

GAO'S HIGH-RISK REPORT: 25 YEARS OF PROBLEMATIC PRACTICES

HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES
ONE HUNDRED FOURTEENTH CONGRESS

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GAO'S HIGH-RISK REPORT: 25 YEARS OF PROBLEMATIC PRACTICES

Wednesday, February 11, 2015

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
WASHINGTON, DC.

The committee met, pursuant to notice, at 3:25 p.m., in room 2154, Rayburn House Office Building, Hon. Jason Chaffetz (chairman of the committee) presiding.

Present: Representatives Chaffetz, Mica, Duncan, Jordan, Walberg, Amash, Gowdy, Massie, Meadows, DeSantis, Mulvaney, Cooper, Blum, Hice, Carter, Hurd, Palmer, Cummings, Maloney, Norton, Connolly, Lieu, Watson Coleman, Plaskett, and Lujan Grisham.

Chairman CHAFFETZ. Committee on Oversight and Government Reform will come to order.

Without objection, the chair is authorized to declare a recess at any time.

We have an important hearing today. We appreciate the many people that are here to participate in that. We also appreciate the patience with votes on the floor that got called a little bit later. That always serves as the primary thing that we do in the afternoon around here. So we appreciate your patience. But, nevertheless, we do have a very important hearing highlighting the "General Accountability Office's High-Risk Report: 25 Years of Problematic Practices." This year marks the 25th anniversary of the GAO's high-risk list.

I have a full Statement, but in the essence of time, I am going to insert those comments into the record and would invite other Members to do the same.

But I would now like to recognize the ranking member, Mr. Cummings, if he has any opening Statements.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

I Am going to do the same. I want to thank all our witnesses. And I will submit my Statement for the record.

And I want to always as usual thank you, Mr. Dodaro, and all of the GAO employees, who do a great job and help us so much.

With that, I yield back.

Chairman CHAFFETZ. Thank you.

Chairman CHAFFETZ. I will hold the record open for 5 legislative days for any Member who would like to submit a written Statement.

And we would now like to recognize our first witness. I am pleased to welcome the Honorable Gene Dodaro, Comptroller of the

U.S. Government Accountability Office. He is accompanied by a panel of experts from the GAO.

And, on behalf of both of us and this whole body, we thank the thousands of men and women who serve in the GAO who really work hard to create a work product and present it here today.

So welcome to all.

Pursuant to committee rules, the witness will be sworn in before he testifies.

We will also swear in the panel behind him should their input be needed during their questioning.

So if you could all rise, please.

Thank you. If you will rise and please raise your right hands. Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

Thank you. Let the record reflect that all the witnesses answered in the affirmative.

Mr. Dodaro, you have testified before our committee several times. We will give you great latitude here, but we would appreciate your summarizing your comments, and then your entire written Statement will obviously be made part of the record. You are now recognized.

WITNESS STATEMENTS

STATEMENT OF HON. GENE L. DODARO

Mr. DODARO. Thank you very much, Mr. Chairman. Good afternoon to you, Ranking Member Cummings, all the members of the committee. I'm very pleased to be here today to discuss GAO's latest high-risk update. We do this with the beginning of each new Congress to identify areas we believe are at highest risk of fraud, waste, abuse, and mismanagement in the Federal Government or in need of broad-based transformation.

Our report today discusses solid, steady progress in most of the 30 high-risk areas that we've had on the list since our last update in 2013. Of the—all the areas we rate according to five criteria to get off the high-risk list. You have to have leadership commitment; top level attention; you have to have the capacity, the resources and the people with the right skills to be able to fix the problem; you have to have a good corrective action plan that addresses root cause; a good monitoring effort with interim milestones and metrics that gauge progress; and you have to demonstrate that you're actually fixing the problem. You don't have to be 100 percent fixed, but we have to be convinced that we're on the right path to rectifying the problem and reducing the risk and eliminating waste and improving government services.

Of the 30 areas, 18 have at least partially met all five criteria, and 11 of those 18 have at least fully met one or more of the criteria and partially met the others. In two areas, we're recognizing progress so that we're narrowing the scope of the high-risk area. First is on FDA's oversight of medical devices. We are pleased with their efforts to get the recall process under better control and discipline, and also to have a good process to review the applications for new devices in a more risk-based approach. We're still concerned about their need to oversee the global marketplace for med-

ical products and drugs. 80 percent of the ingredients of active drugs come from other countries, about 40 percent of finished drugs, about half of medical devices, so they need to do more there and also to address drug shortage issues.

Second area is contract management. We believe the Department of Defense has focused more attention at top leadership on contracting tools and techniques and reducing the risk associated with undefinitized contracts where they start contract work without having a clear agreement with the contractor or they're using time and materials, which is a risky contract approach, rather than having deliverables. They still have to improve their areas in their acquisition work force, service acquisitions, and improve their use of contracting in the operational environments to support military operations in theater.

We are adding two new areas to the high-risk list this year: First is VA's provision of healthcare service for veterans. We're very concerned about this area. There are five fundamental problems that we've identified: ambiguous policies, inconsistent processes, inadequate oversight and monitoring of the activities, IT challenges, inadequate training of staff, and unclear resource needs and allocations. Congress has passed legislation recently to give them additional \$15 billion to help address this problem. That legislation has to be implemented properly. We have over 100 recommendations that we've made to VA that have yet to have been fully implemented, so this is an area that needs congressional oversight and continued attention.

Second are IT acquisitions and operations across the Federal Government. Too often the Federal Government, and we enumerate this in our report, there's a litany of efforts that have failed after spending hundreds of millions of dollars or in cases of billions of dollars and many years. They're terminated. There's a longer list of problems where there are cost overruns, schedule slippages, or they fail to deliver the promised functionality and make improvements in the programs that they're supposed to in delivery of services. Here again, the Congress has passed legislation late last year.

This committee was instrumental in passing the legislation of the Federal Information Technology Reform Act to give CIO's additional authority, put in place better practices to have more disciplined approaches to IT management. Here again, just in the last 5 years alone, we've made 737 recommendations. Only 23 percent have been fully implemented. So we believe this is a critical area.

We're also expanding two areas. In the administration of tax area, we have been focused on a tax gap, which at last count was \$385 billion. We're expanding that to include identity theft. And the IRS was able last year to stop about \$24 billion in fraudulent returns potentially, but they missed, by their own estimates, about \$5.8 billion. We've got some fixes to this we can talk about in the Q&A.

We're also expanding cybersecurity and critical infrastructure protection to include privacy issues. Initially we designated computer security across the entire Federal Government, the first time we ever did that, in 1997. We added critical infrastructure protection, because most of the computer assets were in the private sector hands in 2003. Now there's a lot more incidents involving per-

sonally identifiable information. The number of incidents have doubled over the last 5 years. A privacy law was passed in 1994. It's sorely in need of updating. And we have a number of other recommendations to protect this sensitive information. The American people deserve for their information to be protected properly while we're addressing the cybersecurity issues.

I thank you for the opportunity to be here today and look forward to answering your questions.

Chairman CHAFFETZ. Thank you. I appreciate that.

[Prepared Statement of Mr. Dodaro follows:]

United States Government Accountability Office



Testimony
Before the Committee on
Oversight and Government Reform,
House of Representatives

For Release on Delivery
Expected at 2 p.m. ET
Wednesday, February 11, 2015

GAO'S 2015 HIGH-RISK SERIES

An Update

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

GAO Highlights

Highlights of GAO-15-373T, a statement before the Committee on Oversight and Government Reform, House of Representatives

Why GAO Did This Study

The federal government is one of the world's largest and most complex entities; about \$3.5 trillion in outlays in fiscal year 2014 funded a broad array of programs and operations. GAO maintains a program to focus attention on government operations that it identifies as high risk due to their greater vulnerabilities to fraud, waste, abuse, and mismanagement or the need for transformation to address economy, efficiency, or effectiveness challenges.

Since 1990, more than one-third of the areas previously designated as high risk have been removed from the list because sufficient progress was made in addressing the problems identified. The five criteria for removal are: (1) leadership commitment, (2) agency capacity, (3) an action plan, (4) monitoring efforts, and (5) demonstrated progress.

This biennial update describes the status of high-risk areas listed in 2013 and identifies new high-risk areas needing attention by Congress and the executive branch. Solutions to high-risk problems offer the potential to save billions of dollars, improve service to the public, and strengthen government performance and accountability.

What GAO Recommends

This report contains GAO's views on progress made and what remains to be done to bring about lasting solutions for each high-risk area. Perseverance by the executive branch in implementing GAO's recommended solutions and continued oversight and action by Congress are essential to achieving greater progress.

View GAO-15-373T. For more information, contact J. Christopher Mihm at (202) 512-6800 or mihm@gao.gov

February 2015

HIGH-RISK SERIES

An Update

What GAO Found

Solid, steady progress has been made in the vast majority of the high-risk areas. Eighteen of the 30 areas on the 2013 list at least partially met all of the criteria for removal from the high risk list. Of those, 11 met at least one of the criteria for removal and partially met all others. Sufficient progress was made to narrow the scope of two high-risk issues—*Protecting Public Health through Enhanced Oversight of Medical Products* and *DOD Contract Management*. Overall, progress has been possible through the concerted actions of Congress, leadership and staff in agencies, and the Office of Management and Budget.

This year GAO is adding 2 areas, bringing the total to 32.

- **Managing Risks and Improving Veterans Affairs (VA) Health Care.** GAO has reported since 2000 about VA facilities' failure to provide timely health care. In some cases, these delays or VA's failure to provide care at all have reportedly harmed veterans. Although VA has taken actions to address some GAO recommendations, more than 100 of GAO's recommendations have not been fully addressed, including recommendations related to the following areas: (1) ambiguous policies and inconsistent processes, (2) inadequate oversight and accountability, (3) information technology challenges, (4) inadequate training for VA staff, and (5) unclear resource needs and allocation priorities. The recently enacted Veterans Access, Choice, and Accountability Act included provisions to help VA address systemic weaknesses. VA must effectively implement the act.
- **Improving the Management of Information Technology (IT) Acquisitions and Operations.** Congress has passed legislation and the administration has undertaken numerous initiatives to better manage IT investments. Nonetheless, federal IT investments too frequently fail to be completed or incur cost overruns and schedule slippages while contributing little to mission-related outcomes. GAO has found that the federal government spent billions of dollars on failed and poorly performing IT investments which often suffered from ineffective management, such as project planning, requirements definition, and program oversight and governance. Over the past 5 years, GAO made more than 730 recommendations; however, only about 23 percent had been fully implemented as of January 2015.

GAO is also expanding two areas due to evolving high-risk issues.

- **Enforcement of Tax Laws.** This area is expanded to include IRS's efforts to address tax refund fraud due to identify theft. IRS estimates it paid out \$5.8 billion (the exact number is uncertain) in fraudulent refunds in tax year 2013 due to identify theft. This occurs when a thief files a fraudulent return using a legitimate taxpayer's identifying information and claims a refund.
- **Ensuring the Security of Federal Information Systems and Cyber Critical Infrastructure and Protecting the Privacy of Personally Identifiable Information (PII).** This risk area is expanded because of the challenges to ensuring the privacy of personally identifiable information posed by advances in technology. These advances have allowed both government and private sector entities to collect and process extensive amounts of PII more effectively. The number of reported security incidents involving PII at federal agencies has increased dramatically in recent years.

United States Government Accountability Office

GAO's 2015 High Risk List

Strengthening the Foundation for Efficiency and Effectiveness

- Limiting the Federal Government's Fiscal Exposure by Better Managing Climate Change Risks
- Management of Federal Oil and Gas Resources
- Modernizing the U.S. Financial Regulatory System and the Federal Role in Housing Finance^a
- Restructuring the U.S. Postal Service to Achieve Sustainable Financial Viability^a
- Funding the Nation's Surface Transportation System^a
- Strategic Human Capital Management
- Managing Federal Real Property
- Improving the Management of IT Acquisitions and Operations (new)

Transforming DOD Program Management

- DOD Approach to Business Transformation
- DOD Business Systems Modernization
- DOD Support Infrastructure Management^a
- DOD Financial Management
- DOD Supply Chain Management
- DOD Weapon Systems Acquisition

Ensuring Public Safety and Security

- Mitigating Gaps in Weather Satellite Data
- Strengthening Department of Homeland Security Management Functions
- Establishing Effective Mechanisms for Sharing and Managing Terrorism-Related Information to Protect the Homeland
- Ensuring the Security of Federal Information Systems and Cyber Critical Infrastructure and Protecting the Privacy of Personally Identifiable Information^a
- Ensuring the Effective Protection of Technologies Critical to U.S. National Security Interests^a
- Improving Federal Oversight of Food Safety^a
- Protecting Public Health through Enhanced Oversight of Medical Products
- Transforming EPA's Processes for Assessing and Controlling Toxic Chemicals^a

Managing Federal Contracting More Effectively

- DOD Contract Management
- DOE's Contract Management for the National Nuclear Security Administration and Office of Environmental Management
- NASA Acquisition Management

Assessing the Efficiency and Effectiveness of Tax Law Administration

- Enforcement of Tax Laws^a

Modernizing and Safeguarding Insurance and Benefit Programs

- Managing Risks and Improving VA Health Care (new)
 - Improving and Modernizing Federal Disability Programs
 - Pension Benefit Guaranty Corporation Insurance Programs^a
 - Medicare Program^a
 - Medicaid Program^a
 - National Flood Insurance Program^a
-

Source: GAO | GAO-15-373T

^aLegislation is likely to be necessary to effectively address this high-risk area.

Chairman Chaffetz, Ranking Member Cummings, and Members of the Committee:

Thank you for the opportunity to discuss our 2015 high-risk update.¹ Since 1990, we have regularly reported on government operations that we have identified as high risk due to their greater vulnerability to fraud, waste, abuse, and mismanagement or the need for transformation to address economy, efficiency, or effectiveness challenges. Our high-risk program, supported by this Committee and the Senate Committee on Homeland Security and Governmental Affairs, has brought much-needed focus to problems impeding effective government and costing billions of dollars each year.

Since our last high-risk update in 2013, solid, steady progress has been made in the vast majority of areas that remain on the list. Since 1990, more than one-third of the areas previously designated as high risk have been removed from the High Risk List because sufficient progress was made in addressing the problems identified. Nonetheless, 11 issues have been on the High Risk List since the 1990s and 6 of these were on our original list of 14 areas in 1990.

Congressional oversight and legislative action have been critical to the progress that has been made. Congress passed numerous laws targeting both specific problems and the high-risk areas overall. In addition, top administration officials have continued to show their commitment to ensuring that high-risk areas receive attention and oversight. The Office of Management and Budget (OMB) regularly convenes meetings with agency leaders and GAO to discuss progress updates on high-risk issues. This year, due to significant progress made, we narrowed the high-risk designation for two areas—*Protecting Public Health Through Enhanced Oversight of Medical Products* and *DOD Contract Management*.

We also designated two new high-risk areas this year—*Managing Risks and Improving VA Health Care* and *Improving the Management of IT Acquisitions and Operations*. Lasting solutions to these and the other 30 high-risk areas offer the potential to save billions of dollars, dramatically improve service to the American public, and strengthen public confidence

¹GAO, *High Risk Series: An Update*, GAO-15-290 (Washington, D.C.: Feb. 11, 2015).

and trust in the performance and accountability of our national government.

While there has been notable progress, much remains to be done to address the 32 high-risk issues that are currently on our High Risk List. Our high risk update report and website provide details for each of these issues, describing the nature of the risks, what actions have been taken to address them, and what remains to be done to make further progress.² The details in our report, along with successful implementation by agencies and continued oversight by Congress, can form a solid foundation for progress to address risks and improve programs and operations.

New High-Risk Areas for 2015

To determine which federal government programs and functions should be added to the High Risk List, we consider whether the program or function is of national significance or is key to government performance and accountability. Further, we consider qualitative factors, such as whether the risk

- involves public health or safety, service delivery, national security, national defense, economic growth, or privacy or citizens' rights, or
- could result in significant impaired service, program failure, injury or loss of life, or significantly reduced economy, efficiency, or effectiveness.

In addition, we also review the exposure to loss in quantitative terms such as the value of major assets being impaired, revenue sources not being realized, or major agency assets being lost, stolen, damaged, or wasted. We also consider corrective measures planned or under way to resolve a material control weakness and the status and effectiveness of these actions.

This year, we added two new areas, delineated below, to the High Risk List based on those criteria.

²GAO's high risk website, <http://www.gao.gov/highrisk/>.

**Managing Risks and
Improving VA Health Care**

In response to serious and long-standing problems with veterans' access to care, which were highlighted in a series of congressional hearings in the spring and summer of 2014, Congress enacted the Veterans Access, Choice, and Accountability Act of 2014 (Pub. L. No. 113-146, 128 Stat. 1754), which provides \$15 billion in new funding for Department of Veterans Affairs (VA) health care. Generally, this law requires VA to offer veterans the option to receive hospital care and medical services from a non-VA provider when a VA facility cannot provide an appointment within 30 days, or when veterans reside more than 40 miles from the nearest VA facility. Under the law, VA received \$10 billion to cover the expected increase in utilization of non-VA providers to deliver health care services to veterans. The \$10 billion is available until expended and is meant to supplement VA's current budgetary resources for medical care. Further, the law appropriated \$5 billion to increase veterans' access to care by expanding VA's capacity to deliver care to veterans by hiring additional clinicians and improving the physical infrastructure of VA's facilities. It is therefore critical that VA ensures its resources are being used in a cost-effective manner to improve veterans' timely access to health care.

We have categorized our concerns about VA's ability to ensure the timeliness, cost-effectiveness, quality, and safety of the health care the department provides into five broad areas: (1) ambiguous policies and inconsistent processes, (2) inadequate oversight and accountability, (3) information technology challenges, (4) inadequate training for VA staff, and (5) unclear resource needs and allocation priorities. We have made numerous recommendations that aim to address weaknesses in VA's management of its health care system—more than 100 of which have yet to be fully resolved. For example, to ensure that its facilities are carrying out processes at the local level more consistently—such as scheduling veterans' medical appointments and collecting data on veteran suicides—VA needs to clarify its existing policies. VA also needs to strengthen oversight and accountability across its facilities by conducting more systematic, independent assessments of processes that are carried out at the local level, including how VA facilities are resolving specialty care consults, processing claims for non-VA care, and establishing performance pay goals for their providers. We also have recommended that VA work with the Department of Defense (DOD) to address the administrative burdens created by the lack of interoperability between their two IT systems. A number of our recommendations aim to improve training for staff at VA facilities, to address issues such as how staff are cleaning, disinfecting, and sterilizing reusable medical equipment, and to more clearly align training on VA's new nurse staffing methodology with the needs of staff responsible for developing nurse staffing plans. Finally,

we have recommended that VA improve its methods for identifying VA facilities' resource needs and for analyzing the cost-effectiveness of VA health care.

The recently enacted Veterans Access, Choice, and Accountability Act included a number of provisions intended to help VA address systemic weaknesses. For example, the law requires VA to contract with an independent entity to (1) assess VA's capacity to meet the current and projected demographics and needs of veterans who use the VA health care system, (2) examine VA's clinical staffing levels and productivity, and (3) review VA's IT strategies and business processes, among other things. The new law also establishes a 15-member commission, to be appointed primarily by bipartisan congressional leadership, which will examine how best to organize the VA health care system, locate health care resources, and deliver health care to veterans. It is critical for VA leaders to act on the findings of this independent contractor and congressional commission, as well as on those of VA's Office of the Inspector General, GAO, and others, and to fully commit themselves to developing long-term solutions that mitigate risks to the timeliness, cost-effectiveness, quality, and safety of the VA health care system.

It is also critical that Congress maintains its focus on oversight of VA health care. In the spring and summer of 2014, congressional committees held more than 20 hearings to address identified weaknesses in the VA health care system. Sustained congressional attention to these issues will help ensure that VA continues to make progress in improving the delivery of health care services to veterans.

We plan to continue monitoring VA's efforts to improve the timeliness, cost-effectiveness, quality, and safety of veterans' health care. To this end, we have ongoing work focusing on topics such as veterans' access to primary care and mental health services; primary care productivity; nurse recruitment and retention; monitoring and oversight of VA spending on training programs for health care professionals; mechanisms VA uses to monitor quality of care; and VA and DOD investments in Centers of Excellence—which are intended to produce better health outcomes for veterans and service members.

Improving the Management of IT Acquisitions and Operations

Although the executive branch has undertaken numerous initiatives to better manage the more than \$80 billion that is annually invested in information technology (IT), federal IT investments too frequently fail or incur cost overruns and schedule slippages while contributing little to mission-related outcomes. We have previously testified that the federal government has spent billions of dollars on failed IT investments. These and other failed IT projects often suffered from a lack of disciplined and effective management, such as project planning, requirements definition, and program oversight and governance. In many instances, agencies have not consistently applied best practices that are critical to successfully acquiring IT investments.

We have identified nine critical factors underlying successful major acquisitions that support the objective of improving the management of large-scale IT acquisitions across the federal government: (1) program officials actively engaging with stakeholders; (2) program staff having the necessary knowledge and skills; (3) senior department and agency executives supporting the programs; (4) end users and stakeholders involved in the development of requirements; (5) end users participating in testing of system functionality prior to end user acceptance testing; (6) government and contractor staff being stable and consistent; (7) program staff prioritizing requirements; (8) program officials maintaining regular communication with the prime contractor; and (9) programs receiving sufficient funding.³

While there have been numerous executive branch initiatives aimed at addressing these issues, implementation has been inconsistent. Over the past 5 years, we have reported numerous times on shortcomings with IT acquisitions and operations and have made about 737 related recommendations, 361 of which were to the Office of Management and Budget (OMB) and agencies to improve the implementation of the recent initiatives and other government-wide, cross-cutting efforts. As of January 2015, about 23 percent of the 737 recommendations had been fully implemented.

Given the federal government's continued experience with failed and troubled IT projects, coupled with the fact that OMB initiatives to help

³GAO, *Information Technology: Critical Factors Underlying Successful Major Acquisitions*, GAO-12-7 (Washington, D.C.: Oct. 21, 2011).

address such problems have not been fully implemented, the government will likely continue to produce disappointing results and will miss opportunities to improve IT management, reduce costs, and improve services to the public, unless needed actions are taken. Further, it will be more difficult for stakeholders, including Congress and the public, to monitor agencies' progress and hold them accountable for reducing duplication and achieving cost savings.

Recognizing the severity of issues related to government-wide management of IT, in December 2014 the Federal Information Technology Acquisition Reform provisions were enacted as a part of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015. I want to acknowledge the leadership of this Committee and the Senate Committee on Homeland Security and Governmental Affairs in leading efforts to enact this important legislation. To help address the management of IT investments, OMB and federal agencies should expeditiously implement the requirements of the December 2014 statutory provisions promoting IT acquisition reform.⁴ Doing so should (1) improve the transparency and management of IT acquisitions and operations across the government, and (2) strengthen the authority of chief information officers to provide needed direction and oversight. To help ensure that these improvements are achieved, congressional oversight of agencies' implementation efforts is essential.

Beyond implementing the recently enacted law, OMB and agencies need to continue to implement our previous recommendations in order to improve their ability to effectively and efficiently invest in IT. Several of these are critical, such as

- conducting TechStat reviews for at-risk investments,
- updating the public version of the IT Dashboard throughout the year, and
- developing comprehensive inventories of federal agencies' software licenses.

To ensure accountability, OMB and agencies should also demonstrate measurable government-wide progress in the following key areas:

⁴Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, § 831(a) (Dec. 19, 2014).

- OMB and agencies should, within 4 years, implement at least 80 percent of our recommendations related to the management of IT acquisitions and operations.
- Agencies should ensure that a minimum of 80 percent of the government's major acquisitions should deliver functionality every 12 months.
- Agencies should achieve no less than 80 percent of the over \$6 billion in planned PortfolioStat savings and 80 percent of the more than \$5 billion in savings planned for data center consolidation.

Expanding High-Risk Areas

In the 2 years since the last high-risk update, two areas have expanded in scope. *Enforcement of Tax Laws* has been expanded to include IRS's efforts to address tax refund fraud due to identity theft. *Ensuring the Security of Federal Information Systems and Cyber Critical Infrastructure* has been expanded to include the federal government's protection of personally identifiable information and is now called *Ensuring the Security of Federal Information Systems and Cyber Critical Infrastructure and Protecting Personally Identifiable Information (PII)*.

Enforcement of Tax Laws

Since 1990, we have designated one or more aspects of *Enforcement of Tax Laws* as high risk. The focus of the *Enforcement of Tax Laws* high-risk area is on the estimated \$385 billion net tax gap—the difference between taxes owed and taxes paid—and IRS's and Congress's efforts to address it. Given current and emerging risks, we are expanding the *Enforcement of Tax Laws* area to include IRS's efforts to address tax refund fraud due to identity theft (IDT), which occurs when an identity thief files a fraudulent tax return using a legitimate taxpayer's identifying information and claims a refund. While acknowledging that the numbers are uncertain, IRS estimated paying about \$5.8 billion in fraudulent IDT refunds while preventing \$24.2 billion during the 2013 tax filing season.

While there are no simple solutions to combating IDT refund fraud, we have identified various options that could help, some of which would require legislative action. Because some of these options represent a significant change to the tax system that could likely burden taxpayers and impose significant costs to IRS for systems changes, it is important for IRS to assess the relative costs and benefits of the options. This assessment will help ensure an informed discussion among IRS and relevant stakeholders—including Congress—on the best option (or set of options) for preventing IDT refund fraud.

Ensuring the Security of
Federal Information
Systems and Cyber
Critical Infrastructure and
Protecting the Privacy of
Personally Identifiable
Information

Since 1997, we have designated the security of our federal cyber assets as a high-risk area. In 2003, we expanded this high-risk area to include the protection of critical cyber infrastructure.

The White House and federal agencies have taken steps toward improving the protection of our cyber assets. However, advances in technology which have dramatically enhanced the ability of both government and private sector entities to collect and process extensive amounts of Personally Identifiable Information (PII) pose challenges to ensuring the privacy of such information. The number of reported security incidents involving PII at federal agencies has increased dramatically in recent years. In addition, high-profile PII breaches at commercial entities have heightened concerns that personal privacy is not being adequately protected. Finally, both federal agencies and private companies collect detailed information about the activities of individuals—raising concerns about the potential for significant erosion of personal privacy. We have suggested, among other things, that Congress consider amending privacy laws to cover all PII collected, used, and maintained by the federal government and recommended that the federal agencies we reviewed take steps to protect personal privacy and improve their responses to breaches of PII. For these reasons, we added the protection of privacy to this high-risk area this year.

Essential Elements
for Addressing High-
Risk Areas

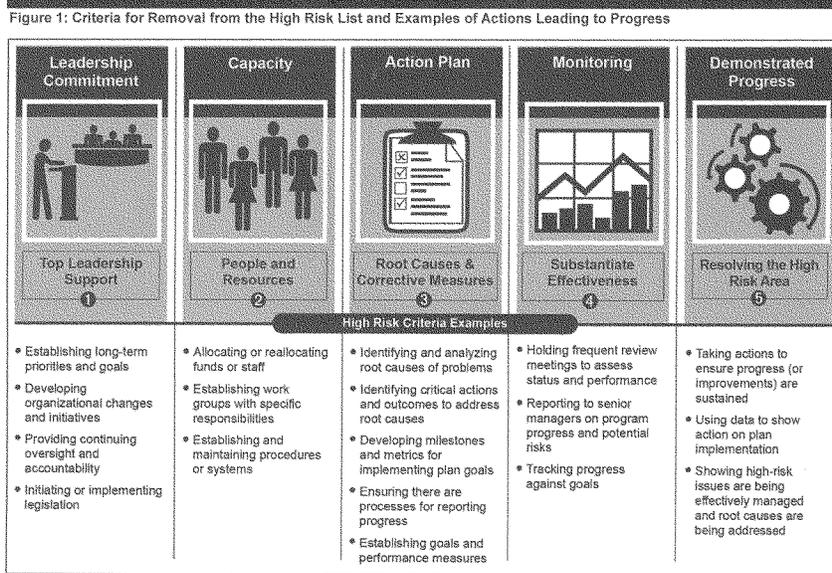
Our experience with the high-risk series over the past 25 years has shown that five broad elements are essential to make progress.⁵ The five criteria for removal are as follows:

- **Leadership commitment.** Demonstrated strong commitment and top leadership support.
- **Capacity.** Agency has the capacity (i.e., people and resources) to resolve the risk(s).
- **Action plan.** A corrective action plan exists that defines the root cause and solutions and that provides for substantially completing corrective measures, including steps necessary to implement solutions we recommended.

⁵GAO, *Determining Performance and Accountability Challenges and High Risks*, GAO-01-159SP (Washington, D.C.: November 2000).

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- **Monitoring.** A program has been instituted to monitor and independently validate the effectiveness and sustainability of corrective measures.
 - **Demonstrated progress.** Ability to demonstrate progress in implementing corrective measures and in resolving the high-risk area.

These five criteria form a road map for efforts to improve and ultimately address high-risk issues. Addressing some of the criteria leads to progress, while satisfying all of the criteria is central to removal from the list. Figure 1 shows the five criteria and examples of actions taken by agencies to address the criteria. Throughout my statement and in our high-risk update report, we have detailed many actions taken to address the high-risk areas aligned with the five criteria as well as additional steps that need to be addressed.



Source: GAO analysis of agencies' actions to address high-risk issues and GAO criteria for removal from the High Risk List in GAO-01-156SP | GAO-15-373T

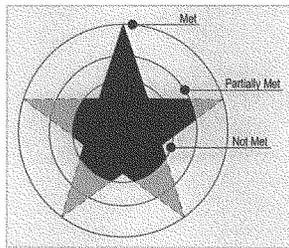
In each of our high-risk updates, for more than a decade, we have assessed progress to address the five criteria for removing the high-risk areas from the list. In this high-risk update, we are adding additional clarity and specificity to our assessments by rating each high-risk area's progress on the criteria, using the following definitions:

- **Met.** Actions have been taken that meet the criterion. There are no significant actions that need to be taken to further address this criterion.
- **Partially met.** Some, but not all, actions necessary to meet the criterion have been taken.

- **Not met.** Few, if any, actions towards meeting the criterion have been taken.

Figure 2 is a visual representation of varying degrees of progress in each of the five criteria for a high-risk area. Each point of the star represents one of the five criteria for removal from the High Risk List and each ring represents one of the three designations: not met, partially met, or met.

Figure 2: High-Risk Progress Criteria Ratings



Source: GAO. | GAO-15-373T

The progress ratings used to address the high-risk criteria are an important part of our efforts to provide greater transparency and specificity to agency leaders as they seek to address high-risk areas. Beginning in the spring of 2014 leading up to this high-risk update, we met with agency leaders across government to discuss preliminary progress ratings. These meetings focused on actions taken and on additional actions that need to be taken to address the high-risk issues. Several agency leaders told us that the additional clarity provided by the progress rating helped them better target their improvement efforts.

Continued Progress

Since our last high-risk update in 2013, there has been solid and steady progress on the vast majority of the 30 high-risk areas from our 2013 list. Progress has been possible through the concerted actions and efforts of Congress and the leadership and staff in agencies and OMB. As shown in table 1, 18 high-risk areas have met or partially met all criteria for removal from the list; 11 of these areas also fully met at least one criterion. Of the 11 areas that have been on the High Risk List since the 1990s, 7 have at least met or partially met all of the criteria for removal and 1 area—*DOD*

Contract Management—is 1 of the 2 areas that has made enough progress to remove subcategories of the high-risk area. Overall, 28 high-risk areas were rated against the five criteria, totaling a possible 140 high-risk area criteria ratings. Of these, 122 (or 87 percent) were rated as met or partially met. On the other hand, 13 of the areas have not met any of the five criteria; 3 of those—*DOD Business Systems Modernization*, *DOD Support Infrastructure Management*, and *DOD Financial Management*—have been on the High Risk List since the 1990's.

Table 1: High-Risk Areas Rated Against Five Criteria for Removal

High-risk area	Number of criteria		
	Met	Partially met	Not met
NASA Acquisition Management ^a	3	2	0
Establishing Effective Mechanisms for Sharing and Managing Terrorism-Related Information to Protect the Homeland	2	3	0
Protecting Public Health through Enhanced Oversight of Medical Products	2	3	0
Strengthening Department of Homeland Security Management Functions	2	3	0
DOD Contract Management ^a	1	4	0
DOD Supply Chain Management ^a	1	4	0
DOD Weapon Systems Acquisition ^a	1	4	0
Management of Federal Oil and Gas Resources	1	4	0
Medicare Program ^a	1	4	0
Mitigating Gaps in Weather Satellite Data	1	4	0
Ensuring the Security of Federal Information Systems and Cyber Critical Infrastructure and Protecting the Privacy of Personally Identifiable Information ^a	1	4	0
DOD Support Infrastructure Management ^a	0	5	0
Ensuring the Effective Protection of Technologies Critical to U.S. National Security Interests	0	5	0
Improving and Modernizing Federal Disability Programs	0	5	0
Medicaid Program	0	5	0
Modernizing the U.S. Financial Regulatory System and Federal Role in Housing Finance	0	5	0
National Flood Insurance Program	0	5	0
Restructuring the U.S. Postal Service to Achieve Sustainable Financial Viability	0	5	0
Enforcement of Tax Laws ^a	1	3	1
Managing Federal Real Property	1	3	1
DOD Business Systems Modernization ^a	0	4	1
Strategic Human Capital Management	0	4	1
Transforming EPA's Processes for Assessing and Controlling Toxic Chemicals	1	2	2

High-risk area	Number of criteria		
	Met	Partially met	Not met
DOD Financial Management ^b	0	3	2
Limiting the Federal Government's Fiscal Exposure by Better Managing Climate Change Risks	0	3	2
Improving Federal Oversight of Food Safety	0	3	2
DOE's Contract Management for the National Nuclear Security Administration and Office of Environmental Management ^a	1	1	3
DOD Approach to Business Transformation	0	2	3
Funding the Nation's Surface Transportation System	N/A	N/A	N/A
Improving the Management of IT Acquisitions and Operations	N/A	N/A	N/A
Managing Risks and Improving VA Health Care	N/A	N/A	N/A
Pension Benefit Guaranty Corporation Insurance Programs	N/A	N/A	N/A

Legend: N/A = Not applicable.
 Source: GAO | GAO-15-373T

Note: Four high-risk areas that received a "not applicable" rating because (1) they are either new to our 2015 High-Risk List (*Managing Risks and Improving VA Health Care* and *Improving the Management of IT Acquisitions and Operations*) or (2) addressing the high risk area primarily involves congressional action and the high risk criteria and subsequent ratings were developed to reflect the status of agencies' actions and the additional steps they need to take (*Funding the Nation's Surface Transportation System and Pension Benefit Guaranty Corporation Insurance Programs*).

^a= issue has been on the high risk list since the 1990s.

Throughout the history of the high-risk program, Congress played an important role through its oversight and (where appropriate) through legislative action targeting both specific problems and the high-risk areas overall. Since our last high-risk report, several high-risk areas have received congressional oversight and legislation needed to make progress in addressing risks. Table 2 provides examples of congressional actions and of high-level administration initiatives—discussed in more detail throughout our report—that have led to progress in addressing high-risk areas. Additional congressional actions and administrative initiatives are also included in the individual high-risk areas discussed in this report.

Table 2: Selected Examples of Congressional Actions and Administration Initiatives Leading to Progress on High-Risk Areas

High-risk area	Selected example
Mitigating Gaps in Weather Satellite Data	In January 2013, Congress passed the Disaster Relief Appropriations Act, 2013 , which contained \$111 million in funding for satellite gap mitigation projects. According to National Oceanic and Atmospheric Administration officials, this amount was reduced by 5 percent due to budget cuts related to sequestration.
Protecting Public Health through Enhanced Oversight of Medical Products	Congress enacted the Drug Quality and Security Act in November 2013, which contains provisions that should help the Food and Drug Administration respond to challenges in two distinct areas that we reported on in July 2013: (1) the hazards posed by unsafe drugs from an increasingly complex pharmaceutical supply chain that includes rogue internet pharmacies and (2) the public health threat posed by improperly compounded drugs.
Pension Benefit Guaranty Corporation (PBGC) Insurance Programs	In December 2014, Congress took action to address the growing crisis in the multiemployer pension system with passage of the Multiemployer Pension Reform Act of 2014 , which enacted several reforms responsive to our 2013 report on PBGC's multiemployer program. The act provided severely underfunded plans, under certain conditions and with the approval of federal regulators, the option to reduce the retirement benefits of current retirees to avoid plan insolvency and expand PBGC's ability to intervene when plans are in financial distress. While these reforms are intended to improve the program's financial condition, the future insolvency of the multiemployer program remains likely. In addition, to help address PBGC's overall deficit, the Bipartisan Budget Act of 2013 increased premium rates for the single-employer program and the Multiemployer Pension Reform Act increased premiums for the multiemployer program.
Ensuring the Security of Federal Information Systems and Cyber Critical Infrastructure and Protecting the Privacy of Personally Identifiable Information	In December 2014, five cybersecurity-related bills were enacted into law. (1) The Federal Information Security Modernization Act of 2014 revised the Federal Information Security Management Act of 2002 . Among other things, it gave the Department of Homeland Security (DHS) responsibilities to assist the Office of Management and Budget (OMB) in overseeing civilian agency information security policies and practices for information systems. In addition, it requires agencies to include automated tools in periodic testing of systems and expands requirements for reporting major incidents and data breach notifications. (2) The Cybersecurity Workforce Assessment Act requires DHS to assess its cybersecurity workforce and develop a comprehensive strategy to enhance the readiness, capacity, training, recruitment, and retention of its cybersecurity workforce. (3) The Homeland Security Cybersecurity Workforce Assessment Act requires DHS to identify cybersecurity positions and the specialty areas of critical need in the DHS cybersecurity workforce. (4) The National Cybersecurity Protection Act of 2014 codifies the role of DHS's National Cybersecurity and Communications Integration Center, a 24x7 cyber situational awareness, incident response and management center that is a national nexus of cyber and communications integration for the federal government, intelligence community, and law enforcement. (5) The Cybersecurity Enhancement Act of 2014 authorizes the Department of Commerce, through the National Institute of Standards and Technology, to facilitate and support the development of voluntary standards to reduce cyber risks to critical infrastructure. The law also requires the Office of Science and Technology Policy in the Executive Office of the President to facilitate agencies' development of a federal cybersecurity research and development plan.
DOD Approach to Business Transformation	The Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015 converted the Deputy Chief Management Officer to the Under Secretary of Defense for Business Management and Information. The Under Secretary of Defense for Business Management and Information will assist the Deputy Secretary of Defense in his role as the Chief Management Officer. The Under Secretary of Defense for Business Management and Information will also serve as the Chief Information Officer and Performance Improvement Officer for the Department of Defense. These changes will take effect on February 1, 2017.

