December 22, 2023

Chairman Jodey Arrington
House Budget Committee
204 Cannon House Office Building
Washington, D.C. 20515

Ranking Member Brendan Boyle
House Budget Committee
507 Cannon House Office Building
Washington, D.C. 20515

Re: Response to Oversight Task Force Inquiry on Fiscal Oversight and Accountability

Dear Committee Chairmen and Ranking Members:

Taxpayers for Common Sense (TCS) appreciates the opportunity to present our insights to the House Budget Committee's Oversight Task Force. Pursuant to your request, our recommendations are intended to assist in refining a budget process that results in the best utilization of taxpayer funds to "ensure taxpayer money is being spent on integral issues that help the country prosper and move toward a path of stronger fiscal standing."

The House Budget Committee plays a crucial role in shaping the federal budget and overseeing fiscal policy. This includes drafting the annual budget resolution, aligning spending with budget targets through reconciliation, and reviewing the President's budget requests. The oversight of the Congressional Budget Office (CBO), conducting hearings, reforming the budget process, adjusting allocations, scorekeeping, and reviewing supplemental budget requests are key aspects of your jurisdiction that directly impact our nation's fiscal management.

The establishment of the Oversight Task Force by the House Budget Committee marks a commitment to ensuring judicious expenditure of taxpayer dollars. The Task Force's exploration of various oversight issues, while commendable, should also prioritize reforming the existing budgetary framework. The current budget process, as evidenced by the soaring national debt exceeding $33 trillion, clearly demonstrates systemic inefficiencies and a need for comprehensive reform. The Task Force's efforts should include addressing these foundational issues.

Context

The Congressional budget process has historically faced challenges in timeliness, transparency, partisanship, and efficiency. Deadlines for the budget resolution are often missed, leading to administrative inefficiencies and reliance on Continuing Resolutions (CRs). Efforts to increase transparency have not fully addressed concerns about the execution of budget decisions. Partisanship often results in underfunding critical areas and including divisive legislative riders. Additionally, government shutdowns and crisis budgeting due to CRs lead to inefficient resource utilization and increased costs.

Past legislative efforts, such as the Congressional Budget and Impoundment Control Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985, have attempted to reform the budget process. While these acts enhanced transparency and brought attention to fiscal responsibility, they have largely failed in preventing late budgets, reliance on CRs, and achieving deficit reduction targets. In the nearly five decades that the current system for budgeting and spending tax dollars has been in place, Congress has passed all its required appropriations measures on time only four times: Fiscal Years (FY) 1977, 1989, 1995, and 1997. Even in those years, Congress was late in passing the budget blueprint that precedes the actual spending bills.

The Congressional budget process is broken, and it is costing taxpayers. The Government Accountability Office (GAO) reported that CRs and lapses in appropriations leading to government shutdowns create inefficiencies and other management challenges. Agencies have reported delays and rework in contracts, grants, and hiring, which potentially reduced productivity. Shorter and more numerous CRs can lead to more repetitive work, including entering into shorter-term contracts or grants multiple times to reflect the duration of the CRs. Moreover, CRs that extend months into the fiscal year can have a negative impact on federal agencies, forcing them to continue spending on priorities from the prior year rather than matching funding to current needs. This can slow federal hiring, travel, and grant-making, according to a 2022 GAO report.[1]

Fixing a Broken Budget Process

The Oversight Task Force can address not only specific instances of fiscal mismanagement but also tackle the underlying structural problems that lead to such waste to protect the interests of American taxpayers and ensure more responsible stewardship of public funds. From the perspective of TCS, the Task Force should explore the following areas of concern that reflect the broader, systemic inefficiencies plaguing the current budget process:

- The problem of **vague and unspecified savings** in budget proposals is a significant issue in congressional budgeting. This problem arises when budget proposals include savings that are not clearly defined or specified, making it difficult to accurately assess the fiscal impact of the proposals.

  A notable example of this issue is the estimated savings from Arctic drilling included in the Tax Cuts and Jobs Act of 2017. The Act contains provisions that would open 1.5 million acres in the Arctic National Wildlife Refuge to oil and gas drilling. The inclusion of Arctic drilling in the Act was seen as a way to generate revenue to offset the cost of the tax cuts. However, the actual revenue that could be generated from Arctic drilling was obviously overstated at the time and has proven wildly unrealistic.

[1] Government Accountability Office. 'What is a Continuing Resolution and How Does It Impact Government Operations?' GAO, December 3, 2023. https://www.gao.gov/blog/what-continuing-resolution-and-how-does-it-impact-government-operations.

