

ficers Act of 1990 [Pub. L. 101-576] (31 U.S.C. 901) [see Short Title of 1990 Amendment note set out under section 501 of this title] and identify reforms or improvements, if any, to the legislative and regulatory compliance framework for Federal financial management that will optimize Federal agency efforts to—

“(A) publish relevant, timely, and reliable reports on Government finances; and

“(B) implement internal controls that mitigate the risk for fraud, waste, and error in Government programs; and

“(2) jointly submit a report on the results of the examination to—

“(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(B) the Committee on Oversight and Government Reform of the House of Representatives; and

“(C) the Comptroller General.”

IMPROPER PAYMENTS

Pub. L. 107-300, Nov. 26, 2002, 116 Stat. 2350, as amended by Pub. L. 111-204, §2(a)-(f), July 22, 2010, 124 Stat. 2224-2228, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Improper Payments Information Act of 2002’.

“SEC. 2. ESTIMATES OF IMPROPER PAYMENTS AND REPORTS ON ACTIONS TO REDUCE THEM.

“(a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—

“(1) IN GENERAL.—The head of each agency shall, in accordance with guidance prescribed by the Director of the Office of Management and Budget, periodically review all programs and activities that the relevant agency head administers and identify all programs and activities that may be susceptible to significant improper payments.

“(2) FREQUENCY.—Reviews under paragraph (1) shall be performed for each program and activity that the relevant agency head administers during the year after which the Improper Payments Elimination and Recovery Act of 2010 is enacted [July 22, 2010] and at least once every 3 fiscal years thereafter. For those agencies already performing a risk assessment every 3 years, agencies may apply to the Director of the Office of Management and Budget for a waiver from the requirement of the preceding sentence and continue their 3-year risk assessment cycle.

“(3) RISK ASSESSMENTS.—

“(A) DEFINITION.—In this subsection the term ‘significant’ means—

“(i) except as provided under clause (ii), that improper payments in the program or activity in the preceding fiscal year may have exceeded—

“(I) \$10,000,000 of all program or activity payments made during that fiscal year reported and 2.5 percent of program outlays; or

“(II) \$100,000,000; and

“(ii) with respect to fiscal years following September 30th of a fiscal year beginning before fiscal year 2013 as determined by the Office of Management and Budget, that improper payments in the program or activity in the preceding fiscal year may have exceeded—

“(I) \$10,000,000 of all program or activity payments made during that fiscal year reported and 1.5 percent of program outlays; or

“(II) \$100,000,000.

“(B) SCOPE.—In conducting the reviews under paragraph (1), the head of each agency shall take into account those risk factors that are likely to contribute to a susceptibility to significant improper payments, such as—

“(i) whether the program or activity reviewed is new to the agency;

“(ii) the complexity of the program or activity reviewed;

“(iii) the volume of payments made through the program or activity reviewed;

“(iv) whether payments or payment eligibility decisions are made outside of the agency, such as by a State or local government;

“(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; and

“(vii) significant deficiencies in the audit report of the agency or other relevant management findings that might hinder accurate payment certification.

“(b) ESTIMATION OF IMPROPER PAYMENTS.—With respect to each program and activity identified under subsection (a), the head of the relevant agency shall—

“(1) produce a statistically valid estimate, or an estimate that is otherwise appropriate using a methodology approved by the Director of the Office of Management and Budget, of the improper payments made by each program and activity; and

“(2) include those estimates in the accompanying materials to the annual financial statement of the agency required under section 3515 of title 31, United States Code, or similar provision of law and applicable guidance of the Office of Management and Budget.

“(c) REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.—With respect to any program or activity of an agency with estimated improper payments under subsection (b), the head of the agency shall provide with the estimate under subsection (b) a report on what actions the agency is taking to reduce improper payments, including—

“(1) a description of the causes of the improper payments, actions planned or taken to correct those causes, and the planned or actual completion date of the actions taken to address those causes;

“(2) in order to reduce improper payments to a level below which further expenditures to reduce improper payments would cost more than the amount such expenditures would save in prevented or recovered improper payments, a statement of whether the agency has what is needed with respect to—

“(A) internal controls;

“(B) human capital; and

“(C) information systems and other infrastructure;

“(3) if the agency does not have sufficient resources to establish and maintain effective internal controls under paragraph (2)(A), a description of the resources the agency has requested in its budget submission to establish and maintain such internal controls;

“(4) program-specific and activity-specific improper payments reduction targets that have been approved by the Director of the Office of Management and Budget; and

“(5) a description of the steps the agency has taken to ensure that agency managers, programs, and, where appropriate, States and localities are held accountable through annual performance appraisal criteria for—

“(A) meeting applicable improper payments reduction targets; and

“(B) establishing and maintaining sufficient internal controls, including an appropriate control environment, that effectively—

“(i) prevent improper payments from being made; and

“(ii) promptly detect and recover improper payments that are made.

