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AN ASSESSMENT OF THE IMPROPER PAYMENTS INFORMATION ACT OF 2002

HEARING

BEFORE THE

FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY SUBCOMMITTEE

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

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AN ASSESSMENT OF THE IMPROPER PAYMENTS INFORMATION ACT OF 2002

TUESDAY, DECEMBER 5, 2006

U.S. SENATE,
SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT,
GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:33 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Tom Coburn, Chairman of the Subcommittee, presiding.

Present: Senators Coburn and Carper.

OPENING STATEMENT OF CHAIRMAN COBURN

Chairman COBURN. The Subcommittee on Federal Financial Management, Government Information, and International Security of the Committee on Homeland Security and Governmental Affairs will come to order.

I first want to thank our two guests for being here. They are two people this Subcommittee has found very diligent in their work with us and we appreciate their service to the country.

I have a written statement that I will introduce for the record and will be available.

In thinking about this hearing and the importance of it, I thought about constituents back home and I thought about if I was a postal worker or a teacher or a doctor or a retiree that was still having an amount of income, that was still paying taxes, and if you were to ask them how it could be that on 60 percent of the Federal Government, $38 billion a year at a minimum is improperly paid out, what would they think about that?

I know in my heart what they would think about that. What in the world is going on? Thirty-eight billion dollars? and that is highly inaccurate, I believe, as to the full extent, especially from what this Subcommittee's work has done the last 2 years. and that is talking about improper payments only. That is not talking about fraud, waste, or abuse.

So when you start considering that and the financial plight that we have in front of us, improper payments and the correction of it—the reason we want to know what the improper payments are is not to know what the improper payments are, it is how do we make managerial changes so that we don't have that? What we are not measuring, we can't manage.

A full $850 billion of the Federal Government's spending in 2005, and OMB should know the request for that on this came from this Subcommittee, it wasn't generated by GAO. It was our request that it be 2005 data and not 2006 because 2006 wasn't completed by the time we asked for that data. The fact that there is another $800 billion that nobody is even looking at in terms of improper payments, either because we don't think it is there or we don't have the resources with which of the managerial techniques in place to measure, comes back.

If you just extrapolate, at a minimum, we have $55 billion to $60 billion a year in improper payments. If you are the guy or the gal that is working out in Oklahoma or Delaware and paying taxes every year and are thinking that 2.5 percent of everything that you pay is improperly paid out, and then knowing that there is another $150 to $200 billion of fraud, abuse, or duplication, which brings you to about 2.5 percent of everything that you pay in is what I consider waste, you have a hard time not getting a little bit angry when you go to send that check in on April 15.

As both of you know, we have had several hearings on the tax gap in this country, and motivation to be a great citizen in this country and pay your fair share, part of it is that you feel like you are getting some good value for what you are paying.

First of all, I want to applaud OMB because I think they have done a phenomenal job from hitting the ground in 2001 with the mess that they had and the Improper Payments Act and implementing that and doing the job that they have done. So this hearing isn't to be critical in any way of the job that they have done. I think it has been a phenomenal job, but I think we need to do better. I believe that we need to measure it all. Once we measure it all, I believe that we can then put into place both managerially but also legislatively some of the things that might need to be put in place to lessen that burden and to build the confidence in the American public eye.

I am concerned there is a crisis of confidence in our country in both the institutions of government in the Executive Branch, but also in the institutions of government in the Congressional and Legislative Branch. I think to fix that requires cultural changes within the Congress and management changes within the Administration.

I also believe that this next Congress ought to work on some new rules, and the rules ought to be something similar to the following: We are not going to authorize new bills that duplicate programs that are existing without either eliminating the programs that are existing or cleaning up the programs that are existing; we are not going to authorize new bills with such sums as necessary. If we think something ought to be authorized, we ought to know what it is going to cost and we ought to do the hard work of doing that; and the third thing is we shouldn't authorize anything until great and thorough oversight has occurred on every aspect of the program that we are thinking about legislating on.

Those are the duties that we have. Those have not been accomplished by what I consider to be lazy Congresses over the last 10n to 12 years. I believe that ought to be the start of the 110th Congress, that we make a commitment across the aisle.

I know my Co-Chairman, Senator Carper, has been a great ally on this Subcommittee in terms of how we have looked, and what we have looked at, and what we have done with what we have looked at and has been instrumental in one of the key pieces of legislation that we passed, which was the Transparency Act of 2006. But I believe with those things in mind and really measuring what we are doing and giving the Administration the authority to make the changes they need to make—we have had hearings on the PART analysis, etc.—that we can do great things for the American people and we can also reestablish confidence that what we are doing makes common sense, makes managerial sense, and is efficient.

Those are all important things because as General Walker has been relating to the Congress, and now, thank goodness, relating throughout the country in his trips throughout the country, the impending fiscal disaster that faces this country, and it has to start with us. It can't just start by saying there is a problem. We have to start doing the hard work to reach the goals and the solutions for those problems. General Walker, I would thank you for your efforts in building up the grassroots support and the knowledge of the American citizen for what the problems are that face us.

To Mr. Johnson, I would say thank you for your hard and diligent work to accomplish cleaning up some of this.

[The prepared statement of Chairman Coburn follows:]

PREPARED STATEMENT OF CHAIRMAN COBURN

Improper payments isn't a glamorous topic. Accounting systems and standards set by Congress and finessed by the Administration don't make headlines. But this country is in a crisis. We are at war. We have a deficit in the hundreds of billions and a debt limit at $9 trillion. We've got a generation of Americans about to retire and rely on bankrupt Federal entitlement programs. The President is asking for $150 billion in "emergency"—that is, over-budget—war spending. No amount of waste is ever acceptable but our efforts to track down every penny need to be all the more aggressive in our current fiscal climate. Does it take resources to make our improper payments policy more comprehensive? Sure. But every employee we devote to ending payment errors more than pays for his own salary in the billions that are being lost every year.

There has been some controversy about today's topic. We're not here to examine individual agency performance or to quibble about the validity of certain program reporting estimates, as we have done in our previous hearings. And let me be clear—we're not here to complain about or criticize the Office of Management and Budget's performance on improper payments. What OMB faced when this President first took office was a Katrina-sized accounting problem at every Federal agency. Before Congress had even passed the Improper Payments Information Act, this President recognized the alarming scope of the problem and set to work with a major initiative to reduce payment errors. Congress came in a little later and passed the Act.

The intent of the Act was pretty clear—clean up the whole problem, not just the squeakiest wheels. However, when you're facing a Katrina-sized problem and you have limited staff resources at OMB and the agencies, you have to triage. Congress gave OMB some discretion to set some rules about where to start. I would argue that some agencies did a pretty haphazard job of following those rules, but even among the agencies who complied fully—the rules—perhaps understandably—were aiming for the low-hanging fruit rather than a comprehensive solution.

Some have argued that OMB's definition, by not being comprehensive enough, violated Congressional intent. Let me speak in OMB's defense. They inherited a trainwreck and they made some judgment calls. They will argue today that they needed to make serious progress right away and focusing on the perfect would have impeded progress on the good. They will argue today that they took care of 95 percent of the problem with their rules. I think there's some good evidence to suggest that's not quite the case, and we can discuss that more today. But I just want to

personally applaud OMB for their fantastic work on this issue. They faced a Katrina-sized fiscal disaster and they rightly fixed highways, bridges and hospitals before they got around to clearing tree stumps and filling side-street potholes.

That said, we are now approaching the 5-year mark on the Improper Payments Information Act, and I think there's nothing wrong with commending this President on the accomplishments to date while still asking him step it up a notch. I think our friends in the Gulf coast area would agree that while the first efforts in Katrina recovery needed to be on the low-hanging fruit, ultimately they want that neighborhood debris removed and schools rebuilt. In other words, 5 years in, it seems reasonable to start looking at how to build on the successes and lessons learned of the first 5 years and cobble together a more comprehensive approach to the problem of payment errors.

The first step to reducing payment errors is knowing how many errors are being made. I'm concerned that the reporting on these errors—just getting a baseline estimate from which to measure later progress—is not always optimal. For those unfamiliar with the Improper Payments Information Act, it first requires agencies to review all programs and activities annually and identify those that may be susceptible to significant improper payments. Congress directed OMB to prescribe guidance for agencies to annually review all programs and activities. What Congress did not do, however, was direct OMB to define this susceptibility for agencies. Nonetheless, OMB defined susceptible programs as those whose improper payment amounts exceed both 2.5 percent and $10 million. This leaves out a large number of government programs. For example, the Social Security Administration's Old Age and Survivors' Insurance represents $493.3 billion in outlays, yet because their improper payment rate is only .74 percent, they are not required to estimate improper payments and address other improper payment reporting requirements in the Act.

Let me explain why the threshold may not be ideal: Of the 23 agencies that reported assessing "all" programs and activities for risk, six limited their risk assessment reviews to only those programs that would likely meet OMB's definition. Two of these six agencies reported that they did not perform a complete risk assessment because the programs would not have exceeded both of OMB's threshold criteria. The remaining four agencies did not perform a complete risk assessment of programs with annual outlays ranging from $40 million to $200 million, generally citing the threshold criteria as the reason why these medium-sized programs weren't assessed. In this way, OMB's definition of susceptibility has ironically prevented some agencies from complying with the Act.

While it's not my intention to criticize OMB's past performance—their efforts have been unprecedented and rigorous—it's important that we learn from the past in order to improve the future. I've found that good work always leads to more work. The better someone is at his job, the more he realizes there's always more to do. So I hope this hearing will provide an opportunity to look at some of the challenges faced so far in addressing payment errors, and we can start talking about how to overcome those challenges, either with or without legislation.

To the end, GAO has done outstanding work. It is GAO's job to be the thorn in every Administration's side—to commend the good while still demanding the perfect. To shine light on what works and to expose what doesn't. The job of Congress is not to pick "sides," but to look at GAO's findings in light of the substantial success and remaining challenges of the Administration and the statute at hand, and to use those findings as a tool to improve upon legislation, oversight or both. So thank you to both Mr. Johnson and General Walker for being here and helping to do that.

Senator COBURN. With that, I would yield to my friend from Delaware.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Thanks, Mr. Chairman. To our guests, welcome back. General Walker and Mr. Johnson, it is always good to see you and we thank you for being with us, for testifying before our Subcommittee, and for responding to our questions. We thank you and the members of your team for your service to this country.

As sort of a personal note, a side note, I was approached by somebody in Delaware this last week who told me they had heard a general speak, not in Delaware but in a place other than Delaware, who was really good on fiscal issues and talking about budg-

et, sort of the debacle that we face and the impending doom and disaster. He said it was not an uplifting speech, but he was talking about the Comptroller General. I don't know what State he caught you speaking in, but we know you are out across the country and that is a good thing. We appreciate that.

I want to just reemphasize a couple of things the Chairman has said and then make one or two points and then we will turn it over to both of you.

I don't know if the number is $38 billion in improper payments for 2005, or $40 or $42 billion, but its somewhere around $40 billion. It is real money and it is money that we are borrowing that we don't need to borrow, we shouldn't be borrowing, and we want to further reduce that amount.

My suspicion is that the number is down a little bit from where it was a year or so ago, maybe because of a time delay or a paperwork transaction rather than so much that the improper payments have been reduced. I think there is a sequencing issue that may have caused the apparent reduction by several billion dollars.

But that notwithstanding, if the amount is actually $40 billion in improper payments in 2005, I don't believe that includes Homeland Security at all. I don't believe it includes much of the Department of Defense. I don't believe that it includes the Department of Justice. I don't believe that it includes a number of our entitlement programs, including among others Medicaid and TANF, maybe the school lunch program, to mention a few. I don't believe that it includes the Community Development Block Grant program. So there are a number of fairly substantial programs and outlays that are not included in the improper payments that we just don't know.

My hope is that for the balance of this year and going on into the next Congress that we will have the opportunity to commend those agencies that are doing a good job of finding out what their level of improper payments are and reducing those and put a spotlight on those agencies. I always think if you use positive reinforcement, you are more likely to get the kind of behavior you want, so we want to incentivize the agencies by commending those that are doing an especially good job.

We want to put, I believe, a spotlight on those agencies that are not doing enough, that can do more, but they are doing something. and finally, we want to figure out why we are not—some of our larger agencies, some of our larger outlay programs, aren't even on the radar screen here with respect to improper payments. We don't even have an idea what the amount of improper payments are in some of these large agencies.

And finally, as the Chairman has said, I hope that we will be turning back to the tax gap issue. I realize this is for legislative purposes in the purview of the Finance Committee and we are not interested in taking any of their jurisdiction. That is not what we are trying to do here. What we are interested in doing, though, is making sure that we are working on both fronts, improper payments on the spending side and revenue collection to make sure that the monies that are owed are being collected.

With that having been said, again, we are delighted that both of you are here and we look forward to your testimony and to continue to work with both of you. Thank you.

Chairman COBURN. Thank you, Senator Carper.

David Walker has been Comptroller General of the United States since November 1998. He serves as the Nation's Chief Accountability Officer and head of the U.S. Government Accountability Office. He has extensive executive-level experience in both government and private industry. He is a Certified Public Accountant and has a B.S. degree in accounting from Jacksonville University. He also holds a Senior Management in Government Certificate in Public Policy from the John F. Kennedy School of Government at Harvard University, as well as honorary degrees in both business and public service.

Mr. Walker, thank you for appearing today. Thank you for your work for our country, your dedication to the facts and figures and not to spin. You are now recognized.

TESTIMONY OF HON. DAVID M. WALKER,[1] COMPTROLLER GENERAL, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. WALKER. Thank you, Chairman Coburn and Senator Carper. It is a pleasure to be back before you, and as I have said before and I will say again, this Subcommittee has clearly been one of a few that has been actively engaged in oversight for an extended period of time, and it does make a difference when you engage in that oversight. I thank you for both of your efforts and look forward to continuing to work with you.

It is a pleasure to be before you today to talk about the issue of government-wide improper payments. My testimony today is based primarily on the report that both of you have referred to that was issued in November 2006. As the Chairman noted, the request was for us to look at the 2005 improper payments. As you know, the annual summary is done by OMB and usually released in February of each year.

But we do have some preliminary information with regard to 2006 and so since the agencies have now reported their financial statements. As you know, the consolidated financial statement report will not be published until sometime next week—but I wanted to go ahead and give you a sense as to where things are for 2006 on a preliminary basis since we now have that information available, and I have two boards to help in that regard.

First, I think it is important to note that under OMB's leadership, progress has been made in each of the last 3 years with regard to implementing the Act. As we can see in 2004, in the blue section, 52 percent of Federal spending was covered by the reporting requirement under the Act. It went up to 64 percent in 2005 and a little over two-thirds in 2006. So progress is being made each year with regard to the percentage of Federal spending where the agencies are reporting.

On the next board, you can see what the trend has been with regard to improper payments for the period fiscal year 1999 to 2006, and again, the 2006 number is a preliminary number, but you can see that for a variety of reasons, you have more people reporting as well as improved sophistication of their estimation process since the effective date of this Act. We saw a significant increase in the

[1] The prepared statement of Mr. Walker appears in the Appendix on page 27.

reporting of improper payments between 2002 and 2004, and now we have seen somewhat of a moderation with regard to the total amount of payments.

But I think it is important to note that the estimated incidence rate is 2.3 percent for those reporting, and therefore, if we had the same incidence rate for the balance of the Federal Government that has yet to be reported, then total improper payments would be around $62 billion.

I also think it is important to keep in mind that improper payments don't necessarily mean that the entire amount was inappropriate. In fact, you could have an improper payment where $8 of the $10 was proper and one of the questions is to what extent agencies are reporting that as a $2 improper payment or a $10 improper payment. I will come back to that later because I think one of the things that would be very helpful is to clarify certain terms in the legislation in order to maximize the chance that the intent of the legislation, in fact, is being achieved.

