Federal Housing Finance Agency
Office of Inspector General

FHFA Adequately Designed and Implemented Controls to Detect and Prevent Improper Vendor Payments During Fiscal Year 2021

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Executive Summary

The Federal Housing Finance Agency (FHFA or Agency) is charged by the Housing and Economic Recovery Act of 2008 with the supervision of Fannie Mae and Freddie Mac (together, the Enterprises); Common Securitization Solutions, LLC, an affiliate of the Enterprises; the Federal Home Loan Banks; and the Federal Home Loan Banks' fiscal agent, the Office of Finance (collectively, the regulated entities). FHFA's mission is to ensure the safety and soundness of its regulated entities so they serve as a reliable source of liquidity and funding for housing finance and community investment. Since September 2008, the Agency has also served as conservator for the Enterprises.

The Payment Integrity Information Act of 2019 (PIIA), effective March 2, 2020, and its predecessor, the Improper Payments Information Act of 2002, as amended (IPIA), requires covered federal agencies to periodically review, estimate, and report programs and activities that may be susceptible to significant improper payments. PIIA, among other things, directs federal Inspectors General to determine annually whether their respective covered agencies are in compliance with the statute and to submit a report to the head of the agency, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Reform of the House of Representatives, and the Comptroller General of the United States.

FHFA, through its Office of General Counsel (OGC), has rendered the opinion that PIIA does not apply to the Agency because its funds, by law, are not considered to be Government funds or public funds. Our Office of Counsel reviewed the Agency's legal memorandum supporting its determination of applicability and concluded that FHFA's determination was reasonable. FHFA asserts in its *FY 2021 Performance & Accountability Report* (2021 PAR) that it "complies in spirit with the Act [PIIA], and as part of its sound internal control structure, has established controls to detect and prevent improper vendor payments."

Within FHFA, the Office of Budget and Financial Management (OBFM) manages the Agency's procedures and controls to detect and prevent improper vendor payments through its interagency agreement with the United States Department of the Treasury's Bureau of the Fiscal Service (BFS). In light of the Agency's representation in its 2021 PAR, we assessed the design and implementation of select FHFA controls to detect and prevent improper vendor payments during fiscal year 2021 (review period).

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We found no weaknesses in the design and implementation of FHFA's controls to detect and prevent improper vendor payments. Therefore, we make no recommendations in this report.

This report was prepared by Heath Wolfe, Director of Audit Operations, with the assistance of Abdil Salah, Assistant Inspector General for Audits. We appreciate the cooperation of FHFA staff, as well as the assistance of all those who contributed to the preparation of this report.

This report has been distributed to FHFA, Congress, the Office of Management and Budget, and others and will be posted on our website, www.fhfaoig.gov, and www.oversight.gov.

James Hodge, Deputy Inspector General for Audits /s/

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ABBREVIATIONS

2021 PAR	FY 2021 Performance & Accountability Report
APM	Acquisition Procedures Manual
BFS	United States Department of the Treasury's Bureau of the Fiscal Service
DNP	United States Department of the Treasury's Do Not Pay
FAR	Federal Acquisition Regulation
FHFA or Agency	Federal Housing Finance Agency
GAO	Government Accountability Office
IPIA	Improper Payments Information Act of 2002, as amended by the Improper Payments Elimination and Recovery Act of 2010, and the Improper Payments Elimination and Recovery Improvement Act of 2012
OBFM	Federal Housing Finance Agency Office of Budget and Financial Management
OGC	Federal Housing Finance Agency Office of General Counsel
OIG	Federal Housing Finance Agency Office of Inspector General
PIIA	Payment Integrity Information Act of 2019
SAM	United States General Services Administration's System for Award Management

BACKGROUND

Federal Laws to Reduce Improper Payments

Congress has long recognized the risk that payments made by federal agencies to program beneficiaries, grantees, vendors, and contractors, or on behalf of program beneficiaries, may be "improper" in one or more respects. To mitigate this risk, Congress passed the Improper Payments Information Act of 2002, as amended by the Improper Payments Elimination and Recovery Act of 2010 and the Improper Payments Elimination and Recovery Improvement Act of 2012 (collectively, IPIA), which required federal agencies to periodically review, estimate, and report programs and activities that may be susceptible to significant improper payments. As we previously reported,[1] FHFA, through its OGC, determined that the IPIA requirements were not applicable to the Agency because those requirements apply only to payments made with federal funds and FHFA does not finance its operations with federal funds.