High-risk area	Selected example
DOD Financial Management	The National Defense Authorization Act (NDAA) for Fiscal Year 2013 required the Financial Improvement and Audit Readiness Plan to state the actions taken to ensure validation of the audit readiness of the Department of Defense (DOD) Statement of Budgetary Resources no later than September 30, 2014. Although the November 2014, Financial Improvement and Audit Readiness Plan Status Report acknowledges that DOD has not met that date, Congress' action to set a specific date for the goal of DOD audit readiness is important for holding DOD accountable for progress. Congress further strengthened accountability in the NDAA for Fiscal Year 2014 by requiring a full audit of DOD's fiscal year 2018 financial statements and for those results to be submitted to Congress no later than March 31, 2019.
Strengthening Department of Homeland Security Management Functions	The Department of Homeland Security (DHS) has established various initiatives collectively intended to improve its unity of effort by, among other things, improving the department's planning, programming, budgeting, and execution processes through strengthened departmental structures and increased capability. In addition, DHS has increased component-level acquisition capability by, among other things, initiating monthly Component Acquisition Executive staff forums to provide guidance and share best practices. DHS has also strengthened its enterprise architecture program (or blueprint) to guide and constrain information technology acquisitions and has obtained a clean opinion on its financial statements for 2 consecutive years, fiscal years 2013 and 2014.
Improving and Modernizing Federal Disability Programs	The administration has set goals for hiring people with disabilities and launched a training course in July 2014 to help federal agencies hire, retain, and advance employees with disabilities. The administration continues to track—and has made some progress increasing—employment for people with disabilities at federal agencies.

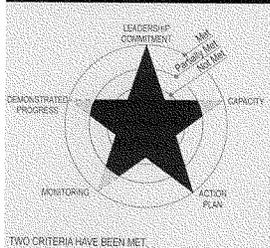
Source: GAO, | GAO-15-373T

Narrowing High Risk Areas

Since our 2013 update, sufficient progress has been made to narrow the scope of the following two areas.

Protecting Public Health through Enhanced Oversight of Medical Products

Protecting Public Health through Enhanced Oversight of Medical Products



Source: GAO analysis. | 2015 High Risk List GAO-15-373T

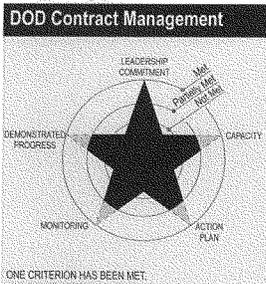
Our work has identified the following high-risk issues related to the Food and Drug Administration's (FDA) efforts to oversee medical products: (1) oversight of medical device recalls, (2) implementation of the Safe Medical Devices Act of 1990, (3) the effects of globalization on medical product safety, and (4) shortages of medically necessary drugs. We added the oversight of medical products to our High Risk List in 2009. Since our 2013 high-risk update, FDA has made substantial progress addressing the first two areas; therefore, we have narrowed this area to remove these issues from our High Risk List. However, the second two issues, globalization and drug shortages, remain pressing concerns.

FDA has greatly improved its oversight of medical device recalls by fully implementing all of the recommendations made in our 2011 report on this topic. Recalls provide an important tool to mitigate serious health consequences associated with defective or unsafe medical devices. We found that FDA had not routinely analyzed recall data to determine whether there are systemic problems underlying trends in device recalls. We made specific recommendations to the agency that it enhance its oversight of recalls. FDA is fully implementing our recommendations and has developed a detailed action plan to improve the recall process,

analyzed 10 years of medical device recall trend data, and established explicit criteria and set thresholds for determining whether recalling firms have performed effective corrections or removals of defective products. These actions have addressed this high-risk issue.

The Safe Medical Devices Act of 1990 requires FDA to determine the appropriate process for reviewing certain high-risk devices—either reclassifying certain high-risk medical device types to a lower-risk class or establishing a schedule for such devices to be reviewed through its most stringent premarket approval process. We found that FDA’s progress was slow and that it had never established a timetable for its reclassification or re-review process. As a result, many high-risk devices—including device types that FDA has identified as implantable, life sustaining, or posing a significant risk to the health, safety, or welfare of a patient—still entered the market through FDA’s less stringent premarket review process. We recommended that FDA expedite its implementation of the act. Since then, FDA has made good progress and began posting the status of its reviews on its website. FDA has developed an action plan with a goal of fully implementing the provisions of the act by the second quarter of calendar year 2015. While FDA has more work to do, it has made sufficient progress to address this high-risk issue.

DOD Contract Management



Source: GAO analysis. | 2015 High Risk List GAO-15-373T

Based on our reviews of DOD’s contract management activities over many years, we placed this area on our High Risk List in 1992. For the past decade, our work and that of others has identified challenges DOD faces within four segments of contract management: (1) the acquisition workforce, (2) contracting techniques and approaches, (3) service acquisitions, and (4) operational contract support. DOD has made sufficient progress in one of the four segments—its management and oversight of contracting techniques and approaches—to warrant its removal as a separate segment within the overall DOD contract management high-risk area. Significant challenges still remain in the other three segments.

We made numerous recommendations to address the specific issues we identified. DOD leadership has generally taken actions to address our recommendations. For example, DOD promulgated regulations to better manage its use of time-and-materials contracts and undefinitized contract actions (which authorize contractors to begin work before reaching a final agreement on contract terms). In addition, OMB directed agencies to take action to reduce the use of noncompetitive and time-and-materials contracts. Similarly, Congress has enacted legislation to limit the length of

noncompetitive contracts and require DOD to issue guidance to link award fees to acquisition outcomes.

Over the past several years, DOD's top leadership has taken significant steps to plan and monitor progress in the management and oversight of contracting techniques and approaches. For example, through its Better Buying Power initiatives DOD leadership identified a number of actions to promote effective competition and to better utilize specific contracting techniques and approaches. In that regard, in 2010 DOD issued a policy containing new requirements for competed contracts that received only one offer—a situation OMB has noted deprives agencies of the ability to consider alternative solutions in a reasoned and structured manner and which DOD has termed "ineffective competition." These changes were codified in DOD's acquisition regulations in 2012. In May 2014, we concluded that DOD's regulations help decrease some of the risks of one offer awards, but also that DOD needed to take additional steps to continue to enhance competition, such as establishing guidance for when contracting officers should assess and document the reasons only one offer was received. DOD concurred with the two recommendations we made in our report and has since implemented one of them.

DOD also has been using its Business Senior Integration Group (BSIG)—an executive-level leadership forum—for providing oversight in the planning, execution, and implementation of these initiatives. In March 2014, the Director of the Office of Defense Procurement and Acquisition Policy presented an assessment of DOD competition trends that provided information on competition rates across DOD and for selected commands within each military department and proposed specific actions to improve competition. The BSIG forum provides a mechanism by which DOD can address ongoing and emerging weaknesses in contracting techniques and approaches and by which DOD can monitor the effectiveness of its efforts. Further, in June 2014, DOD issued its second annual assessment of the performance of the defense acquisition system. The assessment, included data on the system's competition rate and goals, assessments of the effect of contract type on cost and schedule control, and the impact of competition on the cost of major weapon systems.

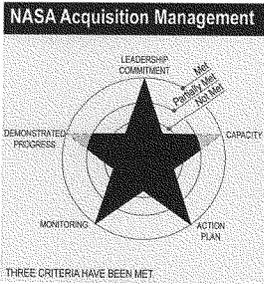
An institution as large, complex, and diverse as DOD, and one that obligates hundreds of billions of dollars under contracts each year, will continue to face challenges with its contracting techniques and approaches. We will maintain our focus on identifying these challenges and proposing solutions. However, at this point DOD's continued commitment and demonstrated progress in this area—including the

establishment of a framework by which DOD can address ongoing and emerging issues associated with the appropriate use of contracting techniques and approaches—provide a sufficient basis to remove this segment from the DOD contract management high-risk area.

Progress in Selected High-Risk Areas

In addition to the two areas that we narrowed—*Protecting Public Health through Enhanced Oversight of Medical Products* and *DOD Contract Management*—nine other areas met at least one of the criteria for removal from the High Risk List and were rated at least partially met for all four of the remaining criteria. These areas serve as examples of solid progress made to address high-risk issues through implementation of our recommendations and through targeted corrective actions. Further, each example underscores the importance of high-level attention given to high-risk areas within the context of our criteria by the administration and by congressional action. To sustain progress in these areas and to make progress in other high-risk areas—including eventual removal from the High Risk List—focused leadership attention and ongoing oversight will be needed.

NASA Acquisition Management



Source: GAO analysis. | 2015 High Risk List GAO-15-373T

The National Aeronautics and Space Administration's (NASA) acquisition management was included on the original High Risk List in 1990. NASA's continued efforts to strengthen and integrate its acquisition management functions have resulted in the agency meeting three criteria for removal from our High Risk List—leadership commitment, a corrective action plan, and monitoring. For example, NASA has completed the implementation of its corrective action plan, which was managed by the Deputy Administrator, with the Chief Engineer, the Chief Financial Officer, and the agency's Associate Administrator having led implementation of the individual initiatives.⁹ The plan identified metrics to assess the progress of implementation, which NASA continues to track and report semi-annually. These metrics include cost and schedule performance indicators for NASA's major development projects. We have found that NASA's performance metrics generally reflect improved performance. For example, average cost and schedule growth for NASA's major projects has declined since 2011 and most of NASA's major projects are tracking metrics, which we recommended in 2011 to better assess design stability

⁹NASA's Associate Administrator oversees the agency's Office of Evaluation, which includes divisions responsible for cost analysis and independent program evaluation, respectively.

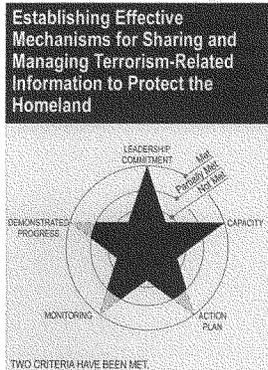
and decrease risk. In addition, NASA has taken action in response to our recommendations to improve the use of earned value management—a tool designed to help project managers monitor progress—such as by conducting a gap analysis to determine whether each center has the requisite skills to effectively utilize earned value management.

These actions have helped NASA to create better baseline estimates and track performance so that NASA has been able to launch more projects on time and within cost estimates. However, we found that NASA needs to continue its efforts to increase agency capacity to address ongoing issues through additional guidance and training of personnel. Such efforts should help maximize improvements and demonstrate that the improved cost and schedule performance will be sustained, even for the agency's most expensive and complex projects.

Recently, a few of NASA's major projects are rebaselining their cost, schedule, or both in light of management and technical issues, which is tempering the progress of the whole portfolio. In addition, several of NASA's largest and most complex projects, such as NASA's human spaceflight projects, are at critical points in implementation. We have reported on several challenges that may further impact NASA's ability to demonstrate progress in improving acquisition management⁷.

⁷ See *James Webb Space Telescope: Project Facing Increased Schedule Risk with Significant Work Remaining*. GAO-15-100. Washington, D.C.: December 15, 2014; *NASA: Actions Needed to Improve Transparency and Assess Long-Term Affordability of Human Exploration Programs*. GAO-14-385. Washington, D.C.: May 8, 2014; and *NASA: Assessments of Selected Large-Scale Projects*. GAO-14-338SP. Washington, D.C.: April 15, 2014.

Establishing Effective Mechanisms for Sharing and Managing Terrorism-Related Information to Protect the Homeland



Source: GAO analysis. | 2015 High Risk List GAO-15-373T

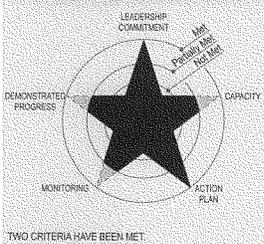
The federal government has made significant progress in promoting the sharing of information on terrorist threats since we added this issue to the High Risk List in 2003. As a result, the federal government has met our criteria for leadership commitment and capacity and has partially met the remaining criteria for this high-risk area. Significant progress was made in this area by developing a more structured approach to achieving the Information Sharing Environment (Environment) and by defining the highest priority initiatives to accomplish. In December 2012, the President released the National Strategy for Information Sharing and Safeguarding (Strategy), which provides guidance on the implementation of policies, standards, and technologies that promote secure and responsible national security information sharing. In 2013, in response to the Strategy, the Program Manager for the Environment released the Strategic Implementation Plan for the National Strategy for information Sharing and Safeguarding (Implementation Plan).

The Implementation Plan provides a roadmap for the implementation of the priority objectives in the Strategy. The Implementation Plan also assigns stewards to coordinate each priority objective—in most cases, a senior department official—and provides time frames and milestones for achieving the outcomes in each objective. Adding to this progress is the work the Environment has done to address our previous recommendations. In our 2011 report on the Environment, we recommended that key departments better define incremental costs for information sharing activities and establish an enterprise architecture management plan. Since then, senior officials in each key department reported that any incremental costs related to implementing the Environment are now embedded within each department’s mission activities and operations and do not require separate funding. Further, the 2013 Implementation Plan includes actions for developing aspects of an architecture for the Environment. In 2014, the program manager issued the Information Interoperability Framework, which begins to describe key elements intended to help link systems across departments to enable information sharing.

Going forward, in addition to maintaining leadership commitment and capacity, the program manager and key departments will need to continue working to address remaining action items informed by our five high-risk criteria, thereby helping to reduce risks and enhance the sharing and management of terrorism-related information.

Strengthening Department of Homeland Security Management Functions

Strengthening Department of Homeland Security Management Functions



Source: GAO analysis. | 2015 High Risk List GAO-15-373T

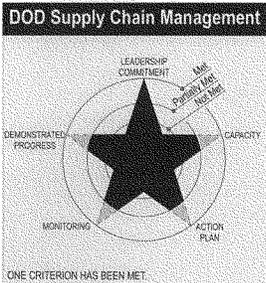
The Department of Homeland Security (DHS) has continued efforts to strengthen and integrate its management functions since those issues were placed on the High Risk List in 2003. These efforts resulted in the department meeting two criteria for removal from the High Risk List (leadership commitment and a corrective action plan) and partially meeting the remaining three criteria (capacity, a framework to monitor progress, and demonstrated, sustained progress). DHS's top leadership, including the Secretary and Deputy Secretary of Homeland Security, have continued to demonstrate exemplary commitment and support for addressing the department's management challenges. For instance, the Department's Under Secretary for Management and other senior management officials have routinely met with us to discuss the department's plans and progress, which helps ensure a common understanding of the remaining work needed to address our high-risk designation.

In April 2014, the Secretary of Homeland Security issued *Strengthening Departmental Unity of Effort*, a memorandum committing the agency to, among other things, improving DHS's planning, programming, budgeting, and execution processes through strengthened departmental structures and increased capability. In addition, DHS has continued to provide updates to the report *Integrated Strategy for High Risk Management*, demonstrating a continued focus on addressing its high-risk designation. The integrated strategy includes key management initiatives and related corrective action plans for achieving 30 actions and outcomes, which we identified and DHS agreed are critical to addressing the challenges within the department's management areas and to integrating those functions across the department. Further, DHS has demonstrated progress to fully address nine of these actions and outcomes, five of which it has sustained as fully implemented for at least 2 years. For example, DHS fully addressed two outcomes because it received a clean audit opinion on its financial statements for 2 consecutive fiscal years, 2013 and 2014. In addition, the department strengthened its enterprise architecture program (or technology blueprint) to guide IT acquisitions by, among other things, largely addressing our prior recommendations aimed at adding needed architectural depth and breadth.

DHS needs to continue implementing its *Integrated Strategy for High Risk Management* and show measurable, sustainable progress in implementing its key management initiatives and corrective actions and achieving outcomes. In doing so, it will be important for DHS to identify and work to mitigate any resource gaps, and prioritize initiatives as needed to ensure it can implement and sustain its corrective actions,

closely track and independently validate the effectiveness and sustainability of its corrective actions and make midcourse adjustments as needed; and make continued progress in achieving the 21 actions and outcomes it has not fully addressed, and demonstrate that systems, personnel, and policies are in place to ensure that progress can be sustained over time

DOD Supply Chain Management



Source: GAO analysis. | 2015 High Risk List GAO-15-373T

DOD supply chain management is one of the six issues that has been on the High Risk List since 1990. DOD has made progress in addressing weaknesses in all three dimensions of its supply chain management areas: inventory management, materiel distribution, and asset visibility. With respect to inventory management, DOD has demonstrated considerable progress in implementing its statutorily mandated corrective action plan. This plan is intended to reduce excess inventory and improve inventory management practices. Additionally, DOD has established a performance management framework, including metrics and milestones, to track the implementation and effectiveness of its corrective action plan and has demonstrated considerable progress in reducing its excess inventory and improving its inventory management. For example, DOD reported that its percentage of on-order excess inventory dropped from 9.5 percent in fiscal year 2009 to 7.9 percent in fiscal year 2013. DOD calculates the percentage by dividing the amount of on-order excess inventory by the total amount of on-order inventory. In response to our 2012 recommendations on the implementation of the plan, DOD continues to re-examine its goals for reducing excess inventory, has revised its goal for reducing on-hand excess inventory (it achieved its original goal early), and is in the process of institutionalizing its inventory management metrics in policy.

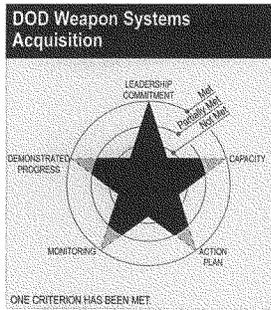
DOD has also made progress in addressing its materiel distribution challenges. Specifically, DOD has implemented, or is implementing, distribution-related initiatives that could serve as a basis for a corrective action plan. For example, DOD developed its Defense Logistics Agency Distribution Effectiveness Initiative, formerly called Strategic Network Optimization, to improve logistics efficiencies in DOD's distribution network and to reduce transportation costs. This initiative accomplishes these objectives by storing materiel at strategically located Defense Logistics Agency supply sites.

Further, DOD has demonstrated significant progress in addressing its asset visibility weaknesses by taking steps to implement our February 2013 recommendation that DOD develop a strategy and execution plans that contain all the elements of a comprehensive strategic plan, including,

among other elements, performance measures for gauging results. The National Defense Authorization Act for Fiscal Year 2014 required that DOD's strategy and implementation plans for asset visibility, which were in development, incorporate, among other things, the missing elements that we identified. DOD's January 2014 *Strategy for Improving DOD Asset Visibility* represents a corrective action plan and contains goals and objectives—as well as supporting execution plans—outlining specific objectives intended to improve asset visibility. DOD's Strategy calls for organizations to identify at least one outcome or key performance indicator for assessing performance in implementing the initiatives intended to improve asset visibility. DOD has also established a structure, including its Asset Visibility Working Group, for monitoring implementation of its asset visibility improvement initiatives.

Moving forward, the removal of DOD supply chain management from GAO's High Risk List will require DOD to take several steps. For inventory management, DOD needs to demonstrate sustained progress by continuing to reduce its on-order and on-hand excess inventory, developing corrective actions to improve demand forecast accuracy, and implementing methodologies to set inventory levels for reparable items (i.e., items that can be repaired) with low or highly variable demand. For materiel distribution, DOD needs to develop a corrective action plan that includes reliable metrics for, among other things, identifying gaps and measuring distribution performance across the entire distribution pipeline. For asset visibility, DOD needs to (1) specify the linkage between the goals and objectives in its Strategy and the initiatives intended to implement it and (2) refine, as appropriate, its metrics to ensure they assess progress towards achievement of those goals and objectives.

DOD Weapon Systems Acquisition



Source: GAO analysis. | 2015 High Risk List GAO-15-373T

DOD weapon systems acquisition has also been on the High-Risk List since 1990. Congress and DOD have long sought to improve the acquisition of major weapon systems, yet many DOD programs are still falling short of cost, schedule, and performance expectations. The results are unanticipated cost overruns, reduced buying power, and in some cases delays or reductions in the capability ultimately delivered to the warfighter.

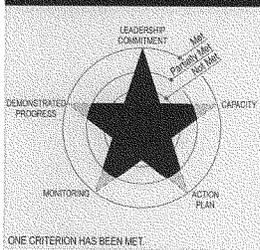
Our past work and prior high-risk updates have identified multiple weaknesses in the way DOD acquires the weapon systems it delivers to the warfighter and we have made numerous recommendations on how to address these weaknesses. Recent actions taken by top leadership at DOD indicate a firm commitment to improving the acquisition of weapon systems as demonstrated by the release and implementation of the Under Secretary of Defense for Acquisition, Technology, and Logistics' "Better Buying Power" initiatives. These initiatives include measures such as setting and enforcing affordability constraints, instituting a long-term investment plan for portfolios of weapon systems, implementing "should cost" management to control contract costs, eliminating redundancies within portfolios, and emphasizing the need to adequately grow and train the acquisition workforce.

DOD also has made progress in its efforts to assess the root causes of poor weapon system acquisition outcomes and in monitoring the effectiveness of its actions to improve its management of weapon systems acquisition. Through changes to acquisition policies and procedures, DOD has made demonstrable progress and, if these reforms are fully implemented, acquisition outcomes should improve. At this point, there is a need to build on existing reforms by tackling the incentives that drive the process and behaviors. In addition, further progress must be made in applying best practices to the acquisition process, attracting and empowering acquisition personnel, reinforcing desirable principles at the beginning of the program, and improving the budget process to allow better alignment of programs and their risks and needs. While DOD has made real progress on the issues we have identified in this area, with the prospect of slowly growing or flat defense budgets for years to come, the department must continue this progress and get better returns on its weapon system investments than it has in the past.

DOD has made some progress in updating its policies to enable better weapon systems outcomes. However, even with this call for change we remain concerned about the full implementation of proposed reforms as DOD has, in the past, failed to convert policy into practice. In addition,

Ensuring the Security of Federal Information Systems and Cyber Critical Infrastructure and Protecting the Privacy of Personally Identifiable Information

Ensuring the Security of Federal Information Systems and Cyber Critical Infrastructure and Protecting the Privacy of Personally Identifiable Information



Source: GAO analysis. | 2015 High Risk List GAO-15-373T

although we reported in March 2014 on the progress many DOD weapon programs are making in reducing their cost in the near term, individual weapon programs are still failing to conform to best practices for acquisition or to implement key acquisition reforms and initiatives that could prevent long-term cost and schedule growth.⁸

We added this high-risk area in 1997 and expanded it this year to include protection of PII. Although significant challenges remain, the federal government has made progress toward improving the security of its cyber assets. For example, Congress, as part of its ongoing oversight, passed five bills, which became law, for improving the security of cyber assets. The first, The Federal Information Security Modernization Act of 2014,⁹ revises the Federal Information Security Management Act of 2002¹⁰ and clarifies roles and responsibilities for overseeing and implementing federal agencies' information security programs. The second law, the Cybersecurity Workforce Assessment Act,¹¹ requires DHS to assess its cybersecurity workforce and develop a strategy for addressing workforce gaps. The third, the Homeland Security Cybersecurity Workforce Assessment Act,¹² requires DHS to identify all of its cybersecurity positions and calls for the department to identify specialty areas of critical need in its cybersecurity workforce. The fourth, the National Cybersecurity Protection Act of 2014,¹³ codifies the role of DHS' National Cybersecurity and Communications Integration Center as the nexus of cyber and communications integration for the federal government, intelligence community, and law enforcement. The fifth, the Cybersecurity Enhancement Act of 2014,¹⁴ authorizes the Department of Commerce, through the National Institute of Standards and Technology, to facilitate and support the development of voluntary standards to reduce cyber risks to critical infrastructure.

⁸GAO, *Defense Acquisitions: Assessments of Selected Weapon Programs*, GAO-14-340SP (Washington, D.C.: Mar. 31, 2014).

⁹Pub. L. No. 113-283 (Dec. 18, 2014).

¹⁰Title III, E-Government Act of 2002, Pub. L. No. 107-347 (Dec. 17, 2002).

¹¹Pub. L. No. 113-246 (Dec. 18, 2014).

¹²Sec. 4, Pub. L. No. 113-277 (Dec. 18, 2014).

¹³Pub. L. No. 113-282 (Dec. 18, 2014).

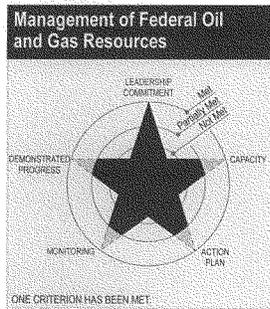
¹⁴Pub. L. No. 113-274 (Dec. 18, 2014).

The White House and senior leaders at DHS have also committed to securing critical cyber assets. Specifically, the President has signed legislation and issued strategy documents for improving aspects of cybersecurity, as well as an executive order and a policy directive for improving the security and resilience of critical cyber infrastructure. In addition, DHS and its senior leaders have committed time and resources to advancing cybersecurity efforts at federal agencies and to promoting critical infrastructure sectors' use of a cybersecurity framework.

However, securing cyber assets remains a challenge for federal agencies. Continuing challenges, such as shortages in qualified cybersecurity personnel and effective monitoring of, and continued weaknesses in, agencies' information security programs need to be addressed.

Until the White House and executive branch agencies implement the hundreds of recommendations that we and agency inspectors general have made to address cyber challenges, resolve identified deficiencies, and fully implement effective security programs and privacy practices, a broad array of federal assets and operations may remain at risk of fraud, misuse, and disruption, and the nation's most critical federal and private sector infrastructure systems will remain at increased risk of attack from adversaries. In addition to the recently passed laws addressing cybersecurity and the protection of critical infrastructures, Congress should also consider amending applicable laws, such as the Privacy Act and E-Government Act, to more fully protect PII collected, used, and maintained by the federal government.

Management of Federal Oil and Gas Resources



Source: GAO analysis. | 2015 High Risk List GAO-15-373T

The Department of the Interior's (Interior) continued efforts to improve its management of federal oil and gas resources since we placed these issues on the High Risk List in 2011 have resulted in the department meeting one of the criteria for removal from our High Risk List—leadership commitment. Interior has implemented a number of strategies and corrective measures to help ensure the department collects its share of revenue from oil and gas produced on federal lands and waters. Additionally, Interior is developing a comprehensive approach to address its ongoing human capital challenges. In November 2014, Interior senior leaders briefed us on the department's commitment to address the high-risk issue area by describing the following corrective actions.

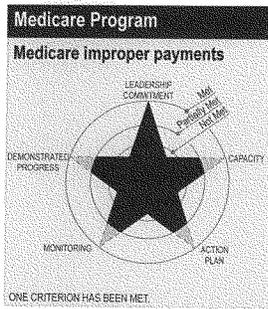
- To help ensure Interior collects revenues from oil and gas produced on federal lands and waters, Interior has taken steps to strengthen its efforts to improve the measurement of oil and gas produced on federal leases by ensuring a link between what happens in the field (measurement and operations) and what is reported to Interior's Office of Natural Resources Revenue or ONRR (production volumes and dispositions). To ensure that federal oil and gas leases are inspected, Interior is hiring inspectors and engineers with an understanding of metering equipment and measurement accuracy. The department has several efforts under way to assure that oil and gas are accurately measured and reported. For example, ONRR contracted for a study to automate data collection from production metering systems. In 2012, the Bureau of Safety and Environmental Enforcement hired and provided measurement training to a new measurement inspection team. To better ensure a fair return to the federal government from leasing and production activities from federal offshore leases, Interior raised royalty rates, minimum bids, and rental rates. For onshore federal leases, according to Interior's November 2014 briefing document, ONRR's Economic Analysis Office will provide the Bureau of Land Management (BLM) monthly analyses of global and domestic market conditions as BLM initiates a rulemaking effort to provide greater flexibility in setting onshore royalty rates.
- To address the department's ongoing human capital challenges, Interior is working with the Office of Personnel Management to establish permanent special pay rates for critical energy occupations in key regions, such as the Gulf of Mexico. Bureau managers are being trained on the use of recruitment, relocation, and retention incentives to improve hiring and retention. Bureaus are implementing or have implemented data systems to support the accurate capture of hiring data to address delays in the hiring process. Finally, Interior is

developing strategic workforce plans to assess the critical skills and competencies needed to achieve current and future program goals.

To address its revenue collection challenges, Interior will need to identify the staffing resources necessary to consistently meet its annual goals for oil and gas production verification inspections. Interior needs to continue meeting its time frames for updating regulations related to oil and gas measurement and onshore royalty rates. It will also need to provide reasonable assurance that oil and gas produced from federal leases is accurately measured and that the federal government is getting an appropriate share of oil and gas revenues.

To address its human capital challenges, Interior needs to consider how it will address staffing shortfalls over time in view of continuing hiring and retention challenges. It will also need to implement its plans to hire additional staff with expertise in inspections and engineering. Interior needs to ensure that it collects and maintains complete and accurate data on hiring times—such as the time required to prepare a job description, announce the vacancy, create a list of qualified candidates, conduct interviews, and perform background and security checks—to effectively implement changes to expedite its hiring process.

Medicare Improper Payments



Source: GAO analysis. | 2015 High Risk List GAO-15-373T

The Centers for Medicare & Medicaid Services (CMS), in the Department of Health and Human Services (HHS), administers Medicare, which has been on the High Risk List since 1990.¹⁵ CMS has continued to focus on reducing improper payments in the Medicare program, which has resulted in the agency meeting our leadership commitment criterion for removal from the High Risk List and partially meeting our other four criteria. HHS has demonstrated top leadership support for addressing this risk area by continuing to designate "strengthened program integrity through improper payment reduction and fighting fraud" an HHS strategic priority and, through its dedicated Center for Program Integrity, CMS has taken multiple actions to improve in this area. For example, as we recommended in November 2012, CMS centralized the development and implementation of automated edits—prepayment controls used to deny Medicare claims that should not be paid—based on a type of national

¹⁵The Medicare program has been on the High Risk List since 1990 but given the importance of sustained Medicare integrity to protecting federal dollars, we are focusing this high-risk rating and assessment on CMS's efforts to reduce Medicare improper payments.

policy called national coverage determinations. Such action will ensure greater consistency in paying only those Medicare claims that are consistent with national policies.

In addition, CMS has taken action to implement provisions of the Patient Protection and Affordable Care Act that Congress enacted to combat fraud, waste, and abuse in Medicare. For instance, in March 2014, CMS awarded a contract to a Federal Bureau of Investigation-approved contractor that will enable the agency to conduct fingerprint-based criminal history checks of high-risk providers and suppliers. This and other provider screening procedures will help block the enrollment of entities intent on committing fraud.

CMS made positive strides, but more needs to be done to fully meet our criteria. For example, CMS has demonstrated leadership commitment by taking actions such as strengthening provider and supplier enrollment provisions, and improving its prepayment and postpayment claims review process in the fee-for-service (FFS) program.¹⁶ However, all parts of the Medicare program are on the Office of Management and Budget's list of high-error programs, suggesting additional actions are needed. By implementing our open recommendations, CMS may be able to reduce improper payments and make progress toward fulfilling the four outstanding criteria to remove Medicare improper payments from our High Risk List. The following summarizes open recommendations and procedures authorized by the Patient Protection and Affordable Care Act that CMS should implement to make progress toward fulfilling the four outstanding criteria to remove Medicare improper payments from our High Risk List. CMS should

- require a surety bond for certain types of at-risk providers and suppliers;
- publish a proposed rule for increased disclosures of prior actions taken against providers and suppliers enrolling or revalidating enrollment in Medicare, such as whether the provider or supplier has

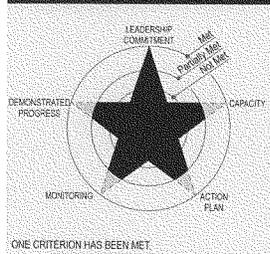
¹⁶Medicare consists of four parts. Parts A and B are known as Medicare FFS. Part A covers hospital and other inpatient stays and Part B covers hospital outpatient, physician, and other services. Part C, also known as Medicare Advantage, is the private plan alternative to Medicare FFS under which beneficiaries receive benefits through private health plans. Part D is the outpatient prescription drug benefit.

been subject to a payment suspension from a federal health care program;

- establish core elements of compliance programs for providers and suppliers;
- improve automated edits that identify services billed in medically unlikely amounts;
- develop performance measures for the Zone Program Integrity Contractors who explicitly link their work to the agency's Medicare FFS program integrity performance measures and improper payment reduction goals;
- reduce differences between contractor postpayment review requirements, when possible;
- monitor the database used to track Recovery Auditors' activities to ensure that all postpayment review contractors are submitting required data and that the data the database contains are accurate and complete;
- require Medicare administrative contractors to share information about the underlying policies and savings related to their most effective edits; and
- efficiently and cost-effectively identify, design, develop, and implement an information technology solution that addresses the removal of Social Security numbers from Medicare beneficiaries' health insurance cards.

Mitigating Gaps in Weather Satellite Data

Mitigating Gaps in Weather Satellite Data



Source: GAO analysis. | 2015 High Risk List GAO-15-373T

The National Oceanic and Atmospheric Administration (NOAA) has made progress toward improving its ability to mitigate gaps in weather satellite data since the issue was placed on the High Risk List in 2013. NOAA has demonstrated leadership on both its polar-orbiting and geostationary satellite programs by making decisions on how it plans to mitigate anticipated and potential gaps, and in making progress on multiple mitigation-related activities. In addition, the agency implemented our recommendations to improve its polar-orbiting and geostationary satellite gap contingency plans. Specifically, in September 2013, we recommended that NOAA establish a comprehensive contingency plan for potential polar satellite data gaps that was consistent with contingency planning best practices. In February 2014, NOAA issued an updated plan that addressed many, but not all, of the best practices. For example, the updated plan includes additional contingency alternatives; accounts for additional gap scenarios; identifies mitigation strategies to be executed;

and identifies specific activities for implementing those strategies along with associated roles and responsibilities, triggers, and deadlines.

In addition, in September 2013, we reported that while NOAA had established contingency plans for the loss of geostationary satellites, these plans did not address user concerns over potential reductions in capability and did not identify alternative solutions and timelines for preventing a delay in the Geostationary Operational Environmental Satellite-R (GOES-R) launch date. We recommended the agency revise its contingency plans to address these weaknesses. In February 2014, NOAA released a new satellite contingency plan that improved in many, but not all, of the best practices. For example, the updated plan clarified requirements for notifying users regarding outages and impacts and provided detailed information on responsibilities for each action in the plan.

NOAA has demonstrated leadership commitment in addressing data gaps of its polar-orbiting and geostationary weather satellites by making decisions about how to mitigate potential gaps and by making progress in implementing multiple mitigation activities. However, capacity concerns—including computing resources needed for some polar satellite mitigation activities and the limited time available for integration and testing prior to the scheduled launch of the next geostationary satellite—continue to present challenges. In addition, while both programs have updated their satellite contingency plans, work remains to implement and oversee efforts to ensure that mitigation plans will be viable if and when they are needed.

Sustaining Attention on High-Risk Programs

Overall, the government continues to take high-risk problems seriously and is making long-needed progress toward correcting them. Congress has acted to address several individual high-risk areas through hearings and legislation. Our high-risk update and high-risk website, <http://www.gao.gov/highrisk/> can help inform the oversight agenda for the 114th Congress and guide efforts of the administration and agencies to improve government performance and reduce waste and risks. In support of Congress and to further progress to address high-risk issues, we continue to review efforts and make recommendations to address high-risk areas. Continued perseverance in addressing high-risk areas will ultimately yield significant benefits.

Thank you, Chairman Chaffetz, Ranking Member Cummings, and Members of the Committee. This concludes my testimony. I would be pleased to answer any questions.

For further information on this testimony, please contact J. Christopher Mihm at (202) 512-6806 or mihmj@gao.gov. Contact points for the individual high-risk areas are listed in the report and on our high-risk web site. Contact points for our Congressional Relations and Public Affairs offices may be found on the last page of this statement.

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Biography



Gene L. Dodaro became the eighth Comptroller General of the United States and head of the U.S. Government Accountability Office (GAO) on December 22, 2010, when he was confirmed by the United States Senate. He was nominated by President Obama in September of 2010 from a list of candidates selected by a bipartisan, bicameral congressional commission. He had been serving as Acting Comptroller General since March of 2008.

Mr. Dodaro has testified before Congress dozens of times on important national issues, including the nation's long term fiscal outlook, efforts to reduce and eliminate overlap and duplication across the federal government and GAO's "High Risk List" that focuses on specific challenges—from reducing improper payments under Medicare and Medicaid to improving the Pentagon's business practices. In addition Mr. Dodaro has led efforts to fulfill GAO's new audit responsibilities under the Dodd- Frank Wall Street Reform and Consumer Protection Act.

As Comptroller General, Mr. Dodaro helps oversee the development and issuance of hundreds of reports and testimonies each year to various committees and individual Members of Congress. These and other GAO products have led to hearings and legislation, billions of dollars in taxpayer savings, and improvements to a wide range of government programs and services.

In a GAO career dating back more than 40 years, Mr. Dodaro has held a number of key executive posts. For 9 years, Mr. Dodaro served as the Chief Operating Officer, the number two leadership position at the agency, assisting the Comptroller General in providing direction and vision for GAO's diverse, multidisciplinary workforce. Mr. Dodaro led the development of GAO's strategic plans for serving Congress and improving government in the 21st Century. He also played a key role in guiding the agency's efforts to highlight current and emerging issues that warrant attention from policymakers.

Until 1999, Mr. Dodaro headed GAO's Accounting and Information Management Division, the agency's largest unit, which specialized in financial management, computer technology, and budget issues. While there, he directed the first-ever audit of the comprehensive financial statements covering all federal departments and agencies. Mr. Dodaro also helped conceive GAO's strategy for strengthening computer security governmentwide and led the updating of standards for internal controls in the federal government.

