



Performance Audit of the
Vendor Payment Program

Background:

Public Act 100-1089, effective August 24, 2018, amended the State Prompt Payment Act to codify the Vendor Payment Program (Program). The Public Act also required the Auditor General to conduct a performance audit of the Program that included a review of the administration of the Program and compliance with requirements applicable to participating vendors, qualified purchasers, qualified accounts receivable, and financial backer disclosures. The audit shall cover the Program's operations for fiscal years 2019 and 2020.

The Program was developed so that vendors awaiting payment by the State could assign their receivables and any accompanying prompt payment interest, in exchange for immediately receiving payment for 90 percent of the receivable and ultimately receiving 100 percent.

The Department of Central Management Services (CMS) and the Illinois Office of the Comptroller (IOC) administer the Program which, during FY19 and FY20, consisted of five qualified purchasers who purchased over \$2.1 billion in receivables. The State paid the five qualified purchasers over \$352 million in prompt payment interest penalties during FY19 and FY20.

Key Findings:

- CMS and the IOC, while having authority to administer the Program, do not have any agreement that **details the responsibilities of each agency** in administering the Program.
- CMS **failed to document** the application periods for those entities seeking to become qualified purchasers in the Program. The failure led CMS to inform an Illinois-based minority-owned firm that attempted to become a potential qualified purchaser that the application period was closed. However, CMS subsequently approved four other qualified purchasers over the next three months immediately following this communication.
- The selection of qualified purchasers for the Program is an important decision that should be **guided by sound criteria**. While CMS identified criteria for selection, that **criteria was not consistently followed**. In addition, **CMS could not tell us** who specifically made the decisions to approve entities seeking to become qualified purchasers and **CMS had not maintained documentation** to support how qualified purchasers for the Program were selected. Furthermore, from what documentation is available, it appears CMS allowed and facilitated the purchase of receivables by a qualified purchaser that did not have all formalized documentation submitted for selection to the Program.
- CMS and the IOC have not enforced Program Terms relative to Deferred Payment Reserve Accounts for the Program.
- CMS and the IOC allow qualified purchasers to submit financial backer disclosures after the fact. Disclosures due July 1, 2020, had yet to be published by CMS by March 31, 2021. The IOC published the disclosures on March 31, 2021. Therefore, the public had **639 days of not knowing who was providing financial backing for qualified purchasers participating in the Program**. We found that disclosures were not always filed timely and that CMS and the IOC do not know whether the disclosures are accurate.
- While the IOC allows State vendors to receive payments electronically, qualified purchasers under the Vendor Payment Program (Program) **do not have the same opportunity**. Qualified purchasers reported **over \$7.2 million in payments** made under the Program were mailed to a party other than the qualified purchaser. We found payments mailed to: an incorrect qualified purchaser; an incorrect sub-participant; and the vendor as opposed to the qualified purchaser.
- CMS and the IOC have not taken the necessary actions to confirm that all qualified purchasers have complied with the monthly reporting requirements for the Program. This has **resulted in missing data** on the monthly reporting that occurred during FY19 and FY20. Additionally, the **guidance on what should be reported is inconsistent** with the directives from the State Prompt Payment Act.

- CMS allowed qualified purchasers in the Program to submit, for approval and acknowledgment, receivables which were not yet eligible under the State Prompt Payment Act.
- CMS and the IOC have allowed qualified purchasers to operate the payment process under the Program in violation of the Program Terms. This can result in one qualified purchaser having a competitive advantage over another if its payment terms are more generous than another qualified purchaser.
- CMS and the IOC did not enforce Program Terms when they allowed participating vendors to sell receivables among different qualified purchasers.
- The IOC does not have a plan for payment of interest penalties under the Program. This lack of a plan has resulted in delayed payments which has a negative impact on both qualified purchasers and State vendors. In our sample of interest payments during FY19-FY20, **payments were made between 0 and 547 days from when the State agencies requested the payments.**

Key Recommendations:

The audit report contains eleven recommendations directed to CMS and the IOC:

- CMS and the IOC should determine which activities each agency has responsibility for under the Vendor Payment Program and memorialize those responsibilities in an Intergovernmental Agreement.
- CMS should comply with State rules and define an application period when it seeks to add qualified purchasers to the Vendor Payment Program.
- CMS should perform the review necessary and document the selection process, including testing of applicant information technology capabilities, for qualified purchasers in the Vendor Payment Program.
- CMS and the IOC should enforce the requirement of the maintenance and review of Deferred Payment Reserve Accounts under the Vendor Payment Program. Additionally, the IOC and CMS should make a definite determination as to whether the existing qualified purchasers are exempt from maintaining a Deferred Payment Reserve Account.
- CMS and the IOC should clarify when the General Assembly expects financial backer disclosures to be filed for the Vendor Payment Program. Additionally, CMS and the IOC should consider revising the joint administrative rules to codify financial backer disclosures, including when those disclosures need to be filed. Finally, CMS and the IOC should ensure that all qualified purchasers are submitting all required information on the financial backer disclosures, and in a timely manner.
- The IOC should take the steps necessary to eliminate sending payments under the Vendor Payment Program to the incorrect entity. Additionally, the IOC should consider having vendors and qualified purchasers contact the IOC when State payments have been misdirected. Finally, the IOC should determine the cost of processing payments on hardcopy warrants for the Program to determine whether it is the most cost effective process.
- CMS and the IOC should take the steps necessary to make all monthly reporting criteria be consistent for the Vendor Payment Program. Additionally, CMS and the IOC should confirm that all required information is submitted by the qualified purchasers on the monthly reports.
- CMS should enforce the requirements of the State Prompt Payment Act relative to only eligible receivables being included in the assignment agreements submitted by qualified purchasers. If CMS believes the inclusion of receivables less than 90 days old is appropriate it should seek changes to the Act and the Vendor Payment Program Terms.
- CMS and the IOC, as the parties responsible for the Vendor Payment Program, should ensure that qualified purchasers operate under the Program Terms relative to the payment process.
- CMS and the IOC should follow the Program Terms for the Vendor Payment Program and only allow participating vendors to utilize a single qualified purchaser unless that qualified purchaser has violated terms of the assignment agreement or Program. Additionally, CMS should maintain documentation to support why it approved to allow a participating vendor to utilize more than one qualified purchaser at a time.
- The IOC should develop a plan for when interest penalty payments should be made under the Vendor Payment Program.

This performance audit was conducted by the staff of the Office of the Auditor General.

Report Digest

Effective August 24, 2018, Public Act 100-1089 amended the State Prompt Payment Act (Act) to codify the Vendor Payment Program (Program) that had been established under the Illinois Administrative Code. Additionally, Public Act 100-1089 required the Office of the Auditor General to perform a performance audit of the Program. The Public Act contained several issues to examine. Our assessment of these issues is shown in Digest Exhibit 1. (page 1)

Digest Exhibit 1 ASSESSMENT OF AUDIT ISSUES

Audit Issue	Auditor Assessment
<i>Review of the administration of the Program.</i>	<ul style="list-style-type: none"> Auditors found instances of insufficient Program administration by the Department of Central Management Services (CMS) and the Illinois Office of the Comptroller (IOC) including: not having documented application periods; lack of documentation to support selection of qualified purchasers; failure to enforce deferred payment reserve account requirements; misdirection of payments due to qualified purchasers; monthly reporting deficiencies; and no plan for the payment of interest due to qualified purchasers. (pages 12-13, 14-22, 29-38, 50-55)
<i>Review of compliance with applicable requirements by participating vendors.</i>	<ul style="list-style-type: none"> Auditors found some participating vendors sold receivables among different qualified purchasers in violation of Program Terms. (pages 47-49)
<i>Review of compliance with applicable requirements by qualified purchasers.</i>	<ul style="list-style-type: none"> Auditors found that CMS and the IOC have allowed qualified purchasers to operate the payment process in violation of the Program Terms which can result in one qualified purchaser having a competitive advantage over another. (pages 42-46)
<i>Review of compliance with applicable requirements for qualified accounts receivable.</i>	<ul style="list-style-type: none"> Auditors found that CMS allowed qualified purchasers to submit receivables which were not yet eligible under the State Prompt Payment Act. (pages 39-41)
<i>Review of compliance with applicable requirements for financial backer disclosures.</i>	<ul style="list-style-type: none"> Auditors found: CMS and the IOC allow qualified purchasers to submit financial backer disclosures after the fact; the public had 639 days of not knowing who were providing financial backing for qualified purchasers for disclosures due in July 2020; disclosures were not always filed timely; and CMS and the IOC do not know whether the disclosures were accurate. (pages 23-28)

Source: OAG assessment of the audit determinations contained in Public Act 100-1089.

