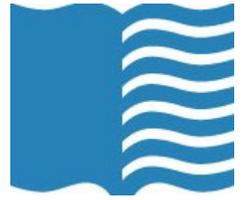


The Library of Congress
Office of the Inspector General



Library-wide

Improper Payments Review II

Report No. 2011-SP-101
May 2011

FOR PUBLIC RELEASE





UNITED STATES GOVERNMENT

LIBRARY OF CONGRESS

Memorandum

Office of the Inspector General

TO: James H. Billington
Librarian of Congress

May 13, 2011

FROM: Karl W. Schornagel
Inspector General

SUBJECT: Improper Payments Review
Report No. 2011-SP-101

This transmits our final report summarizing the results of the Office of the Inspector General's review of improper payments. The executive summary begins on page *i*, and complete findings appear on pages 4 to 7.

Based on the written comments to the draft report, we consider all of our recommendations resolved. Please provide, within 30 calendar days, an action plan addressing implementation of the recommendations, including implementation dates, in accordance with LCR 2023-9, *Rights and Responsibilities of Library Employees to the Inspector General*, §6.A.

We appreciate the cooperation and courtesies extended by the Office of the Chief Financial Officer, Human Resources Services, and the Office of Contracts and Grants Management during this review.

cc: Chief of Staff
Chief, Support Operations

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▶▶ EXECUTIVE SUMMARY

In fiscal year (FY) 2010, improper payments made by the federal government totaled \$125 billion.¹ Improper payments by any federal agency can create public distrust and inefficiencies. In the federal arena, the Office of Management and Budget (OMB) has taken the lead by tasking executive agencies with measuring and reporting improper payments and implementing corrective actions. Although OMB has no jurisdiction over the Library of Congress, Library management has been vigilant in joining all federal entities in their efforts to control and eliminate improper payments.

To evaluate the Library's exposure to improper payments, the Office of the Inspector General implemented a series of reviews to assess the effectiveness of the Library's controls for reducing improper payments. This is the second report in this series.

Improper payments are generally defined as payments that should not have been made or were made in an incorrect amount. Any payment an agency makes to an ineligible recipient or for an ineligible service, duplicate payment, payment for services not received, or payment in an incorrect amount meets the definition of an improper payment. In addition, when an agency cannot discern the propriety of a payment due to insufficient documentation, the payment also qualifies as improper.

We reviewed Library disbursements for the period October 1 – November 30, 2010. This review included an expanded scope from our initial review.² In addition to a review for duplicate payments, we also:

- analyzed purchase card (p-card) transactions for compliance with the Library's policy, and

¹ As reported on paymentaccuracy.gov, an official Web site of the United States Government. This site contains information that has been collected from various federal agencies pursuant to Executive Order 13520, *Reducing Improper Payments* (dated November 20, 2009), and Office of Management and Budget Circular A-123, Appendix C, Part III, *Requirements for Implementing Executive Order 13520, Reducing Improper Payments*.

² *Improper Payments Review*, Report No. 2010-AT-103, February 2011.

- searched Library disbursements for indications of conflicts of interest involving Library employees and vendors

We found the following issues:

Improper P-Card Usage of the Gift Shop Requires Alternate Solution—The Finance and Accounting section in the Office of Business Enterprises (OBE) oversees gift shop operations. In conducting gift shop business OBE purchases retail inventory using a Library-issued p-card. During the review period, we found that OBE violated p-card regulations on 18 occasions by splitting p-card orders to circumvent the established single purchase limit of \$3,000. OBE violations totaled \$13,230 in purchases over the spending limit.

Recognizing that OBE must have efficient means to order and re-order retail stock, we recommend that Library management develop alternative procedures to assist OBE in ordering retail inventory or revise the existing p-card regulations to prevent future violations.

Controls Needed to Prevent Conflicts of Interest of Employees and Contractors—Library policy prohibits contract awards to current federal employees. Our review determined that Library controls were ineffective in preventing and detecting such conflicts of interest. We found a case where an employee concurrently received compensation as a contractor. Over a seven-month period, the employee received \$19,000 for working in the Library Services' Hispanic Division while invoicing the Library over \$9,100 as a contractor for the World Digital Library. The contracting services included Web site designing, cataloging of metadata, and translational services.

