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MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Shaun Donovan  
Director

SUBJECT: Appendix C to Circular No. A-123, *Requirements for Effective Estimation and Remediation of Improper Payments*

The Administration has made reducing improper payments—payments made to the wrong entity, in the wrong amount, or for the wrong reason—a top priority. Since coming into office, the President has signed two laws and issued three directives—including an Executive Order—that created a robust infrastructure for agencies to reduce improper payments in their programs. Through this committed focus, the government-wide improper payment rate has declined for four consecutive years, from 5.42 percent in fiscal year (FY) 2009 to 3.53 percent in FY 2013.

The enactment of the Improper Payments Elimination and Recovery Improvement Act (IPERIA) of 2012 provided an opportunity for the Office of Management and Budget (OMB) to re-examine existing guidance to ensure agencies are able to more efficiently reduce their improper payment rates, while also complying with multiple legislative and administrative requirements. The goal of this overhauled version of Appendix C to Circular No. A-123<sup>1</sup> is to transform the improper payment compliance framework to create a more unified, comprehensive, and less burdensome set of requirements. Appendix C accomplishes the following:

- Consolidates and streamlines reporting requirements for agencies and Inspectors General, and eliminates duplicative and old one-time requirements so agencies can spend less time producing compliance reports and more time focusing on game-changing solutions for achieving payment accuracy;
- Establishes new categories for reporting improper payments that will provide more granularity on improper payment estimates—thus leading to more effective corrective actions at the program level and more focused strategies for reducing improper payments at the government-wide level;

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<sup>1</sup> Appendix C implements requirements from the following: (1) the Improper Payments Information Act of 2002 (IPIA), as amended; (2) the Improper Payments Elimination and Recovery Act of 2010 (IPERA); (3) the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA); and (4) Executive Order 13520—*Reducing Improper Payments*—issued November 20, 2009.

- Introduces a new internal control framework to ensure that payments are made in the right amount, to the right entity, and for the right purpose; and
- Provides guidance to agencies—as required by the most recent statute, IPERIA—to strengthen the statistical validity of estimates and include payments to Federal employees in the definition of improper payments, among other things.

OMB Circular A-123, Appendix C, Parts I and II (which were issued in April 2011 as OMB Memorandum M-11-16) and Part III (which was issued in March 2010 as OMB Memorandum M-10-13) are hereby modified. Unless otherwise noted in the guidance, the requirements found in Appendix C are effective starting in FY 2014. OMB will continue to work closely with agencies and Inspectors General to provide further implementation guidance as needed.

Please contact Flavio Menascé ([fmenasce@omb.eop.gov](mailto:fmenasce@omb.eop.gov)), Heather Pajak ([hpajak@omb.eop.gov](mailto:hpajak@omb.eop.gov)), or Mike Wetklow ([mwetklow@omb.eop.gov](mailto:mwetklow@omb.eop.gov)) in OMB's Office of Federal Financial Management with any questions regarding this guidance.

Attachment

## **APPENDIX C**

### **Requirements for Effective Estimation and Remediation of Improper Payments**

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## INTRODUCTION

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Unless otherwise noted, the requirements found in this guidance are effective for fiscal year (FY) 2014 and beyond. This guidance implements the requirements from the following:

- Improper Payments Information Act of 2002 (IPIA; Pub. L. No. 107-300), as amended;
- Improper Payments Elimination and Recovery Act of 2010 (IPERA; Pub. L. No. 111-204);
- Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA; Pub. L. No. 112-248)<sup>1</sup>; and
- Executive Order 13520—*Reducing Improper Payments*—issued November 20, 2009.

Issuance of this guidance hereby modifies the Office of Management and Budget (OMB) Circular A-123, Appendix C, Parts I and II (which were issued in April 2011 as OMB Memorandum M-11-16) and Part III (which was issued in March 2010 as OMB Memorandum M-10-13).

## OVERVIEW

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Before the passage of IPIA, there was no overarching government-wide framework for measuring—let alone reducing—Federal improper payments. Between 2002 and 2009, as more agencies began measuring and reporting improper payment estimates for their programs, it became increasingly clear that Federal improper payments represented a significant loss to the government. As a result, between 2009 and present time, the Federal government has built a robust infrastructure of legislative and administrative requirements with which agencies must comply in order to achieve tangible results. These requirements—which apply to a wide array of stakeholders—are described in detail in Appendix C to OMB Circular A-123. The six paragraphs below, as well as Figure 1, provide only a cursory overview of some key Appendix C requirements. However, for a more precise and comprehensive description, readers should consult the subsequent pages of the guidance.

*Payment Recapture Audits.* One fundamental requirement that agencies must meet is to recover any Federal dollars that should not have gone out the door. IPERA requires any program that expends at least \$1 million to implement payment recapture audits, if cost effective to the agency, in order to recover improper payments (see section I.D).

*Low-Risk Programs.* Independent of any payment recapture activities, IPERA also requires that all programs assess their risk for improper payments. If an agency deems a program to be at a low risk for improper payments, the agency will re-assess that program's risk at least every three years (see section I.A.9, step 1).

*Programs Susceptible to Significant Improper Payments.* If an agency deems a program to be susceptible to significant improper payments, the agency is required to estimate and report improper payments for that program annually, in addition to implementing corrective actions to reduce its improper payments (see section I.A.9, steps 2-4). In doing so, agencies should identify

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<sup>1</sup> This guidance does not address the Do Not Pay initiative, which is found in Section 5 of IPERIA.



the root causes of, and implement appropriate corrective actions to prevent and reduce the related improper payments. Agencies should continuously identify innovative corrective actions to prevent and reduce improper payments. For example, corrective actions could leverage new technologies and advanced techniques—such as forensic tools, pre-payment software, and data matches. In addition, for all programs that are susceptible to significant improper payments, Executive Order 13520—*Reducing Improper Payments*—requires agencies to produce a quarterly report of any “high-dollar” overpayments (see section III.D).

*High-Priority Programs.* IPERIA reinforces the requirements from Executive Order 13520 by: fostering greater agency accountability; requiring OMB to designate the programs with the most egregious cases of improper payments as high-priority; and requiring those programs to develop indicators of improper payments (called supplemental measures) that are more frequent than the annual estimates, as a tool for tracking progress (see section III.B). Furthermore, Executive Order 13520 also requires those agencies with high-priority programs to name accountable officials to oversee efforts to reduce program improper payments (see section III.C).

*Annual Reporting.* Once a year, agencies will report in the Agency Financial Report (AFR) or the Performance and Accountability Report (PAR) most of the required components listed in Appendix C.<sup>2</sup> As agencies implement Appendix C, they should approach improper payments with an internal control framework in mind and provide a thoughtful analysis linking agency efforts in establishing internal controls and reducing improper payment rates (see section II.C).

*Annual Inspector General Compliance Review.* IPERIA adds an important component of accountability to the entire spectrum of improper payment efforts. Every year, each agency Inspector General reviews agency improper payment reporting in the agency’s AFR or PAR to determine if the agency is in compliance with Appendix C requirements listed under section II.A.3.

**Figure 1: Appendix C at a Glance**



<sup>2</sup> Per OMB Circular No. A-136, agencies may choose either to produce a consolidated PAR or to produce a separate AFR and Annual Performance Report (APR).

## **PART I – IMPROPER PAYMENTS ELIMINATION AND RECOVERY**

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Part I discusses the requirements of IPIA<sup>3</sup>, IPERA, and IPERIA.

### **A. RISK-ASSESSING, ESTIMATING, AND REPORTING IMPROPER PAYMENTS**

#### **1) Which agencies are required to comply with the requirements of IPIA, IPERA, and IPERIA?**

The agencies required to comply with IPIA, IPERA, and IPERIA are defined broadly as “a[ny] department, agency, or instrumentality in the executive branch of the United States” as defined in Title 31, Section 102 of the United States Code.

#### **2) What is an improper payment?**

An improper payment is any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. Incorrect amounts are overpayments or underpayments that are made to eligible recipients (including inappropriate denials of payment or service, any payment that does not account for credit for applicable discounts<sup>4</sup>, payments that are for an incorrect amount, and duplicate payments). An improper payment also includes any payment that was made to an ineligible recipient or for an ineligible good or service, or payments for goods or services not received (except for such payments authorized by law). In addition, when an agency’s review is unable to discern whether a payment was proper as a result of insufficient or lack of documentation, this payment must also be considered an improper payment.

The term “payment” in this guidance means any disbursement or transfer of Federal funds (including a commitment for future payment, such as cash, securities, loans, loan guarantees, and insurance subsidies) to any non-Federal person, non-Federal entity, or Federal employee, that is made by a Federal agency, a Federal contractor, a Federal grantee, or a governmental or other organization administering a Federal program or activity. The term “payment” includes Federal awards subject to the Single Audit Act and the Uniform Guidance for Federal assistance (2 CFR 200 Subpart F) (Single Audits) that are expended by both recipients and sub-recipients.

#### **3) What is a payment for an ineligible good or service?**

A payment for an ineligible good or service includes a payment for any good or service that is not permitted under any provision of a contract, grant, lease, cooperative agreement, or other funding mechanism.

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<sup>3</sup> Unless otherwise indicated, from this point forward in the guidance the term “IPIA” will imply “IPIA, as amended by IPERA and IPERIA.”

<sup>4</sup> *Applicable discounts* are only those discounts where it is both advantageous and within the agency’s control to claim them.

#### **4) What is a program or activity?**

The law anticipates that agencies will examine the risk of, and feasibility of recapturing, improper payments in *all* programs and activities administered. The term “program” includes activities or sets of activities recognized as programs by the public, OMB, or Congress, as well as those that entail program management or policy direction.<sup>5</sup> This definition includes, but is not limited to, all grants including competitive grant programs and block/formula grant programs, non-competitive grants such as single-source awards, regulatory activities, research and development activities, direct Federal programs, all types of procurements (including capital assets and service acquisition), and credit programs. It also includes the activities engaged in by the agency in support of its programs.

For Federal awards subject to the Single Audit Act or otherwise listed in the Catalog of Federal Domestic Assistance (CFDA), agencies should consider using the groupings in the Compliance Supplement for Single Audits (referred to as “clusters of programs”) and the CFDA. However, unless otherwise specified in OMB Circular A-11, each Federal agency, after consultation with OMB, is authorized to determine the grouping of programs which most clearly identifies and reports improper payments for their agency. Agencies must not put programs or activities into groupings that may mask significant improper payment rates by the large size or scope of a grouping. For transparency, the basis for these groupings must be reported in the agency’s AFR or PAR.

#### **5) Must agencies include payments to employees in improper payment risk assessments?**

Yes. IPERIA amended the definition of “payment” in IPIA to include payments made to Federal employees, in addition to payments made to non-Federal persons or entities. Therefore, agencies must include payments made to employees (including salary, locality pay, travel pay, and other payments to Federal employees) in the risk assessments (beginning in FY 2014) and, if applicable, in improper payment estimates (the following fiscal year). For improper payment reporting purposes, when a shared service provider is responsible for the actual disbursements of payments to employees (for example, payroll) on behalf of a customer agency, the customer agency and shared service provider<sup>6</sup> should assess only the portions of the process that are within their respective control.

#### **6) Must agencies include payments related to charge cards in improper payment risk assessments?**

Yes. Agencies should include such payments in risk assessments (beginning in FY 2014) and, if applicable, in improper payment estimates (the following year). Agencies should leverage guidance in OMB Circular A-123, Appendix B—*Improving the Management of Government Charge Card Programs*—and OMB Memorandum M-13-21—*Implementation of the*

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<sup>5</sup> The term “program” in this guidance implies “program and activity.”

<sup>6</sup> Shared service providers can leverage service organization internal control reports such as *Reports on Controls at a Service Organization Relevant to User Entities’ Internal Control over Financial Reporting* (also known as SOC 1 Reports) or other OMB A-123 assessments.

*Government Charge Card Abuse Prevention Act of 2012*—when performing these risk assessments.

**7) Must agencies review intra-governmental transactions?**

No. IPIA does not require agencies to include payments made by a Federal agency to another Federal agency. Therefore, agencies are not obligated to review intra-governmental transactions. However, any agency may review such payments, and must do so if directed by OMB.

**8) What constitutes an improper loan or loan guarantee payment?**

Under a direct loan program, improper payments may include disbursements to borrowers or other payments by the Government to non-Federal entities that are based on incomplete, inaccurate, or fraudulent information. They may also include disbursements or other payments that are duplicate, in an incorrect amount, or for purposes other than those allowed by law, program regulations, or agency policy.

Under a loan guarantee program, an improper payment may include payments by the Government to non-Federal entities for defaults, delinquencies, interest and other subsidies, or other payments that are based on incomplete, inaccurate, or fraudulent information. They may also include duplicate payments, payments in an incorrect amount, or any payments that are not in compliance with law, program regulations, or agency policy.

**9) What specific steps are agencies required to take?**

Unless an agency has specific written approval from OMB to deviate from the steps explained below, agencies are required to follow these steps to determine whether the risk of improper payments is significant and to provide valid annual estimates of improper payments<sup>7</sup>. The agency is responsible for maintaining the documentation to demonstrate that the following steps (if applicable) were satisfied.

