

U.S. Department of Labor

Office of Inspector General—Office of Audit

REPORT TO THE OFFICE OF THE CHIEF FINANCIAL OFFICER



DOL COULD DO MORE TO REDUCE IMPROPER PAYMENTS AND IMPROVE REPORTING

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BRIEFLY...

Highlights of Report Number 03-15-001-13-001, issued to the Acting Chief Financial Officer for the U.S. Department of Labor (DOL)

WHY READ THE REPORT

In Fiscal Year (FY) 2014 DOL estimated the Unemployment Insurance (UI) benefit program made \$5.6 billion in improper payments. The Workforce Investment Act (WIA) grant programs have been classified as at risk by the Office of Management and Budget (OMB), but DOL's annual risk assessments have not supported the high-risk designation. DOL has encountered challenges with its methodology for estimating WIA improper payments. In FY 2014 the Office of Workers' Compensation Programs (OWCP) began estimating the Federal Employees Compensation Act (FECA) improper payment rate through a new sampling methodology. OWCP estimated that FY 2014 improper payments for the FECA program totaled \$72.36 million, resulting in an improper payment rate of 2.5 percent. The Office of Inspector General (OIG) made recommendations to enhance the improper payment estimation for the FECA program.

This report summarizes actions DOL has taken to comply with the Improper Payments Elimination and Recovery Act of 2010 (IPERA), and the Improper Payment Elimination and Recovery Improvement Act of 2012 (IPERIA) as well as OIG's concerns regarding the methodologies used by DOL to estimate improper payments in the FECA and WIA grant programs.

WHY OIG CONDUCTED THE AUDIT

IPERA requires each agency's Inspector General to review annually agency improper payment reporting in its Agency Financial Report (AFR) and accompanying materials, to determine whether the agency complied with IPERA and IPERIA. This report provides our assessment of DOL's compliance for FY 2014.

READ THE FULL REPORT

To view the report, including the scope, methodology and full agency response, go to:

<http://www.oig.dol.gov/public/reports/oa/2015/03-15-001-13-001.pdf>.

May 2015

DOL COULD DO MORE TO REDUCE IMPROPER PAYMENTS AND IMPROVE REPORTING

WHAT OIG FOUND

OIG determined that DOL met IPERA reporting requirements to publish its AFR and post it on the DOL website, conduct specific risk assessments for each program and activity, publish improper payment estimates for programs identified as susceptible to significant improper payments, and publish programmatic corrective action plans in the AFR.

DOL did not set or publish an FY 2014 reduction target for reducing UI improper payments because it changed the estimation methodology. In FY 2013, DOL was allowed to "net" UI improper payments by subtracting recoveries from the gross total amount. For FY 2014, IPERIA discontinued "netting" improper payments. DOL did publish UI reduction targets for FYs 2015 to 2017 and has established an FY 2015 target of 11.34 percent. We also found that the reported FY 2014 UI improper payment rate of 11.57 percent did not meet the IPERA requirement of "less than 10 percent". DOL made UI payment integrity a priority in FY 2014 and coordinated with states to recover \$1.42 billion in overpayments.

OIG found that the FECA improper payment estimates DOL reported in the FY 2014 AFR were understated because OWCP excluded two categories of payments from its improper payment estimates. Further, OWCP needs to incorporate the amount of undetected fraud within the FECA program into its improper payment estimate.

OIG recognizes that WIA poses unique challenges with estimating improper payments. DOL needs to fully disclose in the AFR the limitations of its estimation methodology and that results obtained from Single Audit Act reports do not represent a replacement for a statistical estimate.

WHAT OIG RECOMMENDED

OIG recommended that DOL improve its estimation methodology for the FECA program by including initial payments made in the first 90 days of compensation and compensation payments for non-imaged cases, incorporate an estimate of undetected fraud in the FECA improper payment estimate and report in the Annual Financial Report any limitations with the sampling methodology for the FECA program.

In response to the draft report, OCFO maintained that the methodologies DOL used met the requirements of IPERA and IPERIA and were approved by OMB in accordance with its guidance.

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U.S. Department of Labor

Office of Inspector General
Washington, D.C. 20210



May 15, 2015

Inspector General's Report

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The Improper Payments Information Act of 2002 (IPIA), as amended by the Improper Payments Elimination and Recovery Act of 2010 (IPERA) and the Improper Payment Elimination and Recovery Improvement Act of 2012 (IPERIA)¹ requires federal agencies to identify and reduce improper payments and report annually on their efforts according to guidance promulgated by the Office of Management and Budget (OMB) in Circular A-123, Appendix C, *Requirements for Effective Estimation and Remediation of Improper Payments*.

Section 3 of IPERA and OMB guidance specify that each agency's Inspector General should review agency improper payment reporting in the Agency Financial Report (AFR), and accompanying materials, to determine whether the agency complied with IPERA and IPERIA. This report provides our assessment of the Department of Labor's (DOL) compliance for FY 2014.

The objective of our review was to determine the following:

Did DOL comply with reporting and compliance requirements of the IPIA of 2002, as amended by IPERA of 2010 and IPERIA of 2012 and OMB's Memorandum M-12-11, Reducing Improper Payments through the "Do Not Pay List"?

DOL complied with four of the six requirements. We found that DOL did not set or publish a reduction target in Fiscal Year 2014 for reducing Unemployment Insurance (UI) improper payments. We also found that the reported FY 2014 UI improper payment rate of 11.57 percent did not meet the IPERA requirement of "less than 10 percent."

¹ IPIA, Public Law (P.L.) 107-300; IPERA, P.L. 111-204; IPERIA, P.L. 112-248. All three laws are codified at Title 31 United States Code (U.S.C.) 3321. IPERIA requirements intensified the government's efforts to identify, prevent, and recover payment error, waste, fraud, and abuse within federal spending. The President signed IPERIA into law on January 10, 2013, and, while most provisions are not effective until FY 2014, portions related to the implementation of the Do Not Pay initiative were effective in June 2013 are, therefore, in the scope of this review.

In FY 2014, DOL used a new methodology that resulted in estimated improper payments in the Federal Employees' Compensation Act (FECA) program totaling \$72.36 million and an improper payment rate of 2.5 percent. Based on the thresholds set by IPERA (\$10 million and 1.5 percent), the FECA program was considered to be susceptible to improper payments. Our review found that DOL's new methodology excluded initial payments made in the first 90 days of a compensation claim, as well as payments made on older claims that originated before FECA implemented its electronic case management system. We also found that the estimate of fraudulent FECA payments was based on actual restitution amounts and therefore did not reflect an estimate of undetected fraud. As a result of these issues, the improper payment estimate for FECA may have been understated.

We also noted that DOL should have more fully disclosed the limitations of its FECA and Workforce Investment Act (WIA) grants program improper payment estimation methodologies in the FY 2014 AFR.

Office of the Chief Financial Officer's (OCFO) Response to the Draft Report and OIG Conclusion

The OCFO did not agree with our recommendations to enhance its improper payment estimation. OCFO stated the Department has made the policy decision to prioritize timeliness of payments during the initial 90-day period. OCFO further stated that pursuing information on non-imaged, older cases would require an undue use of limited resources for a statistically insignificant benefit. In response to OIG's recommendation to incorporate an estimate of undetected fraud in the FECA improper payment estimate, OCFO stated given the unreliability of such an estimate, OWCP has concluded that the most appropriate use of limited resources is to focus on using data analytics to understand the types of improper payments.

We recognize the importance of timely initial payments to FECA claimants. As explained in the report, the issue, however, is identifying total improper payments. We do not state or mean to imply that all improper payments should be treated equally in OWCP's efforts to prevent or recover improper payments, but it should have complete information on the extent of improper payments. Regarding the exclusion of initial compensation payments and payments related to older, non-imaged cases, we do not know how material the rate of improper payments for these claims may be, particularly as it relates to undetected fraud. We encourage the development of data analytics to better understand the types of improper payments, including those caused by fraud. We believe data analytics could aid OWCP in estimating undetected fraud and other unknown improper payments.

OCFO's response to the draft report is included in its entirety in Appendix D.

BACKGROUND

IPERA, Section 2(a) requires the head of each agency to periodically review all programs and activities and identify those that may be susceptible to significant improper payments. Reviews shall be performed for each program and activity at least once every three fiscal years. As the last Department-wide risk assessment was performed in FY 2011, DOL performed a full assessment of all programs for FY 2014.

Based on DOL's Department-wide risk assessment, only the UI program was determined to be susceptible to significant improper payments. However, the FECA and the WIA grants² program were classified as susceptible to significant improper payments in OMB's former Circular A-11, Section 57, due to their annual level of expenditures.

DOL was also required to report an improper payments estimate for funds provided in response to Hurricane Sandy through the Disaster Relief Appropriations Act (DRAA) (Public Law 113-2), signed on January 29, 2013. Section 904(b) of the DRAA provided that all programs and activities receiving funds under this Act shall be deemed to be "susceptible to significant improper payments for the purposes of IPIA, notwithstanding IPIA section 2(a)."

