



EFFORTS TO PREVENT, IDENTIFY, AND RECOVER IMPROPER AND ERRONEOUS PAYMENTS BY SELECTED DEPARTMENT OF JUSTICE COMPONENTS

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EFFORTS TO PREVENT, IDENTIFY, AND RECOVER IMPROPER AND ERRONEOUS PAYMENTS BY SELECTED DEPARTMENT OF JUSTICE COMPONENTS

EXECUTIVE SUMMARY

An initiative of the President's Management Agenda, implemented in August 2001, is the identification and reduction of improper payments within the federal government. Improper payments are payments that should not have been made or payments that were made for an incorrect amount because of errors, poor business practices, or intentional fraud or abuse. Improper payments include: (1) payments to an ineligible recipient, (2) payments for an ineligible service, (3) duplicate payments, (4) payments for services not rendered, and (5) payments that do not account for credit for applicable discounts. Additionally, when an agency is unable to discern whether a payment was proper due to insufficient or lack of documentation, this payment must also be considered an error.¹

According to a February 2006 Office of Management and Budget (OMB) report, *Improving the Accuracy and Integrity of Federal Payments*, the government-wide improper payment total reported for fiscal year (FY) 2005 was \$37.3 billion. The report also found that the amount reported for FY 2005 was approximately \$7.8 billion less than the \$45.1 billion reported in FY 2004.² However, improper payments remain a significant problem in the federal government.

In recent years, legislation has been enacted to address this problem followed by implementation of guidance from OMB. This legislation requires government agencies to conduct program inventories and assess each program's risk of making improper payments. Additionally, government agencies are to report on progress made in identifying and recovering improper payments.

¹ The scope of this audit did not include improper payments identified when an agency was unable to discern whether the payment was proper due to insufficient or lack of documentation. This type of improper payment was first defined in Office of Management and Budget Circular A-123, Appendix C, *Requirements for Effective Measurement and Remediation of Improper Payments*, August 2006.

² Office of Management and Budget, *Improving the Accuracy and Integrity of Federal Payments*, February 2006.

Background

Two federal laws address the prevention, identification, and recovery of improper payments. Pub. L. No. 107-300 (2002), the Improper Payments Information Act of 2002 (IPIA), requires the heads of federal agencies to annually: (1) review all programs and activities to identify those susceptible to significant improper payments, (2) estimate the amount of improper payments, and (3) report the estimate to Congress. Additionally, for improper payments estimated in excess of \$10 million, the agency must report the actions it is taking to reduce improper payments, including a discussion of the potential causes, a statement on whether the agency's information system and infrastructure are adequate to reduce improper payments, and a description of the steps taken to ensure agency managers are held accountable for reducing improper payments.

Pub. L. No. 107-107 (2001), the National Defense Authorization Act for FY 2002 (NDAA), Subchapter VI - Recovery Audits, requires all agencies that enter into contracts totaling more than \$500 million in a fiscal year to carry out a cost-effective program to identify errors in payments and recover amounts erroneously paid.

Between January and May 2003, OMB issued three memoranda that provided additional guidance related to the IPIA and the NDAA. In August 2006, these three memoranda were consolidated into OMB Circular A-123, Appendix C, *Requirements for Effective Measurement and Remediation of Improper Payments*, which became effective immediately for the FY 2006 Performance and Accountability Report (PAR).³

OMB Circular A-123, Appendix C details the IPIA information that should be included within an agency's PAR and requires that "when an agency's review is unable to discern whether a payment was proper as a result of insufficient or lack of documentation, this payment must also be considered an error."

For recovery auditing, OMB Circular A-123, Appendix C permits contingency fee contracts, which allow a portion of recovered funds to be used to pay recovery audit contractors. OMB Circular A-123, Appendix C also provides guidance on the disposition of recovered amounts and directs affected agencies to submit annual reports detailing recovery audit activities. Additionally, the guidance states that "agency Inspectors General and other

³ The PAR is an annual report that provides information on an agency's actual performance and progress in achieving the goals in its strategic plan and performance budget.

external agency auditors are encouraged to assess the effectiveness of agencies' recovery audit programs."

OMB issued Circular A-136 - Revised July 2006, *Financial Reporting Requirements*, which superseded Memorandum M-04-20, *FY 2004 Performance and Accountability Reports and Reporting Requirements for the Financial Report of the United States Government*, July 2004. Memorandum M-04-20 directed agencies to include a description of recovery audit activities in the PAR for FY 2004 forward. OMB Circular A-136 - Revised July 2006, requires additional information to be included in an agency's annual IPIA report, such as information from grant-making agencies, an improper payment reduction outlook table, a list of contracts excluded from the recovery audit program, and a table detailing the overall recovery audit effort.

In March 2006, the Department of Justice's (DOJ) Justice Management Division (JMD) issued the Financial Management Policies and Procedures Bulletin 06-11 (Bulletin 06-11), which provides direction on recovery audit programs and the IPIA for DOJ components.

Prior Audit

In April 2005, the Office of the Inspector General (OIG) issued an audit report on the *Department of Justice Process for Identifying, Preventing, and Recovering Improper and Erroneous Payments*, Audit Report Number 05-19. The audit included four DOJ components: (1) the Federal Bureau of Prisons (BOP), (2) Office of Justice Programs (OJP), (3) Federal Bureau of Investigation (FBI), and (4) United States Marshals Service (USMS). The audit found that:

- The USMS and OJP risk assessments were not adequate to completely measure the risk of improper payments for all programs the components administered.
- The BOP, OJP, and USMS IPIA reports did not contain a complete description of the risk assessment performed.
- Weaknesses were identified in certain FBI and USMS policies and procedures used to prevent improper payments.
- None of the risk assessments included an analysis or consideration of any material weaknesses, reportable conditions, or non-compliance matters resulting from the components' annual financial statement audits.

- The FBI, OJP, and USMS did not have processes in place to determine the full extent of improper payments.
- The BOP and OJP initiated recovery audit programs but had not implemented written policies and procedures. Additionally, the FBI and USMS had not initiated any type of formalized recovery audit program.
- JMD did not have an official reporting mechanism in place to monitor each component's recovery audit activities. Additionally, JMD's recovery audit guidance was not adequate to ensure consistency among the components related to progress in implementing and maintaining a recovery audit program.

The OIG provided recommendations to these conditions. At the time of this audit, all 22 recommendations had been agreed upon, 13 have been fully implemented, and 9 are in the process of being implemented.

Audit Approach

This audit was requested by JMD to review the remaining DOJ components. Based on the magnitude of the government-wide improper payments identified in the February 2006 OMB report and the findings identified in the April 2005 OIG audit, we conducted a follow-up audit, which included the: (1) Offices, Boards and Divisions (OBDs); ⁴ (2) Federal Prison Industries (FPI); (3) Drug Enforcement Administration (DEA); and (4) Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

The purpose of the audit was to assess these components' processes for preventing, identifying, and recovering improper and erroneous payments. Specifically, the objectives of the audit were to determine whether the components established:

- policies and procedures for *preventing* improper and erroneous payments,

⁴ In order to assess the OBDs, we selected a sample of six subcomponents of the OBDs to review and conclude upon compliance with the IPIA and the NDAA. The subcomponents selected were the: (1) Regime Crimes Liaison Office (RCLO), (2) Office on Violence Against Women (OVW), (3) Civil Division (CIV), (4) Office of Community Oriented Policing Services (COPS), (5) Executive Office for Immigration Review (EOIR), and (6) Wireless Management Office (WMO). The methodology for the selection of the OBD subcomponents is detailed in Appendix I.

- policies and procedures for *identifying* improper and erroneous payments, and
- methods to recover improper and erroneous payments.

We reviewed the FY 2005 IPIA reports submitted by the components to JMD. The information in these reports was analyzed in conjunction with Bulletin 06-11, dated March 2006. We used this approach in order to identify any necessary enhancements for full compliance in the FY 2006 IPIA reporting period.

Summary of Findings and Recommendations

Preventing Improper and Erroneous Payments

We reviewed the policies and procedures to prevent improper payments that were used by management at the OBDs, FPI, DEA, and ATF, and the risk assessment prepared by each of those components.

In evaluating the components' efforts, we determined that the risk assessments conducted by the OBDs, FPI, and ATF did not include an analysis of the results from the most recent financial statement audit as required by Bulletin 06-11. We also found that the OBDs' risk assessment did not include a review of federal award payments made by the recipients and subrecipients as required by Bulletin 06-11. In addition, we found that ATF did not conduct a risk assessment or program inventory for FY 2005 as required by Bulletin 06-11.

We recommend that JMD evaluate the recent changes to OMB Circular A-123, Appendix C and determine whether changes need to be made to Bulletin 06-11. We also recommend that Bulletin 06-11 be updated to include component disclosure of: (1) an unqualified, qualified, or no-assurance opinion related to the adequacy and effectiveness of internal controls and the effectiveness of the internal controls over financial reporting, following the requirements of OMB Circular A-123 revision, *Management's Responsibility for Internal Control*; (2) the reason for the opinion and its effect on the component's risk of making improper payments; and (3) any corrective actions being taken to address the opinion and the component's risk.

Identifying and Recovering Improper and Erroneous Payments

JMD oversees DOJ components' compliance with the IPIA and the NDAA. In addressing this function, JMD has issued guidance that is detailed in Bulletin 06-11 on complying with the IPIA and on conducting recovery audits. After comparing Bulletin 06-11 to applicable laws and regulations, we recommend that JMD improve Bulletin 06-11 by including time limits for confirming or providing documentation refuting any improper payments identified by the recovery audit contractor.

In assessing the components' efforts in identifying and recovering improper payments, we reviewed laws and regulations applicable to recovery audit activities, including Bulletin 06-11. We reviewed each component's FY 2005 IPIA report, which included a description of its recovery audit program, and reviewed the recovery audit program in place at each component. In addition, we interviewed component officials and reviewed policies and procedures used by the OBDs, FPI, DEA, and ATF to identify and recover improper payments.

Table 1 illustrates the amounts identified and recovered by DOJ components included in this audit.

Table 1: IMPROPER PAYMENTS IDENTIFIED AND RECOVERED BY SELECTED DOJ COMPONENTS

COMPONENT	IMPROPER PAYMENTS IDENTIFIED	IMPROPER PAYMENTS RECOVERED	IMPROPER PAYMENTS OUTSTANDING	PERCENTAGE RECOVERED
OBDs ⁵	\$1,198,443	\$916,711	\$281,732	76%
OBDs ⁶	215,212	203,896	11,316	95%
FPI	43,182	12,355	30,827	29%
DEA	403,305	386,833	16,472	96%
ATF	42,465	8,830	33,636	21%
TOTAL	\$1,902,607	\$1,528,625	\$373,983	

Source: Management at the following DOJ components: the RCLO, COPS, OVW, WMO, CIV, EOIR, FPI, DEA, ATF, and the recovery audit contractor. The differences in the totals are due to rounding.

⁵ These totals are the amounts the recovery audit contractor identified and recovered for all of the OBD's components.

⁶ These totals are the additional amounts identified and recovered by the six OBD subcomponents that were included in the scope of this audit. The subcomponents included the: RCLO, COPS, OVW, WMO, CIV, and EOIR.

Offices, Boards and Divisions. JMD manages the recovery audit program for the OBDs. Beginning in May 2003, the OBDs utilized a private contractor to conduct recovery audits. Payments made from FYs 1999 through 2004 were reviewed by the private contractor, as of April 2006. While this effort was ongoing, the recovery audit contractor identified improper payments totaling \$1,198,443 for all of the OBDs. At the time of our audit, the recovery audit contractor stated that \$916,711 (76 percent) had been recovered and \$281,732 remained to be recovered. Additionally, the six OBD subcomponents included in our audit identified an additional \$215,212 in improper payments, of which the subcomponents stated \$203,896 (95 percent) was recovered, and \$11,316 remained to be recovered.

However, we determined that the OBDs could be underreporting the improper payment amounts identified and recovered to JMD, due to breaks in communication. These breaks occur when the OBD subcomponents do not utilize the Notification of Erroneous Payments form (Attachment 2 of Financial Management Policies and Procedures Bulletin 05-03⁷) when reporting improper payments to JMD. Additionally, the OBDs' recovery audit program did not consider a review of all categories of payments as required by Bulletin 06-11. Specifically, a review of all grant payments was not included in the OBDs' recovery audit program.

Federal Prison Industries. Beginning in July 2004, the FPI began using a private contractor to conduct recovery audits. Payments made in FY 2003 were reviewed and vendor letters requesting reimbursement for overpayments were sent for FYs 2003 through 2005. As of April 2006, a total of \$43,182 in improper payments had been identified and confirmed from those fiscal years, and the FPI stated that \$12,355 (29 percent) of this amount had been recovered. The FPI stated that it is in the process of recovering the remaining \$30,827 from a single vendor and has requested that the funds be returned.

We determined that the FPI does not include a contract compliance review as required by Bulletin 06-11. Specifically, according to FPI management, the contract compliance review had not started because the recovery audit contractor is not at the level to conduct this review. The recovery audit contractor operates in phases, and has not implemented the review yet. Further, we found that the FPI had not implemented a final written policy for its recovery audit program as required by Bulletin 06-11.

⁷ Financial Management Policies and Procedures Bulletin 05-03, November 2004, details the OBDs' procedures for preventing, identifying, and recovering improper payments, including controls built into the OBDs' financial management system.

Drug Enforcement Administration. Although the DEA's initial recovery audit program began in FY 2004 and continued through FY 2005, it was not a comprehensive recovery audit program. Instead, a statistical sample of payments pulled from a population of all DEA payment categories, except payroll, were selected and tested to determine if any improper payments were made. Additionally, improper payments were identified by Contracting Officer Technical Representatives, Financial Management Division, as well as through other internal controls. In FY 2006, the DEA established a new recovery audit program, administered by the Financial Analysis and Reporting Unit (FNOF). The FNOF reviews all payments applicable to the IPIA, instead of sampling payments. This effort constitutes a comprehensive recovery audit program. As of May 2006, a total of \$403,305 in improper payments were identified and confirmed from FYs 2003 through 2005. The DEA stated that it has recovered \$386,833 (96 percent) of this amount and is in the process of recovering the remaining \$16,472.

