

Section 3(b) of the Improper Payments Elimination and Recovery Improvement Act of 2012, referred to in subsec. (d), is section 3 of Pub. L. 112-248, Jan. 10, 2013, 126 Stat. 2390, which was formerly set out in a note under section 3321 of this title, prior to repeal by Pub. L. 116-117, § 3(a)(3), Mar. 2, 2020, 134 Stat. 133.

§ 3354. Do Not Pay Initiative

(a) PREPAYMENT AND PREAWARD PROCEDURES.—

(1) IN GENERAL.—Each executive agency shall review prepayment and preaward procedures and ensure that a thorough review of available databases with relevant information on eligibility occurs to determine program or award eligibility and prevent improper payments before the release of any Federal funds.

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

(A) The death records maintained by the Commissioner of Social Security.

(B) The System for Award Management Exclusion Records, formerly known as the Excluded Parties List System, of the General Services Administration.

(C) The Debt Check Database of the Department of the Treasury.

(D) The Credit Alert System or Credit Alert Interactive Voice Response System of the Department of Housing and Urban Development.

(E) The List of Excluded Individuals/Entities of the Office of Inspector General of the Department of Health and Human Services.

(F) Information regarding incarcerated individuals maintained by the Commissioner of Social Security under sections 202(x) and 1611(e) of the Social Security Act (42 U.S.C. 402(x), 1382(e)).

(b) DO NOT PAY INITIATIVE.—

(1) IN GENERAL.—There is the Do Not Pay Initiative, which shall include—

(A) use of the databases described in subsection (a)(2); and

(B) use of other databases designated by the Director of the Office of Management and Budget, or the designee of the Director, in consultation with executive agencies and in accordance with paragraph (2).

(2) OTHER DATABASES.—In making designations of other databases under paragraph (1)(B), the Director of the Office of Management and Budget, or the head of any executive agency designated by the Director, shall—

(A) consider any database that substantially assists in preventing improper payments; and

(B) provide public notice and an opportunity for comment before designating a database under paragraph (1)(B).

(3) ACCESS AND REVIEW.—

(A) IN GENERAL.—For purposes of identifying and preventing improper payments, each executive agency shall have access to, and use of, the Do Not Pay Initiative to verify payment or award eligibility in accordance with subsection (a).

(B) MATCHING PROGRAMS.—

(i) IN GENERAL.—The head of the agency operating the Working System may, in consultation with the Office of Management and Budget, waive the requirements of section 552a(o) of title 5 in any case or class of cases for computer matching activities conducted under this section.

(ii) GUIDANCE.—The Director of the Office of Management and Budget may issue guidance that establishes requirements governing waivers under clause (i).

(C) OTHER ENTITIES.—Each State and any contractor, subcontractor, or agent of a State, including a State auditor or State program responsible for reducing improper payments of a federally funded State-administered program, and the judicial and legislative branches of the United States, as defined in paragraphs (2) and (3), respectively, of section 202(e) of title 18, shall have access to, and use of, the Do Not Pay Initiative for the purpose of verifying payment or award eligibility for payments.

(D) CONSISTENCY WITH PRIVACY ACT OF 1974.—To ensure consistency with the principles of section 552a of title 5 (commonly known as the ‘‘Privacy Act of 1974’’), the Director of the Office of Management and Budget may issue guidance that establishes privacy and other requirements that shall be incorporated into Do Not Pay Initiative access agreements with States, including any contractor, subcontractor, or agent of a State, and the judicial and legislative branches of the United States, as defined in paragraphs (2) and (3), respectively, of section 202(e) of title 18.

(4) PAYMENT OTHERWISE REQUIRED.—When using the Do Not Pay Initiative, an executive agency shall recognize that there may be circumstances under which the law requires a payment or award to be made to a recipient, regardless of whether that recipient is identified as potentially ineligible under the Do Not Pay Initiative.

(5) ANNUAL REPORT.—The Director of the Office of Management and Budget shall submit to Congress an annual report, which may be included as part of another report submitted to Congress by the Director, regarding the operation of the Do Not Pay Initiative, which shall—

(A) include an evaluation of whether the Do Not Pay Initiative has reduced improper payments or improper awards; and

(B) provide the frequency of corrections or identification of incorrect information.

(c) INITIAL WORKING SYSTEM.—The working system required to be established under section 5(d) of the Improper Payments Elimination and Recovery Improvement Act of 2012, as in effect on the day before the date of enactment of this section—

(1) shall continue to be in effect on and after the date of enactment of this section; and

(2) shall require each executive agency to review all payments and awards for all programs and activities of that executive agency through the working system.

