United States Government Accountability Office

Report to Congressional Committees

October 2021

COVID-19

Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response

GAO-22-105051

GAO@100 Highlights

Highlights of GAO-22-105051, a report to congressional committees

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Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response

Why GAO Did This Study

As of September 23, 2021, the U.S. had about 43 million reported cases of COVID-19 and about 699,000 reported deaths, according to CDC. The country also continues to experience economic repercussions from the pandemic.

Six relief laws, including the CARES Act, had been enacted as of August 31, 2021, to address the public health and economic threats posed by COVID-19. As of that same date (the most recent for which government-wide data was available), the federal government had obligated a total of $3.9 trillion and expended $3.4 trillion of the $4.8 trillion in COVID-19 relief funds that had been appropriated by these six laws, as reported by federal agencies.

The CARES Act includes a provision for GAO to report on its ongoing monitoring and oversight efforts related to the COVID-19 pandemic. This report examines the federal government's continued efforts to respond to, and recover from, the COVID-19 pandemic.

GAO reviewed data, documents, and guidance from federal agencies about their activities. GAO also interviewed federal and state officials, stakeholders from organizations for localities, and other stakeholders.

What GAO Recommends

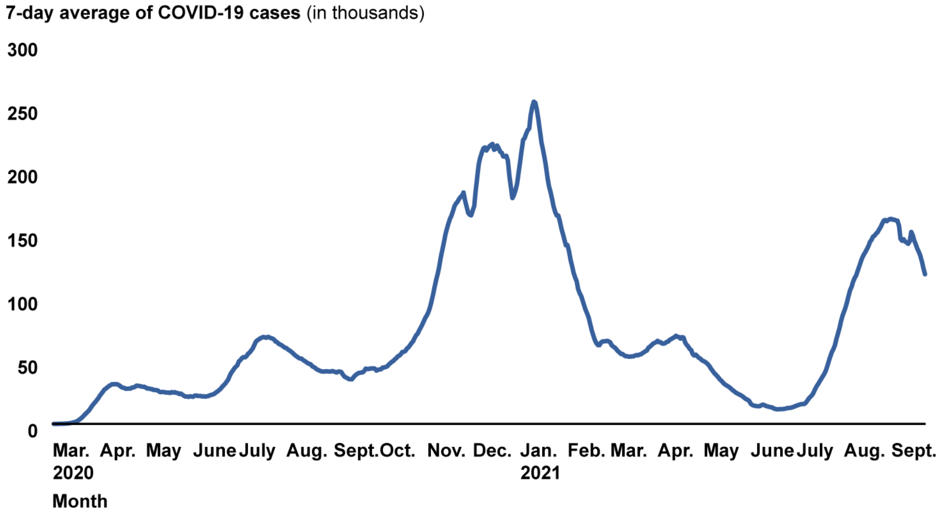
GAO is making 16 new recommendations for agencies that are detailed in this Highlights and in the report.

View GAO-22-105051. For more information, contact Jessica Farb, (202) 512-7114 or farbj@gao.gov.

What GAO Found

As the nation continues to respond to, and recover from, the COVID-19 pandemic, increases in COVID-19 cases in July, August, and September 2021, primarily due to the Delta variant of the virus, have hampered these efforts. From the end of July 2021 to September 23, 2021, the number of new cases reported each day generally exceeded 100,000, according to Centers for Disease Control and Prevention (CDC) data. This was a daily case count not seen since February 2021 (see figure).

Reported COVID-19 Cases per Day in the U.S., Mar. 1, 2020–Sept. 23, 2021



Source: Centers for Disease Control and Prevention (CDC). | GAO-22-105051

Meanwhile, COVID-19 vaccination efforts continue. As of September 23, 2021, about 64 percent of the U.S. population eligible for vaccination (those 12 years and older), or almost 183 million individuals, had been fully vaccinated, according to CDC.

The government must remain vigilant and agile to address the evolving COVID-19 pandemic and its cascading impacts. Furthermore, as the administration implements the provisions in the COVID-19 relief laws, the size and scope of these efforts—from distributing funding to implementing new programs—demand strong accountability and oversight. In that vein, GAO has made 209 recommendations across its body of COVID-19 reports issued since June 2020. As of September 30, 2021, agencies had addressed 33 of these recommendations, resulting in improvements including increased oversight of relief payments to individuals and improved transparency of decision-making for emergency use authorizations for vaccines and therapeutics. Agencies partially addressed another 48 recommendations. GAO also raised four matters for congressional consideration, three of which remain open.

In this report, GAO is making 16 new recommendations, including recommendations related to fiscal relief funds for health care providers, recovery funds for states and localities, worker safety and health, and assessing fraud risks to unemployment insurance programs. GAO's recommendations, if swiftly and effectively implemented, can help improve the government's ongoing response and recovery efforts as well as help it to prepare for future public health emergencies. GAO's new findings and recommendations, where applicable, are discussed below.

Relief for Health Care Providers

A total of $178 billion has been appropriated to the Provider Relief Fund (PRF) to reimburse eligible providers for health care–related expenses or lost revenues attributable to COVID-19. As of August 31, 2021, the Department of Health and Human Services (HHS) had allocated and disbursed about $132.5 billion of this amount and had allocated but not yet disbursed about $21.5 billion; the remaining $24.1 billion was unallocated and undisbursed. On September 10, 2021, HHS announced that $17 billion of the previously unallocated $24.1 billion would be allocated for a general distribution to a broad range of providers who could document COVID-related revenue loss and expenses. HHS expected to begin disbursing the funds in December 2021.

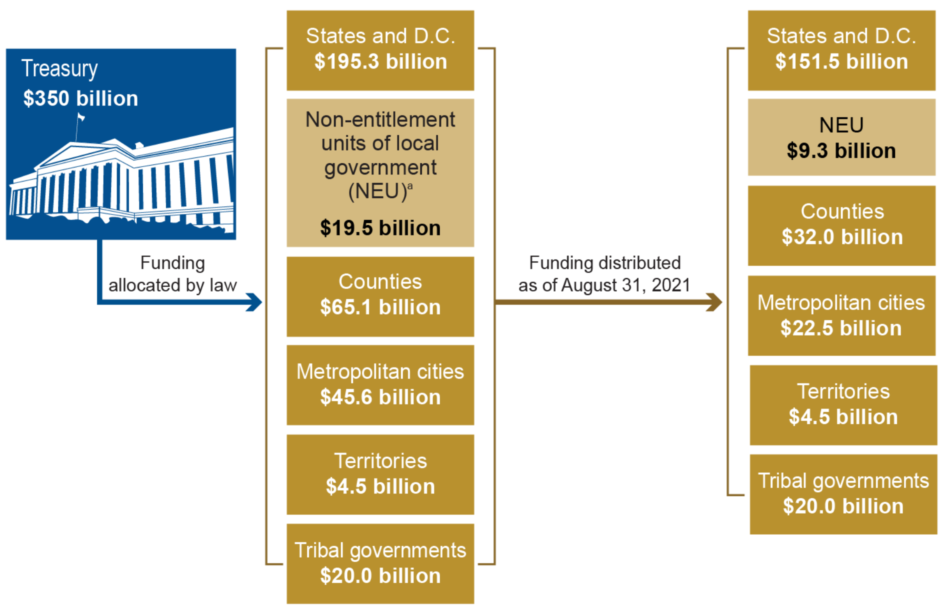
As of September 2021, HHS's Health Resources and Services Administration (HRSA) had not established time frames for implementing and completing post payment reviews for all PRF payments. In addition, the agency had not finalized procedures for recovery of overpayments or recovered the bulk of the overpayments that it had already identified.

Without post-payment oversight to help ensure that relief payments are made only to eligible providers in correct amounts and to identify unused payments or payments not properly used, HHS cannot fully address stated payment integrity risks for the PRF and seek to recover overpayments, unused payments, or payments not properly used. **GAO recommends that HRSA take steps to finalize and implement post-payment oversight. Specifically, HRSA should establish time frames for completing post-payment reviews to promptly address identified risks and identify overpayments made from the PRF, such as payments made in incorrect amounts or payments to ineligible providers; and it should finalize procedures and implement post-payment recovery of any PRF overpayments, unused payments, or payments not properly used.** HHS—which includes HRSA—partially agreed with these recommendations.

Coronavirus State and Local Fiscal Recovery Funds

In March 2021, the American Rescue Plan Act of 2021 (ARPA) appropriated $350 billion to the Department of the Treasury (Treasury) to provide payments from the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF). The CSLFRF allocates funds to states, the District of Columbia, localities, tribal governments, and U.S. territories to cover a broad range of costs stemming from the COVID-19 pandemic's fiscal effects. According to Treasury data, it had distributed approximately $240 billion from the CSLFRF to recipients as of August 31, 2021 (see figure).

Coronavirus State and Local Fiscal Recovery Funds Allocations and Treasury Distributions as of Aug. 31, 2021, by Recipient Type



Source: GAO analysis of the American Rescue Plan Act of 2021 and Department of the Treasury (Treasury) information. | GAO-22-105051

Note: For more details, see the Coronavirus State and Local Fiscal Recovery Funds enclosure in appendix I.

[a]Non-entitlement units of local government are local governments typically serving populations of less than 50,000.

As of July 2021, some of the 48 states that responded to GAO's survey reported that they had somewhat less than or much less than sufficient capacity to report on their use of CSLFRF allocation consistent with federal requirements (17 of 48 states), capacity to disburse the funds (13 of 48 states), and apply appropriate internal controls and respond to inquiries about requirements (10 of 48 states). In addition, most states (44 of 48) reported that they had taken or planned to take additional steps—such as hiring new staff or reassigning existing staff—to help them manage their CSLFRF allocations.

As of August 2021, Treasury was developing—but had not finalized or documented—key internal processes and control activities to monitor recipients' use of their CSLFRF allocations for allowable purposes and to respond to internal control and compliance findings. According to officials, these internal processes and control activities were in the development stage, partly because of the short time frame since ARPA's enactment and because Treasury's Office of Recovery Programs, established in April 2021, continues to work to recruit and onboard key team members.

Until Treasury properly designs and documents policies and procedures to guide CSLFRF program officials and other responsible oversight parties in the Office of Recovery Programs, there is a risk that key control activities needed to help ensure program management fulfills its recipient monitoring and oversight responsibilities may not be established or applied effectively and consistently. This risk may be particularly acute with respect to monitoring state and local recipients that face capacity challenges in managing their CSLFRF allocations in accordance with federal requirements, as some survey respondents noted**. GAO recommends that Treasury design and document timely and sufficient policies and procedures for monitoring CSLFRF recipients to provide assurance that recipients are managing their allocations in compliance with laws, regulations, agency guidance, and award terms and conditions.** Treasury agreed with the recommendation.

Unemployment Insurance Fraud Risk Management

GAO continues to have concerns about potential fraud in the unemployment insurance (UI) program, including concerns about Department of Labor (DOL) efforts to assess and manage program fraud risks. During the pandemic, fraudulent and potentially fraudulent activity has increased substantially and new types of fraud have emerged, according to DOL officials. For example, in June 2021, DOL's Office of Inspector General reported that it had identified nearly $8 billion in potentially fraudulent UI benefits paid from March 2020 through October 2020. Improper payments have also been a long-standing concern in the regular unemployment insurance program, suggesting that the program may be vulnerable to fraud. While DOL continues to identify and implement strategies to address potential fraud and has some ongoing program integrity activities, it has not comprehensively assessed fraud risks in alignment with leading practices identified in GAO's Fraud Risk Framework, which by law must be incorporated in guidelines established by the Office of Management and Budget for agencies.

DOL has not clearly assigned defined responsibilities to a dedicated entity for designing and overseeing fraud risk management activities. Without a dedicated entity with defined responsibilities to lead antifraud initiatives, including the process of assessing fraud risks to UI programs, DOL may not be strategically managing UI fraud risks. **GAO recommends that DOL designate a dedicated entity and document its responsibilities for managing the process of assessing fraud risks to the unemployment insurance program, consistent with leading practices as provided in GAO's Fraud Risk Framework. This entity should have, among other things, clearly defined and documented responsibilities and authority for managing fraud risk assessments and for facilitating communication among stakeholders regarding fraud-related issues.** DOL neither agreed nor disagreed with this recommendation.

DOL also has not comprehensively assessed UI fraud risks in alignment with leading practices identified in GAO's Fraud Risk Framework. These leading practices call for federal managers to plan regular fraud risk assessments and determine their fraud risk profile, among other things. Such assessments would provide reasonable assurance that DOL has identified the most significant fraud risks for the regular UI program that will exist after the pandemic. For example, some fraud risks identified in the CARES Act UI programs may continue to exist in the regular UI program after the temporary UI programs expire. **GAO recommends that DOL (1) identify inherent fraud risks facing the unemployment insurance program, (2) assess the likelihood and impact of inherent fraud risks facing the program, (3) determine fraud risk tolerance for the program, (4) examine the suitability of existing fraud controls in the program and prioritize residual fraud risks, and (5) document the fraud risk profile for the program.** DOL neither agreed nor disagreed with these recommendations.

FEMA's Disaster Relief Fund and Assistance to State, Local, Tribal, and Territorial Governments

The Federal Emergency Management Agency (FEMA) has used the Disaster Relief Fund to respond to the COVID-19 pandemic—the first time the fund has been used during a nationwide public health emergency. For example, from September 1, 2020 to August 31, 2021, FEMA obligated a total of approximately $26.8 billion through one type of disaster assistance, Public Assistance, for emergency protective measures, such as eligible medical care, the purchase and distribution of food, and distribution of personal protective equipment.

GAO found that FEMA inconsistently interpreted and applied its policies for expenses eligible for COVID-19 Public Assistance within and across its 10 regions. For example, officials in one state said that FEMA at one point had deemed the provision of personal protective equipment at correctional facilities as ineligible for reimbursement in their region but that states in other regions had received reimbursement for the same expense. These inconsistencies were due to, among other things, changes in policies as FEMA used the Public Assistance program for the first time to respond to a nationwide emergency. FEMA officials stated that it was difficult to ensure consistency in policies as different states and regions are not experiencing the same things at the same time.

FEMA is likely to receive applications for reimbursement for a larger number of projects than it estimated earlier in 2021, given the surge in COVID-19 cases this summer. To improve the consistency of the agency's interpretation and application of the COVID-19 Public Assistance policy, **GAO recommends that FEMA further clarify and communicate eligibility requirements nationwide. GAO also recommends that FEMA require the agency's Public Assistance employees in the regions and at its Consolidated Resource Centers to attend training on changes to COVID-19 Public Assistance policy.** The Department of Homeland Security—which includes FEMA— agreed with both of these recommendations.

Loans for Aviation and Other Eligible Businesses

Treasury has executed 35 loan agreements with certain aviation businesses and other businesses deemed critical to maintaining national security. These loans have totaled about $22 billion of the $46 billion authorized by the CARES Act for loans and loan guarantees to such businesses. As directed by the CARES Act, Treasury required certain loan recipients to provide financial assets, such as warrants that give the federal government an option to buy shares of stock at a predetermined price before a specified date, to protect taxpayer interests.

According to Treasury officials, it is likely that, if the airline industry continues to recover and borrowers do not default, the warrants could have higher values than the predetermined price Treasury would have to pay to act on them. Treasury has not exercised any of the warrants for stock it received from nine businesses, nor has it developed policies and procedures for determining when to act on the warrants to benefit the taxpayer. **GAO recommends that Treasury develop policies and procedures to determine when to act on warrants obtained as part of the loan program for aviation and other eligible businesses to benefit the taxpayers.** Treasury agreed with this recommendation.

Payroll Support Assistance to Aviation Businesses

As of September 2021, Treasury had made payments totaling $59 billion of $63 billion provided for the Payroll Support Programs to support aviation business. These payments were to be used exclusively for the continuation of wages, salaries, and benefits.

Similar to Treasury's requirement for loans for aviation and other eligible businesses, Treasury required certain Payroll Support Program recipients to provide warrants, as allowed by the CARES Act. As of September 2021, 14 recipients had provided a total of 58 million warrants.

As Treasury continues to hold these warrants for stock purchases, the warrants may increase in value as the airline industry recovers. Treasury has not exercised any of the warrants for stock it holds in the 14 businesses, nor has it documented policies and procedures to guide when to act on the warrants to fulfill the statutory purpose to provide appropriate compensation to the federal government. **GAO recommends that Treasury develop policies and procedures to determine when to act on warrants obtained as part of the Payroll Support Program to provide appropriate compensation to the federal government.** Treasury agreed with this recommendation.

COVID-19 Testing

Use is increasing for antigen tests, one of two types of COVID-19 diagnostic and screening tests for which HHS's Food and Drug Administration has issued emergency use authorizations. These "rapid" antigen tests typically have a turnaround time of about 30 minutes or less for results, compared with 1 to 3 days for molecular tests, the second type of test HHS authorized. Antigen tests can be conducted at doctors' offices or in homes or other settings; some antigen tests can be conducted without a prescription.

Since June 2020, HHS has worked to encourage and improve the reporting of antigen testing data to local, state, and federal health officials. However, HHS officials told GAO reporting of antigen test results is incomplete, which prevents HHS from using antigen testing data for COVID-19 surveillance. HHS is taking additional steps aimed at improving reporting of antigen test data. For example, officials told GAO that HHS will continue to make enhancements to data reporting by building reporting methods into the testing process, such as for testing in schools and workplaces.

HHS is also considering surveillance approaches to supplement or enhance current surveillance efforts. For example, HHS is exploring wastewater surveillance approaches, which provide data that can complement and confirm other forms of surveillance for COVID-19 and an efficient pooled community sample that is particularly useful in areas where timely COVID-19 clinical testing is underutilized or unavailable, according to HHS officials.

Worker Safety and Health

The Occupational Safety and Health Administration (OSHA) faced challenges in enforcing workplace safety and health standards during the COVID-19 pandemic, but the agency has not assessed lessons learned or promising practices. According to inspectors from area offices, they faced challenges related to resources and to communication and guidance, such as a lack of timely guidance from OSHA headquarters. **GAO recommends that OSHA assess—as soon as feasible and, as appropriate, periodically thereafter—various challenges related to resources and to communication and guidance that the agency has faced in its response to the COVID-19 pandemic and take**

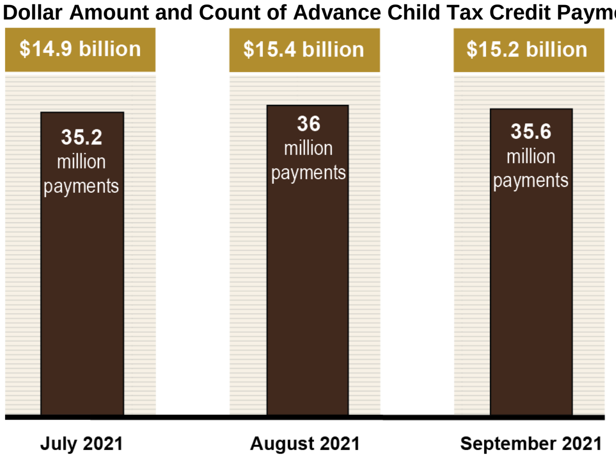
related actions as warranted. The Department of Labor—which includes OSHA—partially agreed with this recommendation.

Advance Child Tax Credit Payments

ARPA temporarily expanded eligibility for the child tax credit (CTC) to additional qualified individuals by eliminating a requirement that individuals must earn a minimum amount annually to be eligible. ARPA also temporarily increased the maximum amount of the CTC from $2,000 per qualifying child to $3,000 or $3,600, depending on the child's age. As required by ARPA, the Internal Revenue Service (IRS) and Treasury are responsible for issuing half of the CTC through periodic advance payments, known as advance CTC payments.

IRS reported disbursing more than 106 million advance payments totaling over $45.5 billion as of September 25, 2021 (see figure).

Dollar Amount and Count of Advance Child Tax Credit Payments, by Month, as of Sept. 25, 2021



Source: GAO analysis of Internal Revenue Service data. | GAO-22-105051

IRS is conducting and planning several outreach efforts to increase the public's awareness of advance CTC payments. However, IRS and Treasury have not developed a comprehensive estimate of individuals who are potentially eligible for advance CTC payments and the agencies have not set a participation goal. Such an estimate would enable Treasury and IRS to measure the tax credit's participation rate, providing greater clarity regarding populations at risk of not receiving the payments. **GAO recommends that Treasury, in coordination with IRS, estimate the number of individuals, including nonfilers, who are eligible for advance CTC payments, measure the 2021 participation rate based on that estimate, and use that estimate to develop targeted outreach and communications efforts for the 2022 filing season; the participation rate could include individuals who opt in and out of the advance payments.** Treasury neither agreed nor disagreed with this recommendation.

Child Nutrition

Child nutrition programs administered by the Department of Agriculture's Food and Nutrition Service (FNS) supply cash reimbursements to schools or other programs for meals and snacks provided to eligible children nationwide. In fiscal year 2019, before the pandemic, the four largest programs—the National School Lunch Program, School Breakfast Program, Summer Food Service Program, and Child and Adult Care Food Program—along with other child nutrition programs, received $23.1 billion in federal funds. During a typical year, two of these programs—the National School Lunch Program and the School Breakfast Program—subsidize meals for nearly 30 million children in approximately 95,000 elementary and secondary schools nationwide.

As of July 2021, FNS officials were unable to provide a plan showing how FNS intends to comprehensively analyze lessons learned during the pandemic, such as from operational and financial challenges. Further, according to FNS officials, while the School Meals Operations study—launched in spring 2021—is surveying school districts and state agencies that administer the federal child nutrition programs, the study is not gathering local perspectives directly from child care centers and day care homes or other local program sponsors that are not school districts. As a result, FNS may miss opportunities to identify lessons learned and will lack comprehensive information to aid its future planning. **GAO recommends that the Department of Agriculture document its plan to analyze lessons learned from operating child nutrition programs during the COVID-19 pandemic. This plan should include a description of how the department will gather perspectives of key stakeholders, such as Child and Adult Care Food Program institutions and nonschool Summer Food Service Program sponsors**. The Department of Agriculture—which includes FNS—agreed with this recommendation.

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Figures

Abbreviations

ARPA	American Rescue Plan Act of 2021
CDC	Centers for Disease Control and Prevention
COVID-19	Coronavirus Disease 2019
CSLFRF	Coronavirus State and Local Fiscal Recovery Funds
CTC	child tax credit
DOL	Department of Labor
FDA	Food and Drug Administration
FEMA	Federal Emergency Management Agency
FNS	Food and Nutrition Service
HHS	Department of Health and Human Services
HRSA	Health Resources and Services Administration
IRS	Internal Revenue Service
OSHA	Occupational Safety and Health Administration
PRF	Provider Relief Fund
UI	unemployment insurance
USDA	Department of Agriculture

Recommendations for Executive Action

Recommendations for Executive Action

We are making a total of 16 recommendations to federal agencies:

- The Administrator of the Health Resources and Services Administration should establish time frames for completing post-payment reviews to promptly address identified risks and identify overpayments made from the Provider Relief Fund, such as payments made in incorrect amounts or payments to ineligible providers. See the Relief for Health Care Providers enclosure. (Recommendation 1)
- The Administrator of the Health Resources and Services Administration should finalize procedures and implement post-payment recovery of any Provider Relief Fund overpayments, unused payments, or payments not properly used. See the Relief for Health Care Providers enclosure. (Recommendation 2)
- The Secretary of the Treasury should design and document timely and sufficient policies and procedures for monitoring recipients of Coronavirus State and Local Fiscal Recovery Funds to provide assurance that recipients are managing their allocations in compliance with laws, regulations, agency guidance, and award terms and conditions, including ensuring that expenditures are made for allowable purposes. See the Coronavirus State and Local Fiscal Recovery Funds enclosure. (Recommendation 3)
- The Secretary of Labor should designate a dedicated entity and document its responsibilities for managing the process of assessing fraud risks to the unemployment insurance program, consistent with leading practices as provided in our Fraud Risk Framework. This entity should have, among other things, clearly defined and documented responsibilities and authority for managing fraud risk assessments and for facilitating communication among stakeholders regarding fraud-related issues. See the Unemployment Insurance Fraud Risk Management enclosure. (Recommendation 4)
- The Secretary of Labor should identify inherent fraud risks facing the unemployment insurance program. See the Unemployment Insurance Fraud Risk Management enclosure. (Recommendation 5)
- The Secretary of Labor should assess the likelihood and impact of inherent fraud risks facing the unemployment insurance program. See the Unemployment Insurance Fraud Risk Management enclosure. (Recommendation 6)
- The Secretary of Labor should determine fraud risk tolerance for the unemployment insurance program. See the Unemployment Insurance Fraud Risk Management enclosure. (Recommendation 7)
- The Secretary of Labor should examine the suitability of existing fraud controls in the unemployment insurance program and prioritize residual fraud risks. See the Unemployment Insurance Fraud Risk Management enclosure. (Recommendation 8)
- The Secretary of Labor should document the fraud risk profile for the unemployment insurance program. See the Unemployment Insurance Fraud Risk Management enclosure. (Recommendation 9)
- The Federal Emergency Management Agency Administrator should improve the consistency of the agency's interpretation and application of the COVID-19 Public Assistance policy within and across regions by further clarifying and communicating eligibility requirements nationwide. See the FEMA's Disaster Relief Fund and Assistance to State, Local, Tribal, and Territorial Governments enclosure. (Recommendation 10)

- The Federal Emergency Management Agency Administrator should require the agency's Public Assistance Program employees in the regions and at its Consolidated Resource Centers to attend training on changes to COVID-19 Public Assistance policy to help ensure it is interpreted and applied consistently nationwide. See the FEMA's Disaster Relief Fund and Assistance to State, Local, Tribal, and Territorial Governments enclosure. (Recommendation 11)
- The Secretary of the Treasury should develop policies and procedures to determine when to act on warrants obtained as part of the loan program for aviation and other eligible businesses to benefit the taxpayers. See the Loans for Aviation and Other Eligible Businesses enclosure. (Recommendation 12)
- The Secretary of the Treasury should develop policies and procedures to determine when to act on warrants obtained as part of the Payroll Support Program to provide appropriate compensation to the federal government. See the Payroll Support Assistance to Aviation Businesses enclosure. (Recommendation 13)
- The Assistant Secretary of Labor for Occupational Safety and Health should assess—as soon as feasible and, as appropriate, periodically thereafter—various challenges related to resources and to communication and guidance that the Occupational Safety and Health Administration has faced in its response to the COVID-19 pandemic and should take related actions as warranted. See the Worker Safety and Health enclosure. (Recommendation 14)
- The Secretary of the Treasury, in coordination with the Commissioner of Internal Revenue, should estimate the number of individuals, including nonfilers, who are eligible for advance child tax credit payments, measure the 2021 participation rate based on that estimate, and use that estimate to develop targeted outreach and communications efforts for the 2022 filing season; the participation rate could include individuals who opt in and out of the advance payments. See the Advance Child Tax Credit and Economic Impact Payments enclosure. (Recommendation 15)
- The Secretary of Agriculture should document the Department of Agriculture's plan to analyze lessons learned from operating child nutrition programs during the COVID-19 pandemic. This plan should include a description of how the department will gather perspectives of key stakeholders, such as Child and Adult Care Food Program institutions and nonschool Summer Food Service Program sponsors. See the Child Nutrition enclosure. (Recommendation 16)

Introduction

October 27, 2021

Congressional Committees

As the nation continues to respond to the Coronavirus Disease 2019 (COVID-19) pandemic, response and recovery efforts have been hampered by increases in COVID-19 cases, due primarily to the Delta variant of the virus.[1] Although the daily number of new cases had begun to decline earlier in the summer, the number of new cases reported each day from the end of July 2021, to September 23, 2021, generally exceeded 100,000, according to the Centers for Disease Control and Prevention (CDC)—a daily case count not seen since February 2021 and substantially higher than the approximately 8,000 new cases reported per day in mid-June. As a result of the rise in cases, CDC, state and local governments, and private businesses revised their mask guidance or requirements.[2]

While vaccination efforts continue, vaccination rates across the U.S. vary. As of September 23, 2021, about 64 percent of the U.S population eligible for vaccination (those 12 years and older)—about 183 million individuals—had been fully vaccinated, according to CDC.

Hospitals reported an average of more than 9,000 individuals hospitalized daily for the 7-day period from September 17 to September 23, 2021, a decrease from more than 12,000 individuals hospitalized daily during a 7-day period in August 2021.[3] According to CDC, at the end of August 2021, new admissions of patients with confirmed COVID-19 were at their highest levels since the beginning of the pandemic for all age groups under 50 years old.[4] As of the end of September 2021, CDC reported that weekly hospitalization rates for children aged 11 and younger due to COVID-19 were at their highest since the beginning of the pandemic, although hospitalizations due to COVID-19 are lower in children than they are in adults. As the pandemic continues, the U.S. and the world may continue to see fluctuating increases in new cases, making an agile federal response to the pandemic even more important.

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[1] As of September 2021, the Centers for Disease Control and Prevention (CDC) listed the Delta variant as the only variant of concern in the U.S. and accounting for close to 100 percent of COVID-19 cases nationally. CDC reports that the Delta variant is nearly twice as contagious as the original COVID strain. The U.S. had previously characterized three other variants (Alpha, Beta, and Gamma) as of concern but downgraded them. According to CDC, the prevalence of these variants is less than 0.1 percent.

[2] Data from a sample of state and local health departments showed that, in August 2021, unvaccinated individuals accounted for the majority of new COVID-19 cases in those states, according to CDC. No vaccine is 100 percent effective. CDC expects that, as the number of vaccinated individuals increases, so will the number of so-called “breakthrough” cases. The agency notes, however, that the risks of infection, hospitalization, and death are much lower in vaccinated individuals compared to unvaccinated individuals. In addition, vaccinated individuals are less likely to experience severe illness if they do become infected with COVID-19 after vaccination. As of May 1, 2021, CDC shifted from providing data on all breakthrough cases to providing data on those cases that result in hospitalization or death.

[3] Data on new daily hospital admissions are pulled from a snapshot of the Department of Health and Human Services (HHS) Unified Hospital Timeseries Dataset. See CDC, “COVID Data Tracker: New Admissions of Patients with Confirmed COVID-19, United States,” accessed September 30, 2021, https://covid.cdc.gov/covid-data-tracker/#new-hospital-admissions.

[4] According to CDC, hospitals began consistently reporting admissions data August 1, 2020.

Ongoing demand for medical supplies for the COVID-19 response, including testing materials and personal protective equipment, has resulted in fluctuating shortages. For example, on September 2, 2021, CDC announced a temporary shortage of point-of-care and over-the-counter COVID-19 testing supplies. In addition, the federal government continues to provide personal protective equipment—N95 respirators, surgical masks, surgical and isolation gowns, and nitrile and other gloves—to states, with gloves accounting for the largest number of shipments. For example, during the 7-day period from September 18 to September 24, 2021, the federal government and its commercial partners shipped close to 700 million units of gloves, over 44 million surgical masks, over 13 million surgical gowns, and close to 5 million N95 respirators to all 50 states, the District of Columbia, and Puerto Rico.

To help prevent medical supply shortages for future public health emergencies, the Department of Health and Human Services (HHS) released its pandemic supply chain resilience strategy, as called for in Executive Order 14001, in September 2021.[5] The strategy outlines the goals and objectives for a resilient public health supply chain and the "path for implementation" of the strategy.[6]

Since March 2020, Congress has provided about $4.8 trillion through the CARES Act and other laws that were enacted to fund efforts to help the nation respond to and recover from the COVID-19 pandemic (COVID-19 relief laws).[7]

Ongoing implementation of the provisions in the COVID-19 relief laws and the size and scope of these efforts—from distributing funding to implementing new programs—continue to demand strong accountability and oversight. Furthermore, the government must remain vigilant and agile to address the evolving COVID-19 pandemic well into its second year. The current annual hurricane and flu seasons could place further burdens on the already overtaxed health care, medical supply, and emergency management sectors.[8]

The CARES Act includes a provision for us to report regularly on the federal response to the pandemic. Specifically, the act requires us to monitor and oversee the federal government's efforts

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[5]*A Sustainable Public Health Supply Chain,* Exec. Order No. 14001, § 4, 86 Fed. Reg. 7,219, 7220-21 (Jan. 21, 2021). The executive order directed the Department of Defense, HHS, and the Department of Homeland Security, among others, to develop a pandemic supply chain resilience strategy.

[6]Department of Health and Human Services, *National Strategy for a Resilient Public Health Supply Chain* (Washington, D.C.: July 2021). We plan to report on the strategy and its implementation in a future quarterly CARES report.

[7]For the purposes of our review, we consider COVID-19 relief laws to include the six laws providing comprehensive relief across federal agencies and programs. These six laws are the American Rescue Plan Act of 2021(ARPA), Pub. L. No. 117-2, 135 Stat. 4; Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182 (2020); Paycheck Protection Program and Health Care Enhancement Act, Pub. L. No. 116-139, 134 Stat. 620 (2020); CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020); Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020); and the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123, 134 Stat. 146.

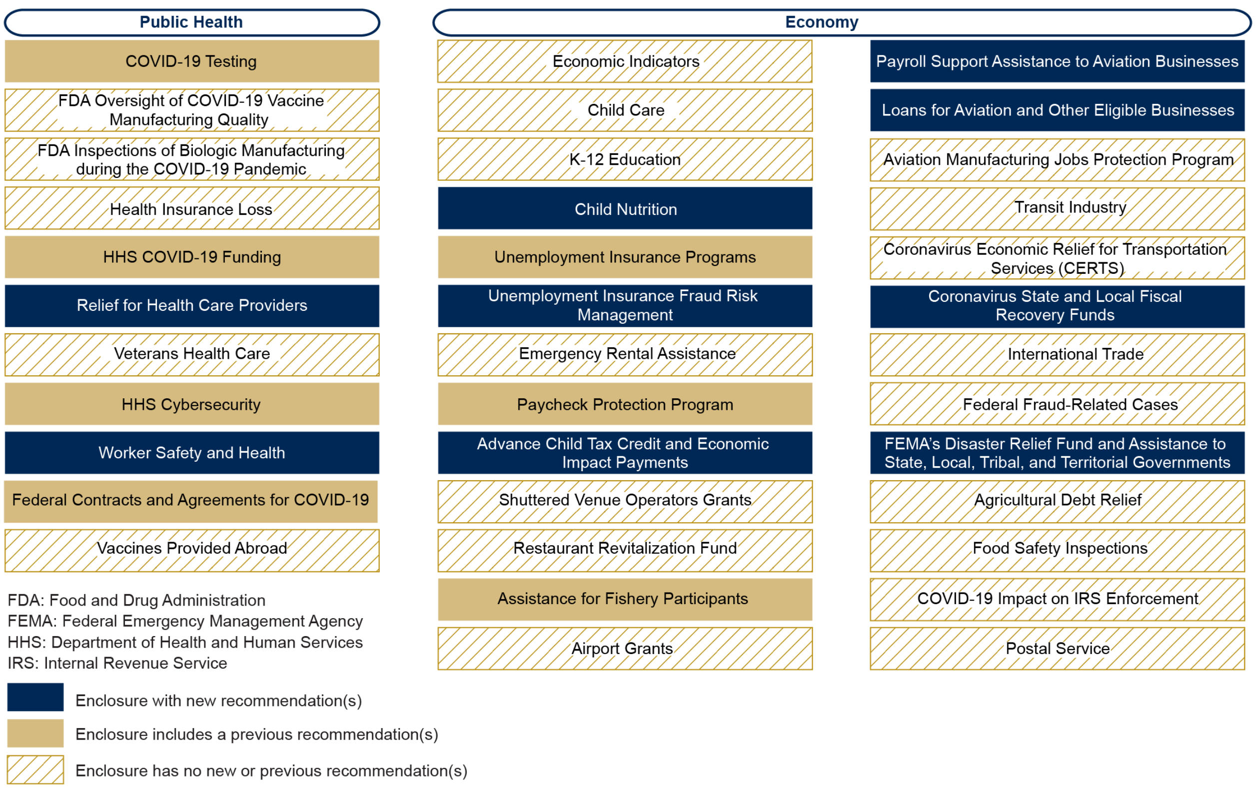
[8]To prepare for a hurricane, hospitals in a potentially affected region would typically evacuate critical patients to nearby hospitals in unaffected areas. However, hospitals in most regions in Louisiana were already at or near capacity when Hurricane Ida made landfall in the state on August 29, 2021. Affected hospitals were unable to evacuate patients because most hospitals in other regions of Louisiana and surrounding states, such as Alabama and Mississippi, were also at or near capacity because of COVID-19.

to prepare for, respond to, and recover from the COVID-19 pandemic.[9] To date, we have issued seven recurring oversight reports in response to this provision.[10]

This report examines the federal government's continued efforts to respond to and recover from the COVID-19 pandemic. We are making 16 new recommendations to federal agencies in areas including fiscal relief funds for health care providers, worker safety and health, assessing fraud risks to unemployment insurance programs, and state and local recovery funds.

This report also includes 37 enclosures addressing a range of federal programs and activities across the government concerning public health and the economy (see app. I). Figure 1 lists these enclosures by topic area and highlights those with new recommendations.

Figure 1: Report Enclosures by Topic Area



Source: GAO. | GAO-22-105051

[9]Pub. L. No. 116-136, § 19010, 134 Stat. at 579–81.

[10]Our recurring oversight reports are GAO, *COVID-19: Continued Attention Needed to Enhance Federal Preparedness, Response, Service Delivery, and Program Integrity*, GAO-21-551 (Washington, D.C.: July 19, 2021); *COVID-19: Sustained Federal Action Is Crucial as Pandemic Enters Its Second Year*, GAO-21-387 (Washington, D.C.: Mar. 31, 2021); *COVID-19: Critical Vaccine Distribution, Supply Chain, Program Integrity, and Other Challenges Require Focused Federal Attention*, GAO-21-265 (Washington, D.C.: Jan. 28, 2021); *COVID-19: Urgent Actions Needed to Better Ensure an Effective Federal Response*, GAO-21-191 (Washington, D.C.: Nov. 30, 2020); *COVID-19: Federal Efforts Could Be Strengthened by Timely and Concerted Actions*, GAO-20-701 (Washington, D.C.: Sept. 21, 2020); *COVID-19: Brief Update on Initial Federal Response to the Pandemic*, GAO-20-708 (Washington, D.C.: Aug. 31, 2020); and *COVID-19: Opportunities to Improve Federal Response and Recovery Efforts*, GAO-20-625 (Washington, D.C.: June 25, 2020).

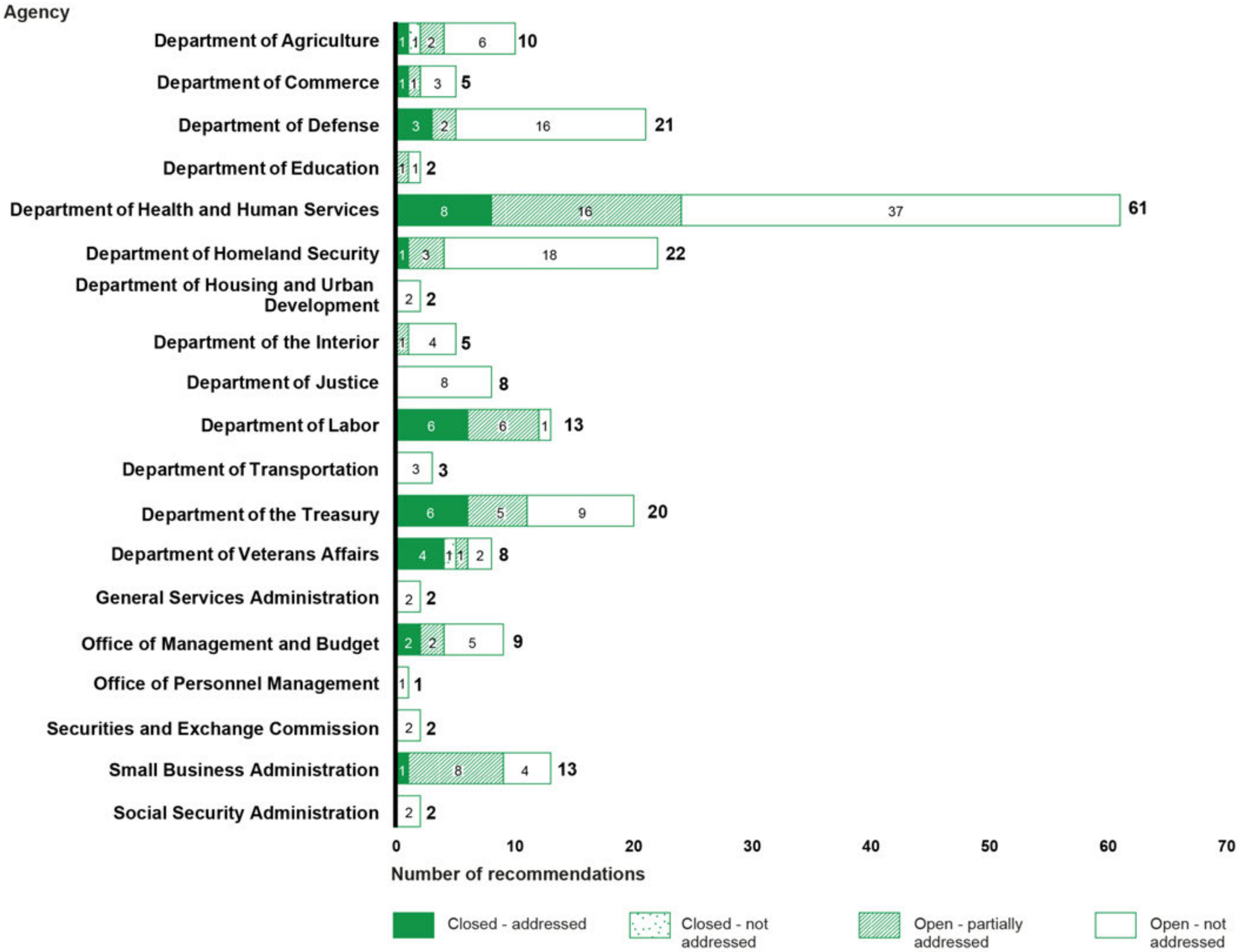
In addition to the seven recurring oversight reports, we have issued over 100 targeted COVID-19-related reports, testimonies, and science and technology spotlights in areas such as housing protections, Medicare and Medicaid program flexibilities, and digital vaccine credentials. We also have reviews ongoing in other areas. See appendix II for highlights pages from our recently issued work on COVID-19 and appendix III for a list of our ongoing work related to COVID-19.

Across our body of COVID-19-related reports, we have made 209 recommendations to federal agencies and have raised four matters for congressional consideration to improve the federal government's response efforts. As of September 30, 2021, agencies had addressed 33 of these recommendations and partially addressed 48.[11]

See figure 2 for an overview of the status of our COVID-19-related recommendations by department. For a complete list of our COVID-related products, see https://www.gao.gov/coronavirus.

[11]We consider a recommendation to be addressed when the target agency has completed the implementation of the recommendation, and we consider a recommendation to be partially addressed when the agency is in the process of developing an action, has started but not yet completed or has partially implemented an action, or has taken steps toward implementation.

Figure 2: Status of Prior GAO Recommendations from COVID-19-Related Work, by Federal Department or Agency, as of Sept. 30, 2021



Source: GAO. | GAO-22-105051

Note: For this figure, recommendations made to the Internal Revenue Service are counted toward the total of recommendations made to the Department of the Treasury.

Given the government-wide scope of this report, we undertook a variety of methodologies to complete our work, including examining a wide range of data sources and conducting interviews with federal and state officials and stakeholders, such as those from four antihunger organizations and organizations that represent landlords and lower-income households. We also examined federal laws, agency documents, and guidance, among other things. In each enclosure, we include a summary of the methodology specific to the work conducted.

We conducted this performance audit from March 2021 to October 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Public Health and Economic Effects

The COVID-19 pandemic continues to have devastating effects on public health and the economy. As of September 23, 2021, the U.S. had about 43 million reported cases of COVID-19, according to CDC.[12] As of the week ending September 25, 2021, the U.S. had about 699,000 reported deaths attributed to COVID-19.[13] In addition, the country continues to experience high unemployment. As of September 2021, about 7.7 million individuals were unemployed, compared with nearly 5.8 million at the beginning of 2020.[14]

The number of newly reported COVID-19 cases began increasing at the end of July 2021, following a decrease in daily cases since the January 2021 peak. Between September 10 and September 23, 2021, new reported COVID-19 cases averaged about 138,000 per day—close to 60 percent of the peak that occurred during January 2021.[15] See figure 3 for 7-day case averages. During this same period, reported new COVID-19 cases per day, on average, increased in 14 jurisdictions, held steady in 20 jurisdictions, and decreased in 18 jurisdictions.[16]

[12]Data on COVID-19 cases in the U.S. are based on aggregate case reporting to CDC and include probable and confirmed cases as reported by states and jurisdictions. CDC COVID-19 counts are subject to change due to delays or updates in reported data from states and territories. According to CDC, the actual number of COVID-19 cases is unknown for a variety of reasons, including that people who have been infected may have not been tested or may have not sought medical care. See, CDC, "COVID Data Tracker: Trends in Number of COVID-19 Cases and Deaths reported to CDC, by State/Territory," accessed September 30, 2021, https://covid.cdc.gov/covid-data-tracker/#trends_totalcases.

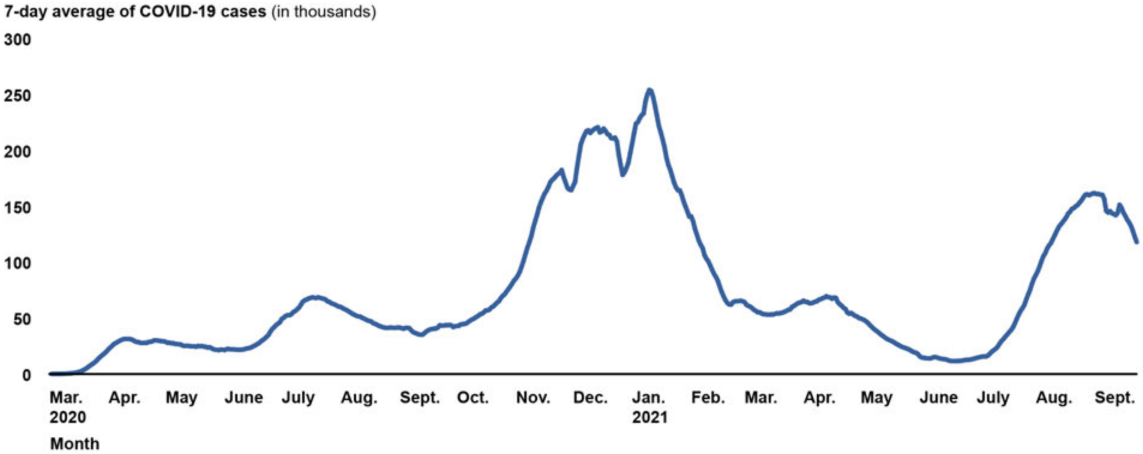
[13]CDC's National Center for Health Statistics COVID-19 death counts in the U.S. are based on provisional counts from death certificate data, which do not distinguish between laboratory-confirmed and probable COVID-19 deaths. Provisional counts are incomplete due to an average delay of 2 weeks (a range of 1–8 weeks or longer) for death certificate processing. See CDC, National Center for Health Statistics, "Provisional Death Counts for Coronavirus Disease 2019 (COVID-19)," accessed October 6, 2021, https://www.cdc.gov/nchs/nvss/vsrr/covid19/index.htm.

[14]Bureau of Labor Statistics, "Unemployment Level (UNEMPLOY)," retrieved from FRED, Federal Reserve Bank of St. Louis, accessed October 8, 2021, https://fred.stlouisfed.org/series/UNEMPLOY.

[15]CDC COVID-19 case counts are subject to change based on any delays or updates in reported data from states and territories. We compared the relative difference between the average of new cases between September 10 and September 23, 2021, and the average of new cases in a 14-day window around the peak in the winter of 2021.

[16]The 52 states and jurisdictions include all 50 states; Washington, D.C.; and New York, N.Y. COVID-19 case counts for New York, N.Y., are reported separately from the state of New York. We defined states as holding steady if they had less than a 1 percent increase or decrease in average daily new cases over the time frame. The average percentage change in daily new cases was calculated as the average of the daily rates of change of the 7-day moving average between September 10 and September 23, 2021. CDC, "United States COVID-19 Cases and Deaths by State Over Time," accessed on October 4, 2021, https://data.cdc.gov/Case-Surveillance/United-States-COVID-19-Cases-and-Deaths-by-State-o/9mfq-cb36. These COVID-19 case counts may change as new or updated data are reported by states.