“(d) REPORTS ON ACTIONS TO RECOVER IMPROPER PAYMENTS.—With respect to any improper payments identified in recovery audits conducted under section 2(h) of the Improper Payments Elimination and Recovery Act of 2010 [Pub. L. 111-204] (31 U.S.C. 3321 note), the head of the agency shall provide with the estimate under subsection (b) a report on all actions the agency is taking to recover improper payments, including—

“(1) a discussion of the methods used by the agency to recover overpayments;



“(2) the amounts recovered, outstanding, and determined to not be collectable, including the percent such amounts represent of the total overpayments of the agency;

“(3) if a determination has been made that certain overpayments are not collectable, a justification of that determination;

“(4) an aging schedule of the amounts outstanding;

“(5) a summary of how recovered amounts have been disposed of;

“(6) a discussion of any conditions giving rise to improper payments and how those conditions are being resolved; and

“(7) if the agency has determined under section 2(h) of the Improper Payments Elimination and Recovery Act of 2010 (31 U.S.C. 3321 note) that performing recovery audits for any applicable program or activity is not cost-effective, a justification for that determination.

“(e) GOVERNMENTWIDE REPORTING OF IMPROPER PAYMENTS AND ACTIONS TO RECOVER IMPROPER PAYMENTS.—

“(1) REPORT.—Each fiscal year the Director of the Office of Management and Budget shall submit a report with respect to the preceding fiscal year on actions agencies have taken to report information regarding improper payments and actions to recover improper overpayments to—

“(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

“(B) the Committee on Oversight and Government Reform of the House of Representatives.

“(2) CONTENTS.—Each report under this subsection shall include—

“(A) a summary of the reports of each agency on improper payments and recovery actions submitted under this section;

“(B) an identification of the compliance status of each agency to which this Act applies;

“(C) governmentwide improper payment reduction targets; and

“(D) a discussion of progress made towards meeting governmentwide improper payment reduction targets.

“(f) DEFINITIONS.—In this section:

“(1) AGENCY.—The term ‘agency’ means an executive agency, as that term is defined in section 102 of title 31, United States Code.

“(2) IMPROPER PAYMENT.—The term ‘improper payment’—

“(A) means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

“(B) includes any payment to an ineligible recipient, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), and any payment that does not account for credit for applicable discounts.

“(3) PAYMENT.—The term ‘payment’ means any transfer or commitment for future transfer of Federal funds such as cash, securities, loans, loan guarantees, and insurance subsidies to any non-Federal person or entity, 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.

“(4) PAYMENT FOR AN INELIGIBLE GOOD OR SERVICE.—The term ‘payment for an ineligible good or service’ shall include a payment for any good or service that is rejected under any provision of any contract, grant, lease, cooperative agreement, or any other funding mechanism.

“(g) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—

“(1) IN GENERAL.—Not later than 6 months after the date of enactment of the Improper Payments Elimination and Recovery Act of 2010 [July 22, 2010], the Director of the Office of Management and Budget

shall prescribe guidance for agencies to implement the requirements of this section. The guidance shall not include any exemptions to such requirements not specifically authorized by this section.

“(2) CONTENTS.—The guidance under paragraph (1) shall prescribe—

“(A) the form of the reports on actions to reduce improper payments, recovery actions, and governmentwide reporting; and

“(B) strategies for addressing risks and establishing appropriate prepayment and postpayment internal controls.”

