

Therefore, I hereby direct agencies to review current pre-payment and pre-award procedures and ensure that a thorough review of available databases with relevant information on eligibility occurs before the release of any Federal funds, to the extent permitted by law. At a minimum, agencies shall, before payment and award, check the following existing databases (where applicable and permitted by law) to verify eligibility: the Social Security Administration's Death Master File, the General Services Administration's Excluded Parties List System, the Department of the Treasury's Debt Check Database, the Department of Housing and Urban Development's Credit Alert System or Credit Alert Interactive Voice Response System, and the Department of Health and Human Services' Office of Inspector General's List of Excluded Individuals/Entities. This network of databases, and additional databases so designated by the Director of the Office of Management and Budget (OMB) in consultation with agencies, shall be collectively known as the "Do Not Pay List." This memorandum requires agencies to review these databases with the recognition that there may be circumstances when the law nevertheless requires a payment or award to be made to a recipient listed in them. My Administration began coordination of the databases discussed in this memorandum in April 2010 by launching the Federal Awardee Performance and Integrity Information System (FAPIIS), which integrates various sources of information on the eligibility of Government contractors for award. No later than 120 days of the date of this memorandum, the Director of the OMB shall provide to the President a plan for completing integration for the remaining databases, to the extent permitted by law, so that agencies can access them through a single entry point.

Each agency shall, within 90 days of the date of this memorandum, submit to the OMB a plan that includes information on its current pre-payment and pre-award procedures and a list of databases that the agency checks pursuant to those procedures. Within 180 days of the date of this memorandum, the Director of the OMB shall issue guidance, to be developed in consultation with affected agencies and taking into account current agency pre-payment and pre-award practices, on actions agencies must take to carry out this memorandum's requirements. This guidance shall clarify that the head of each agency is responsible for ensuring an efficient and accurate process for determining whether the information provided on the "Do Not Pay List" is sufficient to stop a payment, consistent with applicable laws and regulations, and, if so, whether a payment should be stopped under the circumstances. In addition, this guidance shall identify best practices and databases that agencies should utilize to conduct pre-payment checks to ensure that only eligible recipients receive Government benefits or payments.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of the OMB is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 3352. Estimates of improper payments and reports on actions to reduce improper payments

(a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—

(1) **IN GENERAL.**—The head of each executive agency shall, in accordance with guidance prescribed by the Director of the Office of Management and Budget—

(A) periodically review all programs and activities that the head of the executive agency administers; and

(B) identify all programs and activities with outlays exceeding the statutory threshold dollar amount described in paragraph (3)(A)(i) that may be susceptible to significant improper payments.

(2) **FREQUENCY.**—A review under paragraph (1) shall be performed for each program and activity that the head of an executive agency administers not less frequently than once every 3 fiscal years.

(3) **RISK ASSESSMENTS.—**

(A) **DEFINITION OF SIGNIFICANT.**—In this paragraph, the term "significant" means that, in the preceding fiscal year, the sum of a program or activity's improper payments and payments whose propriety cannot be determined by the executive agency due to lacking or insufficient documentation may have exceeded—

(i) \$10,000,000 of all reported program or activity payments of the executive agency made during that fiscal year and 1.5 percent of program outlays; or

(ii) \$100,000,000.

(B) **SCOPE.**—In conducting a review under paragraph (1), the head of each executive agency shall take into account those risk factors that are likely to contribute to a susceptibility to significant improper payments, such as—

(i) whether the program or activity reviewed is new to the executive agency;

(ii) the complexity of the program or activity reviewed;

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

(iv) whether payments or payment eligibility decisions are made outside of the executive agency, such as by a State or local government;

(v) recent major changes in program funding, authorities, practices, or procedures;

(vi) the level, experience, and quality of training for personnel responsible for making program eligibility determinations or certifying that payments are accurate;

(vii) significant deficiencies in the audit report of the executive agency or other relevant management findings that might hinder accurate payment certification;

(viii) similarities to other programs or activities that have reported improper payment estimates or been deemed susceptible to significant improper payments;

(ix) the accuracy and reliability of improper payment estimates previously reported for the program or activity, or other indicator of potential susceptibility to improper payments identified by the Inspector General of the executive agency, the Government Accountability Office, other audits performed by or on behalf of the Federal, State, or local government, disclosures by the executive agency, or any other means;

(x) whether the program or activity lacks information or data systems to confirm eligibility or provide for other payment integrity needs; and

(xi) the risk of fraud as assessed by the executive agency under the Standards for Internal Control in the Federal Government published by the Government Accountability Office (commonly known as the “Green Book”).