(d) FACILITATING DATA ACCESS BY FEDERAL AGENCIES AND OFFICES OF INSPECTORS GENERAL FOR PURPOSES OF PROGRAM INTEGRITY.—

(1) COMPUTER MATCHING BY EXECUTIVE AGENCIES FOR PURPOSES OF INVESTIGATION AND PREVENTION OF IMPROPER PAYMENTS AND FRAUD.—

(A) IN GENERAL.—Except as provided in this paragraph, in accordance with section 552a of title 5 (commonly known as the “Privacy Act of 1974”), the head of each executive agency may enter into computer matching agreements with other heads of executive agencies that allow ongoing data matching, which shall include automated data matching, in order to assist in the detection and prevention of improper payments.

(B) REVIEW.—Not later than 60 days after the date on which a proposal for an agreement under subparagraph (A) has been presented to a Data Integrity Board established under section 552a(u) of title 5 for consideration, the Data Integrity Board shall respond to the proposal.

(C) TERMINATION DATE.—An agreement described in subparagraph (A)—

(i) shall have a termination date of less than 3 years; and

(ii) during the 3-month period ending on the date on which the agreement is scheduled to terminate, may be renewed by the executive agencies entering the agreement for not more than 3 years.

(D) MULTIPLE AGENCIES.—For purposes of this paragraph, section 552a(o)(1) of title 5 shall be applied by substituting “between the source agency and the recipient agency or non-Federal agency or an agreement governing multiple agencies” for “between the source agency and the recipient agency or non-Federal agency” in the matter preceding subparagraph (A).

(E) COST-BENEFIT ANALYSIS.—A justification under section 552a(o)(1)(B) of title 5 relating to an agreement under subparagraph (A) is not required to contain a specific estimate of any savings under the computer matching agreement.

(2) GUIDANCE AND PROCEDURES BY THE OFFICE OF MANAGEMENT AND BUDGET.—The guidance, rules, and procedures required to be issued, clarified, and established under paragraphs (3) and (4) of section 5(e) of the Improper Payments Elimination and Recovery Improvement Act of 2012, as in effect on the day before the date of enactment of this section—

(A) shall continue to be in effect on and after the date of enactment of this section; and

(B) may be modified as determined appropriate by the Director of the Office of Management and Budget.

(3) COMPLIANCE.—The head of each executive agency, in consultation with the Inspector General of the executive agency, shall ensure that any information provided to an individual or entity under this subsection is provided in accordance with protocols established under this subsection.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed—

(A) to affect the rights of an individual under section 552a(p) of title 5; or

(B) to impede the exercise of an exemption provided to Inspectors General or by an executive agency in coordination with an Inspector General under section 6(j) of the Inspector General Act of 1978 (5 U.S.C. App.).

(e) PLAN TO CURB FEDERAL IMPROPER PAYMENTS TO DECEASED INDIVIDUALS BY IMPROVING THE QUALITY AND USE BY FEDERAL AGENCIES OF THE SOCIAL SECURITY ADMINISTRATION DEATH MASTER FILE AND OTHER DEATH DATA.—

(1) ESTABLISHMENT.—In conjunction with the Commissioner of Social Security and in consultation with relevant stakeholders that have an interest in or responsibility for providing the data, and each State, the Director of the Office of Management and Budget shall conduct a study and update the plan required to be established under section 5(g) of the Improper Payments Elimination and Recovery Improvement Act of 2012, as in effect on the day before the date of enactment of this section, for improving the quality, accuracy, and timeliness of death data maintained by the Social Security Administration, including death information reported to the Commissioner under section 205(r) of the Social Security Act (42 U.S.C. 405(r)).

(2) ADDITIONAL ACTIONS UNDER PLAN.—The plan described in this subsection shall include recommended actions by executive agencies to—

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

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

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

(D) identify improved methods by executive agencies for determining ineligible payments due to the death of a recipient through proactive verification means; and

(E) address improper payments made by executive agencies to deceased individuals as part of Federal retirement programs.

(3) REPORT.—Not later than 120 days after the date of enactment of this section, the Director of the Office of Management and Budget shall submit a report to Congress on the plan described in this subsection, including recommended legislation.

(Added Pub. L. 116–117, §2(a), Mar. 2, 2020, 134 Stat. 126.)

Editorial Notes

REFERENCES IN TEXT

Section 5 of the Improper Payments Elimination and Recovery Improvement Act of 2012, referred to in subssecs. (c), (d)(2), and (e)(1), is section 5 of Pub. L. 112–248, which was formerly set out in a note under section 3321 of this title, prior to repeal by Pub. L. 116–117, §3(a)(3), Mar. 2, 2020, 134 Stat. 133.

The date of enactment of this section, referred to in subssecs. (c), (d)(2), and (e)(1), (3), is the date of enactment of Pub. L. 116–117, which was approved Mar. 2, 2020.

