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# $35 BILLION AND COUNTING—A REVIEW OF THE IMPROPER PAYMENTS ACT OF 2002

## HEARING

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT EFFICIENCY AND FINANCIAL MANAGEMENT

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

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# $35 BILLION AND COUNTING—A REVIEW OF THE IMPROPER PAYMENTS ACT OF 2002

**THURSDAY, APRIL 15, 2004**

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT EFFICIENCY AND FINANCIAL MANAGEMENT,
COMMITTEE ON GOVERNMENT REFORM,
*York, PA.*

The subcommittee met, pursuant to notice, at 2:30 p.m., at the Yorktowne Hotel, Lafayette Room, York, PA, Hon. Todd R. Platts (chairman of the subcommittee) presiding.

Staff present: Mike Hettinger, staff director; Larry Brady and Tabetha Mueller, professional staff members; Amy Laudeman, legislative assistant; and Sarah D'Orsie, clerk.

Mr. PLATTS. This hearing of the Subcommittee on Government Efficiency and Financial Management will come to order, and I appreciate everyone's attendance here today at this first field hearing in the 19th District. We have traveled to our vice chairwoman's district in Tennessee, but delighted to certainly be here in York County, my hometown. I appreciate our witnesses, both from Washington as well as here from the local community, for participating in today's hearing.

Today, as millions of Americans pay their Federal taxes, and a number of friends, who have commented to me in the last 24 hours how they were rushing to beat the deadline, it seemed like an appropriate time for us to focus on the issue of improper payments by the Federal Government and how we are seeking to better protect the expenditure of the hard-earned tax dollars of our citizens. Unfortunately, as we will hear today in our testimony, billions of dollars continue to be lost to payment errors each year. While some of these payments are recoverable, a majority are not, and you know, are lost and never to be recovered.

To his great credit, President Bush and his administration, along with Congress, and my predecessor especially, Chairman Steve Horn, now retired, have made the reduction of improper payments a significant issue and a priority focus. In support of this effort, the subcommittee believes that the taxpayers have a fundamental right to know how their tax dollars are being spent. Improper payments by Federal agencies are a serious and growing problem which cost taxpayers billions of dollars. The Office of Management and Budget estimates that $35 billion is wasted through improper payments, and there is much belief that this number is just the tip of a much larger iceberg.

An improper payment is any payment that should not have been made. It can be a correct payment, an over or underpayment, and can include, among other things, a payment to an ineligible recipient, a payment for an ineligible service, a duplicate payment, or a payment for a service never received.

In 2002, my colleague, who I mentioned, Congressman Steve Horn, who was then Chair of this subcommittee, was successful in securing the enactment of the Improper Payments Information Act of 2002. This law has helped bring to the forefront the need to address this issue more aggressively. All Federal agencies will soon be required to make estimates of erroneous payments, and if those estimates are more than $10 million annually, to develop plans to reduce or eliminate these errors. On May 26 of last year, the Office of Management and Budget issued guidance which established governmentwide procedures for dealing with erroneous payments.

While we do not yet have our arms around the total extent of this problem, we are beginning to get a better sense of the total picture. What we do know is that mistakes, these mistakes which occur throughout government, are made because agencies do not have adequate internal controls and business process systems to protect against these errors.

Today, we look forward to exploring the process of agencies in implementing the act, review the status of OMB's guidance, and learn from GAO about strategies to better identify and reduce improper payments. We are also eager and grateful to hear from Citizens Against Government Waste and the National Taxpayers Union, who will express their views on this issue and on how to get a better handle on improper payments and reduce government waste.

We will have two panels today. Our first one features the Honorable Linda Springer for the White House Office of Management and Budget, and Linda, thanks for being with us again. You are getting to be a regular with us, that may be good or bad for you, I am not sure, we think it is good.

Ms. SPRINGER. So do we.

Mr. PLATTS. And we are delighted to have your mother here with us from Lancaster over to participate, sit in on the hearing, and your second time with us as well. Once in D.C., so thanks for being with us, as well as McCoy Williams, of the U.S. General Accounting Office. And McCoy, we, as always, appreciate your work, participation and efforts, hand in hand with our committee.

Mr. WILLIAMS. Thank you.

Mr. PLATTS. In our second panel, we will have a gentleman, Mr. Charlie Gerow, representing the Pennsylvania branch of the Citizens Against Government Waste, and Paul Gessing, from the National Taxpayers Union. We appreciate both of you making the efforts, and Charlie, I think, has the shortest commute for our witnesses. And we are delighted to have all of you, and Charlie, we especially appreciate the Pennsylvania perspective that you will bring to the issue on behalf of the national organization, Citizens Against Government Waste.

Could we have all four of our witnesses take the oath up front, and then we will get into our first panel testimony and questions.

So, if we could have our four witnesses come forward and stand, please.

[Witnesses sworn].

Mr. PLATTS. We certainly appreciate what I call my hearing homework, your written testimonies, which allows me to, in advance of today's hearing, review your comments and deliberate on the thoughts you want to share, and will lead to a better discussion today. Typically, we do ask for our opening statements to be roughly 5 minutes, but with the importance of the issue, and also, as we are in a smaller setting, I am certainly not going to be strict in holding to that, but if you want to—as you best feel—summarize your written statements, and share whatever you think is most appropriate in your opening statements, that would be great. And Linda, we will begin with you, and then move to McCoy.

[The prepared statement of Hon. Todd Russell Platts follows:]

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**Opening Statement**
**Congressman Todd R. Platts**
**April 15, 2004**

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Today as millions of Americans pay their federal taxes, Congress has a responsibility to ensure that those tax dollars are being used in the most efficient and effective manner. Unfortunately, as we will hear today, billions of dollars continue to be lost due to payment errors. While some of these payments are recoverable a majority are wasted and will never be recovered.

The Bush Administration and Congress have made the reduction of improper payments a significant issue. In support of that goal, this subcommittee believes that taxpayers have a fundamental right to know how their tax dollars are being spent. Improper payments by federal agencies are a serious and growing problem, which costs taxpayers billions of dollars each year. The Office of Management and Budget estimates $35 billion is wasted through improper payments. Some say this number is just the tip of an even bigger iceberg.

An improper payment is any payment that should not have been made. It can be incorrect payment, an over- or under- payment, and can include, among other things, a payment to an ineligible recipient, a payment for an ineligible service, a duplicate payment or a payment for a service not received.

In 2002, my esteemed former colleague, Congressman Steve Horn, who served as Chairman of this Subcommittee, was successful in securing the enactment of the "Improper Payments Information Act of 2002". This law has helped bring to the forefront the need to address this issue more aggressively. All federal agencies will soon be required to make estimates of erroneous payments and, if those estimates are more than $10 million annually, to develop plans to reduce or eliminate these errors. On May 26, 2003, OMB issued guidance, which established government-wide procedures for dealing with erroneous payments.

While we do not yet have our arms around the total extent of the problem, we are beginning to get a better sense of the total picture. What we do know is that these mistakes, which occur throughout government, are made because agencies do not have adequate internal financial controls and business process systems to protect against these types of errors.

Today, we look forward to exploring the progress of agencies in implementing the Act, review the status of OMB's guidance, and learning from GAO about strategies to identify and reduce improper payments. We're also eager to hear from Citizens Against Government Waste and the National Taxpayers Union who will express their views on this issue and on how to get a better handle on improper payments and reduce government waste.

We will have two panels of witnesses today. Panel one features The Honorable Linda Springer for the White House Office of Management and Budget and McCoy Williams from the U.S. General Accounting Office. On panel two we have Charlie Gerow from Citizens Against Government Waste and Paul Gessing from the National Taxpayers Union. I would like to offer a special thanks to each of our witnesses today for traveling to my hometown of York, Pennsylvania for this hearing.

**STATEMENTS OF LINDA M. SPRINGER, CONTROLLER, OFFICE OF FEDERAL FINANCIAL MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET; AND McCOY WILLIAMS, DIRECTOR, FINANCIAL MANAGEMENT AND ASSURANCE TEAM, GENERAL ACCOUNTING OFFICE**

Ms. SPRINGER. Thank you, Mr. Chairman.

I do appreciate the opportunity to testify again before this subcommittee, this time on the propriety of government payments. And as you mentioned, I am pleased to be near my family today, which resides in Lancaster County, in a neighboring district.

First, I would like to say that eliminating improper payments by the Federal Government has been, and continues to be, a major focus of President Bush and this administration. We strongly feel that one of the most important requirements in executing our missions is the responsible spending and efficient stewardship of taxpayer dollars, and we view them as taxpayer dollars, not OMB dollars or anyone else's dollars.

It is the goal of the administration to ensure that every dollar spent by the Federal Government is a dollar that is spent wisely and for the purpose to which it was intended. No payment made by the government should be wasted or spent in an erroneous or improper fashion. Given the Federal Government's current budget, in excess of $2 trillion annually, and the many competing important priorities, we believe our mission is more important today than it has ever been before.

Since the President's management agenda was first announced in 2001, early in the term, the elimination of improper payments has been a key component of the improving Financial Performance Initiative of the President's agenda. As part of that initiative, we have been working very hard with Federal agencies, both to identify and to eliminate improper payments within their major programs and their activities.

Specifically, at the Office of Management and Budget [OMB], it is our job to make certain that government agencies review their payments, and assess whether a risk of improper payment exists. If a risk does exist, it is our job to make sure the corrective action is taken to ensure that it won't happen again. We anticipate that all of these ongoing efforts will ultimately lead to a review of every single dollar for which the government intends to spend. The total $2 plus trillion we expect to be inventoried and subject to scrutiny, to ensure that taxpayer money is spent for that purpose for which it was intended.

Our initial efforts to eliminate improper payments focused on Federal programs making annual payments in excess of $2 billion. That is per program. In total, that amounted to about $1 trillion, or roughly half of the budget in a given year. There were 40 programs included, found within 15 different agencies. These agencies were directed to follow necessary requirements set out in Section 57 of OMB Circular A–11 and report on their programs within their—the context of their budget submissions. That was the initial approach used by OMB.

Collectively, these Section 57 programs, as I mentioned, comprise about $1 trillion in government spending. We estimated, as you mentioned earlier, Mr. Chairman, that improper payments just on

that first $1 trillion exceed $35 billion, and I use the word exceed because that is the initial report that we have gotten, and we believe that not all of those dollars have been fully measured yet. But—so that it is—we believe $35 billion is the bottom threshold of what we expect, just on those Section 57 programs.

Our goal to eliminate improper payments, as first envisioned in the PMA, was later endorsed, as you mentioned, by the Improper Payments Information Act of 2002 passed by Congress. And again, it is a credit to the work of this committee, and not only to Congressman Horn, but to yourself as well, in bringing that legislation to fruition. It is the administration's belief that the provisions of the act, combined with the start that we have gotten—and again, I would just characterize it as a start through Section 57, will ensure that all Federal payments and all Federal dollars are looked at, and ultimately spent only for the purpose for which they are intended.

Following the enactment of the act, OMB issued last year, in May 2003, guidance for agencies' compliance with the act. There are six steps outlined in the guidance, and if you look at the chart that we have brought—OMB doesn't usually do charts for hearings, but we decided to follow the lead of some of our fellow panelists and actually bring one this time, you will see that the six steps are listed there.

They start with the first one, of compiling the inventory of all payments and outlays. Second, conducting the initial risk assessment. This is an assessment of the susceptibility to risk of the program. The third step is to conduct a statistical analysis for those programs that are susceptible to risk. The fourth step, then, would be to develop corrective action plans. Next would be to develop a baseline of the current level of erroneousness, if you will, and then, to set improvement targets. And then next and last, report each year to Congress. Those are the steps that we believe are directed in the act, and those are the ones that we have been communicating through the guidance and working with the agencies to comply with.

In the fall of 2003, I personally met with the Offices of the Chief Financial Officers and at the same time, in a joint meeting, the Offices of the Inspectors General of each of the major agencies that are covered and subject to the act, and ultimately, they account for the full $2.4 trillion. Following those meetings, we directed all agencies to submit, by the end of November 2003, their plans for compliance with the act. All of the agencies met that goal. After our review of the plans, in January 2004 we responded back in writing to each of the Chief Financial Officers with specific comments and questions that we thought would improve their plans and close any gaps that we saw. And again, I should mention these are all steps that we have taken subsequent to our hearing last year. I want to sort of update you, since the guidance was only just coming out at that point.

So, the meetings with the CFOs and IGs, the submission of plans, review by OMB of the plans, with feedback, at the beginning of this year. Then subsequently, we have had another series of meetings with the CFOs again, and the IGs during this past February and March. At these meetings, we finalized the plans for

compliance, and directed agencies to set specific target dates for each of the required steps, each of those six steps, as they applied to that agency and to their programs. We also made sure that their inventories would total up to the full $2.4 trillion of outlay, so that when we report back to Congress, we will be able to say with assurance, here is the full $2.4 present and accounted for. We now have specific dates in which each of the key milestones are expected to be completed, and OMB's job will be to track and to make sure that these deadlines are met over the coming months.

So where are we right now? At this point, most of the agencies have completed step one, which is the compilation of their program inventories. Looking ahead to the rest of the steps, we expect the risk assessments to be pretty much completed by the end of May for most agencies. Statistical sampling in most cases done by the end of June, corrective action plans and the baseline and improvement targets by the end of September, which is the end of the fiscal year for the Federal Government. So, that is really a marker. At that point, then, agencies along with all their other financial reporting will be compiling that, putting that together into their performance and accountability reports, which are due out by November 15, 2004. And we thought that combining it in with their other financial report and their audit report was a logical vehicle. It is already submitted to Congress, and that was why we chose that particular vehicle to communicate their compliance with the act.

So we are comfortable that we have a plan. We are monitoring it closely, and we have a good start. I would, in fairness, want to communicate to you, Mr. Chairman, that there are significant challenges that remain. Most notably, we are working with agencies to develop ways to measure the full stream of payments that are made. In many cases, we have payments in some of the programs that are on this other chart that are made to States and then to local governments, or to a university and then to another university downstream, and our job doesn't start with that first payoff from the government. If a payment is made, for example, a grant from the Federal Government to a university for science, and then that university turned around and gave it to another university, and they built a gymnasium with it, that would be an improper payment, even though we gave the right amount to the right university. It is a very difficult thing to go all through those steps for some of these programs, but that is a complexity that we are dealing with, and we intend to get a process in place.

I know that you have a number of questions that you will—and we will—I will address those as they come up, but I want—I hope that you can see that we believe several things. One, that every tax dollar must be spent wisely, efficiently, and for the purpose for which it was intended. We believe that this administration, under President Bush's leadership, has taken—undertaken with the help of Congress the most comprehensive effort ever to deal with the problem of improper payments. And for the first time ever, to my knowledge, we are reviewing every Federal program to determine if it is at risk of making an improper payment. And we believe we are making progress, and so we are happy to share that with you today, and we look forward to your questions.

[The prepared statement of Ms. Springer follows:]

**Statement of The Honorable Linda M. Springer**
**Controller, Office of Federal Financial Management**
**Office of Management and Budget**

**Before the**
**Subcommittee on Government Efficiency and Financial Management**
**Committee on Government Reform**
**United States House of Representatives**
**April 15, 2004**

**The Improper Payments Information Act of 2002 and the Efficient Use of Taxpayer Dollars**

Thank you, Mr. Chairman.

I appreciate the opportunity to testify before this Subcommittee again on the subject of the propriety of government payments. I am also pleased to be spending the afternoon in York, Pennsylvania, which is close to my family's home in Lancaster County.

Let me first say that eliminating improper payments by the Federal Government has been, and continues to be, a major management focus of this Administration. We strongly feel that one of the most important requirements in executing our missions is responsible spending and the efficient stewardship of taxpayer dollars.

It is the goal of this Administration to ensure that every dollar spent by the Federal Government is a dollar that is spent wisely and for the purpose for which it is intended. No payment made by the government should be wasted or spent in an improper or erroneous fashion. Given the Federal Government's current budget in excess of $2 trillion annually and the many important competing priorities and programs, our mission is more important now than ever before.

Since the President's Management Agenda (PMA) was first announced in 2001, the elimination of improper payments has been a key component of the Improving Financial Performance initiative. As part of this initiative, we have been working very hard with Federal agencies to identify and eliminate improper payments within major programs and activities.

Specifically, it is our job at the Office of Management and Budget (OMB) to make certain that government agencies review their payments and assess whether a risk of improper payment exists. If such a risk does exist, then corrective action must be taken to ensure that the improper payment does not occur again. We anticipate that ongoing agency efforts will ultimately lead to a review of every single dollar that the government spends to ensure that taxpayer money is spent for the purpose for which it was intended.

Initially, the effort to eliminate improper payments focused on Federal programs making annual payments in excess of $2 billion. Included were 40 programs, found within 15 different agencies, such as the Earned Income Tax Credit (EITC), Highway Planning and Construction, Medicare, Medicaid and TANF. Those programs were first required to assess the risk of, and estimate the extent of, their improper payments, and then to implement a strategy to eliminate them. The agencies were directed to follow the necessary requirements set out in Section 57 of OMB Circular A-11 and report on the programs in their annual budget submissions.

Collectively, the Section 57 programs comprised about $1 trillion in government spending – nearly half of all annual government expenditures. We estimate that improper payments exceed $35 billion a year out of the $1 trillion in spending by these programs. Needless to say, this is an enormous amount of money being spent in an improper fashion, and we have a duty to the American taxpayers to eliminate such improper payments.

Our goal to eliminate improper payments as first envisioned in the PMA was later endorsed by the Improper Payments Information Act ("IPIA" or "the Act") enacted by Congress in 2002. The IPIA extended the scope of review from Section 57 programs to all major agency programs and activities. It is the Administration's belief that the provisions of the Act, combined with the Section 57 reviews that were already underway, will help to ensure that all Federal dollars are spent only for the purpose for which they were intended.

Following the enactment of the IPIA, in May of 2003 the Administration provided guidance (OMB Memorandum M-03-13) for agencies to comply with the Act. This guidance outlined six steps that each agency must follow to properly identify and eliminate improper payments. These particular steps are as follows:

1) Compile an inventory of all payments/outlays.
    - Identify all payment streams in every program.

2) Conduct risk assessments.
    - Identify those programs the agency believes have an error rate of at least 2.5% and an error amount in excess of $10 million.

