



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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MAY 22, 1980

The Honorable Abraham Ribicoff
Chairman, Committee on
Governmental Affairs
United States Senate

Dear Mr. Chairman:

Subject: *[*Observations on Oversight Reform Proposals*]*
(PAD-80-77)

We understand your committee will be addressing congressional oversight reform (sunset) legislation in the next few weeks. We have testified and provided written comments on a number of such proposals over the past year, several of them since we last testified before your committee. Therefore, we thought it would be useful to provide your committee with a summary of our views and positions on ways to strengthen congressional oversight.

In the following discussion and in enclosure I (Summary of GAO Positions on Strengthening Oversight) we have summarized our positions and provided references to our full statements. A complete list is in enclosure II (GAO Statements to Congressional Committees Relating to Oversight Reform During 1979) and copies of each have been provided to your committee staff.

In the 96th Congress, we made statements to congressional committees about a wide range of proposals to improve congressional and administrative decisionmaking and control processes. In addition to proposals for periodic reexamination of programs (sunset review) and more detailed statements of program objectives (sunrise requirements), we commented on congressional consideration of regulatory action (including legislative veto proposals), grant reform, research and development funding, legislative savings, fraud and abuse, as well as several other matters (see enclosure II). Although we focused on the particular reform being considered during each presentation, several common themes underlie these reform measures.



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In summary, the Congress, the Executive, and ultimately the Nation must strive to

- (1) think, debate, and act, keeping a much longer time frame in mind, recognizing that the full implication of policies will often not be felt for several years or even decades;
- (2) focus more of their analysis, debate, and actions on broad policy areas and groups of interrelated programs;
- (3) make a greater effort to analyze the probable effects of policy changes before they are enacted (as intended by Senate Rule 27.6);
- (4) be more specific and realistic when establishing goals and expectations for policies, programs, and administrative reforms;
- (5) provide administrators the authority and resources needed to make the realization of such goals and expectations plausible, or revise them to fit the available resources or degree of authority granted;
- (6) establish evaluation and reporting procedures which compel administrators to produce clear statements on the performance of the programs and activities for which they are accountable; and
- (7) take prompt action to make changes when needed.

We are very encouraged by the attention these important administrative reforms are receiving by the Congress in general and your committee and subcommittees in particular.

Over the years, the Congress has developed powerful tools for overseeing the effectiveness of Federal programs. These procedures include the annual appropriations process, periodic reviews of program authorizations, special purpose hearings, investigations, reviews by GAO and other congressional support agencies, and other less formal investigations. Thus, the congressional oversight process consists of a complex system of interlocking methods for checking program effectiveness.

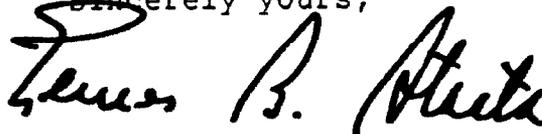
There are many ways for the Congress to achieve better oversight and accountability. To improve the effectiveness of the oversight process, the Congress can make more effective use of the opportunities and resources available to it. These opportunities occur when the Congress enacts legislation, when agencies design programs and promulgate rules and regulations, and when information and analysis on program effectiveness is developed and reported to the Congress, as well as when particular problems are detected by the Congress.

For the Congress to take advantage of these opportunities, it needs to establish a more systematic approach to oversight by enacting workable sunset review legislation. Obviously, such legislation does not guarantee success. Success will depend upon the commitment of the leaders and participants to the goals of the reform. New laws can only create mechanisms and procedures which will permit this commitment to be effectively translated into action.

We are particularly pleased with the bill developed by the House Rules Committee, H.R. 5858, the proposed "Sunset Review Act of 1980" and the similar Senate bill, S. 2578. These bills represent, in our view, improvement over earlier sunset bills. We think the revisions made to the earlier bills as embodied in H.R. 5858 would reduce the possibility of overloading the Congress. An attractive feature of the new bills is their emphasis on selective review, rather than scheduled reauthorization and automatic program termination. We are aware that members of your committee also will be considering changes to S. 2, such as Amendment 517, that are intended to achieve similar objectives. We have already provided you with comments on this amendment. Moving the two bodies closer on critical elements of oversight reform should help expedite action on this important legislation.