Section 6(j) of the Inspector General Act of 1978, referred to in subsec. (d)(4)(B), is section 6(j) of Pub. L.

95-452, which is set out in the Appendix to Title 5, Government Organization and Employees.

(Added Pub. L. 116-117, §2(a), Mar. 2, 2020, 134 Stat. 130.)

§ 3355. Improving recovery of improper payments

The Director of the Office of Management and Budget shall determine—

- (1) current and historical rates and amounts of recovery of improper payments, 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 executive agency recovery audit contract programs and specific information of amounts and payments recovered by recovery audit contractors; and
- (2) targets for recovering improper payments, including specific information on amounts and payments recovered by recovery audit contractors.

(Added Pub. L. 116-117, §2(a), Mar. 2, 2020, 134 Stat. 130.)

§ 3356. Improving the use of data by executive agencies for curbing improper payments

(a) PROMPT REPORTING OF DEATH INFORMATION BY THE DEPARTMENT OF STATE AND THE DEPARTMENT OF DEFENSE.—The procedure required to be established under section 7(a) of the Improper Payments Elimination and Recovery Improvement Act of 2012, as in effect on the day before the date of enactment of this section—

- (1) shall continue to be in effect on and after the date of enactment of this section; and
- (2) may be modified as determined appropriate by the Director of the Office of Management and Budget.

(b) PROMPT REPORTING OF DEATH INFORMATION BY THE DEPARTMENT OF VETERANS AFFAIRS AND THE OFFICE OF PERSONNEL MANAGEMENT.—Not later than 1 year after the date of enactment of this section, the Secretary of Veterans Affairs and the Director of the Office of Personnel Management shall establish a procedure under which the Secretary and the Director—

- (1) shall promptly and on a regular basis submit information relating to the deaths of individuals, including stopped payments data as applicable, to each executive agency for which the Director of the Office of Management and Budget determines receiving and using such information would be relevant and necessary; and
- (2) to facilitate the centralized access of death data for the use of reducing improper payments, may identify additional Federal sources of death data and direct the data owner to provide that data to 1 or more executive agencies for that purpose.

(c) GUIDANCE TO EXECUTIVE AGENCIES REGARDING DATA ACCESS AND USE FOR IMPROPER PAYMENTS PURPOSES.—The guidance required to be issued under section 7(b) of the Improper Payments Elimination and Recovery Improvement Act of 2012, as in effect on the day before the date of enactment of this section—

- (1) shall continue to be in effect on and after the date of enactment of this section; and
- (2) may be modified as determined appropriate by the Director of the Office of Management and Budget.

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this section, referred to in text, is the date of enactment of Pub. L. 116-117, which was approved Mar. 2, 2020.

Section 7 of the Improper Payments Elimination and Recovery Improvement Act of 2012, referred to in subsections (a) and (c), is section 7 of Pub. L. 112-248, which was formerly set out in a note under section 3321 of this title, prior to repeal by Pub. L. 116-117, §3(a)(3), Mar. 2, 2020, 134 Stat. 133.

§ 3357. Financial and administrative controls relating to fraud and improper payments

(a) DEFINITION.—In this section, the term “agency” has the meaning given the term in section 551 of title 5.

(b) GUIDELINES.—The guidelines required to be established under section 3(a) of the Fraud Reduction and Data Analytics Act of 2015, as in effect on the day before the date of enactment of this section—

- (1) shall continue to be in effect on and after the date of enactment of this section; and
- (2) may be periodically modified by the Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, as the Director and Comptroller General may determine necessary.

(c) REQUIREMENTS FOR CONTROLS.—The guidelines described in subsection (b) shall include—

- (1) conducting an evaluation of fraud risks and using a risk-based approach to design and implement financial and administrative control activities to mitigate identified fraud risks;
- (2) collecting and analyzing data from reporting mechanisms on detected fraud to monitor fraud trends and using that data and information to continuously improve fraud prevention controls; and
- (3) using the results of monitoring, evaluation, audits, and investigations to improve fraud prevention, detection, and response.

(d) REPORT.—For each of fiscal years 2019 and 2020, each agency shall submit to Congress, as part of the annual financial report of the agency, a report of the agency on—

- (1) implementing—
 - (A) the financial and administrative controls described in subsection (b);
 - (B) the fraud risk principle in the Standards for Internal Control in the Federal Government published by the Government Accountability Office (commonly known as the “Green Book”); and
 - (C) Office of Management and Budget Circular A-123, or any successor thereto, with respect to the leading practices for managing fraud risk;
- (2) identifying risks and vulnerabilities to fraud, including with respect to payroll, beneficiary payments, grants, large contracts, and purchase and travel cards; and
- (3) establishing strategies, procedures, and other steps to curb fraud.