

§ 3353. Compliance

(a) ANNUAL COMPLIANCE REPORT BY INSPECTORS GENERAL OF EXECUTIVE AGENCIES.—

(1) IN GENERAL.—Each fiscal year, the Inspector General of each executive agency shall—

(A) determine whether the executive agency is in compliance; and

(B) submit a report on the determination made under subparagraph (A) to—

- (i) the head of the executive agency;
- (ii) the Committee on Homeland Security and Governmental Affairs of the Senate;
- (iii) the Committee on Oversight and Reform of the House of Representatives; and
- (iv) the Comptroller General of the United States.

(2) DEVELOPMENT OR USE OF A CENTRAL WEBSITE.—The Council of the Inspectors General on Integrity and Efficiency (in this subsection referred to as the “Council”) shall develop a public central website, or make use of a public central website in existence on the date of enactment of this section, to contain individual compliance determination reports issued by Inspectors General under paragraph (1)(B) and such additional information as determined by the Council.

(3) OMB GUIDANCE.—Not later than 180 days after the date of enactment of this section, the Director of the Office of Management and Budget, in consultation with the Council and with consideration given to the available resources and independence of individual Offices of Inspectors General, shall develop and promulgate guidance for the compliance determination reports issued by the Inspectors General under paragraph (1)(B), which shall require that—

(A) the reporting format used by the Inspectors General is consistent;

(B) Inspectors General evaluate and take into account the adequacy of executive agency risk assessments, improper payment estimates methodology, and executive agency action plans to address the causes of improper payments;

(C) Inspectors General take into account whether the executive agency has correctly identified the causes of improper payments and whether the actions of the executive agency to address those causes are adequate and effective;

(D) Inspectors General evaluate the adequacy of executive agency action plans on how the executive agency addresses the causes of improper payments; and

(E) as part of the report, Inspectors General include an evaluation of executive agency efforts to prevent and reduce improper payments and any recommendations for actions to further improve that prevention and reduction.

(4) CIGIE GUIDANCE.—Not later than 180 days after the date of enactment of this section, the Council shall, with consideration given to the available resources and independence of individual Offices of Inspectors General, develop and promulgate guidance that specifies proce-

dures for compliance determinations made by the Inspectors General under paragraph (1)(A), which shall describe procedures for Inspectors General—

(A) to make the determinations consistent regarding compliance; and

(B) to evaluate—

(i) for compliance with the requirement described in section 3351(2)(B), the risk assessment methodology of the executive agency, including whether the audits, examinations, and legal actions of the Inspector General indicate a higher risk of improper payments or actual improper payments that were not included in the risk assessments of the executive agency conducted under section 3352(a);

(ii) for compliance with the requirement described in section 3351(2)(C), the accuracy of the rate estimates and whether the sampling and estimation plan used is appropriate given program characteristics;

(iii) for compliance with the requirement described in section 3351(2)(D), the corrective action plans and whether the plans are adequate and focused on the true causes of improper payments, including whether the corrective action plans are—

- (I) reducing improper payments;
- (II) effectively implemented; and
- (III) prioritized within the executive agency;

(iv) the adequacy of executive agency action plans to address the causes of improper payments;

(v) executive agency efforts to prevent and reduce improper payments, and any recommendations for actions to further improve; and

(vi) whether an executive agency has published an annual financial statement in accordance with the requirement described in section 3351(2)(A).

(b) REMEDIATION.—

(1) NONCOMPLIANCE.—

(A) IN GENERAL.—If an executive agency is determined by the Inspector General of that executive agency not to be in compliance under subsection (a) in a fiscal year with respect to a program or activity, the head of the executive agency shall submit to the appropriate authorizing and appropriations committees of Congress a plan describing the actions that the executive agency will take to come into compliance.

(B) PLAN.—The plan described in subparagraph (A) shall include—

(i) measurable milestones to be accomplished in order to achieve compliance for each program or activity;

(ii) the designation of a senior executive agency official who shall be accountable for the progress of the executive agency in coming into compliance for each program or activity; and

(iii) the establishment of an accountability mechanism, such as a performance agreement, with appropriate incentives and consequences tied to the success of the official designated under clause (ii) in

leading the efforts of the executive agency to come into compliance for each program or activity.