Background

In the fall of 2010, the State conducted a small pilot program allowing vendors awaiting payment by the State to assign their receivables and any accompanying prompt payment interest, in exchange for immediately receiving payment for 90 percent of the receivable and ultimately receiving 100 percent. In July 2011, formalized rules were approved to operate the Program. These rules authorized the IOC and CMS to “*establish and implement*” the Program. The Program was developed due to a cash flow deficit experienced by the State that had resulted in State vendors’ payments being delayed. (page 1)

State Vendor Participation

According to CMS information, the number of vendors taking advantage of the benefits of the Program **increased 63 percent** between FY16 (132 vendors) and FY20 (215 vendors). (page 2)

Qualified Purchasers

Qualified purchasers are entities approved by CMS to purchase receivables from State vendors. During FY19 and FY20 there were **five qualified purchasers** that operated within the Program. The five qualified purchasers **reported over \$2.1 billion for 6,164 receivables purchased during FY19-FY20**.

Qualified purchasers must report monthly information to CMS and the IOC relative to the Program. We examined and summarized the monthly reports as well as made some computations to provide information to readers of this report. That information, **for qualified purchasers that participated in the audit**, is provided in Digest Exhibit 2. (page 2)

Digest Exhibit 2
VENDOR PAYMENT PROGRAM INFORMATION
 FY19-FY20

	VAP	VCF	PAY	IFP
# Receivables Assigned	5,643	135	137	208
\$ Receivables Assigned	\$1,086,294,105	\$157,218,078	\$66,260,760	\$880,499,188
# State Base Invoice Payments	7,203	120	571	319
\$ State Base Invoice Payments	\$1,527,347,754	\$148,641,788	\$160,162,761	\$937,035,012
# State Interest Payments	3,978	105	18	244
\$ State Interest Payments	\$207,287,139	\$49,805,684	\$14,648	\$95,385,795
Average # Days to Pay Base Invoice	231	351	237	239
Minimum # Days to Make Base Payment	97	108	0	111
Maximum # Days to Make Base Payment	1,304	1,550	1,027	501
Average # Days to Pay Interest Voucher	251	195	86	177
Minimum # Days to Make Interest Payment	82	53	59	0
Maximum # Days to Make Interest Payment	537	379	328	547

Note: VAP – Vendor Assistance Program; VCF – Vendor Capital Finance; PAY – Payplant; IFP – Illinois Financing Partners.

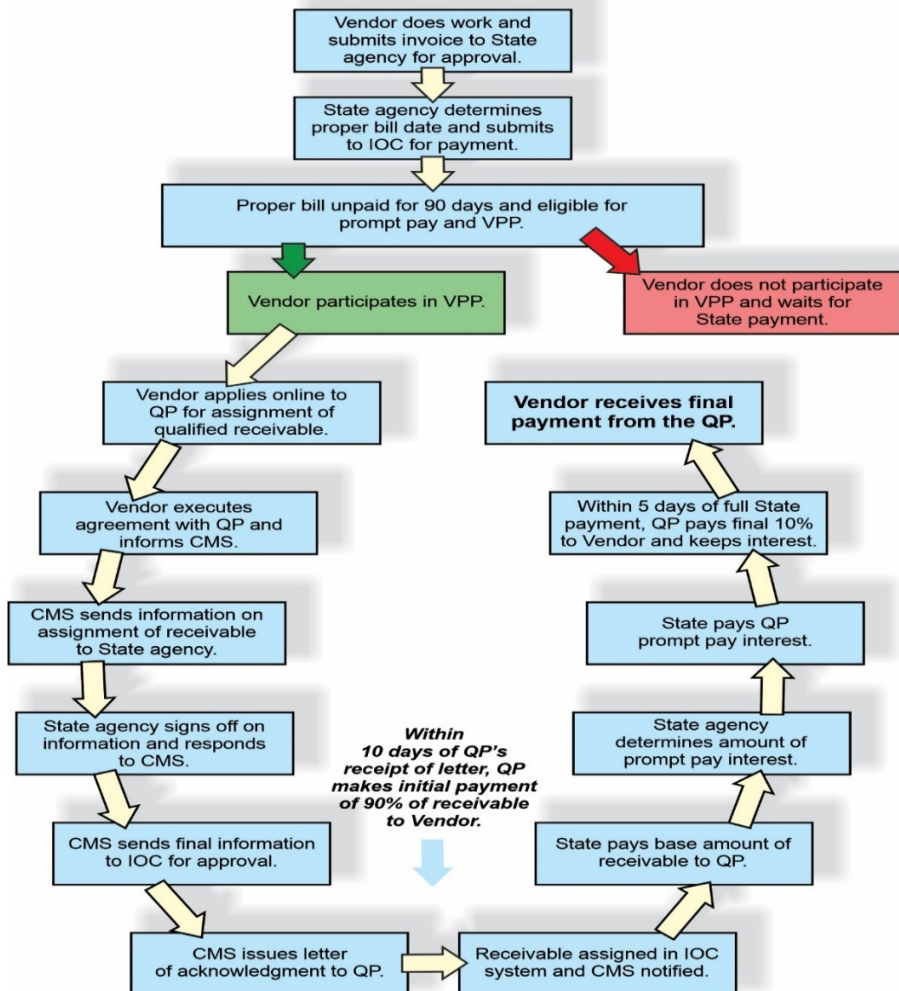
Source: OAG developed.

