



June 2020

IMPROPER PAYMENTS

Improvements Needed to Ensure Reliability and Accuracy in DOE's Risk Assessments and Reporting

Accessible Version

GAO Highlights

Highlights of [GAO-20-442](#), a report to congressional committees

Why GAO Did This Study

Improper payments—payments that should not have been made or were made in an incorrect amount—are a significant problem in the federal government. Agencies are required to perform risk assessments to identify programs that are susceptible to significant improper payments.

House Report 115-697 included a provision for GAO to review DOE’s system for tracking improper payments. This report examines the extent to which (1) the amounts reported in DOE’s AFRs for fiscal years 2015 through 2019 were accurate and complete, and (2) its fiscal year 2018 risk assessment provided a reasonable basis for its risk determination. GAO reviewed DOE’s improper payment reporting for fiscal years 2015 through 2019 and its fiscal year 2018 risk assessment, and reviewed documents and interviewed officials from 10 of 48 reporting sites selected to provide a range of sites and about half of fiscal year 2018 reported improper payments.

What GAO Recommends

GAO is making nine recommendations to DOE, including to track and disclose information on improper payments identified later and determine whether these payments exceeded \$100 million in any year, and to revise its risk assessment process to ensure the process has a reasonable basis and reliable results. DOE agreed with six of the recommendations, but did not agree with three recommendations, including to revise its risk assessment process. GAO maintains that the recommended actions are valid.

View [GAO-20-442](#). For more information, contact Allison B. Bawden at (202) 512-3841, bawdena@gao.gov or Beryl H. Davis at (202) 512-2623, davisbh@gao.gov.

June 2020

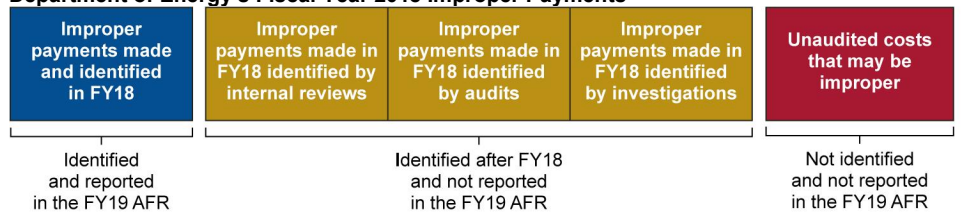
IMPROPER PAYMENTS

Improvements Needed to Ensure Reliability and Accuracy in DOE’s Risk Assessments and Reporting

What GAO Found

The improper payments amounts that the Department of Energy (DOE) reported in its annual agency financial reports (AFR) for fiscal years 2015 through 2019 may not be accurate or complete. Agencies with programs that are susceptible to significant improper payments—including those with more than \$100 million of improper payments in a year—are required to report statistically valid estimates of their improper payments. DOE determined these requirements did not apply, but optionally reported information on actual improper payments it made and identified in the prior year. For example, in its fiscal year 2019 AFR, DOE reported fiscal year 2018 improper payments—such as those made to contractors for unallowable costs—totaling about \$36 million, less than 0.1 percent of its outlays. However, DOE did not disclose that these amounts do not include improper payments identified through reviews, audits, and investigations completed several years after it issues its AFR (see figure). For example, as of September 2019, DOE had not audited \$23.8 billion of its \$38.5 billion in fiscal year 2018 outlays. Such audits may increase the improper payments in a year by millions of dollars. For example, based on a 2017 audit, DOE identified \$34 million in fiscal year 2010 improper payments. DOE does not always track information on the year improper payments were made that would allow it to determine whether improper payments identified later would increase the total to more than \$100 million. By tracking and disclosing such information, DOE could better inform Congress, the public, and others about whether it exceeded the \$100 million threshold and should be subject to additional reporting requirements.

Department of Energy’s Fiscal Year 2018 Improper Payments



AFR = agency financial report FY = fiscal year
Source: GAO analysis of Department of Energy information. | GAO-20-442

Note: Segments of the bar are not sized to scale and do not represent the amount of improper payments.

DOE determined that its risk of significant improper payments was low in its fiscal year 2018 risk assessment. However, GAO found that the risk assessment may not provide a reasonable basis for DOE’s determination. DOE did not provide sufficient documentation to support that it considered the known lag in identifying improper payments as an inherent risk, nor did it provide sufficient documentation to support its rationale for the scale it used to score risk factors or for weighting risk ratings of payment reporting sites. For example, a payment site processing \$3 million of outlays had the same weight in the overall assessment as a payment site processing \$5.7 billion of outlays. As a result, DOE cannot demonstrate that its low-risk determination is reasonable and that its risk assessment process produces reliable results.

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Abbreviations

AFR	Agency Financial Report
DOE	Department of Energy
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, as amended
M&O	management and operating
NNSA	National Nuclear Security Administration
OCFO	Office of the Chief Financial Officer
OIG	Office of the Inspector General
OMB	Office of Management and Budget
PIIA	Payment Integrity Information Act of 2019

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June 17, 2020

The Honorable Lamar Alexander
Chairman
The Honorable Dianne Feinstein
Ranking Member
Subcommittee on Energy and Water Development
Committee on Appropriations
United States Senate

The Honorable Marcy Kaptur
Chairwoman
The Honorable Mike Simpson
Ranking Member
Subcommittee on Energy and Water Development
and Related Agencies
Committee on Appropriations
House of Representatives

Improper payments—payments that under statutory, contractual, administrative, or other legally applicable requirements should not have been made or were made in an incorrect amount—are a long-standing, widespread, and significant problem in the federal government.¹ As we found in our most recent audit of the U.S. government’s consolidated financial statements, the federal government is unable to determine the full extent to which improper payments occur and reasonably assure that appropriate actions are taken to reduce them.² Reducing improper payments is critical to safeguarding federal funds.

Federal agencies, including the Department of Energy (DOE), are subject to statutory improper payment requirements established, until recently, in

¹Office of Management and Budget, *OMB Circular A-123 Appendix C: Requirements for Payment Integrity Improvement*, M-18-20 (Washington, D.C.: June 26, 2018). Improper payments include overpayments and underpayments, any payment to an ineligible recipient, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment for which an agency’s review is unable to discern propriety due to insufficient documentation.

²GAO, *Financial Audit: FY2019 and FY2018 Consolidated Financial Statements of the U.S. Government*, [GAO-20-315R](#) (Washington, D.C.: Feb. 27, 2020).

the Improper Payments Information Act of 2002, as amended (IPIA).³ On March 2, 2020, IPIA was repealed and replaced by the Payment Integrity Information Act of 2019 (PIIA), which retains IPIA's core structure of executive agency assessment, estimation, and reporting of improper payments.⁴ IPIA required, among other things, that at least once every 3 years each federal agency review all of its programs and activities to identify those that may be susceptible to significant improper payments—a process commonly referred to as an improper payment risk assessment.⁵ Properly executed improper payment risk assessments are the cornerstone of a government-wide effort to identify and reduce improper payments. We previously reviewed DOE's improper payment risk assessments and found in December 2014 that DOE's assessments did not fully evaluate its risk.⁶ We recommended, among other things, that DOE take steps to improve its risk assessments, including revising guidance on how payment sites were to address risk factors, providing examples of other risk factors likely to contribute to improper payments,

³Improper Payments Information Act, Pub. L. No. 107-300, 116 Stat. 2350, as amended by the Improper Payments Elimination and Recovery Act of 2010 (IPERA), Pub. L. No. 111-204, 124 Stat. 2224, and the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA), Pub. L. No. 112-248, 126 Stat. 2390 (2013), codified as amended at 31 U.S.C. § 3321 note. All references to IPIA in this report include IPIA and these amendments.

⁴Pub. L. No. 116-117, 134 Stat. 113 (2020) (codified at 31 U.S.C. §§ 3351-3358). Because we concluded our audit work prior to passage of the PIIA, the requirements we describe in this report are those found in the IPIA and its amendments, which are substantially similar to the newly enacted requirements in the PIIA. A Senate committee report accompanying PIIA stated that it “repeals the previous improper payments laws and combines the language of each into a single new subchapter of the U.S. Code” and “omits areas of duplication, and improves and updates areas that warrant attention.” S. Rep. No. 116-35, at 3 (2019).

⁵IPIA established the requirement that agencies annually review all programs and activities they administer and identify those that may be susceptible to significant improper payments—that is, to develop risk assessments—starting in fiscal year 2004. Subsequently, IPERA required agencies to perform a risk assessment of all programs and activities at least once every 3 fiscal years and identify those that were susceptible to “significant” improper payments. In addition, IPERA required agencies to consider seven enumerated risk factors that are likely to contribute to a susceptibility to significant improper payments. PIIA, among other things, updates and codifies those provisions of IPERA and provides a more expansive list of risk factors likely to contribute to a susceptibility to significant improper payments. 31 U.S.C. § 3352.

⁶GAO, *Improper Payments: DOE's Risk Assessments Should Be Strengthened*, [GAO-15-36](#) (Washington, D.C.: Dec. 23, 2014).

and directing payment sites to consider those factors. DOE updated its guidance in May 2017 to address this recommendation.

Under IPIA, improper payments were considered significant if in the preceding fiscal year they might have exceeded either (1) 1.5 percent of program outlays and \$10 million, or (2) \$100 million (regardless of the improper payment rate).⁷ IPIA required agencies with programs susceptible to significant improper payments to develop statistically valid improper payment estimates and annually report on actions to reduce improper payments, including a description of the causes of the improper payments, actions planned or taken to correct those causes, and planned or actual completion dates of the actions taken to address those causes. In addition, the Office of Management and Budget (OMB) may determine on a case-by-case basis—such as if an audit report or investigative result raises questions about an agency's risk assessment or improper payments results—that certain programs that do not meet the threshold for significant improper payments may still be subject to the more stringent annual improper payment reporting requirements. Other federal requirements that apply to DOE include OMB Circular A-123, Appendix C, *Requirements for Payment Integrity Improvement* (OMB M-18-20); OMB Circular A-136;⁸ and internal DOE orders and directives that address financial management oversight.

DOE is the largest civilian contracting agency in the federal government. According to information provided by DOE's Office of the Chief Financial Officer (OCFO), in fiscal year 2019 DOE's obligations totaled nearly \$52 billion. Approximately 80 percent—about \$41 billion—went to contracts to manage and operate its scientific laboratories, engineering and production facilities, and environmental restoration sites, and to construct new facilities.⁹ DOE relies extensively on management and operating (M&O) contracts to manage and operate many of its government-owned,

⁷Improper payment rates (sometimes referred to as error rates) reflect the estimated improper payments as a percentage of total program outlays.

⁸Office of Management and Budget, *OMB Circular A-136, Financial Reporting Requirements* (Washington, D.C.: July 30, 2018). OMB Circular A-136 was revised on June 28, 2019 for fiscal year 2019 reporting.

⁹Historically, much of DOE's annual appropriations do not expire, which enables DOE to obligate funds from prior fiscal years. Consequently, there are some years when DOE's obligations and outlays exceed its new budget authority.

contractor-operated sites.¹⁰ Identifying and preventing improper payments on contracts is a key component of contract management. In 1990, GAO designated DOE's contract management—including both contract administration and project and program management—as a high-risk area because DOE's record of inadequate management and oversight of contractors left the department vulnerable to waste, fraud, abuse, and mismanagement.¹¹ Although DOE has made progress in a number of areas in the 30 years since its original high-risk designation, DOE's contract management remains on GAO's High Risk List.¹²

DOE performed its latest department-wide risk assessment for improper payments in fiscal year 2018 (as required under IPIA and described in OMB guidance) and found that it was not susceptible to significant improper payments.¹³ Therefore, DOE was not required to develop or publish any statistically valid improper payment estimates in its agency financial report (AFR). In its fiscal year 2019 AFR, DOE reported it identified improper payments of \$36.26 million made in fiscal year 2018, about 0.09 percent of its \$38.47 billion in outlays for fiscal year 2018.¹⁴ However, DOE's reported improper payments were not included in the nearly \$175 billion government-wide total of reported estimated improper payments for fiscal year 2019 because the government wide estimate is

¹⁰M&O contracts are agreements under which the government contracts for the operation, maintenance, or support, on its behalf, of a government-owned or government-controlled research, development, special production, or testing establishment wholly or principally devoted to one or more of the major programs of the contracting federal agency.

¹¹GAO, *High-Risk Series: Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas*, [GAO-19-157SP](#) (Washington, D.C.: Mar. 6, 2019).

¹²In January 2009, recognizing the progress at DOE's Office of Science, we narrowed the focus of DOE's high-risk designation to two DOE program elements—the National Nuclear Security Administration (NNSA) and the Office of Environmental Management. In February 2013, we further narrowed the focus of the high-risk designation to NNSA and Office of Environmental Management contracts, as well as major projects—those with an estimated cost of \$750 million or greater—to acknowledge progress made in managing non-major projects.

¹³DOE considers itself one program for the purposes of improper payment reporting and assesses its program by payment types such as contracts, benefits, grants, and loans.

¹⁴DOE reports on its improper payments 1 year in arrears, as approved by OMB. Thus, DOE's fiscal year 2019 AFR included information on the improper payments DOE identified that were made in fiscal year 2018.

calculated from agencies' statistical estimates and DOE did not—and was not required to—report a statistically valid estimate.¹⁵

House Report 115-697 accompanying the Energy and Water Development Appropriations Bill, 2019, included a provision for GAO to investigate DOE's system for tracking improper payments and provide recommendations to improve the department's methodology for reporting accurate, representative, and meaningful data on improper payments. This report examines (1) the extent to which the improper payment amounts reported in DOE's AFRs for fiscal years 2015 through 2019 were accurate and complete, and (2) the extent to which DOE's fiscal year 2018 improper payment risk assessment provides a reasonable basis for its risk determination.

To determine the extent to which the improper payment amounts reported in DOE's AFRs for fiscal years 2015 through 2019 were accurate and complete, we reviewed federal legislation, policies, and guidance pertaining to improper payment reporting and compared DOE's reporting to these federal requirements.¹⁶ We also reviewed documents from DOE's OCFO for fiscal years 2015 through 2019, including the improper payment reporting sent to the OCFO by DOE's 48 payment reporting sites.¹⁷ To assess the reliability of the payment reporting sites' data, we took several steps, including reviewing information from each of the sites about the systems used to capture the data, reconciling the data reported on the 48 payment site submissions to the summarized data reported for each fiscal year, and comparing the summarized data with the data in the AFR for each fiscal year.¹⁸ We determined that the data were sufficiently

¹⁵[GAO-20-315R](#).

¹⁶DOE issued its fiscal year 2019 AFR in November 2019, as we were finishing our audit work. We reviewed the summary-level information included in the fiscal year 2019 AFR and discussed with DOE officials the process the department used to prepare the report, but we did not perform a detailed review of the site-specific inputs.

¹⁷Payment reporting sites are designated DOE entities, such as field offices and certain contractors, which are responsible for conducting improper payment risk assessments and providing actual improper payment data to the OCFO. One of DOE's payment sites consists of two separate entities—the Loan Programs Office and the Loan Accounting Team (part of the OCFO)—which submit a single report for improper payments.

¹⁸For fiscal year 2019, we did not review individual improper payment reporting submissions from the 48 payment sites because our audit work had concluded before the information for fiscal year 2019 became available. Instead, we reviewed OCFO's summary of the improper payment reporting from the 48 sites and compared the summarized data to the data in the fiscal year 2019 AFR.

reliable to use in our analyses of DOE's reported improper payments. We also reviewed OCFO policies and guidance and interviewed officials about reporting on improper payments and questioned costs.¹⁹ Further, we reviewed OMB guidance pertaining to improper payments reporting and interviewed OMB officials to obtain their perspective on how that guidance applies to DOE's reporting.