As you know from our report, for fiscal years 2004 and 2005, we concluded that the magnitude of the problem was still unknown because we have still got a significant percentage of Federal dollars not being estimated. While DHS did not estimate in 2005, they estimated in 2006. The two biggest programs that did not report in 2006, based upon data that I have, would be the Medicaid program and the TANF program. The Medicaid program was about $183 billion in fiscal year 2006—I have little doubt in my mind that there is more than 2.5 percent improper payments in the Medicaid program. The TANF, or Temporary Assistance for Needy Families program expenditures were $17.4 billion in 2006.

In our report, we found several things. First, that the agencies reporting improper payment information was incomplete but progress is being made. Second, that the total improper payment estimate does not include certain large risk-susceptible Federal programs, including the two that I noted. And third, that OMB's criteria in defining such terms as which programs are susceptible to significant risk are such that there are a number of programs that will not be required to report which may or may not be consistent with your expectations for the type of items that would be reported in connection with this Act.

Specifically, it is my understanding that, and obviously I look forward to Director Johnson commenting here, OMB's criteria basically are that you have to have improper payments that for a particular program would exceed $10 million in a year and 2.5 percent of the program payments if the 2.5 percent of the program payments is greater than $10 million. Well, 2.5 percent of the Federal budget is $67.5 billion, and 2.5 percent of the Medicaid program is $4.5 billion.

So I think one of the issues is while I think OMB clearly has the authority to define these terms under the statute because they are not specifically defined in the statute, I think one of the issues that needs to be considered is whether or not certain terms need to be defined statutorily in order to try to help make sure that your intent is being met and to try to help ensure consistency both today and, frankly, over the longer term. We know that there will be new administrations in the future, and while OMB has clearly been

committed to management issues, that level of commitment can vary from time to time with different administrations and with the different passage of time.

Mr. JOHNSON. Why would they have anything to do with it?

Mr. WALKER. Article I does have something to do with it, there is no doubt about that.

With regard to agencies recovery auditing efforts, which is a mechanism that is used once you have the improper payment to try to rectify those improper payments, kind of as the horse is already out of the barn, you have already identified that, we found that the data that is being reported there may not represent an accurate view of the actual experience. The example I would give there is NASA, where there is a huge difference of opinion between what management reported and what NASA's Inspector General reported. So that is an area, I think, where additional emphasis is necessary.

We did include a matter for Congressional consideration and four recommendations in our report which have been summarized and I know you are very familiar with.

In summary, Mr. Chairman, progress has been made. More remains to be done—sounds like a typical GAO report. But in this particular case, I do believe that the Congress should consider clarifying certain definitions, and I will be happy to get into that in the question and answer portion, in order to maximize the chance that the intent of Congress is being achieved, in order to help assure consistency today, and in order to help ensure consistency across administrations.

Thank you, Mr. Chairman.

Chairman COBURN. Thank you, General Walker.

Clay Johnson, III, is Deputy Director for Management at the Office of Management and Budget. In this capacity, he provides government-wide leadership to Executive Branch agencies to improve agency and program performance. Prior to this, he was Assistant to the President for Presidential personnel. He was responsible for the organization that identifies and recruits approximately 4,000 senior officials, middle management personnel, and part-time board and commission members.

He has a wealth of public and private sector management, including Chief of Staff to Governor George W. Bush, Chief Operating Officer and Acting Director for the Dallas Museum of Art, President of Horchow mail order, and then President of Neiman Marcus mail order after Neiman Marcus was purchased by the Horchow Company. Mr. Johnson received his undergraduate degree from Yale University and a Master's degree from MIT's Sloan School of Management.

Welcome, Mr. Johnson, again before our Subcommittee and thank you for your service. You are recognized.

TESTIMONY OF HON. CLAY JOHNSON, III,[1] DEPUTY DIRECTOR FOR MANAGEMENT, U.S. OFFICE OF MANAGEMENT AND BUDGET

Mr. JOHNSON. Thank you, Chairman Coburn and Senator Carper. Thanks for having me. As General Walker said, I congratulate you all on your attention to this and the priority you place on it. I feel like I am amongst friends here today.

I want to make the point that Federal agencies are working to eliminate virtually all improper payments. There is a lot of talk about what we are reporting and what we are not reporting. General Walker in the report talks about it is probably impossible to eliminate improper payments. Our goal is to eliminate improper payments virtually and we think this is doable. It is a 10 year, plus or minus, kind of a time frame thing to do, but that is the mindset. That is the mindset, not to reduce but to eliminate improper payments.

We have come a long way. Federal agencies have come a long way in the last 3 years. Eighty-five percent of what we consider to be all programs with high-risk outlays, or $1.3 trillion, have error measurements and agencies are working on those programs to eliminate all forms of payment impropriety. The remaining 15 percent of what we consider to be high-risk, there is risk of an improper payment, $200 billion, that will be measured by 2008.

Separately, there are about half of the contract payments have been looked at from the standpoint of recovery audits. One of the things we have got to talk about here is get clarification and probably a tighter definition of what needs to be done with regard to contract payments. Right now, there is a recovery audit approach to it and that is one of the primary reasons why there is a difference between what contracting offices find versus the IGs, because they don't limit themselves to recovery audits.

It has always been clear, I would hope, what programs were to be measured and in what sequence. The next time you want to know what is currently being audited and what is not, just call us. You don't need to call GAO. It should come as no surprise that Medicaid has not been audited up until now. That has always been our intention. Our intention has been to focus on big problems and also programs that could be measured. It is going to be extremely difficult to measure Medicaid, extremely difficult to measure TANF. We are going to do it. It will be totally measured by the end of 2008. But it has always been our intent that would be a year four, year five program. So this is not new news.

The reason for the 2.5 percent and the $10 million—the program called for $10 million as the hurdle to focus on significant risk of improper payments. Our attempt has been to focus agencies on just that, significant risk of improper payments. That is why there is the dual criteria, 2.5 percent and $10 million.

Incidentally, if there is ever any interest on your part or General Walker's part, GAO's part, to add a program to this because you have reason to believe that there is a high risk of improper payments, we can add that to the list.

[1] The prepared statement of Mr. Johnson appears in the Appendix on page 59.

There has been no attempt—I don't think it was implied, but I wanted to clarify, there is no attempt to produce an overly optimistic view of the improper payment situation. They are $40-plus billion. Whether it is 40 versus 60 versus 100, $40 billion is of huge national consequence. Even though it is a small percentage, we need to be placing a high priority on its elimination and I believe we are doing so.

We generally don't believe that the Improper Payments Act needs major modification. We need to better understand about primarily the contract payments, we believe. But it was designed originally to be a risk assessment, approaching a risk assessment standpoint. If you want everything measured, that can be the law, but that is not a risk assessment. That is assuming that you want everything measured and the key is are there resources and monies and so forth to make that happen. So as we talk about this new legislation we are going to talk about, let us make sure that we have got the resources to be able to follow through on it.

Most importantly, though, we think, it is critical that Congress work with GAO and with OMB and Federal agencies to create enabling legislation which would allow us to better recover improper payments or eliminate improper payments. There are issues with agencies' access to other agencies' databases that have significant impact on an agency's ability to prevent or to recover improper payments.

There are eligibility rules in some programs that are too complex and so complex that they create improper payments or the risk of improper payments, and that can be clarified. There are also statutory constraints on State-administered programs that limit our ability to go in and work with States to deal with the issue of improper payments. That needs to be looked at, as well.

And then, as with everything, these kinds of efforts require monies and we need to make sure that our appropriator friends understand this takes money and that we would identify that we have got the necessary funds to take care of business here.

So this is a high priority. We have made great progress. There is work still to do. But we are making significant progress at eliminating improper payments and I believe that it is a very strong story and I believe it is closer to 10 years than 5 years or 20 years we can see these being at virtually zero. If not, then we have not done our job. Thank you, sir.

Chairman COBURN. Thank you. Let us go over a couple of things. I recall from some of our previous hearings, there are some estimates as high as $15 billion worth of Medicaid fraud in New York City. I also recall from some of our early hearings where we have programs that are administered through the States, like food stamps, where we have seen pretty big progress in terms of cutting that down.

The question that I would ask, and I think, Mr. Johnson, you are right. The American public, what they want is to eliminate improper payments, and I think General Walker is right that we need to make sure we are talking apples and apples. If there are truly gross improper payments or net improper payments, we need to know what that number is. If you are going to tell us what you need us to change in terms of legislative parameters, or funding to

be able to do something about that, we need to know what the real number is. So I think that is one area where we need clarification within the law.

I think the other area that we have is your reporting of 85 percent of the high-risk outlay is still just $1.3 trillion of a $2.8 trillion budget. So the question is, in my mind, as we look at all these areas that you all do not consider high-risk but yet this Subcommittee has had hearings on that show that they are significant, there has got to be something—and it may be the priority in which you are placing it. We know about Medicaid. Mr. Johnson, Charlie Johnson, has testified about the plans on that and we understand the difficulty with that and that is advancing.

But nevertheless for the American taxpayer to say we are not looking at $800 billion worth of programs—for example, the CDBG block grant, HUD says there is no problem. I don't believe that. I believe there is a big problem with fraud and mispayments in CDBG block grants. and for us to just say, no problem, we are not looking at it——

The other thing that concerns me, and this is OMB and it is probably my lack of understanding rather than a true criticism, is that if somebody is not high-risk or they get a waiver for a couple of years, there seems to be an unending waiver. Well, I believe everybody ought to have to report improper payments. They ought to have to go through the analysis to do that. And I don't believe it ought to be OMB's job to do that. It ought to be the agency's job and it ought to be using agency resources to do that. The reason that is important is because if they know they are going to have to measure it, then they are going to make some judgment in terms of management decisions on how to minimize it.

So I guess I would go to the first question to Mr. Walker. Why is it important that the Improper Payments Information Act define what is considered susceptible to significant improper payments? Why is it important that we revise——

Mr. WALKER. I think it is important in order to make sure that we have a vast majority of the Federal Government's programs and activities on the radar screen. It is also important that we make sure that the intent of the Congress is being met. For example, as I mentioned before, OMB has the authority to define significant risk and they have exercised that authority. They have done two things. One, they have used the $10 million number, which is in the statute. Second, they have said in defining significant risk, it exceeds $10 million and 2.5 percent of the expenditures for that program.

Well, as I mentioned, 2.5 percent can be a very big number and therefore my view is that has to be looked at to determine, if you want something other than the $10 million, what is a reasonable percentage. I would respectfully suggest that 2.5 percent is too high. That is about $67 billion. So that is an issue, because otherwise, we could have a significant amount of improper payments going on that would never have to be reported.

Chairman COBURN. You were Comptroller General when this bill became law. In your recollection, and my staff is looking at the history of this, do you believe that there was an intent to give the

kind of discretionary level to OMB at this 2.5 percent when you look at the House testimony.

Mr. WALKER. Stated differently, I believe that in the absence of clarity in the statute and/or the related legislative history, that OMB had the ability to exercise some discretion here and I don't believe that they have abused their discretion. I do, however, believe that how they have used their discretion may or may not be consistent with what the Congress intended.

What is more important is not to focus on what has happened in the past because a lot of people are working very hard to try to make progress here and we are making progress. I think the important thing now is to say, where might there need to be clarifications from this point going forward rather than focusing on whether or not things have been done in the past.

And in that regard, I would suggest, Mr. Chairman, several areas. First, clarification of the definition of program and activities.

Second, a clarification of the definition of significant risk, which deals with this 2.5 percent issue.

Third, a clarification of how do you handle an improper payment in the circumstance that I articulated where the payment may be $10 of which you know that $8 is proper, and $2 is improper. How are we counting that to make sure we have apples and apples?

And fourth, there is a whole category of payments now that, as I understand it under the statute, aren't on the radar screen. They may be different but we somehow need to get them on the radar screen, and that is the handling of due process payments. In other words, where you have a situation where there is a payment that has been made for Social Security or otherwise and you believe it is improper but there are certain due process requirements that the individual is entitled to, my understanding is those aren't being captured and they don't have to be captured under current law. They are off the radar screen. Now, maybe we want to count those as a different category, but I think it is something that we need to focus on.

And then last, I would agree with Mr. Johnson that it is not just trying to prevent improper payments. To the extent that they happen, we want to make sure that we can go after them. But to help both in preventing and to go after them, I think there are certain legislative changes that may be necessary to facilitate more data matching and more data mining that cannot occur right now.

I would respectfully suggest while privacy issues are a matter of concern. When you are talking about taxpayer dollars, we ought to be able to pursue reasonable data matching and data mining in order to make sure that only eligible individuals are receiving the benefit of these taxpayer dollars.

Chairman COBURN. Mr. Johnson, any response to that?

Mr. JOHNSON. I am going to clarify the $2.5 trillion and the thought there is a potential area of risk of 2.5 percent times $2.5 trillion is $60-some-odd billion. Three-hundred-and-fifty billion dollars of our $2.5 trillion in outlays, there is virtually no risk of improper payments. It is payroll——

Senator CARPER. Say that amount again, please.

Mr. JOHNSON. Three-hundred-and-fifty billion dollars——

Senator CARPER. Out of how much?

Mr. WALKER. Two-point-seven trillion.

Senator CARPER. OK.

Mr. JOHNSON. That is payroll——

Chairman COBURN. Let me just stop you there. I sent a letter out yesterday, and I don't know if you were a cosignatory on it, on absent Federal employees. No agency is measuring people—not people taking leave, people that are just absent. Several of the agencies that we talked to on background, this is a big problem. So for you to tell me that payroll has no risk, I don't believe that is true because we have significant risk. We have a lot of Federal employees that aren't working that are getting paid that are not using leave. They are just absent.

It is not a lot, but the point is we want to manage and that comes back to my whole point. This is not to say that OMB hasn't done a fantastic job——

Mr. JOHNSON. No, you all can stop saying nice things about OMB and apologizing. Nobody is taking any offense here, OK.

Chairman COBURN. OK.

Mr. JOHNSON. Let us just talk about our business here.

Chairman COBURN. The point is for OMB to take the position that there is no risk with payroll, I don't believe that. I believe there is risk with payroll. Now, the question is what is the risk? Well, if we never look at it, we are never going to know. So at least we ought to look at it a couple of times and say, what does it look like, rather than saying we are not going to look at it because we don't think there is any risk there. and I will assure the taxpayers of this country there is more than $10 million in improper payments to Federal payroll every year.

Now, that is a small percentage, I agree, but we don't really know what that number is. So I guess my point is I believe we ought to run it all by trying to do the best job we can and measuring performance indicators, looking at metrics to help us know where we are weak and where we are strong, and I know you believe that and you have built your career on that.

The question is, where is the risk and reward, and that is really what you said.

Mr. JOHNSON. Right.

Chairman COBURN. Where do we start spending more dollars versus getting fewer dollars back?

Mr. JOHNSON. Right. Let me comment——

Chairman COBURN. Go ahead.

Mr. JOHNSON. There is no such thing as no risk. There is a risk with everything. You have to pay extra to look at 1 percent error rates versus 2 percent error rates versus 10 percent error rates. If we want to go looking for errors in a $130 or $140 or $150 billion payroll and benefit account, we can do that, and there is almost certainly $10 million in there.

Chairman COBURN. Yes.

Mr. JOHNSON. Should that be a priority? I would suggest not. The reason we focused on 2.5 percent and $10 billion——

Chairman COBURN. That is where——

Mr. JOHNSON [continuing]. Is to focus on the priority. Let us get that under control first and then go to the lower level opportunities.

Chairman COBURN. Right.