Prompt Payment Interest Expenditures

Between FY12 and FY20, the IOC reported that the State has paid in **excess of \$1.13 billion** in interest on late payments as prescribed by the State Prompt Payment Act. The IOC told us that it **does not track** the amount of interest that **qualified purchasers are paid** in late payment penalties. We utilized the FY19-FY20 qualified purchaser monthly reporting to determine how the Program interest relates to overall interest paid. We found that the **qualified purchasers received a significant percentage of overall State paid interest. During FY19, qualified purchasers received \$232,837,750** in interest penalty payments. This was 69 percent of all prompt payment interest paid by the State. **During FY20, qualified purchasers received \$119,655,515** in interest penalty payments. This was 73 percent of all prompt payment interest paid by the State. (page 3)

Vendors register online with qualified purchasers during the invoice assignment process. Digest Exhibit 3 provides the flow process for the Program. (page 4)

Digest Exhibit 3
VENDOR PAYMENT PROGRAM
 Process Flowchart



Source: OAG developed from Program information.

Program Administrative Responsibilities

CMS and the IOC, while having authority to administer the Vendor Payment Program, do not have any agreement that details the responsibilities of each agency in administering the Program.

While the State Prompt Payment Act (30 ILCS 540) and the administrative rules (74 Ill. Adm. Code 900.125) give CMS and the IOC the **authority to operate** the Program, **neither directive details the responsibilities and duties** of each of the agencies. Both the IOC and CMS utilize **multiple functional areas** to operate the Program although multiple areas do not translate into multiple staff.

CMS utilizes officials from the legal area **to operate the Program**. This process has **apparently resulted in delays** in the designation of qualified purchasers. On May 27, 2020, a Comptroller official reported that the IOC role in the Program is, *“limited to processing payment requests and then month end reporting requirements.”* [Emphasis added.] However, the joint administrative rules of the IOC and CMS, and the State Prompt Payment Act as amended by Pubic Act 100-1089, **give the IOC the ability to terminate the Program as well as review a qualified purchaser’s performance under the Program.** (74 Ill. Adm. Code 900.125(g) (i); 30 ILCS 540/8(g)(i)) (pages 6-11)

Qualified Purchaser Application Period

CMS **failed to document** the application periods for those entities seeking to become qualified purchasers in the Vendor Payment Program. The failure led CMS to inform an Illinois-based minority-owned firm that attempted to become a potential qualified purchaser that the application period was closed. However, CMS subsequently approved four other qualified purchasers over the next three months immediately following this communication.

During the audit period of FY19 and FY20, there were **five qualified purchasers** in the Program. Digest Exhibit 4 provides a listing of the eight entities that have been designated as a qualified purchaser since Program inception in 2011. A CMS official reported on October 26, 2020, *“In talking with our legal area and researching myself, I have not discovered an application period or schedule. Possibly we will discover some of this in our e-mail search, but for now my knowledge is that there was never a ‘formal’ application period.”*

Digest Exhibit 4
QUALIFIED PURCHASERS IN VENDOR PAYMENT PROGRAM
 2012-2020

PURCHASER	APPROVAL DATE	END DATE
Vendor Assistance Program	12/18/12 ⁽¹⁾	Current
Capital Access Program Trust	08/07/13	(2)/(3)
Muni Pay Me	02/24/14	(2)
Payplant	03/28/14	Current
Capital Restoration Fund of IL	05/12/14	(2)
Vendor Capital Finance	05/20/14	Current
Illinois Financing Partners	06/29/16	Current
Vendor Premium Payment Assistance, LLC	06/01/18	Current

Notes:

(1) Qualified purchaser stated it first purchased receivables in 2011.

