

**THE GOVERNMENT ACCOUNTABILITY
OFFICE'S ANNUAL REPORT ON THE
NATION'S FISCAL HEALTH**

HEARING
BEFORE THE
COMMITTEE ON THE BUDGET
UNITED STATES SENATE
ONE HUNDRED SIXTEENTH CONGRESS
SECOND SESSION

March 12, 2020

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THE GOVERNMENT ACCOUNTABILITY OFFICE'S ANNUAL REPORT ON THE NATION'S FISCAL HEALTH

THURSDAY, MARCH 12, 2020

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, D.C.

The Committee met, pursuant to notice, at 10:33 a.m., in Room SD-608, Dirksen Senate Office Building, Hon. Michael B. Enzi, Chairman of the Committee, presiding.

Present: Senators Enzi, Grassley, Braun, and Van Hollen.

Staff Present: Doug Dziak, Republican Staff Director; and Mike Jones, Minority Acting Staff Director.

OPENING STATEMENT OF CHAIRMAN MICHAEL B. ENZI

Chairman ENZI. I will call to order this hearing of the Senate Budget Committee, the hearing on the Government Accountability Office's Annual Report on the Nation's Fiscal Health.

Today the Budget Committee will hear from Congress' non-partisan watchdog on the Nation's fiscal health and the importance of confronting our critical fiscal challenges. I welcome back Mr. Dodaro, who is our most usual and best witness, providing information throughout the year that is extremely helpful to heading off some of the future crises that are going to happen if we do not pay attention.

This hearing will kick off a series of hearings and discussions that I hope will help to inform bipartisan solutions to the problems we face this year and help build the foundation for next year's budget cycle.

The next few years should be significant for the Budget Committee. The Committee has been working hard to enact reforms that improve transparency and accountability in the budget process and help put us on a more sustainable fiscal path. Last year Senator Whitehouse and I introduced the Bipartisan Congressional Budget Reform Act. I want to emphasize that word "bipartisan" because it is the first time any reform bill has gotten out of this Committee in a bipartisan way since 1990. When we are successful at turning this bill into a law, the next Congress would process the first budget cycle covered by its reforms. Next year will also mark the first budget cycle in 10 years not constrained by the Budget Control Act's discretionary spending caps and sequester.

In the months ahead, we will begin to lay the groundwork for a return to more regular budgeting through a series of discussions fo-

cused on the major fiscal issues on our country's horizon. With that in mind, we are meeting today for an update on the most pressing threats to our Nation's fiscal stability.

I am pleased to welcome back to the Committee Gene Dodaro, the Comptroller General of the United States and the head of the U.S. Government Accountability Office. Today GAO is issuing its fourth annual update on the Nation's fiscal health. For several years now, this report has warned that the Federal Government is on an unsustainable fiscal path.

Unfortunately, the budget outlook has grown even more dismal since last year's report, thanks to legislation enacted in 2019. Last year GAO predicted that debt as a percentage of gross domestic product (GDP), which compares the size of our debt to the size of our economy, would surpass its historical high of 106 percent by 2038. Now GAO projects we will hit that grim milestone by 2034 if current laws do not change.

The Congressional Budget Office's (CBO) recent budget outlook also shows the cost legislation enacted since last June has taken on our already unsustainable fiscal situation. Due to this legislation, namely, last year's spending agreement, which CBO attributes \$1.7 million—trillion—I still have trouble with that word—trillion in spending increases over 10 years and the fiscal year 2020 appropriations package with riders that repealed the pay-fors for the Affordable Care Act, CBO now projects that debt as a percentage of GDP will soar to 174 percent of GDP by 2049, a 30-percent-point increase from last year's projection.

CBO warns that failing to confront our rising debt will mean a future of slower economic growth, higher interest rates, and a greater risk of a fiscal crisis. As the deficit grows and we borrow even more money to fund the Government, the interest payments on the money we borrow will overtake all other spending. This should be a major red flag for everyone. Already the annual interest payments on our debt exceed what we spend on agriculture, transportation, and veterans' benefits and services all combined. By 2041, GAO projects our annual interest payments will be more than what we spend on Medicare. By 2044, interest payments will exceed what we spend on Social Security. By 2049, interest payments will exceed total discretionary spending.

We can and do have spirited debates on what our spending priorities should be, but interest payments on our debt are not even debatable. We do not get to decide whether we want to spend that money on health care, defense, or retirement security. It is already committed. It is the most mandatory funding that we do. And if we stay on the path we are on today, that interest will become the largest category of Federal spending.

I mentioned this Committee had advanced on a bipartisan vote the budget process reforms that Senator Whitehouse and I introduced and you all amended to make it an even better bill. Our bill takes several steps toward a more active, thoughtful, and functional budget process. This includes reorienting the budget resolution to a 2-year cycle and incorporating the debt limit into the budget process in a way that would minimize the threat of default.

We are also calling for integrating into the budget resolution longer-term fiscal targets based on national debt as a percentage

of the overall economy, a debt-to-GDP glide slope. This would emphasize our fiscal trajectory and help to get us on a more sustainable fiscal path.

One thing we will certainly need as we confront the hard decisions ahead is reliable financial and performance data. Earlier this year, I introduced the CFO Vision Act with Senators Warner, Grassley, Johnson, Perdue, and Lankford. I expect the Comptroller General is familiar with this bill as it grew out of a hearing we had with him last October on the CFO Act. The reform it proposes would standardize CFO responsibilities to enhance strategic decision-making and strengthen Deputy CFO authority to ensure continuity when vacancies occur. It also calls for revised planning requirements and metrics to help address longstanding challenges like better linking cost and performance measures and modernizing outdated legacy systems.

I should mention that at GAO's suggestion we have put in a request to Office of Management and Budget (OMB) to give us a list of all Federal programs. We have not gotten it yet. There seems to be some problem with the definition of what a Federal program is. I think I can help with that if they would just give us a printout of all of the payments that go to any entity. If an entity is getting money from us, it is one of our programs.

This is my last year in the Senate. It is my sincere hope that we can take concrete steps toward a sustainable fiscal future before I leave. A return to sensible budgeting would be a good start. I hope that members today will pay attention to the urgent message from Congress' nonpartisan watchdog. Our current Federal fiscal situation is unsustainable, and we must act before it is too late.

I want to thank Comptroller Dodaro for being here again and again and for all the delightful information that he shares with us. When we follow up on it, we get results. I look forward to his testimony.

And I do not think we have a Ranking Member statement today. I think it might be in preparation for a debate that is coming up.

Senator Grassley, do you want to make any comments?

Senator GRASSLEY. No. I will ask questions.

Chairman ENZI. Okay. So we will move on to our witness this morning. As I mentioned, it is Gene Dodaro, the head of the Government Accountability Office and Comptroller General of the United States. Mr. Dodaro testifies frequently before Congress, and I am pleased to welcome him back to this Committee. He is the eighth Comptroller General of the United States. He was confirmed in December of 2010 after serving as Acting Comptroller General since March of 2008. Mr. Dodaro has been with the GAO for more than 40 years. He served 9 years as the Chief Operating Officer, the number two leadership position at the agency. Prior to that, he headed GAO's Accounting and Information Management Division, which specialized in financial management, computer technology, and budget issues.

What a diverse background of information that has been extremely helpful and has been noted every time that you have testified. So, with that, Comptroller General, you can begin.

STATEMENT OF THE HONORABLE GENE L. DODARO, COMPTROLLER GENERAL, U.S. GOVERNMENT ACCOUNTABILITY OFFICE; ACCOMPANIED BY THOMAS H. ARMSTRONG, GENERAL COUNSEL

Mr. DODARO. Thank you very much, Mr. Chairman, Senator Grassley, Senator Braun. It is a pleasure to be here today to discuss our latest report on the fiscal health of the Federal Government.

As we convene this discussion today, our country is confronting a pandemic that is threatening the health, safety, and economic well-being of our citizens, our businesses, and our economy. And I make that point because it is relevant to our message today of why it is important to put the Federal Government on a more long-term, sustainable fiscal path. The Federal Government needs to have the budgetary flexibility to marshal resources to deal with emergency situations.

I am concerned, as our report notes, that our debt-to-GDP ratio as of the end of last fiscal year was 79 percent. That is the highest it has been since World War II when the United States hit the historic high of 106 percent of debt-to-GDP ratio. And that also contrasts with the debt-to-GDP ratio since 1946 of only 46 percent. The United States is very heavily leveraged in debt at a time when the country is going to be facing a steady annual deficit of \$1 trillion a year for as far as the eye can see. This will mean that the debt-to-GDP ratio, absent any fiscal policy changes, will hit the historic high of over 106 percent of GDP within 11 to 14 years. The timeframe depends on whether the estimates used is made by GAO, CBO, or the financial report of the Federal Government issued by Treasury and OMB, but they all result in the same conclusion.

More importantly, debt will continue to grow to 200, 300, 400, 500 percent of GDP. This is why we believe the current path is unsustainable.

The Social Security program is already at \$1 trillion. Medicare and Medicaid are expected to hit \$1 trillion each by 2026 if State money for Medicaid is included. And the interest on the debt will hit \$1 trillion by 2032. Right now, the total Federal budget is \$4.5 trillion. Those four programs or activities alone will be \$4 trillion relatively soon. That will crowd out a lot of other opportunities for spending in vital areas, ranging from defense to the whole panoply of discretionary programs important to the country.

The Federal Government needs a plan to deal with this. I recognize the need to deal with short-term national priorities and to make sure there is strong economic growth. But there is also a need for a plan to put the country on a better path.

I was very pleased, Mr. Chairman, to see the bipartisan bill that was passed out of this Committee that would set the debt-to-GDP targets and would also deal with another troublesome area that I pointed out in the past, which is to have a different approach to setting the debt limit. The current debt limit approach does not control the debt. It is dangerous because it can disrupt Treasury securities market if it is not raised in time, and increase interest costs to the Federal Government. There needs to be a different approach. Your approach that is included in the bill is a good ap-

proach. It is one of the options that we suggested tying it to the budget resolution.

In addition to these fiscal policy decisions that need to be made, there are still many opportunities to save additional money. We have pointed out in our report that this year the amount of improper payments across the Federal Government jumped from \$151 billion to \$175 billion, largely driven by an increase in Medicaid improper payments. And I think that number will go up higher, and I am happy to talk about that later.

There are also opportunities to address overlap, duplication, and fragmentation in the Federal Government. So far actions on our recommendations have saved \$262 billion, and we have outstanding recommendations that could save tens of billions of dollars more. So there is a lot that could be done to deal with this issue.

I again, in closing, applaud the Committee for taking action in this regard, both on the bipartisan budget reform bill as well as the CFO legislation. I would be happy to respond to questions, Mr. Chairman. Thank you very much.

[The prepared statement of Mr. Dodaro follows;]

PREPARED STATEMENT OF MR. GENE L. DODARO



United States Government Accountability Office

Testimony
Before the Committee on the Budget,
U.S. Senate

For Release on Delivery
Expected at 10:30 a.m. ET
Thursday, March 12, 2020

THE NATION'S FISCAL HEALTH

Action Is Needed to Address the Federal Government's Fiscal Future

Statement of Gene L. Dodaro
Comptroller General of the United States

Chairman Enzi, Ranking Member Sanders, and Members of the Committee:

I appreciate the opportunity to be here today to discuss our report on the fiscal condition and long-term fiscal path of the U.S. government.

Long-term fiscal projections by GAO, the Congressional Budget Office (CBO), and in *the 2019 Financial Report of the U.S. Government (2019 Financial Report)* all show that, absent policy changes, the federal government continues to face an unsustainable long-term fiscal path.¹ Although the assumptions in each of these projections vary somewhat, all result in the same conclusion: over the long term, the imbalance between spending and revenue that is built into current law and policy will lead to (1) deficits exceeding \$1 trillion each year beginning in fiscal year 2020, and (2) both the annual deficit and the cumulative total debt held by the public continuing to grow as shares of gross domestic product (GDP).² This situation—in which debt grows faster than GDP—means the current federal fiscal path is unsustainable.

Decisions in the near term to support economic growth and address the security and social challenges the nation faces need to be accompanied by a broader fiscal plan to put the federal government on a sustainable long-term path. This is essential to ensure that the United States remains in a strong economic position to meet its security and social needs. It is also necessary to preserve flexibility to address potentially urgent or unforeseen events, such as natural disasters, economic downturns, cyberattacks, and military conflicts.

GAO's Fiscal Health report provides information on (1) the unsustainable fiscal path and its primary drivers, (2) growing fiscal pressures that could further strain the federal budget, (3) why it is important to change the

¹The Financial Report is prepared each year by the Secretary of the Treasury, in coordination with the Director of the Office of Management and Budget. The *2019 Financial Report's* Statement of Long-Term Fiscal Projections presents, for all the activities of the federal government, the present value of projected receipts and noninterest spending under current policy without change, the relationship of these amounts to projected GDP, and changes in the present value of projected receipts and noninterest spending from the prior year.

²For more information on these assumptions, see appendix I of the report being released in conjunction with this testimony, GAO, *The Nation's Fiscal Health: Action Is Needed to Address the Federal Government's Fiscal Future*, [GAO-20-403SP](#) (Washington, D.C.: Mar. 12, 2020).

fiscal path, and (4) the need to take a new approach to managing the debt.

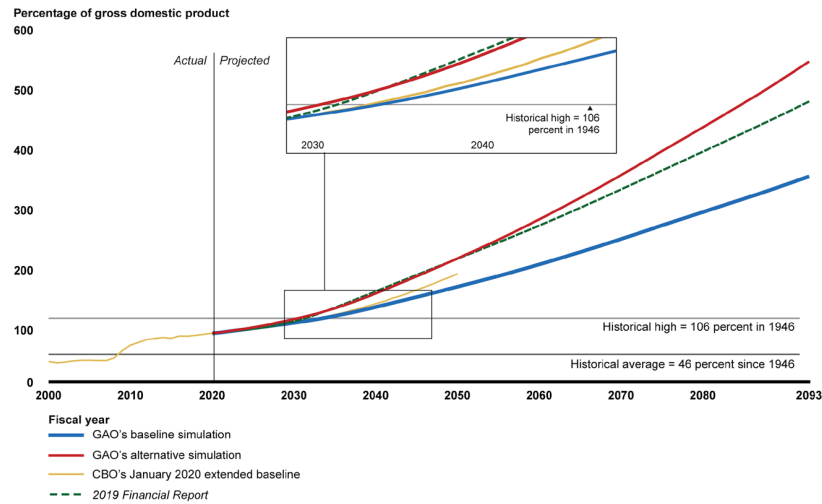
My statement is based upon our 2020 annual report on the nation's fiscal health, which leverages our fiscal year 2019 audit of the U.S. government's consolidated financial statements; our work on natural disasters; 2019 High-Risk List; the 2019 fragmentation, overlap, and duplication annual report; and other related work.³ The work upon which this statement is based was conducted in accordance with generally accepted government auditing standards.

The Federal Government Is on an Unsustainable Fiscal Path

By the end of fiscal year 2019, the federal debt held by the public had climbed to 79 percent of GDP. By comparison, such debt has averaged 46 percent of GDP annually since 1946. If current trends continue, debt as a share of GDP will exceed the historic high 1946 level of 106 percent of GDP within 11 to 14 years. In 2050, it will be nearly twice that level and about four times its post-World War II average. Figure 1 shows that in GAO, CBO, and 2019 *Financial Report* projections, debt held by the public as a share of GDP grows substantially over time.

³GAO, 2019 *Annual Report: Additional Opportunities to Reduce Fragmentation, Overlap, and Duplication and Achieve Billions in Financial Benefits*, [GAO-19-285SP](#) (Washington, D.C.: May 21, 2019); *High-Risk Series: Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas*, [GAO-19-157SP](#) (Washington, D.C.: Mar. 6, 2019); and *Financial Audit: Fiscal Years 2019 and 2018 Consolidated Financial Statements of the U.S. Government*, [GAO-20-315R](#) (Washington, D.C.: Feb 27, 2020).

Figure 1: Debt Held by the Public under Projections from GAO, the Congressional Budget Office (CBO), and the 2019 Financial Report of the U.S. Government



Sources: GAO, Congressional Budget Office, and 2019 Financial Report of the U.S. Government. | GAO-20-482T

Note: For information on the assumptions made in GAO's simulations, see [GAO-20-403SP](#), appendix I.

Spending Outlook Is Driven by Health Care and Net Interest on the Debt

Under GAO, CBO, and the 2019 *Financial Report* projections, spending for the major health and retirement programs grows more rapidly than GDP in coming decades. This is a consequence of both an aging population and projected continued increases in health care costs per beneficiary. Medicare spending is expected to exceed \$1 trillion per year

by fiscal year 2026, and Social Security spending already exceeds \$1 trillion per year.⁴

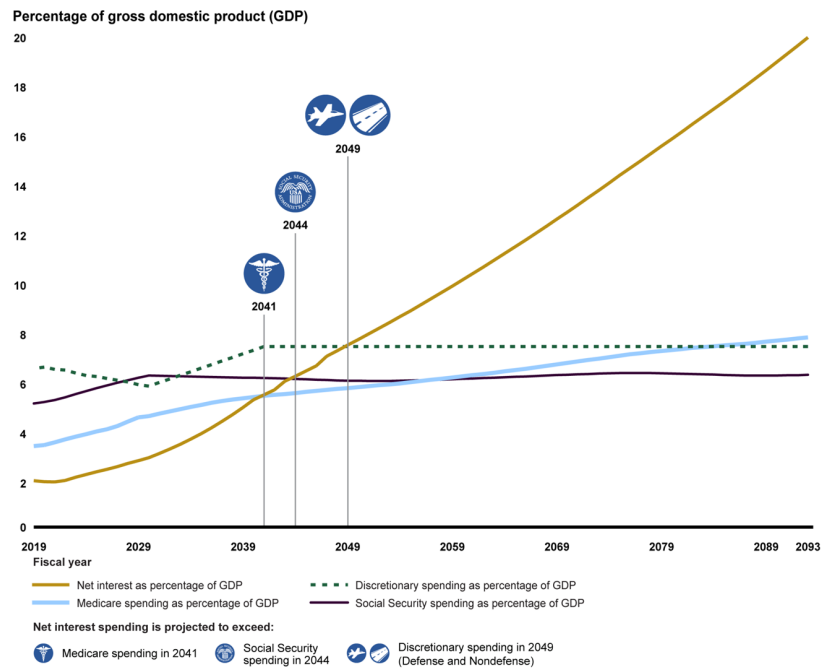
However, according to the projections, these spending categories will eventually be overtaken by spending on net interest, which primarily consists of interest costs on the federal government's debt held by the public. In recent years, persistently low interest rates have resulted in lower interest costs for the government than previously projected. Despite these low interest rates, spending on net interest grew from \$263 billion in 2017 to \$376 billion in 2019. That \$376 billion is 8.4 percent of total federal spending, which exceeded combined spending on agriculture, transportation, and veterans' benefits and services.