Mr. JOHNSON. I would suggest that payment on the Federal debt, if there is such a thing as being really close to low-risk, that is it. That is included in $2.7 trillion.

Chairman COBURN. That is $200 billion.

Mr. WALKER. Two-hundred-and-twenty-four billion, roughly.

Mr. JOHNSON. There is $250 billion in low-volume, what we consider to be low-risk programs that will be looked at. We agree totally with you that every program should have to assess their programs to have some substantial basis for saying that they don't reach the $10 million and 2.5 percent hurdle. They should not be able to say that just whimsically.

But going in and looking at this and where are the big pockets of opportunity for improper payments, our approach has been to apply a $10 million, 2.5 percent hurdle to it and that has focused us to place resources where the opportunity to do the best for the taxpayer is the greatest. Once we get that under control, I would suggest then it is appropriate to go where the return on our time and expenditure of taxpayer resources, the return on that investment is likely to be less, but nevertheless, it is likely to be positive.

But let us focus on the high-return opportunities first. Let us get those $40, $50, $60 billion numbers down to acceptable numbers, virtual zero, before we start getting all consternated, to use the new word here, over what the error rate is with payroll. I think that should be a really low priority. We will be glad to do it if that is what the will of the Congress is. But I would suggest to you that is a real low priority.

We should be going to great lengths to determining what the legislative fixes are that allow agencies to get at databases that they can't now get access to that allow us to reduce improper payments that we already know exist, but we can't do a very good job of preventing them or recovering them.

So it is just a question of how we want to prioritize our time, and the focus is on eliminating priorities, eliminating improper payments, and doing so quickly, doing so with some sense of priority, and I would suggest that is the priority versus having a full accounting of what all improper payments are.

I had the luxury in this regard, or the benefit of being the Market Research Manager at Frito Lay for a year back in the mid-1970s. The primary thing I did was cut out market research. We were doing so much research that was nice to know. It was nice to know what people felt about this or people felt about that. But the question was, if you knew this information, would you do anything any differently, and the answer in so many cases was no. I wouldn't do anything different right now, but maybe in a year or two I would do something.

That is what a lot of this reporting can end up being. We need to make sure we don't get into the "nice to know" reporting business. We are in the elimination of improper payment business. That is the way we need to think about it. and we need to be thinking about eliminating the biggest chunks of the most egregious improper payments first before we start getting into the programs where the error rates, both percentage and absolute dollars, are very small.

Chairman COBURN. I guess my response to that is I would agree with it. What we would like to know is what are your plans? In other words, when you get there, what are the plans to go looking at, because we haven't seen them. We have no knowledge that is going to happen after the fact because of the guidance that you have put out there.

So one of my concerns is that if you look at the 2.5 percent or $10 million and you take, for example, SSA's Old Age and Survivors' Insurance of $4.93 billion, they get over $10 million, but they are a low percent. But the point is, there is still a lot of money there.

Mr. JOHNSON. Right.

Chairman COBURN. How do we move, once this Administration, both with its PART analysis, its management systems that it has put in, and its improper payment look, how do we move to the next step of having good management tools that say that this is automatic? To run this department effectively, we have to know we are paying the bills right.

Mr. JOHNSON. Yes.

Chairman COBURN. How does that become a part of every agency, whether they have $10,000, $100,000, or $100 million a year in improper payments? I guess that is why I have some concern. I don't see that in the planning and it certainly wasn't in the statute.

Mr. JOHNSON. We need to——

Chairman COBURN. When the statute first came out, it was $1 million, period. Of course, that was changed to $10 million. I mean, when it was the original bill in the House, it was $1 million. It was changed to $10 million. and I guess that is where we are getting. We are looking at what has been done and what we know is going to be done. The question is, where do we go?

Mr. JOHNSON. Yes. And we know where $40 billion is, and when we get through in the next 2 years looking at Medicaid and these other programs, TANF and so forth, we will know where $50 or $55 or $60 billion is. I would suggest our priorities should be, both Congressional and Executive Branch and GAO, is getting that $50 and $60 billion to zero, and that is a higher priority than going and finding out what improper payments are in payroll and in $250 million that we would deem are not likely to meet the $10 million and 2.5 percent hurdle. We will get at that, but I would suggest that would be a low priority for us.

Chairman COBURN. General Walker.

Mr. WALKER. You have to set priorities because ultimately you have limited human, financial, and technological resources. There is no doubt about that. But I think there is a difference between having something on the radar screen and setting priorities as to how you are going to go about attacking the problems. They are two different things, in my opinion.

Second, there is no question in my mind that there is significant susceptibility to improper payments in payroll, especially with regard to DOD. I mean, we have issued reports showing huge improper payments within DOD for its payroll. But more importantly, I think we also need to put things into context here, and that is we need to get things on the radar screen. We need to set priorities

about how you go about it. You want to try to get it as close to zero as you can, although I don't think it will ever be zero.

We also have to keep in mind that there are a whole new category of payments that nobody is reporting here that is a lot of money, too, that we are all aware of in this room, and I will give you an example and it is something we have issued a report on. The Defense Department spent billions of dollars in incentive and award fees, paying incentive and award fees to contractors that were late, over-budget, and under-performing.

Chairman COBURN. Six billion dollars.

Mr. WALKER. Yes, billions of dollars. I would bet a lot of money that there is not a dime of that that is shown as an improper payment. Now, I am not saying it should be, but I am saying it is a problem and we have to go after it.

Mr. JOHNSON. In that regard, we pay out hundreds of millions of dollars, if not billions of dollars, in salary increases to employees that have not earned it, and we employ people that don't perform satisfactorily. We don't call that an improper payment, either, but that is another committee. That is another set of issues. So we have to be careful about having this thing expanded to include every moving thing in the Federal Government where the value is not——

Chairman COBURN. That is not our goal with this hearing. The goal of this Subcommittee is to find out where we are not spending money wisely. Most of that is not the Administration's problem. Most of that is a Congressional problem.

Mr. JOHNSON. We will do whatever the legislation wants us to do, I am just saying, but think about really what is the value of it? Social Security, if there are improper payments and the court says we have to continue to make them until it has been proven, do we measure that? We don't do that now. We can, we just never have because it is nice to know information. There is nothing we can do about it. Once they have, once all the appeals have been exhausted and Social Security begins to collect the information, we collect that like within a 98 percent rate. It is not a problem collecting it. But to know that it is out there is nice to know.

Chairman COBURN. I will turn it over to Senator Carper, knowing what is out there can sometimes change what you do so that it never gets out there in the first place. I agree that there are statutory requirements on Social Security payments, but maybe things could change inside Social Security so that there are fewer of those going out there, so that there are fewer having to go back and get it. The deal is not about going and getting the money. The deal is about not paying the money in the first place.

Mr. JOHNSON. Right.

Chairman COBURN. Again, those are judgment calls. I am not critical of it. The purpose of this hearing is where are we going on improper payments? Do we need to tweak it somewhat so we get a better benefit? There is no undermining of what we have seen being done. It is to raise the awareness of the American people that we do have $60 billion at a minimum of improper payments. But we don't know what percentage of that is true payments to people that don't deserve it versus a portion of that.

Mr. JOHNSON. Yes.

Chairman COBURN. So defining what that is, I think is important, not just for the American people, but also for a management tool.

Mr. JOHNSON. We know where more than, I would suggest, 75 percent of all improper payments are now. Let us go get those down to zero at the same time that we are finding out and detailing and specifying exactly what that remaining 25 percent or whatever it is is. But let us not get so focused on reporting every dollar that is improperly paid out that we lose sight of the importance of having legislation we need to access the databases, et al that we need to get what we know to be improper to zero.

Chairman COBURN. OK. Senator Carper.

Mr. WALKER. Can I, real quickly, Mr. Chairman?

Chairman COBURN. Sure.

Mr. WALKER. This is important. We need to make sure that we are focusing on implementing preventative controls to try to make sure that we don't have an improper payment to begin with. To talk about what the two of you just talked about, the Social Security due process, we might recover 98 percent—I don't know if that is accurate or not—we might recover a very high percentage of what ultimately goes through the adjudicatory process, but we spend a lot of money on the adjudicatory process and it takes a lot of time. So there is a cost.

So it is not just a matter of how much we ultimately recover, it is what can we do to prevent this to begin with and how can we minimize the amount of costs that we are having to spend in dealing with those types of issues, and it is considerable.

Senator CARPER. I am reminded, Mr. Chairman, of something my father used to say to my sister and me over and over and over again when we were kids growing up in Dan Pool and Roanoke, Virginia. He would observe our behavior, and whether we were doing our homework or working around the house or in the yard or whatever, and it wouldn't meet his standards and he would say, "Just use some common sense. Just use some common sense." and what I have often tried to do is apply what I call a common sense rule or approach to just about everything I have ever done, in the Navy, in government, in State Government when I was Governor of Delaware and certainly here today.

We have talked about some statutory changes that might be appropriate to make in the improper payments law, but let me just ask you to put on your common sense caps, and have a conversation together, sort of both of you can talk not at the same time, but just have a conversation with us. If we are going to use some common sense to make some changes to this law next year, what would we be doing? And I would be interested in hearing especially, I think it would be helpful to us to know where you agree on those changes that should be made.

I don't care who goes first, second, third, fourth, but just——

Mr. WALKER. Why don't I start?

Senator CARPER. Take off, if you would.

Mr. WALKER. I totally agree that you have to set priorities and you have to consider cost-benefit. I totally agree with that. That is a common sense approach.

I would respectfully suggest that in defining significant risk, the $10 million may be too low in certain circumstances, but 2.5 percent of total payments from a program is too high, is way too high. In the case of Medicaid, that is over $4.5 billion.

So, therefore, I think you need to consider lowering that 2.5 percent to a much lower percentage, e.g., half-a-percent. Still for Medicaid, that is over $1 billion, but it makes a difference because it gets you on the radar screen. Then you can decide how you are going to allocate your resources on what are you going to go after to try to be able to recover.

Senator CARPER. Mr. Johnson, do you want to comment on that point, please?

Mr. JOHNSON. Well, I think—what was the one that you referred to, Medicare?

Mr. WALKER. Medicaid.

Mr. JOHNSON. Medicaid. That error rate is greater than 2.5 percent.

Mr. WALKER. I agree.

Mr. JOHNSON. So that one is going to be in there. It is going to be a huge number and it is going to be very difficult to collect and it will be collected. It will be eliminated, virtually. It is going to be very hard to do. So this 2.5 percent and $10 million does not prevent us from tackling Medicaid.

If there is a program that 2.5 percent and $10 million causes us to not pay attention to, let us know what it is. We would be glad to include it.

Mr. WALKER. But here is the problem with that, Mr. Johnson. We are talking informally and we know each other well. We work together constructively.

Mr. JOHNSON. We have the same agent. [Laughter.]

Mr. WALKER. We have found that when you speak for free, you can get a lot of bookings.

Mr. JOHNSON. Yes. [Laughter.]

Mr. WALKER. And two-for-one, two times zero is zero.

But in any event, the other issue is, I trust what you are saying, but frankly, you are only going to be in your job another 2 years. Part of the issue here is how can we assure consistency, not just within an administration but between administrations?

So I take you at your word where you say, "if there is one that is a problem, let us put it on there." I don't know who your successor is going to be and I don't know what their attitude is going to be about management issues to begin with. So that is why I would respectfully suggest that while I trust what you are telling me, it is probably not in the institutional interest of the Congress or in the broader taxpayers' interest to take that approach.

Mr. JOHNSON. You are talking about codifying what the rules are——

Mr. WALKER. Right.

Mr. JOHNSON [continuing]. But, in fact, the discussion here is what should the rules be. Should it be $10 billion and 2.5 percent? I am saying all the programs that everybody knows we should be looking at or anybody has been suggesting that we look at get covered by 2.5 percent and $10 million.

There is $250 billion in programs that we think don't meet that in our general way of looking at it and our intention is to, and we need to be clear about what our plans are, I am hearing from this, that we need to scrub that to see are there any programs that besides our omniscience and understanding of these programs, in fact, have large numbers of improper payments that we need to include in this. But I have not heard anybody identify a program yet that they know has high improper payments that is not covered by the $10 billion and 2.5 percent.

Mr. WALKER. Payroll. I would——

Mr. JOHNSON. Military payroll is considered high-risk, and, I was mistaken, is in——

Mr. WALKER. It is in there?

Mr. JOHNSON [continuing]. The $1.5 trillion that we are looking at. The civilian payroll——

Mr. WALKER. Well, here is what I would suggest. If it doesn't make a difference between the half-a-percent and the 2.5 percent, which I don't know that is true or not, but if it doesn't make a difference, then why shouldn't you lower it?

Mr. JOHNSON. It is a hugely different approach to try to find error rates down to one-half percent. The sample sizes, the time it takes to do it, the level of precision you have to go to is dramatically different at those levels. You are talking about being able to demonstrate that you can measure error rate at 2.5 percent before you try to get it down to measure it down to half of 1 percent. You are talking about taking programs that we have never measured error rate and all of a sudden now trying to figure out what we have, it is a real challenge to measure it with a 2.5 percent accuracy level and that is dramatically orders of magnitude more difficult than to measure it with precision down to one-half of one percent.

So walk before you run. If we then decide we get that $50, $60 billion down to near zero, then let us take it down to a much lower level, or at a minimum, let us talk to the statisticians and confirm what the costs are and the difficulty is and the value of going down to 1 percent or 1.5 or half of 1 percent versus the benefit.

I know we have got all that agencies and we and you can say grace over with the current criteria.

Senator CARPER. Say that again. We have got what?

Mr. JOHNSON. We have all the improper payments identified, or will have them all identified by 2008, that we can say grace over and do an effective job of eliminating using the criteria we have now. When we get that to zero, then it would make sense, our level of monitoring, our level of sampling, our ability to access the databases and so forth will be such that we will have the ability to get the error rate down from 2.5 percent to something lower than that. Right now, we have a 10-year challenge ahead of us to get it down to 2.5 percent.

Senator CARPER. All right. I appreciate this discussion. I think it has been illuminating. But my question is sort of using a common sense test or application, what changes do we need to make next year in the current law with respect to improper payments?

Mr. JOHNSON. I was talking with my brain trust on the way down here and asking them that very question.

Senator CARPER. It is an impressive group.

Mr. JOHNSON. Well, it is a large group because this is a complex issue.

Senator CARPER. I think you told me coming in that the more complex the issue——

Mr. JOHNSON. The more complex——

Senator CARPER [continuing]. The bigger the posse.

Mr. JOHNSON [continuing]. The bigger the posse, right. But it is a huge issue. I remember visiting with the President a couple of years ago and he asked me what I was involved in and working on. I talked about this and that and one was improper payments. I said, guess what our level of improper payments are, and he had no earthly idea. I said, well, we have only measured, I don't know, two-thirds of all the programs that are at risk of making improper payments and we think it is $45 billion. He was dumfounded, as you all are and as the American people would be if they knew. It is a huge opportunity for us to really do good work here.

But the things that are not as clear as we would like them to be and as you all would like them to be are what we should be doing with regard to contract payments and what we should be doing with regard to things like tax refund errors. Those are improper payments. But how do we want to be treating those? So there is some clarification of categories of payments that I think need to be dealt with that will make it clear to all, and with IRS and Treasury and OMB and the relevant agencies as to what kinds of things we should be looking at here.

And there should be a time to focus on those things where we can go do some good work. There is action to be taken to eliminate them. Contrarily, when talking about Social Security, it is nice to know. We can't do anything about it. We might be able to prevent it, but that is not what I have understood the opportunity is.

To me, that is what the biggest opportunity is on this, plus changing the laws that prevent us from getting at data that would allow us to prevent a lot of these improper payments. And I don't know if that would fall under this Act, amendments to this Act, or that would fall under legislation that dealt with education matters or labor matters or defense matters or whatever.

