EXAMINATION OF THE DEPARTMENT OF JUSTICE'S FISCAL YEAR 2012 COMPLIANCE WITH THE IMPROPER PAYMENTS INFORMATION ACT OF 2002

U.S. Department of Justice
Office of the Inspector General

Report 13-16
March 2013

EXAMINATION OF THE DEPARTMENT OF JUSTICE'S FISCAL YEAR 2012 COMPLIANCE WITH THE IMPROPER PAYMENTS INFORMATION ACT OF 2002

EXECUTIVE SUMMARY

The Office of the Inspector General (OIG) examined the U.S. Department of Justice's (Department) compliance with Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Internal Control*, Appendix C, *Requirements for Effective Measurement and Remediation of Improper Payments*, and OMB Circular A-136, *Financial Reporting Requirements*, for the fiscal year ended September 30, 2012. This examination is required by the *Improper Payments Information Act of 2002*, as amended by the *Improper Payments Elimination and Recovery Act of 2010*.

Office of the Inspector General Examination Approach

The OIG conducted the examination and prepared the report in accordance with attestation standards established by the American Institute of Certified Public Accountants and those contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. In determining the level of assurance, we considered the requirements outlined in OMB Circular A-123, Appendix C, and OMB Circular A-136, the expectations of the users of the report, and any potential risks associated with performing the engagement. We performed a compliance examination due to the higher level of assurance it provides, the result of which is the expression of an opinion.

The OIG is not independent with respect to amounts pertaining to OIG operations that are presented in the improper payments reporting. However, the amounts included for the OIG are not material to the Department's improper payments reporting, and the OIG is organizationally independent with respect to all other aspects of the Department's activities.

The OIG conducted the examination to determine compliance with the requirements, as set forth in OMB Circular A-123, Appendix C, and OMB Circular A-136. The examination was comprised of the OIG gaining an understanding of the Department and component level controls through inquiry procedures, a review of documentation supporting the information published in the Department's *Performance and Accountability Report* (PAR), as well as a re-performance of calculations computed by the Department.

Conclusion and Recommendations

We found that the Department complied, in all material respects, with the *Improper Payments Information Act of 2002*, as amended, for the fiscal year ended September 30, 2012. While we did not identify any significant deficiencies or material weaknesses, we did identify one matter to consider for future PAR reporting, presented as a comment in Appendix I. This comment relates to the internal controls over financial reporting. This comment does not materially affect the compliance report but rather the completeness and accuracy assertions of the Department's reporting. The comment has been presented along with two recommendations to enhance future reporting of improper payments and recoveries. These recommendations include that the Department perform analytical procedures to identify unusual fluctuations that could indicate a reporting error and that the Department perform a completeness review of reporting components' data.

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Background

On July 22, 2010, the President of the United States signed into law the *Improper Payments Elimination and Recovery Act of 2010* (IPERA), which amended the *Improper Payments Information Act of 2002* (IPIA).[1] IPERA expanded the scope of the IPIA beyond commercial payments to include more payment types, such as grants and cooperative agreements, and benefit and assistance payments. In fiscal year 2012, federal agencies reported $108 billion in estimated improper payments. IPERA requires agencies, including the Department of Justice (Department), to annually report information on improper payments to the President and Congress through their *Performance and Accountability Report* (PAR).

Agencies are required to assess every federal program and dollar disbursed for improper payment risk, measure the accuracy of payments annually, and initiate program improvements to ensure payment errors are reduced. Specifically, they are required to review all programs and activities and identify those that are susceptible to significant erroneous payments. For those programs and activities that are deemed susceptible to significant erroneous payments, the agency must obtain a statistically valid estimate of the annual amount of improper payments and thereafter implement a plan to reduce erroneous payments. The agency must annually report and note in the PAR the progress of reducing estimates of improper payments in its programs and activities. In addition, IPERA requires agencies to conduct payment recapture audits for each program and activity that expends $1 million or more annually, if conducting such audits is cost-effective. Agencies must have a cost-effective program of internal controls to prevent, detect, and recover overpayments resulting from payment errors. All agencies are required to establish annual targets for their payment recapture audit programs that will drive their annual performance.

Each fiscal year, the Office of the Inspector General (OIG) of each agency is responsible for determining whether the agency is in compliance with the improper payment reporting requirements, as set forth in the Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Internal Control*, Appendix C, *Requirements for Effective Measurement and Remediation of Improper Payments*; and OMB Circular A-136, *Financial Reporting Requirements*. The OIG is required to complete its assessment and submit a report, within 120 days after issuance of the PAR, on its determination to the head of the agency, the Committee

[1] Unless otherwise noted, the usage of the term "IPIA" will imply "IPIA, as amended by IPERA."

on Homeland Security and Governmental Affairs of the U.S. Senate, the Committee on Oversight and Government Reform of the U.S. House of Representatives, the Comptroller General, and the Controller of the Office of Management and Budget.

The OIG's responsibility, as described in OMB Circular A-123, Appendix C, and as related to a compliance examination, is to determine an agency's compliance with IPIA. Compliance with IPIA means that the Department has: (1) published a PAR for the most recent fiscal year and posted that report and any accompanying materials required by OMB on the Department's website; (2) conducted a program-specific risk assessment for each program or activity that conforms with IPIA (if required); (3) published improper payment estimates for all programs and activities identified as susceptible to significant improper payments under its risk assessment (if required); (4) published programmatic corrective action plans in the PAR (if required); (5) published, and has met, annual reduction targets for each program assessed to be at risk and measured for improper payments (if required); (6) reported a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the PAR (if required); and (7) reported information on its efforts to recapture improper payments. If the OIG identifies any non-compliance with the items noted above, these issues are to be documented in the *Independent Report on the Department of Justice's Fiscal Year 2012 Compliance With the Improper Payments Information Act of 2002* and the Department would be deemed to be non-compliant with IPIA.