IPERA defines significant improper payments as those exceeding \$10 million of all program or activity payments made during the fiscal year reported and 1.5 percent of program outlays, or \$100 million.³ For each program and activity identified as susceptible to significant improper payments, DOL is required to produce a statistically valid estimate of the improper payments or an estimate that is otherwise approved by OMB and include such estimates in the accompanying materials to its annual financial statements.⁴

DOL was required to prepare a report on actions it took to reduce improper payments for programs with significant improper payments.⁵ The report must include: (1) a description of the causes of improper payments, actions planned or taken to correct those causes, and the planned or actual completion date of actions taken to address those causes; and (2) program and activity-specific targets for reducing improper payments that have been approved by the Director of OMB.⁶

² DOL focused on the programs that were included the "core" of WIA - Title I – Workforce Investment Systems, which authorized funding to be provided in three separate programs: Adult, Dislocated Worker and Youth Programs. These programs primarily provide grant funds to states, which, in turn, award the majority of funds to state and local Workforce Investment Boards authorized by Title I of WIA.

³ Public Law No. 111-204 Section 2(a)(3), 124 Stat. 2224-2225 (2010). However, with respect to fiscal years following September 30, 2013, as determined by OMB, those improper payments in the program or activity in the preceding fiscal year shall be considered significant if they have exceeded \$10 million of all program or activity payments made during that fiscal year and 1.5 percent of program outlays; or \$100 million fiscal year shall be considered significant if they have exceeded \$10 million of all program or activity payments made during that fiscal year and 1.5 percent of program outlays; or \$100 million.

⁴ Public Law No. 111-204 Section 2(b), 124 Stat. 2224, 2225 (2010).

⁵ Public Law No. 111-204 Section 2(c), 124 Stat. 2224, 2225-2226 (2010).

⁶ Public Law No. 111-204 Sections 2 (c) (1) and (4), 124 Stat. 2224, 2225-2226 (2010).

IPERA requires the Office of Inspector General (OIG) to review improper payment reporting in the AFR, to determine if it complies with IPERA, as defined in Section 3(a)(3). OMB's guidance⁷ required the OIG to determine if DOL had:

- Published an AFR for the most recent fiscal year and posted that report and any accompanying material required by OMB on the agency website;
- Conducted a program specific risk assessment for each program activity that conforms with Section 3321 of Title 31 U.S.C.;
- Published improper payment estimates for all programs or activities susceptible to significant improper payments under its risk assessment;
- Published programmatic corrective action plans in the AFR;
- Published, and is meeting, annual reduction targets for each program assessed to be at risk and estimated for improper payments; and
- 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.

Further, in November 2009, the President issued Executive Order 13520, "*Reducing Improper Payments*," which, in part, required agencies to review payments and awards in its programs against specific databases to identify ineligible recipients and prevent improper payments. This was referred to as the Do Not Pay (DNP) initiative. IPERIA codified the DNP initiative into law in January 2013 and added a requirement that all payments were to be reviewed through DNP starting June 1, 2013. IPERIA also improved the quality of oversight for high-dollar and high-risk programs and required OMB to examine the rates and amounts of improper payments that agencies have recovered and determine targets for recovering improper payments.

OMB directed agencies to develop plans for using the DNP Solution, a master database managed by the U.S. Department of the Treasury (Treasury), with final plans due to OMB by August 31, 2012. DOL submitted its original DNP implementation plan to OMB by the due date and focused on gaining access to Treasury's master database in the DNP portal using a phased approach. To meet this requirement, Treasury began matching all payments against the DNP database after the payments were made. This post-payment review was designed to test the usefulness of the DNP database and create business rules for deciding if the payments were proper.

⁷ OMB M-15-02 Circular A-123, Appendix C to Circular No. A-123, dated October 20, 2014.

RESULTS AND RECOMMENDATIONS

A) Compliance With IPERA

For FY 2014, DOL complied with the first four of six IPERA requirements. According to IPERA Section 3(a)(3), compliance means that DOL:

1. Published its AFR for the most recent fiscal year (FY 2014) and posted that report and any accompanying materials required by OMB on the DOL website;
2. Conducted a specific risk assessment of each program or activity that conforms with Title 31 U.S.C, Section 3321 (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 AFR (if required);
5. Published, and has met, annual reduction targets for each program assessed to be at risk and measured for improper payments;
6. Reported an improper payment rate of less than 10 percent for each program and activity for which an estimate was published under Section 2(b) of IPIA.

For item number 5, DOL did not set a reduction target for the UI program. With regard to item number 6, DOL reported an improper payment rate of 11.57 percent for the UI program and did not meet the IPERA requirement of “less than 10 percent.” See pages 8 and 9 for further discussion of these issues.

Our specific results for the IPERA compliance requirements are as follows:

- 1. Did DOL publish its AFR for the most recent Fiscal Year and post that report and any accompanying materials required by OMB on the agency website?**

Yes. DOL published its AFR for FY 2014 on November 17, 2014. The report and accompanying materials required by OMB were posted on the agency website at: <http://www.dol.gov/sec/media/reports/annual2014/2014annualreport.pdf>.

- 2. Did DOL conduct a specific risk assessment for each program or activity that conformed with IPERA (if required)?**

Yes. DOL performed a full risk assessment of all DOL programs for FY 2014 based on criteria prescribed in IPERA Section 2(a)(3)(b), outlined below:

In conducting the reviews, the head of each agency shall take into account those risk factors that are likely to contribute to a susceptibility to significant improper payments, such as —

- i. whether the program or activity reviewed is new to the agency;
- ii. the complexity of the program or activity reviewed;
- iii. the volume of payments made through the program or activity reviewed;
- iv. whether payments or payment eligibility decisions are made outside of the agency, such as by a State or local government;
- v. recent major changes in program funding, authorities, practices, or procedures;
- vi. the level, experience, and quality of training for personnel responsible for making program eligibility determinations or certifying that payments are accurate; and
- vii. significant deficiencies in the audit report of the agency or other relevant management findings that might hinder accurate payment certification.

DOL's risk assessment for the UI program found it to be at risk of significant improper payments according to OMB criteria.

In addition, OMB's Circular A-11, Section 57 classified the FECA program as at risk, due to the program's annual level of expenditures. Although OMB granted DOL a waiver from reporting on FECA under IPERA through FY 2014 and while previous risk assessments had considered the improper payment rate in the FECA program to be below 1.5 percent, the Office of Workers' Compensation Program (OWCP) chose to begin estimating the improper payment rate on an annual basis through a sampling methodology. Using this new methodology, OWCP estimated that FY 2014 improper FECA payments totaled \$72.36 million, resulting in an improper payment rate of 2.5 percent.

DOL's risk assessment for the WIA Title I grants program found it to be below IPERA's threshold of a risk-susceptible program. However, the WIA grants program was also classified as at risk in OMB's Circular A-11, Section 57, due to the program's annual level of expenditures. Although DOL's risk assessment over the past several years did not support a high-risk designation for the WIA program, the Office of the Chief Financial Officer (OCFO) and Employment and Training Administration (ETA) continued to perform and report improper payment analyses each year.

In addition to these programs, DOL was required to report an improper payments estimate for funds provided in response to Hurricane Sandy. Section 904(b) of the DRAA provided that all programs and activities receiving funds under DRAA shall be deemed to be "susceptible to significant improper payments" for the

purposes of IPIA, notwithstanding IPIA section 2(a). DOL's risk assessment for Hurricane Sandy found it to be below IPERA's threshold of a risk-susceptible program.

3. Did DOL publish improper payment estimates for all programs and activities identified as susceptible to significant improper payments under its risk assessments (if required)?

Yes. DOL published improper payment estimates for the UI benefit program, FECA program, WIA Title I grants program, and Hurricane Sandy as required. However, OIG identified concerns on how the estimates were determined and reported in the AFR for the FECA, WIA and Hurricane Sandy programs. See pages 9 to 12 of this report for further discussion of these concerns.

The **UI benefit program's** estimated annual improper payments for FY 2014 were \$5.6 billion (11.57 percent), consisting of \$5.4 billion in overpayments plus \$0.2 billion in underpayments. For the **FECA program**, estimated annual improper payments were \$72.36 million (2.5 percent), consisting of \$63.10 million in overpayments (including \$3.18 million in estimated fraud) plus \$9.26 million in underpayments. For the **WIA Title I grants program**, estimated annual improper payments were \$9.2 million (0.37 percent). For **Hurricane Sandy**, estimated annual improper payments were \$23,100 (0.11 percent).

4. Did DOL publish programmatic corrective action plans in the AFR (if required)?

Yes. DOL published corrective action plans to reduce and collect improper payments.

For the **UI benefit program**, DOL developed a strategic plan to address several root causes of improper payments. In September 2014, DOL awarded \$87.1 million in supplemental funding to 49 states for the detection, prevention, and recovery of improper UI benefit payments. According to DOL, these incentive funds will improve state performance, address outdated information technology system infrastructures necessary to improve UI program integrity, and enable states to expand or implement reemployment and eligibility assessment programs. OIG is conducting audits of the effectiveness of states' internal controls to detect, reduce, and report the recovery of UI improper payments and will issue separate reports when the audits are completed.