Senator CARPER. Mr. Walker.

Mr. WALKER. Several things. One, I think you need to consider cost-benefit in defining risk, and I do think that you need to consider what the cost would be if you modified the 2.5 percent, but I think that needs to be focused on because that determines what is on the radar screen.

Two, I think that there are categories of payments that you need to clarify how they should be handled. Mr. Johnson talked about a couple. Another one that I talked about was the due process payments. I am not saying what the answer is. I am just saying you need to focus on it and decide whether or not you think they ought to be included or not included and to try to help assure that there is consistency.

Senator CARPER. Can you give an example? You mentioned due process earlier, I think with respect to, what was it, Social Security payments?

Mr. WALKER. Yes, disability payments. It is any kind of payment where by law there—even though you know it is improper, there is a due process right that the person has by law, and it is very common for entitlement benefits and things of that nature.

Right now, my understanding is they are not on the radar screen, and I think there are two angles to that. One angle is the one that Mr. Johnson talked about. How much do we recover after you go through all the due process? But the second angle is, well, how much money are we spending on due process that otherwise we might not have to spend if we had the preventative controls in place that kept us from having the problem to begin with, and I think that is a cost-benefit issue, too. I think we have got to talk about that.

My only point is he mentioned a couple. I mentioned a third where I think we need to decide how they ought to be treated and we ought to consider cost-benefit.

The third angle is, and I am not sure if this has to be legislative, maybe it could be done administratively, but if you are going to do legislation anyway you may want to think about how do we want to count the improper payments? On the example that I gave you, if the payment that was made was $10 and it was not a duplicative payment, all right, but the only amount in question is a portion of that, do you want to count the whole thing or do you want to count a piece of it?

I think this is very important and I am not sure that it relates directly to this Act but I think it is necessary in order to deal with the intent of this Act, and that is there are certain barriers that prevent the government from employing data matching and data mining techniques in order to, A, prevent improper payments to begin with, and B, to recover on improper payments after they occur. And I think when you are talking about taxpayer money, I think that we need to look at where additional flexibility could be provided there. That is different than when you are talking about the use of data and data matching where you are not talking about taxpayer money. I mean, they are not taxpayer resources.

And then last, and this is clearly beyond the scope of this legislation but I think it is clearly valid based upon one of the things that Mr. Johnson said, I think the eligibility requirements for some Federal programs are just so complex that ultimately down the road, and this is separate and distinct from this legislation. We need to relook at a lot of existing Federal spending programs and tax policies because they are just so complicated it is almost impossible to effectively comply and minimize errors.

Senator CARPER. And if we were to do so, General Walker, following up on your last comment, if we were to do so, and clearly that is beyond the scope of this—well, you just said it is beyond the scope of this law, but if we were to do so, what are the implications, if you will, or the benefits from taking those steps? I think I know the answer, but go ahead and say it.

Mr. WALKER. We would save billions of dollars and we would improve the credibility of and the confidence in government in a variety of ways, among other things.

Senator CARPER. And who would have the responsibility for doing that? At the Congressional level, it would be program by pro-

gram, committee by committee, and within the Executive Branch, department by department?

Mr. WALKER. I think with regard to eligibility requirements, many of those may be statutory and that is going to be the Congress' responsibility and I would say it would be the committee with jurisdiction over the particular programs involved.

As you know, Senator Carper, and Senator Coburn does, too, we issued a document in February 2005 called "21st Century Challenges: Reexamining the Base of the Federal Government." That just gives 200 examples of things that need to be looked at and reengineered. The eligibility requirements of certain programs. I am sure we have some examples in that document, but they need to be done by the appropriate authorizing committees and those that have responsibility for the respective programs.

Mr. JOHNSON. Two ideas kind of along the lines of the question you are asking, Senator Carper, is I will bet you the access to different databases or the statutory changes, it is enabling legislation-specific and it has to come out of that authorizing committee. But when you—and I am not the most knowledgeable person about how Congress works, but my impression is when you approach an authorizing committee about wanting to change some enabling legislation, they think, well, I don't want to do this because this has served us well for 10 years and I don't want to change it.

But if they understand that this is a common problem amongst several authorizing committees, six, eight, ten authorizing committees and there are access to database opportunities for all these committees, maybe one of the things this Subcommittee can do is help us bring all these different authorizing committees together and look at it as a group so that we are making the argument to all the relevant authorizing committees with you all's endorsement so we get them all to understand this is a government-wide opportunity for us to better spend the taxpayers' money and to better account for the taxpayers' money, and then they can go off and make the necessary changes, but they understand they are part of a government-wide effort as opposed to being singled out. So that isn't just changing the law, but it is a way that you would operate and interact with other committees.

And then I don't know if this impacts the law, but one of the things that I didn't understand at the beginning when I started working in improper payments was if the improper payments are $45 billion and we take it to zero, that does not mean that we reduce our outlays to zero, our improper outlays to zero, because a lot of these improper payments are payments that are at risk of being improper. We don't have the necessary paperwork to say this is a proper payment, so we put it as it is improper. We did not get the required paperwork. When we tighten our processes and, in fact, get the required paperwork, we confirm in many cases that, in fact, it was proper.

This happened this past year when the Medicare error rate went down seven-point-something billion dollars. Payments remained the same, but we had confirming paperwork. We started getting confirming paperwork from physicians that we did not have before. So we now know that these payments are proper, but without that paperwork, there was a risk that they were improper.

If we want to distinguish between those and have a reporting on the difference, distinguish between, in our reporting, about what impacted outlays or recoveries and what took us from a risk of overpayment or underpayment to an assurance of propriety, that would be important, because right now there is a suggestion, because I wasn't clear about this for the first year, that we are not saying that we are paying out $41.6 billion improperly. There is some of that, but there is some of it where there is the risk of that that we will subsequently find out was proper.

Senator CARPER. And that is the point that I think General Walker has been making, about if you have a $10 payment and $8 of it is appropriate, is it really a $10 improper payment?

Mr. JOHNSON. Right.

Mr. WALKER. That is correct. I mean, it may be a lack of documentation and it could have been a proper payment, and I think that is an issue——

Mr. JOHNSON. Right.

Mr. WALKER [continuing]. That we need to understand. Should we somehow recognize that and report it differently?

Let me give you an example that you all can relate to, earmarks. Congressional earmarks clearly have proliferated. Clearly, there is a major problem. Clearly, something needs to be done. But even if you eliminated every dollar of Congressional earmarks, you are not necessarily going to save a dollar of taxpayer money because it is saying how you are going to spend the money, not how much money you have to spend. On the other hand, it could significantly increase public confidence and trust in their government and credibility if something was done about earmarks. There is an analogy here.

The last thing is let me give you two examples, I believe, of programs, one on the spending side, one on the tax side, where there are very complicated eligibility requirements. Disability——

Senator CARPER. Under Social Security?

Mr. WALKER [continuing]. Under Social Security would be a spending side. On the tax side, the Earned Income Tax Credit, mind-bogglingly complex. And so while that is beyond the scope of this Subcommittee, one of the great things about the Senate Homeland Security and Governmental Affairs Committee is that you are concerned with all of government with regard to how government is organized and managed. And a lot of the things we are talking about here are systemic problems that cross many organizational boundaries in the Legislative Branch as well as the Executive Branch. Somebody has to have a more strategic and cross-cutting approach and I think this Subcommittee is well positioned to try to do that in partnership with the other committees with jurisdiction over particular programs and policies.

Senator CARPER. OK. I think I have almost used up my time, Mr. Chairman. What do you think? Let me just stop there and just say at this point thanks very much for those responses.

It would be of value to me, and I suspect to the Chairman, but certainly to me as we look to the next Congress, if we were to ask you to put in writing some of what you have just said in response to my original question, common sense changes to the current law on improper payments.

Chairman COBURN. I would think in addition to that the specifics of the cross-availability of data, specifically what data needs to be cross-referenced to be able to protect against fraud. I think that is a legitimate role for the Federal Government, to make sure that public money isn't fraudulently scammed, and the easy way to look at that is where is the money coming from, where is it going, and who is claiming disability and yet has filed an income tax report that doesn't have that? The two aren't looked at together. I don't think there is anything wrong with doing that in a very limited perspective that will save us a ton of money.

The final point I would make, and I know Mr. Johnson agrees with this but it is detail and it goes all the way down, I agree that the very expensive small percentage changes are not something we should go after now. But I don't agree that management systems shouldn't have individual managers saying, we ought to look at this because it is good management inside our own agency. So if that happens in terms of improper payments, what happens is they never have to report it, they just fix it. And that is what ought to be our goal.

The reason we have an Improper Payments Information Act is because we didn't know. The purpose behind the Act ultimately is to be more efficient and more accurate with what we do. So I would just encourage that something come out from OMB all the way down to the ones that even have no risk saying maybe you ought to take a look at this once and see. It still sticks in my mind when HUD says there is absolutely no risk with CDBG block grants and so therefore they don't look at it, that is a signal to the rest of the people getting CDBG block grants, we can take advantage of this. They are not looking at it.

So I think management systems need to be the same throughout every level of government and every area. Good management is good management and that requires checks and balances and tools to assess that what we did this year needs to be changed in this way to be more efficient with why we do it next year. And I know you all are trying to do that. I know to get your hands around this behemoth is difficult and I think we are making good progress. I just think we need to make more and we need to make it faster, and part of that is because what is impending coming down the road for us.

You are going to be thankful you are not in OMB in 10 years when the real problems start hitting the fan. And I am thankful again, I will say it to General Walker, the American people need to know what is going on because Congress certainly hasn't been honest with the American people about the impending nature of the financial difficulties we face and I am very thankful that he is out there. I have been preaching this since I have been in the Senate, what is going to happen.

We need to do the best job we can now to get things under control because we are going to have to make a lot of cuts 10 years from now and we need to have the financial tools to know which ones are good and which ones aren't, which ones are efficient and which aren't, because we need to be able to have the Congress say, we are going to have to make hard decisions. Which ones go?

Which ones stay? And if we don't have good management tools, we are not going to be able to do that.

I want to thank each of you. I would reiterate, I would love to have from you in writing the cross-agency data mining you think minimally is necessary to accomplish your goals, the recommended changes that you would like to see in the statute, and if none. And also what is happening on these other areas, where are you going and why, so that we can look at that.

With that, are there any other comments?

Thank you for your attendance. The Subcommittee is adjourned.

[Whereupon, at 11:46 a.m., the Subcommittee was adjourned.]

APPENDIX

United States Government Accountability Office

GAO

Testimony

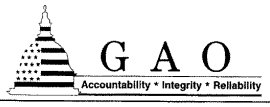
Before the Subcommittee on Federal Financial Management, Government Information, and International Security, Committee on Homeland Security and Governmental Affairs, U.S. Senate

For Release on Delivery
Expected at 10:30 a.m. EST
Tuesday, December 5, 2006

IMPROPER PAYMENTS

Incomplete Reporting under the Improper Payments Information Act Masks the Extent of the Problem

Statement of David M. Walker
Comptroller General of the United States



GAO-07-254T

GAO
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Highlights

Highlights of GAO-07-254T, a testimony before the Subcommittee on Federal Financial Management, Government Information, and International Security, Committee on Homeland Security and Governmental Affairs, U.S. Senate

Why GAO Did This Study

Fiscal year 2005 marked the second year that executive agencies were required to report improper payment information under the Improper Payments Information Act of 2002 (IPIA). The ultimate goal is to minimize such payments because, as a practical matter, they cannot be entirely eliminated. GAO's testimony is primarily based on its recently issued report, GAO-07-92, which included a review of improper payment information reported by 35 agencies in their fiscal year 2005 performance and accountability or annual reports. This statement focuses on the progress agencies have made in their improper payment reporting, the challenges that remain, and the total amount of improper payments recouped through recovery auditing.

What GAO Recommends

In its related report, GAO suggested that the Congress consider amending IPIA to define specific criteria agencies should use to ensure that the full extent of improper payments is captured. GAO also made recommendations to the Office of Management and Budget (OMB) to help ensure accurate and complete improper payment and recovery auditing reporting. OMB generally agreed with GAO's recommendations and outlined actions planned and under way for continued progress. However, in a subsequent letter to GAO, OMB's Controller raised concerns about the report, including the timing of issuance.

www.gao.gov/cgi-bin/getrpt?GAO-07-254T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact McCoy Williams at (202) 512-9095 or williamsm1@gao.gov.

December 5, 2006

IMPROPER PAYMENTS

Incomplete Reporting under the Improper Payments Information Act Masks the Extent of the Problem

What GAO Found

While agencies are making progress, their fiscal year 2005 reporting under IPIA does not yet reflect the full scope of improper payments across executive branch agencies. Major challenges remain in meeting the goals of the act and ultimately improving the integrity of payments. GAO found that three challenges in particular continue to hinder full reporting of improper payment information:

- **Existing reporting incomplete**. Although 18 agencies collectively identified and estimated improper payments for 57 programs and activities totaling $38 billion, some agencies still had not instituted systematic methods of reviewing all programs, resulting in their identification of none or only a few programs as susceptible to significant improper payments. In many cases, these same agencies had well-known and well-documented financial management weaknesses as well as fraudulent, improper, and questionable payments. Further, improper payments estimates totaling about $389 million for 9 programs were not based on a valid statistical sampling methodology as required. Materially higher estimates would have been expected had the correct methods been used, given that total outlays for these 9 programs exceeded $58.2 billion.
- **Large programs still not included**. Estimates of improper payments for 10 risk-susceptible programs with outlays totaling over $234 billion still have not been provided. Most of these programs were subject to OMB reporting requirements that preceded IPIA.
- **Threshold criteria limit reporting**. The act includes broad criteria to identify risk-susceptible programs. OMB's implementing guidance includes more specific criteria that limit the disclosure and transparency of agencies' improper payments.

GAO's preliminary review of fiscal year 2006 data indicates that while additional progress is being made, agencies continue to face many of the significant challenges noted in GAO's report on fiscal year 2005 reporting.

With regard to agencies' recovery audit efforts, GAO found that the data reported may present an overly optimistic view of these efforts. While 21 agencies were required to report on their recovery audit efforts, GAO identified discrepancies in several agencies' information and found limited reviews over contract payments. For example, for fiscal year 2005, the National Aeronautics and Space Administration (NASA) reported that it had identified and recovered $617,442 in contract payments, a 100 percent recovery rate. Yet, the NASA Office of Inspector General reported it had identified over $515 million in questioned contract costs during fiscal year 2005, of which NASA management decided to pursue recovery of $51 million. Had this amount been compared to the $617,442 NASA actually recovered, its recovery rate would drop from the reported 100 percent to 1.2 percent.

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to be here today to discuss the governmentwide problem of improper payments in federal programs and activities. My testimony today is based on our November 2006 report[1] as well as on our previous testimonies[2] on this topic issued earlier this year. We focused on agencies' fiscal year 2005 reporting under the Improper Payments Information Act of 2002 (IPIA),[3] the most recent data available at the time we started this body of work. As agencies recently reported their fiscal year 2006 data, my testimony today also includes some preliminary observations on this information. IPIA has increased visibility over improper payments[4] by requiring executive agency heads, based on guidance from the Office of Management and Budget (OMB),[5] to identify programs and activities susceptible to significant improper payments,[6] estimate amounts improperly paid, and report on the amounts of improper payments and their actions to reduce them. As the steward of taxpayer dollars, the federal government is accountable for how its agencies and grantees spend hundreds of billions of taxpayer dollars and is responsible for safeguarding those funds against improper payments. However, although the ultimate goal is to identify and minimize these payments

[1]GAO, *Improper Payments: Agencies' Fiscal Year 2005 Reporting under the Improper Payments Information Act Remains Incomplete*, GAO-07-92 (Washington, D.C.: Nov. 14, 2006).

