractors
- Used to offset future payments
- Identified and returned to the agency through OIG efforts, such as audits, reviews, or tips from the public
- Identified and recovered through management post payment reviews and close-out

¹ In OMB Memorandum M-11-16, *Issuance of Revised Parts I and II to Appendix C of OMB Circular A-123*, issued April 14, 2011, the term "IPIA" implies "IPIA, as amended by IPERA" but the authorizing legislation is still named IPIA.

² OMB April 14, 2011, Memorandum M-11-16 revised OMB Circular A-123 Parts I and II.

³ OMB Memorandum M-11-04, *Increasing Efforts to Recapture Improper Payments by Intensifying and Expanding Payment Recapture Audits*, issued November 16, 2010, provides guidance on expanding the types of payments that can be reviewed and lowering the threshold of annual outlays that requires agencies to conduct payment recapture audit programs.

Each fiscal year, agency inspectors general are required to determine whether the agency is in compliance with IPERA. Compliance means that the agency has:

- Published a Performance and Accountability Report (PAR) for the most recent fiscal year and posted it on the agency website
- Identified programs and activities that are susceptible to significant improper payments—defined as gross improper payments exceeding 2.5 percent of program outlays and \$10 million of all program or activity payments made during the fiscal year reported, or \$100 million—and conducted a specific risk assessment for each identified program
- Determined the cost effectiveness of conducting recovery audits on each program and activity of the agency that expends \$1 million or more annually

If an agency does not meet one or more of these requirements, then it is not compliant. Inspectors general are required to evaluate (1) the accuracy and completeness of agency reporting; and (2) agency performance in preventing, reducing, and recapturing improper payments. Inspectors general should include any recommendations to improve the agency's performance in reducing improper payments.

Scope and Methodology

We conducted this compliance audit from December 2011 to February 2012 in accordance with generally accepted government auditing standards, issued by the Comptroller General of the United States. 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.

To determine whether the CSB is compliant with IPERA, we reviewed the CSB's fiscal year (FY) 2011 PAR and accompanying materials. We interviewed the CSB Director of Financial Operations to gain an understanding of what actions the CSB took to comply with IPERA. We also reviewed the CSB's interagency agreement with the Bureau of Public Debt to obtain a better understanding of the division of financial responsibilities between the two agencies. Under this agreement, the Bureau of Public Debt processes financial transactions, makes administrative payments, and prepares various financial reports for the CSB. We determined that our finding is the responsibility of the CSB and not the Bureau of Public Debt.

Results of Review

The CSB was not fully compliant with the reporting requirements of IPERA, which require all agencies to periodically review all programs and activities that may be susceptible to significant improper payments. As required, the CSB did publish its PAR on its website, and we determined that CSB programs do not meet the minimum risk assessment threshold that would require the CSB to perform a risk assessment. However, despite the CSB Director of Financial Operations' statement that performing recovery audits on those activities that expend \$1 million or more annually would not be cost effective, the CSB did not undertake an analysis to justify such a determination, as stipulated in OMB Memorandum M-11-16, Part I B(6). Because the CSB did not undertake this analysis, it may be failing to identify and recover improper payments that could be used to further its mission of chemical accident prevention. Further, the OIG was unable to evaluate the accuracy and completeness of the CSB's reporting as well as to evaluate the CSB's performance in preventing, reducing, and recapturing improper payments.

CSB Did Comply With Two IPERA Requirements

IPERA requires all agencies to publish and post on their website the PAR for their most recent fiscal year. The PAR, as described by OMB Circular A-11, Section 200.12, is a consolidated annual report of agency performance and financial results, containing the agency's audited financial statements and detailed information on efforts to achieve goals during the past fiscal year.