3) Conduct statistical analyses.
    - Take a sample of payments in those programs identified in Step 2 above.
    - Track those payments through an audit/verification process to assess error.
    - Use information found in the sample to extrapolate an error rate and amount for the program as a whole.

4) Develop corrective action plans.
    - For those programs in Step 3 above that are found to have in excess of $10 million in improper payments, develop a plan for eliminating those payments.

5) Develop a baseline and improvement targets.
    - For programs that have corrective action plans, agencies must establish reduction targets for future years.

6) Report results annually in the Performance and Accountability Report (PAR).
    - PARs are to be submitted by November 15 each year.

The Administration is actively working with the major agencies to ensure that each is complying with the IPIA and working toward completion of the six steps set out in the Administration's guidance.

In the fall of 2003, I personally met with the Offices of the Chief Financial Officer (CFO) and the Inspector General (IG) of each major agency to ensure that plans to meet the requirements of the Act were being developed. Following these meetings, we directed all agencies to submit by November 30, 2003, their plan for complying with the Act. All of the agencies met this goal. After our review of the plans, in January of 2004 we responded in writing to all agency CFOs with specific comments and questions about their proposals.

Subsequent to this correspondence, we held another series of meetings with the CFO offices of the major agencies this past February and March. At these meetings, we finalized the agency plans to comply with the IPIA and directed the agencies to set specific target dates for completing the required steps to ensure that results are achieved on a timely basis. We now have specific dates in which the key milestones are expected to be completed, and we will track each agency's progress in meeting these deadlines over the course of the coming months.

At this point, most agencies have completed the compilation of their program inventories. Over the course of this year, most agencies are expected to complete the remaining steps on the following schedule: risk assessments by the end of May; statistical sampling by the end of June; and corrective action plans, baseline and improvement targets by the end of September. All agencies are then required to report their activities relating to the elimination of improper payments in their 2004 PARs, which are to be issued on November 15, 2004. During these next seven months and beyond, we will be working with the agencies to make certain that progress is made, target dates are met, milestones are completed, and results are achieved.

Following the most recent meetings with the agency CFO offices, we are confident that, while progress is being made, significant challenges remain. Most notably, we are working with the agencies to develop cost-effective approaches for tracking improper payments at each stage of the payment lifecycle. In other words, we want to follow the dollar from the Federal agency through any intermediary and ultimately to the individual recipient. The more complex the program, the more challenging it is to track these payments and thus establish an annual national error rate. Even for the most complex programs, however, we are developing solutions that will enable us to implement appropriate financial management improvements and obtain the information necessary to gauge results on an annual basis.

The earlier described planning, risk assessing, and sampling processes are all tools and necessary steps to achieving the real purpose of our efforts – the elimination of improper payments. It remains the goal of this Administration to ensure that each taxpayer dollar is spent wisely, efficiently, and for the purpose for which it was originally intended. We are committed to this endeavor until our objective has been achieved.

Thank you, Mr. Chairman. I am happy to entertain your questions.

Mr. PLATTS. Thank you, Ms. Springer, and—I turned it off because when I touch the table, you are going to hear it, but—we appreciate and we will get into questions after Mr. Williams' testimony, but I do appreciate the review, and do acknowledge the ongoing efforts by you and the entire Bush administration on the issue of financial management, including improper payments.

Ms. SPRINGER. Thank you.

Mr. PLATTS. Mr. Williams, if you would like to begin your testimony.

Mr. WILLIAMS. Thank you, Mr. Chairman.

Mr. Chairman, I am pleased to be here today to discuss the governmentwide problem of improper payments in Federal programs and activities.

First, I would like to respond to your request that we review the fiscal year 2003 performance and accountability reports of 15 agencies for improper payment information on 46 programs.

Second, I will discuss the importance of effective internal control to the success of the Improper Payments Information Act of 2002. In this regard, it is important to recognize that various legislative and administrative initiatives have called for continuing assessments and improvements in internal control and financial management systems over the past two decades. Meeting the requirements of these initiatives should have resulted in agencies having significant information available on their programs and activities that are susceptible to improper payments.

We found that the fiscal year 2003 performance and accountability reports typically contained limited amounts of improper payment information, even for those programs previously cited in OMB Circular A–11, for which a reporting requirement has existed for 3 years; 7 of the 15 agencies involved reported all three categories of information you asked about for 9 programs; 4 agencies did not report on any of the three elements for the 11 programs. Further, the reports contained improper payment estimates totaling almost $36 billion for 31 of the 46 programs listed in the circular, information on agency initiatives to prevent or reduce improper payments for 22 programs, and impediments to reducing or preventing improper payments for 11 programs.

A strong internal control system is key to the effort to reduce improper payments in Federal programs. Since 1982, various legislative and administrative initiatives have focused on and required agency assessments of internal controls over programs and financial management activities. Although these initiatives may not specifically target improper payments, by emphasizing internal controls, they have recognized the importance of internal controls in ensuring that Federal programs achieve their intended results, and that Federal agencies operate them effectively and efficiently.

We believe that only with diligence and vigorous implementation will the Improper Payments Act have a significant impact on governmentwide improper payments. The level of importance each agency, the administration, and the Congress place on the efforts to implement the act will determine its overall effectiveness, and the level to which agencies reduce improper payments and ensure that Federal funds are used efficiently and for their intended purpose.

Hearings such as this one today are critically important demonstrations of the congressional commitment to efficient and effective management of Federal programs and funds. And ensuring transparency of Federal efforts to address the governmentwide improper payments problem.

Mr. Chairman, I would be glad to respond to any questions that you may have.

[The prepared statement of Mr. Williams follows:]

United States General Accounting Office

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Testimony
Before the Subcommittee on Government Efficiency and Financial Management, Committee on Government Reform, House of

For Release on Delivery
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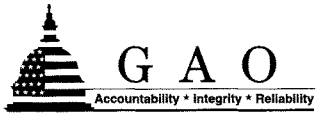
# FINANCIAL MANAGEMENT

# Fiscal Year 2003 Performance and Accountability Reports Provide Limited Information on Governmentwide Improper Payments

Statement of McCoy Williams
Director, Financial Management and Assurance




GAO-04-631T

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss the governmentwide problem of improper payments in federal programs and activities. First, I would like to respond to your request that we highlight and discuss our review of the fiscal year 2003 Performance and Accountability Reports (PAR) of 15 agencies and identify, for 46 programs previously cited in Office of Management and Budget (OMB) Circular A-11, *Preparation and Submission of Budget Estimates*, Section 57, "Information on Erroneous Payments,"[1] the

- agencies that reported improper payments information and the programs and activities on which that information was based,
- amounts of improper payments reported,
- initiatives agencies reported taking to reduce those payments and the results of those initiatives, and
- impediments to the prevention or reduction of improper payments.

I will then discuss the importance of effective internal control to the success of the Improper Payments Information Act of 2002 (Improper Payments Act).[2] In this regard, it is important to recognize that various legislative and administrative initiatives have called for continuing assessments and improvements in internal control and financial management systems over the past two decades, at least. Meeting the requirements of these initiatives should have resulted in agencies having significant information available on their programs and activities that are susceptible to improper payments.

**Background**

Before highlighting the results of our review of the fiscal year 2003 PARs, I would like to summarize the requirements of the Improper Payments Act. The act requires the head of each agency to annually review all programs and activities that the agency administers and identify all such programs and activities that may be susceptible to significant improper payments. For each

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[1]Section 57 was eliminated from OMB Circular A-11. See OMB Circular A-11, Transmittal Memorandum #77, July 25, 2003. Appendix I lists the 15 agencies and 46 programs previously cited in Section 57.
[2]Pub. L. No. 107-300, 116 Stat. 2350 (Nov. 26, 2002).

program and activity identified, the agency is required to estimate the annual amount of improper payments and submit those estimates to the Congress before March 31 of the following applicable year. The act further requires that for any agency program or activity with estimated improper payments exceeding $10 million, the head of the agency shall provide a report on the actions the agency is taking to reduce those payments.

The Improper Payments Act also required the Director of OMB to prescribe guidance to implement its requirements not later than six months after the date of its enactment (Nov. 26, 2002). OMB issued this guidance on May 21, 2003.[3] It states that each agency shall report the results of its improper payment efforts in the Management Discussion and Analysis section of its PAR for fiscal years ending on or after September 30, 2004. In general, the first set of reports required by the guidance is due in November 2004. Significantly, the guidance issued in May 2003, also required that 15 agencies report improper payment information for 46 programs identified in OMB Circular A-11, publicly in their fiscal year 2003

[3]Office of Management and Budget Memorandum M-03-13, "Improper Payments Information Act of 2002 (Public Law 107-300)," May 21, 2003.

PARs. Section 57 required agencies to include improper payment[4] information for the agencies and programs in their nonpublic budget submissions to OMB, beginning with the fiscal year 2003 budget proposals. According to OMB, the programs were selected primarily because of their large dollar volume ($2 billion dollars or more in outlays). In July 2003, OMB dropped the requirement for information on erroneous payments and eliminated Section 57 requirements for preparing fiscal year 2005 budget submissions. The information previously called for in the circular includes actual and estimated improper payments and rates, targets for reducing the improper payment rates identified, and corrective action plans to reach the targets.

If diligently and vigorously implemented, the Improper Payments Act should have a significant impact on the governmentwide improper payments problem. The level of importance each agency, the administration, and the Congress place on the efforts to implement the act will determine its overall effectiveness and the level to which agencies reduce improper payments and ensure that federal funds are used for their intended purposes.

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[4]OMB's guidance uses the term erroneous payments rather than improper payments. We consider the term synonymous.

**Fiscal Year 2003 PARs Contain Limited Improper Payment Information**

As you requested, we reviewed the fiscal year 2003 PARs for the 15 agencies and 46 programs previously cited in OMB Circular A-11, Section 57, to identify the improper payment information contained therein. Table 1 summarizes the improper payment estimates agencies reported in their fiscal year 2003 PARs.

**Table 1: Improper Payment Estimates Reported in Agency Fiscal Year 2003 PARs**

| Agency | Program | Reported amount of improper payments |
|---|---|---|
| 1. Department of Agriculture (USDA) | 1. Food Stamps | 1,507,000,000 |
| | 2. Commodity Loan Programs | 153,000,000 |
| | 3. National School Lunch and Breakfast | o |
| | 4. Women, Infants, and Children | o |
| 2. Department of Defense (DOD) | 5. Military Retirement Fund | 33,087,000 |
| | 6. Military Health Benefits | 53,484,000 |
| 3. Department of Education (ED) | 7. Student Financial Assistance—Pell Grants | 377,500,000 |
| | Student Financial Assistance—non-program specific | 105,000,000 |
| | 8. Title I | o |
| 4. Department of Health and Human Services (HHS) | 9. Medicaid | o |
| | 10. Medicare | 11,600,000,000 |
| | 11. Head Start | o |
| | 12. Temporary Assistance for Needy Families (TANF) | o |
| | 13. Foster Care—Title IV-E | o |
| | 14. State Children's Insurance Program | o |
| | 15. Child Care and Development Fund | o |
| 5. Department of Housing and Urban Development (HUD) | 16. Low Income Public Housing | 650,000,000 |
| | 17. Section 8 Tenant Based | 1,215,000,000 |
| | 18. Section 8 Project Based | 662,000,000 |
| | 19. Community Development Block Grant (CDBG) (Entitlement Grants, States/Small Cities) | o |
| 6. Department of Labor (DOL) | 20. Unemployment | 4,225,000,000 |

| Agency | Program | Reported amount of improper payments |
|---|---|---|
| | Insurance | |
| | 21. Federal Employees' Compensation Act (FECA) | 9,055,000 |
| | 22. Workforce Investment Act | 3,066,075 |
| 7. Department of Treasury (TREAS) | 23. Earned Income Tax Credit (EITC) | 10,500,000,000 |
| 8. Department of Transportation (DOT) | 24. Airport Improvement Program | 14,000,000 |
| | 25. Highway Planning and Construction | 1,400,000 |
| | 26. Federal Transit—Capital Investment Grants | 32,000,000 |
| | 27. Federal Transit—Formula Grants | 64,000,000 |
| 9. Department of Veterans Affairs (VA) | 28. Compensation | 129,063,000 |
| | 29. Dependency and Indemnity Compensation | 0 |
| | 30. Pension | 250,535,000 |
| | 31. Insurance Programs | 261,000 |
| 10. Environmental Protection Agency (EPA)[c] | 32. Clean Water State Revolving Funds | .13% Reported as a rate, no amount |
| | 33. Drinking Water State Revolving Funds | .04% Reported as a rate, no amount |
| 11. National Science Foundation (NSF) | 34. Research and Education Grants and Cooperative Agreements | 0 |
| 12. Office of Personnel Management (OPM) | 35. Retirement Program (Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS)) | 177,300,000 |

| Agency | Program | Reported amount of improper payments |
|---|---|---|
| | 36. Federal Employees Health Benefits Program (FEHB) | 28,200,000 |
| | 37. Federal Employees Group Life Insurance (FEGLI) | 448,000 |
| 13. Railroad Retirement Board (RRB) | 38. Retirement and Survivors Benefits | 168,327,370 |
| | 39. Railroad Unemployment Insurance Benefits | 2,778,000 |
| 14. Small Business Administration (SBA) | 40. 7(a) Business Loan Program | 13,000,000 |
| | 41. 504 Certified Development Companies | None |
| | 42. Disaster Assistance | o[a] |
| | 43. Small Business Investment Companies | o[b] |
| 15. Social Security Administration (SSA) | 44. Old Age and Survivors' Insurance | 600,000,000 |
| | 45. Disability Insurance | 340,000,000 |
| | 46. Supplemental Security Income (SSI) Program | 2,740,000,000 |
| **Total** | **31 of 46 agency programs reported estimated amounts** | **$35,654,504,445** |

Source: Agency fiscal year 2003 Performance and Accountability Reports (data); GAO (analysis).

Note: An "o" indicates that the agency did not report amounts for the program.

[a]SBA reported improper payment rates and amounts for certain disaster loans; it did not provide a programwide estimate of improper payments.

[b]SBA reported potential improper payment rates and amounts for certain small business investment company transactions; it did not provide a programwide estimate of improper payments.

[c]Note that although EPA reported improper payment rates instead of a dollar amount, for the purposes of our table and figure, we included EPA as having reported improper payment estimates.

Further review of the table shows that the PARs contained improper payment estimates for 31 of the 46 agency programs previously listed in Circular A-11.

The reports contained information on agency initiatives to prevent or reduce improper payments for 22 programs and on impediments to improper payment prevention or reduction for 11 programs. Some agencies partially reported required information. Figure 1 presents, by agency program, the level of reporting that we found for the three categories of information you asked about (improper payment amounts; initiatives to prevent improper payments, reduce them, or both; and impediments to preventing or reducing them). As you can see, the level of reporting is literally all over the board.

**Figure 1: Level of Agency Improper Payment Reporting by Program**

| Categories of compliance | Reported estimated improper payment amounts | Reported initiatives | Reported impediments | Number of programs in each category | Programs in each category | |
|---|---|---|---|---|---|---|
| 3 | ● | ● | ● | 9 | DOL - Unemployment Insurance<br>ED - Student Financial Assistance<br>HHS - Medicare<br>HUD - Low Income Public Housing<br>HUD - Section 8 Project Based | HUD - Section 8 Tenant Based<br>SSA - Disability Insurance<br>TREAS - Earned Income Tax Credit<br>USDA - Food Stamps |
| 2 | ● | ● | | 10 | DOL - FECA<br>DOT - Airport Improvement Program<br>DOT - Highway Planning and Construction<br>EPA - Clean Water State Revolving Funds<br>SBA - 7(a) Business Loan Program | SSA - Old Age Survivors' Insurance<br>SSA - SSI Program<br>VA - Compensation<br>VA - Insurance Programs<br>VA - Pension |
| | ● | | ● | 1 | USDA - Commodity Loan Program | |
| | | ● | ● | 0 | | |
| 1 | ● | | | 11 | DOD - Military Health Benefits<br>DOD - Military Retirement Fund<br>DOL - Workforce Investment Act<br>DOT - Federal Transit - Capital Investment Grants<br>DOT - Federal Transit - Formula Grants<br>EPA - Drinking Water State Revolving Funds | OPM - Federal Employees Group Life Insurance<br>OPM - Federal Employees Health Benefits Program<br>OPM - Retirement Program (CSRS and FERS)<br>RRB - Retirement and Survivors Benefits<br>RRB - Railroad Unemployment Insurance Benefits |
| | | ● | | 3 | NSF - Research and Education Grants and Cooperative Agreements<br>USDA - Women, Infants, and Children<br>VA - Dependency and Indemnity Compensation | |
| | | | ● | 1 | USDA - National School Lunch and Breakfast | |
| 0 | | | | 11 | ED -Title 1<br>HHS - Child Care and Development Fund<br>HHS - Foster Care-Title IV-E<br>HHS - Head Start<br>HHS - Medicaid<br>HHS - State Children's Insurance Program | HHS - TANF<br>HUD - CDBG (Entitlement Grants, States/Small Cities)<br>SBA - 504 Certified Development Companies<br>SBA - Disaster Assistance<br>SBA - Small Business Investment Companies |

Compliance with all three categories
Compliance with two categories
Compliance with one category
Compliance with no categories

Source: GAO.

Further, although agencies may have met the reporting requirements for particular programs by addressing them in PARs, in many cases, the information reported was limited to agency plans for future measures that may not come about. In some cases, agencies reported that they had already determined that programs were not susceptible to significant improper payments, despite the fact that the auditor's reports in the same PARs identified management challenges or material internal control weaknesses within the programs where the design or operation of an internal control procedure did not reduce, to a relatively low level, the risk that errors, fraud, or noncompliance that would be material to the financial statements may occur and not be detected promptly by employees in the normal course of performing their duties. This situation appears contradictory.

Although OMB has required agencies to perform various improper-payment-related identification and corrective action activities for the past three years for these 46 programs, figure 1 shows that only seven agencies reported all of the required elements you asked about—estimated amounts, initiatives taken to reduce improper payments, and impediments to improper payment

prevention or reduction—representing only 9[5] of the 46 programs (20 percent). One of the agencies, for one of its programs, reported estimated improper payment amounts, discussed ongoing collaborative efforts made with and between program partners (such as state agencies) to improve payment accuracy and to share "best practice" information, and further reported that recent legislation weakened the penalties imposed on program partners for high error rates and reduced the incentives offered for lower rates. Another agency reported an improper payment amount for three of its four required programs, reported initiatives such as improving program guidance and training, and addressed impediments such as the lack of available income data needed to verify applicant-provided income information. A third agency reported an estimate for one of its three required programs, and further reported initiatives including promoting and funding data exchanges with program partners, and reported that its principal impediment was the cost of detecting eligibility issues.