If there is anything further we can do to assist your committee in considering oversight reform legislation, please call on us. I am sending copies of this letter to others who are concerned with this important subject.

Sincerely yours,



Comptroller General
of the United States

Enclosures - 2

SUMMARY OF GAO POSITIONS ON
STRENGTHENING OVERSIGHT

This attachment summarizes and consolidates GAO statements to congressional committees on oversight reform during the 96th Congress, which began in January, 1979. GAO positions are grouped under three main headings:

- critical elements that should be included in any comprehensive oversight reform legislation,
- GAO positions on some specific issues related to oversight reform, and
- opportunities for better oversight under existing legislation.

Better program review must be an important part of improved oversight. To accomplish better program review, the Congress will need to (1) provide for the collection and reporting of information on programs and their results, (2) provide itself (and others) with realistic standards for judging programs, and (3) provide itself (and others) with the capability to identify ways to reconcile the sometimes lofty goals expressed in legislation with the reality of government operations and actual results.

ELEMENTS CRITICAL TO A MORE
SYSTEMATIC REVIEW AND
REAUTHORIZATION PROCESS

In general, oversight reform proposals try to strengthen two key steps in the legislative process--setting objectives at the beginning of programs and reviewing their operations to find out if goals are being met. Specific bills differ in their emphasis on each of the two aspects of oversight reform and in the procedures specified for performing each function. GAO believes that oversight reform legislation should cover both the setting of program objectives and the conduct of program reviews and that the procedures selected need to be both simple and workable.

Oversight reform legislation should include several critical elements to create a more systematic and efficient program review process. These critical elements were discussed in a statement by the Comptroller General on congressional oversight reform legislation (S. 2 and S. 1304) before the Senate Committee on Governmental Affairs on July 12, 1979, and in a statement by the Comptroller General on H.R. 2

and H.R. 65, congressional oversight reform legislation, before the Subcommittee on the Legislative Process, House Committee on Rules, May 23, 1979.

A workable review process

A basic requirement of oversight reform legislation is a workable review process. On the one hand, the review process established by the legislation must be sufficiently disciplined to assure that information and analysis on programs are developed and presented to the Congress in such a manner that it can act responsibly on legislation to continue, modify, or terminate programs. On the other hand, the review process must be sufficiently flexible to permit the Congress to focus its limited review resources, particularly the limited time of its Members, on review efforts that are most likely to be productive.

Considering the potentially large review workload that would be required under a systematic review process, we believe that executive agencies must assume the primary responsibility for collecting program information and performing the required analyses. Committees will also need the assistance of support agencies, particularly GAO, to find out how well programs are working. Depending on the intensity and depth of these review efforts and the way in which the committees choose to implement the process, the staff resources required to support the process could be substantial in the executive agencies, the committees, GAO, and the other congressional support agencies.

Statements of objectives and evaluation requirements

Better oversight should begin at the beginning of the legislative process. The oversight reform legislation should encourage the Congress, when authorizing new programs or reauthorizing existing programs, to state its objectives and expectations for such programs as clearly as is feasible, and to include statutory requirements which are as specific as possible for systematic monitoring and evaluation of the programs by the administering departments or agencies.

Statements of program objectives and expected results can serve as future review benchmarks, as standards for evaluating the performance of programs. Ideally, such statements should be included in legislation, but for a variety of reasons this is not always practical. Certainly, such statements should be included in committee reports. When major changes to objectives result from floor or conference action, a revised statement of objectives should be developed

by the conference committee and made part of the conference report. Frequently, committees also will need to follow up with the agencies to translate the statements of objectives into the specific criteria and measures needed to permit comparison of the objectives with actual program performance.

Periodic reports on program performance would be useful in congressional monitoring and in selecting programs for further review, and agency evaluation reports should be directly useful in committee reviews. Because periodic reporting on program performance is very important to the oversight process, we strongly support including a provision which would require periodic, brief reporting on all programs subject to oversight review.