EX. ORD. NO. 13520. REDUCING IMPROPER PAYMENTS

Ex. Ord. No. 13520, Nov. 20, 2009, 74 F.R. 62201, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in the interest of reducing payment errors and eliminating waste, fraud, and abuse in Federal programs, it is hereby ordered as follows:

SECTION 1. *Purpose.* When the Federal Government makes payments to individuals and businesses as program beneficiaries, grantees, or contractors, or on behalf of program beneficiaries, it must make every effort to confirm that the right recipient is receiving the right payment for the right reason at the right time. The purpose of this order is to reduce improper payments by intensifying efforts to eliminate payment error, waste, fraud, and abuse in the major programs administered by the Federal Government, while continuing to ensure that Federal programs serve and provide access to their intended beneficiaries. No single step will fully achieve these goals. Therefore, this order adopts a comprehensive set of policies, including transparency and public scrutiny of significant payment errors throughout the Federal Government; a focus on identifying and eliminating the highest improper payments; accountability for reducing improper payments among executive branch agencies and officials; and coordinated Federal, State, and local government action in identifying and eliminating improper payments. Because this order targets error, waste, fraud, and abuse—not legitimate use of Government services—efforts to reduce improper payments under this order must protect access to Federal programs by their intended beneficiaries.

SEC. 2. *Transparency and Public Participation.*

(a) Within 90 days of the date of this order, the Director of the Office of Management and Budget (OMB) shall:

(i) identify Federal programs in which the highest dollar value or majority of Government-wide improper payments occur (high-priority programs);

(ii) establish, in coordination with the executive department or agency (agency) responsible for administering the high-priority program annual or semi-annual targets (or where such targets already exist, supplemental targets), as appropriate, for reducing improper payments associated with each high-priority program;

(iii) issue Government-wide guidance on the implementation of this order, including procedures for identifying and publicizing the list of entities described in subsection (b)(v) of this section and for administrative appeal of the decision to publish the identity of those entities, prior to publication; and

(iv) establish a working group consisting of Federal, State, and local officials to make recommendations to the Director of OMB designed to improve the Federal Government’s measurement of access to Federal programs by the programs’ intended beneficiaries. The working group’s recommendations shall be prepared in consultation with the Council of Inspectors General on Integrity and Efficiency (CIGIE) and submitted within 180 days of the date of this order, and the recommended measurements may be incorporated by the Secretary of the Treasury in the information published pursuant to subsection (b) of this section.

(b) Within 180 days of the date of this order, the Secretary of the Treasury in coordination with the Attorney General and the Director of OMB, shall publish on the Internet information about improper payments under high-priority programs. The information shall include, subject to Federal privacy policies and to the extent permitted by law:

- (i) the names of the accountable officials designated under section 3 of this order;
- (ii) current and historical rates and amounts of improper payments, including, where known and appropriate, causes of the improper payments;
- (iii) 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);
- (iv) targets for reducing as well as recovering improper payments, where appropriate; and
- (v) 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).

Information on entities that have received the greatest amount of outstanding improper payments 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.

(c) Within 180 days of the date of this order, the Secretary of the Treasury in coordination with the Attorney General and the Director of OMB and in consultation with the CIGIE, shall establish a central Internet-based method to collect from the public information concerning suspected incidents of waste, fraud, and abuse by an entity receiving Federal funds that have led or may lead to improper payments by the Federal Government.

(d) Agencies shall place a prominently displayed link to Internet-based resources for addressing improper payments, including the resources established under subsections (b) and (c) of this section, on their Internet home pages.

SEC. 3. Agency Accountability and Coordination.

(a) Within 120 days of the date of this order, the head of each agency responsible for operating a high-priority program shall designate an official who holds an existing Senate-confirmed position to be accountable for meeting the targets established under section 2 of this order without unduly burdening program access and participation by eligible beneficiaries. In those agencies where the majority of payments are isolated to a single component, the head of the agency shall name a second accountable official for that component whose sole responsibility would be for program integrity activities and, as appropriate, shall consolidate and coordinate all program integrity activities within the component.

(b) Within 180 days of the date of this order, each agency official designated under subsection (a) of this section, or otherwise designated by the Director of OMB, shall provide the agency's Inspector General a report containing:

- (i) the agency's methodology for identifying and measuring improper payments by the agency's high-priority programs;
- (ii) the agency's plans, together with supporting analysis, for meeting the reduction targets for improper payments in the agency's high-priority programs; and
- (iii) the agency's plan, together with supporting analysis, for ensuring that initiatives undertaken pursuant to this order do not unduly burden program access and participation by eligible beneficiaries.

Following the receipt and review of this information, the agency Inspector General shall assess the level of risk associated with the applicable programs, determine the extent of oversight warranted, and provide the agency head with recommendations, if any, for

modifying the agency's methodology, improper payment reduction plans, or program access and participation plans.