Bureau of Alcohol, Tobacco, Firearms and Explosives. Although ATF began its internal recovery audit activities in 2001, as of May 2006, ATF stated that it had recovered only \$8,830 (21 percent) of the \$42,465 in improper payments it had identified, leaving \$33,636 still to be recovered. ATF officials stated that they planned to pursue the remaining amount, as well as pursue collection of all identified improper payments.

We determined that ATF did not consider a review of all categories of payments required by Bulletin 06-11. Specifically, ATF should expand the scope of its review to include all payments made from FY 2003 forward. Further, ATF could be underreporting the improper payment amounts identified and recovered to JMD because it is not tracking improper payments separately from other debts and it is not maintaining information on the scope of the improper payments identified and recovered.

We also noted that ATF needs to improve its policy implementation and compliance with existing requirements. We found that ATF should demonstrate progress toward utilizing the recovery audit contractor or in developing an internal recovery audit program compliant with all areas of Bulletin 06-11 and other applicable laws and regulations. In addition, we found that ATF did not have a final written policy for its recovery audit program, which should be developed and implemented when a program is in place as required by Bulletin 06-11.

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INTRODUCTION

According to the Office of Management and Budget (OMB) report, *Improving the Accuracy and Integrity of Federal Payments*, February 2006, the government-wide improper payment total reported for fiscal year (FY) 2005 was \$37.3 billion. The report also found that the amount reported for FY 2005 was approximately \$7.8 billion less than the \$45.1 billion reported in FY 2004. Despite this improvement, improper payments remain a significant problem in the federal government.

Improper payments are payments that should not have been made or payments that were made for an incorrect amount because of errors, poor business practices, or intentional fraud or abuse. Improper payments include: (1) payments to an ineligible recipient, (2) payments for an ineligible service, (3) duplicate payments, (4) payments for services not rendered, and (5) payments that do not account for credit for applicable discounts.

The President's Management Agenda, August 2001, is a strategy for improving the management and performance of the federal government, and includes five government-wide initiatives, one of which is "Improved Financial Performance."¹ Included in this initiative are requirements for the identification and reduction of improper payments within the federal government. In recent years, legislation has been enacted to address this problem followed by implementation of guidance from OMB. This legislation requires that government agencies conduct program inventories and assess each program's risk for making improper payments. In addition, government agencies are to report on progress made in identifying and recovering improper payments.

Background

Two federal laws address the prevention, identification, and recovery of improper payments. Pub. L. No. 107-300 (2002), the Improper Payments Information Act of 2002 (IPIA), requires the heads of federal agencies to annually: (1) review all programs and activities to identify those susceptible to significant improper payments, (2) estimate the amount of improper payments, and (3) report the estimate to Congress. In addition, for improper payments estimated in excess of \$10 million, the agency must report the actions it is taking to reduce improper payments and include a discussion of the potential causes, a statement on whether the agency's

¹ The five initiatives of the President's Management Agenda are further detailed in Appendix II of this report.

information system and infrastructure are adequate to reduce improper payments, and a description of the steps taken to ensure agency managers are held accountable for reducing improper payments.

Pub. L. No. 107-107 (2001), the National Defense Authorization Act for FY 2002 (NDAA), Subchapter VI - Recovery Audits, requires all agencies that enter into contracts totaling more than \$500 million in a fiscal year to carry out a cost-effective program to identify errors in payments and recover amounts erroneously paid. These actions are known as "recovery audits."

Between January and May 2003, OMB issued three memoranda that provided additional guidance related to the IPIA and the NDAA.² In August 2006, these three memoranda were consolidated into OMB Circular A-123, Appendix C, *Requirements for Effective Measurement and Remediation of Improper Payments*, which became effective immediately for the FY 2006 Performance and Accountability Report (PAR).³

OMB Circular A-123, Appendix C requires that "when an agency's review is unable to discern whether a payment was proper as a result of insufficient or lack of documentation, this payment must also be considered an error."⁴ OMB Circular A-123, Appendix C details the IPIA information that should be included within an agency's PAR, which changed so that agencies with improper payment estimates less than \$10 million are no longer required to complete the entire IPIA section of the PAR. Instead, these agencies are required to report only the improper payment estimate totals.

For recovery auditing, OMB Circular A-123, Appendix C permits contingency fee contracts, which allow a portion of recovered funds to be used to pay recovery audit contractors. OMB Circular A-123, Appendix C also provides guidance on the disposition of recovered amounts and directs

² These three Memoranda included: (1) Memorandum M-03-07, *Programs to Identify and Recover Erroneous Payments to Contractors*, January 2003; (2) Memorandum M-03-12, *Allowability of Contingency Fee Contracts for Recovery Audits*, May 2003; and (3) Memorandum M-03-13, *Implementation Guidance for the Improper Payments Information Act of 2002, P.L. 107-300*, May 2003.

³ The PAR is an annual report that provides information on an agency's actual performance and progress in achieving the goals in its strategic plan and performance budget.

⁴ The scope of this audit did not include improper payments identified when an agency was unable to discern whether the payment was proper due to insufficient or lack of documentation. This type of improper payment was first defined in Office of Management and Budget Circular A-123, Appendix C, *Requirements for Effective Measurement and Remediation of Improper Payments*, August 2006.

affected agencies to submit annual reports detailing recovery audit activities. Additionally, the guidance states that "agency Inspectors General and other external agency auditors are encouraged to assess the effectiveness of agencies' recovery audit programs."

OMB issued Circular A-136 - Revised July 2006, *Financial Reporting Requirements*, which superseded Memorandum M-04-20, *FY 2004 Performance and Accountability Reports and Reporting Requirements for the Financial Report of the United States Government*, July 2004. Memorandum M-04-20 directed agencies to include the following recovery audit information, beginning in the FY 2004 PAR: (1) a discussion of each agency's recovery audit effort, (2) the amount of recoveries expected, (3) the actions taken to recover them, and (4) the business processes changed and internal controls instituted or strengthened to prevent future occurrences. OMB Circular A-136 requires agencies to include the following additional information in the annual IPIA report:

- Accomplishments in the area of funds management past the primary recipient, including the status on projects and results of any reviews, which are applicable to grant-making agencies with risk-susceptible grant programs.
- The reduction outlook table, which should include: (1) all risk-susceptible programs, whether or not improper payments were identified; (2) dates when measurements are expected to be provided; (3) the baseline measurement year; (4) separate dollar amount estimates if the estimates correspond to both newly and previously established measurements; (5) estimates for the future 3 years; and (6) a report on current year activity and previous year activity, if applicable.
- The contract types that were excluded from the recovery audit review and an explanation for their exclusion.
- A table detailing the recovery audit effort, including the amount subject to review, the actual amount reviewed and reported on, the amount identified for recovery, the percentage of amount identified over the actual amount reviewed, the amount recovered, and the amount recovered in previous years.

OMB Circular A-123 revision, *Management's Responsibility for Internal Control*, dated December 2004, effective FY 2006, requires agencies to annually submit an overall statement of assurance as to the adequacy and effectiveness of internal controls within the agency, and a statement of

assurance over the effectiveness of the internal controls over financial reporting. Agencies are to document the internal controls over financial reporting in hard copy or electronic forms and include documentation of tests of internal controls, internal control deficiencies, and suggestions for improvement.

Department of Justice Guidance

In March 2006, the Department of Justice's (DOJ) Justice Management Division (JMD) issued guidance on recovery audit programs and the IPIA in Financial Management Policies and Procedures Bulletin 06-11 (Bulletin 06-11). This department-wide bulletin supports guidance set forth in the IPIA, the NDAA, and OMB circulars and memoranda. Bulletin 06-11 requires each component to "review all programs and activities administered, and identify those susceptible to significant improper payments. This includes payments from federal awards made by recipients and subrecipients subject to the Single Audit Act Amendments of 1996." Further, Bulletin 06-11 requires that "each component must ensure that its risk assessment, required under the IPIA, contain, at a minimum: (1) the results from the most recent financial statement audit, including any material weaknesses or reportable conditions; (2) the effect of those weaknesses or conditions on its risk of making improper payments; and (3) a description of the corrective actions taken to address those weaknesses or conditions."

Bulletin 06-11 also requires that "the risk assessment should also include a review of systems, procedures, policies, and practices, including oversight, that help prevent or correct improper payments. It also can include, but is not limited to, independent audit reports, internal control reviews, Inspector General reviews, results of recovery audit activities, other internal reviews, and the results of the internal audit program or any other mechanism implemented to analyze susceptible risk."

JMD combines all of the components' annual IPIA reports and summarizes them in DOJ's annual PAR. The annual IPIA report is required to include:

- a description of the risk assessment performed and a list of risk-susceptible programs;
- the statistical sampling process conducted to estimate the improper payment rate for each program identified, if applicable;

- the corrective action plan for reducing improper payments, and the corrective action plan for grant-making agencies with risk-susceptible grant programs, including a discussion of accomplishments in the area of funds stewardship past the primary recipient;
- estimates of improper payments in future years;
- a description of the recovery audit program, including a table detailing the recovery audit effort, the amount subject to review, the actual amount reviewed and reported on, the amounts identified for recovery, the percentage of amounts identified over the actual amount reviewed, the amount recovered, and the amount recovered in previous years;
- the steps planned and taken to ensure management is held accountable for reducing improper payments;
- a description of whether the information system and infrastructure are adequate to reduce improper payments; and if not, a description of the resources requested to improve its information systems and infrastructure;
- any statutory or regulatory barriers that may limit the corrective actions in reducing improper payments; and
- additional comments on overall efforts, specific programs, best practices, or common challenges identified.⁵

Bulletin 06-11 further requires each component to carry out a cost-effective recovery audit program to prevent, identify, and recover improper payments. Each recovery audit program must include a comprehensive review of prior payments to determine whether they were improper. Further, the recovery audit program must:

- look for several types of improper payments, including: (1) duplicate payments, (2) payments made that were not in accordance with an applicable contract, (3) payments made for incorrect amounts, (4) payments for which allowable discounts were not taken, and (5) payments made for goods not received or services not rendered;
- encompass, at a minimum, all payments made from FY 2003 forward; and

⁵ The Annual Improper Payments Information Act Report is detailed in Appendix V.

- include the component's grant programs, if applicable.

Recovery audits may be performed by component employees, by other departments or agencies of the federal government acting on behalf of the component, or by contractors performing recovery audit services under contracts awarded by the agency. Each component is required to develop and implement written policies and procedures for its recovery audit program, in accordance with the framework set forth in Bulletin 06-11.

In May 2003, the Director, JMD Finance Staff, implemented a department-wide recovery audit contract, which all components are required to use unless a waiver is granted. Requests for waivers must be forwarded to the Director and include a complete description of the proposed alternate recovery audit program and its cost.

Bulletin 06-11 further requires each component to complete a quarterly report on recovery audit activities. The report is due within 5 working days following the end of each quarter and should include the type and total amount of improper payments identified, the total amount recovered, and the total amount outstanding. Components are to report separate totals for amounts attributable to internal agency activities and also those attributable to recovery audit contractors. Additionally, the report should include the identified causes for improper payments, as well as the corrective actions taken, business processes changed, and internal controls instituted and strengthened to prevent future occurrences. Finally, descriptions of the recovery audit program and planned recovery audit activities for the following quarter are to be included within the quarterly report.

Prior Audit

In April 2005, the Office of the Inspector General (OIG) issued an audit report on the *Department of Justice Process for Identifying, Preventing, and Recovering Improper and Erroneous Payments*, Audit Report Number 05-19. The scope of this audit included four DOJ components: (1) the Federal Bureau of Prisons (BOP), (2) Office of Justice Programs (OJP), (3) Federal Bureau of Investigation (FBI), and (4) United States Marshals Service (USMS). At each of the components, the auditors reviewed the reports submitted in accordance with the IPIA and assessed each component's efforts for preventing, identifying, and quantifying improper payments. Additionally, the auditors reviewed the recovery audit efforts at each of the selected components. The audit revealed that:

- The USMS and OJP risk assessments were not adequate to completely measure the risk of improper payments for all programs the components administered.
- The BOP, OJP, and USMS IPIA reports did not contain a complete description of the risk assessment performed.
- Weaknesses were identified in certain FBI and USMS policies and procedures used to prevent improper payments.
- None of the risk assessments included an analysis or consideration of any material weaknesses, reportable conditions, or non-compliance matters resulting from the components' annual financial statement audits.
- The FBI, OJP, and USMS did not have processes in place to determine the full extent of improper payments.
- The BOP and OJP initiated recovery audit programs but had not implemented written policies and procedures. Additionally, the FBI and USMS had not initiated any type of formalized recovery audit program.
- JMD did not have an official reporting mechanism in place to monitor each component's recovery audit activities. Additionally, JMD's recovery audit guidance was not adequate to ensure consistency among the components related to progress in implementing and maintaining a recovery audit program.

The OIG provided the recommendations to these conditions. At the time of this audit, all 22 recommendations had been agreed upon, 13 have been fully implemented, and 9 are in the process of being implemented.

Audit Approach

This audit was requested by JMD. Based on the magnitude of the government-wide improper payments identified in the February 2006 OMB report and the findings identified in the April 2005 OIG audit report, we conducted a follow-up audit, which included the: (1) Offices, Boards and

Divisions (OBDs);⁶ (2) Federal Prison Industries (FPI); (3) Drug Enforcement Administration (DEA); and (4) Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The purpose of the audit was to assess the selected component's processes for preventing, identifying, and recovering improper and erroneous payments. Specifically, the objectives of the audit were to determine whether the components established:

- policies and procedures for *preventing* improper and erroneous payments,
- policies and procedures for *identifying* improper and erroneous payments, and
- methods to recover improper and erroneous payments.

During this audit, we reviewed current laws, regulations, guidance, and policies to obtain an understanding of the requirements with which federal agencies must comply. We also conducted interviews with component management; reviewed policies and procedures related to preventing, identifying, and recovering improper payments; and analyzed reports submitted to JMD to determine whether the components complied with applicable laws and regulations. Specifically, we reviewed the FY 2005 IPIA reports submitted by the components to JMD. The information in these reports was analyzed in conjunction with Bulletin 06-11, dated March 2006. We used this approach in order to identify any necessary enhancements for full compliance in the FY 2006 IPIA reporting period.