**Step 1: Review all programs and activities and identify those that are susceptible to significant improper payments.**

- a. **Definition.** For the purposes of this guidance, beginning with FY 2014 reporting and beyond, “significant improper payments” are defined as gross annual improper payments (i.e., the total amount of overpayments and underpayments) in the program exceeding (1) both 1.5 percent of program outlays and \$10,000,000 of all program or activity payments made during the fiscal year reported or (2) \$100,000,000 (regardless of the improper payment percentage of total program outlays).

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<sup>7</sup> Improper payment rates referenced here and throughout this guidance should be based on dollars rather than number of occurrences. In other words, the improper payment rate should be the amount in improper payments divided by the amount in program outlays for a given program in a given fiscal year (rather than the number of improper payments divided by the total number of payments).

- b. Systematic Method. All agencies shall institute a systematic method of reviewing all programs and identify programs susceptible to significant improper payments. This systematic method could be a quantitative evaluation based on a statistical sample or a qualitative method (e.g., a risk-assessment questionnaire). At a minimum, agencies shall take into account the following risk factors likely to contribute to improper payments, regardless of which method (quantitative or qualitative) is used:
- i. Whether the program or activity reviewed is new to the agency;
  - ii. The complexity of the program or activity reviewed, particularly with respect to determining correct payment amounts;
  - iii. The volume of payments made annually;
  - iv. Whether payments or payment eligibility decisions are made outside of the agency, for example, by a State or local government, or a regional Federal office;
  - v. Recent major changes in program funding, authorities, practices, or procedures;
  - vi. The level, experience, and quality of training for personnel responsible for making program eligibility determinations or certifying that payments are accurate;
  - vii. Inherent risks of improper payments due to the nature of agency programs or operations;
  - viii. Significant deficiencies in the audit reports of the agency including, but not limited to, the agency Inspector General or the Government Accountability Office (GAO) audit report findings, or other relevant management findings that might hinder accurate payment certification; and
  - ix. Results from prior improper payment work.

When appropriate, agencies may leverage other existing processes to help implement this systematic method. For example, if an agency chose to develop and implement an improper payment risk-assessment questionnaire, the agency might consider leveraging another existing similar tool, such as an internal control questionnaire.

- c. Other Risk Susceptible Programs. OMB may determine on a case-by-case basis (e.g., if an audit report raises questions about an agency's risk assessment or improper payments results) that certain programs that do not meet the threshold requirements described above may still be subject to the annual AFR or PAR reporting requirement.
- d. Examples. To further clarify use of the quantitative evaluation method for performing risk assessments in this step, we provide four examples:

*Example 1:* Under the analysis in Step 1, a program has a potential improper payment rate of 1.2 percent or \$14 million. Under this guidance an agency need not perform Step 2—obtaining a statistically valid estimate of improper payments in the program—because even though the potential amount of improper payments in the program exceeds \$10 million, the potential improper payment rate does not exceed 1.5 percent.

*Example 2:* Under the analysis in Step 1, a program has a potential improper payment rate of 1.8 percent or \$9 million. Under this guidance, an agency need not perform Step 2—obtaining a statistically valid estimate of improper payments in the program—because even though the potential improper payment rate exceeds 1.5 percent, the potential amount of improper payments in the program does not exceed \$10 million.

*Example 3:* Under the analysis in Step 1, a program has a potential improper payment rate of 1.8 percent and \$11 million. Under this guidance, an agency must perform Step 2—obtaining a statistically valid estimate of improper payments in the program—because the potential improper payment rate exceeds 1.5 percent and the potential amount of improper payments exceeds \$10 million. The agency must report a statistically valid improper payment rate for the program in its annual AFR or PAR.

*Example 4:* Under the analysis in Step 1, a program has a potential improper payment rate of 0.6 percent and \$125 million. Under this guidance, regardless of the potential improper payment rate, the agency must perform Step 2—obtaining a statistically valid estimate of improper payments in the program—because the potential amount of improper payments in the program exceeds \$100 million.

**Step 2: Obtain a statistically valid estimate of the annual amount of improper payments in programs and activities for those programs that are identified in Step 1 as susceptible to significant improper payments.<sup>8</sup>**

Programs reporting improper payments for the first time and programs revising their current methodology shall conform to the process and content described below in steps 2.1 and 2.2. Programs that are currently using methodologies approved by OMB under the previous version of OMB A-123 Appendix C do not need to resubmit a methodology plan—unless an update to the plan is warranted. Programs should consider updating their plan if the program undergoes any significant changes such as legislative, funding, structural, etc.

**Step 2.1: Process.** All programs and activities susceptible to significant improper payments shall design and implement appropriate statistical sampling and estimation methods to produce statistically valid improper payment estimates. In doing so, agencies shall conform to the following process:

- a. **Annual Estimated Amount.** For all programs and activities susceptible to significant improper payments, agencies shall determine an annual estimated amount of improper payments made in those programs and activities. When calculating a program's annual improper payment amount, agencies should only utilize the amount paid improperly. For example, if a \$100 payment was due, but a \$110 payment was

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<sup>8</sup> Step 2 should occur in the fiscal year following the fiscal year in which the risk assessment was conducted under Step 1.

made erroneously, then the amount applied to the annual estimated improper payment amount should be \$10, rather than the payment amount of \$110. Similarly, if a \$100 payment was due, but a \$90 payment was made erroneously, then the amount applied to the annual estimated improper payment amount should be \$10, rather than the payment amount of \$90. However, if a \$100 payment was due and made, but there is insufficient documentation to support the appropriateness of the payment or if a duplicate payment was made, then the amount applied to the annual estimated improper payment amount should be \$100. Agencies are required to determine an annual estimate that is a gross total of both over and underpayments (i.e., overpayments plus underpayments). However, in addition to the *gross* total, agencies are also allowed to calculate and disclose in their AFRs or PARs the *net* total (i.e., overpayments minus underpayments).

- b. Statistical Sampling and Estimation Plans. Agencies are responsible for designing and documenting their sampling and estimation plan. Each plan shall be prepared by a statistician<sup>9</sup> (either an agency employee or a contractor) and submitted to OMB no later than June 30 of the fiscal year for which the estimate is being produced (e.g., the sampling methodology to be used for the FY 2014 reporting cycle must be submitted by June 30, 2014). The agency shall also include a summary of their sampling methodology plan in its AFR or PAR. The sampling and estimation plan shall be accompanied by a document certifying that the methodology will yield a statistically valid improper payment estimate (see below).
- c. Certification. IPERA requires agencies to produce statistically valid estimates of improper payments, and therefore each plan shall be accompanied by a certification stating that the methodology will produce a statistically valid estimate. The certification shall be signed by an agency official of the agency's choosing (e.g., this could be the Chief Financial Officer, his/her Deputy, a program official, etc.). Upon receipt, OMB will review the documents (i.e., the proposed statistical sampling plan and the accompanying signed certification) to verify that they are complete and include all the requisite components listed in Step 2.2 below. *It is important to note that OMB will not be issuing a formal approval to the agency for the sampling plan—rather, it is the agency's responsibility to produce a statistically valid methodology.* The signed certification will serve as evidence that the agency believes the methodology is statistically sound. OMB does reserve the right to raise questions about the particular methodology, should the need arise.
- d. Working with other Entities. Agencies should consider working with entities—such as grant recipients—that are subject to Single Audits to leverage ongoing audits to assist in the process to estimate an improper payment rate and amount.
- e. Incorporating Recommendations. Whenever possible, agencies should incorporate refinements to their improper payment methodologies based on recommendations

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<sup>9</sup> This person should have training and experience designing statistical samples and using statistical methods to calculate population estimates and sampling errors from a probability sample. This person would generally have an advanced degree in statistics, biostatistics, mathematics, a quantitative social science, or a similar field.

from agency staff or auditors (such as their agency Inspector General, GAO, or private auditors).

- f. Example Plans from Other Agencies. OMB will make available to agencies examples of statistical sampling and estimation plans submitted by agencies. Agencies are encouraged to review these examples and consult with other agencies when preparing their sampling plans. While each plan will likely be slightly different given the unique nature of each program, there are some characteristics that are common across many programs, and agencies should benefit from each other's work. However, each agency is responsible for designing and executing an appropriate sample to statistically estimate improperly paid dollars that meets the requirements in this guidance.

Step 2.2: Content of Statistical Sampling and Estimation Plans. Agencies shall clearly and concisely describe the statistical methods that will be used to design and draw the sample and produce an improper payment estimate for the program in question. The plans shall explain and justify why the proposed methodology is appropriate for the program in question—this explanation must be supported by accurate statistical formulas, tables, and any additional materials to demonstrate how the sampling and estimation will be conducted and the appropriateness of those statistical methods for the program. Agency sampling and estimation plans must be complete and internally consistent. The following aspects must be clearly addressed:

- a. Probability Sampling. Improper payment estimates shall generally be based on probability samples and shall provide estimates of the sampling error for the amount of the improper payments. Agencies may use simple random samples if those are appropriate, but many agencies have employed more complex stratified or multi-stage or clustered samples in order to obtain estimates of different components of the program that are more actionable than can be afforded by simpler sample designs. Depending on the nature and distribution of the payments made by a program, many agencies also use unequal probabilities of selection to capture larger payments with higher probability (i.e., probability proportionate to size). If the universe of payments for a program or a component/stratum of the program is small, agencies may review a complete census of payments in those cases and would not have any sampling error for that component or stratum—assuming a statistician is consulted on this approach.
- b. Assumptions about the amount of Improper Payments. The agency may use their initial determination of the *potential* improper payment in Step 1, above, to aid in determining the sample size. Since most agencies have been conducting ongoing reviews of their improper payments for some time, they should utilize results from previous years and make appropriate adjustments to the sample size and even the sample design based on previous findings in order to obtain a more efficient sample or obtain more useful estimates of improper payments by program component.
- c. Appropriate Sample Sizes. Because of the imprecision of the risk assessment performed in Step 1, agencies should ensure that they select a sample that will meet



the minimum precision requirements in Step 2.2.d below. For initial estimates of improper payments, agencies should take a conservative approach and use higher estimated improper payments in their sample size calculations to ensure that they will meet the precision targets. As noted above, since most agencies have been conducting ongoing reviews of their improper payments for some time, they should utilize results from previous years and make appropriate adjustments to the sample size.

- d. Precision. Agencies should design the sample and select a sample size sufficient to yield an estimate of improper payments with a 90 percent confidence interval of plus or minus 2.5 percent of the total amount of all payments for a program around the estimate of the dollars of improper payments.<sup>10</sup> For example, if the total amount of all payments for a program was \$1,000,000,000 and the estimated total of improper payments based upon the statistical sample was \$80,000,000, the 90 percent confidence interval around the estimate should be no more than plus or minus \$25,000,000—i.e., \$55,000,000 to \$105,000,000. These guidelines for precision shall be taken as the minimum, and agencies are encouraged to increase samples above the minimum to achieve greater precision in their estimates in order for agencies to better understand underlying causes of improper payments and creating action plans. Agencies shall maintain documentation to support the calculation of these estimates.
- e. Sample Design Documentation. Agency sampling and estimation plans shall generally provide sufficient documentation of the sample design so that a qualified statistician would be able to replicate what was done or so that OMB, agency Inspector General, or GAO personnel can evaluate the design. Agencies shall clearly identify the frame or source for sampling payments and document its accuracy and completeness. All stages of selection, any stratification, and/or any clustering shall be clearly described. Explicit strata shall be clearly defined, as should any variables used for implicit stratification. Tables shall generally be provided showing the size of the universe and sample by strata (if applicable). Sampling plans shall also specify whether cases are selected with equal or unequal probabilities and how the probabilities of selection are determined when they are unequal.
- f. Documentation of Estimation Formulas. Agency sampling and estimation plans shall include documentation of the statistical formulas that will be used to estimate the amount of improper payments (and the associated confidence intervals for the sample) and to project those results to the entire program. Documentation should include appropriate citations for these formulas. Agency sampling and estimation plans must be complete and internally consistent (for instance, estimation formulas must appropriately reflect the complexity of the sample design).
- g. Updates and Changes to Agency Plans. Agencies should update their sampling and estimation plans, as needed, to reflect the current design and methods being used and incorporate refinements based on previous results, consultations with others, and/or

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<sup>10</sup> Agencies may alternatively use a 95 percent confidence interval of plus or minus 3 percent around the estimate of the dollar amount of improper payments.

recommendations from Inspectors General, GAO, or OMB. Any updated plans will need to be submitted to OMB no later than June 30 of the fiscal year for which the estimate is being produced (e.g., the sampling methodology to be used for the FY 2014 reporting cycle must be submitted by June 30, 2014). The plans shall include all the components described in steps 2.1 and 2.2 above. A plan that is being updated or changed should include some language explaining why the plan is changing and how the plan is different from the one previously submitted.

Agencies shall submit an explanation and justification to OMB for any instances where a program is not able to fulfill the requirements described in Step 2. OMB will review requests for deviation from these requirements and must approve any alternative methods (see section I.A.14 below).