Comprehensive coverage of the review process

Oversight reform legislation should establish a review process as universal in its coverage as possible. All types of Federal programs and activities should be covered to the extent possible, including direct expenditures, self-financing activities, regulatory programs, tax expenditures (revenues forgone as a result of special tax provisions), and subsidy programs and activities.

We strongly support the principle of periodic review of tax expenditures and we believe that any oversight reform bill should require that these be reviewed together with related direct expenditure programs. The review process should not exclude any permanent program.

Expanded coverage of the reauthorization process

A major objective of oversight reform is to require periodic legislative reauthorization for more programs. Therefore, oversight reform legislation should specify which permanently or indefinitely authorized programs will be made subject to reauthorization and how this will be accomplished. Currently, about one-third of the Federal budget is reauthorized periodically.

If tax expenditures are included in oversight reform legislation, the Congress will need to consider carefully the implications of subjecting some tax expenditures to the periodic reauthorization requirement. As with some direct expenditure programs, the Congress will have to measure the value of reauthorization as an action forcing mechanism against cost of introducing another potential element of uncertainty into private sector decision processes. We believe

that any program exempted from periodic reauthorization should be subject periodically to a full and careful congressional review.

We recognize the "action forcing" value of periodic reauthorization--where that is appropriate--as a way to assure that the results of review efforts are translated into legislative improvements. Clearly, the oversight reform legislation should include some mechanism for allowing the Congress to expand the coverage of the reauthorization process.

A flexible review scheduling mechanism

A review schedule, or scheduling mechanism, needs to be included in the oversight reform legislation so that the Congress can assure maintenance of a proper balance between the achievement of three objectives:

1. Assuring that all programs are reviewed periodically;
2. Assuring that the review workload on committees does not exceed committee capabilities and is distributed over time; and
3. Assuring that interrelated programs, including programs with similar objectives, are grouped together for review.

Clearly, all three of these objectives cannot be completely achieved by any rigid schedule. What is important is that the oversight reform legislation contain procedures for modification of any review schedule whether established in the statute or separately. Flexibility to adjust the review schedule is essential for maintaining an appropriate balance between review coverage, workload distribution, and reviewing interrelated programs together. Some oversight reform proposals contain a review (and reauthorization) schedule which provides for review of all funded programs at least once every 10 years--a five-Congress cycle. We believe that 10 years is a realistic period for any oversight process designed, to assure that all programs are reviewed periodically. If tax expenditures are included, they should also be subject to the same review schedule so they can be reviewed together with similar or related programs.

Program inventory

An inventory of Federal programs would greatly assist the Congress in making oversight reform work smoothly and

effectively. This inventory would provide the necessary substructure for both the reviews of broad policy subjects and the systematic review of individual programs and activities. Thus, the Congress would have a systematic, comprehensive, and authoritative identification of the specific entities which are subject to review and reauthorization requirements.

Some have taken the position that committees' flexibility would be limited if they had to adhere to a single list of programs. Others have expressed concern that a detailed program inventory that reaches below the budget account level would contain thousands of individual entities. Such a situation might overwhelm the Congress with work, forcing it to focus on too much detail. We do not believe this situation need be the case. The inventory would simply give the committees a common reference point, a list of the entities which need to be covered. It would not dictate the amount of detail, nor would it inhibit committees from dealing with whatever groupings of activities they consider convenient or useful. They would be free to review and reauthorize programs, groups of programs, or activities within programs as they choose.

We believe the inventory should be developed and maintained by a single agency. The inventory should encompass both programs and tax expenditures if the latter is to be covered by the bill. For the past few years, we have been developing a Federal program inventory as part of our responsibilities under Title VIII of the Congressional Budget Act. At the request of the Senate Appropriations Committee, we also recently completed a Government-wide food program inventory and developed a mission budget and program structure for the Department of Agriculture. These projects serve as illustrations of an inventory that could support oversight reform. Therefore, we believe that GAO would be the logical agency to carry out this responsibility, consistent with our responsibility under Title VIII of the Budget Act.