- **Changes in Mandatory Programs** (CHIMPs) are often used inappropriately in Congressional budgeting to create the illusion of savings. CHIMPs are provisions in appropriations bills that make changes in mandatory spending programs, usually to reduce or limit mandatory spending. The savings created by these changes are then available to offset an increase in discretionary spending.

  However, the problem arises when CHIMPs are used to delay mandatory spending until the following fiscal year, creating an illusion of savings on paper. And while they are instrumental in offsetting increases in discretionary spending, their application raises concerns regarding transparency and consistency.

  Enhancing oversight of CHIMPs is essential and could include more detailed reporting on their effects on both mandatory and discretionary spending to ensure a clearer understanding of their fiscal impact. This could include setting limits on the size or scope of CHIMPs permitted in a single appropriations bill, thus preventing potential abuses of this budgetary tool.

- **Double counting in Congressional budgeting**, particularly with respect to trust fund improvements, is a significant issue. This problem arises when the same dollar is counted twice for different purposes, making programs appear costlier than they actually are and overstating the improvement in the government's fiscal position. For instance, in some cases, the Budget Committees have double-counted the cost of programs that have trust funds into which the U.S. Treasury transfers money. This double-counting inflates the perceived size and cost of the program, leading to higher savings targets for committees with jurisdiction over these programs. Another example is when savings from trust funds, such as Medicare or Social Security, are used to finance new spending outside of the trust fund.

  Double counting can also occur when temporary revenue from certain sources is used to extend the life of a trust fund and finance other activities simultaneously. This was the case with the taxation of foreign earnings held overseas, which was counted both for extending the life of the Highway Trust Fund and for other purposes.

The Oversight Task Force would be well-served by prioritizing these specific reforms, each grounded in well-documented instances of waste and abuse. They offer a practical starting point in overhauling the broken budgetary process.

Furthermore, while the Overseas Contingency Operations (OCO) fund is no longer receiving appropriations, its history serves as a cautionary tale about the misuse of special spending designations. OCO was intended for war-related expenditures but was frequently used to circumvent discretionary spending caps, effectively becoming a slush fund for various non-war-related expenses. This practice undermined the integrity of budget controls established by legislation such as the Budget Control Act of 2011. Any future special spending accounts, akin to OCO, should be closely monitored to prevent the misuse of funds and ensure that they serve their intended purpose without becoming loopholes for unchecked spending. The key concern is maintaining transparency and fiscal responsibility, avoiding the creation of "shadow budgets" that obscure the true state of government spending.

Our remaining comments focus on recently enacted legislation such as the Infrastructure Investment and Jobs Act (IIJA) of 2021 and the Inflation Reduction Act (IRA) of 2022, in addition to programs across the federal government that could be improved by reducing improper payments, fraud, and unnecessary spending.

Recent Legislation

Generally, the federal government should take steps to ensure that federal spending across various agencies adheres to principles of transparency, accountability, and program integrity. Tracking federal spending in COVID-19 legislation, such as the American Rescue Plan (ARP) Act of 2021, was challenging due to the announcement of some spending occurring via press releases from federal agencies. Comparing Congressional authorizations with actual spending proved even more difficult. Making this information transparent to the public in an accessible and understandable format, including details on authorized versus actual spending, would enhance accountability and ensure the wise use of taxpayer dollars.

Federal agencies can also provide more detailed information about the types of projects receiving taxpayer subsidies, loan guarantees, and other federal supports. This would allow taxpayers and Congress to better evaluate whether federal spending is meeting its intended goals. Additionally, federal spending data should be provided in a downloadable and searchable format, rather than in PDFs, which are harder to search and analyze. To date, some IRA spending data has been released only in pdf format.[2]

<u>The Inflation Reduction Act of 2022</u>

Various programs and tax credits in IRA were created with the intent to reduce greenhouse gas (GHG) emissions and increase climate resilience. Ensuring that programs and tax credits actually meet these goals is vital to ensure program integrity. TCS has submitted numerous sets of public comments to the U.S. Department of Agriculture (USDA), Department of Treasury, and other agencies, providing recommendations about how to ensure taxpayer dollars are effectively directed toward program goals and outcomes resulting in public benefits.