Mr. Dodaro worked closely with the Congress and several administrations on major management reform initiatives, including the 1994 Government Management Reform Act, which expanded the Chief Financial Officers Act; the revised 1995 Paperwork Reduction Act and the Clinger-Cohen Act of 1996, which require agencies to implement modern management practices for information technology management; and the 1996 refinements to the Single Audit Act, which outlines requirements for audits of federal assistance to state and local governments. Mr. Dodaro also led management reviews of the Department of Justice, the Internal Revenue Service, the Office of Management and Budget, and the Office of Personnel Management and has extensive experience working with state and local government officials.

Mr. Dodaro, who holds a bachelor's degree in accounting from Lycoming College in Williamsport, Pennsylvania, is a fellow of the National Academy of Public Administration and a member of the Association of Government Accountants. Mr. Dodaro has received recognition from numerous outside organizations, including the American Society for Public Administration, the Institute for Internal Auditors, American University and Case Western Reserve University. These include:

- The 2013 Braden Award from the Department of Accountancy at Case Western Reserve University recognizing outstanding members of the professional accounting practice community who have contributed to the knowledge and advancement of the discipline of accountancy.
- The 2009 Roger W. Jones Award from American University for outstanding executive leadership in the federal government.
- The 2008 Association of Government Accountants' National President's Award in recognition of outstanding vision in leading GAO through a major transition and for partnering with AGA to improve government financial management.
- The 2006 Association of Government Accountants' Elmer B. Staats Award for improving government performance and government accountability.
- The 2003 American Society for Public Administration's and the National Academy of Public Administration's National Public Service Award recognizing outstanding practitioners in public service.
- The 2001 Association of Government Accountants' Frank Greathouse Distinguished Leadership Award for sustained outstanding leadership in financial management.
- The 2000 Institute of Internal Auditor's (D.C. Chapter) Person of the Year for leadership in addressing the Year 2000 computing challenge.
- The 1999 Federal Computer Week's Information Technology Top 100 Award.
- The 1989 Arthur S. Flemming Award for outstanding individual performance in government.

Mr. Dodaro is married to the former Joan McCabe and has three adult children.

Chairman CHAFFETZ. We'll now recognize the gentleman from Georgia, Mr. Hice, for 5 minutes.

Mr. HICE. Thank you, Chairman.

Just one quick question for you, and thank you for joining us this afternoon. Since the enactment of the Veteran's Access, Choice and Accountability Act, I have a number of veterans in my district who, because of their location where they live, they've not been able to utilize the VA Medical Centers, and so they have opted to use non-VA doctors and so forth. And one of the issues they're facing are significant delays from the VA in paying those medical providers.

Is there anything that you—that the GAO plans to do in the future to evaluate this issue and to report on it in the future?

Mr. DODARO. Actually, we've already addressed that issue, and the issue to report, talking about the problems they were having in paying providers in a timely manner. We're also concerned about the fact that the VA doesn't always have information enough to make sure that they're making the right decisions in terms of whether they should be providing the care or going on non-healthcare provider, both for access purposes and for making sure that it's a cost-effective approach.

Debbie Draper's our expert in this area. I'll have her talk about the recommendations we've made, but we've already addressed this issue and we plan to followup, sir.

Mr. HICE. OK.

Ms. DRAPER. Yes. We actually conducted work about a year or so ago, and we made a number of recommendations around the infrastructure surrounding the non-VA care. And a lot of the issues were not paying claims promptly, and so we do have concerns about non-VA care and, you know, we have concerns that it may not be the panacea that people envision it could be, because there is not really the infrastructure in place, or it wasn't in place, you know, when we took a look at the work. So, you know, you're talking about putting people—the VA system is a very difficult system to navigate, so now you're also asking them to navigate another system that's outside of the VA. So there's just a lot of issues around non-VA care. And the other issue is that wait times for non-VA care is not really tracked, so no one really knows how long people are waiting to get care in the community. So there's just a lot of issues, and it is something we'll be looking at. And the Choice Act does have several mandates for GAO to look at the non-VA care.

Mr. HICE. Well, thank you. Obviously the concern is if these payments are slow in being received, at some point I'm fearful that our veterans will receive diminished health care across the board, and that is the concern. I thank you.

And I yield my time.

Mr. DODARO. Yes, I'm concerned too, Congressman. We'll stay on top of it.

Mr. HICE. Thank you, sir.

Chairman CHAFFETZ. The gentleman yields back. We'll now recognize the ranking member, Mr. Cummings from Maryland, for 5 minutes.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Mr. Dodaro, one of my major concerns have been drug shortage. Whether the Members of Congress know it, but 99 percent of all hospitals in this country have drug shortages. And there are people, Mr. Dodaro, as you know, who are, unbeknownst to them, getting second-, third-rate drugs. And even in my own district, with one of the No. 1 hospitals in the world, Johns Hopkins, they have told us that they have those problems.

Can you comment briefly on that, where we are on that and what can we do about that?

Mr. DODARO. Yes. This is a very important issue, Congressman. One of the things that we've already suggested to the Congress and they've acted on, before drug manufacturers didn't have to notify FDA if they were going to have potential shortages, and now they have to provide adequate notice ahead of time. So that was one step in the right direction.

Marcia Crosse, our expert in that area, will talk about other work we've done and recommendations we've made to address this issue. It's one of the reasons FDA's on the high-risk list.

Ms. CROSSE. Yes. Congressman, we agree that it's a big concern, and drug shortages is one of the areas that's keeping FDA on the high-risk list. As the Comptroller General mentioned, Congress did take action to require advance notification to FDA if a manufacturer was going to cease producing a drug. Congress, just over a year ago, also enacted the Drug Quality and Security Act that we believe can help particularly with this issue of substandard drugs, because it's enacted requirements for tracking of drugs through the system that can help reduce the possibility of the gray market drugs that I know you had been concerned about, and also counterfeit drugs getting into the system, because there'll be a system of tracking. It's still not implemented. It will take a number of years for that to go into effect, but that Act, we think, also has potential to address that.

We are continuing to track drug shortages and we have ongoing work looking at it. We know the number of shortages is coming down, but there are still some that are persisting for long periods of time for multiple years for certain drugs.

Mr. CUMMINGS. I am glad, because our committee a few minutes ago, the greatest part of our plan to look at generic drugs. Again, every single Member of Congress has this problem, and they don't—probably many of them don't even know it, that generic drugs are going up sometimes as much as 800 times in a matter of a day, which is ridiculous. And it's about greed. A lot of it is about greed.

But let me go into another thing—issue, the whole issue of cyber. You know, I just want to read from your report, Mr. Dodaro, and you—you all say this, "The increasing sophistication of hackers and others with malicious intent and the extent to which both Federal agencies and private companies collect sensitive information about individuals have increased the risk of personally identifiable information being exposed and compromised."

That's an accurate Statement. Is that right?

Mr. DODARO. Yes.

Mr. CUMMINGS. Your report goes on to say, "The number of reported security incidents involving PII at Federal agencies has in-

creased significantly in recent years and a number of high profile breaches of PII have occurred at commercial entities. For these reasons, we added protecting the privacy of PII to the high-risk area.”

So your report highlights attacks against both public and private sector entities. And one thing these attacks seem to have in common is the hackers want to access—want access to personal information of as many Americans as possible. That’s a major problem. Is that right?

Mr. DODARO. That’s exactly right, and that’s why we’re adding it to the list. And, Congressman, there’s projections by informed parties that the amount of information that’s collected, stored and disseminated is going to double and triple every 2 or 3 years, so this problem is on a trajectory to get a lot worse before it gets under control.

Mr. CUMMINGS. So the sources of these hackers could be anywhere in the world. Is that right?

Mr. DODARO. Yes.

Mr. CUMMINGS. And they could be State-sponsored, they could be international criminals, they could be domestic hackers, or any of the above. Is that right?

Mr. DODARO. Yes.

Mr. CUMMINGS. And so I see you have your fellow—

Mr. DODARO. My cyber expert—

Mr. CUMMINGS. OK.

Mr. DODARO [continuing]. Right hand here.

Mr. CUMMINGS. And what can we do about that? If you can identify yourself, please, sir.

Mr. WILSHUSEN. Sure. My name is Greg Wilshusen. And I think there’s a number of actions that both the Congress can do as well as Federal agencies who collect this type of information. First, with the Federal agencies, agencies need to implement effective information security programs that adequately protect the confidentiality and integrity of their information to include not only personally identifiable information, but other sensitive information. We have found over the years that agencies have not done a very good job of this. For example, in Fiscal Year 2014, 17 out of the 24 agencies that are covered by the Chief Financial Officers Act reported either a material weakness or significant deficiency in their information security controls for financial reporting purposes. IG’s at 22 of the 24 agencies identified cybersecurity or information security as a major management challenge for their agency.

Mr. CUMMINGS. All right. Thank you very much, Chairman.

Chairman CHAFFETZ. Thank you. The gentleman yields back. We’ll now recognize the gentleman from Texas, Mr. Hurd, for 5 minutes.

Mr. HURD. Thank you, Mr. Chairman.

And thank you, sir, for being here today. I enjoyed reading your report for the outrageousness of some of the things that are listed in there. And one of the questions that I have, about 80 percent of the administration’s IT spending goes to maintain legacy systems. Many of those systems most Americans would think would be incredibly out of date. What’s a more appropriate, you know, investment-to-maintenance ratio?

Mr. DODARO. Well, we've said—and I'll—this is Dave Powner, our expert in the IT area. What we've said is that this should be under operational re-evaluation every year. There are ways to drive down technology costs, and a lot of areas the costs are decreasing if you're making the proper investments and reinvestments. We find a lot of duplication where the systems are being duplicated because of a lack of oversight and a portfolio assessment. The Congress has underscored the need to be able to do this in the agencies, but unfortunately, the trends are going in the wrong direction, or there's additional spending in the O&M area, operations and maintenance area, rather than coming down as it should be in that area. And Dave can talk about more specific recommendations that we've made.

Mr. POWNER. Yes. Congressman Hurd, to highlight the trends, we are spending—\$80 billion spent right now. We're only spending about \$15 billion on new development. The remainder is going toward operation and maintenance. That's why in our high-risk report, there's many areas where we have inefficiencies. Data center consolidation, there's about \$7 to \$10 billion on the table if we consolidate data centers appropriately. There's also—

Mr. HURD. On that question, the report highlights shy of 10,000 data centers. What should be—where should that number be?

Mr. POWNER. Well, I think the plan is to close about 4,000 of those 10,000, roughly. That's the game plan for all the major Federal agencies right now. And the game plan is to save at least seven and a half billion dollars through 2017. So that's right around the corner.

You know, in addition to data centers, we have a lot of duplication that this committee has focused on over the past couple of years. There's probably another, you know, \$5 billion in savings looking at duplicative systems too. So you can easily get to over \$10 billion in savings. Move that inefficient spending out of the O&M spend and into the development where we're modernizing the government more appropriately.

Mr. HURD. Thank you. And my question, along the same lines, CIOs play an important role in oversight and governance of these projects. Are Federal agencies, CIO's effective, and what tools do they need to become more effective?

Mr. POWNER. I think with the Federal CIO, it's a mixed bag. We see some CIOs that are quite successful and others that aren't, and that's why I think the legislation that this committee was instrumental in passing, FITARA, which strengthened the CIO authorities, is going to be really instrumental going forward so that we can manage this \$80 billion more appropriately.

Mr. DODARO. The CIOs need to be more involved and they need to be held accountable for these efforts and it needs to be more uniform across the government, and if this legislation's successfully implemented, we should achieve those goals.

Mr. HURD. On the area of accountability, Mr. Dodaro, how long have you been with GAO?

Mr. DODARO. This June, it'll be 42 years.

Mr. HURD. Have you seen anybody in the Federal Government fired for cost or time overruns?

Mr. DODARO. I'm trying to think. I'm sure there have been people have been in big trouble as a result of it. I could tell you that. I know about that. I can't think of any specific personnel actions off-hand, but there have been people who have been under a lot of scrutiny and have—and have, you know, suddenly retired in that process. So, yes, there have been people that have been moved out.

Mr. HURD. Good copy. Thank you.

I yield back my time.

Mr. CONNOLLY. Would my colleague yield just for a second?

Mr. HURD. Yes.

Mr. CONNOLLY. I thank my colleague. You brought up two very important points on CIOs and on legacy systems and—and data center consolidation. The FITARA bill, also known as Issa-Connolly, our preferred name, does address all three things and mandates status and a consolidation, also requires—there are 250 people with the title CIO spread out over 24 Federal agencies. Imagine that. So our bill says there ought to be one primary CIO for every agency who's accountable and has authority.

So that's what Mr. Dodaro's talking about, about hopefully with the implementation of that bill, we're going to see some real progress. And it's something I hope we will monitor. I know Mr. Meadows and I intend to do that in the subcommittee. Thank you.

Chairman CHAFFETZ. Thank you. The gentleman yields back. I now recognize the gentlewoman from the District of Columbia, Ms. Norton, for 5 minutes.

Ms. NORTON. Thank you very much, Mr. Chairman.

My colleague asked about cost overruns. If people get fired for cost overruns, half the Defense Department would be gone, because that's where you have most of the cost overruns in our country. I'm very interested in this high-risk list, because I've been obediently listening to this list for a long time, and I never knew much about how you get on it and how you get off it, so I'd like to drill down a little bit about it, particularly considering that GAO must look at what must be hundreds, thousands of agencies in order to draw its list.

And I must say, whenever there's good news, it seems to me this committee ought to be the first to note it, but I did note that highlighted, I think almost in your first page, it says solid, steady progress has been made in the vast majority of high-risk areas. I don't believe I've seen that kind of language before in your reports.

You say that more than one-third of the areas previously designated as high-risk have been removed. So I'd like to know, you know, how do you get on it and how do you get removed?

Mr. DODARO. Sure. First of all, we have published criteria that we vetted with the executive branch years ago about how you get on and how you come off.

How you get on is we look at the significance of the risk, both in quantitative terms, in other words, there has to be at least a billion dollars in risk; there has to be issues, it's either a public safety issue, like oversight of medical products and food safety, we have on the list; has to be important to national security, economic security for the country; it has risk of program failures, programs actually not achieving their objectives because they're on the high-risk list. And there—so there's a long list of factors that we consider.

And we also look as to whether or not the agencies have corrective action plans in place. If they do have a plan and it looks like it's going to be a good plan and they may be successful, we may hold off on putting them on the list, and give them an opportunity to fix it.

Now, you come off by five criteria: Top leadership commitment. There has to be a commitment by the top leaders in the agencies sustained; they have to have the capacity, the people and the—and the number of people and the right skills and the right numbers and resources to be able to fix the problem; they have to have a good plan, a corrective action plan that addresses the root causes of the problems; you have to have a monitoring effort to—with interim milestones and metrics; and you have to actually then demonstrate that you are fixing the problem. If you meet those five criteria, you come off the list. If you do that in part of the high-risk area, we narrow the high-risk area to those areas that you haven't, like we mentioned this year we did in two areas. So that's—that's how you do that. Now, the—

Ms. NORTON. Now, I noticed the second, I think the second criteria you mentioned the word "resources." Wouldn't it would be fair to say that a significant challenge for getting off the list would be the scarcity of funding these days—

Mr. DODARO. Well—

Ms. NORTON [continuing]. Since it's one of your criteria.

Mr. DODARO. Yes. Well, by "resources," we mean the skills necessary, the right people.

Ms. NORTON. So it doesn't mean funding at all. Let me ask—

Mr. DODARO. No. Well, it can mean—

Ms. NORTON [continuing]. Is funding a significant challenge for agents implementing your recommendations and getting off the list?

Mr. DODARO. It could be, but it could be that they're not using the funding that they have very well. It's not necessarily mean they need more funding.

Ms. NORTON. Accepted. Could I ask you what Congress can do, you know, assuming that Congress is not going to do much about resources? I'll take an area of specific interest to me, real eState. That is the area, the Federal Government's handling of its real eState portfolio has been under constant criticism from the GAO. Could you tell me how, considering the billions of dollars involved in leasing and construction, how real eState portfolio is doing?

Mr. DODARO. Yes. First I would say, on the high-risk list, we have asterisk areas where the Congress needs to take action in order to help address the area. So there's a substantial number of the 32 areas that we've already designated for Congress. Postal Service reform's one, cybersecurity's another, and the need to finance the Nation's transportation infrastructure system's another one. So we've designated major areas where Congress needs to be part of the solution to the problem.

In the real property area, what Congress can do, one of the areas that we—that's on the list is the overreliance on leasing. And we've tried to convince the agencies, particularly GSA, to put forward a case to the Congress that says, look, we would be—it would be cheaper to own this particular property rather than lease these

properties, but they've been reluctant to do so. So we think the Congress ought to mandate that they do that in that area. There are also, you know, underutilized properties, that the Congress could give additional authority in pilot areas to try to provide these things. There's a lot of barriers that we've identified that the Congress could help alleviate for the agencies to do this, but they need a good strategic plan. They have not yet presented the Congress with a good strategic plan on how to address this area. We've recommended it, they're working on the plan right now for the first time, and so we're hopeful to see it this year, and hopefully it will provide a good roadmap for them and for the Congress.

Ms. NORTON. Thank you. Very useful.

Chairman CHAFFETZ. Thank you. I thank the gentlewoman. Now recognize the gentleman from Texas, Mr. Mica, for 5 minutes.

Mr. MICA. Texas. The State—

Chairman CHAFFETZ. Sorry. How about the State of Florida?

Mr. MICA. Texas, Texas.

Chairman CHAFFETZ. Florida. Florida.

Mr. MICA. Where it's warm.

Mr.—

Unidentified SPEAKER. Don't mess with Texas.

Mr. MICA. Mr.—

It's a great State, but I'd rather be from Florida right now. Mr. Dodaro, have you ever seen the movie "Groundhog Day?"

Mr. DODARO. Yes. Over and over.

Mr. MICA. Yes. Well, I'm sitting here, and I swear a lot of the recommendations are the same recommendations you've brought us before. I segue from Ms. Norton's and your comments. In fact, I just read—the chairman, myself, Mr. Denham, we have been interested in excess property, and you can't get people to move on dealing with excess property. I think we've found 14,000 at GSA. And we did the first hearing at the Old Post Office, and I put an X through and I put 13,999. We've done about six more in vacant properties, some of them moving, but, you know, I'm only going to be here so long. Even this guy's young. He can't—we can't do a hearing on every property.

What concerns me, and you just said it in your report, is OMB, in conjunction with landholding agencies, could improve its capacity and action by implementing, this is dealing with excess—or underutilized properties, to develop a strategic plan. They have not done that. OMB has not done that.

Mr. DODARO. That's correct.

Mr. MICA. One of the things too, and I've discussed this, Mr. Chairman, briefly with Mr. Denham, in the bill that—there were two bills offered, Mr. Chaffetz offered one, I worked with Mr. Denham, and he authored another, but we need a requirement that they have a plan and then there be some annual action on the plan and the recommendation, some triggering mechanism. Wouldn't you agree?

Mr. DODARO. Yes.

Mr. MICA. And none of them will make a decision. The stuff just sits there. It sits there, it sits there. So I come back again and we're having a Groundhog Day on excess property.

Finally, on the administration, this is on—the administration released the results of a freeze on footprint policy, which they indicated a freeze reduced the government's office and warehouse space. They gave you that report, you analyzed that report, and they claim they reduced the Federal warehouse space by 1.—I'm sorry—10.2 million square feet, but then you said they didn't.

Mr. DODARO. That's correct.

Mr. MICA. Can you elaborate?

Mr. DODARO. Yes, Phil Herr is our leader on that report.

Mr. HERR. Hi, Mr. Mica. Yes. One of the things we like to do is go behind some of those kind of estimates, take them apart, try to see where some of the flaws are, and in looking at the freeze and footprint data, we saw some things that were miscounted, also things that were vacant, but then they were counted separately in GSA's data base.

One of the things that really underscores and is something that we have testified before your subcommittees previously is the real problem with the data on the property.

Mr. MICA. That is right. We found in fact, one, they didn't know what property they had.

Mr. HERR. Right.

Mr. MICA. They didn't know the condition of the property that they had.

Mr. HERR. Correct.

Mr. MICA. They didn't know the status of it for being eligible for either future utilization or current or keep an inventory. I mean, right down the line they did not know. They—in fact, they gave us lists that we checked and you checked that showed that—that what they were giving us was totally incorrect. Is that not correct?

Mr. HERR. That is correct.

Mr. MICA. OK. Well, this is something else we have got to get is some requirement for these agencies, and if OMB won't do it, we can do it statutorily. I know Mr. Chaffetz is committed to get a bill through the House and the Senate that will get a handle on this, but we have to have triggers. We have to have milestones. We have to have some measure of them achieving a goal or performance. Am I wrong?

Mr. DODARO. I agree, and any major management reform that has been successful over time has a statutory underpinning, and that will transcend in administrations and Congress—

Mr. MICA. Coming soon. Thank you.

Chairman CHAFFETZ. The gentleman now yields back.

Now recognize the gentleman from Virginia, Mr. Connolly, for 5 minutes.

Mr. CONNOLLY. Thank you, Mr. Chairman, and thank you, Mr. Dodaro, for being here. This is—maybe it says what a wonk I am, but I actually really look forward to this hearing every year, and I congratulate you for the intellectual underpinning of identifying these risk categories. I think it is an incredible, helpful public policy document, and I hope a useful management tool. It also guides us, and especially this committee. So much of what you are talking about is all about our agenda. So hopefully we will also take it to heart and respond accordingly.

Mr. Dodaro, you actually endorsed our bill, FITARA, also known preferably as Issa-Connolly. How important is it to you that that get implemented?

Mr. DODARO. It is very important. I mean, that is a critical—that is one of the reasons, actually, that we put IT acquisitions and operations on the list, is in order to elevate attention to make sure that FITARA, Issa-Connolly, bill is implemented effectively.

Mr. CONNOLLY. I am sorry. What was that last part?

Mr. DODARO. But if it doesn't have attention, and I am also concerned, because, you know, we are coming to the last 2 years of this administration, it has got to be sustained in the next administration, having a statutory underpinning is critically important, and it gives us and the Congress means to hold people accountable over time. So it is absolutely critical to rectifying this problem that we have identified.

Mr. CONNOLLY. And there are real potential savings if we can make this work. Is that not correct?

Mr. DODARO. Oh, yes. Absolutely. Absolutely. In the billions.

Mr. CONNOLLY. In the billions, Mr. Chairman.

So I know we are going to work on a bipartisan basis to actually have oversight hearings on implementation to go and exhort and encourage, and I think that is really good.

Mr. Dodaro, with respect to this whole subject, you are familiar with the 25-Point Implementation Plan to Reform Federal Technology Management that was issued December 9, 2010 by Vivek Kundra.

Mr. DODARO. Yes. Yes. I am familiar with it, and I am joined by Dave Powner, who is our IT expert.

Mr. CONNOLLY. And I assume that you both—well, let me not assume. Was that a helpful document in terms of laying out goals and objectives?

Mr. DODARO. Yes.

Mr. CONNOR. Yes, it was extremely helpful. It set the foundation—

Mr. CONNOLLY. Sets the foundation.

Mr. CONNOR [continuing]. For a lot of the key initiatives going forward.

Mr. CONNOLLY. And, for example, when it talks about we ought to approve funding of major IT programs only when it meets three basic criteria, right: Have a dedicated program manager and a fully staffed integrated program team; use a modular approach with useable functionality delivered every 6 months, I think they mean by that break up huge multi-year complex systems integration contracts so that they are easier to manage; and, third, use specialized IT acquisition professionals. Are those—do you think those are three helpful criteria when we are looking at issuing a major procurement?

Mr. CONNOR. Absolutely.

Mr. CONNOLLY. And did we follow that advice from the White House itself when the Website for the healthcare rollout was occurring?

Mr. CONNOR. No. We did not.

Mr. CONNOLLY. We did not. So, hopefully, our bill, but also even the guidance that Vivek Kundra issued from the White House

going 4 years ago-plus might have spared us some of the grief and embarrassment that, in fact, occurred.

Mr. DODARO. Yes, they have—we have issued nine factors that are critical to successful efforts that have been put in place. There is Vivek's guidance. There is GAO guidance. There is best practice. The basic problem that I have seen over the years is there is a lack of discipline to follow good practices.

Mr. CONNOLLY. Yes.

Mr. DODARO. We get off the rails and nobody is held accountable during that period of time. Modular development, incremental development, CIOs, was one of the basic tenants in the 1996 legislation that I helped Congress work on passing. It just hasn't been implemented. So I commend this committee for your recent legislation. I look forward to working with you to make sure it is successfully implemented, but it will require congressional oversight, and I look forward to that.

Mr. CONNOLLY. And I will point out, as the chairman knows and the ranking member knows, when we put together this bill, it was a bipartisan bill, and we—a lot of what we did was codify recommendations that came out of the White House itself. It was not a hostile bill, and so hopefully it will be seen that way, as a useful management tool, and we look forward to working with you as we follow and monitor, and, as I said, exhort the implementation, because there are enormous savings to be had and some very significant efficiencies. So—

Mr. DODARO. Yes, and better services to the public.

Mr. CONNOLLY. Yep. Thank you, Mr. Chairman.

Chairman CHAFFETZ. Gentleman yields back.

Now recognize the gentleman from Tennessee, Mr. Duncan, for 5 minutes.

Mr. DUNCAN. Well, thank you, Mr. Chairman, and I don't—I will take just a moment. I just want to say, Mr. Dodaro, I think you do a very good job, and I appreciate the work the GAO does. You have been very helpful to me on this committee. I have been here 26 years. When I tell these newer members this, they look at me like I am from outer space. My main committee has always been the Transportation and Infrastructure Committee, and I have heard Dr. Dillingham testify more probably than any other witness, and he seems like a good man.

Mr. DODARO. He is.

Mr. DUNCAN. But I just want to say that I think the GAO does a great job, and I appreciate what you all do, and that is all I wanted. Thank you, Mr. Chairman.

Mr. DODARO. Thank you very much, Mr. Duncan.

Chairman CHAFFETZ. Gentleman yields back.

We will now recognize the gentlewoman—

Mr. CONNOLLY. Mr. Chairman, I know that there are other witnesses who want to know Mr. Dodaro's magic is that he got that kind of—

Chairman CHAFFETZ. We will now recognize the gentlewoman from the Virgin Islands, Ms. Plaskett, for 5 minutes.

Ms. PLASKETT. Yes. Thank you, Mr. Chairman. Good afternoon, sir.

Mr. DODARO. Good afternoon.

Ms. PLASKETT. I really wanted to thank you for all of the work that your agency does and to talk to you about one of the primary things that you all do is uncovering waste and fraud and abuse and identification of the risk of integrity of the Federal programs. We know, however, that there is also best practices that your agency tries to identify, not only for the private—for the public sector, but for the private as well, and we understand now that the cyber attacks are not just on the Federal agencies, but also on private. We know—we have heard about Home Depot and the compromise of about 56 million companies and the credit card and debit card information, as well as Anthem, the Nation's second largest health insurance company with more than 80 million records that may have been compromised. I see that your—one of your colleagues are coming over to assist you.

Mr. DODARO. This is our cyber expert, Greg Wilshusen.

Ms. PLASKETT. Great.

Mr. DODARO. We sense a cyber question.

Ms. PLASKETT. You sense very well. One of the things I wanted to talk with you about is this notion of segregating duties. If you could briefly explain for us what that concept is and how that works.

Mr. DODARO. Yes. Now, that has been one of the major problems that we have identified over the years. Greg can explain the importance of it.

Mr. WILSHUSEN. It is vitally important to assure that systems and information are adequately protected from unauthorized modification alteration. And it basically relates that the activities of one individual or group are countered by the activities or overseen, if you will, by the activities of another group. So one group does not have full control of a transaction or of a process in which it can then perform unauthorized activities without detection. Within the cyber realm, that often relates to having, for example, software developers being able to operate in the production environment where real live actual data is being processed because they could potentially make undetected changes to the software process and that data, and you don't want that to happen. So software developers, in this case, should be confined to a development and PRO-ART environment.

Ms. PLASKETT. OK. So my understanding, and, you know, I am not—my children will tell you I have no—I am a Luddite. I have to technological knowledge, but kind of like a submarine where when there is a leak in one area you can close off that section and then another area where the leak occurs doesn't infect the other areas with the segregation of duties. Is that occurring now in the Federal agencies with the IT?

Mr. WILSHUSEN. Yes. In several agencies there are instances where they have weaknesses, and I think it is about 14 agencies that have weaknesses and segregation of duty controls, and the example you highlighted actually also speaks to defense in depth, and that is another security defense principle that agencies should put layer upon layer of security controls so in the event that one layer may be circumvented or penetrated, that other controls help to protect the data and systems at hand.

Ms. PLASKETT. So now one of the reasons that I mentioned Home Depot and Anthem, we know that this has occurred in other private sector areas, is what is the relationship that you all have with trying to assist those private sector individuals in best practices, because at the end of the day, all of these systems connect with one another.

Mr. WILSHUSEN. Yes. Actually, it is the Department of Homeland Security that has an overriding role within the Federal Government for helping in assisting with critical infrastructure industries in protecting their information and their systems. In addition, for certain retail companies like this, it may also be the Federal Trade Commission that would also provide assistance and guidance to those entities.

Mr. DODARO. We have been encouraging and exhorting for years more dialog and information sharing between the public sector and the private sector. Both have been reticent for different reasons to share information, but that is really the only way that this problem is eventually going to be solved. Congress has made some overtures in this area and legislation. We believe more legislation could be helpful in this regard.

Ms. PLASKETT. Well, I am hopeful that this body will continue to assist you in making sure that that happens, and I yield the balance of my time.

Chairman CHAFFETZ. Thank the gentlewoman.

We will now recognize the gentleman from Massachusetts, Mr. Lynch, for 5 minutes.

Mr. LYNCH. Thank you, Mr. Chairman, and ranking member, and, Mr. Dodaro, good to see you again, and all your cohorts. I agree with Mr. Connolly's remarks that this may not be the most sexy hearing of the year, but—

Chairman CHAFFETZ. Objection.

Mr. LYNCH. Well, I think it may reflect best the core mission of this committee, however. I do notice in your list of areas of concern, you have got a list of—that 2015 high-risk list, that the VA Health is on that list for the first time, and I know it is one of the two new areas, and this designation comes in light of the longstanding and systemic weaknesses in accessibility and quality of care. We saw the problems that we had down at the Phoenix VA, a terrible situation there. And we also have, quite frankly, a huge increase in the number of veterans that are now, for the first time in their lives, relying on the VA for their healthcare. We went from 6.8 million veterans in 2002 to 9.4 million enrollees in 2015. So it has put a huge amount of pressure on the system, including 1.4 veterans from Operation Iraqi Freedom and Enduring Freedom in Afghanistan, and mindful that most of those folks did multiple tours.

And I was in Kandahar Province not long ago, and I asked how many folks were on their first tour, their second tour. I got all the way up to seven tours of duty before I ran out of Marines. Most of them had been there three or four tours of duty. So that repeated cycle of deployments does a lot of damage, I think, to the, you know, the psychiatry of serving among our young men and women, and I think that we are going to see reverberations in the healthcare system as a result of those multiple deployments, but I am looking forward.

That is—I am actually the ranking Democrat on the National Security Subcommittee that is going to address those, and I look forward to your good work continuing in that area, especially with some of the new implementations that we have had allowing veterans to be treated at non-VA facilities if we do have a backup in appointment time, and that has been a constant problem for us not just in the Northeast but all across America, and I know Florida is all backed up because of the number of retirees down there. They have had a very long backlog there. Some of the areas in Texas as well. Virginia, my friend, Mr. Connolly, a huge number of veterans in his district as well, and also we have got another provision that allows them to go to non-VA facilities where their travel to a VA facility is more than 40 miles. So it all builds up to a greater reliance on our ability to conduct oversight on the VA healthcare system. I look forward to working with you. You have got a great staff. You have got a good cohort of people behind you that have worked tirelessly over the years. I am looking forward—we have got no shortage of issues to work on, and I just appreciate the work that you do every single day. Thank you.

Now I yield back.

Mr. CONNOLLY. I would ask my friend to yield.

Mr. LYNCH. Oh, yes. Sure.

Mr. CONNOLLY. For a question. Mr. Lynch, how many times have you been to Afghanistan or Iraq?

Mr. LYNCH. I would say Iraq about 14 times, and I would say Afghanistan about 12 times, oftentimes with folks from—that Mr. Dodaro works with, a special inspector of—Special Inspector Generals of Iraq Construction or Afghanistan Reconstruction as well.

Mr. CONNOLLY. Well, I just want to say, for me, you have been a model of oversight commitment to the work in both countries at personal risk and peril to yourself, and I honor you for that. Thank you.

Mr. LYNCH. Well, thank you.

Mr. DODARO. I would just say in terms of the picture that you paint, not only have we had more veterans coming back with multiple tours, but they are going to be living longer thanks to modern medicine, but this problem will occur over decades, and we need to get a handle on it right now. There will be more veterans even coming back. So this is really a very significant long-term issue, and that is one of the reasons that we put it on the high-risk list.

Mr. LYNCH. Thank you.

Chairman CHAFFETZ. Thank you. The gentleman yields back. I now recognize the gentlewoman from New York, Ms. Maloney, for 5 minutes.

Mrs. MALONEY. I want to thank you for your work, and I apologize to my colleagues. I am late to the committee because I was at a meeting on a cyber security, which is really one of the biggest challenges we face as a Nation, and I believe it is an area that we will in a bipartisan way work together to address. So I want to mention the assessments that you have found for dealing well cyber attacks. And your report found that many agencies had “Inconsistently implemented policies and procedures for responding to a data breach involving PII.”

Can you explain for the committee those areas in which GAO found that agencies were inconsistent in their implementation of policies for responding to data breaches, and what do we do about it?

Mr. DODARO. Yes. Greg Wilshusen will address that. He is our expert in the area.

Ms. MALONEY. OK. Great.

Mr. WILSHUSEN. Yes. We conducted a review at several Federal agencies over their procedures and policies for responding to security incidents involving personally identifiable information, and one of the things we identified is that agencies did not consistently identify the risk to the affected individuals and the harm that could occur or the impact that it could occur to those individuals.

In addition, they were inconsistent at what point do they provide additional services to those individuals. For example, whether or not to provide credit monitoring services or other types of services in order to help those that have been—whose information has been compromised.

Mrs. MALONEY. OK. And to the point, what can Congress do to assist you, GAO, in advocating that Federal agencies are being consistent in carrying out policies that respond to these breaches?

Mr. DODARO. We believe that the Privacy Act which was originally passed in 1974 needs to be updated, and Congress should take that upon their responsibilities. The agencies are collecting more information than was contemplated in the Privacy Act because the Privacy Act deals with records of information but not through social media and other means. More information is being collected that wasn't contemplated when the Act was passed. The definitions in the Act are very broad, which leads to inconsistent applications that can be done. There is not enough notice that is made to the public. Typically in those days, it was through the Federal Register, but there are more available tools now to notify the public and make things available. So the Congress needs to update the Privacy Act, and we would be happy to work with this committee or other committees to do so.

Mrs. MALONEY. OK. And, finally, you State, and I quote GAO's report. "Agencies may not be consistently taking action to limit the risk to individuals from PII-related data breaches." So in GAO's assessment, what are specific actions agencies can take right now to improve their ability to respond to data breaches on top of rewriting the Privacy Act?

Mr. WILSHUSEN. Sure. Yes, one of the actions that they can take is making sure that they have appropriate policies and procedures in place before incidents occur so they know how to act once an incident will occur. And, indeed, our work has shown that the number of incidents involving PII at Federal agencies is climbing, and every agency is affected by that, and that could include having a dedicated team available that has the roles and responsibilities previously identified and trained in those roles and responsibilities in order to act appropriately and timely when incidents occur.

Mrs. MALONEY. And, finally, how can Congress be most useful in ensuring that this is fulfilled, that agencies consistently take all the necessary actions needed?

Mr. WILSHUSEN. Well, one is, as the comptroller general mentioned, is to update the Federal laws protecting personal—the privacy of personally identifiable information. Another is holding oversight hearings and holding agencies to account for their incidents that occur and assuring that they appropriately implement proper protections of the personally identifiable information that may be compromised.

Mrs. MALONEY. Thank you so very much.

Chairman CHAFFETZ. Thank you. If no other member has a question for this first panel, we would like to again thank the GAO, specifically Mr. Dodaro, and the great work that so many of you and your staff do. I would ask that the clerk change the table, and I would actually like to mention something as we do in this in the essence of time. So again, Mr. Dodaro, thank you. You are excused, and go ahead and make the change. I want to talk about the artwork that you see in here, and I would like to make a bit of a Statement, and, again, there will be a little commotion here as we change out the names, and please, if you are on the second panel, please come take a seat.

When I became the chairman, we made some alterations to the artwork here, and part of what I was trying to do was I felt it would be best to highlight the people that we serve rather than the past committee chairmen. I feel strongly that we should be inspired by those who—by the American people, and that is who we serve. They have done great things over generations of time, and those are the types of people that we should be inspired by.

So I would like to introduce these pieces of art as, again, we get this next panel ready, and I will tell you that they are all real photography and real photos. I would like to start here with this one. It is of the Ben Franklin Bridge and the Philadelphia skyline. It was taken by a photographer by the name of Charlie Lansche. It is the Ben Franklin Bridge. It spans the Delaware River connecting Philadelphia with Camden, New Jersey.

Contrasting the urban setting, we have this new photo that was taken, actually, in my congressional district in Utah. It does look like a painting, but it is actual photograph that was taken in January. It was taken along the Provo River with the Mount Timpanogos there in the distance, and we live in a very beautiful setting, and I think the contrast between the urban setting and a more rural setting is part of what I wanted to highlight.

Going here on this side, this is a photo that was taken—it was first published in March 1966. Warren Leffler was a photographer for U.S. News and World Report, and the image is of postal workers loading mail bags into trucks for delivery, and a good number of people for decades, generations, have been doing good work in the postal service, and one of our couriers of responsibility.

This next photo back over here is of Utah copper miners. We have had people who have been in the mining industry across this Nation, whether it is coal or copper or whatnot. This was first published back in 1942. They are using a rock-drill machine at the Bingham Mine in the Bingham Canyon in Utah.

