

112TH CONGRESS  
2D SESSION

# H. R. 4053

To intensify efforts to identify, prevent, and recover payment error, waste, fraud, and abuse within Federal spending.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2012

Mr. TOWNS (for himself, Mr. PLATTS, Mr. SCHRADER, Mr. CONNOLLY of Virginia, Mr. ALTMIRE, Mr. BARROW, Mr. BISHOP of Georgia, Mr. BOREN, Mr. BOSWELL, Mr. CARDOZA, Mr. COOPER, Mr. DONNELLY of Indiana, Mr. HOLDEN, Mr. MATHESON, Mr. MCINTYRE, Mr. MICHAUD, Mr. PETERSON, Mr. ROSS of Arkansas, Mr. DAVID SCOTT of Georgia, Mr. SHULER, and Mr. THOMPSON of California) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

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## A BILL

To intensify efforts to identify, prevent, and recover payment error, waste, fraud, and abuse within Federal spending.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Improper Payments  
5 Elimination and Recovery Improvement Act of 2012”.

1 **SEC. 2. DEFINITION.**

2 In this Act, the term “agency” means an executive  
3 agency as that term is defined under section 102 of title  
4 31, United States Code.

5 **SEC. 3. IMPROVING THE DETERMINATION OF IMPROPER**  
6 **PAYMENTS BY FEDERAL AGENCIES.**

7 (a) IN GENERAL.—Section 2 of the Improper Pay-  
8 ments Information Act of 2002 (31 U.S.C. 3321 note) is  
9 amended—

10 (1) by redesignating subsections (b) through (g)  
11 as subsections (c) through (h), respectively;

12 (2) by inserting after subsection (a) the fol-  
13 lowing:

14 “(b) IMPROVING THE DETERMINATION OF IMPROPER  
15 PAYMENTS.—

16 “(1) IN GENERAL.—The Director of the Office  
17 of Management and Budget shall on an annual  
18 basis—

19 “(A) identify a list of high-priority Federal  
20 programs for greater levels of oversight and re-  
21 view—

22 “(i) in which the highest dollar value  
23 or highest frequency of improper payments  
24 occur; or

25 “(ii) for which there is a higher risk  
26 of improper payments; and

1           “(B) in coordination with the agency re-  
2           sponsible for administering the high-priority  
3           program, establish annual targets and semi-an-  
4           nual or quarterly actions for reducing improper  
5           payments associated with each high-priority  
6           program.

7           “(2) REPORT ON HIGH-PRIORITY IMPROPER  
8           PAYMENTS.—

9           “(A) IN GENERAL.—Subject to Federal  
10          privacy policies and to the extent permitted by  
11          law, each agency with a program identified  
12          under paragraph (1)(A) on an annual basis  
13          shall submit to the Inspector General of that  
14          agency, and make available to the public (in-  
15          cluding availability through the Internet), a re-  
16          port on that program.

17          “(B) CONTENTS.—Each report under this  
18          paragraph—

19                 “(i) shall describe—

20                         “(I) any action the agency—

21                                 “(aa) has taken or plans to  
22                                 take to recover improper pay-  
23                                 ments; and

1 “(bb) intends to take to pre-  
2 vent future improper payments;  
3 and

4 “(ii) shall not include any referrals  
5 the agency made or anticipates making to  
6 the Department of Justice, or any informa-  
7 tion provided in connection with such re-  
8 ferrals.

9 “(C) PUBLIC AVAILABILITY ON CENTRAL  
10 WEBSITE.—The Office of Management and  
11 Budget shall make each report submitted under  
12 this paragraph available on a central website.

13 “(D) AVAILABILITY OF INFORMATION TO  
14 INSPECTOR GENERAL.—Subparagraph (B)(ii)  
15 shall not prohibit any referral or information  
16 being made available to an Inspector General as  
17 otherwise provided by law.

18 “(E) ASSESSMENT AND RECOMMENDA-  
19 TIONS.—The Inspector General of each agency  
20 that submits a report under this paragraph  
21 shall—

22 “(i) review—

23 “(I) the assessment of the level  
24 of risk associated with the applicable  
25 program, and the quality of the im-

1 proper payment estimates and meth-  
2 odology of the agency; and

3 “(II) the oversight or financial  
4 controls to identify and prevent im-  
5 proper payments; and

6 “(ii) provide recommendations, for  
7 modifying any plans of the agency, includ-  
8 ing improvements for improper payments  
9 determination and estimation method-  
10 ology.”;

11 (3) in subsection (d) (as redesignated by para-  
12 graph (1) of this subsection), by striking “subsection  
13 (b)” each place that term appears and inserting  
14 “subsection (e)”; and

15 (4) in subsection (e) (as redesignated by para-  
16 graph (1) of this subsection), by striking “subsection  
17 (b)” and inserting “subsection (c)”.