⁶ In order to assess the OBDs, we selected a sample of six sub-components of the OBDs to review and conclude upon compliance with the IPIA and the NDAA. The sub-components selected included the: (1) Regime Crimes Liaison Office (RCLO), (2) Office on Violence Against Women (OVW), (3) Civil Division (CIV), (4) Office of Community Oriented Policing Services (COPS), (5) Executive Office for Immigration Review (EOIR), and (6) Wireless Management Office (WMO). The methodology for the selection of the OBD subcomponents is detailed in Appendix I.

FINDINGS AND RECOMMENDATIONS

I. PREVENTING IMPROPER AND ERRONEOUS PAYMENTS

Our audit determined that the risk assessments conducted by the OBDs, FPI, and ATF did not include an analysis of the results from the most recent financial statement audit. We further determined that the OBDs' risk assessment did not include a review of federal award payments made by the recipients and subrecipients, and ATF did not conduct a risk assessment or program inventory for FY 2005. In addition, we recommended that JMD evaluate the recent changes to OMB Circular A-123, Appendix C and determine whether changes need to be made to Bulletin 06-11. We also recommended Bulletin 06-11 be updated to include component disclosure of: (1) an unqualified, qualified, or no-assurance opinion related to the adequacy and effectiveness of internal controls and the effectiveness of the internal controls over financial reporting, following the requirements of OMB Circular A-123 revision; (2) the reason for the opinion and its effect on the component's risk of making improper payments; and (3) any corrective actions being taken to address the opinion and the component's risk.

Many improper payments are caused by a lack of or an inadequate system of internal control. According to information obtained from the Chief Financial Officers Council and the President's Council on Integrity and Efficiency, the causes for improper payments can be broken down into the following three broad categories:

- *A weak or incomplete program control environment:* this includes the systems, procedures, and practices, including rigorous oversight, that can help prevent or correct improper payments.
- *Risks inherent in the regulatory and policy structure:* these define and support each federal program, and may stem directly from policy choices and mandates.
- *A lack of government-wide consistency, coordination, and standardization:* this includes a lack of alignment of program eligibility policies, sharing of data, consistency in measuring improper payments, and dissemination of best practices.

The IPIA requires a risk assessment of all programs to identify those susceptible to significant improper payments. Guidance provided by OMB in accordance with the IPIA requires each agency to conduct a full program

inventory and perform a risk assessment of each program in the program inventory.

In March 2006, JMD issued Bulletin 06-11, which required each component to include the following within its risk assessment: (1) the results from the most recent financial statement audit, including any material weaknesses or reportable conditions; (2) the effect of any weaknesses or conditions as it pertains to the risk of making improper payments; and (3) a description of the corrective actions taken to address any weaknesses or conditions.

We reviewed the FY 2005 risk assessments conducted by the OBDs, FPI, DEA, and ATF, and found that:

- The assessments conducted by the OBDs, FPI, and ATF did not include an analysis or consideration of the overall financial statement audit. Additionally, the OBDs, FPI, and ATF did not include an analysis or consideration of the material weaknesses or reportable conditions resulting from the component's annual financial statement audit. Specifically, the OBDs and ATF had material weaknesses or reportable conditions in the components' FY 2005 financial statement audits but did not address them in their risk assessments. The FPI did not have any issues noted within its FY 2005 financial statement audit.
- The assessment conducted by the DEA did include an analysis of its overall financial statement audit. The DEA did not have any issues noted within its FY 2005 financial statement audit.

In our judgment, certain internal control deficiencies could increase the risk of making improper payments. Thus, a thorough risk assessment should include a review of the financial statement audit opinion, any reportable conditions or material weaknesses noted by the independent auditors, and an analysis of whether those weaknesses or conditions could potentially affect the component's risk of making improper payments as required by Bulletin 06-11. In our judgment, unqualified audit opinions should also be included because they can further support a component's risk assessment concluding that the component is not at significant risk of making improper payments. When we discussed this issue with management at the OBDs, FPI, and ATF, they generally concurred with our assessment.

OMB Circular A-123 revision requires annual assurance statements, a summary of material weaknesses and non-conformances, and a summary of the corrective action plans to be included within the PAR. The two required

assurances include a statement on the overall adequacy and effectiveness of internal controls within the agency and the effectiveness of the internal controls over financial reporting. Documentation supporting the assurances should be maintained, including the assessment process, testing of controls, deficiencies identified, and suggestions for improvement.

During the period covered by our audit, the requirements of OMB Circular A-123 revision related to annual assurance statements in the PAR were not yet enacted. Further, none of the components included in our audit individually fall under the requirements of OMB Circular A-123 revision because it relates to DOJ as a whole. However, in order for DOJ to provide the assurances in its PAR, according to JMD management, individual components were required to provide assurances to them as of June 2006.

In our judgment, a thorough risk assessment for the IPIA should include the OMB Circular A-123 revision assurance opinion, the reason for the opinion, and an analysis of whether the reasons for the opinion could potentially affect the component's risk of making improper payments. As a result, we are recommending that each component include this information in its risk assessments. Management at the OBDs, FPI, DEA, and ATF, as well as JMD, generally concurred with our recommendation.

In addition to our findings related to the annual financial statement audit and OMB Circular A-123 revision assurance results, we noted the conditions described below during our review of policies and procedures used by management at the OBDs, FPI, DEA, and ATF to prevent improper payments, and in the risk assessment prepared by each component.

It should be noted that OMB Circular A-123, Appendix C states that each agency with improper payment estimates less than \$10 million are only required to report the total improper payment estimate in its annual PAR to OMB. Agencies are no longer required to include: (1) information on the risk assessment conducted, (2) a description of management accountability for reducing improper payments, and (3) a description on whether the information system and infrastructure are adequate to reduce improper payments.⁷ Those requirements apply to each DOJ program, rather than to the individual components. Moreover, because the improper payment estimate for each DOJ program is less than \$10 million, in our judgment, DOJ is not required to include this information in its PAR for FY 2006. Nonetheless, Bulletin 06-11 still required the individual components to include the information in their IPIA reports. We recommend JMD evaluate

⁷ OMB Circular A-136 - Revised July 2006, requires additional IPIA and recovery audit information to be included in the annual PAR.

the recent changes to OMB Circular A-123, Appendix C and determine whether changes need to be made to Bulletin 06-11.

As a result, throughout this report, we disclosed our findings related to Bulletin 06-11 requirements. However, we did not offer any recommendations related to the descriptions on: (1) the risk assessment conducted for the OBDs and ATF; (2) management accountability for reducing improper payments for the FPI, DEA, and ATF; and (3) whether the information system and infrastructure are adequate to reduce improper payments for the DEA.

Offices, Boards and Divisions

Preventive Measures

JMD manages the recovery audit program for the OBDs. JMD also established a written policy for the OBDs describing the identification, prevention, and recovery of improper payments in Financial Management Policies and Procedures Bulletin 05-03 (Bulletin 05-03), November 2004. Bulletin 05-03 explains procedures for preventing improper payments including controls built into the OBDs' financial management system. The built-in controls alert the user when a potential duplicate invoice is entered into the system.

Additionally, according to JMD management, the OBDs have the internal control structure necessary to prevent improper payments.⁸ This structure includes written policies and procedures, separation of duties, and certification by a supervisor of no conflicting duties before a user is granted access to enter obligation data into the financial management system.

Finally, the OBDs' financial management system will not permit payments that exceed the allowance amount to be recorded. However, the financial management system does provide "tolerance limits" that allow expenditures to be processed that exceed the obligated amount. The "tolerance limits" are generally set at the lower of \$100 or 10 percent of the obligation.

Risk Assessment

For FY 2005, JMD submitted the IPIA report for the OBDs in accordance with regulations. We reviewed the OBDs' full program inventory

⁸ See the *Statement on Internal Controls*, at the back of this report, for details of our review of the OBDs' controls, policies, and procedures.

and risk assessment. The risk assessment included four programs that were considered at risk of making improper payments.⁹ However, it did not include how those programs were determined to be at risk.

According to JMD management, the risk assessments included a review of the: (1) mock audit risk assessments, which identify the OBD programs at high risk;¹⁰ (2) high-risk areas, including foreign payments; (3) the level of dollars involved; and (4) the recovery audit contractor's analysis to determine whether any program reached the criteria for significant risk. Therefore, according to JMD, the risk assessment for the OBDs was more comprehensive than what was described in the IPIA report. However, a description of this four-step risk assessment was not included in the IPIA. Bulletin 06-11 states, "the Annual IPIA Report is to include a description of the component's risk assessment subsequent to compiling a full program inventory," and the component is to ". . . maintain documentation of the risk assessment and the results." Therefore, according to JMD's own criteria, the risk assessment methodology JMD described to the OIG during this audit should have been included in the IPIA report.

Bulletin 06-11 states that, "components are required to review all programs and activities administered, and identify those susceptible to significant improper payments. This includes payments from federal awards made by recipients and subrecipients subject to the Single Audit Act Amendments of 1996." JMD management stated that they were unsure whether all grant programs were included in JMD's risk assessment of the OBDs. Based on our review of the FY 2005 IPIA report submitted by JMD for the OBDs, we found that JMD did not include a review of all payments from COPS and OVW federal awards in the risk assessment.

We discussed this issue with JMD management and they concurred with our finding that the risk assessment for the OBDs conducted for the FY 2005 IPIA report is missing an assessment of payments from federal awards made by recipients and subrecipients. JMD management agreed to conduct an assessment of all payments from federal awards made by recipients and subrecipients in the OBDs' future risk assessments.

⁹ The OBDs' risk assessment for FY 2005 included the: (1) Office on Violence Against Women, (2) Radiation Exposure Compensation, (3) Regime Crimes Liaison Office, and (4) salaries and other outlays.

¹⁰ Mock audits, administered by the JMD Quality Control and Compliance Group, are audit simulations that aim to reduce audit findings, minimize organizational weaknesses, and strengthen financial management and practices of the OBDs, Working Capital Fund, and the United States Attorneys' district offices. Each mock audit analyzes and tests a component's financial processes and assigns a risk ranking to the component based upon the results.

Management Accountability

JMD and the OBDs provided various documents demonstrating that management is held accountable for reducing improper payments. Management at JMD and the OBDs provided Performance Work Plans, which included a discussion on accountability for taxpayer dollars, specifically effective management of financial resources and unqualified financial audits. Additionally, the results from the mock audit can identify improper payments. If an improper payment was identified, it would be reflected on the component's scorecard, which is reflected in management performance reviews and evaluations.

Information System and Infrastructure

We found that the OBDs have the infrastructure and information system necessary to reduce improper payments within the financial management system. We verified that the financial management system prompts the user if a potential improper payment is entered into the system. Additionally, the OBDs can produce the financial management system duplicate payment report, which identifies potential duplicates. These processes are also described in Bulletin 05-03.

Federal Prison Industries

Preventive Measures

According to FPI management, the FPI has the internal control structure in place to prevent improper payments.¹¹ This structure includes existing written policies and procedures, segregating duties, centralizing payments, pre-auditing disbursement vouchers, utilizing the original invoice, tying the receipt to the line item received, and matching the purchase order to the original invoice. In addition, controls are built into the FPI's financial management system, which alerts the user when a potential duplicate invoice is entered into the system. The FPI has a Program Review Division, which conducts internal audits on a rotating basis at FPI institutions, every 3 years. These audits include transaction testing.

¹¹ See the *Statement on Internal Controls*, at the back of this report, for details of our review of the FPI's controls, policies, and procedures.

Risk Assessment

In October 2005, the FPI submitted a report to JMD in accordance with the IPIA, which included a complete program inventory and a description of the FPI's complete risk assessment. In the report, the FPI was defined as a single program, the purpose of which is to employ inmates.

Management Accountability

Bulletin 06-11 requires the annual IPIA reports to include a description of how managers are held accountable for reducing improper payments. The FPI's FY 2005 IPIA report states that the "FPI's risk assessment has determined that internal controls governing the payment cycle are not a high-risk area. Therefore, no action is being taken in this regard at this time. If the recovery audit results should justify such action, then the FPI will amend it at that time." However, according to the FPI, managers are given responsibility and held accountable for reducing improper payments.

The FPI Program Statement on Accounts Payable, Accountable Officer Liability states, "An accountable officer may be held personally liable and subject to disciplinary actions for the loss or improper payment of funds for which they are accountable." The FPI also provided a draft policy on the IPIA, which states that the FPI will comply with the IPIA and ". . . provide other information on management accountability." Finally, the FPI Program Statement on Employee Code of Conduct states, "Employees will conform to procurement integrity regulations." We noted that management accountability described in the FPI's IPIA report was not reflective of its actual policies related to management accountability for reducing improper payments at the FPI.

Information System and Infrastructure

We found that the FPI has a fully integrated accounting system which provides the infrastructure and information system necessary to reduce improper payments. We verified that the accounting system prompts the user if a potential improper payment is entered into the system. Then, the user will determine whether the payment is in fact improper.

Drug Enforcement Administration

Preventive Measures

According to DEA management, the DEA has an internal control structure in place to prevent improper payments.¹² This structure includes:

- Using standardized stamps to verify receipt of goods or services; to approve, certify, and reject duplicates; and to date the arrival of an invoice in the designated office.
- Paying duplicate invoices only if the approving officer verifies that the original invoice was not paid and stamping the invoice, "Duplicate Original Approved as Proper for Payment."
- Perforating paid invoices to prevent duplicate payments.
- Approving and certifying officers perform a three-way match among the obligating document, receiving document, and the invoice prior to payment. This is to assure that the goods or services were procured by an authorized individual; the goods or services were received; and the payment was legal, proper, and correct.
- Holding approving officers administratively liable for an incorrect, improper, or illegal payment.
- Certifying officers are financially liable for an incorrect, improper, or illegal payment.
- Reviewing the payment process annually through the Office of Inspections' self-inspection program.
- Segregating key functions to ensure effective checks and balances to reduce the risk of improper, wasteful, or wrongful acts.

We verified that internal controls have been built into the DEA's financial management system. These controls include access security controls and a financial management system that will prompt "Possible Duplicate Payment" if a user enters an invoice with the same invoice number, date, and amount as a previously accepted invoice. DEA management explained that the "Possible Duplicate Payment" prompt will

¹² See the *Statement on Internal Controls*, at the back of this report, for details of our review of the DEA's controls, policies, and procedures.

not appear for a duplicate payment if the vendor payment document has been "warehoused," meaning payments are scheduled for payment by the Department of the Treasury (Treasury) in conformity with the time frame of the Prompt Payment Act or within the time frame negotiated on the obligation. However, an Erroneous Payment database was established to capture an improper payment that was "warehoused" the following day for the reason described above.