In its November 2011 PAR for FY 2011, CSB stated:

The CSB has not identified any significant risk with improper payments. However, we recognize the importance of maintaining adequate internal controls to ensure proper payments, and our commitment to the continuous improvement in the overall disbursement management process remains strong. In FY 2011, the CSB continued our agreement with the Bureau of the Public Debt (BPD) to process financial transactions, make administrative payments, and prepare various financial reports. This agreement promotes the accuracy of our financial records and payments.

Based on our review, we determined that CSB is compliant with this requirement of IPERA.

IPERA also requires all agencies to conduct a specific risk assessment for each program or activity that may have improper payments in excess of \$10 million of all program or activity payments made during the fiscal year reported and

2.5 percent of program outlays.⁴ IPERA Section 2(f)(3) defines a payment as any transfer or commitment for future transfer of federal funds such as cash, securities, loans, loan guarantees, and insurance subsidies to any nonfederal person or entity that is made by a federal agency, a federal contractor, a federal grantee, or a governmental or other organization administering a federal program or activity. Interagency agreements, and payroll and benefits made to federal agencies or employees, are excluded from consideration as a susceptible program or activity.

For the CSB, pursuant to IPERA Section 2(f)(3), only nonfederal expenses are eligible for consideration as a susceptible program or activity because they are payments made to a nonfederal person or entity. CSB’s FY 2011 budget of \$10,777,402 is shown in table 1 below.

Table 1: CSB FY 2011 Budget

Activity	Amount	Percentage
Federal expenses	\$8,031,699	74.52%
Nonfederal expenses	\$2,745,703	25.48%
Total	\$10,777,402	100.00%

Source: OIG analysis of CSB data.

We reviewed the CSB’s FY 2011 budget and determined that it does not meet the minimum for the risk assessment threshold; as a result, CSB is not required to perform the risk assessment.

CSB Did Not Determine Cost Effectiveness of Performing Recovery Audits

The CSB did not determine the cost effectiveness of performing recovery audits for each of its programs or activities that expend \$1 million or more annually. IPERA Section 2(h)(2)(A) requires that each agency shall conduct recovery audits with respect to each program and activity of the agency that expends \$1 million or more annually, if conducting such audits would be cost effective.

OMB Memorandum M-11-16, Part I B, implements the requirements of Section 2(h) of IPERA. The OMB memorandum defines a payment recapture audit, also known as a recovery audit, as a review and analysis of an agency’s or program’s accounting and financial records, supporting documentation, and other pertinent information supporting its payments, that is specifically designed to identify overpayments. A payment recapture audit program is an agency’s overall plan for risk analysis and the performance of payment recapture audits and recovery activities. The agency head should determine the most cost-effective way to conduct payment recapture activities. These activities should include a

⁴ The CSB does not meet the other threshold of this requirement, which is to conduct a specific risk assessment for each program or activity that may have improper payments in excess of \$100 million.

management improvement program, if appropriate, and a copy of the program should be provided to the agency's inspector general annually.

According to OMB, a cost-effective payment recapture audit is one in which the benefits (i.e., recaptured amounts) exceed the costs (e.g., staff time and resources, or payments to an audit contractor) associated with implementing and overseeing the program. Agencies should consider the following criteria in determining whether a payment recapture audit is cost effective:

- The likelihood that identified overpayments will be recaptured
- The likelihood that the expected recoveries will be greater than the costs incurred to identify the overpayments

If an agency determines that it would be unable to perform a cost-effective payment recapture audit program for activities expending more than \$1 million annually, it should notify OMB and the inspector general of this decision and provide them with the analysis used to reach this decision. The agency should also report in its annual PAR:

- A list of programs and activities for which it has determined that a payment recapture audit program would not be cost effective
- A description of the justifications and analysis that it used to make that determination

The CSB did not perform any of the requirements of OMB Memorandum M-11-16, Part I B. The CSB Director of Financial Operations informed us that, based on the CSB FY 2011 budget of \$10,777,402, it was decided that performing a recovery audit on those activities of the agency that expend \$1 million or more annually would not be cost effective. However, the CSB did not undertake any analysis to determine the likelihood that identified overpayments would be recaptured, or the likelihood that the expected recoveries would be greater than the costs incurred to identify the overpayments. Therefore, the CSB may be failing to identify and recover improper payments that could be used to further its mission of chemical accident prevention. Further, the OIG was unable to evaluate the accuracy and completeness of the CSB's reporting as well as CSB's performance in preventing, reducing, and recapturing improper payments.

