

THE FEDERAL GOVERNMENT'S EFFORTS TO CURB WASTEFUL SPENDING

A Look at the Executive Order to Reduce Improper Payments from an IG's Perspective

BY INSPECTOR GENERAL PATRICK O'CARROLL, JR.

Federal agencies made nearly \$110 billion in improper payments in fiscal year 2009—the highest amount to date, an amount President Obama recently called, “unacceptable.” As Office of Inspector General employees we appreciate that taxpayers deserve to know that their dollars are spent wisely and effectively; when government benefits are administered, the right people need to receive the right payment at the right time. Since the president signed Executive Order 13520 on Reducing Improper Payments in November 2009, federal agencies and their inspectors general have worked closely with the Office of Management and Budget, and the U.S. Treasury, to identify improper payments and design solutions to reduce wasteful spending.

The Office of Inspector General at the Social Security Administration has had an interesting view of the process since the executive order was signed, because the order included a number of provisions that required input from the Council of Inspectors General on Integrity and Efficiency. SSA OIG was asked to serve as a liaison for the CIGIE to work with OMB on the implementation of the order; that liaison role has included attending workgroup meetings, reviewing and commenting on work plans, and coordinating among IGs, OMB, and the U.S. Treasury.

Significant progress has been made to reduce improper payments since November 2009. The order outlined a



strategy to reduce improper payments by boosting transparency, holding agencies accountable, and creating strong incentives for compliance. In March, the president directed all federal agencies to expand their payment recapture audits, and in June, he followed up by establishing a federal “Do Not Pay List” so that there is one source for agencies to check on the eligibility status of an individual or contractor. Recently, the president signed into law the *Improper Payments Elimination and Recovery Act* to help achieve his new goal of reducing wasteful spending by \$50 billion by 2012.

Reducing improper payments is among the president's top priorities. Federal agencies are being asked to improve the reporting of improper payments and the controls they have in place to limit those payments. As an agency IG, we are focused on assisting our agency, SSA, in that process, as well as offering any guid-

ance needed from OMB in moving forward.

TRACKING IMPROPER PAYMENTS

Improper payments are payments from a federal program that should not have been made or were made in an incorrect amount; not all improper payments are overpayments, as underpayments may also be considered improper. Improper payments cover a number of financial transactions, such as incorrect payments to individuals or firms or benefit payments to ineligible program participants. These payments can be the result of documentation and administrative errors, authentication and medical errors, or verification errors. Some examples of improper payments are payments made to an ineligible recipient, duplicate payments, or payments for services not received. Additionally, when an agency's



review is unable to determine the accuracy of the payment, the payment must also be considered an error.

In fiscal year 2009, 78 government programs were deemed “susceptible,” meaning that the programs had more than \$10 million in improper payments, but seven “high-priority” programs drew the most attention because they all reported improper payments in excess of \$1 billion in the previous fiscal year. The Department of Health and Human Services, which administers the Medicare and Medicaid programs, led all of the “high-priority” programs with \$66.4 billion in improper payments. The Department of Labor, in charge of unemployment insurance, had \$12.3 billion; SSA’s retirement and disability programs had \$8 billion; the Department of Agriculture, which runs the School Lunch program and Supplemental Nutrition Assistance, had \$4.3 billion in improper payments; and the Department of Transportation, which handles Federal Highway Planning and Construction, had \$1.5 billion. The Department of Housing and Urban Development and the U.S. Treasury rounded out the seven

agencies running “high-priority” programs.

According to the White House, these improper payments included payments made in error or because of fraudulent claims by contractors and organizations, as well as benefits sent to individuals who are deceased or in jail. In fact, over the past three years, federal auditors reported that the government paid out benefits totaling more than \$180 million to approximately 20,000 Americans who were deceased; and more than \$230 million in benefits to approximately 14,000 fugitive felons or prison inmates that were not eligible for benefits.

Federal agencies are deep in the process of identifying their improper payments and the reasons for these errors. SSA, for example, identifies its improper payments through stewardship reviews of the nonmedical aspects of Retirement, Survivors’, and Disability Insurance and Supplemental Security Income on an annual basis. Between fiscal years 2004 and 2008, SSA reported about \$5.8 billion in improper payments paid to retirement and survivors’ beneficiaries about

\$8.1 billion in improper payments paid to disability insurance beneficiaries and about \$20 billion in improper payments paid to SSI recipients. Based on agency research, the majority of SSA’s improper payments occurred because of verification and local administration errors. Those errors include non-verification of earnings, income, assets, or work status; and inputting, classifying, or processing applications incorrectly.

RESOLVING THE ISSUE

Resolving the issue of improper payments for all government agencies revolves around three categories of action: boosting transparency, holding agencies accountable, and creating strong incentives for compliance.

