

GOVERNMENT

# Waste Watch

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**A**fter the November 2 elections, CAGW was overwhelmed with requests from the media, taxpayers, and elected officials for recommendations to eliminate wasteful spending. Our staff worked overtime to complete “Critical Waste Issues for the 112th Congress,” which will be published in January and serve as a compliment to CAGW’s long-standing “Prime Cuts.”

# Critical Waste Issues *for the* 112th Congress

# Message

FROM THE

# President

By Tom Schatz



## Earmarks are Going, Going...

On December 14, 2010, *The Hill*, a prominent publication covering Capitol Hill, published its list of the “Top 10 Lobbying Victories of 2010.” The fourth item on the list cited the earmark moratorium that had been adopted by House and Senate Republicans. The article stated, “Fiscal hawks like Citizens Against Government Waste ... waged a war of attrition against earmarks – the parochial projects that bring the bacon back to lawmakers’ congressional districts.... House and Senate Republicans have agreed to voluntary bans on earmarks. That has left appropriations lobbyists scrambling to find new federal funding avenues for their clients.”

As the first organization to collect and report on pork-barrel projects, now more commonly called “earmarks,” CAGW is gratified that the moratorium is in effect for fiscal years 2012 and 2013. But there is much more work to be done until earmarks are permanently eliminated. It was hard to imagine even getting this far when, as the director of government affairs, I came up with the idea of writing the first *Congressional Pig Book* in 1991, which had 546 projects worth \$3.1 billion. Earmarks skyrocketed to 9,963

projects worth \$29 billion in fiscal year (FY) 2006. That was also the year that Republicans lost their majority in the House and Senate.

Since then, there have been substantial reductions in the number and cost of earmarks. In FY 2010, there were 9,129 projects worth \$16.5 billion. That was a reduction of 10.2 percent in projects from the 10,160 in FY 2009, and a 15.5 percent reduction in cost from the \$19.6 billion that year. Preliminary estimates of earmarks in the FY 2011 omnibus appropriations bill show 6,631 earmarks worth \$8.6 billion, which is a 27 percent reduction in the number of earmarks from FY 2010, and a 47 percent reduction in cost.

Raiding the federal treasury to “bring home the bacon” is a long-practiced, but not ancient, Washington tradition. Year after year, lawmakers have debased the political process by directing chunks of the federal budget back to their home districts and states to pro-

mote their own reelections and reward special interests.

Under the U.S. Constitution, Congress is granted the power to spend money. Article I, Section 9, Clause 7 reads, “No money shall be drawn from the Treasury but by consequence of appropriations made by Law.”

Washington insiders have espoused this “power of the purse” to validate Congress’s mushrooming appetite for pork. Proponents have often argued that eliminating earmarks would equate to an unconstitutional delegation of spending to the executive branch. Senate Majority Leader Harry Reid (D-Nev.) has said that earmarking has been going on “since we were a country.” A spokeswoman for Cassidy and Associates, which lobbies for earmarks, once said, “Earmarking has been going on since the time of George Washington.”

It would be hard to imagine a more convoluted, inaccurate, and self-serving interpretation of the Constitution and U.S. history. The Founding Fathers deemed that Congress could spend

President’s Message (continued on page 10)



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## CRITICAL WASTE ISSUE:

# Repeal ObamaCare

By Erica Gordon  
Director of Government Affairs

Over the past two years, taxpayers have watched the national debt climb to a frightening \$13.8 trillion as Congress and President Obama massively enlarged the size and scope of the federal government against the will of the people. Americans have simply had enough of the bailouts, tax hikes, earmarks, onerous regulations, and the seemingly endless number of “jobs” bills. The passage of President Obama’s landmark healthcare legislation, however, was perhaps the most fiscally dangerous piece of legislation and is most illustrative of Washington’s reckless and profligate behavior.

On December 24, 2009, Senate Democrats managed to strong-arm enough members with giveaways such as the “Cornhusker Kickback” and “Louisiana Purchase” to pass Senate Majority Leader Harry Reid’s (D-Nev.) healthcare bill, H. R. 3590, the Patient Protection and Affordable Care Act. This \$2.5 trillion legislation, packed with tax increases, insurance mandates, Medicare cuts, and unfunded Medicaid expansions, was rammed through the House on March 21, 2010, in a 219-212 vote.

The Obama administration may have won the healthcare battle, but an ongoing war is being waged over its legitimacy and tremendous cost. There are currently more than 20 active legal cases challenging the healthcare overhaul on grounds that the law is an unprecedented overreach of federal power and contravenes the Constitution. Additionally, many Democrat legislators lost their seats on November 2 in large part as a result of their support of ObamaCare and its massive new spending requirements.

Beginning in 2014 under the new law, individu-

als will either have to purchase health insurance or pay a financial penalty to the government. The Obama administration contends that the Constitution’s Commerce Clause, which gives Congress the power of taxation, provides the authority to levy this fee.

The problem with the individual mandate is two-fold. First, when the Obama administration pushed for passage of the healthcare bill, it vehemently denied the non-compliance penalty was a tax. Appearing on the September 20, 2009, edition of ABC’s “This Week” with George Stephanopoulos, President Obama stubbornly refused to agree that the individual mandate is a tax increase, stating, “...for us to say that you’ve got to take a responsibility to get health insurance is absolutely not a tax increase.” Now that it finds itself in hot water, the administration claims that the fee is, in fact, a tax and, therefore, legal under the Commerce Clause. This is an admission that President Obama tried to deceive the American people in order to gain support for his healthcare bill. Any way you slice it, the President is clearly trying to have his cake and eat it too.

The second major issue is that this individual mandate opens the door to boundless government intervention. Forcing Americans to buy health insurance just by virtue of being alive creates an extremely slippery slope for other federal mandates. What’s to stop the government from requiring residents to buy a car, pay for gym membership, or eat broccoli? The power of the individual mandate is simply unprecedented.

The new healthcare law not only challenges the Constitution, it also forces Americans to shoulder the heavy burden of new taxes, penalties, and higher insurance premiums. Seniors will see their Medicare benefits significantly reduced, resulting in limited choices and higher

costs. While Medicare will soon experience cuts, Medicaid will be expanded, despite the fact that the program is going broke and states are struggling to fund their share of the massive program, even before federal matching programs expire. Imposing an unfunded mandate (which is also constitutionally questionable) will only make Medicaid’s problems worse. Small businesses hindered by stringent regulations and taxes that will ultimately force them to slash jobs.

The bill is crammed with sloppily written and onerous provisions the impact of which is only now being fully realized. For example, Section 9006 of the Patient Protection and Affordable Care Act requires every business, charity, and local and state government entity to file a Form 1099 with the Internal Revenue Service (IRS) for each supplier or service provider to whom payments exceed \$600 in a single year. These requirements will burden an estimated 40 million businesses and other organizations, driving up their costs, forcing them to fill out more paperwork and tax forms, and causing them to devote more time and resources to dealing with bureaucratic red tape instead focusing on job creation.

A December 9, 2010, *New York Times* article reported that children’s hospitals around the country are being notified that the discounts they previously received from pharmaceutical companies for expensive drugs to treat rare medical conditions will be discontinued as a result of Obamacare. *The Times* quotes Joshua D. Greenberg, vice president of Children’s Hospital Boston, saying that the loss of the discounts “jeopardizes our ability to care for some of the sickest children with the most complex health care needs.” And the administration has been forced to issue 222 special waivers so far to unions, companies, and insurers that have claimed that the new rules on reducing administrative expenses are so draconian that they would be forced to lay off large numbers of employees due to increased costs.

Despite the positive and encouraging rhetoric being pumped from the administration, an October

## CRITICAL WASTE ISSUE:

# Agriculture Subsidies

*By Sean Kennedy  
Research Associate*

While agriculture has received federal support as far back as the Morrill Act of 1862, which established land grant colleges, the Agricultural Adjustment Act of 1933 and other New Deal programs dramatically expanded the number and cost of farm subsidies. Current programs include direct payments, counter-cyclical payments, government loans, disaster payments, crop insurance, export subsidies, and import tariffs. Direct payments were a temporary measure instituted in 1996 to help wean farmers off government subsidies; instead, farmers continue to receive payments independent of production or profits. Counter-cyclical payments and government loans aim to help struggling farmers in bad years by essentially creating a price floor for certain commodities. Instead, these payments are often made in bumper-crop years, when a large supply floods the market and drives down prices. However, farmers still make a profit from their crops, and average farm income far exceeds the median income for all taxpayers.

Many inherent problems exist in these subsidy programs. First, more than 90 percent of subsidies go to farmers of five crops – wheat, corn, soybeans, rice and cotton. Supporters claim that the payments are aimed at providing a safety net for small and medium-sized family farms, but 74 percent of the support goes to the wealthiest 10 percent of farmers, who received over the past 15 years an average of more than \$445,000 annually, according to the Environmental Working Group. The bottom 80 percent received an average of \$8,862, so subsidies provide little assistance to small farmers. Second, more than 60 percent of U.S. agricultural products do not receive any federal assistance. Farm subsidies are, therefore, inequitable, expensive, and unnecessary.