Figure 3: Reported COVID-19 Cases per Day in the U.S., Mar. 1, 2020–Sept. 23, 2021

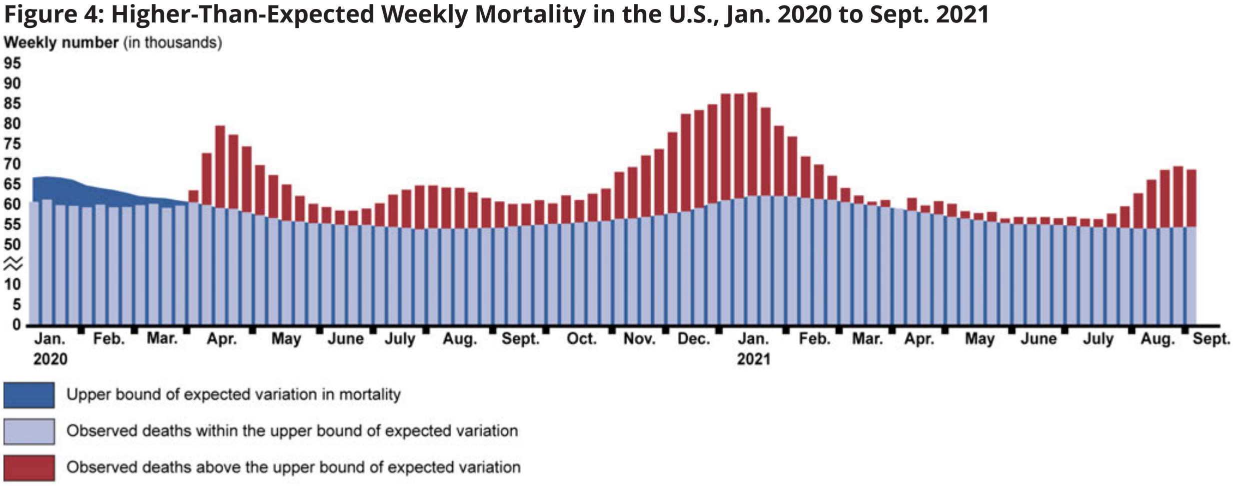


Source: Centers for Disease Control and Prevention (CDC). | GAO-22-105051

Note: Reported COVID-19 cases include confirmed and probable cases. Beginning April 14, 2020, states could include probable as well as confirmed COVID-19 cases in their reports to CDC. Previously, counts included only confirmed cases. According to CDC, the actual number of cases is unknown for a variety of reasons, including that people who have been infected may not have been tested or may not have sought medical care. See CDC, "COVID Data Tracker: Trends in Number of COVID-19 Cases and Deaths in the U.S. Reported to CDC, by State/Territory," accessed September 30, 2021, https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases.

According to data from CDC's National Center for Health Statistics, the number of deaths in the U.S. has been higher during the pandemic than the expected number of deaths based on previous years' data. For example, from January 1, 2020, through September 4, 2021, about 687,000 more deaths occurred from COVID-19 and other causes than would be normally expected (see fig. 4).

Figure 4: Higher-Than-Expected Weekly Mortality in the U.S., Jan. 2020 to Sept. 2021



Source: GAO analysis of Centers for Disease Control and Prevention (CDC)/National Center for Health Statistics (NCHS) data. | GAO-22-105051

Note: The data shown represent the number of deaths from all causes reported in the U.S.in a given week through September 4, 2021, that exceeded the upper-bound threshold of expected deaths calculated by CDC's NCHS on the basis of variation in mortality in prior years. For further details of CDC's methodology for estimating this upper-bound threshold, see CDC, National Center for Health Statistics, "Excess Deaths Associated with COVID-19," accessed October 4, 2021, https://www.cdc.gov/nchs/nvss/vsrr/covid19/excess_deaths.htm. The number of deaths in recent weeks should be interpreted cautiously, as this figure relies on provisional data that are generally less complete.

Providing the public with safe and effective vaccines to protect people from getting critically ill with COVID-19 is crucial to mitigating the public health and economic impacts of the virus and ending the pandemic. Two COVID-19 vaccines requiring two doses were authorized by the Food and Drug Administration (FDA) for emergency use in December 2020 and a third vaccine, requiring one dose, was authorized in February 2021.[17] On August 23, 2021, FDA approved Pfizer's biologics license application for its two-dose vaccine for individuals aged 16 years and older.[18]

On August 18, 2021, the administration recommended that individuals who received the two-dose vaccines should get a third "booster" shot 8 months after the second dose, pending FDA authorization and a recommendation from CDC's immunization advisory committee.[19] On September 22, 2021, FDA amended the authorization for the Pfizer vaccine to allow for a booster shot to be administered to individuals aged 65 years and older, individuals aged 18 to 64 years who are at high risk of developing severe illness from COVID-19, and individuals aged 18 to 64 years whose frequent institutional or occupational exposure to COVID-19 puts them at high risk of serious complications from COVID-19, including severe illness. Boosters for these individuals are to be administered at least 6 months after completion of the first series of shots.[20] In mid-October, FDA's vaccine advisory panel recommended boosters of the Moderna and Johnson & Johnson vaccines.[21]

As of September 23, 2021, almost 390 million doses of COVID-19 vaccine had been administered, according to CDC. Since the vaccination peak in early April 2021, the number of doses of COVID-19 vaccine administered each day have generally declined. As of September 23, 2021, the number of daily administered doses was less than one-fifth of those administered in the April peak (see fig. 5).

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[17]Pfizer's two-dose COVID-19 vaccine was authorized for emergency use on December 11, 2020, and Moderna's two-dose COVID-19 vaccine on December 18, 2020. Janssen's (Johnson & Johnson) one-dose COVID-19 vaccine was authorized for emergency use on February 27, 2021.

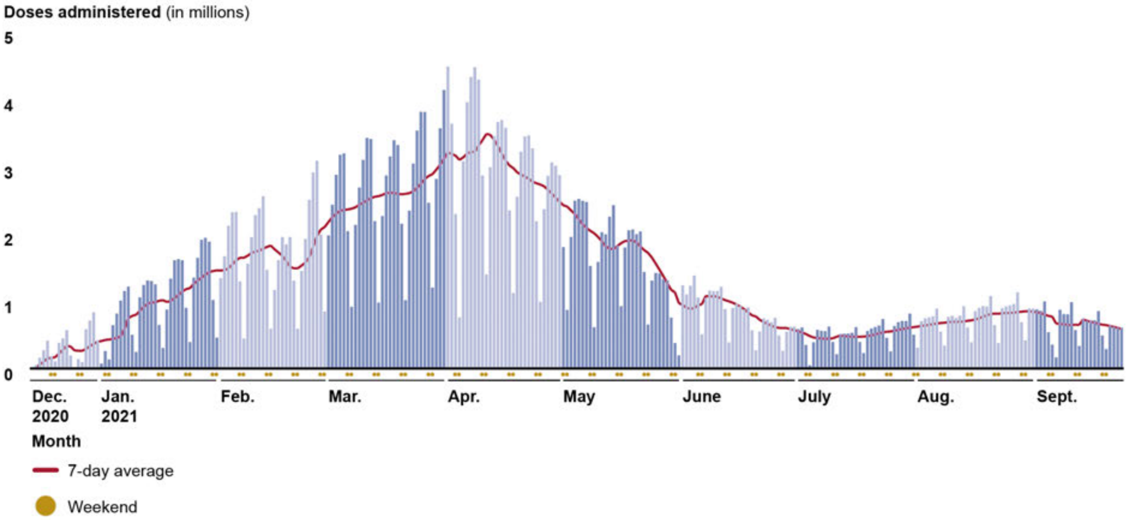
[18]Pfizer's two-dose COVID-19 vaccine continues to be authorized for emergency use in individuals aged 12 to 15.

[19]FDA had previously authorized, and CDC's immunization advisory committee recommended, third booster shots of Pfizer's and Moderna's vaccines for certain immunocompromised individuals.

[20]On September 24, 2021, CDC issued recommendations that certain populations—individuals aged 65 years and older, residents in long-term care settings, and individuals aged 50 to 64 years with underlying medical conditions—should receive a booster shot of the Pfizer vaccine. CDC also noted that individuals aged 18 to 64 years with underlying medical conditions or at increased risk for COVID-19 exposure and transmission because of their occupational or institutional setting may receive a booster shot, based on their individual benefits and risks.

[21]The FDA vaccine advisory panel recommended a half-dose of the Moderna vaccine at least 6 months after completion of the first series of shots for the booster for the same groups of individuals for which it authorized boosters of the Pfizer vaccine. The panel did not restrict its recommendations for the Johnson & Johnson booster to specific groups of individuals beyond those who had already received the one-dose vaccine. FDA is not required to implement the vaccine advisory panel's recommendations. As of October 18, 2021, FDA had not yet amended the emergency use authorizations for either the Moderna or the Johnson & Johnson vaccine to allow for boosters.

Figure 5: Daily Count of COVID-19 Vaccine Doses Administered in the U.S. and Reported to CDC, Dec. 14, 2020–Sept. 23, 2021



Source: Centers for Disease Control and Prevention (CDC). | GAO-22-105051

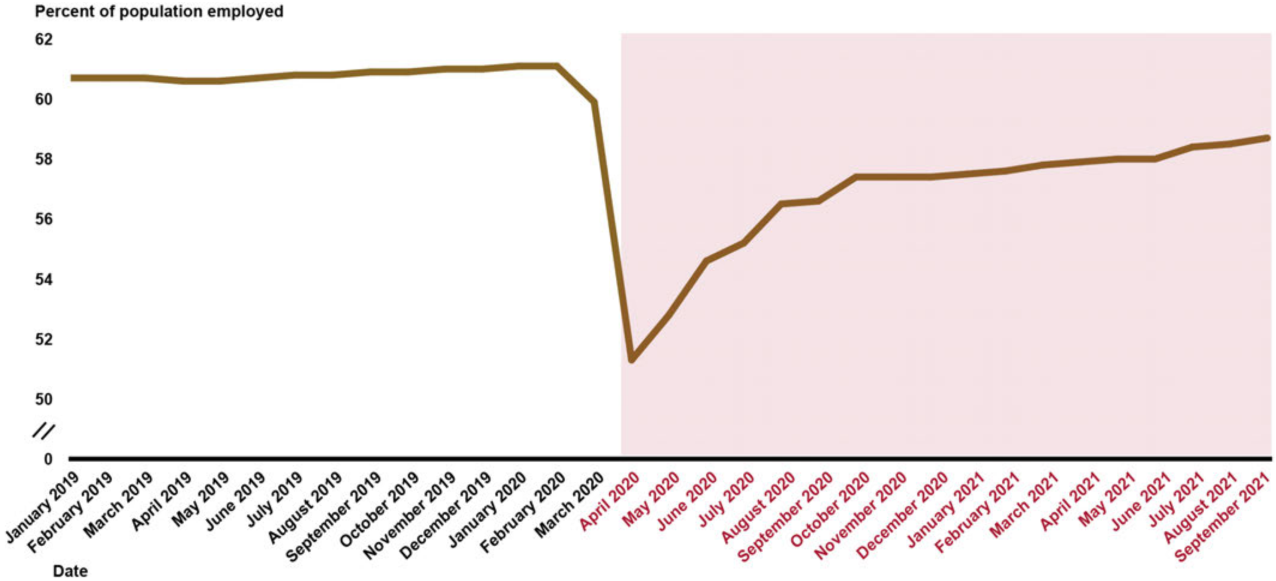
Notes: The data shown reflect COVID-19 vaccine doses administered in the U.S. as reported to CDC by state, territorial, and local public health agencies and by federal entities since the national vaccine program began on December 14, 2020. The data include doses administered through all vaccine partners, including jurisdictional partner clinics, retail pharmacies, long-term care facilities, Federal Emergency Management Agency and Health Resources and Services Administration partner sites, and federal entity facilities. See CDC, "COVID Data Tracker: COVID-19 Vaccinations in the United States," accessed on September 30, 2021, https://covid.cdc.gov/covid-data-tracker/#vaccinations.
As of September 30, 2021, one COVID-19 vaccine had been licensed by the Food and Drug Administration for individuals aged 16 years and older and was authorized for emergency use for individuals aged 12 to 15 years. Two additional COVID-19 vaccines were authorized for emergency use for individuals aged 18 years and older. The approved vaccine and one of the vaccines authorized for emergency use are two-dose regimens; the other vaccine with emergency authorization requires one dose. The number of doses administered on a given day may be affected by several factors, such as weekend days, holidays, weather, and vaccine availability. The most recent days of reporting may be more impacted by reporting delays, and all reported numbers may change over time as historical data are reported to CDC.

In addition to the impact on public health, the pandemic continues to present economic challenges, particularly for the labor market, though the economy has improved in recent months. According to data from the Department of Labor, labor market conditions improved in June, July, August, and September 2021 but remained worse relative to the prepandemic period. For example, although initial unemployment insurance claims generally declined through September 2021, initial claims remain high compared to the prepandemic period.

Moreover, in September 2021, the employment-to-population ratio, which measures the share of the population employed, was 58.7 percent—a slight increase from the previous month. However, this ratio was 2.4 percentage points lower than in the prepandemic period, indicating that labor market conditions remain worse than in the prepandemic period (see fig. 6).[22] See the Economic Indicators enclosure in appendix I for more information.

[22]The employment-to-population ratio represents the number of employed people as a percentage of the civilian noninstitutional population 16 years and older. The ratio is subject to misclassification errors with respect to consistently identifying workers as employed and absent from work or unemployed on temporary layoff.

Figure 6: Employment-to-Population Ratio, Jan. 2019–Sept. 2021



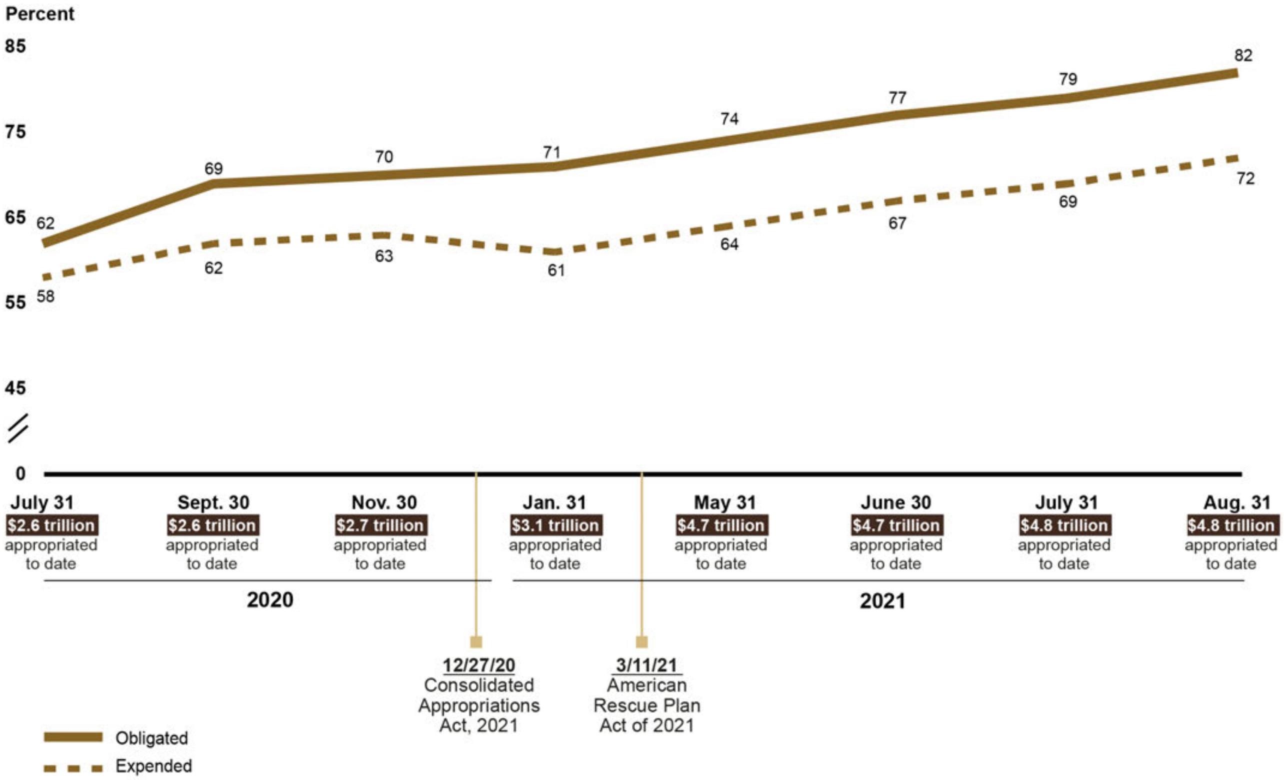
Source: GAO, Department of Labor. | GAO-22-105051

Federal COVID-19 Funding and Spending

As of August 31, 2021, the most recent date for which government-wide information was available at the time of our analysis, the federal government had obligated a total of $3.9 trillion and expended $3.4 trillion of the $4.8 trillion in appropriated COVID-19 relief funds as reported by federal agencies to the Department of the Treasury's Governmentwide Treasury Account Symbol Adjusted Trial Balance System.[23] Obligations and expenditures relative to the amounts appropriated through COVID-19 relief laws have varied over time, as new relief laws have appropriated additional relief funds and as the federal government has obligated and expended those funds (see fig. 7).

[23]An appropriation provides legal authority for federal agencies to incur obligations and make payments out of the U.S. Treasury for specified purposes. An obligation is a definite commitment that creates a legal liability of the U.S. government for the payment of goods and services ordered or received, or a legal duty on the part of the U.S. government that could mature into a legal liability by virtue of actions on the part of another party that are beyond the control of the U.S. government. An expenditure is the actual spending of money, or an outlay. Expenditures include some estimates, such as estimated subsidy costs for direct loans and loan guarantees. Increased spending in Medicaid and Medicare is not accounted for in the appropriations provided by the COVID-19 relief laws. Federal agencies use the Governmentwide Treasury Account Symbol Adjusted Trial Balance System to report proprietary financial reporting and budgetary execution information to Treasury.

Figure 7: Percentage of COVID-19 Relief Appropriations Obligated and Expended, July 31, 2020–Aug. 31, 2021



Source: GAO analysis of data from the Department of the Treasury. | GAO-22-105051

Notes: The percentages shown represent the portions of appropriated funds available as of each date shown that had been obligated and expended. An appropriation provides legal authority for federal agencies to incur obligations and make payments out of the U.S. Treasury for specified purposes. Appropriation amounts are based on appropriation warrant information provided by the Department of the Treasury as of July 31, 2020; September 30, 2020; November 30, 2020; January 31, 2021; May 31, 2021; June 30, 2021; July 31, 2021; and August 31, 2021, for the six COVID-19 relief laws, four of which were enacted before July 2020. These amounts have increased over time and could increase in the future for programs with indefinite appropriations (i.e., appropriations that, at the time of enactment, are for an unspecified amount).
An obligation is a definite commitment that creates a legal liability of the U.S. government for the payment of goods and services ordered or received, or a legal duty on the part of the U.S. government that could mature into a legal liability by virtue of actions on the part of another party that are beyond the control of the U.S. government. An expenditure is the actual spending of money, or an outlay. Expenditures reflected in the percentages shown include some estimates, such as estimated subsidy costs for direct loans and loan guarantees. Increased spending in Medicaid and Medicare is not accounted for in the appropriations provided by the COVID-19 relief laws. Under Office of Management and Budget guidance, federal agencies were not directed to report COVID-19 related obligations and expenditures until July 2020.

The nine major spending areas shown in table 1 represent $3.9 trillion, or 81 percent, of the total amounts appropriated. For these nine spending areas, agencies reported obligations totaling $3.3 trillion and expenditures totaling $3.0 trillion as of August 31, 2021. Table 1 provides additional details on appropriations, obligations, and expenditures of government-wide COVID-19 relief funds, including the nine major spending areas as of August 31, 2021.

Table 1: COVID-19 Relief Appropriations, Obligations, and Expenditures, as of Aug. 31, 2021

Major spending area[a]	Total appropriations[b] ($ in billions)	Total obligations[c] ($ in billions)	Total expenditures[c] ($ in billions)
Unemployment Insurance (Department of Labor)	858.6	660.3	650.2
Economic Impact Payments (Department of the Treasury)	855.3	841.6	841.6
Business Loan Programs (Small Business Administration)	838.0	829.2	827.6[d]
Public Health and Social Services Emergency Fund (Department of Health and Human Services)	350.1	240.0	172.1
Coronavirus State and Local Fiscal Recovery Funds (Department of the Treasury)	350.0	239.8	239.8
Education Stabilization Fund (Department of Education)	278.6	257.0	51.7
Coronavirus Relief Fund (Department of the Treasury)	150.0	149.9	149.9
Disaster Relief Fund (Department of Homeland Security)[e]	97.0	63.8	9.9
Supplemental Nutrition Assistance Programs (Department of Agriculture)	91.7	66.1	64.6
Other areas[f]	881.6	532.4	391.9
Total[g]	**4,750.9**	**3,880.1**	**3,399.3**

Source: GAO analysis of data from the Department of the Treasury and applicable agencies. | GAO-22-105051

[a]Major spending areas shown are based on federal accounts in Treasury's Governmentwide Treasury Account Symbol Adjusted Trial Balance System. Each spending area may include multiple programs.

[b]COVID-19 relief appropriations shown reflect amounts appropriated under the American Rescue Plan Act of 2021 (ARPA), Pub. L. No. 117-2, 135 Stat. 4; Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182 (2020); Paycheck Protection Program and Health Care Enhancement Act, Pub. L. No. 116-139, 134 Stat. 620 (2020); CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020); Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020); and Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123, 134 Stat. 146. These amounts are based on appropriation warrant information provided by Treasury as of August 31, 2021. These amounts have increased over time and could increase in the future for programs with indefinite appropriations, which are appropriations that, at the time of enactment, are for an unspecified amount. The amounts shown do not include transfers of funds that federal agencies may make between appropriation accounts or transfers of funds they may make to other agencies.

[c]Obligation and expenditure data shown are based on data reported by applicable agencies. An obligation is a definite commitment that creates a legal liability of the U.S. government for the payment of goods and services ordered or received, or a legal duty on the part of the U.S. government that could mature into a legal liability by virtue of actions on the part of another party that are beyond the control of the U.S. government. An expenditure is the actual spending of money, or an outlay. Expenditures shown include some estimates, such as estimated subsidy costs for direct loans and loan guarantees.

[d]The Small Business Administration's Business Loan Program account includes activity for the Paycheck Protection Program loan guarantees and certain other loan subsidies. These expenditures relate mostly to the loan subsidy costs (i.e., the loan's estimated long-term costs to the U.S. government).

[e]Appropriations to the Disaster Relief Fund are generally not specific to individual disasters. Therefore, Treasury's methodology for determining COVID-19-related obligations and expenditures does not capture obligations and expenditures for the COVID-19 response based on appropriations other than those in the COVID-19 relief laws. Further, Treasury's methodology includes all obligations and expenditures based on appropriations in the COVID-19 relief laws, including those for other disasters. In its Disaster Relief Fund Monthly Report dated September 9, 2021, the Department of Homeland Security reported COVID-19-related obligations totaling $80.0 billion and expenditures totaling $60.6 billion as of August 31, 2021.

[f]Several provisions in the Families First Coronavirus Response Act and ARPA authorized increases in Medicaid payments to states and U.S. territories. The Congressional Budget Office estimated that federal expenditures from these provisions would be approximately $76.9 billion through fiscal year 2030. The largest increase to federal Medicaid spending is based on a temporary formula change rather than a specific appropriated amount. Some of the estimated costs in this total are for the Children's Health Insurance Program, permanent changes to Medicaid, and changes not specifically related to COVID-19. This increased spending is not accounted for in the appropriations provided by the COVID-19 relief laws and therefore not included in this table.

[g]Because of rounding, amounts shown in columns may not sum to the totals.

The COVID-19 relief laws provided more than $1 trillion to federal agencies to provide assistance related to the COVID-19 pandemic to states, the District of Columbia, localities, U.S. territories, and tribes through existing and newly created programs and funds.[24] Table 2 lists programs and funds that each received $10 billion or more—exclusively or primarily for states, the District of Columbia, localities, U.S. territories, and tribes—in at least one of the six laws. It also provides obligations and expenditures for these programs and funds as of August 31, 2021.

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[24]This total is based on (1) an analysis of the appropriated amounts in ARPA, Divisions M and N of the Consolidated Appropriations Act, 2021, the Paycheck Protection Program and Health Care Enhancement Act, the CARES Act, the Families First Coronavirus Response Act, and the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 that are available to agencies for assistance to states, the District of Columbia, localities, U.S. territories, and tribes, and (2) the Congressional Budget Office's estimated outlays for Medicaid resulting from authorized increases in payments to states and U.S. territories under those laws.

Table 2: Appropriations, Obligations, and Expenditures for Federal Programs and Funds Receiving $10 Billion or More in COVID-19-Related Aid for States, the District of Columbia, Localities, U.S. Territories, and Tribes, as of Aug. 31, 2021

Program fund/description	Appropriations ($ in billions)	Obligations ($ in billions)	Expenditures ($ in billions)
Coronavirus State and Local Fiscal Recovery Funds Administered by the Department of the Treasury, these funds provide payments to states, the District of Columbia (D.C.), U.S. territories, tribal governments, and localities to mitigate the fiscal effects stemming from the COVID-19 pandemic, among other things.	350	239.8	239.8
Elementary and Secondary School Emergency Relief Fund Administered by the Department of Education, this fund generally provides formula grants to states (including D.C. and Puerto Rico) for education-related needs to address the impact of the COVID-19 pandemic.	190.3	172.3	17.3
Coronavirus Relief Fund Administered by Treasury, this fund provides payments to states, D.C., localities, U.S. territories, and tribal governments to help offset costs of their response to the COVID-19 pandemic.	150	149.9	149.9
Disaster Relief Fund Administered by the Federal Emergency Management Agency, this fund provides federal disaster recovery assistance for state, local, tribal, and territorial governments when a major disaster occurs.	95[a]	31.3[b]	19.6[b]
Medicaid Administered by states and U.S. territories according to plans approved by the Centers for Medicare & Medicaid Services, which oversees Medicaid at the federal level. This program finances health care for certain low-income and medically needy individuals through federal matching of states' and U.S. territories' health care expenditures. The Families First Coronavirus Response Act and American Rescue Plan Act of 2021 temporarily increased federal Medicaid matching rates under specified circumstances, among other changes.	76.9[c]	50.9[d]	50.9[d]
Transit grants Administered by the Federal Transit Administration, these funds are distributed through existing grant programs to provide assistance to states, localities, U.S. territories, and tribes to prevent, prepare for, and respond to the COVID-19 pandemic.	69.5	37.0	22.8
Child Care and Development Fund Administered by the Department of Health and Human Services (HHS), this program provides funds to states,	52.5	52.4	7.0

Program fund/description	Appropriations ($ in billions)	Obligations ($ in billions)	Expenditures ($ in billions)
D.C., territories, and tribes to subsidize the cost of child care for low-income families. COVID relief funds have supported assistance to health care and other essential workers without regard to income eligibility requirements. Additional child care stabilization funding was provided for subgrants to eligible child care providers to support the stability of the child care sector during and after the COVID-19 pandemic.[e]			
Emergency Rental Assistance Administered by Treasury, this program provides grants to states, D.C., U.S. territories, localities, and tribes to provide assistance to eligible households for rent and utility payments.	46.6	33.2	33.2[f]
Public Health and Social Services Emergency Fund Administered by HHS, this fund provides for grants to states, U.S. territories, localities, and tribal governments to support COVID-19 testing, surveillance, and contact tracing, among other uses.	33.4	30.3	7.7
Airport grants Administered by the Federal Aviation Administration, these grants provide funds for eligible airports to prevent, prepare for, and respond to the effects of the COVID-19 pandemic.[g]	20	15.8[h]	7.7[h]
Highway infrastructure programs Administered by the Federal Highway Administration, these programs provide funds to states, D.C., U.S. territories, and tribes for highway construction and authorize the use of these funds for maintenance, personnel, and other purposes to prevent, prepare for, and respond to the COVID-19 pandemic.	10	3.9[h]	1.5[h]
Coronavirus Capital Projects Fund Administered by Treasury, this fund provides payments to states, D.C., U.S. territories, and tribal governments for critical capital projects that directly enable work, education, and health monitoring in response to the COVID-19 pandemic.[i]	10	0	0
State Small Business Credit Initiative Administered by Treasury, this program provides funds to states, D.C., U.S. territories, tribal governments, and eligible localities to fund small business credit support and investment programs.[j]	10	0	0

Source: GAO analysis of federal laws, data from the Congressional Budget Office, and obligations and expenditures data from Treasury and applicable agencies. | GAO-22-105051

Notes: The COVID-19 relief laws providing the appropriations shown are the American Rescue Plan Act of 2021 (ARPA), Pub. L. No. 117-2, 135 Stat. 4 (2021), the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. M and N, 134 Stat. 1182 (2020), the Paycheck Protection Program and Health Care Enhancement Act, Pub. L. No. 116-139, 134 Stat. 620 (2020), the

CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020), and the Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020). The Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 did not provide any specified amounts for these programs or funds for states, D.C., localities, territories, or tribes. The amounts shown are the cumulative amounts for each program or fund under the other five laws. Some appropriation amounts include an amount available for administration expenses or for the relevant inspectors general. Numbers are rounded to the nearest hundred million.

We did not independently verify obligations and expenditures amounts.

[a]Appropriations for the Disaster Relief Fund generally are not specific to individual disasters and may be used for various disaster assistance programs, including the Public Assistance program, which provides assistance to state, local, territorial, and tribal governments.

[b]The obligations and expenditures listed in the table are for the Public Assistance program for the COVID-19 response.

[c]Several provisions in the Families First Coronavirus Response Act and ARPA authorized increases in Medicaid payments to states and U.S. territories. The Congressional Budget Office estimated that federal expenditures from these provisions would be approximately $76.9 billion through fiscal year 2030. The largest increase to federal Medicaid spending is based on a temporary funding formula change rather than a specific appropriated amount. Some of the estimated costs in this total are for the Children's Health Insurance Program, permanent changes to Medicaid, and changes not specifically related to COVID-19.

[d]Medicaid obligations and expenditures are as of June 30, 2021. COVID-19 related obligation and expenditure amounts for Medicaid only reflect provisions in the Families First Coronavirus Response Act. Obligation and expenditure amounts for COVID-19 related Medicaid provisions in the American Rescue Plan Act are not currently available from the Centers for Medicare & Medicaid Services.

[e]The Child Care and Development Fund is made up of two funding streams: mandatory and matching funding authorized under section 418 of the Social Security Act, and discretionary funding authorized under the Child Care and Development Block Grant Act of 1990, as amended. See 42 U.S.C. §§ 618 and 9858m.

[f]Expenditures represent funding disbursed to grantees by Treasury for distribution to renters, landlords, and utility providers. As of August 31, 2021, grantees had spent about $7.7 billion of these amounts. For additional information on grantee spending, see the enclosure on the Emergency Rental Assistance program in appendix I.

[g]Funds are available to eligible sponsors of airports. Nearly all of these airports are under city, state, county, or public-authority ownership.

[h]Obligations and expenditures for these funds are as of August 30, 2021.

[i]Treasury issued implementing guidance in September 2021 that provides that the application deadline for requesting allocations of the Coronavirus Capital Projects Fund from Treasury is (1) December 27, 2021, for states, D.C., and U.S. territories; and (2) June 1, 2022, for tribal governments.

[j]States, the District of Columbia, territories, and tribal governments must initiate applications for the State Small Business Credit Initiative program with Treasury by December 11, 2021. Eligible jurisdictions must submit completed applications by February 11, 2022.

Executive Summary

Overview

As the nation continues to respond to the pandemic and significant increases in COVID-19 cases from the Delta variant, this report provides key updates on the government's pandemic response and makes 16 new recommendations aimed at improving the accountability and program effectiveness of the federal response.

In our prior CARES Act reports and other targeted COVID-19-related reports, we have made a total of 209 recommendations to federal agencies.[25] As of September 30, 2021, agencies had fully addressed 33 of these recommendations, resulting in improvements including increased oversight of relief payments to individuals and improved transparency of decision making for emergency use authorizations for vaccines and therapeutics. Agencies have also partially addressed an additional 48 recommendations. Fully addressing our previous recommendations as well as the new recommendations we are making will enhance the transparency and accountability of the federal government's response to and recovery from the COVID-19 pandemic.

Relief for Health Care Providers

To respond to the pandemic, $178 billion has been appropriated to the Provider Relief Fund (PRF) to reimburse eligible providers for health care-related expenses or lost revenues attributable to COVID-19. As of August 31, 2021, HHS had allocated about $153.9 billion. Of the $153.9 billion allocated, HHS had disbursed about $132.5 billion and about $21.5 billion remained to be disbursed. Approximately $24.1 billion of PRF funds remained unallocated and undisbursed as of August 31, 2021. On September 10, 2021, HHS announced that $17 billion of the previously unallocated $24.1 billion would be allocated for a general distribution to a broad range of providers who could document COVID-related revenue loss and expenses. HHS expected to begin disbursing these funds in December 2021.

The Health Resources and Services Administration (HRSA) has taken some oversight actions regarding post-payment reviews of PRF payments and recovery of identified overpayments; however, it has not established key next steps. While the agency has conducted post-payment reviews for certain priority types of provider payments, it has not established time frames for implementing and completing all remaining post-payment reviews or set review schedules beyond the first quarter of calendar year 2022. In regards to recovery of identified overpayments, the agency has yet to recover most of the overpayments that had been identified as of September 2021. HRSA officials stated they had plans for recovering overpayments, but had not finalized procedures for doing so.

Without timely post-payment oversight that includes time frames for conducting reviews to help ensure that relief payments are made only to eligible providers in correct amounts and to identify

[25]This number includes recommendations from our June 2020, September 2020, November 2020, January 2021, March 2021, and July 2021 CARES Act reports as well as other targeted COVID-19-related reports in areas such as international humanitarian assistance and Indian Health Services response to COVID-19. For a complete list of our COVID-related products, see https://www.gao.gov/coronavirus.

unused payments or payments not properly used, HHS cannot fully address its stated payment integrity risks for the PRF and seek to recover overpayments, unused payments, or payments not properly used. Moreover, setting time frames for completion of these oversight efforts can help the agency achieve its objectives and increase the likelihood of recovering funds.

We are recommending that the Administrator of the Health Resources and Services Administration take several steps to finalize and implement post-payment oversight. Specifically, the Administrator should establish time frames for completing post-payment reviews to promptly address identified risks and identify overpayments made from the Provider Relief Fund, such as payments made in incorrect amounts or payments to ineligible providers. The Administrator should also finalize procedures and implement post-payment recovery of any Provider Relief Fund overpayments, unused payments, or payments not properly used. HHS, which includes HRSA, partially agreed with both recommendations. HRSA stated that it has a schedule for reviewing the payment types it initially prioritized, and that reviews for the remaining types and payment recovery efforts will occur in the future. We maintain that establishing time frames for completing reviews and finalizing procedures and implementing recovery efforts expeditiously will help the agency succeed in recovering overpayments.

See the Relief for Health Care Providers enclosure in appendix I for more information.

Coronavirus State and Local Fiscal Recovery Funds

In March 2021, the American Rescue Plan Act of 2021 (ARPA) appropriated $350 billion to Treasury for the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF).[26] The CSLFRF allocates funds to states, the District of Columbia, localities, tribal governments, and U.S. territories to cover a broad range of costs stemming from the fiscal effects of the COVID-19 pandemic.[27] According to Treasury data, it had distributed approximately $240 billion in CSLFRF funds to recipients as of August 31, 2021.

As of July 2021, some of the 48 states that responded to a GAO survey reported that they had somewhat less than or much less than sufficient capacity to report on use of CSLFRF allocation consistent with federal requirements (17 of 48), to disburse the funds (13 of 48), and to apply appropriate internal controls and respond to inquiries about requirements (10 of 48). In addition, most states (44 of 48) reported that they had taken or planned to take additional steps—such as hiring new staff or reassigning existing staff—to help them manage their CSLFRF allocations.

As of August 2021, Treasury was developing its key internal processes and control activities for the timely monitoring of recipients' use of their CSLFRF allocations for allowable purposes and for responding, as appropriate, to internal control and compliance findings. According to Treasury officials, the key internal processes and control activities had not been finalized or documented. The officials noted that program development has occurred within a short time frame since the enactment of ARPA in March 2021, and that finalizing and documenting internal processes and

[26]Pub. L. No. 117-2, § 9901, 135 Stat. at 223. This section of ARPA appropriated $350 billion for two funds—the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund, which we discuss as one for the purposes of this report. These funds are codified, respectively, at 42 U.S.C. §§ 802, 803.

[27]Pub. L. No. 117-2, § 9901, 135 Stat. at 223 (codified at 42 U.S.C. §§ 802, 803).

control activities for this new program requires time and resources. Further, vacancies in top-level leadership positions in the Office of Recovery Programs, which Treasury established in April 2021, have contributed to uncertainty about how the final program policies and procedures will be implemented.

Until Treasury properly designs and documents policies and procedures to guide CSLFRF program officials and other responsible oversight parties in the Office of Recovery Programs, there is a risk that key control activities needed to help ensure program management fulfills its recipient monitoring and oversight responsibilities may not be established or applied effectively and consistently. This risk may be particularly acute with monitoring state and local recipients that face capacity challenges in managing their CSLFRF allocations in accordance with federal requirements, as some noted in our survey.

We are recommending that the Secretary of the Treasury design and document timely and sufficient policies and procedures for monitoring CSLFRF recipients to provide assurance that recipients are managing their allocations in compliance with laws, regulations, agency guidance, and award terms and conditions, including ensuring that expenditures are made for allowable purposes. Treasury agreed with the recommendation and stated that it is in the process of designing, documenting, and implementing a risk-based compliance program to monitor recipient use of CSLFRF program funds.

See the Coronavirus State and Local Fiscal Recovery Funds enclosure in appendix I for more information.

Unemployment Insurance Fraud Risk Management

Federal and state entities continue to investigate and report on high levels of fraud, potential fraud, and fraud risks in the unemployment insurance (UI) programs overseen at the federal level by the Department of Labor (DOL). For example, in June 2021, DOL's Office of Inspector General reported that it had identified nearly $8 billion in potentially fraudulent UI benefits paid from March 2020 through October 2020. In addition, from March 2020 through July 2021, 71 individuals pleaded guilty to federal charges of defrauding UI programs, and federal charges were pending against 192 individuals.

In addition to a substantial increase in fraudulent and potentially fraudulent activity in UI programs, DOL officials stated that the types of fraud observed during the pandemic differed from historical UI fraud risks and schemes observed before the pandemic. While DOL continues to identify and implement strategies to address potential unemployment insurance fraud and has ongoing program integrity activities to identify risks, it has not comprehensively assessed fraud risks in alignment with leading practices identified in our Fraud Risk Framework, which by law must be incorporated into guidelines established by the Office of Management and Budget for agencies.

First, DOL has not clearly assigned defined responsibilities to a dedicated entity for designing and overseeing fraud risk management activities such as managing the fraud risk assessment process. Without a dedicated entity with defined responsibilities to lead antifraud initiatives, including the process of assessing fraud risks to UI programs, DOL may not be strategically managing UI fraud risks. For example, a dedicated antifraud entity could, among other activities, manage the fraud risk assessment process and coordinate antifraud initiatives across an agency's various programs to assure that agency activities called for by the Fraud Risk Framework are conducted.

We are recommending that the Secretary of Labor designate a dedicated entity and document its responsibilities for managing the process of assessing fraud risks to the unemployment insurance program, consistent with leading practices as provided in our Fraud Risk Framework. This entity should have, among other things, clearly defined and documented responsibilities and authority for managing fraud risk assessments and for facilitating communication among stakeholders regarding fraud-related issues. DOL neither agreed nor disagreed with this recommendation. DOL stated that the department's Chief Financial Officer and the Employment and Training Administration's Assistant Secretary are the designated senior executive officials responsible for risk assessment and management of the UI program. While this approach may incorporate the roles and responsibilities of a dedicated antifraud entity, it is important that, consistent with our Fraud Risk Framework, DOL clearly document this designation and these senior staff members' antifraud responsibilities.

Second, DOL has not comprehensively assessed UI fraud risks in alignment with leading practices or documented a prioritized approach to managing fraud risks. Our Fraud Risk Framework calls for federal managers to plan regular fraud risk assessments and determine a fraud risk profile. Specifically, the fraud risk assessment should be tailored to the program and conducted at regular intervals as well as when there are changes to the program or operating environment, such as for program operations and expansions during emergencies.

Without comprehensively assessing UI fraud risks, DOL lacks reasonable assurance that it has identified the most significant fraud risks for the regular UI program that will exist after the pandemic. For example, some fraud risks identified in the CARES Act UI programs may continue to exist in the regular UI program after the temporary UI programs expire. An analysis of fraud risks across all UI programs would also help DOL determine whether additional fraud controls are needed for the regular UI program and could position DOL to deal more effectively with any future emergency UI programs.

We are also recommending that the Secretary of Labor (1) identify inherent fraud risks facing the unemployment insurance program; (2) assess the likelihood and impact of inherent fraud risks facing the program; (3) determine fraud risk tolerance for the program; (4) examine the suitability of existing fraud controls in the program and prioritize residual fraud risks; and (5) document the fraud risk profile for the program. DOL neither agreed nor disagreed with this recommendation. DOL said its current process allows it to identify, evaluate, and manage risks. However, DOL also said it will incorporate the recommended practices and approaches moving forward.

See the Unemployment Insurance Fraud Risk Management enclosure in appendix I for more information.

FEMA's Disaster Relief Fund and Assistance to State, Local, Tribal, and Territorial Governments

The Federal Emergency Management Agency (FEMA) is using the Disaster Relief Fund to respond to the COVID-19 pandemic, which is the first time the fund has been used during a nationwide public health emergency.[28] For example, FEMA's Public Assistance Program helps state, local, tribal, and territorial governments, and certain types of private nonprofit organizations respond to and recover from major disasters or emergencies. From September 1, 2020, to August 31, 2021, FEMA obligated a total of approximately $26.8 billion to Public Assistance projects for emergency protective measures, such as eligible medical care, the purchase and distribution of food, and distribution of personal protective equipment.

We found that FEMA inconsistently interpreted and applied its policies for expenses eligible for COVID-19 Public Assistance within and across its 10 regions. For example, officials in one state said that, at one point, FEMA had deemed the provision of personal protective equipment at correctional facilities as ineligible for reimbursement in their region but that states in other regions had received reimbursement for the same expense.

We identified four key areas that contributed to the inconsistent interpretation and application of COVID-19 policies for Public Assistance based on our discussions with FEMA headquarters officials and state emergency managers. These four areas are (1) changes in policy that were interpreted and applied differently by FEMA personnel as FEMA used the Public Assistance Program for the first time to respond to a nationwide emergency; (2) delegation of authority to FEMA regions for making final application eligibility determinations; (3) lack of required training on COVID-19 policies for staff handling Public Assistance applications; and (4) variation in the experience level of staff making eligibility determinations for applications. FEMA officials stated that it has been difficult to ensure consistency in policies as different states and regions are not experiencing the same things at the same time.

FEMA officials have acknowledged that in spite of efforts to ensure consistency in interpretation and application of its Public Assistance COVID-19 policy, inconsistent interpretation and application of its policy continue to occur within and across regions. Given the current rise in the COVID-19 Delta variant across the nation, FEMA is likely to receive applications for reimbursement for a larger number of projects than it estimated earlier in 2021.

We are recommending that the Federal Emergency Management Agency Administrator improve the consistency of the agency's interpretation and application of the COVID-19 Public Assistance policy within and across regions by further clarifying and communicating eligibility requirements nationwide.

[28]The Disaster Relief Fund receives an annual appropriation and has routinely received supplemental appropriations. In March 2020, the CARES Act appropriated $45 billion for the Disaster Relief Fund. Pub. L. No. 116-136, div. B, tit. VI, 134 Stat. at 543. The Consolidated Appropriations Act, 2021, appropriated $17 billion to the Disaster Relief Fund for major disasters and an additional $2 billion to provide assistance for COVID-19-related funeral expenses. Pub. L. No. 116-260, div. F, tit. III, div. M, tit. II,134 Stat. at 1462, 1910. In March 2021, ARPA appropriated $50 billion to the Disaster Relief Fund. Pub. L. No. 117-2, § 4005, 135 Stat. at 79.

We are also recommending that the Federal Emergency Management Agency Administrator require the agency's Public Assistance program employees in the regions and at its Consolidated Resource Centers to attend training on changes to COVID-19 Public Assistance policy to help ensure it is interpreted and applied consistently nationwide.

The Department of Homeland Security agreed with both recommendations and outlined actions it has taken to improve the consistency of its interpretation and application of COVID-19 Public Assistance policy and to train employees in the regions and at its Consolidated Resource Centers.

See the FEMA's Disaster Relief Fund and Assistance to State, Local, Tribal, and Territorial Governments enclosure in appendix I for more information.

Loans for Aviation and Other Eligible Businesses

Treasury has executed 35 loan agreements with certain aviation businesses and other businesses deemed critical to maintaining national security (national security businesses).[29] These loans have totaled about $22 billion of the $46 billion authorized by the CARES Act for loans and loan guarantees. Of these 35 loans, as of October 1, 2021, 10 loans had been fully repaid and the total value of outstanding loans was about $1.1 billion.

As directed by the CARES Act, Treasury required certain loan recipients to provide financial assets, such as warrants—an option to buy shares of stock at a predetermined price before a specified date—which give the federal government the ability to protect taxpayer interests. In addition, the CARES Act provided that for the primary benefit of taxpayers Treasury may sell, exercise, or surrender financial instruments it obtained. Treasury received warrants from nine businesses equal to 10 percent of the total loan amount drawn. Treasury has not exercised any of the warrants for stock it holds in these nine businesses.

According to Treasury officials, it is likely that—if the airline industry continues to recover and borrowers do not default—the warrants could have higher values than the predetermined price Treasury would have to pay to act on them. For example, based on the stock price at market close on October 1, 2021, its warrants from one borrower would be valued at 159 percent above the initial value at which Treasury received them. However, Treasury has not developed policies and procedures to guide when to act on the warrants to benefit the taxpayer.

We are recommending that the Secretary of the Treasury develop policies and procedures to determine when to act on warrants obtained as part of the loan program for aviation and other eligible businesses to benefit the taxpayers. Treasury agreed with our recommendation and said it is in the process of creating a policy that will allow it to evaluate when and how to act to dispose of the warrants obtained as part of the loan program.

See the Loans for Aviation and Other Eligible Business enclosure in appendix I for more information.

[29]CARES Act, Pub. L. No. 116-136, § 4003, 134 Stat. at 470 (codified at 15 U.S.C. § 9042).

Payroll Support Assistance to Aviation Businesses

As of September 2021, Treasury had made $59 billion in payments out of $63 billion provided to the Payroll Support Program to support aviation business.[30] These payments, made to air carriers and aviation contractors, were to be used exclusively for the continuation of wages, salaries, and benefits.

Similar to Treasury's loan program for aviation and other businesses described above, the CARES Act allowed the department to receive financial instruments from these businesses to provide appropriate compensation to the federal government for providing the financial assistance, and Treasury required 14 recipients to provide warrants. These 14 recipients provided a total of 58 million warrants.

As Treasury continues to hold these warrants for stock purchases—and as the airline industry recovers—these warrants may increase in value. Treasury has not exercised any of the warrants for stock it holds in the 14 businesses, nor has the agency documented policies and procedures to guide when to act on the warrants to provide appropriate compensation to the federal government.

We are recommending that the Secretary of the Treasury develop policies and procedures to determine when to act on warrants obtained as part of the Payroll Support Program to provide appropriate compensation to the federal government. Treasury agreed with our recommendation and said it is in the process of creating a policy that will allow it to evaluate when and how to act to dispose of the warrants obtained as part of the Payroll Support Program.

See the Payroll Support Assistance to Aviation Businesses enclosure in appendix I for more information.

COVID-19 Testing

Antigen tests are one of two types of COVID-19 diagnostic and screening tests for which FDA has issued emergency use authorizations. These "rapid" tests typically have a turnaround time of about 30 minutes or less for results. Antigen tests can be conducted in doctors' offices, pharmacies, and other health care settings, as well as in homes or other non-health care settings; some antigen tests can be conducted without a prescription. The second type of COVID-19 tests, molecular tests—which are considered the "gold standard" for diagnostic testing—typically have a 1–3 day turnaround period, mainly due to the time needed to send a sample to the laboratory, according to FDA officials.

