

111TH CONGRESS  
2D SESSION

# H. R. 3393

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IN THE SENATE OF THE UNITED STATES

APRIL 29, 2010

Received; read twice and referred to the Committee on Homeland Security and  
Governmental Affairs

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## 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 Elim-  
23 ination 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 RECOVERY 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 financial reporting; and

11 (2) criteria for an agency that has dem-  
12 onstrated a stabilized, effective system of internal  
13 control over financial reporting, whereby the agency  
14 would qualify for a multiyear cycle for obtaining an  
15 audit opinion on internal control over financial re-  
16 porting, 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 The agency shall include in each contract for  
24 procurement of performance of a recovery audit  
25 a requirement that the contractor shall—

1 (i) provide to the agency periodic re-  
2 ports on conditions giving rise to overpay-  
3 ments identified by the contractor and any  
4 recommendations on how to mitigate such  
5 conditions; and

6 (ii) notify the agency of any overpay-  
7 ments identified by the contractor per-  
8 taining to the agency or to any other agen-  
9 cy or agencies that are beyond the scope of  
10 the contract.

11 (E) AGENCY ACTION FOLLOWING NOTIFI-  
12 CATION.—An agency shall take prompt and ap-  
13 propriate action in response to a report or noti-  
14 fication by a contractor under subparagraph  
15 (D)(ii), to collect overpayments and shall for-  
16 ward to other agencies any information that ap-  
17 plies to such agencies.

18 (3) DISPOSITION OF AMOUNTS RECOVERED.—

19 (A) IN GENERAL.—Amounts collected by  
20 agencies each fiscal year through recovery au-  
21 dits conducted under this subsection shall be  
22 treated in accordance with this paragraph. The  
23 agency head shall determine the distribution of  
24 collected amounts, less amounts needed to fulfill  
25 the purposes of section 3562(a) of title 31,



1 United States Code, in accordance with sub-  
2 paragraphs (B), (C), and (D).

3 (B) USE FOR FINANCIAL MANAGEMENT IM-  
4 PROVEMENT PROGRAM.—Not more than 25 per-  
5 cent of the amounts collected by an agency  
6 through recovery audits—

7 (i) shall be available to the head of  
8 the agency to carry out the financial man-  
9 agement improvement program of the  
10 agency under paragraph (4);

11 (ii) may be credited, if applicable, for  
12 that purpose by the head of an agency to  
13 any agency appropriations and funds that  
14 are available for obligation at the time of  
15 collection; and

16 (iii) shall be used to supplement and  
17 not supplant any other amounts available  
18 for that purpose and shall remain available  
19 until expended.

20 (C) USE FOR ORIGINAL PURPOSE.—Not  
21 more than 25 percent of the amounts collected  
22 by an agency—

23 (i) shall be credited to the appropria-  
24 tion or fund, if any, available for obligation  
25 at the time of collection for the same gen-

1 eral purposes as the appropriation or fund  
2 from which the overpayment was made;

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

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

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

24 (i) for—

1 (I) the Inspector General to carry  
2 out this Act; or

3 (II) any other activities of the In-  
4 spector General relating to inves-  
5 tigating improper payments or audit-  
6 ing internal controls associated with  
7 payments; and

8 (ii) shall remain available for the  
9 same period and purposes as the appro-  
10 priation or fund to which credited.

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

19 (F) DISCRETIONARY AMOUNTS.—This  
20 paragraph shall apply only to recoveries of over-  
21 payments that are made from discretionary ap-  
22 propriations (as that term is defined by para-  
23 graph 7 of section 250 of the Balanced Budget  
24 and Emergency Deficit Control Act of 1985)  
25 and shall not apply to recoveries of overpay-

ments that are made from discretionary amounts that were appropriated prior to enactment of this Act.

(G) APPLICATION.—This paragraph shall not apply to recoveries of overpayments if the appropriation from which the overpayment was made has not expired.

(4) FINANCIAL MANAGEMENT IMPROVEMENT PROGRAM.—

(A) REQUIREMENT.—The head of each agency shall conduct a financial management improvement program, consistent with rules prescribed by the Director of the Office of Management and Budget.

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

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

(ii) may seek to reduce errors and waste in other agency programs and operations.

(5) PRIVACY PROTECTIONS.—Any nongovernmental entity that, in the course of recovery auditing or recovery activity under this subsection, obtains in-

1       formation that identifies an individual or with re-  
2       spect to which there is a reasonable basis to believe  
3       that the information can be used to identify an indi-  
4       vidual, may not disclose the information for any pur-  
5       pose other than such recovery auditing or recovery  
6       activity and governmental oversight of such activity,  
7       unless disclosure for that other purpose is author-  
8       ized by the individual to the executive agency that  
9       contracted for the performance of the recovery au-  
10      diting or recovery activity.

11           (6)   OTHER   RECOVERY   AUDIT   REQUIRE-  
12      MENTS.—

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

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

22                   (B) TECHNICAL AND CONFORMING AMEND-  
23      MENTS.—

24                   (i) TABLE OF SECTIONS.—The table  
25                   of sections for chapter 35 of title 31,

1 United States Code, is amended by strik-  
2 ing the matter relating to subchapter VI.

3 (ii) DEFINITION.—Section 3501 of  
4 title 31, United States Code, is amended  
5 by striking “and subchapter VI of this  
6 title”.

7 (iii) HOMELAND SECURITY GRANTS.—  
8 Section 2022(a)(6) of the Homeland Secu-  
9 rity Act of 2002 (6 U.S.C. 612(a)(6)) is  
10 amended by striking “(as that term is de-  
11 fined by the Director of the Office of Man-  
12 agement and Budget under section 3561 of  
13 title 31, United States Code)” and insert-  
14 ing “under section 2(h) of the Improper  
15 Payments Elimination and Recovery Act of  
16 2010 (31 U.S.C. 3321 note)”.

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

23 (i) REPORT ON RECOVERY AUDITING.—Not later  
24 than 2 years after the date of the enactment of this Act,  
25 the Chief Financial Officers Council established under sec-

tion 302 of the Chief Financial Officers Act of 1990 (31 U.S.C. 901 note), in consultation with the Council of Inspectors General on Integrity and Efficiency established under section 7 of the Inspector General Reform Act of 2009 (Public Law 110–409) and recovery audit experts, shall conduct a study of—

(1) the implementation of subsection (h);

(2) the costs and benefits of agency recovery audit activities, including those under subsection (h), and including the effectiveness of using the services of—

(A) private contractors;

(B) agency employees;

(C) cross-servicing from other agencies; or

(D) any combination of the provision of services described under subparagraphs (A) through (C); and

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

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

(B) the Committee on Oversight and Government Reform of the House of Representatives; and

(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—

(B) implement internal controls that mitigate the risk for fraud, waste, and error in Government programs; and

(B) the Committee on Oversight and Government Reform of the House of Representatives; and

Attest: LORRAINE C. MILLER,  
*Clerk.*