(c) If an agency fails to meet the targets established under section 2 of this order or implement the plan described in subsection (b)(iii) of this section for 2 consecutive years, that agency's accountable official designated under subsection (a) of this section shall submit to the agency head, Inspector General, and Chief Financial Officer a report describing the likely causes of the agency's failure and proposing a remedial plan. The agency head shall review this plan and, in consultation with the Inspector General and Chief Financial Officer, forward the plan with any additional comments and analysis to the Director of OMB.

(d) Within 180 days of the date of this order, the Chief Financial Officers Council (CFOC) in consultation with the CIGIE, the Department of Justice, and program experts, shall make recommendations to the Director of OMB and the Secretary of the Treasury on actions (including actions related to forensic accounting and audits) agencies should take to more effectively tailor their methodologies for identifying and measuring improper payments to those programs, or components of programs, where improper payments are most likely to occur. Recommendations shall address the manner in which the recommended actions would affect program access and participation by eligible beneficiaries.

(e) Within 180 days of the date of this order, the Secretary of the Treasury and the Director of OMB in consultation with the CIGIE, the Department of Justice, and program experts, shall recommend to the President actions designed to reduce improper payments by improving information sharing among agencies and programs, and where applicable, State and local governments and other stakeholders. The recommendations shall address the ways in which information sharing may improve eligibility verification and pre-payment scrutiny, shall identify legal or regulatory impediments to effective information sharing, and shall address the manner in which the recommended actions would affect program access and participation by eligible beneficiaries.

(f) Within 180 days of the date of this order, and at least once every quarter thereafter, the head of each agency shall submit to the agency's Inspector General and the CIGIE, and make available to the public, a report on any high-dollar improper payments identified by the agency, subject to Federal privacy policies and to the extent permitted by law. The report shall describe any actions the agency has taken or plans to take to recover improper payments, as well as any actions the agency intends to take to prevent improper payments from occurring in the future. The report 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. Following the review of each report, the agency Inspector General and the CIGIE shall assess the level of risk associated with the applicable program, determine the extent of oversight warranted, and provide the agency head with recommendations, if any, for modifying the agency's plans.

SEC. 4. Enhanced Focus on Contractors and Working with State and Local Stakeholders.

(a) Within 180 days of the date of this order, the Federal Acquisition Regulatory Council, in coordination with the Director of OMB, and in consultation with the National Procurement Fraud Task Force (or its successor group), the CIGIE, and appropriate agency officials, shall recommend to the President actions designed to enhance contractor accountability for improper payments. The recommendations may include, but are not limited to, subjecting contractors to debarment, suspension, financial penalties, and identification through a public Internet website, subject to Federal privacy policies and to the extent permitted by law and where the identification would not interfere with or compromise an ongoing criminal or civil investigation, for knowingly failing timely to disclose credible evidence

of significant overpayments received on Government contracts.

(b) Within 30 days of the date of this order, the Director of OMB shall establish a working group consisting of Federal and elected State and local officials to make recommendations to the Director of OMB designed to improve the effectiveness of single audits of State and local governments and non-profit organizations that are expending Federal funds. The Director of OMB may designate an appropriate official to serve as Chair of the working group to convene its meetings and direct its work. The working group's recommendations shall be prepared in consultation with the CIGIE and submitted within 180 days of the date of this order. The recommendations shall address, among other things, the effectiveness of single audits in identifying improper payments and opportunities to streamline or eliminate single audit requirements where their value is minimal.

(c) Within 30 days of the date of this order, the Director of OMB shall establish a working group (which may be separate from the group established under subsection (b) of this section) consisting of Federal and elected State and local officials to make recommendations to the Director of OMB for administrative actions designed to improve the incentives and accountability of State and local governments, as well as other entities receiving Federal funds, for reducing improper payments. The Director of OMB may designate an appropriate official to serve as Chair of the working group to convene its meetings and direct its work. The working group's recommendations shall be prepared in consultation with the CIGIE and submitted within 180 days of the date of this order.

SEC. 5. *Policy Proposals.* The Director of OMB, in consultation with the appropriate agencies and the CIGIE, shall develop policy recommendations, including potential legislative proposals, designed to reduce improper payments, including those caused by error, waste, fraud, and abuse, across Federal programs without compromising program access, to be included, as appropriate, in the Budget of the United States Government for Fiscal Year 2011 and future years, or other Administration proposals.