Additionally, OMB Circular A-123, Appendix C, states that the OIG "should also evaluate the accuracy and completeness of agency reporting, and evaluate agency performance in reducing and recapturing improper payments." The Circular goes on to say, "As part of its report, the agency Inspector General should include its evaluation of agency efforts to prevent and reduce improper payments, and any recommendations for actions to further improve the agency's or program's performance in reducing improper payments." We considered these additional procedures while performing the examination. The one reporting matter that was identified from these additional procedures, however, did not affect the determination of compliance in the *Independent Report on the Department of Justice's Fiscal Year 2012 Compliance With the Improper Payments Information Act of 2002*, but is documented in *Appendix I: Comment and Recommendations*.

The Department reviewed the requirements of IPIA, as well as OMB Circular A-123, Appendix C, and OMB Circular A-136, to collect and publish information on the Department's improper payments as of September 30, 2012 in its PAR (item 1 above). The Department conducted a risk assessment (item 2 above) of its five self-identified programs to determine if any were deemed to be susceptible to significant improper payments, defined as gross annual improper payments in the program exceeding the OMB thresholds of both 2.5 percent of program outlays and $10 million, or $100 million. Based on the results of its risk assessment, the Department determined that it did not have any programs that were susceptible to significant improper payments as of September 30, 2012. As a result, the Department was not required to include the following information in its PAR: improper payment estimates, programmatic corrective actions plans, annual reduction targets for programs at risk, and a gross improper payment rate for each program and activity at risk (items 3 through 6 above). The Department reported on its efforts to recapture improper payments in the PAR (item 7 above).

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U.S. Department of Justice

Office of the Inspector General

Washington, D.C. 20530

Independent Report on the Department of Justice's Fiscal Year 2012 Compliance With the Improper Payments Information Act of 2002

United States Attorney General
U.S. Department of Justice

We have examined the Department of Justice's (Department) compliance with Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Internal Control,* Appendix C, *Requirements for Effective Measurement and Remediation of Improper Payments;* and OMB Circular A-136, *Financial Reporting Requirements,* pursuant to the *Improper Payments Information Act of 2002*, as amended by the *Improper Payments Elimination and Recovery Act of 2010,* for the fiscal year ended September 30, 2012. Management is responsible for the Department's compliance with those requirements. Our responsibility is to express an opinion on the Department's compliance based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and standards applicable to attestations contained in *Government Auditing Standards*, issued by the Comptroller General of the United States and, accordingly, included examining, on a test basis, evidence about the Department's compliance with the requirements described in the preceding paragraph and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on the Department's compliance with specified requirements.

In our opinion, the Department complied, in all material respects, with the aforementioned requirements for the fiscal year ended September 30, 2012.

In planning and performing our examination of the Department's compliance with OMB requirements, we considered the Department's internal control over compliance (internal control) as a basis for designing our examination procedures for the purpose of expressing our opinion, but not for the purpose of expressing an opinion on the effectiveness of the Department's internal control. Accordingly, we do not express an opinion on the effectiveness of the Department's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control that results in more than a remote likelihood that a material misstatement of the subject matter will not be prevented or detected and corrected on a timely basis.

Our consideration of internal control was for the limited purpose described in the fourth paragraph and was not designed to identify all deficiencies in internal control that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control that we consider to be material weaknesses, as defined above.

During our examination, we noted one reporting matter that resulted in two recommendations for your consideration in Appendix I. The comment and recommendations, which have been discussed with the appropriate members of the Department's management, are intended to enhance future reporting of improper payments and recoveries.

ML Hayes

Mark L. Hayes, CPA, CFE
Director, Financial Statement Audit Office
Office of the Inspector General
U.S. Department of Justice

March 7, 2013

APPENDIX I

COMMENT AND RECOMMENDATIONS

The enactment of the *Improper Payments Elimination and Recovery Act of 2010* (IPERA), which amended the *Improper Payments Information Act of 2002* (IPIA), requires the Department of Justice to identify and report improper payments in its *Performance and Accountability Report* (PAR) and the Office of the Inspector General (OIG) to review agency reporting in the PAR to determine compliance with the IPIA. The seven requirements outlined in the IPIA are codified in Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Internal Control,* Appendix C, *Requirements for Effective Measurement and Remediation of Improper Payments*, and OMB Circular A-136, *Financial Reporting Requirements*. OMB suggested additional procedures the OIG should consider performing during its review, including evaluating the accuracy and completeness of agency reporting and the agency's efforts in preventing and reducing improper payments, and providing recommendations for improvements.

We conducted an examination of the Department's compliance with the IPIA. We determined the Department complied, in all material respects, with the IPIA. While we did not identify any significant deficiencies or material weaknesses, we noted one matter for the Department to consider for future reporting, presented below as a comment, with two recommendations. We have discussed this matter with the appropriate members of the Department and their response is included after each recommendation.

Comment Number 1: Internal Controls over Financial Reporting Need to be Strengthened

During our examination of the Department's fiscal year (FY) 2012 PAR, we noted that, while the Department is materially in compliance with the requirements, erroneous information was reported in the following tables of Appendix A.

<u>Table 1A - *Payment Recapture Audit Reporting Scope*</u>

Table 1A, *Payment Recapture Audit Reporting Scope*, as shown in Appendix II, did not accurately report the Amount Subject to Review for FY 2012 Reporting, for two DOJ Mission-Aligned Program payment types:

1. The amount of the Administrative, Technology, and Other program's custodial payments subject to review was incorrectly reported as $5,955,270,022. The amount reported for this type of payment should be the total non-federal custodial payments made by the Department and should have been $508,622,000, which agrees with the Transferred to the Public line in the Department's FY 2012 Combined Statement of Custodial Activity. Therefore, the reported amount was overstated by $5,446,648,022. Since the Department indicates that it reviewed 100 percent of the amount subject to review, the Actual Amount Reviewed and Reported in FY 2012 is also overstated by the same amount.