[2]GAO, *Financial Management: Challenges Remain in Meeting Requirements of the Improper Payments Information Act*, GAO-06-482T (Washington, D.C.: Mar. 9, 2006), and *Financial Management: Challenges Continue in Meeting Requirements of the Improper Payments Information Act*, GAO-06-581T (Washington, D.C.: Apr. 5, 2006).

[3]Pub. L. No. 107-300, 116 Stat. 2350 (Nov. 26, 2002).

[4]IPIA defines improper payments as any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. It includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, payments for services not received, and any payment that does not account for credit for applicable discounts.

[5]OMB Memorandum M-03-13, "Improper Payments Information Act of 2002 (Public Law 107-300)" May 21, 2003, and OMB Circular No. A-136, *Financial Reporting Requirements*, § II.5.6 (July 24, 2006). OMB recently issued revised guidance for fiscal year 2006 reporting in OMB Memorandum M-06-23, "Issuance of Appendix C to OMB Circular No. A-123" (Aug. 10, 2006).

[6]OMB's guidance defines significant improper payments as those in any particular program that exceed both 2.5 percent of program payments and $10 million annually.

through a variety of strategies, it is important to recognize that, given the complexity, diversity, and magnitude of federal payments across the executive branch, such improper payments will never be completely eliminated.

Today, my testimony will focus on the following key points:

- trends in agencies' reporting under IPIA from fiscal year 2004 through fiscal year 2006,
- several major challenges that continue to hinder full reporting of improper payment information,
- agencies' reporting of recovery auditing efforts to recoup improper payments, and
- our proposals for continued progress in capturing the full extent of improper payments.

This testimony is primarily based on our recent review, which included the 35 federal agencies that the Department of the Treasury (Treasury) determined to be significant to the U.S. government's consolidated financial statements. We reviewed improper payment information reported by the 35 agencies in their fiscal year 2005 performance and accountability reports (PAR) or annual reports. We also performed a preliminary review of agencies' fiscal year 2006 PARs or annual reports. We reviewed OMB guidance on implementation of IPIA and its report[7] on the results of agency-specific reports, significant findings, agency accomplishments, and remaining challenges. We did not independently validate the data that agencies reported in their PARs or annual reports or the data that OMB reported. However, we are providing agency-reported data as descriptive information that will inform interested parties about the magnitude of governmentwide improper payments and other improper payment-related information. We believe the data to be sufficiently reliable for this purpose. We conducted our work from April 2006 through September 2006 in accordance with generally accepted government auditing standards. Our November 2006 report contains additional details on our scope and methodology.

Summary

Under OMB's leadership, progress has been made in the first 3 years of IPIA implementation. Agencies' reporting under the act's provisions

[7]Office of Management and Budget, *Improving the Accuracy and Integrity of Federal Payments* (Washington, D.C.: Feb. 2, 2006).

though, does not yet reflect the full scope of improper payments across executive branch agencies. For fiscal years 2004 and 2005, we concluded that the magnitude of the governmentwide improper payments problem was still unknown because agencies had not yet prepared improper payment estimates for all of their programs. Our preliminary review of fiscal year 2006 reporting indicates that while additional progress is being made, several challenges noted in our report on fiscal year 2005 reporting continue to hinder full reporting of improper payment information. Similar to our previous results, we found that some agencies have not annually reviewed all programs and activities, have not estimated improper payments for their risk-susceptible programs, or only estimated improper payments for one component of the program. For example, we noted that the total improper payment estimate for fiscal year 2006 still does not include 9 risk-susceptible federal programs, including Medicaid with total program outlays of about $183 billion for fiscal year 2006. In addition, federal agency auditors continue to identify weaknesses in agencies' compliance with the requirements of IPIA.

Our review of agencies' fiscal year 2005 reporting of selected improper payment information identified three key challenges to fully addressing improper payments reporting requirements.

- First, we found that agencies' reporting of improper payment information was incomplete and the extent and level of detail of agencies' improper payment information varied. Although 18 agencies collectively identified and estimated improper payments for 57 programs and activities totaling $38 billion, some agencies still had not instituted systematic methods of reviewing all programs, resulting in their identification of none or only a few programs as susceptible to significant improper payments. In many cases, these same agencies had well-known and well-documented financial management weaknesses as well as fraudulent, improper, and questionable payments. A lack of detailed guidance may be a contributing factor to agencies' inability to adequately assess their programs for risks. Specifically, we found that OMB's implementing guidance does not include a description of the common types of risk factors agencies should consider when annually reviewing their programs, such as program complexity, operational changes, findings from investigative reports, and financial statement and performance audit reports. Further, improper payments estimates totaling about $389 million for 9 programs were not based on a valid statistical sampling methodology as required. Higher estimates would have been expected had statistically valid methods been used, given that total outlays for these 9 programs exceeded $58.2 billion in fiscal year 2005.

- Second, the total improper payment estimate does not include several large, risk-susceptible federal programs. Agencies have not estimated improper payments for 10 risk-susceptible programs with outlays totaling over $234 billion, even though most of these programs had such reporting requirements predating IPIA.[8] Further, although the total improper payment estimate of about $38 billion represents almost a $7 billion, or 16 percent, decrease from the $45 billion of improper payments reported by agencies in fiscal year 2004, the reported reduction may not reflect improved accountability or strengthened internal controls. As we previously reported in March and April 2006, this estimate reduction is primarily attributable to a decrease in the Department of Health and Human Services' (HHS) Medicare program improper payment estimate. This decrease mainly resulted from a change to Medicare's estimating methodology rather than from improved payment controls. We noted that HHS's Office of Inspector General (OIG) continued to cite the integrity of Medicare payments as a top management challenge in HHS's fiscal year 2005 PAR.

- Third, OMB's implementation of the act's broad criteria to identify risk-susceptible programs limit the disclosure and transparency of governmentwide improper payments. This limitation does not further the objectives of IPIA, as programs that do not meet OMB's criteria—improper payments exceeding $10 million and 2.5 percent of program payments—are excluded from agencies' improper payment reporting. For example, one agency identified three programs with estimated improper payments exceeding $10 million, but because the estimates did not exceed 2.5 percent of program outlays, they were not included in the governmentwide improper payment total.

  In addition, we noted that the definition of improper payments under IPIA excludes certain types of payments required to be made under constitutional, statutory, or judicial requirements, even if those payments are subsequently determined to be incorrect. These include payments that an agency must make pursuant to a statute or court order that later are determined to be overpayments. Yet, because agencies are not required to

[8]Prior to the executive branch-wide IPIA reporting requirements, beginning with fiscal year 2004, former section 57 of OMB Circular No. A-11 required certain agencies to submit similar information, including estimated improper payment target rates, target rates for future reductions in these payments, the types and causes of these payments, and variances from targets and goals established. In addition, these agencies were to provide a description and assessment of the current methods for measuring the rate of improper payments and the quality of data resulting from these methods.

track, monitor, and report on these types of overpayments, the governmentwide magnitude of this issue is unknown.

With regard to agencies' recovery auditing efforts, a mechanism used to detect and recoup improper payments, we found that the data reported may not present an accurate view of the extent or success of these efforts. While 21 agencies were required to report on their recovery audit efforts, we identified discrepancies in several agencies' information and found limited reviews over contract payments. For example, for fiscal year 2005, the National Aeronautics and Space Administration (NASA) reported that it had identified and recovered $617,442 in contract payments, a reported 100 percent recovery rate. Yet, the NASA OIG reported it had identified over $515 million in questioned contract costs during fiscal year 2005, of which NASA management decided to pursue recovery of $51 million. Had the $51 million amount been compared to the $617,442 NASA actually recovered, its recovery rate would drop from the reported 100 percent to 1.2 percent. In addition, we noted that 5 of the 21 agencies did not review all of their agency components as part of their recovery audit efforts while 2 agencies reported that recovery auditing was not cost beneficial without reporting any details to support this determination.

Our November 2006 report included one matter for congressional consideration and four recommendations for executive action. Specifically, to ensure that the full extent of improper payments is being captured, we believe the Congress should consider amending existing IPIA provisions to add more specific criteria, such as a dollar threshold agencies should use to identify which programs and activities are susceptible to significant improper payments, thereby triggering improper payment estimating and reporting requirements. In addition, to facilitate agencies' progress in ensuring accurate and complete improper payments and recovery auditing reporting, we recommended that OMB take several actions regarding (1) risk assessment methodologies and the level of detail necessary to meet the annual improper payment reporting requirements, (2) statistically valid estimates, (3) extent of payments agencies make under statute or judicial determinations that later are determined to be overpayments, and (4) agencies' rationale that recovery auditing is not cost beneficial. In written comments on the draft of our report, OMB agreed with our assessment of the challenges that remain in meeting the goals of IPIA. OMB generally agreed with our recommendations and highlighted progress made in the second year of governmentwide improper payments reporting, as well as initiatives under way to measure improper payments in selected programs susceptible to significant improper payments. However, in a subsequent letter to GAO, OMB's

Controller raised concerns about the report, including the timing of our analysis and report issuance, which we discuss later in this testimony.

Significant Trends in IPIA Reporting

I would now like to focus on the progress that has been made in the first 3 years of IPIA implementation. Regarding the first year reporting under IPIA, as we reported in March 2005,[9] the improper payment estimate of $45 billion reported by 17 agencies did not include any amounts for some of the highest risk programs, such as Medicaid with outlays in excess of $175 billion for fiscal year 2004. Further, we noted that some agencies still had not instituted systematic methods of reviewing all programs and activities or had not identified all programs susceptible to significant improper payments. We concluded that the magnitude of the governmentwide improper payments problem was still unknown because agencies had not yet prepared improper payment estimates for all of their programs. In that report, we made three recommendations to OMB to help ensure successful implementation of IPIA requirements. OMB commented that its management emphasis and inspector general oversight offer sufficient incentives to ensure agencies meet IPIA requirements.

Regarding the second year of IPIA reporting, we recently reported in November 2006[10] that while making progress, agencies' fiscal year 2005 reporting under IPIA does not yet reflect the full scope of improper payments across executive branch agencies. For fiscal year 2005, 18 agencies reported improper payment estimates totaling in excess of $38 billion,[11] which is $7 billion less than the $45 billion reported for fiscal year 2004.[12] All indications are that the estimate should be markedly higher because the total improper payment estimate did not include certain factors that if included, would increase the estimate. For example,

[9]GAO, *Financial Management: Challenges in Meeting Requirements of the Improper Payments Information Act*, GAO-05-417 (Washington, D.C.: Mar. 31, 2005).

[10]GAO-07-92.

[11]Included in this estimate were 10 agencies reporting for the first time improper payment estimates of almost $1.2 billion for 17 programs. Also, the governmentwide estimate includes both over- and underpayments. OMB's implementing guidance requires agencies to report the gross versus net total of both over- and underpayments.

[12]In their fiscal year 2005 PARs, several agencies updated their fiscal year 2004 improper payment estimates to reflect changes since issuance of their fiscal year 2004 PARs. These updates increased the governmentwide improper payment estimate for fiscal year 2004 from $45 billion to $46 billion.

agencies had not estimated improper payments for 10 risk-susceptible programs with outlays totaling over $234 billion, even though most of these programs had such reporting requirements predating IPIA.[13] In addition, we found that improper payment estimates totaling about $389 million for 9 programs were not based on a statistical sampling methodology.[14] Given that total outlays for these 9 programs exceeded $58.2 billion in fiscal year 2005, estimates for these programs would likely have been much greater had statistically valid methods been used. Further, we reported that agencies identified a number of statutory or regulatory barriers that limited their corrective actions in reducing improper payments. I will discuss these matters in greater detail later in my statement. We concluded that major challenges remain in meeting the goals of the act and ultimately improving the integrity of payments.

Based on our preliminary review[15] of available information for fiscal year 2006, 18 agencies estimated improper payments totaling about $42 billion, a net increase of about $4 billion, or 11 percent, from the prior year improper payment estimate of $38 billion.[16] This increase was attributable to 10 newly reported programs with improper payment estimates totaling about $2.3 billion and federal agencies reporting an increase in estimates for programs that had previously reported.

Our preliminary review of federal agencies' fiscal year 2006 reporting of selected improper payment information identified that while progress is being made, improvements are still needed to fully address improper payments reporting requirements. Similar to our previous results, we found that some agencies have not yet annually reviewed all programs and activities, have not yet estimated improper payments for their risk-

[13]See footnote 8.

[14]Agency-reported estimates were primarily based on known cases identified through Office of Inspector General audits and other isolated instances. However, one agency reported using a combination of statistical and nonstatistical methodologies, but did not identify what portion of the estimate was calculated using statistical sampling. Any agency that reported using nonstatistical sampling methodologies to calculate its programs' improper payment estimates was included in this analysis.

[15]We plan to report further details of agencies' fiscal year 2006 improper payment reporting in 2007.

[16]In their fiscal year 2006 PARs, selected federal agencies updated their fiscal year 2005 improper payment estimates to reflect changes since issuance of their fiscal year 2005 PARs. These updates increased the governmentwide improper payment estimate for fiscal year 2005 from $38 billion to $39 billion.

susceptible programs, or only estimated improper payments for one component of the program. For example, we noted that the fiscal year 2006 total improper payment estimate of $42 billion still does not include 9 risk-susceptible federal programs, including Medicaid with total program outlays of about $183 billion for fiscal year 2006. In addition, some federal agency auditors continue to identify weaknesses in agencies' compliance with the requirements of IPIA. Five agency auditors that tested compliance with IPIA cited agencies that were either in noncompliance with the act or had not fully complied with certain aspects of the act requirements, such as not estimating for all risk-susceptible programs, excluding certain types of payments from reviews, and estimating improper payments using samples that were not statistically derived. In addition to the noncompliance issues, many federal agencies' OIGs again reported on major management challenges, including reducing improper payments in programs and payment activities. For example, one agency's OIG reported that ineffective oversight and monitoring of policies, programs, and its program participants has hindered the agency's ability to identify and correct improper payments. Another agency's OIG reported that improving acquisition and contract management is needed to reduce cost and eliminate improper payments.

I would also like to address certain concerns recently raised by OMB's Controller in a letter to us dated November 28, 2006. In that letter, the Controller stated that our report issued on November 14, 2006, contained out-of-date information because it was based on agencies' fiscal year 2005 reporting. We had a number of reasons for the timing of our analysis and report issuance. First, it is important to note that we first stated our findings related to fiscal year 2005 improper payments less than 4 months after agencies reported their fiscal year 2005 information. On March 9, 2006, and again on April 5, 2006, we testified[17] before the Senate and House Government Reform subcommittees on agencies' progress in meeting IPIA reporting requirements for fiscal year 2005. In those testimony statements, we focused on selected reporting requirements, and our objectives included (1) the extent to which agencies performed risk assessments of all programs and activities, (2) the annual amount of improper payments estimated by reporting agencies, and (3) the amount of improper payments recouped through recovery audits. For our November 14 report, the objectives were similar but broader, and focused on additional improper payment reporting requirements as well as on the definition and the types

[17]GAO-06-581T and GAO-06-482T.

of improper payments included in IPIA and OMB's implementing guidance. The latter issues, it should be noted, are unrelated to specific fiscal year reporting. Thus, the issuance of our report was timely, given the body of work we issued prior to November 14—the two testimonies mentioned above, another related report on improper payments in state-administered programs,[18] and our responses to posthearing questions.[19]

Second, the issuance of our report was in accordance with the congressional schedule this fall, which included a lengthy recess for mid-term elections. Third, the information in our November 14 report provides a sound framework for documenting the issues that affected agencies and OMB in fiscal year 2005 and which they continue to face. Most of the findings discussed in our report continue to be relevant for the fiscal year 2006 improper payment reporting. Specifically, our November 14 report highlighted incomplete reporting of improper payment information related to agencies' risk assessments and improper payment estimates, as well as risk-susceptible programs that still are unable to report improper payment estimates. As discussed previously, based on our preliminary review of the fiscal year 2006 PARs, these issues continue to exist.