18 (b) IMPROVED ESTIMATES.—

19 (1) IN GENERAL.—Not later than 180 days  
20 after the date of enactment of this Act, the Director  
21 of the Office of Management and Budget shall pro-  
22 vide guidance to agencies for improving the esti-  
23 mates of improper payments under the Improper  
24 Payments Information Act of 2002 (31 U.S.C. 3321  
25 note).

1           (2) GUIDANCE.—Guidance under this sub-  
2 section shall—

3           (A) strengthen the estimation process of  
4 agencies by setting standards for agencies to  
5 follow in determining the underlying validity of  
6 sampled payments to ensure amounts being  
7 billed are proper; and

8           (B) instruct agencies to give the persons or  
9 entities performing improper payments esti-  
10 mates access to all necessary payment data, in-  
11 cluding access to relevant documentation;

12           (C) explicitly bar agencies from relying on  
13 self-reporting by the recipients of agency pay-  
14 ments as the sole source basis for improper  
15 payments estimates;

16           (D) require agencies to include all identi-  
17 fied improper payments in the reported esti-  
18 mate, regardless of whether the improper pay-  
19 ment in question has been or is being recovered;

20           (E) include payments to employees, includ-  
21 ing salary, locality pay, travel pay, purchase  
22 card use, and other employee payments, as sub-  
23 ject to risk assessment and, where appropriate,  
24 improper payment estimation; and

1 (F) require agencies to tailor their correc-  
2 tive actions for the high-priority programs iden-  
3 tified under section 2(b)(1)(A) of the Improper  
4 Payments Information Act of 2002 (31 U.S.C.  
5 3321 note) to better reflect the unique proc-  
6 esses, procedures, and risks involved in each  
7 specific program.

8 **SEC. 4. IMPROPER PAYMENTS INFORMATION.**

9 Section 2(a)(3)(A)(ii) of the Improper Payments In-  
10 formation Act of 2002 (31 U.S.C. 3321 note) is amended  
11 by striking “with respect to fiscal years following Sep-  
12 tember 30th of a fiscal year beginning before fiscal year  
13 2013 as determined by the Office of Management and  
14 Budget” and inserting “with respect to fiscal year 2014  
15 and each fiscal year thereafter”.

16 **SEC. 5. DO NOT PAY INITIATIVE.**

17 (a) PREPAYMENT AND PREAWARD PROCEDURES.—

18 (1) IN GENERAL.—Each agency shall review  
19 prepayment and preaward procedures and ensure  
20 that a thorough review of available databases with  
21 relevant information on eligibility occurs to deter-  
22 mine program or award eligibility and prevent im-  
23 proper payments before the release of any Federal  
24 funds.

1           (2) DATABASES.—At a minimum and before  
2           issuing any payment and award, each agency shall  
3           review as appropriate the following databases to  
4           verify eligibility of the payment and award:

5                   (A) The Death Master File of the Social  
6                   Security Administration.

7                   (B) The General Services Administration’s  
8                   Excluded Parties List System.

9                   (C) The Debt Check Database of the De-  
10                  partment of the Treasury.

11                  (D) The Credit Alert System or Credit  
12                  Alert Interactive Voice Response System of the  
13                  Department of Housing and Urban Develop-  
14                  ment.

15                  (E) The List of Excluded Individuals/Enti-  
16                  ties of the Office of Inspector General of the  
17                  Department of Health and Human Services.

18           (b) DO NOT PAY INITIATIVE.—

19                   (1) ESTABLISHMENT.—There is established the  
20           Do Not Pay Initiative which shall consist of—

21                           (A) the databases described under sub-  
22                           section (a)(2); and

23                           (B) any other database designated by the  
24                           Director of the Office of Management and  
25                           Budget in consultation with agencies.



