

111TH CONGRESS
2^D SESSION

S. 1508

AN ACT

To amend the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in order to prevent the loss of billions in taxpayer dollars.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Improper Payments
3 Elimination and Recovery Act of 2010”.

4 **SEC. 2. IMPROPER PAYMENTS ELIMINATION AND RECOV-
5 ERY.**

6 (a) SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—Sec-
7 tion 2 of the Improper Payments Information Act of 2002
8 (31 U.S.C. 3321 note) is amended by striking subsection
9 (a) and inserting the following:

10 “(a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS
11 AND ACTIVITIES.—

12 “(1) IN GENERAL.—The head of each agency
13 shall, in accordance with guidance prescribed by the
14 Director of the Office of Management and Budget,
15 periodically review all programs and activities that
16 the relevant agency head administers and identify all
17 programs and activities that may be susceptible to
18 significant improper payments.

19 “(2) FREQUENCY.—Reviews under paragraph
20 (1) shall be performed for each program and activity
21 that the relevant agency head administers during the
22 year after which the Improper Payments Elimini-
23 nation and Recovery Act of 2010 is enacted and at
24 least once every 3 fiscal years thereafter. For those
25 agencies already performing a risk assessment every
26 3 years, agencies may apply to the Director of the

1 Office of Management and Budget for a waiver from
2 the requirement of the preceding sentence and con-
3 tinue their 3-year risk assessment cycle.

4 “(3) RISK ASSESSMENTS.—

5 “(A) DEFINITION.—In this subsection the
6 term ‘significant’ means—

7 “(i) except as provided under clause
8 (ii), that improper payments in the pro-
9 gram or activity in the preceding fiscal
10 year may have exceeded—

11 “(I) \$10,000,000 of all program
12 or activity payments made during that
13 fiscal year reported and 2.5 percent of
14 program outlays; or

15 “(II) \$100,000,000; and

16 “(ii) with respect to fiscal years fol-
17 lowing September 30th of a fiscal year be-
18 ginning before fiscal year 2013 as deter-
19 mined by the Office of Management and
20 Budget, that improper payments in the
21 program or activity in the preceding fiscal
22 year may have exceeded—

23 “(I) \$10,000,000 of all program
24 or activity payments made during that

1 fiscal year reported and 1.5 percent of
2 program outlays; or

3 “(II) \$100,000,000.

4 “(B) SCOPE.—In conducting the reviews
5 under paragraph (1), the head of each agency
6 shall take into account those risk factors that
7 are likely to contribute to a susceptibility to sig-
8 nificant improper payments, such as—

9 “(i) whether the program or activity
10 reviewed is new to the agency;

11 “(ii) the complexity of the program or
12 activity reviewed;

13 “(iii) the volume of payments made
14 through the program or activity reviewed;

15 “(iv) whether payments or payment
16 eligibility decisions are made outside of the
17 agency, such as by a State or local govern-
18 ment;

19 “(v) recent major changes in program
20 funding, authorities, practices, or proce-
21 dures;

22 “(vi) the level, experience, and quality
23 of training for personnel responsible for
24 making program eligibility determinations

1 or certifying that payments are accurate;

2 and

3 “(vii) significant deficiencies in the
4 audit report of the agency or other rel-
5 evant management findings that might
6 hinder accurate payment certification.”.

7 (b) ESTIMATION OF IMPROPER PAYMENTS.—Section
8 2 of the Improper Payments Information Act of 2002 (31
9 U.S.C. 3321 note) is amended by striking subsection (b)
10 and inserting the following:

11 “(b) ESTIMATION OF IMPROPER PAYMENTS.—With
12 respect to each program and activity identified under sub-
13 section (a), the head of the relevant agency shall—

14 “(1) produce a statistically valid estimate, or an
15 estimate that is otherwise appropriate using a meth-
16 odology approved by the Director of the Office of
17 Management and Budget, of the improper payments
18 made by each program and activity; and

19 “(2) include those estimates in the accom-
20 panying materials to the annual financial statement
21 of the agency required under section 3515 of title
22 31, United States Code, or similar provision of law
23 and applicable guidance of the Office of Manage-
24 ment and Budget.”.