(2) CMS could not find evidence of final date in the Program.

(3) CMS reported qualified purchaser was approved yet never had an assigned receivable.

Source: OAG developed from Program information.

While CMS could provide no documentation on application periods, it informed entities seeking to become qualified purchasers that it was **not accepting applications**:

- A Peoria-based entity sought to become a qualified purchaser in February 2014. The entity had just become **certified as a Minority-Owned Business Enterprise under the Business Enterprise Program**. In a February 19, 2014 email, an official for the entity informed a CMS official that it wanted to apply to qualify as a qualified purchaser and that banks had offered to establish a large line of credit for this purpose. The CMS official, after discussing with the CMS Chief Operating Officer replied, *“As I suspected, the application period for bringing in new Qualified Purchasers (QP) is closed at this time.”* **CMS approved four qualified purchasers after this email date, from February 24, 2014, through May 20, 2014.**
- On March 9, 2015, a CMS official informed an official from a prospective qualified purchaser that *“Also, the Vendor Payment Program (VPP) is closed to bringing in more Qualified Purchasers (QP). We have six at the present time. This program closed to any new QPs over a year ago. There are no plans at the present time of re-opening for new QPs.”* **Approximately a year later, in June 2016, CMS approved Illinois Financing Partners as a qualified purchaser in the Program.** (pages 12-13)

Lack of Documentation to Support Qualified Purchaser Decisions

The selection of qualified purchasers for the Program is an important decision that should be **guided by sound criteria**. While CMS identified criteria for selection, that **criteria was not consistently followed**. In addition, **CMS could not tell us** who specifically made the decisions to approve entities seeking to become

qualified purchasers and CMS **had not maintained documentation** to support how qualified purchasers for the Program were selected. Furthermore, from what documentation is available, it appears CMS allowed and facilitated the purchase of receivables by a qualified purchaser that did not have all formalized documentation submitted for selection to the Program.

CMS developed a Checklist for Interested Qualified Purchasers for the Program. The checklist, which is annotated back to the Program Terms, is divided into five sections. However, CMS did not appear to independently verify the information on the checklist. A CMS official reported to auditors that the official believed the information on the checklists were *“self-reported – my understanding is that review and approval was conducted by CMS Legal.”* CMS also utilized documents that **were not detailed** in any guidance for the selection of qualified purchasers.

Approving Qualified Purchaser Prior to Finalized Documentation

On June 29, 2016, a former CMS Director sent an approval letter to Illinois Financing Partners to confirm Illinois Financing Partners (IFP), LLC, IFP Funding, LLC, and IFP Funding Trust to participate in the Program.

The 2nd paragraph of that letter stated, *“This approval is conditioned upon IFP’s implementation of a fully operational and CMS-approved IT [Information Technology] platform in conformance with the requirements of the Program Terms and as referenced in the checklist submitted to CMS by IFP on June 21, 2016, within six (6) months of this letter.”* We had not seen language like this in other approvals so we asked CMS why the qualified purchaser was allowed to start without formalized documentation. CMS replied on March 9, 2021, that *“CMS does not have documentation and cannot address these issues below.”*

Evaluating Potential Qualified Purchasers

During the audit we examined the results of a query into emails for certain CMS officials. From that review we found **34 instances** where there were emails from entities about the designation of qualified purchaser. **CMS did not have documentation to support how it evaluated these entities.**

A March 5, 2019 email from the CMS Director asked how CMS determined whether a qualified purchaser is eligible to participate in the Program. A CMS official replied, *“The original QP was VAP approved in 2011/2012 the latest was VPPA that was finalized in May 2018. We have 5 others that have been active over the course of the program; 2 that are no longer active....They were randomly approved...to my knowledge there wasn’t an official application period, even though that is how the statute reads.”* [Emphasis added.] (pages 14-19)

Deferred Payment Reserve Accounts

CMS and the IOC have not enforced Program Terms relative to Deferred Payment Reserve Accounts for the Vendor Payment Program. (pages 20-22)

Financial Backer Disclosures

CMS and the IOC allow qualified purchasers to submit financial backer disclosures after the fact. Disclosures due July 1, 2020, had yet to be published by CMS by March 31, 2021. The IOC published the disclosures on March 31, 2021. Therefore, the public had **639 days of not knowing who was providing financial backing for qualified purchasers participating in the Vendor Payment Program (Program)**. We found that disclosures were not always filed timely and that CMS and the IOC do not know whether the disclosures are accurate.