**Step 3: Implement a plan to reduce improper payments.**

- a. Root Causes and Corrective Actions. For all programs and activities as determined under Step 2 with improper payments exceeding the thresholds listed earlier in Step 1, agencies shall identify the reasons their programs and activities are at risk of improper payments and put in place a corrective action plan to reduce them. In many cases, agencies will implement long-term, on-going corrective actions that will be implemented and refined on a continuous basis (e.g., the corrective action is in place for many years, though it may be refined from year to year). Agencies should annually review their existing corrective actions to determine if any existing action can be intensified or expanded, resulting in a high-impact, high return-on-investment in terms of reduced or prevented improper payments. In addition, IPERIA requires agencies to tailor their corrective actions for programs that are deemed high-priority to better reflect the unique processes, procedures, and risks involved in each specific program. This information shall be reported in the agency's AFR or PAR annually. More detailed information about high-priority programs can be found below in section I.B.
- b. Reduction Targets. When compiling plans to reduce improper payments, agencies shall set reduction targets for future improper payment levels and a timeline within which the targets will be reached. Reduction targets must be approved by the Director of OMB (this approval process will take place during the OMB review and approval process of draft AFRs and PARs). In cases in which a program needs a few years to fully establish an improper payment rate baseline (for example, state-administered programs with a "rolling rate" in which only a fraction of the states report each year), OMB does not expect the program to publish a reduction target until a full baseline has been established and reported.
- c. Accountability. Agencies must ensure that managers and accountable officers (including the agency head), programs and program officials, and where applicable States and local partners, are held accountable for reducing improper payments. In addition, for programs that are not implemented directly by Federal or State agencies or government, agencies may also consider establishing these accountability

mechanisms. For example, non-Federal entities could include colleges that disburse grants and loans to students, or banks that disburse loans to students. Agencies shall assess whether the organizations have the internal controls, human capital, information systems, and other infrastructure needed to reduce improper payments to minimal cost-effective levels, and identify any statutory or regulatory barriers which may limit the agencies' corrective actions in reducing improper payments. This information shall be reported in the agency's AFR or PAR annually.

#### **Step 4: Report annually in the AFR or PAR.**

- a. Reporting. Agencies shall report to the President and Congress (through AFRs or PARs in the format required by OMB Circular A-136 for improper payment reporting) an estimate of the annual amount and rate of improper payments for all programs and activities determined to be susceptible to significant improper payments under Step 1, regardless of the dollar amount of the estimate, as further explained below. OMB approval of some improper payment requirements (e.g., reduction targets) occurs through OMB's review of the improper payment section of each agency's AFR or PAR. Improper payment information from AFRs and PARs is subsequently analyzed for inclusion in OMB's government-wide reporting on improper payments. This information (i.e., government-wide improper payment rates and improper payment amount estimates) is also posted on [PaymentAccuracy.gov](http://PaymentAccuracy.gov)—the improper payments website created under Executive Order 13520, *Reducing Improper Payments*.
- b. Improper payment estimates that meet statutory thresholds. For programs and activities reporting improper payment estimates that meet the statutory thresholds described in Step 1(a) above, agencies shall follow all the improper payment reporting requirements delineated in OMB Circular A-136. The improper payments section in Circular A-136 outlines what information agencies are required to include in their annual AFRs or PARs regarding improper payment estimates, reduction targets, root causes, corrective actions, and other areas.
- c. Improper payment estimates that DO NOT meet statutory thresholds. For programs and activities reporting improper payment estimates that DO NOT meet the statutory thresholds described in Step 1(a) above, agencies are still required to report an estimate of the annual amount and rate of improper payments, as well as reduction targets, in their annual AFRs or PARs, but they are not required to complete the additional steps referenced above in Step 4(b) and outlined in Circular A-136 (e.g., root causes, corrective actions, etc.).

#### **10) When must agencies conduct risk assessments?**

IPERA required agencies to conduct improper payment risk assessments for all programs starting in FY 2011, unless they received a waiver from OMB. For programs that are deemed to be low risk of significant improper payments, agencies must perform risk assessments at least once every three years thereafter (programs that have been determined to be susceptible to significant

improper payments and that are already reporting an estimate—or in the process of establishing an estimate—do not have to perform additional risk assessments). However, if a low risk program experiences a significant change in legislation and/or a significant increase in its funding level, agencies are required to re-assess the program's risk susceptibility during the next annual cycle, even if it is less than three years from the last risk assessment.

**11) What information should agencies provide to persons or entities producing improper payment estimates?**

IPERIA requires OMB to instruct agencies to give persons or entities producing improper payment estimates access to all necessary payment data, including access to relevant documentation. In order to produce accurate improper payment estimates, agencies must provide full documentation to persons or entities producing their improper payment estimates. In addition, this documentation must be maintained for the length of time required by the National Archives and Records Administration for the particular type of material being held in order for post-payment audits to be performed and to allow internal and external auditors to replicate reported results. For specific records retention requirements, agencies may contact their Senior Agency Official, a listing of which can be found at <http://www.archives.gov/records-mgmt/agency/sao-list.html>.

**12) Are agencies allowed to rely upon self-reporting by recipients of agency payments when estimating improper payments?**

IPERIA requires OMB to explicitly bar agencies from relying on self-reporting by the recipients of agency payments as the sole source basis for improper payments estimates. Specifically, agencies shall not base their improper payment estimates solely on self-reporting of actual improper payments by the sub-agencies that made the payments or individuals or entities who received the payments. In other words, agencies may not use self-reporting by recipients of actual improper payments in lieu of a statistical estimate.

However, agencies may continue to utilize sub-agencies and recipients of Federal funding to assist in the improper payment rate estimation process if the methodology is statistically valid (or, in the case of alternative methodologies, if approved by OMB) and if the appropriate checks and balances are in place, including Federal oversight to ensure the integrity of the process. For example, a Federal agency overseeing a Federally-funded, State-administered program may choose to ensure that a structured sampling methodology and procedures are prescribed for states' use for estimating and reporting improper payments using information from a variety of sources<sup>11</sup>, and not just from the beneficiaries of the program.

Historically, some agencies used alternative methodologies for estimating and reporting improper payments that relied solely on self-reporting of actual improper payments. Current law no longer supports alternative methodologies that are comprised strictly of self-reporting or identification of actual improper payments by employees, vendors, or agency staff, instead of a

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<sup>11</sup> These sources should be reliable and the information provided should be accurate and complete. Documentation of data reliability testing should be maintained by the sources.

statistical sample resulting in program estimates. Therefore, self-reported improper payments may be reported, but only in addition to the agency's statistical estimates.

**13) Are agencies allowed to implement an estimation approach that excludes improper payments that have been subsequently corrected and recovered from the annual estimate?**

IPERIA requires agencies to include all improper payments that were identified in the sample in the reported estimate, regardless of whether the improper payment has been or is being recovered. Prior to the passage of IPERIA, OMB guidance allowed agencies—in limited cases, and with prior approval from OMB—to implement an estimation approach that excluded improper payments that had been subsequently corrected and recovered from the annual estimate reported in the agency's AFR or PAR. Therefore, any program that currently excludes recovered amounts identified in the sample from its estimate shall update its methodology to reflect the new IPERIA requirement. In this case, OMB will work with the agency to help determine how and when the new methodology will go into effect, and how to report the change in the AFR or PAR (for example, possibly allowing the agency to use an additional figure to disclose the effect of recovered funds on the improper payment rate).

**14) May agencies use alternative sampling and estimation approaches?**

Yes, Section 2(b) of IPERA requires agencies to produce a statistically valid estimate, or “an estimate that is otherwise appropriate using a methodology approved” by the Director of OMB. This means that if, and only if, agencies are unable to develop a sampling methodology that follows the guidance described above in section I.A.9, step 2, they may utilize an alternative sampling and estimation approach after obtaining OMB approval. A request for approval and the proposed alternative sampling and estimation approach must be submitted in writing to OMB no later than June 30 in the fiscal year for which the alternative approach is being developed (e.g., an alternative approach to be used for the FY 2014 reporting cycle must be submitted by June 30, 2014). The request must describe the proposed alternative methodology in detail, and clearly explain why the agency is unable to produce a statistically valid estimate (as described in section I.A.9, step 2). OMB anticipates that a statistician<sup>12</sup> (either an agency employee or a contractor) will be consulted when preparing an alternative sampling and estimation approach.

If approved by OMB, agencies are responsible for maintaining documentation for the alternative sampling and estimation approach. The agency shall also include a summary of this alternative methodology in its AFR or PAR, including the justification for using an alternative methodology.

The scenarios described below are examples of the types of approaches that may be approved by OMB as alternatives to section I.A.9, step 2 of this guidance. However, agencies are required to

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<sup>12</sup> This person should have training and experience designing statistical samples and using statistical methods to calculate population estimates and sampling errors from a probability sample. This person would generally have an advanced degree in statistics, biostatistics, mathematics, a quantitative social science, or a similar field.

obtain OMB approval prior to implementation. The scenarios below are merely illustrations, and other alternatives may be presented to OMB.

***Scenario 1.*** An agency has a previous baseline improper payment rate, and has a plan in place to obtain another full program improper payment rate within five years from the baseline year.

Step 1: Aging the baseline rate. The agency should use statistical methods to update or “age” the baseline improper payment rate in the intervening years, until the next program rate is established. Specifically, the agency should use available data to extrapolate updates of the baseline rate. At a minimum, the analysis should provide a reasonable basis to conclude whether the baseline rate is trending upward, downward, or remaining static.

Step 2: Program component annual estimate. The agency should develop an annual improper payment rate for a component of the program. The component can be defined based on population, program area, or known problem area. To the extent possible, the component chosen for analysis should be based on risk so that the agency is targeting an area of the program in which a significant amount of improper payments is expected to occur. This approach could mean choosing an area because of overall financial exposure, or in the case of State-administered programs, possibly selecting larger states to cover more of the risk. This program component should be statistically sampled annually to obtain an improper payment rate consistent with the statistical rigor requirements of this guidance. The goal for the component study is not to extrapolate an improper payment rate for the program as a whole. Rather, the goal is only to estimate an improper payment amount for the relevant program component being studied. Component-specific baseline and target rates, as well as corrective action plans, should be developed to assess agency progress in reducing improper payments in the program component.

Please note, that both Steps 1 and 2 in Scenario 1 are required if this alternative is chosen by the agency and approved by OMB.

***Scenario 2.*** No baseline comprehensive improper payment rate is established and no statistically valid methodology is yet developed to obtain one.

Step 1: Plan for comprehensive baseline improper payment rate. A methodology to obtain a comprehensive baseline improper payment rate must be developed with a timeline that would allow for the first estimate to occur within three years of when the plan was approved by OMB. Statistical rigor must meet, at a minimum, the requirements previously stated in this guidance.

Step 2: Program component annual improper payment rate. While the agency is working toward a comprehensive baseline rate, the agency should annually identify a component to assess, and begin to report an improper payment rate for that component within one year of the plan’s approval by OMB (see Step 2 in Scenario 1 above).

Step 3: Determine rate. Once the baseline rate is established, and if the rate cannot be re-estimated annually, the agency should perform both Steps 1 and 2 of Scenario 1 above to ensure that adequate information on improper payments is obtained on an annual basis. If an agency decides to utilize one of the scenarios listed above, it must complete all of the steps for the scenario selected. It is important to note that agencies are not restricted to using only these two approaches; different strategies may be necessary because of pre-existing legislative requirements and/or prohibitions, or because a different method may be more appropriate in providing results for a particular program. Agencies may also consider non-probabilistic sampling approaches, such as purposive sampling or cut-off samples, when legislative requirements make probabilistic samples untenable.

**Scenario 3.** The risk of improper payments in a program may be part of a larger inefficiency that the agency is attempting to address. For instance, the improper payments in the program may be a subset of a larger initiative, and the agency may only focus on one portion of the improper payments within the program that is under its control rather than the entire inefficiency.

Step 1: Identify program component. The agency should identify the component of the program that it wants to estimate and report on. This selection should be a component of the program that is within its control, is a driver of improper payments within the program, and whose estimation would produce benefits that outweigh their costs. Once this selection is identified, the agency should implement an estimation plan that meets the statistical rigors stated in this guidance.

Step 2: Continue broader program estimate. During and after the development of the program component improper payment rate, the agency should continue to report the overall program improper payment estimate. Eventually, OMB may notify the agency that it may stop conducting the overall program estimate and instead use the program component estimate in its place, but the agency should continue to report both the component and program improper payment rate until OMB notifies the agency that it may stop doing so.

As detailed above, whether an agency decides to use one of these three scenarios, or proposes a different process, all deviations from section I.A.9, step 2, shall be submitted to OMB no later than June 30 in the fiscal year for which the estimate is being produced and documented in the AFR or PAR. In addition, programs should consider updating their alternative methodology if the program undergoes any significant changes such as legislative, funding, structural, etc.

**15) Should data used for estimating improper payments coincide with the fiscal year being reported in the AFR or PAR?**

To the extent possible, data used for estimating improper payments in a given program should coincide with the fiscal year being reported (for example, the estimate reported in the FY 2014 AFR or PAR should be based on data from FY 2014). However, agencies may utilize a different 12-month reporting period with approval from OMB. This request for approval shall be submitted to OMB no later than June 30 in the fiscal year for which the estimate is being

reported and shall be documented in the AFR or PAR. For example, the estimate reported in the FY 2014 AFR or PAR could be based on data from FY 2013, if approved by OMB. As another example, the estimate reported in the FY 2014 AFR or PAR could be based on data from the last two quarters of FY 2013 and the first two quarters of FY 2014, if approved by OMB. For consistency purposes, the agency shall continue using the same time period for subsequent reporting years, unless a different time period is proposed by the agency and approved by OMB. Therefore, agencies do not need to re-submit a request for approval every year, only when they are planning to change their reporting time period.