SOME SPECIFIC OVERSIGHT REFORM ISSUES

During 1979, we testified on some specific issues with important implications for oversight reform. Government regulation and tax expenditures have been the subject of special congressional concern in oversight reform. Grant administration and fraud control raise important oversight questions because they are serious management problems involving many government agencies. Multiyear program authorizations and the streamlining of reporting requirements are

both steps the Congress should take to ease implementing general oversight reform legislation.

Regulatory reform

The 96th Congress is considering legislative proposals directed at the review of regulatory activity. We strongly support enactment of comprehensive oversight reform legislation, and it is in this context that regulatory reform programs should be reviewed. The review of all programs in a policy area--regulatory and nonregulatory--would reinforce considering alternative ways of achieving regulatory goals and contribute to broad regulatory reform.

We strongly support the thrust of legislative proposals that would require independent regulatory agencies to evaluate the effects of proposed and existing rules carefully and comprehensively, as has been required for executive agencies by Executive Order 12044. However, effective congressional oversight of these evaluation procedures is essential. We have some capability to assist in this oversight because of activities already being carried out under existing legislation.

(See the statement by the Director, Program Analysis Division, on S. 445 and Title V of S. 2, regulatory sunset proposals before the Senate Committee on Governmental Affairs, June 15, 1979).

Legislative veto of regulations

Legislative veto refers to provisions enabling the Congress to invalidate Government actions through resolution by one chamber (one-house veto) or both chambers (two-house veto). Several bills were introduced in the 96th Congress to apply legislative veto procedures to all regulatory activities. We recommend that the Congress not enact legislative veto procedures for all or most regulatory action. The legislative veto focuses on particular regulatory decisions rather than the more general direction of agency policy. By focusing attention on specific individual decisions, veto procedures may divert attention from the broader responsibilities of the Congress to oversee policy and program execution. We strongly believe that legislative oversight is most effectively carried out through the systematic review of policies and programs.

(See the statement by the Comptroller General on assuring program accountability before the House Committee on Rules, November 15, 1979.)

Tax expenditures

Tax expenditures are revenues foregone as a result of provisions of the Federal income tax laws that allow a special exclusion, or deduction from gross income, or which provide a special credit, preferential tax rate, or deferral of tax liability. We strongly support the principle of periodic review of tax expenditures and believe that tax expenditures should be reviewed together with related direct expenditures programs, such as housing, energy conservation, or export promotion. As the Department of Treasury has noted, enactment of an effective sunset mechanism applied only to direct expenditures would widen the disparity between direct and tax expenditure control by the Congress, and thus would increase the pressure to enact more tax expenditures.

(See the statement by the Comptroller General on congressional oversight reform legislation before the Senate Committee on Governmental Affairs on July 12, 1979.)

Fraud, abuse, and
mismanagement

Reports of widespread fraud in procurement and grant activities across the Government have greatly concerned the Congress. An important aspect to stress in any discussion of fraud in Federal programs is that while stronger internal, audit, inspection, and criminal investigation capabilities are mandatory, these steps alone are not sufficient to solve the problems. A systematic approach to fraud prevention requires evaluation of the adequacy of management's internal control systems. Close coordination between investigators, auditors, and those responsible for program design and execution is required if potentially fraudulent situations are to be examined in a systematic manner. Each has an important role to play, but not to the exclusion of the others.

Systematic efforts to identify and root out fraud could also yield agency management information systems which would be valuable in planning fraud prevention efforts. Without such data, agencies have no basis for planning anti-fraud strategies or developing the resources required to combat fraud.

(See the statement by the Comptroller General on fraud, abuse, and mismanagement in Federal programs before the Senate Committee on Budget, March 15, 1979, and the statement by the Comptroller General on GAO efforts related to the problem of fraud in the Government before the Senate Committee on Appropriations, February 27, 1980.)