We recommend that Human Resources Services and the Office of Contracts and Grants Management develop a process for comparing employee and contractor data to identify and prevent such conflicts of interest.

Management concurred with our findings and recommendations. The full text of management's response is included as an appendix.

▶▶ BACKGROUND

Under various statutes, Congress has granted the Library the authority to receive and disburse funds for its own operations.³ Using this authority, the Library transacts payments to its vendors and customers primarily through checks and automated clearing house (ACH) transfers issued by its Disbursing Office (DO) operating in the Office of the Chief Financial Officer (OCFO). During the first quarter of FY 2011, the Library issued 5,668 ACHs and 596 checks totaling \$102.3 million and \$2.2 million, respectively.⁴

Given the volume, timing, and amount of funds the Library oversees, management must maintain an effective system of internal control that prevents occurrences of improper payments. An effective system of internal control must assure the accuracy and propriety of a disbursement transaction including authority, receipt of goods and services, payee, amount, payment destination, and recording.

In September 2008, we reported that the DO needed to improve certain internal controls over issuing electronic payments and resolving rejected vendor payments.⁵ Overall, we found DO controls to be strong. To complement our review of internal control, we have implemented a program for periodically reviewing improper payments.

Improper payments have become an increasing problem throughout the federal government. In March 2010, the Office of Management and Budget (OMB) issued a memorandum (10-13 *Issuance of Part III to OMB Circular A-123, Appendix C*) to provide guidance to executive agencies for identifying and preventing improper payments. Federal agencies outside of the executive branch can also use this guidance as best practices. OMB memorandum 10-13 defines an improper payment as:

“...any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable

³ 2 USC §§ 142a-142l, 17 USC § 111d-2, and 20 USC § 2143.

⁴ ACH disbursements include both vendor payments and payroll.

⁵ *Disbursing Office Controls, While Strong Overall, Can Be Improved*, Report No. 2007-PA-103, September 2008.

requirements. Incorrect amounts are overpayments and underpayments (including inappropriate denials of payment or service). An improper payment includes any payment that was made to an ineligible recipient or for an ineligible service, duplicate payments, payments for services not received, and payments that are for the incorrect amount. In addition, when an agency's review is unable to discern whether a payment was proper as a result of insufficient or lack of documentation, this payment must also be considered an error."

Within the context of the current federal budget environment, preventing and detecting improper payments is paramount to agency management and its stakeholders. The Office of the Inspector General will continue to assess internal controls established by Library management designed to prevent and detect improper payments.

►► OBJECTIVES, SCOPE, AND METHODOLOGY

Our objectives were to examine Library disbursements during the period October 1 – November 30, 2010 to detect:

- duplicate payments;⁶
- violations of the Library’s p-card policy; and
- conflicts of interest involving Library employees and vendors providing goods and services to the Library.

The scope of our review included all payments made by the DO during the above-mentioned period.

To accomplish our objectives, we identified areas where improper payments could occur in addition to duplicate payments. We obtained expenditure data recorded in the Library’s financial management system, Momentum, from the Financial Reporting Office (FRO). Using data analytics software, we performed 100% testing on 2,175 records to search for payments which had the same payment amount, invoice number, and invoice date. We reviewed supporting documentation from Momentum to determine the disposition of matching results. We also performed 100% testing on 1,481 records for split p-card transactions.

We performed comprehensive data analysis using scripts (programs) to automate our review of duplicate payments, split p-card transactions, and employees/vendors with identical addresses or bank accounts.

We conducted this review in accordance with *Quality Standards for Inspection and Evaluation* published by the Council of the Inspectors General on Integrity and Efficiency.

⁶ Transactions reviewed for duplicate payments were from October 1 – November 9, 2010.