In addition, we selected a non-generalizable sample of 10 DOE improper payment reporting sites for detailed review of these sites' procedures for tracking and reporting on improper payments. We selected these sites because they account for about half of DOE's outlays and improper payments, and they represent different types of payment reporting sites and DOE program and staff offices.²⁰ We obtained data from the 10 selected sites and conducted semi-structured interviews with officials from each site who are responsible for identifying and reporting improper payments. We also reviewed information on improper payments and questioned costs identified through investigations and published in the DOE Office of the Inspector General's (OIG) Semiannual Reports to Congress for fiscal years 2015 through 2018. We compared the information in those reports with the improper payment amounts reported in DOE's AFRs for the same period. Additionally, we reviewed external audits that identified questioned costs to determine whether the costs were tracked to resolution and were included in DOE's improper payment reporting, if appropriate.²¹ Finally, we updated our prior analysis of audits and assessments of DOE's incurred costs for its 24 largest contracts,

¹⁹A questioned cost is a cost that is questioned by the auditor because of an audit finding: (a) that resulted from a violation or possible violation of a statute, regulation, or the terms and conditions of a federal award, including for funds used to match federal funds; (b) where the costs, at the time of the audit, were not supported by adequate documentation; or (c) where the costs incurred appeared unreasonable and did not reflect the actions a prudent person would take in the circumstances.

²⁰Together, the 10 selected sites represent 47 percent of DOE's fiscal year 2017 outlays and 57 percent of DOE's fiscal year 2017 current year improper payments, as reported in the department's fiscal year 2018 AFR. Current year improper payments are those that were both made and identified in the same fiscal year. The fiscal year 2017 data were the most recent available at the time of our site selection.

²¹External audits are audits conducted by organizations outside of DOE, including private-sector organizations.

which we reported on in March 2019, to provide a sense of the extent of incurred costs that have been audited or assessed since that report.²²

To determine the extent to which DOE's fiscal year 2018 improper payment risk assessment provides a reasonable basis for its risk determination, we reviewed improper payment risk assessment requirements in IPIA and the related guidance in OMB M-18-20. We also reviewed relevant internal control standards to identify control activities related to conducting effective improper payment risk assessments.²³ We obtained and reviewed DOE's fiscal year 2018 improper payment risk assessment, the most recent department-wide improper payment risk assessment that was based on the risk assessments performed by DOE's 48 payment reporting sites. We reviewed the site-specific improper payment risk assessments for the 10 payment reporting sites we selected, as discussed above. We then compared these risk assessments to relevant IPIA requirements, OMB guidance, and internal control standards to determine the extent to which DOE evaluated the appropriate risk factors for improper payments, appropriately considered those factors in its risk assessment, and provided a reasonable basis for its risk determination. Additionally, we interviewed officials from the OCFO, as well as officials from the 10 selected payment reporting sites, about the process they used to conduct the fiscal year 2018 improper payment risk assessments. We also reviewed our past work and DOE OIG reports to identify (1) any reported issues related to DOE's improper payment risk assessments and related processes, and (2) open recommendations related to DOE's risk assessments. Finally, we interviewed OMB officials to discuss their views on DOE's process for improper payment risk assessment.

We conducted this performance audit from March 2019 to June 2020, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our

²²In our March 2019 report, we analyzed audits of DOE's 24 largest contractors, selected based on fiscal year 2016 obligations. We updated that analysis to reflect audit and assessment reports issued as of September 24, 2019, because it provided a better sense of the extent of incurred costs that had been audited than would have been provided through an analysis of our 10 selected sites. The 24 largest contracts represented about \$23.6 billion in obligations, or about 84 percent of DOE's fiscal year 2016 contract obligations. See GAO, *Department of Energy Contracting: Actions Needed to Strengthen Subcontractor Oversight*, [GAO-19-107](#) (Washington, DC: Mar. 12, 2019).

²³GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Federal Improper Payment Requirements

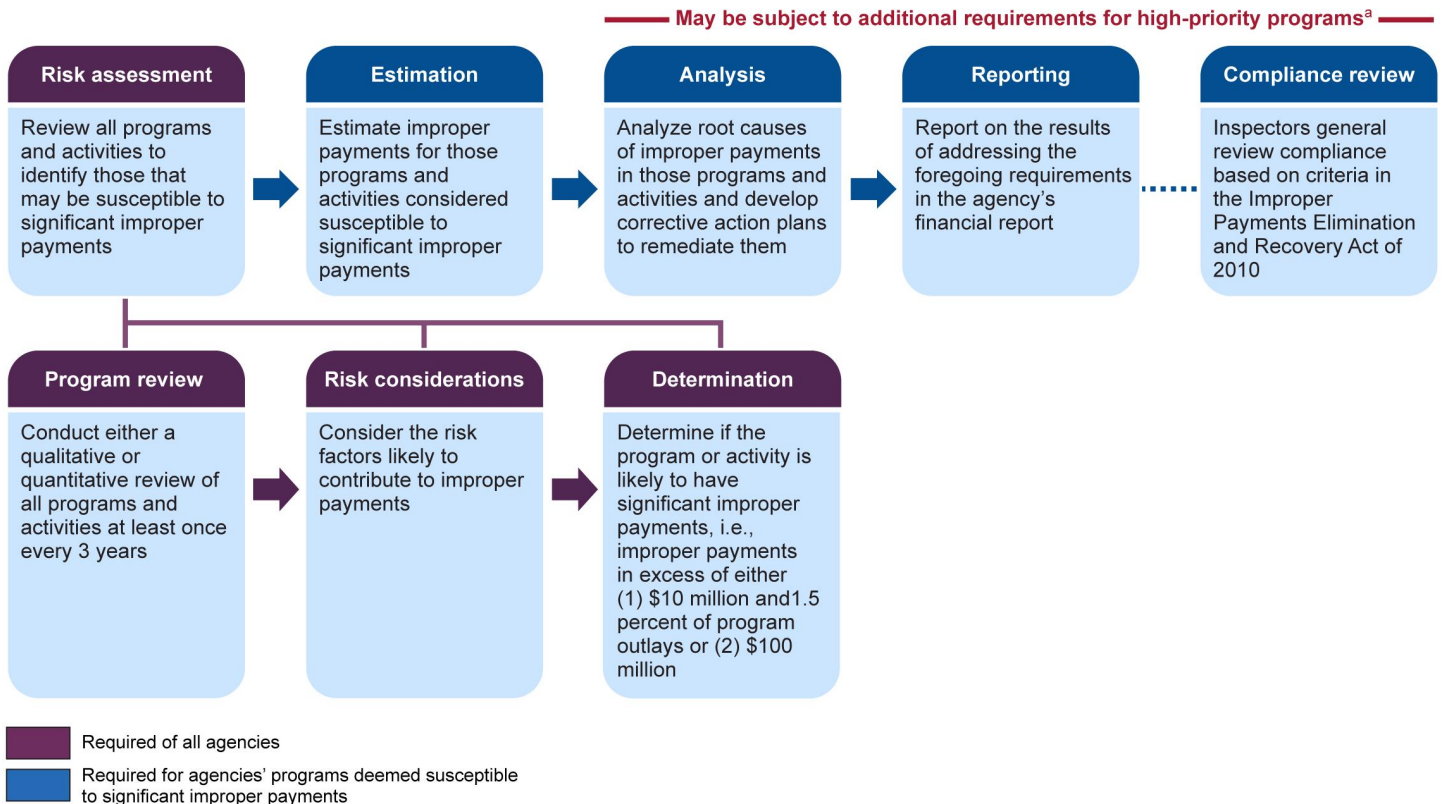
Key requirements related to improper payments during the period of our audit were included in IPIA, OMB M-18-20, and OMB Circular A-136. Federal agencies were required to take various steps regarding improper payments under IPIA and as directed by OMB M-18-20. The steps include the following:

1. Review all programs and activities and identify those that may be susceptible to significant improper payments (commonly referred to as a risk assessment),
2. For those programs and activities that agency risk assessments, OMB, or statute identifies as being susceptible to significant improper payments, agencies should develop statistically valid improper payment estimates, as well as analyze the root causes of improper payments and develop corrective actions to reduce them,
3. Report on the results of addressing the foregoing requirements.²⁴

According to OMB officials, agencies are responsible for maintaining the documentation to demonstrate that these steps, if applicable, were satisfied. Figure 1 illustrates these steps, as well as the major components of conducting an improper payment risk assessment.

²⁴OMB M-18-20 states that agencies should report their improper payment information to the President and Congress through AFRs or Performance Accountability Reports or in the format required through data requests from OMB. OMB A-136 specifies information that agencies with programs susceptible to significant improper payments should include in their AFRs, but does not specify information that other agencies should include in their reports. However, OMB A-136 encourages agencies to use graphs, charts, and tables in their improper payment reporting and to include additional information, if useful.

Figure 1: Key Steps for Federal Agencies to Analyze Improper Payments and Major Components of Conducting Improper Payment Risk Assessments



Source: GAO analysis of relevant laws and guidance. | GAO-20-442

^aAccording to Office of Management and Budget Circular A-123, Appendix C (OMB M-18-20), high-priority programs are programs that report \$2 billion or more in estimated improper payments in a given year, regardless of the improper payment rate estimate.

IPIA required that agencies conduct improper payment risk assessments for all federal programs and activities at least once every 3 years and identify any program or activity that may be susceptible to significant improper payments.²⁵ OMB M-18-20 provides guidance for implementing

²⁵As previously discussed, IPIA defined "significant" improper payments as improper payments in the preceding fiscal year that may have exceeded either (1) 1.5 percent of program outlays and \$10 million or (2) \$100 million (regardless of the improper payment rate). Per OMB M-18-20, for programs that are deemed not susceptible to significant improper payments, agencies must perform a risk assessment at least once every 3 fiscal years unless there is a significant change in legislation and/or a significant increase in the program's funding level. Programs where an improper payment estimate is being reported do not need an additional improper payment risk assessment.

the IPIA requirements and covers agencies' responsibilities for improper payment risk assessments, estimation, and reporting. According to the OMB guidance, agencies must institute a systematic method of reviewing all programs and activities to identify those that may be susceptible to significant improper payments. This systematic method can be a quantitative evaluation based on a statistical sample or a qualitative method, such as a risk-assessment questionnaire.²⁶ Regardless of which method of review is used, IPIA required agencies to consider seven risk factors during the risk assessment.²⁷ (See table 1.)

Table 1: Risk Factors to Consider in Agency Improper Payment Risk Assessments

- | |
|--|
| 1. Whether the program or activity reviewed is new to the agency |
| 2. The complexity of the program or activity reviewed, particularly with respect to determining correct payment amounts |
| 3. The volume of payments made annually through the program or activity reviewed |
| 4. Whether payments or payment eligibility decisions are made outside of the agency, for example, by a state or local government or a regional federal office |
| 5. Recent major changes in program funding, authorities, practices, or procedures |
| 6. The level, experience, and quality of training for personnel responsible for making program eligibility determinations or certifying that payments are accurate |
| 7. Significant deficiencies in the audit report of the agency or other relevant management findings that might hinder accurate payment certification |
-

Source: GAO analysis of the Improper Payments Information Act of 2002, as amended | GAO-20-442

OMB is also required to designate a list of high-priority programs for greater levels of oversight and review. The threshold for high-priority program determinations for fiscal year 2018 reporting and subsequent years is \$2 billion in estimated improper payments, regardless of the improper payments rate estimate. In addition, OMB may determine that a program is high-priority for reasons other than exceeding the \$2 billion threshold. High-priority programs are subject to additional requirements, such as submitting information about semi-annual or quarterly actions taken to reduce improper payments that can be used as a tool for tracking progress.

²⁶OMB M-18-20 states that a quantitative method could also include a non-statistical assessment in which a subset of the population is sampled non-randomly and then its ratio of improper payments is projected to the annual outlays. OMB M-18-20 also states that, beginning in fiscal year 2020, programs with outlays exceeding \$5 billion for a 12-month period should use a quantitative evaluation method.

²⁷PIIA introduced additional risk factors that must be considered.

According to OMB M-18-20, another fundamental requirement that agencies must meet is to recover any federal dollars that are a monetary loss to the government, unless legislation specifically prevents such recovery. Specifically, the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA) requires any program that expends at least \$1 million during the year to implement payment recapture audits, if cost-effective to the agency, in order to recover improper payments. The requirement to conduct payment recapture audits applies to all agencies regardless of whether they have a program susceptible to significant improper payments. A payment recapture audit is a review and analysis of an agency's or program's accounting and financial records, supporting documentation, and other pertinent information supporting its payments, that is specifically designed to identify overpayments. It is not an audit that is performed in accordance with government auditing standards.²⁸ OMB M-18-20 also states that for high-priority programs the agency shall report any action it has taken or plans to take to recover improper payments and intends to take to prevent future improper payments. If an agency has determined that performing payment recapture audits for any applicable program or activity is not cost-effective, a justification for that determination must be reported.²⁹ Further, OMB M-18-20 states that agencies should report a justification for that determination through AFRs, Performance Accountability Reports, or in the format required through data requests from OMB.

DOE Structure and Processes to Collect Information and Report on Improper Payments

DOE's 15 field Chief Financial Officers, in cooperation with DOE contracting officers, are responsible for overseeing contractor and other activities in the field, and they assist the OCFO in implementing improper payment reporting requirements. The OCFO issues Annual Payment Integrity Requirements and Guidance that transmits DOE's instructions for meeting improper payments reporting and recapture requirements prescribed by OMB M-18-20. This guidance includes instructions for

²⁸GAO, *Government Auditing Standards 2018 Revision*, [GAO-18-568G](#) (Washington, D.C.: July 2018).

²⁹If an agency determines that it would be unable to conduct a cost-effective payment recapture audit program for certain programs and activities that expend more than \$1 million, then it should notify OMB and the agency's Inspector General of this decision and include any analysis used by the agency to reach this decision.

completing an attached template for reporting risk assessments and improper payments and payment recapture information. Using this template, 48 payment reporting sites provide information that is the basis for DOE's department-wide improper payment risk assessment and reporting. These payment reporting sites consist of four types of federal entities and two types of contractors.³⁰ (See appendix I for more information about DOE's payment reporting sites.)

In addition to the completed template, sites are directed to submit a signed certification that attests to the accuracy of the improper payment information and risk assessment and, if applicable, a justification for why payment recapture audits were not conducted. The OCFO completes a quality assurance checklist for each site and consolidates and reports the data as one program in DOE's annual AFR.³¹ DOE reports on its improper payments 1 year in arrears; meaning, for example, that DOE's fiscal year 2019 AFR included information on its improper payments identified in fiscal year 2018.

In addition to reporting payment recovery information, as required by OMB Circular A-136, DOE has optionally reported some information it collected about improper payments that it identified at the time of the AFR issuance each year for fiscal years 2015 through 2019.³² (See table 2.) Specifically, DOE reported the amount of improper payments that had been made and identified in the preceding year—not based on a statistically valid estimate of improper payments but, rather, on reported amounts of known improper payments from individual payment reporting

³⁰One of DOE's payment reporting sites consists of two separate entities—the Loan Programs Office and the Loan Accounting Team (part of the OCFO)—that submit a single report for improper payments. The four types of federal payment reporting sites are Headquarters, DOE Field Site, Power Marketing Administration, and the Federal Energy Regulatory Commission.

³¹In August 2011, OMB granted DOE approval to report in this way. OMB M-18-20 authorizes each federal agency to determine the definition of "program" that most clearly identifies and reports improper payments for their agency. It states that agencies should not put programs or activities into groupings that may mask significant improper payment rates by the large size or scope of a grouping, nor should they report subcomponents of a large program in an effort to reduce the size and fall below statutory thresholds.

³²OMB Circular A-136 requires that agencies that recover overpayments by any means report various information about those payments, including the amounts recovered, the percentage such amounts represent of total overpayments identified for recapture, and the amounts of identified overpayments determined to be not collectible.