Going forward, both interest rates and the debt are projected to grow, which means spending on net interest is projected to grow faster than any other component of the budget.⁵ In 2032, spending on net interest is projected to exceed \$1 trillion annually. Over the past 50 years, net interest costs have averaged 2 percent of GDP but these costs are projected to increase to 7.2 percent by 2049. As figure 2 shows, we project that as a share of GDP, net interest spending will exceed Medicare spending in 2041, Social Security spending in 2044, and total Discretionary spending in 2049.

⁴Medicaid spending is projected to exceed \$1 trillion per year by fiscal year 2026 as well but includes both state and federal spending.

⁵GAO's long-term fiscal projections use CBO's projected interest rates. In its January 2020 *Budget and Economic Outlook*, CBO lowered its interest rate projections, estimating that the average interest rate on debt held by the public will rise from 2.5 percent in fiscal year 2019 to 2.8 percent in fiscal year 2030. This projection is lower than CBO's previous projection that rates would rise to 3.5 percent in fiscal year 2029. See CBO, *The Budget and Economic Outlook: 2020 to 2030* (Washington, D.C.: January 2020).

Figure 2: Projected Net Interest and Other Spending as a Percentage of Gross Domestic Product



Source: GAO. | GAO-20-482T

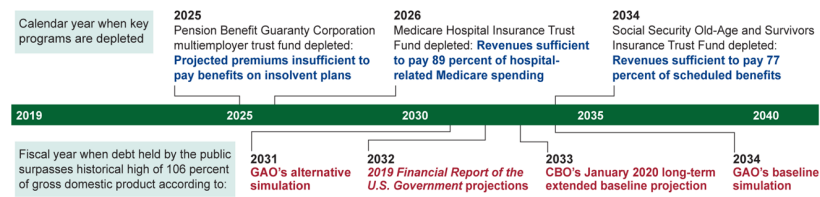
Interest costs will also depend in part on the outstanding mix of Treasury securities. The Department of the Treasury issues securities in a wide range of maturities to appeal to a broad range of investors to support its

goal of borrowing at the lowest cost over time.⁶ Treasury refinances maturing debt by issuing new debt in its place at the prevailing interest rate. At the end of fiscal year 2019, 61 percent of the outstanding amount of marketable Treasury securities held by the public (about \$9.9 trillion) was scheduled to mature in the next 4 years.⁷ If interest rates are higher, Treasury will have to refinance these securities at the higher interest rates, adding to the interest costs of the growing federal debt.

Action Is Needed to Address an Unsustainable Fiscal Path

Impending financial challenges for major programs and fiscal risks are both straining the federal budget and contributing to the growing debt. Sustaining key programs will require changes (see fig. 3).

Figure 3: Key Dates for Major Programs and Future Debt



Sources: Pension Benefit Guaranty Corporation, Trustees for Social Security and Medicare, Congressional Budget Office (CBO), Centers for Medicare & Medicaid Services, GAO, and 2019 Financial Report of the U.S. Government. | GAO-20-482T

Note: In December 2019, the enactment of the Bipartisan American Miners Act of 2019 provided additional funding for future annual Treasury transfers to the 1974 United Mine Workers of America Pension Plan (included in the Pension Benefit Guaranty Corporation's multiemployer program). The Pension Benefit Guaranty Corporation is currently assessing the effect of the legislation on the multiemployer program's estimated insolvency date.

⁶The interest rates associated with the range of maturities of the nominal securities issued by Treasury create a "yield curve" which represents the relationship between the maturity of an asset and its yield (the interest rate paid by Treasury or cost of borrowing).

⁷Marketable securities are securities that can be resold by whomever owns them. At the end of fiscal year 2019, 97 percent of the outstanding amount of securities that constitute debt held by the public was marketable. For more information, see GAO, *Financial Audit: Bureau of the Fiscal Service's Fiscal Years 2019 and 2018 Schedules of Federal Debt*, GAO-20-117 (Washington, D.C.: Nov. 8, 2019).

The President's Budget, CBO, and the Chair of the Board of Governors of the Federal Reserve System all make it clear that rising federal debt could have long-term consequences for the economy. For example it could:

- constrain Congress's ability to support the economy or address other national priorities,
- restrain private investment and thereby reduce productivity and overall growth, and
- erode confidence in the U.S. dollar.

In addition, it may increase the risk of a fiscal crisis, in which investors would lose confidence in the U.S. government's financial position, and interest rates on Treasury securities would increase abruptly.

To change the long-term fiscal path, policymakers will need to consider policy changes to the entire range of federal activities, both revenue (including tax expenditures) and spending (entitlement programs, other mandatory spending, and discretionary spending).⁸ As Congress considers changes in revenue and spending policies to improve the federal government's long-term fiscal path, it will also need to consider other approaches for managing the level of debt.

As currently structured, the debt limit is a legal limit on the total amount of federal debt that can be outstanding at one time. The debt limit does not restrict Congress's ability to pass spending and revenue legislation that affects the level of debt, nor does it otherwise constrain fiscal policy. Without legislation to suspend or raise the debt limit, Treasury cannot continue issuing debt to finance the decisions already enacted by Congress and the President.⁹ We have reported on the negative impacts of uncertainty around the debt limit which include (1) increased Treasury borrowing costs, (2) decreased demand for Treasury securities, and (3)

⁸Tax expenditures are provisions of the tax code that reduce taxpayers' tax liability and therefore the amount of tax revenue paid to the government. Examples include tax credits, deductions, exclusions, exemptions, deferrals, and preferential tax rates.

⁹The Bipartisan Budget Act of 2019 has suspended the debt limit through July 31, 2021. Pub. L. No. 116-37, § 301, 133 Stat. 1049, 1057 (2019).

constrained Treasury cash management.¹⁰ We have reported numerous times that the full faith and credit of the United States must be preserved.

We have also recommended that Congress consider other approaches to the current debt limit to avoid seriously disrupting the Treasury market and increasing borrowing costs and to allow it to better manage the federal government's level of debt. A number of bills have been introduced in this Congress to address this issue. The Senate Budget Committee's proposal to reform the Congressional budget process would automatically adjust the debt limit to conform to levels established in the budget resolution.

In contrast to the debt limit, fiscal rules can support efforts to achieve fiscal sustainability by imposing numerical limits or targets on the budget to guide fiscal policy. Fiscal rules are intended to influence decisions about spending and revenue as they are made.¹¹

The Senate Budget Committee's proposal to reform the Congressional budget process is an example of one such approach. This legislation would specify target ratios for debt as a share of GDP and track legislation against that target. As Congress continues to consider options, two key points should be emphasized.

- An agreed-upon goal can help policymakers justify and frame their choices. With that in mind, a fiscal target that establishes a common goal for controlling the size of the federal debt relative to the economy—as well as well-designed rules that put the federal government on a path to achieve that target—could form part of a long-term fiscal plan to put the government on a sustainable fiscal path.
- The longer action is delayed, the greater and more drastic the changes will have to be, placing an additional burden on future generations.

While changes in spending and revenue to ensure long-term fiscal sustainability require legislative actions to alter fiscal policies, executive agencies can also take actions to contribute toward a sustainable fiscal

¹⁰GAO, *Debt Limit: Market Response to Recent Impasses Underscores Need to Consider Alternative Approaches* [GAO-15-476](#) (Washington, D.C.: July 9, 2015).

¹¹At the request of the Chairman of the Senate Budget Committee and Ranking Member of the House Budget Committee, we are examining the design, implementation, and enforcement of fiscal rules and targets in other countries.

future. Although executive actions alone cannot put the U.S. government on a sustainable fiscal path, it is important for agencies to act as stewards of federal resources. These actions include reducing improper payments, which agencies estimate totaled \$175 billion in fiscal year 2019; addressing the \$381 billion annual net tax gap; better managing fragmentation, overlap, and duplication across the federal government; and improving information on federal programs and fiscal operations to aid agency decision-making.

Chairman Enzi, Ranking Member Sanders, and Members of the Committee, this completes our prepared statement. We would be pleased to respond to any questions that you may have.

GAO Contacts

For further information on this testimony, please contact Susan J. Irving, Senior Advisor to the Comptroller General, Debt and Fiscal Issues, who may be reached at (202) 512-6806 or IrvingS@gao.gov; Robert F. Dacey, Chief Accountant, who may be reached at (202) 512-3406 or daceyr@gao.gov; or Dawn B. Simpson, Director, Financial Management and Assurance, who may be reached at (202) 512-3406 or simpsondb@gao.gov. Contact points for our Congressional Relations and Public Affairs offices may be found on the last page of this statement.

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Chairman ENZI. Thank you, and thank you for the document you provided with a lot more information than that.

I will turn to Senator Grassley for questions.

Senator GRASSLEY. I will take you up on that, and then I can go over to the Agriculture Committee.

Mr. Dodaro, your written testimony says the Pension Benefit Guaranty Corporation's multiemployer Pension Trust Fund is projected to be depleted by 2025. I am aware of that, and we are working on legislation to try to help that out along with other aspects of multiemployer. So after 2025, if nothing is done, PBGC premiums will not be enough to pay benefits to the insolvent plans. And so Senator Alexander and I with jurisdiction over some of this are trying to work on that. There are other proposals as well, and I think everyone recognizes that the longer we wait, the worse the problem becomes.

I wonder if you could comment on the need for action to shore up the multiemployer pension system and whether you think that it would be prudent to continue to delay action.

Mr. DODARO. Senator Grassley, I think that is one of the most urgent issues facing the Congress. I have been concerned about the multiemployer plan for a number of years. I wrote a special message to the Congress about this back in 2014. Congress took some action at that time, but it was not sufficient enough to deal with the longer-term problem.

If Congress does not act, there are about 11 million people that are insured in the multiemployer pension plan, and once it goes insolvent, the only benefits the Government will be able to pay is about \$2,000 a year, if that, to these people for a pension. Hardly adequate. The Government will fail these individuals if it does not act. I encourage you to continue your efforts, and your colleagues, to act on this issue.

Also, the single-employer program, while it is in a current surplus situation, has tremendous exposure over the long term as well, there are about \$155 billion of potential losses to that program as well. But the multiemployer plan is the most urgent, and I would encourage swift action on the part of the Congress to allay concerns by these Americans that would be affected.

Senator GRASSLEY. I want to go to entitlements. Your agency, CBO, and others have been telling us for a long time about Social Security and health care entitlements and our net interest issues on the debt are unsustainable. And in order to address that, we have to reduce deficits and debt. Social Security's Trust Fund will be exhausted by 2034, and we will be paying a heck of a lot less in Social Security benefits if we do not do something about that.

So I want to get to health care spending. I have a bill with Senator Wyden to reduce drug prices, save taxpayers money, and reduce health care costs generally. We cannot allow overall health care spending and subsidies to grow faster than the economy grows. If we are serious about reducing our debt, my question to you is: Don't we have to control the growth in Federal spending on health care and entitlements?

Mr. DODARO. Absolutely, Congress needs to do that. The fastest-growing costs in the Federal Government are health care costs and interest on the debt. The health care costs, as you point out, Sen-

ator, are growing faster than the economy and are projected to continue to do so in the future. So there have to be some changes.

By 2026, there will only be enough money in the Medicare Hospital Trust Fund to pay 89 cents on the dollar of benefits. That is right around the corner. That would affect millions of Americans that rely on the Medicare Hospital Trust Fund and put enormous pressure on the Federal Government.

The suggestions that you make are good ones. We have other open recommendations in addition to bringing down drug costs. For example, your payment by the Federal Government under Medicare for doctor visits depends on where you go, what place you get it. If you go to a doctor's office that is affiliated with a hospital, Medicare pays more money than if you visited that same doctor in a private practice. If those payments were equalized, the Federal Government would save billions of dollars in that area.

We have a number of open recommendations. I will provide them to this Committee for the record and provide them to your staff as well. But you absolutely have to control health care costs. That is the most complicated part of this whole equation. If you do not control health care costs, you really do not have much of a prayer of reducing the Federal Government's deficit and debt issues.

**ADDITIONAL INFORMATION SUBMITTED
BY MR. DODARO FOLLOWS**

Open GAO Matters for Congressional Consideration and Recommendations Related to Medicare

Table 1: Open GAO Matters for Congressional Consideration Related to Medicare, as of March 2020

Report Title (Report Number, Publication Date)	Matter for Congressional Consideration
MEDICARE HOSPICE CARE: Opportunities Exist to Strengthen CMS Oversight of Hospice Providers (GAO-20-10, 10/2019)	Congress should consider giving CMS authority to establish additional enforcement remedies for hospices that do not meet federal health and safety requirements. (Matter for Consideration 1)
Medicare Part B: Data on Coupon Discounts Needed to Evaluate Methodology for Setting Drug Payment Rates (GAO-16-643, 07/2016)	To determine the suitability of Medicare's Part B drug payment rate methodology for drugs with coupon programs, Congress should consider (1) granting CMS the authority to collect data from drug manufacturers on coupon discounts for Part B drugs paid based on ASP, and (2) requiring the agency to periodically collect these data and report on the implications that coupon programs may have for this methodology.
Medicare Part B: CMS Should Take Additional Steps to Verify Accuracy of Data Used to Set Payment Rates for Drugs (GAO-16-594, 7/2016)	To help the Department of Health and Human Services ensure accuracy in Part B drug payment rates, Congress should consider requiring all manufacturers of Part B drugs paid at ASP, not only those with Medicaid drug rebate agreements, to submit sales price data to CMS, and ensure that CMS has authority to request source documentation to periodically validate all such data.
Medicare: Increasing Hospital-Physician Consolidation Highlights Need for Payment Reform (GAO-16-189, 12/2015)	In order to prevent the shift of services from physician offices to HOPDs from increasing costs for the Medicare program and beneficiaries, Congress should consider directing the Secretary of HHS to equalize payment rates between settings for E/M office visits--and other services that the Secretary deems appropriate--and to return the associated savings to the Medicare program.

Report Title (Report Number, Publication Date)	Matter for Congressional Consideration
Medicare Part B Drugs: Action Needed to Reduce Financial Incentives to Prescribe 340B Drugs at Participating Hospitals (GAO-15-442, 6/2015)	To help ensure the financial sustainability of the Medicare program, protect beneficiaries from unwarranted financial burden, and address potential concerns about the appropriateness of the health care provided to Part B beneficiaries, Congress should consider eliminating the incentive to prescribe more drugs or more expensive drugs than necessary to treat Medicare Part B beneficiaries at 340B hospitals.
Medicare: Payment Methods for Certain Cancer Hospitals Should Be Revised to Promote Efficiency (GAO-15-199, 2/2015)	To help the Department of Health and Human Services better control spending and encourage efficient delivery of care, Congress should consider requiring Medicare to pay PCHs as it pays PPS teaching hospitals, or provide the Secretary with the authority to otherwise modify how Medicare pays PCHs. To generate cost savings from any reduction in outpatient payments to PCHs, Congress should also provide that all forgone outpatient payment adjustment amounts be returned to the Supplementary Medical Insurance Trust Fund.
Medicare: Higher Use of Costly Prostate Cancer Treatment by Providers Who Self-Refer Warrants Scrutiny (GAO-13-525, 7/2013)	To increase beneficiaries' awareness of providers' financial interest in a particular treatment, Congress should consider directing the Secretary of Health and Human Services to require providers who self-refer IMRT services to disclose to their patients that they have a financial interest in the service.
Medicare: Use of Preventive Services Could Be Better Aligned with Clinical Recommendations (GAO-12-81, 1/2012)	To further align Medicare beneficiary use of preventive services with Task Force recommendations, Congress may wish to consider requiring beneficiaries who receive services with a grade of 'D' to share the cost, notwithstanding that cost sharing may not be required for other beneficiaries receiving the same services.
Medicare Physician Payments: Fees Could Better Reflect Efficiencies Achieved When Services Are Provided Together (GAO-09-647, 7/2009)	To ensure that savings are realized from the implementation of an MPPR or other policies that reflect efficiencies occurring when services are furnished together, Congress may wish to consider exempting these savings from budget neutrality.

Table 2: Open GAO Recommendations Related to Medicare, as of March 2020

Report Title (Report Number, Publication Date) Priority Rec. (yes/no) ¹	Recommendation
Medicare and Medicaid: Alignment of Managed Care Plans for Dual-Eligible Beneficiaries (GAO-20-319, 03/2020) Priority rec: No	The Administrator of CMS should take steps to obtain quality information on the experiences of dual-eligible beneficiaries who have been default enrolled into D-SNPs, such as by obtaining information about the extent to which and reasons that beneficiaries disenroll from a D-SNP after being default enrolled.
Medicare Hospice Care: Opportunities Exist to Strengthen CMS Oversight of Hospice Providers (GAO-20-10, 10/2019) Priority rec: No	The Administrator of CMS should incorporate the use of additional information, such as quality measures or other information that could identify potential quality of care issues, into its survey process for overseeing hospice providers. (Recommendation 1)
Health Care Quality: CMS Could More Effectively Ensure Its Quality Measurement Activities Promote Its Objectives (GAO-19-628, 09/2019) Priority rec: No	The Administrator of CMS should, to the extent feasible, maintain more complete information on both the total amount of funding allocated for quality measurement activities and the extent to which this funding supports each of its quality measurement strategic objectives. (Recommendation 1)
Health Care Quality: CMS Could More Effectively Ensure Its Quality Measurement Activities Promote Its Objectives (GAO-19-628, 09/2019) Priority rec: No	The Administrator of CMS should develop and implement procedures to systematically assess the measures it is considering developing, using, or removing in terms of their impact on achieving CMS's strategic objectives and document its compliance with those procedures. (Recommendation 2)
Health Care Quality: CMS Could More Effectively Ensure Its Quality Measurement Activities Promote Its Objectives (GAO-19-628, 09/2019) Priority rec: No	The Administrator of CMS should develop and use a set of performance indicators to evaluate the agency's progress towards achieving its quality measurement strategic objectives. (Recommendation 3)

¹ Indicates whether GAO has designated the recommendation as a high priority for HHS. For the HHS priority letter issued in 2019, [click here](#). Priority recommendations are those that GAO believes warrant priority attention from heads of key departments or agencies. They are highlighted because, upon implementation, they may significantly improve government operation, for example, by realizing large dollar savings; eliminating mismanagement, fraud, and abuse; or making progress toward addressing a High Risk or duplication issue.