Risk Assessment

In October 2005, the DEA submitted a report to JMD in accordance with the IPIA, which included a complete program inventory and a complete description of the DEA's risk assessment. The report defined the DEA's programs by payment types. In the risk assessment, the DEA identified the preventive and detective controls for each program in the full program inventory. Additionally, the report described weaknesses within each program and identified areas where improper payments could occur, which assisted the DEA's recovery audit program. The program inventory and risk assessment conducted by the DEA demonstrates a thorough and comprehensive review.

Management Accountability

The DEA provided various documents that hold management accountable for reducing improper payments. The DEA maintains scorecards for each division, regarding electronic payments to vendors, non-credit card invoices paid on time, and interest penalties paid on invoices. Department-wide scorecards are maintained to inform employees on how the DEA is performing. The DEA provided Performance Work Plans that explain accountability for taxpayer value, effective management of financial resources, and unqualified audits. Finally, the DEA provided documentation on Approving and Certifying Officers. Approving Officers may be subject to administrative discipline if they approve an incorrect, illegal, or improper payment. Certifying Officers are personally and financially accountable for the amount of any incorrect, illegal, or improper payment resulting from false or misleading certification, as well as for any payment prohibited by law that does not represent a legal obligation under the appropriation or fund involved. Certifying Officers may be required to reimburse the federal government for the entire amount of any incorrect, illegal, or improper payment resulting from their certification. In our opinion, the DEA's management accountability for reducing improper payments ensures that the IPIA and the NDAA are addressed within the component, which is particularly important during times when budgets are tight.

Bulletin 06-11 required the annual IPIA reports to include a description of how managers are held accountable for reducing improper payments. In reviewing the DEA's FY 2005 IPIA report, we noted that the DEA stated "not applicable" for Item 6, which asks for a description of the steps taken or planned to ensure managers are held accountable for reducing improper payments. However, as described above, managers are given responsibility and held accountable for reducing improper payments.

Information System and Infrastructure

Bulletin 06-11 required the annual IPIA reports to include within Item 7, a description as to whether the component has the information system and other infrastructure it needs to reduce improper payments to the levels the component has targeted. If the component does not have the information system or infrastructure necessary to reduce improper payments, the component should include a description of the resources the component requested in its budget submission to Congress to obtain the necessary information system and infrastructure. In reviewing the DEA's FY 2005 IPIA report that was submitted to JMD, we found that the DEA stated "not applicable" for Item 7. However, we found that the DEA has the information system and infrastructure necessary to reduce improper payments through its financial management system.

Bureau of Alcohol, Tobacco, Firearms and Explosives

Preventive Measures

According to ATF management, ATF has the internal control structure and three processes in place to prevent improper payments.¹³ The first control, which we verified, is a prompt that appears to the user when a duplicate invoice is entered into the system. Second, prior to authorizing a payment, ATF performs a draft referencing process by examining the obligating documents, receiving documents, and the invoice. The draft referencing process compares the information on all of these documents and ensures the accuracy on each. This process is performed both when funds have and have not been obligated. The referencing process can prevent improper payments because when funds have been obligated, the payment should reference the vendor invoice; when funds have not been obligated, the payment should reference the purchase order. Finally, ATF provided a draft policy for transactions greater than \$2,500, which requires system approval prior to being processed and paid by the Certifying Officer. The

¹³ See the *Statement on Internal Controls*, at the back of this report, for details of our review of ATF's controls, policies, and procedures.

Certifying Officer reviews documentation prior to certifying an invoice for payment.

Risk Assessment

For FY 2005, ATF submitted a report to JMD as required by the IPIA. The program inventory and risk assessment completed by ATF stated, "ATF does not have any significant risk programs in which improper payments exceed both 2.5 percent of program payments and \$10 million." However, according to ATF management, a risk assessment was not performed in FY 2005. Instead, we determined that ATF management relied on the FY 2004 risk assessment and data on improper payments identified and recovered in 2005 to make the concluding statement in the FY 2005 IPIA report.

Bulletin 06-11 requires each component to review all programs and activities administered and identify those susceptible to significant risk and to "describe the risk assessment performed, subsequent to compiling the full program inventory." A full program inventory and risk assessment ensures that all payments and controls are reviewed for weaknesses and strengths in preventing and identifying improper payments and the reasons they occur. When we discussed the lack of a risk assessment conducted for the FY 2005 report with ATF managers, they stated that because the FY 2004 IPIA report reported no significant risk programs, a risk assessment for FY 2005 was not necessary. However, ATF needs to conduct a risk assessment of its full program inventory each year until the level of risk is known and the baseline estimates, if applicable, are established as required by Bulletin 06-11. ATF should maintain documentation of the risk assessment. When ATF's programs are deemed not risk susceptible and documentation is maintained, ATF can conduct a risk assessment every 3 years.

We discussed with ATF management this finding related to conducting a complete risk assessment of all programs within the full program inventory and maintaining documentation of the risk assessment. ATF management concurred and agreed to conduct a complete risk assessment and to maintain documentation of the risk assessment performed.

Management Accountability

ATF management described Certifying Officers, Contracting Officer Technical Representatives (COTRs), and post-contract responsibilities that ensure management's responsibility for reducing improper payments. Certifying Officers are held accountable for any improper payments they certify. Additionally, Certifying Officers are also responsible for reviewing

the appropriate documents prior to certifying an invoice for payment. ATF explained and provided documentation on COTRs' responsibilities, which include: (1) reviewing invoices to ensure ATF is not receiving duplicate invoices, (2) comparing invoices to the terms of the contract, (3) reviewing the performance accomplished on the contract, (4) analyzing the spend rate based on the work completed on the contract, and (5) handling any other contract issues. According to Acquisition Management Policy No. 007, *Accelerated Closeout Procedures for Simplified Acquisition Procedures Contract Files*, post-contract responsibilities include ensuring all goods and services were received, reviewing terms of the contract, verifying that the final invoice has been received and approved for payment, and determining that multiple payments were not made. In our judgment, these processes assist in ensuring no duplicate, under- or over-payments occur.

Bulletin 06-11 requires the annual IPIA report to include a description of how managers are held accountable for reducing improper payments. In reviewing the FY 2005 IPIA report, we noted that ATF stated "not applicable" for Item 6, which asks for a description of the steps taken or planned to ensure managers are held accountable for reducing improper payments. However, ATF designates responsibilities for reducing improper payments through Certifying Officers, COTRs, and post-contract responsibilities.

Information System and Infrastructure

We determined that ATF has the infrastructure and information system necessary to reduce improper payments. We verified that the financial management system prompts the user if a potential improper payment is entered into the system. Then, the user will determine whether the payment is in fact improper.

Recommendations:

We recommend that JMD:

1. Ensure that risk assessments for each component are required to include: (1) an assurance statement of an unqualified, qualified, or no-assurance opinion, following the requirements of OMB Circular A-123 revision, *Management's Responsibility for Internal Control*, for DOJ as a whole; (2) the reason for the opinion and its effect on the component's risk of making improper payments; and (3) any corrective actions being taken to address the opinion and the component's risk.

2. Evaluate the recent changes to OMB Circular A-123, Appendix C and determine whether changes need to be made to Bulletin 06-11.

We recommend that for the OBDs, JMD:

3. Ensure future risk assessments include: (1) the results from the most recent financial statement audit, including any material weaknesses or reportable conditions; (2) the effect of those weaknesses or conditions on its risk of making improper payments; and (3) a description of the corrective action taken to address those weaknesses or conditions as required by Bulletin 06-11.
4. Ensure future risk assessments include: (1) an assurance statement of an unqualified, qualified, or no-assurance opinion; (2) the reason for the opinion and its effect on the component's risk of making improper payments; and (3) any corrective actions being taken to address the opinion and the component's risk.
5. Ensure future risk assessments include an assessment of federal award payments made by the recipients and subrecipients as required by Bulletin 06-11.

We recommend that the FPI:

6. Ensure future risk assessments include: (1) the results from the most recent financial statement audit, including any material weaknesses or reportable conditions; (2) the effect of those weaknesses or conditions on its risk of making improper payments; and (3) a description of the corrective action taken to address those weaknesses or conditions as required by Bulletin 06-11.
7. Ensure future risk assessments include: (1) an assurance statement of an unqualified, qualified, or no-assurance opinion; (2) the reason for the opinion and its effect on the component's risk of making improper payments; and (3) any corrective actions being taken to address the opinion and the component's risk.

We recommend that the DEA:

8. Ensure future risk assessments include: (1) an assurance statement of an unqualified, qualified, or no-assurance opinion; (2) the reason for the opinion and its effect on the component's risk of making improper payments; and (3) any corrective actions being taken to address the opinion and the component's risk.

We recommend that ATF:

9. Ensure future risk assessments include: (1) the results from the most recent financial statement audit, including any material weaknesses or reportable conditions; (2) the effect of those weaknesses or conditions on its risk of making improper payments; and (3) a description of the corrective action taken to address those weaknesses or conditions as required by Bulletin 06-11.
10. Ensure future risk assessments include: (1) an assurance statement of an unqualified, qualified, or no-assurance opinion; (2) the reason for the opinion and its effect on the component's risk of making improper payments; and (3) any corrective actions being taken to address the opinion and the component's risk.
11. Conduct a complete program inventory and risk assessment for each program, and maintain documentation as required by Bulletin 06-11.

II. IDENTIFYING AND RECOVERING IMPROPER AND ERRONEOUS PAYMENTS

In general, the agencies complied with OMB and DOJ requirements for identifying and recovering improper payments. However, our audit determined that the recovery audit programs at the OBDs, FPI, and ATF did not consider a review of at least one of the categories of payments required by Bulletin 06-11. Further, we found that identified and recovered improper payment amounts reported to JMD may be understated for the OBDs, due to breaks in communication within the component and for ATF because it is not tracking improper payments separately from other debts. We also noted agencies that needed improvement in policy implementation and in compliance with existing requirements. Finally, we found that JMD could improve Bulletin 06-11 by establishing time limits for confirming or refuting any improper payments identified by the recovery audit contractor.

In February 2006, OMB issued *Improving the Accuracy and Integrity of Federal Payments*, which identified approximately \$888 million in improper payments made by federal agencies in FY 2005. Additionally, the report stated, "Of the \$888 million in improper vendor payments, agencies recovered \$656 million. Approximately, \$205 million is pending resolution, with the remainder either still in dispute or deemed unrecoverable. This demonstrates an improper payment recovery rate of 74 percent." DOJ was included in this report, which compiled information from the agencies' PARs. According to DOJ's FY 2005 PAR, DOJ identified improper payments totaling \$1,044,320 and \$765,086 (73 percent) had been recovered.

However, according to testimony by David Walker, the Comptroller General of the United States, "Significant challenges remain to effectively achieve the goals of the IPIA" ¹⁴ Walker also reported that the Government Accountability Office's review of FY 2005 PARs, ". . . noted that some agencies still have not instituted a systematic method of reviewing all programs and activities, have not identified all programs susceptible to significant improper payments, and have not annually estimated improper payments for their high-risk programs." Specific agencies were not identified in his testimony.

¹⁴ Government Accountability Office, *Fiscal Year 2005 U.S. Government Financial Statements, Sustained Improvement in Federal Financial Management Is Crucial to Addressing Our Nation's Financial Condition and Long-term Fiscal Imbalance, Statement of David M. Walker, Comptroller General of the United States*, March 2006.

Identifying improper payments is an essential step in assessing the need for and types of corrective action required to manage improper payments and help ensure efficient and effective program operations. A recovery audit program includes a comprehensive review of prior payments to determine whether they were improper. A recovery audit program also looks for several types of improper payments, including:

- duplicate payments;
- errors on invoices or financing requests;
- failure to reduce payments by applicable sales discounts, cash discounts, rebates, or other allowances;
- payments for items not received;
- mathematical or other errors in determining payment amounts and executing payments; and
- the failure to obtain credit for returned merchandise.

Not only is a recovery audit program an important tool for identifying improper payments already made, the results of the program can also be used to address the flaws in an agency's internal controls.

Recovering identified improper payments is the final aspect of a recovery audit program. Establishing a written policy for the component's recovery audit program ensures that the goal of the program – to recover the improper payments made by the component – and the procedures for accomplishing the goal are available to all employees. JMD recognized the importance of a written policy and required each component to establish a written policy for its recovery audit program, in accordance with Bulletin 06-11.

However, in reviewing Bulletin 06-11, we found that JMD did not define time limits for confirming or refuting an improper payment identified by the recovery audit contractor. In our opinion, the time limits for confirming or providing documentation refuting the improper payment, should be included in Bulletin 06-11. JMD managers concurred with our finding and agreed to include time limits within Bulletin 06-11.

During our audit, we reviewed laws and regulations applicable to recovery audit activities. We reviewed each component's IPIA report, which included a description of its recovery audit program. In addition, we

interviewed component officials and reviewed policies and procedures used by the OBDs, FPI, DEA, and ATF to identify and recover improper payments.

In addition to considering the time limits for components utilizing the recovery audit contractor, we noted the following conditions during our review of policies and procedures used to identify and recover improper payments, and in the recovery audit program.

Offices, Boards and Divisions

The OBDs are made up of 35 DOJ Offices, Boards and Divisions. One of the 35 subcomponents, the Executive Office for United States Attorneys, is the liaison between the DOJ and 93 United States Attorney Districts. Appendix III provides a complete listing of the OBD subcomponents and Appendix IV lists the United States Attorney Districts.¹⁵ In order to assess the OBDs' compliance with the IPIA and the NDAA, we selected a sample of six OBD subcomponents for review.¹⁶ The subcomponents selected for our review included the:

- Regime Crimes Liaison Office,¹⁷
- Office on Violence Against Women,
- Civil Division,
- Office of Community Oriented Policing Services,
- Executive Office for Immigration Review, and
- Wireless Management Office.

Recovery Audit Program

JMD's Financial Management Policies and Procedures Bulletin 05-03 (Bulletin 05-03), November 2004, details the recovery audit program in three parts for the OBDs.