This next photo was taken in Afghanistan. The American flag capturing the morning's first rays of sunlight as it is hoisted from one of the peaks of the Kowtal-e Paymor Mountain on the outskirts

of Kabul, Afghanistan, in honor of Veterans Day. It was shot on November 11, 2010. Not a professional photographer, but that is one of the most beautiful patriotic shots I have ever seen, and really appreciate the service that Paul Bingham offered this country and the photo that he took that day honoring Veterans Day above the hills there in the mountains outside Kabul. We have had thousands and thousands of Americans serve overseas and in Afghanistan, and we honor them and should be thinking of them regularly.

This next photo at the back of the room is actually civil rights protesters on one of three marches from Selma to Montgomery, Alabama. This photo was first published in 1965, they tell me, and is a good reminder that people have gone through a lot of hardship, but also made a lot of progress. And I love the patriotic nature of the carrying of the flags in that photo and appreciate the Library of Congress for providing that to us as well.

The next one is of the Golden Spike. The Golden Spike actually happened in Utah. It was taken on May 10, 1869. By joining the Central Pacific and Union Pacific lines at Promontory Point in Utah on May 10, 1869. The Golden Spike was the ceremonial last spike driven in by Leland Stanford to join these rails to form the first Transcontinental Railroad across the United States bridging the east and the west together.

The next photo is really the only portrait that I would consider here, but interestingly enough, this was first published in 2006. It was from the Library of Congress. The Lincoln Memorial is obviously one of the best sites we have in this country and certainly in the United States, but when he was Congressman Lincoln, he served on the Post Office and Post Roads Committee, and the Expenditures and the Department of War Committee, two committees that preceded the modern day Oversight and Government Reform Committee. So interesting to me that Abraham Lincoln, when he served in the House of Representatives, served on what is now known as the Oversight and Government Reform Committee, an inspiration to a lot of people.

Moving over here, we have got two more. This photo was taken—it comes from the Library of Congress. We are not sure who the photographer was. It was published sometime between 1914 and 1918. It is of women making and crimping fiber powder containers for 3-inch Stokes guns during World War I. It was taken at the W.C. Ritchie & Company facility in Chicago, Illinois. And, again, a great deal of sacrifice that was going on in this country, and I actually like—I love the patriotic nature that one as well.

And, finally, I want you to look closely at this photo if you have a chance. This is a steel worker on the framework of the Empire State Building high above the city with the Chrysler Building prominently displayed in the back.

Mr. LYNCH. Ironworker.

Chairman CHAFFETZ. Ironworker. Ironworker. My apologies. The photographer was Lewis Hine, and it was first published in 1930, and comes to us from the National Archives. Not exactly OSHA compliant back then. That gentleman is sitting on the precipice of death, working hard to build this country without a safety harness, without the types of things that our workers have now, but a good

deal of people have made these kind of dedications and sacrifices, and I am glad that they captured a photo of it.

These are the types of people I think should be inspired in this committee rather than just the committee chairmen of past, and so we made those changes. I hope the committee appreciates that, and I am honored to have these photos in here, and I thank the members for my indulgence.

We would now like to recognize our second panel of witnesses.

Oh, pardon me. I would like to yield to our ranking member, Mr. Cummings, for 5 minutes.

Mr. CUMMINGS. Mr. Chairman, when you told me that you were going to select some photographs, I was—I didn't know what you were going to do, but I must tell you and all of those who had anything to do with selecting these photographs, that they are absolutely beautiful.

You know, I used to say that my father who only had a second grade education, but who educated all seven of his kids, I used to say that I was inspired by his aspirations, and when we look at these pictures, the ones of hard-working Americans in the pursuit of happiness and building our country, I believe that their stories, I mean, just looking at them, should inspire all of us to be the very best that we can and to lift up their lives and people—the people like them, their lives, and then, you know, you look at the other ones that show our environment. I think it should be a reminder that we do have a sacred duty to pass on to our children an environment which is just as good as or better than the one that we inherited.

You know, it is said that we do not inherit our environment from our ancestors, but we borrow it from our children, and I would say the same thing about our democracy, and so—and last but not least, Mr. Chairman, you, you know, you really did a hell of a job when you put the Selma one right there because it just reminds me every time I look at it, 4 years before that in Baltimore, it reminded me of us marching, little kids, we were marching trying to integrate a pool called Riverside Pool, and it was all-white pool. We were beaten, but yet still we marched in the pursuit of happiness, and so I am—I still like to say that I am hoping that this will be—these photos will be an aspiration—will be an inspiration because of the aspirations of these folks who made America what it is.

Thank you very much.

Chairman CHAFFETZ. Thank you. I appreciate those comments.

And now back to the business before us. I thank the five gentleman who have joined us, and I would like to recognize this panel of witnesses. I am pleased to recognize the Honorable John Koskinen, who is the Commissioner of the Internal Revenue Service; the Honorable Alan F. Estevez, Principal Deputy Under Secretary of Defense for Acquisition, Technology and Logistics at the United States Department of Defense; Mr. John MacWilliams, Senior Advisor at the United States Department of Energy; and then Shantanu Agrawal. Did I pronounce that properly? I know you have testified previously.

Mr. AGRAWAL. You nailed it.

Chairman CHAFFETZ. Yes. He is the Deputy Administrator and Director of the Center of Program Integrity at the Centers for

Medicare and Medicaid Services; and Mr. Robert M. Lightfoot Jr., Associate Administrator at the National Aeronautics and Space Administration.

We thank you for your patience. It has been a while to get to this panel, but we do appreciate you here.

Pursuant to committee rules, all witness be sworn before they testify. So if you could rise please and raise your right hand.

Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

Thank you. Let the record reflect that all witnesses answered in the affirmative. You may be seated.

Mr. Koskinen, we will start with you. Your full Statement will be introduced into the record, but we would ask that you please limit your testimony to 5 minutes, and we will go from there, Mr. Koskinen.

STATEMENT OF HON. JOHN KOSKINEN

Mr. KOSKINEN. Thank you. Thank you, Chairman Chaffetz, Ranking Member Cummings, and members of the committee. Thank you for the opportunity to discuss the Government Accountability Office's high-risk list as it pertains to IRS operations. I am delighted to note that one of our programs, Business Systems Modernization, was removed from the list in 2013 after being on the list since 1995. Its removal came about because of the advances the IRS has made over many years in addressing weaknesses in information technology and financial management capabilities. Turning now to tax enforcement, the GAO has identified this as a high-risk area because of the size of the tax gap and the difficulty over time in narrowing that gap. The most recent IRS study of the tax gap released in 2012 found that the tax gap was \$385 billion for tax year 2006. The IRS is preparing a new study of the tax gap that covers tax year 2010, and will be based on audits done between 2008 and 2010. We expect this report to be released in the first quarter of 2016.

One of the key findings from our ongoing research on the tax gap has been that the compliance rate is very high for income that is subject to information reporting. Income subject to third party reporting is underreported only about 8 percent of the time. That number jumps to 56 percent for income that is not subject to any third party reporting or withholding.

Another thing we've learned from our research is that the biggest portion of the tax gap involves the underreporting of business income by individual taxpayers which totaled \$122 billion in 2006. The evidence is clear that the lack of reliable and comprehensive reporting and withholding on this type of income is the main reason for such a high level of underreporting. A good example of our recent efforts to improve compliance in this area involves the legislative requirement for electronic payment processors, credit card companies, to send us information from business credit card receipts on a new form 1099-K. The first 1099-Ks were filed in 2012 for transactions in 2011, and I am pleased to report we are beginning to see positive impacts on compliance from this new program provided by the Congress.

Programs such as 1099-K reporting are useful not only because they help the IRS to collect the correct amount of tax, but also because they encourage voluntary compliance, and the importance of voluntary compliance cannot be overstated. A 1-percent increase in the level of voluntary compliance brings in about \$30 billion annually in tax receipts.

Even with these and other efforts, I would note that it is not possible to eliminate the tax gap completely. Getting to 100 percent tax compliance would require a huge increase in audits and significantly greater third party reporting and withholding than we have now. Realistically, that wouldn't work because the burden on taxpayers and the strain on IRS resources would be far too great. Our budget situation represents a very serious challenge to our ability to keep making progress on this front. In order to absorb required reductions this year, the IRS has taken a number of difficult steps, including the loss through attrition of about 1,800 key enforcement personnel. That translates into fewer audits and collection cases, and we estimate the government will lose at least \$2 billion in revenue that otherwise would have been collected. Additionally, the reductions in our funding have forced us to make cuts in taxpayer service. This is also troublesome because if we can't provide the services taxpayers need to fulfill their tax obligations, voluntary compliance will suffer.

This concludes my Statements, and I would be happy to take your questions.

Chairman CHAFFETZ. Thank you.

[Prepared Statement of Mr. Koskinen follows.]

**WRITTEN TESTIMONY OF
JOHN A. KOSKINEN
COMMISSIONER
INTERNAL REVENUE SERVICE
BEFORE THE
HOUSE OVERSIGHT AND GOVERNMENT REFORM COMMITTEE
ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S HIGH-RISK LIST
FEBRUARY 11, 2015**

Chairman Chaffetz, Ranking Member Cummings and Members of the Committee, thank you for the opportunity to appear before you today to discuss the Government Accountability Office's (GAO) High-Risk List as it pertains to IRS operations.

As we understand it, the GAO's High-Risk List currently contains one item that relates to the IRS, which is enforcement of tax laws. Before discussing tax enforcement, I would note that another IRS program, the agency's Business Systems Modernization program, was removed from the list in 2013, after having been on the list since 1995.

In its 2013 report, the GAO said that the Business Systems Modernization program was no longer a high-risk program because of the advances made by the IRS over many years in addressing weaknesses in information technology (IT) and financial management capabilities. In fact, in reports issued in 2007, 2009, and 2011, the GAO noted the progress that the IRS was making in this area, even though the program continued to be on the High-Risk List during those years.

As the GAO has often pointed out, all of the programs on the High-Risk List involve complicated, difficult issues that do not lend themselves to quick fixes, but require the use of multiple strategies over long periods of time. This is true not only for business systems modernization, but applies to tax law enforcement as well.

We take very seriously the issues raised by the GAO in regard to tax enforcement. The IRS has worked over time, and continues to make every effort, to improve compliance with the tax laws, just as it has done and continues to do with business systems modernization. Our ability to keep making progress in both areas is limited, however, by the substantial reductions in funding for our agency over the last several years, which I will discuss in more detail later in this testimony.

The GAO has identified enforcement of the tax laws as a high-risk area because of the size of the tax gap and the difficulty over time in narrowing that gap. The tax gap is defined as the difference between the amount of tax owed by

taxpayers for a given year and the amount that is paid voluntarily and timely. The tax gap represents, in dollar terms, the annual amount of noncompliance with our tax laws.

The most recent IRS study of the tax gap was released in 2012 and it covered tax year 2006. The study showed that the nation's voluntary tax compliance rate was 83.1 percent in 2006, essentially unchanged from the prior review covering tax year 2001. The IRS is in the process of preparing a new study on the tax gap, covering the tax year 2010. We expect this report to be released in early 2016.

The tax gap can be viewed in two different ways. There is the gross tax gap, which is simply the amount of tax liability faced by taxpayers that is not paid on time. For 2006 it is estimated to be \$450 billion. The net tax gap of \$385 billion represents the amount of tax liability that is not only not paid on time but also is not collected subsequently, either voluntarily or as the result of enforcement activities. Thus, the net tax gap represents the amount of tax liability that is never paid.

When looked at by mode of compliance, the tax gap can be divided into three components: Nonfiling, or not filing required returns on time; underreporting, or not reporting one's full tax liability when the return is filed on time; and underpayment, or not paying by the due date the full amount of tax reported on a timely filed return. Underreporting constituted 84 percent of the tax gap for 2006, while underpayment constituted 10 percent, and nonfiling 6 percent.

The underpayment gap is the easiest component to measure, because it is calculated directly from IRS administrative records for the individual income tax, the corporate income tax, employment taxes, estate tax, and excise taxes. Taxpayers who have filed returns indicating taxes owed but who have not paid the full amounts on time are identified upon filing. The difference between taxes owed as reported on returns and the amounts paid on time is the underpayment gap.

The other two components of the tax gap – nonfiling and underreporting – present vastly greater estimation challenges because they measure activity that is either not revealed to the IRS at all (such as failure to file a return) or is reported in an understated or otherwise mischaracterized fashion.

The predominant method used to calculate the underreporting gap involves auditing a random sample of taxpayers. These audits are time consuming, but they constitute the ideal method for estimating the underreporting gap for the individual income tax. These audits are done under a program called the National Research Program (NRP) that has been in place since 2000. The audits are more in depth than the usual audits, in that they examine a uniform set of issues that are part of the study, instead of focusing on problems with a given tax return. The information gleaned from these audits helps examiners more effectively

select the types of cases to audit, and offers other detailed insights about noncompliant behavior. Those insights are used throughout the IRS to better target service and enforcement work.

One of the key findings from our ongoing research on the tax gap has been that tax compliance is far higher when reported amounts are subject to information reporting and, more so, when subject to withholding as well. For 2006, the net misreporting percentage (NMP) – taking the net amount that was misreported (which includes both under- and overreporting items) and expressing it as a ratio of the absolute value of the correct amount that should have been reported – was 1 percent for amounts subject to substantial information reporting and withholding, and 8 percent for amounts subject to substantial information reporting without withholding. But the NMP jumped to 56 percent for amounts subject to small amounts of or no information reporting or withholding.

In terms of what makes up the tax gap, the underreporting of business income by individual taxpayers – income of sole proprietors, farmers and those earning rental, royalty, partnership, and S Corporation income – is the largest contributor, accounting for \$122 billion of the total \$450 billion in 2006. We believe that the lack of reliable and comprehensive reporting and withholding for business income received by individuals is the main reason for these findings.

These statistics provide further confirmation that “visibility” of income sources and financial transactions is the main factor in high compliance rates, and information reporting is one of the few means of sizably increasing the compliance rate. Business income reported on 1040s is a much lower-visibility income source because it is not subject to the same information reporting and withholding requirements that exist for salary and wage income.

It is important to understand that while the tax gap is a helpful guide to the scale of tax compliance in the economy, it overstates the amount of tax debt owed that is feasible to recover through IRS enforcement alone.

Major attempts to narrow the tax gap must take into account taxpayer burden and taxpayer rights. While it might be theoretically possible to achieve 100 percent tax compliance, getting to that point would require an extremely high volume of examinations and substantial income reporting and withholding requirements, all of which would certainly be considered unduly burdensome on individuals and businesses, and would also put a major strain on IRS resources, as well as on the taxpayer. Put another way, it would not be advisable to audit our way out of the tax gap.

It is also important to point out that failures to comply with tax law often involve unintentional mistakes that are the result of not fully understanding what has come to be an extremely complex tax code. For that reason, efforts to increase tax compliance must also include programs to educate taxpayers in their tax

obligations, along with efforts to improve taxpayer service, to make it easier for individuals and businesses to fulfill filing requirements.

Despite the many challenges, the IRS has been and continues to be committed to finding ways of improving tax compliance, particularly voluntary compliance, which is the cornerstone of our tax system. From a revenue standpoint, the importance of voluntary compliance cannot be overstated: Each additional percentage point of voluntary compliance established brings in about \$30 billion in tax receipts. Therefore, any loss of public confidence in the proficiency and fairness of the IRS, which reduces voluntary compliance, would come at a high cost, and the effects of a reduction in voluntary compliance would take a long time to reverse.

Achieving greater voluntary compliance in order to narrow the tax gap involves a comprehensive, integrated multi-year strategy. Along with increased enforcement activities which enhance confidence and fairness in the tax system, components of this strategy also include: expanding compliance research; improving information technology; reforming and simplifying the tax law; coordinating with states, foreign governments, and other partners and stakeholders to share compliance strategies; and, as noted above, enhancing taxpayer service.

The agency's program for implementing legislation on merchant card reporting is a good example of our recent efforts to narrow the \$122-billion portion of the tax gap that represents underreporting of business income by individuals. This program involves requiring electronic payment processors to send us information on Form 1099-K.

Congress enacted the reporting requirement because lawmakers understood that cash and credit card transactions were the source of much of the income underreporting by small businesses. Bad actors who wanted to gain an unfair advantage over those who follow the law could do so simply by not reporting all of their transactions. Therefore, in addition to helping improve tax compliance, the Form 1099-K reporting regime also helps level the playing field for small businesses.

The challenge for the IRS is determining how to properly use the data gleaned from the Form 1099-K, because reported income is generally a mix of credit card and cash receipts. But the Form 1099-K does allow us to compare similar businesses, spot anomalies, and follow up with businesses to determine why those anomalies exist. In fact, we are already beginning to notice an impact from this new reporting regime.

The IRS has worked to utilize the information received from the Form 1099-K while minimizing the burden on small businesses by seeking input from the business community on this program and by giving taxpayers extra opportunities to respond, fix errors, or explain their situation. In fact, most taxpayers contacted

by the agency have responded to our notices, and have taken the opportunity to explain unusual circumstances or correct errors, often without an audit. It is important to note that about 60 percent of taxpayers we contacted about potential underreporting of 2011 income increased the amount of income reported in 2012.

Another good example of our recent work to increase tax compliance involves the international tax area in general, and offshore tax avoidance in particular. The IRS has made great strides over the last several years both in finding tax evaders hiding assets overseas and bringing them to justice and in encouraging people to voluntarily disclose their foreign accounts and pay the taxes they owe.

The agency has conducted thousands of offshore-related audits that have produced tens of millions of dollars, and, where appropriate, has pursued criminal charges leading to billions of dollars in criminal fees and restitution. Taxpayers have also been given the opportunity to come forward and get right with the government. Since its establishment in 2009, the Offshore Voluntary Disclosure Program (OVDP) has resulted in more than 50,000 disclosures of underpaid or unpaid taxes and the collection of more than \$7 billion in back taxes, interest and penalties.

In 2010, Congress gave the IRS an important new tool to help us improve offshore tax compliance when it enacted the Foreign Account Tax Compliance Act (FATCA). This law requires foreign financial institutions (FFIs) to report information to the IRS about financial accounts held by U.S. taxpayers or by foreign entities in which U.S. taxpayers hold a substantial ownership interest. More than 150,000 FFIs have registered under FATCA, and in March of this year they will begin supplying the IRS with information about overseas accounts of U.S. taxpayers.

Programs such as Form 1099-K reporting and FATCA are important not only because they help the IRS collect the correct amount of tax, but because they encourage voluntary compliance. These efforts to improve compliance help assure the public that when they are paying their taxes, everyone else is paying their fair share as well. Small business owners, for example, should feel confident that when they properly report their cash receipts, other businesses are doing the same. Likewise, the average person who can't afford high-priced financial advice should feel confident that the very wealthy are not able to hide their money in foreign countries and avoid paying tax on those assets.

This sense of fairness is the underpinning of our system of voluntary compliance. Year after year, the IRS Oversight Board studies taxpayer behavior, and it has consistently found that the vast majority of people -- about three quarters of those surveyed -- believe paying taxes is their civic duty. An even higher percentage of those surveyed believe it is not acceptable to cheat on their taxes. To maintain this sense of responsibility and fairness, we must continue doing everything we can to improve overall tax compliance.

But as I noted earlier in this testimony, the IRS' budget situation represents a very serious challenge to our ability to continue making progress on this front. In order to keep up our efforts, the agency needs to have adequate funding, and I am deeply concerned about the impact of the reductions in our funding over the last several years.

Just over a month ago, the agency's Fiscal Year (FY) 2015 budget was set at about \$10.9 billion, which is \$346 million less than FY 2014. But this actually amounts to a total reduction of almost \$600 million from last year, when another \$250 million in mandated costs and inflation that we must absorb are counted.

Further, the reduction I just described is on top of another \$600 million cut the IRS had already taken as a result of government-wide sequestration in 2013. Congress ended up reversing most of those government-wide cuts, so that nearly every major federal agency was restored to the pre-sequester level, except for one: the IRS. The result is that the IRS is essentially two sequesters ahead of all other major government agencies.

The IRS is now at its lowest level of funding since FY 2008. If inflation is taken into account, however, the current funding level is comparable to that of 1998. Since then, the number of individual and business tax filers has increased by more than 30 million, or 23 percent.

In order to absorb the most recent reductions in our budget, the IRS has taken a number of difficult steps, including enforcement cuts of more than \$160 million for FY 2015, and we estimate the agency will lose about 1,800 enforcement personnel through attrition during this fiscal year. We anticipate the result of these cuts will be fewer audit and collection cases. Specifically, we expect there will be at least 46,000 fewer individual and business audit closures and more than 280,000 fewer Automated Collection System and Field Collection case closures.

We estimate that, as a result, the government will lose at least \$2 billion in revenue that otherwise would have been collected. In addition to the revenue loss to the government, the curtailment of enforcement programs is extremely troublesome because these programs help create a deterrent effect that is the key to preserving high levels of voluntary compliance.

The President's 2016 Budget provides \$12.3 billion in base discretionary resources, an increase of \$1.3 billion from FY 2015, to make strategic investments in the IRS to continue modernizing our systems, improve service to taxpayers, and reduce the deficit through more effective enforcement and administration of tax laws. The Budget also proposes a \$667 million cap adjustment to support program integrity efforts aimed at restoring enforcement of current tax laws to acceptable levels and to help reduce the tax gap. This multi-

year effort is expected to generate \$60 billion in additional revenue over the next ten years at a cost of \$19 billion, thereby reducing the deficit, if enacted, by an additional \$41 billion.

Chairman Chaffetz, Ranking Member Cummings, and Members of the Committee, thank you again for the opportunity to discuss the tax gap and IRS efforts to improve tax compliance. This concludes my statement, and I would be happy to take your questions.

Commissioner John Koskinen

John Koskinen is the 48th IRS Commissioner. As Commissioner, he presides over the nation's tax system, which collects approximately \$2.4 trillion in tax revenue each year. This revenue funds most government operations and public services. Mr. Koskinen manages an agency of about 90,000 employees and a budget of approximately \$11 billion.

In his role leading the IRS, Mr. Koskinen is working to ensure that the agency maintains an appropriate balance between taxpayer service and tax enforcement and administers the tax code with fairness and integrity.

Prior to his appointment, Mr. Koskinen served as the non-executive chairman of Freddie Mac from 2008 to 2012 and its acting chief executive officer in 2009. Previously, Mr. Koskinen served as President of the U.S. Soccer Foundation, Deputy Mayor and City Administrator of Washington D.C., Assistant to the President and Chair of the President's Council on Year 2000 Conversion and Deputy Director for Management at the Office of Management and Budget. Mr. Koskinen also spent 21 years in the private sector in various leadership positions with the Palmieri Company, including President and Chief Executive Officer, helping to turn around large, troubled organizations. He began his career clerking for Chief Judge David L. Bazelon of the DC Circuit Court of Appeals in 1965, practiced law with the firm of Gibson, Dunn and Crutcher and served as Assistant to the Deputy Executive Director of the National Advisory Commission on Civil Disorders, also known as the Kerner Commission. Mr. Koskinen also served as Legislative Assistant to New York Mayor John Lindsay and Administrative Assistant to Sen. Abraham Ribicoff of Connecticut.

Mr. Koskinen holds a Law Degree from Yale University School of Law and a Bachelor's Degree from Duke University. He also studied International Law for one year in Cambridge, England. He and his wife Patricia have two grown children and live in Washington, DC.

Chairman CHAFFETZ. Mr. Estevez.

STATEMENT OF HON. ALAN F. ESTEVEZ

Mr. ESTEVEZ. Thank you, Chairman Chaffetz, Ranking Member Cummings, members of the committee. Appreciate the opportunity to appear before you to discuss a couple of the areas of high risk identified by GAO, specifically supply chain management and weapons acquisition.

The Department of Defense has made measurable progress in addressing these areas as well as in the areas of contract management, as Mr. Dodaro mentioned, and infrastructure. The Department is dedicated toward improving our supply chain and acquisition processes to ensure effective support for our warfighters and value to the American taxpayer.

Supply chain management and weapon system acquisition are complex areas that, by their nature, entail some level of risk. We develop and field the best weapon systems in the world, and our logistics capability is unparalleled, as demonstrated in the last 13 years of war. However, due to the scale and complexity of these functions inside the Department of Defense, even at six Sigma levels of tolerance, there will be some deficiencies. Therefore, we must continually strive to improve.

Today the DOD supply chain is simultaneously sustaining forces in Afghanistan, supporting the war on ISIL, and completing the mission to control Ebola. At the height of operations in Afghanistan, we provided 1.1 million gallons of fuel and 435,000 meals a day, delivered medical supplies, construction materials, and spare parts to sustain our combat power at record levels of readiness. DOD manages over 5 million items valued at over \$90 billion. Our actions to improve inventory performance while maintaining overarching focus of reducing risks to our warfighters have produced substantial results that have been acknowledged by GAO. For example, since 2010, DOD has been implementing our comprehensive inventory management improvement plan. Since 2012, we've reduced government-managed inventory by \$14.4 billion, the first reduction in government inventory since the 1990's. DOD is implementing a new forecasting methodology, which is producing improved material availability, decreased back orders, and reduced procurements. With that said, there is more work to be done on improving our supply chain performance and we remain focused on doing so.

Second area of high risk that I want to address is weapon system acquisition. It is important to recognize that the weapon system acquisition process has provided the United States with dominant military capabilities. The rise of foreign capability, coupled with our ongoing combat operations, global commitments and our reduced budgets is jeopardizing our technological superiority. Our weapon system acquisition process must deliver needed combat capability to our warfighters as effectively as possible. Our program for continuous process improvement in this area that we call better buying power, or BBP, is focused on that goal.

GAO's and our own main concern in the acquisition area is cost and schedule of growth. Under BBP, the Department sets and enforces affordability caps on all major weapon systems. We are

tracking performance against established caps to ensure compliance. Affordability caps tied to requirements. BBP drives active engagement between the acquisition and requirements leadership, that would be the operator who uses the weapon system, during weapon system development to ensure that requirements associated with the program address the warfighter needs in a cost effective, affordable way.

We revised our principal acquisition policy, DOD Instruction 5002, which formally institutionalizes BBP and the improvements resulting from the Weapon System Acquisition Reform Act, including emphasis on systems engineering, cost analysis, and testing. In addition to the actions already mentioned, we are formally measuring our own performance. The first two annual reports on the performance of the defense acquisition issue—acquisition system have provided data that the Department is using to increase the performance of the acquisition process, and GAO is also using those reports.

In summary, DOD will continue to work with the GAO to address the underlying root causes that have resulted in our high-risk designation. We are and continue to be focused on removing ourselves from this list by correcting our deficiencies for the benefit of our warfighters and the taxpayer.

Thank you for the opportunity, and I look forward to your questions.

Chairman CHAFFETZ. Thank you.

[Prepared Statement of Mr. Estevez follows.]

HOLD UNTIL RELEASED BY THE
U.S. HOUSE OF REPRESENTATIVES

MR. ALAN F. ESTEVEZ
PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE
FOR ACQUISITION, TECHNOLOGY AND LOGISTICS

BEFORE THE
HOUSE OVERSIGHT AND GOVERNMENT REFORM COMMITTEE

ON
GAO'S 2015 HIGH RISK LIST

FEBRUARY 11, 2015

HOLD UNTIL RELEASED BY THE
U.S. HOUSE OF REPRESENTATIVES

Chairman Chaffetz, Ranking Member Cummings, Members of the Committee, thank you for the opportunity to appear before you to discuss the efforts we have taken to address GAO's identified areas of high risk. The Defense Department has made significant and measurable progress in the two years since the last GAO high risk report, and my testimony today reflects our continued dedication toward improvements that provide effective support for our deployed warfighters and provide value to the American taxpayers who pay for that support. I appreciate the Committee's interest and support of the Department's mission.

Introduction

The Department has developed a close working relationship with the GAO and continues to be fully engaged in the process for removal of each area from the high risk list. GAO's process for removing an item from the High Risk List includes five key elements: top leadership support and demonstrated strong commitment, the capacity to address the high risk areas, developing corrective action plans, monitoring corrective measures, and demonstrating progress resulting from implementing the corrective measures.

Today, I would like to discuss two of the areas that have been assessed by GAO as high risk for the Department: supply chain management and weapon systems acquisition. These are complex areas that by their nature entail some level of risk. We develop and field the best weapon systems, and our logistics capability is unparalleled, as demonstrated by our logistics successes in the 13 years of war. However, even at six sigma tolerance, there will be deficiencies. We agree that we can and should continually strive to improve for the benefit of our warfighters and the taxpayers.

I will highlight concrete actions taken to address the high risk designations in the areas of supply chain management and weapon systems acquisition.

Supply Chain Management

The DoD supply chain is unparalleled in the scope of its operations and complexity of its mission. Our mission is to provide globally responsive, operationally precise, and cost effective joint logistics support for the combat power projection and sustainment of America's warfighter. The over 1 million uniformed, civilian, and contract employees who support all aspects of the Department's supply chain keep 16,000 aircraft, 600 ships, and 40,000 combat vehicles capable of fulfilling their mission.

Every day, DoD logisticians support troops deployed in some of the world's most demanding environments, and they are frequently called upon to support operations on short notice in parts of the world where we have little or no presence. The ability of DoD's supply chain to support these warfighters is our most important measure of success. Most notably today, DoD logisticians are key enablers to simultaneously executing the sustainment of forces in Afghanistan, supporting the war on ISIL, and providing support in the mission to control Ebola. At the height of operations in Afghanistan, we provided 1.1 million gallons of fuel a day for both U.S. and coalition forces while feeding 435,000 meals a day to the U.S. Service personnel and civilians on the ground, as well as delivering the needed sustainment in medical, construction materials, clothing, and spare parts. We also rapidly fielded more than 12,000 mine-resistant ambush-protected (MRAP) vehicles to Afghanistan to protect our forces as they performed their mission, and we sustained the readiness of these vehicles in austere conditions at levels over 90%. In addition to delivering warfighter sustainment, we executed the drawdown of forces, equipment, and supplies. From the high water mark in January 2012 to January 2015, we reduced over 38,000 vehicles and 27,000 containers of supplies and equipment, and closed or transferred 343 US bases. We donated \$284 million (depreciated value) of excess property to the Afghan government, improving their capacity while avoiding transportation cost in excess of \$2.2B.

At the same time that we have been providing unwavering support to our deployed warfighters, we have also responded to multiple and complex humanitarian relief and disaster assistance efforts around the world, with little or no warning. Those responses are another measure of our success.

Even with these enormous challenges, we continue to make substantial and measurable improvements to mitigate the high-risk designation.

Inventory Management

DoD manages over five million inventory items valued at more than \$90 billion. GAO's assessment cited the Department for buying and managing more inventory than needed and buying inventory far in advance of its use. The Department manages inventory in such a way as to reduce risk for our warfighters. Recent DoD actions to improve performance have produced substantial results which have been reviewed and acknowledged by the GAO.

For example, DoD developed the Comprehensive Inventory Management Improvement Plan in FY2010 to establish specific process and outcome goals and to inculcate a culture change of "Don't buy what is not needed" and "Don't keep what is not used".

Within that plan, we have accelerated our review processes and established these reviews at senior levels. We have reduced government-managed inventory by \$14.4B since 2012 -- the first reduction in government-managed inventory since the late 1990s. Additionally, the Department identified and brought to record in government inventory systems \$8.7B of government owned - contractor managed inventory. We have reduced inventory being held for potential reuse by \$4.3B, and we have reduced buying potential inventory far in advance of the need by \$816M since 2010.

Perhaps the most significant change going forward is in demand forecasting. DoD is implementing a new forecasting methodology for inventory with demand patterns that are infrequent or highly variable. This initiative is producing improved materiel availability, decreased backorders, reduced procurement orders, and on-hand inventory results.

Asset Visibility

The Department has achieved significant progress in providing asset visibility to improve support to the warfighting customer, leveraging automatic identification technology in the logistics business area. We operate the world's largest active radio frequency identification (RFID) network, providing visibility of unit cargo and sustainment materiel transiting 41 countries, with 1,990 tag read/write sites and more than 1,420 satellite tracking sites. Passive RFID is being used to provide visibility of and accountability for principal end items and containers moving within a base, and for inventory of uniform items issued at Service recruit training facilities. We are seeing reductions in inventory cycle times from 10 days to 10 hours, stock pick times from approximately two hours to near-real time, uniform issue times for new recruits from 2.5 hours to 55 minutes, and receipt processing times from two hours to one. The U.S. Marine Corps' Non-nodal In-transit Visibility for the Last Tactical Mile provides near-real time visibility of sustainment cargo during the tactical level battlefield distribution process, while the Air Force uses Real Time Location System technology to track aircraft and critical assets, leading to a 35% reduction in depot flow time.

Last year, the Department published the "Strategy for Improving DoD Asset Visibility", creating a framework whereby the Department can build on efforts to date and further improve asset visibility. These efforts will inform our oversight and will expand use of automatic identification technology to improve data capture, integration, analysis, and supply chain execution. We are working with industry leaders to review best practices and lessons learned in the use of this technology.

Materiel Distribution

The Department has established 23 enterprise metrics to evaluate the materiel readiness, responsiveness, reliability, cost, and planning and precision of the supply chain. With respect to materiel distribution, we are measuring the effectiveness of the system, and are continuing our efforts to improve our data analysis. Where we are not meeting our goals, we are identifying corrective actions, and monitoring results of those actions. There is more work to be done on improving supply chain management, but we continually improve our performance and validate existing goals.

Weapon Systems Acquisition

The second DoD high risk area identified on GAO's inaugural list is weapon systems acquisition. As with supply chain management, it is important to recognize that the weapon systems acquisition process has provided the United States with dominant military capabilities relative to any potential adversary.

The combination of on-going combat operations, global U.S. commitments, and reduced budgets --especially if we return to sequester levels of funding-- significantly impacts U.S. investment in new technology and weapon systems. The rise of foreign capability, coupled with the overall decline in U.S. research and development investments, is jeopardizing our technological superiority. The Defense Department has to balance among many competing requirements, and the goal of DoD weapon system acquisition is to use available resources as efficiently and effectively as possible to deliver needed capability to our warfighters. DoD actions to address the GAO high risk assessment remain consistent with that goal. Here are some of the steps we are taking to accomplish this.

We are steadfast in our actions to reduce cost growth, prevent schedule delays, and obtain better performance from our weapon systems. A recent study found statistically significant correlation between cost increases in weapons systems and the budget situation at the time the program was first baselined.¹ Program cost overruns are much more pronounced if the program was initiated during periods of "tight" money, such as we are currently experiencing. Therefore, we must be diligent and realistic as we manage programs.

¹ McNicol, David L., and Linda Wu, *Evidence on the Effect of DoD Acquisition Policy and Process On Cost Growth of Major Defense Acquisition Programs*, Institute for Defense Analyses, Paper P-5126, September 2014. <http://www.dtic.mil/dtic/tr/fulltext/u2/a609472.pdf>

During the past five years the department has been engaged in a process of continuous improvement that we call "Better Buying Power" (BBP). While Better Buying Power is comprised of many individual initiatives, I wanted to highlight a few that I believe are fundamental to today's discussion.

Affordability

The first area of GAO concern is affordability. Under Better Buying Power, the Department sets and enforces affordability caps on all major programs. Affordability caps help us determine how much capability can reasonably be afforded in future budgets. Before requirements are established and before programs are initiated, affordability analysis is used to establish production and sustainment affordability caps. We are tracking our performance against the established caps to ensure compliance.

Requirements

The affordability caps tie to a second GAO concern for weapon systems acquisition, requirements. Better Buying Power drives active engagement between the acquisition and requirements leadership during the development and review of proposed requirements trades. This is essential to ensuring that the requirements associated with the program address the warfighters needs in a cost effective and affordable way. Our policies require the acquisition leadership to actively participate in the requirements authorities review to ensure, before final approval, that the requirements are achievable, affordable, and testable and that requirements are fully informed by systems engineering trade-off analysis.

While implementing and learning from the Better Buying Power initiatives, we have also revised our principal acquisition policy, DoD Instruction 5000.02. The policies I have already mentioned are formally implemented by the revised instructions.

The instruction also makes two important changes to improve cost and schedule outcomes. It adds a Requirements Decision Point to implement the vital dialogue between the requirements and acquisition communities. It also adds a Development Request-for-Proposal Decision Point to ensure that the program business arrangements and contracting strategies are consistent with requirements and affordability caps before proceeding with significant long term investments.

The update to DoDI 5000.02 also formally institutionalizes and emphasizes the important acquisition policy improvements resulting from the Weapon Systems Acquisition Reform Act, including increased emphasis on systems engineering, cost analysis, and testing.

As we rewrote DoDI 5000.02, we noted the significant number of statutory and regulatory requirements imposed on our program managers. We are taking steps to reduce part of this burden via proposed changes to regulation that will simplify the statute without sacrificing the intent. Consequently, we have been working closely with Congressional leadership and staff and we are submitting a legislative proposal timed for review and inclusion in the FY 2016 National Defense Authorization Act.

Tracking Performance

In addition to the actions already mentioned, we are formally measuring our own performance. Our objective is to gather data and understand the causes of good and bad results and correlate that with our policies. The first two “Annual Reports on the Performance of the Defense Acquisition System” identify the relationships between factors the department can affect and outcomes we are trying to achieve.

The improvements to acquisition outcomes that we believe can be achieved via the Better Buying Power initiatives and the changes to DoDI 5000.02 will not be possible without our acquisition workforce. Our acquisition professionals have hard, technical jobs that require a unique body of knowledge and advanced problem solving skills. We added workforce professionalism as a major category in Better Buying Power 2.0 to ensure this area received sustained leadership attention.

The department leadership remains firmly committed to ensuring that we have the capacity and resources necessary to attain improved acquisition outcomes. We are leveraging Better Buying Power initiatives to improve our performance and we monitor the effectiveness of our actions via our program decision reviews and the senior-level BBP progress reviews. We continue our annual reviews of the performance of the acquisition system, including assessing process and cost growth metrics to monitor our progress.

Conclusion

In summary, DoD will continue to work with GAO to address the underlying root causes that have resulted in our high-risk designation and we will implement solutions to those identified problems. While these two areas I have discussed today are complex, we are committed to continuous improvement for the benefit of our warfighters and the taxpayers.