[30]In March 2020, the CARES Act established the Payroll Support Program, which included up to $32 billion in financial assistance for passenger air carriers, cargo air carriers, and aviation contractors. CARES Act, Pub. L. No. 116-136, § 4112, 134 Stat. at 498 (codified at 15 U.S.C. § 9072). The Consolidated Appropriations Act, 2021 established a Payroll Support Program Extension in December 2020, and ARPA created a new round of the program in March 2021. These second two rounds of the program provided up to $16 billion and up to $15 billion, respectively, in financial assistance for passenger air carriers and aviation contractors. Pub. L. No. 116-260, div. N, tit. IV, § 402, 134 Stat. at 2052–61. Pub. L. No. 117-2, § 7301, 135 Stat. at 104–07.

The use of antigen testing is increasing. According to HHS data, the number of reported antigen tests per month increased from about 50,000 in June 2020 to nearly 12 million in August 2021. As a percentage of total tests reported, antigen tests increased from less than 1 percent in June 2020 to over 20 percent of all tests reported in July and August 2021. In addition, on September 9, 2021, the administration announced the “Path Out of the Pandemic” plan, which should further increase the use of antigen tests for COVID-19.

Since June 2020, HHS and its component agencies and testing-related working groups have worked to encourage and improve the reporting of antigen testing data to local, state, and federal health officials. However, HHS officials told us that limited reporting of antigen test results prevents HHS from using antigen testing data for COVID-19 surveillance.

HHS is taking additional steps aimed at improving reporting of antigen test data and exploring additional approaches for effective COVID-19 surveillance. For example, officials told us that HHS will continue to work with test manufacturers and make enhancements to data reporting by building reporting methods into the testing process and emphasizing reporting from specific settings, such as schools. HHS is also considering surveillance approaches to supplement or enhance current surveillance efforts. For example, HHS is exploring wastewater surveillance approaches, which provide data that can complement and confirm other forms of surveillance for COVID-19, and an efficient pooled community sample that is particularly useful in areas where timely COVID-19 clinical testing is underutilized or unavailable, according to HHS officials.

See the COVID-19 Testing enclosure in appendix I for more information.

Worker Safety and Health

The Occupational Safety and Health Administration (OSHA) is responsible for setting and enforcing workplace safety and health standards for the private sector in 29 states, the District of Columbia, and four territories. The other 21 states and Puerto Rico set and enforce their own workplace safety and health standards for private sector and state and local government employers under state plans approved by OSHA.

During the first 15 months of the pandemic, OSHA primarily relied on existing workplace safety and health standards and voluntary employer guidance for its enforcement. However, until June 2021, OSHA standards did not contain provisions specifically targeted at the COVID-19 hazard. As a result, OSHA inspectors faced challenges in applying OSHA requirements to COVID-19 cases.

OSHA took steps to help protect employees in high-risk industries from the hazard of COVID-19 by initiating a 1-year COVID-19 National Emphasis Program in March 2021 and issuing an emergency temporary standard in June 2021.[31] Although the emergency temporary standard covers only employers in the health care industry, in its other policies, OSHA has acknowledged the potential

[31] In January 2021, President Biden signed an executive order that, among other things, directed OSHA to initiate the COVID-19 National Emphasis Program and directed the Secretary of Labor to consider whether a COVID-19 emergency temporary standard was necessary. This standard went into effect on June 21, 2021, with employer compliance with certain provisions required by July 6, 2021, and others by July 21, 2021. It applies to workplaces where employees provide health care services or health care support services, with some exclusions.

for high risk of workplace COVID-19 exposure in industries beyond health care. The agency is engaged in rulemaking on two standards: the June 2021 COVID-19 health-care emergency temporary standard and a separate infectious disease standard.

OSHA area offices faced challenges in enforcing workplace safety and health standards during the COVID-19 pandemic, but the agency has not assessed lessons learned or promising practices. According to inspectors from area offices, resource challenges included managing a high volume of incoming reports and working in a telework environment. Communication and guidance challenges for inspectors included a lack of timely guidance from OSHA headquarters and difficulty finding and using the most up-to-date guidance.

We are recommending that the Assistant Secretary of Labor for Occupational Safety and Health assess—as soon as feasible and, as appropriate, periodically thereafter—various challenges related to resources and to communication and guidance that the Occupational Safety and Health Administration has faced in its response to the COVID-19 pandemic and take related actions as warranted.

DOL partially agreed with our recommendation. DOL stated that it agrees that it is important to assess lessons learned and best practices for OSHA's operational response to COVID-19. However, DOL officials said they believe that while the pandemic is ongoing, the agency's resources are best used to help employers and workers mitigate exposures to COVID-19. Because it is unclear when the COVID-19 pandemic will end, we maintain that assessing—as soon as feasible—the challenges that OSHA faced in responding to the pandemic, and taking related actions, would enable the agency to improve its enforcement efforts during this pandemic and help it prepare for operations during any future pandemic.

See the Worker Safety and Health enclosure in appendix I for more information.

Advance Child Tax Credit Payments

ARPA made several temporary changes to the child tax credit (CTC). First, it temporarily expanded eligibility to additional qualified individuals by eliminating the earned income requirement to receive the CTC.[32] Second, it temporarily increased the maximum amount of the CTC from $2,000 per qualifying child to $3,000 or $3,600, depending on the child's age.[33] As required by ARPA, the Internal Revenue Service (IRS) and Treasury are responsible for issuing half of the CTC through periodic advance payments (advance CTC).[34] IRS reported that as of September 25, 2021, it had disbursed more than 106 million advance payments totaling over $45.5 billion.

IRS is conducting several outreach efforts to increase the public's awareness of advance CTC payments. For example, IRS continues to coordinate with community organizations to raise awareness of the advance CTC payments. IRS is also planning to include advance CTC messaging

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[32]Pub. L. No. 117-2, § 9611(a), 135 Stat. at 144–145.

[33]Pub. L. No. 117-2, § 9611(a), 135 Stat. at 145. In 2017, the maximum CTC amount was temporarily raised from $1,000 to $2,000 for tax years 2018 through 2025. 26 U.S.C. § 24(h)(2).

[34]Pub. L. No. 117-2, § 9611(b)(1), 135 Stat. at 145–148.

for the 2022 tax filing season in its annual *Get Ready* campaign, which IRS officials said typically begins in November.

However, IRS and Treasury have not developed a comprehensive estimate of individuals who are potentially eligible for advance CTC payments and have not set a participation goal. An eligibility estimate and participation rate, including individuals who have opted in and out of the advance CTC payments, would provide greater clarity about which populations may be at risk of not receiving the payments. These populations would benefit from targeted outreach and communications to learn more about the payments and how to claim the advance CTC during the 2022 filing season. Moreover, this information could inform IRS's administration of other refundable tax credits as well as any future changes to the CTC that Congress is considering.

We are recommending that the Secretary of the Treasury, in coordination with the Commissioner of Internal Revenue, estimate the number of individuals, including nonfilers, who are eligible for advance child tax credit payments, measure the 2021 participation rate based on that estimate, and use that estimate to develop targeted outreach and communications efforts for the 2022 filing season; the participation rate could include individuals who opt in and out of the advance payments. Treasury neither agreed nor disagreed with this recommendation. Treasury stated that it supports the goal of the recommendation but has not estimated the eligible population for the advance CTC. Treasury also stated that it and IRS continue to undertake advance CTC outreach, education, and media campaign efforts. We maintain that without a comprehensive estimate of eligibility and a participation rate, which includes more nonfilers, Treasury and IRS are missing an opportunity to assess the effectiveness of their outreach efforts in reaching nonfilers who are more likely experiencing poverty or hardship and may be more in need of the CTC payments.

See the Advance Child Tax Credit and Economic Impact Payments enclosure in appendix I for more information.

Child Nutrition

Child nutrition programs administered by the Department of Agriculture's (USDA) Food and Nutrition Service (FNS) supply cash reimbursements to schools or other programs for meals and snacks provided to eligible children nationwide. In fiscal year 2019, before the pandemic, the four largest programs—the National School Lunch Program, School Breakfast Program, Summer Food Service Program, and Child and Adult Care Food Program—along with other child nutrition programs, received $23.1 billion in federal funds. During a typical year, two of these programs, the National School Lunch Program and the School Breakfast Program, subsidize meals for nearly 30 million children in approximately 95,000 elementary and secondary schools nationwide.

Various COVID-19 relief laws have provided funding or authority to USDA to support child nutrition programs during the pandemic. For example, the Families First Coronavirus Response Act granted FNS authority to issue nationwide waivers in certain programs.[35] These waivers are intended to support access to nutritious meals, reduce the administrative burden associated with eligibility determinations, and minimize potential exposure to COVID-19.

[35]Pub. L. No. 116-127, § 2202(a), 134 Stat. at 185.

Agencies can leverage lessons learned from an event to inform future efforts and limit the chance of recurring challenges. According to FNS officials, FNS is primarily using the existing FNS School Meals Operations study to gather information about lessons learned during the pandemic for child nutrition programs. The study, launched in spring 2021, will collect administrative and survey data on each of the four child nutrition programs from state agencies and will collect survey data from school district nutrition programs. However, as of July 2021, FNS was unable to provide us with a plan showing how FNS intends to comprehensively analyze lessons learned from the pandemic for child nutrition programs, such as from operational and financial challenges.

Although FNS is collecting some information on these topics from states and school districts, without documenting its plan for analyzing lessons learned from the pandemic, FNS may miss opportunities to comprehensively identify lessons learned. Further, according to FNS officials, while the School Meals Operations study will survey state agencies that administer the federal child nutrition programs, the study will not gather local perspectives directly from child care centers and day care homes or from other local program sponsors that are not school districts. Without gathering perspectives from a full range of meal program operators—rather than only from state agencies and school districts—FNS will lack comprehensive information to aid its future planning.

We are recommending that the Secretary of Agriculture document the department's plan to analyze lessons learned from operating child nutrition programs during the COVID-19 pandemic. This plan should include a description of how the department will gather perspectives of key stakeholders, such as Child and Adult Care Food Program institutions and nonschool Summer Food Service Program sponsors. The Department of Agriculture generally agreed with this recommendation.

See the Child Nutrition enclosure in appendix I for more information.

Conclusions

The federal government's efforts to respond to and recover from COVID-19 continue. The spread of the Delta variant in the U.S. this summer—and the subsequent rise in cases and hospitalizations—illustrates the challenges to the nation's response and recovery efforts and the work that remains. We are pleased that agencies have fully addressed 33 and partially addressed 48 of our 209 recommendations. Fully implementing our recommendations, including the new recommendations we are making in this report, can help improve the federal response and recovery efforts.

Closing

We are sending copies of this report to the appropriate congressional committees, the Office of Management and Budget, and other relevant agencies. In addition, the report is available at no charge on the GAO website at https://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-5500 or dodarog@gao.gov. Questions can also be directed to Orice Williams Brown, Chief Operating Officer, at (202) 512-5600; Jessica Farb, Managing Director, Health Care, at (202) 512-7114 or farbj@gao.gov; or A. Nicole Clowers, Managing Director, Congressional Relations, at (202) 512-4400 or clowersa@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report.

Gene L. Dodaro

Comptroller General of the United States

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Appendixes and Enclosures

Appendix I: Enclosures

Economic Indicators

Based on data available in early October 2021, the national economy has continued to recover from the COVID-19 pandemic, and areas of the economy we are monitoring saw some improvement in recent months. Indicators for labor markets, household finances, and small business credit conditions improved in June and July 2021, with notable gains in leisure and hospitality and state and local government employment, while the labor market recovery slowed in August 2021 and state and local government employment fell in September 2021 (see table).[36]

[36]In previous work, we identified a number of economic indicators to facilitate ongoing and consistent monitoring of areas of the economy supported by the federal pandemic response, namely labor markets, household finances, small business credit and financial conditions, corporate credit market conditions, and state and local government finances. To the extent that federal pandemic responses are effective, we would expect to see improvements in outcomes related to these indicators. However, while trends in these indicators may be suggestive of the effect of provisions of the COVID-19 relief laws over time, those trends will not on their own provide definitive evidence of effectiveness. Beginning with this report, we have removed economic indicators related to corporate and municipal bond markets because of the significant and consistent recovery in these markets. Going forward, we intend to focus our reporting on labor markets, household finances, and small business credit and financial conditions.

Indicators for Areas of the Economy Supported by the Federal COVID-19 Pandemic Response, June–Sept. 2021, Cumulative Changes since Feb. 2020

Underlined, red text indicates a deterioration from the previous month, or since February 2020

Indicator	June 2021	July 2021	August 2021	September 2021	Cumulative change since February 2020
Employment-to-population ratio[a]	58.0	58.4	58.5	58.7	-2.4
Changes in leisure and hospitality employment[b]	+397,000	+408,000	+38,000	+74,000	-1,594,000
Changes in state and local government employment[b]	+161,000	+268,000	+31,000	-123,000	-874,000
Consumer Credit Default Composite Index rate (not seasonally adjusted)[c]	0.41	0.40	0.39	NA	-0.63
Federal Housing Administration serious delinquency rate (not seasonally adjusted)[d]	9.61	9.17	8.64	N/A	+5.54
Small business credit card delinquency index (not seasonally adjusted)[e]	37.71	39.72	39.30	N/A	+1.94

N/A = not available

Source: GAO analysis of data from Department of Labor, S&P/Experian, Federal Housing Administration, and Dun & Bradstreet. | GAO-22-105051

[a]The employment-to-population ratio represents the number of employed people as a percentage of the civilian noninstitutional population 16 years and over. The ratio is subject to a misclassification error with respect to identifying workers as employed and absent from work who are likely unemployed on temporary layoff.

[b]State and local government and leisure and hospitality employment data from August and September 2021 are preliminary.

[c]Higher levels in the Consumer Credit Default Composite Index rate indicate more defaults on consumer loans, including auto loans, bank cards, and mortgages. The Consumer Credit Default Composite Index could be subject to seasonal variation but is not seasonally adjusted.

[d]Seriously delinquent loans are 3 months or more past due or in foreclosure, based on mortgages insured by the Federal Housing Administration (FHA). Increases in serious delinquency rates on FHA loans could, to some extent, reflect borrowers taking advantage of mortgage forbearance provisions of the CARES Act, but may also indicate financial challenges facing the minority and low- to moderate-income households that disproportionately take out mortgages insured by FHA.

[e]Lower levels of the small business credit card delinquency index indicate more delayed payments on credit. The small business credit card delinquency index is published under license and with permission from Dun & Bradstreet, and no commercial use can be made of these data.

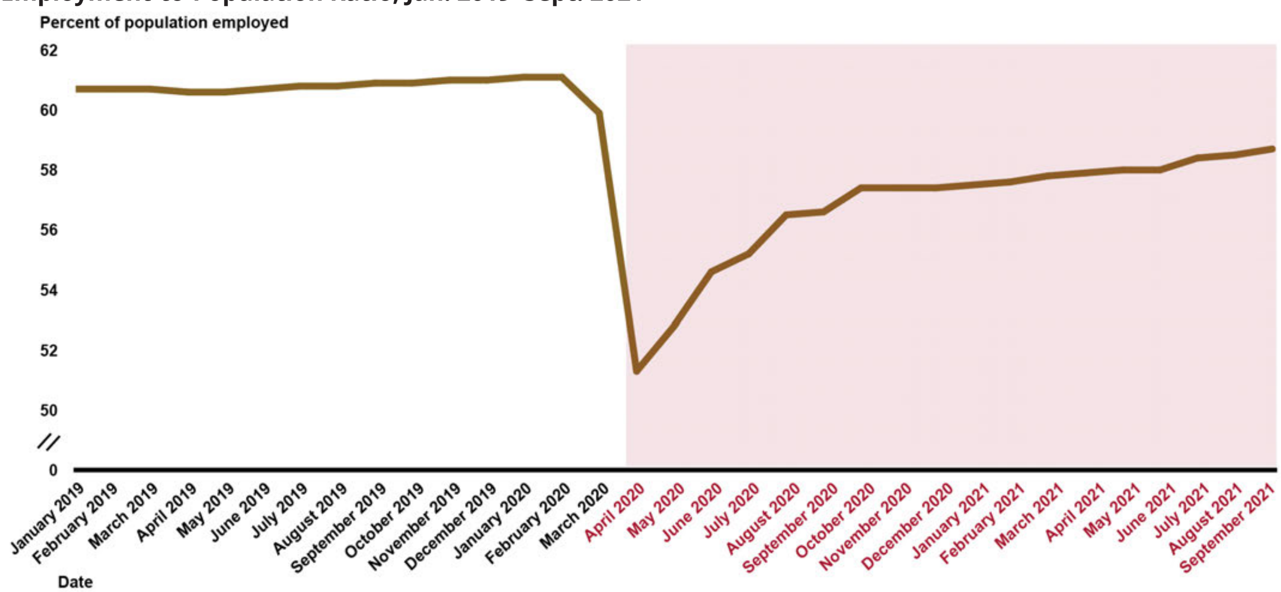
Gross domestic product (GDP) grew at a 6.7 percent annual rate in the second quarter of 2021, and for the first time now exceeds its prepandemic level from the fourth quarter of 2019. The recovery from the pandemic has also been associated with a notable increase in inflation which, should it persist, could cause financial challenges that would be felt most acutely by low-income households. The strength of the economic recovery will continue to depend on the success of public health measures against the COVID-19 pandemic.

Key trends in economic indicators. Federal debt held by the public rose to $22.3 trillion in September 2021 from $22.0 trillion in March 2021, after falling slightly as a share of GDP, from 99.8

percent in the first quarter of 2021 to 98.3 percent of GDP in the second quarter 2021. Interest rates on 3-month Treasury securities were relatively stable, rising to 0.04 percent in September 2021 from 0.02 percent in May 2021. Interest rates on 10-year Treasury securities, in contrast, fell from 1.62 percent to 1.37 percent over the same period. The long-term fiscal challenges facing the U.S. have been exacerbated by the pandemic and will require attention as the economy continues to recover and public health goals are attained, as we reported in March 2021.

Based on monthly and weekly data from the Department of Labor, the labor market showed improvement in June, July, August, and September 2021 but remained worse relative to the prepandemic period. Although weekly initial unemployment insurance claims generally declined through September 2021, initial claims remain high compared to the prepandemic period (see the Unemployment Insurance Programs enclosure in app. I). The employment-to-population ratio in September 2021 was 58.7 percent, which was 0.2 percentage points higher than the previous month but 2.4 percentage points lower than the prepandemic period (see figure).

Employment-to-Population Ratio, Jan. 2019–Sept. 2021

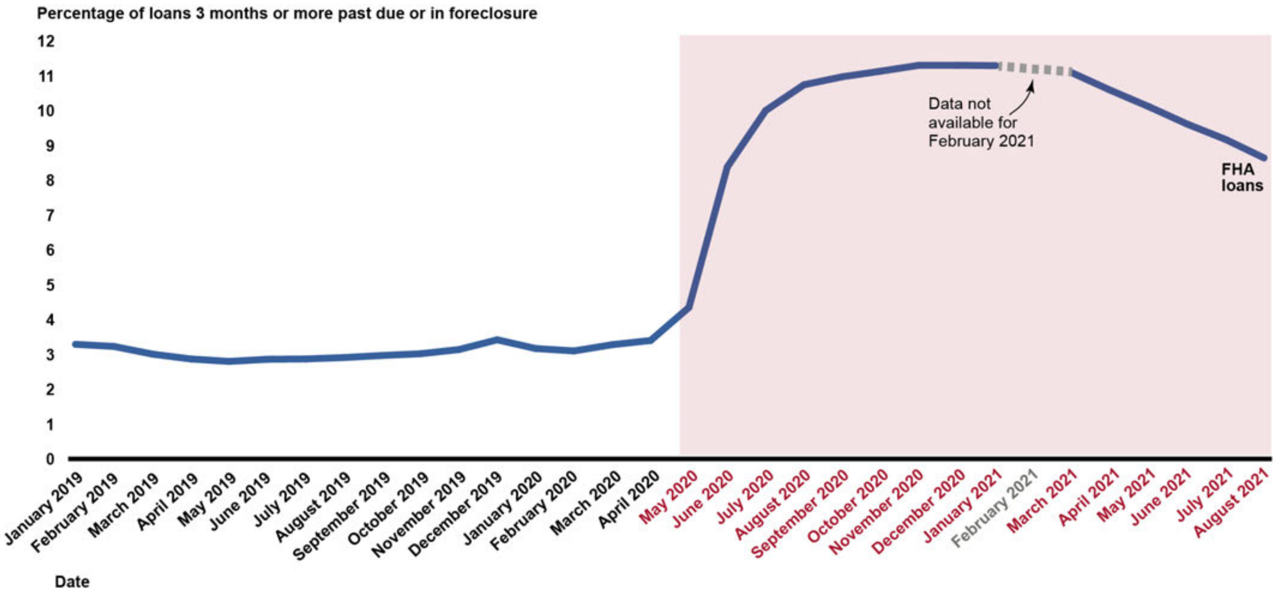


Source: GAO, Department of Labor. | GAO-22-105051

Changes in employment across sectors continue to reflect the differential impact of the pandemic on various sectors of the economy. For example, some industries that experienced strong gains in employment in the first half of 2021, including leisure and hospitality, experienced slower job growth in August and September 2021 as the Delta variant drove a resurgence in cases in the U.S. Employment in the leisure and hospitality sector is still 9.4 percent lower than it was in February 2020. State and local government employment decreased in September 2021 following months of increases, and employment in these sectors remains 4.3 percent lower than the prepandemic period.

Serious delinquency rates—loans that are 90 or more days past due or in foreclosure—for single-family mortgage loans insured by the Federal Housing Administration (FHA) decreased from March through August 2021, to 8.64 percent of loans, but still remained much higher than rates prior to the pandemic (see figure). FHA loans disproportionately serve minority and low- to moderate-income borrowers, and therefore falling delinquencies may indicate some improvement in the finances of those households in recent months, as well as fewer borrowers relying on mortgage forbearance provisions of the CARES Act.[37] Trends in rent payments among low-income households suggest that these households remain under financial stress as well (see the Emergency Rental Assistance enclosure in app. I).

Serious Delinquency Rates on Single-Family Residential Mortgages, Jan. 2019–Aug. 2021



Source: GAO analysis of Federal Housing Administration (FHA) data. | GAO-22-105051

Note: Seriously delinquent single-family loans are 3 months or more past due or in the foreclosure process. We excluded February 2021 data from the figure because the delinquency rates for February 2021 are likely understated due to late reporting by a large servicer, according to FHA.

Key trends in inflation. Inflation has increased notably in recent months, while measures of underlying inflation pressure and longer-term inflation expectations have been more stable.

Inflation is the increase in the price of goods and services over time, and is typically measured as the percentage change in those prices over a set period, often 1 year.[38] As the prices of goods and services rise, inflation decreases the purchasing power of consumers. That is, inflation decreases the value of currency or other highly liquid assets, like checking accounts; as the prices of goods

[37]In fiscal year 2020, 34.2 percent of all FHA purchase and refinance borrowers were minorities, 50.4 percent of FHA forward mortgage borrowers were of low- to moderate-income, and 83.1 percent of home purchasers under the FHA forward mortgage insurance program were first-time homebuyers. See Department of Housing and Urban Development, *FHA Annual Management Report Fiscal Year 2020*. The CARES Act provided temporary protections for millions of households against foreclosure and eviction, as well as temporary forbearance, suspending mortgage payments for up to 360 days. In addition, FHA allows mortgage servicers to initiate new forbearance through September 30, 2021, and it allows borrowers who requested an initial forbearance on or before June 30, 2020, to request up to 6 months of forbearance extensions. Moreover, on July 23, 2021, FHA introduced additional COVID-19 recovery options to help borrowers transitioning out of forbearance to permanent sustainable payments. For example, FHA will require mortgage servicers to offer a no-cost option to eligible homeowners and enhance servicers' ability to provide all eligible borrowers that cannot resume their monthly mortgage with a 25 percent monthly principal and interest reduction.

[38]For example, an inflation rate of 2 percent would mean that the prices of goods and services, on average, increased 2 percent over the last year.

and services rise, each dollar will buy less. Some level of inflation on average can help promote stable economic conditions, but persistently high levels of inflation can cause financial challenges that are experienced more acutely by certain households. The Federal Reserve System's Federal Open Market Committee (FOMC) aims for inflation of 2 percent on average over time, and aims to achieve rates of inflation that are above 2 percent for some time after periods in which inflation is persistently below 2 percent.[39]

Higher levels of inflation over short periods—described as transitory—are not unusual and are less cause for concern. The prices of goods and services regularly shift in response to economic changes, and any impact on household finances is more limited because prices increase more rapidly for only a short period of time. In addition, transitory inflation during an economic expansion can also be associated with improving labor market opportunities, including for some low-income and minority workers who could find more stable employment during a long economic expansion.

In contrast, high levels of inflation that persist for long periods are more cause for concern, and can reduce the pace of economic growth.[40] Higher inflation that persists for a longer period can also influence consumers' and businesses' expectation of future inflation, which can influence their current behavior. For example, consumers and businesses may make large purchases sooner, increasing current demand and making it more likely that those expectations of future inflation are realized.[41]

We identified a number of indicators of inflation to facilitate ongoing and consistent monitoring of the inflation experience of consumers to help assess the extent to which higher inflation may be transitory or persistent. We included both the Personal Consumption Expenditures (PCE) price index and the Consumer Price Index (CPI) as broad measures of the prices consumers pay for goods and services.[42] We also included the median and trimmed mean CPIs, which are less volatile because they omit both small and large price changes and may provide clearer signals of underlying inflation.[43]

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[39]See the FOMC's 2020 Statement on Longer-Run Goals and Monetary Policy Strategy.

[40]High inflation could, for example, reduce the efficiency of financial services, thereby reducing investment and economic growth. For related empirical work, see Tolga Omay and Elif Öznur Kan, "Re-examining the Threshold Effects in the Inflation–Growth Nexus with Cross-Sectionally Dependent Non-linear Panel: Evidence from Six Industrialized Economies," *Economic Modelling*, vol. 27 (2010): pp. 996–1005, or S. Kremer, A. Bick, and D. Nautz, "Inflation and Growth: New Evidence from a Dynamic Panel Threshold Analysis," *Empirical Economics*, vol. 44 (2013): pp. 861–878.

[41]Regarding consumers, see Lena Dräger and Giang Nghiem, "Are Consumers' Spending Decisions in Line With an Euler Equation?" *The Review of Economics and Statistics*, vol. 103, no. 3 (2021): pp. 1–17. Regarding firms, see Olivier Coibion, Yuriy Gorodnichenko, and Tiziano Ropele, "Inflation Expectations and Firm Decisions: New Causal Evidence," *The Quarterly Journal of Economics* (2020): pp. 165–219.

[42]The major difference between the two indexes is that they measure different baskets of goods and services. The CPI includes out-of-pocket expenditures on goods and services purchased but excludes other expenditures that are not paid for directly, like medical care paid for by employer-provided insurance, Medicare, and Medicaid. However, these indirect expenditures are included in the PCE. The Federal Reserve System's FOMC states its longer-run inflation goal in terms of PCE inflation.

[43]The median CPI is the 1-month inflation rate of the component whose expenditure weight is in the 50th percentile of price changes. The trimmed mean CPI is a weighted average of 1-month inflation rates of components whose expenditure weights fall below the 92nd percentile and above the 8th percentile of price changes.

We include two different time periods for each of these inflation measures: the percentage change over the last 12 months and the percentage change from the previous month. Measuring inflation over the last 12 months provides a longer and potentially less volatile perspective on inflation, while the percentage change from the previous month is more useful for assessing whether recent price pressures are waning or intensifying.[44]

Finally, we included two measures of expected future inflation, as inflation expectations can influence current economic behavior and indicate whether recent inflation experiences are changing views about future inflation (see table).

Indicators of Inflation, Feb.–Aug. 2021, and Average Inflation Rates, 2000–2019

Underlined, red text indicates a higher rate of inflation than the previous month while **black text** indicates a lower rate of inflation than the previous month

	Inflation indicators, 2021	February	March	April	May	June	July	August	Average growth rate, 2000–2019
Percentage change over past 12 months (year-over-year change)	Personal Consumption Expenditures (PCE)[a] Price Index	1.63	2.45	3.59	3.98	4.03	4.17	4.26	1.86
	Consumer Price Index (CPI)[b]	1.68	2.62	4.16	4.99	5.39	5.37	5.25	2.17
	Median CPI[c]	2.07	2.01	2.10	2.11	2.21	2.28	2.42	2.40
	16 percent trimmed-mean CPI[d]	2.04	2.12	2.44	2.62	2.90	2.99	3.17	2.13
Percentage change over previous month (month-over-month change)	PCE	0.27	0.57	0.57	0.53	0.53	0.41	0.40	0.15
	CPI	0.35	0.62	0.77	0.64	0.90	0.47	0.27	0.18
	Median CPI	0.23	0.15	0.24	0.26	0.24	0.30	0.34	0.20
	16 percent trimmed-mean CPI	0.24	0.24	0.37	0.39	0.47	0.43	0.41	0.18
Expectations of future inflation	10-year expected CPI inflation, from Treasury inflation-protected securities (TIPS)[e]	1.84	1.99	2.00	1.99	1.95	1.87	1.86	2.17
	Professional CPI forecast, 2022–2023[f]	2.12	2.19	2.17	2.23	2.31	2.42	2.53	2.17

Source: GAO analysis of data from Bureau of Economic Analysis, Department of Labor, Federal Reserve Bank of Cleveland, and Board of Governors of the Federal Reserve System, and Bloomberg. | GAO-22-105051

Note: Underlined, red text indicates a higher rate of inflation than the previous month while black text indicates a lower rate of inflation than the previous month but with prices still rising overall. Deflation, or falling prices, would be indicated with a negative sign.

[a]PCE is based on the PCE price index, which reflects changes in the prices of goods and services purchased by or on behalf of consumers in the U.S. The Federal Open Market Committee states its longer-run inflation goal in terms of PCE inflation and

[44]Twelve month measures are subject to “base effects,” where the level of prices during the first month has a significant influence on measured inflation over the year that might obscure more recent changes in trends.

typically aims for inflation of 2 percent on average over time, including by aiming to achieve inflation rates above 2 percent for some time after periods in which inflation is persistently below 2 percent.

[b]CPI is based on data from the Consumer Price Index for all urban consumers (CPI-U).

[c]Median CPI is based on the 1-month inflation rate of the component whose expenditure weight is in the 50th percentile of price changes. By omitting outliers (small and large price changes) and focusing on the interior of the distribution of price changes, the median CPI may provide a better signal of the underlying inflation trend than the all-items CPI.

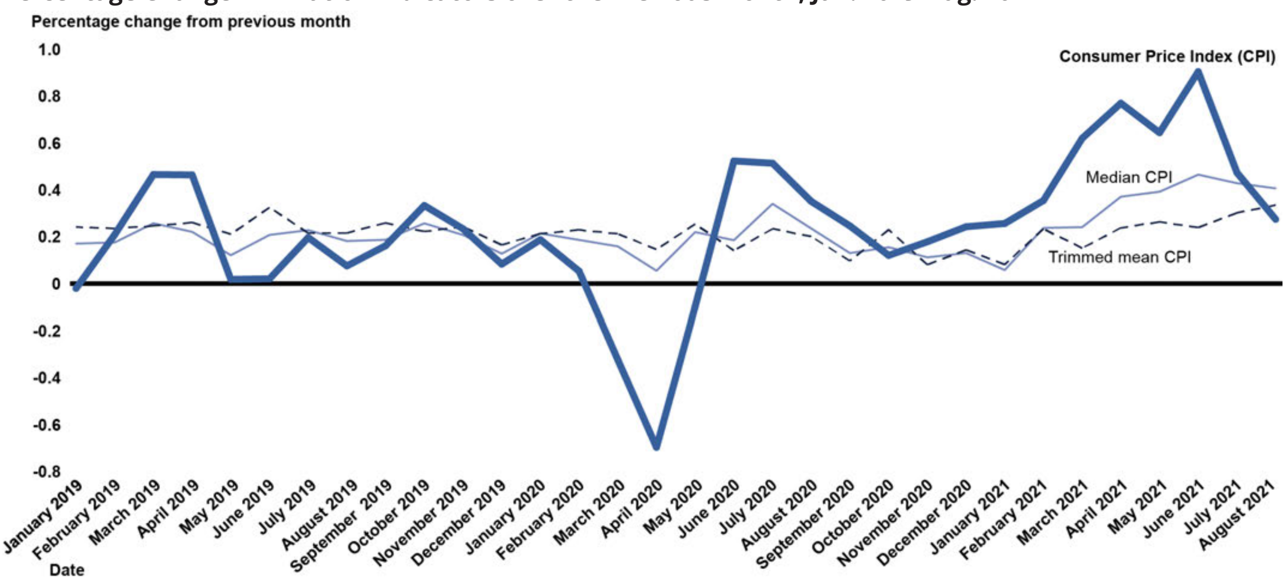
[d]The 16 percent trimmed-mean CPI is based on a weighted average of 1-month inflation rates of components whose expenditure weights fall below the 92nd percentile and above the 8th percentile of price changes. By omitting outliers (small and large price changes) and focusing on the interior of the distribution of price changes, the 16 percent trimmed-mean CPI may provide a better signal of the underlying inflation trend than the all-items CPI.

[e]The 10-year expected inflation rate comes from a model that decomposes the TIPS to nominal Treasury spread into three components: inflation expectations, the inflation risk premium, and a third component that may capture the TIPS liquidity premium or other factors that influence the relative demand for TIPS. See S. D'Amico, D. H. Kim, and M. Wei, "Tips from TIPS: The Informational Content of Treasury Inflation-Protected Security Prices," Journal of Financial and Quantitative Analysis, vol. 53, no. 1 (2018): pp. 395–436.

[f]Professional forecast of inflation is an average forecast of expected CPI inflation in 2022–2023 (annualized) from forecasts collected by Bloomberg. Absent data for January 2021, we have used black text for February 2021 data based on the data for 10-year expected CPI inflation from TIPS.

Based on data available in early October 2021 covering price trends from February through August 2021, inflation has generally increased over the past several months. Indicators of inflation increased substantially relative to a year ago. While inflation remains higher than averages in recent decades, indicators of more recent price pressures (measured relative to the previous month) have recently been moderating somewhat (see figure). The median and trimmed mean CPI measures, as well as professional forecasts and investor expectations of future inflation, are generally below the broader inflation measures, although there has been some meaningful increase in expectations covering the next two years. As we note above, the FOMC aims to achieve rates of inflation that are above 2 percent for some time after periods in which inflation has been persistently below 2 percent, as it was leading up to and during the early months of the pandemic.

Percentage Change in Inflation Indicators over the Previous Month, Jan. 2019-Aug. 2021



Source: Department of Labor and Federal Reserve Bank of Cleveland. | GAO-22-105051

The effects of inflation on different populations. Different populations can experience higher or lower levels of inflation than the national average (e.g., the Consumer Price Index for All Urban Consumers, known as CPI-U, which is the broadest and most comprehensive CPI). A number of studies examining distributional consequences of inflation have found that low-income households and the elderly in particular have historically experienced higher levels of inflation than other groups.[45] Regarding low-income households, these studies found that inflation experienced in recent years by the lowest income quartile was notably higher than inflation experienced by the highest income quartile.[46] This trend has also been evident during recessions. For example, one study found that during the first several months of the COVID-19 pandemic, although inflation was low as demand for many goods and services fell, those in the lowest income quintile experienced higher inflation than others.[47] One potential explanation for these differences is that low-income populations spend a higher share of their income on specific goods and services with prices that have increased at a faster rate. For example, during COVID-19 the price of food purchased for consumption at home increased faster than other purchases, and those with the lowest incomes typically spent a higher share of their income in this category.

The elderly have also tended to experience higher rates of inflation than the national average. The Bureau of Labor Statistics produces an experimental inflation index based on a set of goods and services that reflects the spending patterns of elderly consumers (individuals 62 years or older), the CPI-E. Since 2011, annual growth in the CPI-E has been roughly 0.1 percentage point higher than the CPI-U. The rate of increase in the CPI-E has generally been higher than the CPI-U, primarily because the elderly generally spend a higher share of their income on health care and shelter, and, historically, health care and shelter prices have risen at a faster rate than most other goods and services.

How households experience a given level of inflation depends in large part on their sources of income and their assets.

- *Labor income.* As inflation rises, some workers are able to bargain for higher wages, and as a result, the effects of inflation on their purchasing power could be—at least partially—offset by higher wages. However, wages may fail to keep up with inflation, and if they do, it may take years for wages to adjust.[48]

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[45]For example, see Xavier Jaravel, "Inflation Inequality: Measurement, Causes, and Policy Implications," *Annual Review of Economics*, vol. 13 (2021), and Joshua Klick and Anya Stockburger, “Experimental CPI for Lower and Higher Income Households” (Bureau of Labor Statistics working paper 537, 2021).

[46]For example, see Xavier Jaravel, "The Unequal Gains from Product Innovations: Evidence from the U.S. Retail Sector," *The Quarterly Journal of Economics* (2019): pp. 715–783, and David Argente and Munseob Lee, "Cost of Living Inequality during the Great Recession," *Journal of the European Economic Association*, vol. 19, no. 2 (2021): 913–952.

[47]Alberto Cavallo, “Inflation with Covid Consumption Baskets” (NBER working paper 27352, 2020).

[48]A Congressional Research Service report found that over the period from 1979 to 2019, real wages rose for higher-wage workers but rose at lower rates or fell for middle- and lower-wage workers. A number of factors could explain these wage trends, including the strength and structure of labor unions and employment practices that affect workers’ ability to bargain over compensation. For example, a movement toward greater use of contractors and subcontractors in some industries may have reduced the bargaining power of lower-paid workers in service occupations and put downward pressure on their wages. See Congressional Research Service, *Real Wage Trends, 1979 to 2019,* R45090 (Washington, D.C.: Dec. 28, 2020). In addition, minimum-wage earners may see declines in real wages to the extent that the minimum wage is not increased or increases do not keep pace with inflation. The

- *Asset holdings.* During periods of high inflation, the value of currency depreciates more rapidly, while other sources of wealth, such as investments in the stock market or real estate, will typically increase in value to reflect higher rates of inflation, and therefore would mitigate or hedge against the impact of inflation on household savings. Households with a higher share of their savings in currency or in low-interest savings vehicles would have fewer opportunities to hedge against inflation. Because low-income households typically have a larger share of their financial assets in cash or transaction accounts, higher levels of inflation would be more likely to negatively affect these households. At higher levels of inflation, individuals may reduce holdings of convenient, liquid assets to better hedge against inflation.

- *Government benefits and indexation.* The impact of government transfers and large social programs on the distributional effects of inflation varies depending on the extent to which programs are adjusted (or indexed) for inflation. Public benefits typically make up a larger share of household income for low-income households and retirees who rely predominantly on Social Security retirement benefits or other government pensions. Therefore, if public benefits are indexed to inflation, low-income households and some retirees will be shielded from some of the effects of inflation. In the U.S., most large government transfer programs are adjusted for inflation and, as such, families who receive a considerable share of their income from public benefits are likely to be shielded somewhat from the effects of inflation. However, adjustments to public benefits are typically made annually, so during times of high inflation, low-income households and other program beneficiaries would continue to feel some effects of inflation in between periodic adjustments.

Methodology

To identify indicators for monitoring areas of the economy supported by the federal response to the COVID-19 pandemic, in particular by the six COVID-19 relief laws, we reviewed a number of sources. Specifically, we used prior GAO work, data from federal statistical agencies, information from the Board of Governors of the Federal Reserve System (Federal Reserve) and relevant federal agencies responsible for the pandemic response and oversight of the health care system, data available on the Bloomberg Terminal, and input from internal GAO experts. We reviewed the most recent data from these sources as of August and September 2021, depending on availability.

To identify indicators for monitoring inflation, we reviewed data from federal statistical agencies, academic and other research literature, information from the Federal Reserve, the Federal Open Market Committee, written responses to our questions provided by the Bureau of Labor Statistics and the Federal Reserve, data available on the Bloomberg Terminal, and input from internal GAO experts. We also reviewed selected academic research and government reports to better understand the distributional effects of inflation and how higher levels of inflation could affect certain households in different ways.

We assessed the reliability of the economic indicators we used through a number of steps, including reviewing relevant documentation, reviewing prior GAO work, and interviewing data providers. Collectively, we determined the indicators were sufficiently reliable to provide a general

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federal minimum wage, for example, was not increased from 2009 through 2021, falling in real value for more than a decade.

sense of (1) how the areas of the economy supported by the federal pandemic response were performing and (2) trends in the inflation experience of consumers.

Agency Comments

We provided the Department of Housing and Urban Development (HUD), the Department of Labor (DOL), the Department of the Treasury (Treasury), the Federal Reserve, and the Office of Management and Budget (OMB) with a draft of this enclosure. Treasury and the Federal Reserve provided technical comments, which we incorporated as appropriate. HUD, DOL, and OMB did not provide comments on this enclosure.

GAO's Ongoing Work

We plan to monitor and report on changes in economic indicators, including developments in inflation, in future quarterly reports.

Related GAO Product

The Nation's Fiscal Health: After Pandemic Recovery, Focus Needed on Achieving Long-Term Fiscal Sustainability. GAO-21-275SP. Washington, D.C.: March 23, 2021.

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COVID-19 Testing

Antigen testing, also known as "rapid testing," is on the rise. Limited reporting of test results has thus far prevented the Department of Health and Human Services from using antigen testing data to monitor COVID-19. The Department is taking further steps aimed at improving reporting and exploring additional approaches for effective COVID-19 surveillance.

Entities involved: The Department of Health and Human Services, including the Assistant Secretary for Preparedness and Response, the Centers for Disease Control and Prevention, the Food and Drug Administration, and COVID-19 testing-related working groups (Testing and Diagnostics Working Group and Data Strategy and Execution Workgroup) under the Department.

Background

Following a downward trajectory in reported COVID-19 cases nationally from about mid-April to mid-June, the Delta variant is driving a resurgence in cases in the U.S. This resurgence highlights the continued importance of diagnostic and screening testing, including antigen testing, in the COVID-19 response.[49]

COVID-19 testing types. Antigen tests are one of two types of COVID-19 diagnostic and screening tests for which the Food and Drug Administration (FDA) has issued emergency use authorizations:[50]

- *Molecular tests* are considered the "gold standard" for detecting an active SARS-CoV-2 infection, the coronavirus that causes COVID-19, but may require specialized laboratory equipment and often have a 1-3 day test turnaround time, mainly due to the time needed to send a sample to the laboratory, according to FDA officials.

- *Antigen tests* (sometimes known as "rapid tests") have a faster turnaround time than molecular tests in most cases—about 30 minutes or less. Most antigen tests may be conducted at point-of-care or at-home settings.[51] Some point-of-care settings are health-care related—such as doctors' offices, pharmacies, and nursing homes, while others are not related to health care, such as workplaces. There are two types of tests that are authorized for use at home: those requiring a prescription and those not requiring a prescription, also known as over-the-counter tests.

[49] See Centers for Disease Control and Prevention (CDC) guidance, *Testing Strategies for SARS-CoV-2* (Atlanta, Ga.: updated August 13, 2021). According to the guidance, diagnostic testing is intended to identify current infection in anyone with symptoms consistent with COVID-19, or is to be used for testing vaccinated and unvaccinated people who were exposed to someone with a confirmed or suspected case of COVID-19. Screening testing is intended to identify infection in unvaccinated persons who are asymptomatic and have no known or suspected exposure. Some, but not all, antigen and molecular tests can be used for screening.

[50] Generally, medical devices must be cleared or approved by the FDA to be marketed in the U.S.; however, the Secretary of Health and Human Services may declare that circumstances, prescribed by statute, exist justifying the authorization of temporary emergency use of unapproved medical products, including devices. See 21 U.S.C. § 360bbb-3.

[51] Some molecular tests may be conducted at point-of-care settings. According to FDA officials, these tests have turnaround times closer to that of point-of-care antigen tests because they do not have to be shipped to a laboratory for analysis.

According to FDA, antigen tests generally perform better in detecting active infections when there are high concentrations of virus found in upper respiratory specimens. Further, the probability of detecting an active infection is enhanced when testing is repeated more than once over a few days (referred to as "serial testing"). However, antigen tests generally have a lower sensitivity—or ability to correctly identify people with COVID-19—than molecular tests. As a result, the Centers for Disease Control and Prevention (CDC) recommends confirming some negative antigen tests for people with symptoms with molecular tests.

In general, antigen testing for COVID-19 provides two public health benefits:

1. It helps reduce disease spread because antigen tests typically have a faster turnaround time and therefore individuals can more quickly identify whether they are infected and then self-isolate and take other precautions, accordingly; and

2. It can help inform public health disease surveillance and response efforts to the extent that test results are reported to public health authorities.[52]

The Department of Health and Human Services (HHS) has emphasized the importance of data from reported tests, including antigen tests, for public health disease surveillance purposes. The department noted that access to clear and accurate testing data is essential to the public and community leaders as they use data to make response and reopening decisions.[53]

HHS entities and stakeholders involved in testing and data reporting. Test result data are reported to HHS through jurisdictional health authorities. In general, laboratories and point-of-care settings (such as doctors' offices) report test results to local, state, territorial, and tribal public health authorities. These jurisdictional health authorities then report the data to CDC and HHS.

FDA plays a role in testing by issuing emergency use authorizations or approvals of test products. In addition, housed within HHS are two testing-related working groups (referred to as HHS working groups in this enclosure). The first is the Testing and Diagnostics Working Group, whose purpose is to accelerate and support U.S. testing capacity. This working group is under the Office of the Assistant Secretary for Preparedness and Response (ASPR), while members come from CDC, FDA and other HHS and non-HHS agencies and departments.[54] The second is the Data Strategy and Execution Workgroup, which is a multidisciplinary U.S. Government interagency team that was

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[52]Public health disease surveillance is the ongoing, systematic collection, analysis, and interpretation of health-related data essential to planning, implementation, and evaluation of public health practice. Response efforts include activities such as contact tracing to identify persons potentially exposed to the infected individual. In collaboration with state, local, territorial, academic, commercial, and other partners, the Centers for Disease Control and Prevention is using multiple disease surveillance systems to monitor COVID-19 that draw upon a combination of data sources and systems, including laboratory data (i.e., testing data), case and death reporting, variant surveillance, and other sources.

[53]See Department of Health and Human Services guidance: *COVID-19 Pandemic Response, Laboratory Data Reporting: CARES Act Section 18115*. June 4, 2020 (Updated January 8, 2021).

[54]Members of the Testing and Diagnostics Working Group come from agencies within HHS, including ASPR, CDC, FDA, the National Institutes of Health, and the Centers for Medicare and Medicaid Services. Members outside HHS include the Department of Defense.

created in June 2020 under direction of the White House COVID-19 Task Force. ASPR and CDC serve as co-leads of the Data Strategy and Execution Workgroup.[55]

Overview of Key Issues

Antigen testing is on the rise. Over the course of the pandemic, the number of authorized antigen tests has increased. FDA authorized the first antigen tests for use at point-of-care settings in May 2020 and the first antigen tests for at-home testing in December 2020. As of October 14, 2021, FDA has issued 36 emergency use authorizations for antigen tests, including tests authorized for use in laboratory, point-of-care, and at-home settings (see table below). [56]

[55]Members of the Data Strategy and Evaluation Workgroup come from agencies within HHS, including CDC, ASPR, FDA, the Centers for Medicare and Medicaid Services, and Indian Health Service. Members outside HHS include the United States Digital Service, Federal Emergency Management Agency, Department of Education, Department of Defense, and Department of State.

[56]Laboratories refers to those certified under the Clinical Laboratory Improvement Amendments of 1988, 42 U.S.C. §263a, that meet requirements to perform high and moderate complexity tests.