Finally, let me add that we provided a draft of our report to OMB prior to publication for its review and comment. The Controller sent detailed written comments in a letter dated October 26, 2006, which are reprinted in full in our final report. These comments make no mention of any concerns with the timeliness of the data included in our report. Indeed, the official comments state that OMB generally agreed with our assessment that challenges remain in meeting the goals of IPIA.

[18]GAO, *Improper Payments: Federal and State Coordination Needed to Report National Improper Payment Estimates on Federal Programs*, GAO-06-347 (Washington, D.C.: Apr. 14, 2006).

[19]GAO, *Improper Payments: Posthearing Questions Related to Agencies Meeting the Requirements of the Improper Payments Information Act of 2002*, GAO-06-1067R (Washington, D.C.: Sept. 6, 2006).

Challenges That Hinder Full Reporting of Improper Payment Information

While showing progress, agencies' fiscal year 2005 reporting under IPIA does not yet reflect the full scope of improper payments across executive branch agencies. Major challenges remain in meeting the goals of the act and ultimately improving the integrity of payments. We found that the following challenges continue to hinder full reporting of improper payment information: existing reporting remains incomplete, large programs are still not included, and OMB's threshold criteria limit complete reporting.

Improvements Needed in Agencies' Reporting of Improper Payment Information

Of the 35 agencies whose fiscal year 2005 agency PARs or annual reports were included in our review, 23, the same number of agencies that reported having risk assessments in our prior year review, reported they had performed risk assessments of all of their programs and activities. The remaining 12 agencies either did not report this information in their PARs or annual reports, or included some improper payment details in their PARs but did not report assessing for the risk of improper payments for all of their programs and activities.

Although OMB's guidance identifies the scope of payments agencies are to review, such as federal awards made by recipients and subrecipients subject to the Single Audit Act, as amended,[20] it does not provide agencies detailed information on how to conduct a risk assessment in order to adequately carry out their responsibilities to meet the requirements of the act. Specifically, we found that OMB's guidance lacks a description of the common types of risk factors agencies should consider when annually reviewing their programs, such as program complexity; operational changes; and findings from investigative, financial statement, and performance audit reports. Developing such a framework would begin the process to effectively identify and target high-risk areas within a program and better position agencies as they determine which control activities to implement to reduce risks and ultimately reduce fraud and errors.

Although 23 agencies reported meeting this requirement for all of their programs and activities, other readily available information suggests to us

[20]31 U.S.C. §§ 7501-7507. Under the Single Audit Act, as amended, and implementing guidance, independent auditors audit state and local governments and nonprofit organizations that expend federal awards to assess, among other things, compliance with laws, regulations, and the provisions of contracts or grant agreements material to the entities' major federal programs. Organizations are required to have single audits if they annually expend $500,000 or more in federal funds.

that the adequacy of agencies' risk assessments was questionable. For example, auditors for the Department of Justice (DOJ) and the Department of Homeland Security (DHS) cited agency noncompliance with IPIA in their fiscal year 2005 annual audit reports, primarily caused by inadequate risk assessments. The DOJ auditors stated that one agency component had not established a program to assess, identify, and track improper payments. The DHS auditors reported that the department did not institute a systematic method of reviewing all programs and identifying those it believed were susceptible to significant erroneous payments. This was the second consecutive year that the auditors reported IPIA noncompliance for DHS. Although the auditors identified the agency's risk assessment methodology as inadequate, DHS again reported in its PAR that it had assessed all of its programs for risk and found none susceptible to significant improper payments.

However, existing significant financial management weaknesses at these agencies highlight visible, well-known risks for improper payments. For example, DHS continues to face significant financial management weaknesses as illustrated by previous reviews of the Federal Emergency Management Agency's (FEMA)—a DHS component—Individuals and Households Program (IHP). The DHS OIG has also cited disaster response and recovery as one of DHS's major management challenges for fiscal year 2005.

In May 2005, the DHS OIG reported[21] weaknesses in DHS's IHP, including inspection and verification of losses reported by individuals related to the 2004 hurricane season as well as eligibility issues. Subsequently, in July 2005, the Senate Committee on Homeland Security and Governmental Affairs released its investigation results of FEMA's response to the 2004 Florida hurricanes, in particular, Hurricane Frances, and found similar weaknesses in FEMA's IHP. In discussing its risk assessment methodology, DHS reported that FEMA's IHP might be at high risk for issuing improper payments as a result of the weaknesses identified in the DHS OIG report and performed a second round of testing of its fiscal year 2004 disbursements. From its test results, DHS concluded that its estimate of improper payments for IHP did not meet OMB's criteria of exceeding $10 million and 2.5 percent of program payments. DHS reported that IHP

[21]Department of Homeland Security, Office of Inspector General, *Audit of FEMA's Individuals and Households Program in Miami-Dade County, Florida, for Hurricane Frances*, OIG-05-20 (Washington, D.C.: May 2005).

would receive closer scrutiny and undergo an independent payment review in fiscal year 2006, but that its sample payment testing did not show the program to be at high risk for improper payments.

Our recent review of FEMA's IHP shows a dramatically different result. In our June 2006 report,[22] we estimated improper payments related to FEMA's IHP of about $1 billion as of February 2006, related to individual assistance payments in response to hurricanes Katrina and Rita that occurred in 2005. This amount represents 16 percent of the IHP payments. For example, we determined that millions of dollars in expedited and housing assistance payments went to registrants who provided the names and Social Security numbers of individuals incarcerated in federal and state prisons during the hurricanes. In addition, FEMA improperly paid individuals twice for their lodging—paying both hotels and rental assistance. Also, FEMA could not confirm that 750 debit cards worth $1.5 million went to Hurricane Katrina victims.

In addition to these problems with agency risk assessments, we found that only a limited number of agencies were estimating improper payments and several of those that were did not base their estimates on a valid statistical sampling methodology as required. Of the 35 agencies, 18 agencies accounting for 57 programs reported improper payment estimates totaling in excess of $38 billion[23] for some or all of their high-risk programs. (See GAO-07-92, app. II, for further details.) This represents approximately 2 percent of the total fiscal year 2005 government outlays of $2.5 trillion. For the remaining 17 agencies that did not report estimates, 8 said they did not have any programs susceptible to significant improper payments, 8 were silent about whether they had programs susceptible to significant improper payments, and the remaining agency identified programs susceptible to significant improper payments and said it planned to report an estimate by fiscal year 2007. (See GAO-07-92, table 2, for further details.)

[22]GAO, *Hurricanes Katrina and Rita Disaster Relief: Improper and Potentially Fraudulent Individual Assistance Payments Estimated to Be Between $600 Million and $1.4 Billion*, GAO-06-844T (Washington, D.C.: June 14, 2006).

[23]Included in this estimate were 17 newly reported programs in 10 agencies, totaling about $1.2 billion for fiscal year 2005.

Unless previously approved by OMB, the improper payments estimates must be based on a statistically valid sampling methodology[24] and should include a gross total of both over- and underpayments. In its Circular No. A-136, OMB encourages agencies to break out over- and underpayments as part of improper payment reporting, if available. (For more details related to over- and underpayment estimates, see GAO-07-92, app. III.) With statistical sampling, sample results can be generalized to the entire population from which the sample was taken. From our review, we found six agencies that did not use statistical sampling as a basis for reporting improper payments totaling approximately $389 million for nine programs with outlays exceeding $58 billion.

For example, the Department of Labor (Labor) analyzed fiscal year 2003 single audits to identify questioned costs for its Workforce Investment Act[25] program, which, in turn, were used as a proxy for reporting its improper payment estimate. Specifically, the improper payment rate was determined by calculating the projected questioned costs and dividing this total amount by the corresponding outlays. We do not believe this is a reasonable proxy for improper payment levels because single audits, by themselves, may lack the level of detail necessary for achieving IPIA compliance. Specifically, single audits generally focus on the largest dollars in an auditee's portfolio. Thus, all programs identified as susceptible to improper payments at the federal level may not receive extensive coverage under a single audit. Consequently, both the depth and level of detail of single audit results are, generally, insufficient to identify improper payments, estimate improper payments, or both.

We also found instances where agencies estimated improper payments for only one component of the risk-susceptible program. For example, HHS's Medicare program is the largest program constituting the total improper payment estimate, with an estimate of $12.1 billion for fiscal year 2005. However, this estimate represents payment errors only for its fee-for-service program component. HHS has not yet begun to estimate improper payments for its managed care component, with outlays totaling about $52 billion, or 15 percent of Medicare program outlays. In its fiscal year 2005 financial report, HHS's Centers for Medicare and Medicaid Services (CMS) identified bringing the Medicare managed care component into

[24]OMB requires that agencies' statistical sampling methodologies be designed to yield estimates with a 90 percent confidence interval of plus or minus 2.5 percent.

[25]Pub. L. No. 105-220, 112 Stat. 936 (Aug. 7, 1998).

compliance with IPIA as a key challenge in the coming years. In addition, CMS's external auditors identified Medicare's managed care benefits payment cycle as a material weakness in its report on internal controls. Specifically, the auditors found that existing CMS policies and procedures are not sufficient to adequately reduce the risk of material benefit payment errors from occurring or not being detected and corrected in a timely manner.

Statutory or Regulatory Barriers That May Hinder Agency Reporting and Corrective Actions

A key element that agencies are required to address as part of their improper payment reporting includes a description of any statutory or regulatory barrier that may limit the agencies' corrective actions in reducing improper payments. Reporting this type of information gives the Congress the ability to use its authorization, appropriation, and oversight responsibility to help agencies meet performance goals. Citing specific statutory or regulatory barriers as part of its improper payments reporting allows the Congress to determine whether the public's needs are adequately served by federal programs, and thus can take corrective action through legislative changes. It should be recognized that this type and other barriers exist as a result of decisions to ensure beneficiary privacy and other data safeguards and the inherent nature of some federal programs. As a result, it may be difficult to eliminate or mitigate these barriers to the point where they no longer restrict agency actions in certain areas to better manage their improper payment problems.

During our review of agencies' fiscal year 2005 PARs, we found that nine agencies identified statutory or regulatory barriers that may limit corrective actions to reduce improper payments.[26] Agencies cited various barriers that restrict their ability to manage their programs against improper payments, including three agencies that cited barriers related to data matching.[27] Data matching and other computer-related techniques play a significant role not only in identifying improper payments, but also in providing data on why these payments were made and, in turn, highlighting areas that need strengthened prevention controls. The adoption of these techniques allows agencies to have effective detection methods to quickly identify and recover improper payments. These powerful internal control tools provide more useful and timely access to information. The use of these techniques can achieve potentially

[26]We did not independently verify the validity of these agency assertions.

[27]Data matching is the process in which information from one source is compared with information from another to identify any inconsistencies.

significant savings by identifying client-related reporting errors and misinformation during the eligibility determination process—before payments are made—or by detecting improper payments that have been made. Therefore, it will be critical for the Congress, federal agencies, and the administration to carefully consider the information reported on statutory barriers to ensure that agencies can take advantage of such tools to the greatest extent possible.

For example, Education reported that requirements in the Internal Revenue Code precluded data matching, but that a database match with the Internal Revenue Service (IRS) would likely improve the accuracy of Pell Grant awards. In addition, it would eliminate the need for schools to rely on paper copies of tax returns submitted by applicants, which are used to verify applicants' adjusted gross income and taxes paid. Currently, the schools have limited assurance that the tax returns submitted by the applicants contain the same information that is filed with IRS. However, Education's proposal to amend the Internal Revenue Code to permit a 100 percent database match has not yet been enacted, and Education is uncertain whether or when such legislation may be enacted. As a further illustration, Labor reported that for its Federal Employees' Compensation Act (FECA) program,[28] legislation does not currently permit FECA to verify employment earnings with the Social Security Administration (SSA) without the claimant's written permission. Compensation benefits may be overpaid if an employee has unreported earnings and does not grant Labor permission to verify earnings with SSA.

Improper Payments Estimate Does Not Include Several Large, Risk-Susceptible Programs

The fiscal year 2005 governmentwide improper payments estimate of $38 billion did not include any amounts for 10 programs, with fiscal year 2005 outlays totaling over $234 billion. OMB had specifically required 7 of these programs to report selected improper payment information for several years before IPIA reporting requirements became effective. After passage of IPIA, OMB's implementing guidance required that these programs continue to report improper payment information under IPIA. The remaining 3 risk-susceptible programs, with no previous reporting requirement, provided target dates for estimating improper payments. As shown in table 1, the fiscal year 2005 improper payment estimate does not include one of the largest federal programs determined to be susceptible

[28]This act was repealed and parts of it are now codified in code sections of Titles 1, 5, and 18 of the United States Code.

to risk, HHS's Medicaid program, with outlays exceeding $181 billion annually.

Table 1: Susceptible Programs That Did Not Report Improper Payment Estimates and Target Dates for Estimates

Dollars in billions

Agency/program	Fiscal year 2005 outlays	Target date for improper payment estimates	Previously required to estimate
Department of Agriculture—School Programs	$8.2	2007	X
Federal Communications Commission—Universal Service Fund's Schools and Libraries	1.7	2007	
Federal Communications Commission—High Cost Support Program	3.8	2007	
Department of Health and Human Services—State Children's Insurance Program	5.1	2008	X
Department of Agriculture—Women, Infants, and Children	4.8	2008	X
Department of Health and Human Services—Medicaid	181.7	2008	X
Department of Agriculture—Child and Adult Care Food Program	2.1	2010	
Department of Health and Human Services—Child Care and Development Fund	4.9	Did not report target date	X
Department of Health and Human Services—Temporary Assistance for Needy Families	17.4	Did not report target date	X
Department of Housing and Urban Development—Community Development Block Grant	5.0	Did not report target date	X
Total	**$234.7**		**7**

Sources: OMB and cited agencies' fiscal year 2005 PARs.

OMB reported that some of the agencies were unable to determine the rate or amount of improper payments because of measurement challenges or time and resource constraints, which OMB expects to be resolved in future reporting years. For example, since fiscal year 2002, HHS has conducted pilots at the state level to further its progress toward reporting a national improper payments estimate for its Medicaid program. Each state is responsible for designing and overseeing its own Medicaid program within the federal government structure. This type of program structure presents challenges for implementing a methodology to estimate improper payments as HHS must work with states to obtain applicable documentation used in the calculation. An additional challenge HHS and other agencies with state-administered programs say they face is the ability to hold states accountable for meeting targets to reduce and recover improper payments in the absence of specific statutory authority.

Of the three programs that did not report a target date for estimating, the Department of Housing and Urban Development's (HUD) Community Development Block Grant (CDBG) program was the only one that did not report any actions under way to begin estimating improper payments. In its fiscal year 2005 PAR, HUD reported that based on completed testing of fiscal year 2003 payments, this program is below OMB's threshold criteria—exceeding $10 million and 2.5 percent of program payments—for significant improper payments and, therefore, was removed from HUD's at-risk inventory. HUD stated that this program was not subject to retesting unless there was a significant change in the nature of activity or internal control structure.

We have several problems with HUD's position. The CDBG program was subject to the previous OMB Circular No. A-11 requirements and thus was required by OMB's guidance to continue to report improper payment information under IPIA, regardless of the agency-determined risk level, which based on other known information may not reflect actual risk. During a June 2006 hearing[29] on the CDBG program, HUD's OIG reported on numerous instances of fraudulent, improper, and abusive use of program funds identified over a 2-½-year period based on 35 audits. The HUD OIG reported that its office has recovered over $120 million in program funds, identified over $100 million in questioned costs, indicted 159 individuals, initiated administrative actions against 143 individuals, and took 5 civil actions and 39 personnel actions. As evidenced by the HUD OIG reviews, the CDBG program may be at risk of significant improper payments.