For the **FECA program**, DOL indicated the major types of errors found were primarily documentation and administration errors, while a small percentage were authentication and medical necessity errors. The documentation and administrative error category included pay rate errors and other errors that resulted from the lack of timely and accurate documentation from employing agencies. According to DOL, some improper payments in the FECA program

were “technically proper” when they were initiated, but due to payment cycles, the payments could not be adjusted timely when additional information was received. DOL considered these to be authentication errors. In order to reduce this aspect of the FECA improper payment rate, OWCP stated that it has begun discussions with Treasury to shorten the payment cycles. OWCP also stated that it is planning to engage in greater outreach efforts to the employing agencies, stressing the importance of timely and accurate reporting of payment information to OWCP. In addition, OWCP is developing a Program Integrity Unit with auditors and data analysts to provide greater oversight and analysis of payment accuracy. OWCP has also contracted with a data analytics firm to build agency capacity in this area.

For the **WIA Title I grants program**, ETA stated that its grant operations are monitored on a continuing basis to ensure that grant activities conform to requirements. Monitoring activities include annual risk assessments, on-site monitoring visits, and annual and quarterly desk reviews, all of which are tracked electronically in the Grants Electronic Management System. The ETA Division of Policy Review and Resolution processes each grant at closeout to determine whether the grant objectives were accomplished and all funds expended as authorized. Questioned expenditures are resolved through the normal determination process and disallowed costs are forwarded for collection. Finally, ETA’s audit resolution staff receives copies of Single Audit reports and resolves questioned costs and administrative weaknesses identified. Although the rate of estimated improper payments was very low for the **Hurricane Sandy program**, DOL instituted the same control environment as that of WIA, which focused on preventive actions, effective communication, and monitoring.

5. Has DOL published, and met, annual reduction targets for each program assessed to be at risk and measured for improper payments?

No. DOL had not published the annual reduction targets for the UI benefit program pending additional guidance and consultation regarding estimation methodology with OMB. The FECA program and Hurricane Sandy were not expected to report targets until a full baseline year has been established. DOL published the annual reduction target and met the target rate for the WIA Title I grants program. Although reduction targets were met for the WIA program, we had concerns with the methodology DOL used to measure the improper payment rates and the lack of full disclosure in the AFR regarding the limitations with the estimation methodology.

DOL did not publish the annual reduction targets for the **UI benefit program** for FY 2014. Information included in the FY 2013 AFR stated that the 2014 to 2016 targets would be set pending additional guidance and consultation regarding estimation methodology with OMB. In FY 2013, UI was allowed to “net” improper payments by subtracting recoveries from the gross total amount. For

FY 2014, IPERIA discontinued “netting” improper payments.⁸ UI did publish targets for FYs 2015 to 2017 and has established a FY 2015 target of 11.34 percent. The FY 2014 reported improper payment rate for the UI benefit program was 11.57 percent.

For the **FECA program**, DOL did not publish reduction targets as FY 2014 served as a full baseline year. Improper payment reduction targets for FYs 2015 to 2017 will be set in FY 2015 pending additional guidance and consultation regarding OWCP’s estimation methodology and the selection of payment accuracy enhancement strategies. The FY 2014 FECA improper payment rate was 2.5 percent.

For the **WIA Title I grants program**, DOL published and met the annual reduction target. The target improper payment rate for FY 2014 was 0.44 percent; DOL reported an actual rate of 0.37 percent. The target rates and estimates were based on eligibility findings from Single Audit Act reports. See pages 9, 11, and 12 for further discussion of this issue.

For **Hurricane Sandy**, DOL did not publish reduction targets as FY 2014 served as a full baseline year. Improper payment reduction targets for FYs 2015 to 2017 will be set in FY 2015 pending additional guidance and consultation regarding Hurricane Sandy rate reporting. The FY 2014 Hurricane Sandy improper payment rate was 0.11 percent.

6. Did DOL report an improper payment rate of less than 10 percent for each program and activity for which an estimate was published under Section 2(b) of IPIA?

No. DOL reported a FY 2014 improper payment rate of 11.57 percent for the UI benefit program and did not meet the IPERA requirement of less than 10 percent. DOL reported improper payment rates of 2.5 percent for the FECA program, 0.37 percent for the WIA Title I grants program, and 0.11 percent for Hurricane Sandy.

In the FY 2013 AFR, DOL reported an improper payment rate of 9.32 percent for the UI program after netting recoveries, using a methodology that had been approved by OMB. Without netting the recoveries, the UI improper payment rate would have been 11.50 percent. In FY 2012, DOL reported an improper payment rate of 11.42 percent. The 11.57 percent rate for FY 2014 represented a slight increase from the two prior years.

⁸ IPERIA Section 3(b)(2)(D) requires agencies to include all identified improper payments in the reported estimate, regardless of whether the improper payment in question has been or is being recovered.

B) Accuracy and Completeness of Reporting

We found that DOL took steps to improve the accuracy and completeness of reported improper payment information for the UI program, but additional improvements are needed for the FECA, WIA grants, and Hurricane Sandy programs.

In FY 2013, DOL used a new OMB-approved methodology to determine its reported UI improper payment rate of 9.32 percent, which met IPERA's "less than 10 percent" requirement. However, by offsetting UI overpayments with subsequent recoveries, the new methodology understated the UI improper payment rate. IPERIA prohibited such offsetting in the determination of improper payment rates, and in FY 2014 DOL worked with OMB to revise its improper payment rate methodology for the UI program. For FECA, improper payment estimates were understated because DOL's methodology excluded two types of payments -- initial payments made in the first 90 days of a compensation claim and payments made on claims initiated prior to November 2000 that had not been imaged and stored electronically into its Integrated Federal Employees' Compensation System (iFECS). For the WIA grants and Hurricane Sandy programs, DOL continued to rely on analyses of questioned cost information derived from OMB Circular A-133 Single Audit Act reports, a methodology OIG has previously found to be lacking. We also found that DOL did not fully disclose the limitations of the methodologies used to estimate improper payments in the FECA, WIA grants, and Hurricane Sandy programs in the FY 2014 AFR.

UI

The Benefit Accuracy Measurement (BAM) program DOL used to estimate UI improper payments in FY 2014 should have produced accurate and complete results. The BAM program is administered for DOL by all 50 states to assist with identifying error and abuse in UI programs. Under BAM, states conduct comprehensive audits of samples of claims weekly to verify claimant eligibility and determine the accuracy of decisions to pay or deny UI benefits.

In December 2012, OMB approved the use of a revised methodology for estimating the UI improper payment rate by subtracting the amount of overpayments recovered from the amount of estimated overpayments. In FY 2013, DOL reported the UI improper payment rate was 9.32 percent. Without netting the subsequent recoveries the rate would have been 11.50 percent. Based on the IPERIA requirements which went into effect in FY 2014, federal agencies are no longer permitted to subtract overpayment recoveries from improper payments in calculating improper payment rates. DOL worked with OMB to revise its improper payment rate methodology to comply with IPERIA in FY 2014 and the UI gross improper payment rate was 11.57 percent.

FECA

We found that the improper payment estimates reported by DOL in the FY 2014 AFR may have been understated because the estimates excluded initial payments made in

the first 90 days of a compensation claim and payments made on claims initiated prior to November 2000 that had not been imaged and stored electronically in iFECS. Also, the estimate of fraudulent payments was based on actual restitution amounts and therefore did not reflect an estimate of undetected fraud.

DOL has not been required to complete an improper payment estimate for FECA since FY 2008 because it received a waiver from OMB. As reported in our FY 2012 IPERA review, we found that the improper payments estimation method DOL used for FECA prior to the waiver was not sufficient to meet IPERA requirements. For example, in FY 2008, FECA estimated approximately \$500,000 in improper payments from a total of \$2.5 billion in medical and compensation payments.⁹

For FY 2014, OWCP officials developed a new methodology to estimate FECA program improper payments that was approved by OMB. Using this new methodology, OWCP estimated that improper payments in the FECA program totaled \$72.36 million in FY 2014, resulting in an estimated improper payment rate of 2.5 percent. Because these estimates exceeded the IPERA thresholds of \$10 million and 1.5 percent, the FECA program is considered to be susceptible to significant improper payments. As a result, DOL will be required to report an improper payment rate and perform risk assessments for the FECA program annually.

To estimate improper payments for FY 2014, OWCP sampled compensation and medical benefit payments to identify payment errors. OWCP excluded two categories of payments from its improper payment estimates: initial payments made in the first 90 days of a compensation claim and compensation payments for non-imaged cases. OWCP indicated that its goal of making timely initial payments to avoid any undue hardship for the claimant takes precedence over procedural and computational accuracy. Initial compensation payments are often estimates and OWCP adjusts payments once the employing agency submits the correct information.

In 2005, OWCP fully implemented iFECS, a case management system used to support core business functions and to electronically store FECA claimant case file documents. All FECA cases initiated after October 31, 2000, were imaged and stored electronically into this new system. Cases initiated prior to this date were not imaged into the new system and were excluded from the estimate of improper payments.¹⁰

OWCP was not able to determine the magnitude or effect the excluded compensation payments had on its improper payment estimates. As a result OIG questions the completeness of the estimation methodology and the reported improper payment rate.

OWCP plans to use the same methodology for FY 2015 reporting. To further improve the estimation methodology, the FECA program should include the initial 90 days of

⁹ OIG Report No. 03-12-001-04-431, February 15, 2012, *OWCP's Efforts to Detect and Prevent FECA Improper Payments Have Not Addressed Known Weaknesses*.