Number of FDA Emergency Use Authorizations for COVID-19 Antigen Tests by Setting, as of October 14, 2021	
Authorized settings	**Number of tests**
Laboratory only	6
Laboratory and point of care	19
Laboratory, point of care, and at home with a prescription	3
Laboratory, point of care, and at home without a prescription (over-the-counter)	8
Total	**36**

Source: GAO analysis of Food and Drug Administration (FDA) information. I GAO-22-105051

HHS working group officials told us that antigen testing has comprised a larger share of testing over time, which will likely continue to increase. Our analysis of CDC's monthly counts of reported testing data also suggests that antigen testing has increased as a whole and as a percent of total tests reported (antigen and molecular). According to the CDC data, the number of reported antigen tests per month increased from about 50,000 in June 2020 to nearly 12 million in August 2021, and as a percentage of total tests, reported antigen tests increased from less than 1 percent in June 2020 to more than 20 percent of all tests reported in July and August 2021.[57]

In addition, on September 9, 2021, the Administration announced the "Path out of the Pandemic" plan, which is expected to further increase the availability of antigen tests for COVID-19.[58] According to the plan, the Administration will exercise authorities in the Defense Production Act to support sustained manufacturing capacity and will spend nearly $2 billion to procure 280 million antigen tests, including rapid point-of-care and over-the-counter COVID-19 tests. As part of the plan, the Administration announced that certain major retailers will sell over-the-counter tests at cost, resulting in discounts of up to 35 percent. The administration also plans to make antigen tests free for Medicaid beneficiaries and provide 25 million tests to 1,400 community health centers and hundreds of food banks.

HHS entities have taken actions in an effort to improve reporting of antigen test results. In June 2020, HHS issued guidance prescribing reporting requirements for laboratories and point-of-care settings conducting COVID-19 testing, which includes antigen tests.[59] However, federal

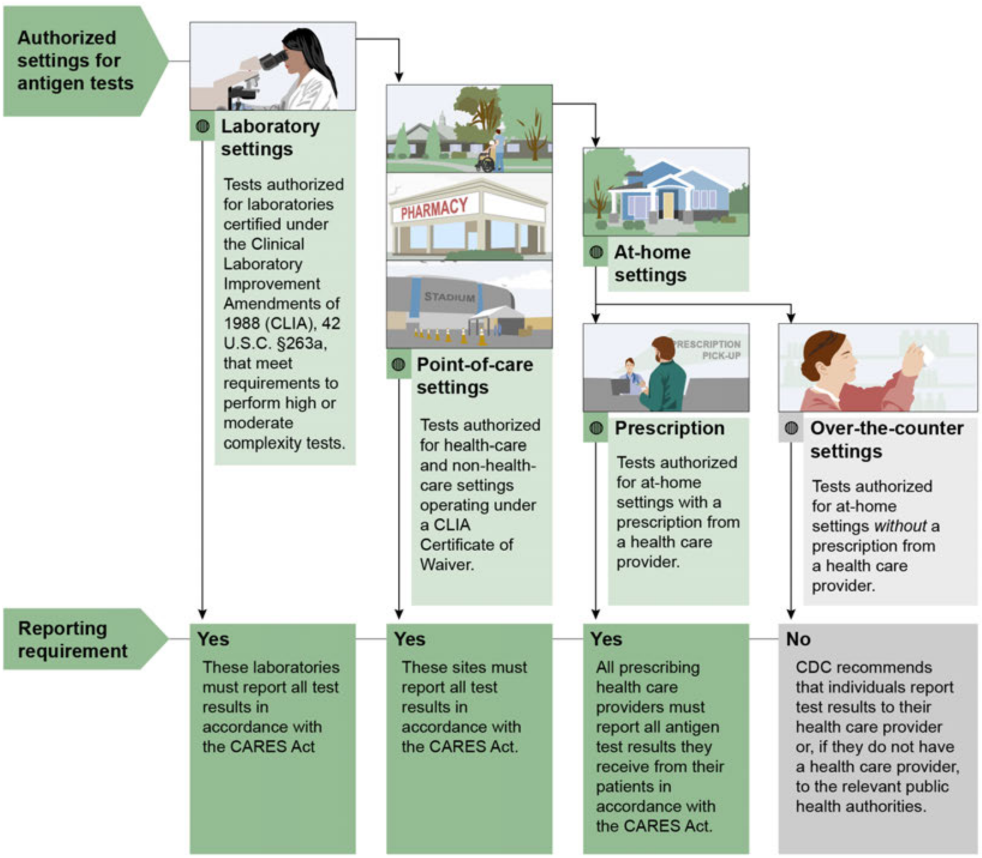
[57]The testing database is housed and maintained by CDC. Data may not include results from all testing sites within a jurisdiction, such as all point-of-care testing sites, according to CDC.

[58]The White House, *Path out of the Pandemic: President Biden's COVID-19 Action Plan* (Washington, D.C.: September 9, 2021), https://www.whitehouse.gov/covidplan/, accessed September 16, 2021.

[59]Starting in March 2020, all laboratories and point-of-care settings that perform or analyze COVID-19 diagnostic tests must report the results to public health authorities. CARES Act, Pub. L. No. 116-136, div. B, tit. VIII § 18115, 134 Stat. 281, 574 (3-27-2020). For the duration of the COVID-19 emergency declaration, every laboratory that performs or analyzes a test that is intended to detect SARS-Cov-2 or to diagnose a possible case of COVID-19 is required to report the results to HHS "in such form and manner, and at such timing and frequency as the Secretary may prescribe". In addition, the Secretary may make prescriptions under this section by guidance without regard to formal rulemaking

reporting requirements do not pertain to individuals using at-home over-the-counter antigen tests. See figure below for information on reporting requirements by setting.

Public Health Reporting Requirements or Guidance by Antigen Test Authorized Settings



Source: GAO analysis of Food and Drug Administration (FDA) and Centers for Disease Control and Prevention (CDC) information. | GAO-22-105051

Note: All antigen tests are authorized for laboratory settings, and some are also authorized for point-of-care and at-home settings.

Since HHS published guidance in June 2020, the department and CDC have tried to improve the reporting of testing data—including antigen testing data—to local, state, and federal health officials, including by taking the following actions:

The department has updated its guidance to clarify test reporting requirements, including those for antigen testing, for laboratories and point-of-care settings. In January 2021, HHS updated its guidance on reporting requirements in an effort to further facilitate complete and comprehensive

procedures, including which laboratories must submit reports. See, e.g. Department of Health and Human Services, *COVID-19 Pandemic Response, Laboratory Data Reporting: CARES Act Section 18115* (Jun. 4, 2020; updated January 8, 2021). Points of care that wish to perform COVID-19 testing themselves, including non-health-care entities, must have a Clinical Laboratories Improvement Amendments Certificate of Waiver from the Centers for Medicare & Medicaid Services before performing COVID-19 testing and are required to report all test results.

laboratory testing data reporting.[60] For example, the January 2021 guidance clarified the various methods for submitting test results. This guidance applies to antigen testing conducted in laboratory and point-of-care settings—including non-health-care settings such as workplaces and schools.

CDC issued guidance to encourage reporting of antigen test results from individuals and non-health-care settings. Although federal reporting requirements do not pertain to individuals using at-home over-the-counter antigen tests, CDC issued guidance for over-the-counter antigen testing in April 2021, intended in part, to encourage reporting. The guidance noted that users should report test results to their health care providers or to local or state health departments if they do not have a health care provider.[61]

CDC also issued guidance to employers about the importance of reporting antigen test results. It noted that employers operating a testing program as a point-of-care setting are required to report results to public health officials in accordance with the CARES Act. It also encouraged employers who collect test results from employees who self-test using over-the-counter tests to report these test results as well—stating that "sharing results with local public health authorities supports contact tracing efforts to slow the spread of COVID-19."[62]

FDA and HHS working groups collaborated with test manufacturers to encourage and facilitate user reporting of results. FDA does not have the authority to require individuals to report over-the-counter test results. However, FDA officials told us they worked with manufacturers during the emergency use authorization application process, as well as during town halls they hosted with manufacturers, to identify approaches that encourage and facilitate such reporting by individuals. For example, one approach is a smart phone application that communicates tests results to the user and automatically transmits results to public health officials. In addition, HHS working group officials told us they have held collaborative discussions with test manufacturers to identify ways to ensure high-quality diagnostic data are captured from antigen tests used both in at-home and in point-of-care settings, such as schools.

Limited antigen test reporting prevents HHS and CDC from using these data for COVID-19 surveillance. HHS working group and CDC officials told us that limited antigen test reporting to jurisdictional health departments and from jurisdictions to CDC, prevents them from using these data for COVID-19 surveillance. Instead, these officials told us that they use antigen test data to track trends in tests distributed, test supply availability, and limited programmatic metrics.

HHS working group and CDC officials noted that the number of reported antigen test results is much lower than the expected number of administered tests. CDC officials also told us they do not presently have an approach to capture the number of antigen tests administered. This total number is needed to calculate the proportion of antigen tests in a given population that are positive for infection (also known as, the test positivity rate)—a key public health indicator for

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[60] Department of Health and Human Services, *COVID-19 Pandemic Response, Laboratory Data Reporting: CARES Act Section 18115* (Jun. 4, 2020; updated January 8, 2021).

[61] Centers for Disease Control and Prevention, *Self-Testing,* (May 14, 2021; updated August 2, 2021).

[62] Centers for Disease Control and Prevention, *Antigen Testing in Non-Healthcare Settings: A Tool to Prevent the Spread of COVID-19*, (May 4, 2021).

surveillance of COVID-19, as we reported in January 2021. As a result, test positivity rates have generally included only molecular tests.[63] As antigen test availability increases, especially over-the-counter tests, test positivity rates based only on molecular tests, or based on limited antigen test data, could be less useful as indicators of trends in COVID-19 spread.

At the state and local levels, representatives from four national stakeholder organizations told us that the limited reporting of antigen test data can hinder the use of these data for surveillance.[64] For example, representatives from one organization told us that some local health department officials are limited in their ability to use antigen testing data to understand the spread of COVID-19 in their communities, including helping to identify local outbreaks, perform contact tracing, and identify individuals where sequencing may need to be performed to monitor the spread of variants.[65]

HHS and CDC are taking steps aimed at improving reporting and exploring additional approaches for effective COVID-19 surveillance. HHS working group and CDC officials told us they are considering approaches to further improve antigen test data reporting, as they believe these data could be valuable for surveillance if reporting were more complete. For example, these approaches include continuing to work with test manufacturers and making enhancements to data reporting by building reporting methods into the testing process, such as for testing processes used in schools and workplaces. More complete data and reporting from such approaches could provide an earlier indication and fuller picture of where community transmission is occurring, especially among individuals who are asymptomatic or experiencing less severe symptoms, according to officials.

Representatives from one stakeholder group told us that targeted antigen testing in specific areas can have a role in surveillance. Additionally, representatives from another stakeholder group told us that not every antigen test result is expected or needs to be reported in order to use the data for surveillance purposes. Stakeholder groups also commented on the reporting challenge specific to over-the-counter test results, stating that there is likely no realistic way to mandate that individuals report the results from these types of tests.

HHS working group and CDC officials stated that while they are trying to improve reporting of antigen testing data, they are also considering surveillance approaches to supplement or enhance current surveillance efforts. For example, CDC is exploring wastewater surveillance approaches. According to CDC officials, wastewater surveillance provides data that can complement and confirm other forms of clinical case-based surveillance for COVID-19, and it can provide an efficient pooled community sample that is particularly useful in areas where timely COVID-19 clinical testing is underutilized or unavailable.

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[63]Molecular tests are more reliably reported than are antigen tests, as the former are mainly conducted through health care providers and laboratories.

[64]These organizations collectively represent local, state, and territorial public health agencies and laboratories, and state epidemiologists.

[65]States vary in whether they report information about antigen test results on their COVID-19 public websites or dashboards—a monitoring tool the public can access and that states and territories have been using throughout the pandemic.

If antigen testing continues to expand as expected, especially with the increasing availability of over-the-counter tests, the ongoing limited reporting of antigen test results could reduce the ability of public health officials to more comprehensively monitor and effectively respond to COVID-19. These issues highlight the importance of HHS working group and CDC efforts aimed at improving reporting and exploring additional approaches for effective surveillance.

Methodology

To understand federal efforts to collect antigen test data and the role these data play in monitoring COVID-19, we reviewed relevant CDC, FDA, and HHS documentation, such as HHS and CDC guidance related to the reporting of antigen test results. We reviewed publicly available information from FDA's website on its emergency use authorizations for COVID-19 antigen tests, including the conditions of the authorizations, as well as to determine the number of tests authorized and the authorized settings for these tests. In addition, we collected written responses to questions we submitted to CDC, FDA, and HHS working groups.

To gather perspectives from public health stakeholder groups involved in testing and surveillance, we interviewed representatives from four national organizations that collectively represent local, state, and territorial public health agencies and laboratories, and state epidemiologists: the Association of State and Territorial Health Officials, the Council of State and Territorial Epidemiologists, the National Association of County and City Health Officials, and the Association of Public Health Laboratories.

To describe public reporting of antigen test data, we assessed general trends in the numbers of monthly reported antigen tests relative to molecular tests as reported to HHS. We assessed the reliability of the monthly testing data by reviewing HHS and CDC information about the data and limitations. We determined that the data were sufficiently reliable for the purpose of assessing high level, general trends in antigen test data.

Agency Comments

We provided a draft of this enclosure to HHS and the Office of Management and Budget for review and comment. HHS provided technical comments, which we incorporated as appropriate. The Office of Management and Budget did not provide comments on this enclosure.

GAO's Ongoing Work

We are continuing to review federal efforts related to COVID-19 testing and surveillance. Our ongoing work will further explore the evolving testing landscape and related data collection, as well as surveillance approaches CDC is using, or plans to use, to monitor COVID-19 in the continued response and into recovery.

GAO's Prior Recommendations

The table below presents our recommendations on testing from prior bimonthly and quarterly CARES Act reports.

Prior GAO Recommendations Related to COVID-19 Testing	
Recommendation	**Status**
The Director of the Centers for Disease Control and Prevention should work with appropriate stakeholders—including public health and private laboratories—to develop a plan to enhance laboratory surge testing capacity. This plan should include timelines, define agency and stakeholder roles and responsibilities, and address any identified gaps from preparedness exercises (July 2021 report).	**Open**—**not addressed**. As of September 2021, we are awaiting updates from the agency.
The Director of the Centers for Disease Control and Prevention should assess the agency's needs for goods and services for the manufacturing and deployment of diagnostic test kits in public health emergencies. This assessment should evaluate how establishing contracts in advance of an emergency could help the Centers for Disease Control and Prevention quickly and cost-effectively acquire these capabilities when responding to future public health emergencies, including those caused by novel pathogens, and should incorporate lessons learned from the COVID-19 emergency (July 2021 report).	**Open**—**not addressed**. As of September 2021, we are awaiting updates from the agency.
The Secretary of Health and Human Services (HHS) should develop and make publicly available a comprehensive national COVID-19 testing strategy that incorporates all six characteristics of an effective national strategy. Such a strategy could build upon existing strategy documents that HHS has produced for the public and Congress to allow for a more coordinated pandemic testing approach (January 2021 report).	**Open**—**not addressed.** HHS partially agreed with our recommendation. In January 2021, HHS agreed that the department should take steps to more directly incorporate some of the elements of an effective national strategy, but expressed concern that producing such a strategy at this time could be overly burdensome on the federal, state, and local entities that are responding to the pandemic, and that a plan would be outdated by the time it was finalized or potentially rendered obsolete by the rate of technological advancement. In May 2021, HHS told us that the White House and HHS plan to execute a National Testing Strategy that will act upon the administration's testing goals. According to HHS, a finalized document is forthcoming that includes specific actions as well as timelines to achieve these goals. HHS said the National Testing Strategy will speak to the country's short-term COVID-19 needs as well as the long-term needs associated with the country's broader biopreparedness. We will continue to monitor the implementation of this recommendation. As of September 2021, we are awaiting updates from the agency.
To improve the federal government's response to COVID-19 and preparedness for future pandemics, the Secretary of Health and Human Services should immediately establish an expert committee or use an existing one to systematically review and inform the alignment of ongoing data collection and reporting standards for key health indicators. This committee should include a broad representation of knowledgeable health care professionals from the public and private sectors, academia, and nonprofits (January 2021 report).	**Open**—**not addressed.** HHS partially agreed with our recommendation. As of July 2021, HHS stated that it plans to consider ways to establish more permanent work groups to incorporate best practices for ongoing interagency data needs and to scale up as necessary during future public health emergencies. HHS also stated that the Data Strategy and Execution Workgroup, established as part of the HHS COVID-19 response,

Recommendation	Status
	has helped address the need for a federal interagency coordination process to align ongoing COVID-19 data collection and reporting efforts. We maintain that immediately establishing an expert committee—not limited to federal agency officials—that includes knowledgeable health care professionals from the public and private sectors, academia, and nonprofits is an important and worthwhile effort to help improve the federal government's response to COVID-19 and its preparedness for future pandemics. As of September 2021, we are awaiting updates from the agency.
The Secretary of Health and Human Services should ensure that the Director of the Centers for Disease Control and Prevention (CDC) clearly discloses the scientific rationale for any change to testing guidelines at the time the change is made (November 2020 report).	**Open—partially addressed.** HHS agreed with our recommendation and has begun to implement it. For example, on February 16, 2021, CDC issued Interim Guidance on Testing Healthcare Personnel that stated asymptomatic health care personnel who have recovered from COVID-19 may not need to undergo repeat testing or quarantine in the case of another exposure within 3 months of their initial diagnosis. To support this guidance, CDC's website provided links to studies that explained the scientific rationale. Additionally, CDC told us that it continues to consult with scientific stakeholders when issuing or updating guidance documents, and outlined a series of steps the agency plans to take to strengthen its testing guidance. However, as of September 2021, CDC had not fully addressed the recommendation. We will monitor the implementation of this recommendation to ensure that these efforts continue.

Source: GAO. I GAO-22-105051

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FDA Oversight of COVID-19 Vaccine Manufacturing Quality

The Food and Drug Administration took a variety of steps to help ensure the manufacturing quality of the COVID-19 vaccines authorized for emergency use.

Entity involved: Food and Drug Administration, within the Department of Health and Human Services

Background

The Food and Drug Administration's (FDA) oversight of manufacturing establishments is a critical tool in how the agency helps ensure the manufacturing quality of vaccines, including those used to prevent COVID-19.

FDA generally licenses vaccines for marketing in the U.S. through approval of a biologics license application (BLA). BLAs contain data intended to support the application, including data from non-clinical studies and clinical studies on the safety and effectiveness of the product, as well as manufacturing data and information. According to FDA, as part of each BLA review, it assesses manufacturing processes, establishments involved in manufacturing, and the quality and consistency of the product.

FDA also inspects the establishments involved in manufacturing vaccines as part of the BLA review process or after the product is licensed for the U.S. market. These inspections are official examinations of establishments to determine compliance with the law and applicable regulations. Inspections may result in written observations provided to each manufacturer and an inspection classification, which is an assessment of the seriousness of the observations from the inspection. According to FDA, pre-license and pre-approval inspections are needed in about 20 percent of instances, usually in cases in which an establishment has a history of compliance issues or when FDA has not previously inspected the establishment.[66]

Under certain circumstances, such as the COVID-19 pandemic, FDA may temporarily allow the use of an unlicensed product through an emergency use authorization (EUA), provided certain statutory criteria are met.[67] For example, FDA may issue an EUA if it is reasonable to believe that the product may be effective and the known and potential benefits of the product outweigh the known and potential risks. FDA guidance indicates that companies requesting EUAs should provide information about manufacturing processes and controls for establishments involved in manufacturing. FDA may conduct inspections of manufacturing establishments prior to issuing an EUA, but the statutory criteria for EUAs do not require FDA to conduct such inspections prior to issuance. FDA guidance for COVID-19 vaccines states that any vaccine company that initially

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[66]Depending on the circumstances, a sponsor may be required to seek and obtain FDA approval of certain changes to an existing BLA to ensure the safety and effectiveness of the biologic has not been adversely affected. This may include changes to the product, production process, quality controls, equipment, facilities, or responsible personnel. See 21 C.F.R. § 601.12 (2020).

[67]See 21 U.S.C. § 360bbb-3. In November 2020, GAO reported on FDA's use of EUAs for COVID-19 therapeutics and recommended that the agency identify ways to uniformly disclose to the public the information from its scientific review of safety and effectiveness data when issuing EUAs for COVID-19 therapeutics and vaccines. FDA has since implemented this recommendation.

receives an EUA is expected to conduct further research and work towards submission of a BLA as soon as possible.

Overview of Key Issues

To help ensure manufacturing quality for the COVID-19 vaccines authorized for emergency use, FDA reviewed documentation and conducted on-site reviews. As of August 2021, FDA had authorized three COVID-19 vaccines (Pfizer, Moderna, and Janssen) for emergency use, and one of these vaccines (Pfizer) had also been licensed.[68] To assess each of the 18 establishments that manufactured these COVID-19 vaccines, FDA took a variety of steps, including reviewing documentation provided by the vaccine companies for their EUA requests and reviewing prior inspections reports.[69]

Documentation from EUA requests. According to FDA, the agency reviewed documentation and data that each of the COVID-19 vaccine companies included in their EUA requests about the establishments used in manufacturing the vaccines. Examples of key manufacturing information that FDA reviewed included:

- Quality systems and controls, the adequacy of the building design and equipment, and the container storage and closure conditions to ensure the sterility of the product in the final container.
- Cross-contamination controls to ensure they are suitable to mitigate risk of cross contamination.
- The adequacy of multiple product manufacturing areas used to manufacture the vaccine, including cleaning and changeover procedures.

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These three vaccine companies participated in the HHS-DOD COVID-19 Countermeasures Acceleration Group, formerly known as Operation Warp Speed. This partnership was formed in 2020 to accelerate the availability of a vaccine to prevent COVID-19 by awarding federal contracts and other transaction agreements to six vaccine companies for different types of activities, including clinical development and manufacturing activities or the purchase of COVID-19 vaccine doses. AstraZeneca, Novavax, and Sanofi/GSK also participated in the partnership's efforts. In February 2021, GAO reported on the status of the partnership's accelerated vaccine development efforts as well as participating vaccine companies' technology readiness levels.
Pfizer's COVID-19 vaccine was first authorized for emergency use on December 11, 2020 for those 16 years of age and older. Moderna's vaccine was first authorized on December 18, 2020, and Janssen's vaccine was first authorized for emergency use on February 27, 2021, both for those 18 years of age and older. FDA subsequently amended the EUAs for the Pfizer and Moderna vaccines to expand their use, such as for different age groups or patients with certain conditions. On August 23, 2021, Pfizer's COVID-19 vaccine was licensed for individuals 16 years of age and older. Pfizer's vaccine continues to be available under an EUA for individuals 12 to 15 years of age. Pfizer developed its COVID-19 vaccine in collaboration with BioNTech. Janssen Pharmaceutical Companies are a part of Johnson & Johnson.

[69]These 18 establishments were identified by the vaccine companies as manufacturing the COVID-19 vaccines for the U.S. market as of June 2021. Of the 18 establishments, 11 were located in the U.S. and seven in Europe. These include establishments to manufacture the drug substance—bulk amounts of the unformulated active substance, and for fill-finish—the transfer of the vaccine into sterile containers.

- The qualification of critical equipment for manufacturing the drug substance and drug product.[70]

Documentation of prior FDA inspections. For the purpose of the EUA review process, FDA was not required to and did not conduct inspections specifically examining COVID-19 vaccine manufacturing for any of the establishments prior to authorizing the three vaccines for emergency use.[71] However, FDA did review the establishments' inspection histories.

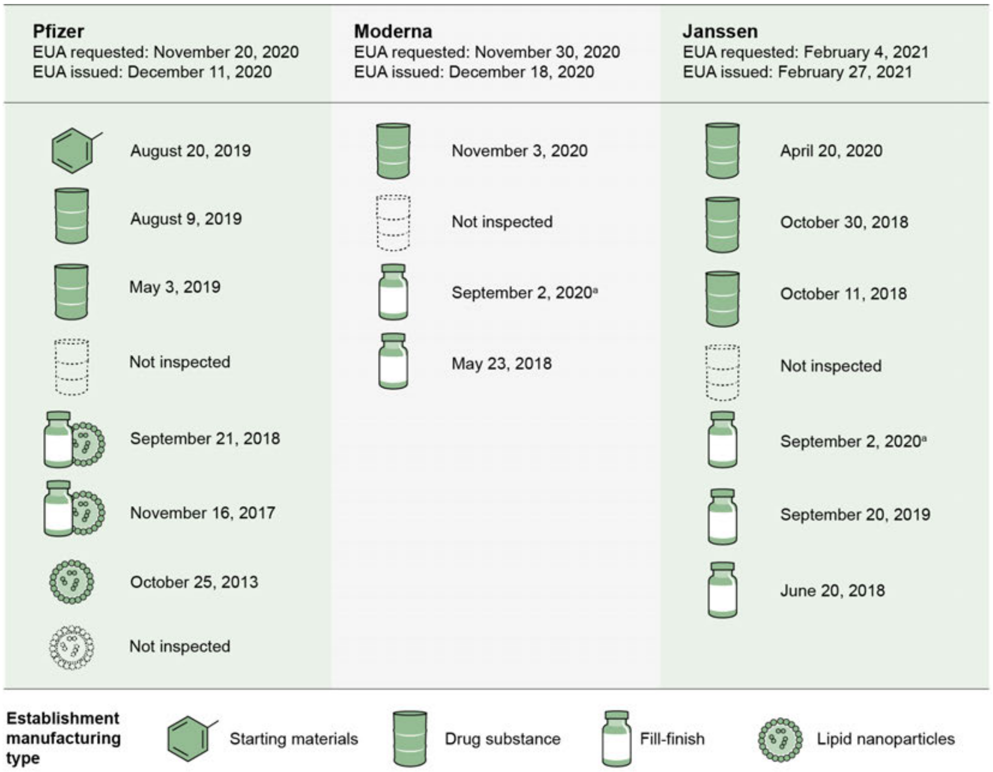
Our review found that 14 of the 18 establishments that manufacture COVID-19 vaccines had been previously inspected at least once by FDA from October 2011 through the date the initial EUA request for the COVID-19 vaccine was submitted to the agency.[72] This amounted to 90 total inspections. For all but one of these 14 establishments, FDA's most recent inspection was within the last 4 years. (See figure.)

[70]FDA also reviewed information on the manufacturing process qualification of the drug substance, certificates of analyses, and comparability assessments for batches of drug substance, among other things.

[71]The statutory criteria for EUAs do not require FDA to have conducted an inspection prior to issuance. See 21 U.S.C. § 360bbb-3.

[72]Establishments may manufacture both drugs and biologics, and thus be eligible to receive both drug and biologic inspections from FDA. We included both biologic and drug manufacturing inspections in our analysis.

Establishments Manufacturing the COVID-19 Vaccines, by the Date of the Most Recent Historical FDA Inspection Prior to Initial Emergency Use Authorization (EUA) Request and Manufacturing Type



Source: GAO Analysis of Food and Drug Administration (FDA) data. | GAO-22-105051

Notes: Each icon or group of icons is an establishment identified by the vaccine companies as manufacturing the COVID-19 vaccines for the U.S. market as of June 30, 2021. We excluded establishments that were not being used in the manufacturing process as of June 2021, as well as those used for packaging, storage, and laboratory work.
Data are for biologic establishment inspections and drug establishment inspections conducted from October 2011 through the date on which each vaccine company initially requested an EUA. FDA subsequently amended the EUAs for the Pfizer and Moderna vaccines to expand their use, such as for different age groups or patients with certain conditions.
Drug substance refers to the bulk amounts of the unformulated active substance and fill-finish refers to the transfer of the vaccine into sterile containers. Lipid nanoparticles are added to the drug substance to stabilize the mRNA.
[a]This establishment manufactures both the Moderna and Janssen vaccines.

FDA classifies inspections based on the seriousness of the deficiencies identified during the inspections. FDA classified the 90 prior inspections of these establishments, which were conducted prior to the initial EUA requests, as follows:

- In 22 of 90 inspections, FDA found no objectionable conditions or practices or the conditions found did not justify further regulatory action (known as no action indicated).
- In 64 of 90 inspections, FDA found objectionable conditions or practices that were not deemed serious deficiencies and did not recommend any administrative or regulatory actions (known as voluntary action indicated).

- In two of the 90 inspections, FDA found serious deficiencies requiring regulatory and/or administrative actions (known as official action indicated).[73]
    - One of the establishments was inspected in 2013. FDA reinspected this establishment later in 2013 and did not find serious deficiencies during that inspection or during subsequent inspections in 2014, 2015, and 2018.
    - The second establishment was inspected in 2020. FDA later reinspected this establishment in 2021 and identified serious deficiencies.[74] In response, the establishment submitted a corrective action plan and worked with FDA to correct the deficiencies.

Other information sources. As needed, in addition to reviewing EUA requests and past inspection documentation, FDA also used a variety of other information sources including on-site reviews, record requests, reports from foreign regulators, and inspections to further collect information about and assess the establishments manufacturing the COVID-19 vaccines. FDA utilized some of these sources prior to issuing the initial EUAs, as well as after.

- **On-site reviews***.* FDA conducted on-site reviews—investigations or site visits—for some of the establishments manufacturing the COVID-19 vaccines. During the COVID-19 pandemic, FDA conducted EUA investigations to assess the current operational status of establishments manufacturing the COVID-19 vaccines and provide feedback on manufacturing earlier in the process. Site visits are a longstanding tool used by FDA to learn and observe establishment operations to improve understanding and open a dialogue between industry and the agency. Investigations and site visits, unlike inspections, do not lead to written observations or inspection classifications.[75]

  As of August 2021, FDA conducted five investigations and three site visits to assess manufacturing quality for the COVID-19 vaccines at three establishments. For example, FDA conducted a site visit prior to issuing an EUA at one establishment that had not been inspected by FDA within the past 9 years.

- **Record requests***.* FDA may request that establishments send records and other information in advance of or in lieu of certain types of inspections.[76] Such records include those that FDA commonly reviews during an on-site inspection, such as reports on product quality, lists of all products manufactured at a facility, and summaries of any discrepancies identified during manufacturing and testing and any corresponding investigations. FDA uses record requests to inform inspection planning or decisions to adjust the intervals in between inspections, or as

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[73]As of May 2021, FDA had not finalized the classification for one inspection, and one inspection was classified as administrative closure, which indicates that a final classification had not been indicated at the time of the original inspection and FDA has no regulatory concern about the establishment's compliance status.

[74]This establishment manufactured both a COVID-19 vaccine authorized for emergency use and a COVID-19 vaccine that has not yet been authorized in the U.S.

[75]FDA officials said that if serious deficiencies are identified during an investigation, the agency could change the review to an inspection.

[76]See 21 U.S.C. § 374(a)(4).

substitutes for certain pre-license or pre-approval inspections as determined by the agency.[77] For the authorized COVID-19 vaccines, FDA requested records for three establishments prior to conducting inspections, as of August 2021.

- **Foreign regulator reports**. FDA also received reports from foreign regulators about COVID-19 vaccine manufacturing for all seven of the establishments that were located in foreign countries as of August 2021. Two of these establishments had not been inspected by FDA in almost 10 years, while another had not been inspected since 2013.

- **Inspections**. While FDA did not conduct any new inspections of these establishments prior to issuing the initial EUAs, FDA conducted several inspections after. Specifically, FDA subsequently inspected six establishments manufacturing the COVID-19 vaccines from April through July 2021. Three of the six inspections were for establishments manufacturing Pfizer's COVID-19 vaccine, including one in Europe, and occurred after the company began submitting its BLA for review.

  One of these six inspections was for a Janssen contractor establishment (Emergent) in April 2021. This establishment had previously been inspected in April 2020 and FDA indicated that it found serious deficiencies. The April 2021 inspection occurred following a report of contamination with the drug substance for another COVID-19 vaccine not currently authorized in the U.S. (AstraZeneca).[78] This inspection identified multiple serious deficiencies related to manufacturing quality control systems, building design, equipment, and personnel training. Following the April 2021 inspection, manufacturing of new batches of the drug substance for the Janssen vaccine at the establishment and distribution of existing batches were halted. Manufacturing of the AstraZeneca vaccine was also removed. Emergent subsequently submitted a corrective action plan and worked with FDA to correct the deficiencies. In July 2021, FDA informed Emergent that it did not object to resuming manufacturing of the Janssen COVID-19 vaccine at the Emergent establishment, according to FDA officials.

FDA examined the manufacturing quality of the three other COVID-19 vaccines that have not been authorized or licensed. As of August 2021, three other vaccine companies (AstraZeneca, Novavax, and Sanofi/GSK) that also participated in the HHS-DOD COVID-19 Countermeasures Acceleration Group (previously known as Operation Warp Speed) had not requested EUAs or submitted BLAs.[79] FDA officials told us that they have been examining manufacturing quality for the establishments manufacturing these vaccines as part of the clinical trial process.

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[77]FDA will only substitute the review of records and other information for pre-license or pre-approval inspections in certain cases. For example, FDA may choose to do this if the establishment has an acceptable inspection history for related manufacturing operations. Establishment records alone cannot be used as a substitute for FDA surveillance inspections.

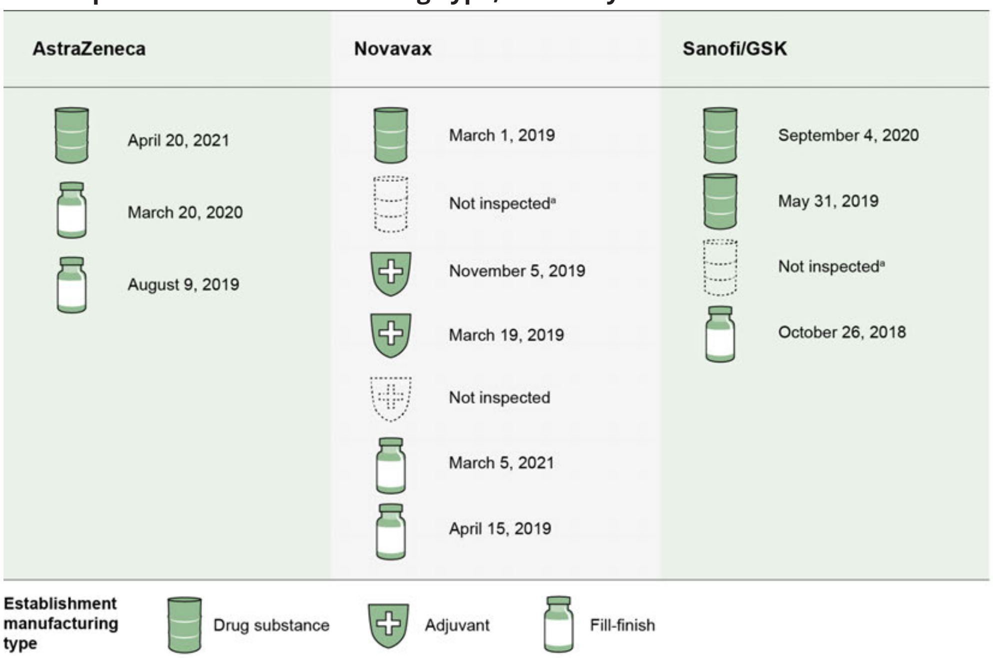
[78]Emergent is one of three of HHS' Biomedical Advanced Research and Development Authority's Centers for Innovation in Advanced Development and Manufacturing that are intended to develop and manufacture medical countermeasures for the federal government.

[79]As of June 15, 2021, AstraZeneca and Novavax had both announced findings from phase 3 clinical trials for their COVID-19 vaccine candidates, while Sanofi/GSK announced on May 27, 2021, that it had started enrollment in a global phase 3 clinical trial for its vaccine candidate.

FDA used information from past FDA inspections and supplemented with information from on-site reviews and inspections as needed for the 13 establishments manufacturing these vaccines.[80]

Inspection history. In examining the establishments' FDA inspection histories, we found that from October 2011 through May 2021, FDA had previously inspected 11 of the 13 establishments manufacturing these COVID-19 vaccines.[81] This resulted in a total of 73 inspections. All of the inspected establishments were inspected in the last 3 years. (See figure.)

Establishments Manufacturing the COVID-19 Vaccines Not Authorized or Licensed, by Date of Their Most Recent FDA Inspections and Manufacturing Type, as of May 2021



Source: GAO Analysis of Food and Drug Administration (FDA) data. | GAO-22-105051

Notes: Each icon or group of icons is an establishment identified by the vaccine companies as manufacturing the COVID-19 vaccines for the U.S. market as of June 30, 2021. We excluded establishments that were not currently being used in the manufacturing process as of June 2021, as well as those used for packaging, storage, and laboratory work. Data are for biologic establishment inspections conducted from October 2011 through May 26, 2021, and for drug establishment inspections conducted October 2011 through April 29, 2021.
As of August 2021, AstraZeneca, Novavax, and Sanofi/GSK had not requested emergency use authorizations or submitted biologics license applications for their COVID-19 vaccines. FDA officials told us that they have been examining manufacturing quality for the establishments manufacturing these vaccines as part of the clinical trial process.
Drug substance refers to the bulk amounts of the unformulated active substance and fill-finish refers to the transfer of the vaccine into sterile containers. An adjuvant is an ingredient used in some vaccines that helps create a stronger immune response in people receiving the vaccine.

[a]This establishment manufactures both the Novavax and Sanofi/GSK vaccines.

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These 13 establishments were identified by the vaccine companies as manufacturing the COVID-19 vaccines for the U.S. market as of June 2021. Of the 13 establishments, 11 were located in the U.S. and two in Europe. These include establishments to manufacture the drug substance and fill-finish.
FDA also requested records from four of the 13 establishments, but these records were unrelated to the COVID-19 vaccines.

[81]These prior inspections may have been related to either the manufacture of a drug or biologic product.

FDA classified these 73 inspections as follows

- In 16 of 73 inspections, FDA classified the inspection as no action indicated.
- In 49 of the 73 inspections, FDA classified the inspection as voluntary action indicated.
- In 3 of the 73 inspections, FDA classified the inspections as official action indicated.[82]
    - One of these inspections was conducted in 2013. FDA later reinspected this establishment twice in 2014, and again in 2015, 2016, 2017, 2018, 2019, and 2021 and did not identify serious deficiencies.
    - The second was conducted in 2019. FDA later reinspected this establishment in 2020 and did not identify any serious deficiencies.
    - The third inspection was conducted in 2020. FDA later reinspected this establishment in 2021 and identified serious deficiencies.[83] In response, manufacturing of the COVID-19 vaccine at this establishment was removed.

Onsite reviews. As of August 2021, FDA had conducted seven EUA investigations and two site visits at six establishments manufacturing these vaccines. For example, FDA conducted an EUA investigation related to a COVID-19 vaccine in March 2021 for an establishment that had not been inspected by FDA in almost 10 years. This establishment is a contract manufacturer for Texas A&M University, which serves as one of three of the HHS Biomedical Advanced Research and Development Authority's Centers for Innovation in Advanced Development and Manufacturing intended to develop and manufacture medical countermeasures for the federal government.

Inspections. FDA also reported that it conducted inspections specifically for the COVID-19 vaccines at two establishments in April and July 2021.

Methodology

To conduct this work, we obtained information from the six COVID-19 vaccine companies participating in the HHS-DOD COVID-19 Countermeasures Acceleration Group on the establishments involved in manufacturing their vaccines for the U.S. market as of June 2021. We used this information in our examination of FDA's inspections from the agency's Field Accomplishments and Compliance Tracking System. Specifically, we reviewed FDA data on vaccine and other biologic inspections from October 1, 2011 through May 26, 2021 and data on drug inspections from October 1, 2011 through April 29, 2021. We examined data from October 1, 2011, to provide a wide enough range to capture inspection activities over time. We also reviewed agency guidance and documents, as well as interviews and written responses from FDA officials related to the agency's vaccine oversight activities during the COVID-19 pandemic.

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[82]FDA's final classifications were not yet available for 5 of the 73 inspections.

[83]This establishment manufactured both a COVID-19 vaccine authorized for emergency use and a COVID-19 vaccine that has not yet been authorized in the U.S.

To assess the reliability of the data, we conducted electronic data testing for missing data and outliers, reviewed relevant documentation, and obtained information from knowledgeable agency officials. We found the data sufficiently reliable for our purposes.

Agency Comments

We provided the Department of Health and Human Services (HHS) and the Office of Management and Budget (OMB) with a draft of this enclosure. HHS provided technical comments, which we incorporated as appropriate. OMB did not provide comments on this enclosure.

GAO's Ongoing Work

We will continue to report on the federal efforts surrounding the development, manufacturing, and distribution of the COVID-19 vaccines, including the use of the HHS-DOD COVID-19 Countermeasures Acceleration Group (formerly known as Operation Warp Speed).

Related GAO Products

Operation Warp Speed: Accelerated COVID-19 Vaccine Development Status and Efforts to Address Manufacturing Challenges. GAO-21-319. Washington, D.C.: February 11, 2021.

COVID-19: Federal Efforts Accelerate Vaccine and Therapeutic Development, but More Transparency Needed on Emergency Use Authorizations. GAO-21-207. Washington, D.C.: November 17, 2020.

Contact information: Mary Denigan-Macauley, 202-512-7114, deniganmacauleym@gao.gov

FDA Inspections of Biologic Manufacturing during the COVID-19 Pandemic

The Food and Drug Administration significantly reduced inspections of biologic manufacturing establishments due to the COVID-19 pandemic but identified alternative tools it could use to help oversee manufacturing quality during this emergency.

Entity involved: Food and Drug Administration, within the Department of Health and Human Services

Background

The Food and Drug Administration's (FDA) inspections of manufacturing establishments are a critical tool in how the agency oversees the manufacturing quality of biologics used to prevent, treat, and cure diseases and medical conditions, such as cancers and infectious diseases.

Biologics are a diverse category of products that include vaccines and allergenics, blood and blood components, and cells, certain human tissues, and gene therapy products.[84] Biologics are generally derived from living material, such as the human body or a microorganism, and are generally more complex than other, chemically synthesized drugs. Biologics tend to be heat sensitive and susceptible to microbial contamination, making the manufacturing process for biologics typically more complex than it is for other drugs.

Unlike chemically synthesized drugs, biologics marketed in the U.S. are mostly manufactured domestically, according to FDA. However, there is variation by product type. For example, blood and blood components are overwhelmingly manufactured at establishments located in the U.S. while vaccine and allergenic manufacturing establishments are mostly located both in Europe and the U.S.

Most biologics are regulated by FDA's Center for Biologics Evaluation and Research.[85] FDA generally licenses biologics, such as vaccines, for marketing in the U.S. through approval of a biologics license application (BLA). BLAs contain data intended to support the application, including data from non-clinical studies and clinical studies on the safety and effectiveness of the product, as well as manufacturing data and information. According to FDA, as part of each BLA review, it assesses manufacturing processes, establishments involved in manufacturing, and the quality and consistency of the biologic.

FDA inspects the establishments involved in manufacturing biologics as part of the BLA review process or after the product is licensed for the U.S. market. These inspections are official examinations of establishments to determine compliance with the law and applicable regulations. Inspections may result in written observations provided to each manufacturer and an inspection

[84]See 42 U.S.C. § 262(i)(1). Biologics are subject to licensure under the Public Health Service Act, and they are also considered drugs under the Federal Food, Drug, and Cosmetic Act. Allergenics include patch tests to diagnose the causes of allergies as well as extracts to diagnose and treat allergies.

[85]This report focuses on biologics regulated by the Center for Biologics Evaluation and Research. FDA's Center for Drug Evaluation and Research also regulates some drugs that may be considered biologics, such as monoclonal antibodies. The two centers collaborate in regulating and overseeing biologics.

classification, which is an assessment of the seriousness of the observations from the inspection. FDA conducts several types of inspections:

- **Pre-license and pre-approval inspections**. FDA may conduct pre-license and pre-approval inspections in response to new BLAs or manufacturing changes to existing BLAs.[86] According to FDA, pre-license and pre-approval inspections are needed in about 20 percent of instances, usually when an establishment has a history of compliance issues or if FDA has not previously inspected the establishment.
- **Surveillance inspections.** FDA conducts surveillance inspections after a product is marketed to determine an establishment's ongoing compliance with current good manufacturing practice (CGMP) regulations.[87] FDA uses a risk-based approach to select biologic establishments for surveillance inspections.[88] According to FDA, the agency typically aims to inspect the highest risk establishments every 2 years and inspect the remaining establishments every 2 to 4 years.
- **For-cause inspections.** FDA conducts for-cause inspections after a product is marketed to investigate specific issues or follow up on a previous regulatory action, such as when serious deficiencies were identified during a prior inspection.

Overview of Key Issues

FDA inspections of biologic manufacturers had generally been declining since 2012 and mostly stopped during the COVID-19 pandemic. Prior to the COVID-19 pandemic, FDA inspections of biologic manufacturing establishments had declined slightly since 2012—from a high of 1,922 in fiscal year 2013 to 1,668 in fiscal year 2019 (see figure below). Surveillance inspections make up the majority of biologic inspections and particularly decreased in 2019. FDA officials attributed this decrease in inspections in fiscal year 2019 to a lapse in appropriations and to vacancies among the staff who conduct inspections.[89]

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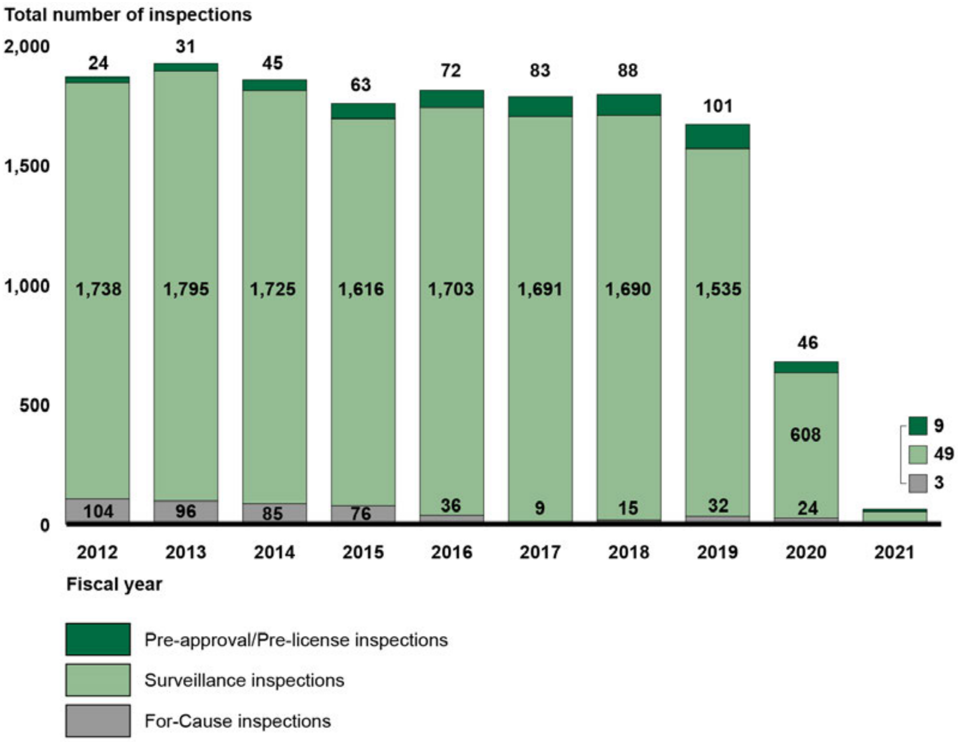
[86]Depending on the circumstances, a sponsor may be required to seek and obtain FDA approval of certain changes to an existing BLA to ensure the safety and effectiveness of the biologic has not been adversely affected. This may include changes to the product, production process, quality controls, equipment, facilities, or responsible personnel. See 21 C.F.R. § 601.12 (2020).

[87]CGMP regulations contain minimum requirements for the methods, facilities, and controls used in manufacturing, processing, and packing of a product. See 21 C.F.R. Parts 210 and 211 (2020).

[88]See 21 U.S.C. § 360(h)(3). Historically, FDA regulations required the agency to conduct surveillance inspections of biologic establishments at least once every 2 years. See 21 C.F.R. § 600.21 (2018). FDA issued a final rule to remove this requirement, which became effective in May 2019. See 84 Fed. Reg. 12,505 (Apr. 2, 2019).

[89]FDA activities for fiscal year 2019 were funded under a continuing resolution through December 21, 2018. See Pub. L. No. 115-298, 132 Stat. 4382 (2018). FDA funding lapsed until the enactment of another continuing resolution on January 25, 2019. See Pub. L. No. 116-5, 133 Stat. 10 (2019). In March 2021, we also reported on vacancies among staff who conduct foreign drug inspections.

FDA Biologic Inspections by Year and Type of Inspection, Fiscal Years 2012–2021



Source: GAO analysis of Food and Drug Administration (FDA) data. | GAO-22-105051

Notes: FDA conducts pre-approval and pre-license inspections for new biologic license applications or manufacturing changes to existing licenses. FDA conducts surveillance inspections after a product is marketed to ensure ongoing compliance with current good manufacturing practice regulations. For-cause inspections are conducted after a product is marketed to investigate specific issues or follow up on a previous regulatory action, such as when serious deficiencies were identified during a prior inspection.
Fiscal year 2021 data are as of May 26, 2021.

