



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

# EPA Can Improve Its Improper Payments Reporting

Report No. 12-P-0311

March 1, 2012



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## Report Contributors:

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## Abbreviations

AFR	Agency Financial Report
EPA	U.S. Environmental Protection Agency
FY	Fiscal year
IPERA	Improper Payments Elimination and Recovery Act
OCFO	Office of the Chief Financial Officer
OGD	Office of Grants and Debarment
OIG	Office of Inspector General
OMB	Office of Management and Budget
SRF	State Revolving Fund

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# At a Glance

## Why We Did This Review

Office of Management and Budget (OMB) guidance for implementation of the 2010 Improper Payments Elimination and Recovery Act (IPERA) specifies responsibilities of agencies and inspectors general. Agencies are required, among other things, to report on improper payments, and inspectors general are required to determine whether the agency is in compliance with IPERA.

## Background

Each year, the federal government wastes billions of taxpayer dollars on improper payments to individuals, organizations, and contractors. Such payments can be made in the wrong amount, to the wrong entity, or for the wrong reason. Despite efforts to reduce improper payments, all federal agencies reported an estimated \$125 billion in improper payments for fiscal year (FY) 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-0311.pdf](http://www.epa.gov/oig/reports/2012/20120301-12-P-0311.pdf)

## EPA Can Improve Its Improper Payments Reporting

### What We Found

The U.S. Environmental Protection Agency (EPA) complied with IPERA in that it reported all required information on improper payments, but EPA can improve the accuracy and completeness of the information. In the *Fiscal Year 2011 Agency Financial Report (AFR)*, EPA reported the results of its efforts to recapture improper payments. EPA is taking actions to improve internal controls in preventing, reducing, and recapturing improper payments.

EPA did not report all improper payments identified in audits and reviews of grants to tribes, state and local governments, and universities in the FY 2011 AFR. IPERA requires that agencies report on all actions to detect and recover improper payments. EPA did not update its detection and reporting procedures to identify all grant improper payments as required by IPERA. As a result, EPA understated grant improper payments by thousands of dollars. The Office of Grants and Debarment has developed draft guidance and plans to report all grant improper payments in the FY 2012 AFR. If it does not do so, grant improper payments will continue to be understated.

The Agency is not reporting discounts not taken as improper payments. According to IPERA, any payment that does not account for credit for applicable discounts is considered an improper payment. In EPA's opinion, there are valid reasons why certain discounts cannot be taken. In such cases, discounts should be considered "non-applicable" for improper payments reporting purposes.

EPA did not correctly calculate improper payments reported in the FY 2011 AFR. OMB Memorandum M-11-16 requires inspectors general to evaluate the accuracy and completeness of agency reporting. Errors occurred because EPA's Office of the Chief Financial Officer did not issue guidance to ensure the accuracy of improper payment reporting. As a result, EPA understated its error rate for State Revolving Fund programs and made errors in its consolidation of data.

### What We Recommend

We recommend that EPA issue guidance requiring that the results of all grant improper payment determinations and recaptures, as well as discounts not taken as improper payments, be reported. We also recommend that EPA issue guidance to program offices to ensure the quality of reported information. EPA agreed with three of the four recommendations; it did not agree with the recommendation that EPA report discounts not taken as improper payments. That recommendation is unresolved with resolution efforts in progress.



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

THE INSPECTOR GENERAL

March 1, 2012

**MEMORANDUM**

**SUBJECT:** EPA Can Improve Its Improper Payments Reporting  
Report No. 12-P-0311

**FROM:** Arthur A. Elkins, Jr.  
Inspector General

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

**TO:** Barbara J. Bennett  
Chief Financial Officer

Craig E. Hooks  
Assistant Administrator for Administration and Resources Management

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends.

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 have provided the report to these individuals and organizations under a separate transmittal.