Grant auditing

During the last 20 years, grant programs have grown to become a large share of the budget. Federal grant assistance to State, local, and nonprofit organizations was 85 billion dollars in 1979. Problems occur in grant auditing because grantees receive grants from numerous Federal and State agencies with differing audit requirements. The ideal situation in auditing these grant programs would be to have a single audit covering all grants to a recipient. Such an audit, among other things, would test the grantee's system for complying with Federal restrictions on the use of the funds and related matters, but a detailed audit of each grant would not be made. Any Federal auditor could review such an audit and rely on it if he felt the grantee's system provided reasonable assurance that Federal funds were properly safeguarded and spent for authorized purposes. We recommend that the Congress amend the Intergovernmental Cooperation Act of 1968 to prescribe standardized audit requirements which are applicable to all Federal grants.

(See the statement by the Comptroller General concerning GAO report on the problems involved with grant auditing before the Subcommittee on Legislation and National Security, House Committee on Government Operations, July 30, 1979.)

Multiyear program authorizations

The Congress should make more extensive use of multiyear funding and reverse the trend toward annual authorizations. Passage of a general oversight reform bill would be an additional reason for committees to move away from annual program authorizations. Conducting oversight reviews and considering their results would inevitably have major impact on committee workloads, but a 2-year authorization period would allow work on specific programs during the first session of the Congress, while leaving the second session for consideration of major oversight reviews that might be scheduled. With thorough oversight reviews, the need for annual authorization should greatly decrease.

(See the statement by the Comptroller General on H.R. 4490, the Research and Development Authorization Estimates Act, to the House Committee on Science and Technology, October 10, 1979.)

Streamlining reporting requirements

If the Congress passes general oversight reform legislation, it should also emphasize eliminating existing, but

frequently unnecessary, statutory reporting requirements to offset new reporting requirements imposed by the legislation. This elimination would help compensate for an increased review and reauthorization workload.

(See the statement by the Comptroller General on congressional oversight reform legislation before the Senate Committee on Governmental Affairs, July 12, 1979.)

OPPORTUNITIES FOR BETTER OVERSIGHT UNDER EXISTING LEGISLATION

The opportunities for better oversight under existing legislation that are described in this section were included in a statement by the Comptroller General before the Subcommittee on Rules of the House, House Committee on Rules, November 15, 1979, assuring program accountability.

Better analysis of potential effects of proposed legislation

The Congress has a major opportunity for better oversight when it develops, considers, and enacts legislation. Thorough study of the potential effects of legislation can produce clearer expressions of legislative intent and provide guidance concerning controversial issues such as the economic, privacy, paperwork, and regulatory effects of new legislation. When studying the effects of proposed legislation, congressional committees can get assistance from agency staffs, the Congressional Budget Office, the Congressional Research Service, the Office of Technology Assessment, our office, and several other sources.

More thorough analysis of proposed legislation can help the Congress identify and avoid problems and difficulties that are often encountered or created when officials put laws into effect. Better analysis can also help reduce the gap between the promise and performance of programs by identifying realistic objectives and expectations for legislation --a necessary first step toward better program accountability.

Stronger oversight requirements in legislation

Conditions and circumstances change and new information becomes available over the life of a program. Agencies must have some flexibility for adjusting to such changes to manage their programs efficiently and effectively. Consequently, the Congress often delegates authority and discretion to agencies. In such cases, we believe it is very important

that the Congress, when enacting laws, provide systematic monitoring and evaluation of such laws, so that information and analysis necessary to oversee the agency's activities will be developed and provided to the Congress.

We believe the Congress should specify--in law or the accompanying reports--the kinds of oversight information it expects to need and the processes by which such information will be developed by the agencies and periodically reported back to the Congress. The periodic reporting requirements can be tailored to expected steps in implementing the legislation, such as executive branch policy-making, program design and regulations development, or program establishment and operation, to be useful when the Congress wishes to refine and clarify its intent and objectives as legislation is implemented.

Greater oversight of program
design and regulation development

The Congress can strengthen oversight by closer review of program design and regulation development in the executive branch. Opportunities for increased oversight exist at two levels. At the central policy-making level, there can be increased review of the administration procedures for legislative clearance, and of initiatives for review of regulatory activity, such as the procedures established by Executive Order 12044. At the agency level, there is potential for review of the design of individual programs and the development of specific regulations.