Report Title (Report Number, Publication Date) Priority Rec. (yes/no) ¹	Recommendation
Federal Rulemaking: Selected Agencies Should Clearly Communicate Practices Associated with Identity Information in the Public Comment Process (GAO-19-483, 06/2019) Priority rec: No	The Administrator of Centers for Medicare & Medicaid Services (CMS) should create and implement a policy for standard posting requirements regarding comments and their identity information, particularly for duplicate comments, and should clearly communicate this policy to the public on the CMS website. (Recommendation 2)
Data Protection: Federal Agencies Need to Strengthen Online Identity Verification Processes (GAO-19-288, 05/2019) Priority rec: No	The Administrator of the Centers for Medicare and Medicaid Services should develop a plan with time frames and milestones to discontinue knowledge-based verification, such as by using Login.gov or other alternative verification techniques. (Recommendation 1)
Medicare and Medicaid: CMS Should Assess Documentation Necessary to Identify Improper Payments (GAO-19-277, 03/2019) Priority rec: No	The Administrator of CMS should institute a process to routinely assess, and take steps to ensure, as appropriate, that Medicare and Medicaid documentation requirements are necessary and effective at demonstrating compliance with coverage policies while appropriately addressing program risks. (Recommendation 1)
Medicare and Medicaid: CMS Should Assess Documentation Necessary to Identify Improper Payments (GAO-19-277, 03/2019) Priority rec: No	The Administrator of CMS should take steps to ensure that Medicaid medical reviews provide robust information about and result in corrective actions that effectively address the underlying causes of improper payments. Such steps could include adjusting the sampling approach to reflect state-specific program risks, and working with state Medicaid agencies to leverage other sources of information, such as state auditor and the Department of Health and Human Services' Office of the Inspector General findings. (Recommendation 2)
Medicare and Medicaid: CMS Should Assess Documentation Necessary to Identify Improper Payments (GAO-19-277, 03/2019) Priority rec: No	The Administrator of CMS should take steps to minimize the potential for Payment Error Rate Measurement (PERM) medical reviews to compromise fraud investigations, such as by directing states to determine whether providers selected for PERM medical reviews are also under fraud investigation and to assess whether such reviews could compromise investigations. (Recommendation 3)

Report Title (Report Number, Publication Date) Priority Rec. (yes/no) ¹	Recommendation
Medicare and Medicaid: CMS Should Assess Documentation Necessary to Identify Improper Payments (GAO-19-277, 03/2019) Priority rec: No	The Administrator of CMS should address disincentives for state Medicaid agencies to notify the PERM contractor of providers under fraud investigation. This could include educating state officials about the benefits of reporting providers under fraud investigation, and taking actions such as revising how claims from providers under fraud investigation are accounted for in state-specific FFS improper payment rates, or the need for corrective actions in such cases. (Recommendation 4)
Medicare Laboratory Tests: Implementation of New Rates May Lead to Billions in Excess Payments (GAO-19-67, 11/2018) Priority rec: No	The Administrator of CMS should take steps to collect all of the data from all laboratories that are required to report. If only partial data can be collected, CMS should estimate how incomplete data would affect Medicare payment rates and address any significant challenges to setting accurate Medicare rates. (Recommendation 1)
Medicare Laboratory Tests: Implementation of New Rates May Lead to Billions in Excess Payments (GAO-19-67, 11/2018) Priority rec: No	The Administrator of CMS should phase in payment-rate reductions that start from the actual payment rates Medicare paid prior to 2018 rather than the national limitation amounts. CMS should revise these rates as soon as practicable to prevent paying more than necessary. (Recommendation 2)
Medicare Laboratory Tests: Implementation of New Rates May Lead to Billions in Excess Payments (GAO-19-67, 11/2018) Priority rec: No	The Administrator of CMS should use bundled rates for panel tests, consistent with its practice prior to 2018, rather than paying for them individually; if necessary, the Administrator of CMS should seek legislative authority to do so. (Recommendation 3)
Medicare: CMS Should Take Actions to Continue Prior Authorization Efforts to Reduce Spending (GAO-18-341, 04/2018) Priority rec: No	The Administrator of CMS should subject accessories essential to the group 3 power wheelchairs in the permanent DMEPOS program to prior authorization. (Recommendation 1)
Medicare: CMS Should Take Actions to Continue Prior Authorization Efforts to Reduce Spending (GAO-18-341, 04/2018) Priority rec: Yes	The Administrator of CMS should take steps, based on results from evaluations, to continue prior authorization. These steps could include: (1) resuming the paused home health services demonstration; (2) extending current demonstrations; or, (3) identifying new opportunities for expanding prior authorization to additional items and services with high unnecessary utilization and high improper payment rates. (Recommendation 2)

Report Title (Report Number, Publication Date) Priority Rec. (yes/no) ¹	Recommendation
Electronic Health Information: CMS Oversight of Medicare Beneficiary Data Security Needs Improvement (GAO-18-210, 03/2018) Priority rec: No	The Administrator of the Centers for Medicare and Medicaid Services should develop and distribute guidance for researchers defining minimum security controls and implementation guidance for those controls that is consistent with the National Institute of Standards and Technology guidance. (Recommendation 1)
Electronic Health Information: CMS Oversight of Medicare Beneficiary Data Security Needs Improvement (GAO-18-210, 03/2018) Priority rec: Yes	The Administrator of the Centers for Medicare and Medicaid Services should develop processes and procedures to ensure that qualified entities and researchers have implemented information security controls effectively throughout their agreements with CMS. (Recommendation 3)
Medicare and Medicaid: CMS Needs to Fully Align Its Antifraud Efforts with the Fraud Risk Framework (GAO-18-88, 12/2017) Priority rec: No	The Administrator of CMS should provide fraud-awareness training relevant to risks facing CMS programs and require new hires to undergo such training and all employees to undergo training on a recurring basis. (Recommendation 1)
Medicare and Medicaid: CMS Needs to Fully Align Its Antifraud Efforts with the Fraud Risk Framework (GAO-18-88, 12/2017) Priority rec: No	The Administrator of CMS should conduct fraud risk assessments for Medicare and Medicaid to include respective fraud risk profiles and plans for regularly updating the assessments and profiles. (Recommendation 2)
Medicare and Medicaid: CMS Needs to Fully Align Its Antifraud Efforts with the Fraud Risk Framework (GAO-18-88, 12/2017) Priority rec: No	The Administrator of CMS should, using the results of the fraud risk assessments for Medicare and Medicaid, create, document, implement, and communicate an antifraud strategy that is aligned with and responsive to regularly assessed fraud risks. This strategy should include an approach for monitoring and evaluation. (Recommendation 3)
Prescription Opioids: Medicare Needs to Expand Oversight Efforts to Reduce the Risk of Harm (GAO-18-15, 10/2017) Priority rec: No	The Administrator of CMS should require plan sponsors to report to CMS on investigations and other actions taken related to providers who prescribe high amounts of opioids. (Recommendation 3)

Report Title (Report Number, Publication Date) Priority Rec. (yes/no) ¹	Recommendation
Medicare: CMS Should Evaluate Providing Coverage for Disposable Medical Devices That Could Substitute for Durable Medical Equipment (GAO-17-600, 07/2017) Priority rec: No	The Administrator of CMS should evaluate the possible costs and savings of using disposable devices that could potentially substitute for DME, including options for benefit categories and payment methodologies that could be used to cover these substitutes, and, if appropriate, seek legislative authority to cover these devices.
Hospital Value-Based Purchasing: CMS Should Take Steps to Ensure Lower Quality Hospitals Do Not Qualify for Bonuses (GAO-17-551, 06/2017) Priority rec: No	To ensure that the HVBP program accomplishes its goal to balance quality and efficiency and to ensure that it minimizes the payment of bonuses to hospitals with lower quality scores, the Administrator of CMS should revise the formula for the calculation of hospitals' total performance score or take other actions so that the efficiency score does not have a disproportionate effect on the total performance score.
Hospital Value-Based Purchasing: CMS Should Take Steps to Ensure Lower Quality Hospitals Do Not Qualify for Bonuses (GAO-17-551, 06/2017) Priority rec: No	To ensure that the HVBP program accomplishes its goal to balance quality and efficiency and to ensure that it minimizes the payment of bonuses to hospitals with lower quality scores, the Administrator of CMS should revise the practice of proportional redistribution used to correct for missing domain scores so that it no longer facilitates the awarding of bonuses to hospitals with lower quality scores.
Electronic Health Records: HHS Needs to Improve Planning and Evaluation of Its Efforts to Increase Information Exchange in Post-Acute Care Settings (GAO-17-184, 01/2017) Priority rec: No	To improve efforts to promote EHR use and electronic exchange of health information in post-acute care settings, the Secretary of Health and Human Services should direct the Centers for Medicare & Medicaid Services (CMS) and ONC to evaluate the effectiveness of HHS's key efforts to determine whether they are contributing to HHS's goal for increasing the use of EHRs and electronic exchange of health information in post-acute care settings.
Electronic Health Records: HHS Needs to Improve Planning and Evaluation of Its Efforts to Increase Information Exchange in Post-Acute Care Settings (GAO-17-184, 01/2017) Priority rec: No	To improve efforts to promote EHR use and electronic exchange of health information in post-acute care settings, the Secretary of Health and Human Services should direct CMS and ONC to comprehensively plan for how to achieve the department's goal related to the use of EHRs and electronic information exchange in post-acute care settings. This planning may include, for example, identifying specific actions related to post-acute care settings and identifying and considering external factors.

Report Title (Report Number, Publication Date) Priority Rec. (yes/no) ¹	Recommendation
Health Care Quality: HHS Should Set Priorities and Comprehensively Plan Its Efforts to Better Align Health Quality Measures (GAO-17-5, 10/2016) Priority rec: No	To make it more likely that HHS will achieve its goals to reduce quality measure misalignment and associated provider burden, the Secretary of HHS should direct CMS and the Office of the National Coordinator for Health Information Technology to prioritize their development of electronic quality measures and associated standardized data elements on the specific quality measures needed for the core measure sets that CMS and private payers have agreed to use.
Health Care Quality: HHS Should Set Priorities and Comprehensively Plan Its Efforts to Better Align Health Quality Measures (GAO-17-5, 10/2016) Priority rec: No	To make it more likely that HHS will achieve its goals to reduce quality measure misalignment and associated provider burden, the Secretary of HHS should direct CMS to comprehensively plan, including setting timelines, for how to target its development of new, more meaningful quality measures on those that will promote greater alignment, especially measures to strengthen the core measure sets that CMS and private payers have agreed to use.
Skilled Nursing Facilities: CMS Should Improve Accessibility and Reliability of Expenditure Data (GAO-16-700, 09/2016) Priority rec: No	To improve the accessibility and reliability of SNF expenditure data, the Acting Administrator of CMS should take steps to improve the accessibility of SNF expenditure data, making it easier for public stakeholders to locate and use the data.
Skilled Nursing Facilities: CMS Should Improve Accessibility and Reliability of Expenditure Data (GAO-16-700, 09/2016) Priority rec: No	To improve the accessibility and reliability of SNF expenditure data, the Acting Administrator of CMS should take steps to ensure the accuracy and completeness of SNF expenditure data.
Medicare Part B: CMS Should Take Additional Steps to Verify Accuracy of Data Used to Set Payment Rates for Drugs (GAO-16-594, 07/2016) Priority rec: No	CMS should periodically verify the sales price data submitted by a sample of drug manufacturers by requesting source documentation from manufacturers to corroborate the reported data, either directly or by working with the HHS Office of Inspector General as necessary.
Hospital Uncompensated Care: Federal Action Needed to Better Align Payments with Costs (GAO-16-568, 06/2016) Priority rec: Yes	To ensure efficient use of federal resources, the Administrator of CMS should account for Medicaid payments a hospital has received that offset uncompensated care costs when determining hospital uncompensated care costs for the purposes of making Medicare UC payments to individual hospitals.

Report Title (Report Number, Publication Date) Priority Rec. (yes/no) ¹	Recommendation
Medicare Fee-For-Service: Opportunities Remain to Improve Appeals Process (GAO-16-366, 05/2016) Priority rec: No	To reduce the number of Medicare appeals and to strengthen oversight of the Medicare FFS appeals process, the Secretary of Health and Human Services should direct CMS, Office of Medicare Hearings and Appeals (OMHA), or Departmental Appeals Board (DAB) to modify the various Medicare appeals data systems to collect information on the reasons for appeal decisions at Level 3.
Medicare Fee-For-Service: Opportunities Remain to Improve Appeals Process (GAO-16-366, 05/2016) Priority rec: No	To reduce the number of Medicare appeals and to strengthen oversight of the Medicare FFS appeals process, the Secretary of Health and Human Services should direct CMS, OMHA, or DAB to modify the various Medicare appeals data systems to capture the amount, or an estimate, of Medicare appeals charges at stake in appeals in Medicare Appeals System (MAS) and Medicare Operations Division Automated Case Tracking System (MODACTS).
Medicare Fee-For-Service: Opportunities Remain to Improve Appeals Process (GAO-16-366, 05/2016) Priority rec: No	To reduce the number of Medicare appeals and to strengthen oversight of the Medicare FFS appeals process, the Secretary of Health and Human Services should direct CMS, OMHA, or DAB to modify the various Medicare appeals data systems to collect consistent data across systems, including appeal categories and appeal decisions across MAS and MODACTS.
Medicare: Claim Review Programs Could Be Improved with Additional Prepayment Reviews and Better Data (GAO-16-394, 04/2016) Priority rec: Yes	In order to better ensure proper Medicare payments and protect Medicare funds, CMS should seek legislative authority to allow the RAs to conduct prepayment claim reviews.
Medicare Advantage: Action Needed to Ensure Appropriate Payments for Veterans and Nonveterans (GAO-16-137, 04/2016) Priority rec: No	The Secretary of Health and Human Services should direct the Administrator of CMS to assess the feasibility of updating the agency's study on the effect of VA-provided Medicare-covered services on per capita county Medicare FFS spending rates by obtaining VA utilization and diagnosis data for veterans enrolled in Medicare FFS under its existing data use agreement or by other means as necessary.

Report Title (Report Number, Publication Date) Priority Rec. (yes/No) ¹	Recommendation
Medicare Advantage: Action Needed to Ensure Appropriate Payments for Veterans and Nonveterans (GAO-16-137, 04/2016) Priority rec: No	If CMS makes an adjustment to the benchmark to account for VA spending on Medicare-covered services, the Secretary of Health and Human Services should direct the Administrator of CMS to assess whether an additional adjustment to MA payments is needed to ensure that payments to MA plans are equitable for veterans and nonveterans.
Medicare Advantage: Fundamental Improvements Needed in CMS's Effort to Recover Substantial Amounts of Improper Payments (GAO-16-76, 04/2016) Priority rec: No	As CMS continues to implement and refine the contract-level RADV audit process to improve the efficiency and effectiveness of reducing and recovering improper payments and to improve the accuracy of CMS's calculation of coding intensity, the Administrator should modify that calculation by taking actions such as the following: (1) including only the three most recent pair-years of risk score data for all contracts; (2) standardizing the changes in disease risk scores to account for the expected increase in risk scores for all MA contracts; (3) developing a method of accounting for diagnostic errors not coded by providers, such as requiring that diagnoses added by MA organizations be flagged as supplemental diagnoses in the agency's Encounter Data System to separately calculate coding intensity scores related only to diagnoses that were added through MA organizations' supplemental record review (that is, were not coded by providers); and (4) including MA beneficiaries enrolled in contracts that were renewed from a different contract under the same MA organization during the pair-year period.

Report Title (Report Number, Publication Date) Priority Rec. (yes/No) ¹	Recommendation
<p>Medicare Advantage: Fundamental Improvements Needed in CMS's Effort to Recover Substantial Amounts of Improper Payments (GAO-16-76, 04/2016) Priority rec: No</p>	<p>As CMS continues to implement and refine the contract-level RADV audit process to improve the efficiency and effectiveness of reducing and recovering improper payments. The Administrator should modify CMS's selection of contracts for contract-level RADV audits to focus on those contracts most likely to have high rates of improper payments by taking actions such as the following: (1) selecting more contracts with the highest coding intensity scores; (2) excluding contracts with low coding intensity scores; (3) selecting contracts with high rates of unsupported diagnoses in prior contract-level RADV audits; (4) if a contract with a high rate of unsupported diagnoses is no longer in operation, selecting a contract under the same MA organization that includes the service area of the prior contract; and (5) selecting some contracts with high enrollment that also have either high rates of unsupported diagnoses in prior contract-level RADV audits or high coding intensity scores.</p>
<p>Medicare Advantage: Fundamental Improvements Needed in CMS's Effort to Recover Substantial Amounts of Improper Payments (GAO-16-76, 04/2016) Priority rec: Yes</p>	<p>As CMS continues to implement and refine the contract-level RADV audit process to improve the efficiency and effectiveness of reducing and recovering improper payments. The Administrator should enhance the timeliness of CMS's contract-level RADV process by taking actions such as the following: (1) closely aligning the time frames in CMS's contract-level RADV audits with those of the national RADV audits the agency uses to estimate the MA improper payment rate; (2) reducing the time between notifying MA organizations of contract audit selection and notifying them about the beneficiaries and diagnoses that will be audited; (3) improving the reliability and performance of the agency's process for transferring medical records from MA organizations, including assessing the feasibility of updating Electronic Submission of Medical Documentation for use in transferring medical records in contract-level RADV audits; and (4) requiring that CMS contract-level RADV auditors complete their medical record reviews within a specific number of days comparable to other medical record review time frames in the Medicare program.</p>

Report Title (Report Number, Publication Date) Priority Rec. (yes/no) ¹	Recommendation
Medicare Advantage: Fundamental Improvements Needed in CMS's Effort to Recover Substantial Amounts of Improper Payments (GAO-16-76, 04/2016) Priority rec: No	As CMS continues to implement and refine the contract-level RADV audit process to improve the efficiency and effectiveness of reducing and recovering improper payments. The Administrator should improve the timeliness of CMS's contract-level RADV appeal process by requiring that reconsideration decisions be rendered within a specified number of days comparable to other medical record review and first-level appeal time frames in the Medicare program.
Medicare Advantage: Fundamental Improvements Needed in CMS's Effort to Recover Substantial Amounts of Improper Payments (GAO-16-76, 04/2016) Priority rec: No	As CMS continues to implement and refine the contract-level RADV audit process to improve the efficiency and effectiveness of reducing and recovering improper payments. The Administrator should ensure that CMS develops specific plans and a timetable for incorporating a RAC in the MA program as mandated by the Patient Protection and Affordable Care Act.
End-Stage Renal Disease: Medicare Payment Refinements Could Promote Increased Use of Home Dialysis (GAO-16-125, 10/2015) Priority rec: No	To determine the extent to which Medicare payments are aligned with costs for specific types of dialysis treatment and training, the Administrator of CMS should take steps to improve the reliability of the cost report data for treatment and training associated with specific types of dialysis.
End-Stage Renal Disease: Medicare Payment Refinements Could Promote Increased Use of Home Dialysis (GAO-16-125, 10/2015) Priority rec: No	To ensure that patients with chronic kidney disease receive objective and timely education related to this condition, the Administrator of CMS should examine the Kidney Disease Education benefit and, if appropriate, seek legislation to revise the categories of providers and patients eligible for the benefit.
Medicare Advantage: Actions Needed to Enhance CMS Oversight of Provider Network Adequacy (GAO-15-710, 08/2015) Priority rec: No	To improve its oversight of network adequacy in MA, the Administrator of CMS should augment MA network adequacy criteria to address provider availability.
Medicare Advantage: Actions Needed to Enhance CMS Oversight of Provider Network Adequacy (GAO-15-710, 08/2015) Priority rec: No	To improve its oversight of network adequacy in MA, the Administrator of CMS should verify provider information submitted by MAOs to ensure validity of the Health Services Delivery data.