¹⁰ OWCP officials informed OIG that some cases initiated prior to November 1, 2000 have been imaged for specific reasons including cases that have been filed with the Employee Compensation Appeals Board.

compensation payments and compensation payments for non-imaged cases. By doing so, OWCP would ensure that future reported improper rates are complete. Furthermore, DOL did not disclose in the AFR that these two categories of compensation payments were excluded from the sampling estimation methodology. The AFR should include full disclosure of any limitations with the sampling methodology.

We also noted that OWCP used actual restitution dollars as the basis of its estimate of improper payments resulting from fraud. The use of actual restitution amounts did not take into account the amount of undetected fraud that may have occurred in the FECA program. As a result, OWCP's estimate of improper payments attributable to fraud, and its overall estimate of improper payments, was likely understated. OWCP needs to develop a methodology that incorporates the amount of undetected fraud within the FECA program into its improper payment estimate.

WIA

In FY 2014, DOL revised its WIA improper payment methodology to focus on eligibility findings in OMB Circular A-133 Single Audit Act reports, as well as OIG and Government Accountability Office (GAO) reports. However, as we have reported in prior years, Single Audit Act reports typically do not project likely total questioned costs for the grant or entity audited, but simply report those questioned costs identified for the specific sample items reviewed during the audit. Likewise, neither OIG nor GAO audits are systematic studies of the allowability of grant costs that can be projected to all grants. As a result, these audit reports do not provide a valid proxy for improper payments in the WIA grant program.

While previous assessments (up to and including FY 2013) of WIA improper payments computed an estimated error rate based on an extensive analysis of questioned cost information derived from OMB Circular A-133 Single Audit Act reports,¹¹ DOL redesigned the methodology for FY 2014 based on recommendations from OIG. In response to OIG's recommendation and based on the WIA risk analysis, DOL determined that a quantitative assessment of eligibility findings in OMB Circular A-133 reports would provide the most effective means to estimate a potential improper payment risk rate. The methodology included eligibility findings in OIG and GAO reports. This methodology resulted in an estimated improper payment rate of 0.37 percent, and estimated improper WIA payments of \$9.2 million.

With WIA's complex funding stream, in which federal funds are granted to states and then passed through to localities and Workforce Investment Boards and then to service providers, DOL still believes that leveraging Single Audit Act reports was the only cost-effective means of estimating improper payments. In the FY 2014 AFR, DOL stated that "it would not be cost effective to evaluate a completely statistically valid nationwide sample of WIA grantees and sub-grantees each year...."

¹¹ OIG Report No. 03-14-004-13-001, April 15, 2014, *The Department of Labor's Compliance with the Improper Payments Elimination and Recovery Act of 2010 in the FY 2013 Agency Financial Report*.

OIG continues to have concerns with DOL's reliance on Single Audit Act reports to develop WIA improper payment estimates, but recognizes that WIA, which provides grants to states, cities, counties, non-profits and other organizations, poses unique challenges. DOL needs to fully disclose in the AFR the limitations of its estimation methodology and that Single Audit Act reports do not represent a replacement for a statistical estimate.

Hurricane Sandy

FY 2014 was the first year DOL had to develop a sampling methodology and to report estimates as listed in OMB Circular A-123 for Hurricane Sandy since it was classified as susceptible to significant improper payments as a result of DRAA. For Hurricane Sandy, DOL used the same alternative methodology as it used for the WIA grants program. Accordingly, we have the same concerns related to Hurricane Sandy as detailed above for WIA.

C) Performance in Reducing and Recapturing Improper Payments

Despite DOL's efforts to work with states to reduce UI improper payment rates, the improper payment rate has increased slightly over the last 3 years, going from 11.42 percent in 2012 to 11.50 in 2013 to 11.57 percent in 2014. For the FECA program, performance cannot yet be measured as FY 2014 was a baseline year for developing improper payment estimates. For the WIA grants program, DOL's reported improper payment rate of 0.37 percent was lower than its target rate of 0.44 percent. DOL did not publish reduction targets for Hurricane Sandy as FY 2014 served as a full baseline year.

To recapture improper payments, DOL reported that it coordinated with states to recapture UI overpayments totaling \$1.42 billion in FY 2014. For FECA, DOL reported that overpayment recoveries were \$32.93 million. DOL did not report recapture information for the WIA or Hurricane Sandy programs.

UI

While DOL has made UI payment integrity a priority, it reported a FY 2014 rate of 11.57 percent, up from 11.50 percent in FY 2013 without netting recoveries. However, DOL established no targets for FY 2014 due to pending additional guidance and consultation regarding estimation methodology with OMB.

The UI Benefit Accuracy Measurement Program (BAM) and Benefit Payment Control (BPC) operations identified overpayments for recovery through such methods as cross-matching claimant Social Security Numbers with the State and National Directories of New Hires, employer quarterly wage records, and other state databases for workers' compensation. States collected overpaid UI claims through offsets against current UI benefits, federal income tax refund under the U.S. Department of the Treasury Offset Program (TOP), state income tax offsets, and direct cash reimbursements from the claimant.

DOL coordinated with states to recover UI overpayments and during FY 2014 they recovered \$1.42 billion in overpayments, including an estimated \$377.1 million through TOP. In September 2014, DOL awarded \$87.1 million in supplemental funding to 49 states to support the prevention, detection, and recovery of improper UI benefit payments; improve state performance; address outdated IT systems infrastructures necessary to improve UI program integrity; and enable states to expand or implement Reemployment and Eligibility Assessment programs. As of September 2014, 42 states have implemented TOP and 5 other states are in the various stages of implementation.

DOL stated it implemented an aggressive strategic plan to work with states to control UI improper payments. These strategies, documented in ETA's Operating Plan, targeted the four largest root causes of UI improper payments, as summarized below:

1. Payments to individuals who continue to claim benefits after they have returned to work.
 - Strategy 1.1 State implementation of prevention strategies
 - Strategy 1.2 Implementation of new state performance measures for integrity
 - Strategy 1.3 Pilot the use of financial data sources that may indicate a claimant's return to work
 - Strategy 1.4 Implementation of federal TOP
 - Strategy 1.5 Pilot the use of the Work Number database
2. Failure of employers, or their third party administrators, to provide timely and adequate information on the reason for an individual's separation from employment.
 - Strategy 2.1 Promote implementation and use of the State Information Data Exchange System (SIDES)
3. Failure to register the claimant with state's Employment Services (ES) pursuant to the state's law.
 - Strategy 3.1 Targeted technical assistance and monitoring of states with the highest percentage of ES registration improper payments
4. Failure of claimant to comply with the states' work search requirements.
 - Strategy 4.1 Convene work search working group
 - Strategy 4.2 Provide funding for a work search pilot

Additionally, DOL stated it had: (1) Established a DOL website to depict state performance and progress in addressing UI improper payments; (2) enhanced the state quality service planning process by incorporating improper payment prevention strategies; (3) annually identified high-priority states (states with persistently high improper UI payment rates) and work with these states to reduce improper payments; (4) offered states the opportunity to apply for supplemental budget requests to target specific causes and identify integrity strategies to reduce improper payments; (5) proposed legislative package called the New Integrity Act to require state implementation of various UI integrity initiatives such as TOP, SIDES, and the National

Directory of New Hires; and (6) provided supplemental funding for a lead state to develop a state-driven UI Integrity Center of Excellence with the goal of promoting the development and implementation of innovative integrity strategies, including the prevention and detection of fraud.

As DOL noted in the Improper Payments section of the FY 2014 AFR, states administer the UI program and set operational priorities. Therefore, DOL had limited authority to ensure states pursue improper payment activities. DOL's ongoing coordination with the states to support UI payment recapture audits and activities showed these audits and activities were feasible and cost-effective.

FECA

DOL's performance in reducing and recovering FECA improper payments cannot yet be measured as FY 2014 was a baseline year for developing improper payment estimates. However, DOL had taken steps to improve performance as described below.

DOL stated that some improper payments in the FECA program were "technically proper" when they were initiated, but due to current payment cycles, the payments could not be adjusted when additional information was received. In order to reduce the FECA improper payment rate, OWCP had discussions with Treasury to adjust the current payment cycles in order to significantly reduce the number of adjustments needed. OWCP stated it is planning to reach out to employing agencies regarding the need for timely and accurate reporting of payment information. OWCP is also developing a Program Integrity Unit for oversight and analysis of payment accuracy. Finally, OWCP has contracted with a data analytics firm to build agency capacity in this area.

In FY 2012 and FY 2013, DOL completed risk assessments and cost effectiveness analyses as well as a pilot recapture program to determine if a recapture audit would be valuable. DOL determined that it would not be cost effective to conduct a recapture audit for FECA based on the results of the analyses.

WIA

For the WIA Title 1 grants program, DOL's reported improper payment rate of 0.37 percent was lower than its target rate of 0.44 percent. DOL did not report recapture information for the WIA Title 1 grants program.