Recommendation

We recommend that the Director of Financial Operations, U.S. Chemical Safety and Hazard Investigation Board:

1. Conduct an analysis to determine the cost effectiveness of performing recovery audits on all activities with annual outlays in excess of \$1 million and provide it to the Inspector General as required by OMB Memorandum M-11-16, Part I B.

CSB Response and OIG Evaluation

CSB concurred with the OIG recommendation. We evaluated CSB's planned action for this recommendation and concluded that its actions should correct the concern identified. In its response, CSB provided a *Recovery Audit Analysis for the Chemical Safety Board (CSB)* that determined the cost benefit of conducting recovery audits would yield a negative return. As a result, CSB notified OMB in accordance with OMB Memorandum M-11-16 Part I B. CSB's full response is in appendix A.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATION						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Claimed Amount	Agreed-To Amount
1	5	Conduct an analysis to determine the cost effectiveness of performing recovery audits on all activities with annual outlays in excess of \$1 million, and provide it to the Inspector General as required by OMB Memorandum M-11-16, Part I B.	C	Director of Financial Operations, U.S. Chemical Safety and Hazard Investigation Board			

¹ O = recommendation is open with agreed-to corrective actions pending
 C = recommendation is closed with all agreed-to actions completed
 U = recommendation is unresolved with resolution efforts in progress

**Chemical Safety and
Hazard Investigation Board**

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Hon. Rafael Moure-Eraso
Chairperson

Hon. John S. Bresland
Board Member

Hon. Mark Griffon
Board Member



February 17, 2012

Richard J. Eyermann
Deputy Assistant Inspector General for Audit
U.S. Environmental Protection Agency
Office of Inspector General
1200 Pennsylvania Ave
Washington, DC 20460

Dear Mr. Eyermann:

We have reviewed the your draft report on your review of the Chemical Safety and Hazard Investigation Board's (CSB) compliance with the Improper Payments Elimination and Recovery Act (IPERA).

We agree with your recommendation that the CSB conduct an analysis to determine the cost effectiveness of performing recapture audits on all activities with annual outlays in excess of \$1,000,000. In fact, the CSB has conducted this analysis, which is provided as an attachment. The CSB concluded that a recapture audit program would not be cost effective, and will notify the Office of Management and Budget (OMB) of our finding in accordance with OMB Memorandum M-11-16 Part I B.

Please contact Bea Robinson at 202-261-7627 for further information regarding our analysis of recapture audits. I thank you and your team for your review.

Sincerely,

A handwritten signature in black ink, appearing to read "Rafael Moure-Eraso".

Rafael Moure-Eraso, Ph.D.
Chairperson

Recovery Audit Analysis for the Chemical Safety Board (CSB)

The following constitutes the CSB's analysis of the cost effectiveness of engaging an audit recovery firm to review invoices paid by the CSB under the "Improper Payment and Recovery Act" (IPERA).

During FY 2011, the CSB made payments to non-Federal sources totaling \$2.746 million. Of these payments, \$780 thousand were periodic payments for the CSB's leasehold interests in Washington, DC. These payments are included in the CSB's IPERA "payment" base, but would not normally be included in other agencies' baseline because most agencies payments for space rental are handled as intragovernmental transactions with the General Services Administration (GSA). However, the CSB has independent leasing authority under its organic statute, and contracts directly with its headquarters landlord rather than through the GSA. Although we acknowledge that leasehold payments may meet the definition of non-Federal payments, their nature and type (periodic fixed monthly payments) make it unlikely that they would result in an "improper" payment and would not yield much opportunity for payment recovery.