**Action Required**

In accordance with EPA Manual 2750, you are required to provide a written response to this report within 90 calendar days. You should include a corrective actions plan for agreed-upon actions, including milestone dates. Your response will be posted on the OIG's public website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the

Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal. We have no objections to the further release of this report to the public. We will post this report to our website at <http://www.epa.gov/oig>.

If you or your staff have any questions regarding this report, please contact Melissa Heist, Assistant Inspector General for Audit, at (202) 566-0899 or [heist.melissa@epa.gov](mailto:heist.melissa@epa.gov); or Janet Kasper at (312) 886-3059 or [kasper.janet@epa.gov](mailto:kasper.janet@epa.gov).

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# Chapter 1

## Introduction

### Purpose

The Office of Management and Budget (OMB) issued government-wide guidance for implementation of the 2010 Improper Payments Elimination and Recovery Act (IPERA) on April 14, 2011.<sup>1</sup> The guidance updated requirements for measurement and remediation of improper payments. Agencies are required to report on improper payments, and inspectors general are required to review agency reporting. Our objective was to determine whether the U.S. Environmental Protection Agency (EPA) is in compliance with IPERA.

### Background

IPERA became law on July 22, 2010. It amended the Improper Payments Information Act of 2002. IPERA requires that each agency periodically review and identify all programs and activities that may be susceptible to significant improper payments.<sup>2</sup> The Act also significantly increased requirements for payment recapture efforts by expanding the types of payments that must be reviewed and by lowering the threshold of annual outlays that requires agencies to conduct payment recapture audit programs.

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, any payment to an ineligible recipient, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received, and any payment that does not account for credit for applicable discounts. OMB guidance expanded the improper payment definition to include payments without sufficient documentation. Agencies are to report on improper payments:

- Voluntarily returned by contractors
- Used to offset future payments
- Identified and returned to the agency through Office of Inspector General (OIG) efforts, such as audits, reviews, or tips from the public
- Identified and recovered through management post-payment reviews and close-out<sup>3</sup>

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<sup>1</sup> As its title suggests, OMB Memorandum M-11-16, *Issuance of Revised Parts I and II to Appendix C of OMB Circular A-123*, revised OMB Circular A-123, Appendix C, Parts I and II.

<sup>2</sup> IPERA defines “significant” as gross annual improper payments in the program exceeding (1) both 2.5 percent of program outlays and \$10 million of all program or activity payments made during the fiscal year reported, or (2) \$100 million (regardless of the improper payment percentage of total program outlays).

<sup>3</sup> OMB Memorandum M-11-04, *Increasing Efforts to Recapture Improper Payments by Intensifying and Expanding Payment Recapture Audits*.

Each fiscal year, inspectors general are required to determine whether agencies are in compliance with IPERA.<sup>4</sup> Compliance means that the agency has:

- Published an Agency Financial Report (AFR) for the most recent fiscal year and posted it on the agency website
- Conducted a program-specific risk assessment (if required)
- Published improper payment estimates for all programs and activities identified as susceptible to significant improper payments (if required)
- Published programmatic corrective action plans (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 AFR
- Reported information on efforts to recapture improper payments

An agency is not compliant if it does not meet one or more of these requirements. Inspectors general should evaluate (1) the accuracy and completeness of agency reporting, and (2) agency performance in reducing and recapturing improper payments. Inspectors general should include any recommendations to improve agency performance in reducing improper payments.