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[5]The nine programs are (1) DOL – Unemployment Insurance, (2) ED – Student Financial Assistance, (3) HHS – Medicare, (4) HUD – Low Income Public Housing, (5) HUD – Section 8 Project Based, (6) HUD – Section 8 Tenant Based, (7) SSA – Disability Insurance, (8) TREAS – Earned Income Tax Credit, and (9) USDA – Food Stamps.

For 10[6] of the 46 programs represented in six agencies, the agencies estimated improper payment amounts and initiatives taken to reduce improper payments, but did not address any impediments. For one program, an agency estimated improper payments and discussed initiatives to correct benefit computation errors and beneficiary earnings test improvements. Another is performing annual on-site reviews. One agency reported an improper payment amount for a program and discussed initiatives, such as implementing an automated system to identify coding and billing errors. Other initiatives reported by agencies included conducting recovery audits, collaborating with other federal agencies to identify and recover payments made to ineligible beneficiaries, and issuing policy notices and providing training to agency personnel on program processes.

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[6] The 10 programs are (1) DOL – FECA, (2) DOT – Airport Improvement Program, (3) DOT – Highway Planning and Construction, (4) EPA – Clean Water State Revolving Funds, (5) SBA – 7(a) Business Loan Program, (6) SSA – Old Age Survivors' Insurance, and (7) SSA – SSI Program, (8) VA – Compensation, (9) VA – Insurance Programs, and (10) VA – Pension

Six agencies reported estimated amounts for 11[7] programs, but did not discuss initiatives taken to reduce improper payments and impediments to preventing or reducing improper payments. For three programs, agencies reported no estimated amounts or impediments, but did discuss initiatives taken to reduce improper payments, such as expanding annual post award monitoring and oversight processes. One agency did not report estimated improper payment amounts or discuss initiatives taken to reduce improper payments for one of its programs but identified some of the impediments it has encountered in preventing or reducing them, such as the unavailability of the data necessary to accurately measure improper payments.

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[7]The 11 programs are (1) DOD – Military Health Benefits, (2) DOD – Military Retirement Fund, (3) DOL – Workforce Investment Act, (4) DOT – Federal Transit-Capital Investment Grants, (5) DOT – Federal Transit-Formula Grants, (6) EPA – Drinking Water State Revolving Funds, (7) OPM- Federal Employees Group Life Insurance, (8) OPM – Federal Employee's Health Benefits Program, (9) OPM – Retirement Program (CSRS and FERS), (10) RRB – Retirement and Survivor Benefits, and (11) RRB – Unemployment Insurance.

For 11[8] of the 46 programs for which agencies were required to report improper payment information in their fiscal year 2003 PARs, four agencies did not report estimated amounts, initiatives taken to reduce improper payments, or impediments to preventing or reducing improper payments, even though OMB Circular A-11, Section 57, originally required agencies to report improper payment data, assessments, and action plans with their initial budget submissions since July 2001. One agency reported, "... erroneous payments are very unlikely ... limited to instances of fraud... " Agencies for several programs reported only that they were continuing to develop improper payment error rates, but reported no further information.

**Stronger Internal Control Systems Are Key to Reducing Governmentwide Improper Payments**

In October 2001, we issued an executive guide on strategies to manage improper payments that was based on the results of

[8]The 11 programs are (1) ED – Title I, (2) HHS – Medicaid, (3) HHS – Head Start, (4) HHS – TANF, (5) HHS – Foster Care-Title IV-E, (6) HHS – State Children's Insurance Program, (7) HHS – Child Care and Development Fund, (8) HUD – CDBG (Entitlement Grants, States/Small Cities), (9) SBA – 504 Certified Development Companies, (10) SBA –

information that we obtained from public and private sector organizations that identified and took actions designed to reduce improper payments in their programs.[9] We found that the actions that these organizations took shared a common focus of improving the internal control system over problem areas. This system consists of five primary components—the control environment, risk assessments, control activities, information and communications, and monitoring. Internal controls are not one event, but a series of actions and activities that occur throughout an entity's operations and on an ongoing basis. People make internal controls work, and responsibility for good internal control rests with all managers.

One of the biggest hurdles that many entities face in the process of managing improper payments is overcoming the tendency to deny the problem. It is easy to rationalize avoiding or deferring action to address a problem if you do not know how big the problem is. The nature and magnitude of the problem—determined through a systematic risk assessment process—needs

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Disaster Assistance, and (11) SBA – Small Business Investment Companies.

to be determined and openly communicated to all relevant parties. When this occurs, especially in a strong control environment, denial is no longer an option, and managers have the information, as well as the incentive, to begin addressing improper payments.

## The Federal Managers' Financial Integrity Act of 1982 Set Internal Control Review and Reporting Requirements

Fraud, waste, and abuse in federal activities and programs lead to the loss of billions of dollars of government funds, erode public confidence, and undermine the federal government's ability to operate effectively. Unfortunately, that assessment comes from a 1985 GAO report[10] on federal agencies implementation of 31 U.S.C. 3512 (c), (d) (commonly referred to as the Federal Managers' Financial Integrity Act of 1982 (Financial Integrity Act). Continuing concern over the poor condition of government internal controls and accounting systems led the Congress to pass this legislation that requires, among other things, ongoing evaluations

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[9]U.S. General Accounting Office, *Strategies to Manage Improper Payments: Learning From Public and Private Sector Organizations*, GAO-02-69G (Washington, D.C.: Oct. 2001).
[10]U.S. General Accounting Office, *Financial Integrity Act: The Government Faces Serious Internal Control and Accounting Systems Problems*, GAO/AFMD-86-14 (Washington, D.C.: Dec. 23, 1985).

and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency. It requires the head of each agency to issue an annual report that identifies material weaknesses identified through the assessment process and the actions planned to correct those weaknesses.

An August 1984 GAO report[11] that summarized the results of our governmentwide review of agencies' efforts to implement the Financial Integrity Act found that agencies made a good start in the first year of assessing their internal control and accounting systems and demonstrated a management commitment to implementing the act. Top agency and OMB managers were becoming involved. The report characterized the first-year effort as a learning experience and noted that much remained to be done to complete the evaluation process and correct the problems identified. Our 1984 review of the material weaknesses identified in the annual reports of 17 major agencies revealed that

- 16 agencies reported accounting/financial management system weaknesses;

- 14 agencies reported procurement weaknesses;
- 13 agencies reported property management weaknesses;
- 12 agencies reported cash management weaknesses;
- 12 agencies reported grant, loan, and debt collection management weaknesses; and
- 8 agencies reported eligibility and entitlement weaknesses.

We concluded that, since the initial work in implementing the act had been accomplished, agencies needed to develop comprehensive plans to correct the material weaknesses identified. Correction of problems represents the "bottom line" of the act. We further recognized that many of the weaknesses identified were long-standing. They did not develop overnight, and their solutions would not be easy. It would take a sustained, high-priority commitment. In commenting on this report, OMB agreed that a long-term commitment to improving internal control was necessary and that weaknesses identified in the first year must be corrected.

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[11]U.S. General Accounting Office, *Implementation of the Federal Managers' Financial Integrity Act: First Year*, GAO/OCG-84-3

In our December 1985 report, we cited a congressional committee report on the first-year implementation of the Financial Integrity Act, based on a May 22, 1984, hearing held by the Subcommittee on Legislation and National Security, House Committee on Government Operations, on federal efforts to improve internal control and accounting systems and on the Financial Integrity Act's implementation, that stated the following:

"According to the testimony, a good beginning has been made toward implementing the Act. It is clear, however, that much more remains to be done .... This year agencies began the review process. Now, they must improve on the work they did last year and conduct in-depth internal control reviews. Above all, corrective actions must be taken on the deficiencies found." [12]

In our report, we noted that, while the act required agency heads to report material weaknesses in their annual reports, the annual reviews conducted identified significant numbers of less serious internal control weaknesses. For example, although Treasury did

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(Washington, D.C.: Aug. 24, 1984).

[12]House Government Operations Committee, House of Representatives, *First Year Implementation of the Federal Managers' Financial Integrity Act*, H.R. Rep. No. 98-937 (1984).

not report any additional material weaknesses in its 1984 annual statement, its component bureaus identified 89 weaknesses that they considered material and reported 127 associated corrective actions. According to Treasury's 1984 annual statement, the bureaus had completed 46 (36 percent) of these 127 corrective actions. Similarly, the military services identified and reported correcting thousands of control weaknesses at lower levels. Army managers, for example, reported correcting 3,600 internal control weaknesses in 1984 that were not considered to be material from an agency perspective.

In November 1989 testimony,[13] former Comptroller General Charles A. Bowsher again addressed this issue by noting that based on the results of the internal control assessments and examinations of the systems problems that agencies have reported and that GAO and federal audit organizations have identified in their audit reports, it is evident that

[13]U.S. General Accounting Office, *Federal Internal Control and Financial Management Systems Remain Weak and Obsolete*, GAO T-AFMD-90-9 (Washington, D.C.: Nov. 29, 1989).

- the government does not currently have the internal control and accounting systems necessary to effectively operate many of its programs and safeguard its assets;
- many weaknesses are long-standing and have resulted in billions of dollars of losses and wasteful spending;
- major government scandals and system breakdowns serve to reinforce the public's perception that the federal government is poorly managed, with little or no control over its activities; and
- top-level officials must provide leadership if this situation is to change.

In summary, during the 1980s, federal agencies conducted significant numbers of internal control assessments and identified and reported taking corrective actions to eliminate the weaknesses found. Yet, at the end of the decade, controls remained inadequate and these weaknesses resulted in billions in losses and wasteful spending. Significantly, the final item cited by Mr. Bowsher in his 1989 testimony is indicative of a weak control environment. Our past work has shown that the control environment is perhaps the most significant component of internal control to the identification, development, and implementation of

activities to reduce improper payments. As pointed out in our executive guide on managing improper payments, without this top-level leadership, the outlook for overall improvements in the governmentwide effort to reduce improper payments is limited.

Initiatives since 1990 Have Also Emphasized the Importance of Strong Internal Controls

From the early 1990s to the present, additional initiatives called for actions to strengthen internal controls over federal programs and financial management activities. The Chief Financial Officers Act (CFO) of 1990[14] as expanded by the Government Performance and Results Act of 1993 (GPRA);[15] the Government Management Reform Act of 1994;[16] and the President's Management Agenda are a few of these initiatives. Again, our reports that discuss these initiatives may not specifically focus on improper payments and agency efforts to reduce such payments but they do discuss agency internal controls over various programs, activities, or both and actions to identify weaknesses in those controls and to design and implement actions to eliminate those weaknesses. Therefore,

[14]Pub. L. No. 101-576, 104 Stat. 2838 (Nov. 15, 1990).
[15]Pub. L. No. 103-62, 107 Stat. 285 (Aug. 3, 1993).

there is a direct relationship between agency activities regarding those initiatives and agency actions to implement the Improper Payments Act.

In recent testimony before this subcommittee on the fiscal year 2003 U.S. government financial statements,[17] Comptroller General David M. Walker noted that certain material weaknesses[18] in internal control and in selected accounting and reporting practices resulted in conditions that continued to prevent GAO from being able to provide the Congress and American citizens with an opinion as to whether the consolidated financial statements of the U.S. government are fairly stated in conformity with U.S. generally accepted accounting principles. One of these material weaknesses involved improper payments that, based on the limited information available, exceed $35 billion annually. The testimony noted that without a systematic measurement of the extent of

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[16]Pub. L. No. 103-356, 108 Stat. 3410 (Oct. 13, 1994).
[17]U.S. General Accounting Office, *Fiscal Year 2003 U.S. Government Financial Statements: Sustained Improvement in Federal Financial Management Is Crucial to Addressing Our Nation's Future Fiscal Challenges*, GAO-04-477T (Washington, D.C.: Mar. 3, 2004).
[18]A material weakness is a condition that precludes the entity's internal control from providing reasonable assurance that misstatements, losses, or noncompliance material in relation to the financial statements or to stewardship information would be prevented or detected on a timely basis.

improper payments, federal agency management cannot determine (1) if improper payment problems that require corrective action exist, (2) mitigation strategies and the appropriate amount of investments to reduce them, and (3) the success of efforts implemented to reduce improper payments.

GPRA is the centerpiece of a statutory framework that the Congress put in place during the 1990s to help resolve the long-standing management problems that have undermined the federal government's efficiency and effectiveness and to provide greater accountability for results. GPRA was intended to address several broad purposes, including strengthening the confidence of the American people in their government; improving federal program effectiveness, accountability, and service delivery; and enhancing congressional decision making by providing more objective information on program performance.

It has resulted in a great deal of progress in making federal agencies more results oriented, but numerous challenges still exist. Top leadership commitment and sustained attention to

achieving results, both within the agencies and at OMB, is essential to GPRA implementation.[19] Top leadership commitment is a characteristic of a positive control environment. This again raises the issue of the adequacy of the control environment at federal agencies. Leadership commitment is important, not only to GPRA implementation, but other management activities and initiatives, including successful implementation of the Improper Payments Act. Our executive guide on managing improper payments identified a positive control environment as perhaps the most significant element critical to the identification, development, and implementation of activities to reduce improper payments. The guide can provide useful information to leaders in formulating and implementing their programs to reduce improper payments.

In an October 2003 report on governmentwide efforts to address improper payment problems,[20] we noted that, as part of the President's Management Agenda, officials at OMB told us that they had met with officials from all relevant agencies to provide assistance and to ensure that agencies (1) understood the

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[19]U.S. General Accounting Office, *Results-Oriented Government: GPRA Has Established a Solid Foundation for Achieving Greater Results*, GAO-04-38 (Washington, D.C.: Mar. 10, 2004).

requirements set forth in its guidance for implementing the Improper Payments Act, (2) have started to inventory their programs and activities for significant risk of improper payments, (3) understand the risk assessment process, and (4) understand the reporting requirements under the Improper Payments Act. In that report, we concluded that the governmentwide effort to identify and assess the magnitude of improper payments, to take actions to reduce those payments, and to publicly report the results of those efforts is generally in its infancy. We further reported that although OMB Circular A-11 had required 14 CFO Act agencies to report selected improper payment information on 44 programs[21] to OMB beginning with their fiscal year 2003 budget submissions, those agencies had completed risk assessments for only 15 of the programs, despite the Congress's mandate in 1982 through the Financial Integrity Act that agencies continually assess their internal control systems and report annually on their adequacy. Since the issuance of our October 2003 report, federal agencies have issued their fiscal year 2003

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[20]U.S. General Accounting Office, *Financial Management: Status of the Governmentwide Efforts to Address Improper Payment Problems*, GAO-04-99 (Washington, D.C.: Oct. 17, 2003).

[21]Our scope in that report was limited to only the 23 CFO Act agencies, of which 14 agencies and 44 programs were previously cited in OMB

PARs. As I discussed earlier in this testimony, the fiscal year 2003 PARs typically contained limited amounts of improper payment information even for those programs previously cited in Circular A-11 for which a reporting requirement has existed since agency submissions of their fiscal year 2003 budgets to OMB.

Our executive guide on managing improper payments recognized that in federal agencies, implementation of a strong system of internal control will likely not be easy or quick and will require strong support and continuous action from the President, the Congress, top-level administration appointees, and agency management officials. Once committed to a plan of action, they must remain steadfast supporters of the end goals and their support must be transparent to all. Agencies must be held accountable for appropriately managing and controlling their programs and safeguarding program assets. OMB must continue to provide direction and support to agency management in the implementation of governmentwide efforts, such as those involving improper payments, and conduct appropriate oversight of federal agency efforts to meet their stewardship and program

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Circular A-11, Section 57. We did not review the Railroad Retirement Board.

management responsibilities. It is also critical that the Congress continue its oversight, through public hearings such as this one, to make it clear to agency and OMB officials that efforts to reduce improper payments are expected and that failure to do so is not a option.

**Conclusions**

Since 1982, various legislative and administrative initiatives have focused on and required agency assessments of internal controls over programs and financial management activities. Although these initiatives may not specifically target improper payments, by emphasizing internal controls, they have recognized the important role that internal controls have in ensuring that federal programs achieve their intended results and that federal agencies operate them effectively and efficiently. Given this long-standing emphasis on internal control and the various long-standing requirements to identify and implement actions to correct control system weaknesses identified, it is fair to ask two questions. First, is it reasonable to expect that federal agencies have significant information on the condition of internal controls over their programs and activities? Second, should agencies be able to

identify their programs and activities that are susceptible to improper payments and to meet the other requirements established by the Improper Payments Act? Based on the legislative and administrative initiatives over the past 20-plus years, I think that the answer to both is an emphatic yes.

Many positive improvements have resulted from the various initiatives related to internal control and financial management over the past 20-plus years. However, I am concerned that we continue to see a trend in agency actions to address internal control problems. Agencies often get off to a good start, but they do not sustain their efforts. Given this history and the unknown and potentially significant magnitude of improper payments governmentwide, it is clear that we are facing a major management challenge in adequately addressing the problem. The needed governmentwide initiatives are in place, they must now be effectively implemented. Key to this effort is the need for a strong control environment that creates a culture of accountability and establishes a positive and supportive attitude toward reducing improper payments.

This concludes my prepared statement. I would be pleased to respond to any questions that you or other Members of the Subcommittee may have.