Report Title (Report Number, Publication Date) Priority Rec. (yes/No) ¹	Recommendation
Medicare Advantage: Actions Needed to Enhance CMS Oversight of Provider Network Adequacy (GAO-15-710, 08/2015) Priority rec: No	To improve its oversight of network adequacy in MA, the Administrator of CMS should set minimum requirements for MAO letters notifying enrollees of provider terminations and require MAOs to submit sample letters to CMS for review.
Medicare Physician Payment Rates: Better Data and Greater Transparency Could Improve Accuracy (GAO-15-434, 05/2015) Priority rec: No	To help improve CMS's process for establishing relative values for Medicare physicians' services, the Administrator of CMS should better document the process for establishing relative values for Medicare physicians' services, including the methods used to review RUC recommendations and the rationale for final relative value decisions.
Medicare Physician Payment Rates: Better Data and Greater Transparency Could Improve Accuracy (GAO-15-434, 05/2015) Priority rec: No	To help improve CMS's process for establishing relative values for Medicare physicians' services, the Administrator of CMS should develop a process for informing the public of potentially misvalued services identified by the RUC, as CMS already does for potentially misvalued services identified by CMS or other stakeholders.
Medicare Physician Payment Rates: Better Data and Greater Transparency Could Improve Accuracy (GAO-15-434, 05/2015) Priority rec: No	To help improve CMS's process for establishing relative values for Medicare physicians' services, the Administrator of CMS should incorporate data and expertise from physicians and other relevant stakeholders into the process as well as develop a timeline and plan for using the funds appropriated by the Protecting Access to Medicare Act of 2014.
Health Care Transparency: Actions Needed to Improve Cost and Quality Information for Consumers (GAO-15-11, 10/2014) Priority rec: No	To improve consumers' access to relevant and understandable information on the cost and quality of health care services, the Secretary of HHS should direct the Administrator of CMS to include in the CMS Compare websites, to the extent feasible, estimated out-of-pocket costs for Medicare beneficiaries for common treatments that can be planned in advance.
Health Care Transparency: Actions Needed to Improve Cost and Quality Information for Consumers (GAO-15-11, 10/2014) Priority rec: No	To improve consumers' access to relevant and understandable information on the cost and quality of health care services, the Secretary of HHS should direct the Administrator of CMS to organize cost and quality information in the CMS Compare websites to facilitate consumer identification of the highest-performing providers, such as by listing providers in order based on their performance.

Report Title (Report Number, Publication Date) Priority Rec. (yes/no) ¹	Recommendation
Health Care Transparency: Actions Needed to Improve Cost and Quality Information for Consumers (GAO-15-11, 10/2014) Priority rec: No	To improve consumers' access to relevant and understandable information on the cost and quality of health care services, the Secretary of HHS should direct the Administrator of CMS to include in the CMS Compare websites the capability for consumers to customize the information presented, to better focus on information relevant to them.
Health Care Transparency: Actions Needed to Improve Cost and Quality Information for Consumers (GAO-15-11, 10/2014) Priority rec: No	To improve consumers' access to relevant and understandable information on the cost and quality of health care services, the Secretary of HHS should direct the Administrator of CMS to develop specific procedures and performance metrics to ensure that CMS's efforts to promote the development and use of its own and others' transparency tools adequately address the needs of consumers.
Medicare Advantage: CMS Should Fully Develop Plans for Encounter Data and Assess Data Quality before Use (GAO-14-571, 07/2014) Priority rec: Yes	To ensure that MA encounter data are of sufficient quality for their intended purposes, the Administrator of CMS should establish specific plans and time frames for using the data for all intended purposes in addition to risk adjusting payments to MAOs.
Medicare Advantage: CMS Should Fully Develop Plans for Encounter Data and Assess Data Quality before Use (GAO-14-571, 07/2014) Priority rec: Yes	To ensure that MA encounter data are of sufficient quality for their intended purposes, the Administrator of CMS should complete all the steps necessary to validate the data, including performing statistical analyses, reviewing medical records, and providing MAOs with summary reports on CMS's findings, before using the data to risk adjust payments or for other intended purposes.
Clinical Data Registries: HHS Could Improve Medicare Quality and Efficiency through Key Requirements and Oversight (GAO-14-75, 12/2013) Priority rec: No	To help ensure that qualified CDRs promote improved quality and efficiency of physician care for Medicare beneficiaries, the Secretary of Health and Human Services should direct CMS to establish a requirement for qualified CDRs to demonstrate improvement on key measures of quality and efficiency for their target populations.

Report Title (Report Number, Publication Date) Priority Rec. (yes/No) ¹	Recommendation
Clinical Data Registries: HHS Could Improve Medicare Quality and Efficiency through Key Requirements and Oversight (GAO-14-75, 12/2013) Priority rec: No	To help ensure that qualified CDRs promote improved quality and efficiency of physician care for Medicare beneficiaries, the Secretary of Health and Human Services should direct CMS to establish a process for monitoring compliance with requirements for qualified CDRs that draws on relevant expert judgment. This process should assess CDR performance on each requirement in a way that takes into account the varying circumstances of CDRs and their available opportunities to promote quality and efficiency improvement for their target populations.
Clinical Data Registries: HHS Could Improve Medicare Quality and Efficiency through Key Requirements and Oversight (GAO-14-75, 12/2013) Priority rec: No	To help ensure that qualified CDRs promote improved quality and efficiency of physician care for Medicare beneficiaries, the Secretary of Health and Human Services should determine and implement actions to reduce barriers to the development of qualified CDRs, such as (1) developing guidance that clarifies Health Insurance Portability and Accountability Act requirements to promote participation in qualified CDRs; (2) working with private sector entities to make relevant multipayer cost data available to qualified CDRs; (3) testing one or more models of shared savings between Medicare and qualified CDRs that achieve reduced Medicare expenditures with improved quality of care, and (4) providing technical assistance to qualified CDRs.
Clinical Data Registries: HHS Could Improve Medicare Quality and Efficiency through Key Requirements and Oversight (GAO-14-75, 12/2013) Priority rec: No	To help ensure that qualified CDRs promote improved quality and efficiency of physician care for Medicare beneficiaries, the Secretary of Health and Human Services should determine key data elements needed by qualified CDRs--such as those relevant for a required core set of measures--and direct Office of the National Coordinator for Health Information Technology and CMS to include these data elements, if feasible, in the requirements for certification of EHRs under the EHR incentive programs.
Medicare: Higher Use of Costly Prostate Cancer Treatment by Providers Who Self-Refer Warrants Scrutiny (GAO-13-525, 07/2013) Priority rec: No	The Administrator of CMS should insert a self-referral flag on its Medicare Part B claims form, require providers to indicate whether the IMRT service for which a provider bills Medicare is self-referred, and monitor the effects that self-referral has on costs and beneficiary treatment selection.

Report Title (Report Number, Publication Date) Priority Rec. (yes/no) ¹	Recommendation
Medicare: Action Needed to Address Higher Use of Anatomic Pathology Services by Providers Who Self-Refer (GAO-13-445, 06/2013) Priority rec: No	In order to improve CMS's ability to identify self-referred anatomic pathology services and help CMS avoid unnecessary increases in these services, the Administrator of CMS should insert a self-referral flag on Medicare Part B claim forms and require providers to indicate whether the anatomic pathology services for which the provider bills Medicare are self-referred or not.
Medicare: Action Needed to Address Higher Use of Anatomic Pathology Services by Providers Who Self-Refer (GAO-13-445, 06/2013) Priority rec: No	In order to improve CMS's ability to identify self-referred anatomic pathology services and help CMS avoid unnecessary increases in these services, the Administrator of CMS should determine and implement an approach to ensure the appropriateness of biopsy procedures performed by self-referring providers.
Medicare: Action Needed to Address Higher Use of Anatomic Pathology Services by Providers Who Self-Refer (GAO-13-445, 06/2013) Priority rec: No	In order to improve CMS's ability to identify self-referred anatomic pathology services and help CMS avoid unnecessary increases in these services, the Administrator of CMS should develop and implement a payment approach for anatomic pathology services that would limit the financial incentives associated with referring a higher number of specimens--or anatomic pathology services--per biopsy procedure.
Medicare Imaging Accreditation: Establishing Minimum National Standards and an Oversight Framework Would Help Ensure Quality and Safety of Advanced Diagnostic Imaging Services (GAO-13-246, 05/2013) Priority rec: No	To help ensure that ADI suppliers provide consistent, safe, and high-quality imaging to Medicare beneficiaries, the Administrator of CMS should determine the content of and publish minimum national standards for the accreditation of ADI suppliers, which could include specific qualifications for supplier personnel and requiring accrediting organization review of clinical images.
Medicare Imaging Accreditation: Establishing Minimum National Standards and an Oversight Framework Would Help Ensure Quality and Safety of Advanced Diagnostic Imaging Services (GAO-13-246, 05/2013) Priority rec: No	To help ensure that ADI suppliers provide consistent, safe, and high-quality imaging to Medicare beneficiaries, the Administrator of CMS should develop an oversight framework for evaluating accrediting organization performance, which could include collecting and analyzing information on accreditation results and conducting validation audits.

Report Title (Report Number, Publication Date) Priority Rec. (yes/no) ¹	Recommendation
Medicare Imaging Accreditation: Establishing Minimum National Standards and an Oversight Framework Would Help Ensure Quality and Safety of Advanced Diagnostic Imaging Services (GAO-13-246, 05/2013) Priority rec: No	To help ensure that ADI suppliers provide consistent, safe, and high-quality imaging to Medicare beneficiaries, the Administrator of CMS should develop more specific requirements for accrediting organization mid-cycle audit procedures and clarify guidance on immediate-jeopardy deficiencies to ensure consistent identification and timely correction of serious care problems for the duration of accreditation.
End-Stage Renal Disease: CMS Should Improve Design and Strengthen Monitoring of Low-Volume Adjustment (GAO-13-287, 03/2013) Priority rec: Yes	To reduce the incentive for facilities to restrict their service provision to avoid reaching the LVPA treatment threshold, the Administrator of CMS should consider revisions such as changing the LVPA to a tiered adjustment.
Medicare: Higher Use of Advanced Imaging Services by Providers Who Self-Refer Costing Medicare Millions (GAO-12-966, 09/2012) Priority rec: Yes	In order to improve CMS's ability to identify self-referred advanced imaging services and help CMS address the increases in these services, the Administrator of CMS should insert a self-referral flag on its Medicare Part B claims form and require providers to indicate whether the advanced imaging services for which a provider bills Medicare are self-referred or not.
Medicare: Higher Use of Advanced Imaging Services by Providers Who Self-Refer Costing Medicare Millions (GAO-12-966, 09/2012) Priority rec: Yes	In order to improve CMS's ability to identify self-referred advanced imaging services and help CMS address the increases in these services, the Administrator of CMS should determine and implement a payment reduction for self-referred advanced imaging services to recognize efficiencies when the same provider refers and performs a service.
Medicare: Higher Use of Advanced Imaging Services by Providers Who Self-Refer Costing Medicare Millions (GAO-12-966, 09/2012) Priority rec: Yes	In order to improve CMS's ability to identify self-referred advanced imaging services and help CMS address the increases in these services, the Administrator of CMS should determine and implement an approach to ensure the appropriateness of advanced imaging services referred by self-referring providers.
Medicare Secondary Payer: Additional Steps Are Needed to Improve Program Effectiveness for Non-Group Health Plans (GAO-12-333, 03/2012) Priority rec: No	To improve the effectiveness of the MSP program and process for NGHPs, and to improve the agency's communication regarding the MSP process for situations involving NGHPs, the Acting Administrator of CMS should develop guidance regarding liability and no-fault set-aside arrangements.

Report Title (Report Number, Publication Date) Priority Rec. (yes/no) ¹	Recommendation
Medicare: Use of Preventive Services Could Be Better Aligned with Clinical Recommendations (GAO-12-81, 01/2012) Priority rec: No	The Administrator of CMS should take steps to better align Medicare beneficiary use of preventive services with Task Force recommendations, including providing coverage of services with an 'A' or 'B' grade for the recommended population and at the recommended frequency, as she determines is appropriate considering cost-effectiveness and other criteria.
Medicare Advantage: CMS Should Improve the Accuracy of Risk Score Adjustments for Diagnostic Coding Practices (GAO-12-51, 01/2012) Priority rec: Yes	To help ensure appropriate payments to MA plans, the Administrator of CMS should take steps to improve the accuracy of the adjustment made for differences in diagnostic coding practices between MA and Medicare FFS. Such steps could include, for example, accounting for additional beneficiary characteristics, including the most current data available, identifying and accounting for all years of coding differences that could affect the payment year for which an adjustment is made, and incorporating the trend of the impact of coding differences on risk scores.
Health Care Price Transparency: Meaningful Price Information Is Difficult for Consumers to Obtain Prior to Receiving Care (GAO-11-791, 09/2011) Priority rec: No	As HHS implements its current and forthcoming efforts to make transparent price information available to consumers, HHS should determine the feasibility of making estimates of complete costs of health care services available to consumers through any of these efforts.
Health Care Price Transparency: Meaningful Price Information Is Difficult for Consumers to Obtain Prior to Receiving Care (GAO-11-791, 09/2011) Priority rec: No	As HHS implements its current and forthcoming efforts to make transparent price information available to consumers, HHS should determine, as appropriate, the next steps for making estimates of complete costs of health care services available to consumers.
End-Stage Renal Disease: CMS Should Assess Adequacy of Payment When Certain Oral Drugs Are Included and Ensure Availability of Quality Monitoring Data (GAO-11-365, 03/2011) Priority rec: No	To help ensure that Medicare beneficiaries have access to high-quality dialysis care, the Administrator of CMS should assess the extent to which the bundled payment for dialysis care will be sufficient to cover an efficient dialysis organization's costs to provide such care when the bundled payment expands to cover oral-only ESRD drugs. The Administrator should conduct this assessment before implementing this expanded bundled payment.

Senator GRASSLEY. Thank you.

Mr. Chairman, thank you for your courtesy.

Chairman ENZI. Thank you, and we will let you go to the Agriculture meeting. I think you just came from Judiciary.

Senator Braun.

Senator BRAUN. Thank you, Mr. Chairman.

So I have been here a little over a year, and probably the first Committee meeting that vividly stuck in my mind is when you were here roughly a year ago. And, of course, you said basically everything then that you are telling us now, and I guess what amazes me most about this place is how we seem to shrug it off like it is never going to have impact in the present.

Health care costs undoubtedly are the driver. I took it on in my own company 13 years ago, and there are solutions. Mostly the reason we are not making any headway on health care costs is I have never seen an industry more dug in and stubborn in wanting to maintain the status quo. When you have 80 U.S. Senators that come up with some idea of how to fix your business, that is like the 2-by-4 across the head, and nobody is paying any attention, from pharma to hospitals, the whole gamut, practitioners as well.

Then you have got the health insurance industry, which is kind of like the Darth Vader out there that keeps everything behind closed doors, does not embrace any of the elements of most free markets, which would be no barriers to entry, full transparency, robust competition, and an engaged consumer. We have none of that.

So Chairman Grassley, probably of any of the committees, has been most aggressive, and this is all mild stuff we have been trying to get done. In Health, Education, Labor, and Pensions—I am on that Committee—we still have not settled surprise medical bills. That has got to be the easiest, lowest-hanging fruit you could ever imagine to pick to solve an issue. I have not talked to anyone that likes surprise billing. Well, you have got the doctors arguing with the insurance companies on how to fix that.

Sadly, I do not think we are going to do much. The guy that has been most aggressive and instrumental has been the President, and whenever he tries to do things like advancing Pharmacy Benefits Manage (PBM) discounts directly to the pharmacy or the individual, it hits the court system the next day, or when you try to push a transparency bill.

I used the opportunity then and I do it now and I do it often because this microphone is probably the biggest asset we have as a Senator since we get nothing done in general.

Health care could be solved, and the onus is on the Chief Executive Officers (CEO) that run this increasingly concentrated industry to embrace some of this stuff. I do not know whether we can legislate quickly enough the case that the system is broken is 100 percent correct. Do we go to a one-payer system to fix it? Or do we do what could be done, what I did in my own company, take the best of what we have got, shrink it, by the industry embracing what all other free enterprisers do? I do not know.

I am going to ask you this question, and then I am sure it looks like we have got room for more questions, sadly. This should be the most-well-attended Committee here, and it is dealing with a subject that nobody wants to get into the weeds about.

What do you see looking into the future? Because we know all the information. You do not need to have much more than a Finance 101 degree to know how in peril we are. What is the event or few events that happen down the trail that put this whole place into a higher alert, which would mean solving it by a crisis? What do you see the most likely thing or two occurring?

Mr. DODARO. Our report and testimony has a timeline of some significant events that will occur that will force Congress to act. I have already discussed one of those with Senator Grassley here with his question on the multiemployer pension plan, and 2025, which is right around the corner. There will be devastating effect on the people that were supposed to be protected by that program if Congress fails to act.

A year after that, the Medicare Hospital Insurance Trust Fund, as I mentioned, will only be able to cover 89 cents every dollar of hospital-related Medicare cost. Congress will have to act at that point. The Medicare beneficiaries are not going to be able to step up to cover these costs without causing calamity with their own personal finances. And the United States has an aging population, thus there are more and more people being covered under the Medicare program. The Social Security Old-Age and Survivors Insurance Trust Fund by 2034, which is not much further, would only have enough to pay 77 cents on the dollar of scheduled benefits.

I do not think Congress or the American public would accept a 23-percent cut in Social Security benefits for a lot of people whose sole reliance of income is the Social Security system. As I testified before the Senate Aging Committee, people are not saving much on their own. Some people with high incomes are doing well, but a lot of people are not. And so there is not a savings. The Federal Reserve—

Senator BRAUN. Social Security was what percentage of benefits once you crash it in 2034?

Mr. DODARO. Social Security will only be able to pay 77 percent.

Senator BRAUN. Okay.

Mr. DODARO. That is for the Old-Age and Survivors Insurance Trust Fund. The Disability Insurance Trust Fund is different. But the Old-Age and Survivors Insurance Trust Fund, is, the main one that people rely on for income, tens of millions of Americans rely on that system.

There are inflection points that will force Congress to act. The message that I have been trying to convey is the longer you wait, the more draconian the changes are going to have to be. Congress will not be able to phase them in over time.