WIA overpayments are identified for recovery primarily through onsite grant monitoring activities, as well as agency follow up on Single Audit Act reports and OIG audits. DOL Grant Officers review the audit reports and obtain additional information from grantees regarding questioned costs. Grant Officers then issue Final Determinations that either disallow or allow the questioned costs. Disallowed costs are forwarded for collection, and resolutions are reported back to the OIG.

DOL conducted a research and analysis pilot for payment recapture for the WIA Title I grants program in FY 2012. The results of this pilot showed it was not cost effective to conduct recapture audits for WIA grantees.

Hurricane Sandy

DOL did not publish reduction targets for Hurricane Sandy as FY 2014 served as a full baseline year, nor did it report recapture information.

For the Hurricane Sandy program, overpayments were identified for recovery primarily through onsite grant monitoring activities, as well as agency follow up on Single Audit Act reports and OIG audits. DOL Grant Officers review the audit reports and obtain additional information from grantees regarding questioned costs. Grant Officers then issue Final Determinations that either disallow or allow the questioned costs. Disallowed costs are forwarded for collection, and resolutions are reported back to OIG.

Because of the Hurricane Sandy program's delivery structure, DOL determined recapture audits were neither feasible nor cost effective.

D) Evaluation Assessment on Risk for High Priority Programs

OMB Circular A-123, Appendix C defines as "high priority" any program with improper payments greater than \$750 million. Within DOL, the UI program, with estimated improper payments of \$5.6 billion in 2014, was the only program designated as "high priority."

DOL officials stated that they used the BAM program to identify payment errors and develop and track solutions to systemic problems. Improper payment estimates are based on results of the BAM survey which examines a statistically valid sample of payments from the State UI, Unemployment Compensation for Federal Employees, and Unemployment Compensation for ex Service Members programs (the three largest permanently authorized unemployment compensation programs), but does not include EUC and EB payments. According to DOL officials, they are continuously monitoring the BAM survey results and analyzing root causes.

As discussed in Section C above, DOL used results from its BAM program to identify and target the four largest root causes (risks) of UI improper payments: failure of claimant to comply with the states' work search requirements; payments to individuals who continue to claim benefits after they have returned to work; failure of employers, or their third party administrators, to provide timely and adequate information on the reason for an individual's separation from employment; and failure to register the claimant with state's ES pursuant to the state's law.

DOL developed a strategic plan for reducing UI improper payments that focuses on the four largest risks. For FY 2014, DOL tracked states' implementation of the following core strategies:

State Quality Service Plan (SQSP) / Strategic Plan Development — The SQSP is intended to be a dynamic document states use not only to ensure strong program performance, but also to guide key management decisions, such as where to focus resources. The SQSP should focus state efforts to ensure well-balanced performance across the range of UI activities. The SQSP also is designed to be flexible so as to accommodate, among other things, multi-year planning and significant changes in circumstances during the planning cycle.

Business Process Analysis (BPA) for Improper Payments — Engage in a business process analysis to identify areas of weakness and to set the stage for reengineering processes that will improve program integrity performance. The review must be conducted collaboratively by state staff and a qualified independent third party contracted by the state, and recommendations from this review should be included in the state's strategic plan to the extent feasible. This strategy is required for those states with a Calendar Year 2012 improper payment rate above 10 percent that received supplemental funding in FY 2013.

Business Process Analysis (BPA) for "At Risk" States — Engage in a business process analysis of the state benefit system to identify areas where changes in business processes will lead to performance improvement for first payment and/or first level appeals promptness. The review must be conducted collaboratively by state staff and a qualified independent third party contracted by the state, and recommendations from this review should be included in the state's strategic plan to the extent feasible. This strategy is required for those states designated "At Risk" that received FY 2013 SBRs.

SIDES Implementation — SIDES is a web based system that allows electronic transmission of UI information requests from UI agencies to multi-state employers and/or Third Party Administrators, as well as transmission of replies containing the requested information back to the UI agencies. The current implementation of SIDES allows for the exchange of separation and earnings verification information.

SIDES Expansion — States that implement SIDES must also commit to expand the program to a minimum threshold of employer participation for both SIDES Web Services and SIDES E-Response. Specifically, states commit to using SIDES to transmit requests to individual employers not using Third Party Administrators for information on separations and receive employer responses for at least 35 percent of all UI initial claims.

SIDES Messaging — Implementation of products and tools designed for use by state UI agencies to communicate with employers and third-party administrators (TPAs) about the offerings and benefits of SIDES. This strategy is required for those states that implemented SIDES and received supplemental funding in FY 2013.

State-Identified Prevention Strategies — Implementing new strategies aimed at addressing the state-specific root causes of overpayments, DOL provided supplemental funding opportunities with incentives to accelerate state actions to reduce improper payments. This strategy is required for those states that received FY 2013 SBRs.

Treasury Offset Program (TOP) — Implementing the U.S. Department of the Treasury's TOP to recover certain unemployment debts from Federal income tax refunds. This strategy is required for those states that received FY 2013 SBRs.

Also in FY 2014, DOL stated that it is working collaboratively with the UI system to develop and implement innovative new integrity strategies and pilot projects that may prove beneficial for adoption by all state UI programs. DOL stated that it will commence tracking state implementation of these initiatives if it is determined these strategies will be effective in identifying and preventing improper payments.

Work Search Pilot — Supplemental grant funding was provided to the New York State Department of Labor to build the necessary basic system linkages between the Workforce and UI systems to effectively capture, organize and share individual UI claimant work search record information.

Financial Data Pilot — OMB's Partnership Fund for Program Integrity Innovation provided funding to pilot the use of financial institutions' payroll deposit and payroll information to detect individuals receiving UI benefits who also have payroll payments or deposits to their bank accounts during the same period, allowing for timely follow-up by states with those individuals who may be newly employed. This project is being conducted in collaboration with the National Association of State Workforce Agencies' Information Technology Support Center and volunteer states. The project is a value test to determine if financial data can enable earlier detection of improper payments than the National Directory of New Hires (NDNH) and if the "hits" from the cross-matching are quality "hits."

Value Test of The Work Number — During the first quarter of FY 2014, DOL began incorporating the use of The Work Number into existing state UI programs' business practices for the matching of claimant records as a value test for earlier detection of improper payments. The results of this effort may help DOL assess if these sources will enhance UI agency efforts to detect fraud or errors in weekly claimant certifications.

UI Integrity Center of Excellence — Supplemental funding was provided to New York State for the development of a UI Integrity Center of Excellence, via a cooperative agreement with DOL, with the goal of promoting the development and implementation of innovative integrity strategies, including the prevention and detection of fraud, in the UI program. One of the key goals for the Center will

be to actively explore the use of new technologies and new data sources to enable sophisticated data analytics and predictive modeling to improve prevention and detection of improper payments. These strategies target the three largest root causes: payments to individuals who continue to claim benefits after they have returned to work; failure of employers or their third party administrators to provide timely and adequate information on the reason for an individual's separation from employment; and failure of claimants to comply with the state's work search requirements. The plan is continuously evolving as new strategies are identified and the progress with each strategy is monitored.

E) Previous Recommendations

OIG issued three prior reports with recommendations to help DOL better prevent and recover improper payments.

Report No. 18-12-001-03-315, *Recovery Act: ETA Is Missing Opportunities to Detect and Collect Billions of Dollars in Overpayments Pertaining to Federally-Funded Emergency Benefits*, issued January 31, 2012, recommended that ETA:

- Develop and implement a valid and reliable method for estimating the rate of detectable overpayments in the federally-funded emergency programs.

ETA reported that it had given consideration to developing and implementing a valid and reliable method for estimating the rate of detectable overpayment in the UI programs. However, ETA stated that it no longer considered further actions in this case to be a priority since programs such as EUC are temporary and the program has ended. Recognizing that economic conditions may not warrant ETA's immediate development of a valid and reliable method for estimating the rate of detectable overpayment in such temporary UI programs, OIG closed this recommendation. Nonetheless, we encourage ETA to continue to develop appropriate methods before these temporary programs are required again in the future.

Report No. 22-12-016-13-001, "*The Department of Labor's Compliance with the Improper Payments Elimination and Recovery Act of 2010 in the Fiscal Year 2011 Agency Financial Report*," issued March 15, 2012, recommended that DOL:

- Consider methods for improving the WIA sampling methodology to provide a more complete estimate of improper payments, and include information on the limitations of the data used in the estimation of WIA overpayment in the AFR.

DOL did not agree with the recommendation because it said direct sampling of payments to derive a statistical projection was not practical and would be cost prohibitive. DOL has considered other alternative methods for the WIA estimation methodology. During FY 2014, DOL, in response to OIG's recommendation, determined that a quantitative assessment of eligibility findings in OMB Circular A-133 reports would provide the most effective means to estimating an improper payment

rate. Although OIG continued to have concerns with DOL's reliance on Single Audit Act reports, OIG recognized that DOL continues to consider methods for improving its methodology for estimating the improper payment rate. However, DOL needs to fully disclose the limitations with the methodology (i.e., that findings and questioned costs from Single Audit reports cannot be extrapolated for a national estimate of improper payments since they are not based on a statistically valid sample).