2. The amount of the Law Enforcement program's commercial payments subject to review was incorrectly reported as $4,291,446,597. The amount reported for this type of payment represents an aggregation of payments made by five Department components: (1) the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), (2) the Drug Enforcement Administration, (3) the Federal Bureau of Investigation, (4) the Offices, Boards and Divisions (OBDs), and (5) the United States Marshals Service. During the consolidation of the five components' data, the $262,543,649 reported in the data call submitted by ATF was incorrectly entered in the roll-up as $26,543,649 resulting in an incorrect total. The aggregated amount that should have been reported for this type of payment is $4,527,446,597. Therefore, the reported amount was understated by $236 million. Since, the Department indicates that it reviewed 100 percent of the amount subject to review, the Actual Amount Reviewed and Reported in FY 2012 is also understated by the same amount.

The Department utilizes the amounts presented in Table 1A as the base (denominator) in its calculation of the program's potential improper payment rate, which is used to determine if the program is susceptible to significant improper payments. Significant improper payments are defined as gross annual improper payments in the program exceeding: (1) both 2.5 percent of program outlays and $10 million or (2) $100 million (regardless of the improper payment percentage of total program outlays). The calculation to determine the potential improper payment rate is:

$$\frac{\text{Improper Payments Identified for Recovery}}{\text{Amount Subject to Review for FY 2012 Reporting (Table 1A)}}$$

Therefore, if the amounts reported in Table 1A are misstated, this calculation will be incorrect, which could affect the Department's determination of whether the program is susceptible to significant improper payments and requires additional procedures to be performed. For FY 2012, however, this error did not impact the determination that the Department did not have any programs susceptible to significant improper payments.

Table 3 - *Aging of Cumulative Outstanding Overpayments*

Table 3, *Aging of Cumulative Outstanding Overpayments*, as shown in Appendix II, did not accurately classify the aging of outstanding overpayments for two Department Mission-Aligned Programs' commercial payments. The Department utilizes tracking logs which are submitted by the individual components to identify improper payment information on a quarterly basis. The raw data in the OBDs' tracking log was incomplete (that is, left blank) for the "Date Improper Payment Identified" field for 18 Litigation program transactions and 6 Administrative, Technology and Other program transactions. The blank fields resulted in automatic spreadsheet calculations miscalculating the length of time the overpayments were outstanding, resulting in an overstatement of the Amount Outstanding (Over 1 Year) in the PAR's table, as well as a corresponding aggregate understatement in the table's Amount Outstanding (0 to 6 months) and (6 months to 1 year).

Period Outstanding	Administrative, Technology, and Other	Litigation
0 to 6 months	($21,289) understatement	($43,623) understatement
6 months to 1 year	no misstatement	($1,731) understatement
Over 1 year	$21,289 overstatement	$45,354 overstatement

As a result of the misstatements noted in the above table, the balances reported in the PAR were impacted as follows:

- 0 to 6 months: The amount reported in the PAR, $356,576, was understated by 18 percent.
- 6 months to 1 year: The amount reported in the PAR, $115,824, was understated by 2 percent.
- Over 1 year: The amount reported in the PAR, $2,528,292, was overstated by 3 percent.

Table 5 - *Sources of Identifying Overpayments*

Table 5, *Sources of Identifying Overpayments*, as shown in Appendix II, did not accurately classify the source of the improper payments identified and recovered in the current year.

1. The Department entered Improper Payments Identified from Internal Efforts as $816,338 and Improper Payments Identified from Auditors as $56,697 for the Federal Bureau of Prisons in its FY 2012 Tracking Log Summary, which is used to determine the consolidated amount that is reported in Table 5. However, when the OIG utilized the Federal Bureau of Prisons' Tracking Spreadsheets to reperform the Department's compilation of the table we noted that the full amount, $873,035 ($816,338+$56,697), was reported by the Federal Bureau of Prisons as Internal Efforts. As a result, the current year Improper Payments Identified from Internal Efforts in Table 5 was understated by $56,697, while Identified by Auditors was overstated by $56,697. The misclassification between the sources of Internal Efforts and Auditors also occurred in the Improper Payments Recovered column for the current year.

2. The Department also entered Improper Payments Recovered by Auditors for the OBDs, as $299,380 in its FY 2012 Tracking Log Summary. However, when the OIG engagement team utilized the OBDs' Tracking Spreadsheets to reperform the compilation of the table we noted the amount of Improper Payments Recovered by

Auditors as $298,832. As a result, the amount of Improper Payments Recovered by Auditors in Table 5 was overstated by an additional $548.

OMB Circular A-123, *Management's Responsibility for Internal Control*, Appendix A, *Internal Controls over Financial Reporting*, states "Effective internal control over financial reporting provides reasonable assurance that misstatements, losses, or noncompliance with applicable laws and regulations, material in relation to financial reports, would be prevented or detected."

OMB Circular A-123, *Management's Responsibility for Internal Control*, Appendix A, *Internal Controls over Financial Reporting*, III. *Assessing Internal Control over Financial Reporting*, C. *Evaluate Internal Controls at the Process, Transaction, or Transaction Level*, 3. *Understand the Financial Reporting Process*, states "Obtaining an understanding of the process and workflow that links the accounting system to the financial report(s*). Often times, financial information is not directly transferable from the accounting system to the financial report, but requires intervening calculations, summarizations, etc. This represents another point where errors can be introduced into the financial report, and it is important to understand where such errors could occur and what control objectives and control techniques can prevent or detect these errors.*" (Emphasis added)

Through discussions with the Department, we determined the following are the causes to the conditions previously listed:

- Due to the receipt of large amounts of data and the limited time frame for compilation and reporting, sufficient time did not exist to incorporate updates in the Department's data. Therefore, incomplete data fields and miscalculations remained undetected and contributed to incorrect reporting in the PAR.

- The compilation of the component's information at the Department level is manually intensive, which is inherently more risky than an automated compilation process. The additional risk can only be mitigated by strong and redundant controls. As a result of the manual process and manual controls, errors went undetected and were reported in the PAR.