(2) NONCOMPLIANCE FOR 2 FISCAL YEARS.—

(A) IN GENERAL.—If an executive agency is determined by the Inspector General of that executive agency not to be in compliance under subsection (a) for 2 consecutive fiscal years for the same program or activity, the executive agency shall propose to the Director of the Office of Management and Budget additional program integrity proposals that would help the executive agency come into compliance.

(B) ADDITIONAL FUNDING.—

(i) IN GENERAL.—If the Director of the Office of Management and Budget determines that additional funding would help an executive agency described in subparagraph (A) come into compliance, the head of the executive agency shall obligate additional funding, in an amount determined by the Director, to intensified compliance efforts.

(ii) REPROGRAMMING OR TRANSFER AUTHORITY.—In providing additional funding under clause (i)—

(I) the head of an executive agency shall use any reprogramming or transfer authority available to the executive agency; and

(II) if after exercising the reprogramming or transfer authority described in subclause (I), additional funding is necessary to obligate the full level of funding determined by the Director of the Office of Management and Budget under clause (i), the executive agency shall submit a request to Congress for additional reprogramming or transfer authority.

(3) REAUTHORIZATION AND STATUTORY PROPOSALS.—If an executive agency is determined by the Inspector General of that executive agency not to be in compliance under subsection (a) for 3 consecutive fiscal years for the same program or activity, the head of the executive agency shall, not later than 30 days after the date of that determination, submit to the appropriate authorizing and appropriations committees of Congress and the Comptroller General of the United States—

(A)(i) reauthorization proposals for each program or activity that has not been in compliance for 3 or more consecutive fiscal years; and

(ii) proposed statutory changes necessary to bring the program or activity into compliance; or

(B) if the head of the executive agency determines that clauses (i) and (ii) of subparagraph (A) will not bring the program or activity into compliance, a description of the actions that the executive agency is undertaking to bring the program or activity into compliance and a timeline of when the compliance will be achieved.

(4) PLAN AND TIMELINE FOR COMPLIANCE.—If an executive agency is determined by the Inspector General of that executive agency not

to be in compliance under subsection (a) for 4 or more consecutive fiscal years for the same program or activity, the head of the executive agency shall, not later than 30 days after such determination, submit to the appropriate authorizing and appropriations committees of Congress a report that includes—

(A) the activities taken to comply with the requirements for 1, 2, 3, 4, or more years of noncompliance;

(B) a description of any requirements that were fulfilled for 1, 2, or 3 consecutive years of noncompliance that are still relevant and being pursued as a means to bring the program or activity into compliance and prevent and reduce improper payments;

(C) a description of any new corrective actions; and

(D) a timeline for when the program or activity will achieve compliance based on the actions described within the report.

(5) ANNUAL REPORT.—Each executive agency shall submit to the appropriate authorizing and appropriations committees of Congress and the Comptroller General of the United States—

(A) a list of each program or activity that was determined to not be in compliance under paragraph (1), (2), (3), or (4); and

(B) actions that are planned to bring the program or activity into compliance.

(c) COMPLIANCE ENFORCEMENT PILOT PROGRAMS.—The Director of the Office of Management and Budget may establish 1 or more pilot programs that shall test potential accountability mechanisms with appropriate incentives and consequences tied to success in ensuring compliance with this section and eliminating improper payments.

(d) IMPROVED ESTIMATES GUIDANCE.—The guidance required to be provided under section 3(b) of the Improper Payments Elimination and Recovery Improvement Act of 2012, as in effect on the day before the date of enactment of this section—

(1) shall continue to be in effect on and after the date of enactment of this section; and

(2) may be modified as determined appropriate by the Director of the Office of Management and Budget.

(Added Pub. L. 116-117, §2(a), Mar. 2, 2020, 134 Stat. 123.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (a)(2) to (4) and (d), is the date of enactment of Pub. L. 116-117, which was approved Mar. 2, 2020.

Section 3(b) of the Improper Payments Elimination and Recovery Improvement Act of 2012, referred to in subsec. (d), is section 3 of Pub. L. 112-248, Jan. 10, 2013, 126 Stat. 2390, which was formerly set out in a note under section 3321 of this title, prior to repeal by Pub. L. 116-117, §3(a)(3), Mar. 2, 2020, 134 Stat. 133.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Oversight and Reform of House of Representatives changed to Committee on Oversight and

Accountability of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

§ 3354. Do Not Pay Initiative

(a) PREPAYMENT AND PREAWARD PROCEDURES.—

(1) IN GENERAL.—Each executive agency shall review prepayment and preaward procedures and ensure that a thorough review of available databases with relevant information on eligibility occurs to determine program or award eligibility and prevent improper payments before the release of any Federal funds.

