Office of Inspector General

U.S. Consumer Product Safety Commission

Review of the CPSC's Compliance with IPERA for FY 2018

June 3, 2019

19-A-07

Vision Statement

We are agents of positive change striving for continuous improvements in our agency's management and program operations as well as within the Office of Inspector General.

Statement of Principles

We will:

Work with the Commission and the Congress to improve program management;

Maximize the positive impact and ensure the independence and objectivity of our audits, investigations, and other reviews;

Use our investigations and other reviews to increase government integrity and recommend improved systems to prevent fraud, waste, and abuse;

Be innovative, question existing procedures, and suggest improvements;

Build relationships with program managers based on a shared commitment to improving program operations and effectiveness;

Strive to continually improve the quality and usefulness of our products; and

Work together to address government-wide issue

Office of Inspector General
U. S. Consumer Product Safety Commission

June 3, 2019

TO: Ann Marie Buerkle, Acting Chairman
Robert S. Adler, Commissioner
Elliot F. Kaye, Commissioner
Dana Baiocco, Commissioner
Peter A. Feldman, Commissioner

FROM: Christopher W. Dentel, Inspector General

SUBJECT: Improper Payments Elimination and Recovery Act Review

The Improper Payments Elimination and Recovery Act (IPERA), as amended, and implemented by Office of Management and Budget Memorandum (OMB) M-15-02, requires I annually review the Consumer Product Safety Commission's (CPSC) improper payment reporting in the CPSC's Agency Financial Report (AFR).

I have determined that the CPSC was non-compliant with IPERA in fiscal year 2018 (See chart at page 5). The CPSC met five of the six requirements, however, OMB Memorandum M-15-02 requires agencies to report a "gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the AFR . . ." The CPSC reported as improper about $29.1 of $29.1 million (100 percent) in non-payroll disbursements. All but $22,000 of the improper payments were attributable to an insufficient receipt and acceptance policy which was identified as a finding in the OIG 2017 Vendor Payment review. Although the CPSC has taken steps to address this issue, those steps were not in place until FY 2019.

To assess agency compliance with IPERA for FY 2018, the CPSC Office of Inspector General (OIG) retained the services of Kearney & Company (Kearney), an independent public accounting firm. Under a contract monitored by the OIG, Kearney issued a review report regarding the CPSC's compliance with IPERA. The contract required that the review be performed in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation* (CIGIE QSIE). In connection with the contract, we reviewed Kearney's report and related documentation and inquired of its representatives. Our review was not intended to enable us to express, and we do not express, an opinion on the matters contained in the report. Kearney is responsible for the attached report. However, our review disclosed no instances where Kearney did not comply, in all material respects, with CIGIE's QSIE. Should you have any questions, please contact me.

THE U.S. CONSUMER PRODUCT SAFETY COMMISSION

Report on the Review of the CPSC's Compliance with IPERA for FY 2018

Report Date: May 17, 2019

KEARNEY & COMPANY

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OBJECTIVE

The objective of the review was to determine whether the U.S. Consumer Product Safety Commission (CPSC) is in compliance with the Improper Payments Elimination and Recovery Act (IPERA) for the fiscal year (FY) ended 2018. As requested by the CPSC Office of Inspector General (OIG), Kearney & Company, P.C. (defined as "Kearney," "we," and "our" in this report) evaluated CPSC's FY 2018 IPERA Program.

BACKGROUND

In July 2010, the IPERA, which amended the Improper Payments Information Act of 2002[1] (IPIA), was enacted to further reduce improper payments. IPERA clarified the programs to be reviewed and expanded improper payments recapture activities. IPERA also required Inspectors General to determine whether an agency complies with IPERA and established additional requirements for agencies that were deemed noncompliant.

In April 2011, the Office of Management and Budget (OMB) issued guidance for agencies implementing IPERA requirements in Appendix C, Revised Parts I and II, of OMB Circular A-123, *Management's Responsibility for Internal Control.*[2] The guidance defines the programs and payments that agencies must assess for the risk of improper payments and provides requirements for determining whether the risk of improper payments is significant, developing an estimate of improper payments, performing recapture review activities, and reporting improper payment activities.