Recommendations:

We recommend that the Department:

1. Perform additional analytical procedures, across fiscal years, on the information reported in the Performance and Accountability Report to identify unusual fluctuations that could indicate a reporting error.

   Management's Response:

   Concur. The purpose of Table 1A in the Performance and Accountability Report is to identify the scope of the Department's FY 2012 payment recapture audit reporting, i.e., the percent of payments reviewed for improper payments out of the amount of payments subject to review for FY 2012 reporting. The reporting error pertaining to the amount of payments subject to review for two DOJ Mission-Aligned Program payment types had no effect on the reported percent of payments reviewed for the two payment types, as the Department's processes include a 100 percent review of all payments subject to review. Also, as the OIG reported, the reporting error did not impact the determination that the Department did not have any programs susceptible to significant improper payments. Nonetheless, we have implemented procedures to identify unusual fluctuations across fiscal years in an effort to prevent this type of reporting error in the future.

2. Enhance the quality control review process to ensure accurate data is reported and perform a completeness check of the data fields provided in the components' tracking spreadsheets to identify any "blank" fields that cause incorrect calculations or result in information not being pulled into the consolidated file.

   Management's Response:

   Concur. With regard to the Aging Schedule, the effect of the 24 blank fields in one component's tracking spreadsheet was insignificant overall. The adjusted aging using actual data showed that the Department's performance with regard to recovering outstanding overpayments in a timely manner is better than the performance reported in the PAR; i.e., the adjusted aging resulted in 2 percent less of the total outstanding overpayments being in the category "Amount Outstanding Over 1 Year" and 2 percent more being in the category "Amount Outstanding 0 to 6 Months" (the percent in the category "Amount Outstanding 6 Months to 1 Year" remained unchanged). While these results are favorable to the

Department, we have taken steps to prevent this type of error in the future.

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APPENDIX II

IMPROPER PAYMENTS REPORTING IN THE FISCAL YEAR 2012 DEPARTMENT OF JUSTICE PERFORMANCE AND ACCOUNTABILITY REPORT

The Improper Payments Information Act of 2002 (IPIA), as amended by the Improper Payments Elimination and Recovery Act of 2010 (IPERA), requires agencies to annually report information on improper payments to the President and Congress through their annual Performance and Accountability Report. In accordance with that requirement and the implementing guidance in OMB Circular A-123, Appendix C, *Requirements for Effective Measurement and Remediation of Improper Payments*, and OMB Circular A-136, *Financial Reporting Requirements*, the Department provides the following improper payments reporting details.

Item I. Risk Assessment. Briefly describe the risk assessment performed (including the risk factors examined, if appropriate) subsequent to completing a full program inventory. List the risk-susceptible programs (i.e., programs that have a significant risk of improper payments based on OMB guidance thresholds) identified by the agency risk assessment. Highlight any changes to the risk assessment methodology or results that occurred since the FY 2011 IPIA report.

In accordance with the IPIA, as amended by the IPERA, and the April 2011 OMB implementing guidance, OMB Circular A-123, Appendix C, the Department assessed its programs and activities for susceptibility to significant improper payments. The Department's top-down approach for assessing the risk of significant improper payments allows for the analysis and reporting of results by the Department's five mission-aligned programs – Law Enforcement; Litigation; Prison and Detention; State, Local, Tribal, and Other Assistance; and Administrative, Technology, and Other. The approach promotes consistency across the Department in implementing the expanded requirements of the IPERA.

In FY 2012, the Department disseminated an updated risk assessment survey instrument for Departmental components to use in conducting the required risk assessment. The instrument examined disbursement activities against nine risk factors, such as payment volume and process complexity, and covered commercial payments, custodial payments, benefit and assistance payments, and grants and cooperative agreements.[1]

The Department's risk assessment methodology for FY 2012 did not change significantly from FY 2011; i.e., for FY 2012, the methodology again included assessing risk against various risk factors and for various payment types. The primary difference for FY 2012 was that the Department included clarifying language in the survey instrument to ensure components considered all questioned costs as improper payments when conducting the required risk assessment.

The results of the FY 2012 risk assessment did not differ from FY 2011; i.e., the Department concluded based on the results of the Department-wide risk assessment for the period ending September 30, 2012, that there were no programs susceptible to significant improper payments, i.e., improper payments exceeding the OMB thresholds of both 2.5 percent of program outlays and $10 million, or $100 million.

Item II. Statistical Sampling. Any agency that has programs or activities that are susceptible to significant improper payments shall briefly describe the statistical sampling process conducted to estimate the improper payment rate for each program identified with a significant risk of improper

[1] The nine risk factors examined during the risk assessment were Policies and Procedures; Results of OMB Circular A-123 Assessment, OIG Audits/Reviews, and other External Audits/Reviews; Corrective Actions; Results of Monitoring Activities; Results of Recapture Audit Activities; Process Complexities; Volume and Dollar Amount of Payments; Control Risk; and Capability of Personnel.

payments. Highlight any changes to the statistical sampling process that have occurred since the FY 2011 IPIA report.

Not applicable. Based on the results of the FY 2012 Department-wide risk assessment, there were no programs susceptible to significant improper payments. This remains unchanged from FY 2011.

Item III. Corrective Actions. Any agency that has programs or activities that are susceptible to significant improper payments shall describe the corrective action plans for:

A. Reducing the estimated improper payment rate and amount for each type of root cause identified. Agencies shall report root cause information (including error rate and error amount) based on the following three categories: Administrative and Documentation errors, Authentication and Medical Necessity errors, and Verification errors. This discussion must include the corrective actions, planned or taken, most likely to significantly reduce future improper payments due to each type of error an agency identifies, the planned or actual completion date of these actions, and the results of the actions taken to address these root causes. If efforts are ongoing, it is appropriate to include that information in this section and to highlight current efforts, including key milestones. Agencies may also report root cause information based on additional categories, or sub-categories, of the three categories listed above, if available.

Not applicable. Based on the results of the FY 2012 Department-wide risk assessment, there were no programs susceptible to significant improper payments.