Thank you again for this opportunity to discuss GAO's 2015 high risk list. I look forward to answering your questions.

Chairman CHAFFETZ. Mr. MacWilliams.

STATEMENT OF JOHN MACWILLIAMS

Mr. MACWILLIAMS. Thank you, Chairman Chaffetz, and Ranking Member Cummings, members of the committee. I appreciate the opportunity to appear before you today to discuss the Department of Energy's efforts at improving our management of our capital asset projects. This is a topic of great importance to Secretary Moniz and our Deputy Secretary Sherwood-Randall.

DOE manages some of the largest most complex and technically challenging projects in either the public or the private sector due to its diverse mission. The portfolio of large projects undertaken by DOE is unique not only from other projects in the public and private sectors but also each DOE project is unique from other DOE projects. These projects are truly one of a kind with uncommon challenges, such as handling radioactive conditions or producing extremely bright X-rays for nano science. In light of these challenges, DOE has historically struggled with project and contract management, and we have been on the GAO's high-risk list since the list's inception in 1990.

We have made some important progress, however, that has been recognized by GAO and others. In 2009, we were removed—the GAO removed the Office of Science from the high-risk list, and in 2013, GAO again narrowed its DOE focus to projects over \$750 million in the Department's Office of Environmental Management and the National Nuclear Security Administration. The Department remains very focused on getting off this list entirely. To meet this challenge, the secretary is instituting changes to improve departmental performance on major projects, and one of the first actions he took when he became Secretary was to create an Under Secretary for management and performance to focus specifically on improving project management and providing direct supervision of many of DOE's most challenging projects.

In August 2013, the Secretary also established a working group which he asked me to lead to conduct an in-depth analysis of project management. This working group was comprised of DOE's senior-most project management experts, and we took a very comprehensive look at the challenges that DOE faces, and the group provided opinions as to why projects either fail or succeed in the DOE environment. The working group's findings were issued in a report which was released in December, and that report you can find on our Website at the Department of Energy.

The report led to several recent—implementation of several efforts to improve project management. First, we strengthened the Energy Systems Acquisition Advisory Board. We will now review all projects with an estimated cost of \$100 million and up. Used to be we only looked at 750 million and up, and the board, which is chaired by the Deputy Secretary and comprised of the senior-most departmental officials, will now meet at least quarterly and will focus on projects that are deemed to be at risk of not meeting their performance baselines.

Second, we have established a new committee, the Project Management Risk Committee. This is comprised of the senior project managers who are the same folks that wrote the report that I just

referenced, and that is providing risk assessment and advice to the Department's senior leadership, reviewing and analyzing projects before all critical decisions and baseline change proposals, and providing peer reviews and in-house consulting to projects across the Department.

Finally, the Secretary has taken a series of actions aimed at improving lines of responsibility and improving our peer review process. The Department is improving accountability by ensuring that for each project, the appropriate Under Secretary must now designate a clear owner who has budgetary and programmatic responsibility. There must also be a clear line of responsibility that extends from the Under Secretary to the project owner to the Federal project director. In addition, where it doesn't exist already, each Under Secretary is now establishing a project assessment office.

The reforms and processes that we are instituting at DOE with respect to project management are critical steps to meet our solemn responsibility to be responsible stewards of taxpayer dollars. We are encouraged by the work that has been done over the last year which has been focused on effecting permanent, structural and cultural change in the way that the Department manages its projects.

Thank you. I would be pleased to answer your questions.

Chairman CHAFFETZ. Thank you.

[Prepared Statement of Mr. MacWilliams follows:]

Testimony of John MacWilliams
Senior Advisor to the Secretary
U.S. Department of Energy
Before the
Committee on Oversight and Government Reform
U.S. House of Representatives
February 11, 2015

Thank you Chairman Chaffetz, Ranking Member Cummings, and Members of the Committee, I appreciate the opportunity to appear before you today to discuss the Department of Energy's efforts at improving the management of its capital asset projects, which is a topic of great importance to the Secretary and Deputy Secretary.

The Department has been focused on improving project management and has made progress. In particular, the Secretary has made improvement of management and performance at the Department of Energy a top priority. The focus on this area spans from the management of our National Laboratories to project management of major capital investments, which is the topic of my testimony before you today.

Evolution of the Department of Energy's Mission

When the Department of Energy was originally formed, it was the progeny of more than 50 organizations from around the Federal government. The new Department brought together offices that were previously housed in the Departments of Agriculture, Commerce, Interior, Housing and Urban Development, and Transportation and absorbed the Federal Energy Administration, Energy Research and Development Administration, and other organizations entirely.

The Department took on the sprawling scientific and industrial nuclear complex under the Atomic Energy Commission. The Department also assumed responsibility for massive nuclear cleanup projects across the country. In response to the oil shocks of the 1970s, U.S. energy policy at the time was designed to protect energy consumers through oil price and allocation controls, establishing national oil reserves, and working to develop new energy technologies.

Today, the means by which the mission is achieved have clearly evolved. For instance, maintaining a safe, secure, and effective stockpile is no longer supported by nuclear weapons tests. The Department of Energy (DOE) now uses high performance computers and other advanced technology to analyze each of the mechanisms of a weapon at a level of detail that was never available during the era of nuclear testing. In fact, our laboratory directors believe they actually understand more about how nuclear weapons work now than during the period of nuclear testing.

Far from the oil shortages of the 1970s, the United States today enjoys an era of relative energy abundance. Our country is now the world's leading producer of oil and natural gas. This energy

revolution is driving down our dependence on imported oil to its lowest level since 1968. Barely a decade ago, the United States imported 60 percent of the crude oil used. Now, within the year, the United States is on track to import only 20 percent.

From our efforts to find affordable and clean energy sources, to underpinning the United States basic research enterprise, to ensuring the security of our nuclear stockpile and reducing the global nuclear danger, to cleaning up the legacy of the Cold War — the Department’s work today remains essential to this nation’s prosperity, environment, and security. However, far too often we continue to find ourselves stuck with the same institutional stovepipes and outdated management practices that date back to the Department’s founding.

To meet our mission, DOE manages some of the largest, most complex, and technically challenging projects in either the public or private sector. This includes 36 projects valued at over \$100 million. These range from our Office of Science projects such as the Spallation Neutron Source located at Oak Ridge National Laboratory, which provides the most intense pulsed neutron beams in the world for scientific research and industrial development — to the Office of Environmental Management (EM), which is responsible for the environmental remediation of sites involved in the Nation’s nuclear-weapons production complex.

GAO High-Risk List

The portfolio of large projects undertaken by the Department of Energy is not only unique from other projects in the public and private sector, but each DOE project is unique from other DOE projects. These diverse capital projects are truly one-of-a-kind, with uncommon challenges such as handling radioactive conditions or producing extremely bright x-rays for nanoscience. In light of these challenges, the Department has struggled with project and contract management, with too many projects going over budget and taking longer than originally planned.

The Department has been on the Government Accountability Office’s (GAO) “High-Risk List,” since the list’s inception in 1990. This list and its associated documentation identify problematic projects and suggest changes in government management and contract administration to mitigate these problems. However, I am pleased to say that we have made some important progress that has been recognized by the Government Accountability Office and others. In 2009, the GAO removed the Office of Science from the High-Risk list. In 2013, GAO again narrowed its DOE focus to contracts and projects over \$750 million in the Department’s Office of Environmental Management and National Nuclear Security Administration (NNSA). We expect GAO’s 2015 update to focus again on these large contracts and projects in EM and NNSA. However, the Department remains focused on getting off the list entirely.

Project Management Reform

To meet this challenge, the Secretary is instituting changes to improve the Department’s performance on major projects across the DOE enterprise on several tracks. One of the first actions the Secretary took was to reorganize the Department at the Under Secretary level to create an Under Secretary for Management and Performance focused specifically on improving

project management and performance and bringing EM, the Office of Legacy Management and the Office of Management under the purview of this new Under Secretary.

The Secretary also made it a priority to recruit senior advisors who report directly to him and who bring management and business experience to the Department. I have a private sector background and have focused on investment and financing in the energy sector since the mid-1980s. I joined the Department in June 2013 as a Senior Advisor to the Secretary and serve as the senior finance advisor and a member of the national security team.

Shortly after I joined the Department, the Secretary asked me to lead a new working group that he established in August 2013 to conduct an in-depth analysis of project management. This working group, which was comprised of senior project management experts from program offices across the Department, took a comprehensive look at the challenges that the Department faces and provided its candid opinions on why projects either fail or succeed in the DOE (including NNSA) environment. The working group also examined case studies to determine what lessons could be learned from the Department's successes and failures in project management.

The working group's findings were issued in a report titled, "Improving Project Management" that was released last month and is available online at <http://energy.gov/articles/improving-project-management-department-energy>. The report was evaluated by senior leadership, which led to the implementation of the following efforts to improve project management:

- Strengthening the Energy Systems Acquisition Advisory Board
- Establishing a Project Management Risk Committee
- Improving the Lines of Responsibility and the Peer Review Process

I will discuss each of these recommendations and also what the Department is doing to ensure that we improve project management.

Energy Systems Acquisition Advisory Board

One of the insights that became clear through the analysis is the need for a Department-wide perspective on individual projects. There is also a clear need for senior leadership to be directly involved in the oversight of major capital asset projects.

Accordingly, we are strengthening the Energy Systems Acquisition Advisory Board or "ESAAB." This board is comprised of the Department's most senior leaders and chaired by the Deputy Secretary.

ESAAB was originally charged with overseeing all projects larger than \$750 million and making recommendations to the Deputy Secretary. However, as the number of large projects has decreased over the years, the number of ESAAB meetings has correspondingly dwindled. For example, before the Salt Waste Processing Facility ESAAB meeting in August 2014, it had been two and half years since the group had last convened.

Through these changes, we are strengthening the board from an ad hoc body, to a dynamic organization that will meet quarterly at a minimum. The ESAAB will now review all projects with an estimated cost of greater than \$100 million, with a specific focus on projects that are struggling to meet performance baselines.

Project Management Risk Committee

The Energy Systems Acquisition Advisory Board will be supported by a new Project Management Risk Committee comprised of the Department's top project management experts. These project management experts are the same people who spent a year developing key project management recommendations and writing the "Improving Project Management" report.

The Project Management Risk Committee will provide risk assessment and advice to the Department's senior leadership. It will also review and analyze projects before all critical decisions and baseline change proposals and provide peer reviews and in-house consulting to projects across the entire Department. The committee will meet twice a month at a minimum and focus on projects with a budget of \$100 million or more. The committee's first order of business is to review the recommendations in the "Improving Project Management" report and recommend specific actions to the Secretary within 60 days.

Improving the Lines of Responsibility and the Peer Review Process

Unclear ownership creates a culture where everyone is in charge, but no one is responsible for holding contractors accountable for results. It is critical that a single manager has responsibility over a project and is empowered to ensure that the venture is effectively executed.

Going forward, the Department is improving accountability by ensuring that for each project the appropriate Under Secretary will now designate a clear owner who has budgetary and programmatic responsibility. There must also be a clear line of responsibility that extends from the Under Secretary to the project owner to the Federal Project Director.

Where it does not already exist, each Under Secretary is now establishing a Project Assessment Office that does not have line management responsibility for project execution. These offices will have direct access to senior Department officials and will conduct annual peer reviews of projects over \$100 million or lower when appropriate. This process is based on the highly successful peer reviews in DOE's Office of Science. The Secretary has mandated that all of DOE's programs have a similar process in place.

Immediate Action

There are also several other recommendations from the project management working group's report that the Secretary has already tasked the Department's leadership with implementing.

First, the Department will now request full funding in a single fiscal year for all new projects under \$50 million, unless there is justification to make an exception. Full funding in a single fiscal year increases the opportunity for performance-based fixed price contracts, which in turn

increase accountability and the likelihood of achieving baseline goals. When full funding in a single fiscal year is not obtained and extends over multiple fiscal years, as the Department has seen time and time again, the result is often poor planning, higher acquisition costs, cancellation of projects, and the resulting loss of sunk costs.

Second, for all projects over \$50 million, program offices must now conduct an alternatives analysis that is totally independent of the contractor organization responsible for the project. This will ensure that the Department has an unbiased perspective on all alternatives before committing to a particular project.

Finally, the Department will establish a project management leadership institute to create and sustain a culture of project management excellence across the entire enterprise. We plan to engage our key stakeholders to help us think through the creation of the institute and the coursework that we put forward.

Conclusion

As public servants, we have a solemn responsibility to be responsible stewards of taxpayer dollars. The reforms and processes we are instituting at the Department of Energy with respect to project management are critical steps to ensuring that we meet this responsibility. We are encouraged by the work done over the last year toward this effort, and now our focus is on making sure that we effect permanent improvements through our execution of projects.

Thank you. I am pleased to answer your questions.

John J. MacWilliams was appointed in June 2013 as Senior Advisor to the Secretary of Energy at the U.S. Department of Energy. In this role he serves as the Secretary's senior finance advisor and is a member of his national security team.

Prior to DOE, he was a Managing Partner of Tremont Energy Partners, LLC, a private investment firm based in Cambridge, Massachusetts, that was formed in 2003. Prior to Tremont, he was Vice Chairman, Investment Banking, at JP Morgan Chase and a Partner of JP Morgan Partners. Mr. MacWilliams was a founding partner in 1993 of The Beacon Group, LLC, a private investment firm located in New York, which was acquired by JP Morgan Chase in 2000. He was also Partner and Co-Head of the Beacon Group Energy Investment Funds, a portfolio of more than 30 global private equity investments throughout the energy industry. Prior to the formation of The Beacon Group, Mr. MacWilliams was with Goldman Sachs & Co., where he was head of Goldman Sachs' international structured finance group based in London. Prior to joining Goldman Sachs, he was an attorney at Davis Polk & Wardwell in New York.

He holds a B.A. from Stanford University, an M.S. from Massachusetts Institute of Technology, and a J.D. from Harvard Law School.

Chairman CHAFFETZ. Members should be advised that there is a vote on the floor. We have three votes. The intention is to have the next two gentlemen give their opening Statements, but we will not get to questions until after votes. So we anticipate that that will happen no sooner than 5:15. Each of you two gentlemen have up to 5 minutes, but please be swift, and your full Statements will be entered into the record. Doctor.

STATEMENT OF SHANTANU AGRAWAL, M.D.

Dr. AGRAWAL. Thank you. Chairman Chaffetz, Ranking Member Cummings, and members of the committee, thank you for the invitation to discuss the Centers for Medicare and Medicaid Services' operation of these programs.

We share this committee's commitment to protecting beneficiaries' and taxpayers' dollars and to preserving these program for generations to come. CMS appreciates the work of the GAO. Medicare is a large and complex program serving 54 million beneficiaries and working with over 1.5 million providers. We pay over one \$billion claims per year from these providers. While the GAO continues to classify Medicare as a high-risk program, there is good news to report. The last 2 years saw the slowest growth in real per capita national healthcare expenditures on record. The 2014 Medicare trustee's report projects that the trust fund which finances Medicare's hospital insurance coverage will remain solvent until 2030, 4 years beyond what was projected just last year. They are also promising improvements in the quality of care furnished the beneficiaries. CMS initiatives have contributed to an estimated 50,000 fewer patient deaths in hospitals, and 1.3 million fewer hospital-acquired conditions, saving \$12 billion over 3 years. Medical review strategies have resulted in over \$5 billion of savings in just last fiscal year.

CMS is working to transform Medicare into a high-value payer with payment policies based on quality not just volume, and we remain focused on preventing waste, abuse, and fraud before it occurs. These issues are not merely about cost. They threaten beneficiary health through unnecessary services, substandard care, dangerous prescribing, and a host of other problems. Since 2011, CMS has been using its fraud prevention system to apply advanced analytics on all Medicare fee-for-service claims. The system also incorporates beneficiary complaints made through 1-800-MEDICARE, and works with numerous other inputs to generate and prioritize leads for further review and investigation. CMS then swiftly takes administrative action to stop problematic behaviors through the suspension of payments, medical review of claims, and removal from the program. As we recently reported to Congress, our advanced analytic system has already generated a 5 to 1 return on investment.

Another component of our efforts is to strengthen provider enrollment by verifying the legitimacy of new or existing Medicare providers through a risk-based approach. We are screening those that pose the highest risk to the program using routine data checks over licensure and criminal records, scheduled and unscheduled site visits, and fingerprinting. As a result, we have removed over 450,000 Medicare enrollments since 2010, and importantly denied thou-

sands of enrollment applications, which means that these providers never gained the ability or lose the ability to build a Medicare program. These unprecedented examples of success have been positively acknowledged by GAO.

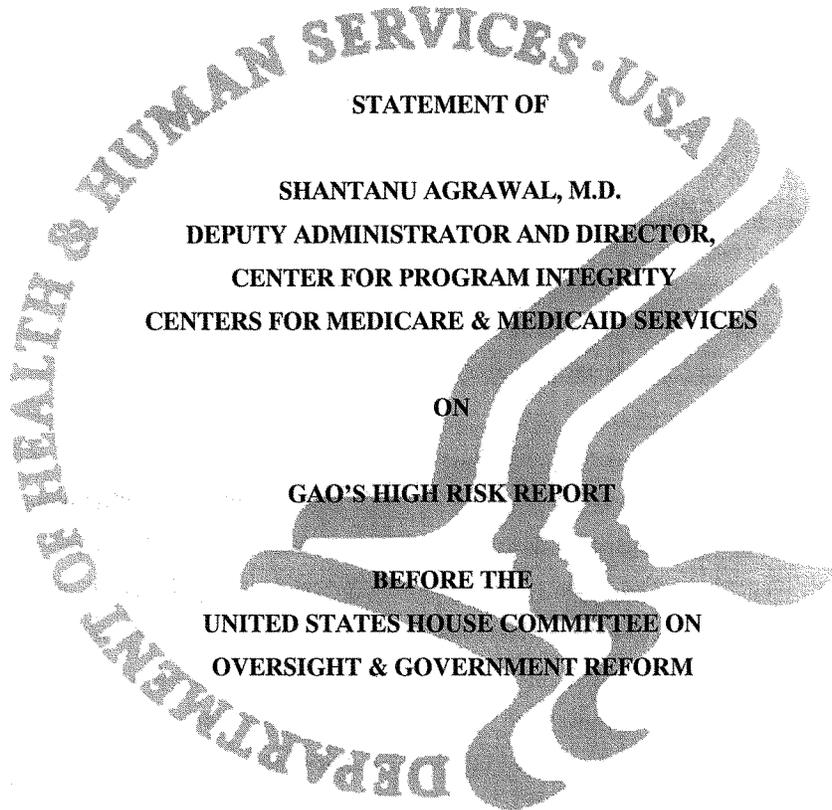
Additionally, we are engaging with the private sector in new ways to better share information and transform insights into action. The Healthcare Fraud Prevention Partnership is currently made up of 38 private, Federal, and State members, and continues to gain membership. The partnership has completed studies that led partners to take substantive actions, and is developing additional studies based on these results. The President's FY-16 budget includes a proposal to allow both public and private partners to support this partnership by providing funds. Beyond the partnership, CMS has made important progress in integrating proven private sector tools in our operations, including advanced predictive analytics, prior authorization, and the use of automated prepayment claims edits. These initiatives net million—hundreds of millions of dollars in savings every year.

Finally, CMS is focused on moving the Medicare program away from the misaligned incentives of fee-for-service reimbursement, like paying the number of tests performed instead of paying for quality and outcomes. CMS is testing different payment models where providers are held accountable for the quality and cost of their care, and providers have a financial incentive to coordinate care for their patients. For the first time, HHS has also set explicit goals for this work. CMS has a goal of tying 30 percent of traditional fee-for-service Medicare payments to quality through alternative payment models by the end of 2016, and tying 50 percent by the end of 2018. As a physician myself, I ultimately care most about the health of patients, which I am reminded of daily as I work with CMS colleagues to improve the delivery of healthcare services. Our healthcare system should offer the highest quality and most appropriate care possible to ensure the wellbeing of individuals and populations.

I look forward to answering this committee's questions, and I thank for the time.

Chairman CHAFFETZ. Thank you.

[Prepared Statement of Dr. Agrawal follows:]



STATEMENT OF

**SHANTANU AGRAWAL, M.D.
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ON

GAO'S HIGH RISK REPORT

**BEFORE THE
UNITED STATES HOUSE COMMITTEE ON
OVERSIGHT & GOVERNMENT REFORM**

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Hearing on
GAO's High Risk Report
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Chairman Chaffetz, Ranking Member Cummings, and members of the Committee, thank you for the invitation to discuss the Centers for Medicare & Medicaid Services' (CMS') operation of the Medicare and Medicaid programs. We share this Committee's commitment to protecting beneficiaries and taxpayer dollars. Enhancing program integrity is a top priority for the administration and an agency-wide effort at CMS. As stewards of Medicare and Medicaid, two large, complex programs providing vital services to millions of Americans, CMS is making important strides in preserving Medicare and Medicaid for generations to come.

Medicare has been deemed "high risk" by the Government Accountability Office (GAO) in part due to the sheer size and complexity of the program. CMS pays 1.5 million providers for health care for 54 million beneficiaries under the Medicare program. GAO has also designated Medicaid as a "high risk" program due to its size, growth, diversity of programs, and concerns about the adequacy of fiscal oversight, which is necessary to prevent inappropriate program spending. Additionally, the Office of Management and Budget has designated Medicare and Medicaid as "high priority" programs due to their annual improper payment rates, based on the annual dollar amount of improper payments relating to Medicare and Medicaid.

CMS is using a multi-faceted approach to strengthen these programs by more closely aligning payments with the costs of providing care, encouraging health care providers to deliver better care and better outcomes for their patients, and improving access to care for beneficiaries. We have instituted many program improvements and are continuously looking for ways to refine and improve our program integrity activities. These efforts have already helped extend the life of the Medicare Trust Fund, with the most recent Medicare Trustees Report projecting that the trust fund that finances Medicare's hospital insurance coverage will remain solvent until 2030, four years beyond what was projected in the previous year's report.

To assist in CMS' program integrity and program improvement activities, the President's Fiscal Year (FY) 2016 Budget includes a package of Medicare legislative proposals that will save a net

\$423 billion over 10 years. The Budget includes an additional \$201 million in mandatory and discretionary investments in FY 2016 to address healthcare fraud, waste, and abuse. The Budget also proposes legislative changes to improve the long-term sustainability of Medicare and Medicaid by increasing the efficiency of health care delivery without compromising the quality of care for the elderly, children, low-income families and people with disabilities.

Improving the Health Care Delivery System

Since the implementation of the Affordable Care Act, Medicare has drastically reduced its growth in spending. The years 2011, 2012, and 2013 saw the slowest growth in real per capita national health expenditures on record, spurred by slow growth in per-beneficiary spending throughout our health care system, including Medicare, Medicaid, and private insurance. Medicare spending per beneficiary was approximately flat in FY 2014, and from 2010 to 2014, Medicare spending per beneficiary grew at a rate that was two percentage points less per year than growth in gross domestic product per capita.¹ Looking forward, due primarily to the persistent slowdown in health care costs, the Congressional Budget Office now estimates that Federal spending on Medicare and Medicaid in 2020 will be \$191 billion below the projections it made in August 2010.

Progress toward a safer health care system is being made, and the quality of care furnished to beneficiaries has improved, due in part to provisions of the Affordable Care Act such as Medicare payment incentives and the Department of Health and Human Services (HHS) Partnership for Patients initiative. These efforts have contributed to an estimated 50,000 fewer patient deaths in hospitals and approximately \$12 billion in health care cost-savings due to a reduction in hospital-acquired conditions from 2010 to 2013. Preliminary estimates also show that in total, hospital patients experienced 1.3 million fewer hospital-acquired conditions from 2010 to 2013. This translates to a 17-percent decline in hospital-acquired conditions over the three-year period. In 2013 alone, almost 35,000 fewer patients died in hospitals, and approximately 800,000 fewer incidents of harm occurred, saving approximately \$8 billion.²

¹ <http://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2015-Fact-sheets-items/2015-01-26.html>

² <http://www.ahrq.gov/professionals/quality-patient-safety/pfp/interimhacrate2013.html>

Building on these successes, CMS has implemented numerous initiatives to improve quality, and reduce costs for Medicare and Medicaid beneficiaries by addressing improper payments, reducing waste, fraud, and abuse, and examining alternative payment methods. In addition, the President's FY 2016 Budget includes a package of proposals that are designed to encourage delivery system reform, including replacing the Medicare Sustainable Growth Rate Formula with annual payment updates and creating incentives for participation in high quality and efficient healthcare delivery systems. We will continue to gather and incorporate feedback from our many partners, including the GAO, as we move forward in strengthening Medicare and Medicaid and protecting beneficiaries.

Refining Medicare Payment Methods to Encourage Efficient Provision of Services

CMS is committed to reforming the Medicare payment system to provide predictable payments that incentivize quality and efficiency in a fiscally responsible way. Our efforts are focused on two main goals: (1) ensuring payments emphasize high-quality, high-value care, and (2) developing and implementing proven payment models to improve accountability for the care furnished to Medicare beneficiaries. CMS believes that finding better approaches to reward quality care that results in improved health outcomes instead of quantity of services, while not increasing overall costs, remains an urgent priority.

For physician payments, CMS is working to improve payment policy through CMS' rulemaking process, including through the Medicare Physician Fee Schedule, while testing new payment models and delivery-system reforms that can help make physicians more accountable for the care they furnish.

CMS has made important strides to improve the accuracy of our physician payment system and to support primary care. Through the misvalued code initiative, CMS has taken an active approach to evaluating potentially misvalued payment codes and, when codes are found to be misvalued, acting to update and revise the payment accordingly. The Agency has established a particular focus on those Physician Fee Schedule services that have not been reviewed recently and those where there is a potential for misuse. CMS has adopted appropriate work Relative

Value Units and direct Physician Expense inputs for these services as a result of these reviews and continues aggressively to identify potentially misvalued services.

More broadly, CMS has begun testing several different payment models to help inform us as we begin to look for ways to improve Medicare payments in the long-term. We have outlined measurable goals and timelines to move the Medicare program toward paying providers based on the quality, rather than the quantity, of the services they provide. This is the first time in the history of the Medicare program that CMS has set explicit goals for alternative payment models and value-based payments. In alternative payment models, health care providers are accountable for the quality and cost of the care they deliver to patients. Providers have a financial incentive to coordinate care for their patients – which helps ensure patients receive the appropriate care for their conditions and reduces avoidable hospitalizations, emergency room visits, medication interactions, and other problems caused by gaps in care.

In 2011, Medicare made almost no payments to providers through alternative payment models, but today such payments represent approximately 20 percent of Medicare payments. CMS intends to expand upon this progress, and has set a goal of tying 30 percent of traditional, fee-for-service Medicare payments to quality or value through alternative payment models, such as Accountable Care Organizations (ACOs) or bundled payment arrangements by the end of 2016, and tying 50 percent of payments to these models by the end of 2018. CMS has also set a goal of tying 85 percent of all traditional Medicare payments to quality or value by 2016 and 90 percent by 2018 through programs such as the Hospital Value Based Purchasing and the Hospital Readmissions Reductions Programs.

CMS has already seen promising results on cost savings relating to alternative payment models, with current ACO programs saving Medicare a combined total of \$417 million. CMS expects these models to continue contributing to the unprecedented slowdown in health care spending. Moreover, initiatives like the Partnership for Patients, ACOs, Quality Improvement Organizations, and others have helped reduce hospital readmissions in Medicare by nearly eight percent– translating into 150,000 fewer readmissions between January 2012 and

December 2013 – and quality improvements have resulted in saving 50,000 lives and \$12 billion in health spending from 2010 to 2013, according to preliminary estimates.³

Enhancing Program Integrity

CMS is committed to paying claims in an accurate and timely manner and has a comprehensive strategy in place to address the Medicare and Medicaid improper payment rates. For the Medicare program, these strategies include strengthening provider enrollment safeguards to confirm only legitimate providers are enrolled and preventing improper payments by using edits to deny claims that should not be paid. CMS also develops targeted demonstrations in areas with consistently high rates of improper payments and operates a Medicare fee-for-service Recovery Audit Program to identify, recover, and prevent improper payments.

Strengthening Provider Enrollment

Provider enrollment is the gateway to billing within the Medicare program, and CMS has put critical safeguards in place to make sure that only legitimate providers are enrolling in the Medicare program. The Affordable Care Act required CMS to revalidate all of the 1.5 million existing Medicare suppliers and providers under new risk-based screening requirements. CMS is on track to request the revalidation of all providers by March 2015. Since March 25, 2011, more than one million providers and suppliers have been subject to the new screening requirements, over 454,000 provider and supplier practice locations had their billing privileges deactivated as a result of revalidation and other screening efforts, and almost 27,000 providers and suppliers had their enrollment revoked.⁴

CMS continues to make improvements in its oversight of provider enrollment. For example, beginning September 2014, certain individuals required to complete enhanced screening as part of the provider enrollment process must also undergo a fingerprint-based criminal history check. This policy applies to owners of newly enrolling home health agencies (HHAs) and durable medical equipment suppliers. In December 2014, CMS issued a Final Rule that permits

³ <http://www.hhs.gov/news/press/2014pres/12/20141202a.html>

⁴ Deactivated providers could reactivate over time with updated practice information or after showing evidence of proper licensing.

revocation of providers that demonstrate patterns or practices of abusive billing, prohibits the enrollment of providers that have unpaid debt to the Medicare program, and expands the list of felony convictions that could prevent an individual provider from participating in Medicare.

CMS is using its moratorium authority provided in the Affordable Care Act to temporarily pause the enrollment of new Medicare, Medicaid, or CHIP providers and suppliers in certain geographic areas that face a high risk of fraud. In July 2013, CMS announced temporary moratoria on new HHAs in and around Miami and Chicago, and ground-based ambulances in and around Houston. In January 2014, CMS announced new temporary moratoria on the enrollment of HHAs in Fort Lauderdale, Detroit, Dallas, and Houston, and on ground ambulances in Philadelphia. CMS is required to re-evaluate the need for such moratoria every six months and on January 29, 2015, CMS extended these existing moratoria for an additional six months. In each moratorium area, CMS is taking administrative actions such as payment suspensions and revocations of billing privileges of HHAs and ambulance companies, as well as working with law enforcement to support investigations and prosecutions.

Targeting High Risk Areas

CMS has developed targeted demonstrations to reduce improper payments for items and services at high risk for fraud, waste, and abuse, such as Power Mobility Devices (PMDs), where CMS found that over 80 percent of claims for PMDs did not meet Medicare coverage requirements.⁵ CMS implemented the Medicare Prior Authorization of PMDs Demonstration in seven high risk states in September 2012.⁶ Since implementation, CMS has observed a decrease in expenditures for PMDs in both demonstration and non-demonstration states. Based on claims processed as of November 14, 2014, monthly expenditures for the PMDs included in the demonstration decreased from \$20 million in September 2012 to \$6 million in June 2014 in the

⁵<http://cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/CERT/Downloads/MedicareFFS2011CERTReport.pdf>

⁶The seven states are: CA, IL, MI, NY, NC, FL and TX

non-demonstration states and from \$12 million to \$3 million in the demonstration states.⁷ CMS expanded the demonstration to an additional 12 states on October 1, 2014.⁸

CMS is also testing whether prior authorization helps to reduce unnecessary expenditures, while maintaining or improving quality of care. CMS issued a proposed rule in May 2014 to establish a prior authorization process for certain durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) items that are frequently subject to unnecessary utilization. Additionally, CMS recently implemented a prior authorization model for repetitive scheduled non-emergent ambulance transport in New Jersey, Pennsylvania, and South Carolina.⁹ Beginning March 1, 2015, CMS will also begin implementing a prior authorization demonstration program for non-emergent hyperbaric oxygen therapy in Illinois, Michigan, and New Jersey.¹⁰ CMS believes using a prior authorization process will help ensure services are provided in compliance with applicable Medicare coverage, coding, and payment rules before services are rendered and claims are paid.

While the private sector widely uses prior authorization to control fraud, waste and abuse, CMS is seeking authority to expand the use of this tool. The President's FY 2016 Budget includes a proposal that would build on the success of the prior authorization demonstrations by giving CMS the authority to require prior authorization for all Medicare fee-for-service items that it determines are at the highest risk for improper payments.

Collaboration with the Private Sector

CMS is engaging with the private sector in new ways to better share information to combat fraud. For example, the Healthcare Fraud Prevention Partnership (HFPP) has successfully shared information and built confidence and trust among partners since its inception in

⁷ <https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Medical-Review/Downloads/PMDDemoDecemberStatusupdate12302014.pdf>

⁸ <http://www.gpo.gov/fdsys/pkg/FR-2014-07-29/pdf/2014-17805.pdf>; the twelve states are: AZ, GA, IN, KY, LA, MD, MO, NJ, OH, PA, TN, and WA

⁹ <http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Prior-Authorization-Initiatives/Prior-Authorization-of-Repetitive-Scheduled-Non-Emergent-Ambulance-Transport.html>

¹⁰ <http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Prior-Authorization-Initiatives/Prior-Authorization-of-Non-emergent-Hyperbaric-Oxygen.html>

July 2012. The partnership now includes 38 organizations. The number of state partners has grown, with the state program integrity or oversight offices of Illinois, Massachusetts, Texas, Vermont and California joining along with private payers. We are continuing to grow strategically by adding new partners and identifying additional overlapping fraud schemes. The HFPP has completed the following four studies to date – Misused Codes and Fraud Schemes, Non-Operational Providers (or "false store fronts"), Revoked and Terminated Providers, and Top-Billing and High Risk Pharmacies – that have enabled partners, including CMS, to take substantive actions to stop payments from going out the door. The HFPP is now in the process of launching three new studies based on successful identification of continuing challenges faced by current and new members.

The President's FY 2016 Budget proposal includes additional support for the HFPP collaboration. The proposal would give CMS the authority to accept gifts made to the Trust Funds for particular activities funded through the Health Care Fraud and Abuse Control Account, including the HFPP. Currently, the account can only receive gifts that are made for an unspecified purpose. This proposal would allow for gifts to be made to support the HFPP directly, and allow both public and private partners to support the anti-fraud program.

Improving Program Management

Building on its expert knowledge from investigators and analysts, CMS is leading the government and healthcare industry in systematically applying advanced analytics to claims on a nationwide scale. Since 2011, CMS has been using its Fraud Prevention System (FPS) to apply advanced analytics on all Medicare fee-for-service claims on a streaming, national basis by using predictive algorithms and other sophisticated analytics to analyze every Medicare fee-for-service claim against billing patterns. The system also incorporates other data sources, including information on compromised Medicare cards and complaints made through 1-800-MEDICARE. When FPS models identify egregious, suspect, or aberrant activity, the system automatically generates and prioritizes leads for review and investigation by CMS' Zone Program Integrity Contractors (ZPICs). The ZPICs then identify administrative actions that can be implemented swiftly, such as revocation, payment suspension, or prepayment review, as appropriate. The FPS is also an important management tool, as it prioritizes leads for ZPICs in

their designated region, making our program integrity strategy more data-driven. To better protect seniors and the Medicare program against compromised Medicare cards,¹¹ President's FY 2016 Budget proposes \$50 million to support the removal of Social Security Numbers from Medicare cards so that millions of beneficiaries will no longer have to fear that their personal identification numbers could be used against them due to a lost, stolen, or misused Medicare card.

In its second year of operation, CMS' FPS identified or prevented more than \$210 million in improper Medicare fee-for-service payments, double the previous year. It also resulted in CMS taking action against 938 providers and suppliers. The FPS is a key element of the joint anti-fraud strategy between the Department of Justice (DOJ) and HHS that has led to a record \$19.2 billion in recoveries between 2009 and 2013, up from \$9.4 billion over the prior five-year period. Importantly, these joint efforts have also led to a measurable decrease in expenditures in areas of focus. For example, there has been a dramatic decline in payment for home health care in Miami and throughout Florida. In 2009, claims to Medicare for home health services in Florida were \$3.4 billion, and Medicare paid approximately \$2.9 billion for home health care services. Just two years later, in 2011, billings to Medicare had dropped to \$2.3 billion, a difference of \$1.1 billion.

The President's FY 2016 Budget proposes to build on recent progress demonstrated by joint efforts between DOJ and HHS by increasing support for the Health Care Fraud and Abuse Control program. Billions of dollars in deficit savings over the next 10 years from curtailing improper payments will be realized if the levels of administrative expenses for program integrity envisioned in the Balanced Budget and Emergency Deficit Control Act of 1985 continue to be provided.

¹¹ MEDICARE INFORMATION TECHNOLOGY: Centers for Medicare and Medicaid Services Needs to Pursue a Solution for Removing Social Security Numbers from Cards. GAO-13-761: Published: Sep 10, 2013. Publicly Released: Oct 17, 2013.

Medical Review

Medicare receives about 3.3 million fee-for-service claims each day, or 1.2 billion claims a year. In keeping with statutory requirements to promptly pay claims, our processing systems were built to quickly process claims and remit payment. Due to the significant cost associated with conducting a medical review of an individual claim, CMS relies heavily on automated edits to identify inappropriate claims. CMS has designed its systems to detect anomalies on the face of the claims, and through these efforts, we are correctly paying submitted claims nearly 100 percent of the time. For example, CMS is using the National Correct Coding Initiative (NCCI) to stop claims that never should be paid in Medicare Part B and Medicaid. This program prevents payments for services such as hysterectomy for a man or prostate exam for a woman. The use of the NCCI procedure-to-procedure edits saved the Medicare program \$530 million in FY 2013.

The Recovery Audit Program identifies areas for potential improper payments and offers an opportunity to provide feedback to providers on future improper payment prevention. CMS uses Recovery Auditors, as required by law,¹² to identify and correct improper payments by reviewing claims on a post payment basis. CMS responds to the vulnerabilities identified by the Recovery Auditors by implementing actions that will prevent future improper payments nationwide. Since full implementation in FY 2010 through the fourth quarter of FY 2013, the Recovery Auditors have returned over \$5.4 billion to the Medicare Trust Fund. Additionally, CMS Medicare Administrative Contractors (MACs) review claims and conduct provider education to help providers avoid documentation errors and other sources of improper payments, including articles or bulletins providing narrative descriptions of the claim errors identified and suggestions for their prevention. Other efforts include system edits for improper payments that can be automatically prevented prior to payment. CMS encourages collaboration between Recovery Auditors and MACs to discuss improvements, areas for possible review, and corrective actions that could prevent improper payments.