Report 03-12-001-04-431, "*OWCP's Efforts to Detect and Prevent FECA Improper Payments Have Not Addressed Known Weaknesses*," issued February 15, 2012:

- Develop effective procedures, including seeking legislative authority to conduct matches with Social Security Administration (SSA) retirement records, to ensure that claimants who receive SSA retirement benefits are identified timely and their FECA benefits are adjusted accordingly.

During FY 2013, OWCP created a workgroup with SSA and the Office of Personnel Management to explore methods of creating a data match for retirement benefits. OWCP stated that it is developing procedures with SSA for creating such a match. However, Treasury has expressed concerns that the proposed cross match requires the agreement of the Internal Revenue Service because it involves data from FECA claimants' tax records.

F) Do Not Pay

DOL submitted its original DNP implementation plan to OMB by the August 31, 2012, due date. The passage of IPERIA added a requirement that all payments were to be reviewed through DNP starting June 1, 2013. In response to this requirement, DOL updated its DNP implementation plan to place more emphasis on post-payment reviews.

According to DOL's DNP plan, the OCFO is responsible for monitoring compliance and any changes. During FY 2014, the DNP portal was not operating as intended for pre-payment cross-matches due to system problems at Treasury. During our fieldwork DOL continued to have problems accessing the portal. Other federal agencies have also experienced issues with accessing the DNP portal.

DOL's original DNP plan addressed its three major business areas – benefit programs, grant programs, and contracts, and was designed to be implemented in three phases over a three-year period.

In Phase 1, completed December 30, 2013, DOL selected the following pilot programs for each of the three major business areas:

- Benefits Programs – UI and OWCP benefit programs
- Grant Programs – ETA grant programs
- Contracts – Department procurement and contract payment activities

Treasury began monthly post-payment reviews in May 2013 by sending lists of potential matches of payees to the DNP Solution database. DOL worked with Treasury to address several issues it experienced using the DNP Solution. For example, DOL worked with Treasury to develop an approach to create business rules to better cull the false-positives found in the DNP Solution match files. DOL continued with post-payment reviews and developed business rules in FY 2014.

ETA was selected as the pilot grantor agency to implement the DNP initiative for DOL, as its grant programs are representative of the various other DOL grants. ETA's grant office piloted the portal on pre-payment checks and determined it was not an effective tool for detecting improper payments.

DOL also selected two pilot states, Arizona and Colorado, to use the DNP Solution for the UI program. In November 2013, Treasury placed a hold on the pilot while it reviewed the legal authority to provide its DNP services to states. As of September 2014, DNP prohibited the acceptance of any state data for UI cross-matching or data analytics. This prohibition includes states not having access authorization to the "Work Number" database which is operated by Equifax outside of the DNP portal. "The Work Number" is a real time database compiled by Equifax that includes current employment and income data on about one third of the U.S. workforce and is the largest database of its kind. According to Treasury, IPERIA allows DNP to assist only Federal Executive agencies in identifying and preventing improper payments. Treasury further stated that IPERIA does not provide DNP with the authority to offer services beyond those offered currently to Federal Executive agencies. Treasury and OMB are hopeful a legislative fix will enable DNP to begin fully working with states in the near future.

Monthly post-payment reviews are being performed for the FECA program following the Departmental guidance established by OCFO. The Hurricane Sandy program was not mentioned in the DNP plan.

Recommendations

We recommend that the Acting Chief Financial Officer, in coordination with the Director of the Office of Workers' Compensation Programs, take action to:

1. Improve the estimation methodology for the FECA program to ensure its completeness by including the initial payments made in the first 90 days of compensation and compensation payments for non-imaged cases.
2. Report in the AFR any limitations with the sampling methodology for the FECA program.
3. Incorporate an estimate of undetected fraud in the FECA improper payment estimate.

We appreciate the cooperation and courtesies that DOL personnel extended to the OIG during this review. OIG personnel who made major contributions to this report are listed in Appendix E.



Elliot P. Lewis
Assistant Inspector General
for Audit

Appendices

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Appendix A**Background**

The IPIA of 2002, as amended by the IPERA of 2010, and the IPERIA of 2012 require agencies to (1) review all programs and activities, (2) identify those that may be susceptible to significant improper payments, (3) estimate the annual amount of improper payments for those programs and activities, (4) implement actions to reduce improper payments and set reduction targets, and (5) report on the results of addressing these requirements.

IPERIA was enacted to intensify efforts to identify, prevent and recover payment error, waste, fraud, and abuse within federal spending. OMB implemented guidance in Memorandum M-15-02, Appendix C to Circular No. A-123, *“Requirements for Effective Estimation and Remediation of Improper Payments”*, dated October 20, 2014. IPERIA also reinforced and accelerated the President’s “Do Not Pay” efforts that were already underway based on the OMB Memorandum M-12-11, dated April 12, 2012, *“Reducing Improper Payments through the “Do Not Pay List”*. The DNP initiative focused on providing agency access to databases to ensure the agency’s efforts to reduce improper payments while complying with privacy. The DNP requires agencies to review current pre-payment and pre-award procedures and ensure a thorough review of available databases on eligibility before the release of any Federal funds.

UI Benefit Program

The UI program is designed to provide benefits to individuals out of work, generally through no fault of their own, for periods between jobs. In order to be eligible for benefits, jobless workers must show that they were separated from work through no fault of their own, and met minimum length of time and wage requirements before they were separated. The program is administered at the state level, but is funded by both state and federal monies. The UI program represents one of the largest benefit programs in the United States. Benefit outlays for all UI programs decreased in FY 2014 to \$48.41 billion from the \$66.8 billion paid in FY 2013. Because the improper payments for UI are above \$750 million (estimated at \$5.60 billion), the UI program was classified as “high priority” program, the only program with this designation within DOL.

WIA Grant Program

The purpose of WIA is to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States through grants to state agencies.

In FY 2014, ETA provided \$2.5 billion for the WIA Title I grant programs - Adult, Dislocated Worker and Youth. WIA adult employment and training services are provided through formula grants to states and territories. Youth programs are funded through grant awards that support program activities and services to prepare low-income youth for academic and employment success, including summer jobs.

FECA

The FECA program provides workers' compensation coverage to approximately 3 million federal and postal workers around the world for employment-related injuries and occupational diseases.

Within OWCP, the Division of Federal Employees' Compensation (DFEC) adjudicates new claims for benefits and manages ongoing cases; pays medical expenses and compensation benefits to injured workers and survivors. DFEC also helps injured employees return to work when they are medically able to do so.

The FECA program operates on a Chargeback Year that runs from July to June. During chargeback year 2014, there was approximately 8.5 million FECA payments totaling approximately \$3 billion in compensation and medical benefits paid to federal workers and survivors for work-related injuries or illnesses.

Hurricane Sandy

On January 29, 2013, the President signed into law the DRAA, which provided \$50.5 billion in aid for Hurricane Sandy disaster victims and their communities. The Act requires Federal agencies supporting Sandy recovery and other disaster-related activities to implement additional internal controls to prevent waste, fraud and abuse of these funds. Improper payment measuring and reporting for funds received under the DRAA, for Hurricane Sandy related activities must only be performed until those funds are expended.

The AFR reported ETA provided \$70.3 million in National Emergency Grants (NEG) to New York, New Jersey, Connecticut, West Virginia, and Rhode Island for continuing cleanup and recovery efforts. This included \$20.5 million provided by the DRAA and \$49.8 million provided by ETA's WIA Dislocated Worker National Reserve, which funds NEG's.

OIG performed an audit covering the NEG funding for the Hurricane Sandy disaster recovery. Our final report disclosed issues with the recovery program including participant eligibility. We found ETA's policy for verifying participant eligibility did not ensure participants were qualified for the program and were most in need of jobs. Sampled sub-grantees could not provide evidence to support program eligibility for more than one-third of the participants. We estimated \$7.8 million was paid to participants without evidence they were eligible for the program. Our conclusion did not result in questioned costs for participant eligibility, but we did recommend improvement to procedures for eligibility determination.

Appendix B**Objectives, Scope, Methodology, and Criteria**

Objectives

Did DOL comply with reporting and compliance requirements of the IPIA of 2002, as amended by IPERA of 2010 and IPERIA of 2012 and OMB’s Memorandum M-12-11, *Reducing Improper Payments through the “Do Not Pay List”*?¹² Specifically, we:

- A) determined whether DOL complied with all requirements of IPERA and in its Improper Payments Information section in the FY 2014 AFR;
- B) evaluated DOL’s accuracy and completeness of reporting in the Improper Payment Information Section of the FY 2014 AFR;
- C) evaluated DOL’s performance in reducing and recapturing improper payments;
- D) evaluated DOL’s assessment of risk for high priority programs;
- E) determined the status of DOL’s execution of its corrective action plans in order to address prior-year findings and recommendations; and
- F) determined if DOL met the implementation timelines in the DNP plan it submitted to OMB in August 2012.

Scope

DOL, in accordance with IPIA, as amended by IPERA and IPERIA, was required to include a report on improper payments in its FY 2014 AFR. OIG conducted this review in accordance with guidance issued by OMB Memorandum M-15-02, Appendix C to OMB Circular A-123 and OMB Memorandum M-12-11, *“Reducing Improper Payments through the Do Not Pay” List* to determine if DOL was in compliance with IPERA and IPERIA.