Program design and regulation development are key aspects of the management process that may not receive sufficient attention by top level decisionmakers. Oversight can measure actual plans against original objectives and can assure that all relevant points of view are adequately considered. Oversight of program design or regulation development can also discover whether the lessons of past programs and regulations are being properly applied in the beginning of new ones.

We strongly support the Administration's regulatory reform objectives, and think that it would be useful for the Congress to closely monitor the Administration's progress in their regulatory reform efforts, to assure that continued progress is satisfactory. Policy coordination and integration represent essential ingredients in dealing with many of the current problems in the design of programs, as well as in Government management and regulation generally. In this connection, we also support efforts by the Regulatory Council to coordinate agency regulatory efforts.

More use of program
evaluation information

The Congress receives feedback on the results and effectiveness of laws and programs from a wide variety of sources, including:

- the executive agencies, offices, and staff, including official communications and reports as well as "whistleblowing" leaks;
- congressional support agencies, particularly GAO;
- interest groups and individual citizens; and
- studies and investigative reports by commissions, academics, journalists, and others.

We believe that the Congress can make much better use of available feedback in the budget, appropriations, and authorization processes, especially the feedback provided in our office's reports. In line with the provisions in the Legislative Reorganization Act of 1970, as amended by the Congressional Budget Act of 1974, especially section 204, we would like to see committees call on us more frequently for assistance in making use of existing information. We can help by identifying relevant reports and by retrieving and synthesizing information and analyses available in the agencies, in assessing and improving the program review and evaluation efforts of the agencies, and in planning and designing committee oversight efforts, including their oversight strategies and requirements for particular programs and policy areas.

GAO STATEMENTS TO CONGRESSIONAL COMMITTEESRELATING TO OVERSIGHT REFORM DURING 1979STATEMENTS BY THE
COMPTROLLER GENERAL
OF THE UNITED STATESOversight reform proposals

Statement on H.R. 5858, the Sunset Review Act of 1979, to the Committee on Rules, U.S. House of Representatives, November 29, 1979.

Statement on congressional oversight reform legislation, (S. 2 and S. 1304) to the Committee on Governmental Affairs, U.S. Senate, July 12, 1979.

Statement on H.R. 2 and H.R. 65, congressional oversight reform legislation, to the Subcommittee on the Legislative Process, Committee on Rules, U.S. House of Representatives, May 23, 1979.

Regulatory reform proposals

Statement on assuring program accountability, to the Subcommittee on Rules of the House, Committee on Rules, U.S. House of Representatives, November 15, 1979.

Statement on the Reform of Federal Regulation Act of 1979 (S. 262) and the Regulation Reform Act of 1979 (S. 755) to the Committee on Governmental Affairs, U.S. Senate, May 23, 1979.

Other subjects

Statement on H.R. 4490, the Research and Development Authorization Estimates Act, to the Committees on Science and Technology, U.S. House of Representatives, October 10, 1979.

Statement concerning GAO report on the problems involved with grant auditing, to the Subcommittee on Legislation and National Security, Committee on Government Operations, U.S. House of Representatives, July 30, 1979.

Statement on opportunities to achieve savings through legislative action, to the Task Force on Legislative Savings, Committee on the Budget, U.S. House of Representatives, July 24, 1979.

Statement on GAO efforts related to fraud, abuse, and mismanagement in Federal programs to the Committee on the Budget, U.S. Senate, March 15, 1979.

STATEMENTS BY THE
DIRECTOR, PROGRAM
ANALYSIS DIVISION, GAO

Oversight reform proposals

Statement on S. 1304, The Legislative Oversight Act of 1979, to the Committee on Governmental Affairs, U.S. Senate, September 13, 1979.

Regulatory reform proposals

Statement on S. 445 and Title V of S.2, regulatory sunset proposals, to the Committee on Governmental Affairs, U.S. Senate, June 15, 1979.

STATEMENT BY THE
DEPUTY DIRECTOR, PROGRAM
ANALYSIS DIVISION, GAO

Regulatory reform proposals

Statement on the Regulation Reform Act of 1979 (H.R. 3263) before the Subcommittee on Administrative Law and Government Relations, Committee on the Judiciary, U.S. House of Representatives, November 29, 1979.