Citizens Against Government Waste (CAGW) has been calling for an end to farm subsidies since the organization was established in 1984. In addition to the unfair distribution of subsidies, other reasons to end the practice include damage to the U.S. economy and trade relations, adverse environmental impact, and evidence from other countries that ending farm subsidies improves the economy.

The dairy, ethanol, sugar, and peanut programs exemplify the problems of all agriculture subsidies.

### Dairy

The U.S. dairy market is a complex tangle of subsidies and price supports. Through a series of federal Milk Marketing Orders, the government sets minimum prices that producers must pay for Grade A milk. These orders, and the prices they impose, vary from region to region, and milk producers are forbidden to sell their product in another region. The prices are based historically on the distance from Eau Claire, Wisconsin, where the milk is produced. The government also has a Dairy Price Support program. Under this program, the government buys certain processed dairy products, like butter and cheese, to keep the market price above a certain level. In addition to these subsidies, the government runs a program called Milk Income Loss Compensation, which compensates dairy producers when domestic milk prices fall below a certain level.

All of these programs keep the price of milk in the U.S. higher than the world price, and, in essence, pay the dairy industry with taxpayer money. These programs cause unnecessary market distortions, cost taxpayers millions, and add unnecessary red tape and regulations.

Low milk prices throughout much of 2009 caused many dairy farmers, and some of their representatives in Congress, to suggest imposing government-man-

dated limits on milk supply. Senator Bernie Sanders (I-Vt.) and Representative Jim Costa (D-Calif.) introduced S. 3531 and H.R. 5288 to establish a new government program that would impose production quotas on dairy farmers based upon the projections of a dairy farmer-dominated board. A similar proposal from the National Milk Producers Federation (NMPF), called the Dairy Market Stabilization Program, would create a new USDA program to control milk supply by restricting milk payments when margins between farm milk prices and feed costs shrink.

CAGW has long opposed USDA's sugar supply control program because it imposes increased costs on consumers. Similarly, CAGW strongly opposes efforts, such as the Sanders/Costa bill or the NMPF stabilization program, to create supply controls or a quota system for the dairy industry. Milk production is already encumbered with several programs that distort markets; regulations should be eliminated, not increased. Experience in other countries, such as Canada, with supply controls proves that such programs restrict industry growth, add costs to consumers, impede innovation and encourage imports, yet are ineffective in saving small farms. Increased prices for dairy products will unnecessarily raise costs for government nutrition programs, will create a new and costly bureaucracy at the USDA, and, once in place, will be easy to amend to a more onerous program if less-restrictive proposals do not satisfy proponents. Reforming milk marketing orders and deregulating milk pricing would save taxpayers \$1.2 billion in one year and \$5.8 billion over five years.

### Ethanol

The ethanol program benefits from a plethora of subsidies. They include a tax credit for ethanol blenders, a protectionist tariff against foreign ethanol imports, and a Renewable Fuel Standard that creates an artificial market for the additive. The ethanol program should be on the chopping block as Congress and the

administration seek to cut wasteful federal spending and reduce the deficit.

Taxpayers have been fleeced by the ethanol program for years. Studies show that increased ethanol production does not improve energy independence or help the environment. A July 2009 Congressional Budget Office report confirmed that taxpayers lose \$6 billion each year on the ethanol program. In 2009, the U.S. produced and sold about 11 billion gallons of biofuels, most of it made from corn. Fuel blenders receive a 45 cents per gallon tax credit, most of which flows back to domestic corn growers in the form of higher prices for their product. Both the tax credit and the tariff are set to expire on December 31, 2010, and the ethanol lobby is pushing for the credit's renewal during the lame duck session, possibly by attaching a renewal provision to a bill to extend federal tax cuts.

A November 27, 2010, *Wall Street Journal* article noted that former Vice President Al Gore, ethanol cheerleader and spiritual leader of the climate change movement, has backtracked on his support for the program, saying it was a "mistake," and that he really only supported it because he had a "certain fondness for the farmers in the state of Iowa" during his presidential run. Gore conceded, "It's hard once such a program is put in place to deal with the lobbies that keep it going."

Even as groups on both the left and right have exposed the program as a colossal waste, the Environmental Protection Agency announced in October that it would mandate an increase in the amount of ethanol in gasoline to as much as 15 percent, a move which constitutes yet another sop to the ethanol lobby, which has admitted that there are already "lots of gallons of ethanol chasing too few gallons of gasoline." Their mantra that using ethanol reduces the country's dependence on foreign oil and creates jobs has been debunked repeatedly.

Ending ethanol subsidies could save taxpayers \$6 billion in one year and \$30 billion over five years.

### **Sugar**

Using a combination of price supports, marketing controls and import quotas, the federal government establishes a minimum price for sugar in the United States. The government sets a floor under market

prices by offering sugar processors loans, with sugar serving as collateral. If processors are unable to sell their sugar on the open market at a price higher than the loan rate, they can repay the price support loan by forfeiting the sugar to the government.

The government also imposes marketing controls, which limit how much sugar processors are allowed to sell, by setting an overall allotment for the entire country, designating a portion of that amount to each processor, and prohibiting processors from selling sugar in excess of their allotment.

These allotments are enforced and administered by a small cartel of sugar processors who function as the government's unofficial production control agents. It is impossible for a sugar producer to market a crop if the processors refuse to accept it.

The federal government also imposes a tariff-rate quota, limiting the amounts of raw and refined sugar that may be imported into the U.S. through the rigid allotment of country-by-country import quotas. A prohibitive tariff is imposed on any imports above the quota.

There is also a program under which repossessed sugar controlled by the government under the loan-support program is sold to ethanol producers at a loss. Although officials tout this program as making the sugar subsidy program a "net zero," in reality, no one benefits. The government still loses money on the venture, and most ethanol producers in the U.S. are set up to produce ethanol from corn and cannot process sugar. These programs have increased the U.S. price of sugar to two or three times the world price, and have also cost the U.S. at least 75,000 jobs in sugar-related industries such as candy, cereal, and baked goods manufacturers, in addition to decimating the U.S. sugar refining industry. The cost of this program to U.S. consumers is at least \$1.9 billion annually when the higher prices of sugar are taken into account.

As part of the 2008 Farm Bill, taxpayers will purchase sugar from U.S. sugar producers and then sell it at a loss to ethanol plants. The program, known as the Feedstock Flexibility Program for Bioenergy Producers, is expected to cost \$325 mil-

lion from fiscal year (FY) 2008 to FY 2012.2 The elimination of the sugar program would save taxpayers \$160 million in one year and \$800 million over five-years.

### **Peanuts**

The peanut support programs have existed in some form since the early 1900s. Originally, peanuts were subsidized with a production quota; only those who owned or leased production quotas from the government were allowed to produce. Since these production quotas drove the cost of peanuts to nearly twice the world price, quota ownership rights were very valuable. When Congress passed the 2002 Farm Bill, which eliminated production quotas, members had to compensate farmers for removing this valuable "resource" of quota right, which cost taxpayers \$1.3 billion over five years.

The new peanut subsidy is an improvement, but that's not saying much. The new direct payments and counter-cyclical payments are available to "historic peanut producers," or those who grew peanuts from 1998-2001. Farmers so designated receive payments whether or not they currently produce peanuts. These programs still significantly distort the U.S. peanut market.

Eliminating the peanut subsidy would save taxpayers \$140 million in one year and \$700 million over five years.

Agricultural products should be grown and sold according to free market forces, not government intervention. Enforcement of quotas, import controls, and marketing restrictions distorts markets and increases the cost of food to taxpayers and consumers.

A safety net for small farmers might potentially be a worthy goal. However, the existing convoluted mess of subsidies is not a safety net because it pays out in good and bad times and disproportionately benefits wealthy farmers. In addition, the total paid by U.S. consumers and taxpayers in direct and indirect costs is higher than the benefits received by farmers. Congress must restructure existing U.S. agriculture subsidies or abolish them altogether.

## CRITICAL WASTE ISSUE:

# Reform Social Security

By Erica Gordon  
Director of Government Affairs

Congress can no longer wait to make serious reforms to the nation's entitlement programs. Social Security is headed toward insolvency; expenditures are expected to exceed tax receipts this year for the first time since 1983. Reducing the future burdens of Social Security in the long run is critical to promoting a sustainable budget. Reforms will entail making sacrifices and tough choices, no matter how politically unpopular, but changes must be made in order to avoid an even bigger financial crisis.

Inherent problems with Social Security's structure must be addressed in order to make the system financially stable. When the Social Security program was first enacted in 1935, there was a high ratio of workers to retirees and, therefore, beneficiaries received a high return on their small investments. Over time, however, the nation's demographics have shifted. The ratio of workers to retirees has declined, decreasing the retirement funds available on a per capita basis and causing trust fund liabilities to grow. The result is the creation of inter-generational inequities.