In 2020, Congress passed PIIA,[2] effective March 2, 2020, which superseded IPIA. PIIA requires covered federal agencies to periodically review, estimate, and report programs and activities that may be susceptible to significant improper payments. Specifically, PIIA directs that covered federal agencies: (1) identify programs and activities that may be susceptible to significant improper payments; (2) estimate the amount of annual improper payments for those programs and activities and implement a plan to reduce them; and (3) report the estimated amount of improper payments and the progress to reduce them. PIIA also directs federal Inspectors General to determine annually whether their respective covered agencies are in compliance with the statute and to submit a report to the head of the agency, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Reform of the House of Representatives, and the Comptroller General of the United States.

PIIA defines "improper payment" as any payment that should not have been made or that was made in an incorrect amount, including an overpayment or underpayment, under a statutory, contractual, administrative, or other legally applicable requirement; it includes (1) any payment to an ineligible recipient, (2) any payment for an ineligible good or service, (3) any

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[1] See OIG, *Audit of FHFA's Design of Procedures and Guidance to Prevent and Reduce Improper Payments* (Mar. 11, 2021) (AUD-2021-003) (online ***here***).

[2] PIIA authorized the Do Not Pay (DNP) portal, which is administered by the United States Department of the Treasury's Bureau of the Fiscal Service, as a service that agencies can use at no cost to check many data sources (e.g., data on deceased individuals and entities barred from receiving federal awards) at one time to verify a recipient's eligibility for payment. The DNP portal helps ensure the integrity of the nation's payment process.

duplicate payment, (4) any payment for a good or service not received, except for those payments where authorized by law, and (5) any payment that does not account for credit for applicable discounts.[3] It defines "significant improper payments" as the gross annual improper payments in a program exceeding either: (a) both 1.5 percent of program outlays and $10 million of all program or activity payments made during the fiscal year reported; or (b) $100 million (regardless of the percentage of total program outlays).

PIIA Does Not Apply to FHFA

FHFA's OGC advised us that it has determined that PIIA does not apply to the Agency because FHFA's funds, by law, are not considered to be Government funds or public funds. OIG's Office of Counsel reviewed FHFA's legal memorandum supporting its determination of applicability and concluded that FHFA's determination was reasonable.

FHFA Asserts That It Complies in Spirit with PIIA

In its 2021 PAR,[4] FHFA reported:

> FHFA, which is funded with non-appropriated funds, complies in spirit with the Act [PIIA], and as part of its sound internal control structure, has established controls to detect and prevent improper vendor payments. FHFA accesses and reviews the exclusions list in the system for award management [SAM][5] to ensure that potential awardees do not appear on the list prior to awarding contracts. FHFA contracts with [BFS] for accounting services, including payments to vendors. The supplier database[6] is compared to the Do Not Pay [DNP] portal on a daily basis. [7] A copy of the supplier database is sent to the [DNP] portal once a week. Additionally, matching results are pulled from the [DNP] portal once a week. The matching results are researched and acted on, as appropriate. FHFA has not identified any programs or activities susceptible to significant improper payments that meet the [PIIA's] thresholds.

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[3] *See* 31 U.S.C. § 3351(4).

[4] *See* FHFA, *Fiscal Year 2021 Performance and Accountability Report*, at 106 (Nov. 15, 2021) (online ***here***).

[5] The System for Award Management, which is administered by the United States General Services Administration, is an official government system in which contractors can register to do business with the United States Government, check their registration status, and agencies can search for entity registration and exclusion records.

[6] FHFA's supplier database is a listing of the Agency's authorized vendors.

[7] OBFM and BFS officials clarified that BFS compares the Agency's supplier database to SAM daily. The DNP portal receives data directly from SAM, which is refreshed daily to ensure up-to-date results.

FHFA's Procurement Governing Authorities and Guidance for Vendor Payments

FHFA, as an independent, non-appropriated agency, is not subject to the Federal Acquisition Regulation (FAR).[8] However, the Agency states in its Acquisition Policy (FHFA Policy No. 503) that it follows the FAR on a voluntary basis, except for flexibilities set forth in its *Acquisition Procedures Manual* (APM). The APM, along with other supplementary FHFA memoranda, implements the Agency's Acquisition Policy. FAR 4.1102 generally requires vendors to be registered in SAM at the time they submit their offer or quotation.

Designated by FHFA's Director, OBFM's Manager of Contracting Operations serves as the Agency's Senior Procurement Executive responsible for the management of the Agency's procurement system and all contracting activity.

In accordance with the FAR, FHFA makes its procurement awards using governmentwide acquisition contracts,[9] which are administered by other agencies, and open market contracts.[10] FHFA is responsible for the solicitation and award of open market contracts, including the checking of SAM prior to award.

FHFA has several written policies and procedures that govern its processes related to vendor payments to include: Acquisition Policy; APM; OBFM's Micro-Purchase Procedures and Supplemental Purchase Cardholder Guidance; OBFM's Purchase Charge Card Procedures; OBFM's Invoice and Payment Procedures; and OBFM's Accrual and Deobligation Procedures.