**Contact and Acknowledgements**

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## Appendix I

### Agencies and Programs for Which OMB Circular A-11 Required Erroneous Payment Information for Fiscal Year 2003

**1. Department of Agriculture (USDA)**

1 Food Stamps
2 Commodity Loan Program
3 National School Lunch and Breakfast
4 Women, Infants, and Children

**2. Department of Defense (DOD)**

5 Military Retirement
6 Military Health Benefits

**3. Department of Education (ED)**

7 Student Financial Assistance
8 Title I

**4. Department of Health and Human Services (HHS)**

9 Head Start
10 Medicare
11 Medicaid
12 TANF
13 Foster Care – Title IV-E
14 State Children's Insurance Program
15 Child Care and Development Fund

**5. Department of Housing and Urban Development (HUD)**

16 Low Income Public Housing
17 Section 8 Tenant Based
18 Section 8 Project Based
19 Community Development Block Grants (Entitlement Grants, States/Small Cities)

**6. Department of Labor (DOL)**

20 Unemployment Insurance
21 Federal Employee Compensation Act
22 Workforce Investment Act

**7. Department of the Treasury (TREAS)**

23 Earned Income Tax Credit

**8. Department of Transportation (DOT)**

24 Airport Improvement Program
25 Highway Planning and Construction
26 Federal Transit – Capital Investment Grants
27 Federal Transit – Formula Grants

**9. Department of Veterans Affairs (VA)**

28 Compensation
29 Dependency and Indemnity Compensation
30 Pension
31 Insurance Programs

**10. Environmental Protection Agency (EPA)**

32 Clean Water State Revolving Funds
33 Drinking Water State Revolving Funds

**11. National Science Foundation (NSF)**

34 Research and Education Grants and Cooperative Agreements

| **12. Office of Personnel Management (OPM)** |
|---|
| 35 Retirement Program (Civil Service Retirement System and Federal Employees' Retirement System) |
| 36 Federal Employees Health Benefits Program |
| 37 Federal Employees' Group Life Insurance |
| **13. Railroad Retirement Board (RRB)** |
| 38 Retirement and Survivor's Benefits |
| 39 Railroad Unemployment Insurance Benefits |
| **14. Small Business Administration (SBA)** |
| 40 (7a) Business Loan Program |
| 41 504 Certified Development Companies |
| 42 Disaster Assistance |
| 43 Small Business Investment Companies |
| **15. Social Security Administration (SSA)** |
| 44 Old Age and Survivors' Insurance |
| 45 Disability Insurance |
| 46 Supplemental Security Income Program |

Source: GAO

Mr. PLATTS. Thank you, Mr. Williams, as well. And as I said earlier, you and GAO played a very important role as we have sought to partner with your agency, as well as with OMB, and really all of the Federal Government to really try to get our arms around this issue.

Ms. Springer, I would like to begin with you, and as we talked about the guidelines and your timeframe, and based on where the various agencies and departments are now, as we are about to enter the month of May, and they have some benchmarks to meet, based on the guidance that OMB as a whole provided, and what they should have already done, and have what they should have, the risk assessments coming up in May. What is your best estimate of the guidance as it stands? Is it going to be pretty solid, or do you think you are going to—as you go through these next couple months, going to have to revise it and, the departments and agencies are not stepping up as much as you maybe hoped they would in fulfilling these requirements?

Ms. SPRINGER. Well, we think, Mr. Chairman, that the guidance is holding up pretty well, as the agencies have had to develop plans all the way through each step. It has been a good opportunity to vet the clarity of the guidance. The section that has the most challenge for us, and the CFOs are working along with the Inspectors General, to get further definition, is in those stream of payment issues. And also, some of the more complex programs, and how you actually define the rate. And the need for an annual rate, in some of these cases, where they have only been doing them every 3 or 4 years, so I think those are places where we are issuing some further clarity, but the basic steps are holding up fine.

Mr. PLATTS. Is there a consequence that has been delineated to the agencies or departments that if they are not meeting these, they better have a good explanation of why, or else this happens? Especially as we approach the November 15 PAR reports. What if they don't? And I ask that especially in light of Mr. Williams' testimony, written and mentioning here as that—under the Section 57 requirements, in those 40 odd programs that were to be disclosing in their 2003, that a large percentage of them really didn't, you know, do a very good job. What is going to be the consequences as we go through and they are not meeting the requirements?

Ms. SPRINGER. I can't say that we have actually said if you don't do this, then this will happen to you, or you won't get your funding, or that type of thing, but what we have done is to work with every agency to make sure, first of all, that they do have very specific steps and plans in place, with dates, and I think that they didn't have that in the past. We just more or less said here is what you need to report in your budget submission, and then we let them go for the year, and then we saw what came in at the end, and as you say——

Mr. PLATTS. Right.

Ms. SPRINGER. There are holes in that. And I think it was the first time that some of these programs, frankly, started to deal with these issues seriously, and found it was difficult to do. And that is not an excuse, but I think it was an observation. By having each of the steps, it allows us to make sure they don't get off track, and we have ways to work with them. And we will be partnering

with the IGs as well throughout all of this to make sure that their independent oversight, not just the administration's, but the independent oversight of the Inspector General, will help to keep them on track as well.

Mr. PLATTS. As you meet with the CFOs and the others involved in the process, we certainly will be watching those who comply or don't comply.

Ms. SPRINGER. We tell them that, too.

Mr. PLATTS. And as we get to that November 15 deadline, again, it will be meant in a positive way, but we will especially be interested in having those agencies or departments who aren't in full compliance as of November 15, and to share publicly, you know, what is the challenge, and why aren't they—and I am sure, as you have stated, there are some really significant challenges. How to define the improper payments, how to get your best estimate, but it does worry me that the consequence on the—because, as in—Mr. Williams, in your written testimony, you have—in recounting the history through the 1980's, the 1990's, and then even the response to the Section 57, that there really, even when it is—administrative focus is there, and congressional action occurs, that the agencies and departments continue to show a hesitancy to really embrace the guidance or the statutory requirements put in place to go after this, and I hope, and I think there is maybe an important difference, and that is the fact that this President has, as part of his management agenda, made financial management a top priority.

In that example from the top, through OMB, through the CFO Council, can make a difference, but I do worry that they need to know that there is some consequence for noncompliance, and——

Ms. SPRINGER. Right.

Mr. PLATTS. Mr. Williams, is there anything from your perspective that we should have better included in the original legislation, a statutory consequence, or is there something we should contemplate?

Mr. WILLIAMS. No, I think we have laid the groundwork for requiring the agencies to report the information that we need. I think from a legislative standpoint, if I was assessing you to give you an opinion, you would get a clean opinion, from the standpoint of using the Green Book criteria, the tone has been set at the top, right from the beginning, from you and the vice chair. You have held hearings, and you have made it known the importance of this issue, so I think at this particular point in time, we have done the things that we need to do. If there is any other thing that you might want to consider, is something similar to what we have reported in previous years, and that is you might want to consider coordinated efforts with the authorizing committees, and the appropriators of some of these programs, to make sure that Congress is in sync, and that all three committees are working very hard to make sure that this issue is addressed.

Mr. PLATTS. And that is an important suggestion for me, as a member, and for our committee staff with those other committees that—those that have the most egregious numbers, when it comes to improper payments, that those authorizing and appropriating committees for those programs are aware of that as they go

through their appropriations process, are maybe asking similar, specific, and tougher questions.

Mr. WILLIAMS. Tougher questions, right.

Mr. PLATTS. Yeah.

Mr. WILLIAMS. Exactly.

Mr. PLATTS. As part of that review.

Mr. WILLIAMS. Exactly.

Mr. PLATTS. Ms. Springer, last year, we touched on this, I have to reexamine it, because there are now two parts of—about going after every dollar, and to focus on, you know, every expenditure is closely scrutinized. And in your written statement, where you talked about ensuring that every dollar is wisely spent, and no payment should be wasted. The 2.5 percent caveat that has been placed on the threshold standard is one that still seems to me to be contrary to that commitment of every dollar, because the original legislation started at $1 million, as introduced by Chairman Horn. The compromise was $10 million, but with no other caveat, and then, as OMB issued the guidance, added the $10 million, and that is at least 2.5 percent, which excludes some payments that won't be looked at and disclosed and able to be acted on. And I guess in revisiting that, as you have moved through this process, do you have any new thoughts or have you given any more consideration to the appropriateness of that 2.5 percent additional caveat?

Ms. SPRINGER. Well, we have been asked that question, as you know, by your colleague on the Senate side, Senator Grassley, as well, and actually, I brought up copies I would like to have entered into the record, if I could, of——

Mr. PLATTS. Sure.

Ms. SPRINGER [continuing]. The letter we sent to him.

We view it that, first of all, the first step of the act, or actually, the second step, of conducting the risk assessment. This is the review to see if there is a significant susceptibility to risk, and the actual words in the law, in the act, are "susceptible to significant improper payments." That is the thing that agencies are directed to identify. That is the full definition that is in the act. The $10 million threshold doesn't come in until steps three and beyond. So, because there was no further specificity, we felt that agencies would be looking for some definition beyond—what is susceptible, what is significant improper payment? How do you define that? And what we had to go on to—what is—our experience in the first trillion dollars of programs, where we had seen a threshold of 3.5 percent, $35 billion over the first trillion dollars of payments, at a minimum, and so that average 3.5, we felt actually would probably be higher, once we were fully informed about that, and so we said we wanted to pick a percentage below that number for the programs that are not already covered by Section 57, and that is an important clarification. Any program that is in this first trillion, these large programs, Social Security, Medicare, Medicaid, unemployment insurance. All of those go through the entire portfolio and protocol of steps. They won't stop. If their rate was only a half of a percent, it wouldn't matter. They have to go all the way through all of the steps. So, we are only really talking about the balance of the programs, which are typically less small and less susceptible.

But we used, as a benchmark, our experience on this first trillion, and we said let us use 2.5, in addition to the 10, that comes later on in the act, to make sure that efforts, the agencies' efforts, were focused where it would be most meaningful and most fruitful.

And I understand that is—jumped off the page, if you will, to some of the observers of the guidance, but it was really done, really, to make sure that efforts were focused, frankly, to get us the best results. We are focused on results, on getting these payments back under control, and we didn't want agencies chasing after nickels and dimes. We wanted them to focus their efforts in the most meaningful places.

These bigger programs will be, will regardless of what their rate is, they have to go through every step. They won't stop at step two.

Mr. PLATTS. But how is that for the longevity of these regs and guidance being in place, in a future administration? A future administration could eliminate the 2.5 percent. You are saying even if their rate is below, for these larger ones, you are still requiring them.

Ms. SPRINGER. And that is in the act. That is actually in writing in the act. That is not just, you know, a sort of a desk drawer rule.

Mr. PLATTS. Right. In the——

Ms. SPRINGER. So that is provided for in the—not in the act, in the guidance.

Mr. PLATTS. Right. That is in the guidance.

Ms. SPRINGER. Right.

Mr. PLATTS. The answer is that a future administration can maintain that, you know, requirement, or choose——

Ms. SPRINGER. Sure. They could. I mean, I guess, I would turn it around, the perspective around a little bit, and say that all programs under the Section 57, plus the universe of the balance of the programs that are above that threshold, that we think is a pretty low threshold, frankly, based on what we have seen on these others, we think we are going to capture—there is very little that is going to fall through the cracks. And if we could get all of that under control, that is going to be a big universe for the agencies to deal with. If the time came when we felt that was well in hand, then we could always revisit the guidance and reset that threshold for those programs that aren't in Section 57.

Mr. PLATTS. The kind of twofold concern, one is, looking at what is a significant improper payment, is, in reading the act in total, would take that Congress said for an agency any—the total of $10 million for that agency, are significant. The fact that we didn't put a percentage in there, from a statutory interpretation standpoint, would be that $10 million is freestanding, not with something else attached. And I guess the other is that for some smaller agencies, that they know, even though their dollar amounts are smaller, and not going to be the big, you know, prize that we are after, that they should be equally focused on this, and is that, you know, through the CFO Council, and through the various interactions, you know, that OMB is having, that even if they are not technically required, that they still know that they had better be going after this?

Ms. SPRINGER. Yeah, they are. They are. Absolutely. I mean, that is just part of the level of management scrutiny that we want them to have, is good financial management, managers across the board.

One other thing that is important to note, too, is that the programs have to be aggregated in ways that are meaningful within an agency. So, an agency can't just take very small pieces and apply the $10 million and the 2.5. They have to be—it is all of the grants of an agency, for example.

Mr. PLATTS. Right.

Ms. SPRINGER. We are really trying to safeguard that things don't fall through the cracks. Our only intention there with the 2.5 was to provide a definition to what significant meant, and then to focus efforts where the problems really were biggest, and you know, again, as I say, if we had to, down the road, once all the rest of these dollars are well in hand, we could revisit. I would imagine that we will still have, of the $2.4 trillion, easily two thirds to three quarters of dollars going beyond step two, even with this rule. It wouldn't surprise me at all. So, we are going to have our hands full.

Mr. PLATTS. Right.

Ms. SPRINGER. Even with this rule.

Mr. PLATTS. So, maybe the message is that you are—this is a starting point, and when all goes well now, with—as it is, will your——

Ms. SPRINGER. We could come back and——

Mr. PLATTS. Will you go to the next level——

Ms. SPRINGER [continuing]. Take a look at it.

Mr. PLATTS. And dig a little deeper, and Mr. Williams, your thoughts from GAO, I guess in a twofold sense——

Mr. WILLIAMS. Yes.

Mr. PLATTS. One is if you want to comment on the 2.5 percent additional requirement——

Mr. WILLIAMS. OK.

Mr. PLATTS [continuing]. But also, Mr. Gerow is going to talk in his testimony, his written testimony, that the $10 million, you know, being high, and given that Chairman Horn's original legislation was $1 million, should we be looking at trying to go back to the original intent, or are we at a good place to start, and see how it plays out?

Mr. WILLIAMS. I think that the issue surfaced here from the standpoint of the interpretation of significant, and based on what we have heard today, I think as we go forward, we need to take a close look to see if we are getting the coverage that we need to get to make sure that we are addressing this particular issue. You raised a very good point, from the standpoint of one of the reasons why you get certain things put into legislation is because you want to have a process in place that will stand the test of time, regardless of who is in charge. That statute would be there from the standpoint of making sure that we are addressing the improper payments issue. Time will tell, I think time will tell whether we are getting adequate coverage or not. I think at this particular point in time, we just have to wait and see. I was aware that at one point in time, it was $1 million, that was in the original draft legislation. What we need to do is to take a look, as they come in, on this $10 million, and if it turns out that there are some programs that are slipping through the cracks, then we might need to revisit, from the standpoint of lowering that number. It could go in

either direction. We just need to get through this first year, see what type of information we are getting from this particular process, and then reevaluate. So, it is a work in process, I believe, at this particular point in time.

Mr. PLATTS. Staying with the guidance issue, in the implementation of those guidelines, one of the challenges, Ms. Springer, you talked about is the payments that are State administered, and how to track them. They are Federal dollars, but each State handles them in various programs. Can you expand on the guidance that you are giving agencies, as far as how to try to go after that chain of command of the money as it goes through, and also they should be working with the States. How close are you working with the departments and agencies regarding those type of State implemented Federal payments?

Ms. SPRINGER. Right. And that probably is the single most important issue that we have as a challenge. We are working very closely. We have a committee of the CFO Council and membership on that committee with the Inspectors General, working with us, with the agencies that have those types of payments, and to develop ways and to share practices among them, on how to deal with it.

Now, each agency is dealing with it in their own way. Medicaid, for example, or Medicare, and Medicaid, with payments to the State, are working with pilot groups of States to try to look into and at the State level, be able to do reviews of the payment process. As they learn more about this pilot group, then they will be able to extend those practices to a broader group of States, and that is a learning experience for them. We are looking to strengthen the Single Audit Act, which looks at payments, grants payments, for example, and other payments that are made, and has auditors at that level of the recipients, to ensure that the payments are used for the purposes that they were intended. We think that the Single Audit Act, and those auditors will be able to help us, almost as an extension of the agency to determine the appropriateness of the payment.

And then third, we believe that some of these entities have their own audit staffs. States certainly have audit programs in place, and it is my goal to try and partner with them wherever we can to not duplicate their efforts, but benefit from them, and add that to our array of tools.

Mr. PLATTS. The pilot programs that are ongoing, those are really in response to the Improper Payments Act being passed?

Ms. SPRINGER. Actually started with the OMB directive, because there are programs that were on the initial Section 57 list.

Mr. PLATTS. OK. So, the Section 57——

Ms. SPRINGER. Certainly, the act reinforces it.

Mr. PLATTS. OK. And with the States, is there—as your—and maybe it is, again, as those pilots are kind of getting a base of information, but is there anything being contemplated to the States that, if you want to have these tax dollars made available to you from the Federal Government for your citizens, that you will have to implement, you know, something similar. Maybe if they have it, you don't want to duplicate it, I agree.

Ms. SPRINGER. Right.

Mr. PLATTS. But you know, what is the guidance being given through the agencies to States to say, you know, it may not be this year, but we are going to be looking at either having your own that we can extrapolate the information, or we are going to require you to adopt something that we are doing.

Ms. SPRINGER. Right. I am—the reason I am looking here is that I don't really have the program on the tip of my tongue, but there was a program that—where money was given to the States, and I am not sure if it is an unemployment program, or it may have been school lunch. But there was a program, and I can get for you which one it was, where payments actually were withheld. And don't quote me that it was school lunch, but there was some program——

Mr. PLATTS. Right.

Ms. SPRINGER [continuing]. Where there was actually—the dollars distributed were tied to a better treatment and better accuracy of handling of payments. I will get for you which one it—which program that was.

Mr. PLATTS. Yeah, and I would appreciate your following up with this, because when I look at some of the dollar figures, the sums that really are State implemented, some of them are pretty significant.

Ms. SPRINGER. Yeah.

Mr. PLATTS. And if we are really going to have great success Federal Governmentwide, those States that are actually implementing, or administering those dollars really are going to be a key part of the effort.

Ms. SPRINGER. Yeah, I am being told that it was the food stamps program.

Mr. PLATTS. OK.

Ms. SPRINGER. Where there was something of that type, and it is a way to test it. If it works there, you are absolutely spot-on that it is the best way to be able to get some good enforcement.

Mr. PLATTS. So, is OMB looking at taking that type of example, and moving it to other programs? Is that part of——

Ms. SPRINGER. Making a——

Mr. PLATTS [continuing]. That pilot review, or——

Ms. SPRINGER. Well, it's making agencies aware that this is an option, and we expect them to use that option wherever they can.

Mr. PLATTS. So basically, given the agency, saying one way or another, we expect you to be able to attest to the accuracy of your payments, and one option is to get the States to implement a program that you can—that the Federal agency——

Ms. SPRINGER. That is right.

Mr. PLATTS [continuing]. Can use?

Ms. SPRINGER. That is right.