¹² The Recovery Auditor demonstration project was required by section 306 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, and the Congress expanded the program in section 302 of the Tax Relief and Health Care Act of 2006, directing CMS to implement a permanent national recovery audit contractor program by January 1, 2010.

CMS strives to manage programs in an efficient manner that balances the need to limit burden on Medicare providers with our responsibility to protect Trust Fund dollars. CMS has carefully evaluated the Recovery Audit program, and announced a number of changes to it in response to industry feedback.¹³ CMS is confident that these changes will result in a more effective and efficient program through enhanced oversight, reduced provider burden, and more program transparency. These changes will be effective with each new contract award beginning with the Durable Medical Equipment, Home Health and Hospice Recovery Audit contract awarded on December 30, 2014.¹⁴ The President's FY 2016 Budget also includes a proposal to permit CMS to retain a portion of recovered funds to implement corrective actions identified through the Recovery Audit program.

Improving Part D Oversight

CMS also continues to refine our Medicare Part D program integrity efforts and enhance our oversight of the Medicare Drug Integrity Contractor (MEDIC), which is charged with identifying and investigating potential fraud and abuse, and developing cases for referral to law enforcement agencies. The MEDIC has implemented a new proactive data analysis effort to identify potential program vulnerabilities, which has resulted in the recovery of \$51 million in improper payments from one study alone. CMS issued a final rule that established a new revocation authority for abusive prescribing patterns that requires prescribers of Part D drugs to enroll in Medicare or have a valid opt-out affidavit on file by December 2015. Additionally, CMS may now also revoke a prescriber's Medicare enrollment if his or her Drug Enforcement Administration (DEA) Certificate of Registration is suspended or revoked, or the applicable licensing or administrative body for any State in which a physician or eligible professional practices has suspended or revoked the physician or eligible professional's ability to prescribe drugs.¹⁵

¹³ See <http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Recovery-Audit-Program/Downloads/RAC-Program-Improvements.pdf>.

¹⁴ Due to a post-award protest filed at the Government Accountability Office (GAO), CMS has delayed the commencement of work under the national DMEPOS/HH&H, Region 5, Recovery Audit contract.

¹⁵ <http://oig.hhs.gov/oei/reports/oei-02-09-00608.pdf>

The President's FY 2016 Budget includes a proposal to give the Secretary the authority to establish a requirement that high-risk Medicare beneficiaries only use certain prescribers and/or pharmacies to obtain controlled substance prescriptions, similar to many state Medicaid programs. Currently, CMS requires Part D sponsors to conduct drug utilization reviews, which assess the prescriptions filled by a particular enrollee. These efforts can identify overutilization that results from inappropriate or even illegal activity by an enrollee, prescriber, or pharmacy. However, CMS' statutory authorities to take preventive measures in response to this information presently are limited. Under the President's FY 2016 Budget proposal, the Medicare program would still be required to ensure that beneficiaries retain reasonable access to services of adequate quality.

Improving Oversight of Medicaid's Fiscal and Program Integrity

Medicaid consists of 56 distinct programs, one in each U.S. state and territory, covering acute health care, long-term care, and other services for millions of low-income Americans. CMS is responsible for overseeing the program at the Federal level, while states administer their respective programs' day-to-day operations. This federal-state partnership is central to the success of the Medicaid program, but it depends on clear lines of responsibility and shared expectations. CMS takes seriously our role in overseeing the financing of Medicaid programs, and we continue to look for ways to refine and further improve our processes.

CMS has undertaken several initiatives over the last several years that build upon our existing programs and tools, such as improving data analytic capacity and overseeing non-federal share funding. CMS' Medicaid Integrity Program provides the assistance of Federal staff specializing in program integrity and contractor support to bolster state activities. Based on states' quarterly reports to HHS, this assistance supported state efforts to collect \$944.4 million in total collections in FY 2014. The President's FY 2016 Budget also includes a number of Medicaid program integrity proposals that strengthen HHS's and the states' ability to fight fraud, waste and abuse in the Medicaid program.

Additionally, CMS has worked with states to improve Medicaid and CHIP data and data analytic capacity through the Medicaid and CHIP Business Information Solutions (MACBIS)

initiative. This initiative includes changes to the Medicaid Statistical Information System (MSIS), which will be known as Transformed-MSIS or T-MSIS. The enhanced data available from T-MSIS will support improved program and financial management and enhance the ability to identify potential fraud. T-MSIS will not only allow CMS to acquire higher quality data, but it will also reduce state data requests. States will move from MSIS to T-MSIS on a rolling basis with the goal of having all states submitting data in the T-MSIS file format in 2015.

As capitated managed care arrangements have become a commonly used approach to Medicaid service delivery and are expected to grow in the coming years as new beneficiaries enroll, CMS has increased our oversight of the process used to ensure that rates set are actuarially sound. For the 2014 contract year, CMS, in collaboration with CMS' Office of the Actuary (OACT), issued a rate-setting consultation guide; held in-depth consultation meetings with states and their consulting actuaries to discuss that guidance; and identified key elements that should be described in the filed rate methodologies. As a result, CMS updated and further refined the rate-setting guidance for the 2015 contract year. We continue to work closely with states during this review process in order to make certain they meet all requirements, and are committed to improving our oversight across all capitated contracting arrangements through new initiatives that increase transparency.

Moving Forward

CMS is dedicated to making historic strides toward the goals of promoting better care, protecting patient safety, reducing health care costs, and allowing beneficiaries to get the right care when they need it. The past several years have brought numerous impressive gains in these areas, but more work remains. Strengthening and improving upon programs that provide vital services to millions of Americans, such as Medicare and Medicaid, is a continuous process, and at CMS we take seriously our responsibilities to taxpayers and beneficiaries. We will continue to work with stakeholders to establish new initiatives and expand upon our existing programs to fight fraud, reduce improper payments, examine alternative payment methods, and improve oversight. We look forward to working with this Committee to further improve Medicare and Medicaid.

Biography

Shantanu Agrawal is a Board-certified Emergency Medicine physician and Fellow of the American Academy of Emergency Medicine. He is currently serving as an appointee for the Obama Administration as Deputy Administrator for Program Integrity and Director of the Center for Program Integrity at the Centers for Medicare & Medicaid Services (CMS). His focus is to improve healthcare value by lowering the cost of care through the detection and prevention of waste, abuse, and fraud in the Medicare and Medicaid programs. Prior to this role, Dr. Agrawal served as Chief Medical Officer of the Center for Program Integrity, where he helped to launch new initiatives in data transparency and analytics, utilization management, assessment of novel payment models, and a major public-private partnership between CMS and private payers.

Prior to joining CMS, Dr. Agrawal was a management consultant at McKinsey & Company, serving senior management of hospitals, health systems, and biotech and pharmaceutical companies on projects to improve the quality and efficiency of healthcare delivery. Dr. Agrawal has also worked for a full-risk, capitated delivery system as the head of clinical innovation and efficiency. He has published articles in *JAMA*, *New England Journal of Medicine*, *Annals of Emergency Medicine*, among others, and has given national presentations on health care policy and the cost of care.

Dr. Agrawal completed his undergraduate education at Brown University, medical education at Cornell University Medical College, and clinical training at the Hospital of the University of Pennsylvania. He also has a Masters degree in Social and Political Sciences from Cambridge University. Dr. Agrawal has continued to work clinically both in academic and community settings and holds an academic position in Washington DC.

Chairman CHAFFETZ. Mr. Lightfoot, you are recognized for 5 minutes.

STATEMENT OF ROBERT LIGHTFOOT

Mr. LIGHTFOOT. Thank you, Chairman Chaffetz, Ranking Member Cummings, other members of the committee. Appreciate the opportunity to appear today to discuss NASA's efforts to improve acquisition management. NASA develops missions and capabilities to expand the frontiers of knowledge, capability and opportunities in space and here on Earth. By the very nature of our mission, NASA's activities are inherently high risk. At the same time, we recognize the critical importance of managing our projects as effective stewards of taxpayers' dollars. This means managing our projects to deliver them on cost, on schedule, and identifying risks as quickly as possible so we can implement appropriate corrective action.

We've made significant improvements both in managing our projects and preparing our managers. These improvements are already yielding results, particularly with our small and medium class missions. We have seen a significant reduction in the number of projects that exceed their baselines, and, in fact, several projects have recently launched within their baselines, including Juno, Landsat 8, the Mars Atmosphere and Volatile Evolution, and just 2 weeks ago, the Soil Moisture Active Passive Mission, or SMAP.

Our larger, more complex projects typically involve technical—typically involve the development of significant number of new technologies, which present greater technical risk, but even the James Webb Space Telescope, the next great observatory in space, which was originally confirmed on an old cost policy that we used and had exceeded its original baseline, has benefited from our improved process. The James Webb Space Telescope has remained on track to meet the new cost and schedule baseline we established in accordance with the new policy 3 years ago.

NASA cost policies have evolved over time toward a probabilistic joint cost and schedule confidence level analysis. This joint confidence level analysis enables NASA to estimate the probability of completing a project within a certain life cycle cost and schedule based on the individual project's unique technical and programmatic characteristics. A key benefit to the joint confidence level policy is the added rigor it brings to the analysis process, driving an integrated analysis of the cost schedule and technical risk.

NASA has also taken steps to enhance the agency's earned value management capabilities. Earned value management guidance is provided to the NASA community through the recently released project management handbook, as well as through the EBM handbook. NASA routinely reviews earned value management data at formal regular recurring meetings at the projects at the center, at the mission, and at the agency level, as well as in ad hoc meetings should issues arrive. NASA relies on the knowledge we gain with each new project in order to improve our project management practices, and introduces new tools to assess whether our projects are on track to meet their cost and schedule commitments.

I would like to thank the GAO for their hard work and their valuable insights. We appreciate the open dialog we've had with them over the last few years, as we've both improved—as we've worked to improve and refine our project management capabilities. As a result, I think what—and while I think there's still a lot of work to be done, I am confident that we are on the right track to improving project management at NASA.

Thank you for the opportunity to be here, and I look forward to your questions.

[Prepared Statement of Robert Lightfoot follows:]

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BY WITNESS
February 11, 2015

**Statement of
Robert M. Lightfoot, Jr.
Associate Administrator
National Aeronautics and Space Administration**

before the

**Committee on Oversight and Government Reform
U.S. House of Representatives**

Mr. Chairman and Members of the Committee, thank you for the opportunity to appear today to discuss NASA's efforts to improve acquisition management in response to the Government Accountability Office's (GAO's) 2015 High Risk List. By the very nature of our mission and the work we do, NASA's activities are inherently "high risk" endeavors, as we are constantly looking to expand the frontiers of human knowledge. There is no other agency in the Nation, let alone the world, undertaking as ambitious a program of exploration and technology development as NASA. As we develop the unique missions and capabilities to explore space, and advance understanding of Earth and develop technologies to improve the quality of life on our home planet, we also recognize the need to be responsible stewards of taxpayers' dollars. This means delivering missions on cost and on schedule and identifying risks as quickly as possible so we can implement appropriate corrective action.

When NASA was first added to the GAO's High Risk List in 1990, our project management and oversight practices did not have the same level of rigor as they do today, leading to cost overruns and schedule delays. Since then, we have made significant improvements to how we manage projects and prepare people to manage, leading to a dramatic reduction in the number of projects that exceed their baselines. Several projects have recently launched within their baselines, including Juno, Landsat Data Continuity Mission (LDCM)/Landsat 8, Mars Atmosphere and Volatile Evolution (MAVEN), and just two weeks ago, Soil Moisture Active Passive (SMAP). Moreover, other projects still in development are on track to be completed within their baselines, such as Origins-Spectral Interpretation-Resource Identification-Security-Regolith Explorer (OSIRIS-REx). Even the James Webb Space Telescope (JWST), which was originally confirmed under an old cost policy and exceeded its original baseline, has benefited from these changes and has remained on track to meet its new cost and schedule baseline, which was set in accordance with the new policy. In the instances

where a project confirmed in accordance with the new policy does experience issues, the percentage of growth relative to the total project cost has greatly diminished as well. This is a trend that the GAO has observed over the past several years in their annual "Assessments of Selected Large-Scale Projects."

The 2015 High Risk Report includes a scorecard detailing which of the GAO's five criteria for removal from the High Risk List have been met, partially met, or are unmet for each High Risk area. I am pleased to report that NASA has fully met the leadership commitment, action plan, and monitoring criteria. The remaining two criteria, capacity and demonstrated progress, have been partially met and we are actively working to implement additional changes across the Agency to address them.

Corrective Action Plan

NASA has been working to implement seven initiatives to improve acquisition management through a High Risk Corrective Action Plan developed in 2007. Those initiatives are: (1) Program/Project Requirements and Implementation Practices; (2) Agency Strategic Acquisition Approach; (3) Contractor Cost Performance Monitoring; (4) Project Management Training and Development; (5) Improve Life-Cycle Cost/Schedule Management Processes; (6) Integrated Enterprise Management Program (IEMP) Process Improvement; and, (7) Procurement Processes and Policies. Six of these seven initiatives are operational, as NASA has put in place new requirements, policies, procedures, training, and other tools to improve how we manage our major acquisitions and ensure our workforce has the necessary associated tools. Even though these initiatives are operational, we continually look for new ways to refine how we do business and share best practices and lessons learned within the project management community.

In 2014, NASA declared that the one outstanding initiative, Contractor Cost Performance Monitoring, was closed. This initiative was originally designed to improve the availability of contractor data to support performance monitoring of programs and projects. The initiative would be accomplished through the use of enhanced business systems and changes to the contractor cost reporting process. NASA performed analyses at that time to identify gaps in the existing key business systems and concepts and courses of action that could be implemented to address those gaps. As a result of this analysis, NASA and GAO agreed to replace the original objective, and instead instituted several process improvements designed to achieve greater insight into project performance, including contractor cost performance. Among these improvements is expanding the number of projects subject to earned value management (EVM) requirements by lowering the lifecycle cost threshold.

As part of the Corrective Action Plan, in 2008, NASA established a set of metrics to assess performance on a semi-annual basis. These metrics consider performance against the established cost and schedule baselines and annual performance indicators, as well as whether new projects are being implemented in accordance with NASA policy. As of the

most recent performance report provided to the GAO, based on NASA's performance as of the fourth quarter of 2014, NASA is fully on track to meet all of these metrics.

We are in the process of reassessing these metrics to ensure that they continue to be fully aligned with NASA requirements and will work with the GAO as necessary to update how they are calculated. For example, to coincide with the release of the 2014 NASA Strategic Plan, we updated the suite of Annual Performance Indicators (APIs) evaluated as a measure of whether NASA's major projects were on track to meet their level 1 requirements. This list of assessed APIs was expanded to include all major projects in the portfolio. We will undertake a similar review following the release of subsequent strategic plans.

2015 High Risk List Response

GAO has identified five criteria that must be met before a focus area can be removed from the High Risk List: (1) a demonstrated strong commitment to, and top leadership support for, addressing problems; (2) the capacity to address problems; (3) a corrective action plan; (4) a program to monitor corrective measures; and, (5) demonstrated progress in implementing corrective measures.

NASA has fully met the leadership commitment, action plan, and monitoring criteria, and has partially met the criteria for capacity and demonstrated progress. In order to meet the remaining criteria, the GAO would like NASA to address gaps in the guidance for the joint cost and schedule confidence level (JCL) policy and EVM, as well as demonstrate continuing success in keeping projects within their cost and schedule baselines established at confirmation. These are all areas where NASA is devoting significant resources to improve our capabilities, leading to better management of our projects.

NASA cost policies have evolved over time towards a probabilistic JCL analysis that enables decisions to be made on desired confidence levels (the probability of completing a project within a certain lifecycle cost and schedule) based on an individual project's unique technical and programmatic characteristics. A key benefit of the JCL policy is the added rigor it brings to the analysis process, driving an integrated analysis of cost, schedule, and risk. From the project manager's perspective, the JCL helps them to better understand and manage their risks. From a decision maker's perspective, the JCL helps them understand the risks inherent in a project so they are able to make fully informed decisions as to what level of risk is acceptable to the Agency.

NASA first established its JCL policy in 2009 by requiring a JCL of major projects coming to confirmation. This requirement was subsequently expanded to include cost and schedule ranges for projects going through Key Decision Points during the Formulation Phase. Since the JCL policy was put into place, programmatic performance has improved as NASA has launched more projects at or nearer their original cost and schedule baselines than under previous policies. NASA acknowledges there is still room for improvement with the JCL implementation, as evidenced by two recent examples of

projects breaching their baselines shortly after confirmation. However, many more projects have been able to keep to their commitments.

NASA's approach to conducting JCLs has evolved as we have gained more experience with them, and there are several improvements in work to further enhance our capabilities. For example, NASA expects to release an updated version of our Cost Estimating Handbook later this month, which will provide additional guidance on how to conduct JCLs. JCLs can be very complex, so NASA is developing new tools to better communicate risk, such as graphical and tabular reports, as well as new techniques and tools to enable more accurate assessments of complex JCL models. In addition, NASA is proactively identifying areas of improvement and developing solutions to strengthen the community of practice through education, training, data sharing and communication.

As with improvements to JCLs, NASA is taking a similar approach to enhancing the Agency's EVM capabilities. EVM guidance is provided to the NASA community through the recently released Project Management Handbook, as well as through the EVM Handbook. This past year, we also developed an Integrated Program Management Report Instructions Guide to provide a methodology for evaluating cost and schedule data. We are planning to issue a draft NASA Project Planning and Control (PP&C) handbook, which would establish PP&C standards across the Agency, later this year for review.

Since 2013, NASA has been rolling out an in-house EVM capability at the major spaceflight centers. To date, this capability has been implemented on Space Launch System (SLS; Marshall Space Flight Center), Ice, Cloud, and Land Elevation Satellite-2 (ICESat-2; Goddard Space Flight Center), and Ground Systems Development Office (GSDO; Kennedy Space Center). In 2015, the capability will be implemented on Orion (Johnson Space Center). We are also working with several of our contractors to validate their EVM systems, including the Applied Physics Lab and the Southwest Research Institute, as well as engaging with universities and other research organizations that may lead NASA projects but do not otherwise have institutional requirements for fully-developed EVM systems.

Another area of focus has been developing and issuing guidance for smaller projects. This past September, NASA formalized the EVM requirements for space flight projects with lifecycle costs under \$150 million. These requirements provide clear guidelines and expectations for how EVM will be implemented, including opportunities for tailoring their EVM in such a way as to reduce unnecessary burden given the limited resources provided to these projects. To aid in this effort, NASA is currently developing an EVM scalability solution that will benefit smaller missions.

NASA has many forums where this data is routinely reviewed to ensure that projects remain on track or that issues are identified and resolved in a timely manner. This includes formal, regularly recurring reviews at the project, Center, Mission Directorate, and Agency level, as well as ad hoc meetings should issues arise. We also are improving

our communities of practice to share best practices and lessons learned across organizations so projects can learn from each other.

The Path Forward

As NASA seeks to undertake a bold new era of discovery, we are also developing one-of-a-kind technologies and capabilities. We therefore rely on the iterative knowledge we gain with each new project in order to improve our project management practices and introduce new tools to assess whether our projects are on track to meet their cost and schedule commitments. We appreciate the open dialog we have had over the past several years with the GAO as we have refined our project management requirements and discussed best practices that might apply to our projects at different stages in their lifecycles. As the GAO has acknowledged, these improvements are already yielding the desired results with our small and medium-class missions. Our larger, more complex projects typically involve the development of a significant number of new technologies, which present greater risk and are more difficult to assess at the outset. As a result, while there is still work to be done, I am confident we are on the right track and we will continue to manage projects without the significant cost growth and schedule delays that originally put us on the High Risk List.

Robert M. Lightfoot, Jr., Associate Administrator

Robert M. Lightfoot Jr. became Associate Administrator for NASA, the agency's highest-ranking civil servant position, effective Sept. 25, 2012.

He previously was director of NASA's Marshall Space Flight Center in Huntsville, Ala. Named to the position in August 2009, he headed one of NASA's largest field installations, which plays a critical role in NASA's space operations, exploration and science missions. Lightfoot managed a broad range of propulsion, scientific and space transportation activities contributing to the nation's space program. He served as acting director of the center from March 2009 until his appointment as director.

From 2007 to 2009, Lightfoot was deputy director of the Marshall Center. Lightfoot served as manager of the Space Shuttle Propulsion Office at Marshall from 2005 to 2007, where he was responsible for overseeing the manufacture, assembly and operation of the primary shuttle propulsion elements: the main engines, external tank, solid rocket boosters and reusable solid rocket motors.

From 2003 to 2005, he served as assistant associate administrator for the Space Shuttle Program in the Office of Space Operations at NASA Headquarters in Washington. His responsibilities included space shuttle return to flight activities following the Columbia tragedy, technical and budgetary oversight of the \$3 billion annual budget and initial transition and retirement efforts for shuttle infrastructure.

In 2002, Lightfoot was named director of the Propulsion Test Directorate at NASA's Stennis Space Center. He served as deputy director of the organization beginning in 2001, until his appointment as director.

Lightfoot began his NASA career at the Marshall Center in 1989 as a test engineer and program manager for the space shuttle main engine technology test bed program and the Russian RD-180 engine testing program for the Atlas launch vehicle program.

Lightfoot received a bachelor's degree in mechanical engineering in 1986 from the University of Alabama. In October 2007, he was named Distinguished Departmental Fellow for the University of Alabama, Department of Mechanical Engineering. He was selected as a University of Alabama College of Engineering fellow in 2009. Lightfoot serves on the University of Alabama Mechanical Engineering Advisory Board. In 2010, he was inducted into the State of Alabama Engineering Hall of Fame.

Lightfoot has received numerous awards during his NASA career, including a NASA Outstanding Leadership medal in 2007 for exemplary leadership of the Shuttle Propulsion Office, assuring safety for the return to flight of the space shuttle. In 2006, he was awarded the Presidential Rank Award for Meritorious Executives, and in 2010 he received the Presidential Rank Award for Distinguished Executives -- the highest honors attainable for federal government work. In 2000, Mr. Lightfoot received a Spaceflight Leadership Recognition Award, which recognizes leaders who exemplify characteristics necessary for success. In 1999, NASA's astronaut corps presented him with a Silver Snoopy Award, which honors individuals who have made key contributions to the success of human spaceflight missions. He also received the NASA Exceptional Achievement Medal in 1996 for significant contributions to NASA's mission.

Chairman CHAFFETZ. I thank the gentlemen. With the vote on the floor, the committee will stand in recess. When votes conclude, we will continue, and we thank you again all for your patience.

[Recess.]

Chairman CHAFFETZ. Committee will come to order. I thank you all for your patience with votes on the floor. We obviously got delayed.

I'd actually like to start by recognizing the gentleman from North Carolina, who's the chairman of one of our subcommittees on government—the Subcommittee on Government Operations. The gentleman from North Carolina, Mr. Meadows, for 5 minutes.

Mr. MEADOWS. Thank you, Mr. Chairman. And thank each of you for being incredibly flexible today.

Really, I guess the underlying concern that I have is as we have—are celebrating the 25th anniversary, is we've got to figure out a way to get off of the high-risk list. It's not a very high benchmark. You know, really if you look at the components of that, it is just making a real concerted effort. And so I'm looking forward to each one of you putting together a plan to make sure that we can do that.

Doctor, let me come to you. I sent you a text, and I want to compliment you—I actually sent you an email. I want to compliment you on the fact that on a weekend, you responded via email, which was shockingly surprisingly—surprising, and I want to just say thank you.

Do you have the automatic re-enrollment numbers that I've been requesting from CMS? Have they given those to you?

Dr. AGRAWAL. Yes. Mr. Meadows, thanks for the question and I'm happy to be accessible whenever you need. So the answer is I think we're still working on it. You know, that is part of the agency obviously that I don't have direct oversight over. My understanding is that you've had numerous conversations with the CEO of the marketplace, Kevin Counihan, and that they are working on assembling those numbers. I think obviously, as you know, our focus is certainly on getting the numbers out to you and the public, but making sure that they are accurate when we do.

Mr. MEADOWS. All right. So what you are saying is that you have not seen the numbers for the automatic re-enrollment. You've never seen any totals?

Dr. AGRAWAL. I have not, correct.

Mr. MEADOWS. OK. It's my understanding that we have those numbers, and we've been trying for 60 days to get it. Any reason why it would take that long to verify numbers?

Dr. AGRAWAL. I think it's just confirming that the numbers are numbers we can stand behind, making sure that they're good numbers that ought to be released. Again, I believe staff at CMS are in touch with your staff, and obviously, you've been in touch with—

Mr. MEADOWS. Well, they—we've been in touch. They have not really been in touch—

Dr. AGRAWAL. Gotcha.

Mr. MEADOWS [continuing]. From a followup. It's amazing to me that we can have the response time for those that get recorded messages or wait times for Spanish-speaking operators, and we

know that down to the second, or actually tenth of a second, and yet we can't get automatic re-enrollment numbers from CMS. When can we expect those?

Dr. AGRAWAL. I don't have a particular timeline.

Mr. MEADOWS. All right. Well, let me go on further, because I've got limited time. Let's look at Medicare. You're going from 14,000 lines of code to 68,000 codes in terms of Medicare reimbursement. Is that correct?

Dr. AGRAWAL. Are you talking about ICD-10?

Mr. MEADOWS. Yes. ICD-9, 10. ICD-10.

Dr. AGRAWAL. Sure.

Mr. MEADOWS. So we're going to different codes.

Dr. AGRAWAL. Yes.

Mr. MEADOWS. And so doctors and hospitals putting in the wrong code will come out as an improper payment or fraud. Is that correct?

Dr. AGRAWAL. Not necessarily. So it really—

Mr. MEADOWS. Or improper payment?

Dr. AGRAWAL. It may. You know, obviously the importance of—

Mr. MEADOWS. Why would we go from 14,000 codes to 68,000 codes? How could that make it more efficient?

Dr. AGRAWAL. Well, first let me say the agency is adopting these codes that are actually established outside of agency processes and with the input of the provider community. In fact, it was really the provider community searching for specificity and the ability to really define exactly what they were seeing in the—

Mr. MEADOWS. So they were getting the payments they wanted?

Dr. AGRAWAL. So they could get appropriately reimbursed.

Mr. MEADOWS. Let me ask you. I mean, I went through and looked at your codes. We've got codes now that one in particular says if you unexpectedly are missing your big toe. Unexpectedly missing a big toe gets a code. There are six different codes for squirrels, I mean, so if a squirrel bites you, if it's the first time or second time, if it scratches you. Do you not see that we've got unbelievable lines of code, that more codes will not make it more efficient? There's one code in here for spending too much time in a freezer. I mean, it's incredibly ridiculous. And let me tell you, the physicians that I talk to and the hospitals I talk to are spending millions of dollars in compliance trying to figure out your codes, and yet we're going to increase those by four-fold? Why would you do that?

Dr. AGRAWAL. Well, again, I'd be just careful. And let me just say, I believe there's a code for an Orca attack as well.

Mr. MEADOWS. There—there is.

Dr. AGRAWAL. There are numerous different kinds of codes. I don't imagine in my own practice to be using that one or many of the others. However—

Mr. MEADOWS. Well, let me ask you—

Dr. AGRAWAL [continuing]. I would like to say—

Mr. MEADOWS [continuing]. Is a mouse a rodent?

Dr. AGRAWAL. Pardon me?

Mr. MEADOWS. Is a mouse a rodent?

Dr. AGRAWAL. I assume it is.

Mr. MEADOWS. Well, but you've got a different code for a rodent than a mouse, and, I mean—what I'm saying is it's so complicated, you make it so complicated, that nobody can comply.

Dr. AGRAWAL. I think to be clear, though, the agency is a recipient of ICD-10, just as other agencies are. We did not intend—

Mr. MEADOWS. But you're in control of that, are you not, on implementing that, your Program Integrity?

Dr. AGRAWAL. No. There are actually numerous parts of the agency. I mean, we are actually required to implement ICD-10. I realize that Congress has delayed implementation of that requirement, but at some point we are required to implement ICD-10, and that's meant to—you know, the code design itself is not something that CMS is engaged in. It is really designed to improve both epidemiologic understanding of administrative data to make sure administrative data really reflects what's going on in the real world clinically, and that providers have had extensive input into these code sets.

I don't necessarily disagree with your point, but I think we are as much a recipient of ICD-10 as other agencies that are implementing it across the world.

Mr. MEADOWS. Well, my time's expired. I'll yield back, Mr. Chairman.

Chairman CHAFFETZ. Thank the gentleman. Recognize the ranking member, Mr. Cummings, for 5 minutes.

Mr. CUMMINGS. Yes. Dr. Agrawal, I want to thank you for appearing before our committee today. CMS has undertaken a number of initiatives to reduce fraud and improper payments in the Medicare program. I just—I'm just concerned about how they work and how effective they are and what you see for the future. I'd like to ask you about these today. The ACA requires increased scrutiny of providers and suppliers who have historically posed a higher risk of fraud or abuse. This heightened screening process applies to providers and suppliers that are attempting to either newly enroll in the Medicare program or re-validate their participation.

Can you describe the different risk-based screening level designations and the various requirements that providers and suppliers in each category are subject to?

Dr. AGRAWAL. Sure. So provider categories by provider type essentially are subdivided among three risk categories: Limited, medium and high. And as you go up the chain of risk, more screening strategies and approaches are implemented to screen those types of providers, again, whether they're newly enrolling or revalidating. At the highest level of risk, say, a newly enrolling DME company or home health agency, there are automated background checks that would be performed that really are performed for all provider types to ensure adequate licensure, lack of a criminal—relevant criminal background or felony record that would keep a provider out of the program. But in addition, high risk—the highest risk providers face site visits, they face fingerprint-based background checks. So a multitude of different screening approaches for the highest risk providers, and that also includes providers who are attempting to re-enroll after having a Program Integrity action taken against them in the past.

The result of all of this work, and to—you know, to date, we have revalidated over a million of the million and a half providers and suppliers enrolled in Medicare, and the totality of all this work on both newly enrolling and revalidation is that we have removed the billing privileges of over 450,000 enrollments in Medicare to date. And I can tell you that these new enrollment requirements are also allowing us to deny more applications at the front end, so providers actually never make it into the program because they do not qualify.

Mr. CUMMINGS. Well, that's what I was about to ask you. So as opposed to chasing money, you do some preventive things. Is that right?

Dr. AGRAWAL. I think a lot of our provider enrollment work really solidly lands in the preventive category, because it really is designed to keep folks out of the program that don't—that don't belong. So if we conduct a site visit and determine that you are a non-operational provider, then you never make it into the program, or if we check your criminal background record or check your licensure and determine that you're not appropriately licensed or you have a relevant felony conviction that would keep you out of the program, then indeed we deny your enrollment application.

Mr. CUMMINGS. OK. Let me ask you about the agency's demonstration program on power mobility devices. How does the agency's prior authorization demonstration for power mobility devices complement CMS's Program Integrity efforts?

Dr. AGRAWAL. Sure. Thank you for the question. So one of the central challenges in the improper payment rate is that there is a disconnect between the medical record documentation that underlies a medical service or, you know, indicates what happened over the course of that medical interaction, and then the claim that comes in to CMS, essentially the bill for that interaction. What prior authorization does is allows us to ensure that medical necessity requirements and documentation requirements are being met on the front end before the service is even offered to the beneficiary. The demonstration, and generally the way we've approached prior authorization is, again, to take a very risk-based approach. The demonstration was implemented around power mobility devices first. We are actually—we put out a proposed rule that would look to expand that to other high-cost DME supplies, and then there are elements in the President's budget that look to expand it to things like hyperbaric oxygen and scheduled ambulance transportations. But all of it is the same principle which the private sector uses every day of evaluating the service before it's even provided, determining that it's OK, and then the beneficiary gets the service and the provider gets paid.

Mr. CUMMINGS. Now, is the beneficiary adversely affected?

Dr. AGRAWAL. I think that's a really important aspect of this. So by checking on the front end before the service is even provided that the documentation's appropriate and that medical appropriateness and necessity are there, it prevents the beneficiary from unnecessarily or potentially being on the hook for a denied claim. So the service was never provided, right? That way neither the provider is on the hook for a service that they provided but then are not getting paid for, and the beneficiary is not on the hook for hav-

ing received a service that the provider's not going to then get paid for.

Mr. CUMMINGS. Thank you, Mr. Chairman.

Chairman CHAFFETZ. Thank you. The gentleman yields back. I now recognize the gentleman from Tennessee, Mr. Duncan, for 5 minutes.

Mr. DUNCAN. Well, thank you, Mr. Chairman.

Mr. Estevez, just today, The Hill newspaper says in an article, before signing on to increased Pentagon spending to its highest level ever, Congress should insist on a serious effort to identify and address wasteful spending by the Pentagon. Among major Federal agencies, the Pentagon is the only one never to submit, let alone pass, a full audit.

Another article said, Pentagon leaders have requested the step-up production of the F-35, the beleaguered jet fighter that has proven to be a massive drain on resources with no end in sight, \$7.5 billion sunk into the F-35 in Fiscal Year 2014 alone, with massive cost overruns and egregious acquisition failures.

Over the years, I've read so many articles about waste at the Pentagon, and I sometimes wonder if there are any fiscal conservatives at the Pentagon.

What do you say—how much—do you have any estimate as to how much we've spent on the F-35 so far, and are you—are you concerned about this article that's in The Hill today that talks about the wasteful spending by the Pentagon?

Mr. ESTEVEZ. Thank you for the question, Congressman. First, we're always concerned about any wasteful spending at the Pentagon. And we have a number of processes in place to address spending in general, including looking at our overhead and functions and looking at our acquisition processes.

Let me address the F-35. I don't have the number total spent to date. F-35 costs per plane have gone down below our estimation since it was re-baselined in 2010. It's actually producing a pretty good airplane. And I think—

Mr. DUNCAN. You have—

Mr. ESTEVEZ [continuing]. The F-35 is stuck on old news.

Mr. DUNCAN. You're the principal deputy for acquisition. And do you have any rough guess as to how much we've spent on the F-35 thus far, a wild rough guess?

Mr. ESTEVEZ. I'm going to have to get you that for the record.

Mr. DUNCAN. You don't know.

Mr. ESTEVEZ. It goes back to 2004, Congressman.

Mr. DUNCAN. Right. All right.

Dr. Agrawal, I met last week with hospitals from east Tennessee, and they told me that many hospitals in Tennessee are either going to have to close or are about to go under or probably end up being sold to some big out-of-State corporations because of the unfairness in their Medicare wage index. And they said that the system that CMS has now rewards very expensive, inefficient hospitals and penalizes hospitals that have held their costs down or that have continually lowered their costs. Have you looked into this? I mean, it's—the difference between what hospitals are being paid, say, in San Francisco or—in comparison to Tennessee or Mississippi or places like that, it's just almost unbelievable. These hospitals are

being paid twice as much for some of—mostly the same type of work. What can you tell me about that? Are you—is CMS looking into this or concerned about these huge discrepancies at all?

Dr. AGRAWAL. Yes. I appreciate the question. We do have processes for hospitals and other providers to engage us in terms of wage discrepancies like that. I can tell you that we have a very proactive approach to, say, the misvalued codes that we know exist and reevaluating those codes, ensuring that our coding approach and reimbursement approach is really paying for valuable services that, you know, taxpayers expect that we all want the program to provide.

So there is a—I think the core message is there is a process for doing that, and we're happy to engage with hospitals and other providers on these kinds of questions.

Mr. DUNCAN. Well, I'll tell you this: I don't have much time left, but years ago a hospital administrator in a small town in Tennessee, he told me, he said—he said if you don't have hospitals, you don't get doctors, and if you don't get doctors, you don't get people. And there are many rural hospitals that are really struggling in this country today because of these discrepancies between what they're getting in comparison to some of the very wasteful, very inefficient big city hospitals. And I think that's something that you really need to take a look at, because it's very unfair. And I could give you all kinds of statistics about that that I won't bother you with today, but it's getting to be a very serious problem in my State.

Thank you very much, Mr. Chairman.

Chairman CHAFFETZ. Thank the gentleman. We're recognizing members based on seniority when we gaveled in, so the gentleman that's up next is actually from South Carolina, Mr. Mulvaney. The gentleman's recognized for 5 minutes.

Mr. MULVANEY. Thanks, Mr. Chairman.

Mr. Koskinen, when I sat down—this is my first hearing, and when I sat down to do the research on the GAO report, which is the subject of today's hearing, I sort of got sidetracked. And I want to talk to you about some other things, because one of the things I found in doing the research was a report that I think just came out today, in fact, it's being reported today, that your agency is reporting that the tax refund fraud will be \$21 billion this year. That's up about 300 percent from just a couple years ago. And that number stunned me.

Just out of curiosity, I think it's more than we spent on the entire Department of Agriculture. You could run the Treasury, the judiciary, the SEC, the SBA, and your IRS with that money and still have a couple billion dollars left over. Mr. Estevez, just out of curiosity, for your interest, I could buy you 140 F-35s on just on what we're going to lose this year in tax refund fraud. You could run my State, South Carolina, for 3 years on that money. And that's not all the fraud occurring in the IRS, it's just the tax refund fraud.

Anyway, that research led to the research that I wanted to ask you about, which is your testimony last week before the Senate where Mr. Grassley, Senator Grassley asked you some questions about the impact within the Internal Revenue Code and within your department of what the President has done on executive am-

nesty. And I think you went back and forth with Senator Grassley, and he asked you about people who are benefiting from the amnesty claiming the Earned Income Tax Credit in arrears for up to 3 years. Are you familiar—you remember that testimony with Senator Grassley?

Mr. KOSKINEN. I do.

Mr. MULVANEY. And I don't know if we established what that would cost. Have you had a chance to figure out what the total cost of that program would be?

Mr. KOSKINEN. I have not, but before I get there, I don't know where the \$31 billion in refund fraud came from.

Mr. MULVANEY. \$21 billion.

Mr. KOSKINEN. \$21 billion came from. As GAO testified, we stopped last year about \$16 billion worth of refund fraud and only \$5 billion is our estimate. What went through, which is still a big number and we're worried about, but it isn't \$21 or \$31 billion that's going out the door.