Accordingly, the CSB believes that its baseline for determining improper payment recovery was approximately \$1.965 million during FY 2012 (total non-Federal payments less period leasehold payments).

According to published literature of firms engaging in recovery audits (e.g., Mehlman and Associates, "The Value of Secondary Post Audits"), improper payment recover firms claim a typical return rate of 1 – 10% of total payments. The most exhaustive work in this area has been conducted by the Federal Centers for Medicare and Medicaid Services (CMS). CMS initiated a recovery audit contractor (RAC) program in order to recoup some portion of improperly made Medicare and Medicaid payments. CMS created this program because both Medicare and Medicaid were alleged to have high rates of improper payments due to the nature of the programs – reimbursement of billings for medical services. These types of programs were believed to be especially vulnerable to improper payments due to the complex nature of medical services. Areas of vulnerability include, among others: incorrect payment amounts, payment for non-covered services, incorrect coding of services and payment for duplicate services.

CMS engaged recovery audit contractors to review CMS payments for Medicare and Medicaid billings. The CMS engagement and resulting study found that RACs identified an error rate of approximately 3.9% of all Medicare payments made which amount to \$12.9 billion in erroneous payments out of Medicare payments totaling \$330 billion in the base year studied (FY 2007). However, the vast majority of these improper payments were not necessarily overpayments, but rather payments that did not completely or accurately represent the services provided. Of the total of "improper" payments, approximately \$1 billion represented overpayments, which represented an overpayments rate of .3%. Actual recoveries were approximately \$400 million, which represented a recovery rate of .15% of all Medicare payments.

The CSB is mindful that the Medicare program is a complex process and that payments made under the program are sometimes rife with disputes and interpretive disagreements. In contrast,

the CSB's non-Federal payments (i.e., contractor payments) are for goods and services representing relatively simple and straightforward transactions. Accordingly, the CSB estimates that its recovery rate for "improper" payments would be no higher than that experienced by Medicare, approximately, 0.15%. Therefore, the CSB would expect gross recoveries of \$3000 - \$4500 depending on whether leasehold payments were included in the base to be examined.

Moreover, recovery auditors charge a fee for their services. According to the "Accounts Payable Network," an organization promoting use of recovery audits, fees range from 25 – 50% of the amount recovered, with a typical fee of about 40%.

Therefore, the net amount that would likely be recovered by the CSB would range from \$1800 - \$2500. This seems to be a nominal return for the effort that would be expended to utilize these services.

Lastly, the CSB, as is the case with many smaller agencies, uses payment services provided by a centralized government service provider – in the CSB's case, the Bureau of the Public Debt located in Parkersburg, WV. In order to properly audit the CSB's non-federal payments, a recovery auditor would need to have access to both BPD payment records as well as the CSB's own receiving invoices. This would like further complicate the audit and add cost.

In conclusion, the CSB believes that given its relatively modest budget and the simple nature of the goods and services it purchases, that its vulnerability for improper payments is quite low. While some level of improper payment may pertain to the CSB, the level is likely to be so small that it would not be cost effective or remunerative for a recovery auditor to undertake such an engagement. In addition, the CSB's internal costs in overseeing the recovery auditor are likely to be higher than any amounts recovered.

Sources: Accounts Payable Network
Mehlman and Associates
CMS Recovery Audit Contractors (RACs), The Who, What, When, Where Why and How?

Distribution

Chairman and Chief Executive Officer, U.S. Chemical Safety and Hazard Investigation Board
Managing Director, U.S. Chemical Safety and Hazard Investigation Board
Deputy Managing Director, U.S. Chemical Safety and Hazard Investigation Board
Counselor to the Chair, U.S. Chemical Safety and Hazard Investigation Board
Director of Financial Operations, U.S. Chemical Safety and Hazard Investigation Board
Director, Office of Recommendations, U.S. Chemical Safety and Hazard Investigation Board