Mr. PLATTS. OK. Staying on the issue, or related to the guidance and every dollar every payment being focused on, it is analogous to my concern on the 2.5 percent being added, is the agreement with the Social Security Administration on the "unavoidable payments," and how they will be treated. I know one example is with disability payments, and—where Social Security, if they are making a payment and they determine that a recipient of that disability payment maybe is not eligible, the courts have ruled you have

to go through the due process, and you keep paying, and even if at the end of the due process, you find yeah, we were right, they shouldn't be paid, there is no ability to recoup, the courts have said. As you know, unavoidable. Is that an accurate example, in——

Ms. SPRINGER. That is an example.

Mr. PLATTS. Where——

Ms. SPRINGER. I am not sure if they can recoup in that case——

Mr. PLATTS. Where they——

Ms. SPRINGER. But——

Mr. PLATTS. Because—I guess where they can recoup, but——

Ms. SPRINGER. They can recoup it, but they can't until after the decision, because until the courts agree that there has been——

Mr. PLATTS. Right.

Ms. SPRINGER [continuing]. An accurate determination of the continued disability or recovery——

Mr. PLATTS. Right.

Ms. SPRINGER [continuing]. You really can't say that it is an improper, or that it is a recovery until the courts agree, because of the due process. We certainly wouldn't want to take away the due process.

Mr. PLATTS. Right.

Ms. SPRINGER. Make that recommendation. The agencies in those cases, where they have to continue to pay, and agency is the wrong word, Social Security, and that is the only agency to which this explanation or elaboration on the guidance applies. No other agency has come to us on this. It is just strictly a Social Security issue.

Mr. PLATTS. At this point, just being Social Security, are we establishing a precedent that other agencies are going to say hey, we are going to go after that same argument to lessen what they have to report what they are showing as improper payments.

Ms. SPRINGER. We haven't seen any indication of it. The only thing that I could even potentially imagine would be if there was a legal impediment, or a statutory court type impediment, similar to the due process issue. But none have raised that. We are not aware of any. None of—no agencies have come to us with it. So—but where there is a—bound by the law, then we really have our hands tied. But there are some other practical situations with Social Security as well. For example, payments that are made after death. If a death isn't reported on a timely basis, once that is known, then at that point, we have told Social Security, you have to recover those funds. If you don't recover them pretty quickly, then that becomes an improper payment. That has to be added in to your rate. So, it is just a matter of time until it gets to the rate. They are capturing the dollars. They know how much it is. And—but at the point of time when the payment was made, they didn't know that the person had deceased. There are some other situations where there are estimates of earnings, and the actual earnings aren't known until they are actually earned, so—but the payment is made in anticipation of a level of earnings that has been estimated. That could be higher, it could be lower. Once the actual earnings are known, then in all likelihood, it would turn out that the payment should be revised, or would have been different. And then, it is up to Social Security to make that—recoup that amount.

If they don't, that also would enter into their improper payment rate. So, it is really just a matter of the practicality of what information is available, or the due process issue. It covers the vast majority of the issues.

Mr. PLATTS. Your example in the Social Security death payment or after death payment, is a good example. It was actually one that I was talking about in a previous speaking engagement earlier today, because of the wrongfulness of how the law works today, where someone can pass away at 1 minute to midnight on the last day of the month, and that next first day payment, first of the month payment is for the month that the person lived all but 1 minute.

Ms. SPRINGER. Right.

Mr. PLATTS. And Social Security says we win, you lose, even though you have bills for the entire month. And I came to learn of it through the passing of my father on June 25th, sitting with the funeral director, and my mom already was aware of it, because of a bad experience with one of her friends, where the husband died the last day, or the next to the last day, a check went in, was taken out, which threw the widow's account off, she didn't know what was going on. And that is a separate issue of equity or fairness within Social Security, but I guess my concern with the approach that you are taking with Social Security in this specific example. It is not the acknowledgment that there are some—and the due process is a perfect example. The courts are requiring them to make it, it is not improper when they are making it, because the due process hasn't run its course, but how we disclose them. And I would like your comments, and for OMB to consider that you don't free the departments or agencies, in this case, just Social Security thus far, from reporting those type of payments that maybe are unavoidable, but rather report them with a different title, that they are unavoidable improper payments. So then we still know that these type of improper payments, even unavoidably, are being made, especially if some of them relate to statute, where they are improper, but statute is requiring them to make it, we need to know that, Congress, because maybe the statute needs to be amended. And if they are not reported at all, and not disclosed at all, then we don't get that base of knowledge to act on. And so, I think you are being very responsible in working on Social Security, and saying there are some payments that are going to be a different breed here, and we need to address that. But to not require any disclosure of those, I think, is not going to be the best approach. And I would be interested in your comments. Widow's account office.

Ms. SPRINGER. Well, I appreciate your recognition of that there is this different category, and—that doesn't fit nicely into the black and white model. I think the part that you—that we would be reporting that doesn't get reported today, is the small part for the interim period, before it moves from a not known to a known. Because once it is known, then, and the short time that we give them to act on it and recover it. It is that short period, because once—if Social Security doesn't act promptly on it, it will go in and be reported as an improper payment. So they are—it is just this small window of time from when, say, the court rules and says yes, it

really is an improper—or, they are not eligible, until Social Security doesn't move quickly. So, the question is what do we do in that window there.

Mr. PLATTS. Well, you have more faith in the quickness of our courts, in the sense of it being a quick resolution, versus perhaps a lengthy process, and that is going to vary——

Ms. SPRINGER. Yeah.

Mr. PLATTS [continuing]. By the circumstances, but——

Ms. SPRINGER. Well, and the timing is probably different. It is—I am sure it is longer there than it would be in the case of the—probably most of the death claims, although some of those can go for a long time as well. We will look—we will certainly look at it, Mr. Chairman.

Mr. PLATTS. Yes. And Mr. Williams, I would be interested in your thoughts of that aspect of the guidance, the unavoidable payments.

Mr. WILLIAMS. Yes, Mr. Chairman. GAO basically supports the concept of classifying them as avoidable and unavoidable, but we think from a transparency standpoint, it is very important that information be disclosed, because as you stated earlier, there could be some decisions that the Congress might need to make based on those two categories. But we definitely support the position of transparency of this issue, and disclosing the avoidable as well as the unavoidable.

Mr. PLATTS. Yes, and that is, I think what again, as we partner, is what we are all after, is the best way to get our arms around this challenge is the more information, the better.

Mr. WILLIAMS. That is correct.

Mr. PLATTS. And I think we are—I am worried that we are going to exclude a base of information that may be—fall back to Congress to be the ones responsible, because it is statutory, and that is causing these unavoidable improper payments. So it is something I do envision following up with you on, but I would appreciate your—you and the agency—be giving more thought to the approach you are taking, for now, just with Social Security, but also because of what precedent we are setting, that we try to get it as right and responsible up front now, so that if there are any other agencies that have similar challenges, and—I would think Social Security, the examples you have given, I can think of Veterans Administration would be one that would jump out, where there is similar type of payments that maybe, you know, down the road something is determined that we did something that wasn't right, either too much or not enough. Often, I find with the VA, is that we are undercompensating our veterans wrongfully. But that we take a close look at that, and err on the side of disclosure and transparency, and not on less information.

Mr. Williams, what would be, in your review, and you have looked at, I guess, now, really, the Section 57 programs——

Mr. WILLIAMS. Yes.

Mr. PLATTS. Your summary is a good one, of compliance, of the ones that kind of fulfilled all three categories, and there weren't a whole lot of the total 40 some. Is there one or more that really jumped out, as the best approach to this issue, and really, setting an example for the others?

Mr. WILLIAMS. There are a couple that I would like to talk about. One is the food stamp program. That is one that I have been involved with, going back to 1995. I have worked with the agency from the standpoint of trying to come up with a good number to disclose in the financial statements. So, I am very familiar with that particular program. I think they have done some good things in coming up with samples, and as mentioned earlier today, there has been some penalties imposed on the States, etc., for not meeting certain error rates that they established. If you take a look at the numbers that are reported today, you would have to look at them real close if you are looking at them over 2 or 3 year period, because at first glance, just looking at the improper payment amount, it looks like it has gone up at the agency, when in fact, the rate has gone down. And the reason for that is because the base that rate is calculated on has increased over the last 2 or 3 years. So, I think that would be one of the programs. In previous testimonies before this subcommittee, we have talked about the Medicare program, and I think that would be another example of one that other agencies might—would want to take a look at, and consider some of the experiences of that particular program in establishing, maybe some best practices in how to go about identifying and reporting their improper payments.

Mr. PLATTS. The opposite side of the coin, that is, of the 11 that didn't meet any of them, what is—from a subcommittee responsibility——

Mr. WILLIAMS. Yes.

Mr. PLATTS. Which ones should we be most worried about?

Mr. WILLIAMS. You know, it is difficult to say, because when an agency is not reporting amounts——

Mr. PLATTS. It is hard to know.

Mr. WILLIAMS [continuing]. You are in the dark as to what is actually going on in that particular agency, so I would basically suggest that you put them all in one group, and say, you know, we need this information, because there are some critical decisions that we need to make about these particular programs, so this information is definitely needed for the decisionmaking process.

Mr. PLATTS. And that additional scrutiny may be, Ms. Springer, has OMB gone to the 11 programs that did not comply with the guidelines for the Section 57 requirements, and have not reported their estimated improper payment amounts, didn't report their initiatives, didn't report their impediments as they were to in the 2003 PART acts? Have they gotten special attention in saying, hey, that was an OMB internal decision? Now, it is the statute we are going to be implementing, and this zero compliance of those 11 are not going to be acceptable come November 15? Are they getting additional focus or scrutiny from OMB?

Ms. SPRINGER. Yeah, they are, and you know, we have spent extra time with them, not only in their methodology for determining their rate and sounding out the problem, but in also how they should do their reporting, the format. One of the things we are doing is working with all of these agencies, and we are going to prescribe a format for the PART for, starting for 2004, which is really the first year required under the act.

Mr. PLATTS. Right.

Ms. SPRINGER. The 2003 requirement was one that OMB added just as——

Mr. PLATTS. A good example of——

Ms. SPRINGER. It is like kind of a dry run.

Mr. PLATTS [continuing]. The administration trying to——

Ms. SPRINGER. Yeah.

Mr. PLATTS [continuing]. To take charge and lead the way.

Ms. SPRINGER. Right. And I think that, while we always expect full compliance when we issue guidance, and this was short of it, for a variety of reasons, but we really viewed this as, to use 2003 as a dry run to see what they would do on their own, and we can see which ones were able to do it, and which ones weren't. But we also got some very good formats, and good presentations, that we are now going to make uniform, so it will be easier for you, for any reader of the PAR to be able to readily determine the report, and to be able to assess it.

Mr. PLATTS. Will the as part of that uniform reporting approach in PAR, identify some of the substance of how they got to the numbers they have? I mean, some of the process.

Ms. SPRINGER. Yes.

Mr. PLATTS. That is going to be part of that——

Ms. SPRINGER. Yes.

Mr. PLATTS [continuing]. Uniform requirement?

Ms. SPRINGER. Yes.

Mr. PLATTS. And I gather from your testimony, written statements, and information from the past as well that transparency of the process is something that is important to GAO, to how it is working.

Mr. WILLIAMS. That is correct. That is correct, and I would just add that while these are the agencies that we focused on, I would like to scope it up a little bit, and say that in our review, we looked at some of the other agencies that were not required to report, and there was an example of maybe one or two that probably had some good practices also, that reported, that were not actually required this year, so you need to look at the whole universe and try to get your best practices, not just from these that were required under A–11.

Mr. PLATTS. OK. Just one, maybe, final question for our first panel here, and that is kind of the underlying cause of financial troubles in our agencies and departments, and especially regarding improper payments, is the internal control issue. And GAO certainly for years has pushed the importance of this, and that is establishing that foundation, and——

Mr. WILLIAMS. That is correct.

Mr. PLATTS. Under the President's management agenda, that has been a priority and identified. Ms. Springer, do you want to expand on—as you are working with departments and agencies and moving forward to the November 15 compliance, the specifics regarding internal controls, and getting agencies to better embrace that understanding, that if they get their internal controls, they are going to be much more proud to report their improper payment amounts, because they will be a lot less?

Ms. SPRINGER. Internal controls is one of the major reasons why things get to this point. There is no question about it. We certainly

agree with the observation of GAO. And incidentally, the $35 is made up of $30 billion of overpayments and $5 billion of underpayments, neither of which is good, $35 total. But regardless of the type, over or under, a lot of it traces back to the—some weaknesses in the control environment of some of those programs. I think that you have been in the forefront, in your committee, of suggesting that agencies look at strengthening their control environments, in the—with the backdrop of Sarbanes-Oxley, for example, we have had other hearings where we have discussed this issue. The CFO Council and the Inspectors General are right now working on a comprehensive review of internal controls. What is required today, under the FMFIA statute, what OMB's A–123 guidance to implement that, how that lines up in a gap analysis, in effect, against Sarbanes-Oxley. To be able to say here are some places where maybe we need to strengthen our guidance and our direction to agencies, as well as getting them to enforce and take even more seriously than they do today, and give greater scrutiny to the existing A–123 direction. I could tell you that gap isn't as—there is a gap, but it is not as great as maybe some people think. The Federal Government did have a jump, by virtue of its foresight with FMFIA, but I would say that there is need for tightening, and this type of issue will benefit from that process.

Mr. PLATTS. Well, and I think your reference to Sarbanes-Oxley is an important, are because as we are demanding the private sector to, you know, be responsible and do right with investor funds, that we set the example ourselves, and do the same, and hopefully, do even better, because we are talking about the public's funds.

Ms. SPRINGER. Right.

Mr. PLATTS. And through their taxes. Mr. Williams, did you want to add anything on that?

Mr. WILLIAMS. Well, I would just like to reinforce some of the points that have been made already, and that is we do believe that the internal control weaknesses that have been identified throughout the years, at the various Federal agencies, is one of the primary causes for the improper payment problem that we are talking about today. I think we need to take a look at them from a couple of standpoints. One, I think as mentioned earlier today, that there is a lot of work that needs to be done, from the standpoint of working with the States to make sure that we have procedures in place. Another area that I think we need to take a hard look at, in numerous reports that I have reviewed, I have responsibility for eight of the CFO agencies, and the Department of Homeland Security. And in numerous reports, I continue to see system weaknesses, and areas where processes need to be reengineered. So, I think those are two prongs that you have that really need focused attention, and then when you get back to the basic point of internal controls, we break it down into two components. There are what we call detective controls, and there are preventive controls, and an audit function, for example, would be classified as a detective control. A preventive control would be a procedure in which you wouldn't have the same person that is responsible for maintaining the books also maintaining the cash and depositing the cash. I think that the detective controls that are put in place will help with the transparency and the reporting of the improper payments, but we need

to put a lot of focus on the preventive controls, because once you get those in place, then you will not be having as many of these improper payments as we are seeing today.

So those are some of the areas that I think we need to focus on.

Mr. PLATTS. As a subcommittee, we certainly are going to do our best to try to keep promoting and pushing those issues, and hand in hand with GAO, and Ms. Springer, with OMB, and as I have said in many of our hearings, and continue to believe, that there is a change in the attitude and approach in Washington right now——

Mr. WILLIAMS. Yes.

Mr. PLATTS [continuing]. With this administration, and the GAO——

Mr. WILLIAMS. Yes.

Mr. PLATTS [continuing]. And Comptroller General Walker, and I am certainly going to do my best as Chair of this committee, and Ed Towns, our ranking member, that we all continue to partner and really stay focused on ensuring that tax dollars are accounted for and spent responsibly, so again, I appreciate both of you for coming up here, and please come back and spend lots of money in York County while you are here today.

Mr. WILLIAMS. OK.

Mr. PLATTS. You know, we want——

Ms. SPRINGER. We will spend it wisely.

Mr. PLATTS [continuing]. Promote the economy locally, so I will——

Mr. WILLIAMS. OK.

Mr. PLATTS. I have to, you know, as a proud York Countian, remind you that you are in the first capital of the United States. The Articles of Confederation were signed two blocks from here when the Congress was here for 9 months in 1777, and we are delighted to have you here, and we will continue to look forward to working with you.

Ms. SPRINGER. Thank you.

Mr. WILLIAMS. Thank you so much.

Mr. PLATTS. Thank you. Give Ms. Springer and Mr. Williams a chance to gather their materials, and then we will have our second panel come forward. We are delighted to have both of our guests here. Charlie Gerow, the chairman of the Pennsylvania chapter for Citizens Against Government Waste, and Paul Gessing, the director of Government Affairs for the National Taxpayers Union. One, I thank you for being here, and two, for your patience in being the second panel. There is some positives, because you get to hear the dialog with our first panel witnesses, but it also means that you have to be patient, and I do appreciate your patience as we try to explore these issues. And I want to also publicly thank each of you and your organizations for the commitment that you have to protecting the taxpayers funds, and all of our citizens work hard for the money, and we all understand the need and the importance of paying our fair share in tax dollars, and I think what I most often hear about is certainly depending on the tax, how much we pay, what is—how we spent what citizens pay. And that would be if they are going to give up their money, they have to be truly wisely and responsibly spent on behalf of all Americans, so your organiza-

tions certainly for years have been leaders on that front, and we welcome you here today.

Mr. Gerow, and it is hard for me to say Mr. Gerow, because Charlie——

Mr. GEROW. Charlie is fine, Mr. Chairman.

Mr. PLATTS. It is odd for me, but if you would like to begin, and the floor is yours.

**STATEMENTS OF CHARLES GEROW, CHAIRMAN, PENNSYLVANIA CHAPTER, CITIZENS AGAINST GOVERNMENT WASTE; AND PAUL GESSING, NATIONAL TAXPAYERS UNION**

Mr. GEROW. Well, thank you, Mr. Chairman, and good afternoon. I thank you especially for the opportunity to testify this afternoon before your House Subcommittee on Government Efficiency and Financial Management.

My name is Charlie Gerow, and as chairman of the Pennsylvania chapter of Citizens Against Government Waste, I am here this afternoon representing the more than 1 million members and supporters of CAGW nationwide, as well as the more than 45,000 members here in Pennsylvania. CAGW was created 20 years ago after the late J. Peter Grace presented President Ronald Reagan the nearly 2,500 findings and recommendations of the Grace Commission, which was formally known as the President's Private Sector Survey on Cost Control. These 2,478 recommendations provided a blueprint for a more efficient, effective, less wasteful, and smaller government.

Since 1984, the implementations of the Grace Commission and CAGW recommendations have helped save taxpayers more than $700 billion.