►► FINDINGS AND RECOMMENDATIONS

In our first review of improper payments, we reported that the Library had in place adequate internal controls to prevent and detect improper payments. The results of our second review found opportunities where Library management can enhance its controls over p-card transactions and possible conflicts of interest involving employees and vendors. The implementation of our recommendations will assist Library management in tightening its ability to prevent improper payments.

I. Improper P-Card Usage of the Gift Shop Requires Alternate Solution

The Office of Business Enterprises (OBE) oversees the operation of the Library's gift shop, which conducts its business as a revolving fund.⁷ Revolving funds operate similar to businesses in that they are designed to be self-sustaining after initial start-up. Ongoing operation depends on management structuring sales margins that accommodate not only direct product costs but also cover the overhead or indirect costs necessary for sustaining operations absent a pure profit margin. Although revolving funds operate without annual Congressional appropriations, the funds must receive annual Congressional authority to spend their operating revenues.

Under Congressional authorization, the Library purchases and resells items associated with its collections, exhibits, performances, and special events. OBE currently uses a p-card to purchase inventory for resale, because it lacks specific contracting authority. At the same time, placing orders for retail inventory through the Office of Contracts and Grant Management (OCGM) is both inefficient and impractical because of the significant lag time and OCGM's procedural requirements. OBE is able to sustain reasonable ordering efficiencies to support its inventory needs by using its Library p-card to order retail merchandise. Unfortunately, current Library p-card policies are not designed to support the size and nature of the gift shop's purchasing needs.

⁷ 2 USC §182b establishes a revolving fund for the operation of a gift shop at the Library of Congress.

Library Directive 06-01, issued by OCGM and OCFO, restricts p-cards usage to supply and service micro-purchases. The Federal Acquisition Regulation (FAR) defines the micro-purchase threshold as \$3,000 with limited exceptions. However, the Library Directive states a threshold of \$2,500. In addition, sub-part 13.301(b) of FAR states, “[a]gency procedures should not limit the use of the Government-wide commercial purchase card to micro-purchases.” Accordingly, the Library’s Directive allows cardholders with contracting authority to use the p-card for purchases greater than micro-purchases. However, our review determined that OBE does not currently have the special contracting authority necessary to qualify for the exception to the \$3,000 transaction limitation. In addition, p-card users may not split purchases into smaller transactions in order to circumvent the threshold limit.

We found that during the period under review, OBE violated Directive 06-01 by transacting 18 split p-card purchases totaling \$13,230 over the \$3,000 limit. Our analysis of vendor invoices confirmed that OBE made these purchases from the same vendors in violation of the transaction limit by making multiple payments on orders effectively over \$3,000. A previous audit found that the same office, (formerly the Retail Marketing Office), had violated p-card directives in a similar manner.⁸

Based on discussions with OBE management, p-cards are the preferred method of payment because they provide greater flexibility and expeditious ordering compared to other acquisition alternatives established by OCGM.

Recommendation

OCGM and OCFO should provide a remedy that will allow OBE to operate in compliance with Library directives while retaining the flexibilities necessary to support gift shop operations. To accomplish this we recommend that:

1. OCGM assist OBE by providing alternative ordering methods such as blanket purchase agreements that will meet their purchase turnaround requirements, or grant OBE the

⁸ *Audit of the Retail Marketing Office*, Report No. 2000-INA-LS-005, February 2001.

- authority to make p-card purchases beyond the micro-purchase limit.
2. OCGM and OCFO update the Directive to officially reflect the current spending limit for micro-purchases of \$3,000.

Management Response

OCGM and OBE are working together to create an acquisition strategy which includes blanket purchasing agreements to meet OBE's requirements.

II. Controls Needed to Prevent Conflicts of Interest of Employees and Contractors

During our review, we attempted to determine if any employee or contractor provided overlapping services to the Library by matching addresses and bank accounts of employee and contractor data files. Initially, we identified several possible exceptions. However, upon further review, these were mostly situations where a contractor terminated their services and became an employee or vice versa.