1 (c) REPORTS ON ACTIONS TO REDUCE IMPROPER
2 PAYMENTS.—Section 2 of the Improper Payments Infor-
3 mation Act of 2002 (31 U.S.C. 3321 note) is amended
4 by striking subsection (c) and inserting the following:

5 “(c) REPORTS ON ACTIONS TO REDUCE IMPROPER
6 PAYMENTS.—With respect to any program or activity of
7 an agency with estimated improper payments under sub-
8 section (b), the head of the agency shall provide with the
9 estimate under subsection (b) a report on what actions
10 the agency is taking to reduce improper payments, includ-
11 ing—

12 “(1) a description of the causes of the improper
13 payments, actions planned or taken to correct those
14 causes, and the planned or actual completion date of
15 the actions taken to address those causes;

16 “(2) in order to reduce improper payments to
17 a level below which further expenditures to reduce
18 improper payments would cost more than the
19 amount such expenditures would save in prevented
20 or recovered improper payments, a statement of
21 whether the agency has what is needed with respect
22 to—

23 “(A) internal controls;

24 “(B) human capital; and

1 “(C) information systems and other infra-
2 structure;

3 “(3) if the agency does not have sufficient re-
4 sources to establish and maintain effective internal
5 controls under paragraph (2)(A), a description of
6 the resources the agency has requested in its budget
7 submission to establish and maintain such internal
8 controls;

9 “(4) program-specific and activity-specific im-
10 proper payments reduction targets that have been
11 approved by the Director of the Office of Manage-
12 ment and Budget; and

13 “(5) a description of the steps the agency has
14 taken to ensure that agency managers, programs,
15 and, where appropriate, States and localities are
16 held accountable through annual performance ap-
17 praisal criteria for—

18 “(A) meeting applicable improper pay-
19 ments reduction targets; and

20 “(B) establishing and maintaining suffi-
21 cient internal controls, including an appropriate
22 control environment, that effectively—

23 “(i) prevent improper payments from
24 being made; and

1 “(ii) promptly detect and recover im-
2 proper payments that are made.”.

3 (d) REPORTS ON ACTIONS TO RECOVER IMPROPER
4 PAYMENTS.—Section 2 of the Improper Payments Infor-
5 mation Act of 2002 (31 U.S.C. 3321 note) is amended—

6 (1) by striking subsection (e);

7 (2) by redesignating subsections (d) and (f) as
8 subsections (f) and (g), respectively; and

9 (3) by inserting after subsection (c) the fol-
10 lowing:

11 “(d) REPORTS ON ACTIONS TO RECOVER IMPROPER
12 PAYMENTS.—With respect to any improper payments
13 identified in recovery audits conducted under section 2(h)
14 of the Improper Payments Elimination and Recovery Act
15 of 2010 (31 U.S.C. 3321 note), the head of the agency
16 shall provide with the estimate under subsection (b) a re-
17 port on all actions the agency is taking to recover im-
18 proper payments, including—

19 “(1) a discussion of the methods used by the
20 agency to recover overpayments;

21 “(2) the amounts recovered, outstanding, and
22 determined to not be collectable, including the per-
23 cent such amounts represent of the total overpay-
24 ments of the agency;

1 “(3) if a determination has been made that cer-
2 tain overpayments are not collectable, a justification
3 of that determination;

4 “(4) an aging schedule of the amounts out-
5 standing;

6 “(5) a summary of how recovered amounts have
7 been disposed of;

8 “(6) a discussion of any conditions giving rise
9 to improper payments and how those conditions are
10 being resolved; and

11 “(7) if the agency has determined under section
12 2(h) of the Improper Payments Elimination and Re-
13 covery Act of 2010 (31 U.S.C. 3321 note) that per-
14 forming recovery audits for any applicable program
15 or activity is not cost-effective, a justification for
16 that determination.