When Public Act 100-1089 codified the Program into statute, it added a requirement that qualified purchasers disclose their financial backers. However, **neither CMS nor the IOC amended their joint administrative rules to include this financial backer disclosure.**

The State Prompt Payment Act (30 ILCS 540/9) requires the submission of financial backer disclosures. CMS and the IOC define the filing deadline of July 1st to be **disclosure after the fact**, meaning the qualified purchasers provide the information not before the period begins but after. We question **how transparent this practice is given that the financial backers are not known until after the reporting period.**

The General Assembly appears to have wanted financial backer information disclosed on an ongoing basis, not after the fact given that there was **an immediate effective date** on Public Act 100-1089, August 24, 2018, and the General Assembly required initial disclosures within 60 days of the effective date, by October 23, 2018. The Financial Disclosure Form itself requires an **immediate** remedy when the submitted disclosure is no longer accurate. The Form requires disclosing entities to update the form within 30 business days of any change in the disclosure. This demonstrates that CMS and the IOC feel the change necessitates a quicker reporting than waiting until the next July 1st.

On March 31, 2021, the IOC posted to its website the financial backer disclosures that were due on July 1, 2020 – a period of 273 days. CMS had not published the disclosures. Since CMS and the IOC believe the disclosures are not due until after the period, the disclosures due July 1, 2020 would be for the financial backers on July 1, 2019. Therefore, the public had 639 days of not knowing who the financial backers were for the Program.
(pages 23-28)

Misdirected Payments

While the IOC allows State vendors to receive payments electronically, qualified purchasers under the Vendor Payment Program (Program) **do not have the same opportunity**. Qualified purchasers reported **over \$7.2 million in payments** made under the Program were mailed to a party other than the qualified purchaser. We found payments mailed to: an incorrect qualified purchaser; an incorrect sub-participant; and the vendor as opposed to the qualified purchaser.

Misdirected payments occur when payments are sent to the wrong party. We asked the IOC, on October 29, 2020, if it thought the misdirection of State payments to the incorrect party was a problem for the Program. The IOC replied, *“Not really. The volume appears to be low and the parties of the contract are responsible to address any potential receivable processing issue.”*

We later met with IOC officials on November 19, 2020, and informed them that during the audit, we asked the four qualified purchasers that agreed to participate in the audit about misdirected payments. **Qualified purchasers provided the following information:**

- Illinois Financing Partners (IFP) reported nine **base invoice checks**, totaling \$452,302, had incorrectly been sent to the vendor as opposed to IFP.
- IFP reported that all 358 of the non-group health insurance **penalty payments**, totaling **\$841,372, incorrectly went to the vendor as opposed to IFP**. While IFP was able to recover most of the payments, four warrants were permanently “missing.” IFP also reported on October 27, 2020, *“We’re still awaiting over \$100,000.00 of remaining PPP [Prompt Payment Penalty] as part of this program and at this point just assume it will be misdirected despite our documented efforts and persistent communications with CMS and IOC to address the problem.”*
- Vendor Assistance Program (VAP) provided auditors a spreadsheet showing 6,352 penalty payments, totaling **\$5,941,277, incorrectly went to the vendor as opposed to VAP**.
- Payplant and Vendor Capital Finance also reported issues with misdirected payments. (pages 29-34)

Monthly Reporting Deficiencies

CMS and the IOC have not taken the necessary actions to confirm that all qualified purchasers have complied with the monthly reporting requirements for the Vendor Payment Program. This has resulted in missing data on the monthly reporting that occurred during FY19 and FY20. Additionally, the guidance on what should be reported is inconsistent with the directives from the State Prompt Payment Act. (pages 35-38)

Ineligible Accounts Receivable

CMS allowed qualified purchasers in the Vendor Payment Program to submit, for approval and acknowledgment, receivables which were not yet eligible under the State Prompt Payment Act. (pages 39-41)

Violation of Program Terms - Monitoring

CMS and the IOC have allowed qualified purchasers to operate the payment process under the Vendor Payment Program in violation of the Program Terms. This can result in one qualified purchaser having a competitive advantage over another if its payment terms are more generous than another qualified purchaser.