In your hearing last year on this issue, you noted that President Bush has made the reduction of improper payments a significant part of his management agenda, and that your committee believes that taxpayers have a fundamental right to know how their tax dollars are being spent. And we concur. CAGW appreciates that your committee has decided to hold periodic hearings on improper payments, and that you will be asking agencies to provide you with their record on compliance. Asking us to join you here this afternoon and to testify before your committee on this very important and significant issue is both an honor and a privilege, and I should note it is especially a pleasure for me to be with my Congressman here in my congressional district, and as you noted earlier, to have the least travel time to this afternoon's deliberations.

CAGW works tirelessly to educate the American public about wasteful government spending, and the long-term implications of a bloated Federal bureaucracy. We have long supported efforts to reduce improper payments. This is a bipartisan, good government issue. The solutions are well-known, but it will take vigilance and oversight, including hearings such as this, to make Federal agencies more accountable. Today is tax day, and so, as Americans rush to finish their taxes, the problem of wasted Federal dollars is even more amplified.

In 2002, President Bush signed into law the Improper Payments Information Act of 2002. The purpose of the act is to require Federal agencies to make annual estimates of improper payments.

Agencies must undertake a four-step process to meet the requirements of the act. First, to identify programs susceptible to significant improper payments. Second, to identify the amounts of such improper payments in the susceptible programs. Third, to implement a plan to reduce the improper payments, and fourth, to report the estimates.

An improper payment, as you, Mr. Chairman, pointed out at the beginning of today's proceedings, is any payment that should not have been made for a statutory, contractual, administrative, or other legal requirement. It can be an incorrect payment, an over or underpayment, and can include, among other things, a payment to an ineligible recipient, a payment for an ineligible service, a duplicate payment, or a payment for a service that was not received.

If an agency finds that it has made improper payments of more than $10 million and 2.5 percent of program payments annually, it must report the improper payments and develop a plan to reduce or eliminate these errors. Unless there is good reason, CAGW suggests that threshold be lowered, and I know that we have heard some discussion. I am sure we will get some when we come to the questions at the end of this testimony. Surely, there must be a dollar amount at which the cost of government action to eliminate improper payments is worth the savings gained. It is troublesome that we have come to the point where we are willing to lightly brush off $10 million. We would encourage the committee to consider reevaluating this threshold, because as Senator Everett Dirksen once noted, "A million here, a million there, and pretty soon, you are talking about real money."

Improper payments, however, are a serious issue. According to the OMB, improper payments may be as much as $35 billion a year. That amounts to $120 for every man, woman, and child in our country. The Office of Management and Budget has found that the top 10 areas of improper payments for fiscal year 2002 were the Medicare fee-for-service, at $13.3 billion, the Earned Income Tax Credit, at $9.2 billion, the housing subsidy programs, at $3.3 billion, SSI at $2.6 billion, unemployment insurance at $2.2. billion, food stamps at $1.3 billion, old age and survivors' insurance at $875 million, disability insurance at $825 million, Medicare cost reports at $493 million, and student assistance Pell Grants at $336 million.

Citizens Against Government Waste has long pointed out that improper payments made through the Department of Health and Human Services [HHS], and in particular, the Medicare fee-for-service programs. Medicare represents about 50 percent of HHS' outlays. HHS provides the mother lode when it comes to improper payments, and continues to deserve close scrutiny by the Department's Inspector General, OMB and the GAO, Government Accounting Office. Here are just a couple examples of improper payments that represent, in effect, gross theft of our tax dollars.

In California, the Lovelace Health System was accused of falsifying its cost reports for the years 1988 through 1998. Among the allegations that were levied, Lovelace failed to report and reimburse overpayments and knowingly used inaccurate square footage measurements on certain cost reports in order to inflate reimbursement. As a result of an employee from Healthcare Financial Advisors, a

financial health care consulting firm that reopened certain cost reports and filed a qui tam action, Lovelace agreed to pay back $24.5 million and to implement certain integrity requirements to resolve its liability under the False Claims Act.

In Virginia, a male individual created bogus medical invoices and pharmacy receipts that he submitted to an insurance company for reimbursement. He ultimately was sentenced to 15 months imprisonment and ordered to pay $126,000 in restitution.

A Missouri pharmacist was found to have diluted and tampered with drugs on several occasions, conspired to traffic stolen drugs, and caused the filing of false Medicare claims by not disclosing to physicians who received the tampered and diluted drugs. He was sentenced to 30 years in prison and ordered to pay $10 million in restitutions, and a fine of $25,000 for tampering with and adulterating chemotherapy drugs he prepared for cancer patients.

Medicare is the largest, but not the only program responsible for improper payments. Student aid programs, the largest dollar outlays administered by the Department of Education, is another area rife with improper payments. In a recent semi-annual report to Congress, #47 in particular, the Department of Education's Inspector General noted that while the Department has made some progress, reducing risk in student aid programs continues to be a significant management challenge. The report also points out a lack of proper oversight by guaranty agencies. It also suggests that the Department needs to improve its management controls for evaluating accrediting agencies that participate in Title IV programs.

The IG of the Department of Education also found increased incidents of identify theft and not receiving direct loan refunds in a timely manner, if at all, from institutions where students had already left the particular school.

Just a couple examples of the Department of Education's improper payments include an individual who was arrested at Mesa Community College in Arizona after he tried to claim a student loan check under an assumed name. The investigation showed that the person had used identities of inmates serving lengthy prison terms in order to obtain more than $300,000 in student aid.

A trade school owner, which had been barred by the Department for prior improper activities, subsequently purchased a beauty school in Puerto Rico, concealing his own ownership of the school, and subsequently embezzled $600,000 in Pell Grants. As a result, he received a second prison term, and was ordered to pay $600,000 in restitution.

A financial aid director of a photography school in Boston used a fictitious name to submit and certify several Federal Family Education Loan Program applications. He received more than $14,000 in loans as a result of that fraudulent activity. After an investigation, he pleaded guilty as well.

In 2002, the GAO Office of Special Investigations created a fictitious foreign school that the Department of Education subsequently certified as eligible to participate in the student loan program. The investigators successfully obtained approval for student loans totaling $55,000 on behalf of three fictitious students.

The Department of Education's Inspector General stated that more effective monitoring is necessary to make sure that taxpayer

funds are used effectively and efficiently. In addition to more effective monitoring, the Inspector General also recommended an income match with data submitted to the Internal Revenue Service. The Inspector General stated that such an income match would help to reduce improper payments by ensuring that the information on the applicant's student aid application matched the income on their tax returns, and we agree.

My testimony today, Mr. Chairman, points out just a couple of examples of improper payments. CAGW's membership appreciates the hard work that is undertaken by Inspectors General in the various departments, and their work to root out this expensive problem, and the auditing work conducted by both the General Accounting Office and the Office of Management and Budget to make certain and sure that government agencies are doing what needs to be done in order to make sure that taxpayer dollars are well-spent.

We applaud your committee's leadership on this issue as well, Mr. Chairman. With the approaching appropriations battle, Congress needs to keep in mind that there are still millions of dollars of improper payments, and that it needs to continue to apply all necessary pressure to keep spending in line and to fight waste, fraud, and abuse of our tax dollars.

Mr. Chairman, it is up to Congress to ensure that the Improper Payments Information Act is effectively implemented by the various Federal agencies. I can assure that Citizens Against Government Waste and its members, wherever possible, will do whatever it can to make sure that taxpayer dollars are protected. We offer our help to you and this committee in undertaking this very important task.

And I thank you for this opportunity to testify before your committee. This concludes my testimony, and I will be happy to answer any questions, either at this time, or after Mr. Gessing has testified.

[The prepared statement of Mr. Gerow follows:]

# Testimony on Improper Payments

**Charles Gerow**
**Chairman, Pennsylvania Chapter**
**Citizens Against Government Waste**

**Subcommittee on Government Efficiency**
**and Financial Management**
**Committee on Government Reform**
**April 15, 2004**

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Suite 400
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202-467-5300

Good morning, Mr. Chairman. Thank you for the opportunity to testify today before the House Subcommittee on Government Efficiency and Financial Management. My name is Charlie Gerow, and as chairman of the Pennsylvania Chapter of Citizens Against Government Waste, I am representing the more than one million members and supporters of CAGW nationwide, including more than 45,000 here in Pennsylvania.

CAGW was created 20 years ago after the late Peter Grace presented to President Ronald Reagan the 2,478 findings and recommendations of the Grace Commission (formally known as the President's Private Sector Survey on Cost Control). These 2,478 recommendations provided a blueprint for a more efficient, effective, less wasteful and smaller government.

Since 1984, the implementation of Grace Commission and CAGW recommendations has helped save taxpayers more than $700 billion.

In your hearing last year on this issue, you noted that President Bush has made the reduction of improper payments a significant part of his management agenda and that your committee believes that taxpayers have a fundamental right to know how their tax dollars are being spent. We concur. CAGW appreciates that your committee has decided to hold periodic hearings on improper payments and that you will be asking agencies to provide you with their record on compliance. Asking us to testify before this committee on this issue is both an honor and a privilege.

CAGW works tirelessly to educate the American public about wasteful government spending and the long-term implications of a bloated bureaucracy. We have long supported efforts to reduce improper payments. This is a bipartisan, good government issue. The solutions are well-known, but it will take vigilance and oversight, including hearings such as this, to make federal agencies more accountable. Today is tax day, so as Americans rush to finish their taxes, the problem of wasted tax dollars is even more amplified.

In 2002, President Bush signed into law the Improper Payments Information Act of 2002. The purpose of the act is to require federal agencies to make annual estimations of improper payments. Agencies are must undertake a four-step process to meet the requirements of the act: (1) identify susceptible programs for significant improper payments; (2) identify the amounts of the improper payments in the susceptible programs; (3) implement a plan to reduce the improper payments; and (4) report the estimates.

An improper payment is any payment that should not have been made for a statutory, contractual, administrative, or other legal requirement. It can be an incorrect payment, an over- or under-payment, and can include, among other things, a payment to an ineligible recipient, a payment for an ineligible service, a duplicate payment or a payment for a service not received.

If an agency finds that it has made improper payments of more than $10 million and 2.5 percent of program payments annually, it must report the improper payments and develop a plan to reduce or eliminate these errors. Unless there is a good reason, CAGW suggests that threshold be lowered. Surely there must a dollar amount at which the cost of government action to eliminate improper payments is worth the savings gained. It is troublesome that we have come to the point where we are willing to lightly brush off $10 million. We would encourage the

committee to consider reevaluating this threshold because as Senator Dirksen once quipped, "A million here, a million there, pretty soon you are talking about real money."

Another area of concern is an issue that was pointed out in a January press release by Senator Charles Grassley (R-Iowa.) The Office of Management and Budget (OMB) sent guidance to the Social Security Administration (SSA) regarding the reporting of improper payments that are considered to be "unavoidable." OMB stated that if an improper payment is unavoidable, it doesn't have to be reported as required under the Improper Payments Act. CAGW find this to be unacceptable. This is not OMB's money. This is not Congress's money. This is taxpayers' money that is being spent incorrectly. We can find no valid reason for allowing this to occur unless SSA is bound by some legal commitment to provide payment whether it is proper or not. If there is some statutory reason for agencies to make a payment, even though they know the payment is not correct, CAGW encourages Congress and OMB to make the necessary corrections in the law.

Improper payments are a serious issue. According to OMB, improper payments may be as much as $35 billion a year. That amounts to $120 for every man, woman and child in our country. OMB has found that the top 10 areas of improper payments for FY 2002 were:

- Medicare, fee-for-service – $13.3 billion
- Earned Income Tax Credit – $9.2 billion
- Housing Subsidy Programs – $3.3 billion
- Supplemental Security Income – $2.6 billion
- Unemployment Insurance – $2.2 billion
- Food Stamps – $1.3 billion
- Old age and survivors insurance – $875 million
- Disability Insurance – $825 million
- Medicare cost reports – $493 million
- Student Assistance Pell Grants – $336 million

CAGW has long pointed out improper payments made through the Department of Health and Human Services (HHS) and in particular, the Medicare fee-for-service program. Medicare represents almost 50 percent of HHS's outlays. HHS provides "the mother load" when it comes to improper payments and continues to deserve close scrutiny by the department's Inspector General (IG), OMB and the General Accounting Office (GAO). Here are some examples of improper payments that represent gross theft of tax dollars:

- In California, Lovelace Health Systems was accused of falsifying its cost reports for the years 1988 – 1998. Among the allegations, Lovelace failed to report and reimburse overpayments and knowingly used inaccurate square footage measurements on certain cost reports in order to inflate reimbursement. As a result of an employee from Healthcare Financial Advisors, a financial health care consulting firm that reopened certain cost reports and filed a *qui tam* action, Lovelace has agreed to pay back $24.5 million and implement certain integrity requirements to resolve its liability under the False Claims Act.

- A Virginia man created bogus medical invoices and pharmacy receipts that he submitted to an insurance company for reimbursement. He was sentenced to 15 months imprisonment and ordered to pay $126,000 in restitution.

- A Missouri pharmacist was found to have diluted and tampered with drugs on several occasions, conspired to traffic stolen drugs, and caused the filing of false Medicare claims by not disclosing to physicians who received the tampered and diluted drugs. He was sentenced to 30 years in prison and ordered to pay $10 million in restitution and a $25,000 fine for tampering with and adulterating chemotherapy drugs he prepared for cancer patients.

Medicare is the largest, but not the only program responsible for improper payments. Student aid programs, the largest-dollar programs administered by the Department of Education (DoEd), is another area rife with improper payments. In a recent semi-annual report to Congress (#47), the DoED IG noted that while the Department has made some progress, reducing risk in the student aid programs continues to be a management challenge. The report also points out a lack of proper oversight by guaranty agencies. It also suggests that the Department needs to improve its management controls for evaluating accrediting agencies that participate in Title IV programs.

The IG also found increased incidents of identity theft and not receiving direct loan refunds in a timely manner – if at all – from institutions in where students have left school.

Some examples of DoEd improper payments include:

- An individual was arrested at Mesa Community College in Arizona after he tried to claim a student loan check under an assumed name. The investigation showed that the person used identities of inmates serving lengthy prison terms to obtain more than $300,000 in student aid.

- A trade school owner, which had been barred by the Department for prior improper activities, subsequently purchased a beauty school in Puerto Rico, concealed his ownership of the school and embezzled $600,000 in Pell Grants. As a result, he received a second prison term and was ordered to pay $600,000 in restitution.

- A financial aid director of a photography school in Boston used a fictitious name to submit and certify several Federal Family Education Loan Program applications. He received more than $14,000 in loans as a result. After an investigation, he pleaded guilty.

- In 2002, the GAO Office of Special Investigations created a fictitious foreign school that the Department of Education subsequently certified as eligible to participate in the student loan program. The investigators successfully obtained approval for student loans totaling $55,000 of behalf of three fictitious students.

DoEd's IG stated that more effective monitoring is needed to make sure that taxpayer funds are used effectively and efficiently. In addition to more effective monitoring, the IG also recommended an income match with data submitted to the IRS. The IG stated that an income match would help reduce improper payments by ensuring that the information on the applicant's student aid application matches the income on reported tax returns. We agree.

My testimony today points out just a few examples of improper payments. CAGW's membership appreciates the hard work that is undertaken by Inspectors General in the various departments to root out this expensive problem and the auditing work conducted by the GAO

and OMB to make sure government agencies are doing what needs to be done to make sure taxpayer dollars are well spent.

We also applaud your committee's leadership on this issue. We encourage you to do whatever is necessary to reduce improper payments, ensure all agencies provide a true number of improper payments to Congress, and to correct any issues that permit "unavoidable" improper payments. With the approaching appropriations battle, Congress needs to keep in mind that there are still billions of dollars in improper payments and that it needs to continue to apply pressure to keep spending in line and to fight waste, fraud and abuse of our tax dollars.

Mr. Chairman, it is up to Congress to ensure that the Improper Payments Information Act is effectively implemented by federal agencies. I can assure you that CAGW will do whatever it can to make sure taxpayer dollars are protected. We offer our help to you and this committee in undertaking this important task.

Thank you very much for this opportunity to testify. This concludes my testimony. I will be happy to answer any questions at this time.

Mr. PLATTS. Thank you. Thank you, Mr. Gerow. And we will wait and do both, and then take questions. And I would comment in your closing, you are talking about the responsibility of Congress to oversee and ensure the effective implementation of the Improper Payments Information Act is one of the charges that, as successor to Chairman Horn, as Chair of this committee, and his leadership on that issue is one of the very important charges I believe I have. Because the act won't mean much if it is not fully and responsibly implemented, and as you heard in my questions, we continue to have an ongoing dialog with OMB, as they implement it, and fulfill what we believe is the intent of the law, and the requirements of the law, versus where they do have discretions.

Mr. Gessing, if you would like to give your statement.

Mr. GESSING. Good afternoon, Chairman Platts. Thank you for holding these important hearings today. My name is Paul Gessing. I am director of Government Affairs with National Taxpayers Union, America's oldest and largest taxpayer lobbying organization, with 350,000 members in all 50 States nationwide. You can learn more about NTU and our education affiliate, the National Taxpayers Union Foundation, on our Web site, www.ntu.org.

I come here today to offer testimony regarding the problem of improper payments, an improper payment being an over or underpayment, a payment to an ineligible recipient, a payment for an ineligible service, a duplicate payment, or a payment for a service not received. As you know, today is April 15, the Federal tax filing deadline also known as tax day. Today, in Washington, DC, and around the country, NTU and thousands of fiscal conservatives will be holding events to focus attention on our tax burden, rising government spending, and the outrageous size of the Federal budget deficit. For that reason, this hearing to shed light on the problem of improper payments is particularly timely. With the budget in increasingly bad shape and recently passed tax cuts in jeopardy, renewed dedication to dramatically reducing the problem of improper payments is sure to become an important issue in the months ahead.

It is certainly the opinion of NTU and its members, all of whom pay Federal taxes, that the government takes far too much of our money regardless of how it is used. Yet, the recent estimate by the Federal Government that Washington pays out at least $35 billion each year improperly is a bitter pill to swallow. Of course, this figure is probably only the tip of the iceberg, since no one knows just how big the problem is. In fact, the $35 billion figure doesn't even include Medicaid, much of the Department of Defense, and several other agencies. Defense Secretary Donald Rumsfeld, for example, estimates that 5 percent of his budget is wasted. Thus, the Pentagon is probably making about $20 billion in improper payments above and beyond the oft-cited $35 billion figure.