In terms of boosting transparency, the order calls for several provisions, including:

- Creating an online dashboard of key indicators and statistics on improper payments.
- Creating and publicizing an online tool for the public to report suspected incidences of fraud, waste, or abuse.
- Requiring agencies to establish more frequent error reduction targets.
- Issuing recommendations on ways to measure program access for intended beneficiaries.

With regard to holding agencies accountable, the order’s provisions include:

- Requiring each agency to designate a current, Senate-confirmed appointee to be accountable to the president for meeting improper payment reduction targets.
- Requiring that all targets for improper payments show reduction and/or improvement and sharing the agency’s plans for meeting the reduction targets with the agency’s IG.
- Issuing recommendations on new

internal techniques agencies could use to better detect and mitigate improper payments.

Finally, in terms of creating incentives for compliance, the order requests that agencies:

- Consider administrative actions to provide state, local, and other organizations with incentives for reducing improper payments.
- Enhance contractor accountability by pursuing methods such as subjecting contractors to suspension and financial penalties for failing to disclose significant overpayments received on government contracts.



CIGIE/INSPECTOR GENERAL RESPONSIBILITIES

The effort to reduce improper payments across the broad spectrum of the federal government involves many different agencies with different operations. Therefore, collaboration and consultation are necessary and this is where CIGIE comes into play.

OMB established eight inter-agency workgroups to focus on the implementation of the order: Executive Order Guidance, Improving Measures of Access, Publishing Web sites, Improving Information Sharing, Single Audits, Incentives and Accountability, Enhancing Contractor Accountability, and Forensic Accounting and Auditing. These workgroups have made recommendations to OMB and the U.S. Treasury on actions agencies should take or controls for measuring programs and detecting improper payments; by identifying and measuring the problem, and determining the root causes of error, the government will be able to focus and prioritize its resources so that corrective actions can be developed and carried out. Throughout the process, CIGIE has consulted the workgroups on measurements, single audits, incentives, and accountability recommendations.

OMB tasked the U.S. Treasury with publishing an improper payments online dashboard and an online tool for reporting improper payments. CIGIE consulted with the U.S. Treasury during the process, making recommendations on improving information sharing with the public. The new Web site on improper payments—www.paymentaccuracy.gov—was launched in June to the public and contains high-level, historical information about improper payments, risk-susceptible programs, and actions agencies are taking to reduce wasteful spending. The

site also includes a link for the public to report fraud, waste, and abuse related to high-priority programs in agencies such as HHS, DOL, SSA, USDA, and DOT.

The order also requires that agencies operating high-priority programs provide an annual improper payment report and a quarterly high-dollar report (quarterly improper payments of more than \$5,000 to an individual or more than \$25,000 to an entity) to its OIG in May. The OIG's review of its agency's annual report is expected to be completed in September, while the review of the quarterly high-dollar report should be completed in December.

SSA RECOVERY EFFORTS

In SSA's case, the agency has a number of programs in place to protect the public's tax dollars and ensure a more efficient and effective government:

The agency is committing nearly \$760 million toward program integrity efforts for fiscal year 2010, an increase of more than \$250 million over the previous year's funding.

SSA conducts both medical and work-based continuing disability reviews to determine if a beneficiary remains eligible, as well as SSI redeterminations to re-evaluate any nonmedical factors that would affect eligibility or the benefit amount.

The agency is also participating in the Partnership Fund for Program Integrity Innovation initiative, which works to identify ways to improve service delivery, payment accuracy, and administrative efficiency of assistance programs with shared federal and state responsibilities.

Additionally, SSA has a debt collection program to recover all types of overpayments. SSA reports that it collected more than \$3 billion in Retirement, Survivors, and Disability Insur-

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-Commissioner Astrue

ance and SSI benefit payments in fiscal year 2009. To recover overpayments, the agency uses internal debt collection techniques, such as payment withholding and follow-up billing, as well as external debt collections authorized by the *Debt Collection Improvement Act of 1996* and the *Foster Care Independence Act of 1999*.

Social Security Commissioner Michael J. Astrue is serving as the agency's accountable official. In a message to SSA employees in August, Commissioner Astrue said that agency employees must work diligently to strengthen the integrity of its programs to curb improper payments. “One of our most basic responsibilities is to ensure that we are paying eligible beneficiaries the right amount at the right time,” Commissioner Astrue said. “We administer very complex programs for the public, paying nearly \$60 billion in benefits each month to our beneficiaries. While such complexities can lead to improper pay-

ments, each of us has a duty to protect taxpayer dollars by minimizing these improper payments.”

IMPROPER PAYMENTS ELIMINATION AND RECOVERY ACT

When President Obama signed the *Improper Payments Elimination and Recovery Act* in July, he stated that the legislation would “help ensure that our government serves as a responsible steward for the tax dollars of the American people, and builds on the efforts we’re taking to cut wasteful spending.”