The Program has a set of Program Terms that participating State vendors and qualified purchasers have to follow. These Program Terms are dated December

13, 2012. Additionally, the Program Terms set out how CMS must monitor the Program. The Program Terms define the payment process to be utilized by the qualified purchasers as part of the Program. Payments are to be made in two installments based on the Program Terms:

- 90 percent of the receivable purchase price is to be paid as an initial payment to the State participating vendor within 10 days of CMS acknowledgement; and
- 10 percent of the receivable purchase is to be paid within 5 days of the qualified purchaser receiving the payment from the State for the prompt payment interest penalty.

During the audit, we reviewed a number of assignment agreements and examined payments made under the Program Terms. We found a number of instances where the qualified purchasers were **not operating under the 90/10 two-payment process** detailed in the Program Terms.

CMS was apparently aware of these non-Program Term processes. It admitted, in a September 14, 2020 email, *“The QPs have made changes in the past [to the assignment agreement percentages], but we curtailed that.”* After the passage of Public Act 100-1089, CMS sent a correspondence, on June 26, 2019, to the qualified purchasers that informed them of this audit that would be conducted and reminding them of the terms and condition of the Program. Included in that correspondence was a reminder that there should be a 90/10 payment process with an exception for employee benefits and life insurance receivables which CMS allows for a 100 percent payment up front after CMS acknowledgement of the purchase. Regardless of that correspondence, CMS **should not have allowed** qualified purchasers to deviate from the Program Terms, terms which have been in place since 2012. CMS also told us, *“If deviations were approved by legal they were not always communicated to our operational area, but that was an ongoing problem we had.”* (pages 42-46)

Vendors with more than one Qualified Purchaser

CMS and the IOC did not enforce Program Terms when they allowed participating vendors to sell receivables among different qualified purchasers. The Program Terms address many requirements including assigning receivables between a participating vendor and a qualified purchaser.

Program Terms Section II.7 states, *“If a Qualified Purchaser has complied with the terms of the Program, as well as the terms of any Assignment Agreement between a Qualified Purchaser and a Participating Vendor, such Participating Vendor will be prohibited from assigning any of its Qualified Account Receivables to any other Qualified Purchaser under this Program, other than its existing Qualified Purchaser or an entity managed or affiliated with such existing Qualified Purchaser, unless the Qualified Purchaser with which the Participating Vendor previously contracted is temporarily or permanently not participating in the Program.”* [Emphasis added.]

During our audit work, we found evidence that participating vendors had sold receivables to more than one qualified purchaser:

- We combined the FY19-FY20 monthly reports submitted by the qualified purchasers, including the submitted information on receivables assigned, to test and see if participating vendors had sold receivables to more than one qualified purchaser. We found five instances during those two fiscal years where a participating vendor had sold receivables, at different times, to multiple qualified purchasers. Digest Exhibit 5 provides information on the five cases including the number and dollar amount of receivables sold.
- Also, prior to FY19, we found that a State vendor, Health Alliance, had originally sold receivables to another qualified purchaser, Vendor Capital Finance. An official from Vendor Capital Finance stated that Health Alliance switched to another qualified purchaser (Vendor Assistance Program) because that qualified purchaser paid 100 percent upfront.
- We found that while CMS was aware that Health Alliance had sold to multiple qualified purchasers, an official told us on February 9, 2021, that the official was **not aware of other State vendors with more than one qualified purchaser**. We would note, as shown in Digest Exhibit 5, that there were between 3 and 234 receivables purchased. We provided the information in Digest Exhibit 5 to CMS and CMS confirmed that the “*vendors did sell to multiple QP’s during FY19-FY20.*”
- We were told by the CMS official, in response to our question of who would have approved switching to other qualified purchasers that “*The decision was made to allow this prior to my arrival, but I believe it was approved by CMS legal department. I have not seen documentation of the approval.*”