**Appendix I: The Department of Energy's
Payment Reporting Sites**

sites.³³ DOE also reported improper payment rates that it calculated based on these reported amounts. DOE was not required to report a statistically valid estimate of improper payments in its AFRs because it determined it was at low risk of susceptibility to significant improper payments. See appendix II for additional details about improper payments in the data that DOE collected from the sites.

Table 2: Selected Improper Payments Information DOE Reported in Its Agency Financial Reports, Fiscal Years 2015 through 2019

Reporting year	2015	2016	2017	2018	2019
Total outlays (dollars in millions)	36,940.00	38,890.00	37,450.00	36,890.00	38,470.00
Total improper payments (dollars in millions)	22.45	28.35	25.84	32.86	36.26
Improper payment rate (percentage)	0.06	0.07	0.07	0.09	0.09

Source: Department of Energy (DOE) agency financial reports. | GAO-20-442

^aDOE reports on its improper payments 1 year in arrears, meaning that DOE's fiscal year 2019 agency financial report included information on its improper payments identified in fiscal year 2018.

In previous years, DOE reported statistical estimates of its improper payments. Specifically, DOE's Performance and Accountability Reports and AFRs from fiscal years 2004 and 2007 through 2011 indicated that DOE used statistical sampling to produce projected improper payment estimates for certain payment categories. During these years, DOE reported estimated improper payment rates of less than 1 percent in these categories. However, in 2012 the DOE OIG determined that the estimated improper payment rate presented in DOE's fiscal year 2011 AFR was not based on a statistical method.³⁴ According to OCFO officials, DOE discontinued the use of statistical sampling to produce estimates in fiscal year 2012 because it was not required to do so, due to DOE's determination that it was at low risk for significant improper payments.

Since 2012, the DOE OIG has found DOE to be compliant with requirements for improper payment reporting and risk assessments as part of its required review. Specifically, the DOE OIG reported each year

³³The OCFO directs the payment reporting sites to provide other details about their improper payments during the period under review.

³⁴IPERA requires the DOE OIG to annually assess and report on whether DOE complied with the criteria listed in the act, starting in fiscal year 2011. Department of Energy, Office of Inspector General, *Performance Audit of the Department of Energy's Improper Payment Reporting in the Fiscal Year 2011 Agency Financial Report*, OAS-FS-12-07 (Washington, D.C.: Mar. 15, 2012).

that DOE met the requirements for publishing improper payment information in its AFRs and performed the required risk assessments. According to an OIG official, the OIG is not required to perform evaluative procedures to determine the adequacy and completeness of DOE's risk assessment and reporting in its AFR, and they have not optionally performed these procedures.³⁵

The Role of Audits and Investigations in Identifying and Recovering DOE's Improper Payments

The DOE OIG and other federal agencies or external audit organizations conduct periodic incurred cost audits and assessments of DOE's cost-reimbursement contracts.³⁶ The purpose of incurred cost audits is to determine whether such incurred costs are reasonable; applicable to the contract; allowable under generally accepted accounting principles and cost accounting standards applicable in the circumstances; and not prohibited by the contract, statute, or regulation. If, as a result of these audits or assessments, improper payments are identified—such as reimbursements for costs determined to be unallowable under the contract—DOE will question these costs, indicating that there is a possibility the costs are improper. DOE may then negotiate or otherwise work with the contractor to resolve the questioned costs. Sometimes, this can result in DOE recovering funds. According to DOE's fiscal year 2019 annual payment integrity requirements and guidance, for the purpose of improper payment reporting, a questioned cost is not deemed an improper payment until it has been determined by the contracting officer to be unallowable.

In addition, investigations conducted by DOE OIG, the Department of Justice, and other federal agencies may identify potentially unallowable DOE payments. Upon their resolution, these investigations may find such DOE payments to have been improper. According to OIG officials, improper payments identified through OIG investigations may be

³⁵We previously found that some OIGs optionally perform evaluative procedures during their IPIA compliance review. GAO, *Improper Payments: Additional Guidance Could Provide More Consistent Compliance Determinations and Reporting by Inspectors General*, [GAO-17-484](#) (Washington, D.C.: May 31, 2017).

³⁶Under cost-reimbursement contracts, the government reimburses a contractor for allowable costs incurred, to the extent prescribed by the contract. Cost-reimbursement contracts are considered high risk for the government because the government agrees to reimburse the contractor's allowable costs, regardless of whether the work is completed. See 48 C.F.R. § 52.232-22(a).

recovered through civil or administrative processes, and some of the improper payments identified through OIG investigations may lead to government-run criminal investigations. OCFO officials told us that recovered amounts may differ from the monetary loss associated with the original payments because of fees or fines, among other reasons. IPERIA requires agencies to include all identified improper payments in their reported estimate, regardless of whether the improper payment has been or is being recovered. According to DOE's fiscal year 2019 annual payment integrity requirements and guidance, if the terms of a settlement require repayment to DOE, then the settlement amount would be considered an unallowable cost. Furthermore, the 2019 guidance states that due to the timing of when a settlement is reached, it is not possible to report these costs as an improper payment in the current year of reporting.

Beginning in fiscal year 2018, DOE reported information in its AFR on improper payments made in prior years that were identified for recapture in the current reporting year. For example, in its fiscal year 2018 AFR, DOE reported that \$92.69 million in prior years' improper payments had been identified for recapture in fiscal year 2017. Similarly, in its fiscal year 2019 AFR, DOE reported \$14.18 million in prior-year payments identified for recapture in fiscal year 2018. DOE's reporting sites generally identify prior years' improper payments identified for recapture through audits and investigations, among other strategies. DOE did not provide information on the years in which the prior-year improper payments were made, and the prior year improper payments identified for recapture were reported separately but not included in DOE's reported improper payment amount and rate in any of its AFRs.³⁷

Improper Payment Amounts DOE Reported in Its AFRs for Fiscal Years 2015 through 2019 May Not Be Accurate or Complete

The improper payment amounts that DOE reported in its AFRs for fiscal years 2015 through 2019 may not be accurate or complete and are likely understated, for two key reasons. First, we found that some DOE payment reporting sites did not correctly identify, track, and report their improper payments. Second, DOE reported improper payment amounts

³⁷Improper payments identified for recapture do not include lost discounts and underpayments.

and rates for the current year, but did not report that the amounts and associated rates do not include a substantial amount of improper payments that may be identified in the years following the year in which the payment took place.

Some DOE Payment Reporting Sites Did Not Correctly Identify, Track, and Report Their Improper Payments

The information in DOE's AFRs for fiscal years 2015 through 2019 may not be accurate or complete, in part because DOE does not ensure that payment reporting sites correctly identify, track, and report their improper payments to the OCFO. Our review of documentation and interviews with officials at the selected payment reporting sites found some instances in which payment reporting sites' processes for identifying and tracking improper payments did not always result in accurate and complete financial reporting as required. Specifically, we identified the following errors in reporting improper payments to the OCFO at three of the 10 sites we selected for review:

- Officials at one site told us that they resolve a portion of their improper payments by adjusting future invoices to account for the error. Site officials told us that in such cases, they do not track or report the amounts to the OCFO as improper payments. While adjusting future invoices is an efficient way to recapture improper payments, not tracking such adjustments as improper payments results in understated improper payments reported to the OCFO. The total amount of the understatement of these improper payments is not known. In addition, the site may have overstated other improper payments. In particular, site officials told us that they were unsure whether some of the annual adjustments from its indirect cost reconciliation process were reported as improper payments, even though OCFO officials told us that such adjustments are routine and are not considered improper payments.³⁸ This could have resulted in an overstatement of improper payments, but the amount overstated is unknown.
- Officials at another site told us that they mistakenly included almost \$1 million in questioned costs in their fiscal year 2017 improper

³⁸DOE officials from this site told us they annually receive indirect cost proposals from grantees over which they have cognizance, and that they have a process for recovering excess indirect costs paid to grantees that are identified through the annual reconciliation process for those proposals.

payment reporting to the OCFO. Because questioned costs are not considered improper until they are determined to be unallowable, this means that the site overstated its improper payments by almost \$1 million for that year. Additionally, this site subtracted its underpayments from its overpayments for its fiscal year 2015 reporting, resulting in an understatement of improper payments. Improper payments, regardless of whether they are over- or underpayments, should be added together and not netted, as both amounts are considered improper. Officials at the site told us that these issues had been corrected as of fiscal year 2018.

- Officials at a third site told us that they do not closely track underpayments and cannot state with certainty that all underpayments are included in the site's annual improper payments report. The site therefore may be understating its improper payments each year.

DOE's Financial Management Oversight order states that financial management processes must include procedures and methods for ensuring that financial managers provide accurate, relevant financial reporting to customers, such as Congress and OMB.³⁹ Additionally, federal internal control standards state that management should implement control activities through policies, including documenting policies in the appropriate level of detail to allow management to effectively monitor the control activity.⁴⁰ However, not all of the payment reporting sites have fully documented their procedures for correctly identifying, tracking, and reporting their improper payments or ensuring the quality of their data, in part because there was no requirement to do so. Specifically, officials from all 10 selected payment reporting sites we interviewed told us they have procedures for tracking their identified improper payments. However, three of the 10 selected sites had not documented their procedures and two sites had documented some of their procedures but not others, including two of the sites mentioned in the examples above. By requiring payment reporting sites to document their procedures for identifying, tracking, and reporting their improper payments to ensure the quality of their data, the OCFO could better ensure that each payment reporting site maintains consistent procedures

³⁹Department of Energy, *Financial Management Oversight*, DOE Order 523.1 (Washington, D.C.: Aug. 31, 2006).

⁴⁰GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

and provides comparable information about that site's improper payments over time.

Furthermore, the OCFO cannot ensure that sites are correctly identifying, tracking, and reporting improper payments and ensuring the quality of their data because the OCFO does not have a process to monitor that sites have documented—and are implementing—procedures to do so. The OCFO has taken some steps to help ensure the quality of the improper payments data that the sites report to the OCFO. For example, OCFO officials said they confirm that sites provide accurate information by requiring sites to self-certify the accuracy and completeness of the data, but does not take steps to verify the certification. Further, four of the five contractor payment reporting sites we interviewed told us the DOE field sites that oversee the contractors review the contractors' submissions before sending the information to the OCFO; OCFO officials told us that the field sites do not formally approve these submissions. Additionally, OCFO staff complete a quality assurance checklist for each site's submission. The checklist contains a series of questions to determine whether a site has submitted the required documentation and whether certain elements of that documentation are complete. OCFO quality assurance reviews also include simple mathematical checks for internal consistency, such as ensuring that the amount for total identified improper payments is the same across multiple tables.

These steps, however, are not sufficient to ensure that sites are correctly identifying, tracking, and reporting improper payments and ensuring the quality of their data. For example, the quality assurance checklist does not include any tests to verify the accuracy of the procedures sites used to generate that data to ensure the sites' data are reliable. By developing a monitoring process to ensure that payment reporting sites have developed and implemented procedures for identifying, tracking, and reporting their improper payments to the OCFO and ensuring the quality of their data, the OCFO could better ensure that the information it reports about improper payments in its AFR is accurate and complete.

DOE Identifies a Substantial Amount of Improper Payments in Subsequent Years That Are Not Included in Any Years' Improper Payment Amount or Rate

The amount of current year improper payments DOE reports in each fiscal year, as well as the improper payment rate DOE calculates based on this amount and reports in its AFRs, is not accurate or complete

because it does not disclose that there are additional improper payments that are (1) not identified or that DOE's OCFO is not aware of until a later date, or (2) potential improper payments that may be identified at a later date. Additionally, DOE does not conduct payment recapture audits, which may identify additional improper payments that could be recovered.

DOE identifies many of its improper payments after the end of the fiscal year in which the payments occur and does not identify some improper payments until several years after they occur. These improper payments are identified through processes such as post-payment reviews, audits and assessments, and investigations that do not conclude until after the end of the fiscal year in which DOE made the payments. As a result, there is a known lag in identifying certain improper payments.

The current year improper payment amount and associated rate DOE reported in its AFR excludes any improper payments that are identified after the end of the fiscal year in which the payments occurred. For example, in its fiscal year 2018 AFR, DOE reported \$32.86 million of current reporting year (fiscal year 2017) improper payments, with an associated improper payment rate of 0.09 percent. In its fiscal year 2018 AFR DOE also reported \$92.69 million of improper payments made earlier than fiscal year 2017; however DOE did not disclose that the amount of improper payments originally reported for any prior fiscal year had subsequently increased as a result of improper payments identified after the end of the fiscal year. While it is not possible for DOE to report on the specific amount of improper payments it has not yet identified, DOE also did not disclose in its fiscal year 2018 AFR that it expected to complete audits and investigations in subsequent years that could increase the amount of improper payments reported for fiscal year 2017. See figure 2 for categories of improper payments and the extent to which they are included in DOE's improper payment amount and rate.

**Appendix I: The Department of Energy's
Payment Reporting Sites**

Figure 2: Types of Department of Energy (DOE) Improper Payments and the Extent to Which They Are Included in Agency Financial Reports

Improper payments included in DOE's current year amount and rate		
Category	Identification method or other explanation	Example
DOE improper payments identified in the fiscal year they occur	Improper payments identified through processes completed by the end of the fiscal year in which the payment occurred	▶ In its fiscal year 2018 Agency Financial Report, DOE reported \$32.86 million of improper payments that occurred and were identified in fiscal year 2017.

Improper or potentially improper payments not included in DOE's current year amount or rate for any reporting year		
Category	Identification method or other explanation	Example
DOE improper payments identified after the end of the fiscal year they occur	Improper payments that occur late in a fiscal year and are not identified until post-payment reviews are completed the following fiscal year	▶ After completion of quarterly reviews, a payment site's known fiscal year 2016 improper travel payments increased more than \$35,000—or about 35 percent —after the end of that year.
	Improper payments identified through audits that do not conclude until a later fiscal year	▶ A 2017 external audit identified \$280 million of questioned fiscal year 2010 costs, and \$34 million of these costs were deemed improper in fiscal year 2020.
	Improper payments identified through investigations that do not conclude until a later fiscal year	▶ An investigation adjudicated in fiscal year 2017 identified \$60.6 million of improper payments to a contractor made between fiscal years 2001 and 2013.
DOE improper payments that are not identified or reported	Improper payments that sites do not report to DOE's Office of the Chief Financial Officer (OCFO) due to internal tracking methods or issues	▶ Officials at one payment site told us that they resolve a portion of their improper payments by adjusting invoices, but do not report the improper payment amounts to the OCFO.
	Unaudited costs, a portion of which could be determined to be improper	▶ More than 75 percent of costs incurred by DOE's 24 largest contractors between fiscal years 2014 and 2018—totaling more than \$83 billion —had not been audited as of September 2019.
	Questioned, unresolved costs identified through audits that may be resolved as improper in later years	▶ Nearly \$700 million of questioned costs identified through Inspector General audits were not resolved as of September 2019.
	Payments that result in monetary loss, but DOE does not identify as improper due to negotiations with payees or other aspects of their adjudication	▶ DOE incurred more than \$500 million of monetary loss resulting from a loan guarantee to a company in fiscal year 2009. The company made false claims and omissions when applying for the loan guarantee and subsequently declared bankruptcy, leaving the loan unpaid. However, DOE never determined this payment to be improper through a legal case or any other process.

Source: GAO analysis of Department of Energy information. | GAO-20-442

Note: Payment reporting sites are designated DOE entities, such as field offices and certain contractors that are responsible for conducting improper payment risk assessments and providing actual improper payment data to the OCFO.