17 “(e) GOVERNMENTWIDE REPORTING OF IMPROPER
18 PAYMENTS AND ACTIONS TO RECOVER IMPROPER PAY-
19 MENTS.—

20 “(1) REPORT.—Each fiscal year the Director of
21 the Office of Management and Budget shall submit
22 a report with respect to the preceding fiscal year on
23 actions agencies have taken to report information re-
24 garding improper payments and actions to recover
25 improper overpayments to—

1 “(A) the Committee on Homeland Security
2 and Governmental Affairs of the Senate; and

3 “(B) the Committee on Oversight and Gov-
4 ernment Reform of the House of Representa-
5 tives.

6 “(2) CONTENTS.—Each report under this sub-
7 section shall include—

8 “(A) a summary of the reports of each
9 agency on improper payments and recovery ac-
10 tions submitted under this section;

11 “(B) an identification of the compliance
12 status of each agency to which this Act applies;

13 “(C) governmentwide improper payment
14 reduction targets; and

15 “(D) a discussion of progress made to-
16 wards meeting governmentwide improper pay-
17 ment reduction targets.”.

18 (e) DEFINITIONS.—Section 2 of the Improper Pay-
19 ments Information Act of 2002 (31 U.S.C. 3321 note) is
20 amended by striking subsections (f) (as redesignated by
21 this section) and inserting the following:

22 “(f) DEFINITIONS.—In this section:

23 “(1) AGENCY.—The term ‘agency’ means an
24 executive agency, as that term is defined in section
25 102 of title 31, United States Code.

1 “(2) IMPROPER PAYMENT.—The term ‘im-
2 proper payment’—

3 “(A) means any payment that should not
4 have been made or that was made in an incor-
5 rect amount (including overpayments and un-
6 derpayments) under statutory, contractual, ad-
7 ministrative, or other legally applicable require-
8 ments; and

9 “(B) includes any payment to an ineligible
10 recipient, any payment for an ineligible good or
11 service, any duplicate payment, any payment
12 for a good or service not received (except for
13 such payments where authorized by law), and
14 any payment that does not account for credit
15 for applicable discounts.

16 “(3) PAYMENT.—The term ‘payment’ means
17 any transfer or commitment for future transfer of
18 Federal funds such as cash, securities, loans, loan
19 guarantees, and insurance subsidies to any non-Fed-
20 eral person or entity, that is made by a Federal
21 agency, a Federal contractor, a Federal grantee, or
22 a governmental or other organization administering
23 a Federal program or activity.

24 “(4) PAYMENT FOR AN INELIGIBLE GOOD OR
25 SERVICE.—The term ‘payment for an ineligible good

1 or service' shall include a payment for any good or
2 service that is rejected under any provision of any
3 contract, grant, lease, cooperative agreement, or any
4 other funding mechanism.”.

5 (f) GUIDANCE BY THE OFFICE OF MANAGEMENT
6 AND BUDGET.—Section 2 of the Improper Payments In-
7 formation Act of 2002 (31 U.S.C. 3321 note) is amended
8 by striking subsection (g) (as redesignated by this section)
9 and inserting the following:

10 “(g) GUIDANCE BY THE OFFICE OF MANAGEMENT
11 AND BUDGET.—

12 “(1) IN GENERAL.—Not later than 6 months
13 after the date of enactment of the Improper Pay-
14 ments Elimination and Recovery Act of 2010, the
15 Director of the Office of Management and Budget
16 shall prescribe guidance for agencies to implement
17 the requirements of this section. The guidance shall
18 not include any exemptions to such requirements not
19 specifically authorized by this section.

20 “(2) CONTENTS.—The guidance under para-
21 graph (1) shall prescribe—

22 “(A) the form of the reports on actions to
23 reduce improper payments, recovery actions,
24 and governmentwide reporting; and

1 “(B) strategies for addressing risks and
2 establishing appropriate prepayment and
3 postpayment internal controls.”.