B. Grant-making agencies with risk-susceptible grant programs shall briefly discuss what the agency has accomplished in the area of funds stewardship past the primary recipient. Discussion shall include the status of projects and results of any reviews.

Not applicable. Based on the results of the FY 2012 Department-wide risk assessment, there were no programs susceptible to significant improper payments, to include grant programs.

Item IV. Improper Payments Reporting.

A. Any agency that has programs or activities that are susceptible to significant improper payments must provide the following information in a table:

- **all risk-susceptible programs must be listed whether or not an error measurement is being reported;**
- **where no measurement is provided, the agency should indicate the date by which a measurement is expected;**
- **if the Current Year (CY) is the baseline measurement year, and there is no Previous Year (PY) information to report, indicate by either "Note" or "N/A" in the PY column;**
- **if any of the dollar amounts included in the estimate correspond to newly established measurement components in addition to previously established measurement components, separate the two amounts to the extent possible;**
- **agencies are expected to report on CY activity or, if not feasible, PY activity is acceptable if approved by OMB. Agencies should include future year outlay and improper payment estimates for CY+1, +2, and +3 (future year outlay estimates should match the outlay estimates for those years as reported in the most recent President's Budget).**

Not applicable. Based on the results of the FY 2012 Department-wide risk assessment, there were no programs susceptible to significant improper payments.

B. **Agencies should include the gross estimate of the annual amount of improper payments (i.e., overpayments plus underpayments) and should list the total overpayments and underpayments that make up the current year amount. In addition, agencies are allowed to calculate and report a second estimate that is a net total of both overpayments and underpayments (i.e., overpayments minus underpayments). The net estimate is an additional option only and cannot be used as a substitute for the gross estimate.**

Not applicable. Based on the results of the FY 2012 Department-wide risk assessment, there were no programs susceptible to significant improper payments.

Item V. Recapture of Improper Payments Reporting.

A. **An agency shall discuss payment recapture audit (or recovery auditing) efforts, if applicable. The discussion should describe the agency's payment recapture audit program, the actions and methods used by the agency to recoup overpayments, a justification of any overpayments that have been determined not to be collectable, and any conditions giving rise to improper payments and how those conditions are being resolved (e.g., the business process changes and internal controls instituted and/or strengthened to prevent further occurrences). If the agency has excluded any programs or activities from review under its payment recapture audit program (including any programs or activities where the agency has determined a payment recapture audit program is not cost-effective), the agency should list those programs and activities excluded from the review, as well as the justification for doing so. Include in the discussion the dollar amount of cumulative recoveries collected beginning with FY 2004.**

The Department's payment recapture audit program is part of its overall program of internal control over disbursements. The program includes establishing and assessing internal controls to prevent improper payments, reviewing disbursements to identify improper payments, assessing root causes of improper payments, developing corrective action plans, and tracking the recovery of improper payments and disposition of recovered funds. The Department's top-down approach for tracking and reporting the results of recovery auditing activities promotes consistency across the Department in implementing the expanded requirements of the IPERA. In FY 2012, the Department provided components an updated template to assist them in analyzing root causes of improper payments and tracking the recovery of such payments and disposition of recovered funds.

The root causes for overpayments other than for grants largely fell within the OMB-defined error category of Documentation and Administrative, as most errors were overpayments resulting from duplicate payments or data entry errors. Departmental components have implemented actions to address specific areas where improvements could be made. For example, to reduce duplicate payments and prevent other types of improper payments, the Drug Enforcement Administration (DEA) conducts data analytics on payment data entered into the Unified Financial Management System (UFMS) prior to processing disbursements to identify payments that, if processed, would be improper, e.g., payments to ineligible recipients, payments for ineligible services, and duplicate payments. To reduce data entry errors, the Federal Bureau of Investigation (FBI) increased its use of electronic billing and consolidation of invoices.

The root causes for grant overpayments also largely fell within the Documentation and Administrative category, as most involved payments for which grantees did not provide sufficient documentation to support the payments. To reduce the risk of these types of overpayments, the Department's granting components expanded training and communications informing grantees of their responsibilities related to receiving Federal awards. For example, the Office of Justice Programs (OJP) requires all grantees responsible for improper payments to submit written policies and procedures describing the internal controls put in place to prevent similar occurrences in the future.

Departmental components have also taken actions to facilitate the recovery of improper payments. For example, the FBI produces an accounts receivable report to track the age and collection efforts for all uncollected improper payments. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) issues demand letters to debtors notifying them of the status of the debt, the date payment is due, where to send payment, and the collection actions the ATF can pursue to recover the debt.

The Department excluded employee disbursements and intra-governmental payments from the scope of its payment recapture audit program in accordance with the IPERA and OMB implementing guidance. The Department also excluded payments to confidential informants because of its responsibility to protect sensitive law enforcement information. Lastly, the Department excluded payments at DEA foreign offices, because the DEA obtains the services of the Department of State for certifying and disbursing payments on behalf of the DEA at foreign offices.

In accordance with the IPERA and OMB implementing guidance, the Department measured payment recapture performance. Based on performance through the period ending September 30, 2012, the Department achieved a payment recovery rate of 93 percent for the cumulative period of FYs 2004 through 2012, and an annual recovery rate of 121 percent for FY 2012.[2] In FY 2012, approximately $22,400 of overpayments were determined not to be collectable, the majority of which were due to a vendor's bankruptcy. Table 1B provided later in this section provides additional detail on the approximate $40.5 million in improper payments identified in FYs 2004 through 2012 and the approximate $37.5 million of recovered funds.

B. Complete the tables below (if any of this information is not available, indicate by either "Note" or "N/A" in the relevant column or cell):

Note: To allow information to be easily viewable, the Department reformatted the table in OMB Circular A-136 into three separate tables. Table 1A provides information on the total amount of disbursements subject to review in FY 2012, as well as the total amount reviewed under the Department's payment recapture audit program. As shown in the table, the Department reviewed 100 percent of its FY 2012 disbursements, except for the payments excluded from review as discussed in Item V.A.