¹⁵ The OIG is a subcomponent of the OBDs and is included in Appendix III.

¹⁶ The methodology for the selection of the OBD subcomponents is detailed in Appendix I.

¹⁷ The RCLO is not listed in Appendix III, because the RCLO is a component of the Office of the Deputy Attorney General.

The first part is provided internally by each subcomponent and includes the following elements:

- Each subcomponent of the OBDs can produce a duplicate payment report using the financial management system, which identifies potential duplicate payments after the payments have been made.
- Any potential duplicate payment that appears on the report must be researched to determine if a duplicate payment was made.
- Once any improper payment is identified, it must be reported to JMD Finance Staff within 5 days using the Notification of Erroneous Payment form (Attachment 2 of Bulletin 05-03).

When a subcomponent of the OBDs identifies and recovers an improper payment, the subcomponent can keep 100 percent of the recovered amount, rather than a percentage going to the recovery audit contractor or to JMD.

In the second part of the OBDs' recovery audit program, JMD searches for improper payments by generating the financial management system duplicate payment reports and researching the results. If JMD identifies and verifies a duplicate payment, the OBD subcomponent that made the duplicate payment must pay JMD a fee of 14.46 percent of any recovered amount for administering the OBDs' recovery audit program. Therefore, the subcomponent that made the improper payment only receives 85.54 percent of the recovered amount.

The third and primary aspect of the OBDs' recovery audit program consists of utilizing a private contractor to conduct recovery audits. This effort began in May 2003, and payments made from FYs 1999 through 2004 were reviewed for improper payments as of April 2006. At the time of our audit, the recovery audit contractor was reviewing fiscal year data 6 months after each fiscal-year end.

When the recovery audit contractor identifies an improper payment, the subcomponent is notified. The subcomponent then has 15 days to respond to the recovery audit contractor to confirm whether the payment is in fact improper and whether the improper payment has already been recovered. After the improper payment is recovered, the recovery audit contractor receives 20 percent of the recovered amount for identifying the improper payment, the Department of the Treasury receives 2 percent for the OBDs using Treasury's contract, and JMD receives 14.46 percent for administering the OBDs' recovery audit program. Therefore, the

subcomponent that made the improper payments only receives the remaining 63.54 percent of the recovered amount.

As shown in Table 1, as of April 2006, the recovery audit contractor stated that it had identified improper payments totaling \$1,198,443 for all of the OBDs and recovered \$916,711 of this amount.

Table 1: IMPROPER PAYMENTS IDENTIFIED AND RECOVERED BY THE RECOVERY AUDIT CONTRACTOR

NAME	IMPROPER PAYMENTS IDENTIFIED	IMPROPER PAYMENTS RECOVERED	IMPROPER PAYMENTS OUTSTANDING	PERCENTAGE RECOVERED
Recovery Audit Contractor	\$1,198,443	\$916,711	\$281,732	76%

Source: Recovery audit contractor

As shown in Table 2, the six OBD subcomponents included in our audit stated that they identified an additional \$215,212 in improper payments, of which \$203,896 was recovered.

Table 2: IMPROPER PAYMENTS IDENTIFIED AND RECOVERED BY SIX SUBCOMPONENTS OF THE OBDs

COMPONENT	IMPROPER PAYMENTS IDENTIFIED	IMPROPER PAYMENTS RECOVERED	IMPROPER PAYMENTS OUTSTANDING	PERCENTAGE RECOVERED
RCLO	\$6,180	\$6,180	\$ 0	100%
COPS	2,605	2,605	0	100%
OVW	2,155	2,155	0	100%
WMO	773	773	0	100%
CIV	188,802	186,774	2,028	99%
EOIR	14,696	5,408	9,288	37%
TOTAL	\$215,212	\$203,896	\$11,316	95%

Source: Management at the following OBD subcomponents: the RCLO, COPS, OVW, WMO, CIV, and EOIR. The differences in the totals are due to rounding.

As mentioned previously, Bulletin 05-03 requires each subcomponent of the OBDs to submit the Notification of Erroneous Payment form (Attachment 2 of Bulletin 05-03) to JMD Finance Staff informing JMD of any improper payments identified and confirming that a receivable has been established. However, we found that some subcomponents provided the information but did not utilize the Notification of Erroneous Payment form. Instead, they submitted the refund and supporting documentation directly to JMD or used a Transmittal of Currency form to report improper payment

recovery activities. Utilizing the Notification of Erroneous Payment form is the only way to guarantee that appropriate JMD Finance Staff, who administer the OBDs recovery audit program, receive the information. It is essential for appropriate JMD personnel to receive the information so these amounts can be included within the Quarterly Recovery Audit Reports and within the annual IPIA reports. When subcomponents do not submit the Notification of Erroneous Payment form, JMD cannot accurately report what has been identified and recovered by the OBDs, which is combined with the other DOJ components and reported in the annual PAR. Table 3 details how each of the six subcomponents of the OBDs reported recovery audit information to JMD.

Table 3: SUBCOMPONENTS OF THE OBDs UTILIZING THE NOTIFICATION OF ERRONEOUS PAYMENT FORM (ATTACHMENT 2 OF BULLETIN 05-03)

COMPONENT	HOW RECOVERY AUDIT INFORMATION IS REPORTED TO JMD
EOIR	Utilized Attachment 2
WMO	Utilized Attachment 2
COPS	Did not utilize Attachment 2, but submitted information on a Transmittal of Currency form
OVW	Did not utilize Attachment 2, but submitted information on a Transmittal of Currency form
CIV	Did not utilize Attachment 2, but the refund and support were forwarded to JMD
RCLO	Did not utilize Attachment 2

Source: Management at the following OBD subcomponents: the RCLO, COPS, OVW, WMO, CIV, and EOIR

When we discussed this issue with JMD management, they concurred with our finding and agreed to ensure that each of the OBD subcomponents submit the Notification of Erroneous Payment form to ensure accurate reporting.

We also found that some of the six OBD subcomponents included in our audit had additional procedures for identifying and recovering improper payments. The additional procedures included reviews of the Open Obligation Report and the Consolidated Obligation Report. The Open Obligation Report shows whether the appropriate account payable was properly liquidated; when an item has been paid for, but has not been received; and when a transaction has not been paid. The Open Obligation Report identifies these issues so they can be researched to determine if a transaction was expected or occurred in error. The Consolidated Obligation Report shows when a good or service was paid for, but the corresponding obligation was not established and liquidated. This activity can identify

potential errors which should be researched. Table 4 identifies the OBD subcomponents that use additional procedures beyond the recovery audit contractor and the financial management system duplicate payment report.

Table 4: SUBCOMPONENTS OF THE OBDs WITH ADDITIONAL RECOVERY AUDIT PROGRAMS

COMPONENT	RECOVERY AUDIT PROGRAM
COPS	Monthly review of the Open Obligation Report
WMO	Monthly review of the Open Obligation Report and the Consolidated Obligation Report
OVW	Quarterly review of the Open Obligation Report and monthly review of the Consolidated Obligation Report

Source: Management at the following OBD subcomponents: COPS, WMO, and OVW

COPS and OVW were two of the OBD subcomponents included in our audit that manage grant programs. According to COPS and OVW, monitoring of grantee expenditures occurs through: the Office of Justice Programs, Office of the Comptroller, Desk Reviews; and Financial Monitoring Site Visits.¹⁸ However, Desk Reviews and Financial Monitoring Site Visits are not conducted for all grants awarded by COPS and OVW and do not include a review of all grant expenditures for the selected grants. In other words, only a sample of expenditures for selected grants are reviewed and verified for accuracy. According to Bulletin 06-11, "the recovery audit must encompass . . . all payments made from FY 2003 forward . . . grant payments are to be included in each component's recovery audit activity." Therefore, the OBD's recovery audit program is not in compliance with Bulletin 06-11 because it does not include all grant payments.

When we discussed this issue with JMD management, they concurred with our finding and agreed to include grant payments within the scope of the OBDs' recovery audit program.

Federal Prison Industries

Recovery Audit Program

Beginning in July 2004, the FPI began using a private contractor to conduct recovery audits. Payments made in FY 2003 were reviewed and vendor letters requesting reimbursement for any overpayments were sent for FYs 2003 through 2005. As shown in Table 5, as of April 2006, the FPI stated that a total of \$43,182 in improper payments had been identified and

¹⁸ The Office of the Comptroller provides financial monitoring activities for both COPS and OVW.

confirmed from those fiscal years, and the FPI had recovered \$12,355 of this amount.

Table 5: IMPROPER PAYMENTS IDENTIFIED AND RECOVERED AT THE FPI

COMPONENT	IMPROPER PAYMENTS IDENTIFIED	IMPROPER PAYMENTS RECOVERED	IMPROPER PAYMENTS OUTSTANDING	PERCENTAGE RECOVERED
FPI	\$43,182	\$12,355	\$30,827	29%

Source: Management at the FPI and the recovery audit contractor

The scope of the FPI's recovery audit program includes the following two criteria to ensure that the program is cost-effective.

- The recovery audit contractor reviews data in fiscal year increments and only includes vendors with total payments exceeding \$12,500 during the fiscal year.
- The recovery audit contractor will not pursue claims less than \$500 per transaction.

After the recovery audit contractor's review, the FPI receives the potential improper payment claims and validates them. According to the draft Recovery Audit Program, Program Statement, the validation will include confirmation by the vendor of the amount recoverable, confirmation by the FPI transacting staff (such as the receiver of goods or services, the procuring official, and the disbursing official) of the amount recoverable, verification that subsequent resolution of the recoverable amount has not occurred, and verification that amounts due have not been recovered. Upon validation, the claim is approved and collection is pursued. Additionally, the FPI prepares monthly summaries of recovery audit claims, including the causes.

According to Bulletin 06-11, "recovery audit programs must determine, at a minimum, duplicate payments, payments made for incorrect amounts, payments for which allowable discounts were not taken and goods and services were not received, and if payments were contract compliant. Contract compliance reviews will determine if payments made were consistent with the terms and conditions of the contract. All classes of contract/vendor payments are to be considered for recovery audits." The FPI's recovery audit program looks for all of those types of improper payments except that it does not include a contract compliance review as required by Bulletin 06-11.

We discussed this issue with FPI management, and they explained that contract compliance review had not started because the contractor is not at the level to conduct this review. Specifically, according to FPI management, the recovery audit contractor operates in phases, and has not implemented the review yet.

Additionally, our audit found that the FPI does not have a final written policy for its recovery audit program. Instead, the FPI has a draft policy for complying with the IPIA and for its recovery audit program. According to Bulletin 06-11, "each component is required to develop and implement written policies and procedures for its recovery audit program." We acknowledge that the FPI has a draft policy for its recovery audit program, but recommend that the FPI develop a final written policy as it is an important tool to ensure FPI staff complies with the IPIA and the NDAA.

We discussed this issue with FPI management, and they concurred. However, they stated that due to various levels of review, it takes approximately 1 year for a draft policy to become final. The FPI management agreed to implement a final policy for its recovery audit program.

Drug Enforcement Administration

Recovery Audit Program

Although the DEA's initial recovery audit program began in FY 2004 and continued through FY 2005, it was not a comprehensive recovery audit program. Instead, a statistical sample of payments pulled from a population of all DEA payment categories, except payroll, were selected and tested to determine if any improper payments were made. Additionally, improper payments were identified by COTRs, Financial Management Division, as well as through other internal controls. In FY 2006, the DEA established a new recovery audit program, administered by the Financial Analysis and Reporting Unit (FNOF), which reports recovery audit information to JMD. The FNOF reviews all payments applicable to the IPIA, instead of sampling payments, and constitutes a comprehensive recovery audit program. As shown in Table 6, as of May 2006, the DEA stated that a total of \$403,305 in improper payments were identified and confirmed from FYs 2003 through 2005, of which \$386,833 was recovered.

Table 6: IMPROPER PAYMENTS IDENTIFIED AND RECOVERED BY THE DEA

COMPONENT	IMPROPER PAYMENTS IDENTIFIED	IMPROPER PAYMENTS RECOVERED	IMPROPER PAYMENTS OUTSTANDING	PERCENTAGE RECOVERED
DEA	\$403,305	\$386,833	\$16,472	96%

Source: Management at the DEA

The scope of the DEA's recovery audit program encompasses all payments made from FYs 2003 through 2005. However, the DEA's initial recovery audit program did not review all payments made from FY 2003 forward as required by Bulletin 06-11. Instead, a sample of payments was tested from each fiscal year. After we noted this deficiency to DEA management during the course of our audit, the DEA completed and provided documentation for its review of all payments related to the IPIA from FYs 2003 through 2005. Therefore, a formal recommendation will not be made.

DEA management had established an internal recovery audit team, FNOF, rather than utilizing the recovery audit contractor. Bulletin 06-11 states, "The Director, JMD Finance Staff, has implemented a department-wide recovery audit contract, which all components are required to use unless a waiver is granted. Requests for waivers must be forwarded to the Director, Finance Staff, and include a complete description of your Recovery Audit Program and the cost of the program." During our audit we found that the DEA had not submitted a request for waiver to the Director of the JMD Finance Staff describing its internal recovery audit program or its cost. In our opinion, submitting a request for waiver ensures each DOJ component has a cost-effective recovery audit program in place. As a result of our audit, on November 30, 2006, DEA management submitted a request for waiver to the Director of the JMD Finance Staff describing its internal recovery audit program and received approval on the same day. Therefore, a formal recommendation will not be made.

During our audit, we found that the DEA has a contract closeout process, which verifies that: (1) all payments are proper; (2) all goods and services have been received; (3) all federal property has been returned; (4) all invoices have been paid; (5) no over, under, or duplicate payments were paid; (6) all applicable discounts have been taken and received; and (7) interest has been paid. At the time of our audit, no improper payments were identified through the contract closeout process. The DEA management explained that if an improper payment was identified, it would be corrected by the contract closeout team at the time of reconciliation and would not be reported to the FNOF. By not reporting identified and

recovered improper payments to the FNOF, the DEA may potentially understate the amounts in its annual IPIA report, which are consolidated with other DOJ components into the DOJ's PAR. As a result of our audit, on November 22, 2006, DEA management revised its Contract Closeout Handbook to include the requirements that the Financial Operations Section be notified of any improper payments prior to actual contract close out. The Financial Operation Section contains four units, one of which is the FNOF, and will notify FNOF of any improper payment information. Therefore, a formal recommendation will not be made.