According to the White House, the IPERA will complement and help implement the administration's campaign against improper payments. Specifically, the legislation will improve agency efforts to reduce and recover improper payments in several ways, including:

- *Identification and Estimation of Improper Payments:* The IPERA requires agencies to conduct annual risk assessments, and if a program is found to be susceptible to significant improper payments, then agencies must measure improper payments in that program. Further, over time, the IPERA lowers the threshold for determining whether a program is susceptible to improper payments.
- *Payment Recapture Audits:* The IPERA expands the types of programs that are required to conduct payment recovery audits (from contracts to all types of programs and activities, including grants, benefits, loans, and contract payments), and lowers the threshold for programs and activities that must conduct these reviews if cost-effective (from \$500 million to \$1 million in annual outlays).

- *Use of Recovered Improper Payments:* The IPERA also authorizes agency heads to use recovered funds for additional uses to those currently allowed, including: to improve their financial management, to support the agency's OIG, and for the original intent of the funding.
- *Compliance and Non-Compliance Requirements:* Currently, if an agency does not reduce improper payments or implement the existing law, there are no repercussions. Under the IPERA, there is a list of actions that an agency must take to be in compliance with the law, and the agency IG is responsible for determining whether the agency is in compliance. If the agency is found not to be in compliance, then the IPERA contains a series of actions that the agency must take to improve its error reduction efforts.

For CIGIE, the new law includes a provision that requires the Federal Chief Financial Officer's Council to consult with CIGIE, as well as recovery audit experts, on a study of the implementation of the law's recovery audit provision. The study will include the costs and benefits of agency recovery audit activities, and will evaluate the effectiveness of using private contractors, agency employees, employees from other agencies, or some combination of these groups to do recovery auditing. The report will go to the Senate Committee on Homeland Security and Governmental Affairs, the House of Representatives Committee on Oversight and Government Reform, and the



Comptroller General—it must be completed within two years of enactment of the act (July 22, 2012).

For each OIG, there are several provisions in the new law that will have an effect on OIG operations. First, the new law allows up to five percent of the amounts collected from recovery auditing by an agency to be used by the IG of that agency. The money is to be used to carry out this new law or for any other activities of the IG relating to investigating improper payments or auditing internal controls associated with payments. This provision would apply only to recoveries of overpayments from discretionary appropriations made after enactment, or July 22, 2010. Also, agencies can retain up to 25 percent to be used to address improper payments.

The new law also requires each agency's IG to report each fiscal year on its agency's compliance with this act. The IG's report is to be provided to the head of the agency, the Senate Committee on Homeland Security and Governmental Affairs, the House of Representatives Committee on Oversight and Governmental Reform, and the Comptroller General.

If an agency is determined by the IG to be non-compliant for two consecutive years for the same program

or activity, then the agency may have to put more money and resources into addressing improper payments. Specifically, if there are two consecutive years of non-compliance with this new law and the director of OMB determines that additional funding would help the agency come into compliance, the head of the agency shall obligate additional funding in an amount determined by OMB, to increase compliance efforts.

An additional provision in the new law will affect OIGs down the road. Specifically, there is a requirement that OMB must develop criteria as to when an agency should be required to obtain an opinion on internal controls over improper payments. OMB is to develop this criteria within a year of enactment of the law—July 22, 2011.

CONCLUSION

The president has outlined an aggressive plan of action to reduce wasteful spending throughout the federal government, announcing a public goal of cutting improper payments by \$50 billion in the next two years. Thus far, agencies have complied with requests to report their improper payments and identify the causes of those monetary errors. This important collaboration among federal agencies, OMB, the U.S. Treasury, and the CIGIE will continue in an effort to reduce improper payments and improve administrative efficiency and service delivery.

For more information on improper payments, visit www.paymentsaccuracy.gov. For more information on SSA's efforts to reduce improper payments, visit www.ssa.gov/improperpayments. ❧



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Patrick P. O'Carroll, Jr. currently serves as the inspector general for the Social Security Administration, having been appointed to that position on November 24, 2004.

Prior to his appointment as Inspector General, Mr. O'Carroll held a number of increasingly responsible positions in the SSA OIG organization, including assistant inspector general for investigations and assistant inspector general for external affairs. Mr. O'Carroll also brought to the OIG the benefits of his 26 years of experience with the U.S. Secret Service.

Mr. O'Carroll received a B.S. from Mount Saint Mary's College in Emmitsburg, Maryland, and a Master of Forensic Sciences from the George Washington University, Washington, D.C. He also attended the National Cryptologic School and the Kennedy School at Harvard University. Mr. O'Carroll is a member of the International Association of Chiefs of Police and the Association of Government Accountants.