Now, with regard to the question you asked earlier—

Mr. MULVANEY. Yes.

Mr. KOSKINEN [continuing]. To be eligible for the Earned Income Tax Credit, you have to work. It's in the Earned Income Tax Credit.

Mr. MULVANEY. Correct.

Mr. KOSKINEN. To be able to apply for it, you have to have a Social Security number.

Mr. MULVANEY. OK.

Mr. KOSKINEN. So if you are—there are—we have about 700,000 ITINs out there by illegal immigrants who are paying taxes—

Mr. MULVANEY. Correct.

Mr. KOSKINEN [continuing]. But they're not eligible to apply, because they don't have a Social Security number.

Mr. MULVANEY. But several million of them will get Social Security numbers under the new program, right?

Mr. KOSKINEN. And under the new program, if you get a Social Security number and you work, you'll be eligible to apply for the Earned Income Tax Credit. You will get an amount depending on your situation. If you're an individual working and applying for the individual tax, the maximum you can get will depend—it's been in the range of about \$500 or \$600.

Mr. MULVANEY. Right. Let's slow down a little bit, Mr. Koskinen, because there was some apparent lack of clarity in the interpretation of what you said in the Senate. I want to clear this up.

Is the Earned Income Tax Credit only going to be available to illegal immigrants who filed taxes previously or is it going to be available to all of them who receive Social Security numbers under the new program?

Mr. KOSKINEN. It turns out there was a lack of clarity about that. If you get a Social Security number, you can then file for this year if you're working; and if you earned income in the 3 years before that and filed, you'll be eligible; if you did not file, you'll have to file a return and you'll have to file to demonstrate with the same information you would—anybody else would that you actually earned income and therefore were eligible.

Mr. MULVANEY. So if you—

Mr. Koskinen. There's some assumption that you would get the Earned Income Tax Credit automatically whether you were working or not.

Mr. MULVANEY. So it will be available to everyone who was working, even if they didn't file the previous 3 years?

Mr. KOSKINEN. That is my understanding, yes.

Mr. MULVANEY. And you have no idea how much this is going to cost?

Mr. KOSKINEN. I don't now how many people are going to be—get Social Security numbers, how many will be single—

Mr. MULVANEY. Sure. But we do this all the time. Did the White House not ask you to estimate that?

Mr. KOSKINEN. I haven't talked to the White House about this at all.

Mr. MULVANEY. Did anyone at the White House ever consult with your office before they issued the executive orders that gave rise to the executive amnesty?

Mr. KOSKINEN. They didn't consult with me and, to my knowledge, they didn't consult with anyone else. I'm not aware of any consultation.

Mr. MULVANEY. Are you aware that if we were to do what the President did by legislation that he did by executive order, that we would have to go and get an estimate of exactly what you and I are talking about here today?

Mr. KOSKINEN. From the Joint Committee on Taxation?

Mr. MULVANEY. Or CBO, yes.

Mr. Koskinen. Or CBO. Yes, sir.

Mr. MULVANEY. So if we did the same thing the President did, by law, we would have to know the answer to that question, but the President doesn't have to know the answer to that question before he did what he did.

Mr. KOSKINEN. The President may know the answer to that we. He wouldn't come to us necessarily to get the answer; he would go to OMB.

Mr. MULVANEY. But by the same token, he didn't ask you for any input. Did he ask you, for example, about any increase in the risk of fraud?

Mr. KOSKINEN. No. We had no conversations with the White House that I'm aware of. I certainly personally have not talked—I've never talked to the White House about any of this.

Mr. MULVANEY. All right. Thank you, Mr. Koskinen. I appreciate that.

Chairman CHAFFETZ. Thank the gentleman. Now recognize the gentleman from Ohio, Mr. Jordan—

Mr. JORDAN. I thank the—

Chairman CHAFFETZ [continuing]. For 5 minutes.

Mr. JORDAN. I thank the chairman. And I wanted to talk about the IRS targeting of conservative groups and, frankly, the pattern of deception and delay that we've seen from this administration. And I would just remind you, you don't take my word for it. Just yesterday in The Hill, front page, Feds won't release IRS targeting documents. So don't take my word, take Bob Cusak, editor of The Hill, respected mainstream journalist, talking about the deception and delay from this administration.

I think it's important we remember the whole saga here. February 2012, Lois Lerner told this committee staff that there was no targeting going on. Turned out to be a lie, of course. March 23d, 2012, Doug Shulman, then-Commissioner, told the Ways and Means Committee he could give assurances that there's no targeting going on; also, a false Statement. May 2013, that day when Lois Lerner went in front of a bar association here in D.C. with a planted question, again, unprecedented, to get in front of the story; went before the inspector general released a report and talked about the targeting by the IRS of conservative groups. And I quote from—remember, she talked to Treasury and the White House about this. From Mr. Cusak's article yesterday, and I quote, Then-chief of staff Mark Patterson at Treasury informed the White House about the plan to disclose the targeting, 'so that the White House wouldn't be surprised by the news.'

So think about this: planted question before the inspector general's report comes out, she discloses that, and the White House and the Treasury already knew it was going on. And then, of course, we have Ms. Lerner talking about Cincinnati was the problem and not Washington. That was false. And the White House says it's a phony scandal, no corruption, not even a smidgeon, which brings me to Mr. Koskinen, the current Commissioner.

February 14th of last year, we subpoenaed you for all of Lois Lerner's emails. Put up slide No. 1. Just a few weeks later, March 26 in this committee room, the chairman of the committee, Mr. Chaffetz, asked you a question: Are you going to provide all of Lois Lerner's emails? And your response was, yes, we will do that.

Do you remember that conversation, Mr. Koskinen?

Mr. KOSKINEN. I remember that conversation. You've reminded me of it a couple of times.

Mr. JORDAN. Yes. And I'm going to keep doing that, because the American people are frustrated and mad about what the IRS did to them regarding their First Amendment free speech rights.

June 13, you sent a letter to Senate Finance saying, we lost Lois Lerner's emails and destroyed—the hard drive's been destroyed and the tapes are destroyed. You remember that letter you sent to Senate Finance, Mr. Koskinen?

Mr. KOSKINEN. I do remember.

Mr. JORDAN. 10 days after that letter was sent, you came back to this committee room and we asked you some questions. Put up the second slide. I asked you specifically, what date did you learn you couldn't get all her emails? Remember that conversation, Mr. Koskinen?

Mr. KOSKINEN. I remember that conversation.

Mr. JORDAN. And your response was, I learned in April.

So my question to you is, today will you admit that you misled this committee, the U.S. Congress, and more importantly, the American people just like Ms. Lerner was doing, just like Mr. Shulman was doing? Will you admit that you misled the Congress and the American people?

Mr. KOSKINEN. No. Absolutely not.

Mr. JORDAN. You don't think you misled them?

Mr. KOSKINEN. No.

Mr. JORDAN. So you told Mr. Chaffetz, yes, we'll give us all—give you all her emails. A few days later, you learned in April—that was March. In April, you learned you can't, and you wait 2 months to tell us, and you don't think that's misleading the American people?

Mr. KOSKINEN. I do not. And we waited 6 weeks to tell you, and we waited those times to find as many of the emails as we could. And as we reported—

Mr. JORDAN. Have you sent—

Mr. KOSKINEN. Let me complete.

Mr. JORDAN. Let me ask you this.

Mr. KOSKINEN. I—

Mr. JORDAN. Have you sent the chairman a letter saying what you told him on March 26, yes, we will get you all of Lois Lerner's emails, have you sent Chairman Chaffetz a letter saying, you know what, what you told you on March 26 isn't true?

Mr. KOSKINEN. As I noted in the hearing, we've had several hearings, I—and I still tell you, we said we would give you all the Lois Lerner emails. We gave all the Lois Lerner emails we had. As I told you once before, we couldn't make up Lois Lerner emails. We didn't have them to produce them. We gave you all the emails that we had and we continue—

Mr. JORDAN. What you said, you said I'll give them—

Mr. KOSKINEN [continuing]. To give you those.

Mr. JORDAN [continuing]. All to you, and then you—then you write a letter to the Senate Finance saying you lost them, you destroyed them. Have you done anything to correct the record?

Mr. KOSKINEN. Actually, we didn't lose them and destroy them. They were lost in that period of time in 2012. And then when we testified, testified in June, I testified that we waited the 6 weeks while we tried to provide you as much emails as we could, and there were 24,000.

Mr. JORDAN. Let's put up—put up—put up slide 4. Put up slide 4.

This is the letter you sent, and you said, you can confirm that no backup tapes existed. So you confirmed that you couldn't get us all her emails, and you've done nothing to correct the record when you told Mr. Chaffetz you were going to give all them to us. And you waited 2 months before you ever told us that you lost them.

Mr. KOSKINEN. I waited 6 weeks so we could provide you all the emails we could find. We've provided you 24,000 emails from the time of her hard drive crash, and we said and the backup tapes did not exist because they had been re-recorded over.

Mr. JORDAN. Mr. Chairman, I—

Mr. KOSKINEN. So we at that time gave you all the emails we had.

Mr. JORDAN. I got one more question, Mr. Chairman, just in the last 10 seconds, if I could.

Have you withdrawn the letter—understanding that now TIGTA has told us that her emails are recoverable on the backup tapes, have you withdrawn the letter that you sent to Senate Finance where you confirmed that those tapes weren't there?

And I bring this up, Mr. Chairman, because this committee has some experience with letters being withdrawn. In 2011, the Justice Department, after making inaccurate Statements regarding Fast

and Furious, sent a letter to then-Chairman Issa and they said this: Facts have come to light during the course of this investigation that indicate the letter, the February 4 letter, contains inaccuracies. Because of this, the department now formally withdraws the February 4 letter.

So what I want to know, Mr. Koskinen, is when are you going to be square with the American people and withdraw false and misleading Statements you've sent this committee, and more importantly, the letter you sent to Senate Finance? Are you going to withdraw that letter?

Mr. KOSKINEN. Absolutely not. We can have that argument for a long time. TIGTA, by the way, has spent 6 months and untold amounts of money trying to extract those emails from those backup tapes. So the idea that we could somehow—

Mr. JORDAN. You said you could confirm they didn't even exist. Chairman CHAFFETZ. The gentleman—

Mr. KOSKINEN. I said the backup tapes—if you go through my records, you will find I've said the backup tapes—

Mr. JORDAN. Will you withdraw the letter that had falsehoods in it? That's what I'm asking.

Mr. KOSKINEN. There is no reason. There are no falsehoods and there's no reason to withdraw that letter. I stand by that letter.

Chairman CHAFFETZ. The gentleman's time has expired. I now recognize the gentleman from Michigan, Mr. Walberg, for 5 minutes.

Mr. WALBERG. Thank you, Mr. Chairman.

Mr. Koskinen, Monday and Tuesday of this week, I did two live town halls back in my district and one tele town hall, and at two of those events, the issue that was brought up, the same story that came out in The Washington Post with the headlines, IRS Rehired Hundreds of Ex-Employees With Troubled Records, came up. And it basically came up from my constituents saying, you know, why can we not get away with the same things that were recorded there?

In the article, it indicated that between 2010 January and September 2013, the IRS rehired 7,000 employees. A great jobs program, and we're always delighted when people are employed, but the question comes from my people as to why over 800 of those 7,000 rehired IRS employees were rehired with prior substantial employment issues, including 11 individuals who engaged in unauthorized access to taxpayer information. And that really discourages and frustrates my citizens that these people, 11 of them who engaged in unauthorized access to taxpayer information, which is a crime, as we understand it, were rehired. Why?

Mr. KOSKINEN. Those are—the bulk of those employees are temporaries or seasonals who are hired for 4 to 6, 8 months a year depending on the time. They should not be rehired.

Mr. WALBERG. Even though they committed a crime, you're saying they should not—why were they rehired?

Mr. KOSKINEN. They shouldn't. Because the process at that point in time in 2009 or 2011 into 2012 followed, as the IG said, the OPM rules and regulations, which, in fact, would have allowed those people to be applied.

We consolidated in 2012 all of those hiring issues into our personal security division, and I have made sure that if you have violated the alls under a section called 1203(b), if you have worked for the IRS and violated Section 1203(b), you will not be rehired.

Mr. WALBERG. Well, according to TIGTA, they said, it still remains a concern, because in 2012 and 2013, IRS hired individuals with prior significant IRS substantiated conduct and performance issues.

What are you doing—I mean, this was subsequent to that.

Mr. KOSKINEN. Yes. And what the IG recommended, the IG, again, in that report said that was all pursuant and we followed—pursuant to when we followed the OPM rules. What the IG said is we should make sure that we make sure before we hire someone, we've actually reviewed all of this. And as I said, we now do that. We took the IG's recommendation. And I have talked with our personnel people since the IG started raising this issue, which I think is an important issue, in December, and to make sure that—and this consolidation with our personal security people, if you have violated 1203(b), which is willful violations of taxes or access to taxpayer information, you won't be hired.

Mr. WALBERG. Let me proceed further, then. And I hope this is a general trend. The audit identified 141 individuals that were rehired that had a prior tax issue, with five of them having been found by IRS management to have willfully not filed their taxes.

How many of these employees are still working?

Mr. KOSKINEN. They're all seasonal employees, so I don't know. A lot of them don't come back the next year, so I don't know how many of those there were. I would note that the 141—we take the requirement of IRS employees to be tax compliant very seriously. Our compliance rate is over 99 percent. We hold people accountable. Even if their mistakes are inadvertent, even if they make modest mistakes, we count that as not-compliant. The—what we are concerned about is the five employees you mentioned that have willfully—have been found to willfully not pay their taxes and violate the tax laws, and those people are subject to termination.

Mr. WALBERG. Could you get us information for this committee of people we're referring to here that are still employed?

Mr. KOSKINEN. I can find the information. The 141, if you had a minor attempt—minor mistake, those you would get cited for, but those aren't basis for termination. The five you mentioned that had a willful violation finding, I will find out the information and get it back to you.

Mr. WALBERG. I appreciate that. What about—what about those, not the tax issue, but had substantial prior employment issues, attendance issues, misrepresentation of what they were doing if they were on the job?

Mr. KOSKINEN. There's again—again, as I say, the consolidation now, we have a personal security department that reviews every offer before it is made to make sure that we've gone over all of that. Some—again, some personal activities are you didn't show up to work, you know, for 2 days, others are you had a significant problem. And we distinguish between those. And the OPM rules are very clear about that, that if you've—just because you've had a performance issue in your file doesn't mean you can never work

again for the IRS. It depends on the nature and the duration of the affair. But it is important for people to be confident even though 80 percent—as the TIGTA report said, 80 percent of these people are temporaries and seasonals who don't necessarily work even for half the year, it is important for us to make sure—

Mr. WALBERG. Very important.

Mr. KOSKINEN [continuing]. That we have the appropriate people working, and so I take the TIGTA report—I'm a big supporter of IGs, because they continue to review these issues. And we take it seriously. We have implemented their recommendations. We are—we have a personal security group now that ensures before an offer goes out, if you have violated 1203(b), which is the two most serious issues, you don't get hired. And if there are other conduct issues, not only are we going to follow the OPM rules, we're going to review those for appropriateness for work at the IRS. And I think it's important for people to be comfortable that we do take it seriously and that people working for the IRS ought to be tax compliant. If we're collecting your taxes, we ought to be paying ours.

Mr. WALBERG. Well, I appreciate that. And I would like the information on those that are still employed that came under these 824.

Mr. KOSKINEN. Well, the 824 covers a large range—

Mr. WALBERG. A lot of lot.

Chairman CHAFFETZ. I thank the gentleman.

Mr. WALBERG. Thank you.

Chairman CHAFFETZ. The gentleman's time has expired. We now recognize the gentleman from Alabama, Mr. Palmer, for 5 minutes.

Mr. PALMER. Thank you, Mr. Chairman. Thank you, Mr. Chairman.

I want to give Mr. Koskinen a break here for a minute and talk with Mr. Lightfoot, if that's OK.

Mr. KOSKINEN. I don't want you to think that's not appreciated.

Mr. PALMER. Well, that doesn't mean I won't come back to you.

Mr. Lightfoot, NASA's done a good job in making progress on getting off the high-risk list, but there are still some issues. I'm obviously from Alabama. NASA's a major presence in our State, but there have been some issues with re-baselining costs and schedule on—in light of management and technical issues, can you address that, on some of your projects?

Mr. LIGHTFOOT. Yes, sir. We have—the process we go through where we review these projects on a routine basis. We have some—while we've had some that have done really well, we continue to make good progress on those, eight out of the last nine that have a launched that came in under the baseline. Once we issue—once we go through confirmation, what we call confirmation of a project, which moves it from formulation to development, that's when we make a commitment for a certain cost and schedule that we're going to try to live to.

The process we have where we review those all monthly. Occasionally we have one that pops up and is—it gives us an issue. We've had two of those. The space ground sustainment system that we have, and then the ICESat-2 project, which are two—two issues we have going where we were required to then go back and baseline. When you re-baseline, you go through a process of analysis of

alternatives, is there another way you can get that particular mission accomplished, can you de-scope the existing mission so that you can still stay within that cap. So that's the process we go through. Each one of those has lessons. Those lessons—one of the things that we've been really working on is the—factoring those back in and continuing to improve our process as we go forward for the rest of those projects.

Mr. PALMER. At a prior time in my life, I worked for a couple of major engineering companies, and one of the things that drives a client crazy, particularly one paying the bill, is change orders. You've got some projects that I don't know if it's a result of design changes or poor design to begin with that are running some substantial overruns on change orders. Could you address that?

Mr. LIGHTFOOT. Yes, sir. I think the one you're talking about in particular is the ground systems project that we had. This was the first time that we've actually applied the same project management methodology that we had for the spacecraft that we've been flying to a ground system. And one of the things—that's an upgrade to our ground networks that actually communicate with all the satellites we have on orbit. That system is basically becoming obsolete. So what we did is we went out and we tried—we knew we had a pretty large job in front of us, and we tried those program project techniques that we've been—that we've been doing for spacecraft, one of a kind things, to a ground system.

We've learned a few lessons in that process. The No. 1 one is that—or the first one is that we have to be very clear on our requirements, much to what—much to what you're talking about, and understand what the—and make sure we understand that the contractor that's doing that work understands those requirements as well. So we've gone back and forth with this in terms of trying to define better the—what the expectations we have for the contractor and then managing that contractor.

In this particular case, we've—we've changed out the entire contract management team and the team that we have in terms of our—our managing it. And since we've done that, we've—it's—we have managed to stay—from an earned value perspective, we stayed at the levels that we expected.

Mr. PALMER. So this is—would you say this is the result of a design that—that a—of a project that the schedule dictated the design, or is this something where you're entering a new area and—and you're—and you're designing as you go?

Mr. LIGHTFOOT. No. I think this is a case where we underestimated the type of work we needed to do to deal with the obsolescence issues that we had in front of us in terms of designing the software system that we were putting in place with the new equipment.

Mr. PALMER. All right. I believe that's all I have. I'll yield the balance of my time.

Chairman CHAFFETZ. The gentleman yields. I now recognize the gentleman from Georgia, Mr. Hice, for 5 minutes.

Mr. HICE. Thank you, Chairman.

And Mr. Koskinen, since you had a break, I thought it only appropriate to come back to you and ask you a couple questions that were on my mind in particular.

Based on the previous testimony, you've made it clear that the ability of the IRS to make progress in the areas that have been outlined by the GAO have been largely hindered due to reductions in funding. And I—this is kind of a personal question to me because of my involvement with non-profit organizations. And the IRS has spent millions of dollars to basically rewrite the governing rules for 501(c)(4)'s or what—what have you, different non-profit organizations, specifically potentially removing tax-exempt status if those organizations are involved in political activity.

My question is multiple. It's rather amazing personally that there would be an issue of trying to hinder speech of Americans. My specific question really comes down to, how much money—can you tell me how much money the IRS has spent on writing and the attempt to rewrite that specific section of the 501(c)(4) ruling? I know it was withdrawn, but my understanding is that there is an attempt now to rewrite that. I'm curious how much money has been spent to that end.

Mr. KOSKINEN. I don't know. The only money that's being spent is the lawyers that have been working on the drafting of that, and that's not—they haven't been spending full-time, so it is not a large amount, but I could try to get an estimate of how many people worked on it. Some of it—the work on the first version was done before I got there, but if you'd like, we can try to figure out on a rough estimate as the man-hours, but the only time spent was, as I say, a relatively small number of lawyers who were working on it.

But I would note that the goal here is not to hinder. As said when I started and kind of inherited all of this, the goal is, in fact, to try to make clear what the rules are in a way that is fair to everybody, all of the organizations, it's clear and easy to administer. Right now, the rule that's been there a long time is you judge both the determination as to whether you're eligible to be a 501(c)(4) and then whether you're performing under the statute by facts and circumstances. So that means anybody running an organization is running the risk, looking over their shoulder saying, is somebody going to have a different view of the facts and circumstances. So my sense is we ought not to be hindering political speech, we ought not to be changing the way people act, but what we ought to have is a much—and the IG, in his recommendation, said the Treasury Department and the IRS should clear up what the standard is for what amount, how much, and what the definition is of the political activity you can engage in. And my sense is that it ought to be possible to have a rule that would be clearer, easier for people in those organizations running them to understand, and fair to everyone, and that would not be hindering political speech. So it's not my intention, anyway, in looking at that to do that.

My sense and concern is that the present system has, over the last several years, by the IG's analysis, turned out to be unworkable, and I think it would be in everybody's interest if, again, it could be clearer what the rules are without hindering people, and they would be able to run organizations confident that somebody isn't going to come in and second-guess them on the facts and circumstances that they've been operating under.

Mr. HICE. Well, I would agree we certainly need clarification in that, but I would also strongly urge a very clear understanding of the freedoms of Americans, that just because someone is a part of a non-profit organization, they have not waived their First Amendment rights. And that is a tremendous threat that the IRS has, in my opinion, no business interfering with, and that is a deep concern.

Mr. KOSKINEN. I agree with you. And, in fact, my sense is that the rules if they're fair and clear to everyone will, in fact, create less of a constraint on people's right to free speech than the present rules, which are muddy and hard to interpret.

Mr. HICE. OK. One other question, and I will yield my time. Again, going back to the issue that the main problem has been lack of funding. The issues from the GAO have come up with the IRS for some 25 years or close to it. It's been a long time that we've had issues, and yet a few years ago, in 2010, the IRS had more funding than they've ever had, and these problems, these issues have still not been addressed.

Mr. KOSKINEN. Well, that's not quite true, because we did have more money in 2010 by a long shot. And as I noted in my testimony, in 2013, as a result of some of that spending on information technology, the information technology business system modernization problem for the IRS was taken off the high-risk list after having been there for 14 years. So it has been true and proven that in—certainly in the IT area, that if we have the funding, we can make significant progress.

Mr. HICE. And that's great for the IT area, but there's many other areas that need to be addressed, and 25 years is far too long. It's time to put some teeth to it, sir. Thank you.

Chairman CHAFFETZ. Thank the gentleman. I now recognize the gentleman from Florida, Mr. DeSantis, for 5 minutes.

Mr. DESANTIS. Commissioner Koskinen, it was a year ago where the senior IRS leadership learned that Lois Lerner's hard drive had crashed, there was an issue about getting her emails off backup tapes. You wrote a letter to Senate Finance in June 2014 saying that there were problems with Lerner's emails and that the backup tapes have been—had been destroyed. And then on June 20, you testified before the Ways and Means Committee that the IRS went to "great lengths" and made "extraordinary efforts" to recover Lerner's emails.

So let me ask you this: After the IRS became aware that Lerner's hard drives had crashed, what specific steps did the IRS take to locate any backup tapes or disaster recovery tapes?

Mr. KOSKINEN. The disaster recovery tapes that the IRS are recorded over when they're used until they're no longer useable, so there is no technique or capacity in the IRS to actually retrieve emails off of those tapes. What we did do was go to everybody in the what so-called custodial list at that point of about 80 different people that Ms. Lerner would have been communicating with, because we were looking for all emails. We'd already produced all the emails that were relevant to the determination process. We were then trying to respond to "all." So we looked at all of those 82 and took every email that was to or from Lois Lerner, compared them against emails already produced—

Mr. DESANTIS. But that would not have been backup tapes. That was from their hard drives or their account.

Mr. KOSKINEN. That was their hard drives we produced—

Mr. DESANTIS. So the hard—so the backup tapes, you had made the judgment that they simply were not going to be recoverable, or did you actually have somebody investigate whether you could have backup tapes or you could find some backup tapes?

Mr. KOSKINEN. Our expert said we had no way, that they were not recoverable. It's taken the IG 6 months, the last 2 or 3 months working, he tells us, around the clock, and he still hasn't gotten them produced and we still don't know how many there are. But my position all along has been with the IG, because we helped him find what the backup tapes were that had been recorded over from that time, is if we could find more emails, that would be terrific. And I actually mean that seriously, because it would lend even more light than the 24,000 we already produced into what were in those emails in that timeframe. So we—

Mr. DESANTIS. Why would the IG be able to find it if you guys couldn't find it? You said you went through extraordinary lengths.

Mr. KOSKINEN. Well, because the IG—when we discovered this in the spring and then we reported it in June 6 weeks later, within a couple weeks thereafter, the IG started his investigation, so we had no more time. And I will tell you today, if we started today, it's taken the IG—and I don't know how much money they're spending. It's taken them over 6 months to, in fact, recover whatever they're going to report, and that was—

Mr. DESANTIS. So let me ask you this: Did the IRS—

Mr. KOSKINEN. We don't have that capacity.

Mr. DESANTIS. Did the IRS ever collect any tapes or send any backup tapes to any forensic lab in your investigation, the people you detailed to do this? Was that—any tapes recovered, any tapes ever sent to a lab by the IRS?

Mr. KOSKINEN. No.

Mr. DESANTIS. OK. Now, who told you that the backup tapes would not yield any emails from Lois Lerner's crashed hard drive?

Mr. KOSKINEN. I was told that by our information technology department.

Mr. DESANTIS. And what was—do you know the basis for that Statement? Did you inquire as to how they could be sure of that?

Mr. KOSKINEN. Basically what they described to me was they have these disaster recovery tapes, they are actual tapes, and then when the 6 months—they keep them for 6 months, and when the 6 months is done, they simply reuse them and record over them. And as you know if you ever had tapes, when you record over them, then in the normal process, they're—data underneath them is gone. And, in fact, I was told that we had no capacity and no way that you could actually recover those. And, in fact, they were not sure that there was any way you could recover them.

Mr. DESANTIS. Has the IRS communicated with Lois Lerner, her attorneys about recovering the emails from any of her crashed hard drives?

Mr. KOSKINEN. No. I've had no communication with Lois Lerner about this at all. I've never met her.

Mr. DESANTIS. Let me ask you this: In the course of the IRS's response to this committee's investigation, has the IRS withheld any information or documents from Congress on any other basis other than 6103?

Mr. KOSKINEN. No. We've had some that we've asked the staff to review in camera because there are basically personal matters that have nothing to do with the investigation, but we've exercised no privilege, we aren't trying to keep anything from you. In fact, we've continued to respond to requests and continue to provide any information we can find.

Mr. DESANTIS. And you would say that your responses to the requests from this committee have been above and beyond what is required in this situation?

Mr. KOSKINEN. No, I don't think they were above and beyond. We have—when you want information in escrow, we've have an obligation to do our best to provide it, and we've done that. I don't think that's above and beyond. Any time you want—

Mr. DESANTIS. Extraordinary efforts aren't above and beyond?

Mr. KOSKINEN. Extraordinary efforts were, in fact, when we discovered the crash, then it was my decision and thought that we needed to do whatever we could to fill in that gap, and we did find 24,000 emails we provided. My understanding from news reports, because the IG doesn't tell us a lot of stuff about this, is that the IG may be able to find another 9-or 10,000 Lois Lerner emails.

Mr. DESANTIS. So you've just—final question is, you've made the effort. You were not cavalier about this. You made the effort to find what the committee wanted. Is that your testimony?

Mr. KOSKINEN. That's my testimony.

Mr. DESANTIS. Thanks. I yield back.

Chairman CHAFFETZ. Thank the gentleman. We'll now recognize the distinguished gentleman from South Carolina, Mr. Gowdy, for 5 minutes.

Mr. GOWDY. Thank you, Mr. Chairman. The book of Ecclesiastes teaches us there's a time and a season for everything, and you convinced me earlier this evening that this is not the time to question Mr. Koskinen. He was here for GAO-related testimony and not IRS. And I don't know whether he's prepared for the questions or not, but we'll not find out, because I believe that you have agreed at some point he's going to come back before the committee. And I was wondering if the chairman might engage in a colloquy with me to make sure that my chronology is correct.

I thought the last time that Commissioner Koskinen was in front of us, there was a robust discussion about the time period within which he was going to produce emails, and he had asked us to narrow the scope so that he could prioritize and get us those emails that we had asked for. And, of course, as the chairman will recall, we need those emails, because the emails we do have from Lois Lerner contain such jewels as lamenting GOP wins, celebrating Democrat wins, forecasting gloom and doom if the GOP, God forbid, ever controlled the Senate, saying that we needed a plan to overcome Citizens United.

Those were just some of the emails that I recall, Mr. Chairman. And if my chronology holds, after Commissioner Koskinen told us that he would prioritize the production of those emails, of course,

they—they magically disappeared. And then the IRS, of course, Mr. Chairman, employed Herculean efforts to recover those emails. They were not successful, but then talismanically after the election, or just talismanically, they did appear at some point, and now we are reading that 500 of those emails will not be made available due to the invocation of a privilege.

Does the chairman know what privilege the White House is relying upon to not produce those documents to Congress?

Chairman CHAFFETZ. I do not.

Mr. GOWDY. Do you think—do you know whether the President has had an opportunity to review those 500 documents?

Chairman CHAFFETZ. That's a good question.

Mr. GOWDY. Do you think there is a chance that his conclusion that not a smidgeon of corruption exists in this investigation might be altered if he did have an opportunity to review what's in those documents?

Chairman CHAFFETZ. Certainly.

Mr. GOWDY. Will you consider inviting Mr. Koskinen back to update us on this—on this chronology?

Chairman CHAFFETZ. Yes, indeed.

Mr. GOWDY. All right. Well, Mr. Koskinen, Commissioner, I'm not going to question you today, because I think the hearing title was something else, but I hope at some point we can go back to where we left off, which was an assurance from you that you were going to prioritize email productions.

And I hope at some point, Mr. Chairman, we can evaluate the refusal to turn over certain documents to Congress, the invocation of privilege. And I hasten to add, as the chairman remembers because of his service on Judiciary and Oversight, this administration has invoked executive privilege before only for us to then learn that that privilege was invoked to protect an email that the Attorney General sent to his wife. Under what theory of executive privilege is that email protected?

So I hope that I live long enough to see the production of those emails, and I'll certainly hope I live long enough to see the Commissioner come back before us. And with that—

Mr. CUMMINGS. Would the gentleman yield?

Mr. KOSKINEN. Could I just make one clarification? During the course of all of the document production, Treasury Department turned over all of its Lois Lerner emails and the White House made a representation that they had no Lois Lerner emails. So in terms of that process, and, in fact, this committee issued a report in December noting that, in fact, there was no evidence that anyone outside of the IRS, whether at the White House or Treasury, had any impact or influence over the, as the IG said, improper use of criteria for the determination process for (c)(4)'s. So I don't know what the documents over there are. There's been litigation around the inspector general investigating communications, but that's not a case between us and—the IRS is not a party to that—

Mr. GOWDY. No.

Mr. KOSKINEN [continuing]. And I don't—

Mr. GOWDY. No, it's not, which is in part why I directed my questions to the chairman and not to you—

Mr. KOSKINEN. Good.

Mr. GOWDY [continuing]. But if you would like us to have this conversation, I will ask you, do you understand why Congress wants those emails? Can you understand, as a trained attorney, why we might want access to all the documents?

Mr. KOSKINEN. I can understand that. My understanding was that the White House some time ago certified there were no Lois Lerner emails and Treasury gave you all of their Lois Lerner emails.

Mr. GOWDY. Well, then what are they claiming—

Mr. KOSKINEN. But I look forward to coming back and we'll—we'll have more occasions. I think this is my sixth appearance before this committee. I look forward to the seventh, and we'll talk about—and we'll be delighted to give you an update. And I will be delighted if the inspector general can ever complete his work, it's now going after 6 months, to produce those emails, because then all of us will learn what was in them. And I am—have been totally supportive of the IG. And my view really is, if there are emails that can be done, and the IG apparently—in the public press it's been said has been able to find them, I think that will be a major step forward, and I look forward to discussing that with you.

Mr. GOWDY. Well, I know I'm out of time, but you can appreciate our cynicism and our skepticism, because it appears as if sometimes the strategy is just to delay and obfuscate and wait and wait and wait until either the public loses interest or until there's a new administration. So I know you can appreciate our desire to have those documents sooner rather than later.

Mr. KOSKINEN. I can. I thoroughly understand that.

Chairman CHAFFETZ. I thank the gentleman.

Mr. GOWDY. Thank you.

Chairman CHAFFETZ. Gentleman's time is expired.

I will now recognize myself for 5 minutes. I haven't had a chance to ask questions, and I would like to remind my colleagues why we are here. The five of you are very presentable. You put a happy face on the difficult situation, but here is the reality. Twenty-five years in a row your agencies, these problems, have come before Congress, 25 years in a row. This is the all-star team of problems. That's the reality. You can try to put lipstick on this pig, but the reality is it is ugly. To get on this list, you have to be engaged in waste, fraud, and abuse in excess of \$1 billion a year.

Now, to get off the list, granted it is not easy, but here are the criteria for getting off the list: Leadership commitment, agency capacity; you have to have an action plan; you have got to be monitoring efforts and show progress. That seems like a reasonable five sets of criteria that you can accomplish. I have the scorecard according to GAO. Twenty-five years in a row you failed to meet those—hit the criteria on those five, and consequently that is why we are highlighting this. I think you are all well-intentioned. I think you are all very talented individuals, but the massive bureaucracy within the organizations that you represent here today, it is failing to meet these modest goals, and that's what's so frustrating. Things are going to pop up, challenges are going to rise, but 25 years in a row is just not good enough.

I heard you were making measurable progress. You know, six Sigma levels. Good news to report. I'm sorry. You don't have good

news to report. The bad news is you're back again. We don't want to keep having these hearings. We want to show the progress, and I really do appreciate the good men and women who spend untold hours and literally years going through the details of what's happening within these departments and agencies. As a followup, I don't expect you to do this off the top of the your head, one of my concerns is who's held accountable? Like, who actually is held accountable? We asked, I think at the very beginning, one of our members asked a good question: Has anybody ever been fired? I think it was Mr. Hurd who asked. Has anybody been fired? Anybody dismissed? Anybody transferred by not meeting these goals?

We have thousands of good quality people who work for the Federal Government. These are employees that wake up, they're patriotic, they work hard, they're trying to do their best, but somehow, someway in these five areas, it's totally fallen down. We're not achieving the goals.

Again, the criteria put forward by the GAO doesn't say that you have solve this. It seems to say that you're on the trajectory to actually getting it solved. So part of the followup that we would appreciate is who's held accountable? What happens if you don't meet these goals? Because some of these are astronomically large. I mean, we're talking hundreds of billions of dollars. If you just take—you want to wipe out the Federal deficit? You just look at the uncollected taxes and the problems that we have in waste, fraud, and abuse going out the door through HHS. That more than wipes out all the deficit right just there. Just those two things. It's not very easily done, but the waste, the fraud, the abuse, and you look at the people who work hard and pay their taxes and they're doing everything that they can and then they hear hundreds of billions of dollars going out that's either not collected or going out erroneously, and the waste, and the fraud, and the abuse, they throw up their hands. You know, their 2,500 bucks means something in their lives, and yet the numbers here are so big.

I do not understand why the five that are highlighted here, there's six programs, two at the Department of Defense, why you can't hit those five goals. And according to the GAO, like the Medicare program, they've only met one of the five goals, four partially. On the two DOD's—DOD programs, met one of the five criteria. Four are partially met. At the Department of Energy, one partially met, one fully met, three not met at all. So 25 years in a row. I don't want to come back and have this same hearing at the beginning of the next Congress. I want you all to solve it.

The committee would like to know and hear from you how are you going to do that? How are you going to do that? And, again, difficult for you to answer, but I'm telling you, you all are giving a—painted a pretty picture. It ain't so pretty, but we want to see what it is you're actually doing. What is the action plan to create an action plan? That's the hope and goal, and that's—that's my concern, and with that I want to yield back. I think—are there any members who wish to ask a second round of questions?

Gentlemen from Ohio.

Mr. JORDAN. I appreciate the chair's indulgence. If we could put up these two slides again, Mr. Koskinen, I just want to—

Mr. KOSKINEN. I think it was noted by—agreed by Congressman Gowdy and the chairman that I'll come back and we'll have a full hearing about this, that we would not—

Mr. JORDAN. No, we—I fully expect that.

Mr. KOSKINEN. But I'm happy to answer more questions. That's fine.

Mr. JORDAN. Yes. That's the way it works. We call you here and we're allowed to ask questions because the American people want to know why the Internal Revenue Service violated their fundamental rights. So we appreciate your willingness to answer our questions on behalf of the American people. That's awful big of you, Mr. Koskinen.

Mr. KOSKINEN. Well, I'm just noting that we're going to have another hearing on this, and I've had five hearings on it already, but I'm happy to answer the questions.

Mr. JORDAN. And we still haven't got the truth, as evidenced by the headline yesterday, Mr. Koskinen. The press, the mainstream press can't even get the documents they're requesting.

Mr. KOSKINEN. Those aren't documents that they're requesting from us.

Mr. JORDAN. But they derive from your unlawful activity. That's the point, and that's something you've got to understand. As the guy who heads the agency with as much power as you do, to have that kind of attitude, that's what frustrates not just members of this committee, but all kinds of Americans. That, Mr. Chairman, that is the problem.

Let's go back to this, because I want to know something. This is what you told me when I asked you: When did you learn you could not get all of her emails, you learned in April. All right? Then you learned in April, and then let's put up the next slide. This is the letter you sent to Senate Finance telling them—in June, you sent this letter telling them—and you used the word “confirmed” that no backup tapes—that backup tapes no longer exist. So I want to know between April, when you learned, and June when you told the Congress and the American people what you did to confirm that those tapes didn't exist, which we now know do exist. So what did you do to confirm that the tapes didn't exist, Mr. Koskinen?