## **Noteworthy Achievements**

EPA complied with IPERA in that it reported all required information on improper payments. Further, EPA is taking actions to improve internal controls for preventing, reducing, and recapturing improper payments. For example, EPA:

- Emphasizes adherence to sound internal controls that prevent the occurrence of improper payments, and aggressively recovers them
- Initiated an Agency-wide effort to review and verify implementation of the American Recovery and Reinvestment Act Stewardship Plan
- Corrected errors and recovered improper payments from State Revolving Funds (SRFs)
- Maintains an internal improper payment recapture audit program in which Agency employees review grants, contracts, commodities, and SRF funds
- Met OMB's recovery target rates for improper payments

## **Scope and Methodology**

We conducted this compliance audit from November 2011 to January 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

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<sup>4</sup> OMB Memorandum M-11-16.



reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

To determine whether EPA is in compliance with IPERA, we reviewed EPA's fiscal year (FY) 2011 AFR and accompanying materials. We interviewed Agency staff at EPA headquarters from the Office of the Chief Financial Officer (OCFO), the Office of Grants and Debarment (OGD), and the Office of Water. We also interviewed OCFO staff from the Research Triangle Park Finance Center. We gained an understanding of the processes, procedures, and controls used for IPERA reporting across the three payment streams (grants, commodities and contracts, and SRF funds). We traced judgmental samples of reported improper payments from each payment stream back to source documentation to test the accuracy of improper payments reporting in EPA's FY 2011 AFR.

We used information from several EPA data systems during our work:

- Integrated Grants Management System
- Contract Payment System
- Small Purchase Information Tracking System
- Financial Data Warehouse

We verified the information in the systems to source documentation and concluded that the information provides a reasonable basis for our findings and conclusions.

We evaluated EPA finance centers' internal controls regarding improper payments, and we considered general controls implemented to identify and report improper payments.

### ***Prior Audit Coverage***

In EPA OIG Report No. 11-P-0362, *EPA Needs to Reexamine How It Defines Its Payment Recapture Audit Program*, issued July 19, 2011, we provided feedback regarding EPA's improper payments reporting in the FY 2010 AFR. During the current audit, we followed up on Agency corrective actions from this prior audit, as explained in chapter 2.

## Chapter 2

### EPA Should Improve Grant Improper Payment Reporting

EPA did not report all improper payments identified in audits and reviews of grants to tribes, state and local governments, and universities in the FY 2011 AFR. IPERA requires that agencies report on all actions to detect and recover improper payments, including the amounts recovered, outstanding, and determined to be not collectible. EPA did not update its detection and reporting procedures to identify all grant improper payments as required by IPERA. As a result, EPA understated grant improper payments by thousands of dollars. OGD has developed draft guidance and plans to report all grant improper payments in the FY 2012 AFR. If OGD does not do so, grant improper payments will continue to be understated.

#### Grant Reporting Did Not Include All Programs and Activities

In the FY 2011 AFR, EPA did not report all grant improper payments to tribes, state and local governments, and universities that were identified in audits and reviews. According to IPERA, the head of each agency shall report on all actions the agency is taking to detect and recover improper payments, including the amounts recovered, outstanding, and determined to be not collectible. For FY 2011, EPA only reported improper payments for one nonprofit grant in the amount of \$7,110.<sup>5</sup> However, our sampling identified over \$486,000 of grant improper payments and over \$435,000 of recaptured improper payments that should have been reported in the FY 2011 AFR (table 1).

**Table 1: Examples of unreported improper payments<sup>a</sup>**

Type of grantee	Grantee name	Type of review	Billed date	Improper payment	Amount recaptured
Nonprofit	Michigan Biotechnology Institute	OIG audit	01/05/2010	\$275,297.94	\$275,297.94
Nonprofit	International City/ County Mgmt. Assoc.	OIG audit	12/01/2010	157,393.00	157,393.00
Tribe	Pedro Bay Village	Grant close-out	04/20/2010	34,051.58	2,745.46
Tribe	Alaska Intertribal Council	Grant close-out	07/27/2010	19,600.62	0.00
<b>Total</b>				<b>\$486,343.14</b>	<b>\$435,436.40</b>

Source: OIG analysis of EPA data.

<sup>a</sup> OMB approved EPA's reporting of calendar year 2010 grant improper payments for the FY 2011 AFR.

<sup>5</sup> EPA sampled nonprofit grantees and conducted advanced monitoring reviews to assess recipients' administrative, programmatic, and financial progress.