Further, we noted that the total improper payment estimate of about $38 billion represents almost a $7 billion, or 16 percent, decrease from the $45 billion of improper payments reported by agencies in fiscal year 2004.[30] On the surface, this would suggest that significant progress has been

[29]June 29, 2006, hearing before the Senate Subcommittee on Federal Financial Management, Government Information, and International Security, Committee on Homeland Security and Governmental Affairs.

[30]In their fiscal year 2005 PARs, several agencies updated their fiscal year 2004 improper payment estimates to reflect changes since issuance of their fiscal year 2004 PARs. These updates increased the governmentwide improper payment estimate for fiscal year 2004 from $45 billion to $46 billion.

made. However, the reported $7 billion decrease in the governmentwide estimate is primarily attributable to a decrease in Medicare's estimate.[31]

Based on our review, the Medicare improper payment estimate decrease was principally caused by increased efforts to educate health care providers about its Medicare error rate testing program and the importance of responding to its requests for medical records to perform detailed statistical reviews of Medicare payments. HHS reported that these more intensive efforts had dramatically reduced the number of "no documentation" errors in its medical reviews. HHS reported marked reductions in its error rate attributable to fewer cases of (1) nonresponses to requests for medical records and (2) insufficient documentation submitted by the provider. We noted that these improvements partially resulted from HHS extending the time that providers have for responding to documentation requests from 55 days to 90 days.

These changes primarily affected HHS's processes related to its efforts to perform detailed statistical reviews for the purposes of calculating an annual improper payment estimate for the Medicare program. While this may represent a refinement in the program's improper payment estimate, the reported reduction may not reflect improved accountability over program dollars. Therefore, the federal government's progress in reducing improper payments may be exaggerated because the reported improper payments decrease in the Medicare program accounts for the bulk of the overall reduction in the governmentwide improper payments estimate.

Our work did not include an overall assessment of HHS's estimating methodology. However, we noted that the changes made for the fiscal year 2005 estimate were not related to improvements in prepayment validation processes, and we did not find any evidence that HHS had significantly enhanced its preventive controls in the Medicare payment process to prevent future improper payments. Further, we also found that HHS's OIG continues to cite the integrity of Medicare payments as a top management challenge. In addition, health care fraud schemes continue to hamper HHS's efforts to improve accountability. For example, in May 2006, DOJ

[31]We determined that the decrease was primarily caused by a $9.6 billion reduction in the HHS Medicare program improper payment estimate, which was partially offset by more programs reporting estimates of improper payments, resulting in a net decrease of $7 billion. The $9.6 billion reduction is the difference between the fiscal year 2004 estimate of $21.7 billion and the fiscal year 2005 estimate of $12.1 billion.

reported[32] that a businessman pleaded guilty to conspiracy to defraud Medicare of $40 million in fraudulent billings over a 16-month period. The fraud scheme included billing Medicare for motorized wheelchairs that were either not required by the Medicare beneficiary, not delivered, or both.

Threshold Criteria in OMB Guidance Limit Agency Reporting

For purposes of assessing what programs and activities are at risk of improper payments, IPIA states that agency heads must review their agencies' programs and activities to determine those that are susceptible to significant improper payments. The law does not define susceptibility. In its implementing guidance, OMB directed that a program or activity is susceptible to significant improper payments if it meets two criteria—potential improper payments exceeding $10 million and 2.5 percent of program payments. Therefore, both criteria must be met for an agency to subject the program to the later steps requiring the agency to estimate improper payments and address the various improper payment reporting requirements.

As I stated earlier, the information developed during a risk assessment forms the foundation upon which management can determine the nature and type of corrective actions needed. It also gives management baseline information for measuring progress in reducing improper payments. Thus, these assessment criteria affect how agencies identify, estimate, report on, and reduce those programs susceptible to significant improper payments. For example, of the 23 agencies that reported assessing all programs and activities, we found that 6 agencies limited their risk assessment reviews to only those programs that would likely meet OMB's definition of programs susceptible to significant improper payments. Two of these 6 agencies reported that they did not perform a comprehensive risk assessment for those programs with outlays of less than $10 million because the programs would not have exceeded both of OMB's threshold criteria. The remaining 4 agencies did not perform a comprehensive risk assessment of programs with outlays ranging from $40 million to $200 million, generally citing the threshold criteria as the reason for their exclusion.

[32]Department of Justice, United States Attorney's Office, Southern District of Texas, News Release, "Local Businessman Pleads Guilty to Conspiracy to Defraud Medicare of $40 Million," May 30, 2006.

We also noted instances where agencies with large program outlays reported that their programs or activities were not susceptible to significant improper payments because the improper payment estimates only exceeded one of OMB's criteria for reporting improper payment information, another example of how OMB's criteria could materially affect the extent to which agencies report improper payment information in their PARs. From our review of the 57 agency programs and activities that were included in the total $38 billion improper payment estimate, we identified 20 programs or activities that reported improper payment estimates exceeding $10 million, but not 2.5 percent of program outlays. We also identified 1 program that reported an error rate exceeding 2.5 percent of program outlays, but not $10 million. See table 2 for additional details.

Table 2: Agency Improper Payment Estimates Included in the Governmentwide Total That Met One of the Two OMB Reporting Criteria

	Department or agency	Program or activity	Program outlays (in millions)	Fiscal year 2005 improper payment estimate (in millions)	Fiscal year 2005 improper payment error rate (percentage)	Previous OMB Circular No. A-11 reporting requirements
1	Department of Agriculture	Marketing Assistance Loan Program (previously Commodity Loan Programs)	$6,400.0	$45.0	0.70	X
2		Federal Crop Insurance Corporation	3,170.0	28.0	0.89	
3		Farm Security and Rural Investment	1,027.0	16.0	1.55	
4	Department of Defense	Military Retirement Fund	35,700.0	49.3	0.14	X
5		Military Health Benefits	7,500.0	150.0	2.00	X
6		Military Pay	69,100.0	432.0	0.63	
7	Department of Education	Student Financial Assistance—Federal Family Education Loan	10,085.0	16.0	0.16	
8		Title I	12,520.0	149.0	1.19	X
9	Department of Energy	Payment programs	24,114.0	14.5	0.06	
10	Department of Health and Human Services	Head Start	6,865.0	110.0	1.60	X

	Department or agency	Program or activity	Program outlays (in millions)	Fiscal year 2005 improper payment estimate (in millions)	Fiscal year 2005 improper payment error rate (percentage)	Previous OMB Circular No. A-11 reporting requirements
11	Office of Personnel Management	Retirement Program (Civil Service Retirement System and Federal Employees Retirement System)	54,800.0	152.2	0.28	X
12		Federal Employees Health Benefits Program	29,400.0	196.5	0.67	X
13	Railroad Retirement Board	Retirement and Survivors Benefits	9,185.4	150.6	1.64	X
14	Small Business Administration	Small Business Investment Companies	1,568.2	10.5	0.67	X
15	Social Security Administration	Old Age and Survivors' Insurance	493,300.0	3,681.0	0.74	X
16		Disability Insurance[a]				X
17	Department of State	International Information Program-U.S. Speaker and Specialist Program	41.0	1.9	4.63	
18	Tennessee Valley Authority	Payment programs	7,080.0	36.3	0.05	
19	Department of Veterans Affairs	Compensation	28,960.0	322.9	1.12	X
20		Dependency and Indemnity Compensation[a]				X
21		Education programs	2,661.0	64.0	2.40	
	Total		**$803,476.6**	**$5,625.7**		**13**

Source: GAO analysis of fiscal year 2005 PARs and annual reports.

[a]Agency combined with the above program.

We identified, in total, 21 programs or activities with improper estimates exceeding $5.6 billion that meet only one of OMB's reporting criteria. Most of these program estimates greatly exceeded $10 million and, without certain stipulations, could have avoided reporting improper payment information under OMB's reporting criteria. However, OMB has required that 13 of these 21 programs estimate improper payments regardless of dollar amount or error rate, because they had previous reporting

requirements under OMB Circular No. A-11.[33] Nonetheless, if the Circular No. A-11 requirements did not apply or agencies decided not to voluntarily report on their improper payment estimates that were under OMB's reporting threshold, OMB's definition of significant improper payments could potentially mask the full scope of improper payments.

Although we do not know the extent of improper payments that are not reported, a limited number of agencies voluntarily provided information in their PARs that allowed us to determine the amount of improper payments for certain programs and activities that were excluded from the total improper payments estimate of $38 billion for fiscal year 2005. For example, the Department of Education identified three programs with estimated improper payments exceeding $10 million for each program, which totaled about $155 million in improper payments. In light of OMB's criteria, because these estimates did not exceed 2.5 percent of program outlays, they were not included in the agency's total improper payment estimate. In another example, the Department of Defense (DOD) OIG reported[34] it had identified about $23 million in improper payments related to the procurement of fuel at the Defense Energy Support Center during fiscal year 2005. DOD did not report this information in its PAR since the improper fuel payments did not exceed 2.5 percent of program payments.

As these examples illustrate, OMB's current criteria for identifying risk-susceptible programs limit the disclosure of valuable information that the Congress, the public, and others with oversight and monitoring interests need to hold agencies accountable for reporting and reducing improper payments. Thus, amending existing IPIA provisions to define risk-susceptible programs and activities, such as the use of a specific dollar threshold, would allow for more complete disclosure and transparency of governmentwide improper payment reporting and, in turn, would require OMB to revise its implementing guidance to reflect such amendments as well as align existing guidance with the intent of the act.

[33]See footnote 8.

[34]Department of Defense, Office of Inspector General, *Financial Management: Improper Payments for Defense Fuel*, D-2006-094 (Washington, D.C.: June 29, 2006).

IPIA Definition of Improper Payments Excludes Certain Payments from Reporting

IPIA defines an improper payment as a payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. This includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, any payment for services not received, and any payment that does not account for credit for applicable discounts.

On August 28, 2003, OMB advised the Social Security Administration (SSA) on improper payment reporting. Under this advice, SSA was allowed to exclude from its estimate of improper payments those payments that it made following constitutional, statutory, or judicial requirements, even though those payments were subsequently determined to be incorrect. These payments were deemed by OMB to be "unavoidable" improper payments,[35] as there are no administrative changes SSA could implement that would eliminate such payments, nor would SSA be likely to receive other relief from such requirements.

As we previously reported,[36] although the definition of improper payments does not use the terms avoidable[37] or unavoidable, we agree with OMB that a payment that was made because of a legal requirement to make the payment subject to subsequent determinations that the payment is not due should not be included in an agency's estimate of its improper payments. We agree with OMB's conclusion not because it is an "unavoidable" payment but rather because it does not meet the definition of an improper payment under the act.

In its Supplemental Security Income (SSI) program, SSA disburses disability payments to recipients at the beginning of the month based on the income and asset levels recipients expect to maintain during the month.[38] If SSA initially determines that an overpayment occurred, court

[35]OMB defines "unavoidable" payments as payments resulting from legal or policy requirements.

[36]GAO, *Post-Hearing Questions Related to Agency Implementation of the Improper Payments Information Act*, GAO-05-1029R (Washington, D.C.: Sept. 16, 2005).

[37]OMB defines "avoidable" payments as payments that could be reduced through changes in administrative actions.

[38]Some government programs pay benefits in advance under the assumption that the beneficiary's circumstances, such as income and asset levels, will remain the same during the period for which payment was rendered.

decisions[39] and language in the Social Security Act allow individuals to continue receiving the same amount of SSI benefits pending the results of a hearing to determine eligibility. If the initial determination is affirmed, the payments made during the hearing and appeals processes are considered overpayments, which SSA may recover using a variety of means.[40]

In this example, SSA, because of the statutory requirement, must make the payment. The statute requires SSA to make the payment until applicable due process requirements result in a determination that the person is ineligible; therefore, the mandatory payments whether subsequently deemed to be correct or incorrect, have not been made to an ineligible recipient at the time they were made. Accordingly, the facts would not support inclusion of these overpayments as improper payments as defined under IPIA. However, if as a result of the due process procedures, it is subsequently determined that the recipient is no longer eligible for benefits and SSA makes a payment subsequent to these procedures, that amount would be an improper payment.

Yet, we would not go so far as to conclude that any payment that is unavoidable should not be included as an improper payment under IPIA. Rather, the exclusion of payments should be made individually on a fact-specific basis using the definition provided in IPIA. In addition, we believe that agencies should track and monitor these types of payments as part of their debt collection efforts and have the ability to readily report this type of information upon request. OMB currently does not require SSA to report in its PAR details relating to these types of overpayments, nor does OMB require governmentwide reporting of these types of overpayments, thus the magnitude of this issue is unknown. Having agencies annually report on these types of overpayments would provide the Congress, agency management, and other decision makers valuable information with which to determine the extent of these types of overpayments and to make policy decisions, if needed, to appropriately address this issue.

[39]*Cardinale v. Mathews*, 399 F. Supp. 1163 (D.D.C. 1975), and *Goldberg v. Kelly*, 397 U.S. 254 (1970).

[40]42 U.S.C. §§ 423(g)(2) and 404.

Agencies' Reporting of Recovery Auditing Information Questionable

We noted discrepancies in selected agencies' reporting of recovery audit information and limited reviews over contract payments. As a result, reporting for recovery auditing information may not represent an accurate view of the extent of agencies' efforts. From our review of agencies' PARs and discussions with OMB, we determined that 21 agencies reported entering into contracts with a total value in excess of $500 million and thus were subject to recovery auditing requirements under section 831 of the National Defense Authorization Act for Fiscal Year 2002. Generally, these agencies reported on their recovery auditing efforts, such as the amount identified for recovery and the amount recovered. However, we noted a few instances where the agency amount of contract costs identified for recovery was considerably lower than the corresponding OIG amount identified from current year audit reviews. These discrepancies raise questions as to whether the agency amount identified for recovery should have been much higher, thereby significantly decreasing the reported agency-specific and overall governmentwide high rate of recovery. We also noted that 5 of the 21 agencies did not review all of their agency components as part of their recovery audit efforts, and 2 agencies reported that recovery auditing was not cost beneficial.

Section 831 of the National Defense Authorization Act provides an impetus for applicable agencies to systematically identify and recover contract overpayments. The law authorizes federal agencies to retain recovered funds to cover in-house administrative costs as well as to pay contractors, such as collection agencies. Any residual recoveries, net of these program costs, are to be credited back to the original appropriation from which the improper payment was made, subject to restrictions as described in legislation. As we previously testified,[41] with the passage of this law, the Congress has provided agencies a much-needed incentive for identifying and recovering their improper payments that slip through agency prepayment controls.

Recovery auditing is a method that agencies can use to recoup detected improper payments. Recovery auditing is a detective control to help determine whether contractor costs were proper. Specifically, it focuses on the identification of erroneous invoices, discounts offered but not received, improper late penalty payments, incorrect shipping costs, and multiple payments for single invoices. Recovery auditing can be conducted

[41]GAO, *Financial Management: Challenges Remain in Addressing the Government's Improper Payments*, GAO-03-750T (Washington, D.C.: May 13, 2003).

in-house or contracted out to recovery audit firms. The techniques used in recovery auditing offer the opportunity for identifying weaknesses in agency internal controls, which can be modified or upgraded to be more effective in preventing improper payments before they occur for subsequent contract outlays.