Mr. KOSKINEN. What I did was talk to our IT people who told me that when the tapes were finished with their 6 months, they were reused and then destroyed, and that as far as they were concerned, there was no way—we had no capacity even if we knew where they were to extract emails from them, and it's taken the IG 6 months and they still haven't completed the process.

Mr. JORDAN. That's all you did? You asked your IT people?

Mr. KOSKINEN. Right.

Mr. JORDAN. Was it a long conversation? Did you ask them one question? How did—

Mr. KOSKINEN. I asked them questions about how the backup disaster recovery process worked. What happened to the tapes.

Mr. JORDAN. So the word “confirmed” is based on one conversation you had with IT people. Is that what you're saying?

Mr. KOSKINEN. Yes. Those are the experts. They told me that there was no way that those tapes could be found or would be used because if they—they were reused—

Mr. JORDAN. That's all you did?

Mr. KOSKINEN. That's all I did.

Mr. JORDAN. Really? An issue where repeated lies from Lois Lerner, false Statements given by Doug Shulman, the unprecedented fashion in where you released the data ahead of the inspector general's report with the plan in question that you've already tipped off the Treasury and the White House about, and all you do to confirm you lost the most important documents from the most important person at the center of the scandal, all you do is ask a question of the IT people?

Mr. KOSKINEN. We spent—

Mr. JORDAN. That's it?

Mr. KOSKINEN. We spent 6 weeks looking at the hard drives and the documents for 82 people that—

Mr. JORDAN. No, no, no, no.

Mr. KOSKINEN [continuing]. To produce for you 24,000 more Lois Lerner emails. That was what we did was—

Mr. JORDAN. Who was this person? This one conversation you had to confirm you lost valuable documents from the central figure in this entire scandal, who was this one person you asked that question to? Can you give us a name?

Mr. KOSKINEN. That would have been Steve Manning, who's the senior IT guy, and I asked him could we find—were those tapes available, and he said no, and then we decided what we could do is what we did do was we looked at all of the emails to and from Lois Lerner from 80 people and produced for you 24,000 emails.

Mr. JORDAN. No, I'm focusing on the words you used. "Confirmed."

Mr. KOSKINEN. "Confirmed." I told you, yes—

Mr. JORDAN. "Confirmed" was one conversation with one IT guy that turned out not to be true, and here's the big picture, your chief counselor, Kate Duvall, knew in February you had problems with Lois Lerner's emails. You learned in April, and you didn't tell us until June. So from February to June, you learned there's big problems, and the only thing you do to confirm that there are big problems is one question to your IT guy.

Mr. KOSKINEN. I knew in April we—

Mr. JORDAN. About something where people's fundamental rights were violated.

Mr. KOSKINEN. Lot of time to get 24,000 emails for you, which was, at that time, we thought the most we could do, the best we could do, we thought. In fact, it was an extraordinary effort to go back through all of that to get you the additional 24,000 emails, which, by the way, you apparently don't have much interest in them because they've been—

Mr. JORDAN. One conversation, Mr. Chairman. One conversation with an IT guy, and he writes the U.S. Congress and tells the American people: We've lost Lois Lerner's emails, and then one last question if I could, Mr. Koskinen. When did you learn from TIGTA that they had actually found these tapes and could recover her emails?

Mr. KOSKINEN. I haven't learned yet that they could recover. I learned that we helped them find—they went through the system and our people helped them find by the early part—late July, early

August they said they thought they had found the tapes from that time—

Mr. JORDAN. Wait, wait, let me—this is an important point, Mr. Chairman.

So literally a month after you—in July and early August, a month after you said “we confirmed that backup tapes no longer exist,” TIGTA had the backup tapes?

Mr. KOSKINEN. TIGTA with our people—

Mr. JORDAN. Within a month they got the tapes that you confirmed didn’t exist?

Mr. KOSKINEN. That’s exactly right.

Mr. JORDAN. Oh, my goodness.

Chairman CHAFFETZ. Thank the gentleman.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. I yield.

Chairman CHAFFETZ. Recognize the ranking member.

Mr. CUMMINGS. You know, we can—you know sitting here and listening to all of this, I’m just trying to figure out how do we move forward. You know, you all been on the list for 25 years. It’s a long time. Administration after administration, and at some point, we need to get off this merry-go-round, and, you know, one of the things that I’ve noticed after being here for 18 years now is that there’s a tendency for—I think it was Mr. Gowdy who said it, or somebody up there, that folks wait for another administration or another Congress, and then we just recycle the same problems.

And I guess my question is very simple to each of you: If you were—if you had a magic wand and you could get this done, what would you do to get yourselves off the list? I mean, I’m serious. I mean, what does it take, and what—if you were us, what would you do to get you off the list, or to have a kind of accountability that the chairman talked about? Because I got to agree with him. We’re better than this. And we’re just going round and round and round. We’re losing hundreds of billions of dollars. We’re wasting a lot of time, and it’s very frustrating, and I just believe—I mean, is it that we are too big to have accountability? Is it that we are too big to be able to say, OK. This is how it’s supposed to be done and we’re going to do it this way and we’re going to do it an effective and efficient manner?

I mean, you all may feel that the questions are—been unfair and tough. So I’m going to turn the table, and why don’t you all tell us what you would—what we—if you were us, what would we have you do so that you can get off the list so that we can hold you accountable. We’re going to start with you, Mr. MacWilliams, since you have such a wonderful smile.

Mr. MACWILLIAMS. Thank you for your question. First of all, the point that I would make with respect to the Department of Energy and to the chairman’s comments, is we have made progress, but the GAO is essentially focusing on half a dozen large capital projects where we have had repeated problems, and we still do have problems, and so there’s no effort on our part to claim success on that, and we welcome your oversight and the oversight of GAO.

What success we have had is in projects below the 750. I won’t dwell on those, but I will point out that in the Department—in NSA, for example, the last 3 years, we’re 7 percent below budget

and on time. We've had other large projects recently such as the national Synchrotron project come in on budget.

The problems that we have, which are systemic, are in our large capital projects which tend to be the nuclear projects which are among the most complex projects in the world. Therefore, what we're trying to focus on are structural changes so that they last past someone like me. I've been testifying before you for a couple of years, and that's why we've tried to create a much improved ISEB, a new project risk management committee, because that committee is meant to create enterprise-wide dialog and challenge by all the project members from across the programs so that we can avoid future problems like this and hopefully get to the bottom of the problems that we have.

The last thing I would just mention, sir, is both of you talked accountability. That has been a significant issue at the Department of Energy. When everybody's in charge of a project, nobody's in charge. And so that's why, as I mentioned earlier, we—the Secretary has mandated that for every project, we have to have a defined owner, to the chairman's question, so that that is the person that is accountable when things don't go correctly.

Mr. CUMMINGS. Mr. Chairman, I'm going to yield to you. I think we have a solution to this issue, and I—and I yield—

Chairman CHAFFETZ. Thank you. The ranking member and I—Mr. Cummings and I have chatted, and I think what we would like to do is to send each of you a letter. We would request that you would respond within a 30-day period what is your plan? Show us your game plan and what you need to do to accomplish that plan. Is that—does anybody have an objection to that? Is that fair?

Mr. MACWILLIAMS. No, sir.

Chairman CHAFFETZ. Does anybody have an objection to that?

Mr. KOSKINEN. No.

Chairman CHAFFETZ. Will you meet that 30-day timeline if we send you a letter this week? Fair enough. This is—this has been a long hearing. You've been very patient taking your time here, but that's what we'll do. We will send a bipartisan letter. We would ask you to respond within 30 days, show us your game plan, and then that way I think we can go from here. We do appreciate your commitment. We appreciate your agencies. Again, most of the people there, they're good hard-working patriotic people, but we're failing them, and if we don't address it and put a plan in place, we will be back here again, and we don't ever want to do that. So with that, this committee will stand adjourned. Thank you.

[Whereupon, at 6:40 p.m., the committee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

Questions for the Honorable Gene L. Dodaro
Comptroller General
U.S. Government Accountability Office

Questions from Representative Chaffetz
Committee on Oversight and Government Reform

February 11, 2015 Full Committee Hearing on:
"GAO's High Risk Report: 25 Years of Problematic Practices"

- 1. The High-Risk report notes that you have offered several best practice recommendations to federal agencies. However, in some cases, they then turn around and spend more time, and presumably more money, on developing their own guidelines. This seems wasteful. Why won't these agencies just accept your advice? Please elaborate on this situation.**

In most cases, we find that agencies follow GAO's recommendations. As we monitor the status of actions on our recommendations over a period of four years, agencies implement them on average 80 percent of the time. However, recommendations related to our high risk report may identify cross-cutting or long-standing issues that are particularly difficult or complex to address.

We have identified several cases where our reports identify leading practices and make recommendations with regard to implementing them, and agencies either do not implement them, are slow to implement them, or develop their own guidance or leading practices. We understand the need for agencies to, in some cases, translate GAO recommendations on leading practices into formal direction to their staffs to (1) give them specific guidance on who is to do what, when, and how, and (2) to hold staff accountable for implementing the action. Such guidance is helpful and can improve implementation, but it can take a long time. Recognizing that adopting leading practices can necessitate culture change in an agency, starting action quickly is very important. Congress can also play a key role in agencies adopting GAO's recommendations regarding leading practices, either by requiring these practices in law, or conducting oversight of agency operations and the extent to which they are responding to GAO's reports. .

Three examples of agencies not implementing leading practice recommendations, delaying implementation, or developing their own approaches include project management at the Department of Energy, and the cross-cutting federal management areas of acquisition of goods and services, and IT management.

The Department of Energy's contract management for the National Nuclear Security Administration and Office of Environmental Management remained on GAO's high risk list this year. The Department spends billions of dollars managing projects such as construction related to the nuclear complex, and to clean up radioactive and hazardous waste. In response to consistent cost overruns we have made recommendations regarding improving cost-estimating best practices. For example, in January 2010, we found that DOE's cost estimating guidance was outdated and recommended that its new policy reflect cost

estimating best practices we had identified¹. DOE agreed with this recommendation, but in 2013 we found that while DOE had made progress, it had not ensured that its cost estimating practices fully incorporated best practices.² In November 2014, once again we recommended that DOE revise its cost estimate guide to reflect a list of 12 cost estimating best practices we identified.³ In December 2014, we also recommended that DOE incorporate best practices in its analysis of alternative requirements as part of its project management.⁴ In both cases, DOE agreed but did not provide a specific timeframe for when it would respond to this recommendation. Our reviews showed that DOE incorporated some best practices in its cost estimating and analysis of alternatives guidance, but that this guidance is optional. As a result, projects that we have reviewed have not complied with best practices. Furthermore, in November 2014, a DOE working group released a report addressing project management challenges. The report included 21 recommendations, none of which immediately called for implementing our best practices recommendations for cost estimating and analysis of alternatives. This is part of the reason we characterized DOE as only partially-meeting our high risk criteria of having an action plan.

With regard to agencies' acquisition of goods and services, in 2002 we first recommended that agencies follow the industry best practice of using strategic sourcing tools to save money on their purchase of services.⁵ It is only in the past 2 years or so that agencies have begun to develop and substantively implement such policies, after many further GAO recommendations on the subject. In 1999, we recommended that the Department of Defense employ technology readiness levels to reduce the disruptions that immature technologies cause in weapon system programs.⁶ An initial period of insufficient guidance and implementation was followed by the current period of burdensome guidance and review. Similarly, GAO and others have recommended that the Air Force adopt best practices for satellite control operations⁷ so that ground stations could control more than one type of satellite, but it took many years for the Air Force to begin this effort. In all of these cases, our recommendations were both well-grounded in successful practices and conducive to solving problems agencies were facing. Excessive implementation delays cost the government time

¹GAO, *Department of Energy: Actions Needed to Develop High-Quality Cost Estimates for Construction and Environmental Cleanup Projects*, GAO-10-199 (Washington, D.C.: Jan. 14, 2010).

²GAO, *Department of Energy: Observations on Project and Program Cost Estimating in NNSA and the Office of Environmental Management*, GAO-13-510T (Washington, D.C.: May 8, 2013).

³GAO, *Project and Program Management: DOE Needs to Revise Requirements and Guidance for Cost Estimating and Related Reviews*, GAO-15-29 (Washington, D.C.: Nov. 25, 2014).

⁴GAO, *DOE and NNSA Project Management: Analysis of Alternatives Could Be Improved by Incorporating Best Practices*, GAO-15-37 (Washington, D.C.: Dec. 11, 2014).

⁵GAO, *Best Practices: Taking a Strategic Approach Could Improve DOD's Acquisition of Services*, GAO-02-230 (Washington, D.C.: Jan. 18, 2002).

⁶GAO, *BEST PRACTICES: Better Management of Technology Development Can Improve Weapon System Outcomes*, GAO/NSIAD-99-162 (Washington: D.C.: Jul 30, 1999).

⁷GAO, *SATELLITE CONTROL: Long-Term Planning and Adoption of Commercial Practices Could Improve DOD's Operations*, GAO-13-315 (Washington, D.C.: Apr 18, 2013).

and money. The simpler solution is for agencies to quickly provide less detailed, interim guidance on adopting a best practice so that action, however imperfect, can begin in earnest. Course corrections and refinements can be done when better guidance is available, but in the meantime, real progress can be made.

Ensuring the security of federal information systems remains on our high risk list this year. In reviewing information security at federal agencies, we have repeatedly reported that they are challenged in effectively and consistently implementing an agencywide information security program as mandated by the Federal Information Security Management Act of 2002 (FISMA). Consistent with our report on leading practices for information security management,⁸ FISMA required federal agencies to assess their information security risks; select and implement controls to cost-effectively reduce that risk to an acceptable level; train individuals on their information security responsibilities; test and evaluate the effectiveness of security controls; remediate known vulnerabilities; and establish procedures to detect, report, and respond to security incidents. However, we continually identify shortcomings in agency programs to protect their computer networks, systems, and information. For example, we identified serious and widespread information security vulnerabilities in the Federal Aviation Administration's air traffic control systems that threatened the safe and uninterrupted operation of the national airspace system (GAO-15-221).⁹ In our audit report on the U.S. Government's consolidated financial statements for FY 2014, we once again concluded that deficiencies in information security controls for federal financial computer systems constituted a material weakness for financial reporting purposes.¹⁰ Effectively implementing the hundreds of recommendations that we make to federal agencies to improve information security over their computer systems and networks will better position the agencies in managing their cyber risks on an ongoing and consistent basis. The Congress passed five laws in 2014 to address cyber security issues; effective implementation by agencies and oversight by Congress will be important to making progress.

We added improving the management of IT acquisitions and operations to our high risk list this year.¹¹ In our May 2014 report, we reviewed five selected agencies' compliance with the OMB requirement for agencies to deliver IT investment functionality in six month increments.¹² Agencies have reported that poor-performing projects have often used a "big bang" approach—that is, projects that are broadly scoped and aim to deliver functionality several years after initiation. One approach to reducing the risks from broadly scoped, multiyear projects is to divide investments into smaller parts—a leading practice long

⁸GAO, *Guide: Information Security Management—Learning From Leading Organizations*, GAO/AIMD-98-68 (Washington, D.C.: May 1, 1998).

⁹GAO, *FAA Needs to Address Weaknesses in Air Traffic Control Systems*, GAO-15-221 (Washington, D.C.: Jan 29, 2015).

¹⁰GAO, *Financial Audit: U.S. Government's Fiscal Years 2014 and 2013 Consolidated Financial Statements*, GAO-15-341R (Washington, D.C.: Feb 26, 2015).

¹¹GAO, *High-Risk Series: An Update*, GAO-15-290 (Washington, D.C.: Feb. 11, 2015).

¹²GAO, *Information Technology: Agencies Need to Establish and Implement Incremental Development Policies*, GAO-14-361 (Washington, D.C.: May 1, 2014).

advocated by Congress and OMB.¹³ However, our review found that of the 89 selected investments at the five agencies we reviewed, only 23 (or 26 percent) planned to deliver within the required 6 month window, and only 41 (or 46%) planned to deliver within 12 months.

In another example of Congress helping to advance use of leading practices, recognizing the severity of issues related to government-wide management of IT, in December 2014, the Federal Information Technology Acquisition Reform provisions were enacted as a part of Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015. Among other things, the law includes the requirement that OMB shall provide guidance that requires CIOs to certify that IT acquisitions are adequately implementing incremental development. Further, as noted in our testimony to your committee in February 2015, we recommend that to ensure accountability, OMB and agencies should also demonstrate measurable government-wide progress in several key areas, including that agencies should ensure that a minimum of 80 percent of the government's major acquisitions should deliver functionality every 12 months.

¹³See Clinger-Cohen Act of 1996, Pub. L. No. 104-106 § 5202, 110 Stat. 186, 690 (1996), codified at 41 U.S.C. § 2308; see also 48 C.F.R. § 39.103 (Federal Acquisition Regulation); OMB, Management of Federal Information Resources, Circular No. A-130 Revised.

Questions for the Honorable Gene L. Dodaro
Comptroller General
U.S. Government Accountability Office

Questions from Representative Hice
Committee on Oversight and Government Reform

February 11, 2015 Full Committee Hearing on:
“GAO’s High-Risk Report: 25 Years of Problematic Practices”

1. Please provide a summary of reports and other products which GAO has produced concerning non-VA care reimbursements.
2. Please provide a summary of reports and other products which, to the best of your present knowledge, GAO will produce concerning non-VA care.
3. What recommendations has GAO made to VA on this subject?
4. Has VA implemented these recommendations? If not, what reasons has the Department provided for not doing so?

Response to Questions 1, 3, and 4

Non-VA care is a crucial part of VA’s delivery of healthcare services to veterans and is reflected in VA’s inclusion on the 2015 High-Risk List. Specifically, the recent update to GAO’s High-Risk List highlighted concerns with non-VA care related to: (1) inadequate oversight and accountability and (2) unclear resource needs and allocation priorities. Since 2013, GAO has issued three products and made 17 recommendations that relate to the Department of Veterans Affairs’ (VA) payments for services delivered by non-VA providers:

VA Health Care: Management and Oversight of Fee Basis Care Need Improvement. GAO-13-441. Washington, D.C.: May 31, 2013. This report examined (1) how VA’s spending on and utilization of non-VA health care (previously known as fee basis care) changed from fiscal year 2008 to fiscal year 2012, (2) factors that contributed to the use of non-VA health care during this time period and steps some VAMCs are taking to reduce the use of non-VA care, (3) VA’s oversight of non-VA health care spending and utilization, and (4) VA’s plans and strategies to improve the Non-VA Medical Care Program.

In this study, we found that spending on non-VA health care increased from about \$3.04 billion in fiscal year 2008 to about \$4.48 billion in fiscal year 2012. The number of veterans using non-VA health care also increased over that same period—from about 821,000 veterans in fiscal year 2008 to about 976,000 veterans in fiscal year 2012. The majority of non-VA health care spending and utilization during this time period was for outpatient services, rather than for inpatient services.

We also found that several factors affected VA facilities' use of non-VA care, including the limited availability of certain clinical services at VA facilities, veteran travel distances to VA facilities, and goals for the maximum amount of time veterans should wait for VA facility-based appointments. However, VA lacked data needed to efficiently monitor areas of non-VA care utilization growth or unusually high spending. VA also did not track veterans' wait times for appointments with non-VA providers.

Taken together, these deficiencies limited VA's ability to (1) compare the cost-effectiveness of non-VA care to similar care provided in VA facilities, (2) efficiently assess whether non-VA providers were being reimbursed appropriately, and (3) determine whether veterans were able to access care more quickly from non-VA providers than they could from providers at VA facilities.

Five of our 17 recommendations related to non-VA care were included in this report and VA concurred with all of these recommendations:

1. To effectively manage non-VA health care spending, we recommended that the Secretary of Veterans Affairs revise the beneficiary travel eligibility regulations to allow for the reimbursement of travel expenses for veterans to another VA facility to receive needed medical care when it is more cost-effective and appropriate for the veteran than seeking similar care from a non-VA provider.
2. To effectively manage non-VA care wait times and spending, we recommended that the Secretary of Veterans Affairs direct the Under Secretary for Health to analyze the amount of time veterans wait to see non-VA care providers and apply the same wait time goals to non-VA care that are used for VA facility-based wait time performance measures.
3. To effectively manage non-VA care wait times and spending, we recommended that the Secretary of Veterans Affairs direct the Under Secretary for Health to establish guidance for VA facilities that specifies how non-VA care should be incorporated with other VA facility utilization management efforts.
4. To effectively manage non-VA care wait times and spending, we recommended that the Secretary of Veterans Affairs direct the Under Secretary for Health to require during the non-VA care authorization process that VA providers and non-VA care officials determine the cost-effectiveness of reimbursing medically stable veterans eligible for beneficiary travel for travel to another VA facility rather than referring them to a non-VA provider for similar care.
5. To ensure that VA Central Office effectively monitors non-VA care, we recommended that the Secretary of Veterans Affairs direct the Under Secretary for Health to ensure that non-VA care data include a claim number that will allow for VA Central Office to analyze the episode of care costs for non-VA care.

We have been monitoring VA's progress toward implementing these five recommendations and we expect to close 2 of these soon as implemented. Specifically, we anticipate closing our recommendations to: (1) establish guidance for VA facilities that specifies how non-VA care should be incorporated with other VA facility utilization management efforts and (2) require during the non-VA care authorization process that VA providers and non-VA care officials determine the cost-effectiveness of reimbursing medically stable veterans eligible for beneficiary

travel for travel to another VA facility rather than referring them to a non-VA provider for similar care. VA's planned actions are likely to be sufficient to address the remaining three recommendations from this report, but VA is still in the process of completing them.

VA Health Care: Actions Needed to Improve Administration and Oversight of Veterans' Millennium Act Emergency Care Benefit. GAO-14-175. Washington, D.C.: March 6, 2014.

The Veterans Millennium Health Care and Benefits Act (Millennium Act) authorizes VA to cover emergency care for conditions not related to veterans' service-connected disabilities when veterans who have no other health plan coverage receive care from non-VA providers. This report examined the extent to which (1) selected VA facilities complied with applicable requirements, in particular when denying Millennium Act emergency care claims; (2) VA's oversight activities ensured that Millennium Act claims were not being inappropriately denied; and (3) veterans understand the Act's emergency care benefit and how VA communicates with non-VA providers about Millennium Act claims.

We found that selected VA facilities were not complying with applicable requirements when denying Millennium Act emergency care claims from non-VA providers. This noncompliance caused staff at a sample of four VA facilities to inappropriately deny about 20 percent of the 128 claims we reviewed. We also found that these VA facilities may not have been notifying veterans that their non-VA emergency care claims had been denied, as about 65 percent of the claims we reviewed lacked documentation of veteran notification. These findings suggest that veterans whose claims had been inappropriately denied may have been held financially liable for non-VA emergency care that VA should have covered, and they may not have been notified of the denials or their appeal rights.

We also determined that VA lacked sufficient oversight mechanisms and data to ensure that VA facilities were not inappropriately denying veterans' Millennium Act emergency care claims. Finally, we found that veterans lacked knowledge about their eligibility for Millennium Act emergency care, and selected non-VA providers experienced communication problems and other challenges with obtaining timely payment for claims they submitted to VA.

Twelve of our 17 recommendations related to non-VA care were included in this report and VA concurred with all of these recommendations:

- Six of these 12 recommendations relate to improving VA facilities' compliance with applicable requirements for processing non-VA provider emergency care claims. Specifically, these recommendations relate to establishing, clarifying, or revising claims processing policies; educating staff; or establishing procedures to help ensure that VA facilities take steps to notify veterans about the status of claims for non-VA health care.
- Five of these 12 recommendations relate to improving VA's oversight of its facilities' processing of Millennium Act emergency care claims. Specifically, three of these recommendations relate to revising the scope of VA's existing monitoring efforts, to better identify claims processing deficiencies and help ensure that VA facilities correct them. The other two recommendations relate to improving VA's data collection efforts, so that the Department will be better able to identify patterns of VA facilities' noncompliance with applicable claims processing requirements and areas where VA's communications with veterans and non-VA providers could be improved.

- Our final recommendation was intended to improve VA's ability to address its strategic plan objective of educating and empowering veterans. Specifically, we recommended that the Secretary of Veterans Affairs direct the Under Secretary for Health to take steps to better understand gaps in veterans' knowledge regarding eligibility for Millennium Act emergency care, such as by conducting veteran surveys of health care benefits knowledge, and using information from those surveys to more effectively tailor the agency's education efforts regarding the Millennium Act benefit. In conducting these surveys, we recommended that VA consider including in these efforts a sample of veterans whose past Millennium Act emergency care claims had been denied, in order to obtain these veterans' views and specific details of their experiences.

We have been monitoring VA's progress toward implementing many of these 12 recommendations and we expect to close 2 of these soon as implemented. Specifically, we anticipate closing our recommendations to (1) implement measures to ensure that all VA facilities comply with VA's policy requirement that incoming claims be date-stamped and scanned into the Fee Basis Claims System (FBCS) on the date of receipt and (2) clarify the policy for processing Millennium Act claims to communicate the importance of promptly verifying that claims have been sent to the correct VA facility, and implement measures to ensure that all VA facilities comply with this policy.¹⁴ VA's planned actions are likely to be sufficient to address 2 of the 10 remaining recommendations from this report, but VA is still in the process of completing them.

However, we believe that VA's completed and planned actions will not fully address the remaining 7 recommendations from this report, but we are continuing to monitor them and are working with VA to determine what additional actions VA needs to take. For example, in one case, we recommended that VA revise policies that relate to processing claims from non-VA providers, and the Department updated a procedure guide. While this is a positive step, this update did not fully address the goals of our recommendation, and we have communicated to VA what additional actions are needed. In another case, we believe that—rather than relying on facilities' self-reported information about compliance with claims processing requirements—VA needs to independently assess facilities' implementation of these requirements.

VA Health Care: Further Action Needed to Address Weaknesses in Management and Oversight of Non-VA Medical Care. GAO-14-696T. Washington, D.C.: June 18, 2014. We testified before the House Committee on Veterans Affairs, for a hearing called, "Non-VA Care: An Integrated Solution for Veteran Access," which was held on June 18, 2014. In light of serious and longstanding problems regarding the timely scheduling of veterans' appointments in VA facilities, VA announced its intention to allow more veterans to be treated by non-VA providers. Our testimony summarized our findings from GAO-13-441 and GAO-14-175, which are described above, and addressed (1) the extent to which VA collected reliable information on wait times and cost-effectiveness of its non-VA care program; (2) VA facilities complied with claims processing requirements for Millennium Act Emergency Care; and (3) VA educated veterans about eligibility for Millennium Act emergency care and communicated with non-VA providers about claims processing.

¹⁴The Fee Basis Claims System is the name of the software VA uses to process claims for non-VA health care.

Response to Question 2

GAO is working on three different studies that relate to non-VA health care:

- *Timeliness of non-VA payments.* GAO is presently working on a study mandated by the Veterans Access, Choice, and Accountability Act of 2014 (P.L. 113-146, 128 Stat. 1754), which will examine the timeliness of VA's payments to providers of non-VA health care. The law directs GAO to survey a variety of non-VA providers from different geographic areas about the timeliness of VA payments, as compared to payments they receive from Medicare and TRICARE. The law also expresses the sense of Congress that VA should comply with the Prompt Payment Rule in paying for health care from non-VA providers. At this time, GAO plans to address four main research questions:
 - To what extent does VA comply with timeliness requirements when processing and paying claims for non-VA health care?
 - To what extent does VA's management and oversight of non-VA health care help ensure that claims from non-VA providers are processed and paid in a timely manner?
 - How does VA's timeliness for processing and paying non-VA health care claims compare to Medicare's and TRICARE's timeliness?
 - What have non-VA health care providers' experiences been with VA's claims processing—including the timeliness of VA payments?

- *Timeliness of Primary Care Services Provided to Veterans.* GAO is also currently studying the extent to which veterans can access primary care appointments at VA facilities in a timely manner in response to a request from the Chairman of the Subcommittee on Oversight and Investigations of the House Committee on Veterans' Affairs. This study relates to non-VA health care because a primary care appointment is often needed in order for a veteran to obtain a referral and authorization to seek care outside VA. For this study, GAO plans to examine the following key questions:
 - What processes must veterans new to VA's Veterans Health Administration (VHA) follow to access primary care services, and how, if at all, do they vary depending on the mode of enrollment?
 - To what extent are veterans new to VHA waiting to be assigned a primary care physician?
 - What are VHA's timeliness standards for providing primary care appointments, and to what extent is VHA meeting these standards when providing primary care appointments for new and established patients?
 - What efforts, if any, has VHA implemented or planned to help ensure veterans' timely access to primary care services?

- *Veterans' Access to Mental Health Services from the Department of Veterans Affairs.* Finally, GAO is studying veterans' access to mental health care in response to a request from the Chairman of the Senate Committee on Veterans' Affairs and Senator Burr. An August 2012 Executive Order directed VHA to improve mental health access, including

by hiring new providers and establishing a community provider pilot program. Under the pilot program, 12 VA facilities established a total of 24 pilot projects with community-based providers of mental health and substance abuse treatment services. Most of the community-based care in this pilot program is being delivered by non-VA providers, either through contracts or on a fee-for-service basis. Our study on mental health access currently includes one research question that relates to non-VA health care, which is, "to what extent has VHA implemented the community provider pilot program, and what is the pilot's effect on veterans' access to mental health care?"

Questions for the Honorable Gene L. Dodaro
Comptroller General
U.S. Government Accountability Office

Questions from Representative Duckworth
Committee on Oversight and Government Reform

February 11, 2015 Full Committee Hearing on:
"GAO's High Risk Report: 25 Years of Problematic Practices"

Mr. Dodaro, as you know, the GAO has written seven reports recommending that the USDA catfish program be repealed to "avoid duplication of federal programs and save taxpayers millions of dollars annually without affecting the safety of catfish intended for human consumption. This program would require that seafood processors around the country, including Fortune Fish, Mazzetta Company, Central Seaway and others in Illinois, comply with duplicative and inconsistent regulations by USDA and FDA depending on the species of fish. This is exactly the kind of program at high risk for waste, fraud and abuse this Committee and this hearing should be focused on eliminating.

As the top official for the government's own watchdog, do you agree that the USDA catfish program is duplicative, wasteful and should be repealed? Do you agree that spending an additional \$2.5 million in taxpayer funds on the USDA catfish program in Fiscal Year 2016 as requested in the budget would be an inappropriate use of taxpayer funds given that FDA already has jurisdiction over all seafood?

GAO agrees that USDA's catfish program would be a duplication of activities because facilities that process both catfish and other seafood would be inspected by both the U.S. Department of Agriculture (USDA) and the Food and Drug Administration (FDA). On February 7, 2014, the President signed into law the 2014 Farm Bill, which did not repeal the USDA catfish inspection program. Instead, it modified provisions of the 2008 Farm Bill to require USDA to coordinate with FDA to execute a memorandum of understanding that is intended to ensure that inspections of catfish conducted by USDA and FDA are not duplicative. USDA and FDA signed the MOU on April 30, 2014. GAO maintains that the April 2014 MOU does not address the fundamental problem that USDA's catfish program, which becomes effective once USDA issues final program regulations, would be duplicative and an inefficient use of taxpayer funds because the annual cost to the federal government and industry of this inspection program would be in addition to and considerably more than FDA's current program. We have reported in 2012, 2013, and again in 2014 that Congress should therefore consider repealing provisions of the 2008 Farm Bill assigning the responsibility for examining and inspecting catfish to USDA and for creating a separate catfish inspection program.

**Dr. Agrawal's Hearing
Additional Written Questions for the Record
Committee on Oversight and Government Reform
"GAO's High Risk Report: 25 Years of Problematic Practices"**

February 11, 2015

Representative Chaffetz

1. When will the next report on the Medicaid Integrity Program be submitted to Congress?

Answer: The Centers for Medicare & Medicaid Services (CMS) will submit the update on the Medicaid Integrity Program as part of the Medicare and Medicaid Integrity Program Report to Congress, which we expect to release this fall. CMS has been required to report on Medicaid program integrity activities since the enactment of the Deficit Reduction Act of 2005 (P.L. 109-171). Section 6402(j) of the Affordable Care Act (P.L. 111-148 and P.L. 111-152) established the requirement that CMS report on Medicare program integrity activities. CMS submitted a joint report for the first time for Fiscal Year (FY) 2012.¹ CMS reported that through the Medicaid Integrity Program, CMS directed the activity of the Audit Medicaid Integrity Contractors, which identified \$12.9 million (includes State and Federal funds) in Medicaid overpayments during FY 2012 for recovery by states. Through the State Medicaid Recovery Audit Contractor programs, states have recovered a total Federal and state share combined amount of \$95.6 million, and returned a total of \$57.6 million to CMS for FY 2012. CMS also provided direct support to state activities that led to substantial recoveries – including \$1.4 billion reported by states for FY 2012. Importantly, CMS has laid the groundwork for additional savings with the implementation of innovative technology, and is continuing to refine an approach to measuring the impact of initiatives that achieve cost avoidance.

CMS also recently published the Comprehensive Medicaid Integrity Plan (CMIP) for FYs 2014-2018,² which sets forth the strategy of the CMS to safeguard the integrity of the Medicaid program during FYs 2014-2018. This Plan is designed to strengthen the ability of the Federal-state partnership to safeguard the integrity of the Medicaid program. The execution of this Plan will improve the ability of state Medicaid agencies and CMS to leverage program data to detect and prevent improper payments, which will strengthen states' ability to safeguard state and Federal Medicaid dollars from diversion into fraud, waste, and abuse. These efforts will expand the capacity of CMS to protect the integrity of the Medicaid program and to manage risk in the administration of Federal grants to states.

The CMIP also addresses new requirements as well as ongoing Medicaid program integrity issues. It is informed by our evaluation of past and current program integrity efforts by CMS and its state partners. It is also informed by recommendations made by the Department of Health and Human Services' Office of Inspector General, the Government Accountability Office, the

¹ <http://www.cms.gov/About-CMS/Components/CPI/Widgets/CMS-Program-Integrity-Report-to-Congress-FY-2012.pdf>

² <http://www.cms.gov/Regulations-and-Guidance/Legislation/DeficitReductionAct/Downloads/cmip2014.pdf>

Medicaid and CHIP Payment and Access Commission, the National Association of Medicaid Directors (NAMD), and ongoing feedback and engagement of the Medicaid Fraud and Abuse Technical Advisory Group. In keeping with recommendations by these stakeholders, CMS has already implemented improvements as well as discontinued activities that have not proven cost-effective. Additional recommendations by these stakeholders will be implemented as part of this five-year Plan.

Representative Duckworth

1. **CMS has had a prior authorization demonstration project confined to one or two DME items, e.g. power wheelchairs, and in 2014 announced that it was expanding the demo project to a few more specific DME items, but also, to ALL prosthetic devices. Are you concerned that applying a new approach to ALL of one product category, as opposed to a few selected items, as is the case with the DME, goes beyond the concept and confines of a demonstration project, and are you concerned that expanding the scope of prior authorization too rapidly in the area of prosthetics could actually disrupt patient care by creating a barrier between the amputee and their prosthetist?**

Answer: CMS has a number of prior authorization initiatives underway. While some lower-limb prosthetics were included in the proposed regulations implementing prior authorization for some Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS), we have not issued final policies for the particular items discussed in the proposed regulation. Under the proposed rule published May 28, 2014, Prior Authorization Process for Certain DMEPOS Items (CMS 6050-P), CMS proposed that only items above \$1,000 or more and subject to additional criteria would be considered for a prior-authorization process. Timely access to care is of utmost concern to CMS. CMS' prior-authorization processes take into consideration items that may be needed quickly and provides alternative timelines to ensure beneficiaries receive timely access to necessary items and services. For example, CMS proposed offering an expedited review process for circumstances where the standard timeframe for making a prior-authorization decision could jeopardize the life or health of the beneficiary. Current prior authorization initiatives do not create additional documentation requirements or delay medical service. It requires the same information that is currently necessary to support Medicare payment, but earlier in the process. CMS believes prior authorization is an effective way to ensure compliance with Medicare rules for some items and services. To date, CMS' prior authorization initiatives have not been shown to create barriers between the beneficiary and the provider, or otherwise disrupt patient care.

Current prior-authorization initiatives include:

- Power mobility devices - This demonstration started on September 1, 2012, in seven states, and has been expanded to 12 additional states, for a total of 19 states. CMS believes this demonstration has contributed to reductions in improper payments for power mobility devices, which will help ensure the sustainability of the Medicare Trust Funds and protect beneficiaries who depend upon the Medicare program.

- Repetitive scheduled non-emergent ambulance transport - This model started in December 2014 in New Jersey, Pennsylvania, and South Carolina. CMS is testing whether prior authorization helps reduce expenditures, while maintaining or improving quality of care.
 - Non-emergent hyperbaric oxygen therapy - This model is scheduled to start March 1, 2015, in Illinois, Michigan, and New Jersey. CMS is testing whether prior authorization helps reduce expenditures, while maintaining or improving quality of care.
2. **It has been suggested that prior authorization constitutes a provider reimbursement arrangement that will help CMS move away from the current 'pay and chase' model. However, some providers are concerned that prior authorization may represent an additional juncture at which providers must prove medical necessity, and despite receiving CMS authorization, find themselves being audited after an authorized device or service is provided to the beneficiary. Does Medicare prior authorization constitute a promise to pay?**

Answer: Comments received by CMS from stakeholders on the concept of the Medicare Fee-for-Service prior authorization effort have been positive. The goal of prior authorization is to ensure compliance with Medicare requirements prior to the service being provided. The advantage to the supplier is that this process allows for the identification and correction of any problems with documentation or coverage. The other advantage is that this process is completed prior to the issuing of the payment. An affirmative prior authorization is a preliminary finding that a future claim meets Medicare's coverage, coding and payment rules. Claims could be reviewed and denied based on technical requirements that can only be evaluated after the claim has been submitted for formal processing, for example, a valid proof of delivery or duplicate billing. Generally, a service that has received prior authorization is protected from future audits unless there is evidence of potential fraud and abuse or gaming.