

COBURN AMENDMENT 325

To require the Department of Homeland Security to comply with the Improper Payments Information Act of 2002 (IPIA) before funds in S.4 can be spent on grant programs within the Department of Homeland Security.

The Problem

To date, the Department of Homeland Security has not complied with the Improper Payments Information Act of 2002 (IPIA) (31 U.S.C. 3321 note, PL 107-300). The requirements of the Improper Payments Information Act of 2002 are required of *every* agency; and of *every* program:

- a) Perform a risk assessment to determine programs deemed to be at significant risk of making improper payments;
- b) Estimate the total number of improper payments for those programs deemed to be at significant risk of making improper payments;
- c) Report on actions to be taken to reduce improper payments for those programs deemed to be at significant risk of making improper payments.

The Department of Homeland Security's independent auditor (KPMG) has repeatedly cited noncompliance with IPIA, and DHS continues to face significant challenges particularly with Federal Emergency Management Agency (FEMA) and the Individuals and Households Program (IHP). Based upon the Department's Performance and Accountability Report and the independent auditor's assessment, the following programs are out of compliance with the Improper Payments Information Act:

- Customs and Border Protection (CBP)
- Office of Grants and Training (GT)
- Federal Air Marshals (FAM)
- Federal Emergency Management Agency (FEMA)
- Transportation Security Administration (TSA)
- Immigration and Customs Enforcement (ICE)

The best way to achieve results and good stewardship at agencies is to demand accountability for the dollars they spend. Congress owes it to the American people to ensure that every dollar authorized and spent for homeland security goes directly to our most critical threats and vulnerabilities.

What the Improper Payment Amendment Does

Coburn 325 prohibits the release of funds in the "Improving America's Security by Implementing Unfinished Recommendations of the 9/11 Commission Act of 2007," S.4, to the Department of Homeland Security grant programs until every program and activity at the Department that is deemed to be at "significant risk" (defined by the Office of Management and Budget as 2.5 % of all program payments AND more than \$10 million in total program payments) of making improper payments has: 1) been risk assessed; 2) estimated the amount of improper payments made; and 3) reported to Congress on corrective actions to be taken to reduce improper payments as required under the Improper Payments Information Act of 2002.

What the Improper Payment Amendment Does Not Do

Coburn 325 does NOT penalize states currently receiving grant money from DHS. On February 13, 2007, Secretary Chertoff testified before the Senate Homeland Security and Governmental Affairs Committee on the DHS Budget Request for FY 2008, saying that "There are over five

billion dollars yet unspent from prior years of grants. So the pipeline is very, very full of money.” The actual amount of grant money in the pipeline is \$5.4 billion. The approximate cost of the grants in S. 4, “Improving America's Security by Implementing Unfinished Recommendations of the 9/11 Commission Act of 2007,” is about \$17.235 billion for 2008-2012. Divide S.4 grant costs by 5 years, and each year the grant programs will only require \$3.447 billion to operate. This means states will be able to continue operations for at least a year while DHS moves to comply with Coburn 325. What’s more, *DHS will still be able to award grants to states*. However, the funds cannot be spent until DHS complies with the Improper Payments Information Act. The likely impact of the amendment will not deprive states, but instead empower them to pressure the Department to comply with the Improper Payments Act, so they will not lose their money.

Why support this amendment

Reason #1: Congress Should Demand Compliance – Congress wrote and passed this law so it is their job to demand agencies comply. DHS has been required to report improper payments since 2004, and they are still out of compliance. If Congress is not going to demand that agencies comply with a law that ensures good stewardship of taxpayer dollars, maybe Congress should consider eliminating the law altogether.

Reason #2: Oversight Has Not Worked – This amendment is no surprise to DHS. Letters written by oversight committees regarding DHS and their compliance with the Improper Payments Information Act of 2002 have received woefully inadequate responses or no responses at all. The Federal Financial Management Subcommittee and the Senate Homeland Security and Governmental Affairs Committee have held 5 hearings on improper payments, yet DHS has not shown a desire to comply with the law or an ounce of improvement from Fiscal Year 2004.

Reason #3: Congress Should Demand Accountability – Since FY 2003 nearly \$9 billion has been spent on state and local preparedness grants. The federal outlay for Homeland Security increased to \$69 billion last year – a \$39 billion increase from 2005. Non-compliance with the Improper Payments Information Act means that DHS has no idea where money is being spent improperly; and therefore cannot demand that the Department spend it responsibly.