EPA detects, reports, and recaptures improper payments through baseline and advanced monitoring, but only reported on improper payments detected from a sample of nonprofit grantees. Also, EPA has knowledge of improper payments detected through OIG and other audits, but the information is not always included in the compliance database, and therefore is not reported. OGD has never required regions to record these audits in the compliance database. Our review of the compliance database found that final determinations from audits and management reviews were not always recorded or updated when appeals were completed.

In EPA OIG Report No. 11-P-0362, *EPA Needs to Reexamine How It Defines Its Payment Recapture Audit Program*, issued July 19, 2011, we recommended that the Agency include all programs and activities in the FY 2011 AFR. EPA reported in its Management Audit Tracking System that it completed the corrective action for the OIG recommendation on November 15, 2011. However the issue has not yet been corrected. OGD officials stated in December 2011 that there was miscommunication regarding what would be reported in the FY 2011 AFR. OGD could not update its systems and procedures quickly enough to capture all the information required for the FY 2011 AFR.

## **EPA Did Not Update Procedures**

EPA did not update its detection and reporting procedures to identify all grant improper payments as required by IPERA. EPA continued to follow its pre-IPERA reporting procedures, which required reporting only on a sample of nonprofit advanced monitoring reviews.

In December 2011, OGD officials stated that they agreed with our recommendation to issue guidance on capturing information on improper payments. They provided draft guidance, which OGD developed to comply with IPERA, and explained their plans for updating the compliance database. OGD plans to provide personnel with additional guidance about what, how, and when improper payments should be reported.

## **Recommendations**

We recommend that the Assistant Administrator for Administration and Resources Management:

1. Issue guidance requiring that the results of all grant improper payment determinations and recaptures be documented in the compliance database and reported in the FY 2012 AFR.

We recommend that the Office of the Chief Financial Officer and the Assistant Administrator for Administration and Resources Management:

2. Continue to track in the Management Audit Tracking System the recommendation in OIG Report No. 11-P-0362—to include in the AFR all improper payments identified through EPA reviews and OIG financial and single audits—until the corrective actions are completed.

## **Agency Response and OIG Evaluation**

EPA concurred with our recommendations and proposed the following corrective actions:

- OGD will complete additional refinements to the draft guidance prepared during this audit. EPA expects to issue final guidance in April 2012.
- OGD will include all improper payments in EPA's AFR; proposed completion date is November 15, 2012.
- OCFO reopened corrective actions in the Management Audit Tracking System for the prior OIG IPERA audit report on February 7, 2012.

The proposed actions meet the intent of recommendations 1 and 2. EPA's complete response is in appendix A.

# Chapter 3

## EPA Should Report Discounts Not Taken as Improper Payments

The Agency is not reporting discounts not taken as improper payments. According to IPERA, any payment that does not account for credit for applicable discounts is considered an improper payment. In EPA's opinion, there are valid reasons why certain discounts cannot be taken. In such cases, discounts should be considered "non-applicable" for improper payments reporting purposes. By taking this position, EPA understated FY 2011 improper payments reporting for the commodities and contracts payment stream.<sup>6</sup>

### IPERA Defines Discounts Not Taken as Improper Payments

According to IPERA, any payment that does not account for credit for applicable discounts is considered an improper payment. Specifically, IPERA defines improper payments as follows:

The term improper payment (A) means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and (B) includes any payment to an ineligible recipient, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), *and any payment that does not account for credit for applicable discounts.* (Emphasis added)

### EPA Is Not Reporting Discounts Not Taken

The Agency is not reporting discounts not taken for commodities and contracts as improper payments as required by IPERA. When paying contractors, EPA may be offered discounts if payments are made by a certain date. The Research Triangle Park Finance Center identifies and tracks discounts not taken on contractor and commodities payments, along with the reasons discounts were not taken. In FY 2011, discounts not taken for commodities and contracts totaled \$45,940.27 (table 2).