With Social Security, there are a lot of proposals and some bills that have been introduced in the Congress to solve it. I will not say it is easy to solve, but compared to health care, I think it is more solvable. But the sooner Congress acts, the sooner you allow people to adjust their own circumstances.

The fourth issue I would bring up that will cause action will be the rise in interest rate costs. Even at the current low interest rates the cost on federal has gone up \$113 billion in 2 years, from 2017 to 2019. So it is up to \$376 billion right now, up from 263, so even in a low interest rate environment costs are growing. And

61 percent of the federal debt we have, debt held by the public, which is almost \$17 trillion, will have to be refinanced over the next several years. The Federal Government is not only financing \$1 trillion of new debt every year; it has to refinance old debt.

Interest rates are still low, but that may not always be the case. The flight to safety helps Treasury securities, but on the other hand, 40 percent of our debt is held by foreign interests, China and Japan primarily, but a lot of other countries. I do not know if the United States will continue to be able to rely on that as a source. The more that the Federal Government takes up of deficit financing, the less investment there is for the private sector investment. So it will have a dampening effect on economic growth over time.

These things are almost like a cancer that you have that you cannot see and it is eating away at the Federal Government's ability to maintain long-term stability and strength in economy and have the flexibility to deal with things like natural disasters or, the pandemic that the United States is dealing with right now that is going to cost a lot more money and potentially damage the revenue stream to the Federal Government. It will be a double whammy. Costs will go up and revenues will go down.

And so, there has to be more fiscal room to deal with these issues in the future and to deal with these major entitlement programs. And so that is the scenario I see.

There will be other unforeseen events like the current one that are going to come up as well. But if there is a spike in interest rates, the United States is going to be in a bad situation.

Senator BRAUN. Thank you.

Chairman ENZI. Thank you for your questions, and I appreciate you mentioning the surprise medical bills. I always try to make a distinction there. The surprise medical bills are when people receive a bill that is much bigger than their insurance company is going to cover. But one that would solve a lot of problems for people is prompt billing, and I have a bill that originally would have required the hospitals to give you a list of services you got as you leave the hospital, no amounts, just so you can check and see if that is what you really got. And then within 30 days fill in the amounts and you can check them off so you can see whether they are paid or not. They told me that 30 days was not sufficient, that it ought to be 45, then they moved it to 60. And I agreed that we could do it in 60. With computers, they ought to be able to give you the amounts as you leave the hospital except for those that are outside of their list of providers. But they want 90 days now. If businesses had that same kind of a billing process, they would all be out of business. So thanks for bringing that up. And, again, I appreciate all of the great answers that you give.

Your report points out that our growing debt-to-GDP ratio means a current Federal fiscal path is unsustainable. As you mentioned in your testimony, the budget process reform bill this Committee reported to the Senate last November uses debt-to-GDP target as a metric in measuring how well Congress is adhering to the fiscal blueprint.

Could you discuss the benefits of establishing a shared fiscal target, particularly the debt-to-GDP target?

Mr. DODARO. Yes. First, the debt-to-GDP ratio is a well-recognized international standard of a country's ability to repay their debt, and a lot of other countries use it as fiscal targets in combination with fiscal rules and operating procedures.

I think it is terribly important—Mr. Chairman, in your opening remarks, you mentioned that 2021 is the last year that the Budget Control Act mandates caps on discretionary spending. Once that goes away, there really are no guardrails, there are no guidelines, there is no Federal policy as to how much debt to take on as a country. And without a debt-to-GDP ratio, there is no plan, and I think it would mean that the deficit and debt situations will grow unchecked. And I think that that is a really dangerous, dangerous path.

I think having a target, having a glide path, as you outline in your plans, where you can check it along the way, having some operational rules on controlling expenditures over a period of time is important. And there has to be some effort to deal with mandatory spending and the entitlement programs. Congress have to look at the revenue side of Government, and this was the weakness, in my opinion, of the Budget Control Act, that it only focused on discretionary spending, which was not the main driver of the deficit and debt situation. And, that is where long-term investments are made, too, in infrastructure and other areas. It brought in different dimensions but it did not solve the long-term problem, nor does it really provide the proper framework for investment decisions that need to be made by the Federal Government.

Having the debt-to-GDP and some fiscal rules to accompany it is a good approach.

Chairman ENZI. I appreciate those comments, and particularly your mentioning revenue and spending, there has got to be something done in both those categories.

Senator Van Hollen.

Senator VAN HOLLEN. Thank you, Mr. Chairman. Welcome, Mr. Comptroller.

I wanted to ask you a couple questions about strengthening the Impoundment Control Act. In the bill that passed out of the Committee, the Bipartisan Congressional Budget Reform Act, we had a bipartisan amendment that I proposed that was adopted to do that. As you know, Congress currently faces a very real problem with our budget process, and that is the process for ensuring that when Congress appropriates funds, they are actually spent as Congress directed. And the Impoundment Control act creates the process by which a President can notify Congress if he is deferring funding temporarily, which is allowed only in limited circumstances, or the President can propose rescissions for funding that he believes or she believes are no longer needed.

One of the provisions in the amendment that was adopted by the Committee would require the Office of Management and Budget, OMB, to publicly disclose their apportionments. So in order to prevent agencies from overspending their appropriations, Federal law gives OMB apportionment power to control when appropriated funds are released to agencies.

So my question is: If OMB publicly disclosed their apportionment actions in real time, would that provide information to you at GAO that could help you enforce the Impoundment Control Act?

Mr. DODARO. I think additional disclosures would be helpful in that regard. I would ask Mr. Chairman, with your permission, for two things.

One, yesterday Tom Armstrong, who is accompanying me here to the hearing, testified before the House Budget Committee and outlined all the suggestions we have for strengthening the Impoundment Control Act. So I would ask that his testimony be entered into the record of today's hearing, with your permission. And, also, I would like Tom to elaborate on my answer, if that is okay.

Chairman ENZI. Not only with permission but with appreciation. [The testimony of Mr. Armstrong follows:]



U.S. GOVERNMENT ACCOUNTABILITY OFFICE

441 G St. N.W.
Washington, DC 20548

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GAO-20-495T

March 11, 2020

The Honorable John Yarmuth
Chairman
The Honorable Steve Womack
Ranking Member
Committee on the Budget
House of Representatives

Subject: *Testimony before the House Committee on the Budget—Congress's Constitutional Power of the Purse and the Government Accountability Office's Role to Serve that Power*

Chairman Yarmuth, Ranking Member Womack, and Members of the Committee:

Thank you for the opportunity to discuss Congress's constitutional power of the purse and GAO's role in serving this power.

The Role of the Government Accountability Office

The framers vested Congress with the power of the purse by providing in the Constitution that "[n]o Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law."¹ As James Madison explained, the framers did so for two primary reasons.² First, this arrangement ensured that the government remained directly accountable to the will of the people: "power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure."³ Second, Congress through its power of the purse holds a key check on the power of the other branches, allowing it to reduce "all the overgrown prerogatives of the other branches of government."⁴

¹ U.S. Const., art. I, § 9, cl. 7.

² The Federalist No. 58 (1788) (James Madison).

³ *Id.*

⁴ *Id.*

The meaning of the Appropriations Clause is straightforward: “no money can be paid out of the Treasury unless it has been appropriated by an act of Congress.”⁵ Congress’s power of the purse vests in Congress the power and duty to affirmatively authorize all expenditures,⁶ and the Constitution provides Congress with the power to enact statutes to protect and exercise this power.⁷ Congress has largely done this through the annual budget and appropriations process and a series of permanent statutes that establish controls on the use of appropriated funds. The permanent fiscal statutes, found mostly in title 31 of the United States Code, implement Congress’s power of the purse.⁸

In 1921, Congress created the General Accounting Office—now the Government Accountability Office—through the Budget and Accounting Act to assist it in the discharge of its core constitutional powers, including the power of the purse.⁹ Congress created this independent, nonpartisan office in the legislative branch “because it believed that it ‘needed an officer, responsible to it alone, to check upon the application of public funds in accordance with appropriations.’”¹⁰ The Budget and Accounting Act vested GAO with the authority to “investigate, at the seat of government or elsewhere, all matters relating to the receipt, disbursement, and application of public funds”¹¹ In addition, this Act transferred from the Comptroller of the Treasury to the Comptroller General the authority to issue legal decisions to executive branch officials concerning the use and availability of public money.¹²

⁵ *Cincinnati Soap Co. v. United States*, 301 U.S. 308, 321 (1937) (citing *Reeside v. Walker*, 52 U.S. 272, 291 (1851)).

⁶ U.S. Const., art. I, § 9, cl. 7.

⁷ U.S. Const., art. I, § 8, cl. 18.

⁸ See, e.g., 31 U.S.C. §§ 1301, 1341.

⁹ Budget and Accounting Act, 1921, Pub. L. No. 13, title III, 42 Stat. 20, 23–27 (June 10, 1921). See 61 Cong. Rec. 1090 (1921) (statement of Rep. Good) (“It was the intention of the committee that the comptroller general should be something more than a bookkeeper or accountant; that he should be a real critic, and at all times should come to Congress, no matter what the political complexion of Congress or the Executive might be, and point out inefficiency, if he found that money was being misapplied—which is another term for inefficiency—that he would bring such facts to the notice of the committees having jurisdiction of appropriations.”).

¹⁰ *Bowsher v. Synar*, 478 U.S. 714, 730–731 (1986) (quoting Harvey Mansfield, *The Comptroller General: A Study in the Law and Practice of Financial Administration*, 65 (1939)).

¹¹ Pub. L. No. 13, § 312(a), 42 Stat. at 25, codified at 31 U.S.C. § 712(1).

¹² Pub. L. No. 13, § 304, 42 Stat. at 24, codified at 31 U.S.C. § 3529(b).

Over the past century, Congress has continued to vest GAO with additional responsibilities to investigate and oversee the use of public money. For example, under the Congressional Budget and Impoundment Control Act of 1974, Congress provided that the Comptroller General will review any special messages submitted by the President pursuant to the act and report to Congress when a special message is either improperly classified or not transmitted at all.¹³ And, in 2004, Congress amended the Antideficiency Act to require agencies to send to the Comptroller General a copy of each violation report on the same date the agency sends the report to the President and Congress.¹⁴ Additionally, the Senate Appropriations Committee directed the Comptroller General to establish a central repository of Antideficiency Act violation reports and to track all reports, including responses to GAO legal decisions and opinions and findings in audit reports and financial statement reviews.¹⁵

Today, through these various statutory grants of authority, GAO continues to assist Congress in the discharge of its constitutional powers. GAO does much of this work through audits and investigations, either at the request of Congress or the Comptroller General.¹⁶ In addition, GAO issues legal decisions on matters of appropriations law in response to congressional requests or requests from executive branch agencies, or under the Impoundment Control Act.

In the past year, GAO has issued decisions on a number of appropriations law matters, including, for example: whether actions taken during the fiscal year 2019 lapse in appropriations violated the Antideficiency Act and other fiscal statutes;¹⁷ whether the Department of Housing and Urban Development violated the Antideficiency Act when it failed to notify Congress in advance of obligating funds to furnish the Secretary's office;¹⁸ and whether the Environmental Protection Agency violated the anti-lobbying provision, and therefore the Antideficiency Act, when an agency official tweeted about the Senate confirmation of an official to the position of Deputy Administrator.¹⁹ In addition to issuing these decisions, GAO publishes a multivolume treatise titled *Principles of Federal Appropriations Law* (often referred to as the "Red Book"), which is the premier reference on appropriations law matters for members of Congress and their staffs, agency practitioners, the federal judiciary, and for those outside of the federal government. We also teach a course on appropriations law at agencies across the

¹³ 2 U.S.C. §§ 685–686.

¹⁴ Pub. L. No. 108-447, div. G, title I, § 1401, 118 Stat. 2809, 3192 (Dec. 8, 2004), *codified at* 31 U.S.C. § 1351.

¹⁵ S. Rep. No. 108-307, at 43 (2004).

¹⁶ 31 U.S.C. §§ 712, 717.

¹⁷ See, e.g., B-330776, Sept. 5, 2019; B-330775, Sept. 5, 2019.

¹⁸ B-329955, May 16, 2019.

¹⁹ B-330107, Oct. 3, 2019.

federal government and each year we host over two hundred federal appropriations law practitioners at the daylong Appropriations Law Forum.

GAO's expertise with regard to appropriations law matters is widely understood and respected throughout the government. Indeed, Article III courts frequently cite to GAO's legal decisions and the Red Book in their decisions involving appropriations law. For example, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) relied on a line of decisions of the Comptroller General when it ruled that the Navy's appropriations were not available for the purchase of bottled water.²⁰ In support of its conclusion, the D.C. Circuit noted that these decisions are "expert opinion, which we should prudently consider."²¹ Additionally, the Supreme Court has cited GAO's Red Book in support of its positions on appropriations law matters.²²

GAO's Role in Serving Respect for Congress's Constitutional Power of the Purse

GAO's role to provide information and legal analysis to Congress on appropriations law matters is essential to ensuring respect for Congress's constitutional power of the purse. This is evident in Congress's grant of authority to GAO under both the Impoundment Control Act of 1974 (Impoundment Control Act) and the Antideficiency Act.

In 1974, Congress enacted the Impoundment Control Act in response to attempts by the executive branch to thwart the will of Congress by refusing to spend congressionally-appropriated funds.²³ The Impoundment Control Act operates on the constitutional premise that the President is required to obligate funds appropriated by Congress, unless otherwise authorized to withhold.²⁴ The act permits the President to temporarily impound—withhold the obligation of—appropriated funds in certain circumstances if the President notifies the Congress by transmitting a "special message."²⁵ The act gives the Comptroller General the responsibility to review all special messages submitted pursuant to the Impoundment Control Act and to report to Congress when the Comptroller General determines the President has improperly withheld funds.²⁶ The act also authorizes the Comptroller General to bring a civil action

²⁰ *Navy v. FLRA*, 665 F.3d 1339, 1342, 1349–1351 (D.C. Cir. 2012).

²¹ *Id.*, at 1349 (quoting *Ass'n of Civilian Technicians v. FLRA*, 269 F.3d 1112, 1116 (D.C. Cir. 2001)).

²² See, e.g., *Salazar v. Ramah Navajo Chapter*, 567 U.S. 182, 190–199 (2012).

²³ Pub. L. No. 93-344, title X, 88 Stat. 297, 332–339 (July 12, 1974), *classified at* 2 U.S.C. §§ 681–688.

²⁴ B-329092, Dec. 12, 2017.

²⁵ 2 U.S.C. §§ 681–688.

²⁶ *Id.* §§ 685–686.

to compel the release of any budget authority improperly withheld.²⁷ GAO's investigation of and reporting on potential impoundments alerts Congress to executive branch attempts to undermine Congress's power of the purse by refusing to spend budget authority appropriated by Congress. As a result, GAO's role under the Impoundment Control Act is essential to ensuring respect for Congress's constitutional power of the purse.²⁸

Congress enacted the Antideficiency Act to protect and underscore Congress's constitutional prerogatives of the purse in response to various abuses.²⁹ Prior to the enactment of this act, some agencies would spend their entire appropriations during the first few months of the fiscal year, continue to incur obligations, and then return to Congress for appropriations to fund these "coercive deficiencies."³⁰ These were obligations to others who had fulfilled their part of the bargain with the United States and who now had at least a moral—and in some cases also a legal—right to be paid. Congress felt it had no choice but to fulfill these commitments, but the frequency of deficiency appropriations played havoc with the United States budget. As a result, Congress enacted the Antideficiency Act, which, in pertinent part, prohibits government officials from obligating or expending in excess of or in advance of appropriations.³¹ The Antideficiency Act has been termed "the cornerstone of Congressional efforts to bind the Executive branch of government to the limits on expenditure of appropriated funds."³²

To further protect its constitutional prerogatives under the Antideficiency Act, Congress amended the Antideficiency Act in 2004 to require agencies to transmit copies of each violation report to GAO on the same date the agency reports the violation to the President and Congress.³³ Additionally, the Senate Appropriations Committee directed the Comptroller General to establish a central repository of Antideficiency Act violation reports.³⁴ Since then, if GAO concludes that an agency violated the Antideficiency Act in a decision and if the agency does not make its required report, we notify Congress of

²⁷ *Id.* § 687.

²⁸ B-331564, Jan. 16, 2020.

²⁹ See U.S. Const., art. I, § 9, cl. 7 (power of the purse, statement and account of public money); B-328450, Mar. 6, 2018; B-317450, Mar. 23, 2009.

³⁰ Gary Hopkins & Robert Nutt, *The Anti-Deficiency Act (Revised Statutes 3679) and Funding Federal Contracts: An Analysis*, 80 Mil. L. Rev. 51, 57–58 (1978); Louis Fisher, *Presidential Spending Power*, 232 (1975).

³¹ 31 U.S.C. § 1341(a)(1)(A).

³² Hopkins & Nutt, *at* 56.

³³ Pub. L. No. 108-447, div. G, title I, § 1401, 118 Stat. 2809, 3192 (Dec. 8, 2004).

³⁴ S. Rep. No. 108-307, at 43 (2004).

the violation.³⁵ GAO's reports on these violations help Congress learn which agencies have violated the Act and whether Congress needs to take additional action to ensure compliance with both the Antideficiency Act and its power of the purse.

When GAO finds that an agency has violated a fiscal statute, Congress may use its legislative powers to enforce GAO's decision and protect its power of the purse. For example, in 2011, the Department of Justice's Office of Legal Counsel issued a memorandum asserting that the Office of Science and Technology Policy (OSTP) did not violate a statutory provision prohibiting the use of appropriated funds "to develop, design, plan, promulgate, implement, or execute a bilateral policy, program, order, or contract . . . with China or any Chinese-owned company" when OSTP used appropriated funds to conduct the prohibited activities because OSTP conducted them in furtherance of the President's constitutional powers.³⁶ Weeks later, GAO issued a legal decision finding that OSTP violated this statutory provision and, therefore, also violated the Antideficiency Act.³⁷ Congress subsequently reduced OSTP's appropriations by about 33 percent.³⁸

In addition, in 2014, GAO concluded that the Department of Defense violated a statutory provision when it transferred five individuals detained at Guantanamo Bay, Cuba, to the nation of Qatar without providing the statutorily required notice 30 days in advance to certain congressional committees.³⁹ Without the notice, no money was legally available for this purpose and DOD violated the Antideficiency Act.⁴⁰ The House of Representatives subsequently voted 249-163 to condemn and disapprove of DOD's actions.⁴¹

³⁵ See, e.g., B-308715, Nov. 13, 2007.

³⁶ Memorandum Opinion for the General Counsel, Office of Science and Technology Policy, *Unconstitutional Restrictions on Activities of the Office of Science and Technology Policy in Section 1340(a) of the Department of Defense and Full-Year Continuing Appropriations Act, 2011*, OLC Opinion, Sept. 19, 2011.

³⁷ B-321982, Oct. 11, 2011.