**16) What are Federally-funded, State-administered programs, and may agencies consider other approaches for these types of programs?**

Federally-funded, State-administered programs (e.g., Medicaid, Unemployment Insurance, TANF, Title I Grants to States, Child and Adult Care Food Program) receive at least part of their funding from the Federal Government, but are administered, managed, and operated at the State or local level. Where programs are administered at the State level, statistically valid estimates of improper payments may be provided at the State level either for all States or for all sampled States annually. If the improper payment estimates are provided at the State level, these State-level estimates should then be used to generate a national improper payment dollar estimate and rate. However, agencies may submit a plan to OMB for approval to provide national level estimates for State-administered programs based on a systematic selection of such states each year. This request for approval must be submitted in writing to OMB no later than June 30 of the fiscal year for which the approach is being developed (in other words, an approach to be used for the FY 2014 reporting cycle would be submitted by June 30, 2014).

One example of this type of approach can be seen in the Title IV-E Foster Care Program, wherein current regulations require that programs be reviewed every three years for compliance. With prior OMB approval, this program has taken the review cycle already in place and leveraged it for estimating improper payments, providing a rolling three-year average improper payment rate.

Alternate methodologies, such as those described above, must be approved by OMB in advance of implementation. The justification to use this type of approach must include a description of the States to be selected each year, the methodology for generating annual national estimates, and a justification for using the proposed plan rather than an estimate based on a random statistical sample.

**17) Are programs that are identified as susceptible to significant improper payments, and that annually report improper payment estimates, permanently subject to improper payments reporting requirements?**

No. If an agency's program is currently estimating and reporting improper payments, but has documented a minimum of two consecutive years of improper payments that are below the statutory thresholds described in section I.A.9, the agency may request relief from the annual reporting requirements for this program or activity. This request must be submitted in writing to OMB, and must include an assertion from the agency's Office of Inspector General that it



concur with the agency's request for relief. The request for approval must be submitted to OMB no later than June 30 in the fiscal year for which the agency is requesting to halt reporting (e.g., a request to halt reporting for a program beginning with the FY 2014 reporting cycle must be submitted by June 30, 2014).

OMB will not grant automatic approval. Rather, OMB will review the request and will also take into account the following criteria:

- a. Burden—does measuring and reporting improper payments lead to a heavy burden (e.g., in terms of funding, program staff hours, etc.)?
- b. Legislative considerations—are there any legislative requirements or recent changes that affect the program's ability or inability to estimate and report improper payments?
- c. Audit findings—are there any audit findings (i.e., by the Inspector General or GAO) that point to reasons why the program might want to continue measuring and reporting improper payments?
- d. Ongoing risk mitigation strategies—are there any appropriate controls, policies, or corrective actions that have been put in place to mitigate the risk of fraud and error in the program?
- e. Other considerations—are there any other key factors that should be considered in deciding whether or not to grant relief from measuring and reporting improper payments?

In order to expedite OMB's review, agencies should consider the five criteria above and discuss them, if appropriate, in the written request. If OMB approves the request, the agency shall incorporate that program or activity into its risk assessment cycle. However, if significant legislative changes occur, if program funding is significantly increased, or if any change results in substantial program impact, agencies must perform a risk assessment of this program as part of its next reporting cycle, even if it has been less than three years since the last risk assessment. If the risk assessment indicates that the program is again susceptible to significant improper payments, the agency will return to the full estimation and reporting process as required by IPIA. Agencies must continue to report improper payment rates, amounts, and remediation efforts as long as annual improper payments for a program exceed the reporting thresholds.

**18) Are programs and activities that have been deemed susceptible to significant improper payments as a result of the Disaster Relief Appropriations Act, 2013, permanently subject to improper payments reporting requirements?**

No. Improper payment measuring and reporting for funds received under the Disaster Relief Appropriations Act, 2013, for Hurricane Sandy-related activities must only be performed until those funds are expended. According to the Disaster Relief Appropriations Act, 2013, all Federal programs or activities receiving funds under that Act are automatically considered susceptible to significant improper payments, regardless of any previous improper payment risk-assessment results, and are required to calculate and report an improper payment estimate. For further guidance on Hurricane Sandy-related improper payment requirements, please refer to OMB Memorandum M-13-07, *Accountability for Funds Provided by the Disaster Relief Appropriations Act*, issued on March 12, 2013.

## **B. IMPROVING THE DETERMINATION OF IMPROPER PAYMENTS**

### **1) How will OMB determine the “high-priority” programs as required under IPERIA?**

High-priority programs will be determined by OMB based on improper payment reporting in agencies’ AFRs or PARs.

OMB may classify a program as high-priority if the program meets the following conditions:

- a. It is susceptible to significant improper payments as defined by statute and OMB implementing guidance and either:
  - i. Estimated and reported improper payments above the threshold determined by OMB or contributed to the majority of government-wide improper payments in the most recent reporting year; or
  - ii. Did not report an improper payment estimate in the most recent reporting year, but had reported improper payments before and did not receive relief from OMB from measuring and reporting; or
  - iii. Has not yet reported an overall program improper payment estimate amount, but the aggregate of the program’s component improper payments are above the threshold.
- b. For those programs with improper payment amounts above the threshold, but with improper payment rates below 1.5 percent of program outlays, agencies may work with OMB to determine if the program can be exempted from fulfilling certain OMB requirements for high-priority programs.

The threshold for high-priority program determinations for FY 2014 reporting, and for subsequent years, is \$750 million in estimated improper payments as reported in the AFR or PAR (regardless of the improper payment rate estimate). OMB may revise this threshold in future years and, if so, will notify agencies of the new threshold and if any programs shall be added or removed (based on reporting errors above or below the new threshold) from the high-priority list. If a program is identified as high-priority (e.g., because it did not report an improper payment estimate, or reported an improper payment estimate above \$750 million), but in subsequent years reports an improper payment estimate below \$750 million, it will no longer be considered a high-priority program.

### **2) What are the requirements under IPERIA for establishing semi-annual or quarterly actions for reducing improper payments?**

IPERIA requires OMB, in coordination with agencies responsible for administering high-priority programs, to establish semi-annual or quarterly actions for reducing improper payments associated with each high-priority program. IPERIA codified parts of Executive Order 13520, including this particular requirement, which stems from the Executive Order supplemental measures and targets. For more details, please see section III.B of this guidance.

**3) Do high-priority programs have any specific requirements regarding corrective actions?**

High-priority programs are already required to develop corrective actions, as discussed in section I.A. However, IPERIA requires agencies to tailor their corrective actions for high-priority programs. Therefore, any agency that has any programs identified as high-priority shall explain in its AFR or PAR how it has specifically tailored its corrective actions for high-priority programs to better reflect the unique processes, procedures, and risks involved in each specific program.

**4) Are there any additional reporting requirements for agencies that have high-priority programs?**

Yes. IPERIA requires each agency that has any programs identified as high-priority to report to their Inspector General, and make available to the public (including availability through the internet): (1) any action the agency has taken—or plans to take—to recover improper payments; and (2) any action the agency intends to take to prevent future improper payments. In order to avoid duplication and reduce the number of agency reports related to improper payments, agencies shall fulfill this requirement by including this information in their AFRs or PARs starting with FY 2014 reporting. Please note that this reporting requirement will also fulfill the “accountable official” report required under Section 3(b) of Executive Order 13520.

Inspectors General shall review this information (i.e., the information discussed in this question, in the paragraph above) when they conduct their annual compliance reviews (see Part II of this guidance). OMB will make the improper payments portions of AFRs and PARs publicly available on PaymentAccuracy.gov starting with the FY 2014 reporting cycle. As required by IPERIA, the agency shall not include any referrals the agency made or anticipates making to the Department of Justice, or any information provided in connection with such referrals. In addition, this requirement shall not prohibit any referral or information being made available to an Inspector General as otherwise provided by law.

**C. CATEGORIES FOR REPORTING IMPROPER PAYMENTS**

**1) What categories should agencies use when reporting improper payment estimates?**

Prior to FY 2015 reporting, agencies were required to categorize their improper payment estimates based on three categories of improper payments: documentation and administrative errors; authentication and medical necessity errors; and verification errors. However, those categories proved to be limited and not necessarily applicable to most programs. Therefore, OMB—in consultation with agencies—developed new improper payment categories. Reporting information based on these categories shall be required for FY 2015 reporting and beyond. To the extent possible, for FY 2014 reporting OMB encourages agencies with programs that are susceptible to significant improper payments to report information in their AFR or PAR based on the categories described below.

These new categories will: (1) prove more pertinent to the vast array of programs across the Federal landscape; (2) help agencies better present the different categories of improper payments in their programs and the percentage of the total improper payment estimate that each category represents; and (3) provide more granularity on improper payment estimates—thus leading to more effective corrective actions at the program level and more focused strategies for reducing improper payments at the government-wide level.

The matrix below provides a cross-tabulation framework for the way in which each program shall categorize and report its improper payment estimate.

Table 1: Matrix of Improper Payment Categories (\$ in millions)

Reason for Improper Payment		Type of Improper Payment		
		Overpayments	Underpayments	
Program Design or Structural Issue				<b>1</b>
Inability to Authenticate Eligibility				<b>2</b>
Failure to Verify:	Death Data			<b>3</b>
	Financial Data			<b>4</b>
	Excluded Party Data			<b>5</b>
	Prisoner Data			<b>6</b>
	Other Eligibility Data (explain)			<b>7</b>
Administrative or Process Error Made by:	Federal Agency			<b>8</b>
	State or Local Agency			<b>9</b>
	Other Party (e.g., participating lender, health care provider, or any other organization administering Federal dollars)			<b>10</b>
Medical Necessity				<b>11</b>
Insufficient Documentation to Determine			X	<b>12</b>
Other Reason (explain)				<b>13</b>
		<b>A</b>	<b>B</b>	

In the matrix, columns A and B include two categories based on the type of improper payment, and rows 1 through 13 include thirteen categories based on the reason why the improper payment was made (each category is explained in more detail below). The matrix has a total of 25 cells (i.e., coordinates A1 through B13, where B12 is not to be used, as indicated by the 'X' in cell

B12 in the matrix). Each program shall distribute its total improper payment estimate (which is based on dollars, as opposed to number of occurrences) across the 25 cells in the matrix—with the understanding, of course, that not every cell will apply to every program.

For example, suppose a program reported \$100 million in estimated improper payments. Here is an example of how the table might be filled out:

- If \$70 million were overpayments caused by the inability to authenticate eligibility, then that amount would go in cell A2.
- If \$10 million were underpayments caused by process errors at State agencies administering the program, then that amount would go in cell B9.
- If \$20 million were cases where there was insufficient documentation to determine if payments were proper or improper, in which case it is assumed those are overpayments, then that amount would go in cell A12.

Ultimately, the amounts placed across the different cells in the matrix need to add up to the total reported estimated improper payment amount for that given program. Please note that, taken by themselves, the amounts placed in each cell do not need to meet the statistical requirements described above in section I.A.9, step 2. Also note that, although there are 25 cells in the matrix below, agencies should only fill in relevant cells, and may leave cells blank if they are not relevant to the program's estimated improper payments. *Finally, it is important to note that in cases where the agency believes more than one cell might be suitable to any given improper payment category, the agency should determine which cell it believes to be the most appropriate.*

All categories found in the matrix are described as follows:

- Overpayments (column A) and Underpayments (column B):* An overpayment is a payment that is evidently higher than it should have been (including a duplicate payment), and an underpayment is a payment that is evidently lower than it should have been.
- Program Design or Structural Issue (row 1):* A situation in which improper payments are the result of the design of the program or a structural issue. For example, a scenario in which a program has a statutory (or regulatory) requirement to pay benefits when due, regardless of whether or not all the information has been received to confirm payment accuracy.
- Inability to Authenticate Eligibility (row 2):* A situation in which an improper payment is made because the agency is unable to authenticate eligibility criteria. Though other scenarios are also possible, here we discuss three likely ways in which this can happen. First, the inability to authenticate eligibility can happen because no databases or other resources exist to help the agency make a determination of eligibility (for example, the inability to establish that a child lived with a family for a certain amount of time—for the purpose of determining that a family is eligible for a tax credit—because no database exists to do so). Second, a beneficiary has failed to report information to an agency that is needed for determining eligibility (for example, a beneficiary failing to provide an

agency with information on earnings, and the agency does not have access to databases containing the earnings information). Finally, statutory constraints prevent a program from being able to access information that would help prevent improper payments (for example, not confirming a recipient's earnings or work status through existing databases due to statutory constraints).