We did note one exception where a current employee was concurrently serving as a contractor for over seven months. During this time, the individual invoiced the Library over \$9,100 as a contractor providing various services to the World Digital Library including Web site designing, cataloging of metadata, and translational services. During this same period, the individual received approximately \$19,000 in pay as a Junior Fellow and subsequently a full-time employee from Library Services' Hispanic Division.

We determined that this occurred because Human Resource Services (HRS) and OCGM do not have controls designed to detect occurrences of dual compensation. This occurrence violates Library of Congress Regulation 2111, which prohibits awarding contracts to current federal government employees.⁹ The OIG's Investigations division plans to follow up on the dual compensation issue we identified.

⁹ LCR 2111 – *Procurement – Nonpersonal Services from Individual Contractors*, prohibits awarding contracts to current federal employees without an exception from the Librarian, or his designee not below the level of Chief of the Contracting Office, but only if there is a most compelling reason to do so, such as when the Library's needs cannot reasonable be otherwise met.

Recommendation

We recommend that HRS and OCGM enhance information they collect and maintain on employees and contractors and develop internal control procedures to identify situations where a conflict of interest may exist.

Management Response

OCGM and HRS agreed to work together to enhance information they collect and maintain on employees and contractors and to develop a protocol to prevent potential conflicts of interest.

» CONCLUSION

As federal agencies continue to struggle in reducing improper payments, government-wide guidance continues to evolve to help agencies eliminate and recover improper payments. As transparency of these improper payments increases, so does public scrutiny, especially during these restrained economic times.

This second review for improper payments at the Library found opportunities to strengthen controls surrounding improper payments. Our office will continue to periodically review the Library's disbursements and analyze whether established management controls are effectively preventing further improper payments. We believe that these measures are necessary and prudent in today's fiscal environment.

Major Contributors to This Report:

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Jennifer Bosch, Management Analyst

» MANAGEMENT RESPONSE

UNITED STATES GOVERNMENT

Memorandum*Office of the Chief of Support Operations**Library of Congress*

DATE: May 4, 2011
TO: Karl W. Schornagel
Inspector General
FROM: Lucy D. Suddreth

Chief, Support Operations
SUBJECT: Draft Audit Report No. 2011-SP-101

Thank you for the opportunity to comment on Draft Audit Report No. 2011-SP-101 pertaining to the library-wide *Improper Payments Review II*. Your memo dated April 20 was directed to the Chief Financial Officer who referred your recommendations to OSO for comment.

Both the Office of Contracts and Human Resources Services provided feedback which is reflected in this management response. Our comments relative to the report's findings and recommendations follow.

cc: Dennis Hanratty
Jeff Page
Robert Williams

OIG Recommendation No. 1:

OCGM and OCFO should provide a remedy that will allow OBE to operate in compliance with Library directives while retaining the flexibilities necessary to support gift shop operations. To accomplish this we recommend that:

1. OCGM assist OBE by providing alternative ordering methods such as blanket purchase agreements (BPA) that will meet their purchase turnaround requirements, or grant OBE the authority to make p-card purchases beyond the micro purchase limit.
2. OCGM and OCFO update the Directive to officially reflect the current spending limit for micro-purchases of \$3,000.

Response:

Concur: OCGM has been in discussions with OBE since December 2010 to create an acquisition strategy that will meet their requirements. OBE has agreed to draft requirements after the summer selling season to support BPA. This is a more viable solution as p-card purchases beyond the micro-purchase limit can only be made by a warranted contracting officer and must be made in compliance with all rules and regulations applicable to all purchases over the micro purchase limit (this includes the need for sole source justifications, competition, and potentially publishing the requirement).

Concur: OCGM is currently incorporating changes to the Directive, regarding p-card spending limit for micro purchases of \$3000.

OIG Recommendation No. 2:

We recommend that HRS and OCGM enhance information they collect and maintain on employees and contractors and develop internal control procedures to identify situations where a conflict of interest may exist.

Response:

Concur: OCGM and HRS will work together to enhance information they collect and maintain on employee(s) and contractor(s), and to develop a protocol to prohibit potential conflicts of interest.