



Testimony of Lisa Im
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Senate Homeland Security & Governmental Affairs Committee
Subcommittee on Federal financial Management, Government Information,
Federal Services and International Security

Hearing on Preventing and Recovering Government Payment Errors

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Chairman Carper, Ranking Member McCain and members of the subcommittee, thank you for the opportunity to testify today. My name is Lisa Im. I am Chief Executive Officer of Performant Financial Corporation which is the parent of DCS. For over thirty-three years, we have worked for Federal and State agencies to help improve their fiscal and economic responsibility and accountability.

Federal and State government agencies comprise 97% of our business. We recover billions of dollars annually for those government clients. Many of our contracts are revenue sharing programs by virtue of payment via a contingency fee. This best practice structure embodies a true pay-go program as payment is only made for results—maximum value to an agency is driven by dollars returned to the agency. We currently work for the Department of Education, Department of Treasury Financial Management Services, federally chartered student loan guaranty agencies, and state taxing authorities.

Our first contract with CMS began in 2005 with the RAC / MSP demonstration project. We were one of two MSP contractors and performed the audit and recovery for the state of California. During that demonstration, we recovered 90% of the recovery, or \$11.4 million within a 12 month timeframe. We are currently a RAC for Region A. Since February 2009, we have invested millions of dollars to create the programs necessary to support the RAC contract. These investments include information technology and data management systems exclusive to the CMS; outreach meetings, establishing a call center, and developing a web-enabled capability for providers to interface successfully with the program; increased employment and staffing for every aspect of the RAC and in support for CMS's directions.

What we have learned from the MSP contract and RAC thus far is consistent with what we know from thirty-three years of working with Federal and State government clients:

- Seed money is critical to help an agency prepare for a smooth implementation: Budgeting is a critical issue which is addressed in this RAC contract by the self-funding allowance within the contract-authority conveyed to CMS. Although the program needs are paid from recovery proceeds, more resources need to be provided to establish the program infrastructure and organization needs. Performant's experience with other Federal agencies and state clients supports the concept that a strong funding mechanism up front can in fact make the program much more successful. Using the contingency fee (also known as recovery revenue funding) model, we have partnered with Department of Education to



recover more than a billion dollars over the past ten years. The success of that program required technology and other resource commitments by the Department of Education at the start of the contract even though the majority of recovery dollars began to flow ten months later. The contract operates smoothly every year, which drives the annual \$3 billion-plus recovery to Department of Education.

- Contingency fee structures can be, and are, very effective for recovery audit contracts. It is important that the contracting agency not mistake “value” for “lowest fees”. In contingency fee contracting “value” equals “recovered dollars minus fees paid”. Vendors are not paid unless they deliver results—if vendors are not able to invest in the processes or our people, the agency will not get best results. Successful recovery contracts in our experience are not “low bid”, rather they are “fixed fee” and technical competency becomes the decision factor. Department of Education and Treasury FMS are examples of these successful practices. Each of these agencies partners with contingency fee vendors—where technical competency and results deliver value. To carry out the Department of Education example, for 2009, the Department of Education recovered \$3.1 billion, or 12.6% of available inventory.
- Outreach and education of all constituents is a best practice that has been applied to this RAC. Many of these overpayment errors are inadvertently made, but still represent billions of Medicare dollars. To educate and help providers, CMS has urged us, and we have committed to extend great efforts to create and maintain outreach programs. The level of education, outreach, and communication with the provider community is unparalleled—now it is time to rapidly audit and recover dollars on behalf of the CMS.
- Collaborative effort between the parties is a best practice. This best practice is collaboration between CMS and vendor partners, and among vendor partners. When we have worked with clients in this way, we have experienced greater consistency and uniformity in processes. Collaboration has also enhanced continuous improvement as the contract matures by adjusting processes accordingly. During our eighteen year contracting relationship with Department of Education, we created a resolution method for high balance student loans. This was in collaboration with the Department of Education, which enabled all vendor partners to apply this solution. The result was an annual improvement in recovery by approximately 30%, and it was very beneficial for those borrowers who were otherwise excluded from resolving their federally guaranteed student loan obligations.
- The recovery audit concept can be successfully applied to other areas of the Federal government, including Parts C, D, and Medicaid. There are challenges to each of these areas of healthcare including, but not limited to: technological platforms, budgetary constraints and differing current practices (which should be understood and assessed). Regardless of preventive programs, recovery-audit contracts should be implemented to capture dollars lost due to errors. The purpose of preventive programs is different from that of recovery audit—even a very effective preventive program will result in some errors. The error rate is due to the sheer volume of transactions, people/expertise turnover, and the inherent difficulty in implementing changing reimbursement rules into systems in a timely fashion—these errors may never be completely addressed in a preventative way, which is

why the recovery audit contracts create value to the Federal agency. A methodical approach, with adequate seed funding, will ensure a strong contract that drives recovery back to those agencies.

This contract implementation is just beginning, but has great potential to succeed in returning dollars to the CMS. Moreover, the application of recovery audit contracting across other Federal agencies has strong potential, and will be successful if best practices and key lessons from contemporaries are applied. We believe this will enable Federal agencies to achieve the best results and outcome.

Chairman Carper, Subcommittee Member McCain and members of the subcommittee, this concludes my testimony. I thank you for the opportunity to speak with you today.