The 2010 Annual Report by the Social Security Board of Trustees confirms that the system's costs are unsustainable under current program parameters. The 2010 projected deficit of \$41 billion is expected to shrink in 2011 and return to small surpluses for years 2012-2014, due to the improving economy. After 2014, however, deficits are expected to grow rapidly as the baby boom generation's retirement causes the number of beneficiaries to grow substantially more rapidly than the number of workers paying into the fund. Trust fund reserves will be exhausted in 2037, at which point FICA tax income will be sufficient to pay only three-fourths of scheduled benefits through 2084. This, unfortunately, is the best-case scenario.

It is imperative that Congress immediately correct the inherent problems in the system's current structure and begin to dig taxpayers out of this deep financial hole. Social Security can be salvaged by making some modest changes in retirement age and benefit structure, and by offering individuals more options and incentives to save for retirement.

Those who retire at age 62 still have close to two decades, or around one-third of their adult lives, left to live. As medical science and technology advance, the average lifespan will continue to lengthen. Social Security's retirement age, therefore, must be raised. People who work even one or two years longer will earn additional income, pay additional taxes, and increase their own living standards in retirement. An immediate increase in the retirement age to 67, followed by a continued increase of one month every two years until the retirement age reaches 70, could reduce the long-range actuarial deficit by one-third.

Congress must also eliminate the indexing of Social Security benefits to wage levels. This form of indexing prevents the United States from outgrowing its Social Security problems with increases in productivity. Under the current system, as productivity rises so do wages, thereby increasing benefit levels. If Congress eliminates wage indexing and replaces it with price indexing, it may be able to significantly reduce unfunded liabilities.

A price indexing system would trim Social Security's liabilities while ensuring that the relative living standard of retirees is not eroded. Progressive Price Indexing (PPI), supported by Rep. Paul Ryan (R-Wis.) and The Heritage Foundation, has been floated as a viable alternative to wage indexing. PPI would index initial benefit levels for middle-income and upper-income families to price inflation rather than wage growth, eliminating much of the increased Social Security cost driven by higher benefits.

The idea was originally proposed by Robert Pozen, a Democrat who has persuaded many conservatives, including Mitt Romney and President George W. Bush, to support the concept. PPI is structured to target more benefit growth to lower-income retirees. Individuals making less than a certain threshold level would continue to receive initial benefits based on wage indexing, while the initial benefits of higher-income individuals would be adjusted by price indexing, also adjusted for inflation. Beneficiaries in the middle would experience a blend of wage and price indexation. PPI could save taxpayers trillions of dollars and help ensure Social Security's stability and solvency in the long run.

Congress should also consider offering an automatic individual savings account that could be used to supplement retirement income. The Thrift Savings Plan offered to federal employees could be used as a model for this new system. The plan keeps costs in check through economies of scale, charges low fees, and provides a range of options and information that allows employees to make personal decisions about their retirement. The individual accounts should be structured with death benefits, so any remaining funds could be passed on to heirs. This type of system would encourage Americans to work longer and save more.

Currently, only about 50 percent of the full-time workforce has the opportunity to participate in a pension plan. Individual savings accounts, however, could be made available to everyone. This would provide an additional safety net for hardworking individuals to ensure a comfortable and sustainable retirement.

Representative Ryan's *Roadmap for America's Future* allows individuals 55 and older to remain in the current system and receive the benefits they have been promised throughout their working years. The plan grants all other workers a choice to stay in the current system or begin contributing to personal accounts. Those who choose the personal account option would have the opportunity to begin investing a significant portion of their payroll taxes into a series of funds.

The Congressional Budget Office estimates that Rep. Ryan's plan would be solvent with permanent and growing surpluses by 2069, without requiring general fund transfers. These surpluses may even make it possible to reduce the regressive payroll tax in the future.

Acting sooner rather than later would allow small changes to the system to be phased in gradually, avoiding a crisis overhaul that would inevitably include drastic benefit cuts and major tax increases. Unfortunately, there has already been too much procrastination. The 112<sup>th</sup> Congress must address Social Security's problems now.

## CRITICAL WASTE ISSUE:

# Institutional Reform

*By Tom Schatz  
President*

As the House changes hands, there are several opportunities for institutional reform that can provide greater accountability and transparency while also increasing efficiency and reducing the costs of governing. Although Senate Majority Leader Harry Reid (D-Nev.) has not indicated that he will entertain any changes in Senate rules and procedures, incoming House Speaker John Boehner (R-Ohio) has repeatedly said he wants to change the way in which the House is managed.

CAGW suggests the following institutional reforms for the 112th Congress:

President Obama will include a pay freeze for federal employees in his 2012 budget. Congress should do better than that, and provide a 10 percent pay cut for all legislative branch employees, along with equivalent cuts in the appropriations bills that will fund federal agencies.

Return to fiscal year (FY) 2008 spending levels of \$4 billion for the legislative branch, a 20 percent cut from the \$5 billion spent in FY2010.

Establish a full accounting of congressional perks on a searchable database, including retirement benefits, franking, healthcare, parking, television studios, and other benefits provided exclusively to members.

Reduce by 25 percent the amount that can be spent on car leases, and require that any leftover member's representational allowance funds go to reduce the deficit, not back into the legislative branch budget.

Eliminate or restrict franking. Franking made sense when the Pony Express was the only way to

convey information to constituents. Taxpayers have more information available now than ever before through cable news coverage, blogs, local news sources, email, Facebook and Twitter. If a member of Congress wishes to get the word out about his or her accomplishments, it seems that there is always a microphone nearby, including the House and Senate television studios, which members can use at little cost. If the House retains franking, the leadership should adopt the Senate's \$50,000 annual spending limit; all franking should be eliminated in election years. Finally, franked mail should be used only in response to constituent correspondence and should be limited to a single letter. That would end the practice of establishing databases of constituents interested in a certain issue and flooding them with unrequested letters.

End the Green the Capitol Initiative, which was established by Speaker Nancy Pelosi (D-Calif.) in 2007. The FY2010 Legislative Branch Appropriations Act request included \$10 million for "energy demonstration grants," which should not be carried out by Congress, if at all.

Eliminate commemorative legislation in both the House and Senate. The time could better be used addressing more significant issues than birthdays, anniversaries, and sports champions.

Establish strict guidelines on oversight to eliminate or severely limit politically motivated investigations on both sides of the aisle. The following suggestions were made in a November 13, 2010, New York Times article: review the performance and efficiency of government workers and federal contractors; evaluate agency performance by examining reports that are required under the Government Performance and Results Act, and do a better job of reviewing defense spending. The article appropriately called for a review of how Congress itself is

structured, as "more than 100 committees and subcommittees oversee the Department of Homeland Security." Hearings should be coordinated among committees and between the House and Senate so that agency officials do not go to dozens of hearings on the same subject matter. The bipartisan proposal to provide agency inspectors general with more subpoena power should be adopted. Members of Congress should make it clear why a particular program is or is not effective before they propose that it should be reformed or eliminated.

## CRITICAL WASTE ISSUE:

# Defense Procurement

*By David Williams  
Vice President of Policy*

Wasteful spending at the Department of Defense (DOD) has a long and notorious history, including the \$436 hammer, the \$640 toilet seat, and 15 pages of instructions on how to bake chocolate chip cookies; all these were widely publicized by Citizens Against Government Waste (CAGW). Today, defense spending and procurement have become highly politicized, leading to controversial contract awards and a plethora of legal challenges. The Pentagon has become risk averse, which has led to consideration of simply renewing old contracts rather than taking the time necessary to engage in a new procurement.

Additional delays and expense are also caused by meddling by members of Congress, who have threatened to simply award a contract regardless of the outcome of a DOD review. These members have added tens of billions of dollars in earmarks since CAGW issued its first Congressional Pig Book in 1991. In a floor statement on May 27, 2010, Senator John McCain (R-Ariz.) aptly described the adverse impact of earmarks on national security when he said, "It's time for earmark addicted elected officials in Washington to make sacrifices and forgo their pork barrel projects and other special deals to help provide our troops with the support and equipment they need."

Two recent examples of procurement fiascoes – the Air Force's attempts to procure a new air tanker and an alternate engine for the Joint Strike Fighter (JSF) – exemplify how pork and politics are complicating the procurement process and costing taxpayers billions of dollars.

### Air Force Tankers

The Air Force's competition to procure new air tankers is now in its third round of bidding. The first, in 2002, fell apart in a corruption scandal that sent a top Pentagon procurement officer and a senior Boeing official to prison. In the second round of bidding, the Air Force awarded the contract to the team of Northrop Grumman and The European Aeronautic Defense & Space Company (EADS) and its Airbus subsidiary. This set off a flurry of activity by those whose districts would have benefitted from a Boeing win. Sen. Patty Murray (D-Wash.), whose state is home to several Boeing manufacturing plants, claims significant credit for helping Boeing contest the results. A Boeing official confirmed that Sen. Murray had played "a critical role" in helping Boeing contest the results.