Nonetheless, effective internal control calls for a sound, ongoing invoice review and approval process as the first line of defense in preventing unallowable contract costs. Given the large volume and complexity of federal payments and historically low recovery rates for certain programs, it is much more efficient to pay bills and provide benefits properly in the first place. Aside from minimizing overpayments, preventing improper payments increases public confidence in the administration of benefit programs and avoids the difficulties associated with the "pay and chase" aspects of recovering improper payments. Without strong preventive controls, agencies' internal control activities over payments to contractors will not be effective in reducing the risk of improper payments.

For fiscal year 2005, OMB expanded the type of recovery auditing information that agencies are to report in their annual PARs. Prior to fiscal year 2005, agencies were only required to report on the amount of recoveries expected, the actions taken to recover them, and the business process changes and internal controls instituted or strengthened to prevent further occurrences. In addition, OMB was not reporting agencies' recovery audit activities on a governmentwide basis in its annual report on agencies' efforts to improve the accuracy and integrity of federal payments. In fiscal year 2005, OMB required applicable agencies to discuss any contract types excluded from review and justification for doing so. In addition, agencies were required to report, in a standard table format, various amounts related to contracts subject to review and actually reviewed, contract amounts identified for recovery and actually recovered, and prior year amounts.

Twenty-one agencies reported over $340 billion as amounts subject to review for fiscal year 2005, while the contract amounts reviewed totaled over $287 billion. In addition, the 21 agencies reported identifying about $557 million in contracts for recovery, which represented less than two-tenths of a percentage of the $287 billion amount reviewed. Of the $557 million identified, agencies reported recovering $467 million in improper payments, an 84 percent recovery rate. However, we found two instances where the agency amount of contract costs identified for recovery was considerably lower than the corresponding OIG amount identified from current year audit reviews. These discrepancies raise

questions as to whether the agency amount identified for recovery should have been much higher, thereby significantly decreasing the agency-specific and overall high rate of recovery.

For example, for fiscal year 2005, NASA reported in its PAR that it had identified and recovered $617,442 in contract payments, a 100 percent recovery rate. Yet, the NASA OIG reported[42] it had identified over $515 million in questioned contract costs during fiscal year 2005. Of this amount, NASA management decided that $51 million in contract costs should be pursued for recovery. When comparing the $51 million in questioned contract costs identified for recovery to the $617,442 NASA actually recovered, the recovery rate decreases from the reported 100 percent recovery rate to a 1.2 percent rate.[43] In another example, DOD reported in its PAR that it had identified for recovery $473 million and recovered about $419 million in contract payments, an 89 percent recovery rate. However, the DOD OIG reported[44] it had identified over $2 billion in questioned contract costs as of September 30, 2005. When comparing the $2 billion in questioned contract costs[45] to the $419 million DOD actually recovered, the recovery rate significantly decreases from a reported 89 percent recovery rate to 21 percent.

These two discrepancies alone significantly decrease OMB's reported overall recovery rate of 84 percent to a 22 percent recovery rate. Other factors would also suggest the recovery rate is indeed much lower. We noted other instances where OIG-reported questioned costs exceeded agency contract amounts identified for recovery. Because these costs were

[42]National Aeronautics and Space Administration, Office of Inspector General, *Semi-Annual Reports October 1, 2004-March 31, 2005* and *April 1-September 30, 2005* (Washington, D.C.).

[43]We found that the recovery rate could have been higher than the 1.2 percent calculation had we solely used the OIG reported amounts regarding the universe of questioned contract costs and subsequent amounts recovered. Specifically, the OIG reported that of the $51 million in questioned contract costs decided by NASA management, $16 million had been recovered. This results in a recovery rate of about 31 percent. While this recovery rate is higher than our calculated 1.2 percent recovery rate, it is still significantly lower than the 100 percent recovery rate reported by NASA in its PAR.

[44]Department of Defense, Office of Inspector General, *Semi-Annual Reports October 1, 2004-March 31, 2005* and *April 1-September 30, 2005* (Washington, D.C.).

[45]The OIG reported that the $2 billion in contract costs were deemed questionable because they did not comply with rules, regulations, laws, contractual terms, or a combination of these. Thus, we used the entire $2 billion to illustrate the disparity between what the OIG and agency reported.

not specifically identified as contractor costs versus other payment types, we were unable to determine how much of the OIG-identified questioned costs related to contract costs.

In addition, another factor that may call into question the reported high recovery rate is that 5 of the 21 agencies did not review all of their agency components as part of their recovery audit efforts, and 2 agencies (HUD and Labor) reported that recovery auditing was not cost beneficial. For example, HUD determined that based on its review of $206.6 million in contract payments, none were found to be improper. Thus, HUD determined that pursuit of an ongoing recovery auditing program was not cost beneficial or necessary. Because section 831 of the National Defense Authorization Act requires agencies to carry out a cost-effective program for identifying errors made in paying contractors and for recovering amounts erroneously paid to contractors, agencies have determined that they may opt out of conducting a recovery audit if it is not deemed to be cost beneficial. However, neither of the two agencies that determined it was not cost beneficial to conduct a recovery audit provided support in their fiscal year 2005 PARs for this determination.

GAO Recommendations for Continued Progress in Capturing the Full Extent of Improper Payments

Our November 2006 report included one matter for congressional consideration and four recommendations for executive action. Specifically, to ensure that the full extent of improper payments is being captured, the Congress should consider amending existing IPIA provisions to define specific criteria, such as a dollar threshold, agencies should use to identify which programs and activities are susceptible to significant improper payments, thereby triggering improper payment estimating and reporting requirements. In addition, to facilitate agencies' progress in ensuring accurate and complete improper payments and recovery auditing reporting, we recommended that OMB take several actions regarding (1) risk assessment methodologies and the level of detail necessary to meet the annual improper payment reporting requirements, (2) statistically valid estimates, (3) extent of payments agencies make under statute or judicial determinations that later are determined to be overpayments, and (4) agencies' rationale that recovery auditing is not cost beneficial.

OMB generally agreed with our recommendations and also agreed with our assessment that challenges remain in meeting the goals of IPIA. However, in a subsequent letter to GAO, OMB's Controller raised concerns about the report, including the timing of our analysis and report issuance, which I previously discussed in this testimony. In its original comments, OMB emphasized that progress in estimating and reporting improper

payments had been made by agencies in fiscal year 2005 and highlighted initiatives under way to measure improper payments in other programs susceptible to significant improper payments. OMB pointed out that agencies estimated improper payments for 17 additional programs for fiscal year 2005, and that this number will increase by 10 programs for fiscal year 2006. OMB also said that beginning with fiscal year 2007, it expects HHS to begin reporting component error rates for its Medicaid, Temporary Assistance for Needy Families, and State Children's Health Insurance programs.

While we agree with OMB that there has been progress, we continue to question the validity of certain agencies' risk assessment methodologies used to identify, estimate, and report improper payments for all risk-susceptible programs and are concerned with how OMB defines high-risk programs for purposes of agencies' improper payment reporting. Our continuing concern with OMB's criteria relates to those agencies with large program outlays that have improper payment estimates that exceed the $10 million threshold but not the 2.5 percent of program payments threshold. Applying the 2.5 percent threshold criteria to large programs could exclude potentially billions of dollars of improper payments from being reported.

According to OMB, the rationale for its threshold criteria is to ensure that agencies focus their resources on programs with the highest levels of risk for improper payments. OMB commented that going forward, it is now requiring agencies to track any programs that exceed the $10 million threshold but have an error rate of less than 2.5 percent. OMB stated that this tracking facilitates a framework that would appropriately mitigate the risk that high-risk programs will be left out of IPIA reporting activities. We view this as a positive step. Although OMB's recently revised implementing guidance was outside the scope of our recent review, our preliminary assessment found no mention of this tracking requirement. The guidance does state that OMB may determine on a case-by-case basis that certain programs that do not meet the threshold requirements may still be subject to the annual PAR improper payment reporting requirement. In light of OMB's stated intention to require agencies to track such programs, we believe it is key that the revised implementing guidance clearly reflects this tracking requirement and that agencies be required to publicly report this information as part of their annual improper payments reporting. Visibility over this type of information would help facilitate the Congress's understanding of the nature and extent of the governmentwide improper payments problem.

In closing, Mr. Chairman, improper payments are a serious problem. Agencies are working on this issue at different paces, and OMB has continued to provide important leadership. We recognize that measuring improper payments and designing and implementing actions to reduce them are not simple tasks and will not be easily accomplished. The ultimate success of the executive branch's effort to reduce improper payments depends, in part, on each agency's continuing diligence and commitment to meeting the requirements of IPIA and the related OMB guidance. Full and reasonable disclosure of the extent of the problem could be enhanced by modifying the act's underlying criteria used to identify which programs and activities are susceptible to significant improper payments. OMB's implementing guidance can also be strengthened in several key areas. With the ongoing imbalance between revenues and outlays across the federal government, and the Congress's and the American public's increasing demands for accountability over taxpayer funds, identifying, reducing, and recovering improper payments become even more critical. Fulfilling the requirements of IPIA will require sustained attention to implementation on the part of OMB and the agencies, as well as continued congressional oversight, such as this hearing today, to monitor whether desired results are being achieved.

Mr. Chairman, this concludes my prepared statement. I would be happy to answer any questions that you or other members of the Subcommittee may have at this time.

Contact and Acknowledgments

For further information about this testimony, please contact McCoy Williams at (202) 512-9095 or williamsm1@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this testimony. In addition to the above contacts, the following individuals made key contributions to this testimony: Carla Lewis, Assistant Director; Sharon Byrd; Francine DelVecchio; Francis Dymond; Lisa M. Galvan; Jacquelyn Hamilton; Christina Quattrociocchi; Donell Ries; and Chris Rodriguez.

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DEPUTY DIRECTOR
FOR MANAGEMENT

Testimony of the Honorable Clay Johnson III
Deputy Director for Management
Office of Management and Budget

before the

Subcommittee on Federal Financial Management, Government Information and International Security of the
Senate Committee on Homeland Security and Governmental Affairs

December 5, 2006

The Federal Government is achieving measurable results in meeting the President's goal to eliminate improper payments and fulfill the requirements of the Improper Payments Information Act of 2002 (IPIA). The IPIA provides an effective framework for the Administration's efforts and I urge you to keep the law in its current form. Congress could, however, help eliminate improper payments sooner by enacting the program-specific reforms included in the Office of Management and Budget's (OMB) annual IPIA report and by supporting the President's request for program integrity funding.

Our efforts to eliminate improper payments are centered on the three primary requirements of the IPIA:

1. Identifying high-risk programs;

2. Developing a statistically valid estimate of improper payments for all high-risk programs and activities; and

3. Developing corrective action plans for eliminating improper payments.

Identifying High-risk Programs

In fiscal year (FY) 2005, Federal agencies completed a risk assessment of all programs and dollars spent and determined that nearly 60% of government outlays (or $1.5 trillion out of $2.5 trillion) were risk susceptible for a significant level of improper payments.[1] Although $1.5 trillion represents a significant corpus of all Federal outlays, we continue to hold agencies accountable for identifying any additional high-risk areas.

[1] The remaining $1.0 trillion (approximately) that was deemed not to be risk susceptible is made up of compensation, contractual services, and net interest on the public debt.

Of note, the U.S. Department of Agriculture (USDA) re-assessed its programs and reclassified several within the Farm Service Agency as high-risk. However, the Department quickly implemented corrective actions to mitigate the documentation inadequacies discovered. One important result of these improved USDA risk assessments is that greater transparency is now available into a significant amount of improper payments that were previously undetected. In addition, this underscores the importance of having agencies continuously evaluate the strength of their risk assessment practices.

One agency of special focus in FY 2007 will be the Department of Homeland Security (DHS). We will work to ensure that DHS strengthens its risk assessments so that we have a better understanding of potential improper payments within the Department. It is important to point out, however, that DHS did make progress in their FY 2006 reporting, by including an improper payment measurement for the Federal Emergency Management Agency's Individual and Household Program.

Developing a Statistically Valid Estimate of Improper Payments

Efforts are underway to move the Executive Branch to full reporting under IPIA. Originally, in FY 2004, 30 high-risk programs reported error measurements (and amounts). In FY 2005, Federal agencies established improper payment rates (and amounts) for 47 programs that account for approximately 85% of high-risk dollars. This means that of the $1.5 trillion in high-risk outlays, improper payment rates are reported on programs that total $1.3 trillion of those outlays. When Medicaid and other social insurance programs begin reporting national error measurements in FY 2008, the government will be able to report improper payment rates for virtually all of its high risk programs.[2]

The increase in statistically valid national error measurements would not have been possible without the cooperation of representatives from the Federal and State governments, and among the programmatic, financial management, and Inspectors General communities. Such cooperation is critical, particularly for the large and complex programs that are at risk for improper payments.

Developing Corrective Action Plans for Eliminating Improper Payments

Our success in increasing the number of programs reporting improper payments is similar to the success the government is having in reducing improper payments. For example:

- The overall dollar amount of improper payments for the 30 programs reported in FY 2004 decreased 17%, from $45.1 billion to $37.3 billion in FY 2005.
- Medicare substantially improved its claims documentation, and reduced its error rate reporting in the Fee for Service portion of the program from 10.1% in FY 2004 to 5.2% in FY 2005. The rate decreased even further in FY 2006 to 4.4%. And contrary to the characterization in the Government Accountability Office's (GAO) recent report, Medicare's error rate reduction in both FY 2005 and FY 2006 is the result of improved

[2] Medicaid will begin reporting a component, or partial, error measurement in FY 2007. By FY 2008, the Temporary Assistance for Needy Families program and the State Children's Health Insurance Program will also report a national error measurement.

follow-up with medical providers to submit documentation for claims paid, and is not the result of a change in its methodology for estimating the error rate.

- In its FY 2006 Performance and Accountability Report, USDA reported that the Food Stamps program lowered its error rate (5.84%) for the seventh consecutive year.
- The Department of Housing and Urban Development's Public Housing and Rental Assistance programs reduced improper payments by nearly $2 billion since FY 2000, a reduction of more than 60%.

Federal agencies have also continued to improve their reporting under the Recovery Auditing Act. Only a handful of agencies reported on their recovery auditing activities in their FY 2004 Performance and Accountability Reports. In FY 2005 an additional 19 agencies reported on their recovery auditing efforts, and several agencies expanded these efforts to more contract categories for FY 2006 reporting. In FY 2005, agencies recovered $467 million of the approximately $557 million in identified improper payments to vendors, reflecting a recovery rate of 84%. We realize that additional work is required to ensure that the universe of improper vendor payments is identified. OMB is already working with agencies to look more closely at this area of improper payments.

To the question of the original purpose and Congressional intent of the legislation, and whether or not the metrics used under current statute are adequate to measure the entire scope of government-wide improper payments, I say yes. This Subcommittee and the GAO raised some concerns that OMB's implementing guidance would result in high-risk programs being left out of IPIA reporting. OMB appreciates the Subcommittee's and GAO's feedback and input, and made several changes to OMB's guidance to ensure that such high-risk programs will not be left out of our IPIA reporting framework.

This Administration will continue to hold agencies accountable under the President's Management Agenda and the Eliminating Improper Payments initiative, and will further build on results to address remaining challenges. We are optimistic that our current efforts, complemented by the enactment of the program integrity reforms proposed in OMB's annual IPIA report, and full funding of the President's request for program integrity efforts, will continue to pave a path forward in achieving our shared objective of eliminating improper payments.

In FY 2005,
21 programs and activities reported
$5.6 billion in improper payments.

This represents more than $800 billion in outlays that are NOT required* to report improper payments under current law.

*However, OMB has required that 13 of these 21 programs estimate improper payments regardless of dollar amount or error rate because they had previous reporting requirements under OMB Circular No. A-11.

Source: GAO, November 2006