(C) ANNUAL REPORT.—Each executive agency shall publish an annual report that includes—

(i) a listing of each program or activity identified under paragraph (1), including the date on which the program or activity was most recently assessed for risk under paragraph (1); and

(ii) a listing of any program or activity for which the executive agency makes any substantial changes to the methodologies of the reviews conducted under paragraph (1).

(b) IMPROVING THE DETERMINATION OF IMPROPER PAYMENTS.—

(1) IN GENERAL.—The Director of the Office of Management and Budget shall on an annual basis—

(A) identify a list of high-priority Federal programs for greater levels of oversight and review—

(i) in which the highest dollar value or highest rate of improper payments occur; or

(ii) for which there is a higher risk of improper payments; and

(B) in coordination with the executive agency responsible for administering a high-priority program identified under subparagraph (A), establish annual targets and semi-annual or quarterly actions for reducing improper payments associated with the high-priority program.

(2) REPORT ON HIGH-PRIORITY IMPROPER PAYMENTS.—

(A) IN GENERAL.—Subject to Federal privacy policies and to the extent permitted by law, each executive agency with a program identified under paragraph (1)(A) shall on an annual basis submit to the Inspector General of the executive agency and the Office of Management and Budget, and make available to the public, including through a website, a report on that program.

(B) CONTENTS.—Each report submitted under subparagraph (A)—

(i) shall describe any action the executive agency—

(I) has taken or plans to take to recover improper payments; and

(II) intends to take to prevent future improper payments; and

(ii) shall not include—

(I) any referrals the executive agency made or anticipates making to the Department of Justice; or

(II) any information provided in connection with a referral described in sub-clause (I).

(C) PUBLIC AVAILABILITY ON CENTRAL WEBSITE.—The Office of Management and Budget shall make each report submitted

under subparagraph (A) available on a central website.

(D) AVAILABILITY OF INFORMATION TO INSPECTOR GENERAL.—Subparagraph (B)(ii) shall not prohibit any referral or information being made available to an Inspector General as otherwise provided by law.

(E) ASSESSMENT AND RECOMMENDATIONS.—The Inspector General of each executive agency that submits a report under subparagraph (A) shall, for each program of the executive agency that is identified under paragraph (1)(A)—

(i) review—

(I) the assessment of the level of risk associated with the program and the quality of the improper payment estimates and methodology of the executive agency relating to the program; and

(II) the oversight or financial controls to identify and prevent improper payments under the program; and

(ii) submit to the appropriate authorizing and appropriations committees of Congress recommendations, which may be included in another report submitted by the Inspector General to Congress, for modifying any plans of the executive agency relating to the program, including improvements for improper payments determination and estimation methodology.

(F) ANNUAL MEETING.—Not less frequently than once every year, the head of each executive agency with a program identified under paragraph (1)(A), or a designee of the head of the executive agency, shall meet with the Director of the Office of Management and Budget, or a designee of the Director, to report on actions taken during the preceding year and planned actions to prevent improper payments.

(c) ESTIMATION OF IMPROPER PAYMENTS.—

(1) ESTIMATION.—With respect to each program and activity identified under subsection (a)(1), the head of the relevant executive agency shall—

(A) produce a statistically valid estimate, or an estimate that is otherwise appropriate using a methodology approved by the Director of the Office of Management and Budget, of the improper payments made under the program or activity; and

(B) include the estimates described in subparagraph (A) in the accompanying materials to the annual financial statement of the executive agency and as required in applicable guidance of the Office of Management and Budget.

