February 27, 2007

The Honorable Thomas R. Carper
Chairman
The Honorable Tom Coburn
Ranking Member
Subcommittee on Federal Financial Management,
Government Information, Federal Services, and International Security
Committee on Homeland Security and Governmental Affairs
United States Senate

Subject: Improper Payments: Posthearing Responses on a December 5, 2006, Hearing to Assess the Improper Payments Information Act of 2002

On December 5, 2006, we testified\(^1\) before your subcommittee at a hearing entitled, “An Assessment of Improper Payments Information Act of 2002.” At the end of the hearing, the subcommittee asked us to provide information regarding (1) barriers inhibiting agencies’ efforts to prevent and reduce improper payments, (2) legislative reforms needed to facilitate agencies’ efforts to prevent improper payments, and (3) suggested language to amend the Improper Payments Information Act of 2002 (IPIA) that would provide more complete disclosure and transparency of agencies’ improper payments reporting.

First, we identified several key barriers that agencies encounter in their quest to reduce improper payments, such as the inability to share data and restrictions in the program’s administration. In some cases, legislation limits the type of information that can be shared among agencies to verify data provided by applicants for government programs or benefits or to make eligibility decisions. For example, we reported\(^2\) in November 2006 that the Department of Education reported that section 6103 of the Internal Revenue Code concerning confidentiality of the tax return information precludes data matching. We also reported\(^3\) in October 2005 that the United States Citizenship and Immigration Services, a component of the Department

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\(^3\)GAO, Taxpayer Information: Options Exist to Enable Data Sharing Between IRS and USCIS but Each Presents Challenges, GAO-06-100 (Washington, D.C.: Oct. 11, 2005).
of Homeland Security (DHS) reported that it was not authorized to receive taxpayer information from the Internal Revenue Service (IRS) directly to determine eligibility for immigration benefits. Barriers related to program administration involve some aspect of an agency’s current program structure that limits its actions to prevent or reduce improper payments. However, the agency can take steps to modify current program operations to help prevent improper payments. For example, we recommended in June 2006 that DHS enter into an agreement with other agencies, such as the Social Security Administration, to periodically authenticate information contained in the Individuals and Households Program registrations to prevent individuals from applying for assistance using Social Security numbers that were never issued or belonged to deceased or other individuals.

Second, regarding legislative reforms, the Budgets of the U.S. Government for Fiscal Years 2008 and 2007 include proposed actions to facilitate better measurement and detection of improper payments. We continue to support the administration’s proposed legislative reforms that assist agency action to reduce improper payments, such as imposing penalties for fraud, improving benefit coordination between agencies, and simplifying eligibility requirements. Specifically, since fiscal year 2000, our recommendations have been aimed at raising the level of attention given to improper payments, including annually estimating, reporting, and reducing improper payments for agencies’ programs. Our work on governmentwide improper payments and issuance of our executive guide on strategies to manage improper payments led to the passage of IPIA. The act requires that executive branch agency heads identify programs and activities susceptible to significant improper payments, estimate amounts improperly paid, and annually report improper payment estimates and actions to reduce them.

For example, the Budget of the U.S. Government for Fiscal Year 2008 includes legislative reforms related to the Department of the Treasury’s Earned Income Tax Credit (EITC) and Child Tax Credit programs, which are intended to clarify the uniform definition of child, simplify the EITC eligibility rules, and reduce the computation complexity of the refundable Child Tax Credit. According to the Office of Management and Budget (OMB), if enacted, the proposal would save $392 million in the first year and $6.5 billion over 10 years. We have raised similar issues regarding the complexity of the EITC program in previous reports and testimonies and since 1995, have designated the EITC program as a high-risk area. In our January 2007 high-risk series update, we reported that the IRS and the Congress will need to

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3 We have not independently assessed OMB’s proposed legislative reforms and related projected savings included in the Budgets of the U.S. Government for Fiscal Years 2008 and 2007.
develop and IRS will need to execute multiple strategies over a sustained period, including simplifying the tax code or specific code sections.

Lastly, we reported in November 2006 that OMB’s broad implementation of IPIA’s general criteria to identify risk-susceptible programs limits 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 of 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 payments total. In our November 2006 report, we recommended that the Congress consider amending existing IPIA provisions to define specific criteria, such as a minimum dollar threshold, agencies should use to identify which programs and activities are susceptible to significant improper payments. The enclosure includes our suggested language for amending IPIA for better transparency and disclosure of improper payments reporting.

This report is available on GAO’s Web site at http://www.gao.gov. Should you have any questions on matters discussed in this report or need additional information, please contact McCoy Williams, Director, 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 report. Major contributors to this report are Carla Lewis, Assistant Director; Donell Ries; and Chris Rodriguez.

David M. Walker
Comptroller General
of the United States

Enclosure

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*GAO-07-92.*
DRAFT BILL LANGUAGE TO AMEND
THE IMPROPER PAYMENTS INFORMATION ACT

Sec. ____. Subsection (d) of section 2 of Public Law 107-300 (31 U.S.C. § 3321 note) is amended by inserting after paragraph (3) the following new paragraph:

“(4) SIGNIFICANT.— For purposes of subsection (a), the term “significant” means annual improper payments under a program or activity that exceed $10 million.”

DRAFT REPORT LANGUAGE

The Improper Payments Information Act of 2002 (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 currently define what programs or activities are susceptible to significant improper payments. 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. Using OMB’s criteria could materially affect the extent to which agencies report improper payment information in their performance and accountability reports. This section would amend IPIA to define, for purposes of identifying what programs or activities are susceptible to improper payments, the term “significant” to mean “annual improper payments under a program or activity that exceed $10 million.” This amendment will result in more complete disclosure and transparency of governmentwide improper payment reporting.
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