A third round of bidding ended on July 9, 2010, when Boeing and EADS North America on its own submitted new bids under a new set of parameters. The Air Force announced on June 18, 2010, that it would make a decision in mid-November, after the midterm elections. That deadline has since been extended until January 2011. Whichever competitor wins, the tanker contract will greatly benefit a handful of states and create thousands of jobs. Airbus has said that if EADS North America is awarded the contract it would move its freighter assembly to Mobile, Alabama. According to a Boeing press release, the tanker contract would bring 7,500 jobs and \$388 million to Kansas. Arizona, California, Iowa, Michigan, Ohio, Texas, and Washington would gain hundreds of jobs each, and tens of millions of dollars. Predictably, the process has been mired in parochial political interests, pork-barrel spending, and congressional interference.

Further complicating the contest, on June 30, 2010, the World Trade Organization (WTO) released a report finding that EADS had allegedly received illegal subsidies from the European Union. Boeing's supporters have been using the WTO's findings to argue for the rejection of the EADS bid, or, alternatively, for adding the cost of the subsidies to the final submitted price.

However, on September 15, 2010, a second WTO panel released a report on a countersuit brought by the EU against the U. S. This report indicated that Boeing also allegedly received subsidies – validating a well-known fact that both manufacturers have received government support for decades. Boeing supporters argue that the company received far less assistance than EADS; nevertheless, both companies have been found guilty of WTO rules violations. The Pentagon has repeatedly stated that it will not consider trade disputes in the bidding process.

In November 2010, it was reported that an administrative error on the part of the Air Force reportedly sent business-confidential pricing information to each of the two competitors. While the Air Force, after investigating the matter, denies this will complicate the award, it sets up a situation in which either of the competitors could file a protest that could delay what was supposed to be a protest-proof process.

At this point, it is hard to predict the outcome. CAGW urges the Air Force to bring this lengthy and overwrought process to a conclusion that works best for taxpayers and the nation's warfighters. The Air Force should, without regard to politics, choose the best, most cost-efficient design, and conduct future acquisitions in a manner more palatable to taxpayers.

### Joint Strike Fighter (JSF) Alternate Engine

The JSF program was designed to create an affordable alternative for all branches of the military to the current fighters, which are starting to show their age in terms of wear and tear and competitive performance. The military predicts that the JSF, known as the F-35 Lightning II, will be without rival until 2040.

In 2001, Lockheed Martin's design, which included the F135 engine, won the contract for the JSF platform. Pratt & Whitney was awarded a 10-year, \$4.8 billion contract to produce the engine.

A program to design and build the F136 alternate engine received support from the executive branch through fiscal year (FY) 2006. However, in FY 2007, the DOD proposed termination of the F136 program and did not include funding for it in its budget request. When asked to address the decision by the DOD to forgo funding for the F136, then-Secretary of Defense Donald Rumsfeld on February 16, 2006, replied, "any sole-source risk was modest and acceptable."

Despite opposition from the White House and Pentagon, members of Congress have earmarked more than \$1.2 billion for the alternate engine since 2004. The program has been the subject of several comprehensive reports indicating that it is duplicative and unnecessary. According to an article on CBSNews.com on July 20, 2007, the Air Force and two independent panels concluded that the second engine is "not necessary and not affordable," and that the alleged savings from creating a mock competition "will never be achieved." A May 21, 2010, ABC News story labeled the alternate engine a "\$3 Billion Government Boondoggle."

On April 27, 2010, in an effort to convince skeptics in Congress, the Pentagon, and the White House, F136 manufacturers GE and Rolls-Royce submitted a fixed-price offer for early-production engines purchased in 2012, and a reduced price for engines in 2013 and 2014, claiming they would assume all risks for cost overruns. According to the DOD, the cost in the fixed-price offer is dependent on a fixed configuration. Should the configuration change, the risk is transferred to the government, meaning taxpayers would be on the hook for any cost overruns.

Good news arrived from the Senate in September 2010, when both the Armed Services Committee and the Defense Appropriations Subcommittee refused to fund the alternate engine. This decision is in accordance with President Obama's stated opposition to funding the engine; both he and

Defense Secretary Robert Gates have repeatedly threatened to veto any defense spending bill that contained funding for the second engine. The decision not to fund the engine is consistent with the Senate's vote of 59-38 on July 23, 2009, against an amendment to restore funding for the alternate engine into its version of the National Defense Authorization Act for FY 2010.

Unfortunately, the House has refused to excise funding for the extra engine. On May 27, 2010, the House voted 193-231 against an amendment to eliminate \$465 million in funds earmarked for the engine from the FY 2011 Defense Authorization Act. This was the first House floor vote on the program, and Republicans in particular failed miserably. Their promise in March 2010 not to request earmarks for FY 2011 clearly did not preclude them from voting for one. Fifty-seven Republicans voted in favor of the amendment, 116 against; on the other hand, 136 Democrats voted for the amendment and 115 voted against. Top Republican leaders, including Speaker-to-be John Boehner (R-Ohio), Majority Whip-in-waiting Eric Cantor (R-Va.), and several others, all voted against the amendment.

Because neither the House nor the Senate have passed any appropriations bills for FY 2011, the funding for the engine, and all defense spending, remains in limbo and may be funded through a continuing resolution (CR). Senior GOP members of the House Armed Services Committee have joined their Democratic counterparts in an attempt to insert a giant earmark into the CR in order to continue funding the \$3 billion extra engine. That would be highly unusual, and would open up the CR for many other projects that would not otherwise

be funded. The endgame will occur in conference between the House and Senate.

The tanker and the alternate engine show how the procurement process is broken. First, Congress's parochial squabbling has made the procurement process unnecessarily lengthy, complicated, and costly. The practice of funding defense projects and programs through earmarks must stop. Second, there must be more oversight and accountability for defense programs.

Finally, according to an op-ed co-authored by Robert A. Burton, a former deputy administrator of the Office of Federal Procurement Policy in the Executive Office of President George W. Bush, and Jerry W. Cox, a former Senate procurement counsel, "the administration can require top-level program managers to get a better grip on poorly-defined task orders and out-of-scope service agreements that drive program costs skyward. They also should comply with existing law more faithfully and stop paying 'incentive' fees that are not performance-based. Instead of continuing to award contracts to people who deliver runaway costs and interminable delays, he must demand excellent results."

In order for the American people to feel both fiscally and physically secure, the defense procurement process must be fixed. The consequences of failing to do so will be detrimental to those protecting our nation from harm.

## Council for Citizens Against Government Waste

The Council for Citizens Against Government Waste (CCAGW) is the lobbying arm of Citizens Against Government Waste (CAGW), a private, nonpartisan, nonprofit organization representing more than one million members and supporters nationwide dedicated to eliminating waste, mismanagement, and inefficiency in government. Founded in 1984 by the late industrialist J. Peter Grace and syndicated columnist Jack Anderson, CAGW is the legacy of the President's Private Sector Survey on Cost Control, also known as the Grace Commission. CCAGW tabulates its annual *Congressional Ratings* to measure the willingness of each member of Congress to fight government waste and reduce the national debt.