Similar to what we reported in March 2021 for FDA's drug inspections, due to the pandemic, beginning on March 17, 2020, FDA paused most biologic inspections and transitioned to focus solely on those deemed mission-critical, a designation which it determines on a case-by-case basis. During the COVID-19 pandemic, FDA gave higher priority to establishments that manufactured products related to the COVID-19 response or products used to treat serious diseases or medical conditions for which there is no substitute. Mission-critical inspections may include both domestic and foreign establishments.

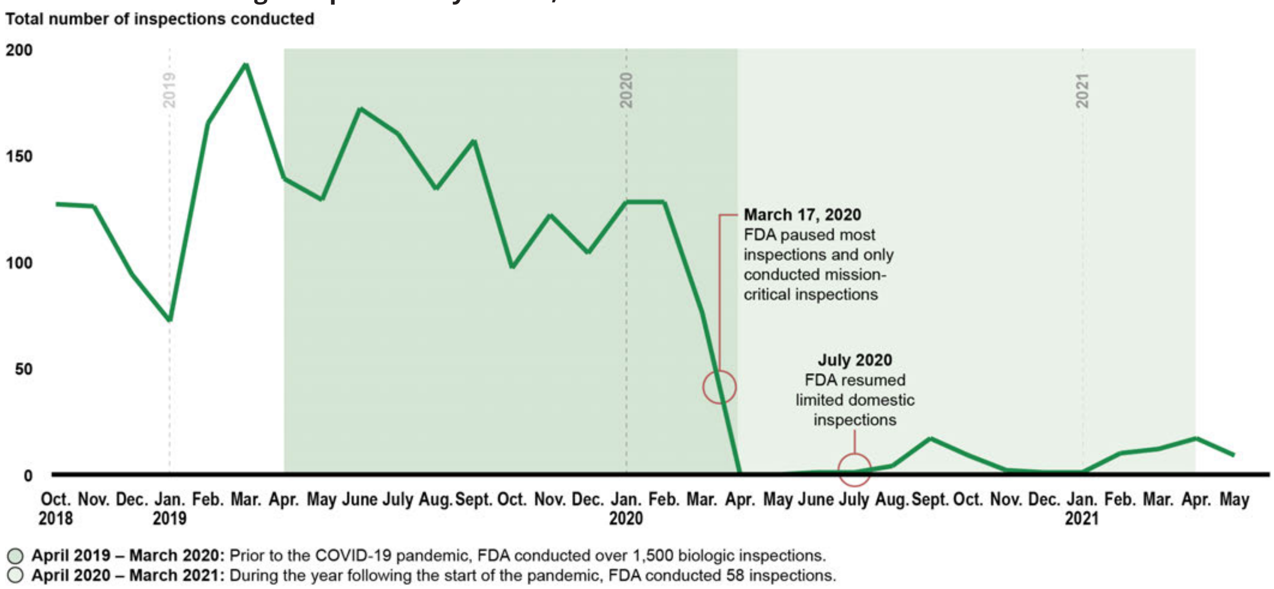
In addition to mission-critical inspections, beginning in July 2020, FDA reported that it resumed certain other high priority domestic surveillance and for-cause inspections, such as following up on serious deficiencies identified in previous inspections, in areas where it is safe to do so. Citing concern for the safety of its employees, these prioritized domestic inspections have all been preannounced; whereas, prior to the pandemic, FDA generally did not announce domestic surveillance inspections.[90] As of August 2021, FDA officials said the agency had not set a date for

[90]In March 2021, we reported that prior to the COVID-19 pandemic, almost all domestic drug inspections were unannounced, whereas foreign inspections were generally preannounced. As we previously reported, FDA's practice of generally preannouncing inspections up to 12 weeks in advance may have given establishments the opportunity to fix problems before the investigator arrives.

when it planned to resume unannounced domestic inspections. FDA's inspection priorities during the COVID-19 pandemic are generally the same for all medical products, including drugs, which we reported on in March 2021.

As a result of the pause and limited restart, inspections further declined significantly in fiscal years 2020 and 2021. In the year following the decision to pause inspections, from April 2020 through March 2021, FDA conducted 58 biologic inspections, compared to more than 1,500 inspections conducted during the same period in the year prior to the pause in inspections (see figure below). These 58 biologic inspections were all of domestic establishments.

Number of FDA Biologic Inspections by Month, Fiscal Years 2019–2021



Source: GAO analysis of Food and Drug Administration (FDA) data. | GAO-22-105051

Note: Fiscal year 2021 data are as of May 26, 2021.

Due to limited in-person inspections, FDA identified alternative tools it could use to help oversee the quality of biologic manufacturing establishments during the pandemic. These alternative tools include:[91]

Records requests. FDA may request that establishments send records in advance of or in lieu of certain types of inspections.[92] Such records include those that FDA commonly reviews during an on-site inspection, such as reports on product quality, lists of all drugs manufactured at a facility, and summaries of any discrepancies identified during manufacturing and testing and any corresponding investigations. FDA uses record requests to inform inspection planning or decisions to adjust the intervals in between inspections, or as substitutes for certain pre-approval

[91]These alternative inspection tools are generally the same as those used for drug inspections. In the case of drug inspections, FDA also has mutual recognition agreements with European regulators, which allow inspections conducted by these regulators to substitute for FDA inspections. These mutual recognition agreements currently only apply to drugs and certain biologics regulated by the Center for Biologics Evaluation and Research (e.g., allergenics). FDA is considering expanding these agreements to include vaccines in fiscal year 2022.

[92]See 21 U.S.C. § 374(a)(4).

inspections as determined by the agency.[93] FDA reported issuing record requests to 179 biologic establishments in fiscal year 2020 and 601 biologic establishments in fiscal year 2021 (as of May 2021). Prior to the pandemic, FDA did not use record requests as an alternative inspection tool for those biologics regulated by the Center for Biologics Evaluation and Research, according to FDA responses.

Investigations and site visits. During the COVID-19 pandemic, FDA conducted emergency use authorization (EUA) investigations to assess the current operational status of establishments manufacturing the COVID-19 vaccines and to provide feedback on manufacturing earlier in the process. Site visits are a longstanding tool used by FDA to learn and observe establishment operations for the purpose of improving understanding and opening a dialogue between industry and the agency. Unlike inspections, investigations and site visits do not lead to an inspection classification.[94] FDA utilized these tools for several of the establishments manufacturing the COVID-19 vaccines. For more information about the steps FDA used to help ensure manufacturing quality for the COVID-19 vaccines, see the FDA Oversight of COVID-19 Vaccine Manufacturing Quality enclosure.

Remote interactive evaluations. These evaluations include remote live-streaming video of operations, teleconferences, or screen sharing. In April 2021, FDA issued guidance noting that remote interactive evaluations, in which establishments have to agree to participate, do not constitute inspections. Instead, FDA would use these evaluations to determine the scope, depth, and timing of potential future inspections. At the conclusion of such a remote interactive evaluation, FDA provides establishments with written observations, as it would for an inspection. However, unlike what happens following an inspection, FDA does not issue inspection classifications for remote interactive evaluations.

Prior to the pandemic, FDA did not use remote interactive evaluations and, as of August 2021, FDA officials said the agency had not yet conducted any remote interactive evaluations of biologic establishments. Agency officials said that was because the agency is reviewing internal processes to help ensure implementation of remote interactive evaluations adequately provides the information needed to assess manufacturing quality.

Representatives of almost all biologic manufacturing associations we spoke to generally supported FDA's use of alternative inspection tools both during the COVID-19 pandemic and in the future, but noted some challenges with the use of these tools. For example, representatives from three associations noted a lack of communication from FDA following record requests. According to FDA, the agency plans to revise its record request procedures in fiscal year 2022 to increase communication with manufacturers.

Representatives from three associations also noted a lack of clarity on whether the agency could use these alternative tools as substitutes for in-person inspections, such as to resolve findings

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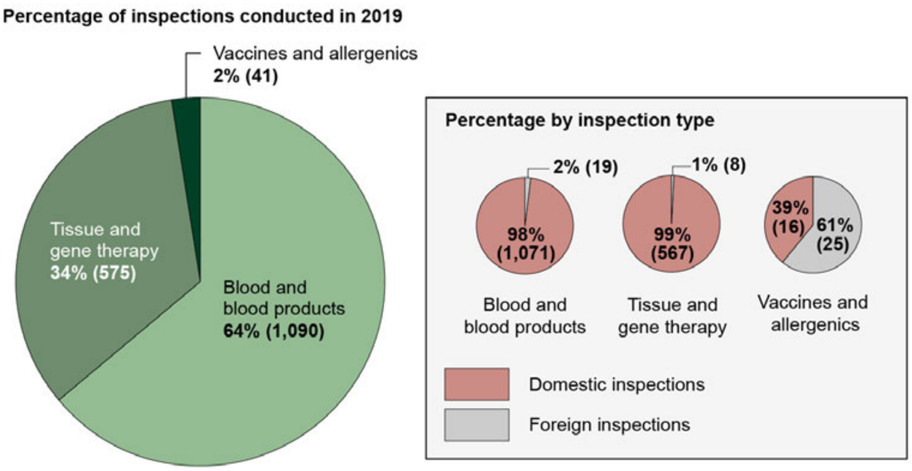
[93] FDA will only substitute the review of records and other information for pre-approval inspections in certain cases. For example, FDA may choose to do this if the establishment has an acceptable inspection history for related manufacturing operations. Establishment records alone cannot be used as a substitute for FDA surveillance inspections.

[94] FDA officials said that if serious deficiencies are identified during an investigation, the agency could change the review to an inspection.

from prior FDA inspections. FDA's guidance does not state whether these alternative inspection tools may be used to resolve prior inspection findings. However, in a May 2021 FDA presentation to industry officials, the agency stated that they could be used in this way. FDA officials later told us that alternative inspection tools are not intended to replace inspections to resolve inspection findings and are reluctant to use these tools in lieu of an inspection.

FDA may face challenges resuming routine surveillance inspections of vaccine and allergenic manufacturing establishments, but said vaccine inspections are a priority. While inspections of vaccine and allergenic establishments represent a small number of total biologic inspections each year—2 percent in fiscal year 2019 (the last fiscal year prior to the pandemic)—inspections of these establishments are largely in foreign countries, such as the United Kingdom, Germany, and France. In contrast, inspections of other biologic product types, which comprise 98 percent of total biologic inspections, are mostly domestic (see figure below).

Number of FDA Inspections and Percentage of Foreign and Domestic Inspections by Biologic Product Type, Fiscal Year 2019



Source: GAO analysis of Food and Drug Administration (FDA) data. | GAO-22-105051

Note: Inspections may be double counted as they may be categorized as more than one biologic type.

In July 2021, FDA announced it resumed routine domestic surveillance inspections, thereby putting the agency in a position to begin to return to its prepandemic inspection rates for blood and blood components and tissue and gene therapy products manufacturing establishments. However, in August 2021, FDA officials stated that the agency was uncertain whether the ongoing pandemic will impose additional disruptions to the domestic inspection operations in the future.

In addition, FDA officials said the agency does not have a time frame for resuming routine foreign inspections, as of August 2021, which may affect its ability to conduct routine surveillance inspections for vaccine and allergenics manufacturing establishments. Officials said that the additional challenges with resuming foreign inspections, including travel restrictions and the length of time needed for trip planning, make it difficult to estimate when foreign surveillance inspections will resume.

According to FDA officials, vaccine inspections are a high priority for the agency. They said FDA is continuously examining which establishments to prioritize for surveillance inspections as determined by the agency’s risk-based approach. FDA officials said they are shifting resources to address the highest inspection priorities, including vaccine oversight. Further, if FDA determines that a foreign manufacturing establishment becomes a high enough risk—for instance, the establishment has not been inspected in the typical period of time—then the agency may designate that inspection as mission critical and conduct an inspection, according to FDA officials.

Methodology

To conduct this work, we reviewed FDA data on biologic inspections from October 1, 2011 through May 26, 2021 (the most recent data available), from the agency’s Field Accomplishments and Compliance Tracking System. We examined this time frame to provide a wide enough range to capture inspection activities over time. We also reviewed agency guidance and documents, as well as interviews and written responses from FDA officials related to the agency’s biologic oversight activities during the COVID-19 pandemic.

To assess the reliability of the inspection data, we conducted electronic data testing for missing data and outliers, reviewed relevant documentation, and obtained information from knowledgeable agency officials. We found the data sufficiently reliable for our purposes.

Additionally, we interviewed AABB (formerly known as the American Association of Blood Banks), Alliance for Regenerative Medicine, Association for Accessible Medicines, Biotechnology Innovation Organization, Pharmaceutical Research and Manufacturers of America, Pharma & Biopharma Outsourcing Association, and Plasma Protein Therapeutics Association, which represent blood centers and manufacturers of tissue and cell products, generic drugs and biosimilars, drugs and biologics, brand-name drugs and biologics, contract manufacturers, and plasma manufacturers, respectively, on the effects of the temporary postponement of inspections and FDA’s use of alternative tools.

Agency Comments

We provided the Department of Health and Human Services (HHS) and the Office of Management and Budget (OMB) with a draft of this enclosure. HHS provided technical comments, which we incorporated as appropriate. OMB did not provide comments on this enclosure.

GAO’s Ongoing Work

As FDA’s inspections of manufacturing establishments remain a critical tool to oversee the manufacturing quality of biologics and other drugs, even during the pandemic, we will continue to monitor FDA’s inspection program.

Related GAO Product

Drug Safety: FDA's Future Inspection Plans Need to Address Issues Presented by COVID-19 Backlog. GAO-21-409T. Washington, D.C.: March 4, 2021.

Contact information: Mary Denigan-Macauley, 202-512-7114, deniganmacauleym@gao.gov

Health Insurance Loss

Estimates of employer-sponsored insurance suggest more than 3.1 million non-elderly adults lost their insurance during the COVID-19 pandemic; some losing this insurance were able to obtain an alternative source of coverage, though complete data are not yet available.

Entity involved: The Centers for Medicare & Medicaid Services, within the Department of Health and Human Services

Background

Many Americans receive health insurance through their employer, which is known as employer-sponsored insurance (ESI).[95] COVID-19 and the associated economic downturn likely caused disruptions in ESI for millions of Americans, although estimates of the magnitude of ESI loss vary. For those who lost ESI, there were a number of health coverage alternatives available, including the following options:

- **coverage through a federal or state health insurance exchange established under the Patient Protection and Affordable Care Act**. Through federal and state health insurance exchanges, individuals can compare and select among plans that meet certain federal standards offered by participating private insurers.[96]
- **Medicaid.** Medicaid is a joint federal-state health financing program for certain low-income and medically needy individuals.
- **benefits under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) and COBRA-like provisions for state and local employees**. COBRA provides certain individuals who lose their employer-sponsored health coverage with temporary access to continue it for limited periods of time under certain circumstances.
- **short-term, limited duration insurance.** Short-term, limited duration insurance is a type of health insurance coverage that was primarily designed to fill temporary gaps in coverage and is generally exempt from federal health insurance requirements.
- **other sources of financial support for medical expenses**. Other forms of financial support for medical expenses include health care sharing ministries, which are faith-based organizations that share resources for medical needs among their members but do not have to comply with federal health insurance requirements.

Congress included several provisions in COVID-19 relief laws to support access to health coverage, including for those who have lost ESI. For example, the American Rescue Plan Act of 2021 temporarily increases and expands eligibility for tax subsidies for individuals enrolled in coverage through a health insurance exchange.

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[95]According to data from the U.S. Census Bureau's Current Population Survey Annual Social and Economic Supplement fielded in 2019, 55.4 percent of the civilian, noninstitutionalized population surveyed had ESI at the time of interview.

[96]As of September 2021, 36 states used a federally facilitated exchange and 14 states and the District of Columbia operated their own state-based exchanges.

Overview of Key Issues

ESI loss during the COVID-19-associated economic downturn. Though estimates vary widely, studies suggest millions likely lost their ESI during the COVID-19-associated economic downturn. Estimates of ESI loss range from 3.1 to 3.3 million non-elderly adults, or between 12 and 14.6 million workers and their dependents, depending on the methods used to develop the estimate and the time period and population studied (see table below).[97]

[97]We conducted a literature search to identify studies of ESI loss during the COVID-19 pandemic. The table contains a selection of these studies and does not include all studies of ESI loss identified.

Selected Studies of Employer-Sponsored Insurance (ESI) Loss during the COVID-19-Associated Economic Downturn

Source and date published (month and year)	Title	Time period studied	ESI loss estimate [a]	Methods
Urban Institute and Robert Wood Johnson Foundation (November 2020)	*ACA Offers Protection as the COVID-19 Pandemic Erodes Employer Health Insurance Coverage*	March/April to September 2020	3.1 million non-elderly adults lost ESI	The authors used a nationally representative Internet-based survey designed to assess how the COVID-19 pandemic is affecting nonelderly adults and their families to examine the number of adults who lost ESI between March/April and September 2020.
Employee Benefit Research Institute and the Commonwealth Fund (October 2020)	*How Many Americans Have Lost Jobs with Employer Health Coverage During the Pandemic?*	The start of the COVID-19 pandemic (approximately February 2020) to June 2020	7.7 million workers and 6.9 million dependents, or 14.6 million people total, lost ESI	The authors merged health insurance coverage data with data on unemployment benefit recipients to estimate the number of jobs with ESI coverage that were lost as well as the number of dependents of these workers who potentially lost coverage.
Congressional Budget Office (CBO) (September 2020)	*Federal Subsidies for Health Insurance Coverage for People Under 65: 2020 to 2030*	All of calendar year 2020	3.9 million people under 65 would lose a job with ESI in the year 2020 (projection)	The authors used CBO's health insurance simulation model. The model includes the most recent administrative and survey data on enrollment and premiums; recently enacted legislation, judicial decisions, or changes in regulations; and CBO's most recent macroeconomic forecast.
Urban Institute and Robert Wood Johnson Foundation (September 2020)	*As the COVID-19 Recession Extended Into the Summer of 2020, More Than 3 Million Adults Lost Employer-Sponsored Health Insurance Coverage and 2 Million Became Uninsured*	April/May to mid-July 2020	3.3 million non-elderly adults lost ESI	The authors used the U.S. Census Bureau's Household Pulse Survey to assess how health coverage changed among adults ages 18 to 64 between April/May and mid-July 2020.
The Economic Policy Institute (August 2020)	*Health Insurance and the COVID-19 Shock*	February to July 2020	6.2 million workers and 12 million people lost ESI	The authors merged data on net employment changes from the Bureau of Labor Statistics with estimates of ESI coverage by industry from the U.S. Census Bureau to generate estimates of access to ESI, based on industry employment changes.

Source and date published (month and year)	Title	Time period studied	ESI loss estimate [a]	Methods
Urban Institute and Robert Wood Johnson Foundation (July 2020)	*Changes in Health Insurance Coverage Due to the COVID-19 Recession: Preliminary Estimates Using Microsimulation*	April 2020 to December 2020	10.1 million people would lose ESI (projection)	The authors used their health insurance microsimulation model, which incorporated data on employment losses by industry and other characteristics published by the U.S. Department of Labor to project loss of ESI following loss of employment in the last three quarters of 2020, from April through December 2020.

Source: GAO summary of selected studies. | GAO-22-105051

Note: We reviewed a number of studies that provided a numerical estimate of ESI loss during the COVID-19-associated time period and selected to report several here that represent a range of data sources and methods for developing an ESI loss estimate, including surveys and simulation models.

[a]These studies vary in population studied. “Non-elderly adults” refers to adults age 18 through 64; “workers” refers to employed people who receive ESI through their job; “dependents” refers to those who receive ESI through another person, such as a spouse or parent.

The Congressional Budget Office estimated that 14.3 million people would lose their jobs in 2020, but not all job losses would result in a loss of ESI.

ESI loss was likely less than originally expected:

- Many people who lost their jobs during the COVID-19 pandemic had never been enrolled in ESI through their jobs. The highest COVID-19-related job loss has been seen in small companies and lower-wage industries less likely to offer health insurance, such as retail and food service.
- Many individuals were able to retain their ESI while furloughed as the pandemic continued through 2020. According to a Bureau of Labor Statistics survey, 42 percent of establishments surveyed paid a portion of health insurance premiums for some or all furloughed employees while they were not working in calendar year 2020.[98]
- Some job loss and any associated ESI loss may have been temporary. According to a Bureau of Labor Statistics survey, of the 13.5 million who reported not working in June 2020, 10.6 million (or 79 percent) expected to be recalled to work at some point.[99]

It is not yet clear how the COVID-19 pandemic has more recently affected ESI in 2021. A September 2021 study used data from U.S. Census Bureau surveys to estimate that nearly 3 million people lost ESI in 2020. However, based on its review of health care administrative data, the study

[98]See U.S. Department of Labor, Bureau of Labor Statistics, *Business Response Survey to the Coronavirus Pandemic,* (Washington, D.C.: Dec. 7, 2020).

[99]See U.S. Department of Labor, Bureau of Labor Statistics, *The Employment Situation—June 2020,* (Washington, D.C.: July 2, 2020).

estimated that many of the people who lost ESI and became uninsured during the spring and summer of 2020 may have eventually found an alternative source of coverage, particularly Medicaid, later in 2020 or in early 2021.[100]

Another recent study, a Commonwealth Fund survey fielded March through June 2021, found that 6 percent of working-age adults reported that they lost ESI because of a job loss during the COVID-19-associated time period; of those, 67 percent of those who reported losing ESI reported gaining other coverage.[101] Of those who lost ESI and gained other coverage, 20 percent reported they became insured through another ESI plan, 20 percent reported that they elected COBRA, 16 percent reported they gained Medicaid coverage, and 9 percent reported they gained coverage through an exchange plan.[102] Additional and updated estimates of the effect of the COVID-19-associated economic downturn on ESI may become available as new data from household surveys are released in late 2021 and 2022.

Health coverage alternatives for those losing ESI during the pandemic. Some of those losing ESI during the COVID-19 pandemic were able to obtain coverage through a health insurance exchange or Medicaid. Enrollment in other options, such as COBRA, may have also increased, but comprehensive data are not available.

Exchange coverage. Enrollment in exchange coverage increased during the COVID-19 pandemic, both during annual open enrollment periods available to all consumers and special enrollment periods available under certain circumstances.[103]

Plan selections during open enrollment in federal and state exchanges was at its highest level since 2017 during the 2021 open enrollment period, which occurred during the COVID-19 pandemic. (See figure.) The Centers for Medicare & Medicaid Services (CMS) data show that there were about 600,000 (about 5.2 percent) more plan selections during the 2021 open enrollment period than during the 2020 open enrollment period, which occurred before the COVID-19 pandemic.

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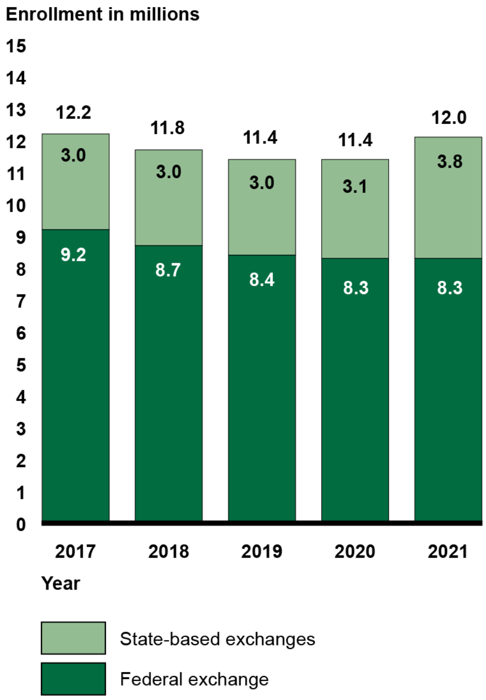
[100] M. Kate Bundorf, Sumedha Gupta, Christine Kim, *Trends in US Health Insurance Coverage During the COVID-19 Pandemic* (September 2021).

[101] Sara R. Collins, Gabriella N. Aboulafia, and Munira Z. Gunja, *As the Pandemic Eases, What is the State of Health Care Coverage and Affordability in the U.S.? Findings from the Commonwealth Fund Health Care Coverage and Covid-19 Survey, March-June 2021,* (July 2021).

[102] The remaining respondents reported gaining coverage through Medicare or an unspecified source.

[103] Open enrollment periods for the federally-facilitated exchanges are generally held between November 1 and December 15 the year prior to the coverage year. State-based exchanges may use different dates.

Plan Selections during Open Enrollment Periods in Federal and State-Based Exchanges, 2017-2021



Source: Centers for Medicare and Medicaid Services. | GAO-22-105051

Note: Open enrollment periods for the federally facilitated exchanges are generally held between November 1 and December 15 the year prior to the coverage year. State-based exchanges may use different dates.

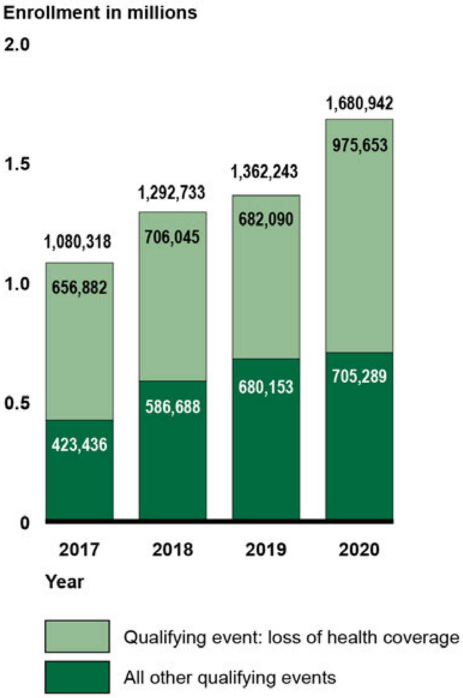
Special enrollment through the federally facilitated exchange was also higher in 2020, during the COVID-19 pandemic, than in any prior year data were collected.[104] Generally, special enrollment periods allow an individual to apply for health coverage after experiencing a qualifying event, such as losing minimum essential health coverage or getting married.

Compared to 2019, more than 300,000 (about 23 percent) more consumers obtained coverage through a special enrollment period in 2020.[105] Most of this increase resulted from consumers who qualified for the special enrollment period because of a loss of health insurance. Specifically, in 2020, there was a 293,563 (43 percent) increase in enrollments using a special enrollment period with loss of health coverage as the qualifying event compared to a 25,136 (3.7 percent) increase in enrollments among those using a special enrollment period who qualified for another reason. (See figure.)

[104]Only data from the federally facilitated exchange are available for coverage years 2017 through 2020.

[105] From April 2020 to July 2020, CMS paused certain requirements for consumers to submit documents verifying their eligibility for a special enrollment period. Officials told us this was intended to reduce consumer burden and ease enrollment in the exchanges during the COVID-19 pandemic.

Federal Exchange Special Enrollment by Qualifying Event, 2017-2020



Source: GAO analysis of Centers for Medicare and Medicaid Services' data. | GAO-22-105051

Note: Generally, a special enrollment period is a period during which an individual who experiences certain qualifying events, such as losing of health coverage or having a child, may enroll in exchange coverage outside of the annual open enrollment period.

Furthermore, on January 28, 2021, the administration announced a new special enrollment period for the federally facilitated exchange in response to the COVID-19 public health emergency, which was available from February 15, 2021, through August 15, 2021. This special enrollment period was open to all individuals and no qualifying event was required to obtain coverage.[106] According to CMS, the new federal special enrollment period in response to COVID-19 was accompanied by an outreach campaign to raise awareness among the uninsured about it and about the availability of financial assistance to pay for premiums for those who qualified.

CMS reported that 2.1 million people obtained coverage through the federal exchange during this special enrollment period, exceeding total special enrollment in each prior coverage year.[107] Reasons for this increase in enrollment may include the availability of the 2021 special enrollment period open to all consumers and its associated outreach campaign, and provisions supporting exchange coverage in COVID-19 relief laws. For example, the American Rescue Plan Act of 2021 expanded eligibility for exchange subsidies to those making above 400 percent of the poverty level

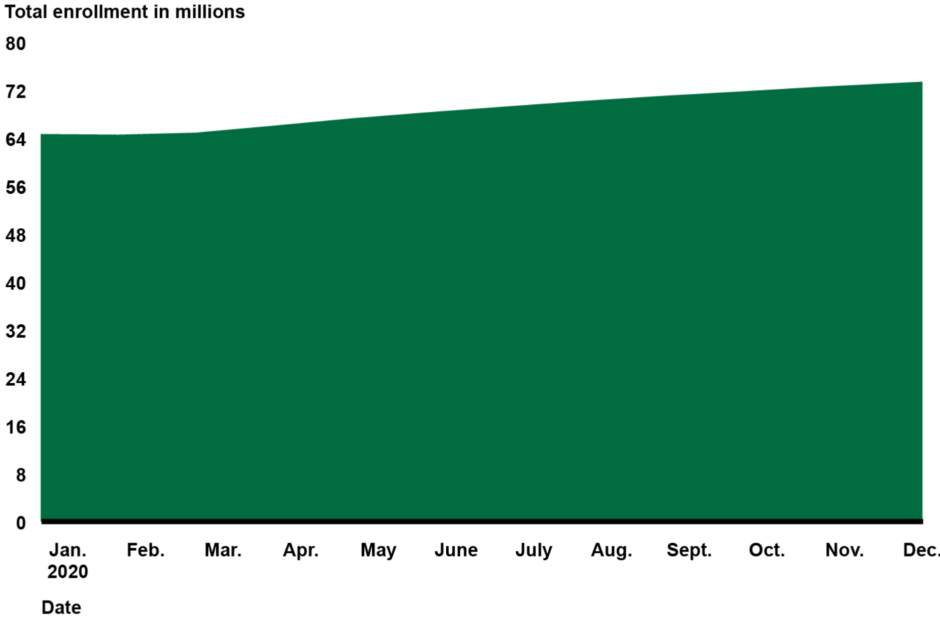
[106] All of the states that operated their own exchanges also opened similar special enrollment periods in response to COVID-19, though timeframes varied.

[107] CMS reported that an additional 738,000 consumers obtained state-based exchange coverage through the end of each state's respective reporting period. Several states have extended their special enrollment periods beyond August 15, 2021. For these states, the number of new plan selections through the special enrollment period reflects data reported as of August 31, 2021.

and also increased subsidies for those making between 100 and 400 percent of the poverty level for 2021 and 2022.

Medicaid. Medicaid enrollment increased 8.7 million, or 13.5 percent, between January 2020 and December 2020, according to data available from CMS. [108] (See figure below)

Medicaid Enrollment from January to December 2020



Source: Centers for Medicare and Medicaid Services. | GAO-22-105051

Note: Enrollment counts presented in this figure generally represent the total unduplicated number of individuals enrolled in comprehensive benefits as of the last day of the reporting period.

Part of the increase in Medicaid enrollment in 2020 may be due to more applications for Medicaid coverage as well as requirements in the Families First Coronavirus Response Act. The federal government matches states' spending for Medicaid services according to a statutory formula known as the Federal Medical Assistance Percentage (FMAP). The Families First Coronavirus Response Act provided a temporary 6.2 percentage point increase in the Medicaid FMAP funding states receive if they meet certain conditions, including providing continuous coverage to Medicaid beneficiaries who were enrolled in Medicaid on or after March 18, 2020, regardless of any changes in circumstances or redeterminations at scheduled renewals that otherwise would result in termination, through the end of the month in which the public health emergency ends.[109]

COBRA. There are no comprehensive data for the time period associated with COVID-19 on the take-up of COBRA. Generally, the employee must elect COBRA coverage within a 60-day election

[108] States and territories administer their Medicaid programs within broad federal rules and according to state plans approved by CMS. States are responsible for determining applicants' eligibility for Medicaid, including redetermining eligibility at regular intervals and disenrolling individuals who are no longer eligible. In assessing eligibility for Medicaid, states must determine whether applicants meet eligibility criteria, such as financial and citizenship requirements.

[109] States may terminate coverage for individuals who request a voluntary termination of eligibility, or who are no longer considered to be residents of the state.

period and must pay the full premium plus an administrative fee, which may be prohibitively expensive. In May 2020, the administration effectively extended the election period within which individuals must elect COBRA until 60 days after the end of the COVID-19 public health emergency. Additionally, for certain qualifying individuals, the American Rescue Plan Act of 2021 included a 100 percent subsidy for COBRA premiums from April through September 2021.

Short-term, limited duration insurance. There are limited data available for the time period associated with COVID-19 on sales of short-term, limited duration insurance plans sold to individuals. While it is prohibited in several states and in some states no insurers choose to offer it, most states had issuers offering short-term, limited duration insurance during 2020.

Other sources of financial support for medical expenses. While other sources of financial support for medical expenses may be available, such as health sharing ministries, there are no comprehensive federal data on general use of these arrangements during the time period associated with COVID-19, or on their use by those who lost ESI.

Methodology

For this work, we conducted a literature search to identify studies of ESI loss during the time period associated with COVID-19. We reviewed a number of studies that provided a numerical estimate of ESI loss during the COVID-19-associated time period and selected to report several that represent a range of data sources and methods for developing an ESI loss estimate, including surveys and simulation models. We reviewed CMS data and reports on enrollment in exchanges from 2017 to 2021 and on enrollment in Medicaid from January 2020 to December 2020. We assessed the reliability of these data using manual checks and discussions with CMS officials and determined they were sufficiently reliable for our purposes. We also reviewed reports about other sources of health coverage, such as COBRA, from government agencies and research organizations for descriptive information about health coverage options.

Agency Comments

We provided the Department of Health and Human Services (HHS) and the Office of Management and Budget (OMB) with a draft of this enclosure. HHS provided technical comments, which we incorporated as appropriate. OMB did not provide us with comments on this enclosure.

GAO's Ongoing Work

GAO will continue to assess the effect of the COVID-19-associated economic downturn on ESI and examine health coverage options.

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HHS COVID-19 Funding

The Department of Health and Human Services was appropriated approximately $484 billion in COVID-19 relief funds. The Department reported that it had obligated about $351 billion and expended about $196 billion of this amount—about 72 percent and 40 percent, respectively—as of August 31, 2021.

Entity involved: The Department of Health and Human Services.

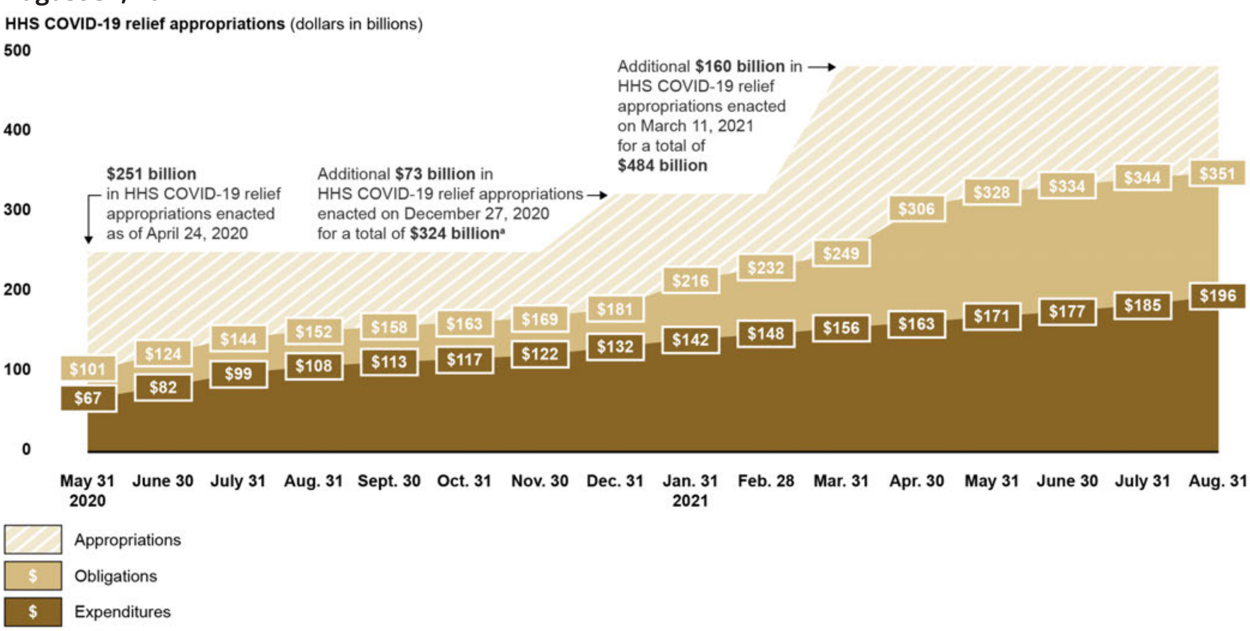
Background

The Department of Health and Human Services (HHS) received approximately $484 billion in COVID-19 relief appropriations from six COVID-19 relief laws enacted as of August 31, 2021. HHS COVID-19 relief funds may be used for a range of purposes, such as assistance to health care or child care providers, testing, therapeutic, or vaccine-related activities, or procurement of critical supplies. Many HHS COVID-19 relief funds are available for a multiyear period or are available until expended.

Overview of Key Issues

As of August 31, 2021, of the approximately $484 billion in COVID-19 relief funds appropriated, HHS reported that it had obligated about $351 billion and expended about $196 billion—about 72 percent and 40 percent, respectively (see figure below).

HHS-Reported COVID-19 Relief Appropriations, Obligations, and Expenditures from COVID-19 Relief Laws, as of August 31, 2021



Source: Department of Health and Human Services (HHS) data. | GAO-22-105051

[a]These amounts reflect appropriations provided in Divisions M and N of the Consolidated Appropriations Act, 2021 that are specifically designated for COVID-19 relief.

The table below shows HHS appropriations, obligations, and expenditures by COVID-19 relief law that HHS reported as of August 31, 2021.

HHS-Reported COVID-19 Relief Appropriations, Obligations, and Expenditures, by Relief Law, as of August 31, 2021

Legislation	Date of enactment	Appropriations ($ in millions)	Obligations ($ in millions (% obligated))	Expenditures ($ in millions (% expended))
Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (Pub. L. No. 116-123)	March 6, 2020	6,497	5,785 (89)	3,655 (56)
Families First Coronavirus Response Act (Pub. L. No. 116-127)	March 18, 2020	1,314	1,307 (99)	1,261 (96)
CARES Act (Pub. L. No. 116-136)[a]	March 27, 2020	142,833	136,091 (95)	119,656 (84)
Paycheck Protection Program and Health Care Enhancement Act (Pub. L. No. 116-139)	April 24, 2020	100,000	58,387 (58)	50,721 (51)
Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260)[b]	December 27, 2020	73,175	57,970 (79)	11,943 (16)
American Rescue Plan Act of 2021 (Pub. L. No. 117-2)	March 11, 2021	160,494	91,210 (57)	8,796 (5)
Total		**484,313**	**350,750 (72)**	**196,032 (40)**

Source: Department of Health and Human Services (HHS) data. | GAO-22-105051

Note: The Department of Health and Human Services (HHS) reported that, of its total appropriations for COVID-19 relief, the agency transferred $289 million to the Department of Homeland Security that is not included in the reported obligations or expenditures, and that $300 million in appropriations are not available until HHS has taken certain actions.

[a]HHS reported that it transferred $289 million from CARES Act appropriations to the Department of Homeland Security and this amount is not included in HHS's reported obligations or expenditures.

[b]This amount reflects appropriations provided in Divisions M and N of the Consolidated Appropriations Act, 2021 that are specifically designated for COVID-19 relief. An additional $638 million in COVID-19 relief funds were appropriated under Division H to the Administration for Children and Families, an agency within HHS, to prevent, prepare for, and respond to the coronavirus, for necessary expenses for grants to carry out a low-income household drinking water and wastewater emergency assistance program. However, these funds were not included in the HHS-reported data on HHS COVID-19 relief appropriations, obligations, and expenditures, as HHS noted that the funds were not considered COVID-19 relief funding for USAspending.gov reporting purposes.

The table below shows allocations, obligations and expenditures of COVID-19 relief appropriations made to HHS under the six relief laws by HHS agency or fund as of August 31, 2021.

HHS-Reported Allocations, Obligations, and Expenditures of COVID-19 Relief Funding, by Agency or Key Fund, as of August 31, 2021

Agency or key fund	Allocations ($ millions)	Obligations ($ millions)	Expenditures ($ millions)
Administration for Children and Families	65,054.0	64,253.2	10,094.8
Administration for Community Living	3,200.0	2,990.6	1,031.5
Agency for Toxic Substances and Disease Registry	12.5	12.5	9.5
Centers for Disease Control and Prevention	27,770.0	18,692.3	4,332.7
Centers for Medicare & Medicaid Services[a]	935.0	138.0	80.3
Enhanced Use of Defense Production Act	10,000.0	2,043.2	33.0
Food and Drug Administration	718.0	145.2	50.1
Health Resources and Services Administration	11,729.8	9,014.3	2,595.3
Indian Health Service	7,980.0	4,425.9	4,208.1
National Institutes of Health	3,977.4	2,259.7	1,230.0
Office of Inspector General	17.0	4.7	3.9
Public Health and Social Services Emergency Fund (PHSSEF)[b]	344,684.7	240,005.1	172,124.6
Office of the Assistant Secretary for Health[c]	*7,206.0*	*5,011.7*	*3,888.0*
Office of the Assistant Secretary for Preparedness and Response[c]	*28,013.1*	*14,375.5*	*8,358.9*
Biomedical Advanced Research and Development Authority[c]	*38,246.8*	*30,694.0*	*13,335.9*
Provider Relief Fund[c, d]	*178,000.0*	*135,652.2*	*132,469.9*
Other PHSSEF[c]	*93,218.8*	*54,271.7*	*14,071.9*
Substance Abuse and Mental Health Services Administration	8,235.0	6,764.9	238.1
Grand Total	**484,313.4**	**350,749.6**	**196,031.9**

Source: Department of Health and Human Services (HHS) data. | GAO-22-105051

Note: For the purpose of this table, the term allocation includes both direct appropriations and transfers between HHS agencies. For example, according to HHS, the agency transferred $860 million to the Administration for Children and Families' Unaccompanied Children Program from National Institutes of Health appropriations provided in the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182, 1913 (2020), citing the Secretary's authorities under that act. HHS reported that of its total appropriation for COVID-19 relief, the agency transferred $289 million to the Department of Homeland Security that is not included in the reported obligations or expenditures, and that $300 million in appropriations are not available until HHS takes certain actions. With respect to the Consolidated Appropriations Act, 2021, the amounts reflect appropriations specifically designated for COVID-19 in Divisions M and N of the act.

[a]These amounts do not reflect Medicaid and Medicare expenditures that resulted from statutory changes to these programs under the COVID-19 relief laws.

[b]PHSSEF is an account through which funding is provided to certain HHS offices, such as the Office of the Assistant Secretary for Preparedness and Response. Amounts have been appropriated to this fund for the COVID-19 response to support certain HHS agencies and response activities. Amounts appropriated to the PHSSEF and transferred to agencies within HHS listed in the table are included in the allocation amounts for the specified receiving agencies. For example, the National Institutes of Health (NIH) received about $1.8 billion in transfers from the PHSSEF and this amount is included in the NIH allocation listed above, and not in the PHSSEF total.

[c]The italicized amounts are subtotals of the PHSSEF and are already reflected in amounts listed for the PHSSEF.

[d]The Provider Relief Fund reimburses eligible health care providers for health care-related expenses or lost revenues that are attributable to COVID-19. Provider Relief Fund expenditures also may be referred to as disbursements.

HHS reported allocations, obligations, and expenditures of appropriations from the six COVID-19 relief laws for a variety of COVID-19 response activity categories (see table). When response activities had spending related to multiple categories, they were only assigned to one. For example, certain funds for testing and vaccine distribution were included in the response activity category for support to states, localities, territories, and tribal organizations rather than in the testing or vaccine activity categories. HHS officials noted that allocations for COVID-19 response activities are determined by appropriations made by Congress in combination with approved spend plan decisions. The timing of obligations and expenditures of allocations for response activities can vary due to a variety of factors, including the timing of the appropriations, and the planned uses of funds. For example, some research programs are planned in phases, which affects the timing of the release of the funds.

HHS-Reported Allocations, Obligations, and Expenditures by Selected COVID-19 Response Activity, as of August 31, 2021

COVID-19 response activity	Description	Allocations ($ in millions)	Obligations ($ in millions)	Expenditures ($ in millions)
Provider Relief Fund[a]	Includes reimbursements to eligible health care providers for health care-related expenses or lost revenues that are attributable to COVID-19.	178,000.0	135,652.2	132,469.9
Testing	Includes procurement and distribution of testing supplies, community-based testing programs, testing in high-risk and underserved populations and Indian Health Services' programs, screening in schools, Centers for Disease Control and Prevention (CDC) testing-related activities such as technical assistance, and other activities.	61,416.3	27,678.2	9,359.5
Child Care and Development Fund[b]	Includes funding for states and other governments for child care subsidies for eligible families and quality improvement activities, sub-grants to child care providers to stabilize the child care market, and payments for child care assistance.	52,465.0	52,441.5	6,985.2
Vaccines	Includes Biomedical Advanced Research and Development Authority (BARDA) funding for vaccine development and procurement; National Institutes of Health (NIH) research activities; and CDC vaccine distribution, administration, and technical assistance related activities.	40,039.9	31,857.1	9,462.7
Support to state, local, territorial, and tribal organizations' preparedness	Includes funding for states and other governments to support testing, contact tracing, and surveillance; vaccine distribution; and other activities.	40,084.3	39,467.6	9,679.9
Strategic National Stockpile	Includes funds for acquiring, storing, and maintaining ventilators, testing supplies, and personal protective equipment (PPE) and increasing manufacturing capacity for certain PPE.	13,919.9	10,439.7	6,987.3
Drugs and therapeutics	Includes BARDA funding for development and procurement of therapeutics and NIH research activities.	11,459.2	7,068.8	4,861.4
Health centers	Includes support for COVID-19-related activities, such as testing, at health centers, which provide health care services to individuals regardless of their ability to pay.	9,620.0	8,533.7	2,358.2
Rural Provider Payments	Includes assistance for rural providers and suppliers that will be administered using the same mechanism as the Provider Relief Fund, with disbursement of funds anticipated to begin	8,500.0	0.0	0.0

COVID-19 response activity	Description	Allocations ($ in millions)	Obligations ($ in millions)	Expenditures ($ in millions)
	in approximately the fourth week of November 2021, according to HHS officials.			
Mental health and substance use–related services	Includes substance abuse prevention and treatment, community-based mental health services, and other activities.	8,315.0	6,777.7	238.1
Diagnostics research and development	Includes BARDA diagnostic development programs and NIH projects, such as the Rapid Acceleration of Diagnostics Initiative.	3,382.1	1,828.1	953.7
Head Start	Includes grants to local programs for high-quality learning experiences and to respond to other immediate and ongoing consequences of COVID-19.	2,000.0	1,966.9	603.3
Testing for uninsured[c]	Includes reimbursements to eligible providers for COVID-19 testing for individuals who are uninsured.	2,000.0	1,998.3	1,973.2
Global disease detection and emergency response	Includes support to governments and other organizations to rapidly diagnose cases and to ensure readiness to implement vaccines and therapeutics.	1,550.0	609.4	195.7
Telehealth	Includes efforts to support safety-net health care providers transitioning to telehealth, telehealth access—especially for vulnerable maternal and child health populations—and a telehealth website.	301.7	152.0	128.9
Other response activities[d]	Includes additional activities such as activities conducted by the Administration for Community Living, certain CDC-wide activities and program support, and activities conducted by the Food and Drug Administration.	51,260.0	24,278.4	9,774.9
Total		**484,313.4**	**350,749.6**	**196,031.9**

Source: Department of Health and Human Services (HHS) data, written HHS responses, and GAO analysis of HHS spend plans. | GAO-22-105051

Notes: The selected response activities represent examples of certain targeted activities that fall within particular HHS agencies, such as funding for health centers or Head Start, as well as broader categories of response activities that may span HHS agencies, such as testing-, vaccine-, and therapeutics-related response activities.
HHS reported allocations, obligations, and expenditures for these activities based on the primary programmatic recipient organization of the funds, although some activities apply to multiple categories. For example, certain funds in the "support to state, local, territorial, and tribal organizations for preparedness" category were provided for testing but are not reflected in the "testing" category. However, HHS also noted that testing-related funding awarded to states or localities that was appropriated under the American Rescue Plan Act of 2021 (ARPA) was included in the "testing" category. HHS officials explained that the activity names align with how funds were appropriated under different COVID-19 relief laws.
According to HHS officials, the allocations reported for the key activities above are based on amounts appropriated for these activities in the COVID-19 relief laws, HHS transfers of funds, and approved spend plan decisions made by HHS in coordination with the Office of Management and Budget. According to HHS, the agency used about $1.7 billion in appropriations provided under ARPA, including $1.2 billion appropriated for COVID-19 testing, contact tracing, and mitigation activities, for the

Administration for Children and Families' Unaccompanied Children Program, citing the Secretary's authorities under the Public Health Service Act and the Consolidated Appropriations Act, 2021. See Pub. L. No. 116-260, div. H, tit. II, § 204, 134 Stat. 1182, 1589 (2020); 42 U.S.C. 238j(a). With respect to the Consolidated Appropriations Act, 2021, the amounts reflect appropriations specifically designated for COVID-19 in Divisions M and N of the act. HHS reported that, of its total appropriation for COVID-19 relief, the agency transferred $289 million to the Department of Homeland Security that is not included in the reported obligations or expenditures.