FACTS AND ANALYSIS

The objective of the audit was to assess the design and implementation of select FHFA controls to detect and prevent improper vendor payments during the review period. Because of FHFA's representation in its 2021 PAR, the audit focused on the Agency's controls and procedures for (1) accessing and reviewing the exclusions list in SAM and (2) utilizing BFS' DNP portal.

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[8] The FAR is the primary regulation used by all federal executive agencies in their acquisition of supplies and services with appropriated funds.

[9] Governmentwide acquisition contracts awarded by FHFA were excluded from the scope of this audit since the contracts are administered by other agencies who were responsible for checking SAM prior to their award.

[10] FAR 8.402(f) defines open market as items not in the General Services Administration's Federal Supply Schedule.

Consistent with Its 2021 PAR, FHFA Accessed and Reviewed SAM, and Utilized the DNP Portal

During fiscal year 2021, FHFA awarded 20 open market contracts. We found OBFM accessed and reviewed the exclusions list in SAM for all the contracts. Specifically, OBFM confirmed that potential awardees did not appear on the list prior to the Agency awarding the contracts.

Additionally, we found that during the review period, BFS, on behalf of FHFA, performed the following services:

- Compared the Agency's supplier database to SAM daily.
- Submitted the Agency's supplier database to the DNP portal once a week to identify and deactivate prohibited vendors.[11]

CONCLUSION ....

We found no weaknesses in the design and implementation of FHFA's controls to detect and prevent improper payments.

FHFA COMMENTS AND OIG RESPONSE ....

We provided FHFA management an opportunity to review and comment on a draft of this audit report. While management did not provide an official written response to the draft of this report, we did incorporate management's technical comment that was provided to us. FHFA management agreed with the report's conclusion that found no weaknesses in the design and implementation of FHFA's controls to detect and prevent improper payments.

[11] During the audit, FHFA and BFS officials stated that the Agency never had a matching result to a prohibited vendor. FHFA officials also stated that the Agency did not have procedures for handling if a matching result was identified in the future. On March 22, 2022, FHFA issued and provided its updated APM to include procedures for handling if a matching result was identified. Therefore, we make no recommendations at this time.

OBJECTIVE, SCOPE, AND METHODOLOGY ....

Because FHFA reports in its 2021 PAR that it complied voluntarily with PIIA during that fiscal year and "as part of its sound internal control structure, has established controls to detect and prevent improper vendor payments," we assessed the design and implementation of select FHFA controls to detect and prevent improper vendor payments during fiscal year 2021. The audit focused on FHFA's controls and procedures for (1) accessing and reviewing the exclusions list in SAM and (2) utilizing BFS' DNP portal.

To accomplish the audit, we:

- Reviewed GAO's *Standards for Internal Control in the Federal Government*, GAO-14-704G (September 2014), and determined that the control activities component of internal control was significant to this objective, focusing specifically on the underlying principles that management should design control activities to achieve objectives and respond to risks, and management should implement control activities through policies.

- Reviewed OIG's prior PIIA audit documentation and audit report (AUD-2021-003, dated March 11, 2021).

- Reviewed IPIA, PIIA, and related Office of Management and Budget requirements and guidance.

- Obtained FHFA's determination of the applicability of PIIA to the Agency and consulted with our Office of Counsel on FHFA's determination of applicability.

- Reviewed FHFA's 2021 PAR.

- Determined the number of open market contracts awarded by FHFA from October 1, 2020, to September 30, 2021. For these contracts, we tested for compliance with the Agency's Acquisition Policy to determine whether FHFA accessed and reviewed the exclusions list in SAM to ensure that potential awardees do not appear on the list prior to awarding the contracts.

- Interviewed FHFA officials/staff to obtain additional background information, such as vendor payment procedures, related correspondence, and results of procedures performed, including any legal opinions received and decisions taken.

- Obtained and reviewed the Agency's Acquisition Policy, APM, invoice and payments procedures, purchase charge card procedures, accrual and deobligation procedures, micro-purchase procedures and supplemental purchase cardholder guidance, and internal control over financial reporting self-assessment for fiscal year 2021.

- Reviewed GAO's report on its audit of FHFA's financial statements for fiscal years 2021 and 2020, and inquired of its staff about the scope and results of any relevant testing it performed in support of the audit.[12]

- Assessed the reliability of data received for this audit by (1) reviewing the data for obvious errors and incompleteness, (2) reviewing existing information about the data and the systems that produced them, and (3) interviewing Agency officials knowledgeable about the data. We determined that the data were sufficiently reliable for the purposes of this report.

We conducted this performance audit between December 2021 and March 2022 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 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.

[12] GAO did not identify any substantive controls or compliance errors with the Agency's invoice and payment process controls.

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