4 (g) DETERMINATIONS OF AGENCY READINESS FOR
5 OPINION ON INTERNAL CONTROL.—Not later than 1 year
6 after the date of enactment of this Act, the Director of
7 the Office of Management and Budget shall develop—

8 (1) specific criteria as to when an agency
9 should initially be required to obtain an opinion on
10 internal control over improper payments; and

11 (2) criteria for an agency that has dem-
12 onstrated a stabilized, effective system of internal
13 control over improper payments, whereby the agency
14 would qualify for a multiyear cycle for obtaining an
15 audit opinion on internal control over improper pay-
16 ments, rather than an annual cycle.

17 (h) RECOVERY AUDITS.—

18 (1) DEFINITION.—In this subsection, the term
19 “agency” has the meaning given under section 2(f)
20 of the Improper Payments Information Act of 2002
21 (31 U.S.C. 3321 note) as redesignated by this Act.

22 (2) IN GENERAL.—

23 (A) CONDUCT OF AUDITS.—Except as pro-
24 vided under paragraph (4) and if not prohibited
25 under any other provision of law, the head of

1 each agency shall conduct recovery audits with
2 respect to each program and activity of the
3 agency that expends \$1,000,000 or more annu-
4 ally if conducting such audits would be cost-ef-
5 fective.

6 (B) PROCEDURES.—In conducting recovery
7 audits under this subsection, the head of an
8 agency—

9 (i) shall give priority to the most re-
10 cent payments and to payments made in
11 any program or programs identified as sus-
12 ceptible to significant improper payments
13 under section 2(a) of the Improper Pay-
14 ments Information Act of 2002 (31 U.S.C.
15 3321 note);

16 (ii) shall implement this subsection in
17 a manner designed to ensure the greatest
18 financial benefit to the Government; and

19 (iii) may conduct recovery audits di-
20 rectly, by using other departments and
21 agencies of the United States, or by pro-
22 curing performance of recovery audits by
23 private sector sources by contract (subject
24 to the availability of appropriations), or by
25 any combination thereof.

1 (C) RECOVERY AUDIT CONTRACTS.—With
2 respect to recovery audits procured by an agen-
3 cy by contract—

4 (i) subject to subparagraph (B)(iii),
5 and except to the extent such actions are
6 outside the agency’s authority, as defined
7 by section 605(a) of the Contract Disputes
8 Act of 1978 (41 U.S.C. 605(a)), the head
9 of the agency may authorize the contractor
10 to notify entities (including persons) of po-
11 tential overpayments made to such entities,
12 respond to questions concerning potential
13 overpayments, and take other administra-
14 tive actions with respect to overpayment
15 claims made or to be made by the agency;
16 and

17 (ii) such contractor shall have no au-
18 thority to make final determinations relat-
19 ing to whether any overpayment occurred
20 and whether to compromise, settle, or ter-
21minate overpayment claims.

22 (D) CONTRACT TERMS AND CONDITIONS.—

23 (i) IN GENERAL.—The agency shall
24 include in each contract for procurement of

1 performance of a recovery audit a require-
2 ment that the contractor shall—

3 (I) provide to the agency periodic
4 reports on conditions giving rise to
5 overpayments identified by the con-
6 tractor and any recommendations on
7 how to mitigate such conditions;

8 (II) notify the agency of any
9 overpayments identified by the con-
10 tractor pertaining to the agency or to
11 any other agency or agencies that are
12 beyond the scope of the contract; and

13 (III) report to the agency cred-
14 ible evidence of fraud or
15 vulnerabilities to fraud, and conduct
16 appropriate training of personnel of
17 the contractor on identification of
18 fraud.

19 (ii) REPORTS ON ACTIONS TAKEN.—

20 Not later than November 1 of each year,
21 each agency shall submit a report on ac-
22 tions taken by the agency during the pre-
23 ceding fiscal year to address the rec-
24 ommendations described under clause (i)(I)
25 to—

1 (I) the Office of Management
2 and Budget; and

3 (II) Congress.