³⁸ *Compare* Consolidated and Further Continuing Appropriations Act, 2012, Pub. L. No. 112-55, div. B., title III, 125 Stat. 552, 622 (Nov. 18, 2011) (providing OSTP with \$4.5 million for its FY 2012 expenses), *with* Department of Defense and Full-Year Continuing Appropriations Act, 2011, Pub. L. No. 112-10, div. B, title III, § 1316, 125 Stat. 38, 125 (Apr. 15, 2011) (providing OSTP with \$6.660 million for its FY 2011 expenses).

³⁹ B-326013, Aug. 21, 2014.

⁴⁰ *Id.*

⁴¹ H. Res. 644, 113th Cong. (2014); 160 Cong. Rec. H7325, H7335 (2014).

The Gravity of GAO's Role

GAO takes seriously its role in protecting Congress's power of the purse. In 2018, for example, we reminded the executive branch that affirmative legislative action is required for a rescission of funds, noting that Congress does not "alter the fundamental details of its constitutional power of the purse through vague terms or ancillary provisions."⁴² Recently, we warned agencies that their reluctance to provide fulsome responses to GAO's questions can have constitutional significance.⁴³

During the fiscal year 2019 lapse in appropriations, executive branch agencies, in some cases, continued a number of activities that they had not undertaken in prior lapses. These executive branch agencies incurred obligations without the prior approval of Congress, in contravention of Congress's power of the purse. Congress was understandably concerned about the executive branch's actions and asked GAO to assess the legality of a number of these actions. Over the past few months, GAO has issued a number of decisions on the executive branch's actions under the lapse.⁴⁴ To date, all but one of the decisions we issued have concluded that the executive branch did not have the legal authority to carry out the activities it undertook during the lapse.⁴⁵ In many of these decisions, we also noted that the executive branch's disregard for the Antideficiency Act and other fiscal statutes during the lapse tore at the very fabric of Congress's constitutional power of the purse, and, as a result, we would consider the continuation of such activities in a future lapse to be a knowing and willful violation of the ADA.⁴⁶

In late 2018, Chairman Yarmuth and Ranking Member Womack asked GAO whether the President had the legal authority under the Impoundment Control Act to withhold budget authority through its date of expiration.⁴⁷ We issued a decision concluding the President did not have such authority.⁴⁸ An interpretation of the act under which the President has the legal authority to withhold budget authority through its date of expiration would allow the President to effectively rescind budget authority without

⁴² B-330330, Dec. 10, 2018, at 12.

⁴³ B-331564, Jan. 16, 2020. See *also* B-330776, Sept. 5, 2019 (GAO "will not allow an agency's lack of cooperation to interfere with Congress's oversight of executive spending.").

⁴⁴ See, *e.g.*, B-331132, Dec. 19, 2019; B-331093, Oct. 22, 2019; B-330693, Oct. 8, 2019; B-331094, Sept. 5, 2019; B-330776, Sept. 5, 2019; B-330775, Sept. 5, 2019.

⁴⁵ *Id.*

⁴⁶ *E.g.*, B-330776, Sept. 5, 2019.

⁴⁷ B-330330, Dec. 10, 2018.

⁴⁸ *Id.*

congressional action.⁴⁹ Such an interpretation would be inconsistent with the constitutional principles of bicameralism and presentment.⁵⁰ We also noted that if Congress intended to dedicate such broad authority to the President, the power of the purse requires that it do so through an affirmative action in legislation, not through congressional silence.⁵¹

In June 2019, the Office of Management and Budget (OMB) amended its Circular No. A-11 addressing agency reports of Antideficiency Act violations found by GAO. The June 2019 revision instructs agencies to report such violations only if "the agency, in consultation with OMB, agrees that a violation has occurred."⁵² This revision was a departure from longstanding instructions to agencies. OMB had long instructed each executive branch agency to submit such a report whenever GAO found an Antideficiency Act violation.⁵³ Since 2004, when Congress amended the Antideficiency Act, GAO's practice has been that if GAO concludes that an agency has violated the Antideficiency Act and the agency does not make its required report, we notify Congress of the violation.⁵⁴ Reports of Antideficiency Act violations provide Congress with important information in its oversight of executive spending activity and underscore respect for Congress's constitutional power of the purse.

In response to OMB's June 2019 revision to Circular No. A-11, I transmitted a letter to agency general counsels explaining that GAO will continue to notify Congress of an agency's Antideficiency Act violation if the agency does not do so, noting the agency's failure to report.⁵⁵ The letter also noted that if GAO publishes a decision concluding that an Antideficiency Act violation occurred, we will contact the relevant agency to ensure a report of the violation, and if the agency does not report within a reasonable period, GAO will notify Congress of the violation.⁵⁶ While a GAO notification puts the violation

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² OMB Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, pt. 4, § 145.8 (June 28, 2019).

⁵³ See, e.g., GAO, *Anti-Deficiency Act: Agriculture's Food and Nutrition Service Violates the Anti-Deficiency Act*, GAO/AFMD-87-20 (Washington, D.C.: Mar. 17, 1987) (citing OMB Cir. No. A-34, *Instructions on Budget Execution* (1987)); OMB Cir. No. A-11, pt. 4, § 145.8 (June 2018); OMB Cir. No. A-11, pt. 4, § 145.8 (July 2007) (revised Nov. 20, 2007); OMB Cir. No. A-34, *Instructions on Budget Execution*, pt. 2, § 22.8 (Nov. 7, 1997).

⁵⁴ See, e.g., B-308715, Nov. 13, 2007.

⁵⁵ B-331295, Sept. 23, 2019.

⁵⁶ *Id.*

before Congress, our reports, of course, would only include information in the record associated with a decision; they would not include other information Congress may find useful, like agency activity to prevent recurrence of the violation or administrative discipline imposed upon agency officials responsible for the violation.

Legislative Proposals to Protect Congress's Power of the Purse

Congress has vested GAO with an important role to investigate and provide legal analysis on the use of public money. GAO takes this role seriously, and through our appropriations law work, we assist congressional oversight and serve Congress's constitutional power of the purse. To make sure that GAO is able to continue to advance and protect Congress's constitutional prerogatives, I would like to discuss some ideas that we have for legislative proposals that would help GAO carry out our work.

When GAO issues an appropriations law decision, we send a letter to solicit the agency's views of the facts and the law related to the decision. Recently, we have had difficulty getting timely responses from agencies, and, in some cases, we have not received responses at all. The delay in receiving these responses impedes our ability to issue decisions on a timely basis. To ensure that GAO receives timely responses to these letters, I might recommend a provision of law to require agencies to respond to our letters within a certain time period. I might also recommend that you consider imposing penalties or a reporting requirement on agencies that fail to respond to GAO.

Additionally, I would suggest that Congress consider some amendments to the Antideficiency Act. In its current form, the Act requires agencies to notify Congress when agencies identify violations, but is silent on what agencies should do when GAO finds a violation.⁵⁷ The June 2019 revisions to OMB Circular A-11 suggest that agencies may rely on this statutory silence to avoid reporting Antideficiency Act violations to Congress when GAO identifies a violation. Not only does this withhold important information from congressional oversight, it reflects diminished respect for Congress's constitutional power of the purse. I would recommend revising the Antideficiency Act to clearly require agencies to report when GAO finds a violation.

In 2007, the Department of Justice's Office of Legal Counsel (OLC) issued a memorandum concluding that a violation of a spending restriction that Congress enacted in a permanent statute does not violate the Antideficiency Act because the prohibition is not "in an appropriation."⁵⁸ This conclusion results in a rather anomalous policy that turns solely on Congress's choice of a legislative vehicle—permanent law or appropriations act—asserting, in effect, that Congress need not know of violations of

⁵⁷ 31 U.S.C. §§ 1351, 1517(b).

⁵⁸ Memorandum Opinion for the General Counsel, Environmental Protection Agency, *Use of Appropriated Funds to Provide Light Refreshments to Non-Federal Participants at EPA Conferences*, OLC Opinion, Apr. 5, 2007, at 1.

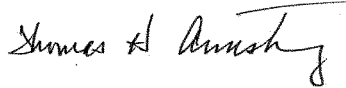
statutory restrictions, only appropriations act restrictions. This is not GAO's view.⁵⁹ As a result of OLC's conclusions, executive branch agencies do not report violations of funding restrictions that are not in an appropriation even though GAO would conclude those violations are also Antideficiency Act violations. I might offer that Congress could fix this underreporting of these violations by revising the Antideficiency Act, or enacting a permanent statute, to clarify that violations of funding restrictions—whether they are in an appropriation or not—are violations of the Act.

It has long been understood that the threat of criminal and civil penalties serves as an important deterrent for government officials and employees even though the Department of Justice has never brought charges against a government official or employee for a criminal violation of the Antideficiency Act. Lest the lack of prosecutions under the Antideficiency Act mitigate the deterrent effect, I might recommend requiring the Department of Justice to annually review reports in GAO's repository and issue a report to Congress, with a copy to GAO, on whether criminal charges should be brought for each Antideficiency Act violation reported to Congress.

Each of these legislative proposals would strengthen GAO's existing role to provide information and legal analysis to Congress regarding the spending of public money. But, more importantly, these proposals would also support and advance Congress's constitutional prerogatives.

Conclusion

Chairman Yarmuth, Ranking Member Womack, and members of the Committee, this completes my prepared statement. I would be pleased to respond to any questions that you may have.



Thomas H. Armstrong
General Counsel

⁵⁹ B-317450, Mar. 23, 2009; B-300826, Mar. 3, 2005.

Senator VAN HOLLEN. Thank you, Mr. Chairman. And maybe what we could do is, instead of my going through each of these questions, if it is okay with you, Mr. Dodaro, the General Counsel could just quickly tick off those key elements that you mentioned the other day, because we are working on bipartisan legislation now to try and make sure that we strengthen the ability to enforce the Impoundment Control Act.

Mr. ARMSTRONG. I am very happy to. Good morning, everyone.

I do think that requiring OMB to publicly post the apportionment schedules and the reapportionments, because during the course of a fiscal year, they engage in reapportioning activities as well. I think something else that they could do would be as they apportion funds, they could send the apportionment schedules to this Committee, to House Budget Committee, to the Appropriations Committees, and to the committees with oversight of the programs that are funded by that appropriation in that apportionment schedule.

Another thing that would help us carry out our responsibilities under the act is if the act is amended to require OMB to provide more detailed information when the President submits a special message proposing a rescission or proposing a deferral. That helps us hit the ground more quickly and move on these things more quickly.

A couple other things that we would suggest: We had a situation a few years ago where there was a proposal that the administration could propose rescissions during the last 45 days of the fiscal year of funds that would expire by operation of law at the end of the fiscal year. And we issued a decision saying that there was no authority to do that. If you make that clear in the act, I think that that would be helpful.

The consequence would be, if a President were to engage in that kind of activity, that a President then would effectively rescind money that Congress has appropriated but without any action by Congress. The reason I ask that you might think about legislating that is there has been some back-and-forth between my office and OMB and OMB advising General Counsels of executive agencies that they can disregard GAO's decisions. So you can reinforce the decision. You can make it clear legislatively.

And a final thing that we would recommend—and I do not mean this to sound too draconian, but the Anti-Deficiency Act has penalties for violations of the act. You might consider penalties for violating the Impoundment Control Act as well like the penalties in the Anti-Deficiency Act. When I say that, I am not trying to pound on civil servants. I, like the Comptroller General, have been a civil servant for more than 40 years. I am suggesting that those penalties do get attention, and they do act as a deterrent. And I will tell you that in my office we provide a lot of appropriations law training to executive agencies and executive officials. And when we talk about the Anti-Deficiency Act, one thing that somebody always says in the class is, “I do not look good in an orange jumpsuit.” They want to make sure that they are in compliance with the law. And collateral to imposing penalties I think would be to expand the officials of the executive branch who have a statutory right to come to GAO for a decision. Right now heads of agencies and agency

components have that right. But if you make it available to budget officials, to program officials, to contracting officers, I think you will get more attention to it.

Senator VAN HOLLEN. Thank you. I appreciate that. I will have some questions for the record about also your ability to expedite any lawsuits that you might bring in the event that you identify a violation of the Impoundment Control Act.

Mr. DODARO. Well, that would be very helpful because there is the 25-day period, impedes our ability to act quickly.

Also, if you could make clear in the amendments that when there is a GAO request for the agency's legal basis for withholding the money, they expeditiously give us a response. We have had some cases where we have not gotten a response in a timely manner or not a response at all. And I think that that is detrimental to our ability to help Congress enforce its power of the purse.

Senator VAN HOLLEN. I appreciate that.

Mr. Chairman, I hope to work with you and other members on this because we all have an interest, I think, regardless of party, in making sure that executives, Presidents, whoever they may be, you know, comply with the law with respect to appropriations. I think we have a shared interest in making sure that happens. So thank you.

Chairman ENZI. I will look forward to the answers to your more technical questions, which I appreciate you putting in writing, because that will be more helpful to us, too.

Senator VAN HOLLEN. You are welcome.

Chairman ENZI. I want to thank you for including that amendment. One of the reasons that it is imperative that we do the budget reform is at this point in the election cycle we have the same reasonableness that we had 4 years ago when we did not know who was going to be the President or who was going to be the majority. And so everybody was reasonable, and we had a series of about 12 bills that I thought could have passed by unanimous consent that could have solved a bunch of these problems. And now we have one bill that is not going to move by unanimous consent, I am sure, but hopefully is bipartisan enough that we can get it through. And it includes the specifications to make sure that the purse strings are in the control of Congress. So I appreciate your efforts on that and for joining us on the bipartisan part of that. I think that all of these things are absolutely essential for us to get done before the next election. Thank you.

I will continue with some questions. I wanted to make it as expedited as possible for the members that showed up, and I appreciate Senator Grassley and Senator Braun for covering the trust fund aspect. We did not mention the Highway Trust Fund, which is going to be depleted in 2 more years, but talked about Medicare and Social Security and some of the other trust funds. It kind of fascinates me. When I came here, there was a trust fund for abandoned mine lands, and Wyoming had some of those abandoned mine lands and had been paying into it with the coal money for a long time, and we had never gotten any of the money to solve any of it. So when I got here, I said, "So how do I get that money released?" And they said, "Well, you will have to put some money in the fund in order to take money out." I never heard of a trust fund

like that. So we actually did get the money moving, but these trust funds do not have any money in them. That is one of the things that bothers me.

Mr. DODARO. Yes, the Highway Trust Fund we did talk about. That is very devastating to our ability as a Nation to deal with aging infrastructure issues and transportation requirements. CBO estimates we will need about \$188 billion between now or when the funding expires through the Fixing America's Surface Transportation (FAST) Act to 2030 in order to maintain Federal spending over that period of time. So we keep a list of all the highest-risk areas across the Federal Government. We have had financing surface transportation on the High-Risk List since 2007. This is an issue that has to be solved, hopefully, in order to make sure we make the necessary investments that are critical to economic activity. It is not just the traveling public. It is important for commerce.

Chairman ENZI. Yes. Getting goods and services around and getting tourists around is pretty critical, and that is all involved in that infrastructure. And I do remember that Simpson-Bowles said that it needed to be raised, that the gas tax needed to be—the user fee for gas needed to be raised a nickel a year for 5 years and then adjusted to the cost of inflation. And we did not pay any attention to that. I even tried one for just the cost of inflation. But that is why that trust fund is running out of money, I think technically is out of money.

On the CFO Vision Act that you encouraged us to do and that we have put in—and I am pleased we are not finding any opposition to it yet, but we do not have it passed, and I appreciate the many Senators that are cosponsoring that now. But could you discuss the role that the agency CFOs play in ensuring that fiscal sustainability and any areas where updating the current law could help the agency managers?

Mr. DODARO. The CFOs are really at the epicenter of fiscal stewardship within the individual agencies and departments. Upgrading, modernizing the act will help in a number of respects. One is that it will give all CFOs the budget formulation responsibility as well as monitoring budget execution. This will put them more central in decision-making on how to save money and link, as you mentioned in your opening statements, costs and performance data. Right now not all CFOs are involved in that kind of decision-making and tradeoffs about investments or where money could be saved, how to get the same performance at lower cost. If they are not involved in the formulation of the budget submissions, they are really missing out on playing a key role in decision-making.

Also, I think they could play a more significant role in the modernization with improper payments. The last time I was here, Senator Braun mentioned that it seems like we are growing improper payments rather than solving them, and they have certainly gone up. Since I was here last year, the annual estimate has increased \$24 billion, and this is not a complete estimate. So this is a big problem. But the CFOs could be more involved in that.

And then also, Mr. Chairman, as you pointed out, there are a lot of antiquated Federal systems where agencies cannot make timely decisions. And the CFO Act revisions that you have set forth would provide for more modern financial systems to help agencies make

better decisions. So it will strengthen the CFOs' ability to help manage the costs of Government better, not just account for the money but manage the costs.

To help in this regard, I have had conversations with a number of House leaders of the committees that would have jurisdiction over the CFO Act refinements to help lay the groundwork on the House side, to hopefully expedite getting this done this year.

Chairman ENZI. I thank you for that and the suggestion that we needed better continuity and succession on those CFOs, too.

You also brought us the necessity for having a Federal program inventory. We are continuing to push OMB to implement its requirement to publish an inventory of Federal programs, because we need that timely information. It seems that people would rather not know what our return on investment is from some of those programs. Who needs to do what in order for us to make progress on that Federal program inventory to start getting better linked cost and performance data? So far we are not having success.

Mr. DODARO. Yes. OMB is really the main actor here and needs to publish and make transparent what the approach should be for developing the program inventory. In the past they have let each agency decide on their own what is a program, and, therefore, you do not really have a consistent inventory across Government to identify overlap, duplication, and fragmentation. It takes us a lot of time and digging in order to recommend issues to the Congress in this area. It should be totally visible. And we have been pushing OMB to move. They have moved recently to try to do this. But they are the ones that need to act to develop the inventory, and they are at the locus of responsibility with the agencies in order to give them guidance so that it is consistent across Government.

Many of the management reforms Congress has passed most recently, the Digital Accountability and Transparency Act required financial standards to be consistent across Government and to require publication of all Federal spending. As you pointed out in your opening statement, if you know where the spending is, you know where the programs are. And so they should use this information as a starting point. And we have also given them a taxonomy of how they can approach the development of the inventory that I think will be helpful for them to use. Continued pressure on OMB is key. I have sent a letter to the Director of OMB every year emphasizing the importance of moving in this area, and last year finally they started to show some signs of life in this area. I hope that they will follow through.

Chairman ENZI. I heard two things that I think startle America. One is that we do not have a list of programs that we have, and the other one is that we do not vote on mandatory spending. Seventy-three percent of the budget, it is just out the door without anybody looking at it, apparently.

Which brings me to another thing that you have been suggesting, which is the portfolio budgeting. A number of members of this Committee have recognized the need for this, and I always use the example of the housing programs, 160 programs over 20 agencies with nobody in charge, nobody setting goals, and a bunch of the programs that have not been looked at in years. So we are pretty

sure that we are employing people to do that. We are just not sure that anything is happening out in the real world.