During our fieldwork we found that the DEA had established policies for its recovery audit program, although the policies were in various documents. Bulletin 06-11 requires, "each component to develop and implement written policies and procedures for its recovery audit program." We recommended the DEA consolidate the policies into a single source that can be easily accessed. DEA management concurred with our recommendation and combined the recovery audit policies into a Recovery Audit Standard Operating Procedure, which the DEA provided to us. Therefore, a formal recommendation will not be made.

Statutory and Regulatory Barriers

OMB Circular A-123, Appendix C states that agencies with improper payment estimates less than \$10 million are only required to report the total estimate in their annual PARs to OMB. These agencies are no longer required to include a description of any statutory or regulatory barriers which limit corrective actions in reducing improper payments.¹⁹ This criterion applies to each DOJ program, rather than to the individual components. Because the improper payment estimate for each DOJ program is less than \$10 million, in our judgment, DOJ is not required to include this information in its PAR report for FY 2006. Nonetheless, Bulletin 06-11 still required the individual components to include the information in their IPIA reports. As a result, below we noted a finding related to the DEA and this requirement, but do not offer a recommendation related to this issue.

While reviewing the DEA's recovery audit program, we found that the DEA does not include contract payments at DEA foreign offices, which are processed by the Department of State via a reimbursable agreement. The DEA has not been granted disbursing authority by the Department of the Treasury. Instead, the State Department has designated United States

¹⁹ OMB Circular A-136 - Revised July 2006, requires additional IPIA and recovery audit information to be included in the annual PAR.

Disbursing Officers, who have been delegated disbursing authority by the Department of the Treasury and authorized by the Treasury Secretary. Only a Disbursing Officer can make payments in local currency, which enables an agency to conduct business overseas. As a result, the State Department makes all of the DEA's foreign payments. Additionally, if a federal agency wants to conduct business overseas, contracts must be negotiated through the International Cooperative Administrative Support Services.

Bulletin 06-11 required the annual IPIA reports to include within Item 8 a description of any statutory or regulatory barriers which limit corrective actions in reducing improper payments. We recognize that the DEA does not have contracting or disbursing authority overseas. However, in our opinion, this information concerning disbursements by the State Department on behalf of the DEA should be included within Item 8 of the IPIA.

Bureau of Alcohol, Tobacco, Firearms and Explosives

Recovery Audit Program

ATF's internal recovery audit activities began in 2001. They include: (1) reviewing the accounts payable listing to identify payables exceeding 90 days that can identify multiple payments made in other forms; (2) requiring COTRs to ensure that payments follow the terms of the contract that can identify duplicate payments and under- or over-spending on the contracts; and (3) conducting the contract closeout process, which compares payments to the language in the contract to identify missed discounts, duplicate payments, under- or over-payments, or improper payments that may not be allowed by the contract.

As shown in Table 7, ATF stated that it had identified \$42,465 in improper payments and recovered \$8,830, as of May 2006. ATF officials stated that they planned to pursue the remaining amount, as well as pursue collection of all identified improper payments.

Table 7: IMPROPER PAYMENTS IDENTIFIED AND RECOVERED BY ATF

COMPONENT	IMPROPER PAYMENTS IDENTIFIED	IMPROPER PAYMENTS RECOVERED	IMPROPER PAYMENTS OUTSTANDING	PERCENTAGE RECOVERED
ATF	\$42,465	\$8,830	\$33,636	21%

Source: ATF management. The differences in the totals are due to rounding.

During our audit we found that improper payments that had not been recovered are tracked on an aging of accounts receivable schedule. However, after an improper payment is collected, ATF no longer tracks the recovered improper payment. In addition, ATF pursues all improper payments as regular debts and does not separately track improper payments from other debts. Therefore, ATF cannot determine when the identified and recovered improper payments occurred. Additionally, ATF cannot determine whether the identified and recovered improper payment amounts provided include all improper payments identified and recovered. Bulletin 06-11 requires each component to report the amount of improper payments identified and recovered over the reporting period and cumulatively. It is important for ATF to develop methods for tracking improper payments separately from other debts, so it can provide accurate information on improper payments identified and recovered that can be included in DOJ's annual PAR. Additionally, ATF should include the timeframe in which the identified and recovered improper payments occurred. When we discussed this issue with ATF management, they concurred with our finding and agreed to revise and report the correct information – when it is available – in annual IPIA and quarterly reports.

Additionally, we found that ATF has not requested a waiver from the Director, JMD Finance Staff, to not use the recovery audit contractor as required by Bulletin 06-11. We believe, however, that ATF should utilize the recovery audit contractor, unless an approved internal recovery audit program that is compliant with all areas of Bulletin 06-11 and other applicable laws and regulations is developed. When we discussed this issue with ATF management, they concurred with our finding.

ATF management stated that they are reviewing the accounts payable listing for payments that are over 90 days old and conducting the contract closeout process after a contract is closed. Management is also making sure that Certifying Officers and COTRs perform their duties as necessary. Although ATF management stated that they anticipate utilizing the recovery audit contractor to review all payments from FY 2004 forward, they will need to include all payments made from FY 2003 forward to be compliant with Bulletin 06-11. Specifically, Bulletin 06-11 states, "the recovery audit must encompass, at a minimum, all payments made from FY 2003 forward." When we discussed this issue with ATF management, they noted that they could encounter difficulties researching payments that occurred prior to January 2003, when ATF became a DOJ component. In our judgment, ATF needs to obtain a waiver if it is not possible to research prior payments. Otherwise, ATF should expand the scope of its recovery audit activities to encompass, at a minimum, all payments made from FY 2003 forward as required by Bulletin 06-11. ATF management agreed to discuss the scope of

its review of payments with JMD and review all payments FY 2003 forward, if possible.

Finally, our audit found that ATF had not developed a written policy for its recovery audit activities. Instead, policies exist in both draft and final form for portions of ATF's recovery audit activities. According to Bulletin 06-11, "each component is required to develop and implement written policies and procedures for its recovery audit program." We discussed this issue with ATF management and they concurred with our finding and agreed to develop and implement a written final policy for the recovery audit program when a program is in place.

Recommendations:

We recommend that JMD:

12. Develop and implement a department-wide policy for time limits after the recovery audit contractor identifies a potential improper payment and submits the claim to the component.

We recommend that for the OBDs, JMD:

13. Ensure each subcomponent submit the Notification of Erroneous Payment form (Attachment 2 of Bulletin 05-03) to JMD Finance Staff regarding improper payments identified and recovered by the OBDs as required by Bulletin 05-03.
14. Ensure that its recovery audit program addresses and includes grants as required by Bulletin 06-11.

We recommend that the FPI:

15. Implement a contract compliance review within its recovery audit program as required by Bulletin 06-11.
16. Implement a final policy for its recovery audit program as required by Bulletin 06-11.

We recommend that ATF:

17. Develop methods for tracking improper payments separately from other debts, so it can provide information on the amount of improper payments identified and recovered. Additionally, ATF should include

and maintain documentation on the timeframe in which the identified and recovered improper payments occurred.

18. Demonstrate progress toward utilizing the recovery audit contractor as required by Bulletin 06-11, unless an approved internal recovery audit program that is compliant with all areas within Bulletin 06-11 and other applicable laws and regulations is developed, and a waiver is submitted to and approved by the Director, JMD Finance Staff as required by Bulletin 06-11.
19. Expand the scope of the recovery audit program to encompass, at a minimum, all payments made from FY 2003 forward as required by Bulletin 06-11.
20. Develop and implement a final written policy and procedure when a program is in place for ATF's recovery audit program as required by Bulletin 06-11.

STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS

As required by *Government Auditing Standards*, we reviewed records and other documents pertaining to improper payments to obtain reasonable assurance about each component's compliance with applicable laws and regulations, which, if not complied with, could have a material effect on DOJ compliance with those laws and regulations. Compliance with laws and regulations applicable to improper payments is the responsibility of each component's management. An audit includes examining, on a test basis, evidence about compliance with laws and regulations. At the time of our audit, the pertinent legislation and the applicable regulations were:

- Pub. L. No. 107-300 (2002), Improper Payments Information Act of 2002
- Pub. L. No. 107-107 (2001), National Defense Authorization Act for FY 2002, Subchapter VI – Recovery Audits
- Office of Management and Budget Memorandum M-03-07, *Programs to Identify and Recover Erroneous Payments to Contactors*
- Office of Management and Budget Memorandum M-03-12, *Allowability of Contingency Fee Contracts for Recovery Audits*
- Office of Management and Budget Memorandum M-03-13, *Implementation Guidance for the Improper Payments Information Act of 2002, P.L. 107-300*
- Office of Management and Budget Memorandum M-04-20, *FY 2004 Performance and Accountability Reports and Reporting Requirements for the Financial Report of the United States Government*
- Office of Management and Budget Circular A-136 - Revised July 2006, *Financial Reporting Requirements, Sections II.2.9 and II.5.6*
- Office of Management and Budget Circular A-123, Appendix C, *Requirements for Effective Measurement and Remediation of Improper Payments*
- Office of Management and Budget Circular A-123 Revision, *Management's Responsibility for Internal Control*
- Financial Management Policies and Procedures Bulletin 06-11

Except for the issues discussed in the Findings and Recommendations section of this report, nothing came to our attention that caused us to believe that the components in our audit were not in compliance with the laws and regulations listed above and on the previous page.

STATEMENT ON INTERNAL CONTROLS

In planning and performing our audit, we considered internal controls at DOJ components for the purpose of determining our auditing procedures. We also reviewed various controls over the payment processes at these components to develop an understanding of those processes. In addition, we conducted a limited review of the controls, including policies and procedures, which the OBDs, FPI, DEA, and ATF represented were in place to prevent improper payments. However, these reviews did not include an overall assessment or testing of the internal control structure. Therefore, these reviews were not made for the purpose of providing assurance on the internal control structure as a whole. However, we noted certain matters that we consider to be reportable conditions under generally accepted *Government Auditing Standards*.

Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure that, in our judgment, could increase the risks for making improper payments or could hinder the implementation of cost-effective recovery audit programs. We noted deficiencies relating to the prevention of improper payments, discussed in Finding 1. We also noted deficiencies concerning the identification and recovery of improper payments, discussed in Finding 2. However, we did not consider these deficiencies to be a result of systemic internal control issues.

Because we are not expressing an opinion on the components' internal control structure as a whole, this statement is intended solely for the information and use of JMD, OBDs, FPI, DEA, and ATF in overseeing each component's compliance with the IPIA, and with implementing and administering a recovery audit program within each component.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our audit were to determine whether selected DOJ components established:

- policies and procedures for *identifying* improper and erroneous payments,
- policies and procedures for *preventing* improper and erroneous payments, and
- methods to recover improper and erroneous payments.

We conducted our audit in accordance with *Government Auditing Standards*. We included such tests as were considered necessary to accomplish the audit objectives.

The audit generally covered activities from FY 1999 through the conclusion of our fieldwork in May 2006. Audit work was conducted at the Justice Management Division and at the four DOJ components selected for review: (1) Offices, Boards and Divisions; (2) Federal Prison Industries; (3) Drug Enforcement Administration; and (4) Bureau of Alcohol, Tobacco, Firearms and Explosives. These components were selected based on a request from JMD to expand the scope of the April 2005 OIG audit to include the remaining four DOJ components mentioned above.²⁰

Audit work was also performed at six subcomponents of the OBDs: (1) Regime Crimes Liaison Office, (2) Office on Violence Against Women, (3) Civil Division, (4) Office of Community Oriented Policing Services, (5) Executive Office for Immigration Review, and (6) Wireless Management Office.²¹ Our methodology for selection of the specific subcomponents of the OBDs included in our audit was to review the OBDs listing of subcomponents, select high-vendor payment subcomponents, subcomponents with foreign payments, and subcomponents with federal award functions.

²⁰ Department of Justice, Office of the Inspector General. *Department of Justice Process for Identifying, Preventing, and Recovering Improper and Erroneous Payments*, Audit Report No. 05-19, April 2005.

²¹ The Regime Crimes Liaison Office is a component of the Office of the Deputy Attorney General.

We conducted on-site work at JMD and at each of the four components in March and April 2006. Additional on-site work was performed at the six selected subcomponents of the OBDs in May 2006. We interviewed staff members at each location to:

- obtain an understanding of the procedures and rationale used to complete IPIA reports,
- gather information relating to payment processes,
- identify the controls in place to prevent or reduce improper payments,
- obtain an understanding of any processes used to identify and quantify improper payments already made, and
- assess any current recovery audit activities.

In addition, we reviewed policies, procedures, and other documentation related to these issues. Specifically, we reviewed the FY 2005 IPIA reports submitted by the components to JMD. The information in these reports was analyzed in conjunction with Bulletin 06-11, dated March 2006. We used this approach in order to identify any necessary enhancements for full compliance in the FY 2006 IPIA reporting period.

Finally, we interviewed officials from the recovery audit contractor being utilized by selected DOJ components and the subcomponents of the OBDs. We obtained information on current efforts within DOJ, including the processes used, results achieved, and anticipated future activities.

THE PRESIDENT'S MANAGEMENT AGENDA

According to a report from OMB, the President's Management Agenda, enacted in August 2001, is a strategy for improving the management and performance of the federal government. It focuses on the areas where deficiencies were most apparent and where the government could begin to deliver concrete, measurable results. The President's Management Agenda includes the following five government-wide initiatives:²²

- *Strategic Management of Human Capital* – having processes in place to ensure the right person is in the right job, at the right time, and is not only performing, but performing well;
- *Competitive Sourcing* – regularly examining commercial activities performed by the government to determine whether it is more efficient to obtain such services from federal employees or from the private sector;
- *Improved Financial Performance* – accurately accounting for the taxpayers' money, giving managers timely and accurate program cost information to make informed management decisions, and controlling costs;
- *Expanded Electronic Government* – ensuring that the federal government's annual investment in information technology (IT) significantly improves the government's ability to serve citizens, and that IT systems are secure, and delivered on time and on budget; and
- *Budget and Performance Integration* – ensuring that performance is routinely considered in funding and management decisions, and that programs achieve expected results and work toward continual improvement.