Over the years, various agencies have estimated the amount of improper payments, but most acknowledge that the problem is big and getting bigger. In 2002, Congress passed the Improper Payments Information Act, Public Law 107–300. the act requires executive branch departments and agencies to review all programs and activities they administer, and identify any that may be susceptible to significant improper payments. Agencies are also obligated to es-

timate the actual amount of improper payments for those programs. With respect to any program or activity of an agency with improper payments exceeding $10 million annually, the agency must report to Congress on the causes of the improper payments, the status of the actions taken to prevent them, whether the agency has the appropriate information systems in place to minimize the improper payments, and the steps being taken to hold agency managers accountable for reducing improper payments.

NTU is aware that the law is not being fully implemented. Agencies are delinquent in reporting to Congress on the estimates, on identifying the causes, and in providing the status of the actions taken to prevent improper payments. For the sake of taxpayers as respect for the law, NTU calls upon the administration to renew the effort to identify all erroneous payments and put systems in place to eliminate them.

NTU understands that a vast majority of erroneous payments are wasted dollars, unrecoverable to taxpayers, but this only makes prevention of mismanagement all the more vital. What is more, this is not a matter involving only a few dollars. Having analyzed just under $1 trillion in Federal spending, out of a budget, a Federal budget of more than $2.4 trillion, the $35 billion in erroneous payments is a significant sum of money even for the Federal Government.

Even worse than the government having already lost billions of taxpayer dollars to improper payments, is the prospect of losing billions of additional dollars due to higher spending levels on programs that have in the past been prone to improper payments. In fact, out of the $35 billion lost to taxpayers in fiscal year 2003, Medicare accounts for nearly $12 billion. If accounting and management at Medicare is not dramatically improved in short order, that number is likely to rise exponentially with implementation of the prescription drug benefit.

In order to resolve, or at least mitigate the problem of improper payments by the Federal Government, the Office of Management and Budget must enforce strict compliance with the Improper Payments Information Act and be vigilant in monitoring individual agencies to ensure that they are actively working to eliminate or dramatically reduce the frequency of improperly made payments.

In conclusion, it is most ironic that the government requires corporations to abide by strict accounting standards under the newly enacted Sarbanes-Oxley law, although nearly all Federal agencies find it impossible to meet the standards imposed on the private sector. Taxpayers should expect more from the government than rampant waste followed by widespread unwillingness to comply with the law. I urge the committee to take the necessary steps to remedy this problem, and to work closely with OMB to ensure agency compliance.

Thank you, Chairman Platts, for allowing NTU to testify today, and for your work on this important topic. NTU and its 350,000 members stand ready to work with you in tackling the improper payments problem.

[The prepared statement of Mr. Gessing follows:]

**Statement of Paul J. Gessing,**
**Director of Government Affairs, National Taxpayers Union**

**before the**
**United States House of Representatives Committee on Government Reform,**
**Subcommittee on Government Efficiency and Financial Management**

**on**
**Improper Payments**
**April 15, 2004**

Chairman Platts, Ranking Member Towns, and distinguished Members of the Subcommittee, thank you for holding these important hearings today. My name is Paul Gessing. I am Director of Government Affairs with the National Taxpayers Union (NTU), America's oldest and largest grassroots taxpayer lobbying organization with 350,000 members in all 50 states a nationwide. You can learn more about NTU – and our educational affiliate, the National Taxpayers Union Foundation (NTUF) – on our website: www.ntu.org.

I come here today to offer testimony regarding the problem of improper payments; an improper payment being an over- or under-payment, a payment to an ineligible recipient, a payment for an ineligible service, a duplicate payment, or a payment for a service not received. As you know, today is April 15, the federal tax filing deadline, also known as "tax day." Today in Washington, DC, and around the country, NTU and thousands of fiscal conservatives will be holding events to focus attention on our high tax burden, rising government spending, and the outrageous size of the budget deficit. For that reason, this hearing to shed light on the problem of "improper payments" is timely. With the budget in increasingly bad shape and recently passed tax cuts in jeopardy, renewed dedication to dramatically reducing the problem of improper payments is sure to become an important issue in the months ahead.

It is certainly the opinion of NTU and its members – all of whom pay federal taxes – that the government takes far too much of their money regardless of how it is used. Yet, the recent estimate by the federal government that Washington pays out at least $35 billion each year "improperly," is a bitter pill to swallow. Of course, this figure is probably only the tip of the iceberg since no one knows just how big the problem is. In fact, the $35 billion figure doesn't even include Medicaid, the Department of Defense, and several other agencies. Defense Secretary Donald Rumsfeld, for example, estimates that 5 percent of his budget is wasted. Thus, the Pentagon is probably making $20 billion in improper payments above-and-beyond the oft-cited $35 billion figure.

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obligated to estimate the actual amount of improper payments for those programs. With respect to any program or activity of an agency with improper payments exceeding $10 million annually, the agency must report to Congress on the causes of the improper payments, the status of the actions taken to prevent them, whether the agency has the appropriate information systems in place to minimize the improper payments, and the steps being taken to hold agency managers accountable for reducing improper payments.

NTU is aware that the law is not being fully implemented. Agencies are delinquent in reporting to Congress on the estimates, on identifying the causes, and in providing the status of the actions taken to prevent improper payments. For the sake of taxpayers as well as simple respect for the law, NTU calls upon the Administration to renew the effort to identify all erroneous payments and put systems in place to eliminate them.

NTU understands that a vast majority of erroneous payments are wasted dollars, unrecoverable to taxpayers, but this only makes prevention of mismanagement all the more vital. What's more, this is not a matter involving only a few dollars. Having analyzed just under one trillion dollars in federal spending – out of a federal budget of more than $2.4 trillion – the $35 billion in erroneous payments is a significant sum of money even for the federal government!

Even worse than the government having already lost hundreds of billions of taxpayer dollars to improper payments is the prospect of losing billions of additional dollars due to higher spending levels in programs that have in the past been prone to improper payments. In fact, out of the $35 billion lost to taxpayers in FY 2003, Medicare accounts for nearly $12 billion. If accounting and management at Medicare is not dramatically improved in short order, that number is likely to rise exponentially with implementation of the prescription drug benefit.

In order to resolve or at least mitigate the problem of improper payments by the federal government, the Office of Management and Budget (OMB) must enforce strict compliance with the "Improper Payments Information Act" and be vigilant in monitoring individual agencies to ensure that they are actively working to eliminate or dramatically reduce the frequency of improperly made payments.

In conclusion, it is most ironic that the government requires corporations to abide by strict accounting standards under the newly enacted Sarbanes-Oxley law, although nearly all federal agencies find it impossible to meet the standards imposed on the private sector. Taxpayers should expect more from government than rampant waste followed by widespread unwillingness to comply with the law. I urge the Committee to take the necessary steps to remedy this problem and to work closely with the OMB to ensure agency compliance.

Thank you, Chairman Platts for allowing NTU to testify today and for your work on this important topic. NTU and its 350,000 members stand ready to work with you in tackling the improper payments problem.

Mr. PLATTS. Thank you, Mr. Gessing, and again, to both of you for your testimony here today, your written statements that you have submitted, and again, for your personal and organization efforts regarding protecting tax dollars.

Maybe, Mr. Gessing, lets begin with you, and actually, Mr. Gerow, both of you, if you want to comment. NTU maybe is more involved in following the implementation, in some ways, with the guidance on—of where we stand, and Ms. Springer talked about kind of their timeframe and the various steps that are going to be required and where they are in that process. What is NTU's assessment of how the administration is moving forward with the implementation, and OMB's guidance especially, that has been given thus far, as far as how effective you think it will be once we get to that November 5 deadline?

Mr. GESSING. We are generally happy with the direction they are going—don't know that it is moving along speedily enough. I would say that they are certainly well-intentioned, but I am not sure that they are aggressively moving fast enough.

Mr. PLATTS. Mr. Gerow, would you like to add anything?

Mr. GEROW. Well, as you know, Mr. Chairman, I spend my days up here in Pennsylvania, not down in the city where sound travels faster than light, but I would think that the leadership of CAGW more or less concurs with what Mr. Gessing said, in terms of being generally pleased.

There is the issue that I spoke to in my prepared testimony of the $10 million threshold, or the 2.5 percent threshold being laid over on top of that, and it just seems to me that the controls are going in the wrong direction, i.e., they are not becoming tighter, they are becoming more loose.

You have gone from what Chairman Horn had predicated the act on at $1 million, to $10 million, to now the additional requirement, or the additional threshold of 2.5 percent of the program's payments annually, which could, of course, fail the $10 million test on its face, and that, I think is a concern, and it may be up to Congress to help statutorily tighten that up.

I listened closely to Ms. Springer, and as you know, I am a great supporter of this administration, and I believe that they are doing a good job, and have not only admirable intentions, but good controls in place to effectuate the ultimate policy goal here. But administrations do change. This is a long-term problem, and I think that Congress, and your committee in particular, needs to look at ratcheting down a little bit of the "loose ends" that remain in the interpretation of some of the statutory language initially, and I know that there were some definitional problems, and there was the definition left open, as to what substantial was going to be, and perhaps Congress needs to go back and take a second look at that.

Mr. PLATTS. And I would concur with your statements that we certainly have seen great progress in the focus being where it needs to be, on financial management and financial accountability by this administration, and this dialog that Ms. Springer and I had today is kind of an ongoing one of, as they focus their efforts and move this process forward, whether we let them go through this first round, and see what comes through in the 2004 PAR reports, and how that $10 million/2.5 percent does play out, and we have

a base of knowledge. And give them that opportunity, because one of the things that, and she expanded on it a little more today, is that there is a basis for them taking the 2.5 percent. It wasn't a random number, even though I see it as an additional caveat there, that wasn't intended by Congress, that there was some basis for selecting that in how they are moving forward, and how they are actually imposing that requirement. But I share that concern, that while they are focusing, as I said, we want to err on the side of more disclosure, and more scrutiny and focus, not less. And that relates on the dollar amount, is that the—Chairman Horn's original proposal, what your organization would envision as probably the best threshold that, if we were, see how it plays out, but maybe with an eye toward trying to get back, tightening it up back to that $1 million number instead of the $10 million.

Mr. GEROW. Absolutely, Mr. Chairman. I think that you would agree, and probably most of your colleagues would agree that your constituents would have a hard time understanding that $10 million is an inconsequential number. You know, if your——

Mr. PLATTS. Yes. Especially here in central Pennsylvania.

Mr. GEROW. I was about to say that there are a lot of factory workers in York, or folks out at snack food companies in Hanover, or retail clerks around the district, who would say——

Mr. PLATTS. Forklift operators at Harley, like my brother, who——

Mr. GEROW [continuing]. That at $20 an hour, if you taxed somebody at 100 percent of their income, it would take 500 people an entire year to accumulate $10 million. That has some gravity. And as Ms. Springer pointed out, ultimately "Federal money" is money that is earned by the sweat of the brow and the muscled arms of people all across this country who get up early in the morning and work hard all day to create those dollars. And I think there is a tremendous oversight responsibility for every one of those dollars. And we understand that, while ultimately, you know, there is a point at which you have to have the cost savings recognized by the threshold, that the threshold really should be much lower than $10 million, and when you put the 2.5 percent in there, you have in effect broadened that threshold——

Mr. PLATTS. Right.

Mr. GEROW [continuing]. Or raised that bar. The bar ought to be becoming more tight.

Mr. PLATTS. Mr. Gessing, did you want to add anything on the dollar amount or the percentage aspect?

Mr. GESSING. No, but I certainly agree that $10 million is relatively high, fairly generous, and that could come down and should come down.

Mr. PLATTS. The related issue, that is, the unavoidable payments, unavoidable improper payments, and the guidance that OMB has given to the Social Security Administration, in a restricted or limited sense, but sets a precedent for other entities, perhaps, pursuing similar exception, a similar exception to how they report, and your thoughts, is the idea of maybe acknowledging that there are "unavoidable improper payments," but still requiring their disclosure. You know, I would assume that your organizations

would lean, again, on the side of that disclosure, more transparency, as opposed to kind of letting them off the hook?

Mr. GEROW. Yes, Mr. Chairman. I think Mr. Williams spoke very well to that issue, in saying that there needs to be transparency, that disclosure ought to be the rule of the day, that taxpayers ultimately have a right to know, and that to the greatest extent possible, they ought to be so noted, and that there ought to be transparency, full disclosure, and that citizens ought to understand, without great pains, how their dollars are being spent.

Mr. GESSING. Yes. Contrasting that with—what the Federal Government does with what it expects of private companies, in which the taxpayers have much less of a stake, that is—it is ironic that you see very strict accounting measures for private industry, and much more lax for the government.

Mr. PLATTS. Yes, and it goes to that, and we should be setting a good example, and whatever we are requiring of the private sector, we should require of ourselves. The Department of Health and Human Services, and that is certainly a big focus here with the Medicare being almost a third of your total amount that we are talking about, certainly jumps out. And in some ways, it is held as a good example, where they are trying to disclose and get their arms around, but when you look at Mr. Williams' chart, and the Section 57 programs that were reviewed, while HHS was in good shape with Medicare, that was the only of 7 HHS programs that were in good shape. The other six were all in the zero for zero category, with no compliance at all.

We are in ongoing discussions with GAO in how to try to take a more specific look at HHS, and what we need to be doing from an oversight role with GAO, regarding HHS. Is there anything in particular that you would like us, as a committee, to be aware of, and GAO, as we continue that dialog, and try to fine-tune how we are going to approach that agency, that department, in ensuring better compliance with the Improper Payments Act?

Mr. GESSING. Well, this list is kind of similar to, in some ways, an Alcoholics Anonymous meeting. You—the first step is admitting you have a problem, so at least Medicare has admitted that they have a problem, and they are, you know, they laid it out there, so with them, you know, you can then target specific aspects of the problem, that they can rectify.

The rest of the list, simply getting them to put the first step forward, and admit that they have a problem, and lay that problem out there and get a grip on that number, whatever that number may be, whether it is higher or lower, or better or worse than what Medicare is dealing with. You know, pushing in that direction is the most important priority at this point.

Mr. GEROW. Well, Mr. Chairman, as I noted in my prepared testimony, Citizens Against Government Waste has, for a long time, pointed out the improper payments made through HHS, and in particular, the Medicare fee-for-services program. And in a broad sense, yes, they are deserving of, particularly, and a special close scrutiny by both the Department's Inspector General, OMB, and the GAO, but I would be happy, Mr. Chairman, to get for you some of the specific recommendations that CAGW has made over the

years, and allow you to have those spread upon the record if you would like me to do that.

Mr. PLATTS. Actually, that would be great, and I would welcome them, and be part of our dialog with GAO and how we kind of fine-tune that oversight, scrutiny.

Mr. GEROW. And I will see to it that your staff gets that, Mr. Chairman.

Mr. PLATTS. That would be great. Yes, when we talk about the thoughts of a taxpayer here in central PA if we ask do they think $10 million is a lot, if we asked them a similar question, and based on the lack on information, the way we have to assume with a program like Medicaid, and given the size of that program, that you know, their—as far as their reporting, or have reported in their 2003 PAR, that they don't have any improper payments, which, I don't think anyone is going to even begin to believe that. And you know, I think you make a good approach that, to get our arms around this problem, we have to admit there is a problem, and those agencies that aren't complying are needing to better acknowledge that there is a problem and be more open about their approach to it.

What about—given that lack of compliance with HHS, six of their programs not complying with 2003 Section 57 requirement, and then the other five as well that were zero compliance? Is there any suggestions you have that OMB should be thinking about, or we should be looking at for consequences, as we approach the November 15, 2004 PAR reports for agencies that don't? Should there be, you know—obviously, there is going to be public scrutiny. I mean, we are going to be looking at those reports, and we are going to be seeing who is complying and who is not, and those who aren't will get added focus from our committee, as well as from GAO, I am sure, but is there something that either of your organizations would suggest that we should consider for a consequence to put more teeth into these requirements?

Mr. GESSING. Some sort of, you—just like the Sarbanes-Oxley, you have someone sign off, a responsible party sign off on the accounting documents. I think an approach similar to that, where you hold the head of an agency, or you know, several people who are in charge, in authority, at these Federal agencies, and you know, there could be employment related consequences, or you know, funding for their agency related consequences, anything that really aggressively tackles the problem, and/or puts a name out there in front as being someone who is essentially not doing their job. So, something along those lines would be a real forward, you know, response to this problem.

Mr. GEROW. Well, Mr. Chairman, I don't have any specific questions for so-called, you know, punitive measures in that regard, but I think that Mr. Gessing gets pretty close to it when he says, or suggests that the use of the appropriations process tends to get folks' attention in that regard, and as you begin to go through that process, I think that in the hearings that you hold, those questions need to be asked, and I would be glad to again, go back and consult with our folks in Washington to see if we can't provide you with a list of some specific measures that might be taken to provide a

little bit more teeth and a little bit more bite to those who fail to live up to their responsibilities.

Mr. PLATTS. And again, I welcome any additional specific suggestions, and my concern is that 11 of the 40 some programs didn't comply in 2003, and really nothing happened, other than we identified that they didn't comply, but there was no significant consequences to the personnel there, and the suggestion that the appropriate agency head or department head in a more public way acknowledging their department's failure to comply with Federal law, because as citizens, if we don't comply with Federal law, there certainly are always consequences to us. I certainly would welcome any suggestions, and we will do our best as a committee from the oversight and public scrutiny, and try to use the power of public disclosure and focus to encourage their compliance. But it does worry me, given how many did not file the OMB Section 57 requirements.

One other specific department, and Mr. Gerow, you touched on it with Department of Education, and their challenges in this area. And it is an area that we look at one, because of, as a person who, but for student loans and grants and things, wouldn't have been able to get through undergrad and law school, and also, who celebrated, less than a year ago my final student loan payment basically, feeling that these programs need to be properly run, and that people shouldn't be wrongly compensated, and those who borrow money should be held accountable and pay their sums back. There is a number of specific student aid programs that seem to jump out as problematic, and I don't know if here today, or again, through written followup from the organization, if there are some specific proposals that we should be looking at regarding those Department of Ed programs, and especially the student aid programs, I would certainly welcome that. And if that is part of, maybe, that subsequent information, that would be great.