In January 2013, Improper Payment Elimination and Recovery Improvement Act [3] (IPERIA) was enacted and further amended IPIA by requiring, among other things, that OMB identify high-priority Federal programs for greater levels of oversight and review, provide guidance to agencies for improving estimates of improper payments, and establish a working system for pre-payment and pre-award review.

[1] 31 United States Code 3321 note

[2] OMB Memorandum M-15-02 (OMB M-15-02), "Appendix C to Circular No. A-123, *Requirements for Effective Estimation and Remediation of Improper Payments"*

[3] Public Law No. 112-248, 126 Statute 2390

PRIOR YEAR RESULTS

In FY 2017, Kearney was engaged by the CPSC OIG to issue a review report regarding the CPSC's compliance with IPERA. Kearney found that the CPSC was not compliant with IPERA. In accordance with OMB guidance, non-compliance with any one element results in overall non-compliance. For its non-payroll payments for FY 2017, the CPSC did not complete a risk assessment, estimate improper payments, and had an improper payment rate of over ten percent.

For FY 2017, the CPSC did improve its risk assessment process. The risk assessment process added a contract risk matrix and an internal control checklist for IPERA. However, Kearney determined that the risk attribution assigned by CPSC management was not always reasonable. Consequently, the CPSC was exposed to the potential of improper payments. The CPSC reported $21.1 million in improper payments related to payments to commercial entities for FY 2017. Further, the CPSC did not obtain a statistically valid estimate consistent with OMB M-15-02.

CRITERIA

IPERIA and OMB M-15-02 require federal agencies to fulfill the following six criteria in order to achieve full compliance. Non-compliance with any one element results in overall non-compliance. The criteria are:

1. Publish and post an Agency Financial Report (AFR) or Performance Accountability Report (PAR) for the most recent FY and any accompanying materials required by OMB on the agency website.
2. Conduct a program-specific risk assessment for each program or activity that conforms with Section 3321 note of Title 31 of the United States Code.
3. Publish improper payment estimates for all programs and activities identified as susceptible to significant improper payments under its risk assessment.
4. Publish programmatic corrective action plans in the AFR or PAR, if required.
5. Publish annual reduction targets for each program assessed to be at risk and estimated for improper payments, if required and applicable.
6. Report a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the AFR or PAR.

CURRENT YEAR RESULTS

Overall, Kearney found that for FY 2018, the CPSC did not comply with IPERA. In accordance with OMB, non-compliance with any one element results in overall non-compliance. The CPSC did not comply with one element of IPERA related to non-payroll payments as shown in Table 1 below:

Table 1: Summary of IPERA Compliance for FY 2018

Summary of IPERA Compliance by Criteria and Program		
Criteria	Payroll	Non-Payroll
Publish AFR	Yes	Yes
Complete Risk Assessment	Yes	Yes
Estimate Improper Payments	Yes	Yes
Develop Corrective Action Plan	Yes	Yes
Meet Reduction Goals	Yes	Yes
Have < 10% Improper Payments	Yes	No

During FYs 2018 and 2019, the CPSC took a number of corrective actions to include implementing procedures to annually review the vendor payment service provider's SSAE-18 report, identifying complementary user entity controls, and implementing those controls. However, Kearney determined that the CPSC had already incurred a significant number of improper payments before the corrective actions were identified and implemented. Consequently, the CPSC was exposed to improper payments. The CPSC reported $29.1 million in improper payments related to payments to commercial entities for FY 2018.

FINDING

Finding 1: Exceeded Federal Improper Payment Thresholds for Non-Payroll Activities

Kearney determined that the CPSC exceeded statutory improper payment thresholds for non-payroll activities for FY 2018. The Commission reported about $29.1 of $29.1 million (100 percent) in non-payroll disbursements as improper. All but $22,000 of the improper payments were attributed to an insufficient receipt and acceptance policy which was identified as a finding in the OIG 2017 Vendor Payment review.

OMB M-15-02 requires agencies to report a "gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the AFR or PAR."