(2) LACKING OR INSUFFICIENT DOCUMENTATION.—

(A) IN GENERAL.—For the purpose of producing an estimate under paragraph (1), when the executive agency cannot determine, due to lacking or insufficient documentation, whether a payment is proper or not, the payment shall be treated as an improper payment.

(B) SEPARATE REPORT.—The head of an executive agency may report separately on

what portion of the improper payments estimate for a program or activity of the executive agency under paragraph (1) is attributable to lacking or insufficient documentation.

(d) REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.—With respect to any program or activity of an executive agency with estimated improper payments under subsection (c), the head of the executive agency shall provide with the estimate required under subsection (c) a report on what actions the executive agency is taking to reduce improper payments, including—

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

(2) in order to reduce improper payments to a level below which further expenditures to reduce improper payments would cost more than the amount those expenditures would save in prevented or recovered improper payments, a statement of whether the executive agency has what is needed with respect to—

- (A) internal controls;
- (B) human capital; and
- (C) information systems and other infrastructure;

(3) if the executive agency does not have sufficient resources to establish and maintain effective internal controls as described in paragraph (2)(A), a description of the resources the executive agency has requested in the budget submission of the executive agency to establish and maintain those internal controls;

(4) program-specific and activity-specific improper payments reduction targets that have been approved by the Director of the Office of Management and Budget;

(5) a description of the steps the executive agency has taken to ensure that executive agency managers, programs, and, where appropriate, States and local governments are held accountable through annual performance appraisal criteria for—

(A) meeting applicable improper payments reduction targets; and

(B) establishing and maintaining sufficient internal controls, including an appropriate control environment, that effectively—

(i) prevent improper payments from being made; and

(ii) promptly detect and recover improper payments that are made; and

(6) a description of how the level of planned or completed actions by the executive agency to address the causes of the improper payments matches the level of improper payments, including a breakdown by category of improper payment and specific timelines for completion of those actions.

(e) REPORTS ON ACTIONS TO RECOVER IMPROPER PAYMENTS.—With respect to improper payments identified in a recovery audit, the head of the executive agency shall provide with the estimate required under subsection (c) a report on all actions the executive agency is taking to recover the improper payments, including—

(1) a discussion of the methods used by the executive agency to recover improper payments;

(2) the amounts recovered, outstanding, and determined to not be collectable, including the percent those amounts represent of the total improper payments of the executive agency;

(3) if a determination has been made that certain improper payments are not collectable, a justification of that determination;

(4) an aging schedule of the amounts outstanding;

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

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

(7) if the executive agency has determined under subsection (i) that performing recovery audits for any applicable program or activity is not cost-effective, a justification for that determination.

(f) GOVERNMENTWIDE REPORTING OF IMPROPER PAYMENTS AND ACTIONS TO RECOVER IMPROPER PAYMENTS.—

(1) REPORT.—Each fiscal year, the Director of the Office of Management and Budget shall submit a report with respect to the preceding fiscal year on actions that executive agencies have taken to report information regarding improper payments and actions to recover improper payments to—

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

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

(C) the Comptroller General of the United States.

(2) CONTENTS.—Each report required under paragraph (1) shall include—

(A) a summary of the reports of each executive agency on improper payments and recovery actions submitted under this section;

(B) an identification of the compliance status of each executive agency, as determined by the Inspector General of the executive agency under section 3353, to which this section applies;

(C) Governmentwide improper payment reduction targets;

(D) a Governmentwide estimate of improper payments; and

(E) a discussion of progress made towards meeting Governmentwide improper payment reduction targets.

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

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Director of the Office of Management and Budget shall prescribe guidance for executive agencies to implement the requirements of this section, which shall not include any exemptions to those requirements that are not specifically authorized by this section.

(2) CONTENTS.—The guidance under paragraph (1) shall prescribe—

(A) the form of the reports on actions to reduce improper payments, recovery actions, and Governmentwide reporting; and

(B) strategies for addressing risks and establishing appropriate prepayment and postpayment internal controls.