Mr. GEROW. Yeah, Mr. Chairman, and I think the other thing, I don't know what the status is of the Inspector General's recommendation that there be a match with the data submitted to Internal Revenue, and those numbers that are put on applications.

Mr. PLATTS. Right.

Mr. GEROW. But that seems, to me, to be a worthwhile recommendation.

Mr. PLATTS. And that is—I am checking my staff, see, I am trying to pool my memory here. There is some dialog going on with staff, with—and the hesitancy is IRS, their privacy protections, and they are appropriately being very protective of their information, because of the sensitivity of it, but if you want something from the Federal Government, there needs to be some understanding that you need to be more disclosing, but that is, and your reminder of that one is one that is under consideration in how to better match the systems. Because—and it is not just with student loans we are seeing it, in the last month or so, with defense contractors, that contractors continue to get millions of dollars in contracts, yet they haven't paid their Federal taxes in years. And we are not matching the systems. That really goes to our discussion with the first panel, with internal controls, but then communications within depart-

ments and agencies, or between, not just within, but between departments and agencies, that we need to do better with.

Those are the areas I wanted to followup with you on, and your organizations' focus on these issues certainly adds much to the public debate in Washington and throughout the country, and helps to generate the public's interest, because I say, as the chairman of this committee, and as thoroughly—as one who is thoroughly enjoying and grateful for this opportunity to be Financial Management and Oversight and Government Efficiency, but for the average citizen, it is often not the most exciting issue, when we get into some of the auditing aspects of it and stuff, and when we put it into dollar terms, and I think, Mr. Gessing, your testimony about—or actually, both of your testimony about Medicare being such a big animal here with improper payments, and we are about to add a $395 or $530 billion, over 10 years, new program, prescription drug for that average citizen, I say if you think about the average cost, and if you take the CVO estimate for the new prescription drug program, you take the OMB estimate, and you—somewhere in between, we are somewhere $35 to $40 billion a year is the cost of the new program. And then you realize that we are making improper payments of roughly that sum, at least, probably double that. It really puts it in perspective that if we really get our hands around this problem, how we help meet the commitments we have made to seniors and others as well in other programs, but specifically with Medicare.

So, I thank you both for your testimony, and again, your organizations' efforts year round, and we will look forward to receiving the additional information. We will keep the record open for about 2 weeks to allow time for that information from you, as well as from Ms. Springer on the first panel. I want to thank all who are here today and our staff. I want to highlight, being York County, that two of our staff members, Amy Laudeman and Sarah D'Orsie over here, are York County natives, a proud York Catholic High School grad, and a Dallastown High School grad, who are members of our full-time staff on the subcommittee, and I know, great to have them back in the home community for today's hearing as well.

So I think that concludes the hearing, and we stand adjourned.

Mr. GEROW. Thank you.

[Whereupon, at 4:19 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

FEB 13 2004

THE CONTROLLER

The Honorable Charles E. Grassley
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Thank you for your letter of January 9, 2004, regarding the Office of Management and Budget's (OMB) guidance implementing the Improper Payments Information Act of 2002 (the "Act"). I am responding on Director Bolten's behalf.

We appreciate the Committee's interest in the OMB guidance (OMB Memorandum M-03-13 of May 21, 2003) and in working with us to eliminate erroneous payments within the Federal Government. Let me assure you that OMB is implementing the Act aggressively, and we are making every effort to ensure that all agencies comply with the provisions of the law. In addition, Improving Financial Performance is one of the cross-cutting components of the President's Management Agenda, and the elimination of erroneous payments is a key component of financial performance.

Before addressing each of your specific questions, I think it is important to provide you with an overview and an update on some recent activity. First, before the Act was enacted, the President, as part of his Management Agenda, required agencies to estimate and report the extent of erroneous payments made in programs that make nearly $1 trillion in annual payments. These requirements were included in Section 57 of Circular A-11. These programs will be required to report under the Act – regardless of their error rates or level of erroneous payments. This includes Medicare and the Social Security Administration's (SSA) Old Age and Survivors' Insurance and Disability Insurance (Title II) programs. A complete list of the Section 57 programs is attached for your review (see Enclosure II).

Second, OMB has not altered the agency requirements of the Act. The first requirement (or step) of the Act directs agencies to identify programs and activities that may be "susceptible to significant improper payments." Because the Act provided no further specificity, OMB defined this term as "annual erroneous payments in the program exceeding both 2.5% of program payments and $10 million." This is both a practical and meaningful requirement upon which we will elaborate in response to your specific questions.

Third, OMB is requiring all agencies – including SSA – to fully comply with the provisions of the Act. In some cases, however, SSA is bound by certain constitutional, statutory or judicial requirements, as well as other timing requirements, to make payments. Such situations occur when the relevant information is not yet available at the time of the payment or can not be incorporated into the payment determination for legal reasons. In those cases, SSA is

judged on whether these initial payments were correct given such constraints. If subsequent information reveals that SSA payments were in error, then these payments become subject to recovery and collection. (Please note that the SSA-Specific Answers contained in Enclosure I are specific to SSA and thus applicable to that agency alone.)

Finally, allow me to update you on some recent OMB efforts to implement the Act. Last fall, I personally met with the Offices of the Chief Financial Officer (CFO) and the Inspector General (IG) at each major agency to ensure that plans to meet the requirements of this important law were being developed. Following these meetings, we directed all agencies to submit by November 30, 2003, their plan for complying with the Act.

In reviewing these plans, agencies are demonstrating their progress towards compliance with the Act. In general, most of the remediation plans provided us with good information about what actions the agencies have taken, and plan to take in the future, to eliminate improper payments in their programs and activities. Following our review of the agency plans, we responded in writing to all agency CFOs with specific comments and questions about their proposals. In the coming weeks, I plan to again meet with each agency CFO to ensure that progress is being made according to its plan.

When the Improper Payments Information Act was passed, we enthusiastically endorsed the efforts in Congress to create a review process that would identify and eliminate erroneous payments throughout all major Federal programs and activities. We believe that the provisions of the Act and the subsequent guidelines we provided, combined with the Section 57 reviews already underway, will help to ensure that Federal dollars are spent only for the purpose for which they were intended.

Eliminating erroneous payments within the Federal Government has been, and continues to be, a major focus of the President's Management Agenda. Please be assured that our efforts to work with the agencies to identify and eliminate improper payments will not end with the examination of these plans. We will continue to monitor progress as the agencies implement their plans in the months and years to come.

Our responses to your questions are attached for your review (see Enclosure I). I appreciate the opportunity to respond on this important issue, and we look forward to continuing to work with you to eliminate erroneous payments within the Federal Government.

Sincerely,

Linda M. Springer
Controller

Enclosures

Identical letter sent to The Honorable Max S. Baucus

**ENCLOSURE I**

Improper Payment Questions

(1)(a) and (b)

Under OMB Circular A-11, Section 57, OMB required certain Federal agencies to include erroneous payment information with their budget submissions, beginning with the fiscal year 2002 budget proposals. The programs selected for reporting were based primarily on their large dollar volume ($2 billion dollars or more in outlays). The primary items requested were actual estimated erroneous payments rates, estimated targets, and corrective action plans to reach the targets. During the first two years of this process, agencies with no previous erroneous payment reporting experience had varying degrees of success in complying with the requirement.

With the enactment of the Improper Payments Information Act, OMB's focus is transitioning from maturation of Section 57 reporting to the examination of all agency erroneous payment elimination efforts to be included in the fiscal year 2004 Performance and Accountability Reports (PARs).

To date, agencies have made good faith efforts to comply with the Section 57 reporting requirement. As a result, OMB has gathered important information from such programs on their progress, which has helped to lay a foundation for moving the erroneous payment elimination initiative forward. Specifically, several agencies have made significant progress in reducing their level of error:

- The Internal Revenue Service (IRS) has denied approximately $2.25 billion in erroneous claims for the Earned Income Tax Credit (EITC) program since September of 2000;
- The Department of Defense has implemented a "claims edit system" in the Military Health Benefit program that eliminated $74 million in erroneous payments in fiscal year 2002 and is expected to eliminate an additional $143 million in fiscal year 2003;
- The Department of Education has made steady progress in reducing error in its Pell Grant program and has proposed a legislative solution that will virtually eliminate error in the program; and
- The Department of Agriculture's Food Stamp Program reduced its erroneous payment rate from 8.91% in fiscal year 2000 to 8.26% in fiscal year 2002, which accounted for a reduction of $70 million in improper payments.

There are several other important efforts currently underway to help identify and reduce program error rates:

- IRS has worked with the Department of Treasury to establish a pre-certification process for potential EITC recipients to proactively prevent improper payments;

- The National Science Foundation has developed a weighted formula to help determine which programs have an inherently higher level of risk, thereby allowing it to focus its resources;
- The Department of State has developed a tiered risk analysis process in which it plans to assess all programs and activities for risk of erroneous payment by the end of fiscal year 2004;
- The Department of Veterans Affairs is currently developing several data matches with other Federal agencies to prevent erroneous payments in its compensation and pension programs;
- The Erroneous and Improper Payments Working Group (composed of officials from the offices of the Chief Financial Officer and Inspector General at several Federal departments) is forming a sub-group to evaluate ways to address the area of grant recipient and sub-recipient payments; and
- Recovery auditing efforts – the examination of all contract payments – are ongoing at many Federal agencies, with many remaining agencies close to contract execution.

(2)(a)

The first step of the Act, or the initial risk assessment phase, directs agencies to identify programs and activities that may be "susceptible to significant improper payments." Because the Act provided no further specificity, OMB defined this term as "annual erroneous payments in the program exceeding both 2.5% of program payments and $10 million." In effect, this threshold extends only to the balance of Federal outlays not subject to full scrutiny due to their prior inclusion in OMB's Section 57 review or recovery auditing requirements.

The selection of the 2.5% rate threshold was informed by the results of the Section 57 review, which identified $35 billion in erroneous payments out of nearly $1 trillion in annual payments. Based on this 3.5% error rate, we determined that a target goal of 2.5% would be a reasonable working rate threshold for the initial assessment of significant risk for the second trillion dollars of payments to be reviewed. This approach allows agencies to focus on the programs and activities where remediation efforts may be most fruitful.

Please note that the 2.5% rate only applies to the initial risk assessment (step one), at which stage agencies identify those programs or activities at risk of significant erroneous payments. If an agency believes that a program is susceptible to an erroneous payment rate of 2.5% or greater, it must proceed with the second step, as outlined in the Act and the OMB guidance, which is to produce a statistically valid error rate for the program. Once a statistically valid error rate is established, all programs with errors in excess of $10 million, regardless of the rate, are subject to the reporting and remediation requirements of the Act.

(2)(b)

As stated above and in the OMB guidance, all agencies and programs covered by Section 57 will be subject to all reporting requirements of the Act. Such reporting for these programs is required regardless of their error rates or erroneous payment amounts. Likewise, agencies that make in excess of $500 million in contract payments annually must meet additional erroneous payment reporting requirements.

(3)

Again, all agencies and programs covered by Section 57 will be subject to all reporting requirements of the Act. These programs include Medicare and SSA's Old Age and Survivors' Insurance and Disability Insurance (Title II) programs, which were mentioned in your letter, as well as Medicaid, Food Stamps, School Lunch, and the Earned Income Tax Credit.

The threshold for the initial assessment of significant risk is discussed in 2(a) above.

(4)

Federal agencies are actively engaged in evaluating and strengthening the payment control environment and exchanging insights through the Chief Financial Officers Council. OMB Circular A-123 requires agencies to identify inadequacies in management controls, report material findings to the President through the Federal Managers' Financial Integrity Act (FMFIA) process, and report less significant deficiencies to their internal management. Corrective actions are identified for the deficient areas, and their implementation is monitored by OMB, agency management and the agency Inspector General.

Some examples of programs reported under FMFIA for deficient management controls related to erroneous payments include the following:

- Department of Defense contract payments, small payments to vendors, and military pay.
- Department of Health and Human Services financial management systems used for controlling, analyzing, and reporting for Medicare and other areas.
- Department of Housing and Urban Development rental subsidy.
- Department of Veterans Affairs compensation and pensions.
- Department of Agriculture school breakfast and lunch and Food Stamp programs.

All of these programs would be subject to the requirement to report erroneous payment rates in their fiscal year 2004 Performance and Accountability Report.

(5)

Internal control weaknesses are monitored closely by OMB. The initiative to Improve Financial Performance of the President's Management Agenda requires agencies to eliminate repeat material weaknesses and to report substantial compliance with FMFIA. These requirements are among the criteria for an agency to move up from red status in its Financial Performance scorecard. OMB continuously monitors the agencies' progress in eliminating management control weaknesses and, with the help of the Inspectors General, we work to ensure that FMFIA findings are adequately corrected. Additionally, as part of the annual agency financial audit process, auditors report on the adequacy of agency internal controls.

SSA-Specific Issues
(Please note that the SSA-Specific Answers are specific to SSA and thus applicable to that agency alone.)

(1)

At the request of SSA, OMB assisted the agency in applying the OMB guidance. This effort generally focused on SSA identifying and eliminating those errors that are preventable. OMB made the determination to exclude from the agency's measure of improper payments those payments that it made following constitutional, statutory or judicial requirements – even though those payments are subsequently determined to be incorrect. In effect, these payments are "unavoidable" improper payments, as there are no administrative changes that SSA could implement that would eliminate such payments nor would SSA be likely to receive other relief from such requirements.

For example, after SSA conducts a continuing disability review, the agency may determine that an individual is no longer eligible for Supplemental Security Income (SSI) payments. The United States Supreme Court, however, has held that payment reductions or terminations cannot be made until a citizen's Constitutional due process protections have been met. Thus, SSA is required to continue making the SSI payments while due process appeal rights are completed. Although the agency has determined that a payment reduction or termination is in order, such payments made during this due process period are unavoidable and are not considered to be erroneous. Those payments, however, are later subject to recovery and collection if the agency's decision is upheld.

(2)

OMB informed SSA that it was not required to report "unavoidable" payments under the Act until recovery becomes a viable option as noted above. As described in the example above, such payments, however, may still be recovered by the agency. Additionally, SSA seeks to recover *all* overpayments, including those that are "avoidable" as well as "unavoidable," and it tracks these overpayments as part of its debt collection efforts. The debt figures owed to SSA are made available to OMB, Congress, and the public in SSA's financial reports, such as in its *FY 2003 PAR*.

(3)

Since the SSA data collection captures payments made in error and not unavoidable improper payments, it is not possible to report what would have been found using different definitions. It is clear, however, that the rate would have been higher.

For example, SSA reported in its FY 2003 PAR that the Old Age and Survivors' Insurance and Disability Insurance (Title II) programs had a total amount of improper payments for FY 2002 of $940 million. However, this amount would increase if one added:

(1) payments made under the existing benefit continuation provision (i.e. where payments may continue during the due process appeal period following an initial determination to cease disability benefits), and

(2) payments made based on estimated earnings that turned out to be too high or too low once final earnings amounts become known.

In our judgment, an expansion of the improper payment definition to include these circumstances would present a misleading picture of SSA's performance. As noted above, such payments are not caused by error or waste, but are due to causes that are outside of SSA's control and from which SSA is not likely to receive relief.

(4)

It is OMB's position that the erroneous payment effort is focused on the presence of "error." In most cases, either SSA or the recipient/beneficiary of a particular payment has made a payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. Payments that were deemed "unavoidable" were not erroneous and were not to be reported.

As stated earlier, SSA seeks to recover *all* overpayments, which are tracked as part of its debt collection efforts. The debt figures owed to SSA are made available to OMB, Congress, and the public in SSA's financial reports, such as in its *FY 2003 PAR*.

(5)

No other agencies have raised similar issues with OMB.

(6)

Any SSA payment that must be recovered, whether caused by an error or by a program design, is tracked for recovery purposes. This tracking would include the SSI due process issues discussed above and the benefit continuation provisions. In fact, because most Title II earnings estimate-related overpayments are for people who continue to receive benefits, SSA recovers over 90 percent of such overpayments from ongoing checks.

(7) and (8)

SSA should not reflect undetected error in its erroneous payment rate unless it has evidence of a specific type of erroneous payment being made. It has been suggested that an estimate of undetected error, based on historical experience, should be added to the reported level of erroneous payments. However, there is no appropriate methodology available to accurately determine such an estimate, as there is no consistent pattern or cause upon which a projection can be based. Rather, with the aid of technological improvements, agencies are focusing their efforts on identification and elimination of actual erroneous payments.

## ENCLOSURE II

### SECTION 57 - PROGRAMS FOR WHICH ERRONEOUS PAYMENT INFORMATION IS REQUESTED

**Department of Agriculture**

Food Stamps

Commodity Loan Program

National School Lunch and Breakfast

Women, Infants, and Children

**Department of Defense**

Military Retirement

Military Health Benefits

**Department of Education**

Student Financial Assistance

Title I

Special Education—Grants to States

Vocational Rehabilitation Grants to States

**Department of Health & Human Services**

Head Start

Medicare

Medicaid

TANF

Foster Care—Title IV-E

State Children's Insurance Program

Child Care and Development Fund

**Department of Housing and Urban Development**

Low Income Public Housing

Section 8 Tenant-Based

Section 8 Project Based

Community Development Block Grants

(Entitlement Grants, States/Small Cities)

**Department of Labor**

Unemployment Insurance

Federal Employee Compensation Act

Workforce Investment Act

**Department of Treasury**

Earned Income Tax Credit

**Department of Transportation**

Airport Improvement Program

Highway Planning and Construction

Federal Transit—Capital Investment Grants

Federal Transit—Formula Grants

**Department of Veterans Affairs**

Compensation

Dependency and Indemnity Compensation

Pension

Insurance Programs

**Environmental Protection Agency**

Clean Water State Revolving Funds

Drinking Water State Revolving Funds

**National Science Foundation**

Research and Education Grants and Cooperative Agreements

**Office of Personnel Management**

Retirement Program (CSRS and FERS)

Federal Employees Health Benefits Program (FEHBP)

Federal Employees' Group Life Insurance (FEGLI)

**Railroad Retirement Board**

Retirement and Survivors Benefits

Railroad Unemployment Insurance Benefits

**Small Business Administration**

(7a) Business Loan Program

(504) Certified Development Companies

Disaster Assistance

Small Business Investment Companies

**Social Security Administration**

Old Age and Survivors' Insurance

Disability Insurance

Supplemental Security Income Program