Providing adequate oversight over IRA spending and program implementation is crucial for ensuring these programs start off well and do not promote false climate solutions or increase long-term liabilities for taxpayers. Examples include preventing the resurgence of ethanol tax credits, such as the $6 billion-per-year credit which the U.S. Senate voted to eliminate in 2011, or taxpayer incentives for burning trees for energy, which may not benefit the climate. Appropriately prioritizing agricultural conservation

[2] U.S. Department of Agriculture. 'Rural Energy for America Program (REAP) Renewable Energy and Energy Efficiency Loans and Grants.' USDA, August 30, 2023. https://www.rd.usda.gov/media/file/download/usda-rd-reap-chart-08302023.pdf.

investments and other program spending can also ensure taxpayer resources are directed toward projects with the best return on investment.[3]

Lastly, Congress should identify ways to reform programs that waste taxpayer dollars and work at cross purposes with IRA investments, such as unlimited crop insurance premium subsidies and unnecessary farm income subsidies. Otherwise, taxpayers end up funding individuals to expand production onto carbon-rich, marginal land, and then potentially pay them again to conserve wetlands and grasslands through other federal programs.

Fiscal Year 2024 Defense Appropriations

Regarding the Defense Appropriations Act, enhancing transparency over Congressional program increases would support more strategic investments and help prevent political interests from securing unnecessary spending. A new TCS database reveals that the House and Senate Appropriations Committees have so far added more than 1,100 program increases worth over $24.5 billion to the Pentagon's Procurement and Research, Development, Test and Evaluation (RDT&E) accounts alone.[4] These program increases do not list the Members of Congress who proposed them nor the Appropriations Committee Members who approved them.

While these program increases are theoretically awarded competitively, our research indicates that at least some of these increases are for patented products that only the patent-owning company can deliver.[5] Just as Congress implemented transparency reforms for earmarks, it should implement transparency provisions for program increases to the Defense Appropriations Act to shine a light on potential conflicts of interest and support an informed debate over the strategic value of proposed Congressional increases to Pentagon spending.

Improper Payments and Fraud

Improper payments and fraud, while related, are distinct issues in the context of federal government financial management, each with unique implications and management strategies. Improper payments, encompassing any payments made erroneously, can arise due to administrative errors, failure to verify eligibility, or non-compliance with applicable statutes and regulations, and may include both overpayments and underpayments. Fraud, on the other hand, involves intentional misrepresentation to obtain value, such as making false statements knowingly or recklessly, leading to unauthorized fund receipt or nonfinancial benefits like fraudulently obtained passports.

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[3] Taxpayers for Common Sense. 'Agriculture Conservation Spending Bump in Reconciliation Bill.' Taxpayers for Common Sense, July 29, 2022. https://www.taxpayer.net/agriculture/agriculture-conservation-spending-bump-in-reconciliation-bill/.

[4] "Congressional Pentagon Budget Increases." Taxpayers for Common Sense. December 12, 2023. https://www.taxpayer.net/congressional-pentagon-budget-increases/.

[5] "Congressional 'Program Increases' to the Pentagon Budget Are on the Rise." Taxpayers for Common Sense. December 12, 2023. https://www.taxpayer.net/national-security/congressional-program-increases-to-the-pentagon-budget-are-on-the-rise/.

GAO has provided specific recommendations for federal agencies to better manage these risks.[6] However, as of late 2023, many of these recommendations remained unimplemented. These include using data effectively to manage fraud risks, implementing GAO's guidance to address fraud-related improper payments, and optimizing taxpayer dollars. The Payment Integrity Information Act of 2019 (PIIA) outlines key requirements for agencies, including identifying risks, taking corrective actions, and reporting on improper payments, as well as establishing controls to assess and manage fraud risks, in line with GAO's Fraud Risk Framework.

TCS provided information on improper payments in a letter to the Committee in September 2023.[7]

In addition, utilizing tools to identify instances of fraud should be prioritized to ensure taxpayer dollars are spent wisely. Fraud has been identified in programs such as the federal crop insurance program. GAO and Office of Inspector Generals have identified various recommendations to improve program integrity and reduce instances of waste, fraud, and abuse.[8] This program, intended to protect producers against natural disaster losses, provided $47 billion in coverage in 2004 but was marred by fraud, waste, and abuse. The GAO's investigation revealed several issues: inadequate inspections, with only 64% of requested inspections conducted between 2001 and 2004, leading to potential false crop loss claims; incomplete data analysis on large farming operations, risking $74 million in claims; poor oversight of insurance companies; and limited use of the Risk Management Agency's (RMA) sanction authority, with only 114 sanctions implemented against thousands of questionable claims annually.

