

March 15, 2012

The Honorable Commissioners
U.S. Commission on Civil Rights
624 Ninth Street, NW
Suite 700
Washington, D.C. 20425

Subject: The U.S. Commission on Civil Rights: Compliance with the Improper Payments Elimination and Recovery Act of 2010

According to the Office of Management and Budget (OMB), the federal government wastes billions of dollars each year on improper payments to individuals, organizations, and contractors.¹ The Improper Payments Elimination and Recovery Act of 2010 (IPERA), among other things, expanded on requirements for executive branch agencies to identify, estimate, and report on programs and activities susceptible to significant improper payments.² Significant improper payments, as defined by IPERA, are gross annual improper payments in the program exceeding (1) both 2.5 percent of program outlays and \$10 million of all program or activity payments during the fiscal year reported or (2) \$100 million (regardless of the improper payment error rate).

To implement IPERA, OMB in April 2011 issued governmentwide guidance that required agencies to report to the President and Congress, through their annual performance and accountability report (PAR) or annual financial report (AFR), an estimate of the annual amount of improper payments for all programs and activities determined to be susceptible to significant improper payments, regardless of the dollar amount of the estimate. In addition, OMB's guidance stated that each agency inspector general should review agency improper payment reporting in the PAR or AFR, and accompanying materials, to determine if the agency is in compliance with the Improper Payments Information Act of 2002 and complete its review and determination within 120 days of the publication of the federal agency's annual PAR or AFR. Fiscal year 2011 is the first year of implementation for IPERA.

My office is reporting that the Commission on Civil Rights (Commission) did not include information related to improper payments in its PAR. Further, the Commission was not in compliance with IPERA and OMB's guidance because the Commission did not (1)

¹ OMB Guidance M-11-16 *Issuance of Revised Parts I and II to Appendix C of OMB Circular A-123*. (Apr. 14, 2011)

² Pub. L. No. 111-204, 124 Stat. 2224 (July 22, 2010). The statute defines an improper payment as any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. It includes 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), and any payment that does not account for credit for applicable discounts.

institute a risk assessment to identify those programs and activities susceptible to significant improper payments or (2) seek a waiver from OMB for conducting such an assessment. Agency personnel stated that they did not do a risk assessment since the Commission's \$9.4 million in appropriations received for fiscal year 2011 is less than the minimum reporting threshold for significant improper payments.

Sincerely yours,

A handwritten signature in black ink that reads "Frances Garcia". The signature is written in a cursive, flowing style.

Frances Garcia
Inspector General

cc: Chairman of the Senate Homeland Security and Governmental Affairs Committee
Ranking Member of the Senate Homeland Security and Governmental Affairs
Committee
Chairman of the House Oversight and Government Reform Committee
Ranking Member of the House Oversight and Government Reform Committee
Comptroller General of the United States
Controller of the Office of Management and Budget
Acting Staff Director of the U.S. Commission on Civil Rights

List of Addressees

The Honorable Martin R. Castro, Chairman
The Honorable Abigail Thernstrom, Vice Chair
The Honorable Roberta Achtenberg
The Honorable Todd Gaziano
The Honorable Gail Heriot
The Honorable Peter Kirsanow
The Honorable David Kladney
The Honorable Michael Yaki

Reporting Fraud, Waste, and Abuse in USCCR

To report fraud, waste, and abuse to the U.S. Commission on Civil Rights (USCCR), do one of the following. (You may do so anonymously.)

- Call toll-free (866) 680-7963 to speak with a hotline specialist, available 24 hours a day, 7 days a week.
- Send an e-mail to OIGHotline@gao.gov.
- Write to:

GAO Office of Inspector General
ATTN: Hotline
441 G Street NW, Room 1808
Washington, DC 20548