

CONGRESSIONAL OVERSIGHT NEEDS IMPROVEMENT

As the House and Senate convene for the 111th Congress facing a record budget deficit and preparing a massive stimulus package, increased oversight of federal programs is essential to ensure that taxpayer dollars are being spent effectively. For far too long, Congress has failed to adequately perform its oversight responsibilities. While holding more hearings would be helpful, that provides no guarantee that the problems will be corrected.

Proposals being considered by Congress include requirements to hold hearings in response to inspector general (IG), Government Accountability Office (GAO), and certain agency audit reports, as well as the Office of Management and Budget's (OMB) Program Assessment Rating Tool performance reviews. Congress is well aware of these waste-fighting tools yet has no comprehensive system in place to assure taxpayers that committees will respond effectively to eliminate or prevent identified wasteful spending.

As Kenneth Mead, special counsel at Baker Botts LLP and former inspector general at the Department of Transportation told *The Washington Post* "You can talk about having congressional hearings, and triggers about when you have congressional hearings, but you have to make sure that your oversight mechanisms actually have the capacity to exercise the oversight."¹ Mr. Mead added that the hearings should not only occur when a report on wasteful agency spending is issued, but also to determine what steps agencies are taking to stop waste and fraud in the first place.

On January 7, President-elect Obama announced the appointment of Nancy Killefer as his chief performance officer. Ms. Killefer will work with federal agencies to set performance standards and hold agency managers accountable for progress. This increased oversight of how the taxpayers' money is spent is welcome, but like every similar effort, the results are ultimately what matters to taxpayers.

In addition, Congress needs to bring more order to the oversight system. For example, the Heritage Foundation pointed out that the 9/11 Commission recommended that Congress consolidate jurisdiction of the Department of Homeland Security (DHS) into a "single, principal point of oversight and review."² While the House and Senate created two standing committees with jurisdiction over homeland security, oversight of the agency is extremely convoluted.

¹ Ed O'Keefe, "House to Consider Expanded Oversight of Agencies," *The Washington Post*, January 5, 2009, http://voices.washingtonpost.com/federal-eye/2009/01/house_expected_to_expand_execu.html?hpid=topnews.

² Jena Baker McNeill, "Homeland Security - Oversight Reform Requires Leadership," Heritage Web Memo #2143, November 29, 2008, <http://www.heritage.org/Research/HomelandSecurity/wm2143.cfm>.

According to Heritage, DHS reports to 108 committees, subcommittees, and commissions. Forcing the IG and department secretary to attend dozens of oversight hearings based any single report would produce a huge burden for the agency, create conflicting Congressional demands, and stifle progress to correct the problem that was uncovered by the DHS IG report in the first place. This is not a predicament isolated to DHS. Every federal agency is subject to overlapping committee authority. In order to provide responsible oversight in order to reduce waste, fraud, and abuse, Congress must solve these jurisdictional issues.

The IGs, GAO, and OMB in their various activities provide volumes of information on the effectiveness of federal programs. But there is no way to determine what concrete results have been achieved from these efforts.

In 2002, OMB created PART, which was “developed to assess and improve program performance so that the Federal government can achieve better results. A PART review helps identify a program’s strengths and weaknesses to inform funding and management decisions aimed at making the program more effective. The PART therefore looks at all factors that affect and reflect program performance including program purpose and design; performance measurement, evaluations, and strategic planning; program management; and program results. Because the PART includes a consistent series of analytical questions, it allows programs to show improvements over time, and allows comparisons between similar programs.”³ President-elect Obama has recognized that PART should be continued, with modifications.

OMB has assessed about 98 percent of all Federal programs. The breakdown is as follows:

- Number of Programs assessed: 1,017
- Effective: 193
- Moderately Effective: 326
- Adequate: 298
- Ineffective: 27
- Results not Demonstrated: 173⁴

Currently, there is no comprehensive information available to determine what Congress has done in response to PART. No one knows if the programs found to be ineffective have been eliminated or consolidated, whether funding has increased for those programs that have been found to be effective or how these assessments compare to reviews of programs by GAO or IGs. This is the kind of oversight that could be provided by Congress, as long as the results are not stove piped within each committee.

³ <http://www.whitehouse.gov/omb/part/>.

⁴ <http://www.whitehouse.gov/omb/expectmore/about.html>.

In 1990, the General Accounting Office initiated its High Risk Series, which identifies and reports on the most vulnerable government operations. GAO has made hundreds of recommendations to executive branch agencies and Congress aimed at improving these programs. The reports are supposed to help with congressional oversight, allow the executive branch to carry out its responsibilities, and improve performance and accountability.

In March, 2008, GAO identified 28 high risk areas, six of which have been on the list since 1990:

- Department of Defense Supply Chain Management
- DOD Weapons Systems Acquisition
- Department of Energy Contract Management
- NASA Contract Management
- Enforcement of Tax Laws
- Medicare Program⁵

The repeated inclusion of these six programs demonstrates the ineffectiveness of congressional oversight. No private sector organization would tolerate the repeated failure of any program or project for 18 straight years.

In 1978, Congress passed the Inspector General Act. The job description includes conducting independent and objective audits to promote efficiency and eliminate waste. Under the original act, 11 IG positions were formed; today the IG community has grown to 57, of which 29 are appointed by the President and confirmed by the Senate. IG reports are rife with waste, fraud and abuse.