Specifically, the OCFO excludes some known improper payments from the annual amount and associated rate it reports in its AFRs for the following reasons:

- **Post-payment reviews may not conclude in the same fiscal year the reviewed payments were made.** We have previously found that

DOE identifies some improper payments through post-payment reviews.⁴¹ For example, DOE has not required its contractor payment reporting sites—most of which are M&O contractors—to submit invoices before DOE makes payments; instead DOE uses a “payments cleared funding arrangement,” which authorizes the contractors to withdraw funds directly from federal accounts. OCFO officials told us that improper payments made by DOE to contractors without such an agreement would be reported by the responsible federal site, and improper payments made by M&O contractors would be reported by the M&O contractor.⁴² DOE policies and procedures do not require that DOE site officials monitor M&O contractor withdrawals to determine the appropriateness of their incurred costs. DOE officials do not review M&O contractor withdrawal of funds to determine the appropriateness of M&O contract costs, and thus can only identify improper payments associated with these contracts through post-payment reviews of contractor costs that may occur after the end of the fiscal year.

However, such post-payment reviews, such as monthly or quarterly reviews of invoices, may not identify certain improper payments—including improper payments that occurred late in a given fiscal year—leading DOE to exclude them from their annual reported improper payment amount and associated rate. For example, according to a document describing improper payments that one selected payment site reported to the OCFO, the site identified about \$103,000 in fiscal year 2016 improper payments associated with travel during that same fiscal year. Additional reviews of fiscal year 2016 travel payments conducted in fiscal year 2017 identified further improper payments for travel of more than \$35,000. Because the contractor identified these additional travel payments as improper through quarterly reviews that did not conclude until after the end of fiscal year 2016, this increase of about 35 percent in the site's known improper travel payments was not included in the OCFO's reported improper payment amount or rate for that year.

In our March 2017 report, we recommended that DOE help ensure that necessary data are available to employ data analytics—which can identify improper payments more quickly than post-payment

⁴¹GAO, *Department of Energy: Use of Leading Practices Could Help Manage the Risk of Fraud and Other Improper Payments*, [GAO-17-235](#) (Washington, D.C.: Mar. 30, 2017).

⁴²Of DOE's 48 payment reporting sites, 29 are contractors, and these contractors report the improper payments they made to subcontractors, their employees, or other vendors.

reviews can, increasing the likelihood that DOE will include them in its reported amount and rate for each fiscal year—as a tool to perform contractor cost-surveillance activities. Specifically, we recommended that DOE require contractors to maintain sufficiently detailed transaction-level cost data that are reconcilable with amounts charged to the government, including (1) cost data that, at a minimum, represent a full data population; and (2) the details necessary to determine the nature of each cost transaction.⁴³ DOE disagreed with the recommendation.⁴⁴ According to DOE officials, DOE is now developing plans to begin to use data analytics in fiscal year 2021. We continue to believe it is important for DOE to employ data analytics as a cost surveillance tool so DOE can better identify improper payments to its contractors in a timely manner and look forward to reviewing DOE's plans and actions to address our prior recommendation.

- **Audit coverage of DOE payments is limited, and some audits are not completed until several years after the audited payments were made.** As we also found in March 2017, DOE uses incurred cost audits and assessments to identify contractors' improper payments.⁴⁵ However, our review of DOE OIG and other external entities' audits and assessments of incurred costs for DOE's 24 largest contractors for this report shows that, historically, these audits are infrequent and may occur several years after the costs have been incurred.⁴⁶ For example, our updated analysis shows that as of September 2019, only about \$25 billion—or 23 percent—of the nearly \$108 billion in costs incurred during fiscal years 2014 through 2018 by DOE's 24

⁴³[GAO-17-235](#).

⁴⁴In their response to the recommendation, DOE officials said that they did not agree to implement agency-specific requirements for DOE contractors that would be more prescriptive than current federal requirements.

⁴⁵[GAO-17-235](#).

⁴⁶We have previously reported on audits and assessments of DOE's 24 largest contractors, based on fiscal year 2016 obligations; see [GAO-19-107](#). For our current report, we collected information on audit and assessment reports issued since our prior report and updated our analysis with reports issued as of September 24, 2019. The 24 contractors represented approximately \$23.6 billion, or about 84 percent, of DOE's total contractor obligations for fiscal year 2016.

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largest contractors had been audited or assessed (see table 3).⁴⁷ Although there is no requirement for how often contractors should be audited, the Contract Disputes Act of 1978 imposes a 6-year statute of limitations for the government to seek recovery of unallowable costs that could be identified through audits.⁴⁸

Table 3: Incurred Costs and Audited or Assessed Costs for the Department of Energy's 24 Largest Contractors, Fiscal Years 2014 through 2018

Cost	Fiscal Year 2014	Fiscal Year 2015	Fiscal Year 2016	Fiscal Year 2017	Fiscal Year 2018	Total
Total Incurred Costs (millions)	19,228	20,463	21,735	22,781	23,756	107,963
Audited or assessed costs (millions)	11,738	10,764	2,379	0	0	24,881
Percent of audited or assessed costs	61.0 %	52.6%	10.9%	0.0 %	0.0%	23.0%

Source: GAO analysis of Department of Energy data | GAO-20-442

According to our review of DOE reporting and documentation, known DOE improper payments amounts for a given fiscal year can increase in later years as more costs are audited. For example, one payment reporting site reported to the OCFO nearly \$164,000 in improper payments made and identified in fiscal year 2017, and OCFO included this amount in the improper payment rate it reported in its fiscal year 2018 AFR. According to site documentation, the same site also identified, as the result of an audit in fiscal year 2017, an improper payment of nearly \$920,000 that had occurred in a prior year. This improper payment was substantially more than the total amount of

⁴⁷The DOE OIG and other federal agencies or external audit organizations conduct periodic incurred cost audits and assessments of DOE's prime contracts. The purpose of incurred cost audits is to determine whether such incurred costs are reasonable; applicable to the contract; determined under generally accepted accounting principles and cost accounting standards applicable in the circumstances; and not prohibited by the contract, statute, or regulation. In March 2017, we found that DOE generally completed audits or assessments of contractors' incurred costs after DOE had reimbursed the contractors for the costs for DOE's M&O and non-M&O contracts, including those contractors' subcontract costs. See [GAO-17-235](#). If, as a result of these audits or assessments, DOE detects fraud or other improper payments—such as reimbursements for costs determined to be unallowable under the contract—DOE will question these costs and work with the contractor to resolve them. Sometimes, this can result in DOE recovering funds.

⁴⁸Specifically, the act provides that each claim by a contractor against the federal government relating to a contract and each claim by the federal government against a contractor relating to a contract shall be submitted within 6 years after the accrual of the claim. 41 U.S.C. § 7103(a)(4)(A).

improper payments that the site reported in the fiscal year 2018 AFR. However, because the improper payment occurred prior to fiscal year 2017, the OCFO did not include it in its current year improper payment amount or rate for any fiscal year.⁴⁹

For fiscal year 2020, DOE's OIG has planned several assessments of costs the contractors incurred in prior fiscal years.⁵⁰ However, contractor costs the OIG plans to review in the fiscal year 2020 planned assessments were incurred as early as fiscal year 2015. Therefore, any improper payments identified through the planned assessments will not be included in DOE's reported improper payment rate using the current reporting methods and will instead be included in an overall lump sum amount of prior year improper payments, which has no effect on DOE's reported improper payment rate.

- **DOE does not track questioned costs centrally, and such costs can take several years to resolve.** Audits and assessments can identify questioned costs that require additional review before they are either allowed or deemed improper.⁵¹ In its Semiannual Report to Congress, DOE's OIG reported nearly \$700 million of unresolved, questioned costs identified through its own audits and investigations

⁴⁹DOE included this \$920,000 amount in its lump sum reporting on improper payments identified in fiscal year 2017 that occurred in prior years, which (as mentioned previously) totaled \$92.69 million. However, none of these improper payments were included in DOE's reported annual improper payment amounts or rates for the fiscal years in which they occurred.

⁵⁰Department of Energy, Office of Inspector General, *Fiscal Year 2020 Planned Audits and Inspections* (as of January 24, 2020). For DOE's M&O contracts, the contractors' own internal audit staff performs incurred cost audits under a process known as the "cooperative audit strategy." Under this strategy, each M&O contractor's internal audit organization is responsible for performing periodic operational and financial audits, assessing the adequacy of management control systems, and conducting an audit of its own incurred cost statements. Each year, the DOE OIG performs an assessment of incurred costs for the 10 M&O contractors that incurred and claimed the most costs that year, according to the DOE OIG's audit manual.

⁵¹Questioned costs are pending resolution, and can be resolved as either allowable or unallowable; only disallowed costs are considered improper payments. Since fiscal year 2015, DOE has disallowed about 1.3 percent of the DOE OIG-identified questioned costs it has reviewed, according to information in DOE OIG's Semiannual Reports to Congress that GAO analyzed. This rate does not apply to specific instances of questioned costs that DOE OIG reviews, nor does it apply to questioned costs identified through external audits or other non-DOE OIG means.

as of September 30, 2019.⁵² Our analysis of the DOE OIG's reporting found that a substantial portion of questioned costs the OIG identified were ultimately determined to be allowable once they were resolved; however, our analysis also found that DOE has not consistently resolved questioned costs in a timely manner. For example, some of the questioned costs that the DOE's OIG identified—such as potential state gross receipts tax overpayments of \$15.1 million that a DOE payment site made in fiscal years 2010 and 2011—have remained unresolved for nearly a decade.⁵³ Large amounts of unresolved costs reported by DOE's OIG add uncertainty about the completeness of the OCFO's improper payment reporting.

Moreover, the nearly \$700 million of unresolved questioned costs that the DOE OIG reported does not include questioned costs identified through external audits of non-M&O contractors, such as those conducted by the Defense Contract Audit Agency or nongovernmental entities. Questioned costs identified through these external audits can be substantial, like those the DOE OIG has reported. For example, a 2017 incurred cost audit of a DOE contractor's fiscal year 2010 costs conducted by an external firm identified nearly \$280 million in questioned and unresolved DOE payments to the contractor. In November 2019, DOE officials told us that these questioned payments were resolved when DOE reached a settlement agreement with the contractor. DOE disallowed \$34 million of the questioned costs as part of the settlement agreement, according to DOE

⁵²See U.S. Department of Energy Office of Inspector General, *Semiannual Report to Congress, April 1, 2019 – September 30, 2019*, DOE-IG-0075 (Washington, D.C.).

⁵³See Department of Energy Office of Inspector General Assessment Report, *Audit Coverage of Cost Allowability for Sandia Corporation During Fiscal Years 2014 and 2015 Under Department of Energy Contract No. DE-AC04-94AL85000*, DOE-OIG-19-24 (Washington, DC: Mar. 29, 2019). In the assessment, DOE OIG reported unresolved potential state tax overpayments of \$16.5 million, but a DOE OCFO official told us that these unresolved potential overpayments totaled \$15.1 million based on information the associated DOE payment reporting site provided. The DOE OCFO official stated that the department has been working to resolve the questioned costs cited in this report since they were initially identified. DOE officials told us that the questioned costs have not been resolved due to factors outside of DOE's full control, such as processing extensions, legal proceedings, and appeals by the state's tax department.

officials.⁵⁴ DOE's Financial Management Oversight order states that financial management processes must include procedures and methods for ensuring that financial managers provide accurate, relevant financial reporting to customers. DOE customers include Congress and OMB.⁵⁵ Additionally, federal internal control standards state that management should implement control activities through policies, including documenting policies in the appropriate level of detail to allow management to effectively monitor the control activity.⁵⁶

According to OCFO officials, DOE does not have a mechanism for tracking questioned costs identified through external audits.⁵⁷ Instead, OCFO officials said they rely on payment reporting sites to track these costs to resolution. However, the office does not require payment reporting sites to document policies for such tracking. DOE officials from two selected sites told us that their sites do not have policies for tracking questioned costs identified through external audits, including questioned costs that may later be deemed improper. As a result, the OCFO may not be aware of all potentially improper payments identified through external audits or know the status of their resolution. Without a requirement for sites to have policies to track questioned costs to their resolution, the OCFO cannot ensure that payment reporting sites are tracking—and ultimately reporting—all improper payments, and thus cannot ensure that it is including all improper payments in the amount it reports as actual in its AFRs.

- **Investigations that identify DOE improper payments may not conclude until years after the payments were made.** Investigations by DOE's OIG, the Department of Justice, and other federal agencies can also identify DOE improper payments. However, similar to improper payments identified through audits, these improper

⁵⁴For the audit that identified the \$280 million in questioned and unresolved costs, see CohnReznick LLP, *Performance Audit of CB&I AREVA MOX Services, LLC's Fiscal Year Ended August 31, 2010 Incurred Cost Submission*, Performance Audit Report No. 0220970-2380-10 (Tysons, VA: Aug. 17, 2017). DOE had not reported on its improper payments identified in fiscal year 2020—including improper payments associated with cases settled in that fiscal year, such as the \$34 million of disallowed costs associated with this case—at the time of our review.

⁵⁵DOE Order 523.1.

⁵⁶[GAO-14-704G](#).

⁵⁷DOE tracks recommendations made in GAO reports. However, GAO recommendations do not typically identify questioned costs.

payments—which can be substantial—may not be identified until years after they occur due to the length of time it takes to investigate and resolve criminal, civil, or administrative cases.⁵⁸ For example, in fiscal year 2018, DOE reported \$60.6 million of improper payments identified through a fiscal year 2017 settlement with a contractor. DOE made some of these improper payments as early as 2001. Also, in fiscal year 2018, a DOE payment site reported that no improper payments were made or identified in fiscal year 2017, but the site reported a \$4.6 million prior-year improper payment associated with a subcontractor's false claims that were settled with the subcontractor in fiscal year 2017. The OCFO reported these two cases, along with other DOE improper payments identified through investigations, as lump sum prior-year improper payments identified for recapture in its fiscal year 2018 AFR. However, the OCFO did not include these known improper payments in the improper payment amounts used to calculate its improper payment rates for the years in which DOE incurred the disallowed costs.

Furthermore, some DOE improper payments are not reported as current or prior-year improper payments because the investigations of the payments were resolved in a manner that prevented DOE from formally considering the payments improper. For example, in 2015, DOE's OIG reported that a company received a loan guarantee of more than \$500 million from DOE after it "provided the Department with statements, assertions, and certifications that were inaccurate and misleading, misrepresented known facts, and, in some instances, omitted information that was highly relevant to key decisions in the process to award and execute" the loan guarantee.⁵⁹ The company later declared bankruptcy and did not repay the loan. However, because DOE did not determine this payment to be improper through a legal case or any other process, the \$500 million of known monetary loss was not included in DOE's improper payments reporting in its AFR for any fiscal year. Also, in fiscal year 2017, DOE excluded a six-figure settlement with an outside party from its improper payment reporting. OCFO officials told us that they excluded payments

⁵⁸OMB M-18-20 states that transactions determined by management to be anomalous or indicative of potential fraud and subsequently referred to the agency's Inspector General or the Department of Justice should not be identified or otherwise categorized as fraud—one type of improper payment—until the appropriate judicial or adjudicative process makes that determination.

⁵⁹Department of Energy Office of Inspector General, *Special Report: The Department of Energy's Loan Guarantee to Solyndra, Inc.*, 11-0078-I (Washington, D.C.: Aug. 24, 2015).

associated with this case from their office's reporting due to certain aspects of the settlement agreement.

DOE's Information Quality Guidelines state that information disseminated to the public, such as information on improper payments reported in DOE's AFRs, should be presented in an accurate, complete, unbiased, and clear manner and should be useful to the intended users of the information.⁶⁰ As previously noted, agencies with programs that are susceptible to significant improper payments—defined to include improper payments exceeding \$100 million in a year—are required to develop improper payment estimates and corrective action plans. However, the OCFO cannot determine whether improper payments in a given year exceeded the \$100 million threshold because the OCFO does not track information on the year that payments were made for all known improper payments for a given fiscal year—including improper payments identified in later years through resolution of questioned costs or conclusions of audits or investigations.⁶¹ By tracking information on the year the payment occurred for all improper payments identified, to include those identified in later years, and determining and disclosing in its AFR whether improper payments in a given year exceeded the \$100 million threshold, DOE could better inform Congress, OMB, and the public about whether it has made significant improper payments.⁶²

Additionally, DOE sites perform some payment recapture activities, but does not conduct payment recapture audits, which could identify additional improper payments that could be reported, and potentially recovered.⁶³ As previously discussed, IPIA required any program that

⁶⁰In 2002, DOE issued information quality guidelines that are intended to provide guidance to DOE offices on maximizing the quality of information disseminated to the public. In 2019, DOE published an updated version of the guidelines. The updated guidance does not change DOE's definition of quality information. See Department of Energy, *Final Report Implementing Office of Management and Budget Information Dissemination Quality Guidelines, 6450-01-p* (Washington, D.C.: Oct. 1, 2002).