Table 1A
Payment Recapture Audit Reporting Scope

DOJ Mission-Aligned Program	Type of Payment (includes only the types made per program)	Amount Subject to Review for FY 2012 Reporting	Actual Amount Reviewed and Reported in FY 2012	Percent Reviewed
Administrative, Technology, and Other	Commercial	$600,449,112	$600,449,112	100%
	Custodial	$5,955,270,022	$5,955,270,022	100%
Litigation	Commercial	$793,173,598	$793,173,598	100%
Law Enforcement	Commercial	$4,291,446,597	$4,291,446,597	100%
State, Local, Tribal, and Other Assistance	Benefits and Assistance	$159,235,197	$159,235,197	100%
	Commercial	$102,238,947	$102,238,947	100%
	Grants and Cooperative Agreements	$3,551,457,673	$3,551,457,673	100%
Prisons and Detention	Commercial	$6,431,245,074	$6,431,245,074	100%
Total		**$21,884,516,220**	**$21,884,516,220**	**100%**

[2] In FY 2012, the improper payments recovered exceeded the improper payments identified for recovery due to the recovery during FY 2012 of improper payments identified in previous years; this scenario resulted in the annual recovery rate exceeding 100 percent.

Table 1B provides the cumulative results of payment recapture audit activities for the nine-year period of FYs 2004 through 2012. As shown in the table, as of the end of FY 2012, the Department had recovered 93 percent of the improper payments identified for recovery. The Department reported a cumulative recovery rate of 86 percent in its FY 2011 PAR. As shown in the table, the cumulative recovery rate for grants was 79 percent, while the cumulative recovery rate for all other types of payments ranged from 90 to 100 percent. The lower recovery rate for grants is attributed in part to factors that extend the time frame for receiving recovered grant funds. For example, some grantees have been placed on multi-year repayment programs based on ability to pay and other factors.

Table 1B
Cumulative Payment Recapture Audit Reporting

DOJ Mission-Aligned Program	Type of Payment (includes only the types made per program)	FYs 2004 through 2012					
		Cumulative Improper Payments Identified for Recovery[3]	Cumulative Improper Payments Determined Not to be Collectable	Cumulative Improper Payments Recovered	Recovery Rate (Percent of Cumulative Improper Payments Recovered out of Cumulative Improper Payments Identified for Recovery)	Cumulative Improper Payments Outstanding	Percent Outstanding (Percent of Cumulative Improper Payments Outstanding out of Cumulative Improper Payments Identified for Recovery)
Administrative, Technology, and Other	Commercial	$1,260,749	$0	$1,236,335	98%	$24,414	2%
	Custodial	$0	$0	$0	N/A	$0	N/A
Litigation	Commercial	$3,396,822	$5	3,304,175	97%	$92,642	3%
Law Enforcement	Commercial	$18,032,017	$22,428	$17,816,867	99%	$192,722	1%
State, Local, Tribal, and Other Assistance	Benefits and Assistance	$10,000	$0	$10,000	100%	$0	0%
	Commercial	$356,861	$0	$356,861	100%	$0	0%
	Grants and Cooperative Agreements	$8,959,071	$0	$7,075,724	79%	$1,883,347	21%
Prisons and Detention	Commercial	$8,473,208	$0	$7,665,641	90%	$807,567	10%
Total		**$40,488,728**	**$22,433**	**$37,465,603**	**93%**	**$3,000,692**	**7%**

[3] Improper payments identified for recovery do not include all questioned costs. When questioned costs are identified in an OIG audit report or through some other means, Departmental management initiates a process to validate whether the costs in question were improper payments; e.g., the Department will request additional support from grantees for transactions that, at the time of audit, were not supported by adequate documentation. The validation process can take months, and in some cases years, to complete. Therefore, for payment recapture audit reporting purposes, improper payments identified for recovery include only the questioned costs for which Departmental management has completed the validation process and determined that the incurred costs should not have been charged to the Government.

Table 1C provides the results of payment recapture audit activities separately by current year (FY 2012) and previous years (FYs 2004 through 2011 combined). As shown in the current year section of the table, the improper payments recovered for two programs – Law Enforcement and State, Local, Tribal, and Other Assistance – exceeded the improper payments identified for recovery due to the recovery during FY 2012 of improper payments identified in previous years.

Table 1C
Payment Recapture Audit Reporting by Current Year and Previous Years

DOJ Mission-Aligned Program	Type of Payment (includes only the types made per program)	Current Year (FY 2012)							Previous Years (FYs 2004 through 2011)	
		Improper Payments Identified for Recovery	Improper Payments Recovered	Recovery Rate (Percent of Current Year Improper Payments Recovered out of Current Year Improper Payments Identified for Recovery)	Improper Payments Determined Not to be Collectable	Percent of Improper Payments Determined Not to be Collectable out of Improper Payments Identified for Recovery	Improper Payments Outstanding	Percent Outstanding (Percent of Current Year Improper Payments Outstanding out of Current Year Improper Payments Identified for Recovery)	Improper Payments Identified for Recovery	Improper Payments Recovered
Administrative, Technology, and Other	Commercial	$593,668	$571,201	96%	$0	0%	$22,467	4%	$667,081	$665,134
	Custodial	$0	$0	N/A	$0	N/A	$0	N/A	$0	$0
Litigation	Commercial	$715,807	$712,859	99%	$5	0%	$2,943	1%	$2,681,015	$2,591,316
Law Enforcement	Commercial	$2,092,781	$3,034,572	145%	$22,428	1%	($964,219)	(46%)	$15,939,236	$14,782,295
State, Local, Tribal, and Other Assistance	Benefits and Assistance	$0	$0	N/A	$0	N/A	$0	N/A	$10,000	$10,000
	Commercial	$0	$0	N/A	$0	N/A	$0	N/A	$356,861	$356,861
	Grants and Cooperative Agreements	$2,523,692	$3,363,168	133%	$0	0%	($839,476)	(33%)	$6,435,379	$3,712,556
Prisons and Detention	Commercial	$1,579,240	$1,374,451	87%	$0	0%	$204,789	13%	$6,893,968	$6,291,190
Total		**$7,505,188**	**$9,056,251**	**121%**	**$22,433**	**1%**	**($1,573,496)**	**(22%)**	**$32,983,540**	**$28,409,352**

If an agency has a payment recapture audit program in place, then the agency is required to establish annual targets to drive their annual performance. The targets shall be based on the rate of recovery. Agencies are expected to report current year amounts and rates, as well as recovery rate targets for three years.