Methodology

We reviewed the DOL FY 2014 AFR – Improper Payment for compliance with the six items under IPERA and the DNP initiative as required under IPERIA. In addition, we:

- evaluated DOL’s accuracy and completeness of reporting improper payment information;
- evaluated DOL’s information on its efforts to reduce and recapture improper payments;

¹² The “Do Not Pay” initiative was codified into Section 5 of IPERIA. Although IPERIA was not effective until 2014, OMB Memorandum M-12-11 required agencies to submit final DNP plans to OMB by August 31, 2012.

- evaluated DOL risk assessments of programs that may be susceptible to improper payments;
- reviewed the status of DOL's corrective action plans that addressed prior findings and recommendations; and
- interviewed key personnel in the OCFO, ETA and OWCP on improper payment estimation methodologies and reduction actions.

Criteria

- IPERIA of 2012 – Public Law No. 112-248.
- IPERA of 2010 – P.L. No. 111-204.
- IPIA of 2002 – P.L. No. 107-300.
- OMB Circular A-11 Section 57, 2002, Information on Erroneous Payments.
- OMB Memorandum M-15-02, dated October 20, 2014, Appendix C to OMB Circular A-123 Requirements for Effective Estimation and Remediation of Improper Payments.
- Executive Order 13520, dated November 20, 2009, Reducing Improper Payments and Eliminating Waste in Federal Programs.
- OMB Memorandum M-12-11 dated April 12, 2012, Reducing Improper Payments through the "Do Not Pay List".
- OMB Memorandum, M-11-04, dated November 16, 2010, Increasing Efforts to Recapture Improper Payments by Intensifying and Expanding Payment Recapture Audits.
- OMB Memorandum, M-10-13, dated March 22, 2010, Issuance of Part III to OMB Circular A-123, Appendix C.
- Disaster Relief Appropriations Act of 2013 (Public Law 113-2 (127 Stat.4) (January 29, 2013).
- OMB Memorandum, M-13-07, dated March 12, 2013, Accountability for Funds Provided by the Disaster Relief Appropriations Act.

Appendix C**Acronyms and Abbreviations**

AFR	Agency Financial Report
BAM	Benefit Accuracy Measurement
BPC	Benefit Payment Control
DFEC	Division of Federal Employees' Compensation
DNP	Do Not Pay
DOL	U.S. Department of Labor
DRAA	Disaster Relief Appropriations Act
EB	Extended Benefits
ES	Employment Services
ETA	Employment and Training Administration
EUC	Emergency Unemployment Compensation
FECA	Federal Employees' Compensation Act
FY	Fiscal Year
IPERA	Improper Payment Elimination and Recovery Act of 2010
IPERIA	Improper Payment Elimination and Recovery Improvement Act of 2012
IPIA	Improper Payments Information Act of 2002
NEG	National Emergency Grants
OCFO	Office of the Chief Financial Officer
OIG	Office of Inspector General
OMB	Office of Management and Budget
OWCP	Office of Workers' Compensation Programs
P.L.	Public Law
SIDES	State Information Data Exchange System
SSA	Social Security Administration
TOP	Treasury Offset Program
TREASURY	U.S. Department of the Treasury
UI	Unemployment Insurance
U.S.C.	United States Code
WIA	Workforce Investment Act

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Appendix D

OCFO'S Response to Draft Report

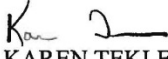
U.S. Department of Labor

Office of the Chief Financial Officer



May 14, 2015

MEMORANDUM FOR: ELLIOT P. LEWIS
Assistant Inspector General
for Audit

FROM: 
KAREN TEKLEBERHAN
Acting Chief Financial Officer

SUBJECT: Response to the Office of the Inspector General's "DOL
Could Do More to Reduce Improper Payments and
Improve Reporting", Report 03-15-001-13-001

The Office of the Chief Financial Officer (OCFO) would like to thank the Office of the Inspector General (OIG) for the opportunity to respond to its report *DOL Could Do More to Reduce Improper Payments and Improve Reporting*. The Department is committed to being a responsible steward of public funds, and we take very seriously our obligations under the Improper Payment Elimination and Recovery Improvement Act and other statutes to reduce improper payments in the Unemployment Insurance (UI), Federal Employees' Compensation Act (FECA) and other programs. To that end we have implemented a number of important steps in the past several years—many of which are outlined in the OIG report—to reduce improper payments, improve reporting, and build capacity in states to enhance their detection, prevention, and recovery of improper payments. Among other efforts, we have funded the creation of a UI Integrity Center of Excellence which is developing innovative integrity strategies, based on new technologies and data analytics, to prevent and detect UI fraud across the country. These measures are aimed at addressing the root causes of improper payments, and we expect to reduce the rate of those payments over time.

Responses to the OIG's recommendations follow and additional detail can be found in the attached documentation. Attachment 1 covers specific responses from the Department's FECA program. Attachment 2 covers specific responses from the Department's UI program.

OIG Recommendations:

1. **Improve the estimation methodology for the FECA program to ensure its completeness by including the initial payments made in the first 90 days of compensation and compensation payments for non-imaged cases.**

Management Response: The Department is dedicated to ensuring that beneficiaries receive the benefits they are entitled to in a timely manner. In recognition of the potential hardship to individuals served if initial payments are not timely, the Department has made the policy decision to prioritize timeliness of payments during the initial 90 day period and must rely on the accuracy of payment data being reported by federal agencies and their injured employees. We believe this policy decision is consistent with our commitment to ensuring that all requirements imposed by Congress through IPERA and IPERIA, and other similar guidance by Office of Management and Budget (OMB), are met. OWCP's improper payment estimation methodology for the FECA program was developed in consultation with the OIG and OCFO, was approved by OMB as required by OMB Circular A-123 Appendix C, it is consistent with the Office of Personnel Management's OMB approved methodology for the Federal Retirement Program based on similarities in initial payments, and we understand the OPM IG has found no fault with this methodology.

The Department has concluded that pursuing information on non-imaged cases (older than 15 years) would require an undue use of limited resources for a statistically insignificant benefit. Please see Attachment 1 for more information. However, we welcome further discussion on ways to better meet the requirements of IPERA while ensuring beneficiaries are served timely.

2. Report in the AFR any limitations with the sampling methodology for the FECA program.

Management Response: The Department is strongly committed to transparency and completeness in its financial reporting. OCFO and OWCP will ensure that all material limitations to improper payment sampling methodologies are more clearly explained in the Department's Agency Financial Report (AFR).

3. Incorporate an estimate of undetected fraud in the FECA improper payment estimate.

Management Response: OWCP is strongly committed to the accuracy and effectiveness of its analysis and reporting. In the Congressional Budget Office's (CBO) report entitled "[How Initiatives to Reduce Fraud in Federal Health Care Programs Affect the Budget](#)" (10/2014), CBO found "...although fraud that has been successfully prosecuted can be quantified, there is no reliable method to estimate the amount of fraud that goes undetected...". Given the unreliability of such an estimate, OWCP has concluded that the most appropriate use of limited resources is to focus on using data analytics to understand the types of improper payments, and to look for correlations and anomalies in order to understand causes and potential remedies. Given our shared analytics capabilities, OWCP, OCFO, and the OIG have the opportunity to make great strides together in this effort that will reduce the occurrence of improper payments. Please see Attachment 1 for more information.

It is worth noting that the Department and OMB reached agreement on a revised UI improper payments estimation methodology that does not net recovered improper

payments, an agreement that occurred after the window of time considered by this report. In addition, as noted in the report, the Department is pleased that during Fiscal Year (FY) 2014 it coordinated with states to recapture UI overpayments totaling \$1.42 billion in FY 2014 and FECA overpayments totaling \$32.93 million. The Department continues to prioritize prevention, detection and recovery of improper UI benefit payments and improve state performance and as discussed in the report awarded \$87.1 million in supplemental funding in FY 2014 to 49 states for this purpose. Please see Attachment 2 for more information.

Attachment 1: FECA Program Response

Office of Worker's Compensation Programs (OWCP) Federal Employee Compensation Agency (FECA) Response to Office of the Inspector General (OIG) Audit Report No. 03-15-001-13-001 – DOL Could Do More to Reduce Improper Payments and Improve Reporting

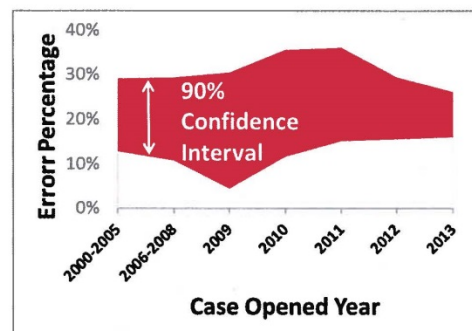
1. In the case of initial payments, the Office of Worker's Compensation Programs (OWCP) consulted OMB and several IP reporting agencies to determine an appropriate methodology. For purposes of the IP audit methodology, OMB agreed that it was appropriate to treat FECA initial payments in a fashion similar to how the Office of Personnel Management (OPM) treats initial payments for the Federal Retirement Program. This practice is encouraged by IPERIA, specifically at A-123, Appendix C, Step 2.1(f):

Example Plans from Other Agencies. OMB will make available to agencies examples of statistical sampling and estimation plans submitted by agencies. Agencies are encouraged to review these examples and consult with other agencies when preparing their sampling plans. While each plan will likely be slightly different given the unique nature of each program, *there are some characteristics that are common across many programs, and agencies should benefit from each other's work.*

- a. Both OWCP and OPM have similar burdens or relying on reporting data from all of the federal agencies, which frequently requires going back-and-forth with the agency to get all pay elements correct. In both cases the government recognizes the potential hardship to the individuals they serve if initial payments are not timely and have taken procedural steps to mitigate the potential problems. The government has the opportunity to correct the payment and ensure its accuracy by the 90 day timeframe. This continues to be an approved methodology for OPM and the OPM IG has found no fault with it.
- b. In the case of claims initiated prior to November 2000, OWCP's IP review determined that 87% of FECA improper payments were attributed to overpayments. OWCP analyzed overpayments to determine their incidence over time and as the attached chart displays, there is no statistically significant correlation between case age and the likelihood of a case to contain an overpayment. As a result, there would be no impact in including cases before 2000 for building an estimate, and the administrative burden surrounding those paper case files make their inclusion problematic.