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<sup>6</sup> Commodity payments are simplified acquisitions such as small purchases and training.

**Table 2: Unreported discounts not taken**

Type of payments	Discount not taken
Commodities	\$29,218.61
Contracts	\$16,721.66
<b>Total</b>	<b>\$45,940.27</b>

Source: OIG analysis of EPA data.

## **EPA Is Awaiting Guidance From OMB**

OCFO management does not believe that OMB intended to have federal agencies identify all discounts not taken as improper payments and has requested clarification from OMB on the requirements for reporting discounts not taken. In EPA’s opinion, there are valid reasons why certain discounts cannot be taken. In such cases, discounts should be considered “non-applicable” for improper payments reporting purposes.

OCFO management expressed concern to the OIG that making payments prior to reviewing invoices to obtain a discount might weaken management controls. Agency officials stated that they may not be able to take a discount for a myriad of reasons, such as:

- Insufficient time to review invoices
- Percentage rate offered not sufficient to generate a cost-effective discount
- Project officer approval not available

The Agency does track the reasons why discounts are not taken and will in the future report improper payments in certain instances, such as:

- Wrong discount percentage was taken
- Discount taken beyond the specified discount period

In these instances, the Agency believes the amount of the discount taken would be in error (i.e., improper), and it will include these improper payments in its IPERA reporting. The Agency does not believe that discounts not taken result in an improper payment, if the vendor was paid the proper amount due. However, OMB guidance does not provide any additional clarification of what is in the IPERA law in regards to discounts not taken being reported as improper payments. Until OMB issues a clarification, the plain reading of IPERA requires EPA to report all discounts not taken.

## Recommendation

We recommend that the Office of the Chief Financial Officer:

3. Report discounts not taken as improper payments under IPERA, starting with the FY 2012 AFR, unless clarification from OMB states otherwise.

## Agency Response and OIG Evaluation

EPA respectfully disagreed with this recommendation and stated that the OIG's interpretation of improper payments for discounts is overly broad. EPA based its position on OMB Memorandum M-11-16<sup>7</sup>, which states that an improper payment is "any payment that does not account for credit for applicable discounts." EPA interprets "applicable discounts" as only those discounts for which claiming them is both advantageous and within the Agency's control. EPA cited reasons for which discounts cannot be taken and should not be considered improper payments. EPA cited an OMB memorandum that encourages agencies to pay small business contractors within 15 days while maintaining necessary internal controls. EPA emphasized that maintaining internal controls is necessary when deciding whether to take a discount.

EPA acknowledged that there are situations in which discounts ought to be reported as improper payments, such as when the wrong discount percentage is taken or when the discount is taken beyond the specified discount period. EPA also pointed out that during FY 2011 it successfully claimed discounts worth \$333,641 compared with \$45,940 of discounts not taken.

EPA requested that the recommendation be revised to "report discounts not taken as improper payments under IPERA when it is both advantageous and within the agency's control to take the discount." We acknowledge EPA's position, but we did not change the recommendation. The IPERA law includes any payment that does not account for credit for applicable discounts as part of the definition of improper payments. We agree that in some cases it may not be advantageous to the agency to take the discount if it compromises internal controls. When reporting improper payments, the agency does present narrative detail on its processes. For discounts not taken, the agency can include explanations as to the reasons why.

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<sup>7</sup> OMB Memorandum M-11-16, *Issuance of Revised Parts I and II to Appendix C of OMB Circular A-123*, revised OMB Circular A-123, Appendix C, Parts I and II.

# Chapter 4

## EPA Should Address Other Improper Payment Reporting Errors

EPA did not correctly calculate improper payments reported in the FY 2011 AFR. OMB Memorandum M-11-16 requires inspectors general to evaluate the accuracy and completeness of agency reporting. Errors occurred because EPA’s OCFO did not issue guidance to ensure the accuracy of improper payment reporting. As a result, EPA understated its error rate for SRF programs and made errors in its consolidation of improper payment data.

