

Calendar No. 396

115TH CONGRESS }
2d Session }

SENATE

{ REPORT
115-239 }

GAO AUDIT MANDATES REVISION
ACT OF 2018

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2400

TO ELIMINATE OR MODIFY CERTAIN AUDIT MANDATES OF THE
GOVERNMENT ACCOUNTABILITY OFFICE



MAY 7, 2018.—Ordered to be printed

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MAY 7, 2018.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 2400]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 2400) to eliminate or modify certain audit mandates of the Government Accountability Office, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

S. 2400, the GAO Audit Mandates Revision Act of 2018, revises three congressionally-mandated financial audits conducted by the Government Accountability Office (GAO). Modifying these audits better prioritizes resources, saving approximately 8,400 employee hours at GAO.¹

¹Email from Timothy L. Minelli, Assistant Dir. of Cong. Relations, U.S. Gov't Accountability Office, to Daniel Spino, Research Assistant, S. Comm. on Homeland Sec. & Governmental Affairs (Jan. 29, 2018, 01:15 EST) (on file with Committee).

II. BACKGROUND AND THE NEED FOR LEGISLATION

GAO is an independent, nonpartisan agency with a mission “to support the Congress in meeting its constitutional responsibilities and to help improve the performance and ensure the accountability of the federal government for the benefit of the American people.”² During the 112th Congress, the Committee worked with GAO to reduce or modify outdated and unnecessary reporting requirements mandated by Congress.³ As a result, Congress enacted the GAO Mandates Revision Act of 2012 to revise eight congressionally-mandated reports, allowing GAO to focus its workforce on higher-priority oversight.⁴

In the 114th Congress, the Committee again reviewed GAO’s congressionally-mandated work and secured the passage of the GAO Mandates Revision Act of 2016, which revised an additional eight mandates.⁵

This Congress, GAO initiated a review process in which it conducted an agency-wide evaluation of its mandated financial audit reports. Through this process, GAO identified financial audits that Congress can reassign to more appropriate Government entities. GAO and the Committee worked with committees of jurisdiction to refine this list.⁶

The result, S. 2400, revises three financial audits related to the Congressional Award Foundation (CAF), the Patient-Centered Outcomes Research Institute (PCORI), and the Troubled Asset Relief Program (TARP). The bill removes the requirement that GAO conduct a duplicative review of the annual financial audits of the CAF and PCORI. CAF presents its audit directly to Congress, and a duplicative review is unnecessary.⁷ PCORI’s financial audits are prepared by an independent auditor that has not found any questionable results or practices.⁸ Finally, the bill moves the annual audit of TARP from GAO to U.S. Department of the Treasury Inspector General. GAO currently hires an independent contractor to conduct these audits using funds from TARP, essentially making GAO an unnecessary middle man.⁹ The department’s inspector general is a more appropriate entity to manage this audit of the program.¹⁰

²U.S. Gov’t Accountability Off., *About GAO* (2018), available at <https://www.gao.gov/about/index.html>.

³S. Rep. No. 112–219 at 1 (2012).

⁴*Id.* at 2.

⁵Pub. L. No. 114–301 (114th Cong.).

⁶Meeting with Timothy Minelli, Assistant Dir. of Cong. Relations, U.S. Gov’t Accountability Office, to Staff, S. Comm. on Homeland Sec. & Governmental Affairs (Aug. 2, 2017); see also Email from Brett Baker, Senior Health Policy Advisor, S. Comm. on Finance, to Daniel Spino, Research Assistant, S. Comm. on Homeland Sec. & Governmental Affairs (Jan. 24, 2018, 04:36 EST) (on file with Committee); Email from Lauren Comeau, Professional Staff Member, S. Comm. on Appropriations, to Daniel Spino, Research Assistant, S. Comm. on Homeland Sec. & Governmental Affairs (Jan. 24, 2018, 11:07 EST) (on file with Committee); Email from Travis Hill, Senior Counsel, S. Comm. on Banking, to Daniel Spino, Research Assistant, S. Comm. on Homeland Sec. & Governmental Affairs (Jan. 29, 2018, 05:50 EST) (on file with Committee).

⁷*Id.*

⁸Patient-Centered Outcomes Research Institute, Financial Report 2016 (Sept. 30, 2016); Patient-Centered Outcomes Research Institute, Financial Report 2015 (Sept. 30, 2015); Patient-Centered Outcomes Research Institute, Financial Report 2014 (Sept. 30, 2014); Patient-Centered Outcomes Research Institute, Financial Report 2013 (Sept. 30, 2013); Patient-Centered Outcomes Research Institute, Financial Report 2016 (Dec. 31, 2012); Patient-Centered Outcomes Research Institute, Financial Report 2016 (Dec. 31, 2011).