The third initiative, "Improved Financial Performance," includes provisions for agencies to determine the extent of improper payments and to establish goals for reducing them.

²² Excerpts from the President's Management Agenda were taken from an OMB report, entitled *The Federal Government is Results-Oriented*, dated August 2004.

APPENDIX III

**DEPARTMENT OF JUSTICE
OFFICES, BOARDS AND DIVISIONS**

SUBCOMPONENT
Antitrust Division
Civil Division
Civil Rights Division
Community Relations Service
Criminal Division
Environment and Natural Resources Division
Executive Office for Immigration Review
Executive Office for United States Attorneys
Executive Office for United States Trustees
Foreign Claims Settlement Commission
Interpol-United States National Central Bureau
Justice Management Division
National Drug Intelligence Center
Office of the Associate Attorney General
Office of the Attorney General
Office of Community Oriented Policing Services
Office of the Deputy Attorney General
Office of Dispute Resolution
Office of the Federal Detention Trustee
Office of Information and Privacy
Office of the Inspector General
Office of Intelligence Policy and Review
Office of Intergovernmental and Public Liaison
Office of Legal Counsel
Office of Legal Policy
Office of Legislative Affairs
Office of the Pardon Attorney
Office of Professional Responsibility
Office of Public Affairs
Office of the Solicitor General
Office on Violence Against Women
Professional Responsibility Advisory Office
Tax Division
United States Parole Commission
Wireless Management Office

Source: DOJ FY 2005 Performance and Accountability Report, Appendix B

APPENDIX IV

UNITED STATES ATTORNEY DISTRICTS

DISTRICT NAME	DISTRICT NAME
Alabama Middle District	Louisiana Middle District
Alabama Northern District	Louisiana Western District
Alabama Southern District	Maine District
Alaska District	Maryland District
Arizona District	Massachusetts District
Arkansas Eastern District	Michigan Eastern District
Arkansas Western District	Michigan Western District
California Central District	Minnesota District
California Eastern District	Mississippi Northern District
California Northern District	Mississippi Southern District
California Southern District	Missouri Eastern District
Colorado District	Missouri Western District
Connecticut District	Montana District
Delaware District	Nebraska District
District of Columbia District	Nevada District
Florida Middle District	New Hampshire District
Florida Northern District	New Jersey District
Florida Southern District	New Mexico District
Georgia Middle District	New York Eastern District
Georgia Northern District	New York Northern District
Georgia Southern District	New York Southern District
Guam District	New York Western District
Hawaii District	North Carolina Eastern District
Idaho District	North Carolina Middle District
Illinois Central District	North Carolina Western District
Illinois Northern District	North Dakota District
Illinois Southern District	Ohio Northern District
Indiana Northern District	Ohio Southern District
Indiana Southern District	Oklahoma Eastern District
Iowa Northern District	Oklahoma Northern District
Iowa Southern District	Oklahoma Western District
Kansas District	Oregon District
Kentucky Eastern District	Pennsylvania Eastern District
Kentucky Western District	Pennsylvania Middle District
Louisiana Eastern District	Pennsylvania Western District

UNITED STATES ATTORNEY DISTRICTS

DISTRICT NAME	DISTRICT NAME
Puerto Rico District	Vermont District
Rhode Island District	Virgin Islands District
South Carolina District	Virginia Eastern District
South Dakota District	Virginia Western District
Tennessee Eastern District	Washington Eastern District
Tennessee Middle District	Washington Western District
Tennessee Western District	West Virginia Northern District
Texas Eastern District	West Virginia Southern District
Texas Northern District	Wisconsin Eastern District
Texas Southern District	Wisconsin Western District
Texas Western District	Wyoming District
Utah District	

Source: Management at JMD Quality Control and Compliance Group

ANNUAL IMPROPER PAYMENT INFORMATION ACT REPORT

To satisfy the reporting requirements of the Improper Payments Information Act (IPIA), a brief summary of what components have accomplished, and plan to accomplish, must be included in the Management Discussion and Analysis (MD&A) portion of the Annual Performance and Accountability Report. This summary, not to exceed 2 pages, must be entitled:

**Improper Payments Information Act of 2002
Narrative Summary of Implementation Efforts for FY _____
and Agency Plans for FY _____ - FY _____**

In addition to the narrative summary above, the following items are the IPIA Reporting Detail required for the report.

- I. Describe your component's risk assessment(s), performed subsequent to compiling your 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 through your risk assessments. Be sure to include the programs previously identified in the former Section 57 of OMB Circular A-11.
- II. Describe the statistical sampling process conducted to estimate the improper payment rate for each program identified. Statistical sampling is not required in any program you have determined not to be at significant risk according to OMB thresholds.
- III. Describe the Corrective Action Plan for:
 - A. Reducing the estimated rate of improper payments. Include in this discussion what is seen as the cause(s) of errors and the corresponding steps necessary to prevent future occurrences. If efforts are already underway, and/or have been ongoing for some length of time, it is appropriate to include that information in this section.
 - B. Grant-making agencies with risk susceptible grant programs, discuss what your component has accomplished in the area of fund stewardship past the primary recipient. Include the status on projects and results of any reviews.

A response is not required for any program you have determined not to be at significant risk according to the OMB thresholds.

- IV. The table titled "Improper Payment Reduction Outlook" is required for each component. Note that: (1) all risk-susceptible programs must be listed in this chart whether or not an error measurement is being reported; (2) where no measurement is provided, components should indicate the date by which a measurement is expected; (3) if the Current Year (CY) is the baseline measurement year, indicate by either footnote or by "n/a" in the Prior Year (PY) column; (4) if any of the dollar amount(s) 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; (5) include outlay estimates for CY+1, +2, and +3; and (6) components are expected to report on CY activity.

**Improper Payment Reduction Outlook
(\$ in millions)**

Future year estimates (CY+1, +2, and +3) should match the outlay estimates for those years as reported in the most recent President's Budget.

PROGRAM	PY OUTLAYS	PY IP %	PY IP \$	CY OUTLAYS	CY IP %	CY IP \$	CY+1 OUTLAYS	CY+1 IP %	CY+1 IP \$

PROGRAM	CY+2 OUTLAYS	CY+2 IP %	CY+2 IP \$	CY+3 OUTLAYS	CY+3 IP %	CY+3 IP \$

Note: Improper Payment (IP)

Over- and under-payments should be indicated if this information is available. The absolute value of the dollars and the rates should be shown - do not net the figures.

- V. Discuss your component's recovery auditing effort, if applicable, including any contract types excluded from review and the justification for doing so; actions taken to recoup improper payments, and the business process changes and internal controls instituted and/or strengthened to prevent further occurrences. In addition, complete the table below.

COMPONENT	AMOUNT SUBJECT TO REVIEW FOR FY ___ REPORTING ¹	ACTUAL AMOUNT REVIEWED AND REPORTED	AMOUNTS IDENTIFIED FOR RECOVERY	AMOUNTS IDENTIFIED/ ACTUAL AMOUNT REVIEWED	AMOUNTS RECOVERED CY	AMOUNTS RECOVERED PY(S)

¹ This amount should equal the total of each component's commercial and non-commercial payments.

- VI. Describe the steps the component has taken and planned (including a timeline) to ensure those agency managers (including agency heads) are held accountable for reducing and recovering improper payments.
- VII.
 - A. Describe whether the component has the information system and infrastructure it needs to reduce improper payments to the levels the component has targeted.
 - B. If the component does not have such systems and infrastructure, describe the resources the component requested in its budget submission to Congress to obtain the necessary information systems and infrastructure.
- VIII. Describe any statutory or regulatory barriers, which may limit the component's corrective actions in reducing improper payments and actions taken by the component to mitigate the barriers' effects.
- IX. Additional comments, if any, on overall component efforts, specific programs, best practices, or common challenges identified, as a result of IPIA implementation.

ACRONYMS

ACRONYM	NAME
ATF	Bureau of Alcohol, Tobacco, Firearms and Explosives
BOP	Federal Bureau of Prisons
CIV	Civil Division
COPS	Office of Community Oriented Policing Services
COTRs	Contracting Officer Technical Representatives
CY	Current Year
DEA	Drug Enforcement Administration
DOJ	Department of Justice
EOIR	Executive Office for Immigration Review
FBI	Federal Bureau of Investigation
FNOF	Financial Analysis and Reporting Unit
FPI	Federal Prison Industries
FY	Fiscal Year
IP	Improper Payment
IPIA	Improper Payments Information Act of 2002
JMD	Justice Management Division
MD&A	Management Discussion and Analysis
NDAA	National Defense Authorization Act for FY 2002
OBDs	Offices, Boards and Divisions
OIG	Office of the Inspector General
OJP	Office of Justice Programs
OMB	Office of Management and Budget
OVW	Office on Violence Against Women
PAR	Performance and Accountability Report
PY	Prior Year
RCLO	Regime Crimes Liaison Office
USMS	United States Marshals Service
WMO	Wireless Management Office



U.S. Department of Justice

Washington, D.C. 20530

JAN 04 2007

MEMORANDUM

TO: Glenn A. Fine
Assistant Inspector General
for Audit

FROM: Lee J. Lofthus 
Assistant Attorney General
for Administration

SUBJECT: Response to the Office of the Inspector General's (OIG) Draft Report:
Efforts to Prevent, Identify, and Recover Improper and Erroneous
Payments by Selected Department of Justice Components

This responds to the Office of the Inspector General's (OIG) Draft Report: Efforts to Prevent, Identify, and Recover Improper and Erroneous Payments by Selected Department of Justice Components. This response is for the Justice Management Division (JMD) and Offices, Boards, and Divisions (OBD) recommendations only.

Recommendation 1. Ensure that risk assessments for each component are required to include: (1) an assurance statement of an unqualified, qualified, or no-assurance opinion, following the requirements of OMB Circular A-123 revision, *Managements' Responsibility for Internal Control*, for DOJ as a whole; (2) the reason for the opinion and its effect on the component's risk of making improper payments; and (3) any corrective actions being taken to address the opinion and the component's risk.

Response: JMD concurs with the recommendation. JMD updated and reissued Finance Staff Policies and Procedures Bulletin (P&P) 06-11, Recovery Audit Programs and the Improper Payments Information Act (IPIA). The updated P&P, 07-03, Recovery Audit Programs and the Improper Payments Information Act (IPIA), requires that risk assessments include the assurance statement of the opinion, the reason for the opinion and its effect on the component's risk of making improper payments, and any corrective actions being taken to address the opinion and the component's risk. A copy of P&P, 07-03 is attached for your information. We consider this recommendation closed.

Recommendation 2. Evaluate the recent changes to OMB Circular A-123, Appendix C and determine whether changes need to be made to Bulletin 06-11.

Response: JMD concurs with the recommendation. The JMD Finance Staff evaluated the changes to OMB Circular A-123, Appendix C, and incorporated the applicable changes to the updated P&P 07-03. We consider this recommendation closed.

Recommendation 3. Ensure future risk assessments include: (1) the results from the most recent financial statement audit, including any material weaknesses or reportable conditions; (2) the effect of those weaknesses or conditions on its risk of making improper payments; (3) a description of the corrective action taken to address those weaknesses or conditions as required by Bulletin 06-11.

Response: JMD concurs with the recommendation. Starting in Fiscal Year 2007, risk assessments will include: (1) the results from the most recent financial statement audit, including any material weaknesses or reportable conditions; (2) the effect of those weaknesses or conditions on its risk of making improper payments, and (3) a description of the corrective action taken to address those weaknesses or conditions.

Recommendation 4. Ensure risk assessments include: (1) an assurance statement of an unqualified, qualified, or no-assurance opinion; (2) the reason for the opinion and its effect on the component's risk of making improper payments; and (3) any corrective actions being taken to address the opinions and the component's risk.

Response: JMD concurs with the recommendation. Starting in Fiscal Year 2007, risk assessments will include: (1) an assurance statement of an unqualified, qualified, or no-assurance opinion; (2) the reason for the opinion and its effect on the component's risk of making improper payments, and (3) any corrective actions being taken to address the opinions and the component's risk.

Recommendation 5. Ensure risk assessments include an assessment of federal award payments made by the recipients and subrecipients as required by Bulletin 06-11.

Response: JMD concurs with the recommendation. Starting in Fiscal Year 2007, risk assessments will include assessment of federal award payments made by the recipients and subrecipients.

Recommendation 12. Develop and implement a department-wide policy for time limits after the recovery audit contractor identified a potential improper payment and submits the claim to the component.

Response: JMD concurs with the recommendation. JMD has established a 15-day response policy for verifying potential improper payments identified by the recovery contractors. See Finance Staff, P&P, 07-03. We consider this recommendation closed.

Recommendation 13. Ensure each subcomponent submits the Notification of Erroneous Payment form (Attachment 2 of Bulletin 05-03) to JMD Finance Staff regarding improper payments identified and recovered by the OBDs as required by Bulletin 05-03.

Response: JMD concurs with the recommendation. JMD updated the Finance Staff P&P 05-03, Recovery Audit Program, to clarify the component responsibilities for submitting the Notification of Erroneous Payment form when improper payments are identified and recovered by the OBDs. In addition, this requirement was discussed with the OBD Financial Managers' Council (FMC) on December 7, 2006. Attached for your information is a copy of the updated P&P 07-02, Recovery Audit Program and a copy of the agenda from the December 7, 2006 OBD FMC meeting. We consider this recommendation closed.

Recommendation 14. Ensure that its recovery audit program addresses and includes grants as required by Bulletin 06-11.

Response: JMD concurs with the recommendation. The OBDs will include grants in the recovery audit program.

Please note the report does not properly cite OMB Circular A-123, Appendix C, where it states "Those requirements apply to DOJ programs as a whole, rather than to the individual components. Moreover, because the improper payment estimate for DOJ programs as a whole is less than \$10 million, in our judgement, DOJ is not required to include this information in its PAR for 2006." The \$10 million threshold for determining high risk for reporting purposes is applied to each program rather than to DOJ programs as a whole.

If you have any questions concerning this subject, please contact Melinda Morgan, Director, JMD/Finance Staff, on (202)616-5809, or Lori Arnold, Assistant Director, Financial Management Policies and Requirements Group, JMD/Finance Staff, on (202)616-5216.