4 (E) AGENCY ACTION FOLLOWING NOTIFI-
5 CATION.—An agency shall take prompt and ap-
6 propriate action in response to a report or noti-
7 fication by a contractor under subparagraph
8 (D)(i)(I) or (II), to collect overpayments and
9 shall forward to other agencies any information
10 that applies to such agencies.

11 (3) DISPOSITION OF AMOUNTS RECOVERED.—

12 (A) IN GENERAL.—Amounts collected by
13 agencies each fiscal year through recovery au-
14 dits conducted under this subsection shall be
15 treated in accordance with this paragraph. The
16 agency head shall determine the distribution of
17 collected amounts, less amounts needed to fulfill
18 the purposes of section 3562(a) of title 31,
19 United States Code, in accordance with sub-
20 paragraphs (B), (C), and (D).

21 (B) USE FOR FINANCIAL MANAGEMENT IM-
22 PROVEMENT PROGRAM.—Not more than 25 per-
23 cent of the amounts collected by an agency
24 through recovery audits—

1 (i) shall be available to the head of
2 the agency to carry out the financial man-
3 agement improvement program of the
4 agency under paragraph (4);

5 (ii) may be credited, if applicable, for
6 that purpose by the head of an agency to
7 any agency appropriations and funds that
8 are available for obligation at the time of
9 collection; and

10 (iii) shall be used to supplement and
11 not supplant any other amounts available
12 for that purpose and shall remain available
13 until expended.

14 (C) USE FOR ORIGINAL PURPOSE.—Not
15 more than 25 percent of the amounts collected
16 by an agency—

17 (i) shall be credited to the appropria-
18 tion or fund, if any, available for obligation
19 at the time of collection for the same gen-
20 eral purposes as the appropriation or fund
21 from which the overpayment was made;

22 (ii) shall remain available for the
23 same period and purposes as the appro-
24 priation or fund to which credited; and

1 (iii) if the appropriation from which
2 the overpayment was made has expired,
3 shall be newly available for the same time
4 period as the funds were originally avail-
5 able for obligation, except that any
6 amounts that are recovered more than five
7 fiscal years from the last fiscal year in
8 which the funds were available for obliga-
9 tion shall be deposited in the Treasury as
10 miscellaneous receipts, except that in the
11 case of recoveries of overpayments that are
12 made from trust or special fund accounts,
13 such amounts shall revert to those ac-
14 counts.

15 (D) USE FOR INSPECTOR GENERAL AC-
16 TIVITIES.—Not more than 5 percent of the
17 amounts collected by an agency shall be avail-
18 able to the Inspector General of that agency—

19 (i) for—

20 (I) the Inspector General to carry
21 out this Act; or

22 (II) any other activities of the In-
23 spector General relating to inves-
24 tigating improper payments or audit-

1 ing internal controls associated with
2 payments; and

3 (ii) shall remain available for the
4 same period and purposes as the appro-
5 priation or fund to which credited.

6 (E) REMAINDER.—Amounts collected that
7 are not applied in accordance with subpara-
8 graph (A), (B), (C), or (D) shall be deposited
9 in the Treasury as miscellaneous receipts, ex-
10 cept that in the case of recoveries of overpay-
11 ments that are made from trust or special fund
12 accounts, such amounts shall revert to those ac-
13 counts.

14 (F) DISCRETIONARY AMOUNTS.—This
15 paragraph shall apply only to recoveries of over-
16 payments that are made from discretionary ap-
17 propriations (as that term is defined by para-
18 graph 7 of section 250 of the Balanced Budget
19 and Emergency Deficit Control Act of 1985)
20 and shall not apply to recoveries of overpay-
21 ments that are made from discretionary
22 amounts that were appropriated prior to enact-
23 ment of this Act.