- d. *Failure to Verify Data (rows 3-7)*: A situation where the agency (Federal, State, or local), or another party administering Federal dollars, fails to verify appropriate data to determine whether or not a recipient should be receiving a payment, even though such data exist in government or third-party databases. For reporting purposes, the kind of data in question would include, but are not limited to, the following:
  - i. *Death Data (row 3)*—failure to verify that an individual is deceased, and the agency pays that individual.
  - ii. *Financial Data (row 4)*—failure to verify that an individual's or household's financial resources (for example, current income or assets) do not meet the threshold to qualify him or her for a benefit, and the agency makes a benefit payment to that individual or household.
  - iii. *Excluded Party Data (row 5)*—failure to verify that an individual or entity has been excluded from receiving Federal payments, and the agency pays that individual or entity.
  - iv. *Prisoner Data (row 6)*—failure to verify that an individual is incarcerated and ineligible for receiving a payment, and the agency pays that individual.
  - v. *Other Eligibility Data (row 7)*—any other type of data not already listed above, causing the agency to make an improper payment as a result.
- e. *Administrative or Process Errors (Rows 8-10)*: Errors caused by incorrect data entry, classifying, or processing of applications or payments. For example, an eligible beneficiary receives a payment that is too high or too low due to a data entry mistake, or an agency enters an incorrect invoice amount into its financial system. These types of errors can be made by:
  - i. *Federal Agency (row 8)*
  - ii. *State or Local Agency (row 9)*
  - iii. *Other Party (row 10)*—for example, a participating lender, or any other type of organization administering Federal dollars that is not a Federal or State agency.
- f. *Medical Necessity (row 11)*: A situation in which a medical provider delivers a service or item that does not meet coverage requirements for medical necessity (for example, providing a power wheelchair to a patient whose medical record does not support meeting coverage requirements for a power wheelchair).
- g. *Insufficient Documentation to Determine (row 12)*: A situation where there is a lack of supporting documentation necessary to verify the accuracy of a payment identified in the improper payment testing sample. For example, a program does not have documentation to support a beneficiary's eligibility for a benefit (in this case, the beneficiary may have been eligible, but the documentation is not present to confirm it during the review period).

- h. *Other Reason (row 13)*: If none of the above categories apply, include any other reasons for the improper payment under this category—and please explain the reasons in more detail either in footnotes or in the narrative below the table. In instances where agencies are able to identify improper payments resulting from fraud, they should report those dollar amounts in this row—unless they already report fraud through a mechanism outside of the annual improper payment process (e.g., an annual report to Congress). Additional considerations for fraudulent activities are discussed below.

## **2) How should agencies focus on fraudulent activities?**

When agencies are reviewing the root causes of improper payments, or analyzing areas for supplemental measures and targets, agencies should be mindful of maintaining a focus on fraudulent activity within the program. For instance, fraudulent actions (e.g., using fraudulent documents to receive a benefit or contract payment) may have an impact on agency outlays, and may also be something that agencies can reduce through improved pre-payment reviews and additional safeguards. Agencies should refer matters involving possible fraudulent activities to the appropriate parties as determined by specific agency policy. Such parties may include, but are not limited to, the Office of Inspector General or the Department of Justice.

## **D. PAYMENT RECAPTURE AUDITS**

This section of the guidance implements the requirements of IPERA Section 2(h), which requires agencies to conduct payment recapture audits (also known as recovery audits) for each program and activity that expends \$1 million or more annually if conducting such audits would be cost-effective. Before IPERA, payment recapture audits were only required for agencies that entered into contracts with a total value in excess of \$500 million in a fiscal year, and for certain other programs.

A more recent law, IPERIA, requires OMB to determine current and historical rates and amounts of improper payment recoveries (or, in cases in which improper payments are identified solely on the basis of a sample, recovery rates and amounts estimated on the basis of the applicable sample), including a list of agency recovery audit contract programs and specific information of amounts and payments recovered by recovery audit contractors.

### **1) What are the definitions used for payment recapture auditing in this guidance?**

For purposes of this guidance the following terms and definitions are used:

- a. *Post-Award Audit* refers to a post-award examination of the accounting and financial records of a payment recipient that is performed by an agency official, or an authorized representative of the agency official, pursuant to the audit and records clauses incorporated in the contract or award. A post-award audit is normally performed by an internal or external auditor that serves in an advisory capacity to the agency official. A post-award audit, as distinguished from a payment recapture audit, is normally performed

for the purpose of determining if amounts claimed by the recipient are in compliance with the terms of the award or contract, and with applicable laws and regulations. Such reviews involve the recipient's accounting records, including the internal control systems. A post-award audit may also include a review of other pertinent records (e.g., reviews to determine if a proposal was complete, accurate, and current); and reviews of recipients' systems established for identifying and returning any improper payments received under its Federal awards.

- b. *Payment Recapture Audit* is a review and analysis of an agency's or program's accounting and financial records, supporting documentation, and other pertinent information supporting its payments, that is specifically designed to identify overpayments. It is not an audit in the traditional sense covered by Government Auditing Standards. Rather, it is a detective and corrective control activity designed to identify and recapture overpayments, and, as such, is a management function and responsibility.
- c. *Payment Recapture Audit Program* is an agency's overall plan for risk analysis and the performance of payment recapture audits and recovery activities. The agency head will determine the manner and/or combination of payment recapture activities to use that are expected to yield the most cost-effective results (see definition below).
- d. *Cost-Effective Payment Recapture Audit Program* is one in which the benefits (i.e., recaptured amounts) exceed the costs (e.g., staff time and resources, or payments for the payment recapture audit contractor) associated with implementing and overseeing the program.
- e. *Payment Recapture Audit Contingency Contract* is a contract for payment recapture audit services in which the contractor is paid for its services as a percentage of overpayments actually collected. The contractor must provide clear evidence of overpayments to the appropriate agency official. More information on contingency contracts can be found in the remaining questions of section I.D.
- f. *Recapture Activity* is any activity by an agency to attempt to identify and recover overpayments identified by a payment recapture audit or a post-award audit.
- g. *Financial Management Improvement Program* is an agency-wide program to address the deficiencies in an agency's internal controls over payments identified during the course of implementing a payment recapture audit program, or other agency activities and reviews. The first priority of such a program is to address problems that contribute directly to agency improper payments and other instances of waste, fraud, and abuse.

**2) What are the general agency requirements for implementing a payment recapture audit program?**

Agencies shall have a cost-effective program of internal control to prevent, detect, and recover overpayments. A program of internal control may include policies and activities such as prepayment reviews, a requirement that all relevant documents be made available before making



payment, and performance of post-award audits. Effective internal controls could include payment recapture auditing techniques such as data matching with Federal, State, and local databases; and data mining and predictive modeling to identify improper payments. However, for agencies that have programs and activities that expend more than \$1 million in a fiscal year, a payment recapture audit program is a required element of their internal controls over payments if conducting such audits is cost-effective. These payment recapture audits should be implemented in a manner designed to ensure the greatest financial benefit to the Federal government.

### **3) Should agencies establish targets for their payment recapture audit programs?**

Yes, all agencies are required to establish annual targets for their payment recapture audit programs that will drive their annual performance. Agencies shall develop their own payment recapture targets for review and approval by OMB (this approval process will take place during the OMB review and approval process of draft AFRs and PARs). Agencies are expected to set targets that show an increase in recoveries over time, and OMB reserves the right to notify specific agencies that they need to establish stricter targets. An agency may set different payment recapture targets for the different types of payments it makes (for example, a given agency might set a target that encompasses all contract payments lumped together, and another target that encompasses all grant payments lumped together), or for each program. Lastly, agencies may also identify and implement additional metrics beyond these targets to evaluate their payment recapture audit programs, but these metrics shall not be used as a substitute for establishing annual recovery targets.

### **4) What is the scope for payment recapture audit programs?**

- a. All programs and activities that expend \$1 million or more annually—including grant, benefit, loan and contract programs—shall be considered for payment recapture audits.
- b. Agencies shall review their different types of programs and activities and prioritize conducting payment recapture audits on those categories that have a higher potential for overpayments and recoveries. Agencies should utilize known sources of improper payment information and give priority to recent payments and to payments made in programs identified as susceptible to significant improper payments. Possible sources of improper payment information include: statistical samples and risk assessments, agency post-payment reviews, prior payment recapture audits, agency Inspector General reviews, Government Accountability Office reports, self-reported errors, reports from the public, audit reports, and the results of the agency audit resolution and follow-up process.
- c. Agencies shall conduct a payment recapture audit program in a manner that will ensure the greatest financial benefit for the government.
- d. Agencies may exclude payments from certain programs and activities from payment recapture audit activities if the agency determines that payment recapture audits are not a cost-effective method for identifying and recapturing improper payments.

- e. The payment recapture audit contractor may, with the consent of the employing agency, notify entities (including individuals) of potential overpayments made to such entities, respond to questions concerning potential overpayments, and take other administrative actions with respect to overpayment claims made or to be made by the agency. However, the payment recapture audit contractor will not have the authority to make determinations relating to whether any overpayment occurred and whether to compromise, settle, or terminate overpayment claims.
- f. To the extent possible, any underpayments identified through the payment recapture audit process should also be corrected by the agencies. Agencies may include provisions that authorize payments to payment recapture auditors for underpayments identified.
- g. Payment recapture auditing activities should not duplicate other audits of the same (recipient or agency) records that specifically employ payment recapture audit techniques to identify and recapture overpayments. At a minimum, agencies should coordinate with their Inspectors General and other organizations with audit jurisdiction over agency programs and activities.
- h. Instances of potential fraud discovered through payment recapture audit and recapture activities shall be reported immediately to the appropriate parties as determined by specific agency policy. Such parties may include, but are not limited to, the Office of Inspector General or the Department of Justice.

**5) What criteria should an agency consider in determining whether a payment recapture audit is cost-effective?**

An agency may consider the following criteria in determining whether a payment recapture audit is cost-effective:

- a. The likelihood that identified overpayments will be recaptured. For example:
  - i. Whether laws or regulations allow recovery;
  - ii. Whether the recipient of the overpayment is likely to have resources to repay overpayments from non-Federal funds;
  - iii. Whether the evidence of overpayment is clear and convincing (e.g., the same exact invoice was paid twice) as opposed to whether the recipient of an apparent overpayment has grounds to contest, and the agency's assessment of the strength of the recipient's counterargument; and
  - iv. Whether the overpayment is truly an improper payment that can be recovered rather than a failure to properly document compliance.
- b. The likelihood that the expected recoveries will be greater than the costs incurred to identify and recover the overpayments. For example:
  - i. Can efficient techniques such as sophisticated software and matches be used to identify significant overpayments at a low cost per overpayment or will labor-intensive manual reviews of paper documentation be required?

- ii. Are tools available to efficiently perform the payment recapture audit and minimize payment recapture audit costs? Payment recapture audits are generally most efficient and effective where there is a central electronic database (e.g., a database that contains information on transactions and eligibility information) where sophisticated software can be used to perform matches and analysis to identify recoverable overpayments (e.g., duplicate payments).
- iii. How expensive will attempts to recover some or all of the overpayments be, particularly in complex financial situations, and when recipients may contest the assertion of an overpayment, especially when litigation is anticipated (in which situations, the agency should consult with its counsel and, as appropriate, with the Department of Justice)?

Agencies are encouraged to use limited scope pilot payment recapture audits in areas deemed of highest risk (e.g., based on IPFA risk assessments or estimation process) to assess the likelihood of cost-effective payment recapture audits on a larger scale.

**6) What should an agency do if it determines that a payment recapture audit program would not be cost-effective?**

If an agency determines that it would be unable to conduct a cost-effective payment recapture audit program for certain programs and activities that expend more than \$1 million, then it must notify OMB and the agency's Inspector General of this decision and include any analysis used by the agency to reach this decision. OMB may review these materials and determine that the agency should conduct a payment recapture audit to review these programs and activities. In addition, the agency shall report in its annual AFR or PAR: 1) a list of programs and activities where it has determined conducting a payment recapture audit program would not be cost-effective; and 2) a description of the justifications and analysis that it used to determine that conducting a payment recapture audit program for these programs and activities was not cost-effective.

**7) Should the agency follow any particular procedures when conducting payment recapture audits of grants payments?**

Agencies with grant programs shall consider payment recapture auditing contracts at the grant recipient level. Federal agencies should work with State and local governments to ensure that they have enough resources to conduct payment recapture audits (for example, through direct funding, allowable administrative expenses, or contingency contracts). Whenever applicable, agencies should leverage work already being carried out outside of payment recapture audits. For example, agencies are encouraged to rely on and use the audit work already being carried out under the Single Audit Act and the Uniform Guidance for federal assistance (2 CFR 200 Subpart F). Generally, Federal agencies should not look to pass-through entities for repayment of improper payments identified by payment recapture audits for funds they pass-through until repayment has been made by the sub-recipient or the final payee. Federal agencies should also coordinate among themselves to reach partnerships with grant recipients to ensure a coordinated, cost-effective approach to implement these payment recapture audit requirements. The

cognizant agency assignment model used in the Single Audit or cost allocation processes can help in streamlining the coordination between the Federal agencies and grant recipients.

**8) Can Federal agencies provide money to States and Local governments for Financial Management Improvement efforts?**

Yes. Many programs are Federally-funded but State-administered, and Federal agencies should support State efforts to reduce improper payments in these programs. As authorized in IPERA and this guidance, agencies may use up to 25 percent of funds recovered under a payment recapture audit program to support Financial Management Improvement Programs (as described in more detail in section I.D.14 below), including making a portion of this funding available to State and local governments to support their Financial Management Improvement Programs.