So you touch on that in your report, and a good portion of the Nation's spending is devoted to the programs within the portfolio areas that are covered by more than one Budget Committee. I do remember when I first got here I found out—Senator Kennedy and I were Chairman and Ranking Member, and we found that there were 119 preschool programs. And we started looking at them and found a whole bunch of duplication, and we were able to get that down to 45. But the reason we could not get it below 45 is they were not in our jurisdiction, which is the problem that we have with a lot of these things. But a good portion of the spending is devoted to programs in these multi-areas, and our Committee's budget process directs GAO and CBO to review certain portfolios of spending on a periodic and repeating basis. Will this new structure help improve oversight and provide better stewardship of taxpayers' dollars?

Mr. DODARO. Absolutely. I think it is very important, the work that we do in overlap, duplication, and fragmentation. We will produce our tenth report in this area. As I mentioned in my opening statement, that has already saved \$262 billion, and there are tens of billions of additional dollars that could be saved. Our High-Risk List is somewhat of the beginnings of a portfolio analysis. But you also would be able to look at not only Federal spending in a particular area, say housing or the STEM area—science, technology, engineering, and math—and look at tax expenditures in addition to Federal programs. There is \$1.3 trillion of estimated tax expenditures that get no scrutiny every year. We do not know whether they are solving the problem, whether there is overlap or duplication between the Federal programs and activities.

One example we highlighted in our first report on overlap and duplication was the ethanol tax credit, but there was also a renewable fuel standard. And while the tax credit might have been needed in the beginning to get started, once the standard was put in place, you did not need both. Congress let the tax expenditure expire. That saved almost \$6 billion a year. But unless you look at spending, tax expenditures, contracts and grants in a portfolio fashion across the Federal Government, you are not able to frame the type of decisions that need to be made to streamline Government and make it more efficient and effective.

So I am very supportive of the portfolio. We stand ready to implement that.

Chairman ENZI. Thank you. And Senator Whitehouse particularly will thank you for mentioning tax expenditures, which gets into kind of a revenue situation, too.

My final question—Senator Braun, did you have some additional questions?

Senator BRAUN. When you are done.

Chairman ENZI. My final question will be budgeting for emergencies if I did not ask you. It has been on everybody's mind lately. We just keep passing everything as an emergency proposition so that it does not go against any numbers, but it goes right to the debt, and we are doing that with coronavirus right now. It is providing millions of dollars in supplemental appropriations to re-

spond to a crisis, and undoubtedly more will be on the way. While we cannot predict with exact certainty where and when these types will strike, I think the Congress could do a better job of budgeting for emergencies.

How do you think the Federal Government can improve the way that it budgets for emergencies? Does the reality that the Federal Government needs to respond to these types of emergencies mean that we ought to find some way that we are not driving up the deficit as we do it with emergency spending?

Mr. DODARO. There are several opportunities to improve the budgeting and management of preparedness for natural disasters, pandemics, or unforeseen events. Number one is to provide funding for a quicker response. Congress, at the request of experts and others, established, for example, a public health fund. But the amount of money that was put in there has quickly evaporated and, thus, has to be replenished.

If you could make a quicker response, the faster you can respond, the more you can bring down total cost of handling whatever disaster it is or pandemic or whatever, having an ongoing investment could enable a quick response so Congress does not have to do a supplemental. The agencies could move immediately.

Second is in preparedness. The Federal Government has spent tens of billions of dollars to provide money through FEMA for local jurisdictions to improve their preparedness. FEMA still does not really have a way to determine whether people are prepared or not, and we have made a number of recommendations in that area that they try to come up with a better measure of preparedness. When making an investment the size that the Federal Government has made, we should know whether it is better prepared or not over a period of time. And so that is an issue.

Third, I would suggest the way budgeting could be improved is to build more resilience in at the State and local level to provide Federal incentives for building codes and structures and investments in public health systems. There has been a lot of discussion recently about how many intensive care beds there are, how many ventilators, and how many other types of things that are needed. We have had a number of relevant recommendations.

For example, in 2015, we recommended that the Department of Transportation develop a strategy for our airline industry in dealing with pandemics and communicable diseases. And so far the Department of Transportation has done nothing. Five years later, we are in the midst of a pandemic, and a lot of this happened because of the global transportation system, and people movement, and that is normal, but the Federal Government needs to have a better system. We have been urging that for a number of years, and I hope that this finally creates the incentive for it to be created in conjunction with HHS and the Department of Homeland Security. If the Federal Government is not prepared and is scrambling, and it does not make good decisions, the public will lose confidence in Government because it is not prepared.

In summary, the Government needs to provide a means for a quick response, assess the return on investment for preparedness, have better planning to build resilience in up front, particularly at the State and local level, provide incentives, and better climate in-

formation so they could plan better. And then, lastly, I would say there is a need to sort out what emergencies the Federal Government should or should not participate in and whether or not there should be others, State and local governments or even the private sector, whatever, that should step in. We have had outstanding recommendations for years regarding the criteria for when the Federal Government decides to declare a national emergency which has never been fully adjusted. It is still based on a per capita income level that has not been adjusted for inflation since 1980. There has been some adjustment in later years, but not fully. And, we calculated if you just adjusted it for inflation, the Federal Government would have participated in about 40 percent fewer disasters because there could be more effort at the State and local government.

Congress has required FEMA to come up with the new criteria. It should be available later this year if they adhere to their schedule. But this is very important, too, from a Federal Government standpoint with FEMA, because the more disasters they are involved in, the further they are stretched across their capabilities, and they do not really then have the workforce they need if there is a major disaster that only the Federal Government can help respond to.

Those are my suggestions, Mr. Chairman, and I think there is plenty of room for improvement in budgeting for these issues.

Chairman ENZI. A lot of great ideas.

Senator Braun?

Senator BRAUN. Thank you.

Last year we talked about improper payments. We did get a bill across the finish line, Senate bill 375, Payment Integrity Information Act, which was motivated by what Senator Johnson and I heard last year and then Senators Carper and Peters joined in on it. So it does raise the profile and enables the various agencies to look harder for what ought to be obvious. So at least something happened based upon your drawing attention to it.

Income. I do not know how closely you pay attention to the income side of it because, obviously, we have no political will here. Senator Van Hollen said that is the essence of why we keep doing what we are doing. That was last year in one of the Budget Committee meetings. I am interested in are we at the sweet spot of revenue generation in the sense that I know when—and I felt it was really going to drive the economy when tax reform in December of 2017—first of all, I do not think big corporations really needed much help because they had a nominal of 35 with an effective rate of 18 percent. So they are already under the new nominal rate of 21 now. But Main Street USA, proprietorships, partnerships, LLCs, Sub-S's, we went from 39.6 to 29.6, and I think that is almost solely the driver when it comes to how hot the economy is, oftentimes not mentioned. We are up 7 percent in revenues the first 5 months of the fiscal year, still spending more than that, and, of course, the GDP is maybe growing, too, to 2.5. So we really did something with the tax policy.

Do you interact with the CBO and OMB about the revenue side? And the only place I would be aware that you could tax to generate more revenue, I do not think it would raise more than \$100 to maybe \$200 billion max, which does not get into the structural def-

icit, would be on high liquid incomes from either the investment side, probably mostly, as well as 1099 and, you know, W-2 folks that benefit from big paychecks. How can we make the case that at some point we have got to focus on spending, but I do think we are ever going to get to that unless we honestly look to see if there is some way to generate revenue without tanking the economy?

Mr. DODARO. There are several things. A lot of the tax policy issues, are the jurisdiction of the Joint Committee on Taxation, CBO, Treasury. We do not enter into that fray very often unless we are looking at a specific request from the committees. But where we do enter in is in tax administration and tax gap. I have mentioned this before. There are new estimates out now from Internal Revenue Service (IRS). There is \$441 billion gross tax gap, annual tax gap, and net is about \$381 billion. They expect to collect—

Senator BRAUN. Do you want to define that, the tax gap?

Mr. DODARO. This is the gap between taxes owed and taxes paid, and there are several reasons—

Senator BRAUN. A collections issue.

Mr. DODARO. Yes. The main reason is underreporting of income. Secondly is there is adequate reporting but they are not paying. And then the third category, the smallest category—

Senator BRAUN. Isn't that all against the law?

Mr. DODARO. Yes, and they are not filing as well. So the tax gap has been on our High-Risk List for years.

There are several things that we think Congress could do, and we have open recommendations here. And this would not raise taxes on anybody. This is just collecting what should be collected under—

Senator BRAUN. And what is that figure again?

Mr. DODARO. The net tax gap is \$381 billion annually.

Senator BRAUN. So about 38 percent of our deficit.

Mr. DODARO. Yes. So it is a big number. If you consider that and \$175 billion going out the door in improper payments that should not be going out the door—while this is not going to solve our problem long term, it will make adjustments to do so a lot easier. And one is to regulate paid tax preparers. We found that the paid tax preparer error rate is higher than when people prepare their own taxes in some areas, particularly in the earned income tax credit area.

Second is to have more information reporting from third-party sources. Where there are people that have their payroll taxes deducted or there is third-party reporting, the compliance rates are much better than they are when there is no third-party income reporting. We have outstanding recommendations in this area.

Senator BRAUN. So that would be two things, if we just did it with some efficiency, you could bridge a lot of the deficit. What about getting back to the question of the sweet spot of taxation? Is that something you—

Mr. DODARO. No.

Senator BRAUN. I know you do not—do you ever think about it outside of what your job is?

Mr. DODARO. I have plenty to think about for my job, I really have not thought about that.

Senator BRAUN. Okay. So if we would just focus on—and if you take that \$381 billion—that is a big figure.

Mr. DODARO. Yes.

Senator BRAUN. Other than regulating or monitoring tax preparers, is there anything else?

Mr. DODARO. You can give IRS what is called “math authority,” where they have administrative records that show that when they get a return, and it does not match the data that they have, they could make an adjustment right then and there and not have to go through a detailed audit. And if the taxpayer thinks that it is not right, then they can enter into a discussion with the IRS.

But I would say, too, on the expenditure side, though, just so you understand on the improper payments, there is legislation that has been introduced here, too. A big problem is we are paying people that are not eligible. In some cases we are paying people who are deceased. And one of the reasons is that the Social Security Administration will not share the total Death Master File with the Treasury Department. And so there is a piece of legislation—Senator Kennedy, who is on this Committee, we talked about this last year. That would help a lot.

The other thing is on Medicaid. I think the Congress really needs to focus on this because the estimate this year jumped because they had not looked at beneficiary eligibility since the Affordable Care Act started to be implemented in 2014. For 5 years, CMS did not review eligibility, when they reviewed the first 17 States it jumped up to \$20 billion, and they are going to do the other States in thirds. So that number is going to continue to grow.

Senator BRAUN. One final question. Do you interact with the CBO at all in terms of their forecasting to see if that makes sense or not? I know they forecasted \$1.5 trillion over 10-year negative impact from the Tax Cut and Jobs Act of 2017. To me it does not look like that is happening, and if you look at this most recent information, do you ever get involved there to make sure that that information that is out there has some integrity to it?

Mr. DODARO. No. We leave that up to the Budget Committees.

Senator BRAUN. Okay.

Mr. DODARO. Because I do not want to get into the business of competing forecasts with CBO.

Senator BRAUN. Okay. Thank you.

Chairman ENZI. And some additional information on that. We had problems with the Affordable Care Act getting information quickly enough to be able to do amendments because of a dynamic approach and trying to anticipate what the change would make from a financial standpoint. So when we did the Tax Cut and Jobs Act, we said imagine that it will have no effect whatsoever on the economy, even though we know that it would, and score everything that way. That is where the \$1.5 trillion deficit comes from, recognizing from economists that there was going to be some effect on the economy, and we hope that it is \$1.5 trillion. And I know that the money has been coming in in excess of what we had before. But we will have to go 10 years before we know whether we were correct—whether the economists were correct in their guesstimate on how much that would be.

I want to thank you again for appearing here. I have a list of ideas that you passed out that we will see if we can get into reality. I have always been an advocate that if we could quit doing things comprehensively around here and take them one little problem at a time and do an understandable solution to that one step, we ought to be able to pass a lot of things out of here maybe by unanimous consent. Our problem is that we always want to tuck some other things in there that are very controversial and wedge them through along with something that is essential, and it leads to a lot of disasters. But I cannot thank you enough. You present one idea after another that is grounded in reality from your years of experience, and I am always amazed at the breadth of your knowledge. I have got pages of things here, and I know that neither you nor I want to be a prophet. We want to be a solution. And there is a lot of doom and gloom out there if we do not make some changes. So we need to be some problem solvers.

I did not ask you about capital budgeting. I am still pressing for that and hoping that we do not wind up with a spending virus around here. It has to be a crisis before we will do anything about it, so maybe that will move it into a crisis stage.

Again, thank you for being here, and that concludes our hearing. If anybody has written questions that they want to submit, they should do that by the close of business tomorrow. And we have always appreciated your rapid response and answers and the expertise that you bring to this. Thank you.

Mr. DODARO. Thank you.

Chairman ENZI. The hearing is adjourned.

[Whereupon, at 11:46 a.m., the Committee was adjourned.]

ADDITIONAL COMMITTEE QUESTIONS

[The following submitted questions were not asked at the hearing but were answered by the witness subsequent to the hearing:]

Questions for the Record and GAO Responses

Senate Budget Committee Hearing

GAO's Annual Report on Nation's Fiscal Health

Thursday, March 12, 2020

Responses to Written Questions from Senator Grassley

1. **Comptroller General Dodaro, your written testimony discusses the federal debt limit, and talks about fiscal rules as a possible alternative to a debt limit. I have two questions.**

First, do you think that the Budget Committee's proposal to reform the Congressional budget process, which Chairman Enzi and Senator Whitehouse put forward and which I have co-sponsored, provides any useful movement toward fiscal rules to guide fiscal policies?

GAO response

Yes. The Budget Committee's proposal to have a fiscal rule to help guide future decisions about the government's fiscal outlook would be useful movement. We have called for Congress to establish a long-term fiscal plan to address the growing debt and put the government on a sustainable fiscal path. A fiscal target that sets a common goal to control the debt (such as the Committee's proposal to set a debt target as a share of gross domestic product), and well-designed rules that form a path to achieve that target, could form part of a long-term plan for fiscal sustainability.

Grassley, Question #1, cont'd

And, second, can you tell us whether any past fiscal rules in the U.S. or in other countries have been effective in aligning decisions on spending and revenue with decisions about debt?

GAO response

The federal government has previously enacted fiscal rules in the form of laws that constrain and enforce fiscal policy decisions, but they all have their limitations. These experiences illustrate the challenge in designing rules that are both achievable and effective in addressing

the key drivers of the nation's growing debt. For example, the Budget Control Act of 2011 (BCA) imposes caps on annual discretionary spending through 2021.¹ However, since 2013 Congress and the President have enacted legislation that resulted in raised discretionary spending caps every year and have not reached agreement on required deficit reductions.² The 2011 Act also did not effectively deal with the main drivers of our deficit and debt, health care, and other mandatory spending costs. A number of other previously enacted fiscal rules similarly placed limits on the deficit and spending, but these rules also had their limitations and they are no longer in effect.

The International Monetary Fund has found that countries have been effective in aligning spending and revenue decisions with decisions on debt through the use of fiscal rules and targets. A debt-to-GDP target can work in combination with other more operational fiscal rules, such as an expenditure rules to set both a fiscal policy goal and short-term guidance for achieving it. A debt-to-GDP target acts as an anchor for fiscal policy because it sets a specific objective.

However, debt targets are not meant to provide short-term guidance to policymakers. Operational rules can provide short-term guidance to policymakers by limiting variables that policymakers can control. For example, Germany is subject to a 60 percent debt-to-GDP target set by the European Union's Stability and Growth Pact. It also has a constitutional "debt brake" at the national level, which limits structural deficits to 0.35 percent of GDP. We are currently examining how other countries are using fiscal rules to help manage their long-term fiscal outlooks and plan to issue our report this fall.³

¹BCA discretionary spending caps exclude emergencies and overseas contingency operations. See Pub. L. No. 112-25, 125 Stat. 240 (2011).

²For example, the Bipartisan Budget Act of 2019 raised discretionary spending caps for fiscal years 2020 and 2021.

³This report is at the request of Chairman Enzi of the Senate Budget Committee and Ranking Member Womack of the House Budget Committee.

2. Comptroller General Dodaro, your written testimony says, quote “Although executive actions alone cannot put the U.S. government on a sustainable fiscal path, it is important for agencies to act as stewards of federal resources.”

As a longstanding advocate for oversight, I would add that it is important for Congress to be engagement in robust oversight of agencies.

As you know, I have conducted oversight of the Department of Defense’s financial management for some time now. And I think there is still a lot of work that the DOD must do to be a good steward of federal resources.

I wonder if you agree that there is still a lot of work that must be done at DOD to properly confront their financial management risks and challenges.

GAO response

Yes. I agree that the Department of Defense (DOD) has a lot of work to do to address their financial management risks and challenges, but they have made some progress. We have consistently reported DOD financial management problems as high risk.⁴ DOD’s financial management continues to face long-standing issues—including its ineffective processes, systems, and controls. The Department also needs to implement corrective action plans and more effective monitoring and reporting.

DOD’s second department-wide financial statement audit in fiscal year (FY) 2019 resulted in the DOD Office of Inspector General (OIG) issuing a disclaimer of opinion as it did in FY 2018. The DOD OIG also reported 25 material weaknesses in internal control across the department in FY 2019 (up from 20 in FY 2018), contributing to its disclaimer of opinion. DOD’s FY 2018 and FY 2019 department-wide financial statement audits resulted in 3,472 notices of findings and recommendations

Addressing these remaining findings will take time and require DOD leadership to stay focused on resolving the issues, which affect their financial management operations. In November 2019, the Deputy Secretary of Defense testified that it will take several years to address the issues found during the audits. According to the Deputy Secretary, DOD expects a majority of

⁴GAO, *High-Risk Series: Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas*, [GAO-19-157SP](#) (Washington, D.C.: Mar. 6, 2019)

components receiving a clean opinion on all or some portion of their financial statements within the next 5 to 7 years.

While much remains to be done, DOD has made some progress. The OIG found that DOD had closed about 27 percent of the FY 2018 audit findings. Moreover, according to the Deputy Secretary of Defense, DOD's audit has resulted in financial savings by improving inventory management, identifying vulnerabilities in cybersecurity, and providing better data for decision making.

Our 2019 High Risk report also identifies a number of financial management problems that DOD needs to address, but DOD is starting to make progress.⁵ In the [DOD Financial Management](#) section of the report, the ratings for "leadership commitment" and "monitoring" improved. For leadership commitment, the rating improved from "partially met" to "met" and for the "monitoring" rating, improving from "not met" to "partially met."

