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# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

June 22, 2017

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The Honorable Mick Mulvaney  
Director  
Office of Management and Budget  
725 17<sup>th</sup> Street, NW  
Washington, DC 20503

Dear Director Mulvaney:

I am writing to request information from the Office of Management and Budget (OMB) regarding its efforts to improve the collection and reporting of improper payments across the executive branch.

On May 31, 2017, the Government Accountability Office (GAO) released a report regarding improper payments, as defined by the Improper Payments Information Act of 2002,<sup>1</sup> by the 24 agencies represented in the Chief Financial Officers Act of 1990<sup>2</sup> (CFO Act) for fiscal year 2015.<sup>3</sup> In conducting the report, GAO examined compliance reports provided by the Inspectors General (IGs) of each agency required to provide reports under the Improper Payments Elimination and Recovery Act of 2010 (IPERA).<sup>4</sup> The purpose of auditing the compliance reports by GAO and the subsequent issuance of this report was to summarize the CFO Act agencies' compliance under IPERA for fiscal year 2015 and to provide compliance trends for the same agencies for fiscal years 2011 through 2015. More specifically, the report addresses the inconsistent compliance standards used by the IGs of each agency for reporting improper payments under IPERA. GAO also recommended that OMB should establish consistent IG compliance standards across the 24 CFO Act agencies, which will provide OMB with more accurate information regarding agencies that are noncompliant under IPERA.

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<sup>1</sup> Improper Payments Information Act of 2002, Pub. L. No. 107-300. Improper payments are defined as any payment that should not have been made or was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. They also include any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, payments for services not received, and any payment that does not account for credit for applicable accounts.

<sup>2</sup> Chief Financial Officers Act of 1990, Pub. L. No. 101-576.

<sup>3</sup> U.S. Government Accountability Office, *Improper Payments: Additional Guidance Could Provide More Consistent Compliance Determinations and Reporting by Inspectors General* (GAO-17-484) (May 31, 2017).

<sup>4</sup> Improper Payments Elimination and Recovery Act of 2010, Pub. L. No. 111-204.

In conducting its report, GAO analyzed the IPERA compliance reports produced by the IGs from fiscal years 2011 through 2015, and corroborated the findings with the IGs and the OMB. GAO examined (1) the extent to which the 24 CFO Act agency IGs reported that agencies complied with the six IPERA criteria and identified the programs reported as noncompliant for 3 or more consecutive years, (2) the extent to which the IGs reported that they performed optional procedures during their fiscal year 2015 reviews, and (3) the number and status of IPERA compliance review recommendations made by the IGs for fiscal years 2011 through 2015.<sup>5</sup>

Through the course of auditing the IG improper payment reports, GAO discovered inconsistencies in the IGs' determinations of noncompliance. GAO found that "some IGs reported compliance based on the presence or absence of the required analysis or reporting, regardless of whether or not the IGs identified flaws, whereas other IGs reported agencies as noncompliant based on the IGs performing some degree of evaluative procedures to determine whether the agencies' analyses or reports were substantively adequate."<sup>6</sup> The inconsistencies in determinations meant that the number of noncompliant agencies in fiscal year 2015 was difficult to determine. GAO indicated that if the IGs used consistent guidelines and the same criteria in determining compliance, the number of noncompliant agencies would differ from the number reported in fiscal year 2015.

Neither IPERA nor related guidance from OMB specifies what, if any, evaluative procedures should be conducted as part of the compliance determination. In addition, there are no explicit requirements for IGs to be consistent with one another when determining agency compliance. Lastly, the Council of the Inspectors General on Integrity and Efficiency (CIGIE) has not provided the IGs with any guidance regarding how compliance determinations should be made.<sup>78</sup>

In concluding the report, GAO recommends that to ensure "government-wide compliance under IPERA is consistently determined and reported, the Director of OMB coordinate with

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<sup>5</sup> U.S. Government Accountability Office, *Improper Payments: Additional Guidance Could Provide More Consistent Compliance Determinations and Reporting by Inspectors General* (GAO-17-484) (May 31, 2017).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Inspector General Reform Act of 2008, Pub. L. No. 110-409. The mission of the Council shall be to (A) address integrity, economy, and effectiveness issues that transcend individual Government agencies; and (B) increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in establishing well-trained and highly skilled workforce in the offices of the Inspector General.

CIGIE to develop and issue guidance, either jointly or independently, to specify what procedures should be conducted as part of the IGs' IPERA compliance determinations."<sup>9</sup>

In order to better understand OMB's efforts to improve the accuracy of the compliance determinations by the CFO Act agencies under IPERA, please provide a written response to the following questions to my office not later than July 06, 2017:

1. Do you agree with the recommendations made by GAO that OMB, in coordination with CIGIE, should issue guidance to the IGs of the CFO Act agencies regarding consistence compliance determination?
2. If OMB agrees with the recommendation, what guidance do you intend to provide and when?
3. What other steps has OMB taken to improve coordination throughout the federal government to address and reduce improper payments?

If you have any questions please contact Donald Sherman with my staff at (202) 224-8316 or Donald\_Sherman@hsgac.senate.gov. Please send any official correspondence related to this request to Amanda Trosen at Amanda\_Trosen@hsgac.senate.gov. Thank you for your prompt attention to this matter.

Sincerely,



Claire McCaskill  
Ranking Member

cc: Ron Johnson  
Chairman

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<sup>9</sup> U.S. Government Accountability Office, *Improper Payments: Additional Guidance Could Provide More Consistent Compliance Determinations and Reporting by Inspectors General* (GAO-17-484) (May 31, 2017).