**9) Who may perform payment recapture audits?**

Payment recapture audits may be performed by employees of the agency, by any other department or agency of the Federal government acting on behalf of the agency, by non-Federal entities (as defined in the Uniform Guidance, 2 CFR Subpart A, section 200.69) expending Federal awards, by contractors performing payment recapture audit services under contracts awarded by the executive agency, or any combination of these options.

**10) May contractors perform payment recapture audit services?**

Yes. With respect to contracts with private sector contractors performing payment recapture audits, agencies may utilize a number of options, including a contingency contract with a private sector contractor, to conduct payment recapture audit services. With the passage of IPERA, agencies are allowed and encouraged to utilize contingency contracts for private sector contractors to implement the authorities under the new law to review all types of payments and activities.

However, certain types of payments recovered may not be available to pay the payment recapture audit costs (for instance, amounts recovered due to interim improper payments made under ongoing contracts if these amounts are still needed to make subsequent payments under the contract, recoveries from an appropriation other than a discretionary appropriation, or recovered overpayments from an appropriation that has not expired—please refer to section I.D.14 below for more details). Therefore, agencies would need to establish other funding arrangements (such as through appropriations) when making payments to private sector payment recapture audit contractors in such cases where recoveries cannot be used to pay contingency fee contracts.

**11) Are there any specific requirements when using a contracted payment recapture auditing firm?**

Agencies should require contractors to become familiar with the agency's specific policies and procedures, and take steps to safeguard the confidentiality of sensitive financial information that has not been released for use by the general public and any information that could be used to identify a person.

At a minimum, each contract for payment recapture audit services shall require the contractor to:

- a. Provide periodic reports to the agency on conditions giving rise to overpayments (e.g., root causes of overpayments) identified by the auditor and any recommendations on how to mitigate such conditions. If requested, the agency should provide the results of such analyses and related recommendations to its Office of Inspector General;
- b. Notify the agency of any overpayment identified by the contractor pertaining to the agency or to any other agency or agencies that are beyond the scope of the contracts; and
- c. Report to the agency and the agency's Office of Inspector General credible evidence of fraud or vulnerabilities to fraud, and conduct appropriate training of contractor personnel on identification of fraud.

Agencies may allow payment recapture auditors to establish a presence on, or visit, the property, premises, or offices of any subject of payment recapture audits. Such physical presence is not prohibited, and may in fact allow the payment recapture auditor to do a more thorough review of the subject's payments, and related documentation and payment files.

#### **12) Are there any prohibitions when using a payment recapture audit contractor?**

In addition to provisions that describe the scope of payment recapture audits (and any other provisions required by law, regulation, or agency policy), any contract with a private sector firm for payment recapture audit services shall include provisions that prohibit the payment recapture audit contractor from:

- a. Requiring production of any records or information by the agency's contractors. Only duly authorized employees of the agency can compel the production of information or records from the agency's contractors, in accordance with applicable contract terms and agency regulations;
- b. Using or sharing sensitive financial information with any individual or organization, whether associated with the Federal government or not, that has not been officially released for use by the general public, except for an authorized purpose of fulfilling the payment recapture audit contract; and
- c. Disclosing any information that identifies an individual, or reasonably can be used to identify an individual, for any purpose other than as authorized for fulfilling its responsibilities under the payment recapture audit contract.

#### **13) Who performs recovery activities once the improper payments are discovered and verified?**

The actual collection activity may be carried out by Federal agencies or non-Federal entities expending Federal awards, as appropriate. However, agencies or non-Federal entities may use

another private sector entity, such as a private collection agency, to perform this function, if this practice is permitted by statute. As noted above, the payment recapture audit contractor may not perform the collection activity, unless it meets the definition of a private collection agency, and the agency involved has statutory authority to utilize private collection agencies. Agencies shall ensure that applicable laws and regulations governing collection of amounts owed to the Federal government are followed.

#### 14) What is the proper disposition of recovered amounts?

Funds collected under a payment recapture audit program can be used for the following purposes:

- a. Recaptured overpayments from **expired discretionary fund accounts** that were **appropriated after** enactment of IPERA (i.e., July 22, 2010) shall be available to the agency to reimburse the actual expenses incurred by the agency for the following purposes:
  - i. To reimburse the actual expenses incurred by the agency for the administration of the program (including payments made to other agencies that carry out payment recapture audit services on behalf of the agency); and
  - ii. To pay contractors for payment recapture audit services.
  
- b. Recaptured overpayments from **expired discretionary fund accounts** that were **appropriated after** enactment of IPERA (i.e., July 22, 2010) that are not used to reimburse expenses of the agency or pay payment recapture audit contractors—as described above in section I.D.14.a—shall be used for: a financial management improvement program, the original purpose of the funds, Inspector General activities, or returned to the Treasury as miscellaneous receipts or returned to trust or special fund accounts. Each agency shall determine the actual percentage of recovered overpayments used for the purposes outlined here (up to the maximum amount allowed in the law and this guidance). Specifically:
  - i. Up to 25 percent of the recaptured funds may be used for the financial management improvement program described below in section I.D.15. This funding shall be credited, if applicable, for that purpose identified by the agency head to any agency appropriations and funds that are available for obligation at the time of collection. These funds shall be used to supplement and not supplant any other amounts available for that purpose, and shall remain available until expended. As discussed in section I.D.8, such funds can go to non-Federal entities such as State and local governments if the agency determines that is the best disposition of the funds to support its financial management improvement program.
  - ii. Up to 25 percent of the recaptured funds may be used for the original purpose. This funding shall be credited to the appropriation or fund, if any, available for obligation at the time of collection for the same general purposes as the appropriation or fund from which the overpayment was made, and shall remain available for the same period of availability and purposes as the appropriation or fund to which credited. If the appropriation from which the overpayment was

made has expired, the funds shall be newly available for the same time period as the funds were originally available for obligation. However, any funds that are recovered more than five fiscal years after the last fiscal year in which the funds were available for obligation shall be deposited in the Treasury as miscellaneous receipts.

- iii. Up to 5 percent of the recaptured funds shall be available to the agency Inspector General. The agency Inspector General may use this funding to carry out the law's requirements, and perform other activities relating to investigating improper payments or auditing internal controls associated with payments. However, the funding shall remain available for the same period of availability and purposes as the appropriation or fund to which it is credited.
  - iv. The remainder of the recaptured, expired discretionary funds that were appropriated after enactment of IPERA (i.e., July 22, 2010)—including recaptured overpayment amounts from **trust and special fund accounts**—that are not applied in accordance with the preceding 14.a.i, 14.a.ii, 14.b.i, 14.b.ii, and 14.b.iii shall be credited to the expired account from which the overpayment was made.
- c. Recaptured overpayments from **unexpired discretionary fund accounts** that were **appropriated after** enactment of IPERA (i.e., July 22, 2010) shall be credited to the account from which the overpayments were made without using it for any purposes outlined above in 14.a and 14.b.
  - d. Recaptured overpayments from **mandatory fund accounts** shall be credited to the account from which the overpayments were made without using it for any purposes outlined above in 14.a and 14.b.
  - e. In the case of recaptured overpayments from **expired or unexpired discretionary fund accounts** that were **appropriated before** enactment of IPERA (i.e., July 22, 2010), agencies have the same authorities as before IPERA was enacted. Therefore, in this case recaptured overpayments may be applied in accordance with the preceding 14.a, but shall not be applied in accordance with the preceding 14.b. The remainder shall be credited to the expired account from which the overpayment was made.
  - f. In the case of **closed accounts**, the budgetary resources are cancelled, and all recaptured overpayments shall be deposited in the Treasury as miscellaneous receipts.
  - g. Contingency fee contracts shall preclude any payment to the payment recapture audit contractor until the recoveries are actually collected by the agency.
  - h. All funds collected and all direct expenses incurred as part of the payment recapture audit program shall be accounted for specifically. The identity of all funds recovered shall be maintained as necessary to facilitate the crediting of recovered funds to the correct appropriations and to identify applicable time limitations associated with the appropriated funds recovered.

- i. Overpayments that are identified by the payment recapture auditor, but that are subsequently determined not to be collectable or not to be improper, shall not be considered “collected” for the disposition purposes outlined above.
- j. Some programs and payments have separate statutory authority or requirements to conduct payment recapture audits, and thus are not required to follow the disposition of recovered funds outlined above for funds recovered from these programs and payments. For instance, under Section 302 of Division B of the Tax Relief and Health Care Act (Section 1893 of the Social Security Act; 42 U.S.C. 1395ddd) and Section 6411 of the Patient Protection and Affordable Care Act (Pub. L. No. 111-148), the Department of Health and Human Services is required to conduct reviews of certain Medicare program payments to identify and recover improper payments, and States are required to conduct similar reviews under Medicaid. In a similar example, under the authority of 31 U.S.C. 3726, the General Services Administration audits agency transportation payments for improper payments. Agencies with oversight of such programs and payments may choose to follow the disposition uses outlined in this guidance—provided that is consistent with any other applicable statutory requirements—but are not required to do so. Disposition of payments associated with loans and loan guarantees must conform to the requirements of the Federal Credit Reform Act of 1990, as amended (2 U.S.C. 661a et. seq.)

#### **15) Are agencies authorized to implement Financial Management Improvement Programs?**

Yes. IPERA authorizes agencies to implement “financial management improvement programs.” Such programs shall take the information obtained from the payment recapture audit program (as well as other audits, reviews, or information that identify weaknesses in an agency’s internal controls), and ensure that actions are taken to improve the agency’s internal controls to address problems that directly contribute to agency improper payments. In conducting its financial management improvement programs, agency heads may also seek to reduce errors and waste in programs and activities other than where funds are recaptured.

#### **16) What are the reporting requirements for payment recapture audits?**

Agencies shall annually report information on their payment recapture audit program in their AFRs or PARs, as outlined in OMB Circular A-136.

In addition, by November 1, agencies are required to complete a separate, annual report to OMB as well as the Senate Committee on Homeland Security and Governmental Affairs and the House Committee on Oversight and Government Reform. This report shall describe any recommendations identified by the payment recapture auditor on how to mitigate conditions giving rise to overpayments, and any corrective actions the agency took during the preceding fiscal year to address the auditor recommendations. This report shall describe agency efforts during the previous fiscal year (for example, for the November 1, 2014 report, the agency would describe recommendations and actions between October 1, 2013, and September 30, 2014; subsequent reports would describe efforts for subsequent fiscal years). This report is required only for Federal agencies utilizing external contractors to conduct their payment recapture audits



and only in instances where these contractors have provided any recommendations, as described above. This report is not required for state agencies utilizing contractors to conduct their payment recapture audits.

**17) How are improper payment estimates different from payment recapture audit efforts?**

Improper payment estimates evaluate a small number of payments in a program or activity to determine if the payments were improper or proper. The results of these reviews are then extrapolated to the universe of payments in a program or activity to determine the program or activity's annual improper payment amount and rate. Payment recapture audits are not statistical samples, and instead are targeted examinations of high-risk payments which most likely can be cost-effectively recaptured (e.g., cash collected from the final payee exceeding collection costs).

## **PART II – COMPLIANCE WITH THE IMPROPER PAYMENT REQUIREMENTS**

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Part II provides guidance to assist Inspectors General and agency management in implementing improper payment requirements.

### **A. RESPONSIBILITIES OF AGENCY INSPECTORS GENERAL**

#### **1) When should each agency Inspector General begin reviewing improper payment performance to determine whether the agency is in compliance under IPERA?**

Each agency Inspector General should annually review agency improper payment reporting in the agency's annual AFR or PAR, and accompanying materials, to determine if the agency is in compliance under IPERA.

#### **2) When should the agency Inspector General complete its review of agency compliance under IPERA?**

An agency Inspector General should review the agency's annual AFR or PAR, and accompanying materials, and complete its review and determination within 180 days of their publication.

#### **3) What should each agency Inspector General review to determine if an agency is in compliance under IPERA?**

To determine compliance under IPERA, the agency Inspector General should review the agency's AFR or PAR (and any accompanying information) for the most recent fiscal year. Compliance under IPERA means that the agency has:

- a. Published an AFR or PAR for the most recent fiscal year and posted that report and any accompanying materials required by OMB on the agency website;
- b. Conducted a program specific risk assessment for each program or activity that conforms with Section 3321 note of Title 31 U.S.C. (if required);
- c. Published improper payment estimates for all programs and activities identified as susceptible to significant improper payments under its risk assessment (if required);
- d. Published programmatic corrective action plans in the AFR or PAR (if required);
- e. Published, and is meeting<sup>13</sup>, annual reduction targets for each program assessed to be at risk and estimated for improper payments (if required and applicable); and
- f. Reported a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the AFR or PAR.

If an agency does not meet one or more of these requirements, then it is not compliant under IPERA.

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<sup>13</sup> A program will have met a reduction target if the improper payment rate for that program in the current year falls within plus or minus 0.1 percentage points of the reduction target set in the previous year's AFR or PAR.

**4) What else should the agency Inspector General include in its compliance review and report?**

The report must contain a high-level summary toward the beginning of the report that (a) clearly states the agency's compliance status (i.e., compliant or non-compliant) and (b) indicates which of the six requirements the agency complied with and which requirements the agency did not comply with.