⁶¹Some of the selected sites we reviewed were able to provide information on the year that improper payments identified at a later date were originally made, but payment reporting sites do not report that information to the OCFO.

⁶²DOE's AFRs are accessible to the public through DOE's website, www.energy.gov.

⁶³DOE performs some activities, such as contractor internal audits and interim and closeout reviews, which can identify improper payments. These activities differ from payment recapture audits, which are not audits that are performed in accordance with government auditing standards, but rather, are specifically designed to identify overpayments.

expended at least \$1 million annually to conduct payment recapture audits, if cost-effective to the agency, or to provide justification if such audits are determined not to be cost-effective. A payment recapture audit is a review and analysis of an agency's or program's accounting and financial records, supporting documentation, and other pertinent information supporting its payments, that is specifically designed to identify overpayments. As such, payment recapture audits are tools to identify improper payments, in addition to an avenue for recovering those overpayments.

DOE included a justification for its decision not to conduct payment recapture audits in its AFRs for fiscal years 2015 through 2019. For example, in its fiscal year 2019 AFR, DOE cited its improper payment rate of 0.09 percent and recapture rate of 97 percent to support the department's determination that it was not cost-effective to perform payment recapture audits. DOE also cited other activities it employed to identify and recapture improper payments, such as prepayment review and approval of invoices, post-payment reviews, contractor internal audits, results of cost allowability audits of integrated contractors, and results from travel audits, among others.

The OCFO fiscal year 2018 payment integrity guidance included a list of seven criteria that sites were to use to determine whether payment recapture audits are cost-effective.⁶⁴ For fiscal year 2018, 42 of DOE's 48 payment reporting sites submitted a justification stating that it would not be cost-effective to employ payment recapture auditors. Our review of the 42 justifications found that the quality of the justifications varied by site. We found that 40 of the 42 justifications did not demonstrate consideration of any of the seven criteria in support of their

⁶⁴The guidance directs sites to consider: (1) whether laws or regulations allow recovery; (2) whether the recipient of the overpayment is likely to have resources to repay overpayments from non-federal funds; (3) whether the evidence of overpayment is clear and convincing (e.g., the same exact invoice was paid twice) as opposed to whether the recipient of an apparent overpayment has grounds to contest; (4) whether the overpayment is truly an improper payment which can be recovered rather than a failure to properly document compliance; (5) whether efficient techniques such as sophisticated software can be used to identify significant overpayments at a low cost per overpayment or will labor intensive manual reviews of paper documentation be required; (6) whether tools are available to efficiently perform the payment recapture audit and minimize payment recapture audit costs; or (7) whether attempts to recover some or all of the overpayments will be expensive, particularly in complex financial situations, and if recipients may contest the claim of an overpayment, especially when litigation is anticipated.

determinations that payment recapture audits would not be cost-effective.⁶⁵ One DOE field site's justification included three bullet points, as shown in figure 3, none of which aligned with the criteria.

Figure 3: Example of a Department of Energy Payment Reporting Site's Fiscal Year 2018 Justification for Not Conducting Payment Recapture Audits

<u>Justification for Not Performing a Payment Recapture Audit</u>
<p>We did not perform this audit because:</p> <ul style="list-style-type: none">• The contractors have DCAA/KPMG/support contractor reviews of contractor audits that have found very little questioned costs.• The contractors' accounting system are audited; the systems have controls to prevent duplicate vendor payments.• [Our site] reviews contractor invoices for unallowable costs; any questioned costs that we find is immaterial.
DCAA = Defense Contract Audit Agency

Source: Department of Energy Office of the Chief Financial Officer. | GAO-20-442

The OCFO uses a quality assurance checklist to review payment sites' improper payment reports that includes verifying that the site submitted a justification and that the justification is "adequate." The checklist does not define "adequate," and the OCFO approved all of the justifications submitted, even those that did not demonstrate consideration of any of the seven criteria from the payment integrity guidance. DOE's Financial Management Oversight order states that financial management processes must include procedures and methods for ensuring that financial managers provide accurate, relevant financial reporting to customers.⁶⁶ Furthermore, under OMB M-18-20, agencies are required to recover any federal dollars that are a monetary loss to the government, unless legislation specifically prevents such recovery. By clarifying guidance to define the factors for assessing the adequacy of the justifications, and reviewing sites' justifications for not performing or arranging for payment recapture audits, DOE could better ensure that the justifications it reports have a sound basis and that DOE is not missing opportunities to identify and recover improper payments.

⁶⁵One justification referenced one of the seven criteria, and another referenced two of the seven criteria.

⁶⁶DOE Order 523.1.

Additionally, DOE may be missing opportunities to recover federal dollars that are a monetary loss to the government, as required under OMB M-18-20, because it has not evaluated whether sites could identify additional improper payments through payment recapture audits. Our analysis of information provided by DOE shows that in fiscal year 2003 the department conducted payment recapture audits and that the improper payments identified through these audits far exceeded the costs of conducting the audits. According to OCFO officials, the information on payment recapture efforts was from a payment recapture audit at one site; it was not an OCFO recovery audit program. The OCFO officials reiterated that the majority of the payment reporting sites have not performed payment recapture audits because they believe existing efforts are effective in recovering identified improper payments. However, payment recapture audits are designed to identify additional improper payments not previously identified. By evaluating whether it could identify enough additional improper payments to make payment recapture audits cost-effective, such as performing audits at a limited number of sites, DOE would have an opportunity to identify and recover additional improper payments or have better information to justify that payment recapture audits are not cost-effective.

DOE's Fiscal Year 2018 Risk Assessment May Not Provide a Reasonable Basis for Its Risk Determination

In its fiscal year 2018 improper payment risk assessment, DOE assessed its risk of susceptibility to significant improper payments as low. However, DOE did not provide sufficient documentation to support how it conducted its risk assessment and made this low-risk determination. Consequently, we could not determine if the process DOE used to perform its improper payment risk assessment provided a reasonable and reliable basis for making its risk determination.

DOE's Risk Assessment Process May Not Adequately Support Its Low-Risk Determination

DOE's process to conduct its fiscal year 2018 risk assessment may not be adequate to support its low-risk determination of susceptibility to significant improper payments. DOE has a decentralized process for conducting its statutorily required improper payment risk assessment

every 3 years.⁶⁷ For fiscal year 2018, DOE developed and provided each payment reporting site with an improper payment risk assessment template to complete. DOE directed all of its payment reporting sites to consider the seven risk factors listed in IPIA, as well as four additional risk factors that DOE developed. Table 4 lists the additional DOE-developed risk factors that sites were to consider in their risk assessments.

Table 4: Additional Risk Factors the Department of Energy Used in Its Improper Payment Risk Assessments for Fiscal Year 2018

1. Inherent risk.
2. Results of Office of Management and Budget Circular A-123 assessments and other internal reviews designed to prevent or detect improper payments.
3. Contractor payment processing oversight.
4. Proper segregation of duties and responsibilities.

Source: GAO analysis of Department of Energy data | GAO-20-442

DOE's improper payment risk assessment template included a variable scale for rating each of the risk factors.⁶⁸ The OCFO provided guidance instructing payment reporting sites to, when populating the template, consider the site's exposure to the risk factors and to rate them by applying a numerical score to each risk factor.⁶⁹ Each payment site totaled its numerical scores to calculate the site's overall level of susceptibility to significant improper payments. DOE then consolidated all of the payment site assessments into an overall department-wide risk assessment. However, DOE could not explain, and did not provide us documentation to support, its rationale for the variable scales used to score such risk factors in its fiscal year 2018 assessments—both in the 10 payment-site risk assessments we reviewed and in DOE's

⁶⁷This is separate from the risk assessment process DOE completes for its annual internal controls evaluation. To meet the requirements of 31 U.S.C. 3512 (c), (d), commonly known as the Federal Managers' Financial Integrity Act of 1982, as well as the related internal control standards in [GAO-14-704G](#) and OMB Circular A-123 guidance, DOE annually evaluates and reports on its internal controls and prepares a DOE risk profile. The DOE risk profile identifies the most significant risks to achieving its strategic objectives and the appropriate options for addressing them. These risks may include, but are not limited to, improper payments and fraud.

⁶⁸DOE combined two of the risk factors into one risk factor in its improper payment risk assessment template.

⁶⁹The variable scales for each of the risk factors had different ranges of numerical scores from which the payment sites would choose. Of the 10 risk factors considered in their improper payment risk assessments, the payment sites could rate one of the risk factors from zero to nine, two risk factors from zero to eight, three risk factors from zero to six, and four risk factors from zero to four.

department-wide risk assessment—and how the scores assigned for each risk factor affected DOE's susceptibility to significant improper payments. As a result, we could not determine if DOE's process for conducting its fiscal year 2018 improper payment risk assessment provided a reasonable basis for DOE's overall risk determination.

Furthermore, the OCFO weighted all of the payment reporting sites equally in terms of overall risk when it aggregated the risk ratings into an overall assessment of susceptibility to significant improper payments. However, DOE did not provide an explanation or documentation of why the sites were weighted equally in the overall department-wide improper payment risk assessment, even though the payment types and dollar amounts of outlays processed by the sites varied widely. For example, a payment site processing \$3 million of outlays in fiscal year 2017 had the same weight in the aggregated assessment as a payment site processing \$5.7 billion of outlays.

Finally, the OCFO did not provide evidence that it considered the known lag in identifying certain improper payments as an inherent risk during its fiscal year 2018 department-wide improper payment risk assessment process. This inherent risk relates to certain limitations affecting DOE's ability to determine the extent of improper payments until several years after they occur, such as those identified through incurred cost audits and investigations, as previously discussed. For example, in its fiscal year 2018 AFR, DOE reported that a total of \$124.35 million in payments were identified for recapture during fiscal year 2017, including \$31.66 million made in fiscal year 2017 and \$92.69 million made in years prior to fiscal year 2017. However, DOE did not provide us documentation to support how it considered the \$92.69 million in improper payments made during years prior to fiscal year 2017—which could represent an inherent risk to the department—when assessing its risk of susceptibility to significant improper payments. As discussed earlier, some of the \$92.69 million of improper payments identified for recapture occurred in fiscal year 2016. Thus, the amount of fiscal year 2016 improper payments that DOE reported in its fiscal year 2017 AFR is understated.

Federal internal control standards state that management should design control activities to achieve objectives and respond to risks, and should implement control activities through policies.⁷⁰ To contribute to the effective design and implementation of such control activities,

⁷⁰[GAO-14-704G](#).

management should clearly document internal control and all transactions and other significant events in a manner that allows the documentation to be readily available for examination. Additionally, management should periodically review policies, procedures, and related control activities for continued relevance and effectiveness. Further, although OMB does not direct agencies to demonstrate how each risk factor contributes to the agency's overall susceptibility of risk for significant improper payments, OMB M-18-20 states that if a qualitative method is used during an improper payment risk assessment, it must be designed to accurately determine whether the program is susceptible to significant improper payments.⁷¹

DOE may not have an adequate process to support its risk determination because it did not properly document how it developed and considered risk factors during its fiscal year 2018 risk assessment. Until DOE revises its department-level process for conducting improper payment risk assessments, it cannot ensure that the process produces a reliable assessment of whether it is susceptible to significant improper payments. Specifically, without documenting its rationale for the variable scale used to score risk factors and weighting of the payment reporting sites, and consideration of the known lag in identifying the extent of total improper payments each fiscal year to support the development of its department-level risk assessment, DOE cannot demonstrate that its process for determining its low risk of susceptibility to significant improper payments is reasonable. Addressing these issues may result in DOE determining that it is susceptible to significant improper payments, and therefore subject to additional requirements—such as developing a statistically valid estimate of improper payments and reporting on actions to reduce improper payments, including a description of the root causes, and developing corrective actions to reduce them, including program-specific improper payment reduction targets.⁷²

⁷¹OMB M-18-20.

⁷²As discussed previously, the government-wide estimate of improper payments does not include amounts for DOE because DOE is not required to develop estimates.

DOE Did Not Sufficiently Review the Reasonableness of Selected Payment Reporting Sites' Improper Payment Risk Assessments

We also found that DOE's OCFO did not sufficiently review the reasonableness of the selected payment reporting sites' improper payment risk assessments. When we reviewed the risk assessments of the 10 selected sites, we found a lack of consistency in how the sites applied DOE guidance, as well as inadequate documentation supporting how the sites considered improper payment risk factors. Specifically, we found that the OCFO review process did not identify instances in which these sites did not adequately support certain ratings or did not adhere to DOE instructions for completing the improper payment risk assessment template.

Staff from the OCFO used a quality assurance checklist to review the sites' fiscal year 2018 improper payment risk assessments. However, the extent to which the OCFO reviewed documentation supporting payment sites' risk assessments is unclear. Although the reviewer guidance provided in the quality assurance checklist directs reviewers to ensure that the documentation supporting the payment site's risk rating adequately supports the risk factor being evaluated, a payment site official told us that OCFO reviewers did not consistently request to view their supporting documentation.⁷³

Eight out of 10 payment reporting sites we reviewed had documentation to support that they followed DOE's guidance to consider the results of prior GAO and DOE OIG audit reports and OMB Circular A-123-related assessment results.⁷⁴ However, we found that two sites did not have such documentation. One site rated itself as having no significant deficiencies despite audit reports that indicated some deficiencies and findings for that site. Another payment site did not discuss the OMB Circular A-123

⁷³Although we did not test the OCFO reviewers' compliance with checklist items, we noted one instance for the 10 sites we reviewed in which the payment site did not complete all information requested in the improper payment risk assessment template and the reviewers did not follow up with the site to ensure completeness.

⁷⁴OMB Circular A-123 requires agencies to integrate risk management and internal control functions. It also establishes an assessment process that management must implement in order to properly assess and improve internal controls over operations, reporting, and compliance. The DOE improper payment risk assessment template directs that payment sites consider the results of these assessments as part of their improper payment risk assessments.

assessment results in its improper payment risk assessments, despite OCFO guidance to include such results when conducting improper payment risk assessments. However, quality assurance checklists completed by OCFO staff for these two sites did not indicate that documentation supporting the sites' consideration of these prior reports and assessments in their risk assessments was missing.

Further, five of the 10 payment reporting sites we reviewed did not provide sufficient explanation or documentation supporting their ratings for several of the risk factors they considered in their improper payment risk assessment, despite instructions in DOE's guidance to do so. For example, one site cited "discussions with team lead" as the primary source of support for its ratings assigned for several risk factors. However, the site did not have documentation to support the results of these discussions and how such discussions supported the ratings for each risk factor. Federal internal control standards state that management should design control activities to achieve objectives and respond to risks, and should implement control activities through policies.⁷⁵ To contribute to the effective design and implementation of these control activities, management should clearly document internal controls and other significant events in a manner that allows the documentation to be readily available for examination.

We also found that OCFO staff did not document any potential changes to the payment sites' risk ratings in the 10 quality assurance checklists we reviewed. However, the process to be followed in the event OCFO reviewers find that payment site risk ratings are not reasonable is unclear because DOE has not defined and documented in its policies and procedures the process for OCFO reviewers to override these risk ratings. DOE's Financial Management Oversight order directs business units to evaluate and assess the effectiveness of their financial management oversight activities and other internal controls, such as the OCFO's oversight of the payment reporting sites' risk assessments.⁷⁶ Further, the order charges the OCFO with reviewing and analyzing activities throughout DOE to evaluate the adequacy of established policies, procedures, and standards governing accounting and related reporting functions; evaluating the performance of internal controls over those functions; and recommending corrective actions as needed. In addition, according to federal internal control standards, management

⁷⁵[GAO-14-704G](#).