### EPA’s SRF Error Rate Calculation Method and Process for Consolidating Information Resulted in Reporting Errors

EPA’s error rate calculation method for SRF programs resulted in misleading information. EPA tested \$1.13 billion in SRF transactions and identified \$14.18 million in improper payments, which is an error rate of 1.25 percent. However, EPA based its error rate on total SRF disbursements of \$3.64 billion, not the tested subset of \$1.13 billion, resulting in a much lower error rate of 0.39 percent. The error rate should be calculated based on the dollar value tested, and not the universe of all disbursements.

EPA’s process for identifying and accumulating information for the AFR resulted in overstatement of recoveries for SRF programs and understatement of improper payments for SRFs and commodities. Our limited testing identified a few examples of overstatements and understatements, indicating that EPA should improve its process for consolidating information for the AFR.

**Table 3: Other errors found in AFR improper payment reporting**

Type of payment	Overstated	Understated
SRF	\$1,582,544 inaccurately reported as recovered	\$40,001 calculation error in amount reported as improper payments
Commodity	None	\$674 calculation error in amount reported as improper payments
		\$266 billing error omitted from AFR

Source: OIG analysis of EPA data.

EPA did not provide formal guidance to program offices to ensure consistent treatment and accuracy of improper payment reporting because it was awaiting further guidance and clarification from OMB. Therefore, EPA’s consolidation was not coordinated and the quality of provided information was not ensured.



## **Recommendation**

We recommend that the Office of the Chief Financial Officer:

4. Issue guidance to program offices to ensure the quality of reported improper payment and recaptured payment information.

## **Agency Response and OIG Evaluation**

EPA concurred with our recommendation and stated that OCFO will issue FY 2012 annual guidance to the Office of Administration and Resources Management, Office of Water, and the Research Triangle Park Finance Center. The proposed completion date is February 2012. The proposed action meets the intent of recommendation 4.

## **Status of Recommendations and Potential Monetary Benefits**

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status <sup>1</sup>	Action Official	Planned Completion Date	Claimed Amount	Agreed-To Amount
1	5	Issue guidance requiring that the results of all grant improper payment determinations and recaptures be documented in the compliance database and reported in the FY 2012 AFR.	O	Assistant Administrator for Administration and Resources Management	04/30/2012		
2	6	Continue to track in the Management Audit Tracking System the recommendation in OIG Report No. 11-P-0362—to include in the AFR all improper payments identified through EPA reviews and OIG financial and single audits—until the corrective actions are completed.	O	Office of the Chief Financial Officer and Assistant Administrator for Administration and Resources Management	11/15/2012		
3	9	Report discounts not taken as improper payments under IPERA, starting with the FY 2012 AFR, unless clarification from OMB states otherwise.	U	Office of the Chief Financial Officer			
4	11	Issue guidance to program offices to ensure the quality of reported improper payment and recaptured payment information.	O	Office of the Chief Financial Officer	02/29/2012		

<sup>1</sup> 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

## **Agency Response to Draft Report**

February 9, 2012

### **MEMORANDUM**

**SUBJECT:** Response to the OIG Draft Report – Project No. OA-FY11-0674  
“EPA Can Improve Its Improper Payments Reporting”

**FROM:** Barbara J. Bennett *Original Signed By:*  
Chief Financial Officer

Craig E. Hooks, Assistant Administrator *Original Signed By:*  
Office of Administration and Resources Management

**TO:** Arthur A. Elkins, Jr.  
Inspector General

Thank you for the opportunity to respond to the findings and recommendations in the subject draft audit report. Attention to these issues should further strengthen the agency’s fiscal integrity. Attached is our Corrective Action Plan in response to the specific report recommendations. We disagree with the recommendation that the Office of the Chief Financial Officer report discounts not taken as improper payments under the Improper Payments Elimination and Recovery Act starting with FY 2012 Agency Financial Report unless clarification from the Office of Management and Budget states otherwise. We believe that the OIG interpretation of improper payments related to discounts is overly broad given existing laws and other OMB guidance. Additional analysis on this issue is also attached.