24 (G) APPLICATION.—This paragraph shall
25 not apply to recoveries of overpayments if the

1 appropriation from which the overpayment was
2 made has not expired.

3 (4) FINANCIAL MANAGEMENT IMPROVEMENT
4 PROGRAM.—

5 (A) REQUIREMENT.—The head of each
6 agency shall conduct a financial management
7 improvement program, consistent with rules
8 prescribed by the Director of the Office of Man-
9 agement and Budget.

10 (B) PROGRAM FEATURES.—In conducting
11 the program, the head of the agency—

12 (i) shall, as the first priority of the
13 program, address problems that contribute
14 directly to agency improper payments; and

15 (ii) may seek to reduce errors and
16 waste in other agency programs and oper-
17 ations.

18 (5) PRIVACY PROTECTIONS.—Any nongovern-
19 mental entity that, in the course of recovery auditing
20 or recovery activity under this subsection, obtains in-
21 formation that identifies an individual or with re-
22 spect to which there is a reasonable basis to believe
23 that the information can be used to identify an indi-
24 vidual, may not disclose the information for any pur-
25 pose other than such recovery auditing or recovery

1 activity and governmental oversight of such activity,
2 unless disclosure for that other purpose is author-
3 ized by the individual to the executive agency that
4 contracted for the performance of the recovery au-
5 diting or recovery activity.

6 (6) OTHER RECOVERY AUDIT REQUIRE-
7 MENTS.—

8 (A) IN GENERAL.—(i) Except as provided
9 in clause (ii), subchapter VI of chapter 35 of
10 title 31, United States Code, is repealed.

11 (ii) Section 3562(a) of title 31, United
12 States Code, shall continue in effect, except
13 that references in such section 3562(a) to pro-
14 grams carried out under section 3561 of such
15 title, shall be interpreted to mean programs car-
16 ried out under section 2(h) of this Act.

17 (B) TECHNICAL AND CONFORMING AMEND-
18 MENTS.—

19 (i) TABLE OF SECTIONS.—The table
20 of sections for chapter 35 of title 31,
21 United States Code, is amended by strik-
22 ing the matter relating to subchapter VI.

23 (ii) DEFINITION.—Section 3501 of
24 title 31, United States Code, is amended

1 by striking “and subchapter VI of this
2 title”.

3 (iii) HOMELAND SECURITY GRANTS.—
4 Section 2022(a)(6) of the Homeland Secu-
5 rity Act of 2002 (6 U.S.C. 612(a)(6)) is
6 amended by striking “(as that term is de-
7 fined by the Director of the Office of Man-
8 agement and Budget under section 3561 of
9 title 31, United States Code)” and insert-
10 ing “under section 2(h) of the Improper
11 Payments Elimination and Recovery Act of
12 2010 (31 U.S.C. 3321 note)”.

13 (7) RULE OF CONSTRUCTION.—Except as pro-
14 vided under paragraph (5), nothing in this section
15 shall be construed as terminating or in any way lim-
16 iting authorities that are otherwise available to agen-
17 cies under existing provisions of law to recover im-
18 proper payments and use recovered amounts.

19 (i) REPORT ON RECOVERY AUDITING.—Not later
20 than 2 years after the date of the enactment of this Act,
21 the Chief Financial Officers Council established under sec-
22 tion 302 of the Chief Financial Officers Act of 1990 (31
23 U.S.C. 901 note), in consultation with the Council of In-
24 spectors General on Integrity and Efficiency established
25 under section 7 of the Inspector General Reform Act of

1 2009 (Public Law 110–409) and recovery audit experts,
2 shall conduct a study of—

3 (1) the implementation of subsection (h);

4 (2) the costs and benefits of agency recovery
5 audit activities, including—

6 (A) those activities under subsection (h);

7 and

8 (B) the effectiveness of using the services
9 of—

10 (i) private contractors;

11 (ii) agency employees;

12 (iii) cross-servicing from other agen-
13 cies; or

14 (iv) any combination of the provision
15 of services described under clauses (i)
16 through (iii); and

17 (3) submit a report on the results of the study
18 to—

19 (A) the Committee on Homeland Security
20 and Governmental Affairs of the Senate;

21 (B) the Committee on Oversight and Gov-
22 ernment Reform of the House of Representa-
23 tives; and

24 (C) the Comptroller General.