1           (2) OTHER DATABASES.—In making designa-  
2           tions of other databases under paragraph (1)(B), the  
3           Director of the Office of Management and Budget  
4           shall consider any database that assists in pre-  
5           venting improper payments.

6           (3) ACCESS AND REVIEW BY AGENCIES.—For  
7           purposes of identifying and preventing improper  
8           payments, each agency shall have access to, and use  
9           of, the Do Not Pay Initiative to determine payment  
10          or award eligibility when the Director of the Office  
11          of Management and Budget determines the Do Not  
12          Pay Initiative is appropriately established for the  
13          agency.

14          (4) PAYMENT OTHERWISE REQUIRED.—When  
15          using the Do Not Pay Initiative, an agency shall rec-  
16          ognize that there may be circumstances under which  
17          the law requires a payment or award to be made to  
18          a recipient, regardless of whether that recipient is on  
19          the Do Not Pay Initiative.

20          (c) DATABASE INTEGRATION PLAN.—Not later than  
21          60 days after the date of enactment of this Act, the Direc-  
22          tor of the Office of Management and Budget shall provide  
23          to the Congress a plan for—

24                  (1) inclusion of other databases on the Do Not  
25          Pay Initiative;

1           (2) to the extent permitted by law, agency ac-  
2           cess to the Do Not Pay Initiative; and

3           (3) the multilateral data use agreements de-  
4           scribed under subsection (e).

5           (d) INITIAL WORKING SYSTEM.—

6           (1) ESTABLISHMENT.—Not later than 90 days  
7           after the date of enactment of this Act, the Director  
8           of the Office of Management and Budget shall es-  
9           tablish a working system for prepayment and  
10          preaward review that includes the Do Not Pay Ini-  
11          tiative as described under this section.

12          (2) WORKING SYSTEM.—The working system  
13          established under paragraph (1)—

14               (A) may be located within an appropriate  
15               agency;

16               (B) shall include not less than 3 agencies  
17               as users of the system; and

18               (C) shall include investigation activities for  
19               fraud and systemic improper payments detec-  
20               tion through analytic technologies and other  
21               techniques, which may include commercial data-  
22               base use or access.

23          (3) APPLICATION TO ALL AGENCIES.—Not later  
24          than January 1, 2013, each agency shall review all  
25          payments and awards for all programs of that agen-

1 cy through the system established under this sub-  
2 section.

3 (e) MULTILATERAL DATA USE AGREEMENTS.—

4 (1) IN GENERAL.—Not later than 60 days after  
5 the date of enactment of this Act, the Director of  
6 the Office of Management and Budget shall develop  
7 a plan to establish a multilateral data use agreement  
8 authority to carry out this section, including access  
9 to databases such as the New Hire Database under  
10 section 453(i) of the Social Security Act (42 U.S.C.  
11 653(i)).

12 (2) PRIVACY ACT MATCHING AGREEMENTS.—  
13 Section 552a(o)(1) of title 5, United States Code, is  
14 amended in the matter preceding subparagraph (A),  
15 by inserting “or an agreement governing multiple  
16 agencies” before “specifying”.

17 (3) GENERAL PROTOCOLS AND SECURITY.—

18 (A) IN GENERAL.—In developing the mul-  
19 tilateral data use agreements, the Director of  
20 the Office of Management and Budget shall es-  
21 tablish implementing regulations and guidelines  
22 that include streamlined interagency processes  
23 to ensure agency access to data, and provide for  
24 appropriate transfer and storage of any trans-

1           ferred data, in a manner consistent with rel-  
2           evant privacy, security, and disclosure laws.

3                   (B) CONSULTATION.—The Director of the  
4           Office of Management and Budget shall consult  
5           with—

6                           (i) the Council of Inspectors General  
7                           on Integrity and Efficiency before imple-  
8                           menting this paragraph; and

9                           (ii) the Secretary of Health and  
10                          Human Services, the Social Security Ad-  
11                          ministrators, and the head of any other  
12                          agency, as appropriate.

13           (f) DEVELOPMENT AND ACCESS TO A DATABASE OF  
14   INCARCERATED INDIVIDUALS.—Not later than 1 year  
15   after the date of enactment of this Act, the Attorney Gen-  
16   eral shall submit to Congress recommendations for in-  
17   creasing the use of, access to, and the technical feasibility  
18   of using data on the Federal, State, and local conviction  
19   and incarceration status of individuals for purposes of  
20   identifying and preventing improper payments by Federal  
21   agencies and programs and fraud.