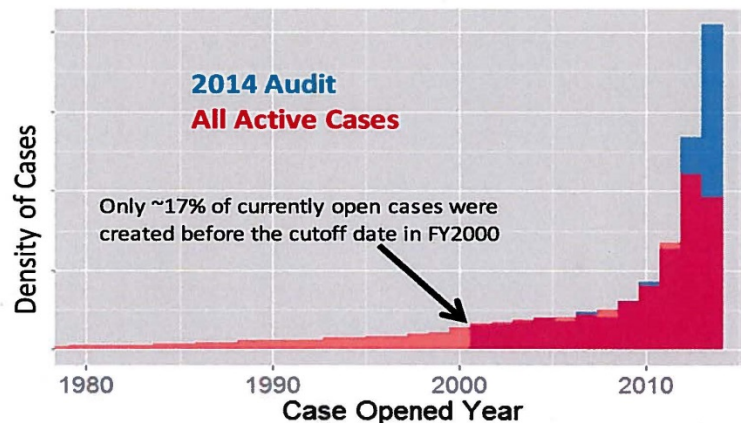
The following chart based on an analysis of FECA data supports that idea, showing how the error rates and confidence intervals are relatively unchanged over a 13 year period:

Year	Case Count	% Containing Overpayment	Upper Bound	Lower Bound
2000-2005	67	21%	29%	13%
2006-2008	50	20%	29%	11%
2009	23	17%	30%	4%
2010	34	24%	35%	12%
2011	47	26%	36%	15%
2012	98	22%	29%	16%
2013	176	21%	26%	16%



Attachment 1: FECA Program Response

- c. Additionally, it would be extremely difficult to get employing agencies to verify or update pay rate information that is over 15 years old. Between facility closures, the movement to shared service providers for payroll, and agency organizational changes (sometimes even moving to new Departments, such as the Homeland Security agencies), the information needed to verify in an audit that a pay rate was in fact improper would be very difficult to obtain. This would lead to significant delays for no measureable adjustment to the stated IP rate.
2. The reference to the FY 2008 FECA estimate of improper payments (page 14) seems unnecessary. OWCP embraced the concept of improper payment reporting and published their report one year ahead of the requirement.
3. In the fourth paragraph of page 15, OIG questions the completeness of OWCP's OMB approved methodology.
 - a. OWCP/DOL does not agree with including initial payments and non-imaged cases in the estimated.
 - i. The choice not to include initial payments is a policy choice as described above and including them in the estimate would make it a part of a target for reduction when that is not the policy goal for these payments. It is noted that these initial payments represented 1.18% of the compensation dollars spent in CB2014, and only 1.09% of the actual number of payments.
 - ii. The choice not to include payments prior to FY 2000 has no measurable impact as discussed above. The non-fully imaged cases ~17% % of the total active cases for OWCP, and that number is shrinking daily as older cases are closed or fully imaged.



Attachment 1: FECA Program Response

- iii. OIG noted that OWCP uses actual restitution dollars as the basis of its estimate of improper payments resulting from fraud. They failed to mention that OWCP did so based on discussions with the OIG in FY 2013 that resulted in this approach. OWCP and OIG agreed that each quarter the OIG would provide actual fraud convictions and restitution and that OWCP would add that actual fraud to our estimate of improper payments. No other program to our knowledge includes estimated or actual fraud in their IP estimates. There is no mention of this requirement in the IPERIA guidance, other than to consider all known aspects of the payment process. IPERIA does not require the additional burden of fraud estimation, though it is included in our methodology to represent a known aspect of OWCP's payments processing.
- iv. OIG's assertion that "OWCP needs to develop a methodology that incorporates the amount of undetected fraud in the FECA program" is not considered reasonable by other organizations with similar responsibility for assessing the impact of Fraud. The Congressional Budget Office in an October 2014 report entitled "How Initiatives to Reduce Fraud in Federal Health Care Programs Affect the Budget" considered the work of Government Accountability Office, the Department of Veterans Affairs, the Department of Health and Human Services Health Care Fraud and Abuse Control Program (and others). As a result of their research and Analysis they conclude: "...although fraud that has been successfully prosecuted can be quantified, there is no reliable method to estimate the amount of fraud that goes undetected." Given the potential unreliability of such an estimate, OWCP will focus its efforts on using data analytics to understand the types of improper payments and to look for correlations and anomalies in order to understand the causes and potential remedies. Given our shared analytics capabilities, OWCP, OCFO, and the DOL OIG have the opportunity to make great strides together in this effort that would ultimately reduce the occurrence of improper payments.

Attachment 2 – Unemployment Insurance Program Response

Employment and Training Administration (ETA) Response to Office of the Inspector General (OIG) Audit Report No. 03-15-001-13-001 – *DOL Could Do More to Reduce Improper Payments and Improve Reporting*

ETA has been working aggressively with states to address the issue of UI program integrity and for the implementation of the national strategies for the detection, prevention, and recovery of improper payments. ETA's comments in response to this report are provided below.

As noted in your report, the estimated 2014 UI improper payment rate was 11.57 percent. The reduction of UI improper payments is one of ETA's highest priorities. ETA is working aggressively with states to implement the program integrity strategies contained in our UI integrity strategic plan. These strategies are designed to address major root causes of UI improper payments. ETA is also collaboratively working with states to add new innovative strategies to the strategic plan to help bring down the improper payment rate.

Also, as noted in the OIG report, one of the strategies included in the ETA's integrity strategic plan is the establishment of the national UI Integrity Center of Excellence (Center) to promote the development of innovative new integrity strategies. The Center is responsible for the development, implementation, and promotion of innovative program integrity strategies to reduce improper payments. The strategies and tools being developed by the Center will be made available to all states and include: data analytics and predictive modeling methodologies and tools to improve UI fraud prevention and detection; a secure portal for the rapid exchange of fraud information between states as it is identified; staff training on fraud solutions and integrity practices that is locally adaptable; highlighting integrity practices that should be included in state UI modernization efforts; and creation of a "model" plan for Benefit Payment Control operations.

Finally, while the UI program has made progress in implementing its strategic plan to improve program integrity, there are certain essential program characteristics that, by their nature, contribute to the improper payment rate. These structural issues include the following:

- The UI system has competing responsibilities that require states to continuously balance the need for both timeliness and accuracy --- the program is designed to require full payment of unemployment compensation "when due" but the program also requires extensive fact-finding and verification of information to prevent improper payment of benefits. In compliance with the "when due" provisions of the law, states will make the determination of whether or not to pay benefits based on the best available information. A major challenge to addressing improper payments is created when claimants, employers, and third party administrators (working for employers) fail to report information timely and/or accurately.
- There is no cost effective way to prevent the vast majority of work search improper payments, which is now the largest root cause of UI improper payments. All states are required to have laws requiring claimants to actively search for work and states vary in their requirements. Generally, claimants self-certify for each week of UI benefits claimed that they have carried out the required work search activities and are required to document in some fashion the activities they carried out. Most of this information requires additional

verification with the employer which is extremely resource intensive. Additionally, due to the delay in getting the employer validation, most work search errors can only be detected after the fact.

- There are lags in the current data sources used by states to identify individuals that continue to claim benefits after returning to work. For example, the National Directory of New Hires (NDNH), a data resource available to all states, contains information on newly hired employees. However, this data can take up to six weeks from the time of report to its entry into the NDNH, resulting in up to six weeks of undetected improper benefit payments. Additionally, states by law cannot stop benefit payments immediately on receiving a new-hire hit, but must independently verify information produced in the matching program and provide the individual an opportunity to contest findings. These requirements create further delays in stopping potentially improper benefit payments from being made to the claimant until the verification process has been completed.

ETA is currently studying the impact of these structural issues on the UI improper payment rate and how to quantify that impact. Once this study is completed, ETA will use the findings to provide a statistically reliable estimate for these structural impacts.

Appendix E

Acknowledgements

Key contributors to this report were Daniel Pompili, (Audit Manager), Lisa LaRosa (Auditor), Joseph Pomianek (Auditor), Goleda Sutton-Watson (Auditor), and Christine Allen (Senior Auditor).

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