⁷⁶DOE Order 523.1.

should also establish and operate monitoring activities to monitor the internal control system and evaluate the results. Such monitoring includes regular management and supervisory activities, comparisons, reconciliations, and other routine actions.⁷⁷ Additionally, management should periodically review policies, procedures, and related control activities for continued relevance and effectiveness. Further, federal internal control standards state that management should use quality information to achieve the entity's objectives.⁷⁸

By developing, documenting, and implementing policies and procedures to require OCFO to review documentation supporting payment site risk assessments and define the process for overriding their risk determinations, DOE would enhance its ability to adequately monitor its decentralized improper payment risk assessment process and help ensure the accuracy and reliability of payment reporting sites' risk assessments and DOE's assessment of overall risk of susceptibility to improper payments.

Conclusions

DOE's OCFO relies on its 48 payment reporting sites to provide information about improper payments that DOE reports in its AFR; however, we identified several reasons that the information in DOE's AFRs for fiscal years 2015 through 2019 may not be accurate or complete. First, DOE's improper payments information may not be accurate or complete because the OCFO does not require the payment reporting sites to document their procedures for correctly identifying, tracking, and reporting their improper payments. By doing so, the OCFO could better ensure that the payment reporting sites provide consistent and comparable information about their improper payments over time. Second, the OCFO cannot ensure that sites are correctly identifying, tracking, and reporting improper payments to the OCFO and ensuring the quality of their data because OCFO does not have a process to monitor that sites have—and are implementing—procedures to do so. By developing such a monitoring process, the OCFO could better ensure that the information it reports about improper payments in DOE's AFRs is accurate and complete. Third, DOE may not be reporting additional improper payments in the form of unallowable costs claimed by some

⁷⁷[GAO-14-704G](#).

⁷⁸[GAO-14-704G](#).

contractors because, as we have previously found, DOE policies and procedures do not require that DOE sites monitor M&O contractor withdrawals to determine the appropriateness of costs incurred by the contractor. Under this arrangement, DOE does not use prepayment reviews to determine the appropriateness of M&O contract costs and, thus, can only identify improper payments associated with these contracts through post-payment reviews that typically occur after the end of the fiscal year. We previously recommended that DOE ensure data are available to employ data analytics—which can identify improper payments more quickly than post-payment reviews can—but DOE has not fully implemented the recommendation. We continue to believe it is important for DOE to employ data analytics as a cost surveillance tool so DOE can better identify improper payments to its contractors in a timely manner.

DOE only includes improper payments that occur and are identified in the same fiscal year in its reported improper payment amount and rate in the AFR. However, DOE does not identify a substantial amount of improper payments in the same fiscal year due to the known lag in identifying such payments. Audits and assessments of DOE's contractors can identify questioned costs that require additional review before they are either allowed or deemed improper, but DOE has not consistently resolved questioned costs in a timely manner because the OCFO does not direct payment reporting sites to document policies for tracking questioned costs to resolution. Without a requirement for sites to have policies to track questioned costs to their resolution, the OCFO cannot ensure that payment reporting sites are tracking—and ultimately reporting—all improper payments, and thus cannot ensure the accuracy and completeness of improper payments reported in DOE's AFRs. Additionally, the OCFO cannot determine whether improper payments in a given year exceeded the \$100 million threshold because the OCFO does not track information about the year that payments were made for all known improper payments for a given fiscal year. By tracking and disclosing information about all improper payments identified and the year in which these payments were made in its AFR, DOE would have better information to provide to Congress, OMB, and the public about whether it has made significant improper payments.

Although DOE's sites submitted individual justifications for not completing payment recapture audits, the quality of the justifications varied and did not meet DOE requirements. By clarifying guidance to define the factors for assessing the adequacy of the justifications, and reviewing sites' justifications for not performing or arranging for payment recapture audits to ensure that the justifications meet requirements and are supported by

appropriate analysis that considers the costs and benefits of performing the audits, DOE can better ensure that the justifications it reports have a sound basis and that DOE is taking advantage of all opportunities to both identify and recover improper payments, which in turn will help reduce the monetary loss to the government. Further, DOE may be missing opportunities to recover federal dollars that are a monetary loss to the government because it has not evaluated whether sites could identify additional improper payments through payment recapture audits. DOE has concluded that based on its self-assessed low improper payment rate and recapture rate, it is not cost effective to perform payment recapture audits. By evaluating whether it could identify enough additional improper payments to make payment recapture audits cost-effective, such as performing audits at a limited number of sites, DOE would have an opportunity to identify and recover additional improper payments or have better information to justify that payment recapture audits are not cost-effective.

Finally, DOE may not have an adequate process to support its risk determination because it did not properly document how it developed and considered risk factors during its fiscal year 2018 risk assessment. Until DOE revises its department-level process for conducting improper payment risk assessments, it cannot ensure that the process produces a reliable assessment of whether it is susceptible to significant improper payments. Further, the process for the OCFO to oversee the accuracy of payment site risk ratings is unclear because DOE has not defined and documented, in its policies and procedures, the process for OCFO reviewers to override a payment site's risk ratings in the event the reviewer finds that the rating was not reasonable. By developing, documenting, and implementing department-wide policies and procedures, DOE would enhance its ability to adequately monitor its decentralized improper payment risk assessment process and help ensure that individual payment reporting sites accurately score their risk factors—leading DOE to obtain a more accurate and reliable assessment of its overall risk of susceptibility to improper payments.

Recommendations for Executive Action

We are making the following nine recommendations to DOE:

The Office of the Chief Financial Officer should require payment reporting sites to document their procedures for identifying, tracking, and reporting improper payments to ensure they provide consistent and

comparable information about their improper payments over time.
(Recommendation 1)

The Office of the Chief Financial Officer should develop a monitoring process to ensure that payment reporting sites document and implement procedures that will enable them to correctly identify and report improper payments to the OCFO. (Recommendation 2)

The Office of the Chief Financial Officer should require payment reporting sites to document policies for tracking questioned costs to resolution.
(Recommendation 3)

The Office of the Chief Financial Officer should track information on the year the payment occurred for all improper payments, regardless of when they are identified, and determine and disclose in DOE's AFR whether the department's total annual improper payments exceeded \$100 million in any given year. (Recommendation 4)

The Office of the Chief Financial Officer should clarify guidance to (1) define the factors for assessing adequacy of payment reporting sites' justifications that conducting recapture audits would not be cost-effective, and (2) require that the Office of the Chief Financial Officer review the sufficiency of these justifications against the criteria defined.
(Recommendation 5)

The Office of the Chief Financial Officer should evaluate whether payment reporting sites could identify enough additional improper payments through payment recapture audits to make those audits cost-effective, such as by performing audits at selected sites.
(Recommendation 6)

The Office of the Chief Financial Officer should revise DOE's department-level process for conducting improper payment risk assessments to include (1) developing and documenting the rationale for the variable scale used to score risk factors and weighting of the payment reporting sites; and (2) documenting DOE's consideration of the inherent risk associated with the lag in identifying certain improper payments subsequent to the fiscal year they occurred to ensure that the process results in a reliable assessment of whether the department is susceptible to significant improper payments. (Recommendation 7)

The Office of the Chief Financial Officer should revise DOE's department-level policies and procedures for reviewing risk assessments submitted

by payment reporting sites to require a review and approval of the documentation supporting these assessments to help ensure the accuracy of the sites' assessments. (Recommendation 8)

The Office of the Chief Financial Officer should revise DOE's department-level policies and procedures for conducting improper payment risk assessments to define the process for overriding a payment reporting site's risk determination, when appropriate. (Recommendation 9)

Agency Comments and Our Evaluation

We provided a draft of this report to DOE for review and comment. DOE concurred with six of our recommendations and said that it plans to complete actions from November 2020 through December 2021 to address these recommendations. DOE did not concur with three of our recommendations; however, we believe that these recommendations remain valid. DOE's written response is reproduced in appendix III and summarized below. In addition, DOE provided technical comments, which we incorporated as appropriate.

DOE did not concur with our sixth recommendation to evaluate whether its payment reporting sites could identify enough additional improper payments through payment recapture audits to make those audits cost-effective, such as by performing audits at selected sites. In response to this recommendation, DOE stated in its comments that it has an ongoing Fraud Risk Management Working Group and that officials have developed a *Fraud Risk Management and Data Analytics Implementation Plan* to strengthen DOE's capability to prevent, identify, and recover improper payments and fraud. However, DOE's plan is still in draft form, and according to DOE's technical comments, they will not begin using data analytics until fiscal year 2021.

In addition, DOE stated in its comments that existing payment recapture activities such as pre- and post-payment reviews, contractor internal audits, use of the results of cost allowability audits of integrated contractors, and interim and close-out reviews of contracts and financial assistance awards are sufficient. As we discuss in the report, DOE determined that it does not need to conduct payment recapture audits based on justifications submitted by the reporting sites. However, most of the sites' justifications did not include consideration of the OCFO criteria for making determinations about the cost-effectiveness of conducting payment recapture audits. We continue to believe that by evaluating

whether it could identify enough additional improper payments to make payment recapture audits cost-effective, such as by performing audits at a limited number of sites, DOE would have an opportunity to identify and recover additional improper payments or have better information to justify that payment recapture audits are not cost-effective.

DOE did not concur with our seventh recommendation to (1) develop and document the rationale for weighting risk factors, including the weighting of all payment reporting sites; and (2) document its consideration of the inherent risk associated with the lag in identifying certain improper payments subsequent to the fiscal year they occurred to ensure that the process results in a reliable assessment of whether the agency is susceptible to significant improper payments.

Regarding the weighting of risk factors, DOE said that its risk assessment evaluates the volume and dollar amount of payments by payment category, payments subject to manual controls, and fluctuations in volume and dollar amounts. We recognize that DOE's risk assessment template asks each site to assess its risk with regard to payment amounts and fluctuations. However, we are recommending that the OCFO document the weighting of all its risk factors, including its decision to consider as equal the risks identified by all sites—regardless of the dollar amount of outlays. While assessing the risk of improper payments at an individual site is important, it does not address the intent of our recommendation. We continue to believe that, because DOE did not properly document how it developed and considered risk factors during its fiscal year 2018 risk assessment, it cannot ensure that the process produces a reliable assessment of whether DOE is susceptible to significant improper payments.

Regarding the consideration of inherent risk, DOE stated in its comments that the Payment Integrity Risk Assessment directs payment reporting sites to consider inherent risk as part of DOE's Internal Control Program. We recognize that sites are to assess the inherent risk that an improper payment may occur. However, even if none of the sites identifies the known lag in identifying improper payments as a risk, based on our review of DOE's AFRs, this lag is a risk to DOE as a whole. Therefore, we continue to believe that DOE should document in its risk assessment process its consideration of the known lag in identifying improper payments.

Finally, DOE did not concur with our eighth recommendation to revise DOE's department-level policies and procedures for reviewing risk

assessments. Specifically, we recommended a policy revision to require OCFO review and approval of documentation submitted by payment reporting sites in support of their risk assessments to help ensure the accuracy of these sites' assessments. DOE stated in its comments that sufficient processes are in place for ensuring the accuracy of payment reporting sites' risk assessments. DOE also stated that OCFO's Payment Integrity Guidance instructs payment reporting sites to maintain detailed information supporting risk assessments, which is available to the OCFO and DOE's auditors upon request, and that review and approval of the documentation occurs during periodic payment reporting site visits by OCFO staff. Further, DOE stated that as part of the OCFO's quality assurance reviews, the OCFO evaluates the documentation used to support risk assessment ratings and directs updates to risk assessments if documentation listed does not support the stated risk ratings.

As we discuss in the report, five of the 10 sites we reviewed did not provide sufficient explanation or documentation supporting their ratings for several of the risk factors. This includes one site that cited "discussions with team lead" as the primary source of support for the ratings it assigned for several risk factors. We continue to believe that by developing, documenting, and implementing policies and procedures to require the OCFO to review documentation supporting payment site risk assessments, DOE would enhance its ability to adequately monitor its decentralized improper payment risk assessment process and help ensure that individual payment reporting sites accurately score their risk factors, leading DOE to obtain a more accurate and reliable assessment of its overall risk of susceptibility to improper payments.

We are sending copies of this report to the appropriate congressional committees, the Secretary of Energy, the Administrator of the National Nuclear Security Administration, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff members have any questions about this report, please contact Allison Bawden at (202) 512-3841 or bawdena@gao.gov; or Beryl Davis at (202) 512-2623 or davisbh@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.

**Appendix I: The Department of Energy's
Payment Reporting Sites**



Allison B. Bawden
Director, Natural Resources and Environment



Beryl H. Davis
Director, Financial Management and Assurance

Appendix I: The Department of Energy's Payment Reporting Sites

The Department of Energy (DOE) has 48 payment reporting sites that are responsible for conducting improper payment risk assessments and annually providing data on actual improper payments to DOE's Office of the Chief Financial Officer (OCFO). The 48 sites consist of six types, four of which are types of federal entities and two of which are types of contractors.¹ The four types of federal entities are Headquarters, DOE field sites, Power Marketing Administrations,² and the Federal Energy Regulatory Commission.³ The two types of contractors are management and operating (M&O) contractor and non-M&O contractor.⁴

Table 5 lists the 48 payment reporting sites and provides the fiscal year 2017 outlays and improper payments data they reported to the OCFO for DOE's fiscal year 2018 Agency Financial Report (AFR).

¹One of DOE's payment sites consists of two separate entities—the Loan Programs Office and the Loan Accounting Team (part of the OCFO)—which submit a single report for improper payments.

²The four Power Marketing Administrations were created to market the electric power produced by federal dams, among other things.

³The Federal Energy Regulatory Commission is an independent agency, officially organized as part of DOE that regulates the interstate transmission of electricity, natural gas, and oil.

⁴M&O contracts are a form of agreement under which the government contracts for the operation, maintenance, or support, on its behalf, of a government-owned or government-controlled research, development, special production, or testing establishment wholly or principally devoted to one or more of the major programs of the contracting federal agency. See Federal Acquisition Regulation, 48 C.F.R. § 17.601.