22           (g) PLAN TO CURB FEDERAL IMPROPER PAYMENTS  
23   TO DECEASED INDIVIDUALS BY IMPROVING THE QUALITY  
24   AND USE BY FEDERAL AGENCIES OF THE SOCIAL SECUR-  
25   ITY ADMINISTRATION DEATH MASTER FILE.—

1           (1) ESTABLISHMENT.—In conjunction with the  
2           Commissioner of Social Security and in consultation  
3           with relevant stakeholders that have an interest in  
4           or responsibility for providing the data, and the  
5           States, the Director of the Office of Management  
6           and Budget shall establish a plan for improving the  
7           quality, accuracy, and timeliness of death data main-  
8           tained by the Social Security Administration, includ-  
9           ing death information reported to the Commissioner  
10          under section 205(r) of the Social Security Act (42  
11          U.S.C. 405(r)).

12          (2) ADDITIONAL ACTIONS UNDER PLAN.—The  
13          plan established under this subsection shall include  
14          recommended actions by agencies to—

15                 (A) increase the quality and frequency of  
16                 access to the Death Master File and other  
17                 death data;

18                 (B) achieve a goal of at least daily access  
19                 as appropriate;

20                 (C) provide for all States and other data  
21                 providers to use improved and electronic means  
22                 for providing data;

23                 (D) identify improved methods by agencies  
24                 for determining ineligible payments due to the

1 death of a recipient through proactive verifica-  
2 tion means; and

3 (E) address improper payments made by  
4 agencies to deceased individuals as part of Fed-  
5 eral retirement programs.

6 (3) REPORT.—Not later than 120 days after  
7 the date of enactment of this Act, the Director of  
8 the Office of Management and Budget shall submit  
9 a report to Congress on the plan established under  
10 this subsection, including recommended legislation.

11 **SEC. 6. IMPROVING RECOVERY OF IMPROPER PAYMENTS.**

12 (a) DEFINITION.—In this section, the term “recovery  
13 audit” means a recovery audit described under section  
14 2(h) of the Improper Payments Elimination and Recovery  
15 Act of 2010.

16 (b) IN GENERAL.—The Director of the Office of  
17 Management and Budget shall determine—

18 (1) current and historical rates and amounts of  
19 recovery of improper payments (or, in cases in which  
20 improper payments are identified solely on the basis  
21 of a sample, recovery rates and amounts estimated  
22 on the basis of the applicable sample), including spe-  
23 cific information of amounts and payments recovered  
24 by recovery audit contractors; and

1           (2) targets for recovering improper payments,  
2 including specific information on amounts and pay-  
3 ments recovered by recovery audit contractors.

4           (c) RECOVERY AUDIT CONTRACTOR PROGRAMS.—

5           (1) ESTABLISHMENT.—Not later than 90 days  
6 after the date of enactment of this Act, the Director  
7 of the Office of Management and Budget shall es-  
8 tablish a plan for no less than 10 Recovery Audit  
9 Contracting programs for the purpose of identifying  
10 and recovering overpayments and underpayments in  
11 10 agencies.

12           (2) RANGE OF RECOVERY AUDIT CONTRACTING  
13 TYPES.—Programs established under paragraph (1)  
14 shall be representative of different types of—

15           (A) programs, including programs that dif-  
16 fer in size, payment types, and recipient types  
17 (such as beneficiaries and vendors or contrac-  
18 tors) across the Federal Government; and

19           (B) recover audit contracting (including in-  
20 dividual payments review and demographic  
21 analysis).

22           (3) INITIAL OPERATION OF PROGRAMS.—Not  
23 later than 1 year after the plan under paragraph (1)  
24 is established, each applicable agency shall establish

1 the programs included in that plan which shall be  
2 conducted for not more than a 3-year period.

3 (4) REPORTS.—

4 (A) IN GENERAL.—Not later than 2 years  
5 after establishing a program under the plan es-  
6 tablished under paragraph (1), the head of the  
7 agency conducting the program shall submit a  
8 report on the program to Congress.

9 (B) CONTENTS.—Each report under this  
10 paragraph shall include—

11 (i) a description of the impact of the  
12 program on savings and recoveries; and

13 (ii) such recommendations as the head  
14 of the agency considers appropriate on ex-  
15 tending or expanding the program.

○