If you have any questions regarding this response, please have your staff contact Stefan Silzer, Director of the Office of Financial Management on (202) 564-4905, or Howard Corcoran, Director of the Office of Grants and Debarment, on (202) 564-1903. Thank you.

#### Attachments

cc: Nanci Gelb  
Maryann Froehlich  
Joshua Baylson  
Stefan Silzer  
Jeanne Conklin  
Raffael Stein  
Melvin Visnick

Janice Kern  
Douglas Barrett  
Howard Corcoran  
Denise Benjamin-Sirmons  
Denise Polk  
Melissa Heist  
Janet Kasper  
Dale Miller  
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Sandy Womack  
Steven Erickson  
Andrew LeBlanc  
Gail Cornwell  
Joe Lucia  
Julie Milazzo  
Sheila Platt  
Howard E. Rubin

**Corrective Action Plan**  
*Office of Inspector General Draft Report,*  
*“EPA Can Improve Its Improper Payments Reporting”*  
 Project No. OA-FY11-0674, dated January 25, 2012

<b>Rec. No.</b>	<b>OIG Recommendation</b>	<b>Action Official(s)</b>	<b>Proposed Corrective Action</b>	<b>Proposed Completion Date</b>
<b>1.</b>	Issue guidance requiring that the results of all grant improper payment determinations and recaptures be documented in the compliance database and reported in the FY 2012 Agency Financial Report. [WP B-06 Attachment 1 - IPERA Compliance 2011 audit draft report, pg 6 Recommendation 1]	Office of Administration and Resources Management	<b>1.1</b> OARM agrees with this recommendation. OARM prepared draft guidance, which was shared with OCFO and OIG. Both offices concurred with the general approach of the guidance.  OARM is in the process of completing additional refinements to the draft guidance for appropriate agency review and final issuance.	April 2012
<b>2.</b>	Continue to track in the Management Audit Tracking System the recommendation in OIG Report No. 11-P-0362—to include in the AFR all improper payments identified through EPA reviews and OIG financial and single audits—until the corrective actions are completed.	Office of Chief Financial Officer/ OARM	<b>2.1</b> OCFO re-opened corrective actions 1.2 and 1.3 from OIG Report No. 11-P-0362. Recommendations will remain open until the corrective actions are completed.  <b>2.2.</b> OGD will include in the AFR all improper payments identified through EPA resolved reviews and OIG financial and single audits.	Completed February 7, 2012  November 15, 2012
<b>3.</b>	Report discounts not taken as improper payments under the Improper Payments	OCFO	<b>3.1</b> OCFO respectfully disagrees with this recommendation. We	No Action Required

<b>Rec. No.</b>	<b>OIG Recommendation</b>	<b>Action Official(s)</b>	<b>Proposed Corrective Action</b>	<b>Proposed Completion Date</b>
	Elimination and Recovery Act of 2010, starting with the FY 2012 AFR, unless clarification from OMB states otherwise.		believe the OIG's interpretation of improper payments related to discounts is overly broad given existing laws and other OMB guidance. In the EPA's view, "applicable discounts" are only those where it is both advantageous and within the agency's control to take the discount.  See Page 3, Response to Recommendation 3.1 - Discounts Not Taken, for details.	
<b>4.</b>	Issue guidance to program offices to ensure the quality of reported improper payment and recaptured payment information.	OCFO	<b>4.1</b> OCFO will issue FY 2012 annual guidance to OARM, OW, and the RTP Finance Center.	February 2012