Attachments



U.S. Department of Justice

Federal Bureau of Prisons

Office of the Director

Washington, DC 20534

January 10, 2007

MEMORANDUM FOR GUY K. ZIMMERMAN
ASSISTANT INSPECTOR GENERAL FOR AUDIT

FROM:  Harley G. Lappin, Director

SUBJECT: Response to the Office of the Inspector General's
(OIG) Draft Report: Efforts to Prevent, Identify,
and Recover Improper and Erroneous Payments by
Selected Department of Justice Components

The Bureau of Prisons (BOP) appreciates the opportunity to respond to the recommendations from the OIG's draft report entitled Efforts to Prevent, Identify, and Recover Improper and Erroneous Payments by Selected Department of Justice Components.

The Bureau's responses to the recommendations are provided below.

Recommendation #6: Ensure future risk assessments include:
(1) the results from the most recent financial statement audit, including any material weaknesses or reportable conditions;
(2) the effect of those weaknesses or conditions on its risk of making improper payments; and (3) a description of the corrective action taken to address those weaknesses or conditions as required by Bulletin 06-11.

Response: The Bureau agrees with this recommendation. This information will be included on all subsequent Federal Prison Industries (FPI) risk assessments beginning in Fiscal Year 2007.

Recommendation #7: Ensure risk assessments include: (1) an assurance statement of an unqualified, qualified, or no-assurance opinion; (2) the reason for the opinion and its effect on the component's risk of making improper payments; and (3) any

corrective actions being taken to address the opinion and the component's risk.

Response: The Bureau agrees with this recommendation. This information will be included on all subsequent FPI risk assessments beginning in Fiscal Year 2007.

Recommendation #15: Implement a contract compliance review within its recovery audit program as required by Bulletin 06-11.

Response: The Bureau agrees with this recommendation. Contract compliance review is included in the draft FPI Recovery Audit Programs and Improper Payment Information Act Program Statement.

Recommendation #16: Implement a final policy for its recovery audit program as required by Bulletin 06-11.

Response: FPI has drafted a policy to ensure requirements in Bulletin 06-11 have been addressed. Until the policy is finalized, FPI will issue interim guidance through a Financial Management Directive by January 31, 2007.

If you have any questions regarding this response, please contact Michael W. Garrett, Senior Deputy Assistant Director, Program Review Division, at (202) 616-2099.



U. S. Department of Justice
Drug Enforcement Administration

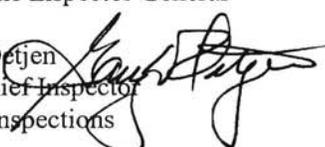
www.dea.gov

Washington, D.C. 20537

JAN 18 2007

MEMORANDUM

TO: Guy K. Zimmerman
Assistant Inspector General for Audit
Office of the Inspector General

FROM: Gary W. Oetjen 
Deputy Chief Inspector
Office of Inspections

SUBJECT: DEA's Response to the OIG's Draft Report: *Effort to Prevent, Identify and Recover Improper and Erroneous Payments by Selected Department of Justice Components*

The Drug Enforcement Administration (DEA) has reviewed the Department of Justice, Office of the Inspector General's (OIG) draft audit report, entitled *Effort to Prevent, Identify and Recover Improper and Erroneous Payments by Selected Department of Justice Components*. We appreciate the opportunity to provide comments on the report and its recommendations.

Concurrence is made with the one recommendation directed to the DEA and steps will be taken to implement the recommendation for future risk assessments.

DEA Response to OIG Recommendation:

Recommendation #8: Ensure risk assessments include: (1) an assurance statement of an unqualified, or no-assurance opinion; (2) the reason for the opinion and its effect on the component's risk of making improper payments; and (3) any corrective actions being taken to address the opinion and the component's risk.

During the period covered by the audit, the requirements of OMB Circular A-123, Appendix A, related to the assessment of internal controls over financial reporting, were not yet enacted. Thus the assurance statement could not be included in the FY 2006 Improper Payment Information Act (IPIA) risk assessment. We concur that future IPIA risk assessments should consider A-123 results. Beginning in FY 2007, DEA will include the A-123 Appendix A assurance statement, reason for the opinion, effect on the possibility of improper payments, and corrective actions in IPIA risk assessments.

DEA also provides the following technical comment on the draft report.

Page 11, paragraph 2: “However, in order for DOJ to provide the assurance in its PAR, according to JMD management, individual components were required to provide assurances to them by June 2006.

The date of June 2006 should be deleted as the date that assurances were required to be provided to JMD management. DOJ components were required to make assurance statements as of June 30, 2006, and for the period July 1, 2006 through September 30, 2006. The assurance statements were then requested in October 2006, to be provided to JMD management.

DEA will continue to keep OIG apprised of its actions to implement the report’s recommendation. If you have any questions regarding this information, please contact Janice Hewitt, Audit Liaison, at 202-307-5411.

cc: Michele Leonhart
Deputy Administrator

Richard Theis
Director
Audit Liaison Group



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives*Office of the Director*

JAN 10 2007

Washington, DC 20226

603010:YCW
8310MEMORANDUM TO: Glenn A. Fine
Inspector General

FROM: Acting Director

SUBJECT: Response to the Office of Inspector General (OIG)
Draft Audit Report: "Efforts to Prevent, Identify, and Recover
Improper and Erroneous Payments by Selected Department
of Justice Components"

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) appreciates the opportunity to respond to the recommendations from the OIG's above-cited draft audit report. We welcome constructive criticism of our programs, as this independent review process typically helps us to improve our ability to plan and manage our resources more efficiently.

In general, ATF concurs with the findings and recommendations of your report, and our responses are as follows:

Recommendation Number 9: Ensure future risk assessments include: (1) the results from the most recent financial statement audit, including any material weaknesses or reportable conditions; (2) the effect of those weaknesses or conditions on its risk of making improper payments; and (3) a description of the corrective action taken to address those weaknesses or conditions as required by Bulletin 06-11.

Response: We concur with this recommendation. ATF will ensure that any future risk assessments include results from the most recent financial statement audit. The risk assessments will include a review of the appropriate systems, procedures, and policies that mitigate the

likelihood that improper payments occur. To the extent that ATF has any material weaknesses, the effect of those weaknesses will be considered in the risk assessment and corrective actions will be identified in accordance with Bulletin 06-11.

Recommendation Number 10: Ensure risk assessments include: (1) an assurance statement of an unqualified, qualified, or no-assurance opinion; (2) the reason for the opinion and its effect on the component's risk of making improper payments; and (3) any corrective actions being taken to address the opinion and the component's risk.

Response: We concur with this recommendation. For future risk assessments, ATF will include an assurance statement, the reason for the opinion and its effect on the risk of making improper payments, and the planned corrective actions to address the opinion and reduce the level of risk.

Recommendation Number 11: Conduct a complete program inventory and risk assessment for each program, and maintain documentation as required by Bulletin 06-11.

Response: We concur with this recommendation. ATF will prepare a complete program inventory to identify programs and activities susceptible to improper payments as recommended. In accordance with Bulletin 06-11, ATF will conduct a risk assessment and maintain documentation of the risk assessment and results.

Recommendation Number 17: Develop methods for tracking improper payments separately from other debts, so it can provide information on the amount of improper payments identified and recovered. Additionally, ATF should include and maintain documentation on the timeframe in which the identified and recovered improper payments occurred.

Response: We concur with this recommendation. ATF will improve its current mechanism in place for tracking improper payments separately from other debts. ATF has specific document codes and general ledger accounts that are used to distinguish accounts receivable by type. In addition, ATF has a query tool for extracting reports that provide detailed information on improper payments. Moreover, ATF will improve how it maintains documentation, which establishes the timeframe when improper payments are identified and ultimately recovered. That documentation includes, but is not limited to, written memoranda for establishing accounts receivable and copies of the check payments when recovered. To the extent that recoveries are obtained through the Treasury Offset Program, additional documentation is maintained for the resulting Intragovernmental Payment and Collection transaction.

Recommendation Number 18: Demonstrate progress toward utilizing the recovery audit contractor as required by Bulletin 06-11, unless an approved internal recovery audit program that is compliant with all areas within Bulletin 06-11 and other applicable laws and regulations is developed, and a waiver is submitted to and approved by the Director, Justice Management Division, Finance Staff, as required by Bulletin 06-11.

Response: We concur with this recommendation. ATF plans to utilize the Department of Justice recovery audit contractor available through the contract administered by FedSource. ATF is preparing the documentation necessary for initiating a task order with FedSource to secure the recovery audit services.

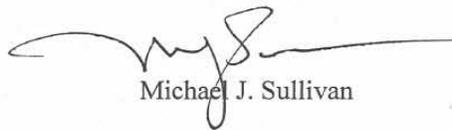
Recommendation Number 19: Expand the scope of the recovery audit program to encompass, at a minimum, all payments made from FY 2003 forward as required by Bulletin 06-11.

Response: We concur with this recommendation. ATF will ensure that the scope of the recovery audit program will include payments made from FY 2003 forward. ATF will incorporate this requirement in the task order for the recovery audit services.

Recommendation Number 20: Develop and implement a final written policy and procedure when a program is in place for ATF's recovery audit program as required by Bulletin 06-11.

Response: We concur with this recommendation. ATF is developing a corrective action plan that will include the development of written policy and procedures for its recovery audit program as required by Bulletin 06-11.

Should you have any questions regarding this response, please contact Ms. Carol Campbell, Chief, Audit and Evaluation Branch, Inspection Division, Office of Professional Responsibility and Security Operations, at (202) 648-9205.



Michael J. Sullivan

**ANALYSIS AND SUMMARY OF ACTIONS
NECESSARY TO CLOSE THE REPORT**

We provided a draft audit report to JMD, FPI, DEA, and ATF for review and comments. Each component's comments have been incorporated in Appendices VII through X of this report, which details the actions taken or plans for implementing our recommendations. Based on the written comments from the audited components, minor adjustments were made to the report and the status of the recommendations are as follows.

1. **Closed (JMD).**
2. **Closed (JMD).**
3. **Resolved (OBDs/JMD).** This recommendation can be closed when we receive documentation supporting that for the OBDs, JMD has included the following information within the OBDs' risk assessment: (1) the results from the most recent financial statement audit, including any material weaknesses or reportable conditions; (2) the effect of those weaknesses or conditions on its risk of making improper payments; and (3) a description of the corrective action taken to address those weaknesses or conditions as required by Bulletin 06-11.
4. **Resolved (OBDs/JMD).** This recommendation can be closed when we receive documentation supporting that for the OBDs, JMD has included the following information within the OBDs' risk assessment: (1) an assurance statement of an unqualified, qualified, or no-assurance opinion; (2) the reason for the opinion and its effect on the component's risk of making improper payments; and (3) any corrective actions being taken to address the opinion and the component's risk.
5. **Resolved (OBDs/JMD).** This recommendation can be closed when we receive documentation supporting that for the OBDs, JMD has included an assessment of federal award payments made by the recipients and subrecipients as required by Bulletin 06-11.
6. **Resolved (FPI).** This recommendation can be closed when we receive documentation supporting that the FPI has included the following information within its risk assessment: (1) the results from the most recent financial statement audit, including any material weaknesses or reportable conditions; (2) the effect of those

weaknesses or conditions on its risk of making improper payments; and (3) a description of the corrective action taken to address those weaknesses or conditions as required by Bulletin 06-11.

7. **Resolved (FPI).** This recommendation can be closed when we receive documentation supporting that the FPI has included the following information within its risk assessment: (1) an assurance statement of an unqualified, qualified, or no-assurance opinion; (2) the reason for the opinion and its effect on the component's risk of making improper payments; and (3) any corrective actions being taken to address the opinion and the component's risk.
8. **Resolved (DEA).** This recommendation can be closed when we receive documentation supporting that the DEA has included the following information within its risk assessment: (1) an assurance statement of an unqualified, qualified, or no-assurance opinion; (2) the reason for the opinion and its effect on the component's risk of making improper payments; and (3) any corrective actions being taken to address the opinion and the component's risk.
9. **Resolved (ATF).** This recommendation can be closed when we receive documentation supporting that ATF has included the following information within its risk assessment: (1) the results from the most recent financial statement audit, including any material weaknesses or reportable conditions; (2) the effect of those weaknesses or conditions on its risk of making improper payments; and (3) a description of the corrective action taken to address those weaknesses or conditions as required by Bulletin 06-11.
10. **Resolved (ATF).** This recommendation can be closed when we receive documentation supporting that ATF has included the following information within its risk assessment: (1) an assurance statement of an unqualified, qualified, or no-assurance opinion; (2) the reason for the opinion and its effect on the component's risk of making improper payments; and (3) any corrective actions being taken to address the opinion and the component's risk.
11. **Resolved (ATF).** This recommendation can be closed when we receive documentation supporting that ATF has conducted a complete program inventory and risk assessment for each program, and maintained documentation as required by Bulletin 06-11.
12. **Closed (JMD).**

13. **Closed (OBDs/JMD).**
14. **Resolved (OBDs/JMD).** This recommendation can be closed when we receive documentation supporting that for the OBDs, JMD has addressed and included grants within the OBDs' recovery audit program as required by Bulletin 06-11.
15. **Resolved (FPI).** This recommendation can be closed when we receive documentation supporting that the FPI has implemented a contract compliance review within its recovery audit program as required by Bulletin 06-11.
16. **Resolved (FPI).** This recommendation can be closed when we receive documentation supporting that the FPI has implemented a final policy for its recovery audit program as required by Bulletin 06-11.
17. **Resolved (ATF).** This recommendation can be closed when we receive documentation supporting that ATF has developed methods for tracking improper payments separately from other debts, so it can provide information on the amount of improper payments identified and recovered; and ATF has included and maintained documentation on the timeframe in which the identified and recovered improper payments occurred.
18. **Resolved (ATF).** This recommendation can be closed when we receive documentation supporting that ATF has demonstrated progress toward utilizing the recovery audit contractor as required by Bulletin 06-11.
19. **Resolved (ATF).** This recommendation can be closed when we receive documentation supporting that ATF has expanded the scope of the recovery audit program to encompass, at a minimum, all payments made from FY 2003 forward as required by Bulletin 06-11.
20. **Resolved (ATF).** This recommendation can be closed when we receive documentation supporting that ATF has developed and implemented a final written policy and procedure when a program is in place for ATF's recovery audit program as required by Bulletin 06-11.