The report also identified program design flaws contributing to these vulnerabilities, such as regulations allowing individual field insurance, which facilitates yield reporting manipulation, and high premium subsidies that may weaken abuse control efforts. To address these issues, the GAO recommended reducing premium subsidies for producers with frequent questionable claims, improving inspection effectiveness, recovering payments from undisclosed ownership operations, and strengthening insurer oversight. Although the USDA agreed with most recommendations, they expressed resource constraints in fulfilling all inspection responsibilities.

The Task Force should explore budgetary adjustments to ensure adequate resources are allocated for the implementation of more stringent monitoring and compliance measures. The Task Force should also assess other GAO report recommendations, as recent as December 4, which identified other program integrity reforms that can be made to the federal crop insurance program.[9]

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[6] United States Government Accountability Office. "Improper Payments and Fraud: How They Are Related but Different." GAO-24-106608. December 7, 2023. https://www.gao.gov/products/gao-24-106608.

[7] Taxpayers for Common Sense. "TCS Letter to the House Budget & Oversight Committee on Improper Payments." Taxpayers for Common Sense, October 3, 2023. https://www.taxpayer.net/budget-appropriations-tax/tcs-letter-to-the-house-budget-oversight-committee-on-improper-payments/.

[8] Government Accountability Office. "GAO-05-528." GAO Reports, May 2005. https://www.gao.gov/products/gao-05-528.

[9] Government Accountability Office. "GAO-24-106086." GAO Reports, December 4, 2023. https://www.gao.gov/products/gao-24-106086.

Oversight over Executive Actions

U.S. Department of Agriculture (USDA) - Commodity Credit Corporation

The Commodity Credit Corporation (CCC) is a wholly owned corporation of the United States government. Created during the Great Depression and reconfigured during the Truman Administration, the CCC is mostly an accounting vehicle to cut and track checks for mandatory farm bill programs, including income subsidy, conservation, and foreign aid programs. It has permanent indefinite authority to borrow up to $30 billion from the Treasury to finance these Congressionally authorized programs. Every year, as part of the appropriations process, Congress reimburses the CCC for its “borrowing” (reimbursement of net realized losses), effectively making the $30 billion a cap on spending for programs under the CCC’s jurisdiction.

The Commodity Credit Corporation Charter Act of 1948 (15 U.S.C. 714), however, also makes the CCC a source of nearly unrestrained power. The Charter Act articulates a number of specific authorities granted to the CCC. Exercise of these authorities is at the discretion of the Secretary of Agriculture. The authorities include the ability to create programs aimed at increasing domestic consumption, removing “surplus” commodities, assisting in production and marketing, aiding in exports, purchasing crops for federal programs, and supporting prices through loans, purchases, payments, and other operations. Exercise of CCC Charter Act authority requires no additional authorization or appropriation from Congress. The only potential limits are 1) the $30 billion cap on total borrowing authority, and 2) limitations and restrictions articulated in appropriations bills.

In practice, the CCC has been utilized by recent Administrations to unilaterally increase spending by tens of billions of dollars on trade war payments, biofuels infrastructure projects, Partnerships for Climate-Smart Commodities, cotton income subsidies, and various special interests.[10] Most recently, in October 2023, USDA Secretary Vilsack utilized his Charter Act authority to create the $1.3 billion Regional Agricultural Promotion Program[11], which is duplicative of farm bill-authorized trade promotion programs such as the Market Access Program, in addition to directing $1 billion to USAID for distribution of U.S.-purchased commodities abroad. Using Charter Act authority to do this means this $2.3 billion will be added to the deficit, without a vote in Congress, and relieves the Agriculture Committees from finding $2.3 billion in spending offsets if they had included these increases in a farm bill reauthorization.

The CCC has effectively become a slush fund circumventing Congressional input, the legislative process, and budget accountability. The most fiscally responsible and constitutionally respectful reform for the CCC would be for Congress to eliminate the Secretary of Agriculture’s discretionary power and limit the CCC to be a vehicle to implement Congressionally authorized programs.

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[10] American Enterprise Institute. "Congressional Oversight vs. Administrative Discretion Gone Wild? The Case of the Commodity Credit Corporation." AEI, January 3, 2023. https://www.aei.org/research-products/report/congressional-oversight-vs-administrative-discretion-gone-wild-the-case-of-the-commodity-credit-corporation/.

[11] U.S. Department of Agriculture. "USDA Bolsters Investments in International Trade and Food Aid." USDA, October 24, 2023. https://www.usda.gov/media/press-releases/2023/10/24/usda-bolsters-investments-international-trade-and-food-aid.

Thank you again for the opportunity to provide comments on these important topics. Please let us know if you have any questions or would like to speak further.

Sincerely,

Steve Ellis
President