1 **SEC. 3. COMPLIANCE.**

2 (a) DEFINITIONS.—In this section:

3 (1) AGENCY.—The term “agency” has the
4 meaning given under section 2(f) of the Improper
5 Payments Information Act of 2002 (31 U.S.C. 3321
6 note) as redesignated by this Act.

7 (2) ANNUAL FINANCIAL STATEMENT.—The
8 term “annual financial statement” means the annual
9 financial statement required under section 3515 of
10 title 31, United States Code, or similar provision of
11 law.

12 (3) COMPLIANCE.—The term “compliance”
13 means that the agency—

14 (A) has published an annual financial
15 statement for the most recent fiscal year and
16 posted that report and any accompanying mate-
17 rials required under guidance of the Office of
18 Management and Budget on the agency
19 website;

20 (B) if required, has conducted a program
21 specific risk assessment for each program or ac-
22 tivity that conforms with section 2(a) the Im-
23 proper Payments Information Act of 2002 (31
24 U.S.C. 3321 note); and

25 (C) if required, publishes improper pay-
26 ments estimates for all programs and activities

1 identified under section 2(b) of the Improper
2 Payments Information Act of 2002 (31 U.S.C.
3 3321 note) in the accompanying materials to
4 the annual financial statement;

5 (D) publishes programmatic corrective ac-
6 tion plans prepared under section 2(c) of the
7 Improper Payments Information Act of 2002
8 (31 U.S.C. 3321 note) that the agency may
9 have in the accompanying materials to the an-
10 nual financial statement;

11 (E) publishes improper payments reduction
12 targets established under section 2(c) of the
13 Improper Payments Information Act of 2002
14 (31 U.S.C. 3321 note) that the agency may
15 have in the accompanying materials to the an-
16 nual financial statement for each program as-
17 sessed to be at risk, and is meeting such tar-
18 gets; and

19 (F) has reported an improper payment
20 rate of less than 10 percent for each program
21 and activity for which an estimate was pub-
22 lished under section 2(b) of the Improper Pay-
23 ments Information Act of 2002 (31 U.S.C.
24 3321 note).

1 (b) ANNUAL COMPLIANCE REPORT BY INSPECTORS
2 GENERAL OF AGENCIES.—Each fiscal year, the Inspector
3 General of each agency shall determine whether the agen-
4 cy is in compliance and submit a report on that determina-
5 tion to—

6 (1) the head of the agency;

7 (2) the Committee on Homeland Security and
8 Governmental Affairs of the Senate;

9 (3) the Committee on Oversight and Govern-
10 mental Reform of the House of Representatives; and

11 (4) the Comptroller General.

12 (c) REMEDIATION.—

13 (1) NONCOMPLIANCE.—

14 (A) IN GENERAL.—If an agency is deter-
15 mined by the Inspector General of that agency
16 not to be in compliance under subsection (b) in
17 a fiscal year, the head of the agency shall sub-
18 mit a plan to Congress describing the actions
19 that the agency will take to come into compli-
20 ance.

21 (B) PLAN.—The plan described under sub-
22 paragraph (A) shall include—

23 (i) measurable milestones to be ac-
24 complished in order to achieve compliance
25 for each program or activity;

1 (ii) the designation of a senior agency
2 official who shall be accountable for the
3 progress of the agency in coming into com-
4 pliance for each program or activity; and

5 (iii) the establishment of an account-
6 ability mechanism, such as a performance
7 agreement, with appropriate incentives and
8 consequences tied to the success of the of-
9 ficial designated under clause (ii) in lead-
10 ing the efforts of the agency to come into
11 compliance for each program and activity.

