

CHAPTER 4. IMPROPER PAYMENTS AND RECOVERY

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CHAPTER 4. IMPROPER PAYMENTS AND RECOVERY

4.1 OVERVIEW.

- 4.1.1 An improper payment occurs when Federal funds go to the wrong recipient, the recipient receives an incorrect amount of funds, or the recipient uses the funds in an improper manner. Agency managers are held accountable for strengthening financial management controls to detect and prevent improper payments and ensure that taxpayer dollars are spent wisely and efficiently. The Improper Payments Information Act (IPIA) of 2002 emphasized improper payment requirements and accountability.
- 4.1.2 The quality assurance program covering improper payments is intended to ensure that assessments and remediation comply with the Improper Payments Information Act (IPIA) of 2002, Office of Management and Budget (OMB) Circular A-123, Appendix C, and Recovery Auditing Act. This Chapter provides policy for the effective measurement and remediation of improper payments.

4.2 POLICY.

- 4.2.1 NASA shall ensure compliance with the requirements of the IPIA, OMB Circular No. A-123, and the Recovery Auditing Act through an integrated quality assurance program and shall report to the President and Congress, through the Performance and Accountability Report, an estimate of the annual amount of improper payments for all programs and activities, regardless of the annual amount of the estimate.
- 4.2.2 NASA shall conduct an annual risk assessment of all Agency programs where the level of risk is unknown until the risk level is determined and baseline estimates are established in accordance with IPIA.
- 4.2.3 NASA shall report Recovery Audit information in the annual Performance and Accountability Report in accordance with OMB Circular No. A-136.

4.3 AUTHORITIES AND REFERENCES.

- 4.3.1 Improper Payments Information Act of 2002, Public Law 107-300 (31 U.S.C. § 3321). This Act requires the head of each agency to annually review all programs and activities and identify and report those that may be susceptible to significant improper payments. OMB sets forth the guidance for this requirement.
- 4.3.2 Recovery Auditing Act (National Defense Authorization Act for FY 2002, Section 831), Public Law 107-107 (31 U.S.C. §§ 3561-3567). This Act requires agencies that enter into contracts with a total value in excess of \$500 million in a single fiscal year to carry out a cost-effective program for identifying errors made in paying contractors and for recovering amounts erroneously paid to the contractors.

- 4.3.3 OMB Circular No. A-123, Appendix C, Management's Responsibility for Internal Control: Requirements for Effective Measurement. This Circular provides for an annual Statement of Assurance signed by the Administrator on the effectiveness of internal control.
- 4.3.4 OMB Circular No. A-136, Financial Reporting Requirements. This Circular provides guidance relating to agency and Governmentwide financial reporting.
- 4.4 ROLES AND RESPONSIBILITIES.
- 4.4.1 Agency Chief Financial Officer (CFO). Shall assure that risk assessments are conducted annually on all Agency financial management programs where the level of risk is unknown until the risk level is determined and baseline estimates are established.
- 4.4.2 Director, Quality Assurance Division (QAD), OCFO. Shall oversee the annual entity-level risk assessment of all Agency financial management programs. (As discussed in Chapter 4 of this Volume, risk assessments are required every three years for programs deemed not risk susceptible.)
- 4.4.3 Center Directors/Center CFOs/Executive Director, NASA Shared Services Center/Manager, Business Process and Application Support Office, Integrated Enterprise Management Program (IEMP) Competency Center/ Officials-in-Charge (OICs) of Headquarters Offices. Shall conduct risk assessments in accordance with QAD guidance, and submit the completed assessments in the format specified by QAD
- 4.4.4 Assessable Unit Points of Contact. Maintain the completed risk assessment documentation, including supporting information, and monitor and document progress toward resolving recommendations on Corrective Action Plans.
- 4.5 IPIA REQUIREMENTS.
- 4.5.1 Conduct annual risk assessments on all programs and activities where the level of risk is unknown risk.
- 4.5.2 Review all programs and activities and estimate the risk of erroneous payments for those which are susceptible to significant erroneous payments, defined as annual erroneous payments in the program exceeding 2.5 percent of program payments and \$10 million.
- 4.5.3 Obtain a statistically valid estimate of the annual amount of improper payments in programs and activities susceptible to significant improper payments. The estimate is a gross total of both over- and under- payments and is based upon statistical random sampling to yield a 90 percent confidence interval of plus or minus 2.5 percent of points around the estimated percentage of erroneous payments.

- 4.5.4 Implement a plan to reduce erroneous payments. NASA shall identify the reasons programs and activities are at risk of significant erroneous payments and enact a corrective action plan to reduce their occurrence.

4.6 RECOVERY AUDITING ACT REQUIREMENTS.

- 4.6.1 Carry out a cost-effective program for identifying errors made in paying contractors and recovering amounts erroneously paid to the contractors. Recovery audits may be performed by employees of the agency, by any other department or agency of the United States Government acting on behalf of the executive agency, or by contractors performing recovery audit services under contracts awarded by the executive agency. However, the Inspector General and other agency external auditors are normally precluded from carrying out management's recovery audit program due to independence considerations. NASA may enter into any appropriate type of contract, including a contingency contract, for recovery audit services.
- A. All classes of contracts and contract payments should be considered for recovery audits. NASA may exclude classes of contracts and contract payments from recovery audit activities if the agency head determines that recovery audits are inappropriate or are not a cost-effective method for identifying and recovering erroneous payments.
 - B. Recovery auditing contractors may, with the consent of NASA, communicate with vendors for the purpose of identifying the validity of potential payment errors they have identified. However, the recovery auditing contractor may not maintain a presence on the property of the vendors that are the subject of recovery auditing.
 - C. The recovery auditing contractor itself may not perform the collection activity, unless it meets the definition of a private collection agency, and NASA has statutory authority to utilize private collection agencies. If private collection agencies are used, they shall follow all applicable laws and regulations governing collection of amounts owed to the Federal Government.
 - D. All funds collected and all direct expenses incurred as part of the recovery audit program shall be accounted for specifically. The identity of all funds recovered shall be maintained as necessary to facilitate the crediting of recovered funds to the correct appropriations and to identify applicable time limitations associated with the appropriated funds recovered.
 - E. Funds collected under a recovery audit program less any amounts needed to make payments under the related contract(s) shall be available to reimburse the actual expenses incurred for the administration of the program and to pay contractors for recovery audit services.
 - F. Except as provided in paragraph G below, any amounts erroneously paid by NASA that are recovered under a recovery audit program that are not used to reimburse expenses or pay recovery audit contractors shall be

credited to the appropriations from which the erroneous payments were made, shall be merged with other amounts in those appropriations, and shall be available for the purposes and period for which such appropriations are available, or if no such appropriations remain available, the funds recovered shall be deposited to the Treasury as miscellaneous receipts.

- G. Contingency fee contracts shall preclude any payment to the recovery audit contractor until the recoveries are actually collected by the agency.
- H. NASA shall submit a Recovery Audit report in accordance with OMB Circular A-136.