[a]For additional information about Provider Relief Fund allocations and disbursements, see the Relief for Health Care Providers enclosure.

[b]The Child Care and Development Fund is made up of two funding streams: mandatory and matching funding authorized under section 418 of the Social Security Act, and discretionary funding authorized under the Child Care and Development Block Grant Act of 1990, as amended. See 42 U.S.C. §§ 618 and 9858m.

[c]According to HHS officials, HHS has allocated an additional $4.8 billion to the testing for the uninsured program from section 2401 of ARPA, which HHS included in the "testing" response activity category.

[d]According to HHS officials, the agency transferred $860 million from NIH appropriations for research and clinical trials related to long-term studies of COVID-19 and $850 million from the Public Health and Social Services Emergency Fund, Strategic National Stockpile, to the Administration for Children and Families' Unaccompanied Children Program citing authority provided in section 304 of the Consolidated Appropriations Act, 2021 for both transfers. See Pub. L. No. 116-260, div. M, tit. III, § 304, 134 Stat. at 1913, 1916, 1923 (2020).

Methodology

We requested, and HHS provided, data on appropriations, allocations, obligations, and expenditures of COVID-19 relief funds by HHS agency and by selected response activity, as of August 31, 2021. We also reviewed appropriation warrant information provided by the Department of the Treasury as of August 31, 2021. To assess the reliability of the data reported by HHS, we reviewed HHS documentation; Department of the Treasury appropriation warrant information; and other available information on HHS's use of COVID-19 relief funds. We did not independently validate the data provided by HHS. We determined that the HHS-reported data were sufficiently reliable for the purposes of our reporting objective. We also reviewed the six COVID-19 relief laws to assist the response to COVID-19.

Agency Comments

We provided HHS and the Office of Management and Budget (OMB) with a draft of this enclosure. HHS provided technical comments, which we incorporated as appropriate. OMB did not provide comments on this enclosure.

GAO's Ongoing Work

We will continue to examine HHS's use of COVID-19 relief appropriations contained in COVID-19 relief laws.

GAO's Prior Recommendation

The table below presents our recommendation related to HHS COVID-19 funding from a prior quarterly CARES Act report.

Prior GAO Recommendation Related to Department of Health and Human Services (HHS) COVID-19 Funding

Recommendation	Status
To communicate information about and facilitate oversight of the agency's use of COVID-19 relief funds, the Secretary of Health and Human Services should provide projected time frames for the planned spending of COVID-19 relief funds in the Department of Health and Human Services' spend plans submitted to Congress. (July 2021 report).	**Open—not addressed.** HHS partially concurred with the recommendation and stated that the department would aim to incorporate some time frames on planned spending where that information may be available such as time frames for select grants to states. However, HHS stated that the department would not be able to provide specific time frames for all relief funds since the evolving environment requires the department to remain flexible in responding to incoming requests for response activities. As of September 2021, we are awaiting updates from the agency.

Source: GAO. I GAO-22-105051

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Relief for Health Care Providers

As of August 31, 2021, the Department of Health and Human Services had disbursed payments to providers totaling about $132.5 billion (about 74 percent) of the $178 billion appropriated by COVID-19 relief laws to the Provider Relief Fund. Health and Human Services has begun payment integrity efforts but lacks time frames to help ensure that post-payment oversight keeps pace with the distribution of Provider Relief Funds and the agency can expeditiously determine whether payments were appropriately made, used, and recovered as warranted.

Entities involved: Department of Health and Human Services, including its Health Resources and Services Administration

Recommendation for Executive Action

The Administrator of the Health Resources and Services Administration should establish time frames for completing post-payment reviews to promptly address identified risks and identify overpayments made from the Provider Relief Fund, such as payments made in incorrect amounts or payments to ineligible providers.

The Administrator of the Health Resources and Services Administration should finalize procedures and implement post-payment recovery of any Provider Relief Fund overpayments, unused payments, or payments not properly used.

HHS partially concurred with both recommendations. HRSA stated that it has a schedule for reviewing the payment discrepancy types it initially prioritized, and that reviews for the remaining discrepancy types and payment recovery efforts will occur in the future. We maintain that time frames are still needed for implementing recovery efforts.

Background

Relief funds to health care providers have been allocated and disbursed by Health and Human Services (HHS) through the following programs.

Provider Relief Fund. To respond to the pandemic, three of the six COVID-19 relief laws appropriated a total of $178 billion to the Provider Relief Fund (PRF) to reimburse eligible providers for health care-related expenses or lost revenues attributable to COVID-19. Specifically,

- the CARES Act appropriated $100 billion;
- the Paycheck Protection Program and Health Care Enhancement Act appropriated $75 billion; and
- the Consolidated Appropriations Act, 2021, appropriated $3 billion for this purpose.[110]

[110] Pub. L. No. 116-260, div. M, tit. III, 134 Stat. 1182, 1920 (2020); Pub. L. No. 116-139, div. B, tit. I, 134 Stat. 620, 622 (2020); Pub. L. No. 116-136, div. B, tit. VIII, 134 Stat. 281, 563 (2020).

HHS's Health Resources and Services Administration (HRSA) administers payments from the PRF, including allocations to the COVID-19 Uninsured Program and the COVID-19 Coverage Assistance Fund. In addition to the PRF, the American Rescue Plan Act of 2021 appropriated $8.5 billion for payments to eligible rural health care providers for health care related expenses and lost revenues that are attributable to COVID-19.[111]

HRSA's planned oversight for the PRF includes post-payment (1) analysis and reviews to determine whether HRSA made PRF payments to eligible providers in the correct amounts, (2) audits to determine whether PRF funds were used by providers in accordance with laws and agency guidance, and (3) recovery of overpayments, unused payments, and payments not properly used.

Accelerated and Advance Payments. HHS's Centers for Medicare & Medicaid Services (CMS) Accelerated and Advance Payments Program provides loans to active Medicare providers and suppliers. Section 3719 of the CARES Act authorized, due to the COVID-19 pandemic, the expansion of this program, though no new loans have been made since January 2021 as they relate to the COVID-19 pandemic. Of the $107.3 billion in COVID-19 related loans disbursed under the program as of September 7, 2021, $36.3 billion in repayments have been made by providers and suppliers and the current outstanding loan balance for the program is $71.0 billion. The remainder of this enclosure addresses the PRF and other distributions.

Overview of Key Issues

Provider Relief Fund allocations, disbursements, and returned funds. As of August 31, 2021, HHS had allocated $153.9 billion of the $178 billion appropriated to the PRF. Of that $153.9 billion allocated, HHS had disbursed about $132.5 billion, and about $21.5 billion remained to be disbursed. HHS allocated PRF funds, in phases, for general relief to health care providers, relief for seven targeted areas, and "other distributions," including funding for treatment, testing, and vaccine administration, as well as administration of the program. Specifically, the PRF allocations included $72.4 billion for general distributions to health care providers; about $55.8 billion for targeted distributions to certain types of providers and facilities; and $25.8 billion for "other distributions."

Approximately $24.1 billion of additional PRF funds remained unallocated and undisbursed, as of August 31, 2021. On September 10, 2021, HHS announced that $17 billion of the previously unallocated $24.1 billion would be allocated as part of Phase IV general distributions to a broad range of providers who could document COVID-related revenue loss and expenses between July 1, 2020 and March 31, 2021. HRSA opened up the application period for these funds on September 29, 2021, and expects to begin disbursing these funds in December 2021. According to HRSA officials, the remaining unallocated funds are reserved for future contingencies and emerging needs for the Uninsured Program.

See table below for a summary of PRF allocations and disbursements as of August 31, 2021.

[111] Pub. L. No. 117-2, § 9911, 135 Stat. 4, 236-38. According to HHS officials, these funds will be administered using the same mechanism as the PRF.

Provider Relief Fund: Summary of Allocations and Disbursements, as of August 31, 2021

Description	Allocation ($ in billions)	Date of initial disbursement	Disbursement ($ in billions) [a]
General distributions			
Phase I: Medicare	42.816	April 10, 2020	42.282
Phase II: Medicaid and Children's Health Insurance Program (CHIP) providers	3.678	July 3, 2020	3.309
Phase II: dental providers	1.002	July 28, 2020	0.997
Phase II: assisted living facilities[b]	0.405	September 25, 2020	0.380
Phase III: general distribution	24.500	November 14, 2020	17.362
Subtotal of general distributions	***72.401***		***64.330***
Targeted distributions			
Rural health care facilities	10.990	May 6, 2020	10.963
High-impact hospitals[c]	20.685	May 7, 2020	20.668
Skilled nursing facilities	4.785	May 22, 2020	4.781
Indian health care providers	0.520	May 29, 2020	0.510
Safety net hospitals	13.074	June 12, 2020	12.907
Children's hospitals	1.063	August 20, 2020	1.062
Nursing home infection control, quality, and performance	4.650	August 27, 2020	4.496
Subtotal of targeted distributions	***55.767***		***55.387***
Subtotal of general and targeted distributions	***128.168***		***119.717***
Other distributions			
Treatment, testing, and vaccine administration for the uninsured and underinsured[d]	10.000	May 15, 2020	6.193
Vaccine and therapeutic development and procurement activities	14.801	November 25, 2020	6.484

Description	Allocation ($ in billions)	Date of initial disbursement	Disbursement ($ in billions) [a]
Administration	0.980	n/a	0.076
Subtotal other distributions	***25.781***		***12.753***
Unallocated funds[e]	***24.051***	*n/a*	***0.000***
Total Provider Relief Fund	**178.000**		**132.470**

Legend: n/a = not applicable

Source: Summary of Department of Health and Human Services funding data. | GAO-22-105051

[a]Provider Relief Fund disbursements may also be referred to as expenditures.

[b]In March 2021, we reported that assisted living facilities were disbursed funds as part of Phase III. In May 2021, Health Resources and Services Administration (HRSA) officials told us that these funds were disbursed as part of phase II.

[c]High-impact hospitals are hospitals that have a high number of confirmed COVID-19 inpatient admissions.

[d]HRSA covers treatment, testing, and administering the vaccine for the uninsured through its COVID-19 Uninsured Program. In May 2021, HRSA announced that it would cover the cost of administering the vaccine for the underinsured through its COVID-19 Coverage Assistance Fund.

[e]HRSA officials told us that the amount of unallocated funds are available for other Provider Relief Fund allocations. On September 10, 2021, HHS announced that $17 billion of the previously unallocated $24.1 billion would be allocated as part of Phase IV general distributions to a broad range of providers who could document COVID-related revenue loss and expenses. According to HRSA officials, the remaining unallocated funds are reserved for future contingencies and emerging needs. HHS also refers to unallocated funds as reserved funds.

Fund disbursements and returned funds. According to our analysis of information provided by HRSA, as of August 31, 2021, HHS had disbursed about $64.3 billion from general distribution allocations, about $55.4 billion from the targeted allocations, and $12.8 billion for other distributions.[112] As of August 31, 2021, about 431,163 providers have received 674,549 payments made from the PRF.

Examples of disbursements from the PRF illustrate some of the variation in amounts and purposes for which the funds were disbursed:

- Providers enrolled in Medicare—some of which were also enrolled in Medicaid or the Children's Health Insurance Program (CHIP)—received, on average, approximately $150,000 in relief funds under Phase I of the general distributions. The average COVID-19 relief disbursement for providers solely enrolled in Medicaid and CHIP was approximately $58,000, distributed through Phase II of the general distributions, beginning July 3, 2020. HRSA officials noted that providers solely enrolled in Medicaid and CHIP tended to be smaller entities with lower revenue than providers also enrolled in Medicare.
- As of August 31, 2021, approximately $6.2 billion from the PRF had been disbursed for COVID-19 treatment, testing, and vaccine administration of uninsured and underinsured

[112]The disbursement of $64.3 billion represents about 89 percent of allocations of the current general distributions, and $55.4 billion represents about 99 percent of allocations from the targeted distributions.

individuals.[113] In addition to the allocation from the Provider Relief Fund for treatment, testing, and vaccine administration for uninsured individuals, the Families First Coronavirus Response Act and the Paycheck Protection Program and Health Care Enhancement Act each appropriated $1 billion to reimburse providers for the testing of uninsured individuals.[114]

Providers return funds on a regular basis. HRSA officials explained that providers may return funds if they believe

- the original payment calculation sent to them was too high or they expect a reissuance of a different amount from HRSA—possibly a corrected lower amount or a reissuance to a different entity in their health care system—or
- the funds were not needed, and they have no intention of receiving a new amount through a reissued payment.

According to HRSA officials, their system does not have a field for providers to indicate their reasons for returning funds.[115] Further, providers can return funds at any time.

According to HRSA, providers had returned about $8.8 billion from previous disbursements as of August 31, 2021, with about 75 percent ($6.6 billion of $8.8 billion) from general distributions, and about 25 percent ($2.2 billion of $8.8 billion) from targeted distributions.[116] In general, no funds were returned from providers from the "other distributions."[117] When funds are returned, the disbursement totals reported are calculated after deducting the returned funds. Officials explained that the returned funds are not included in the disbursement totals shown in the above table, and are available for subsequent allocations.[118] For example,

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[113]In May 2021, HHS announced that HRSA would also use PRF funds to cover the costs of administering COVID-19 vaccines to underinsured patients through its COVID-19 Coverage Assistance Fund.

[114]Pub. L. No. 116-127, div. A, tit. V, 134 Stat. 178, 182 (2020); Pub. L. No. 116-139, div. B., tit. I, 134 Stat.at 626 (2020). These funds were also administered by HRSA as part of the COVID-19 Uninsured Program. According to HRSA officials, these funds for claims reimbursement have been depleted; therefore, HRSA will continue to reimburse COVID-19 testing claims through the COVID-19 Uninsured Program using other funding sources.

[115]In our March 2021 enclosure, we reported that one large health system headquartered in California returned $771 million in funds from the Medicare, high-impact, skilled nursing, and nursing home infection control distributions. The system's press release noted it was able to return the majority of funds due to actions taken to manage expenses.

[116]According to HRSA, most of the returned funds were linked to payments automatically issued to providers based on HRSA's determination of provider eligibility and payment calculation, rather than on providers' applying for the funds.

[117]Unlike the general and targeted distributions, "other distributions" were not categorized as disbursements to providers. According to HRSA, the funds in "other distributions" were used for Vaccine and therapeutic development and procurement activities; administration; and Treatment, testing, and vaccine administration for the uninsured and underinsured programs. Providers submitted claims—payment requests—to HRSA for the costs of covering the uninsured and underinsured. HRSA officials told us that some recoveries have been made for the Uninsured Program, which includes returned payments from claims submitted for treatment, testing, and administering the vaccine for the uninsured.

[118]The Consolidated Appropriations Act, 2021, provided that not less than 85 percent of PRF funds unobligated as of the date of enactment and funds recovered from providers after the date of enactment shall be for any successor to the Phase 3 General Distribution to reimburse health care providers based on applications that consider financial losses and

- nearly three quarters (about 69 percent, $6.1 billion of $8.8 billion) of all returned funds were returned to HRSA based on Phase I Medicare payments, which were initially disbursed beginning on April 10, 2020; and
- about 14 percent or $1.2 billion of returned funds was returned after being disbursed as part of the targeted allocation for high-impact hospitals—those with a high number of confirmed COVID-19 inpatient admissions—which were initially disbursed beginning on May 7, 2020.

Provider Relief Fund payment integrity. While HRSA has taken actions to initiate PRF oversight, the agency has not established time frames to help ensure that its oversight keeps pace with the distribution of PRF funds and that HRSA expeditiously completes post-payment analysis and reviews, and recovery efforts to ensure that

- relief payments made by HRSA only went to eligible providers in the correct amounts (post-payment analysis and reviews), and
- any overpayments, unused payments, or payments not properly used are recovered as soon as possible (recovery).

Federal internal control standards state that management should design control activities to respond to identified risks and achieve objectives. As part of these standards, management designs specific actions to respond to the program's risks, including the potential for fraud, on a timely basis.[119] These standards also state that management should define objectives, including clearly defining what is to be achieved, and the time frames for achievement. HRSA's risk assessment plan for the PRF, dated September 30, 2020, identifies specific risks associated with disbursing funds to providers for use.

Post-payment review and analysis of relief payments made by HRSA. As of September 2021, HRSA was implementing a post-payment analysis and review process to identify overpayments from the nearly $120 billion in PRF general and targeted distributions—payments that were made in incorrect amounts or to ineligible providers. However, we found that agency documents did not specify time frames for implementing and completing all the remaining post-payment analysis and reviews. Further, in September 2021, agency officials provided documentation of time frames set through the first quarter of calendar year 2022, but officials told us that schedules beyond this date have not been set.

HRSA has developed a post-payment manual that includes procedures for post-payment analysis and reviews, as well as a post-payment matrix for scheduling and tracking the reviews. Officials told us in September 2021 that the draft was finalized and implemented in December 2020, and

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changes in operating expenses attributable to COVID-19 occurring in the third and fourth quarters of 2020 and the first quarter of 2021.

[119] Additionally, the Office of Management and Budget (OMB) Circular No. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, requires executive agencies to evaluate the risks to accomplishing their strategic, operations, reporting, and compliance objectives and provide an annual Statement of Assurance that represents the agency head's informed judgment as to the overall adequacy and effectiveness of the agency's internal controls.

noted that the manual is evolving, with 11 versions documented between December 2020 and August 2021. In the matrix, HRSA has identified 54 types of payment discrepancies for review, and officials told us that they began pilot reviews in October 2020. HRSA officials told us that they define payment discrepancy types by reviewing provider data and PRF payment calculations to identify potential overpayments.[120]

In September 2021, HRSA provided us information that it was continuing to work on reviews and that it had closed post-payment reviews for six of the 54 payment discrepancy types identified. Officials told us that HRSA started with reviews of payment discrepancy types identified as a priority. Furthermore, they told us that some of the discrepancy types may not require review, and others will only be reviewed after the prioritized discrepancy types are closed.

According to HRSA officials, they have begun, but not completed, setting time frames for the remaining reviews. As of September 15, 2021, of the 48 payment discrepancy types remaining (54 total minus six closed), reviews for 19 are currently either underway or scheduled through the first quarter of 2022.[121] According to HRSA and agency documents, time frames for implementing reviews for the other 29 payment discrepancy types have not been specified. HRSA officials stated that due to the interdependencies of the payment discrepancy types, schedules beyond the first quarter of 2022 have not been made to date. However, establishing time frames for all payment discrepancy types, regardless of their interdependencies, will assist the agency in tracking the pace of its completion of reviews and assessing its progress in oversight and recovery efforts.

In addition to reviewing payment discrepancies, HRSA also reported taking action to address circumstances the agency identified in its risk assessment plan, which is currently being updated. In particular, HRSA reported that it was implementing reviews to address certain circumstances the agency identified in its risk assessment plan as having a high risk of occurring, such as:[122]

- **Erroneous payments to providers with multiple taxpayer identification numbers.** HRSA guidance allows provider organizations with multiple taxpayer identification numbers (TINs) to apply for, receive, and transfer PRF payments among both parent and subsidiary organizations for up to 1,200 subsidiary TINs. Such a high volume of TINs could make it difficult for HRSA to calculate and distribute PRF funds appropriately based on TINs.
- **Overpayments to providers with a change in ownership.** HRSA guidance to providers states that for those providers with a change in ownership, the original recipient must use funds for eligible expenses and lost revenues and return unused funds to HHS; the PRF funds do not transfer to the new owner. HRSA guidance states that providers that have not received payments under the PRF due to issues related to change of ownership will be eligible to apply for future PRF payments. However, ensuring the appropriate distribution of funds

[120]HRSA designed payment discrepancy types to identify computation errors and ineligible providers, among other things. For example, discrepancy types include providers with multiple submissions, providers with more than 20 TINs, and providers on the HHS Office of the Inspector General sanctions list.

[121]The post-payment matrix specifies time frames for the 19 payment discrepancy types—two were for fourth quarter 2020, seven for first quarter 2021, one for second quarter 2021, seven for fourth quarter 2021, one for first quarter 2022, and one is ongoing.

[122]HRSA developed an A-123 risk assessment plan to identify and assess PRF risks and developed internal control activities in response to such risks, as of September 30, 2020.

requires actions by HRSA to ensure that funds unused by the original recipient are tracked and returned.

Audit of providers' use of payments. HRSA officials provided us an audit strategy manual dated September 30, 2021, that it says will guide the agency's audits to determine whether providers complied with the requirements for the use of PRF funds, specifically that they used payments to cover only COVID-19 eligible expenses or related revenue losses not reimbursed from other sources in accordance with laws and HRSA guidance.[123]

HRSA officials noted that they would schedule their audits to coincide with the receipt of the first round of provider reports, which were due by September 30, 2021.[124] However, on September 10, 2021, HRSA announced that a 60-day grace period would be applied to the first reporting deadline, potentially delaying the submission of provider reports to as late as November 30, 2021. HRSA will not be able to use provider reports to determine whether funds were used appropriately until provider reports are received.

Recovery of overpayments, unused payments, and payments not properly used. HRSA officials told us that as of August 2021, they were in the process of planning to recover funds where they identify payment discrepancies. At that time, the officials reported that they had completed reviews for two of the 54 payment discrepancy types (representing 125 TINs) identified and recovered about $2.9 million (about 20 percent) of $15.1 million in potential overpayments identified for recovery.[125] For another eight payment discrepancy types (representing 3,048 TINs), agency documentation also identified an additional $356.4 million for recovery, but action to recover those funds had not been taken as of August 2021.[126] For the remaining 44 payment discrepancy types, overpayments have not yet been identified for recovery. In addition, HRSA has not yet identified unused payments or payments not properly used for recovery. In September 2021, HRSA officials told us that to more efficiently recover overpayments, they are planning to offset or reduce future PRF payments to be made at the end of 2021 by identified overpayment amounts, rather than incurring administrative costs associated with recovering funds directly from providers. However, some providers that received overpayments may not apply for future PRF payments, which could delay recovery of funds. Documenting overpayment amounts and beginning recovery efforts as soon as possible will increase the likelihood of recovering overpayments.

[123]Providers may have received other assistance from several sources, including the Department of the Treasury, the Small Business Administration, the Federal Emergency Management Agency, the Paycheck Protection Program, and local, state, and tribal government assistance sources.

[124]For the first PRF payments disbursed from April 10 to June 30, 2020, providers must use the funds by June 30, 2021, and report on the use of these funds no later than September 30, 2021. According to HRSA officials, the 60-day grace period will be applied to this first reporting deadline, and no compliance action will be initiated against providers who submit reports by November 30, 2021.

[125]According to agency officials, the first payment discrepancy type to be analyzed—renal dialysis providers—was the pilot for the reviews and recovery.

[126]In August 2021, agency officials told us that these are being re-analyzed to account for additional payments made and will go to recovery once the analysis is complete.

Without timely post-payment oversight to help ensure that relief payments are made only to eligible providers in correct amounts, HHS cannot fully address its stated payment integrity risks for the PRF and seek to recover overpayments. Similarly, unused payments or payments not properly used, if not identified through post-payment oversight, are at risk of not being recovered. Setting time frames for completion of these oversight efforts can help the agency achieve its objectives and increase the likelihood of recovering funds.

Methodology

To conduct our work, we examined publicly released HHS information, federal laws and agency guidance, and obtained information from CMS and HRSA in the form of written responses to questions, documents (including payment integrity oversight materials), and a dataset. Our review of the data sources provides reasonable assurance of the data's reliability. The Provider Relief Fund dataset, which includes disbursements as of August 31, 2021, came from HRSA, which is the only available source for the disbursement data. The allocation amounts and categories that were provided by HRSA match publicly available information. CMS provided data on the current status for loans and repayments under the COVID-19 Accelerated and Advance Payments Program, as of September 7, 2021.

Agency Comments

We provided HHS and the Office of Management and Budget (OMB) with a draft of this enclosure. HHS provided written comments, reproduced in Appendix IV and technical comments on this enclosure, which we incorporated as appropriate. OMB did not provide comments on this enclosure.

HHS partially concurred with both recommendations. HRSA stated that it has a schedule for reviewing the payment discrepancy types it initially prioritized, and reviews for the remaining discrepancy types will occur after HRSA completes review of the prioritized discrepancy types. In addition, HRSA stated that recovery of payments not properly used cannot begin until after the provider reporting grace period ends on November 30, 2021, and recovery of unused payments cannot begin until January 1, 2022—another 30 days after the grace period ends. However, we believe that review of reports and recovery could start earlier, since HRSA officials told us in September 2021 that they were already receiving provider reports. Regardless, establishing time frames for completing reviews of all payment discrepancy types and implementing recovery efforts expeditiously will help the agency succeed in recovering overpayments.

GAO's Ongoing Work

As HHS works to distribute funds for COVID-19 relief activities and to eligible providers, it will continue to be important that HHS officials ensure funds are appropriately distributed and used. We plan to conduct additional work examining HHS's COVID-19 relief funds, including payment oversight and funds returned by providers.

GAO's Prior Recommendation

The table below presents our recommendation related to a post-payment review process for the Uninsured Program, funded from the PRF, from a prior quarterly report.

Prior GAO Recommendation Related to Department of Health and Human Services (HHS) Relief to Providers

Recommendation	Status
The Secretary of Health and Human Services should finalize and implement a post-payment review process to validate COVID-19 Uninsured Program claims and to help ensure timely identification of improper payments, including those resulting from potential fraudulent activity, and recovery of overpayments. (March 2021 report)	**Open—partially addressed.** HHS agreed with our recommendation to finalize and implement a post-payment review process. In July 2021, HHS stated it is currently developing the post-payment review audit strategy for the Uninsured Program, which includes detailed protocol and procedures for the assessments of the Uninsured Program to be executed by audit contractors. While the Uninsured Program post-payment review strategy is being developed, HHS has also developed an interim process with standard operating procedures. HHS officials added that all claims determined to have been paid to ineligible providers or providers that in any way did not comply with the program terms and conditions, will be required to return the funds. We will continue to monitor the implementation of this recommendation to ensure that these efforts continue.

Source GAO. I GAO-22-105051

Related GAO Products

Standards for Internal Control in the Federal Government, GAO-14-704G (Washington, D.C.: September 2014)

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Veterans Health Care

Health disparities among the nation's veteran population have been well documented during the pandemic and before. Although addressing these disparities has been a goal of the Department of Veterans Affairs' Veterans Health Administration for almost a decade, the agency continues to lack performance measures to evaluate its efforts, which we previously recommended it develop and with which the Department of Veterans Affairs agreed.

Entity involved: The Veterans Health Administration within the Department of Veterans Affairs

Background

The Veterans Health Administration provides care to a diverse veteran population. The Department of Veterans Affairs' (VA) Veterans Health Administration (VHA) operates the nation's largest integrated health care system with 171 VA medical centers and 1,112 community-based outpatient clinics across the country. VHA provides health care nationwide to a diverse population of enrolled veterans, including women, Black, American Indian or Alaska Native, Asian, Native Hawaiian or Other Pacific Islander, and Hispanic or Latino people. According to fiscal year 2017 data, the latest available data, females comprised about 9 percent of the 18.3 million total veteran population. Additionally, Black, American Indian or Alaska Native, Asian, Native Hawaiian or Other Pacific Islander, and Hispanic or Latino veterans comprised about 23 percent of the total veteran population and 35 percent of the total female veteran population.[127]

As the veteran population becomes increasingly more diverse, VHA has recognized the importance of ensuring health equity. According to VHA, "health equity is the attainment of the highest level of health for all people, and achieving health equity requires valuing everyone equally with focused and ongoing societal efforts to address avoidable inequalities, historical and contemporary injustices and the elimination of health and health care inequities." However, VHA has identified racial and ethnic disparities in its health care outcomes, mirroring trends seen across the U.S. in public and private health care systems.[128] For example:

- In 2020, VHA reported sex-based disparities in some areas, such as immunization rates where women veterans older than 65 had a 10 percent lower pneumococcal immunization rate than men.[129]
- In 2019, VHA reported evidence of disparities in health care outcomes within VA medical centers in the form of lower survival rates for Black veterans with cancer and cardiovascular-

[127]Less is known about the number of lesbian, gay, bisexual, and transgender (LGBT) veterans. For example, population estimates for LGBT veterans are more than a decade old in some cases and based on non-VA data, such as a 2004 estimate using U.S. Census data that roughly one million veterans identified as lesbian or gay and a 2014 estimate that more than 130,000 veterans identified as transgender.

[128]According to VHA, a health disparity is a particular type of health difference that is closely linked with social or economic disadvantage. Health disparities adversely affect groups of people who have systematically experienced greater social and/or economic obstacles to health and/or a clean environment based on racial or ethnic groups; gender; age; geographic location; religion; socio-economic status; sexual orientation; mental health; military era; or cognitive, sensory, or physical disability.

[129]Veterans Health Administration, *VHA Clinical Performance Measures Gender Disparity Update – FY 20 thru 2nd Quarter* (Washington, D.C.: 2020).

related illnesses compared with veterans from other racial and ethnic groups and White veterans.[130]

- In 2021, VHA reported that from 2013-2018, female lesbian, gay, and bisexual veterans faced depressive and anxiety symptoms at double the rate of heterosexual female veterans.[131]
- In 2011, VHA found outcomes for controlling blood pressure, blood glucose, and cholesterol levels were significantly worse for Black veterans than they were for White veterans.[132]

In 2012, VHA established its Office of Health Equity (OHE) to identify and address health care outcome disparities and to develop an action plan to help achieve health equity. OHE is responsible for several efforts, including providing education, training, research, communications and information; promoting common awareness about health care disparities and working to improve health care outcomes; and serving as a liaison to support other governmental and non-governmental organizations working to achieve health equity.

Overview of Key Issues

VHA data show health disparities among minority veterans for some but not all COVID-19 indicators, including health care services provided virtually during the pandemic. Although there are issues with the completeness of data on race and ethnicity, VHA has found that health disparities exist.[133] For example, interviews with VHA officials and a review of agency studies based on varying time frames throughout the pandemic, show that minority veterans, such as Blacks and Hispanic or Latinos, experienced health disparities among COVID-19 cases, hospitalizations, and death rates earlier in the pandemic, but there were improvements seen over time in cases and death rates.[134] According to VHA officials, COVID-19 pandemic conditions are constantly evolving and VHA observes the data regularly to identify any patterns of concern.

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[130] See M. S. Wong et al., "Racial/Ethnic Disparities in Mortality Across the Veterans Health Administration." *Health Equity* 3, no. 1 (2019): 99, 103, 104. Overall, the study found fewer disparities in the VHA health system than in the general population.

[131] See J. McGirr, K. Jones, and E. Moy, *Chartbook on the Health of Lesbian, Gay, & Bisexual Veterans*, 2021, Office of Health Equity, Veterans Health Administration, U.S. Department of Veterans Affairs (Washington, D.C.).

[132] See A. Trivedi et al., "Despite Improved Quality of Care in the Veterans Affairs Health System, Racial Disparity Persists for Important Clinical Outcomes," *Health Affairs* 30, no. 4 (2011): 707, 712, 713.

[133] We have previously identified data quality issues regarding the completeness and accuracy of race and ethnicity data in VHA's electronic health record, which is similarly seen in COVID-19 data for the general population reported to the Department of Health and Human Services.

[134] VHA studies and internal analyses included for the purposes of this analysis reflect data beginning in February 2020 and through February 2021. For the purposes of this review, minority refers to those who are non-White, such as Blacks and Hispanics or Latinos. Study authors acknowledge limitations in interpreting outcomes for minority groups and sex-based analyses due to the small numbers of these groups represented in the study populations. In addition, inclusion in the cited studies of only those veterans who were tested for COVID-19 by a VHA facility may omit minority veterans who were tested or treated outside VHA. While VHA's analyses on health disparities during the COVID-19 pandemic were primarily reported by race, ethnicity, and sex, VHA has completed studies examining other groups, such as veterans with post-traumatic stress disorder (PTSD) and homeless veterans. For example, according to a study published by VHA researchers in 2020, veterans suffering from PTSD show a greater use of COVID-19 testing but lower rates of positivity.

Testing. According to a 2020 study conducted by VHA researchers based on data from February through July 2020, Black veterans were more likely to be tested than Hispanic or Latino veterans and White veterans.[135] A VHA official said there were no observed differences in the levels of COVID-19 testing by sex.

Cases. According to a study completed by VHA researchers in 2021 based on 2020 data, after adjusting for age, sex, and prior diagnoses of COVID-risk factors, veteran groups such as Blacks, Hispanics or Latinos, and American Indian/Alaska Natives had higher odds of testing positive for COVID-19 when compared to White veterans, though those gaps had closed somewhat by the fall of 2020.[136] For example, the odds of Black veterans and Hispanic or Latino veterans testing positive for COVID-19 were 2.32 and 2.24 times higher, respectively, when compared to White veterans during the spring and summer of 2020. By the fall of 2020, rates had declined for all groups, with only American Indian/Alaska Native veterans having substantially higher odds (1.33) of testing positive for COVID-19 than White veterans, suggesting an improvement in this indicator for some minority veterans.[137]

*Hospitalizations***.** VHA examined COVID-19 related hospitalizations among veterans seeking VHA health care in March through May 2020.[138] After adjusting for racial and ethnic differences in age and sex,

- Black veterans were more likely to be hospitalized than White veterans (38 and 26 percent adjusted hospitalization rates, respectively);
- Hispanic or Latino veterans were also more likely to be hospitalized than White veterans (34 and 26 percent adjusted hospitalization rates, respectively).[139]

Conversely, female veterans tended to fare better than their male counterparts. Based on an internal VHA analysis of hospitalization among COVID-19 positive veterans using VHA health care based on 2020 data, after adjusting for sex and differences in age and underlying comorbidities, male veterans had higher odds of hospitalization (about 22 percent) compared to female veterans (about 10 percent). Among COVID-19-positive female veterans, there were no disparities in

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Elevated COVID-19 testing rates among veterans with PTSD may reflect increased COVID-19 health concerns and/or hypervigilance. Lower rates of COVID-19 test positivity among veterans with PTSD may reflect increased social isolation, or overrepresentation in the tested population due to higher overall use of VHA services.

[135]C.T. Rentsch et al., “Patterns of COVID-19 Testing and Mortality by Race and Ethnicity among United States Veterans: A Nationwide Cohort Study,” *PLoS Med* 17(9): e1003379 (2020).

[136]M.S.Wong et al. “Time Trends in Racial/Ethnic Differences in COVID-19 Infection and Mortality,” *Int. J. Environ. Res. Public Health,* 2021, 18, 4848.

[137]According to VHA, the act of receiving a test represents a form of health care access. In addition, the likelihood of testing positive may be more indicative of exposure risk, rather than an indicator of either health care access or equity.

[138]VHA cited the following study as the data source for this analysis: G.N. Ioannou et al. “Risk Factors for Hospitalization, Mechanical Ventilation, or Death Among 10 131 US Veterans With SARS-CoV-2 Infection,” *JAMA Network Open*. 2020; 3(9):e2022310.

[139]According to VHA, this analysis was updated with data through August 5, 2020. The results showed lower hospitalization rates for all groups. Specifically, the age- and sex-adjusted hospitalization rates were 26, 20, and 18 percent for Blacks, Hispanics or Latinos, and White veterans, respectively.

hospitalization rates for Black veterans or for Hispanic or Latino veterans when compared to White veterans.

Deaths. According to a 2021 study by VHA researchers, after adjusting for age, sex, and prior diagnoses of COVID-risk factors, in the spring of 2020, Black veterans had a higher adjusted case fatality rate (12 percent) and other racial and ethnic veteran groups had similar case fatality rates (10–13 percent) when compared to White veterans (10.2 percent).[140] However, adjusted case fatality rates declined from spring to summer of 2020 and were lower for American Indian/Alaska Native veterans (10.7 percent), Asian veterans (10.5 percent) and Hispanic or Latino veterans (7.2 percent), although these groups still had greater case fatality than White veterans (5.7 percent).

The adjusted case fatality rate declined further for all groups from summer to fall of 2020 when compared to White veterans in the same time period. The overall spring-to-fall 2020 decline was greatest for Black veterans; in the fall, Black veterans had a lower adjusted case fatality rate (1.9 percent) compared to White veterans (2.5 percent), whereas other groups (2.4–3.3 percent) were similar to White veterans.

Female veterans experienced lower rates of mortality due to COVID-19 than male veterans. For example, based on an internal VHA analysis of mortality among COVID-19 positive veterans using VHA health care based on 2020 data, after adjusting for sex, differences in age and underlying comorbidities, compared to COVID-19 positive male veterans, female veterans had lower rates of mortality (about 7 and 1 percent, respectively).

Vaccinations received within VHA. Certain minority veterans aged 65 and older were more likely to receive COVID-19 vaccinations than their White counterparts.[141] Specifically, according to VHA, based on an internal analysis of veterans aged 65 or older who received COVID-19 vaccinations through VHA from December 2020 through February 2021, Black, Hispanic or Latino, and Asian veterans were 5, 19, and 39 percent more likely (respectively) than White veterans to have received a COVID-19 vaccination during that time frame.[142] The analysis also found that American Indian/Alaska Native veterans were 18 percent less likely than White veterans to have received a COVID-19 vaccination, but according to VHA, this finding was limited to American Indian/Alaska Native veterans who resided in areas where they could potentially access vaccinations from Indian Health Service facilities. According to VHA, as of September 1, 2021, female veterans were slightly more likely (about 3 percent) than male veterans to receive a COVID-19 vaccination.

Virtual health care. According to a study by VHA researchers, by June 2020, 58 percent of VHA health care was provided virtually (by phone only or video) compared to 14 percent prior to the

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[140] M.S. Wong, "Racial/Ethnic Differences in COVID-19 Infection and Mortality," *Int. J. Environ. Res. Public Health*, 18, 4848. According to the Centers for Disease Control and Prevention, the case fatality rate is the proportion of persons with a particular condition who die from that condition.

[141] According to VHA, capturing vaccination rates depends on those who were seeking care through VHA facilities. VHA officials do not know system-wide who received vaccinations outside of VHA facilities.

[142] According to VHA officials, neither OHE nor the Quality Enhancement Research Initiative Partnered Evaluation Center have conducted COVID-19 vaccination studies of other age groups. The Office of Analytics and Performance Integration in the VHA Office of Quality and Patient Safety, along with Population Health and the Office of Information Technology/ Business Intelligence Service Line, track and report, both internally and publicly, on vaccinations provided by VHA. These reports include gender, race, ethnicity, and age stratifications.

pandemic.[143] Veteran patients with lower incomes, higher levels of service-connected disability, and more chronic conditions were more likely to receive virtual care during the pandemic.

VHA actions to address and prevent disparities. According to VHA officials and relevant agency documents, VHA has used research on the COVID-19 pandemic, as well as other pandemics to inform the various actions it has taken to address and prevent disparities during the COVID-19 pandemic among veterans from different racial and ethnic groups, including the following:[144]

VHA held a focus group to identify accessibility gaps related to the COVID-19 pandemic for veterans of various races and ethnicities.[145] The focus group provided suggestions for VHA such as,

- instilling confidence in getting a COVID-19 vaccine by having veterans and leaders representing different racial and ethnic groups share their stories of receiving the COVID-19 vaccine;
- ensuring information communicated by VHA was factual and dispelled COVID-19 misinformation;
- addressing language barriers by translating communications; and
- communicating information about VHA and non-VHA COVID-19 resources through diverse media outlets.[146]

VHA developed an equity dashboard. Through the dashboard, created in May 2020, VHA generated and shared weekly reports to the Veterans Integrated Service Networks (VISN), which manage and oversee VA medical facilities within a defined geographic area. These reports allowed VISN staff to track and map positive COVID-19 test rates by demographic category; identify new community case rates to help direct outreach efforts; and track veteran vaccination rates by sex, race, ethnicity, and rurality.

VHA developed and communicated COVID-19 information to veterans. According to VHA officials, VHA used a number of ways to provide veterans with information about COVID-19 such as texts, weekly newsletters, virtual events, blog posts, videos, podcasts, and through resources found on its website.

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[143] J.M. Ferguson et al.,"Virtual Care Expansion in the Veterans Health Administration during the COVID-19 Pandemic: Clinical Services and Patient Characteristics Associated with Utilization," *Journal of the American Medical Informatics Association*, 28(3), 2021, 453–462. According to VHA, prior to the COVID-19 pandemic, Black and Hispanic or Latino veterans lagged behind White veterans in terms of virtual health care use, suggesting that those gaps have been mitigated during the COVID-19 pandemic.

[144] Health disparities for persons from various racial and ethnic groups were known prior to the pandemic; however, some of the health disparity gaps became more apparent as the COVID-19 pandemic continued. VHA actions to address and prevent disparities in COVID-19 indicators among veterans from different racial and ethnic groups began in May 2020.

[145] The focus group was conducted in September 2020 and included 10 participants, both male and female, from communities of color such as Black, Hispanic or Latino, American Indian, and Asian American/Pacific Islander.

[146] According to VHA officials, creating trust around the COVID-19 vaccine has proven challenging for VHA, particularly for racial and ethnic groups that have experienced unethical experimentation and behavior from the medical community in the past.

Through these means, VHA addressed topics including concerns about the safety of the COVID-19 vaccine, dispelled COVID-19 vaccine misinformation, and detailed how to access COVID-19 testing and services during the pandemic. For example, to provide information to women and Black veterans, who had concerns about receiving the COVID-19 vaccine, VHA posted blog entries written by Black VHA leaders and disseminated vaccine information though a podcast for women veterans.

VHA also translated many of its communications such as VHA webpages and brochures on COVID-19 vaccine information into Spanish to ensure information was accessible to Hispanic or Latino veterans and their families.

VHA developed a social risks screening tool to be used when veterans make appointments. In May 2020, VA medical center staff began using the tool. According to VHA, the screening tool may help identify the risks of catching COVID-19 that Black and Hispanic or Latino people may experience disproportionately; for example, research shows Black and Hispanic or Latino Americans are more likely to hold jobs that are not amenable to social distancing that would put them at a higher risk for contracting the COVID-19 virus.

To prioritize individuals for COVID-19 testing, screening questions on the tool inquire about a veteran's social risks, such as use of public transportation and living in overcrowded housing, which veterans from some racial and ethnic groups may more likely experience. The screener tool also asks questions on topics such as shopping during the pandemic, COVID-19 prevention strategies, and social interactions. These questions may also be used separately to assess an individual's need for counselling or assistance to minimize COVID-19 exposure.

VHA developed resources for veterans with chronic medical conditions. In March 2021, VHA provided educational material and information on how to access services during the pandemic through brochures posted to its website. For example, a brochure for veterans exposed to airborne hazards and open burn pits during deployment, who are at higher risk for conditions like cancer, chronic kidney disease, and chronic obstructive pulmonary disease, provides information on how to refill prescriptions online and resources for setting up virtual health care appointments.[147]

VHA is expanding virtual care. To better target the expansion of virtual care to veterans from different racial and ethnic groups, VHA officials told us that they held four focus groups and one follow-up interview in June through August of 2021. These focus groups included women veterans, Black veterans, disabled veterans, and LGBT veterans. According to VHA, the focus groups were a way for VHA to learn more about some of the barriers and assistance veterans experienced in seeking or engaging in virtual care and to better understand priorities regarding virtual health care services. VHA officials also told us that they are working with the Navajo Health Foundation to complete a Memorandum of Agreement that will allow American Indian veterans to access VHA virtual care services from Sage Memorial Hospital.[148]

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[147] Additional VHA brochures include resources for Black, Hispanic or Latino, and American Indian or Alaska Native veterans; veterans who are 65 years and older; and pregnant veterans, all of which are persons that may be at greater risk for serious illness from COVID-19.

[148] The Navajo Health Foundation – Sage Memorial Hospital, Inc. is a private, nonprofit corporation. It is the first Native-managed private comprehensive health care system in the country and has been managed since 1978 by an independent, entirely Navajo Board of Directors.

According to VHA officials, VHA has funded evaluation projects in fiscal years 2020 and 2021 that address health equity issues related to virtual care and expect results from these evaluations in fiscal year 2022. These studies broadly examine telehealth use by VHA during the pandemic and range from assessing health disparities in telehealth use, broadband access and telehealth utilization, quality of care, and access to resources bridging the digital divide.

VHA continues to lack performance measures to evaluate its actions to address health disparities, including for the COVID-19 response. OHE lacks performance measures to assess the effectiveness of its various COVID-19 response efforts to address and prevent health disparities among veterans from different racial and ethnic groups. OHE officials told us that they measure the effectiveness of their actions by tracking and analyzing data on a variety of key indicators during the COVID-19 pandemic, such as cases and vaccination rates. VHA officials noted that OHE uses data on key indicators as a way to assess the effectiveness of its various COVID-19 response efforts to address and prevent health disparities among veterans from different racial and ethnic groups. According to OHE, when staff observe changes in the data indicating that disparities are decreasing, this indicates that their actions are working.

Specific and measurable performance indicators for agency actions could help the office more accurately determine if any changes in data related to health disparities can be attributed to agency actions or other external influences. For the COVID-19 pandemic, changes in disparities data during the pandemic could be due to VA efforts or could also be due to factors, such as national, state, local, or other non-VHA response efforts. VHA officials told us that unlike national COVID-19 vaccination rates, within VHA, Black and Hispanic or Latino veterans are vaccinated at higher rates than White veterans. However, as previously noted, Black and Hispanic or Latino veterans, experienced health disparities among COVID-19 cases, hospitalizations, and death rates, and those disparities are also generally observed in the national population.

Our prior work on effectively managing performance shows that performance measures should assess how well the organization is meeting its goals and should be linked directly to offices that have responsibility for the program or activity. For example, as part of its goal to promote better health outcomes for racial and ethnic populations, VHA's OHE is responsible for spreading the use of its COVID-19 equity dashboard among VHA's 18 VISNs. However, OHE has no way of measuring how effective this effort has been in promoting better health outcomes for racial and ethnic populations.[149]

Additionally, OHE's communication plan to promote awareness about health disparities states that it should regularly update OHE website with new information briefs, newsletters, Cyberseminar announcements, and other relevant publications and updates. While OHE has made COVID-19 specific updates to its website and has communicated information on COVID-19 though newsletters and other media outlets, it has no way of determining how successful these actions have been in raising awareness about health disparities during the pandemic.

In December 2019, we found that OHE's Health Equity Action Plan—VHA's action plan to address health equity across the agency—lacked performance measures to assess progress

[149]According to VHA, measuring the effectiveness of a single effort may not be possible when many VHA efforts work together to promote better health outcomes for racial and ethnic populations.

and we recommended that its action plan include such measures. VHA concurred with our recommendation and told us they plan to add performance measures to its Health Equity Action Plan. However, as of the date of this report, the recommendation remains unimplemented. It is important that VHA implement performance measures concerning its actions to address and prevent health dipartites among veterans. Until VHA implements these performance measures, VHA runs the risk of not knowing the effectiveness of its efforts for the COVID-19 pandemic or pandemics or public health emergencies that may occur in the future.

Methodology

To conduct this work, we reviewed VHA studies published in peer-reviewed journals and other internal analyses identified by VHA that examined the presence of disparities in COVID-19 indicators among veterans from different racial and ethnic groups.[150] We also reviewed VHA guidance and documents used to address and respond to health disparities among veterans. In addition, we interviewed and reviewed written responses from officials in VHA's OHE and its Office of Women's Health about identified disparities in COVID-19 indictors among veterans from different racial and ethnic groups, actions to address these disparities, and ways VHA is measuring the effectiveness of its actions.

Agency Comments

We provided VA and the Office of Management and Budget with a draft of this enclosure. VA concurred with our findings and provided technical comments, which we incorporated as appropriate. The Office of Management and Budget did not provide comments on this enclosure.