<p><b>President's Message</b> (<i>continued from page 2</i>)</p> <p>money pursuant to only those powers specifically enumerated in the Constitution. The 10th Amendment leaves all other responsibilities to the states.</p> <p>For much of the nation's history, constitutional objections from members of Congress, the president, and state legislatures were effective in limiting parochial spending. The First Congress rejected a bill to loan money to a glass manufacturer after several members challenged the constitutionality of the proposal.</p> <p>Thomas Jefferson wrote to James Madison on March 6, 1796, challenging Madison's proposition for improvements to roads used in a system of national mail delivery, asking whether he had "considered all the consequences of your proposition respecting post roads? I view it as a source of boundless patronage to the executive, jobbing to members of Congress &amp; their friends, and a bottomless abyss of public money...it will soon be called into their aid, and it will be a scene of eternal scramble among the members, who can get the most money wasted in their State; and they will always get most who are meanest."</p> <p>In 1822, President James Monroe argued that federal money should be limited "to great national works only, since if it were unlimited it would be liable to abuse and might be productive of evil."</p> <p>The term "pork-barreling" was coined in the late 19th century to compare the rush toward a pile of tax dollars to the way slaves would crowd around barrels of salted pork at meal times. Even as federal power vastly expanded during the 20th century, Congress did not earmark extensively until the 1980s. Instead, Congress would fund general grant programs and let federal and state agencies select individual recipients through a competitive process or formula.</p> <p>Many members of Congress make the claim that earmarks grant too much power to the executive branch and that they know the needs of their states and districts better than "faceless</p>	<p>bureaucrats," and they might even agree with Rep. Dan Mica (R-Fla.) that earmarks are the "most important" job of a member of Congress. Proponents even argue that there are "executive branch earmarks," although no one has ever been able to define such an activity. All of these arguments are specious and hypocritical, since 99.5 percent of federal funds are not earmarked, and federal agencies can only spend money as directed by Congress under the statutes that members have enacted.</p> <p>A pork-barrel project is a line item in an appropriations or authorization bill that designates funds for a specific purpose in circumvention of the normal procedures for budget review. To qualify as pork, a project must meet one of seven criteria that were developed in 1991 by CAGW and the Congressional Porkbusters Coalition:</p> <ul style="list-style-type: none"> <li>• Requested by only one chamber of Congress;</li> <li>• Not specifically authorized;</li> <li>• Not competitively awarded;</li> <li>• Not requested by the President;</li> <li>• Greatly exceeds the President's budget request or the previous year's funding;</li> <li>• Not the subject of congressional hearings; or</li> <li>• Serves only a local or special interest.</li> </ul> <p>In 2007, the new Democratic majority in the House and Senate adopted a series of new rules regarding earmarks. They include a requirement that a bill cannot be made in order unless it has "a list of earmarks in such legislation, amendment, conference report, or any accompanying report language and the name of any House Member who requested an earmark(s) on the list is made available," or the bill is certified not to contain any earmarks by the chairman of the relevant committee. This disclosure requirement does not apply to the Senate, although it has been observed for the past three years (other than anonymous earmarks that appear in both House and Senate bills). In 2010, the House Appropriations Committee refused to allow any earmarks named after sitting members of Congress, and took additional steps to make the list of earmark requests for each representative more transparent.</p>	<p>On March 10, 2010, House Democrats agreed to ban earmarks directed to for-profit entities. The next day, House Republicans, with four exceptions, agreed to forgo all requests for earmarks for FY 2011. After the Democrats were routed at the polls on November 2, House Republicans agreed to extend the moratorium for two more years, and Senate Republicans agreed to a two-year moratorium as well, with two exceptions to date. That leaves Senate Democrats as the only group on Capitol Hill still clinging to earmarks.</p> <p>The impact of the message from the American people that they are fed up with earmarks was so great that many Senate Republicans who had earmarks in the legislation pledged to vote against the FY 2011 omnibus appropriations bill. As a result, the bill was not considered, and the government will be funded through March 4, 2011 under a continuing resolution without earmarks.</p> <p>It is unlikely that Republicans would bring back earmarks in two years. If they do, CAGW recommends the following reforms:</p> <p>First, require full and timely public disclosure of all requests for earmarks. Congressional committees should publish all earmark requests, regardless of whether or not the projects receive funding.</p> <p>Second, prohibit House and Senate conferees from adding projects to bills during conference negotiations. After the House and Senate pass their respective versions of legislation, conference negotiators often "air drop" into the final version new projects that have not been seen or voted on by either the House or Senate membership. Some of the worst projects are added under these circumstances.</p> <p>Third, limit the number and cost of projects in legislation. Of all the budget reforms now being debated in Congress, the line-item veto is the only proposal that has the potential to actually reduce the number and cost of earmarks.</p>
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Fourth, prohibit funding for earmarks that have not been the subject of a congressional hearing. If members of Congress can spend time holding hearings on steroid use and bring commemorative bills celebrating birthdays to the floor of the House and Senate, they can afford to consider thousands of earmark requests in an orderly and transparent manner.

It has taken a Herculean effort to get House and Senate Republicans to agree to the two-year moratorium. CAGW believes that members of Congress will find that they can get along just fine without these parochial projects. In regard to those earmark holdouts, Senate Democrats, they will find themselves the sole target of the taxpayers' fury when the appropriations bills for FY2012 start rolling through Congress next year. They may also suffer the consequences of failing to agree to the moratorium when 21 Democrats plus two independents that caucus with them are up for re-election in 2012.

### **ObamaCare** *(continued from page 3)*

25, 2010, Rasmussen poll showed that 53 percent of likely U.S. voters favor repeal of the health care law, including 43 percent who strongly favor repeal. Only 42 percent oppose repeal of the bill, while 32 percent are strongly opposed.

On December 13, 2010, U.S. District Court Judge Henry Hudson became the first judge to rule that the individual mandate prescribed in the Patient Protection and Affordable Care Act is unconstitutional. Judge Hudson found that, "Neither the Supreme Court nor any federal circuit court of appeals has extended Commerce Clause powers to compel an individual to involuntarily enter the stream of commerce by purchasing a commodity in the private market." While other court cases still hang in the balance, this Virginia ruling is an important first step toward a hearing by the Supreme Court of the case against ObamaCare's unprecedented overreach of power.

Americans anxiously await the courts' decisions and hope that the 112<sup>th</sup> Congress will work to repeal this enormously expensive and intrusive healthcare law and enact fiscally-responsible reforms in its stead. Individuals should be allowed to shop across state borders for better-value health insurance plans and use Health Savings Account (HSA) funds to pay insurance premiums. States could also be given more control to develop innovative models that ensure affordable coverage for Americans with pre-existing health conditions.

Congress must address predatory and frivolous malpractice lawsuits, a major expense that causes thousands of physicians and hospitals to close their doors each year. The Congressional Budget Office estimates that tort reform could save taxpayers \$54 billion over ten years. Lawmakers should also promote transparency in the healthcare marketplace so that Americans can make informed decisions about their care.

Americans should have the ability to access and own the health insurance that best meets their individual needs, without government interference. There are many problems with the nation's current healthcare system that can be rectified through medical liability reform, pooling health insurance, offering tax incentives, allowing states to customize programs, and reforming insurance regulations. The ongoing government takeover of healthcare will not solve America's healthcare problems, and it will ruin the nation's economic health.

## **e-Network News**



Sign up today for CAGW's e-Network News, a free monthly newsletter sent via email to CAGW's members and supporters. e-Network News features the latest news in our quest to eliminate waste, fraud, abuse, and mismanagement in the federal government and provides links to more in-depth reports on CAGW's website:

**[www.cagw.org](http://www.cagw.org)**

Subscribers will also receive up-to-the-minute news releases, like CAGW's Porker of the Month Award.

To subscribe, simply email the membership department at [membership@cagw.org](mailto:membership@cagw.org) and type "subscribe e-Network News" in the subject field. To help us serve you better, please also include your name and address. Your privacy will be protected.

## CRITICAL WASTE ISSUE:

# Telecommunications

By Sean Kennedy  
Research Associate

A brief glance at the morning paper demonstrates that the 112th Congress will face many urgent issues. One subject that gets short shrift in the mainstream media, but which is nonetheless crucial to the economy, is telecommunications. There are four major areas of concern that should be addressed sooner rather than later by legislators in the New Year.

### Net Neutrality

The notion of equality on the Internet may sound reasonable, but net neutrality is instead an attack on private-sector business models. Proponents of net neutrality want the online world to be forced “open” at the expense of successful Internet providers, but fail to recognize the many tradeoffs to “openness” such as increased spam, fewer privacy controls, slower service and, perhaps most importantly, decreased incentives for investment and innovation. In 2008, AT&T’s U.S. capital investments totaled \$18 billion, the highest of any company. The looming threat to limit what telecom companies can charge and to whom those charges will apply will undoubtedly discourage the large investments that have helped the Internet expand so rapidly. Forcing wireless carriers to open their networks to data-heavy applications (such as streaming video, graphic-rich games, and movie and music downloads) would only exacerbate the problem, slowing service and potentially causing other disruptions for customers.

The Internet has flourished thus far largely due to the lack of government interference. Telecom companies have been able to manage Internet traffic to ensure that certain applications do not hog too much bandwidth, slowing access for users. However, in 2008, Comcast was censured by the Federal Communications Commission

(FCC) for violating the agency’s net neutrality principles when it slowed traffic for some subscribers who were downloading big files that clogged the network.

The net neutrality debate stems from the ongoing battle between content providers and service providers. Companies like Google create applications for the web and want customers to have easy access to their products. As a result, network owners such as AT&T and Comcast now find themselves constantly defending their traditional business models.

On December 1, 2010, FCC Chairman Julius Genachowski announced plans to impose net neutrality regulations by the end of the year. Even though leaked versions of this plan reflect a compromise, indications are that there is more bad than good. Congress and the FCC should tread lightly on net neutrality and consider its impact on the broadband industry; otherwise,, one of the bright lights of the American economy could be switched off.

### Government Broadband

A November 8, 2010, report by the Department of Commerce’s Office of the Inspector General criticized the stimulus broadband program managed by the National Telecommunications and Information Administration (NTIA). The report found chronic oversight and management flaws. The NTIA is responsible for managing the Broadband Technology Opportunities Program (BTOP), a multi-billion dollar stimulus program for broadband expansion.

According to a November 8, 2010, article in *Politico*, “A government report released Monday found flaws in the stimulus program that’s putting roughly \$4 billion towards rolling out broadband networks across the country.... The National Telecommunications and Information

Administration, the agency that has been managing the program, isn’t doing enough to monitor how grantees are spending the stimulus money, the report finds. The Inspector General also pointed out flaws with the program’s internal processes.”

The NTIA is awaiting congressional approval of \$24 million in additional funding for the program so it can continue to keep tabs on grantees. Unfortunately, this program’s oversight process has been defective from the start, and it seems that no amount of money will help. The Government Accountability Office expressed concerns in August 2010 about NTIA’s inability to correctly track previously granted awards. The elimination of BTOP would save taxpayers \$4.7 billion over a five-year period.