For example, in 1991, the Department of Transportation's IG began to express concerns about the Liaison and Familiarization (FAM) program, which was supposed to help air traffic controllers and aviators communicate more effectively. Ideally, FAM was meant to be a classroom in the clouds, giving controllers an opportunity to sit in the cockpit and watch pilots and crew members perform their duties. In practice, the program evolved into little more than a free ride for controllers seeking rest and relaxation in exotic destinations.

In January 1991, the IG issued its first report on the FAM program, criticizing FAA for failing to have an adequate system to "control and manage" FAM flights. Soon thereafter, the IG released a second report, identifying several abuses of the program by air traffic controllers in Seattle, Wash. In both cases, FAA promised to address the problems, but accomplished little.

Eventually, tales of fraud within the program became so pervasive that the IG initiated a 16-month investigation of FAM. The results were staggering. In an audit

⁵ http://www.gao.gov/highlights/d08550thigh2_1.pdf.

report released in 1996, the IG found that 62 percent of the air traffic control evaluators and 35 percent of the safety inspectors who used FAM were doing so for personal travel. According to the report, air traffic controllers participating in the program “used their positions and tickets to obtain free transportation for personal gain.” The IG called for an end to abuses the program.⁶ Finally, in 1999, the FAA took action on the FAM program by limiting the number of trips that could be taken to prevent employees from using training as a travel perk.⁷

In 1995, a report by Health and Human Services IG June Gibbs Brown estimated that up to \$17 billion, or 10 percent of Medicare funds, were lost each year because of waste, fraud, abuse and mismanagement. In 1996, following the first comprehensive audit of Medicare since its inception, the IG was forced to revise that figure, estimating that the true losses due to fraud, waste, and abuse were closer to \$23.2 billion a year. That is \$63 million per day, or about 14 percent of total program costs in FY 1996. Almost half (46 percent) of the \$23 billion was the result of insufficient or absent documentation.

In April 2003, Department of Energy (DOE) IG Gregory Friedman released a report stating that the management of the Los Alamos National Laboratory in New Mexico was unable to account for 22 laptop computers purchased by the lab in 2002. This is in addition to the 30 laptops and laboratory equipment reported as lost or stolen in 2000 and 2001, totaling nearly \$2.7 million.

One of the most well-known IGs is Stuart W. Bowen, Jr., who has served as Special Inspector General for Iraq Reconstruction (SIGR) since 2004. In that time, his office has submitted 11 quarterly reports to Congress and 80 audit reports. The reports contain vital information pertaining to the mismanagement of money in the reconstruction of Iraq. For example, a September 2006 audit identified “96 obligations totaling about \$362 million dollars that described the vendor name as ‘Dummy Vendor.’” In other words, the money was being doled out with absolutely no contractors in sight. Other topics targeted in the reports include the missing weapons of mass destruction and overcharges of military contractors, including Halliburton. An SIGR audit released on June 25, 2004 reported that U.S. taxpayers were charged for unauthorized and unnecessary expenses at the Kuwait Hilton Hotel in the amount of \$3.6 million per year.

Such revelations send chills down the backs of concerned taxpayers. But some members of Congress get upset when IGs report that agencies are not doing what they are supposed to be doing, and have tried to stifle the IGs’ ability to do their job.

The Associated Press reported on December 27, 2006 that then-House Armed Services Committee Chairman Duncan Hunter (R-Calif.) wanted the SIGR office to be eliminated by the end of 2007. Others objected to this proposal, including Sen. Susan

⁶ *Semiannual Report to Congress*, Office of Inspector General, U.S. Department of Transportation, April 1, 1998 - September 30, 1998, p. 24, <http://www.oig.dot.gov/StreamFile?file=/data/pdfdocs/sar998.pdf>.

⁷ <http://www.govexec.com/dailyfed/0599/051099b2.htm>.

Collins (R-Maine), who said Bowen “does an excellent job. He has been very aggressive in his audits and investigations.”⁸ Opponents of the SIGR included a provision in the fiscal 2007 Department of Defense Appropriations Act to remove Bowen from his post and shut down his office. Objections emanated immediately from good-government groups in Washington. As a result, after the bill was signed into law, Congress passed a follow-up amendment securing Bowen’s position until the fall of 2008.

IG Bowen is not the only one who has received flack for doing what he was hired to do. In September 2006, General Services Administration (GSA) IG Brian Miller submitted a quarterly report to Congress that identified \$870 million in questionable costs that could be put to other uses. In a meeting with Miller, then-GSA Administrator Lurita Doan said, “There two kinds of terrorism in the U.S.: the external kind and internally, the IGs have terrorized the regional administrators.”⁹

Greater and more effective oversight is needed in Congress. Requiring oversight hearings throughout the year by new rules or legislation would be helpful, but they would only be as good as the results produced by actions taken in response to the various reports that would be reviewed by Congress. Those results can only be achieved if the numerous committees that have oversight responsibilities for a single program or agency coordinate their work. Finally, these oversight activities should be coordinated with the new chief performance officer at the White House in order to provide the best results for taxpayers.

⁸ <http://www.firstamendmentcenter.org/news.aspx?id=17939>.

⁹ Ibid.