Table 2 provides current year (FY 2012) payment recapture audit activities information, cumulative information (FYs 2004 through 2012), and recovery rate targets for three years. As mentioned, the lower cumulative recovery rate for grants is attributed in part to factors that extend the time frame for receiving recovered grant funds. In FY 2013, the Department will continue focusing on improving the recovery rate for grants and sustaining the high recovery rates for all other types of payments.

Table 2
Improper Payments Recovery Rates and Targets

		Cumulative (FYs 2004 through 2012)			Current Year (FY 2012)			Recovery Rate Targets[4]		
DOJ Mission-Aligned Program	**Type of Payment** (includes only the types made per program)	**Improper Payments Identified for Recovery**	**Improper Payments Recovered**	**Recovery Rate**	**Improper Payments Identified for Recovery**	**Improper Payments Recovered**	**Recovery Rate**	**FY 2013**	**FY 2014**	**FY 2015**
Administrative, Technology, and Other	Commercial	$1,260,749	$1,236,335	98%	$593,668	$571,201	96%	85%	85%	85%
	Custodial	$0	$0	N/A	$0	$0	N/A	85%	85%	85%
Litigation	Commercial	$3,396,822	3,304,175	97%	$715,807	$712,859	100%	85%	85%	85%
Law Enforcement	Commercial	$18,032,017	$17,816,867	99%	$2,092,781	$3,034,572	145%	85%	85%	85%
State, Local, Tribal, and Other Assistance	Benefits and Assistance	$10,000	$10,000	100%	$0	$0	N/A	85%	85%	85%
	Commercial	$356,861	$356,861	100%	$0	$0	N/A	85%	85%	85%
	Grants and Cooperative Agreements	$8,959,071	$7,075,724	79%	$2,523,692	$3,363,168	133%	85%	85%	85%
Prisons and Detention	Commercial	$8,473,208	$7,665,641	90%	$1,579,240	$1,374,451	87%	85%	85%	85%
Total		**$40,488,728**	**$37,465,603**	**93%**	**$7,505,188**	**$9,056,251**	**121%**			

[4] Recovery rate targets were adjusted in FY 2012 to 85 percent for all programs, consistent with OMB guidance.

C. In addition, agencies shall report the following information on their payment recapture audit programs, if applicable:

i. An aging schedule of the amount of overpayments identified through the payment recapture audit program that are outstanding (i.e., overpayments that have been identified but not recovered). Typically, the aging of an overpayment begins at the time the overpayment is detected. Indicate with a note whenever that is not the case.

Table 3 provides the aging schedule for the Department's overpayments that were outstanding (not recovered) as of the end of FY 2012. As shown in the table, of the approximate $2.5 million in overpayments that were outstanding for more than a year, 70 percent were grants. As mentioned, in FY 2013, the Department will continue focusing on improving the recovery rate for grants.

Table 3
Aging of Cumulative Outstanding Overpayments

DOJ Mission-Aligned Program	Type of Payment (includes only the types made per program)	Amount Outstanding (0 to 6 months)	Amount Outstanding (6 months to 1 year)	Amount Outstanding (over 1 year)
Administrative, Technology, and Other	Commercial	$2,647	$0	$21,767
	Custodial	$0	$0	$0
Litigation	Commercial	$18,882	$63	$73,697
Law Enforcement	Commercial	$90,644	$37,699	$64,379
State, Local, Tribal, and Other Assistance	Benefits and Assistance	$0	$0	$0
	Commercial	$0	$0	$0
	Grants and Cooperative Agreements	$58,970	$48,604	$1,775,773
Prisons and Detention	Commercial	$185,433	$29,458	$592,676
Total		**$356,576**	**$115,824**	**$2,528,292**

ii. A summary of how recovered amounts have been disposed of (if any of this information is not available, indicate by either "Note" or "N/A" in the relevant column or cell).

Table 4 provides the disposition information for the improper payments the Department recovered in FY 2012. As shown in the table, approximately $8.7 million of the approximate $9.1 million recovered (or 96 percent) was returned to the original funds from which the payments were made.

Table 4
Disposition of FY 2012 Recovered Funds

DOJ Mission-Aligned Program	Type of Payment (includes only the types made per program)	Improper Payments Recovered in FY 2012	Disposition						
			Returned to Original Fund	Agency Expenses to Administer the Program	Payment Recapture Auditor Fees	Financial Management Improvement Activities	Used for Original Purpose	Office of the Inspector General	Returned to the Treasury
Administrative, Technology, and Other	Commercial	$571,201	$571,201	$0	$0	$0	$0	$0	$0
	Custodial	$0	$0	$0	$0	$0	$0	$0	$0
Litigation	Commercial	$712,859	$712,859	$0	$0	$0	$0	$0	$0
Law Enforcement	Commercial	$3,034,572	$3,034,540	$0	$0	$0	$0	$0	$32
State, Local, Tribal, and Other Assistance	Benefits and Assistance	$0	$0	$0	$0	$0	$0	$0	$0
	Commercial	$0	$0	$0	$0	$0	$0	$0	$0
	Grants and Cooperative Agreements	$3,363,168	$3,016,890	$0	$0	$0	$0	$0	$346,278
Prisons and Detention	Commercial	$1,374,451	$1,372,553	$0	$0	$0	$0	$0	$1,898
Total		**$9,056,251**	**$8,708,043**	**$0**	**$0**	**$0**	**$0**	**$0**	**$348,208**

D. As applicable, agencies should also report on improper payments identified and recovered through sources other than payment recapture audits. For example, agencies could report on improper payments identified through statistical samples conducted under the IPIA, agency post-payment reviews or audits, Office of the Inspector General reviews, Single Audit reports, self-reported overpayments, or reports from the public. Specific information on additional required reporting for contracts is included in Section 7 of OMB memorandum M-11-04, issued in November 2010. Reporting this information is required for FY 2011 reporting and beyond. If previous year information is not available, indicate by a "Note."