GAO's Ongoing Work

We will continue to monitor racial and ethnic health disparities during the COVID-19 pandemic, including as they relate to the provision of equitable access to health care.

Related GAO Products

VA Health Care: Better Data Needed to Assess the Health Outcomes of Lesbian, Gay, Bisexual, and Transgender Veterans, GAO-21-69 (Washington, D.C.: October 19, 2020).

VA Health Care: Opportunities Exist for VA to Better Identify and Address Racial and Ethnic Disparities, GAO-20-83 (Washington, D.C.: December 11, 2019).

[150]We have previously identified data quality issues regarding the completeness and accuracy of race and ethnicity data in VHA's electronic health record, which is similarly seen in COVID-19 data for the general population reported to the Department of Health and Human Services. However, for the purposes of this review, we determined that the studies we cite that use the incomplete data are sufficiently reliable for the purpose of discussing the observed health disparities, while acknowledging the incomplete data.

VA Health Care: Improved Monitoring Needed for Effective Oversight of Care for Women Veterans, GAO-17-52 (Washington, D.C.: December 2, 2016).

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HHS Cybersecurity

The U.S. National Institutes of Health has not consistently implemented security controls in its information security program or selected information technology systems that receive, process, and maintain sensitive information, putting confidentiality, integrity, and availability of information at risk. GAO has made numerous recommendations to Department of Health and Human Services component agencies to improve information security. Those component agencies have implemented, or are in the process of implementing, the recommendations.

Entity involved: U.S. National Institutes of Health, within the Department of Health and Human Services

Background

The U.S. National Institutes of Health's (NIH) responsibilities include conducting research on the prevention of infectious diseases (such as COVID-19), administering over $30 billion annually in medical research grants, and supporting research on pathogens, including those that have the potential to pose a severe threat to public health and safety. In carrying out its mission, NIH relies extensively on information technology systems to receive, process, and maintain sensitive data. Accordingly, effective information security controls are essential to ensure the confidentiality, integrity, and availability of the information on the agency's systems.

Overview of Key Issues

During the course of a prior audit we conducted from January 2019 to June 2021, we found that NIH implemented numerous security controls within its information security program and over the 11 systems we reviewed across four NIH entities. These controls included, among other things, taking steps to develop security plans, ensuring that the majority of personnel had basic security awareness training, and developing remedial action plans for correcting deficiencies.

However, the agency had not always effectively implemented other controls—both within its information security program and for the selected systems—to protect the confidentiality, integrity, and availability of these systems and the information maintained on them. Deficiencies existed in some of the controls intended to identify risks, protect systems from threats and vulnerabilities, detect and respond to cybersecurity events, and recover system operations in cases of system disruptions. As a result, NIH was at increased risk that sensitive research and health-related information could be disclosed or disrupted.

In June 2021, we issued a report with limited distribution because of the sensitive information it contained. In that report, we made 219 recommendations to NIH, including:

- 66 to improve NIH's information security program by, among other things, assessing risks, as needed; documenting complete and accurate security controls; assessing controls more comprehensively; and remediating deficiencies in a timely manner; and

- 153 to resolve system control deficiencies by implementing stronger access controls, encrypting sensitive data, configuring devices securely, applying patches in a timely manner, strengthening firewall rules, improving incident response, and implementing monitoring controls more effectively, among other things.

NIH concurred with the recommendations to improve its information security program. Additionally, NIH agreed to implement 148 of the 153 recommendations to resolve system control deficiencies, and disagreed with the remaining five recommendations for various reasons. However, we believe these five recommendations are warranted in order to further improve the security over NIH's systems. The table below shows the number of deficiencies and recommendations for NIH's information security program and system control deficiencies across the core security functions of identify, protect, detect, respond, and recover.

Number of GAO-Identified Information Security Program and System Control Deficiencies at the U.S. National Institutes of Health and Associated Recommendations by Core Security Function

Core security function	Number of information security program deficiencies	Number of information security program recommendations	Number of selected system control deficiencies	Number of selected system control deficiency recommendations
Identify	12	26	0	0
Protect	4	6	78	141
Detect	5	11	5	11
Respond	7	16	1	1
Recover	4	7	0	0
Total	**32**	**66**	**84**	**153**

Source: GAO. | GAO-22-105051

In commenting on our June 2021 report, NIH stated that it had taken corrective actions to address many of the deficiencies identified. We plan to issue a public report that provides the results of our determination of the status of the agency's corrective actions in addressing our recommendations later in 2021 or early in 2022. Until these recommendations are addressed, NIH's systems, and the information maintained in those systems, are at increased risk of unauthorized access.

Methodology

To conduct this work, we selected four entities for review from the agency's 28 institutes, centers, and the director's office. Our selection focused on entities that provide information technology and security for the agency and are essential to NIH's mission. From the four entities, we selected 11 systems for review that, for example, (1) collect, process, and maintain private or potentially sensitive proprietary business, medical, and personally identifiable information; (2) are essential to NIH's mission; (3) could have a catastrophic or severe impact on operations if compromised; and/or (4) share some common infrastructure.

To assess NIH's information security program, we examined security policies, procedures, and other documents; compared selected systems' risk assessments, security plans, security control assessments, remedial action plans, and contingency plans to federal guidance; and interviewed personnel at NIH entities. To assess controls over the 11 selected systems, we reviewed the agency's network infrastructure and assessed the extent to which controls associated with system access, encryption, configuration management, and monitoring met federal guidance and industry best practices.

Agency Comments

We provided NIH, the Department of Health and Human Services, and the Office of Management and Budget with a draft of this enclosure. NIH provided technical comments, which we incorporated as appropriate. The Office of Management and Budget did not provide comments on this enclosure.

GAO’s Ongoing Work

We plan to issue a public report that describes the findings discussed in our June 2021 report, with references to sensitive information removed. In addition, we will report on the status of NIH’s actions to implement our recommendations related to improving its security program and resolving system control deficiencies.

GAO’s Prior Recommendations

The table below presents our recommendation on cybersecurity from the September 2020 CARES Act report.

Prior GAO Recommendation Related to Cybersecurity	
Recommendation	**Status**
To ensure Health and Human Services (HHS) component agencies involved in supporting the critical health care infrastructure and systems responding to COVID-19 are protected from cybersecurity threats, we recommended that HHS expedite the implementation of our prior recommendations to address cybersecurity weaknesses at its component agencies. (September 2020)	Open-partially addressed. HHS concurred with this recommendation. The Food and Drug Administration, Centers for Medicare and Medicaid Services, and Centers for Disease Control and Prevention have implemented an additional 71 cybersecurity recommendations since the September 2020 CARES Act report. This brings the total number of implemented cybersecurity recommendations to 421 (of 434) from September 2020 through July 2021—a 16 percent increase in the number of corrective actions taken to bolster cybersecurity at these agencies.

Source: GAO. I GAO-22-105051

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Worker Safety and Health

The Occupational Safety and Health Administration should conduct an analysis of the challenges it has faced to ensuring worker safety during the pandemic to improve its response to this pandemic and prepare for a future one.

Entity involved: Occupational Safety and Health Administration, within the Department of Labor

Recommendation for Executive Action

The Assistant Secretary of Labor for Occupational Safety and Health should assess—as soon as feasible and, as appropriate, periodically thereafter—various challenges related to resources and to communication and guidance that the Occupational Safety and Health Administration has faced in its response to the COVID-19 pandemic and should take related actions as warranted.

The Department of Labor partially agreed with our recommendation. The Department of Labor stated that it agrees that it is important to assess lessons learned and best practices for the Occupational Safety and Health Administration's operational response to COVID-19. However, Department of Labor officials said they believe that while the pandemic is ongoing, the agency's resources are best used to help employers and workers mitigate exposures to COVID-19. Because it is unclear when the COVID-19 pandemic will end, we maintain that assessing—as soon as feasible—the challenges that the Occupational Safety and Health Administration faced in responding to the pandemic, and taking related actions, would enable the agency to improve its enforcement efforts during this pandemic and help it prepare for operations during any future pandemic.

Background

The Department of Labor's (DOL) Occupational Safety and Health Administration (OSHA) helps ensure safe and healthful conditions for workers by setting mandatory workplace safety and health standards; conducting inspections; investigating complaints and reports of injuries, illnesses, and fatalities at workplaces; and offering training, guidance, and outreach; among other efforts.[151]

OSHA has 10 regional offices and 89 area offices that implement and oversee enforcement in the field.[152] OSHA is responsible for setting and enforcing workplace safety and health standards for the private sector in 29 states, the District of Columbia, and four territories.[153] Twenty-one states

[151]OSHA carries out these activities under the Occupational Safety and Health Act of 1970 (OSH Act), Pub. L. No. 91-596, 84 Stat.1590 (codified as amended at 29 U.S.C. §§ 553, 651-678).

[152]OSHA also has four district offices that are subordinate to an area office.

[153]In five of these states and the U.S. Virgin Islands, the state or territory is responsible for setting and enforcing standards for state and local government employers, under a state plan approved by OSHA.

and Puerto Rico set and enforce their own workplace safety and health standards for private sector and state and local government employers under state plans approved by OSHA.[154]

OSHA has almost 1,900 employees, and its appropriation for fiscal year 2021 was approximately $592 million. OSHA received $105.8 million in additional funding under the CARES Act and the American Rescue Plan Act of 2021.[155]

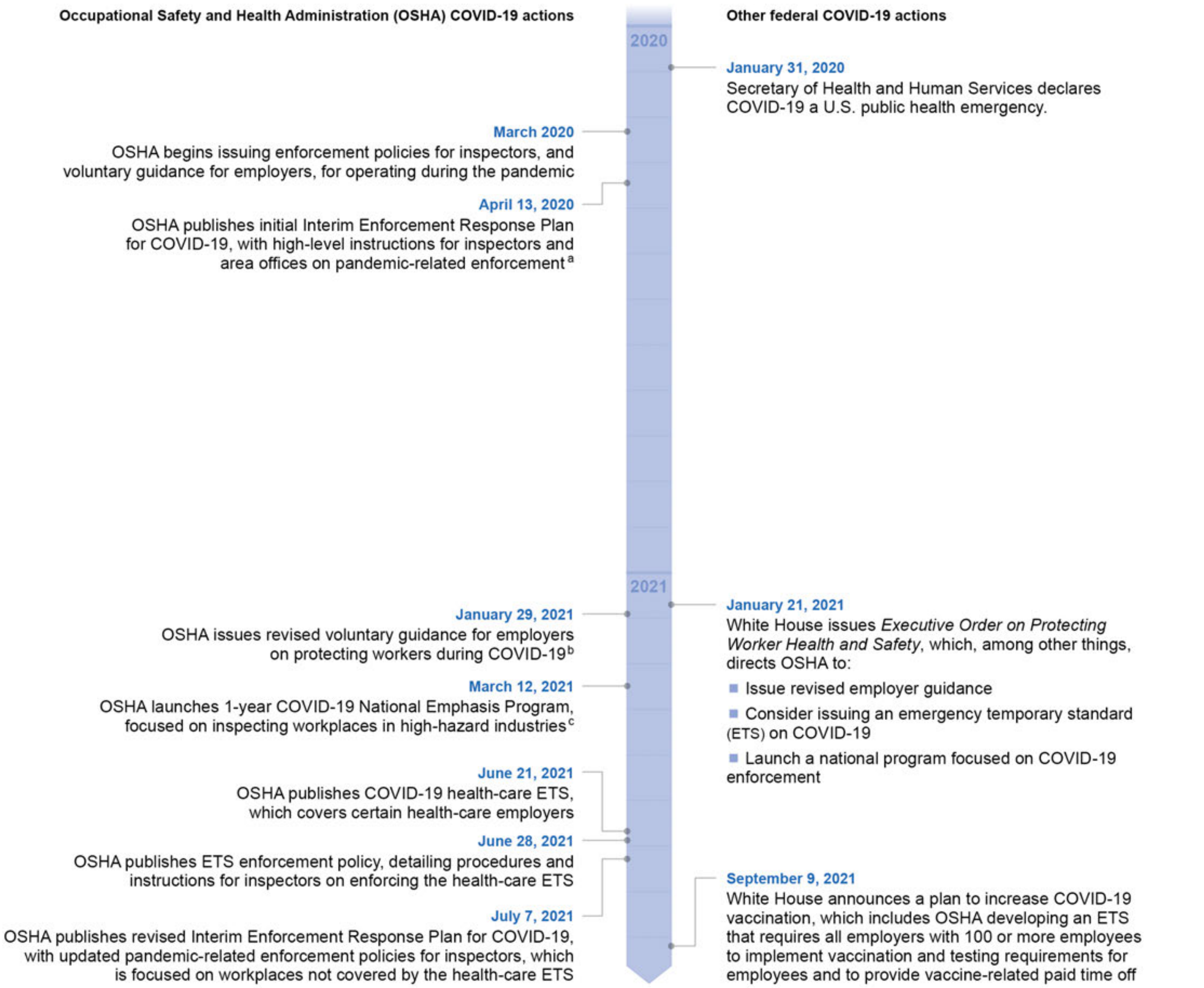
Overview of Key Issues

OSHA conducted enforcement using existing worker safety standards during the pandemic. During the first 15 months of the pandemic, OSHA primarily relied on existing standards and voluntary employer guidance to conduct its enforcement. In March 2021, OSHA started a COVID-19 National Emphasis Program (NEP) to target its inspections on both health-care and non-health-care industries with high risk of worker exposure to COVID-19. In June 2021, OSHA issued an emergency temporary standard (ETS) related to COVID-19 exposure for the health-care industry. See figure for a summary of key OSHA actions during the COVID-19 pandemic.

[154] State standards and their enforcement must be at least as effective as the federal standards in protecting workers and in preventing work-related injuries, illnesses, and fatalities. Federal agencies are generally responsible for maintaining their own occupational safety and health programs, consistent with OSHA's regulations.

[155] The CARES Act appropriated $15 million to DOL for "Departmental Management," to remain available through September 30, 2022, to prevent, prepare for, and respond to the COVID-19 pandemic, including to enforce worker protection laws and regulations, among other things. Specifically, the CARES Act authorized the Secretary of Labor to transfer the amounts provided under this heading as necessary to OSHA and certain other DOL components, to prevent, prepare for, and respond to COVID-19, including for enforcement, oversight, and coordination activities in those accounts. Pub. L. No. 116-136, div. B, tit. VIII, 134 Stat. 281, 553-554 (2020). DOL officials said the department transferred $5.5 million of this amount to OSHA. As of September 30, 2021, $4.2 million has been obligated and, of that, $3.1 million has been expended, according to OSHA officials. The American Rescue Plan Act of 2021 (ARPA) appropriated $200 million to DOL to remain available until September 30, 2023. Pub. L. No. 117-2, tit. II, sub. B, 135 Stat. 4, 30 (2021). OSHA officials said the department provided $100.3 million of this amount to OSHA. As of September 30, 2021, according to OSHA officials, $35.5 million has been obligated for COVID-19-related activity (including $12.8 million for federal enforcement), of which $15.5 million has been expended (including $11.2 million for federal enforcement).

Timeline of OSHA's Key Actions to Respond to the COVID-19 Pandemic, from January 2020 through September 2021



Source: GAO summary of documentation from OSHA, the Department of Health and Human Services, and the White House. | GAO-22-105051

[a]OSHA published updated versions of its Interim Enforcement Response Plan for COVID-19 on May 19, 2020, March 12, 2021, and July 7, 2021.

[b]OSHA published updates to this employer guidance on June 10, 2021 and August 13, 2021.

[c]OSHA published an update to its COVID-19 National Emphasis Program on July 7, 2021.

OSHA has recorded data related to COVID-19 in the workplace since February 2020. From February 2020 through August 2021, related to COVID-19, OSHA received 16,667 complaints and referrals, 1,678 employer reports of severe injuries or illnesses, 1,225 reports of fatalities, and 3 reports of catastrophes.[156] During the same time period, OSHA conducted 16,820 informal inquiries, 1,621

[156]Complaints refer to reports notifying OSHA of alleged workplace safety or health hazards. Complaints can be made by employees, their representatives, or others. Referrals and employer reports: OSHA uses the term "referrals" to encompass two different report types, (1) reports of work-related severe injuries and illnesses, which employers are

on-site inspections, and 1,190 remote inspections related to COVID-19.[157] As a result of these inspections, OSHA cited 917 violations and issued about $6.4 million in penalties.[158] (See table.)

required to submit to OSHA (which OSHA calls employer-reported referrals); and (2) reports of potential workplace hazards from selected other entities, such as local government agencies or media outlets. In this report, we use “referrals” to describe those reports from selected non-employer sources, and “employer reports” to describe those reports from employers. Employers are required to report all work-related in-patient hospitalizations, amputations, and losses of an eye within 24 hours. 29 C.F.R. § 1904.39(a)(2). Fatalities: Employers are required to report the work-related death of an employee to OSHA within 8 hours. 29 C.F.R. § 1904.39(a)(1). According to OSHA officials, most reports of fatalities come from employers. However, officials noted that they do receive reports of fatalities from other sources, such as the media or emergency medical personnel. In this report we refer to all reported fatalities as “reports of fatalities.” Catastrophes: OSHA’s Field Operations Manual defines a catastrophe as the hospitalization of three or more employees resulting from a work-related incident or exposure. Data throughout this report include enforcement activity performed by OSHA only, and not by state agencies that operate under OSHA-approved state plans.

[157]An informal inquiry is a process conducted in response to a complaint, referral, or employer report of severe injury or illness that does not meet OSHA’s criteria for conducting an inspection. According to OSHA officials, informal inquiries conducted in response to an employer-reported severe injury or illness, such as an in-patient hospitalization or amputation, are called rapid response investigations, and informal inquiries conducted in response to complaints from employees or referrals from entities other than employers are called phone/fax investigations. According to OSHA’s Field Operations Manual, if Area Directors consider employers’ responses to these informal inquiries to be inadequate, they may decide to initiate a related inspection. During the COVID-19 pandemic, OSHA’s pandemic-related enforcement policies have allowed area offices to conduct some inspections remotely, instead of being physically at the workplace. According to OSHA policy, data on remote inspections include only those inspections that were conducted completely off-site.

[158]OSHA assesses financial penalties for violations based on various factors outlined in statute and OSHA policy. For example, after January 15, 2021, violations determined to be serious were subject to penalties of up to $13,653 per violation, and violations determined to be willful or repeated were subject to penalties of up to $136,532 per violation. See 29 C.F.R. § 1903.15(d). Some of these cases are still open and may have been contested or appealed by the employers, which could ultimately result in changes to the violations cited or penalties issued. In addition, under the OSH Act, OSHA has 6 months from the occurrence of a violation to issue a citation and any related penalties, so totals for the number of violations cited and penalties issued from March 2021 through August 2021 may not reflect the total that will eventually be cited or issued related to inspections initiated during those months. These data are current as of September 7, 2021.

COVID-19-Related Reports to OSHA and OSHA Enforcement Actions, March 2020 through August 2021

	March-May 2020	June-August 2020	September-November 2020	December 2020-February 2021	March-May 2021[a]	June-August 2021[a]	Total[a]
Reports to OSHA							
Complaints	4,843	3,757	2,579	2,708	1,213	750	**15,850**
Referrals	148	134	77	348	59	37	**803**
Employer reports of severe injury or illness[b]	507	387	222	273	66	223	**1,678**
Reports of fatalities[b]	369	325	117	237	82	95	**1,225**
Reports of catastrophes[b]	2	0	0	1	0	0	**3**
OSHA enforcement actions							
On-site inspections	114	219	150	210	500	427	**1,620**
Remote inspections	338	369	139	264	61	19	**1,190**
Violations cited[c]	225	272	105	210	95	10	**917**
Penalties ($ thousands)[c]	1,616	1,740	731	1,634	634	41	**6,396**

Source: GAO analysis of Occupational Safety and Health Administration (OSHA) Information System data. | GAO-22-105051

Notes: Complaints refer to reports notifying OSHA of alleged workplace safety or health hazards. Complaints can be made by employees, their representatives, or others.
Referrals and employer reports: OSHA uses the term "referrals" to encompass two different report types, (1) reports of work-related severe injuries and illnesses, which employers are required to submit to OSHA (which OSHA calls employer-reported referrals); and (2) reports of potential workplace hazards from selected other entities, such as local government agencies or media outlets. In this report, we use "referrals" to describe those reports from selected non-employer sources, and "employer reports" to describe those reports from employers. Employers are required to report all work-related in-patient hospitalizations, amputations, and losses of an eye within 24 hours. 29 C.F.R. § 1904.39(a)(2).
Fatalities: Employers are required to report the work-related death of an employee to OSHA within 8 hours. 29 C.F.R. § 1904.39(a)(1). According to OSHA officials, most reports of fatalities come from employers. However, officials noted that they do receive reports of fatalities from other sources, such as the media or emergency medical personnel. In this report we refer to all reported fatalities as "reports of fatalities."
Catastrophes: OSHA's Field Operations Manual defines a catastrophe as the hospitalization of three or more employees resulting from a work-related incident or exposure.

During the COVID-19 pandemic, OSHA's pandemic-related enforcement policies have allowed area offices to conduct some inspections remotely, instead of being physically at the workplace. According to OSHA policy, data on remote inspections include only those inspections that were conducted completely off-site. Data in this table include enforcement activity performed by OSHA only, and not by state agencies that operate under OSHA-approved state plans.

[a]Since OSHA has 6 months from the occurrence of a violation to issue a citation and any related penalties, totals for the number of violations cited and penalties issued from March 2021 through August 2021 may not reflect the total that will eventually be cited or issued related to inspections initiated during those months. These data are current as of September 7, 2021.

[b]Data reliability issues regarding COVID-19-related employer reports, specifically reports of hospitalizations, were discussed in an enclosure to our January 2021 CARES Act report and are summarized elsewhere in the current enclosure.

[c]Some of these cases are still open and may have been contested or appealed by the employers, which could ultimately result in changes to the violations cited or penalties issued.

From February 2020 through May 2021, without COVID-19-specific standards in place, OSHA enforced existing applicable standards, such as those related to respiratory protection, and issued general and industry-specific voluntary guidance for employers on COVID-19-related precautions.[159] OSHA also occasionally used the "general duty clause" for enforcement. According to OSHA's Field Operations Manual, if hazards not covered by an OSHA standard are discovered during an inspection, a general duty clause violation may be cited, if certain criteria are met.[160] From February 2020 through August 2021, OSHA cited 20 COVID-19-related general duty clause violations (see table).

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[159]Beginning in March 2020, OSHA issued a variety of COVID-19 voluntary guidance and safety tips for employers, including *Protecting Workers: Guidance on Preparing Workplaces for COVID-19* in March 2020, supplemented with *Guidance on Returning to Work* in June 2020. During 2020, OSHA and the Centers for Disease Control and Prevention issued joint voluntary employer guidance on protecting workers in specific industries, such as farmworkers, manufacturing, meat and poultry processing, and seafood processing. OSHA published *Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplac*e on January 29, 2021, as directed by the President's *Executive Order on Protecting Worker Health and Safety*. According to OSHA officials, this guidance updated the earlier employer guidance, based on knowledge of the current state of the pandemic, and included input from multiple stakeholders on COVID-19 prevention measures and their feasibility. Although the new guidance did not provide new required standards for employers to follow, it reaffirmed that employers have an obligation to protect workers under the OSH Act and that a "general duty clause" violation could otherwise be cited. The new guidance also provided example abatement measures for fulfilling this obligation. OSHA updated this guidance on June 10, 2021, to focus on protecting unvaccinated or otherwise at-risk workers in the workplace. The updated guidance states that most employers no longer need to take steps to protect their fully vaccinated workers who are not otherwise at risk from COVID-19 exposure. The update also recommended steps to encourage workers to get vaccinated, including paid time off for employees to receive their COVID-19 vaccination. OSHA further updated the voluntary employer guidance on August 13, 2021, including to reflect the July 27, 2021 Centers for Disease Control and Prevention mask and testing recommendations for fully vaccinated individuals.

[160]The "general duty clause" requires employers to provide a workplace free from recognized hazards that are causing or are likely to cause death or serious physical harm to their employees. 29 U.S.C. § 654(a)(1). A general duty clause violation may only be cited if all four of the following required elements are identified: (1) the employer failed to keep the workplace free of a hazard to which employees of that employer were exposed; (2) the hazard was recognized; (3) the hazard was causing or was likely to cause death or serious physical harm; and, (4) there was a feasible and useful method to correct the hazard. See OSHA Field Operations Manual, CPL 02-00-164, Ch. 4, Sec. III, A. OSHA, under 29 U.S.C. § 658(c), must issue a citation for a violation, whether it be a violation of the general duty clause or a violation of specific rules or standards, within 6 months of the date the violation occurred.

COVID-19-Related Violations and Penalties, for Most Frequently Cited Standards and the General Duty Clause, from February 2020 through August 2021

	General duty clause[a]	Respiratory protection[b]	Internal employer recordkeeping for fatalities, injuries, and illnesses[c]	Reporting to OSHA fatalities and severe injuries and illnesses[d]	Personal protective equipment[e]	Provision of requested records to government representatives[f]	Hazard communication[g]
Violations cited[h]	20	576	128	101	30	15	15
Penalties ($ thousands)[h]	471	4,900	214	681	70	16	9

Source: Occupational Safety and Health Administration (OSHA) Information System data. | GAO-22-105051

[a]The general duty clause requires employers to provide a workplace free from recognized hazards that are causing or are likely to cause death or serious physical harm to their employees. The general duty clause is a part of the Occupational Safety and Health Act of 1970, as amended, and is distinct from standards, which OSHA promulgates under the OSH Act. The general duty clause is used when no standard applies to a particular hazard. See 29 U.S.C. § 654(a)(1).

[b]29 C.F.R. § 1910.134 generally requires employers to provide respiratory protection to employees when necessary to protect employee health.

[c]29 C.F.R. § 1904.4 generally requires employers to keep an internal record of all work-related fatalities, injuries, and illnesses.

[d]29 C.F.R. § 1904.39 generally requires employers to report to OSHA all work-related in-patient hospitalizations, amputations, and losses of an eye within 24 hours, and all work-related fatalities within 8 hours.

[e]29 C.F.R. § 1910.132 generally requires employers to provide personal protective equipment to employees when necessary, such as for eyes, face, and head.

[f]29 C.F.R. § 1904.40 generally requires employers to provide records to government representatives within 4 business hours of a request.

[g]29 C.F.R. § 1910.1200 generally requires employers to provide employees information concerning chemical hazards.

[h]Some of these cases are still open and may have been contested or appealed by the employers, which could ultimately result in changes to the violations cited or penalties issued. Since OSHA has 6 months from the occurrence of a violation to issue a citation and any related penalties, totals for the number of violations cited and penalties issued may not reflect the total that will eventually be cited or issued. These data are current as of September 7, 2021.

OSHA inspectors faced some challenges applying OSHA requirements to COVID-19 cases. OSHA standards existing prior to OSHA's June 2021 emergency temporary standard (ETS) for certain health-care employers do not contain provisions specifically targeted at the COVID-19 hazard. As a result, it has been difficult for employers and employees to determine what particular COVID-19 safety measures are required, or how existing standards are expected to work when applied to COVID-19. Moreover, according to the preamble to OSHA's health-care ETS, OSHA's efforts to enforce existing standards to address the COVID-19 hazard have been hindered by the absence of any specific requirements in these standards related to some of the most important COVID-19-mitigation measures. OSHA inspectors or managers from three of five area offices we spoke with said that it was difficult to apply existing OSHA standards to COVID-19 cases, for example, because existing standards did not cover certain COVID-19 hazard mitigations, such as wearing a face covering.

In addition, although not unique to COVID-19 inspections, violations of the general duty clause were challenging to cite since such violations require a large amount of documentation to demonstrate that all four elements required to use the clause are present.[161] According to the preamble to OSHA's health-care ETS, the general duty clause does not provide employers with specific requirements to follow or a road map for implementing appropriate COVID-19 abatement measures. In addition, OSHA's burden of proof to establish a general duty clause violation is heavier than a standard violation.

Inspectors from one area office told us that they did not have enough knowledge to determine what should be considered a dangerous level of COVID-19 exposure or risk in order to cite a related violation. Inspectors or managers from four of five area offices we spoke with said it was difficult to apply the general duty clause to COVID-19-related hazards, for example, because it would likely only be cited if an employer was making no effort to use any COVID-19 mitigation strategies.

According to the preamble to OSHA's health-care ETS, in many cases during the pandemic, inspectors found that employers were following some minimal COVID-19 mitigation strategy, while ignoring other crucial components of employee protection.[162] The preamble further notes that, in such instances, because the employer had taken some steps to protect workers, successfully proving a general duty clause citation would have required OSHA to show that additional missing measures would have further materially reduced the COVID-19 hazard.

OSHA's COVID-19 National Emphasis Program (NEP) is focused on high-risk industries and uses data that are incomplete. In March 2021, OSHA initiated a 1-year COVID-19 NEP that aims to ensure that employees in high-risk industries are protected from the hazard of COVID-19.[163] The NEP includes a specific focus to ensure that workers are protected from retaliation.[164]

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[161]We reported in April 2012 that violations of the general duty clause are challenging for OSHA to cite. According to OSHA officials, using the general duty clause requires significant agency resources so it is not always a viable option, for example when OSHA cannot prove an employer knows the hazard exists or when a hazard is just emerging.

[162]The health-care ETS did not provide a specific example of such a minimal mitigation strategy compared to other crucial components of employee protection.

[163]OSHA's National Emphasis Programs provide for programmed inspections of establishments in industries with the potential for high injury or illness rates, and are intended to focus outreach efforts and inspections on specific workplace hazards, according to the agency's Field Operations Manual. In January 2021, President Biden signed Executive Order 13999 on Protecting Worker Health and Safety which, among other things, directed OSHA to initiate the COVID-19 National Emphasis Program (NEP) which identified high-risk industries.

[164]OSHA's National Emphasis Program's anti-retaliation focus includes, among other things, distributing anti-retaliation information during inspections and promptly referring allegations of retaliation to OSHA's Whistleblower Protection Program, under which OSHA enforces protections for employees who file a complaint or otherwise engage in protected activity under the federal laws over which OSHA has jurisdiction. See, e.g., 29 U.S.C. § 660(c)(1). According to Department of Labor (DOL) data on whistleblower reports to OSHA—not including state agencies that operate under OSHA-approved state plans—for the 20-month period from February 2020 through September 2021, the program received 19,800 whistleblower complaints, of which 5,816 were related to COVID-19. The total number of complaints was 29 percent higher than during the prepandemic 20-month period from June 2018 through January 2020, indicating a significant increase in whistleblower complaints during the pandemic. In August 2020, DOL's Office of Inspector General (OIG) recommended that OSHA (1) fill five open whistleblower investigator positions; (2) monitor, evaluate, and consider expanding to all regions a process to expedite screening whistleblower complaints; and (3) develop a caseload management plan to more equitably distribute whistleblower complaints among investigators. According to a February 2021 memorandum from DOL OIG to OSHA, as of February 2021, OSHA (1) had filled the five open investigator

Prior to the NEP, all COVID-19-related inspections were unprogrammed—conducted in response to incoming reports of hazardous working conditions at a specific workplace. In addition to continuing unprogrammed inspections, the NEP includes plans for OSHA to conduct programmed COVID-19 inspections—not in response to any specific report of a hazard—at workplaces where workers have higher risks of exposure to COVID-19. From February through August 2021, OSHA has performed a total of 960 COVID-19 NEP inspections, including 366 programmed and 594 unprogrammed.[165]

To implement the NEP, OSHA created two targeting lists of establishments within the local jurisdiction of each area office from which to select for programmed inspections—the first based solely on industries with a higher risk of exposure to COVID-19 and the second based on those higher-risk industries plus establishment-specific respiratory and other illness rates in 2020.

The first NEP targeting list includes establishments in industries where OSHA conducted the highest number of COVID-19-related enforcement activities from February 2020 through mid-June 2021. This list aims to identify where the highest number of workers are expected to perform tasks associated with exposure to COVID-19.[166] This includes establishments in health-care industries, such as hospitals and assisted living facilities, and non-health-care industries, such as poultry processing and grocery stores.[167]

The second NEP targeting list includes establishments with higher-than-average per capita respiratory and other illness rates, based on employer-reported Form 300A summary injury

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positions, (2) expected to complete monitoring and evaluation of a pilot program to expedite complaints by March 2021, and (3) planned to develop a long-term solution to minimize complaint backlogs by March 2021. As of October 2021, OSHA had not yet implemented the second and third recommendations and did not have a new estimated date for their implementation; OSHA officials said they would work with DOL OIG when they are ready to close out the recommendations. For DOL OIG's report, see DOL, OIG, *COVID-19: OSHA Needs to Improve Its Handling of Whistleblower Complaints During the Pandemic*, Report No. 19-20-010-10-105 (Washington, D.C., August 14, 2020).

[165]Under the NEP, OSHA's goal is to perform approximately 1,600 COVID-19 inspections—or 5 percent of all inspections—during the NEP's 1-year duration. OSHA officials told us that area offices can meet this goal with unprogrammed enforcement activities based on COVID-19-related complaints, employer reports, referrals, fatalities, or catastrophes, or through programmed inspections based on establishment-targeting lists created for the NEP. OSHA officials told us that the balance of programmed versus unprogrammed NEP inspections will vary by area office; this is because area offices in different parts of the country have received different levels of complaints, employer reports, and referrals related to COVID-19—which can result in unprogrammed enforcement activities—and the NEP allows area offices to use their discretion to perform COVID-19 programmed inspections as resources allow.

[166]To create this list, OSHA included establishments from the 11 health-care industries and 11 non-health-care industries with the highest numbers (with no per capita adjustment) of COVID-19-related complaints, fatalities/ catastrophes, employer reports, referrals, inspections, violations, and Hazard Alert Letters (which are to be used when a workplace hazard is serious enough that employers should be notified, though the case does not meet all necessary criteria for a general duty clause violation, and no specific OSHA standard applies). OSHA summed the number of these enforcement activities it performed within industries in the same North American Industry Classification System 6-digit industry code. A July 2021 revision to the NEP eliminated a secondary group of targeted industries—those in critical infrastructure sectors that, at the height of the pandemic, were considered to have elevated risks of exposure, such as critical manufacturing, and transportation and logistics. According to the revised NEP, with the changing COVID-19 environment and the increase in vaccination rate in the general population, the need for a very broad range of targeted industries—to include critical infrastructure sectors—diminished.

[167]See the enclosure on Food Safety Inspections for more information on our review of the U.S. Department of Agriculture's efforts to conduct meat and poultry plant inspections and track inspectors' exposure to COVID-19.

and illness data (or “300A data”).[168] However, as we found in a January 2021 report on summary injury and illness data reporting, these 300A data are incomplete and thus may be of limited effectiveness in developing targeting lists that identify workplaces most in need of COVID-19 inspections. Specifically, we estimated that employers did not submit 300A data for more than half of required establishments for calendar years 2016 through 2018. Further, not all employers with the potential for worker exposure to COVID-19 are required to submit 300A data.[169]

OSHA officials acknowledged that some establishments included in the first targeting list are not required to report 300A data, and thus will not show up in the second targeting list. According to the NEP Directive, area offices may add establishments to the NEP targeting lists, based on their local knowledge, among other things, so they are not limited to establishments selected based on incomplete data. However, because more than half of required establishments may not be reporting 300A data, OSHA’s second targeting list may be missing many establishments with higher rates of respiratory and other illness.[170]

As we found in our January 2021 report, because OSHA is less likely to conduct certain inspections on employers who do not report 300A data, employers have an incentive to avoid reporting these data.[171] Such employers that avoid reporting 300A data may still merit a COVID-19 NEP inspection. In our January 2021 report on summary injury and illness data reporting, we recommended that OSHA evaluate the agency’s procedures for ensuring that employers report their 300A data and make needed changes, and the agency generally agreed with our recommendation. As of September 2021, DOL had not addressed this recommendation.[172] By implementing

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[168]OSHA requires employers to record work-related injuries and illnesses on an ongoing basis using Form 300. At the end of the year, employers must submit a summary of the Form 300 data they recorded using Form 300A. See 29 C.F.R. §§ 1904.4-.29, .41. The second NEP targeting list includes establishments from the first list that, according to the 300A data they reported to OSHA, had elevated per capita respiratory and other illness rates in 2020 compared to their industry. While 300A data do not include specific data on COVID-19 infections, since COVID-19 is a respiratory illness with additional possible symptoms, according to OSHA officials, it is likely that high rates of respiratory and other illness in these targeted establishments are due to COVID-19 illness.

[169]OSHA regulations require two groups of employers to report 300A data: those with establishments in certain industries, such as manufacturing and nursing care facilities, that had between 20 and 249 employees at any point during the previous calendar year; and those with establishments in any industry that had 250 or more employees at any point during the previous calendar year and were required to maintain injury and illness records.

[170]In August 2021, OSHA officials estimated that employers submitted 300A data for 47 percent of required establishments in 2020. They further noted that, although the 300A data do not include more than half of required establishments, since some data were available, it was prudent to use the data to the extent possible. Officials said that they are confident that the selected establishments had substantial challenges with COVID-19 illness rates, based on their submitted 300A data. However, many other establishments that did not report 300A data, and could not be selected for the second targeting list because of this, may have had similar or more substantial challenges with COVID-19. By implementing our January 2021 recommendation, the 300A data could be significantly improved and OSHA would be able to select establishments to devote resources to those most in need of COVID-19 inspections.

[171]In addition to NEP targeting, OSHA uses 300A data to select establishments for Site-Specific Targeting inspections, which are comprehensive inspections that are to examine all potentially hazardous areas of an establishment. Although employers may avoid reporting 300A data to avoid these inspections, employers did not know about the March 2021 NEP when collecting data throughout 2020 to submit as 300A data.

[172]According to OSHA officials, the agency conducted a pilot program in two regions in July and August 2021 to test the feasibility of matching workplaces with newly opened inspections against a list of workplaces that potentially did not report required 300A data, in order to encourage and enforce 300A data compliance at more establishments. As

this recommendation, OSHA could base its targeting on more complete workplace illness data—potentially including twice as many establishments—and thus, better target its COVID-19 NEP inspections.

OSHA issued a COVID-19 emergency temporary standard (ETS) for the health-care industry; a separate infectious disease standard and a vaccination ETS are in process. In June 2021, OSHA issued a COVID-19 ETS for certain health-care employers that treat suspected or confirmed COVID-19 patients, such as hospitals and long-term care facilities.[173] The health-care ETS may be in effect for up to 6 months after publication and may be superseded by a permanent standard. This ETS does not cover employers in other industries, some of which OSHA has identified as at high risk of COVID-19 exposure in its other policies.[174] The health-care ETS requires covered employers to comply with several provisions to protect workers from COVID-19 hazards, including

- developing and implementing a COVID-19 plan and related policies and procedures, and providing related training;
- screening and managing patients and visitors, including contractors, for COVID-19;
- implementing various COVID-19 mitigation measures, such as use of personal protective equipment for employees, physical distancing, physical barriers, cleaning and disinfection, and ventilation;
- providing time and paid leave for COVID-19 vaccination;
- ensuring anti-retaliation principles are upheld related to employee rights under the ETS;

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of September 2021, OSHA was analyzing the results of the pilot. It is not yet clear if OSHA's efforts will substantially improve required reporting.

[173]Under 29 U.S.C. § 655(c), OSHA has the authority to issue an "emergency temporary standard" (ETS) without going through the normal rulemaking process if it determines that "employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards," and that an ETS "is necessary to protect employees from such danger." In our September 2020 enclosure, we reported that the agency had determined that an ETS was not necessary. However, in January 2021, President Biden signed Executive Order 13999 on Protecting Worker Health and Safety, which, among other things, directed the Secretary of Labor to consider whether a COVID-19 ETS was necessary. The COVID-19 health-care ETS went into effect on June 21, 2021, with employer compliance with certain provisions required by July 6, 2021 and others by July 21, 2021. The health-care ETS applies to workplaces where employees provide health-care services or health-care support services, and exempts some health-care facilities, such as non-hospital ambulatory care settings where all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not permitted to enter, and well-defined hospital ambulatory care settings where all employees are fully vaccinated, all non-employees are screened prior to entry, and people with suspected or confirmed COVID-19 are not permitted to enter.

[174]Because a determination of employees being exposed to a "grave danger" is a requirement under 29 U.S.C. § 655(c)(1)(A) for issuing an ETS, OSHA devoted substantial discussion in the health-care ETS to the "grave danger" to health-care employees, citing the "severe health consequences of COVID-19, the high risk to employees of developing the disease as a result of transmission of SARS-CoV-2 in the workplace, and that [health-care] workplace settings provide direct care to known or suspected COVID-19 cases" as the basis for the determination. See 86 Fed. Reg. 32376, 32381-32384 (June 21, 2021). According to OSHA officials, the agency focused the scope of the health-care ETS on the areas of greatest COVID-19 exposure and did not make any legal findings about workers outside healthcare settings because those were not necessary to justify the requirements in the health-care ETS.

- screening and managing employees for COVID-19, including, for example, daily screening and requiring employees to notify the employer of COVID-19 positive tests and symptoms;
- keeping a log of all employee COVID-19 cases, regardless of whether they are work-related; and,
- reporting work-related COVID-19 fatalities and hospitalizations to OSHA, regardless of the amount of time between the exposure to COVID-19 and the fatality or hospitalization.

The health-care ETS allows OSHA to obtain some worker safety data related to COVID-19 from covered health-care employers—which they would not otherwise be required to provide. Specifically, an enclosure to our January 2021 CARES Act report stated that OSHA did not receive employer reports of all work-related hospitalizations related to COVID-19 because disease symptoms do not appear within 24 hours, the required reporting time frame for work-related hospitalizations.[175] We recommended that OSHA determine what additional data may be needed from employers or other sources.

The new reporting requirement in the health-care ETS addresses this challenge for covered health-care employers by requiring them to report to OSHA all work-related COVID-19 fatalities and hospitalizations, regardless of the amount of time between worker exposure to COVID-19 and the death or hospitalization, and takes into consideration our prior recommendation. Thus, we are closing this recommendation. OSHA is not requiring COVID-19-related hospitalization or fatality reports under the adjusted time frames for workplaces where the health-care ETS does not apply.

The health-care ETS also adjusts the existing recordkeeping requirement, to require covered health-care employers to keep an internal log of all COVID-19 cases among their employees, regardless of whether they are determined to be work-related.[176] When conducting inspections, OSHA officials should be able to obtain these logs to better assess workers' COVID-19 exposure and risk, and identify any COVID-19-related violations.

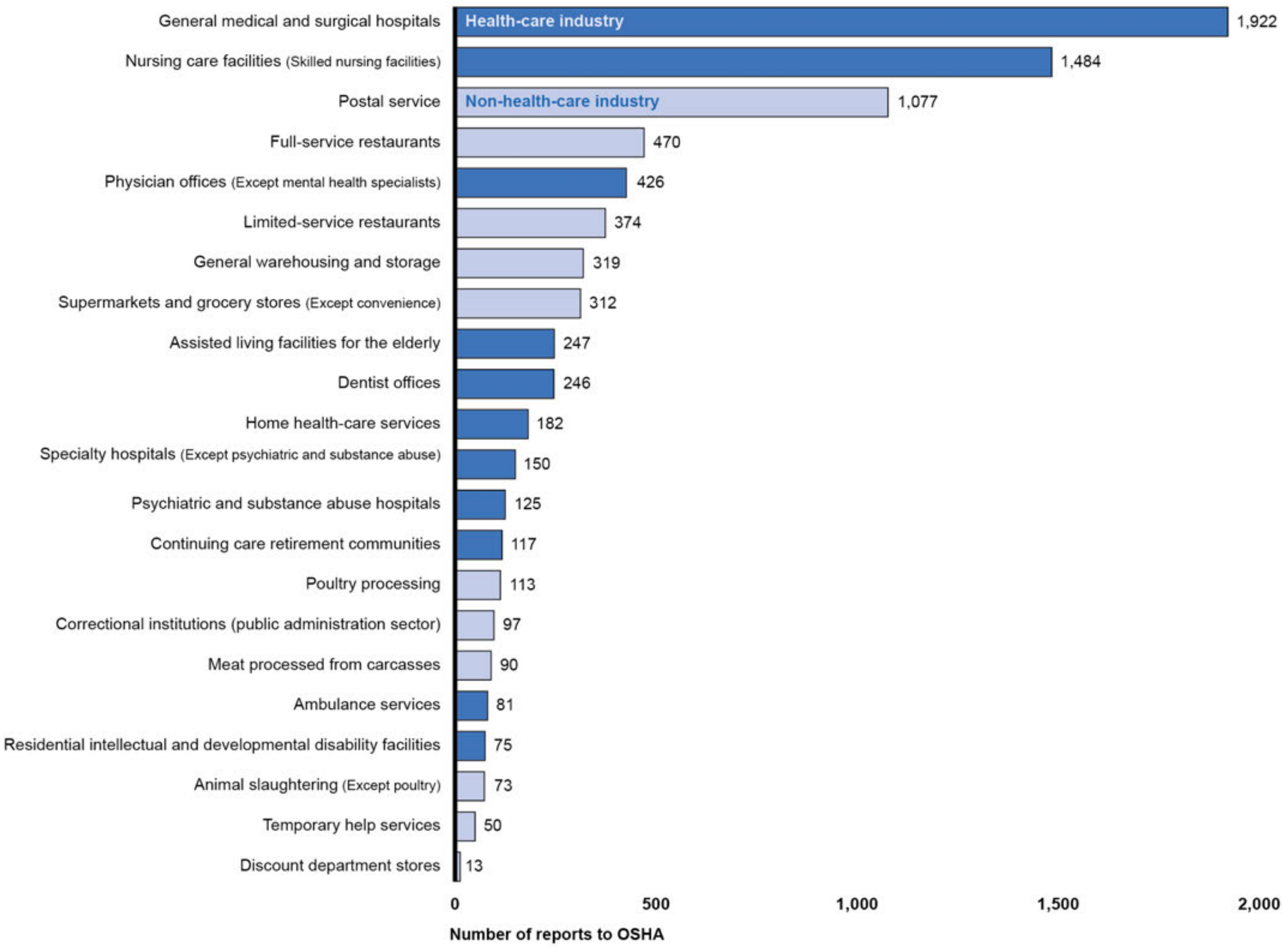
Although the health-care ETS covers only employers in the health-care industry, in its other policies, OSHA has acknowledged the widespread impact of COVID-19 on industries beyond health care. In its March and July 2021 updates to its pandemic-related enforcement policy, OSHA expanded its higher risk designation for COVID-19 exposure from applying only to health-care settings to applying to any workplace that can be crowded or involve a high level of interaction with people, providing poultry processing and correctional facilities, two non-health-care industries, as examples of higher-risk workplaces. Also, as previously discussed, OSHA's COVID-19 NEP is designed to focus on industries where the agency has determined that workers face increased

[175]The existing reporting requirement in 29 C.F.R. § 1904.39 generally requires employers to report all work-related in-patient hospitalizations, amputations, and losses of an eye within 24 hours, and all work-related fatalities within 8 hours. Under 29 C.F.R. § 1904.39, employers are only to report such hospitalizations if they occur within 24 hours of the workplace exposure to COVID-19; however, symptoms of COVID-19 may appear within 2 to 14 days after exposure, far beyond the reporting time frame.

[176]The existing recording requirement in 29 C.F.R. § 1904.4 generally requires employers to keep an internal record of all work-related fatalities, injuries, and illnesses. Determining work-relatedness for those related to COVID-19 is challenging because of the virus's incubation period and the difficulties in tracking the source of exposure.

potential for exposure to COVID-19, and targets both health-care and non-health-care industries (see fig.).

COVID-19-Related Reports to OSHA among Industries Targeted by OSHA's National Emphasis Program, February 2020 through August 2021



Source: GAO analysis of Occupational Safety and Health Administration (OSHA) Information System data. | GAO-22-105051

Notes: Reports to OSHA include the total number of complaints, referrals, employer reports of severe injury or illness, and reports of fatalities or catastrophes.

Complaints refer to reports notifying OSHA of alleged workplace safety or health hazards. Complaints can be made by employees, their representatives, or others.

Referrals and employer reports: OSHA uses the term "referrals" to encompass two different report types, (1) reports of work-related severe injuries and illnesses, which employers are required to submit to OSHA (which OSHA calls employer-reported referrals); and (2) reports of potential workplace hazards from selected other entities, such as local government agencies or media outlets. In this report, we use "referrals" to describe those reports from selected non-employer sources, and "employer reports" to describe those reports from employers. Employers are required to report all work-related in-patient hospitalizations, amputations, and losses of an eye within 24 hours. 29 C.F.R. § 1904.39.