As part of this review, the agency Inspector General may also evaluate the accuracy and completeness of agency reporting, and evaluate agency performance in reducing and recapturing improper payments. For example, when reviewing the program improper payment rates, corrective action plans, and improper payment reduction targets, the Inspector General should determine if the corrective action plans are robust and focused on the appropriate root causes of improper payments, effectively implemented, and prioritized within the agency, to allow it to meet its reduction targets. As part of its report, the agency Inspector General may include its evaluation of agency efforts to prevent and reduce improper payments, and any recommendations for actions to further improve: the agency's or program's performance in reducing improper payments; corrective actions; or internal controls (see section II.C below).

Finally, as part of the annual compliance review, for agencies that have high-priority programs, the agency Inspector General shall: evaluate the agency's assessment of the level of risk associated with the high-priority programs and the quality of the improper payment estimates and methodology; determine the extent of oversight warranted; and provide the agency head with recommendations, if any, for modifying the agency's methodology, promoting continued program access and participation, or maintaining adequate internal controls.

**5) Who should the agency Inspector General notify when it has completed its determination of whether an agency is in compliance under IPERA?**

Each fiscal year, the agency Inspector General should determine whether the agency is in compliance under IPERA. Once it has completed its assessment, the agency Inspector General must submit its results to:

- a. The agency head;
- b. The Senate Committee on Homeland Security and Governmental Affairs;
- c. The House Committee on Oversight and Government Reform;
- d. The Comptroller General; and
- e. The OMB Controller.

**B. RESPONSIBILITIES FOR AGENCIES**

**1) What are the requirements for agencies not compliant under IPERA?**

Agencies that are not compliant under IPERA must complete several actions, as described below:

- a. For agencies that are not compliant for **one fiscal year**, within 90 days of the determination of non-compliance, the agency shall submit a plan to the Senate Committee on Homeland Security and Governmental Affairs, the House Committee on Oversight and Government Reform, and the OMB, describing the actions that the agency will take to become compliant. The plan shall include:
  - i. Measurable milestones to be accomplished in order to achieve compliance for each program or activity;
  - ii. The designation of a senior agency official who shall be accountable for the progress of the agency in coming into compliance for each program or activity; and
  - iii. The establishment of an accountability mechanism, such as a performance agreement, with appropriate incentives and consequences tied to the success of the senior agency official in leading agency efforts to achieve compliance for each program and activity.
  
- b. For agencies that are not compliant for **two consecutive fiscal years** for the same program or activity, the Director of OMB will review the program and determine if additional funding would help the agency come into compliance. This process will unfold as part of the annual development of the President's Budget. If the Director of OMB determines that additional funding would help the agency become compliant, the agency shall obligate an amount of additional funding determined by the Director of OMB to intensify compliance efforts. When providing additional funding for compliance efforts, the agency shall:
  - i. Exercise reprogramming or transfer authority to provide additional funding to meet the level determined by the Director of OMB; and
  - ii. Submit a request to Congress for additional reprogramming or transfer authority if additional funding is needed to meet the full level of funding determined by the Director of OMB.
  
- c. For agencies that are not compliant for **three consecutive fiscal years** for the same program or activity, within 30 days of the determination of non-compliance, the agency will submit to Congress the following, in order to bring the program or activity in question into compliance:
  - i. Reauthorization proposals for each (discretionary) program or activity that has not been in compliance for three or more consecutive fiscal years; or
  - ii. Proposed statutory changes necessary to bring the program or activity into compliance.

In addition, OMB may require agencies that are not compliant with the law (for one, two, or three years in a row) to complete additional requirements beyond those requirements listed above. For example, if a program is not compliant with the law, OMB may determine that the agency must re-evaluate or re-prioritize its corrective actions, intensify and expand existing corrective action plans, or implement or pilot new tools and methods to prevent improper payments. OMB will notify agencies of additional required actions as needed. Lastly, agencies should share any plans or proposals required by this section with their respective Inspectors General.

**C. INTERNAL CONTROL OVER IMPROPER PAYMENTS**

**1) What are the criteria as to when an agency should initially be required to obtain an opinion on internal control over improper payments?**

As agencies implement the requirements described in Parts I, II, and III of this guidance, they should approach improper payments with an internal control framework in mind. IPERA introduced the concept of internal control over improper payments. Agencies should first be given the opportunity to establish, maintain, and assess internal controls before a requirement to obtain an audit opinion on internal control over improper payments. Beginning in FY 2015, each agency reporting improper payments shall summarize the status of internal control over improper payments within the agency’s AFR or PAR using: (1) a narrative explaining efforts undertaken to provide reasonable assurance that controls are in place and working; and (2) the table illustrated below. The primary purpose of the summary is to provide a thoughtful analysis linking agency efforts in establishing internal controls and reducing improper payment rates. Agencies should leverage existing internal control plans and at a minimum should address the internal control standards provided in question C.2 below. An illustrative example for the table is provided below (see Table 2). The programs listed at the top of each column would be the programs susceptible to significant improper payments currently reporting improper payments.

Table 2: Example of the Status of Internal Controls

Internal Control Standards	Program A	Program B	Program C	Program D	Program E
Control Environment	3	2	2	4	1
Risk Assessment	4	1	4	4	1
Control Activities	4	3	2	2	2
Information and Communication	3	1	3	1	2
Monitoring	2	1	4	3	1

**Legend:**

- 4 = Sufficient controls are in place to prevent improper payments
- 3 = Controls are in place to prevent improper payments but there is room for improvement
- 2 = Minimal controls are in place to prevent improper payments
- 1 = Controls are not in place to prevent improper payments

OMB will utilize the agency internal control summaries to monitor progress and ensure that planned actions result in the outcome of reducing improper payment rates. In addition, OMB will review the status of an agency’s internal control over improper payments against the following factors to determine when an agency should be required to obtain an internal control over improper payments audit:

- a. **Current Condition of Internal Control over Improper Payments:** The current condition of internal control over improper payments can be assessed by a number of factors, including recent audit findings (e.g., financial statement, performance, or compliance audit results) and the nature of material weaknesses or scope of management's control. In addition, management's overall assurance statement required by Section 2 of the Federal Managers Financial Integrity Act should inform agency internal control plans. However, no separate assurance statement for internal control over improper payments is required.
- b. **Agency Demonstration of Progress:** If the agency is not demonstrating measurable improvements in its internal control, OMB may encourage progress by requiring an audit of internal controls over improper payments, as it may assist agencies to identify and prioritize corrective actions to long-standing internal control weaknesses. In addition, innovative and cost-effective audit resolution approaches such as the Cooperative Audit Resolution and Oversight Initiative (CAROI)<sup>14</sup> will be encouraged to address internal control weaknesses related to improper payments.

In deciding when to require an opinion on internal control over improper payments, the facts and circumstances of individual agencies will be considered on a case-by-case basis. It is expected that Inspectors General or firms contracted with to provide an audit opinion will work to leverage resources deployed as part of financial statement or performance audits and an efficient and cost-effective audit approach will be developed.

## 2) How do internal control standards apply to improper payments?

Robust internal control processes should lead to fewer improper payments. Establishing and maintaining effective internal controls—including an internal control system that prevents improper payments from being made and promptly detects and recovers any improper payments that are made—should be a priority. It is important to note that the five standards and attributes below should be applied to the specific facts and circumstances of the various agency operations and programs. In addition, management has discretion in determining the breadth and depth of the scope of assessing internal control over improper payments. These standards and attributes can be implemented to fit the circumstances, conditions, and risks relevant to the situation of each agency. For example, one agency's program might lend itself to effective improper payment detection controls at the point of agency disbursement, while another program might be primarily administered by state or local entities where the appropriateness of a disbursement can only be determined at the state or local level. In these cases, agencies should describe efforts to provide oversight to state and local governments.

- a. **Control Environment.** The agency has created a control environment that instills a cultural framework of accountability over improper payments by:
  - i. Fostering an atmosphere in which reducing improper payments are a top management priority.

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<sup>14</sup> CAROI is described in detail at <http://www.agacgfm.org/AGA/ToolsResources/documents/CAROI.pdf>.

- ii. Providing a cultural framework for managing risk by engaging key stakeholders in the risk management process.
  - iii. Increasing accountability and providing leadership in setting and maintaining the agency's ethical code of conduct and laying out defined consequences for violations.
  - iv. Clearly defining key areas of authority and responsibility and establishing appropriate lines of reporting within and external to the agency (e.g., program offices or state governments).
  - v. Ensuring that personnel involved in developing, maintaining, and implementing control activities have the requisite skills and knowledge, recognizing that staff expertise needs to be frequently updated in evolving areas such as information technology and fraud investigation.
- b. **Risk Assessment.** The agency has determined the nature and extent of improper payments by:
- i. Establishing well defined goals and objectives for eliminating improper payments and execution of corrective actions.
  - ii. Determining where risks exist, what those risks are, and the potential or actual impact of those risks on program goals, objectives, and operations.
  - iii. Using risk-assessment results to target high-risk areas and focus resources where the greatest exposure exists and return on investment can be maximized.
  - iv. Reassessing risks on a periodic basis to evaluate the impact of changing conditions, both external and internal, on program operations.
  - v. Establishing an inventory of root causes of improper payments and internal control deficiencies to develop corrective action plans for risk-susceptible programs. The inventory should include an explanation of how root causes were identified, prioritized, and analyzed to ensure corrective actions produce the highest return on investment for resolving improper payment control deficiencies.
- c. **Control Activities.** The agency has developed control activities to help management achieve the objective of reducing improper payments by:
- i. Establishing internal control activities that are responsive to management's directives to mitigate risks of improper payments (e.g., policies and procedures related to transaction authorization and approvals of program activities).
  - ii. Implementing pre-award and pre-payment reviews where detailed criteria are evaluated before funds are expended.
  - iii. Utilizing data analytics tools, such as Treasury's Do Not Pay Program, to compare information from different sources to help ensure that payments are appropriate.
  - iv. Performing cost-benefit analyses of potential control activities before implementation to help ensure that the cost of those activities to the organization is not greater than the potential benefit of the control.
- d. **Information and Communications.** The agency has effectively used and shared knowledge to manage improper payments by:

- i. Determining what information is needed by managers to meet and support initiatives aimed at preventing, reducing, and recapturing improper payments.
  - ii. Ensuring that needed information is provided to managers in an accurate and timely manner.
  - iii. Providing managers with timely feedback on applicable performance measures so they can use the information to effectively manage their programs.
  - iv. Developing educational programs to assist program participants in understanding program requirements.
  - v. Ensuring that there are adequate means of communicating with, and obtaining information from, external stakeholders that may have a significant impact on improper payment initiatives.
  - vi. Developing working relationships with other organizations to share information and pursue potential instances of waste, fraud and abuse.
  - vii. Making the results of performance reviews widely available to permit independent evaluations of the success of efforts to reduce improper payments.
- e. **Monitoring.** The agency has assessed the success of improper payment initiatives by:
- i. Adhering to existing laws and OMB guidance to institute a statistical methodology to estimate the level of improper payments being made by the agency's programs.
  - ii. Using an internal control assessment methodology that includes testing of control design and operating effectiveness and the evaluation of the significance of internal control deficiencies related to improper payments.
  - iii. Establishing program-specific targets for reducing improper payments in programs that measure and report annual improper payment estimates.
  - iv. Assessing the progress of implementation of corrective actions over time and ensuring that the root causes of improper payment internal control deficiencies are resolved.
  - v. Considering the possibility of contracting activities out to firms that specialize in specific areas where in-house expertise is not available, such as payment recapture audits and fraud detection analytics.
  - vi. Ensuring timely resolution of problems identified by audits and other reviews.
  - vii. Adjusting control activities, as necessary, based on the results of monitoring activities. The agency should periodically test the controls to ensure they are effective in identifying, preventing, and recapturing improper payments.
  - viii. Understanding any statutory or regulatory barriers that may limit the agency's corrective actions in reducing improper payments and actions taken by the agency to mitigate the barriers' effects.



## **PART III – REQUIREMENTS FOR IMPLEMENTING EXECUTIVE ORDER 13520**

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Part III discusses the requirements of Executive Order 13520—*Reducing Improper Payments*—issued November 20, 2009. IPERIA essentially codified a number of requirements from the Executive Order. Therefore, in order to reduce duplication in this document, Part III makes reference to Part I for all requirements that are found both in IPERIA and in the Executive Order.

### **A. GENERAL GUIDANCE**

#### **1) Which agencies are subject to the requirements of Executive Order 13520?**

The agencies required to comply with Executive Order 13520 are defined broadly as “a[ny] department, agency, or instrumentality in the executive branch of the United States” as defined in Title 31, Section 102 of the United States Code .

#### **2) How will OMB determine the “high-priority” programs as required under Section 2(a)(i) of the Executive Order?**

This is also an IPERIA requirement. Please refer to section I.B of this guidance.

#### **3) What are agencies required to submit for the improper payments website as required under Section 2(b) of the Executive Order?**

Agencies shall submit the following information, subject to Federal privacy policies and to the extent permitted by law:

- a. The names of the accountable officials;
- b. Current and historical rates and amounts of estimated improper payments, including, where known and appropriate, causes of the improper payments;
- c. Current and historical rates and amounts of recovery of improper payments, where appropriate (or, where improper payments are identified solely on the basis of a sample, recovery rates and amounts estimated on the basis of the applicable sample);
- d. Targets for reducing as well as recovering improper payments, where appropriate; and
- e. The entities that have received the greatest amount of outstanding improper payments (or, where improper payments are identified solely on the basis of a sample, the entities that have received the greatest amount of outstanding improper payments in the applicable sample).