### Retransmission

In 1992, Congress amended the Communications Act of 1934 to give broadcasters the upper hand in negotiations with monopoly cable providers, granting broadcasters the right to choose between guaranteed carriage or insisting that multichannel video programming distributors (MVPD) obtain and pay for a station’s consent to retransmit the station to local subscribers. The law allows broadcasters to make a new election between these two options every three years. However, the marketplace has greatly evolved since 1992. Broadcasters no longer deal with a cable monopoly; on the contrary, broadcasters can often choose among multiple providers, ranging from cable to satellite to new fiber optic networks. As a result, broadcasters now brandish enormous negotiating power under old retransmission consent rules. This power has led to service disruptions and increases in the cost of service for consumers.

Recent negotiations by the “Big Four” networks have led to interruptions in local signals. In October 2010, Cablevision customers in the New York area experienced a 16-day blackout of Fox programming due to stalled negotiations. In March, those customers lost their ABC station in the hours leading up to the Oscars. Viewers missed the first 15 minutes of the awards

show before Cablevision and the Walt Disney Company reached a tentative deal. Consumers should not be victims of a system that allows broadcasters to pit one MVPD against another, threatening to withhold consent for its signal if demands are not met. Old government policies have inhibited the market by granting enormous leverage to broadcasters over providers.

Government rules and regulations should drive businesses into the 21st century, not hold them back. Lawmakers should work toward a solution that revises old retransmission consent rules and the entire framework of broadcaster regulatory benefits in order to reflect the modern marketplace and limit government involvement in private negotiations.

### Universal Service

The federal Universal Service fee is a hidden tax that subscribers to telephone services find in their monthly bill. This fee collects approximately \$7.7 billion annually for the Universal Service Fund (USF), which contributes to infrastructure for communications services links for low-income residents in areas that are considered underserved.

As is usually the case with such programs, peculiarities exist within the distribution of funds. Although 96.2 percent of Americans have the ability to access phone service, companies that provide "high-cost" wire-line service receive in excess of \$4 billion annually. This subsidy exists despite the fact that wireless service could more efficiently provide service. Even in the most remote regions, satellite phones can provide cheaper coverage to anyone with a clear view of the sky. Further, the E-Rate program, designed to equip the nation's classrooms with the Internet, receives \$2 billion annually through the USF. However, the private sector is more than capable of this function, and wireless Internet service would be a better call.



**Chinese Professor** (*continued from page 20*) that...you can produce advertising that causes people to think, to ponder, and engage in a serious conversation."

To date, the ad has been viewed more than 1.5 million times on YouTube, as well as more than 1 million times on Tudou, the leading Chinese video website. We are planning to air the "Chinese Professor" ad on cable news outlets as Congress convenes in January and during the week of President Obama's 2011 State of the Union address. We believe airing this pivotal ad again early in 2011 will build on the momentum we've already gained against the big-government policies of the past two years; strengthen the resolve of fiscal conservatives in the new Congress to enact far-reaching budget cuts; and ultimately put this nation on a path to smaller government, balanced budgets, and prosperity.

To support our efforts in January – please visit our website ([www.cagw.org](http://www.cagw.org)) or blog (<http://swineline.org/media>).

## Sign Up To Receive *Government WasteWatch!*

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## CRITICAL WASTE ISSUE:

# Privacy

*By David Williams  
Vice President of Policy*

Privacy may mean different things to different people, but at a certain level everybody wants his or her privacy protected. The advent and growth of the Internet has greatly amplified privacy issues.

As with every other subject that comes to the forefront of the American psyche, Congress is gearing up to offer legislation to “protect privacy.” As usual, this means Congress could do more harm than good.

Rep. Rick Boucher (D-Va.), who was defeated for re-election on November 2, 2010, had a draft of a privacy bill with the following provisions:

- Everything is to be enforced by the Federal Trade Commission (FTC). All penalties for those who don't comply with the Act are covered under the FTC Act.
- State attorneys general can bring civil actions against companies that do not comply with the act, but cannot act against individuals.
- Companies/websites cannot collect user information unless they have a privacy policy posted “clearly and conspicuously” on their websites detailing the kind of information they collect, how they use it, and how they store it.
- Companies must post changes to their privacy policy, unless the information was collected in person.
- People should always have the option to opt out, and opting out should be easy.
- Personalized ads on websites must link to a page that explains what prompted showing the advertisement. Also, individuals should be able to see their entire “preference profile,” or all of the information the company has about them, and be able to opt out of any or all of it.
- Sensitive personal information, like name, sexual

orientation, religion, and geographic location, is opt-in only.

Rep. Bobby Rush (D-Ill.) introduced H.R. 5777, known as the BEST PRACTICES Act, which is an acronym for Building Effective Strategies to Promote Responsibility Accountability Choice Transparency Innovation Consumer Expectations and Safeguards Act. It has the following provisions:

- A company's privacy policy must contain a hyperlink to or the toll-free number of the FTC's consumer complaint form/consumer response center.
- General information is opt-out, as long as companies make it easy to opt-out; this would be permanent unless otherwise specified.
- Companies cannot monitor “all or substantially all” Internet use unless they have the user's express permission, or are only monitoring it to give the data back to the user.
- A long list of exceptions to the information collection policy includes: if the information is necessary to “protect or defend the rights or property” of the company against fraud; if the collection of information is necessary to protect the individual from imminent danger; and, if the information is publicly available.
- A detailed process is outlined that would allow individuals to dispute the information that a company has collected about them.
- The Act would take precedence over all existing state laws concerning online information privacy.

Both bills sound harmless and look like a step forward in “protecting privacy,” but there are problems, not least of which would be an undetermined cost to taxpayers to pay for bureaucrats to “monitor” activities.

In addition, the bills attempt to solve a problem that does not exist, and they do so with an intrusive and overbearing regulatory scheme. Jim Harper, Director of Information Studies at the Cato Institute,

has highlighted problems with Rep. Rush's bill, calling its substance “concerning, to say the least. The bill's scope is massive: Just about every person or business that systematically collects information would be subject to a new federal regulatory regime governing information practices. By systematic, I mean: If you get a lot of emails or run a website that collects IP addresses (and they all do), you're governed by the bill. There's one exception to that: The bill specifically exempts the government. What chutzpah our government has to point the finger at us while its sprawling administrative data collection and surveillance infrastructure spiral out of control.”

A list of new rules to tell individuals and businesses what they can and cannot do is not an effective way of spurring innovation. An over-regulated Internet is a boring, static Internet.

Ultimately, the most fundamental problem with any privacy legislation is that it may not even be needed because the private sector is already responding to the demands of consumers by offering enhanced privacy policies and user settings.

Google privacy lawyer Peter Fleisher has acknowledged, “The Internet is driving a need to think about these things globally,” but also recognized the difficulty in accomplishing this when he stated, “It can't be done in a vacuum.” Fleisher also noted that, in Germany, “there has been intensive political debate about Street View over recent months and it hasn't even launched yet. And yet, in neighboring countries like Denmark and the Netherlands there's been no debate whatsoever...no controversy.”

The lack of a current global standard for privacy may be a blessing in disguise because every website has a different purpose and Internet service providers, content providers, and consumers benefit from that flexibility. It is not necessary for government at any level to intercede and establish rules that would inevitably stifle innovation and unduly increase the costs of communications and commerce on the Internet.

# Membership



*By Martin Rundle  
Director of Development*

## Stocking Stuffers

**T**he holiday season is a great time to help out your favorite charities. Many Citizens Against Government Waste (CAGW) members make year-end contributions in the form of appreciated securities. Because CAGW is a tax-exempt organization, you pay no capital gains taxes when you contribute stocks to us. What's more, if you have held your stock for 12 months or longer, you receive a charitable deduction for its full value. You can help CAGW, reduce your taxes, and keep some money out of the hands of the IRS!

Making a stock contribution is easy. Simply call your broker and tell him the name of the stock and the number of shares you want to contribute to CAGW. To complete the transfer, ask your broker to call Mark Fennel, CAGW Director of Membership Services, at 202-467-5300. Your year-end contributions are greatly appreciated and help ensure that CAGW can start 2011 on a sound financial footing.

## Taxpayer News Wire

**October 25** - Rep. Debbie Wasserman Schultz (D-Fla.) was named CAGW's October Porker of the Month for exaggerating the effect of the failed economic stimulus program, making dubious claims about jobs numbers, and misleading the American people about the true economic picture.

**November 9** - CAGW issued a spending cut alert for broadband programs managed by the Commerce Department's National Telecommunications and Information Administration (NTIA). The agency, which has chronic oversight and management flaws, is overseeing \$4 billion in stimulus funds.

**November 16** - In conjunction with the Montana Policy Institute, CAGW released *The Montana Pork Report: Wasted Treasure in the Treasure State*, which details wasteful spending by the state of Montana and examines possible budget savings. This release marks the first such report in the state of Montana. The report is available online at [www.cagw.org](http://www.cagw.org).

**November 22** - CAGW released *The Bitter Taste of Sugar*, which examines the federal sugar program. The program is ostensibly aimed at ensuring that there is an adequate supply of sugar for the U.S. market. Unfortunately, it gives generous handouts to wealthy farmers and drives jobs overseas. The report is available online at [www.cagw.org](http://www.cagw.org).