**Response to OIG Draft Report – Project No. OA-FY11-0674**  
**Recommendation 3.1: Discounts Not Taken**

In Chapter 3 of the OIG’s Draft Audit, Project No. OA-FY11-0674, the OIG recommends that OCFO “[r]eport discounts not taken as improper payments under IPERA, starting with the FY 2012 AFR, unless clarification from OMB states otherwise.”<sup>8</sup>

The agency respectfully disagrees with the OIG’s interpretation of the definition of improper payments, and requests the OIG revise the draft report to state, “We recommend that the Office of the Chief Financial Officer report discounts not taken as improper payments under IPERA when it is both advantageous and within the agency’s control to take the discount.” Our reasons for disagreement are outlined below:

- 1) The agency respectfully disagrees with the OIG’s interpretation that all discounts not taken are *de facto* improper payments. Our divergence of opinion stems from conflicting interpretations of Office of Management and Budget Circular A-123, Appendix C, which states, in relevant part, that an improper payment consists of “any payment that does not account for credit for applicable discounts.” In our opinion, the term “applicable discounts” requires some discernment. The agency strongly believes that “applicable discounts” are only those discounts where it is both advantageous and within the agency’s control to claim them.
- 2) There are valid reasons why certain discounts cannot be taken. In such cases, discounts should be considered “non-applicable” for improper payments reporting purposes. These situations include the following:
  - a. When the late receipt of an invoice or late receipt of goods or services prevent the agency from being able to take the discount. Prior to making payment, the agency must receive the goods/services, invoices, and appropriate documentation in a timely manner. Payment cannot occur within the discount window if the invoice or goods/services are received late.
  - b. When the Effective Annual Rate offered in the discount is less than the Treasury Current Value of Funds rate. If the discount offered is less than the Current Value of Funds, it is not advantageous for the agency to take the discount.<sup>9</sup>
  - c. When the invoice approval and payment process must be rushed for the sake of claiming a discount, if doing so would erode established internal control procedures. Before making a payment, the agency ensures that appropriate payment documentation is established to support payment of invoices. The agency requires approval of all invoices prior to payment, which is in compliance with the Prompt Payment Act. Furthermore, the agency notifies Project Officers/Approving Officials of any invoices offering a discount and also encourages timely approval, but cannot force officials to approve invoices without their due diligence in the review process.

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<sup>8</sup> Project No. OA-FY11-0674, p. 8.

<sup>9</sup> Treasury’s Financial Management Services website provides a discount calculator at <http://www.fms.treas.gov/prompt/discount.html>

Doing so would compromise securing “adequate documentation” to support the payment, which in itself is a root cause of error for improper payments.

Therefore, discounts should be claimed to the extent possible, but only insofar as internal controls can be assured. This position is supported by OMB’s September 14, 2011 memorandum #M-11-32, “Accelerating Payments to Small Businesses for Goods and Services”, which encourages agencies to pay small business contractors within 15 days while also maintaining necessary internal controls. Specifically, it states, “*To the extent practicable, Federal agencies shall establish a goal of paying small business contractors within 15 days of receiving proper documentation... At the same time, agencies need to ensure expeditious processing throughout (including inspection and acceptance) to facilitate prompt payment to small businesses, **while also maintaining necessary internal controls***” [emphasis added]. This demonstrates that the maintenance of internal controls is of fundamental importance for federal agencies and must be balanced against the necessity of paying discounts quickly.

The agency acknowledges that there are some situations in which discounts ought to be reported as improper payments. For example, the agency may inadvertently take the wrong discount percentage or may take a discount beyond the specified discount period. These situations clearly lie within the agency’s realm of control and should therefore be reported as improper payments. Even with the OIG’s broad interpretation of improper payments, it should be noted that EPA performed extremely well in claiming applicable discounts offered by vendors in FY 2011. The RTP Finance Center successfully claimed 666 discounts worth \$333,641 while only foregoing \$45,940 of discounts not taken. The claimed discount amount represents 88 percent of the dollar value of all discounts offered to the agency, resulting in clear savings to the taxpayer.



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