SEC. 6. *General Provisions.*

(a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department, agency, the head thereof, or any agency Inspector General; or

(ii) functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(b) Nothing in this order shall be construed to require the disclosure of classified information, law enforcement sensitive information, or other information that must be protected in the interests of national security.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

FINDING AND RECAPTURING IMPROPER PAYMENTS

Memorandum of President of the United States, Mar. 10, 2010, 75 F.R. 12119, provided:

Memorandum for the Heads of Executive Departments and Agencies

My Administration is committed to reducing payment errors and eliminating waste, fraud, and abuse in Federal programs—a commitment reflected in Executive Order 13520 of November 20, 2009, Reducing Improper Payments. Executive departments and agencies should use every tool available to identify and subsequently reclaim the funds associated with improper payments. Thorough identification of improper pay-

ments promotes accountability at executive departments and agencies; it also makes the integrity of Federal spending transparent to taxpayers. Reclaiming the funds associated with improper payments is a critical component of the proper stewardship and protection of taxpayer dollars, and it underscores that waste, fraud, and abuse by entities receiving Federal payments will not be tolerated.

Today, to further intensify efforts to reclaim improper payments, my Administration is expanding the use of "Payment Recapture Audits," which have proven to be effective mechanisms for detecting and recapturing payment errors. A Payment Recapture Audit is a process of identifying improper payments paid to contractors or other entities whereby highly skilled accounting specialists and fraud examiners use state-of-the-art tools and technology to examine payment records and uncover such problems as duplicate payments, payments for services not rendered, overpayments, and fictitious vendors. (A Payment Recapture Audit as used in this memorandum shall have the same meaning as the term "recovery audit" as defined in Appendix C to Office of Management and Budget Circular A-123.) One approach that has worked effectively is using professional and specialized auditors on a contingency basis, with their compensation tied to the identification of misspent funds.

Therefore, I hereby direct executive departments and agencies to expand their use of Payment Recapture Audits, to the extent permitted by law and where cost-effective. The Director of the Office of Management and Budget (OMB) shall develop guidance within 90 days of the date of this memorandum on actions executive departments and agencies must take to carry out the requirements of this memorandum. The guidance may require additional actions and strategies designed to improve the recapture of improper payments, including, as appropriate, agency-specific targets for increasing recoveries. The Director of the OMB shall further coordinate with the Council for Inspectors General on Integrity and Efficiency to identify an appropriate process for obtaining review by Inspectors General of the effectiveness of agency efforts under this memorandum. The agencies' expanded use of Payment Recapture Audits does not preclude Offices of Inspectors General from performing any activities to identify and prevent improper payments.

Nothing in this memorandum shall be construed to require the disclosure of classified information, law enforcement sensitive information, or other information that must be protected in the interests of national security.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of the OMB is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

ENHANCING PAYMENT ACCURACY THROUGH A "DO NOT PAY LIST"

Memorandum of President of the United States, June 18, 2010, 75 F.R. 35953, provided:

Memorandum for the Heads of Executive Departments and Agencies

My Administration is committed to eliminating waste, fraud, and abuse in Federal programs, including reducing and recapturing erroneous payments—a commitment I reinforced in Executive Order 13520 of November 20, 2009, and in a memorandum to the heads of executive departments and agencies (agencies) of March 10, 2010. While identifying and recapturing improper payments is important, prevention of payment errors before they occur should be the first priority in protecting taxpayer resources from waste, fraud, and

abuse. In those cases where data available to agencies clearly shows that a potential recipient of a Federal payment is ineligible for it, subsequent payment to that recipient is unacceptable. We must ensure that such payments are not made.

Agencies maintain many databases containing information on a recipient's eligibility to receive Federal benefits payments or Federal awards, such as grants and contracts. By checking these databases before making payments or awards, agencies can identify ineligible recipients and prevent certain improper payments from being made in the first place.