**November 23** - Sens. Tom Carper (D-Del.) and George Voinovich (R-Ohio) were named CAGW's November 2010 Porkers of the Month for proposing a gas tax increase for infrastructure improvements, despite the fact that tens of billions of dollars in gas taxes have repeatedly been wasted on frivolous infrastructure projects.

**December 2** - CAGW issued a spending cut alert on federal ethanol subsidies, which include a tax credit for ethanol blenders, a protectionist tariff against foreign ethanol imports, and a Renewable Fuel Standard which creates an artificial market for the additive. The ethanol program should be on the chopping block as Congress and the administration seek to cut wasteful federal spending and reduce the deficit.

**December 8** - The Council for Citizens Against Government Waste (CCAGW) reacted with disgust to reports regarding a surreptitious move by Senate Majority Leader Harry Reid (D-Nev.) to

legalize online gambling for poker. The attempt is an abuse of the legislative process to benefit one of Sen. Reid's largest campaign contributors, Harrah's Entertainment, Inc., in Las Vegas.

**December 9** - CAGW warned the new Republican leadership in the House not to backslide on its promise to abstain from earmarks for the next two years. News reports indicate that some Republicans are searching for gimmicks that will allow them to earmark for transportation and water projects. There are also discussions of changing the definition of an earmark in order to continue the practice.

**December 16** - CAGW released *The Consumer Police and Sin Taxes*, which examines the consequences of existing and proposed sin taxes for a number of consumer products, including alcohol, tobacco, sweetened beverages, high-fat foods, candy, and foods with high salt content salt. Of the 57 excise tax increases that states implemented between 2003 and 2007, only 16 met or exceeded state revenue projections. The report is available online at [www.cagw.org](http://www.cagw.org).

## *The J. Peter Grace Legacy Society*

*Established in 1997 by the Grace family, the J. Peter Grace Legacy Society is a living memorial to the late Grace Commission chairman and CAGW co-founder, J. Peter Grace—and to his vision of a fiscally responsible government that is accountable to taxpayers.*

*With support from individuals and estates, the legacy society helps provide the financial underpinning for CAGW's ongoing role as the independent voice of the taxpayer. Members of the society have joined the Grace family in preserving Peter's legacy by working to ensure that the American taxpayer's interest wins out over the special interests in Washington.*

*For more information about the J. Peter Legacy Society, please contact us at 1-800-USA-DEBT.*

## CRITICAL WASTE ISSUE:

# Fannie Mae and Freddie Mac

*By Leslie Paige  
Vice President of Communications*

**O**n July 21, 2010, President Obama signed a massive financial reform bill into law, the Dodd-Frank Wall Street Reform and Consumer Protection Act. The President had declared that the country needed a “sweeping overhaul of the United States financial regulatory system, a transformation on a scale not seen since the reforms that followed the Great Depression.” He and his allies touted this legislation as one of his seminal accomplishments during his first two years as President. While its impact remains to be seen, the bill establishes many new federal regulatory bodies and, by one private sector analysis, calls for the creation of 243 rules, requires 67 studies, and demands 22 periodic reports. However, the legislation maintained stubborn silence on one of the nation’s most vital financial questions: what to do with Fannie Mae and Freddie Mac.

Fannie Mae and Freddie Mac are government-sponsored enterprises (GSEs), established by Congress in 1968 and 1970 respectively. They were granted special exemptions and benefits not accorded to private sector mortgage lenders. Although they operated as private corporate entities, they were given lines of credit through the U.S. Treasury and exemption from state and local income taxes, and were freed from Securities and Exchange Commission registration and oversight. Their most exclusive advantage was their “implicit” government guarantee; the financial markets priced GSE securities as if the companies were “too big to fail,” and taxpayers would be forced to bail them out if they got into a financial morass.

In exchange, the GSEs were mandated to foster homeownership. They did this by purchasing mortgage loans made by private-sector commer-

cial lenders, thus freeing up more of the banks’ capital to make more loans. The two GSEs would then bundle and resell the mortgages to investors as mortgage-backed securities, spreading risk around. In other words, they were financial institutions with a social mission.

After the enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the GSEs began holding more of their own securities in their portfolios, rather than selling them. They leveraged their government benefits, one of which allowed them to borrow money from the Treasury at rates lower than those for commercial banks, to garner enormous profits to their bottom lines. Congress continued to further meddle by mandating that the GSEs meet certain “affordable housing” goals; Fannie and Freddie began to drive mortgage lenders to make reckless loans to borrowers with lower credit standards. The unyielding requirements of the Community Reinvestment Act (CRA), and changes made in 1995 to encourage more flexible and innovative underwriting standards also contributed to the explosive growth in exotic, gimmicky loans to borrowers who could not afford to own homes.

In the early 2000s, a few members of Congress began to demand increased scrutiny of the GSEs’ activities, fearing that their relentless pursuit of profits would incent recklessness. Reform bills were introduced, but Congress was ultimately deflected from taking necessary action. The GSEs spent millions of dollars on lobbying and had essentially bought protection on both sides of the aisle from any significant reforms.

First Freddie Mac, then Fannie Mae succumbed to accounting scandals. Investigations revealed that Fannie Mae, for example, had misstated its earnings by \$10.6 billion from 1998 through 2004 and had systematically manipulated its accounting activities in order to drive financial

bonuses to its executives. In September 2008, both GSEs collapsed into the arms of the federal government under the weight of billions in sub-prime loans they had acquired. The two entities have been wholly taxpayer-owned and operated since that time, and there is no accepted plan to address their status.

In a disconcerting development, on December 25, 2009, the Department of the Treasury quietly moved to abolish the congressionally-mandated \$400 billion cap on GSE bailout funds. So far, the two companies have received \$151 billion in taxpayer funds and predictions on the ultimate price tag range from \$220 billion on the low side to more than \$450 billion on the high side. The ultimate price for congressional negligence and the absence of executive branch oversight of the GSEs will fall squarely and heavily on taxpayers’ shoulders.

Even though Fannie and Freddie have been dwelling in government limbo since 2008, the companies now guarantee more than 90 percent of the nation’s home mortgages, effectively nationalizing the mortgage market. The Dodd-Frank financial services overhaul bill could have provided a vehicle for GSE reform and several attempts were made, particularly in the Senate, to impose some changes to the GSEs. The McCain-Shelby-Gregg GSE amendment, which was not adopted, would have provided transparency to the conservatorships of the GSEs by establishing much-needed investigative oversight and required that funding for Fannie Mae and Freddie Mac be included in the federal budget as long as they are in conservatorship or receivership status.

Those attempts were thwarted. The Dodd-Frank bill was so fraught with controversy that it became obvious that any attempt to include complex and controversial GSE reforms would obliterate the fragile political coalition which

ultimately pushed the financial services reform bill through. The Dodd-Frank bill at least included language requiring the administration to tender in early 2011 a plan for the future of housing finance that must include how to deal with Fannie Mae and Freddie Mac.

GSE reform is expected to be among the first issues the new Congress takes up in January 2011. Republicans and Democrats will attack the issue from very different perspectives. A December 10, 2010, *Mortgage News Daily* report quoted Rep. Scott Garrett (R-NJ), who is slated to take over the House Subcommittee on Capital Markets, Insurance, and Government-Sponsored Enterprises, as stating, “while there will be a number of very important issues on the subcommittee’s plate during the 112th Congress, winding down Fannie Mae and Freddie Mac will be priority No. 1. With the American taxpayers already on the hook for \$150 billion and counting to bail them out, we need to be taking concrete steps to reduce the ongoing financial risk they pose to the country and eradicating the bailout culture of Capitol Hill.”

In March 23, 2010, testimony before the House Financial Services Committee, Treasury Secretary Tim Geithner took a very different perspective, saying, “There is quite a strong economic case, quite a strong public policy case for preserving and designing some form of guarantee by the government to help facilitate a stable housing finance market...But it can’t be the one we have today. It can’t be the one we lived with over the last decade. It’s going to be significantly different.”

Brian Chappelle, a partner at Potomac Partners, said in a November 1, 2010, article in *American Banker*, “Democrats need to rebut the argument that they have let the GSE problem fester and if the Republicans do take control over the House and/or Senate, then they are going to assume some accountability so they are going to want to get a resolution, too.”

Even Rep. Barney Frank (D-Mass.) over the last decade has reversed his hands-off approach, which has bordered on the sycophantic, to the GSEs. One of his more absurd comments came

in the September 11, 2003, *New York Times*, when he said, “These two entities -- Fannie Mae and Freddie Mac -- are not facing any kind of financial crisis....The more people exaggerate these problems, the more pressure there is on these companies, the less we will see in terms of affordable housing.” On the August 24, 2010, edition of FOX News Channel’s “Your World with Neil Cavuto,” Frank said, “I hope by next year we’ll have abolished Fannie and Freddie. It was a great mistake to push lower-income people into housing they couldn’t afford and couldn’t really handle once they had it. I had been too sanguine about Fannie and Freddie.”