**Appendix I: The Department of Energy's
Payment Reporting Sites**

Table 5: The Department of Energy's 48 Payment Reporting Sites, with Outlays and Improper Payments Reported in Fiscal Year 2018 - Dollars in millions

DOE payment site^a	Type of site	FY 2017 outlays^{g, h}	FY 2017 current year improper payments^{g, h}	FY 2017 prior year improper payments^{g, h}
Chicago Office	DOE Field Site	1,038.6	3.211	0.479
Ames Laboratory	M&O Contractor	45.5	0.018	0.001
Argonne National Laboratory	M&O Contractor	820.1	0.294	-
Brookhaven National Laboratory	M&O Contractor	466.7	0.013	-
Fermi National Accelerator Laboratory	M&O Contractor	392.2	0.035	0.091
Lawrence Berkeley National Laboratory	M&O Contractor	647.6	1.095	-
Princeton Plasma Physics Laboratory	M&O Contractor	108.8	0.049	0.121
Environmental Management Consolidated Business Center	DOE Field Site	26.1	0.164	0.910
Nuclear Waste Partnership	M&O Contractor	258.9	1.127	-
Golden Field Office	DOE Field Site	532.8	2.853	-
National Renewable Energy Laboratory	M&O Contractor	411.0	0.467	0.161
Idaho Operations Office	DOE Field Site	131.8	0.004	0.496
Battelle Energy Alliance - Idaho National Laboratory	M&O Contractor	919.9	0.488	-
National Energy Technology Laboratory	DOE Field Site	151.6	0.305	2.092
National Nuclear Security Administration	DOE Field Site	158.6	-	4.600
Consolidated Nuclear Security	M&O Contractor	1,749.8	0.201	0.077
Lawrence Livermore National Laboratory	M&O Contractor	2,116.3	0.151	0.001
Los Alamos National Laboratory	M&O Contractor	1,645.0	1.022	3.824
Mission Support and Test Services	M&O Contractor	568.8	1.155	0.001
National Security Complex	M&O Contractor	736.1	1.058	0.056
Sandia National Laboratories	M&O Contractor	3,813.1	4.577	-
Naval Reactors Laboratory Field Office	DOE Field Site	3.0	-	-
Bechtel Marine Propulsion Corporation	M&O Contractor	2,787.3	2.863	0.018

**Appendix I: The Department of Energy's
Payment Reporting Sites**

Oak Ridge Office	DOE Field Site	6.3	0.005	-
URS-CH2M Oak Ridge LLC (UCOR)	M&O Contractor	244.8	0.021	-
Oak Ridge Associated Universities	Non-M&O Contractor	394.6	0.362	-
Oak Ridge National Laboratory	M&O Contractor	1,243.2	0.436	0.235
Pacific Northwest National Laboratory	M&O Contractor	1,003.0	0.685	0.487
SLAC National Accelerator Laboratory	M&O Contractor	496.9	0.852	0.051
Thomas Jefferson National Accelerator Facility	M&O Contractor	167.1	0.008	0.032
Richland Operations Office, Office of River Protection	DOE Field Site	7.0	0.209	60.625
CH2M Hill Remediation	Non-M&O Contractor	557.9	0.664	0.919
Mission Support Alliance	Non-M&O Contractor	213.5	0.040	0.002
Washington Closure Hanford^b	Non-M&O Contractor	-	-	0.742
Washington River Protection Solutions	Non-M&O Contractor	484.3	0.071	2.818
Savannah River Operations Office	DOE Field Site	9.1	0.000	13.155
Savannah River Nuclear Solutions	M&O Contractor	1,032.4	0.953	0.153
Savannah River Remediation	Non-M&O Contractor	325.4	0.049	0.002
Strategic Petroleum Reserve^c	DOE Field Site	-	-	-
Fluor Federal Petroleum Operations	M&O Contractor	161.9	0.016	-
Federal Energy Regulatory Commission	FERC	298.5	0.448	-
Bonneville Power Administration	PMA	2,381.1	5.333	0.133
Southeastern Power Marketing Administration	PMA	67.5	0.000	-
Southwestern Power Marketing Administration	PMA	46.7	0.003	0.017
Western Area Power Administration	PMA	568.6	1.415	0.196
Loan Accounting Team^d	Headquarters	275.0	-	-
Loan Programs Officed	Headquarters			
Payment Services Team^e	Headquarters	5,700.1	0.143	0.204
Payroll and Relocation Services Team^f	Headquarters	1,680.4	-	-

**Appendix I: The Department of Energy's
Payment Reporting Sites**

Total	36,894.8	32.865	92.699
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DOE = Department of Energy; FERC = Federal Energy Regulatory Commission; FY = Fiscal Year; M&O = management and operating; PMA = Power Marketing Administration

Source: GAO analysis of Department of Energy data | G AO-20-442

Note: DOE reports improper payments information a year in arrears, so for fiscal year 2018 DOE reported fiscal year 2017 outlays and identified improper payments. While all improper payments reported were identified by DOE in fiscal year 2017, current year improper payments were payments made in fiscal year 2017, whereas prior-year improper payments were payments made in fiscal year 2016 or earlier. Numbers in the total columns may not add due to rounding.

^aContractor sites are listed under the DOE field site that oversees their contract.

^bWashington Closure Hanford did not have outlays in fiscal year 2017 because the contract was in closeout. DOE officials explained that it was kept as a payment site in case improper payments were identified during closeout activities.

^cThe Strategic Petroleum Reserve's outlays for fiscal year 2017 were reported by headquarters sites. The site identified no improper payments in fiscal year 2017.

^dThe Loan Accounting Team and the Loan Programs Office produce a joint report each year and are considered a single site, so the above data covers both sites. The Loan Accounting Team is part of DOE's Office of the Chief Financial Officer.

^eThe Payment Services Team is part of DOE's Office of the Chief Financial Officer.

^fThe Payroll and Relocation Services Team is part of DOE's Office of the Chief Financial Officer.

^gThe DOE field sites' outlays and improper payments data are independent of the data for the contractor payment reporting sites they oversee; for example, data reported for the Chicago Office are not a total figure for its six associated M&O contractor sites.

^hA "-" indicates that no outlays or improper payments were reported by the site. "0.000" indicates that the site had outlays or improper payments, but these rounded to zero (i.e., were less than \$500).

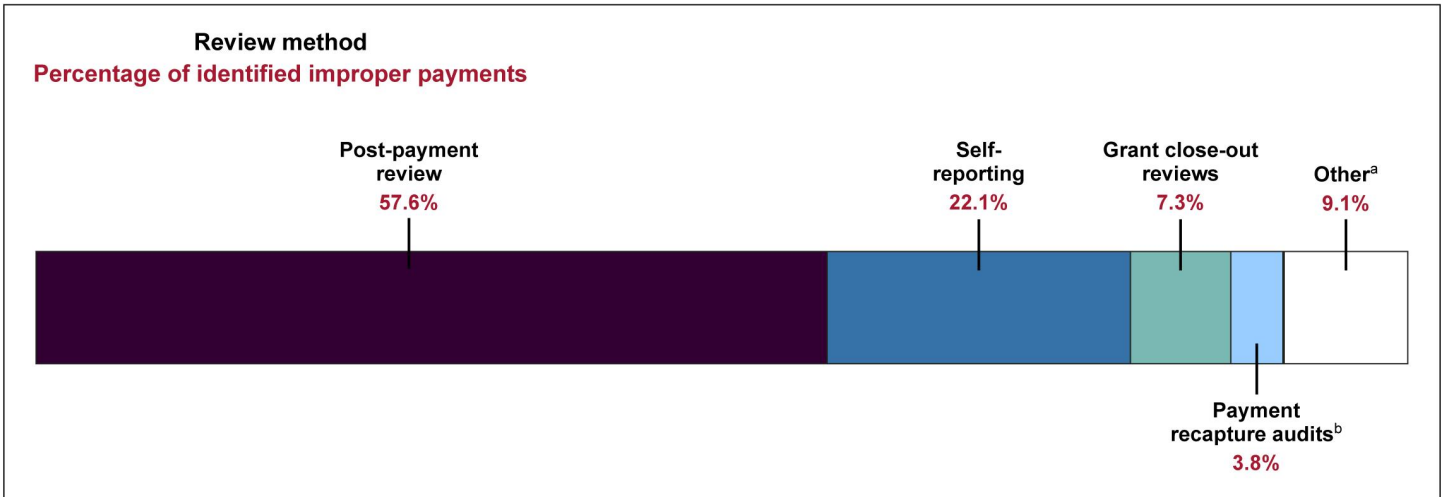
Appendix II: Additional Details of the Department of Energy's Fiscal Year 2017 Improper Payments Reported by Payment Reporting Sites

The Department of Energy's (DOE) Office of the Chief Financial Officer (OCFO) requires the payment reporting sites to provide some details about their improper payments that were not required to be included in the department's Agency Financial Report (AFR) during the period under review.¹ These details include information about how the improper payments were identified and the reasons why the payments were determined to be improper. As shown in figure 4, two methods accounted for most of the current year improper payments identified by DOE in fiscal year 2017: post-payment review (57.6 percent) and self-reporting (22.1 percent). As shown in figure 5, there was a broader range of reasons payments were determined to be improper in fiscal year 2017, although the majority (54.7 percent) were attributable to settlements as the result of litigation.

¹We reviewed DOE's payment reporting site data for fiscal years' 2015 to 2018 reporting, which concern improper payments identified in fiscal years 2014 through 2017, because DOE reports improper payments information a year in arrears.

Appendix II: Additional Details of the Department of Energy's Fiscal Year 2017 Improper Payments Reported by Payment Reporting Sites

Figure 4: Department of Energy Review Methods That Resulted in Identification of Improper Payments, as a Percentage of Fiscal Year 2017 Current Year Improper Payments



Source: GAO presentation of Department of Energy information. | GAO-20-442

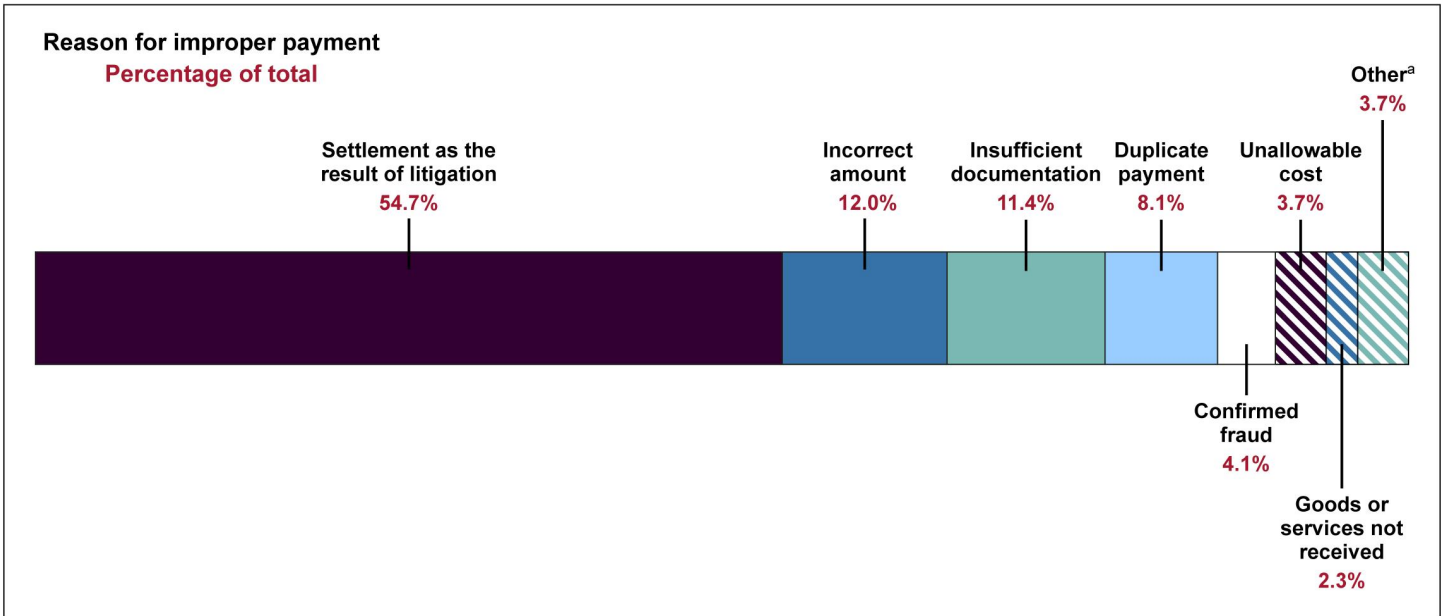
Note: Figure includes data for only about 25 percent of the Department of Energy's (DOE) improper payments identified in fiscal year 2017. DOE's payment reporting sites report only the methods used to identify a payment as improper for current year payments (payments made and identified in fiscal year 2017), which totaled approximately \$32.9 million; they do not report for prior year improper payments (payments identified in fiscal year 2017 but made in fiscal year 2016 or earlier), which totaled approximately \$92.7 million. Categories do not add up to 100 percent due to rounding.

^aThe "Other" category includes "Other Monitoring Activities/Reviews," a DOE category that accounted for 8.3 percent of identified improper payments in fiscal year 2017, as well as five DOE categories, that together accounted for less than 1 percent of identified improper payments: Defense Contract Audit Agency contract Audits, Single Audit Reports, Contract Close-Out Reviews, Reports from the Public, and DOE Office of Inspector General Audits/Reviews.

^bAccording to information provided by DOE officials, some sites incorrectly reported that improper payments were identified through payment recapture audits; these improper payments were actually identified through other means that do not meet the definition of payment recapture audits.

Appendix II: Additional Details of the
 Department of Energy's Fiscal Year 2017
 Improper Payments Reported by Payment
 Reporting Sites

Figure 5: Reasons for Improper Payment Determination as a Percentage of Total Department of Energy Improper Payments Identified in Fiscal Year 2017



Source: GAO presentation of Department of Energy information. | GAO-20-442

Note: Figure includes data for all Department of Energy (DOE) improper payments identified in fiscal year 2017, including current year improper payments (payments made in fiscal year 2017) and prior-year improper payments (payments made in fiscal year 2016 or earlier).

^aThe "Other" category includes five DOE categories that each accounted for less than 2 percent of identified improper payments in fiscal year 2017. These are: Other, Funds Used for Purposes Other Than Allowed by Law or Departmental Policies, Ineligible Recipient, Ineligible Good or Service, and Lost Discount. "Other" also includes improper payments for which the payment reporting site did not provide a reason.

Appendix III: Comments from the Department of Energy



Department of Energy
Washington, DC 20585

May 29, 2020

Ms. Allison Bawden
Director
Natural Resources and Environment
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Bawden:

The Department of Energy (DOE) appreciates the opportunity to comment on the Government Accountability Office's (GAO) draft report titled, "*Improper Payments: Improvements Needed to Ensure Reliability and Accuracy in DOE's Risk Assessments and Reporting (GAO-20-442)*."

The draft report contains a total of nine recommendations for the Department, of which DOE concurs with six recommendations and non-concurs with three recommendations.

The Department complies with, and follows, the Office of Management and Budget and Improper Payments Elimination and Recovery Act of 2010 improper payment reporting requirements. The Department's commitment to instituting change and seeking greater efficiencies and accountability by promoting a culture of compliance and transparency is demonstrable. As noted by GAO, DOE's Fiscal Year (FY) 2019 Agency Financial Report identified \$36.3 million in improper payments, 0.09% of the \$38.47 billion in payments made for FY 2018, of which the Department recaptured 97%.

The Department plans to:

- Improve the *Annual Payment Integrity Requirements and Guidance* for payment reporting sites to develop and maintain procedures and consistently identify and report improper payments;
- Develop procedures to track questioned costs through resolution;
- Conduct look-back analysis, to the extent possible, to determine if prior year reporting exceeded the \$100 million threshold for prior years and could be subject to additional reporting requirements; and,
- Conduct periodic payment reporting site visits to review payment integrity processes, procedures, and documentation.

**Appendix III: Comments from the Department
of Energy**

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GAO should direct any questions to Ms. Mindy Bledsoe, Division Director, Payment Integrity and Services, Office of the Chief Financial Officer, at 301-903-2553 or Mindy.Bledsoe@hq.doe.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. M. Hendrickson', with a horizontal line extending to the right.

R. M. Hendrickson
Deputy Chief Financial Officer

Enclosure

ENCLOSURE

Management Response
GAO Draft Report: Improper Payments: Improvements
Needed to Ensure Reliability and Accuracy in DOE's Risk Assessments and Reporting
(GAO-20-442)

Recommendation #1: The Office of the Chief Financial Officer (OCFO) should require payment reporting sites to document their procedures for identifying, tracking, and reporting improper payments to ensure they provide consistent and comparable information about their improper payments over time.

Management Response: Concur

OCFO will clarify the Fiscal Year (FY) 2020, and adjust as necessary the FY 2021, guidance to specify that payment reporting sites develop and maintain procedures to support implementation of OCFO's *Annual Payment Integrity Requirements and Guidance*. OCFO will also include an assertion in the field and contractor OCFO certification that procedures for implementing payment integrity requirements have been developed and implemented at the payment reporting site.

Estimated Completion Date: July 2021

Recommendation #2: The Office of the Chief Financial Officer should develop a monitoring process to ensure that payment reporting sites document and implement procedures that will enable them to correctly identify and report improper payments to the OCFO.