This condition occurred because the CPSC did not have an effective process in place to receive and document the receipt and acceptance of the deliverables associated with the acquisition.

Instead, the CPSC relied on either receipt forms supplied by vendors or the invoice approval form provided by Enterprise Services Center (ESC), the CPSC shared service provider, which included an acceptance date.

During FYs 2018 and 2019, the CPSC took a number of corrective actions to include the following:

- Implemented procedures to annually review the ESC SSAE-18 report, identify complementary user entity controls as recommended by ESC, and implement those controls;
- Developed an invoice approval checklist;
- Coordinated with ESC to develop a standardized receipt and acceptance form for contracted goods and services;
- Developed Contracting Officer's Representative training specifically related to the receipt and acceptance of goods and services; and
- Revised CPSC Directives 0820.1 and 0820.1a to update agency policy regarding the receipt and acceptance of goods and services.

The CPSC completed the implementation of these actions in October 2018.

Kearney does not make any recommendations related to this finding as the CPSC completed its actions in FY 2019 to remediate the cause.

CONCLUSION

Based on the review results previously noted, Kearney concludes that CPSC's FY 2018 IPERA review is not in compliance with IPERA and with OMB M-15-02. Despite the corrective actions, the CPSC was not in compliance with IPERIA for FY 2018 because CPSC had already incurred significant improper payments as a result of the ineffective receipt and acceptance process before the corrective actions were identified and implemented. Kearney discussed our review results with the CPSC's management (see ***APPENDIX B – MANAGEMENT'S VIEWS ON CONCLUSIONS AND FINDINGS***).

APPENDIX A – SCOPE AND METHODOLOGY OF THE REVIEW

Scope

This report contains the results of our evaluation of the CPSC's compliance with the requirements of IPERA and OMB M-15-02 for FY 2018. The scope of this review included transactions identified by CPSC as meeting the OMB M-15-02 definition of a payment made during FY 2018. The CPSC, in its internal review, identified approximately $108.9 million in payments that met the definition of a payment as found in OMB M-15-02. Kearney conducted its evaluation from February through May 2019 at CPSC's headquarters in Bethesda, Maryland.

Methodology

Kearney conducted this review in accordance with the Council of the Inspector's General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*, which require that we obtain sufficient data to provide a reasonable basis for reaching conclusions. These standards also require that Kearney ensure that the evidence supporting findings, conclusions, and recommendations is sufficient, competent, and relevant, such that a reasonable person would be able to sustain the findings, conclusions, and recommendations. Sufficiency of data needed and tests of evidence varied based on the review objectives, findings, and conclusions. Kearney designed the evaluation to obtain insight into CPSC's current processes and procedures, as well as to assess compliance with IPERA requirements. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our review objectives.

APPENDIX B – MANAGEMENT'S VIEWS ON CONCLUSIONS AND FINDINGS

The CPSC concurred with the findings presented in this report.

APPENDIX C – ACRONYMS

Acronym	Definition
AFR	Agency Financial Report
CPSC	U.S. Consumer Product Safety Commission
FY	Fiscal Year
IPERA	Improper Payments Elimination and Recovery Act of 2010
IPERIA	Improper Payments Elimination and Recovery Improvement Act of 2012
IPIA	Improper Payments Information Act of 2002
Kearney	Kearney & Company, P.C.
Memorandum	M
OIG	Office of Inspector General
OMB	Office of Management and Budget
PAR	Performance Accountability Report

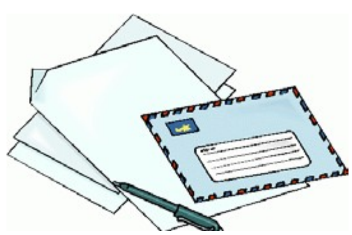
CONTACT US

If you want to confidentially report or discuss any instance of misconduct, fraud, waste, abuse, or mismanagement involving the CPSC's programs and operations, please contact the CPSC Office of Inspector General.

Call:
Inspector General's HOTLINE: 301-504-7906
Or: 1-866-230-6229

Click **here** for complaint form.

Click **here** for CPSC OIG website.



Or Write:

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