(h) DETERMINATIONS OF AGENCY READINESS FOR OPINION ON INTERNAL CONTROL.—The criteria required to be developed under section 2(g) of the Improper Payments Elimination and Recovery Act of 2010, 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.

(i) RECOVERY AUDITS.—

(1) IN GENERAL.—

(A) CONDUCT OF AUDITS.—Except as provided under paragraph (3) and if not prohibited under any other provision of law, the head of each executive agency shall conduct recovery audits with respect to each program and activity of the executive agency that expends \$1,000,000 or more annually if conducting the audits would be cost effective.

(B) PROCEDURES.—In conducting a recovery audit under this subsection, the head of an executive agency—

(i) shall give priority to the most recent payments and to payments made in any program identified as susceptible to significant improper payments under subsection (a);

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

(iii) may conduct the recovery audit directly, by using other departments and agencies of the United States, or by procuring performance of recovery audits by private sector sources by contract, subject to the availability of appropriations, or by any combination thereof.

(C) RECOVERY AUDIT CONTRACTS.—With respect to a recovery audit procured by an executive agency by contract—

(i) subject to subparagraph (B)(iii), and except to the extent such actions are outside the authority of the executive agency under section 7103 of title 41, the head of the executive agency may authorize the contractor to—

(I) notify entities, including individuals, of potential overpayments made to those entities;

(II) respond to questions concerning potential overpayments; and

(III) take other administrative actions with respect to an overpayment claim made or to be made by the executive agency; and

(ii) the contractor shall not have the authority to make a final determination relating to whether any overpayment occurred or whether to compromise, settle, or terminate an overpayment claim.

(D) CONTRACT TERMS AND CONDITIONS.—

(i) IN GENERAL.—The executive agency shall include in each contract for procure-

ment of performance of a recovery audit a requirement that the contractor shall—

(I) provide to the executive agency periodic reports on conditions giving rise to overpayments identified by the contractor and any recommendations on how to mitigate those conditions;

(II) notify the executive agency of any overpayments identified by the contractor pertaining to the executive agency or to any other executive agency that are beyond the scope of the contract; and

(III) report to the executive agency credible evidence of fraud or vulnerabilities to fraud and conduct appropriate training of personnel of the contractor on identification of fraud.

(ii) REPORTS ON ACTIONS TAKEN.—Each executive agency shall, on an annual basis, include in annual financial statement of the executive agency a report on actions taken by the executive agency during the preceding fiscal year to address the recommendations described in clause (i)(I).

(E) AGENCY ACTION FOLLOWING NOTIFICATION.—Each executive agency shall—

(i) take prompt and appropriate action in response to a report or notification by a contractor under subclause (I) or (II) of subparagraph (D)(i) to collect an overpayment; and

(ii) forward to other executive agencies any information that applies to that executive agency.

(2) DISPOSITION OF AMOUNTS RECOVERED.—

(A) IN GENERAL.—Amounts collected by executive agencies each fiscal year through recovery audits shall be treated in accordance with this paragraph.

(B) DISTRIBUTION.—The head of an executive agency shall determine the distribution of collected amounts described in subparagraph (A), less amounts needed to fulfill the purposes of section 3562(a) of this title, in accordance with subparagraphs (C), (D), and (E).

(C) USE FOR FINANCIAL MANAGEMENT IMPROVEMENT PROGRAM.—Not more than 25 percent of the amounts collected by an executive agency through recovery audits—

(i) shall be available to the head of the executive agency to carry out the financial management improvement program of the executive agency under paragraph (3);

(ii) may be credited, if applicable, for the purpose described in clause (i) by the head of an executive agency to any executive agency appropriations and funds that are available for obligation at the time of collection; and

(iii) shall be used to supplement and not supplant any other amounts available for the purpose described in clause (i) and shall remain available until expended.