12 (2) NONCOMPLIANCE FOR 2 FISCAL YEARS.—

13 (A) IN GENERAL.—If an agency is deter-
14 mined by the Inspector General of that agency
15 not to be in compliance under subsection (b) for
16 2 consecutive fiscal years for the same program
17 or activity, and the Director of the Office of
18 Management and Budget determines that addi-
19 tional funding would help the agency come into
20 compliance, the head of the agency shall obli-
21 gate additional funding, in an amount deter-
22 mined by the Director, to intensified compliance
23 efforts.

24 (B) FUNDING.—In providing additional
25 funding described under subparagraph (A), the

1 head of an agency shall use any reprogramming
2 or transfer authority available to the agency. If
3 after exercising that reprogramming or transfer
4 authority additional funding is necessary to ob-
5 ligate the full level of funding determined by
6 the Director of the Office of Management and
7 Budget under subparagraph (A), the agency
8 shall submit a request to Congress for addi-
9 tional reprogramming or transfer authority.

10 (3) REAUTHORIZATION AND STATUTORY PRO-
11 POSALS.—If an agency is determined by the Inspec-
12 tor General of that agency not to be in compliance
13 under subsection (b) for more than 3 consecutive fis-
14 cal years for the same program or activity, the head
15 of the agency shall, not later than 30 days after
16 such determination, submit to Congress—

17 (A) reauthorization proposals for each pro-
18 gram or activity that has not been in compli-
19 ance for 3 or more consecutive fiscal years; or

20 (B) proposed statutory changes necessary
21 to bring the program or activity into compli-
22 ance.

23 (d) COMPLIANCE ENFORCEMENT PILOT PRO-
24 GRAMS.—

1 (1) IN GENERAL.—The Director of the Office of
2 Management and Budget may establish 1 or more
3 pilot programs which shall test potential account-
4 ability mechanisms with appropriate incentives and
5 consequences tied to success in ensuring compliance
6 with this Act and eliminating improper payments.

7 (2) REPORT.—Not later than 5 years after the
8 date of enactment of this Act, the Director of the
9 Office of Management and Budget shall submit a re-
10 port to Congress on the findings associated with any
11 pilot programs conducted under paragraph (1). The
12 report shall include any legislative or other rec-
13 ommendations that the Director determines nec-
14 essary.

15 (e) REPORT ON CHIEF FINANCIAL OFFICERS ACT OF
16 1990.—Not later than 1 year after the date of the enact-
17 ment of this Act, the Chief Financial Officers Council es-
18 tablished under section 302 of the Chief Financial Officers
19 Act of 1990 (31 U.S.C. 901 note) and the Council of In-
20 spectors General on Integrity and Efficiency established
21 under section 7 of the Inspector General Reform Act of
22 2009 (Public Law 110–409), in consultation with a broad
23 cross-section of experts and stakeholders in Government
24 accounting and financial management shall—

1 (1) jointly examine the lessons learned during
2 the first 20 years of implementing the Chief Finan-
3 cial Officers Act of 1990 (31 U.S.C. 901) and iden-
4 tify reforms or improvements, if any, to the legisla-
5 tive and regulatory compliance framework for Fed-
6 eral financial management that will optimize Federal
7 agency efforts to—

8 (A) publish relevant, timely, and reliable
9 reports on Government finances; and

10 (B) implement internal controls that miti-
11 gate the risk for fraud, waste, and error in Gov-
12 ernment programs; and

13 (2) jointly submit a report on the results of the
14 examination to—

15 (A) the Committee on Homeland Security
16 and Governmental Affairs of the Senate;

17 (B) the Committee on Oversight and Gov-
18 ernment Reform of the House of Representa-
19 tives; and

20 (C) the Comptroller General.

Passed the Senate June 23, 2010.

Attest:

Secretary.

11TH CONGRESS
2^D SESSION

S. 1508

AN ACT

To amend the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in order to prevent the loss of billions in taxpayer dollars.