Digest Exhibit 5
PARTICIPATING VENDORS SELLING RECEIVABLES TO MORE THAN ONE QUALIFIED PURCHASER
 FY19-FY20

Participating Vendor	Qualified Purchaser	Count of Receivables	Total Assigned Receivables
Advanced Commodities	IFP	92	\$2,716,108
	VAP	234	\$6,703,406
Fisher Scientific	Payplant	13	\$33,972
	VPPA	33	\$45,313
Health Alliance	IFP	51	\$874,188,166
	VAP	3	\$51,189,606
Healthcare Service Corporation	Payplant	7	\$65,860,094
	VAP	42	\$445,064,078
Illinois Bell Telephone Company	VPPA	7	\$2,966,864
	VAP	90	\$23,600,636

Note: IFP – Illinois Financing Partners; VAP – Vendor Assistance Program; VPPA – Vendor Premium Payment Assistance.

Source: OAG developed from CMS documentation.

Most importantly, the only way under the Program Terms to switch qualified purchasers is to **have a qualified purchaser not operate under the terms of the Program** or the assignment agreement. We asked CMS if it had any documentation to support that any qualified purchaser had not complied with Program Terms. On February 9, 2021, CMS replied, *“No, CMS does not have documentation to show that a certain QP had not complied with the terms of the Program.”* [Emphasis added.]

A CMS official reported to auditors, *“It was previously interpreted by CMS that multiple QP’s could be used if they didn’t simultaneously try to assign the same receivable. We cannot find documentation of this decision.”* The official added that the decision, **to allow the practice which violated the Program Terms**, *“predated FY19 and FY20, but [CMS official] remembers it was made by [former CMS Assistant Director] in connection with [former CMS Deputy General Counsel].”* CMS could not provide documentation to support the decision. (pages 47-49)

Prompt Payment Interest

The IOC does not have a plan for payment of interest penalties under the Program. This lack of a plan has resulted in delayed payments which has a negative impact on both qualified purchasers and State vendors. In our sample of interest payments during FY19-FY20, **payments were made between 0 and 547 days from when the State agencies requested the payments.**

Prompt payment interest amounts are determined by the individual State agencies once the base invoice has been paid by the IOC. The State agencies then submit dated vouchers for the interest payments to be made by the IOC.

During the audit we selected a sample of penalty receivable payments for testing. We obtained the dates State agencies submitted vouchers to the IOC for payment of the interest penalties and then compared that voucher date to the date the IOC actually made the payment of the interest penalty to the qualified purchaser to **determine how long the IOC sat on the payment request.** The results of our analysis, by qualified purchaser, is presented in Digest Exhibit 6.

Digest Exhibit 6
DELAYS IN PROCESSING PENALTY INTEREST PAYMENTS BY THE IOC
 FY19-FY20 Sample

Qualified Purchaser	Delay Time at the IOC		
	Maximum # Days	Average # Days	Minimum # Days
Vendor Assistance Program	537	251	82
Illinois Financing Partners	547	177	0
Vendor Capital Finance	379	195	53
Payplant	328	86	59

Source: OAG developed from qualified purchaser and IOC documentation.

The IOC **does not maintain statistics for how long it takes** to pay base payments or the prompt payment interest for vendors not in the Program. Therefore, we were unable to compare the Program penalty payments in our analysis to vendors that chose not to participate in the Program.

The IOC reported, on June 26, 2020, *“Since cash management decisions are made on a daily, if not an hourly basis, there are no given procedures that can account for the constant change of cash balances and receipts to pay for that day’s obligations. Given the severity of the backlog then (and now) the IOC cannot perform in a first-in/first out manner since doing so would negatively impact payments to critical programs that are dependent of state support for their operations.”*

The longer a qualified purchaser has to wait for the interest penalty payment, the longer the State participating vendors have to wait for the remaining 10 percent of the receivable. **Smaller State vendors could possibly be counting on this 10 percent for their business existence.** (pages 50-55)

Audit Recommendations

The audit report contains 11 recommendations directed to CMS and the IOC. CMS agreed with the recommendations. The IOC largely disagreed with the recommendations. The complete responses from CMS and the IOC are included in this report as Appendix F.

This performance audit was conducted by the staff of the Office of the Auditor General.

SIGNED ORIGINAL ON FILE

JOE BUTCHER
Division Director

This report is transmitted in accordance with Sections 3-14 and 3-15 of the Illinois State Auditing Act.

SIGNED ORIGINAL ON FILE

FRANK J. MAUTINO
Auditor General

FJM:MJM