



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

FOR IMMEDIATE RELEASE
June 19, 2003

2003-22

**OMB Issues Instructions to Agencies and States for Combating
Waste, Fraud, and Abuse in Federal Programs**

Washington, D.C. – The Office of Management and Budget recently issued instructions to reduce and recover payments made in error in federal programs and activities. The instructions, spelled out in policy guidance to federal agencies and states, carry on the Bush Administration’s commitment to continually improve the management of taxpayer dollars.

“We’ve analyzed a portion of the programs and already know that erroneous payments exceed \$35 billion a year,” said OMB Deputy Director for Management Clay Johnson. “With this new law, we can approach this effort in a business-like fashion, assessing the scope of the problem and defining how to solve it.”

The federal government makes trillions of dollars in payments a year. The instructions (linked below) implement the Improper Payments Information Act of 2002, whose passage the Administration championed. That law and this guidance require agencies to name programs with significant erroneous payments, report a statistically valid estimate of erroneous payments, and craft a plan for their prevention or reduction. Based on audits performed thus far, Administration officials conservatively estimate the federal payment error rate to be just below four percent. Audits on private sector activities indicate an error rate of less than one-half on one percent.

As a partner and conduit, states also will play a significant part in recovering erroneous federal payments. Until recently, though, a quirk in federal guidelines led states to drop efforts to collect funds for Uncle Sam.

In September 2002, Oregon hired a contractor to identify and recover erroneous payments. Yet, Oregon ordered its auditors not to collect such funds, because federal policy was interpreted as banning the payment of contingency fees to firms. Other states followed Oregon’s lead, while Oregon called the problem to the attention of federal officials.

As a result, OMB Controller Linda Springer issued a memo (attached) to the states last month clarifying that firms may collect reasonable fees based on the amount of federal dollars recovered. “Funds once lost forever now can be found with this sensible incentive in place,” said Springer.

To view the guidelines for implementing the Improper Payments Information Act (Public Law No: 107-300), please visit <http://www.whitehouse.gov/omb/memoranda/m03-13.html>

-- memo attached --



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OFFICE OF FEDERAL
FINANCIAL MANAGEMENT

M-03-12

May 8, 2003

MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES

FROM: Linda M. Springer 
Controller

SUBJECT: Allowability of Contingency Fee Contracts for Recovery Audits

Costs of contingency fee contracts incurred by State and local governments for the recovery of erroneous payments charged against Federal programs are allowable costs under OMB Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments." State and local governments may use a portion of recovered erroneous or fraudulent payments from Federal programs to pay for recovery contracts. The portion used to pay for such contingency fees should be claimed as administrative costs.

OMB Circular A-87, Attachment B, Section 33 (a), Professional Services, states that the cost of professional and consultant services are allowable "when reasonable in relation to the services rendered and when not contingent upon the recovery of the costs from the Federal Government." Some Federal Government officials have interpreted this provision to disallow any contract costs where the fees are based on a percentage of the recoveries. As a result some States have instructed contractors not to recover any erroneous payments on Federal programs. This interpretation presents a disincentive for State and local governments to collect erroneous or fraudulent claims that would be returned to the Federal Government. The A-87 provision does not prohibit such contingency fee contracts for recovery audits.

Please contact Joseph L. Kull, Deputy Controller, Office of Federal Financial Management, telephone (202) 395-3993, for any questions regarding this Memorandum.