(D) USE FOR ORIGINAL PURPOSE.—Not more than 25 percent of the amounts collected by an executive agency through recovery audits—

(i) shall be credited to the appropriation or fund, if any, available for obligation at

the time of collection for the same general purposes as the appropriation or fund from which the overpayment was made;

(ii) shall remain available for the same period and purposes as the appropriation or fund to which credited; and

(iii) if the appropriation from which an overpayment was made has expired—

(I) in the case of recoveries of overpayments that are made from a trust or special fund account, shall revert to that account; and

(II) in the case of other recoveries of overpayments—

(aa) for amounts that are recovered more than 5 fiscal years from the last fiscal year in which the funds were available for obligation, shall be deposited in the Treasury as miscellaneous receipts; and

(bb) for other amounts, shall be newly available for the same time period as the funds were originally available for obligation.

(E) USE FOR INSPECTOR GENERAL ACTIVITIES.—Not more than 5 percent of the amounts collected by an executive agency through recovery audits—

(i) shall be available to the Inspector General of that executive agency for—

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

(II) any other activities of the Inspector General relating to investigating improper payments or auditing internal controls associated with payments; and

(ii) shall remain available for the same period and purposes as the appropriation or fund to which credited.

(F) REMAINDER.—Amounts collected that are not applied in accordance with subparagraph (B), (C), (D), or (E) shall be deposited in the Treasury as miscellaneous receipts, except that in the case of recoveries of overpayments that are made from trust or special fund accounts, those amounts shall revert to those accounts.

(G) DISCRETIONARY AMOUNTS.—This paragraph shall apply only to recoveries of overpayments that are made from discretionary appropriations, as defined in section 250(c)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(7)), and shall not apply to recoveries of overpayments that are made from discretionary amounts that were appropriated before the date of enactment of the Improper Payments Elimination and Recovery Act of 2010, as in effect on the day before the date of enactment of this section.

(H) APPLICATION.—This paragraph shall not apply to the recovery of an overpayment if the appropriation from which the overpayment was made has not expired.

(3) FINANCIAL MANAGEMENT IMPROVEMENT PROGRAM.—

(A) REQUIREMENT.—The head of each executive 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 a program described in subparagraph (A), the head of an executive agency—

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

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

(4) PRIVACY PROTECTIONS.—Any nongovernmental entity that, in the course of recovery auditing or recovery activity under this subsection, obtains information that identifies an individual or with respect to which there is a reasonable basis to believe that the information can be used to identify an individual, may not disclose the information for any purpose other than the recovery auditing or recovery activity and governmental oversight of the activity, unless disclosure for that other purpose is authorized by the individual to the executive agency that contracted for the performance of the recovery auditing or recovery activity.

(5) RULE OF CONSTRUCTION.—Except as provided under paragraph (4), nothing in this subsection shall be construed as terminating or in any way limiting authorities that are otherwise available to executive agencies under existing provisions of law to recover improper payments and use recovered amounts.

(Added Pub. L. 116–117, §2(a), Mar. 2, 2020, 134 Stat. 114.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (g)(1), (h), and (i)(2)(G), is the date of enactment of Pub. L. 116–117, which was approved Mar. 2, 2020.

Section 2(g) of the Improper Payments Elimination and Recovery Act of 2010, referred to in subsec. (h), is section 2(g) of Pub. L. 111–204, July 22, 2010, 124 Stat. 2228, which was formerly set out as a note under section 3321 of this title, prior to repeal by Pub. L. 116–117, §3(a)(2), Mar. 2, 2020, 134 Stat. 133.

This Act, referred to in subsec. (i)(2)(E)(i)(I), probably means Pub. L. 116–117, which enacted this subchapter, amended section 3562 of this title, section 612 of Title 6, Domestic Security, and section 1397ee of Title 42, The Public Health and Welfare, amended provisions set out as a note under 5701 of Title 5, Government Organization and Employees, and repealed provisions set out as notes under sections 3301 and 3321 of this title. For complete classification of this Act to the Code, see Short Title of 2020 Amendment note set out under section 3301 of this title and Tables.

The date of enactment of the Improper Payments Elimination and Recovery Act of 2010, referred to in subsec. (i)(2)(G), is the date of enactment of Pub. L. 111–204, which was approved July 22, 2010.

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.

§ 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