That assessment is shared by many financial services experts. Edward Pinto, a consultant and former chief credit officer at Fannie Mae who has written and testified extensively on housing policy, the mortgage industry, and the GSEs, observed, “The political and policy environments are very different today than a year or two ago...If Barney Frank can move a large distance on some of these issues, I would say, shouldn’t housing interest groups re-examine their earlier positions based on the facts as we now know them? For example, is an explicit government guarantee of private mortgages a good idea?”

Paul Volcker, former Federal Reserve Chairman and special advisor to President Obama, has been uncompromising in his assessment that, going forward, Congress must reject government guarantees and avoid “hybrid” institutions that are “private when things are going well and public when things are going badly.”

Any long-term reform of the GSEs must involve an orderly wind-down of Fannie Mae and Freddie Mac and a lowering of the conforming loans limits to rational levels. Right now, the GSEs are permitted to purchase and securitize mortgage loans of up to \$417,000 in average-cost areas and \$729,750 in so-called high-cost areas (the homes themselves could be worth much more). Since the median home now sells for \$177,000, the GSEs’ exorbitant conventional conforming loan limits are completely out of whack with

housing prices all over the country and must be brought back into line with reality.

The policy battle ahead will pit those who seem to have missed the point of the massive mortgage meltdown entirely, and are pushing for even more government involvement in the form of an explicit government guarantee, against those who fully comprehend that government shenanigans instigated the mess. The National Association of Realtors and the National Association of Homebuilders, among others, are thoroughly convinced that the home mortgage industry must not be forced to go it alone, without a substantial government guarantee.

As humorist Mark Twain quipped, “History may not repeat itself; but it does rhyme.” *New York Times* columnist Gretchen Morgenson wrote on December 12, 2010, that Congress and policymakers would do well to start “pushing back against the growing chorus of groups arguing for an explicit government guarantee of all mortgages going forward. After what we have been through, isn’t it incredible that anyone could argue for government guarantees of all mortgages? Yet that’s just one of the many perverse ‘solutions’ that have been floated in the aftermath of the crisis.”

It will be more important than ever for taxpayers’ interests to be fully protected going forward. The goal must be to get the government out of the housing finance sector and allow the private sector to return.

## CRITICAL WASTE ISSUE:

# Federal Salaries

*By MacMillin Slobodien  
Media and Policy Associate*

**A**t a time of record budget deficits, a \$13.7 trillion national debt, and a slow economic recovery, politicians around the country should be doing more to help taxpayers. With federal government and other public sector salaries outpacing private sector compensation, one way to lessen the burden taxpayers feel on their wallets is to bring public sector salaries in line with the private sector.

A March 8, 2010, *USA Today* story illustrated just how far the feds have gone in overpaying their employees: Average federal salaries exceed average private sector pay in 83 percent of comparable occupations. The article stated that the median annual salary for a typical federal worker is 20 percent more than a private sector worker in the same occupation. In one extreme example, a federally paid cook makes an average of \$38,400, while a private sector cook makes \$23,279, a taxpayer-funded difference of \$15,121, or 65 percent.

The fact that federal pay outpaces private sector pay did not happen by accident. Federal workers receive automatic wage increases by statute, which provide them with both step-in-grade increases and cost-of-living adjustments. Federal employees have received pay raises that surpassed the rate of inflation for the past decade. This trend runs in stark contrast to the last few years during which private sector pay increases were virtually nonexistent and, in some instances, private sector workers took pay cuts.

To give credit where credit is due, on November 29, 2010, President Obama called for a two-year freeze on salaries for most federal workers, excluding the military. This is a first step in restoring some fiscal sanity in the practice of overpaying federal employees. While this move was long overdue, more can still be done.

According to a February 3, 2010, Thomson Reuters column by Martin Hutchinson, "Rolling federal employee pay back to where it was in 1998 relative to the private sector and shifting state and local government pay back to 2005 relative levels would save \$116 billion annually from government costs."

The arguments for overpaying federal employees are not convincing. In a March 9, 2010, Government Executive.com article, former Office of Management and Budget Director Peter Orszag defended the salaries of federal employees by saying that the federal workforce is more highly educated than the private sector workforce. He went on to say that federal workers have also been on the job longer and that, as people become more experienced, pay tends to increase.

This tortured logic ignores the fact that the federal government is not a private sector concern and does not reap "profits" it can use to pay its workers more money. The government must raise taxes from the hardworking public to pay these increases. Many businesses and individuals are paying less in taxes because they are not earning as much. With declining tax revenue, the federal

government has fewer resources to pay its workers and must either borrow or tax even more to meet its payroll. It is clear to those who balance their checkbooks every month that the federal government cannot afford to waste any more money.

Congress and the Obama administration can cut back on spending by reducing all federal salaries by at least 10 percent. At a time when the private sector is cutting back and being forced to live within its means, the federal government should follow suit.

# CAGW Has Dramatic Impact

*Ads help force Congress to pull the pork-laden (\$8.6 billion in earmarks) fiscal year 2011 omnibus spending bill from consideration; less costly continuing resolution without earmarks adopted in its place.*

**IT LOOKS AND SMELLS  
LIKE PORK.**

**BUT IT'S ALSO JUST THE SAME OLD BULL.**



In November, Americans spoke up loud and clear. They told Washington to stop the wasteful spending and pork. Yet, in Congress, it's business as usual. The new omnibus spending bill burdens taxpayers with more than \$1.1 trillion in new spending, including 6,631 earmarks that will waste \$8.6 billion.

FOR MORE INFORMATION ON WASTEFUL GOVERNMENT SPENDING, GO TO [CAGW.ORG](http://CAGW.ORG).



**IRONICALLY, WASHINGTON'S BEST GIFT  
TO TAXPAYERS THIS YEAR IS  
NO HOLIDAY HAM.**



This holiday season, pork-loving politicians will be crying all the way home. In November, Americans spoke up loud and clear, telling Washington to stop the wasteful spending and pork. Taxpayers were victorious when Congress pulled the new omnibus spending bill that would have burdened Americans with more than \$1.1 trillion in new spending, including 6,631 earmarks that would have wasted \$8.6 billion. **This battle over pork is finished; but the war on government waste has just begun.**

FOR MORE INFORMATION ON WASTEFUL GOVERNMENT SPENDING, GO TO [CAGW.ORG](http://CAGW.ORG).



*CAGW ran this ad in both Politico and CQ Daily on Friday, December 17, 2010.*

*CAGW ran this ad in The Washington Post on Monday, December 20, 2010.*

# “Chinese Professor” Goes Viral

By Martin Rundle  
Director of Development

Like no other organization, Citizens Against Government Waste (CAGW) brought unprecedented national attention to the dangers of our government’s record deficit spending and mounting debt this year. In addition to our annual *Congressional Pig Book*, *Prime Cuts Catalogue*, and *Issue Briefs* on wasteful programs from federal sugar subsidies to NASA’s Constellation project, we launched a widely heralded national television advertising campaign in October alerting the public to the consequences of America’s spiraling \$13.8 trillion national debt.

Now widely known as the “Chinese Professor” ad, it depicts a futuristic classroom of Chinese students learning about how America’s current destructive fiscal trajectory led to our nation’s economic downfall. In the days before November’s elections,

we ran the ad many times on CBS, CNBC, CNN, CNN Headline News, FOX Business Network, FOX News Channel, NBC, and several other cable channels. I hope you had a chance to see the ad on television, and if not, I encourage you to watch it on our website at [www.cagw.org](http://www.cagw.org).

“Chinese Professor” is an homage to “The Deficit Trials: 2017 A.D.,” a 1986 ad produced by W.R. Grace & Co., whose then-chairman was CAGW’s late co-founder J. Peter Grace. Peter intended “The Deficit Trials” to run directly after President Ronald Reagan’s State of the Union address. However, the then-“Big Three” television networks refused to air the commercial, judging the content “too controversial.” Instead, the ad was broadcast on more than 150 independent television stations nationwide. In an eerie parallel, ABC, A&E, and the History Channel deemed the “Chinese Professor” “too controversial” and have refused to air it!

Ironically, the national debt stood at \$2 trillion in 1986 when “The Deficit Trials” was denied broadcast time; today the debt stands at nearly seven times that amount and is projected to reach 140 percent of GDP in two decades, the time in which the “Chinese Professor” is set.

Our ad has garnered rave reviews in the media, evoking comparisons to such seminal ads as President Lyndon B. Johnson’s “Daisy Girl” and President Ronald Reagan’s “Morning in America.” Columnist James Fallows wrote in *The Atlantic*, “This amazing ad from Citizens Against Government Waste is the first spot [from 2010] you can imagine people actually remembering a decade from now.” *National Review* opined, “CAGW has produced a new ad that is quickly becoming the talk of the political blogosphere. Overspending and economic micromanagement are fatal – that’s the fundamental truth that that the ad gets right.” And prominent pollster Frank Luntz commented on FOX News’ “Hannity,” “This ad is living proof

**Chinese Professor** (continued on page 13)

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