Therefore, I hereby direct agencies to review current pre-payment and pre-award procedures and ensure that a thorough review of available databases with relevant information on eligibility occurs before the release of any Federal funds, to the extent permitted by law. At a minimum, agencies shall, before payment and award, check the following existing databases (where applicable and permitted by law) to verify eligibility: the Social Security Administration's Death Master File, the General Services Administration's Excluded Parties List System, the Department of the Treasury's Debt Check Database, the Department of Housing and Urban Development's Credit Alert System or Credit Alert Interactive Voice Response System, and the Department of Health and Human Services' Office of Inspector General's List of Excluded Individuals/Entities. This network of databases, and additional databases so designated by the Director of the Office of Management and Budget (OMB) in consultation with agencies, shall be collectively known as the "Do Not Pay List." This memorandum requires agencies to review these databases with the recognition that there may be circumstances when the law nevertheless requires a payment or award to be made to a recipient listed in them. My Administration began coordination of the databases discussed in this memorandum in April 2010 by launching the Federal Awardee Performance and Integrity Information System (FAPIIS), which integrates various sources of information on the eligibility of Government contractors for award. No later than 120 days of the date of this memorandum, the Director of the OMB shall provide to the President a plan for completing integration for the remaining databases, to the extent permitted by law, so that agencies can access them through a single entry point.

Each agency shall, within 90 days of the date of this memorandum, submit to the OMB a plan that includes information on its current pre-payment and pre-award procedures and a list of databases that the agency checks pursuant to those procedures. Within 180 days of the date of this memorandum, the Director of the OMB shall issue guidance, to be developed in consultation with affected agencies and taking into account current agency pre-payment and pre-award practices, on actions agencies must take to carry out this memorandum's requirements. This guidance shall clarify that the head of each agency is responsible for ensuring an efficient and accurate process for determining whether the information provided on the "Do Not Pay List" is sufficient to stop a payment, consistent with applicable laws and regulations, and, if so, whether a payment should be stopped under the circumstances. In addition, this guidance shall identify best practices and databases that agencies should utilize to conduct pre-payment checks to ensure that only eligible recipients receive Government benefits or payments.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of the OMB is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 3322. Disbursing officials

(a) The Secretary of the Treasury shall transfer public money to a disbursing official only by draft or warrant written on the Treasury. Except as provided in section 3716 and section 3720A of this title and subsection (b) of this section, a disbursing official shall—

- (1) deposit public money as required by section 3302 of this title; and
- (2) draw public money from the Treasury or a depository only—
 - (A) as necessary to make payments; and
 - (B) payable to persons to whom payment is to be made.

(b) In a place without a depository, the Secretary, on deciding it is essential to the public interest, may authorize specially in writing that public money be—

- (1) deposited in any other public depository; or
- (2) kept in another manner under regulations the Secretary decides are the safest and most effective in making a payment to a public creditor easier.

(c) A disbursing official is not liable for an overpayment provided under a United States Government bill of lading or transportation request when the overpayment is caused by the—

- (1) use of improper transportation rates or classifications if the Administrator of General Services has determined that verification by a prepayment audit conducted pursuant to section 3726(a) of this title for a particular mode or modes of transportation, or for an agency or subagency, will not adequately protect the interests of the Government; or
- (2) failure to deduct the proper amount under—
 - (A) a land grant law; or
 - (B) an equalization or other agreement.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 950; Pub. L. 98-216, §1(3), Feb. 14, 1984, 98 Stat. 3; Pub. L. 104-134, title III, §31001(g)(1)(A), Apr. 26, 1996, 110 Stat. 1321-363; Pub. L. 105-264, §3(a)(1), Oct. 19, 1998, 112 Stat. 2352.)

HISTORICAL AND REVISION NOTES
1982 ACT

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3322(a)	31:492(a).	R.S. §3620(a); Feb. 27, 1877, ch. 69(7th complete par. on p. 249), 19 Stat. 249; Aug. 28, 1965, Pub. L. 89-145, §1(1), 79 Stat. 582.
3322(b)	31:82g(related to disbursing officers).	June 1, 1942, ch. 320(related to disbursing officers), 56 Stat. 306.

In the section, the words "disbursing official" are substituted for "disbursing officer" for consistency in the revised title.

In subsection (a), before clause (1), the words "Secretary of the Treasury" are substituted for "Treasurer of the United States" because of the source provisions restated in section 321(c) of the revised title. The words "or an assistant treasurer of the United States" in section 3620(a) of the Revised Statutes are omitted as obsolete because of the 1st-4th pars. under the heading "Independent Treasury" in the Act of May 29, 1920 (ch. 214, 41 Stat. 654). In clause (1), the words "as required by section 3302 of this title" are substituted for "with the Treasurer or some one of the assistant treasurers of