⁹Email from Francisco Riojas, Special Advisor, Dept’t of Treasury, to Daniel Spino, Research Assistant, S. Comm. on Homeland Sec. & Governmental Affairs (Feb. 21, 2018, 05:35 EST) (on file with Committee).

¹⁰*Id.*

III. LEGISLATIVE HISTORY

Ranking Member Claire McCaskill (D–MO) and Chairman Ron Johnson (R–WI) introduced S. 2400, the GAO Audit Mandates Revision Act of 2018, on February 7, 2018. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 2400 at a business meeting on February 14, 2018. The bill was ordered reported favorably *en bloc* by voice vote. Senators present for the vote were Johnson, Portman, Paul, Lankford, Enzi, Hoeven, Daines, McCaskill, Heitkamp, Peters, Hassan, Harris, and Jones.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the bill’s short title as the “GAO Audit Mandates Revision Act of 2018.”

Section 2. Audits modified

Subsection (a) eliminates the requirement for the Comptroller General of the United States to review CAF’s financial audits.

Subsection (b) repeals the requirement that GAO review PCORI’s annual financial audit and amends the reporting requirement so that GAO only reports every five years.

Subsection (c) transfers the responsibility of reviewing TARP’s financial audit from GAO to the Inspector General of the U.S. Department of the Treasury. Subparagraph (2)(A) states that the Secretary should transfer the necessary funds to reimburse the Inspector General of the Department of Treasury for performing the audit. Subsection (B) explains that the reimbursements should be accredited to the “Salaries and expenses” account of the Treasury OIG.

Subsection (3) requires TARP to take action to address any deficiencies that are identified by the auditor. When no actions need to be taken, TARP needs to certify with the appropriate congressional committees that no action is necessary.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
 CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 23, 2018.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2400, the GAO Audit Mandates Revision Act of 2018.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL,
Director.

Enclosure.

S. 2400—GAO Audit Mandates Revision Act of 2018

The Congress routinely requires the Government Accountability Office (GAO) to perform annual examinations of programs, agencies, or federal activities. S. 2400 would repeal the requirement for GAO to audit and review the Congressional Award Foundation and the Patient Centered Outcomes Research Institute. In addition, the bill would transfer GAO's responsibility for auditing the Troubled Asset Relief Program to the Department of the Treasury.

CBO estimates that implementing S. 2400 would have no significant effect on the federal budget. GAO has an annual budget of more than \$500 million and prepares hundreds of reports for the Congress each year. CBO expects that implementing S. 2400 would decrease the agency's costs by less than \$500,000 a year. Any reduction in the agency's spending would depend on the amounts provided to GAO in future appropriation bills.

Enacting S. 2400 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 2400 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 2400 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italics*, and existing law in which no change is proposed is shown in *roman*):

UNITED STATES CODE

* * * * *

TITLE 2—THE CONGRESS

* * * * *

CHAPTER 19—CONGRESSIONAL AWARD PROGRAM

* * * * *

SEC. 807. AUDITS.—

(a) * * *

(b) **ANNUAL REPORT TO CONGRESS ON AUDIT RESULTS.**—Not later than May 15 of each calendar year, the Board shall submit to appropriate officers, committees, and subcommittees of Congress [and to the Comptroller General of the United States] a report on the results of the most recent audit conducted pursuant to this section, and shall include in the report information on any such additional areas as the independent public accountant who conducted the audit determines deserve or require evaluation.

[(c) **REVIEW BY THE COMPTROLLER GENERAL OF ANNUAL AUDIT.**—

[(1) The Comptroller General of the United States shall review each annual audit conducted under subsection (a).

[(2) For purposes of a review under paragraph (1), the Comptroller General, or any duly authorized representative of the Comptroller General, shall have access to any books, documents, papers, and records of the Board or such corporation, or any agent of the Board or such corporation, including the independent external auditor designated under subsection (a), which, in the opinion of the Comptroller General, may be pertinent.

[(3) Not later than 180 days after the date on which the Comptroller General receives a report under subsection (b), the Comptroller General shall submit to Congress a report containing the results of the review conducted under paragraph (1) with respect to the preceding year.]

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TITLE 12—BANKS AND BANKING

* * * * *

CHAPTER 52—EMERGENCY ECONOMIC STABILIZATION

* * * * *

Subchapter I—Troubled Assets Relief Program

* * * * *

Sec. 5226—Oversight and audits.—

(a) * * *

[(b) **COMPTROLLER GENERAL AUDITS.**—

[(1) **ANNUAL AUDIT.**—The TARP shall annually prepare and issue to the appropriate committees of Congress and the public audited financial statements prepared in accordance with generally accepted accounting principles, and the Comptroller General shall annually audit such statements in accordance with generally accepted auditing standards. The Treasury shall

reimburse the Government Accountability Office for the full cost of any such audit as billed therefor by the Comptroller General. Such reimbursements shall be credited to the appropriation account "Salaries and Expenses, Government Accountability Office" current when the payment is received and remain available until expended. The financial statements prepared under this paragraph shall be on the fiscal year basis prescribed under section 1102 of title 31.