Management Response: Concur

OCFO will take measures to strengthen and enhance the existing payment integrity monitoring and quality assurance program by continuing to conduct periodic payment reporting site visits to review payment integrity processes, procedures, and supporting materials; and expanding payment integrity training and guidance for payment reporting sites to identify and report improper payments. Also, OCFO will establish a payment integrity working group, including OCFO staff, field offices, and integrated contractors, to identify best practices for incorporation into Department of Energy (DOE) processes.

Estimated Completion Date: Ongoing (periodic payment reporting site visits); July 2021 (training and guidance)

Recommendation #3: The Office of the Chief Financial Officer should require payment reporting sites to document procedures for tracking questioned costs to resolution.

Management Response: Concur

The OCFO payment integrity working group will develop processes and procedures for tracking questioned costs to resolution. Development of a comprehensive central process for tracking questioned costs will necessitate an assessment of a series of options during the development and building of such a tool, as well as implementation. The working group will be composed of experts from OCFO staff, field offices, and integrated contractors.

Estimated Completion Date: December 2021

Recommendation #4: The Office of the Chief Financial Officer should track information on the year the payment occurred for all improper payments, regardless of when they are identified, and determine and disclose in its AFR whether its total annual improper payments exceeded \$100 million in any given year.

Management Response: Concur

OCFO will conduct annual look-back analyses, to the extent possible, to determine if prior year reporting exceeded the \$100 million threshold for prior years and would have been subject to additional reporting requirements. Settlement amounts resolving questioned costs, investigations, and litigation can span multiple years, and it may not be possible to directly associate the settlement amount with specific prior fiscal year(s). The process to conduct look-back analyses is intricate, and necessitates coordination with 48 payment reporting sites across the DOE complex.

Estimated Completion Date: December 2021

Recommendation #5: The Office of the Chief Financial Officer should clarify guidance to (1) define the factors for assessing adequacy of payment reporting sites' justifications that conducting recapture audits would not be cost-effective, and (2) require that the Office of the Chief Financial Officer review the sufficiency of these justifications against the criteria defined.

Management Response: Concur

OCFO will revise and enhance the procedures defining the OCFO quality assurance process to (1) define the criteria for assessing the adequacy of payment reporting sites' justifications, and (2) review the sufficiency of payment reporting sites' justifications against the criteria defined.

Estimated Completion Date: November 2020

Recommendation #6: The Office of the Chief Financial Officer should evaluate whether payment reporting sites could identify enough additional improper payments through payment recapture audits to make those audits cost effective, such as by performing audits at selected sites.

Management Response: Non-Concur

DOE has an ongoing Fraud Risk Management Working Group and has developed a *Fraud Risk Management and Data Analytics Implementation Plan* (Plan). The Working Group and implementation of the Plan to support the consolidation of datasets across organizations, use of data analytics, best practices, and detective and preventive internal controls continually assess and implement revised and updated procedures and processes to strengthen DOE's capability to prevent, identify, and recover improper payments and fraud.

At present, existing payment recapture activities and initiatives related to data analytics as designed and implemented are sufficient. For example, DOE currently performs payment recapture activities similar to GAO-recommended payment recapture audits. DOE conducts pre- and post-payment reviews, contractor internal audits, use of the results of cost allowability audits of integrated contractors, and interim and close-out reviews of contracts and financial assistance awards.

Estimated Completion Date: N/A

Recommendation #7: The Office of the Chief Financial Officer should revise DOE's department-level process for conducting improper payment risk assessments to include (1) developing and documenting the rationale for weighting risk factors, including the weighting of all payment reporting sites; and (2) documenting its consideration of the inherent risk associated with the lag in identifying certain improper payments subsequent to the fiscal year they occurred to ensure that the process results in a reliable assessment of whether the agency is susceptible to significant improper payments.

Management Response: Non-Concur

- 1) DOE's risk assessment evaluates the volume and dollar amount of payments by payment category, payments subject to manual controls, and fluctuations in volume and dollar amounts (see DOE's FY 2018 and 2019 Risk Assessment Template, Risk Factor 3).
- 2) DOE's Payment Integrity Risk Assessment directs payment reporting sites, including Management and Operating contractors, to consider Exposure Risk Ratings (inherent risk) for sub-processes evaluated as part of DOE's Internal Control Program. Risks evaluated by payment reporting sites include those risks associated with processes such as Acquisition Management, Cost Management, and Contractor Oversight that, if occurred, would likely result in improper payments. (See Technical Comments 5 and 6)

Estimated Completion Date: N/A

Recommendation #8: The Office of the Chief Financial Officer should revise DOE's department-level policies and procedures for reviewing risk assessments submitted by payment reporting sites to require a review and approval of the documentation supporting them to help ensure the accuracy of the sites' assessments.

Management Response: Non-Concur

Sufficient processes are in place for the accuracy of payment reporting risk assessments. OCFO's Payment Integrity Guidance instructs payment reporting sites to maintain detailed information supporting risk assessments, which is available to OCFO and DOE's auditors, upon request.

Payment reporting sites are required to identify specific documentation supporting each risk factor. Also, payment reporting sites must maintain documentation in such a manner that supports each individual risk determination. Review and approval of supporting documentation occurs during periodic payment reporting site visits by OCFO staff.

As part of OCFO's quality assurance reviews, OCFO evaluates the reasonableness of documentation used to support risk assessment ratings. OCFO directs updates to risk assessments if documentation listed does not support the stated risk rating.

Estimated Completion Date: N/A

Recommendation #9: The Office of the Chief Financial Officer should revise DOE's department-level policies and procedures for conducting improper payment risk assessments to define the process for overriding a payment reporting site's risk determination, when appropriate.

Management Response: Concur

OCFO's quality assurance process is used to assist payment reporting site officials in determining the adequacy of risk assessments. OCFO will clarify the quality assurance process for the payment reporting sites' rating, such as internal control deficiencies or audit findings.

The assessment is the determination of the reporting site and OCFO will not override the payment reporting sites' risk determinations. OCFO staff will continue to work as needed with payment reporting site officials to determine the appropriate risk ratings.

Estimated Completion Date: November 2020

Appendix III: Comments from the Department of Energy

Page 1

Department of Energy
Washington, DC 20585
May 29, 2020

Ms. Allison Bawden Director
Natural Resources and Environment
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Bawden:

The Department of Energy (DOE) appreciates the opportunity to comment on the Government Accountability Office's (GAO) draft report titled, "Improper Payments: Improvements Needed to Ensure Reliability and Accuracy in DOE 's Risk Assessments and Reporting (GAO-20-442)."

The draft report contains a total of nine recommendations for the Department, of which DOE concurs with six recommendations and non-concurs with three recommendations.

The Department complies with, and follows, the Office of Management and Budget and Improper Payments Elimination and Recovery Act of 2010 improper payment reporting requirements. The Department's commitment to instituting change and seeking greater efficiencies and accountability by promoting a culture of compliance and transparency is demonstrable. As noted by GAO, DOE's Fiscal Year (FY) 2019 Agency Financial Report identified \$36.3 million in improper payments, 0.09% of the \$38.47 billion in payments made for FY 2018, of which the Department recaptured 97%.

The Department plans to:

- Improve the Annual Payment Integrity Requirements and Guidance for payment reporting sites to develop and maintain procedures and consistently identify and

report improper payments;

- Develop procedures to track questioned costs through resolution;
- Conduct look-back analysis, to the extent possible, to determine if prior year reporting exceeded the \$100 million threshold for prior years and could be subject to

additional reporting requirements; and,

- Conduct periodic payment reporting site visits to review payment integrity processes, procedures, and documentation.

Page 2

GAO should direct any questions to Ms. Mindy Bledsoe, Division Director, Payment Integrity and Services, Office of the Chief Financial Officer, at 301-903-2553 or [Mindy.Bledsoe\(cv,hq.doe.gov\)](mailto:Mindy.Bledsoe(cv,hq.doe.gov)).

Article I.

Sincerely,

R. M. Hendrickson
Deputy Chief Financial Officer
Enclosure

Page 3

Article II. Management Response

GAO Draft Report: Improper Payments: Improvements

Needed to Ensure Reliability and Accuracy in DOE's Risk Assessments and Reporting (GAO-20-442)

Recommendation #1:

The Office of the Chief Financial Officer (OCFO) should require payment reporting sites to document their procedures for identifying, tracking, and reporting improper payments to ensure they provide consistent and comparable information about their improper payments over time.

Article III. Management Response: Concur

OCFO will clarify the Fiscal Year (FY) 2020, and adjust as necessary the FY 2021, guidance to specify that payment reporting sites develop and maintain procedures to support implementation of OCFO's Annual Payment Integrity Requirements and Guidance. OCFO will also include an assertion in the field and contractor OCFO certification that procedures for implementing payment integrity requirements have been developed and implemented at the payment reporting site.

Article IV. Estimated Completion Date: July 2021

Recommendation #2:

The Office of the Chief Financial Officer should develop a monitoring process to ensure that payment reporting sites document and implement procedures that will enable them to correctly identify and report improper payments to the OCFO.

Article V. Management Response: Concur

OCFO will take measures to strengthen and enhance the existing payment integrity monitoring and quality assurance program by continuing to conduct periodic payment reporting site visits to review payment integrity processes, procedures, and supporting materials; and expanding payment integrity training and guidance for payment reporting sites to identify and report improper payments. Also, OCFO will establish a payment integrity working group, including OCFO staff, field offices, and integrated contractors, to identify best practices for incorporation into Department of Energy (DOE) processes.

Article VI. Estimated Completion Date: Ongoing (periodic payment reporting site visits); July 2021 (training and guidance)

Recommendation #3:

The Office of the Chief Financial Officer should require payment reporting sites to document procedures for tracking questioned costs to resolution.

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Article VII. Management Response: Concur

The OCFO payment integrity working group will develop processes and procedures for tracking questioned costs to resolution. Development of a comprehensive central process for tracking questioned costs will necessitate an assessment of a series of options during the development and building of such a tool, as well as implementation. The working group will be composed of experts from OCFO staff, field offices, and integrated contractors.

Article VIII. Estimated Completion Date: December 2021

Recommendation #4:

The Office of the Chief Financial Officer should track information on the year the payment occurred for all improper payments, regardless of when they are identified, and determine and disclose in its AFR whether its total annual improper payments exceeded \$100 million in any given year.

Article IX. Management Response: Concur

OCFO will conduct annual look-back analyses, to the extent possible, to determine if prior year reporting exceeded the \$100 million threshold for prior years and would have been subject to additional reporting requirements. Settlement amounts resolving questioned costs, investigations, and litigation can span multiple years, and it may not be possible to directly associate the settlement amount with specific prior fiscal year(s). The process to conduct look-back analyses is intricate, and necessitates coordination with 48 payment reporting sites across the DOE complex.

Article X. Estimated Completion Date: December 2021

Recommendation #5:

The Office of the Chief Financial Officer should clarify guidance to

(1) define the factors for assessing adequacy of payment reporting sites' justifications that conducting recapture audits would not be cost-effective, and (2) require that the Office of the Chief Financial Officer review the sufficiency of these justifications against the criteria defined.

Article XI. Management Response: Concur

OCFO will revise and enhance the procedures defining the OCFO quality assurance process to (1) define the criteria for assessing the adequacy of payment reporting sites' justifications, and (2) review the sufficiency of payment reporting sites' justifications against the criteria defined.

Article XII. Estimated Completion Date: November 2020

Recommendation #6:

The Office of the Chief Financial Officer should evaluate whether payment reporting sites could identify enough additional improper payments through payment recapture audits to make those audits cost effective, such as by performing audits at selected sites.

Article XIII. Management Response: Non-Concur

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DOE has an ongoing Fraud Risk Management Working Group and has developed a Fraud Risk Management and Data Analytics Implementation Plan (Plan). The Working Group and implementation of the Plan to support the consolidation of datasets across organizations, use of data analytics, best practices, and detective and preventive internal controls continually assess and implement revised and updated procedures and processes to strengthen DOE's capability to prevent, identify, and recover improper payments and fraud.

At present, existing payment recapture activities and initiatives related to data analytics as designed and implemented are sufficient. For example, DOE currently performs payment recapture activities similar to GAO-recommended payment recapture audits. DOE conducts pre- and post-payment reviews, contractor internal audits, use of the results of cost allowability audits of integrated contractors, and interim and close-out reviews of contracts and financial assistance awards.

Article XIV. Estimated Completion Date: N/A

Recommendation #7:

The Office of the Chief Financial Officer should revise DOE's department-level process for conducting improper payment risk assessments to include

(1) developing and documenting the rationale for weighting risk factors, including the weighting of all payment reporting sites; and (2) documenting its consideration of the inherent risk associated with the lag in identifying certain improper payments subsequent to the fiscal year they occurred to ensure that the process results in a reliable assessment of whether the agency is susceptible to significant improper payments.

Article XV. Management Response: Non-Concur

1) DOE's risk assessment evaluates the volume and dollar amount of payments by payment category, payments subject to manual controls, and fluctuations in volume and dollar amounts (see DOE's FY 2018 and 2019 Risk Assessment Template, Risk Factor 3).

2) DOE's Payment Integrity Risk Assessment directs payment reporting sites, including Management and Operating contractors, to consider Exposure Risk Ratings (inherent risk) for sub-processes evaluated as part of DOE's Internal Control Program. Risks evaluated by payment reporting sites include those risks associated with processes such as Acquisition Management, Cost Management, and Contractor Oversight that, if occurred, would likely result in improper payments. (See Technical Comments 5 and 6)

Article XVI. Estimated Completion Date: N/A

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Recommendation #8:

The Office of the Chief Financial Officer should revise DOE's department-level policies and procedures for reviewing risk assessments submitted by payment reporting sites to require a review and approval of the documentation supporting them to help ensure the accuracy of the sites' assessments.

Article XVII. Management Response: Non-Concur

Sufficient processes are in place for the accuracy of payment reporting risk assessments. OCFO's Payment Integrity Guidance instructs payment reporting sites to maintain detailed information supporting risk assessments, which is available to OCFO and DOE's auditors, upon request.

Payment reporting sites are required to identify specific documentation supporting each risk factor. Also, payment reporting sites must maintain documentation in such a manner that supports each individual risk determination. Review and approval of supporting documentation occurs during periodic payment reporting site visits by OCFO staff.

As part of OCFO's quality assurance reviews, OCFO evaluates the reasonableness of documentation used to support risk assessment ratings. OCFO directs updates to risk assessments if documentation listed does not support the stated risk rating.

Article XVIII. Estimated Completion Date: N/A

Recommendation #9:

The Office of the Chief Financial Officer should revise DOE's department-level policies and procedures for conducting improper payment risk assessments to define the process for overriding a payment reporting site's risk determination, when appropriate.

Article XIX. Management Response: Concur

OCFO's quality assurance process is used to assist payment reporting site officials in determining the adequacy of risk assessments. OCFO will clarify the quality assurance process for the payment reporting sites' rating, such as internal control deficiencies or audit findings.

The assessment is the determination of the reporting site and OCFO will not override the payment reporting sites' risk determinations. OCFO staff will continue to work as needed with payment reporting site officials to determine the appropriate risk ratings.

Article XX. Estimated Completion Date: November 2020

Appendix IV: GAO Contacts and Staff Acknowledgments

GAO Contacts

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Staff Acknowledgments

In addition to the contacts named above, Hilary Benedict (Assistant Director), Michelle Philpott (Assistant Director), Kathy Pedalino (Analyst in Charge), Taya Tasse (Auditor in Charge), Perry Chen, Andy Furillo, Isabella Guyott, Latesha Love, Laura Pacheco, and Farrah Stone made key contributions to this report. Also contributing to this report were Kevin Bray, John Delicath, James Kernan, Jason Kirwan, Dan C. Royer, and Anne Thomas.

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