(2) DATABASES.—At a minimum and before issuing any payment or award, each executive agency shall review as appropriate the following databases to verify eligibility of the payment and award:

(A) The death records maintained by the Commissioner of Social Security.

(B) The System for Award Management Exclusion Records, formerly known as the Excluded Parties List System, of the General Services Administration.

(C) The Debt Check Database of the Department of the Treasury.

(D) The Credit Alert System or Credit Alert Interactive Voice Response System of the Department of Housing and Urban Development.

(E) The List of Excluded Individuals/Entities of the Office of Inspector General of the Department of Health and Human Services.

(F) Information regarding incarcerated individuals maintained by the Commissioner of Social Security under sections 202(x) and 1611(e) of the Social Security Act (42 U.S.C. 402(x), 1382(e)).

(b) DO NOT PAY INITIATIVE.—

(1) IN GENERAL.—There is the Do Not Pay Initiative, which shall include—

(A) use of the databases described in subsection (a)(2); and

(B) use of other databases designated by the Director of the Office of Management and Budget, or the designee of the Director, in consultation with executive agencies and in accordance with paragraph (2).

(2) OTHER DATABASES.—In making designations of other databases under paragraph (1)(B), the Director of the Office of Management and Budget, or the head of any executive agency designated by the Director, shall—

(A) consider any database that substantially assists in preventing improper payments; and

(B) provide public notice and an opportunity for comment before designating a database under paragraph (1)(B).

(3) ACCESS AND REVIEW.—

(A) IN GENERAL.—For purposes of identifying and preventing improper payments, each executive agency shall have access to, and use of, the Do Not Pay Initiative to verify payment or award eligibility in accordance with subsection (a).

(B) MATCHING PROGRAMS.—

(i) IN GENERAL.—The head of the agency operating the Working System may, in consultation with the Office of Manage-

ment and Budget, waive the requirements of section 552a(o) of title 5 in any case or class of cases for computer matching activities conducted under this section.

(ii) GUIDANCE.—The Director of the Office of Management and Budget may issue guidance that establishes requirements governing waivers under clause (i).

(C) OTHER ENTITIES.—Each State and any contractor, subcontractor, or agent of a State, including a State auditor or State program responsible for reducing improper payments of a federally funded State-administered program, and the judicial and legislative branches of the United States, as defined in paragraphs (2) and (3), respectively, of section 202(e) of title 18, shall have access to, and use of, the Do Not Pay Initiative for the purpose of verifying payment or award eligibility for payments.

(D) CONSISTENCY WITH PRIVACY ACT OF 1974.—To ensure consistency with the principles of section 552a of title 5 (commonly known as the “Privacy Act of 1974”), the Director of the Office of Management and Budget may issue guidance that establishes privacy and other requirements that shall be incorporated into Do Not Pay Initiative access agreements with States, including any contractor, subcontractor, or agent of a State, and the judicial and legislative branches of the United States, as defined in paragraphs (2) and (3), respectively, of section 202(e) of title 18.

(4) PAYMENT OTHERWISE REQUIRED.—When using the Do Not Pay Initiative, an executive agency shall recognize that there may be circumstances under which the law requires a payment or award to be made to a recipient, regardless of whether that recipient is identified as potentially ineligible under the Do Not Pay Initiative.

(5) ANNUAL REPORT.—The Director of the Office of Management and Budget shall submit to Congress an annual report, which may be included as part of another report submitted to Congress by the Director, regarding the operation of the Do Not Pay Initiative, which shall—

(A) include an evaluation of whether the Do Not Pay Initiative has reduced improper payments or improper awards; and

(B) provide the frequency of corrections or identification of incorrect information.

(c) INITIAL WORKING SYSTEM.—The working system required to be established under section 5(d) of the Improper Payments Elimination and Recovery Improvement Act of 2012, as in effect on the day before the date of enactment of this section—

(1) shall continue to be in effect on and after the date of enactment of this section; and

(2) shall require each executive agency to review all payments and awards for all programs and activities of that executive agency through the working system.

(d) FACILITATING DATA ACCESS BY FEDERAL AGENCIES AND OFFICES OF INSPECTORS GENERAL FOR PURPOSES OF PROGRAM INTEGRITY.—