[(2) AUTHORITY.—The Comptroller General may audit the programs, activities, receipts, expenditures, and financial transactions of the TARP and any agents and representatives of the TARP (as related to the agent or representative's activities on behalf of or under the authority of the TARP), including vehicles established by the Secretary under this chapter.

[(3) CORRECTIVE RESPONSES TO AUDIT PROBLEMS.—The TARP shall—

[(A) take action to address deficiencies identified by the Comptroller General or other auditor engaged by the TARP; or

[(B) certify to appropriate committees of Congress that no action is necessary or appropriate.]

(b) AUDITS.—

(1) ANNUAL AUDIT.—*The TARP shall annually prepare and issue to the appropriate committees of Congress and the public audited financial statements that shall be—*

(A) *prepared in accordance with generally accepted accounting principles;*

(B) *prepared and audited in the same manner as the financial statements of covered executive agency components under sections 3515 and 3521 of title 31, United States Code; and*

(C) *prepared on the fiscal year basis prescribed under section 1102 of title 31, United States Code.*

(2) AUDIT COSTS.—

(A) *IN GENERAL.* *The Secretary shall transfer to the Inspector General of the Department of the Treasury such sums as are necessary to reimburse the Inspector General for the full cost of performing an audit required under paragraph (1) or procuring the audit from an independent external auditor.*

(B) CREDIT.—*The reimbursements described in subparagraph (A) shall be credited to the appropriation account "Salaries and expenses, Office of the Inspector General, Department of the Treasury" current when the payment is received and remain available under expended.*

(3) CORRECTIVE RESPONSIVE TO AUDIT PROBLEMS.—*The TARP shall—*

(A) *take action to address deficiencies identified by the auditor of the TARP financial statements; or*

(B) *certify to the appropriate committees of Congress that no action is necessary or appropriate.*

* * * * *

TITLE 42—THE PUBLIC HEALTH AND WELFARE

* * * * *

CHAPTER 7—SOCIAL SECURITY

* * * * *

**Subchapter XI—General Provisions, Peer Review, and
Administrative Simplification**

* * * * *

PART D—Comparative Clinical Effectiveness Research

(a) * * *

* * * * *

(g) **FINANCIAL AND GOVERNMENTAL OVERSIGHT.—**

(1) **CONTRACT FOR AUDIT.—**The Institute shall provide for the conduct of financial audits of the institute on an **[annual]** basis by a private entity with expertise in conducting financial audits.

(2) **REVIEW AND ANNUAL REPORTS.—**

(A) **REVIEW.—**The Comptroller General of the United States shall review the following:

[(i)] Not less frequently than on an annual basis, the financial audits conducted under paragraph (1).**]**

[(ii)](i) Not less frequently than every 5 years, the processes established by the Institute, including the research priorities and the conduct of research projects, in order to determine whether information produced by such research projects is objective and credible, is produced in a manner consistent with the requirements under this section, and is developed through a transparent process.

[(iii)](ii) Not less frequently than every 5 years, the dissemination and training activities and data networks established under section 937 of the Public Health Service Act **[42 U.S.C. 299b–37]**, including the methods and products used to disseminate research, the types of training conducted and supported, and the types and functions of the data networks established, in order to determine whether the activities and data are produced in a manner consistent with the requirements under such section.

[(iv)](iii) Not less frequently than every 5 years, the overall effectiveness of activities conducted under this section and the dissemination, training, and capacity building activities conducted under section 937 of the Public Health Service Act. Such review shall include an analysis of the extent to which research findings are used by health care decision-makers, the effect of the dissemination of such findings on reducing practice variation and disparities in health care, and the effect of the research conducted and disseminated on

innovation and the health care economy of the United States.

[(v)](iv) Not later than 8 years after March 23, 2010, the adequacy and use of the funding for the Institute and the activities conducted under section 937 of the Public Health Service Act, including a determination as to whether, based on the utilization of research findings by public and private payers, funding sources for the Patient-Centered Outcomes Research Trust Fund under section 9511 of the Internal Revenue Code of 1986 are appropriate and whether such sources of funding should be continued or adjusted.

(B) [ANNUAL R] REPORTS.—Not later than April 1 of each year, *in which a review is conducted under subparagraph (A)*, the Comptroller General of the United States shall submit to Congress a report containing the results of the review [conducted under subparagraph (A) with respect to the preceding year (or years, if applicable),] together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

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