Additionally, several smaller DOD components, such as U.S. Army Corps of Engineers - Civil Works, Military Retirement Fund, and Defense Health Agency—Contract Resource Management have been able to receive a clean audit opinion and maintain it over the last several years.

⁵[GAO-19-157SP](#).

3. Comptroller General Dodaro, spending as a share of GDP is projected to average more than 22 percent over the next 10 years, well above the historical average, and will continue to rise after that. Revenue as a share of GDP is projected to be at the historic average over the next 10 years, and will continue to rise after that.

The main drivers of increased spending are Social Security, federal health spending, and net interest costs. So, mandatory spending on entitlements is one big driver of the unsustainable growth in federal spending. Discretionary spending, in contrast is projected to fall relative to GDP.

Despite those facts, some people want to expand mandatory spending. The only way to generate budget balance or any sense of sustainability of debt and at the same time further expand mandatory spending would be to massively increase federal taxes.

Mr. Dodaro, do you have a sense of how large a share of GDP in future years federal tax revenue would have to be in order to have even our existing mandatory spending promises fully funded by incoming federal tax receipts?

GAO response

Our report and supporting analysis does not calculate how large of a share of GDP federal tax revenue would have to be to match current mandatory spending commitments in future years. Our report does calculate the fiscal gap, which represents the difference between revenue and program spending (i.e., spending other than interest payments) that would need to be closed immediately and permanently to hold debt as a share of GDP at the end of a given period the same as at the beginning of the period. According to our alternative simulation, closing the fiscal gap over 75 years solely by cutting program spending would require an immediate cut of 27.2 percent. Closing the fiscal gap over 75 years solely by increasing revenue would require an immediate increase of 37.8 percent.

Our alternative simulations project that spending on mandatory programs, net of offsetting receipts, grows such that by fiscal year 2050, the difference between mandatory spending and total revenues is less than one percent of GDP. In fiscal year 2062 mandatory spending is projected to exceed total revenues as a share of GDP for the first time.

4. Comptroller General Dodaro, part of the fiscal challenges ahead of us are growing interest costs on the debt. Under the Obama administration, there were four consecutive years of deficits well above one trillion dollars. That includes deficits well above one trillion dollars in years following the end of the recession in June 2009. In addition, public debt held by the public ballooned over the full Obama presidency by more than eight trillion dollars.

Is it safe to say that a significant amount of debt that was run up by the previous administration is now adding significantly to our fiscal challenges, both in principal and interest costs?

GAO response

The dollar value of debt is difficult to interpret absent some sense of the size of the economy supporting it. Therefore, the debt-to-GDP ratio is used to gauge a country's ability to pay its debt. The ratio has varied for much of the nation's history. Historically, it has increased during wartime and recessions and decreased during peacetime and economic expansions.

However, the debt-to-GDP ratio has grown most years since 2001, which was the last time the federal government had a budget surplus. In 2001, the debt-to-GDP ratio was about 32 percent. Between 2002 and 2008 the deficit as a percentage of GDP averaged 2.4 percent, which caused the debt-to-GDP ratio to increase to more than 39 percent.

In 2009, the deficit as a percentage of GDP increased to 9.8 percent of GDP but decreased thereafter to 2.4 percent of GDP by 2015. During that time, the debt-to-GDP ratio grew from 52 percent to 73 percent. At the end of 2019, the debt-to-GDP ratio was about 79 percent as the deficit as a percentage of GDP has steadily increased since 2015 to 4.6 percent of GDP.

While the debt-to-GDP ratio has more than doubled since 2001, spending on net interest has remained relatively low as a percentage of GDP as interest rates today are historically low. In 2001, spending on net interest was about 2.0 percent of GDP. In 2019, spending on net interest was about 1.8 percent of GDP.

Since 2015, net interest payments have increased each year as a share of GDP. Our alternative simulation projects that net interest will remain at or below 2.0 percent of GDP in the near term

before these costs begin to rise more sharply. If no action is taken interest costs could rise to 7.2 percent of GDP by 2049.

Questions for the Record and GAO Responses

Senate Budget Committee Hearing

GAO's Annual Report on Nation's Fiscal Health

Thursday, March 12, 2020

Responses to Written Questions from Senator Whitehouse

1. Last fall, I worked with Senator Enzi to introduce the Bipartisan Congressional Budget Reform Act, which would help fix the government's broken budget process. Specifically, the bill would also establish the debt-to-GDP targets to help get deficits under control. You have previously agreed that using a debt-to-GDP ratio as a means of measuring debt would be helpful in establishing fiscal targets.

- a) Do you still agree that using a debt-to-GDP ratio is a sensible way to set fiscal targets and measure debt?

GAO response

Yes, we continue to believe that a fiscal target that measures the ratio of debt to the gross domestic product (GDP) as specified in the Bipartisan Congressional Budget Reform Act is a good idea. A fiscal target that sets a common goal to control the debt, and well-designed rules that form a path to achieve that target, could form part of a long-term plan for fiscal sustainability. We have called for Congress to establish such a long-term fiscal plan to address the growing debt and put the government on a sustainable fiscal path.

However, debt targets are not meant to provide short-term guidance to policymakers. Operational rules can provide short-term guidance to policymakers by limiting variables (e.g., expenditures) that policymakers can control. For example, the Netherlands is subject to a 60 percent debt-to-GDP target set by the European Union's Stability and Growth Pact. The Netherlands also has expenditure limits that are agreed to by each new government when it takes office and that last for the government's four-year term. We are currently examining how other countries are using fiscal rules to help manage their long-term fiscal outlooks and plan to issue our report this fall.¹

¹This report is at the request of Chairman Enzi of the Senate Budget Committee and Ranking Member Womack of the House Budget Committee.

b) The historical high of our debt-to-GDP ratio occurred just after World War II. What factors today are driving up the debt-to-GDP ratio?

GAO response

The primary spending drivers of the increasing debt-to-GDP ratio are federal health care program costs and net interest.² The growth in federal spending on health care is driven by the aging population and by the increase in health care spending per beneficiary. Net interest is a function of the amount of debt to be financed and the interest rate at which it is financed. Increased interest costs often lead to additional borrowing. Although persistently low interest rates have resulted in lower interest costs for the government than previously forecast, net interest spending remains the fastest growing part of the budget. Demographic factors such as an aging population and slower labor force growth are also straining Social Security programs and contributing to a gap between program costs and revenues. However, to change the long-term fiscal path, policymakers will need to consider policy changes to the entire range of federal activities, both revenue (including tax expenditures) and spending (entitlement programs, other mandatory spending, and discretionary spending).

²Net interest primarily encompasses government interest costs on federal debt held by the public, net of certain income recognized from loans and other sources.

2. GAO has previously stated that “one cannot overstate the importance of preserving the confidence that investors have that debt backed by the full faith and credit of the U.S. government will be honored.” The Bipartisan Congressional Budget Reform Act would create a mechanism to end brinksmanship around the statutory debt limit.

- a) Would you agree that ending the political brinksmanship often associated with increases in the debt limit would be helpful to investors?

GAO response

Yes. We have reported numerous times that the full faith and credit of the United States must be preserved. Delays in raising the debt limit have occurred in each of the last 9 fiscal years, resulting in the Department of the Treasury (Treasury) deviating from its normal cash and debt management operations and taking extraordinary actions to avoid exceeding the debt limit. Failure to increase the debt limit in a timely manner can undermine investors' perception of the safety of Treasury securities. This can result in increased borrowing costs and disrupt the liquidity in the secondary market because investors have been hesitant to purchase securities that may mature during a debt impasse period.³

The Bipartisan Congressional Budget Reform Act includes provisions, which, if enacted, would help avoid impasses on the debt limit by automatically adjusting the debt limit to conform to levels established in the budget resolution.⁴ This change would help prevent the Treasury market from being disrupted by debt limit impasses.

³In 2019, we surveyed a non-generalizable sample of 67 large domestic institutional investors on actions they would take in the event of any future debt limit impasse. Of these 67 investors, 48 (72 percent) reported that they would systematically avoid certain Treasury securities—those that matured around the dates when Treasury projected it would exhaust extraordinary actions. For more information, see GAO, *Federal Debt Management: Treasury Should Strengthen Policies for Market Outreach and Analysis to Maintain Broad-Based Demand for Securities*, GAO-20-131 (Washington, D.C.: Dec. 5, 2019).

⁴Bipartisan Congressional Budget Reform Act, S. 2765, title II, § 202(e)(5), 116th Cong. (2019).

b) Do you agree that Congress should work on proposals that address the brinksmanship often associated with the debt limit?

GAO response

I support Congress's work on proposals to avoid impasses on raising the debt limit and minimize disruptions to the Treasury securities market while maintaining Congressional control and oversight. In 2015, we held a forum with experts and identified three options for Congress to address impasses on raising the debt limit:

- Option 1: Link action on the debt limit to the budget resolution (as proposed by certain provisions in the Bipartisan Congressional Budget Reform Act).
- Option 2: Provide the administration with the authority to propose a change in the debt limit that would take effect absent enactment of a joint resolution of disapproval within a specified time frame.
- Option 3: Delegate broad authority to the administration to borrow as necessary to fund enacted laws.⁵

3. In developing your Natural Disaster Framework you took into account "opportunities to reduce federal fiscal exposure to climate change."

a) What types of actions can federal agencies take to identify climate-related risks and improve resilience to climate-related disasters?

GAO response

Our March 2019 High-Risk report identified a number of recommendations the federal government could take to reduce its fiscal exposure to climate change. Among our key government-wide recommendations are:

- Entities within the Executive Office of the President (EOP) should use information on potential economic effects from climate change to help identify significant climate risks and craft appropriate federal responses;

⁵More detail about these options and a discussion of the advantages and challenges to each can be found in GAO, *Debt Limit: Market Responses to Recent Impasses Underscores Need Consider Alternative Approaches*, GAO-15-476 (Washington, D.C.: July 9, 2015).

- Entities within EOP should work with partners to establish federal strategic climate change priorities that reflect the full range of climate-related federal activities;
- Entities within EOP should designate a federal entity to develop and update a set of authoritative climate observations and projections for use in federal decision making, and create a national climate information system with defined roles for federal agencies and certain nonfederal entities; and
- The Department of Commerce should convene federal agencies to provide the best-available forward-looking climate information to organizations that develop standards and building codes to enhance infrastructure resilience.

Further, in October 2019, we reported that Congress could consider establishing a federal organizational arrangement to periodically identify and prioritize climate resilience projects for federal investment. We also issued the Disaster Resilience Framework to serve as a guide for analysis of federal action to facilitate and promote resilience to natural disasters, including resilience to climate change.⁶

⁶GAO, *Disaster Resilience Framework: Principles for Analyzing Federal Efforts to Facilitate and Promote Resilience to Natural Disasters*, GAO-20-100SP (Washington, D.C.: Oct. 23, 2019).

Questions for the Record and GAO Responses

Senate Budget Committee Hearing

GAO's Annual Report on Nation's Fiscal Health

Thursday, March 12, 2020

Responses to Written Questions from Senator Van Hollen

Question 1: The Impoundment Control Act (ICA) is a key law for protecting Congress's power of the purse and GAO is the agency responsible for enforcing this law. During the hearing, General Counsel Tom Armstrong and you expressed support for several options to strengthen the law, including the following measures:

- Mandate public disclosure of OMB apportionment and reapportionment schedules.
- Require additional information in the special messages that the President submits for deferral or a rescission proposal.
- Clarify and reaffirm GAO's ruling that the ICA does not allow the President to use a rescission proposal to run out the clock on appropriated funds.
- Impose penalties for violating the ICA, modeled after Anti-Deficiency Act penalties.
- Require the Executive Branch to respond expeditiously to GAO inquiries regarding potential ICA violations.

Please comment on the following additional options for amending the ICA:

- A. The ICA currently requires GAO to wait 25 days after giving Congress notice of its intent to sue to release illegally impounded funds. Given that funds may be withheld for months before GAO identifies the illegal withholding and attempts to resolve it without a lawsuit, should Congress consider keeping the notice requirement but repealing the 25-day waiting period?

GAO response

Yes. Removing the 25-day waiting period would enable GAO, when necessary, to act more quickly to engage the court. GAO would continue to provide an explanatory statement giving Congress advance notification of its intent to sue.

- B. GAO currently has authority to access agency documents to assess compliance with the ICA, but not authority to interview agency personnel. Should Congress provide GAO authority to interview agency personnel as well as access to documents?**

GAO response

Yes. Providing GAO express statutory authority to access relevant officials in connection with its evaluation of impoundment issues would assist GAO in developing important elements of the factual record. The ability to quickly confirm facts and clarify an agency's legal views through discussion has proven useful in the past.¹ Having express statutory authority in this regard would further support a timely exchange of information. Such a provision would benefit from a corresponding penalty to deter noncompliance. For example, Congress could consider prohibiting the use of appropriated funds to pay the salary of an individual who refuses to engage with GAO, similar to the government-wide prohibition on the use of appropriations to pay the salary of a federal employee who prevents another employee from communicating with Congress.²

- C. When GAO reports an undisclosed withholding to Congress, the ICA treats that report as if the President sent a message to rescind or defer the funds. But since the President has not actually proposed a rescission or deferral, should Congress change the law to simply require that the funds be immediately released, unless the President does send Congress a message to rescind or defer the funds?**

GAO response

Yes. Amending the ICA to require the immediate release of amounts that are withheld outside of the procedures prescribed in the ICA would reinforce the Act's requirements that any effort to withhold amounts from obligation must follow the Act's procedures for withholding. This would further emphasize the fact that the President has no unilateral authority to withhold amounts outside of the ICA's procedures. Note, however, if the President submits a special message to continue to withhold amounts previously unlawfully withheld in the absence of a special

¹See, e.g. B-329092, Dec. 12, 2017 (noting GAO communications with Department of Energy officials, which sparked the release of improperly withheld amounts).

²See Pub. L. No. 116-93, div. C, title VII, § 713, 133 Stat. 2317, 2487 (Dec. 20, 2019).

message, the transmission of such a special message would not cure the violation of the ICA that stems from the initial withholding.

- D. In order to create a process under the ICA to prevent funds from expiring as a consequence of being withheld, without Congress passing a rescission bill, should Congress add the following rules to the ICA?**
- a. **Prohibit rescission proposals for funds that are set to expire within 60 days.**
 - b. **Expressly require that Executive Branch officials release funds that are subject to a rescission proposal or deferral in time to be prudently obligated.**
 - c. **Provide at least 100 days to obligate funds that are released after being withheld by the Executive Branch, even if the funds were scheduled to expire sooner, similar to rules under the Competition in Contracting Act for funds tied up due to bid protests.**

GAO response

Yes. Each of these changes would underscore GAO's decision that the withholding of amounts through their date of expiration is prohibited.³ These legislative changes would foreclose unnecessary debate. The first proposal, which would prohibit rescission proposals for amounts set to expire within 60 days, would make clear that the executive branch may not transmit end-of-the-fiscal-year rescission proposals of amounts that would expire without congressional action. Further, the second proposal, which would require that amounts withheld pursuant to a rescission or deferral special message, be released in time to be prudently obligated, would ensure sufficient time for agencies to obligate amounts for programs needing more than 60 days to prudently obligate funds. The third proposal would extend the period of availability of withheld amounts once released. This extension would give agencies additional time to obligate amounts. Where amounts have been unlawfully withheld through their initial date of expiration, this extension would facilitate the prudent obligation of the funds.

³See B-330330, Dec. 10, 2018 ("[A]mounts proposed for rescission must be made available for prudent obligation before the amounts expire, even where the 45-day period for congressional consideration in the [Impoundment Control Act] approaches or spans the date on which the funds would expire.").

E. Should Congress amend the ICA to require immediate release of funds that are not rescinded upon enactment of a rescission bill that rescinds some, but not all, of the funding proposed for rescission?

GAO response

Yes. It is GAO's position that, under the existing requirements of the ICA, where Congress has decided not to rescind all amounts proposed in a rescission bill, unrescinded amounts should be made available for obligation. However, expressly stating that amounts not rescinded in a rescission bill must immediately be made available for obligation would strengthen Congress's constitutional prerogatives over federal spending. It would expressly require the executive branch to immediately make amounts available for obligation, consistent with existing congressional directives in appropriations laws.

F. Should the ICA include an inference that the Executive Branch is illegally withholding funds in cases where the Executive Branch does not provide GAO a sufficient response to establish otherwise?

GAO response

Yes. We currently consider it to be within our discretion, when executing our legal analysis or review of a special message, to make appropriate inferences based on the explanation or lack thereof provided by the agency.⁴ While we attempt to obtain additional information when we receive an inadequate response, the time we spend seeking a more substantive response may be at odds with the needs of Congress. However, incorporating a provision into the ICA acknowledging that the Comptroller General may make such an adverse inference could encourage the executive branch to provide thorough justifications for potential impoundments at the outset and may deter overall non-responsiveness.

⁴See, e.g., OGC-90-4, Mar. 6, 1990 (finding generalized assertions that did not provide a nexus between the proposed deferrals and the asserted rationale were inadequate and the deferrals unauthorized).

G. Should the law require monthly cumulative reports of unobligated balances for accounts where funds have been released after being withheld, to ensure timely obligation of those funds?

GAO response

Yes. The Impoundment Control Act requires the President to submit monthly cumulative reports listing the budget authority that has been proposed for rescission or deferred during the fiscal year, including information provided in the related special messages. In this regard, monthly cumulative reports published in connection with the President's 2018 special message included the following information: the amounts that were previously withheld pursuant to the special message that were subsequently made available for obligation; and the date that such amounts were made available. If, in addition to this information, the monthly cumulative reports were required to provide an accounting of the unobligated balances remaining in the accounts that were subject to the special message, this would provide transparency to Congress. Specifically, it would inform Congress as to whether previously withheld amounts are being obligated consistent with congressional directives. Ready access to such information would also allow Congress and GAO to identify where an intentional withholding may persist and, if necessary, facilitate timely action to ensure funds are made available for prudent obligation.

H. When the President submits a special message to Congress for a rescission proposal or deferral, should Congress require that the message include the anticipated date on which amounts withheld from obligation must be made available in order to be prudently obligated?

GAO response

Yes. Agencies carry out a wide variety of programs, subject to unique statutory requirements. While obligations to fully carry out one program may occur in a matter of days, obligations to fully carry out another may require months. The agency implementing a program is in the best position to assess the time that is necessary to prudently obligate amounts appropriated for that program. Requiring a special message to include the date by which the implementing agency has determined withheld amounts must be made available in order to be prudently obligated would provide a reference point for assessing compliance with the ICA. Specifically, if amounts are not made available by the described date, it becomes evident that that amounts have not been made available in time for prudent obligation. Accordingly, including this requirement would increase Congress's oversight of the executive branch. Requiring this information would

also facilitate either congressional or GAO action if amounts are being withheld beyond the time required for prudent obligation.