The Department's payment recapture audit program leverages both internal and external efforts to identify improper payments. The reporting in Tables 1B through 5 is inclusive of all overpayments, regardless of whether they were identified through internal or external sources. Table 5 provides information on the overpayments that were identified in the current year (FY 2012) and previous year (FY 2011) by source, i.e., through internal efforts or by auditors, vendors, or payment recapture audit contractors. The table also provides the recovery information associated with overpayments identified by those sources. The table provides information for FYs 2011 and 2012 only, as agencies were not required to track this level of detail prior to FY 2011.

Table 5
Sources of Identifying Overpayments

	Current Year (FY 2012)		Previous Year (FY 2011)		Cumulative (FYs 2012 and 2011)	
Source	Improper Payments Identified	Improper Payments Recovered	Improper Payments Identified	Improper Payments Recovered	Improper Payments Identified	Improper Payments Recovered
Internal Efforts	$2,765,498	$3,442,617	$5,249,056	$4,308,320	$8,014,554	$7,750,937
Auditors (e.g., by the OIG or audits for OMB Circular A-133)	$2,017,196	$2,942,838	$5,909,309	$3,290,056	$7,926,505	$6,232,894
Vendors	$2,722,494	$2,670,796	$1,475,958	$1,658,681	$4,198,452	$4,329,477
Payment Recapture Audit Contractors	$0	$0	$0	$11,360	$0	$11,360
Total	**$7,505,188**	**$9,056,251**	**$12,634,323**	**$9,268,417**	**$20,139,511**	**$18,324,668**

Item VI. Accountability. Any agency that has programs or activities that are susceptible to significant improper payments shall describe the steps the agency has taken and plans to take (including timeline) to ensure that agency managers, accountable officers (including the agency head), programs, and States and localities (where appropriate) are held accountable for reducing and recovering improper payments. Specifically, they should be held accountable for meeting applicable improper payments reduction targets and establishing and maintaining sufficient internal controls (including an appropriate control environment) that effectively prevents improper payments from being made and promptly detects and recovers any improper payments that are made.

Not applicable. Based on the results of the FY 2012 Department-wide risk assessment, there were no programs susceptible to significant improper payments.

Item VII. Agency Information Systems and Other Infrastructure.

A. Describe whether the agency has the internal controls, human capital, and information systems and other infrastructure it needs to reduce improper payments to the levels the agency has targeted.

The results of the FY 2012 Department-wide risk assessment demonstrated that, overall, the Department has sufficient internal controls over disbursement activities to prevent improper payments. The assessment identified no programs susceptible to significant improper payments.

Department-wide actions to reduce improper payments are accomplished through an aggressive strategy of re-engineering and standardizing business processes, concurrent with the Department's implementation of an integrated financial management system, which is underway. As of the end of FY 2012, all Departmental components reported that they had sufficient internal controls, human capital, and the information systems and other infrastructure needed to reduce improper payments to targeted levels.

In addition to the Department's actions to improve agency information systems and infrastructure, individual components have taken actions to incorporate additional controls into their financial systems to reduce improper payments. For example, in FY 2012, the Federal Prison Industries implemented a centralized accounts payable documentation management system. The system provides end-to-end automation of invoices and also provides reconciliation, voucher posting, workflow for approvals, and detailed reporting and auditing information that can be used to monitor payment activities.

B. If the agency does not have such internal controls, human capital, and information systems and other infrastructure, describe the resources the agency requested in its most recent budget submission to Congress to establish and maintain the necessary internal controls, human capital, and information systems and other infrastructure.

Not applicable. The continued implementation of the Department's integrated financial management system will complement the Department's current infrastructure and capabilities to reduce improper payments.

Item VIII. Barriers. Describe any statutory or regulatory barriers that may limit the agency's corrective actions in reducing improper payments and actions taken by the agency to mitigate the barriers' effects.

The Department has not identified any statutory or regulatory barriers that limit its corrective actions in reducing improper payments.

Item IX. Additional Comments. Discuss any additional comments, if any, on overall agency efforts, specific programs, best practices, or common challenges identified as a result of IPERA implementation.

The Department recognizes the importance of maintaining adequate internal controls to ensure proper payments and is committed to the continuous improvement of the overall disbursement management process. The Department's top-down approach for implementing the expanded requirements of the IPERA promotes consistency across the Department, both with regard to conducting the required risk assessment and for tracking and reporting payment recapture audit activities. In FY 2013, the Department will continue its efforts to further reduce improper payments, as well as improve the recovery rate for grants.

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APPENDIX III

OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE THE REPORT

The Office of the Inspector General (OIG) provided a draft of this report to the Department of Justice. The Department's response is incorporated in Appendix I: *Comment and Recommendations* of this final report. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

Recommendation Number:

1. **Resolved.** The Department concurred with our recommendation. This recommendation can be closed when subsequent annual compliance examination testing verifies that the Department has performed additional analytical procedures, across fiscal years, on the information reported in the Performance and Accountability Report to identify unusual fluctuations that could indicate a reporting error.

2. **Resolved.** The Department concurred with our recommendation. This recommendation can be closed when subsequent annual compliance examination testing verifies that the Department has enhanced the quality control review process to ensure accurate data is reported and performed a completeness check of the data fields provided in the components' tracking spreadsheets to identify any "blank" fields that cause incorrect calculations or result in information not being pulled into the consolidated file.