#### **4) Why is program access important?**

The purpose of the Executive Order is to reduce improper payments while continuing to ensure that Federal programs serve and provide access to their intended beneficiaries. Because the Executive Order targets waste, fraud, and abuse, efforts to reduce improper payments must protect access to Federal programs by their intended beneficiaries. Therefore, efforts to reduce improper payments in high-priority programs should not deter eligible beneficiaries from seeking and receiving benefits. Furthermore, eligible beneficiaries who are receiving benefits should not

be improperly denied or removed from program benefits as a result of agency efforts to reduce improper payments.

**5) Does this guidance create any special rights?**

This guidance is not intended to, and does not create, any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. Further, this guidance is not intended to impose, and does not impose, liability on the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person for action taken pursuant to the guidance.

**B. SUPPLEMENTAL MEASURES**

**1) What are the requirements for establishing annual or semi-annual measurements in high-priority programs, also known as supplemental measures?**

Agencies with high-priority programs shall establish annual or semi-annual (or more frequent, if possible) supplemental measures (or actions) for reducing improper payments. Supplemental measures should focus on higher risk areas within the high-priority programs and report on root causes of improper payments that agencies can resolve through corrective actions. In addition, the measures should use available and accessible information (e.g., claims, payments, files) for the current year rather than previous years to the extent possible. Lastly, the supplemental measures do not have to meet the statistical requirements of section I.A.9.

Possible measurement examples include:

- a. *A measurement that focuses on the main cause of improper payments in the program.* For example, if documentation is the leading cause of improper payments in a high-priority program, then the program could establish a measurement that focuses on that specific issue;
- b. *A measurement that focuses on one of the main causes of improper payments in the program.* For example, if an agency is unable to identify the leading root cause of improper payments, it could establish a measure to examine another major root cause of improper payments; or
- c. *A measurement or set of measurements of contributing factors or proxy indicators of improper payments in the program.* For example, if an agency can identify a timely measured factor known to move in the same or inverse direction of improper payments, while not a main cause, it could establish a measure or set of factor measures.

**2) Which tools should agencies use to identify supplemental measures?**

When identifying areas within the high-priority program that should be part of the supplemental measurement requirement, agencies should focus on areas that will provide the greatest rate of return on investment to the program. To identify such areas where agencies could achieve

optimal impact on improper payment prevention and reduction, the agencies should analyze their programs and root causes of improper payments through two perspectives:

- a. The degree to which an agency has control over reducing improper payments within a program:
  - i. *More Control* – Improper payments that could be addressed through administrative or regulatory changes based on existing program requirements;
  - ii. *Less Control* – Improper payments that require statutory changes at the Federal or State level
- b. The impact on agency outlays:
  - i. *High-Impact Improper Payments* – High-dollar improper payments that may be intentional (e.g., fraud), or unintentional (but still high dollar) and have a large impact on Federal outlays;
  - ii. *Low-Impact Improper Payments* – Small-dollar improper payments (e.g. infrequent data entry mistakes, errors due to lack of supporting documentation) that likely have a minimal impact on Federal outlays.

Using these two identified areas, the matrix below shows four different quadrants that agencies can consider when developing supplemental measures for high-priority programs (i.e., high-impact improper payments within agency control, low-impact improper payments within agency control, high-impact improper payments not within agency control, and low-impact improper payments not within agency control). OMB recommends that agencies focus on root causes of improper payments within high-priority programs that would be within the program’s ability (or control) to reduce, or which would impact program outlays.

Table 3: Considerations for Developing Supplemental Measures

	<i>More Control</i>	<i>Less Control</i>
<i>High Impact</i>	<ul style="list-style-type: none"> <li>• Fraud</li> <li>• System errors</li> <li>• Agency policies</li> </ul>	<ul style="list-style-type: none"> <li>• Statutory definitions and requirements</li> </ul>
<i>Low Impact</i>	<ul style="list-style-type: none"> <li>• Infrequent data entry errors by Federal agencies (with low-dollar impact)</li> </ul>	<ul style="list-style-type: none"> <li>• Infrequent instances of State agencies lacking minor documentation (with low-dollar impact)</li> </ul>

**3) Who is required to establish annual or semi-annual measurements under the Executive Order?**

Under the Executive Order, agencies with high-priority programs are required to establish annual or semi-annual measurements or actions for reducing improper payment:

- a. For high-priority programs that already report an annual estimate, agencies should develop annual or semi-annual supplemental measurements within 180 days of a program being deemed high-priority; or
- b. For high-priority programs that are establishing or revising their estimation methodology, agencies should work with OMB to establish a plan for meeting the Executive Order

supplemental measure requirements within 180 days of a program being deemed high-priority.

If a high-priority program is unable to conduct or report supplemental measurements (e.g., due to data restrictions, or resource constraints), it may work with OMB to meet this requirement in another manner (e.g., to develop a supplemental measure using an alternative time frame or an alternative type of information).

**4) How should agencies establish annual or semi-annual targets for supplemental measures?**

Agencies with high-priority programs will work with OMB to establish—and/or update—annual or semi-annual supplemental measures and targets required by the Executive Order. When establishing supplemental measures, agencies should set aggressive targets (e.g., targets for improved performance in the future) and develop supporting analytics (e.g., projected impact of corrective actions or regulatory changes that might lead to lower rates) on how the agency chose those targets. Targets for supplemental measures in high-priority programs will be set once an initial supplemental measurement is reported. If the program shows significant progress in reducing improper payments or meeting supplemental measure targets, the program may work with OMB to develop different supplemental measures and targets to focus on another high-impact area.

**5) Are the reduction targets described in section I.A.9 of this guidance the same as the supplemental targets that agencies will set to comply with the Executive Order?**

No, agencies will need to establish two sets of targets for high-priority programs:

- a. Reduction targets for all programs susceptible to significant improper payments under IPJA, as described in section I.A.9, step 3.b of this guidance and OMB Circular A-136; and
- b. Annual or semi-annual supplemental measures and related targets.

**6) How will agencies report annual or semi-annual supplemental measures and targets?**

Agencies shall post supplemental measures to [PaymentAccuracy.gov](http://PaymentAccuracy.gov) annually or semi-annually—depending on the frequency of the measure and to the extent possible. In addition, agencies shall ensure that their AFRs or PARs contain a basic summary discussing the supplemental measures, the frequency of each supplemental measurement (i.e., how often will the area be measured and reported on [PaymentAccuracy.gov](http://PaymentAccuracy.gov)), the measurement baseline, a discussion of how information from this measurement will help the program reduce improper payments, and the actual (or planned) targets, including any reasons for meeting, exceeding, or failing to meet the supplemental targets.

## **C. ACCOUNTABLE OFFICIAL REQUIREMENTS**

### **1) Which agencies are responsible for establishing accountable officials under Section 3(a) of the Executive Order?**

Agencies with high-priority programs, as determined under Section 2 of the Executive Order, are required to designate an agency accountable official to oversee agency efforts to reduce improper payments. Agencies with high-priority programs should also designate a component accountable official—responsible for efforts within a component or bureau—if a single component or bureau makes up a significant portion of the agency’s improper payments. The component accountable official should work within the component or bureau to coordinate the bureau’s program integrity efforts.

OMB encourages all agencies to appoint improper payment accountable officials and to continually assess the effectiveness of its internal controls for preventing and detecting improper payments. However, if an agency without a high-priority program elects to appoint an accountable official, the agency is not expected to fulfill the specific requirements under the Order related to high-priority programs.

### **2) Who may serve as an agency or component accountable official under Section 3(a) of the Executive Order?**

An agency’s accountable official must hold an existing position that requires Senate confirmation; in other words, agencies do not have to create a new position. The second component accountable official does not have to hold a Senate-confirmed position. Agencies must submit each accountable official’s name and position to the Director of OMB (including any acting accountable officials) for review and approval by the Director within 30 calendar days of a vacancy (e.g., retirement or resignation).

In subsequent years, if an agency did not previously have a high-priority program but has a newly designated high-priority program, the agency has 30 calendar days from the date of the announcement of a new high-priority program to submit the name and position of proposed agency and component accountable officials.

### **3) What are the accountable officials’ roles and responsibilities?**

Each accountable official is responsible for the agency’s or component’s efforts to implement the Executive Order and its requirements. For instance, accountable officials are responsible for meeting improper payment reduction targets in a manner that does not negatively impact program access. Implementing the Executive Order should represent a significant responsibility and be a major focus of the accountable official and the second component accountable official.

### **4) What are the agency requirements for providing a report to their IGs in response to Section 3(b) of the Executive Order?**

This is also an IPERIA requirement. Please refer to section I.B.4 of this guidance.

**5) What are the Inspector General's responsibilities with respect to the report under Section 3(b) of the Executive Order?**

This is also an IPERIA requirement. Please refer to section I.B.4 of this guidance.

**D. AGENCY HEAD QUARTERLY HIGH-DOLLAR REPORT TO THE INSPECTOR GENERAL**

**1) What is a "high-dollar" overpayment?**

A high-dollar overpayment can be made to an individual<sup>15</sup> or an entity<sup>16</sup>. A high-dollar overpayment is any overpayment that is in excess of 50 percent of the correct amount of the intended payment under the following circumstances:

- a. Where the total payment to an individual exceeds \$25,000 as a single payment or in cumulative payments for the quarter; or
- b. Where the total payment to an entity exceeds \$100,000 as a single payment or in cumulative payments for the quarter.

The Executive Order requires some agencies to report on their high-dollar overpayments on a quarterly basis. The following are examples, for illustrative purposes only, of overpayments that would need to be included in an agency's quarterly report on high-dollar overpayments:

*Scenario 1:* A single payment, or cumulative payments for the quarter, to the wrong individual or entity that exceeds the respective \$25,000 or \$100,000 limit. In this case, the full payment would be reported as a high-dollar overpayment.

*Scenario 2:* A single payment, or cumulative payments for the quarter, to the correct individual of \$26,000 (the payment exceeds \$25,000) when the intended amount was \$16,000. In this case, an overpayment was made in the amount of \$10,000 (which is more than 50 percent higher than the intended amount). Therefore, this scenario meets the criteria to qualify as a high-dollar improper payment to an individual. The amount to be reported as a high-dollar overpayment is \$10,000.

*Scenario 3:* A single payment, or cumulative payments for the quarter, to the correct entity of \$106,000 (the payment exceeds \$100,000) when the intended amount was \$70,000. In this case, an overpayment was made in the amount of \$36,000 (which is more than 50 percent higher than the intended amount). Therefore, this scenario meets the criteria to qualify as a high-dollar improper payment to an entity. The amount to be reported as a high-dollar overpayment is \$36,000.

Please note that if the agency has corrected the overpayment within the quarter in which the payment was made, it does not need to be reported as a high-dollar overpayment.

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<sup>15</sup> For purposes of this guidance, an individual is someone acting in either a personal or commercial capacity (that is, a sole proprietor).

<sup>16</sup> For purposes of this guidance, an entity is a non-individual or a Federal, State, and local government agency.

**2) Which sources should agencies utilize to identify high-dollar overpayments?**

High-dollar overpayments can be identified by examining one or more relevant sources of information available to agencies. For instance, agencies could identify high-dollar overpayments, where applicable and cost-effective, through:

- a. Annual improper payment testing samples;
- b. Payment recapture audits; or
- c. Other sources identified by the agency.

**3) What information should be included in agency reporting on high-dollar overpayments?**

This information is subject to Federal privacy laws, regulations, and policies, and should not include information about improper payments or recipients that the agency has referred, or anticipates referring, to the Department of Justice for enforcement, collection, or other legal action. At a minimum, the report should describe:

- a. The total amount of high-dollar overpayments made by the agency (the agency does not need to list each individual high-dollar overpayment in the report);
- b. Any actions the agency has taken or plans to take to recover high-dollar overpayments (the report should address overall actions and strategies); and
- c. Any actions the agency will make to prevent overpayments from occurring in the future (the report should address overall actions and strategies).

**4) Which agencies must report on high-dollar overpayments? Where shall agencies report high-dollar overpayments to the public? What if an agency has no high-dollar overpayments?**

Agencies with programs susceptible to significant improper payments under the IPIA are required to report quarterly on high-dollar overpayments that occurred within those specific programs. Agencies may report this information to the public on their own website, or through other mechanisms designed to allow the public to access agency information. For any given quarter, if an agency with programs susceptible to significant improper payments has had no high-dollar overpayments, then the agency should inform OMB and the agency's Inspector General that the agency had no high-dollar overpayments in that quarter. Agencies without any programs susceptible to significant improper payments do not need to report or notify either OMB or the Inspector General.

**5) Are there exceptions to the reporting requirements for the high-dollar report?**

If an agency believes that the high-dollar report is duplicative of other reports compiled by the agency, they may submit a written request to OMB for an alternative reporting structure. Included in the request should be a listing of the other report(s) and a detailed description of how those reports provide the same information as the high-dollar report. After reviewing any such request, OMB may permit agencies to leverage existing reporting mechanisms in lieu of separate quarterly high-dollar overpayment reports.