Fatalities: Employers are required to report the work-related death of an employee to OSHA within 8 hours. 29 C.F.R. § 1904.39. According to OSHA officials, most reports of fatalities come from employers. However, officials noted that they do receive reports of fatalities from other sources, such as the media or emergency medical personnel. In this report we refer to all reported fatalities as "reports of fatalities."

Catastrophes: OSHA's Field Operations Manual defines a catastrophe as the hospitalization of three or more employees resulting from a work-related incident or exposure.

OSHA is engaged in rulemaking for the health-care ETS and a separate infectious disease standard, and is developing a vaccination ETS. An ETS may serve as a proposal for a permanent standard, and OSHA must generally take final action on the proposal within 6 months of publication, in the case of the health-care ETS, by December 2021.[177] In September 2021, OSHA officials said they were reviewing the comments they received on the health-care ETS during the public comment period, which ended on August 20, 2021. They further noted that they were reviewing the ongoing need for this ETS every 30 days and had not yet determined whether to extend this ETS beyond 6 months. Officials said they would continue to monitor trends in COVID-19 infections and deaths and would update the health-care ETS, as appropriate, if and when "new information indicates a change in measures necessary to address the grave danger [from the virus]." On June 24, 2021, the AFL-CIO and United Food and Commercial Workers unions petitioned the U.S. Court of Appeals for the D.C. Circuit to review OSHA's decision not to issue an ETS applicable to employees outside the health-care industry who face occupational exposure to COVID-19, including but not limited to employees in the meatpacking and food processing industries.[178]

OSHA is also working on separate rulemaking for an infectious disease standard to protect workers in high-risk environments from long-standing and emerging infectious diseases, with a notice of proposed rulemaking currently projected to be published in December 2021. According to the White House Office of Information and Regulatory Affairs' Spring 2021 regulatory agenda, the rulemaking considers targeting health-care workers and others who are exposed in high-risk environments, potentially covering workplaces such as hospitals, correctional facilities, some laboratories, and other occupational settings where workers can be at increased risk of exposure to infectious people.

On September 9, 2021, the White House announced a plan to increase COVID-19 vaccination. Specifically, OSHA is to develop an ETS that would require all employers with 100 or more employees to implement COVID-19 vaccination and testing requirements for employees and to provide vaccine-related paid time off. In September 2021, OSHA officials said the agency was working expeditiously to develop the vaccination ETS; officials did not provide an estimate for when it would be finalized.

OSHA's updated COVID-19 enforcement policy separates health-care and non-health-care industries and reduces the use of some adapted methods used during the pandemic. In June 2021, soon after issuing the health-care ETS, OSHA published an ETS enforcement policy for inspectors designed to ensure uniform enforcement among ETS-covered health-care employers. For key requirements in the health-care ETS, the ETS enforcement policy provides detailed inspection guidance for what to include in an inspection, for example, determining whether the employer has a designated eating and drinking area with sufficient space to accommodate physical distancing. It also provides citation guidance for key requirements in the health-care ETS, such as specific examples for when a violation may be cited, as well as guidance for inspector safety, among other things.

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[177] 29 U.S.C. § 655(c)(3).

[178] The case is *United Food and Commercial Workers Int'l Union v. OSHA*, No. 21-1143 (D.C. Cir. filed June 24, 2021). On September 15, 2021, the court granted a joint request from the petitioners and OSHA that case proceedings be temporarily suspended because of the September 9, 2021 White House announcement that OSHA would issue a new COVID-19-related ETS, which may affect the claims at issue in the case.

In July 2021, OSHA released its updated pandemic-related enforcement policy, which generally covers non-health-care employers (as health-care employers are covered under the ETS enforcement policy).[179] The updated pandemic-related enforcement policy for non-health-care employers

- focuses enforcement on protections for workers who are unvaccinated or not yet fully vaccinated;
- revises its assessment of workplace risk, as discussed above, to include in its higher risk category any workplace that can be crowded or involve a high level of interaction with people; and
- provides updated guidance to protect OSHA inspectors.

Reflecting a progression toward a return to normal enforcement operations, the July 2021 policy continues to allow use of two of OSHA's COVID-19-adapted enforcement methods that we described in our January 2021 enclosure—(1) remote inspections and (2) informal inquiries in place of inspections—but generally removes citation discretion.[180] The updated pandemic-related enforcement policy states that OSHA will perform on-site COVID-19 inspections, instead of remote inspections, in most cases.[181] According to the policy, citation discretion was intended to be time limited, applied on a case-by-case basis, and related to supply shortages, such as shortages in N95 masks. OSHA is generally ending use of citation discretion in this context based on updated Centers for Disease Control and Prevention and Food and Drug Administration guidance regarding supply availability, according to the policy.

Inspectors or managers from all five area offices we spoke with told us that the use of these adapted enforcement methods during the pandemic varied by factors such as industry, risk of worksite COVID-19 exposure, and severity of reported incidents. For example, according to inspectors at one area office, inspectors for the construction industry transitioned from remote

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[179]The July 2021 pandemic-related enforcement policy replaces previous iterations from April 2020, May 2020, and March 2021.

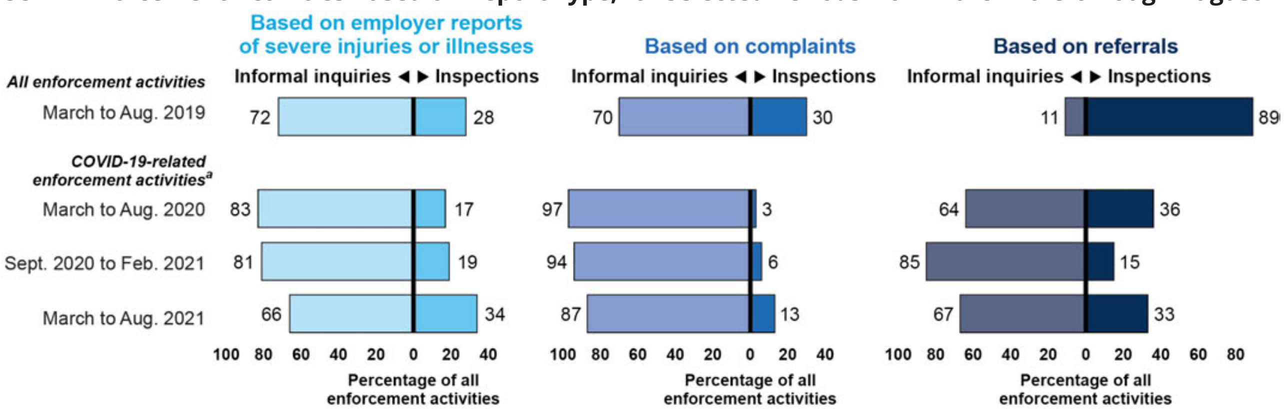
[180]OSHA adapted its enforcement methods in response to the COVID-19 pandemic to include: (1) remote inspections or a combination of remote and on-site inspections, in place of on-site inspections of workplaces; (2) use of informal inquiries in place of inspections; OSHA refers to informal inquiries as phone/fax investigations or rapid response investigations, as inspectors obtain information about an incident from employers by phone, fax, or email; (3) citation discretion (which OSHA refers to as enforcement discretion) to take into account employers' good faith efforts to comply with certain requirements—when they could not do so due to the pandemic—when determining whether to cite violations. This third adapted method generally ended with the July 2021 pandemic-related enforcement policy.

[181]OSHA officials told us that, beginning with the March 2021 policy, on-site inspections are the default, instead of remote inspections being the default as they were at the beginning of the pandemic. The policy states that area offices still have discretion to conduct remote inspections and to conduct informal inquiries in place of inspections to ensure inspector health and safety. The NEP Directive states that remote-only COVID-19 inspections are reserved for limited circumstances and are subject to the Area Director's approval. The July 2021 pandemic-related enforcement policy states that, in most cases, OSHA will perform on-site workplace inspections, while minimizing in-person meetings with employers and employees. For example, OSHA will, when appropriate, use phone and video conferencing, in lieu of face-to-face employee interviews, to reduce potential exposures to inspectors. OSHA will also minimize in-person meetings with employers if necessary, and encourage employers to provide documents and other data electronically to inspectors.

inspections back to onsite inspections earlier than for other industries due to the nature of construction work and the lower risk of COVID-19 at construction sites. According to OSHA guidance, some construction work tasks are classified as low risk activities, as they may be outdoors and may allow for social distancing.

Data from the OSHA Information System (OIS), which the agency uses to track its enforcement activities, indicate that over the course of the pandemic, some COVID-19-adapted enforcement methods have generally declined. In addition, OIS data show that OSHA enforcement activities shifted substantially from inspections to informal inquiries at the start of the pandemic, and that then the proportion of informal inquiries generally declined through August 2021 (see fig.).[182]

OSHA Enforcement Activities Based on Report Type, for Selected Periods from March 2019 through August 2021



Source: GAO analysis of Occupational Safety and Health Administration (OSHA) Information System data. | GAO-22-105051

Notes: Complaints refer to reports notifying OSHA of alleged workplace safety or health hazards. Complaints can be made by employees, their representatives, or others.

Referrals and employer reports: OSHA uses the term "referrals" to encompass two different report types, (1) reports of work-related severe injuries and illnesses, which employers are required to submit to OSHA (which OSHA calls employer-reported referrals); and (2) reports of potential workplace hazards from selected other entities, such as local government agencies or media outlets. In this report, we use "referrals" to describe those reports from selected non-employer sources, and "employer reports" to describe those reports from employers. Employers are required to report all work-related in-patient hospitalizations, amputations, and losses of an eye within 24 hours. 29 C.F.R. § 1904.39.

An informal inquiry is a process conducted in response to a complaint, referral, or employer report of severe injury or illness that does not meet OSHA's criteria for conducting an inspection. According to OSHA officials, informal inquiries conducted in response to an employer-reported severe injury or illness are called rapid response investigations, and informal inquiries conducted in response to complaints from employees or referrals from entities other than employers are called phone/fax investigations.

According to OSHA's Field Operations Manual, if Area Directors consider employers' responses to these informal inquiries to be inadequate, they may decide to initiate a related inspection.

[a]COVID-19-related enforcement activities are a subset of all enforcement activities from March 2020 through August 2021. The related bars represent the percentages of all COVID-19-related enforcement activities that were informal inquiries or inspections.

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[182]OIS documents when informal inquiries were used, but does not identify when they were used in place of inspections. That is, OIS does not specify when COVID-19-related constraints caused an area office to use an informal inquiry, in place of an inspection, to address the complaint, referral, or employer report. Therefore, the precise extent to which OSHA's adapted enforcement methods affected the shifts between inspections and informal inquiries is unclear. An enclosure to our January 2021 CARES Act report recommended that OSHA ensure that OIS include comprehensive information on use of the agency's COVID-19-adapted enforcement methods. This recommendation remains open and an update is provided below.

Area offices faced enforcement challenges during the COVID-19 pandemic, but OSHA has not assessed lessons learned or promising practices. Officials we interviewed in OSHA area offices reported facing operational challenges in enforcement throughout the COVID-19 pandemic. However, OSHA has not yet assessed these challenges to improve its response during the current pandemic and prepare for any future pandemic.[183] In particular, area office inspectors and managers identified challenges related to resources and to communication and guidance.

Resource challenge: staffing and volume of incoming reports. Inspectors from all five area offices we spoke with described challenges with processing a large volume of complaints and other reports of workplace hazards at the beginning of the pandemic. Inspectors from one area office said the number of incoming complaints was overwhelming, while inspectors from another area office described not being able to give cases the full attention they would have received, prior to the pandemic.

This workload was exacerbated by staffing challenges throughout the agency. Inspectors or managers from three of five area offices we spoke with described experiencing staffing challenges during the pandemic, including high turnover and high numbers of inexperienced staff, who could not conduct inspections on their own.

The volume of COVID-19-related work varied across the country because the pandemic's impact differed from area to area. Staffing shortages varied among offices, and certain area offices developed useful strategies for addressing these challenges. For example, officials from one area office described a helpful practice of directing phone calls from the public, or other work, to another area office that had fewer COVID-19-related complaints.

Workload concerns also made citing COVID-19-related violations challenging because of the substantial time commitment needed for inspectors to collect the evidence and documentation necessary to support a citation. Inspectors or managers from three of five area offices we spoke with described challenges during the COVID-19 pandemic with meeting the requirement that citations must be issued within 6 months of the violation. Particular challenges included the large amount of paperwork required for a COVID-19 citation, and inspectors sometimes learning of a COVID-19-related fatality several months after it occurred—when much of the 6-month window had already expired.[184]

Resource challenge: telework and technology. OSHA headquarters officials said the agency was very well prepared to transition operations from in-person inspections and office work to telework in response to the pandemic, aside from occasional minor issues with technology. However, based on our interviews, comfort with telework and advance preparation for telework varied across area offices and individual OSHA staff.

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[183] Such assessments would be distinct from OSHA's oversight plans for COVID-19-adapted enforcement methods about which we made recommendations in our January 2021 enclosure. These oversight plans relate to individual enforcement activities, whereas an assessment of OSHA's operational challenges throughout the pandemic would be a broader analysis of the agency's operations and related challenges.

[184] Under the OSH Act's statute of limitations, OSHA may not issue a citation to an employer for violating the act or any OSHA regulations after the expiration of 6 months following the occurrence of the violation. 29 U.S.C. § 658(c). For more information on this 6-month statute of limitations, see our January 2021 report on reporting of summary injury and illness data.

Some inspectors from all five area offices we spoke with described challenges with technology, including scanning and printing enforcement-related documents, while other inspectors from two of these five offices described positive experiences working remotely. According to OSHA officials, many regions have electronic case file pilot programs in place, and the agency is working to implement electronic case files nationwide, though the standard OSHA case file remains paper-based. Officials noted that, even once electronic case files are implemented nationwide, OSHA will continue accepting paper materials from employers and workers, which would then need to be scanned into the electronic case files, and some documents that are generated electronically will still need to be printed and mailed to employers.

Communication and guidance challenge: Guidance and tools for inspectors provided later than needed. Inspectors from all five area offices we spoke with described challenges in performing their roles due to a lack of timely guidance from OSHA headquarters, or frequent guidance changes. An inspector from one area office stated that OSHA's COVID-19-related guidance often conflicted with guidance and recommendations from other government agencies. OSHA headquarters officials said they provided information to inspectors regularly during the pandemic, including interim enforcement memoranda, via OSHA's internal webpage, by email, and through meetings with regional offices. However, inspectors in the area offices said the lack of timely guidance affected their operations in the following ways:

- Inspectors from one area office described "scrambling" early in the pandemic to figure out how to apply existing standards to COVID-19 hazards and said they did not know how to advise employers and others who asked for guidance.
- According to inspectors from another area office, the lack of adequate guidance from the Solicitor of Labor made citing COVID-19-related violations time-consuming and difficult. Inspectors said they did not know, in advance of the Solicitor's review of COVID-19-related violation cases, what supporting documentation would be required.[185] According to headquarters officials, as they conducted more COVID-19 violation reviews, OSHA issued guidance on common citation language to reflect lessons learned and guide inspectors going forward. Headquarters officials also said the agency posted templates for preparing COVID-19-related citations in November 2020—8 months into the pandemic.
- A tool to calculate the probability of exposure to COVID-19 was provided in April 2021, leaving the office without this type of resource for too long, according to inspectors from one area office.

Communication and guidance challenge: difficulty finding and using the most up-to-date guidance. OSHA headquarters officials told us that a COVID-19 team scans Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, and Food and Drug Administration websites for updates to COVID-19 employer guidance on a daily basis, and emails policy updates to regional offices. The regional offices would then send the updates to area office leadership, who would send them to inspectors.

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[185]Officials from the Solicitor of Labor's office contested that area offices did not know what documentation was required for COVID-19-related violation cases because the Solicitor's reviews were conducted using the established significant case review process that was laid out in a memorandum to the field.

This method resulted in communication inconsistencies and gaps. According to inspectors from three of five area offices we spoke with, the frequent changes in guidance were difficult to keep track of; this led to inspector confusion about which guidance was in effect, according to inspectors from one area office. For example, inspectors from another area office we spoke with said that they were unsure how to handle changing N-95 mask-fit testing requirements, particularly for employers like nursing homes that were unfamiliar with this requirement. Specifically, they noted it was challenging to determine whether to cite these workplaces for violation of a standard they were not familiar with due to the frequently changing guidance.

Communication and guidance challenge: managers unaware of inspectors using COVID-19-related adapted enforcement methods. In some selected area offices, managers seemed unaware of inspectors using enforcement methods that had been adapted due to the pandemic, limiting their ability to oversee and evaluate those methods. For instance, managers from one area office we spoke with said their inspectors had conducted only one inspection remotely, while inspectors from that office said they had regularly used remote inspections during the pandemic. OIS data indicate that inspectors have used adapted enforcement methods during the pandemic, including conducting inspections remotely. As shown in the above figure on enforcement activities based on report type, OSHA enforcement also shifted substantially from inspections to informal inquiries during the pandemic months.

Additionally, managers from the same area office said they had not used citation discretion (i.e., not citing a violation for an identified hazard, due to extenuating circumstances or employer good faith efforts), while inspectors from that office said they used this discretion.

Communication and guidance challenge: OSHA officials had different understandings of the OIS code developed to track inspectors' use of citation discretion, and inspectors may have used it inconsistently throughout the pandemic.[186] From February 2020 through August 2021, the OIS code for citation discretion was used 4 times, indicating limited use of this discretion. While some OSHA headquarters officials said the OIS code should only apply to citation discretion involving certain requirements, other OSHA headquarters officials said that all instances of citation discretion should be tracked using this code.[187] In addition, inspectors from all five area offices we spoke with described using this citation discretion, but not consistently using the designated OIS code to track it.

Communication and guidance challenge: lack of process for sharing of promising practices among area offices. OSHA may have missed opportunities to share knowledge and tools among area

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[186]OIS allows users to tag inspections or investigations with various identifying codes, such as inspection type, related emphasis programs and, during the COVID-19 pandemic, certain COVID-19-related codes, including a code indicating that hazard abatement was deferred because of citation discretion.

[187]OSHA's April and May 2020 pandemic-related enforcement policies allowed citation discretion related to (1) challenges in meeting certain recurring requirements, such as annual trainings; (2) shortages of personal protective equipment; or (3) challenges in meeting recordkeeping requirements. However, only the policy related to citation discretion for the first area—recurring requirements—included an OIS code to track those instances of citation discretion. Thus, some OSHA officials said that, according to the policy, the OIS code should only apply to citation discretion involving the recurring requirements; other officials said that any of the three types of citation discretion should be tracked using the code. As discussed earlier in this enclosure, these citation discretion policies are generally no longer in effect. However, related challenges while they were in effect may be useful in assessing lessons learned for the future.

offices throughout the pandemic. While some area offices and regional offices developed unique practices and tools to enhance their efforts during the pandemic, OSHA did not have a process in place for area offices to systematically share promising practices with each other during the pandemic. Inspectors or managers from all five area offices we spoke with described a number of unique practices that area and regional offices had implemented during the pandemic; for example, creating web-based document management sites to share templates, guidance, and other documents, developing systems to help area offices protect OSHA staff, and coordinating solutions to technology challenges. Managers from two of five area offices we spoke with said it would be good if OSHA were to compile promising practices and lessons learned to better prepare for another emerging issue.

In August 2021, OSHA headquarters officials said they had not yet conducted a formal evaluation or formally collected lessons learned or helpful practices for operating during a pandemic from area offices. Federal internal control standards state that agencies should evaluate issues and remediate deficiencies. OSHA officials cited the ongoing pandemic as the reason they had not performed such an assessment and said they intended to do so when feasible. However, even while the COVID-19 pandemic is ongoing, analyzing OSHA's response—including its response to challenges it has faced, such as those related to resources and to communication and guidance—and taking related actions as warranted would enable OSHA to make improvements to better support ongoing enforcement efforts during the COVID-19 pandemic and prepare for operations during any future pandemic.

Methodology

To conduct this work, we reviewed OSHA guidance and enforcement policy, relevant federal laws and regulations, and the most recent OSHA data through August 2021.[188] To assess the reliability of OSHA's data, we reviewed technical documentation and interviewed OSHA officials. We determined that OSHA's data were sufficiently reliable for the purposes of our reporting objectives. We also interviewed OSHA headquarters officials, and managers and inspectors from 5 of OSHA's 89 area offices, selected to represent areas with industries affected by COVID-19 and a higher than average number of COVID-19-related complaints, employer reports, and referrals from February through September 2020, among other things.

Agency Comments

We provided DOL and the Office of Management and Budget (OMB) with a draft of this enclosure. OMB did not provide comments on this enclosure. DOL provided written comments, reproduced in appendix VIII, and technical comments, which we incorporated as appropriate. In its comments, DOL partially agreed with our recommendation to assess—as soon as feasible and, as appropriate, periodically thereafter—various challenges related to resources and to communication and guidance that OSHA has faced in its response to the COVID-19 pandemic and take related actions as warranted.

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[188]These data are current as of September 7, 2021.

DOL stated that the agency agrees that it is important to assess lessons learned and best practices for OSHA's operational response to COVID-19. However, DOL officials said they believe that while the pandemic is ongoing, the agency's resources are best used to help employers and workers mitigate exposures to COVID-19. DOL stated that the agency intends to conduct a review of OSHA's response to the COVID-19 pandemic after operations return to normal.

However, it is unclear when the COVID-19 pandemic will end, and OSHA analyzing its response and taking related actions, as warranted, even as the pandemic is ongoing, would enable the agency to improve its enforcement efforts during this pandemic, in addition to helping it prepare for operations during any future pandemic. We continue to believe that assessing—as soon as feasible and, as appropriate, periodically thereafter—various challenges that OSHA faced in responding to the pandemic, and taking related actions, would enhance transparency and accountability in the federal government's response to, and recovery from, the COVID-19 pandemic.

GAO's Ongoing Work

Our review of worker safety and health during the COVID-19 pandemic is shifting to focus on the safety and health of workers at meat and poultry processing plants during the pandemic. We will continue to examine OSHA's efforts to protect workers in these industries, and monitor developments in overall worker safety and health during the ongoing pandemic.

GAO's Prior Recommendations

The table below presents our recommendations on Worker Safety and Health from prior bimonthly and quarterly CARES Act reports.

Prior GAO Recommendations Related to Worker Safety and Health	
Recommendation	**Status**
The Assistant Secretary of Labor for Occupational Safety and Health should develop a plan, with time frames, to implement the agency's oversight processes for COVID-19-adapted enforcement methods, as described in its pandemic enforcement policies. (January 2021 report)	**Open—partially addressed.** The Department of Labor (DOL) neither agreed nor disagreed with our recommendation. The Occupational Safety and Health Administration's (OSHA) COVID-19-adapted enforcement methods continue to lack firm oversight plans. We reported in January 2021 that OSHA did not have specific plans or time frames for how and when to conduct the oversight of its COVID-19-adapted enforcement methods that was outlined in the agency's pandemic-related enforcement policy—to ensure the methods are effective. • For oversight of remote inspections, in May 2021, OSHA officials said that the agency was no longer planning to conduct the oversight outlined in its May 2020 pandemic-related enforcement policy, which provided guidance to inspectors for COVID-19-related enforcement until the March 2021 pandemic-related enforcement policy was issued. Instead, officials said that follow-up for some, but not all, remotely-conducted inspections would be performed according to area offices' discretion as part of OSHA's COVID-19 National Emphasis Program (NEP), as resources permit area offices to focus more on programmed inspections. • For oversight of informal inquiries conducted in place of inspections, in February 2021, OSHA officials said that they planned to conduct follow-up inspections for a random sample of cases where COVID-19-related informal inquiries were conducted. However, this plan would target all informal inquiries, and not just those that were conducted in place of inspections because of the pandemic, as originally planned in OSHA's May 2020 enforcement policy. This change in sampling technique could make it less likely that the cases meriting further scrutiny would be identified for follow-up. In August 2021, OSHA officials told us they would consider this issue when they make further plans for this oversight. • For oversight of citation discretion, in February 2021, OSHA officials said that they would conduct a follow-up inspection for each case coded in the OSHA Information System (OIS) as having used discretion to not cite violations. OSHA's COVID-19 NEP includes instructions for conducting these follow-up inspections. However, it is unclear whether all instances where citation discretion was used can be identified in order to conduct follow-up inspections, as discussed below. In September 2021, OSHA officials said that the agency intends to conduct a "comprehensive lookback" on OSHA's response to the COVID-19 pandemic after the pandemic ends. While such a review is the subject of our October 2021 recommendation, it is unclear whether it would meet the intent of this recommendation to develop a plan for the specific oversight processes for COVID-19-adapted enforcement methods that OSHA described in its pandemic enforcement policies. The oversight processes described in this recommendation are specifically intended to evaluate the effectiveness of adapted enforcement methods used throughout the pandemic. We therefore continue to recommend that OSHA complete specific plans for its oversight of informal inquiries conducted in place of inspections and its citation discretion or clearly state that these specific oversight plans have changed.
The Assistant Secretary of Labor for Occupational Safety and Health should ensure that the Occupational Safety and Health Administration Information System includes	**Open—partially addressed.** DOL neither agreed nor disagreed with our recommendation. OSHA continues to be unable to reliably track some of its COVID-19-adapted enforcement methods. We reported in January 2021 that OSHA could not reliably track some types of adapted enforcement methods in OIS, which may hinder its ability to conduct its planned oversight. For example, although OIS

Recommendation	Status
comprehensive information on use of the agency's COVID-19-adapted enforcement methods sufficient to inform its oversight processes for these methods. (January 2021 report)	documents when informal inquiries are used, in general, it does not identify when the informal inquiry constituted an adapted enforcement method—that is, when COVID-19-related constraints caused an area office to use an informal inquiry, in place of an inspection, to address a complaint, referral, or employer report. Therefore, OSHA does not know the extent to which this adapted enforcement method is being used. As a result, OSHA will not be able to target its oversight for this adapted enforcement method, once it makes plans to do so. In addition, OSHA officials had different understandings of the OIS code developed to track inspectors' use of citation discretion, and inspectors may have used it inconsistently throughout the pandemic. From February 2020 through August 2021, the OIS code was used 4 times, indicating limited use of this citation discretion. This may be due to confusion concerning how OSHA is tracking citation discretion. • Some OSHA headquarters officials told us that the OIS code should only apply to citation discretion involving certain requirements. • Other OSHA headquarters officials told us that all instances of citation discretion would be tracked using this code. • OSHA does not have a method to ensure that inspectors are consistently using the designated code to identify cases where inspectors observed violations, but did not cite them, according to OSHA officials. • Finally, inspectors from all five area offices we spoke with described using this citation discretion, but did not consistently use the OIS code to track it. As a result of this confusion, follow-up inspections that OSHA has planned to monitor this COVID-19-adapted enforcement method may not cover all instances when it was used. As of August 2021, OSHA officials said they had conducted an informal review to identify inspections with the OIS code for citation discretion, and that they had worked with regional offices to identify any instances when the code had been recorded in error. In August 2021, officials said that OSHA was conducting a final review, to determine the number of inspections that had been accurately coded as using citation discretion, and the results of any follow-up. Until OSHA completes this final review, we will be unable to assess whether it addressed all of our above concerns. In September 2021, OSHA officials said that OIS allows for sufficient coding. They also stated that relevant citation discretion is no longer in use. However, OSHA has not responded to our concerns about tracking informal inquiries used in place of inspections. OSHA also has not provided more information on the agency's final review of its use of the citation discretion OIS code, described above. We therefore continue to recommend that OSHA ensure that OIS includes comprehensive information on the use of the agency's COVID-19-adapted enforcement methods sufficient to inform its oversight processes for these methods.
The Assistant Secretary of Labor for Occupational Safety and Health should determine what additional data may be needed from employers or other sources to better target the agency's COVID-19 enforcement efforts. (January 2021 report)	**Closed—addressed.** In February 2021, OSHA said that, in response to our recommendation, it had determined that it did not need additional information from employers to identify where pandemic-related enforcement should be targeted. However, OSHA's June 2021 health-care emergency temporary standard (ETS) specifically addressed the data gap that we identified in January 2021 related to employer reporting of COVID-19-related hospitalizations for certain health-care employers whose employees, OSHA determined, face "grave danger". OSHA therefore did determine that it needed additional data from certain employers for its enforcement efforts, in accordance with our recommendation.

Source: GAO I GAO-22-105051

Related GAO Products

Workplace Safety and Health: Actions Needed to Improve Reporting of Summary Injury and Illness Data. GAO-21-122. Washington, D.C.: January 27, 2021.

Standards for Internal Control in the Federal Government. GAO-14-704G. Washington, D.C.: September 10, 2014.

Workplace Safety and Health: Multiple Challenges Lengthen OSHA's *Standard Setting.* GAO-12-330. Washington, D.C.: April 2, 2012.

Contact information: Thomas M. Costa, 202-512-7215, costat@gao.gov

Child Care

The Office of Child Care is taking initial steps to ensure accountability over COVID-19 supplemental funds, and these funds—along with federal child care flexibilities—have been critical to states to help mitigate the impacts of the COVID-19 pandemic on child care, according to our 2021 national survey of state child care administrators.

Entity involved: Office of Child Care, Administration for Children and Families, within the Department of Health and Human Services

Background

The federal child care subsidy program known as the Child Care and Development Fund (CCDF) assisted, on average, about 1.3 million eligible children from low-income families per month in fiscal year 2018, the most recent year for which final data are available.[189] CCDF was appropriated nearly $62 billion in federal funds since the March 2020 declaration of COVID-19 as a national emergency—including more than $52 billion in CARES Act and other COVID-19 supplemental funds, in addition to annual appropriations, for CCDF to help states prevent, prepare for, and respond to the COVID-19 pandemic (see table).[190] CCDF is administered as a block grant to the states by the Office of Child Care (OCC), an office within the Department of Health and Human Services' (HHS) Administration for Children and Families (ACF).[191]

[189]According to preliminary data for fiscal year 2019, about 1.4 million eligible children received subsidies per month.

[190]The Child Care and Development Fund is made up of two funding streams: mandatory and matching funding authorized under section 418 of the Social Security Act, and discretionary funding authorized under the Child Care and Development Block Grant Act of 1990, as amended. See 42 U.S.C. §§ 618 and 9858m. In fiscal year 2019, prior to COVID-19, total CCDF federal funding was $8.1 billion.

[191]For reporting purposes, in this enclosure we use "states" to also refer to the District of Columbia and U.S. territories, unless otherwise indicated. Additionally, we include CCDF funding to tribes in the overall total but did not speak to tribal governments about their planned uses of funds.

Coronavirus Supplemental Appropriations to the Child Care and Development Fund (CCDF)	
Act	**Appropriations to CCDF**
CARES Act[a]	$3.5 billion
Consolidated Appropriations Act, 2021, Division M[b]	$10.0 billion
American Rescue Plan Act of 2021[c]	$39.0 billion
Total	**$52.5 billion**

Source: Pub. L. No. 116-136, div. B, tit. VIII, 134 Stat. 281, 557 (2020); Pub. L. No. 116-260, div. M, 134 Stat. 1182, 1914; and Pub. L. No. 117-2, §§ 2201, 2202, 135 Stat. 4, 31. | GAO-22-105051

[a]States have until September 30, 2022, to obligate the CARES Act funds and until September 30, 2023, to spend them.

[b]Division M of the Consolidated Appropriations Act, 2021 is the Coronavirus Response and Relief Supplemental Appropriations Act, 2021. States have until September 30, 2022, to obligate the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 funds and until September 30, 2023, to spend them.

[c]The American Rescue Plan Act of 2021 includes $24 billion in child care stabilization funds and $15 billion in supplemental CCDF funds. States have until September 30, 2022, to obligate the stabilization funds and until September 30, 2023, to spend them. States have until September 30, 2023, to obligate the supplemental CCDF funds and until September 30, 2024, to spend them.

In addition to COVID-19 supplemental funds for CCDF, the Small Business Administration's (SBA) Paycheck Protection Program (PPP) provided a large potential source of funding to child care providers who applied and met program eligibility requirements, primarily to help keep workers employed.[192]

Overview of Key Issues

Availability of child care. COVID-19 notably impacted the availability of child care for families early in the pandemic, with the percentage of all open child care providers increasing throughout the year, according to our 2021 national survey of state CCDF administrators (see figure). States reported that, in March 2020, 59 percent of child care centers and 82 percent of home-based providers were open for business.[193] About one-half of states also reported that the availability of child care to meet the needs of essential and non-essential workers was greatly challenging in March 2020 (23 and 25 states, respectively).[194] However, five or fewer states reported child care availability for essential and non-essential workers as greatly challenging in December 2020.

[192]The Paycheck Protection Program was created as part of the CARES Act, Pub. L. No. 116-136, div. A, tit. I, § 1102, 134 Stat. 281, 286 (2020). The Paycheck Protection Program Extension Act of 2021 extended the application period from March 31, 2021, to May 31, 2021, and allowed SBA until June 30, 2021, to process those applications. On May 4, 2021, SBA stopped accepting applications from new lenders except those processed by a community financial institution lender. Borrowers may qualify for full loan forgiveness of their PPP loans if certain conditions are met.

[193]Our 2021 survey asked states to report on four points in time: March 31, June 30, September 30, and December 31, 2020. Our analysis was limited to states that reported data on open providers at each point in time. Data for child care centers were missing from up to 13 states. Data for home-based/family child care providers were missing from up to 15 states.

[194]We use greatly challenging to refer to challenges that states reported as very or extremely challenging in our survey.

Percentage of Open Child Care Providers Increased during 2020

Source: GAO Survey of State Child Care and Development Fund Administrators, 2021. | GAO-22-105051

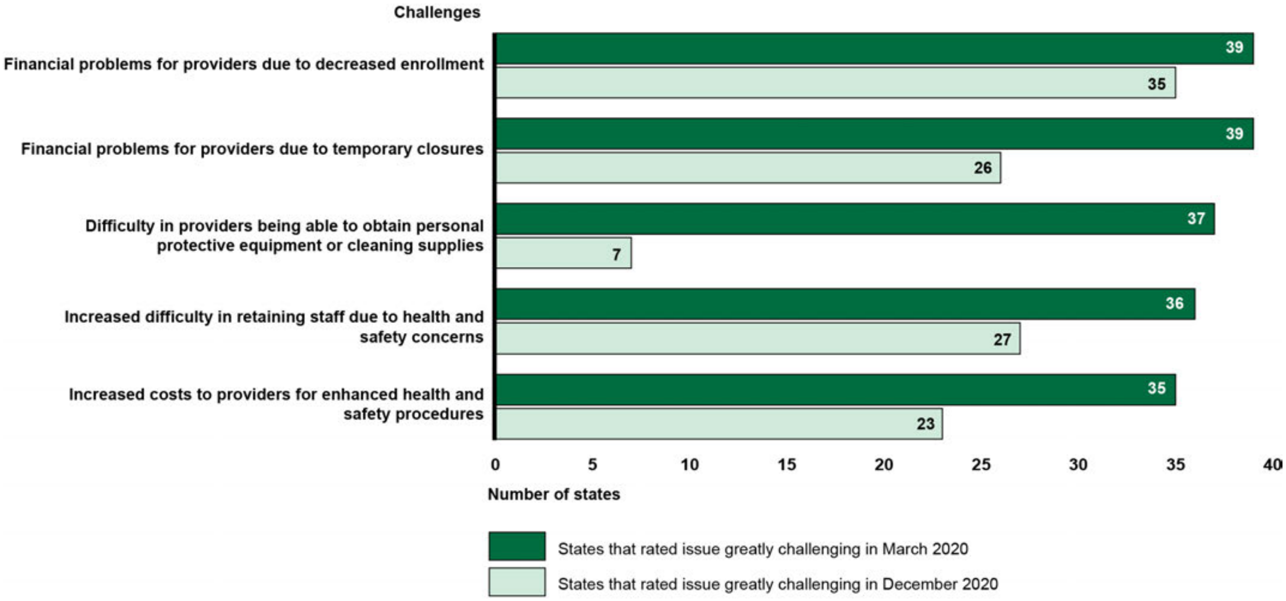
Note: Our 2021 survey asked states to report on four points in time: March 31, June 30, September 30, and December 31, 2020. Our analysis was limited to states that reported data on open providers at each point in time. Data for child care centers were missing from up to 13 states. Data for home-based/family child care providers were missing from up to 15 states. The percentage of open home-based/family child care providers states reported in September 2020 was the same—93 percent—as in December 2020.

The availability of child care exceeded demand at times during the pandemic, according to some state CCDF administrators we interviewed, which may have mitigated the impact that closures had on families.[195] For example, administrators from two of the eight states we interviewed cited insufficient demand for their child care programs targeted to essential workers, such as hospital workers. Overall, according to state officials, the need for child care may have decreased as a result of changes to parental preferences due to concerns for health and safety, and more parents working from home. State officials added that these types of changes make it difficult for providers and states to plan for future child care needs.

Child care challenges. Alongside closures, child care providers faced many other challenges due to the pandemic—most frequently financial—according to our national survey. In March 2020, 39 of 50 states that responded to our survey rated as greatly challenging financial problems for providers due to (1) decreased child care enrollment and (2) temporary closures. By December, fewer states did so (35 and 26, respectively). Closely behind, 37 states reported that providers being able to obtain personal protective equipment or cleaning supplies was greatly challenging in March 2020. Overall, each of the top challenges states reported in our survey showed improvement between March and December 2020, as illustrated in the figure below.

[195]We interviewed state CCDF administrators in eight states: Arizona, Florida, Illinois, Michigan, New York, Rhode Island, Tennessee, and Washington.

Financial Problems for Child Care Providers Topped States' List of Greatest Child Care Challenges in 2020



Source: GAO Survey of State Child Care and Development Fund Administrators, 2021. | GAO-22-105051

Note: The challenges shown were those that states most frequently rated as "very" or "extremely challenging" in March 2020.

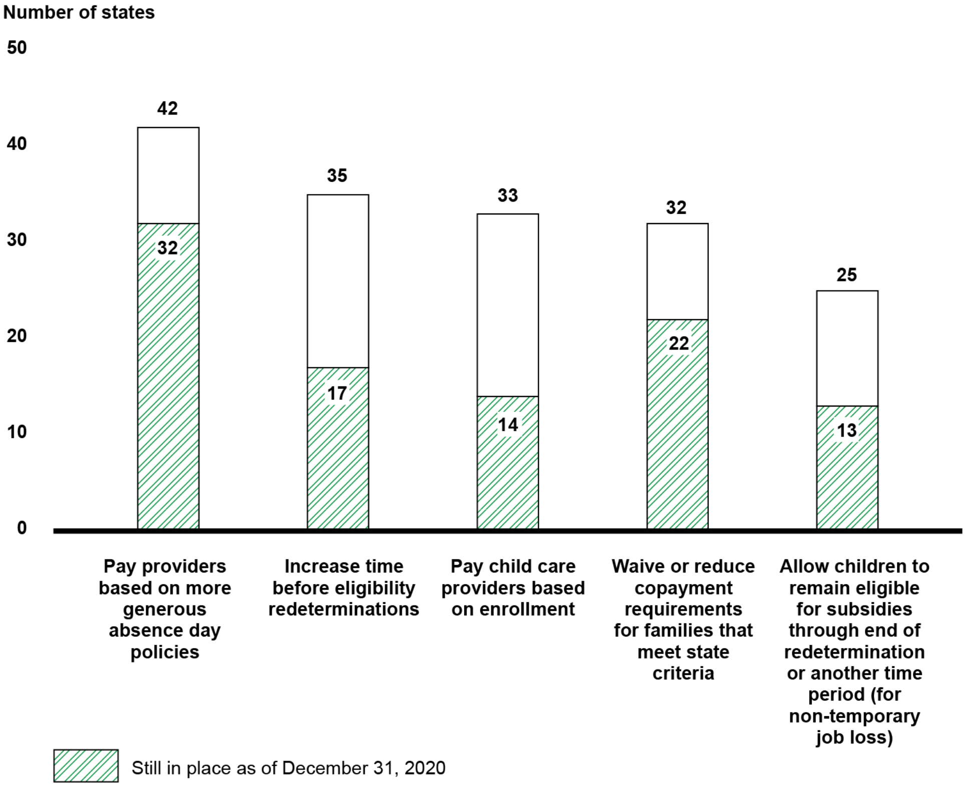
Restrictions on the capacity of child care during the pandemic, including whether child care was considered safe to open, added financial strain to providers, according to some CCDF administrators we interviewed. One state administrator told us some providers were unable to maintain operations due to state-mandated reductions in numbers of children, group sizes, and ratios of children to staff. Officials in several states also noted that the pandemic exacerbated pre-existing challenges with staff recruitment and retention, due to increased health and safety concerns. State administrators told us that they struggled to appropriately balance the financial struggles of child care providers while also ensuring health, safety, and oversight of public funds.

Federal child care flexibilities. To mitigate COVID-19-related challenges for child care providers and families, states implemented various federal child care flexibilities, according to our national survey.[196] Of these flexibilities, states most often preserved (1) pay for child care providers, by paying them based on more generous absence day policies; and (2) subsidies for eligible children, by increasing the time before their next eligibility redetermination.[197] As shown in the figure below, however, states sometimes implemented flexibilities only on a short-term basis; by December 31, 2020, about one-half of states or more no longer used some of them.

[196]OCC has issued a number of guidance documents to provide information to states on the statutory and regulatory flexibilities available to them to help respond to challenges caused by the COVID-19 pandemic. Thirty-nine states (80 percent) reported in our survey that they took state action (i.e., statutory or regulatory changes) to take advantage of available child care flexibilities.

[197]States are responsible for administering funding provided under CCDF, and, within broad federal requirements, states generally have discretion to determine (1) child care subsidy eligibility; (2) family copayment contribution requirements; and (3) payment rates and practices for eligible providers (e.g., paying providers based on children's enrollment rather than attendance, which may fluctuate because of absences due to COVID-19).

Federal Child Care Flexibilities States Most Commonly Used During COVID-19



Source: GAO Survey of State Child Care and Development Fund Administrators, 2021. | GAO-22-105051

Note: This figure shows federal child care flexibilities implemented due to COVID-19 by at least 50 percent of states.

State CCDF administrators we interviewed said the use of federal flexibilities was vital to mitigate impacts of the pandemic. One administrator called the flexibility to change how states could pay providers (e.g., based on enrollment instead of attendance) the most useful. Others noted how their states' use of certain flexibilities changed over time. For example, officials in one state said that from March through June 2020, the state paid providers based on enrollment, but since July 2020, it has continued to pay based on enrollment only if families attend child care at least 50 percent of the time.

Funding to respond to COVID-19. In our national survey, states most frequently reported using or planning to use CARES Act and Consolidated Appropriations Act, 2021, Division M (CAA) funds to help address their greatest COVID-19 related financial challenges.[198] Specifically, most states reported that they used or planned to use these funds to provide assistance to child care providers experiencing temporary closures or decreased enrollment, or to provide assistance to child care providers not receiving CCDF as of March 1, 2020 (see table). One administrator we interviewed said, for example, that being able to provide CARES Act funds to providers—whether they had previously received CCDF funds or not—helped to ensure as many providers as possible remained open during the pandemic.

[198]The American Rescue Plan Act of 2021 (ARPA) was enacted in March 2021, after our survey had been sent to state child care administrators.

State Uses or Planned Uses of CARES Act and Consolidated Appropriations Act, 2021, Division M (CAA) Funds		
Uses of CARES Act or CAA funds	Number of states that reported using CARES Act funds	Number of states that planned to use CAA funds
Provide assistance to child care providers experiencing temporary closures or decreased enrollment due to COVID-19	46	46
Provide assistance to child care providers not receiving Child Care and Development Fund funding as of March 1, 2020	42	42
Provide child care assistance to essential workers regardless of income	29	15
Pay two child care providers for the same child for the same time period[a]	24	11
Support child care resource and referral agencies	14	19
Support family child care network(s) as a means to increase supply of home-based child care providers	8	13

Source: GAO Survey of State Child Care and Development Fund Administrators, 2021. | GAO-22-105051

Note: The CAA was enacted in December 2020, a few weeks before our survey was deployed, and the American Rescue Plan Act of 2021 was enacted in March 2021, after our survey had been sent to state child care administrators.

[a]OCC guidance states that CARES and CAA funds can be used to pay two providers for the same child should one of the providers be temporarily closed due to COVID-19.

OCC provides guidance to states regarding flexibility to spend their annually appropriated CCDF funds during times of national or state emergency, and 29 states reported in our national survey that they also used CCDF funds intended to improve the quality of child care services to respond to the pandemic.[199] States reported using these funds in various ways, including to help providers obtain critical supplies and personal protective equipment, complete health and safety training, and obtain financial assistance, through grants or direct payments, as a result of decreased enrollment or temporary closures. In deciding when to use CARES Act or CCDF funds, state administrators we interviewed said they considered various factors, such as when funding was available, allowable uses, and the period in which funds must be spent.[200]

Paycheck Protection Program. The Paycheck Protection Program (PPP) was also a large source of federal financial assistance for the child care market. According to our analysis of SBA data, child

[199]Office of Child Care, Information Memorandum (IM), *Flexibility in Spending CCDF Funds in Response to Federal or State Declared Emergency Situations,* CCDF-ACF-IM-2017-02 (Washington, D.C.: Dec. 6, 2017). CCDF quality funds are typically used by states to improve the quality of child care services and increase parental child care options provided in the state. See 42 U.S.C. § 9858e.

[200]States have up to September 30, 2022, to obligate CARES Act funds appropriated for the Child Care and Development Block Grant program and must spend these funds by September 30, 2023.

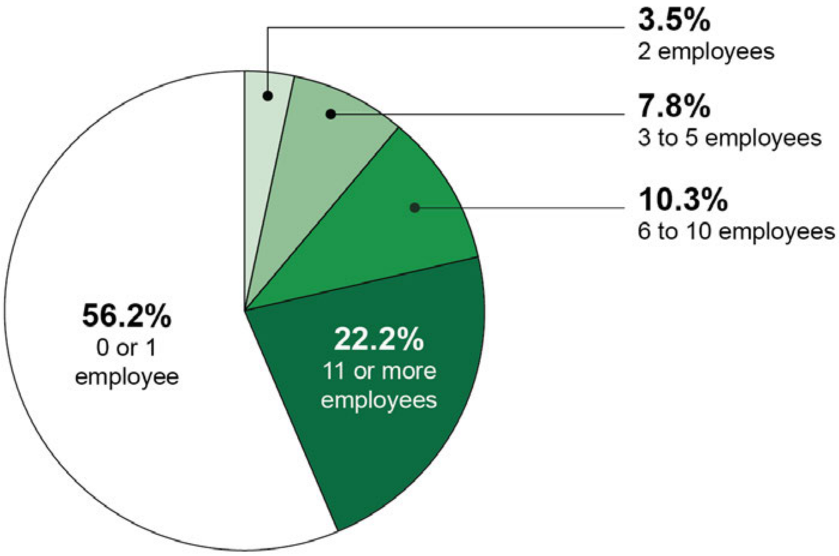
care providers received more than $5.5 billion in PPP loans. In total, 97,965 child care providers received 133,100 PPP loans, according to our analysis.[201]

Small child care providers received more PPP loans than larger providers, but a smaller share of the overall amount loaned, according to our analysis of SBA data. Providers that reported having zero to two employees received about 60 percent of the loans whereas larger providers with six or more reported employees received about 33 percent of the loans (see fig.).[202] In total, however, larger providers received about $4.4 billion of the approximately $5.5 billion loaned to child care providers through PPP, likely because the amount of the loan a borrower was eligible to receive was based on the size of their payroll. The median loan amount providers received ranged from about $10,200 for providers with zero or one employee to about $91,600 for providers with 11 or more employees.

[201]Eligible businesses could have received a second PPP loan, or "second draw." Of the 97,965 providers that received a PPP loan, about a third, or 35,135, received a second draw. Canceled loans were excluded from our analysis. SBA officials said child care providers would have been eligible for PPP loans if they met all program eligibility requirements. For instance, entities eligible for PPP loans included small businesses that met applicable SBA small business size standards, independent contractors, eligible self-employed individuals, sole proprietors, and businesses with no more than 500 employees. The entities must have been in operation and had paid employees or have been eligible self-employed individuals, independent contractors or sole proprietorships with no employees on February 15, 2020. PPP borrowers were eligible for second draw loans if they met several conditions, including having no more than 300 employees and experiencing reductions in revenue in 2020 relative to 2019. We did not identify how many providers applied for, but did not receive, PPP loans because SBA officials said they could not provide these data as they reside with individual lenders. However, ACF's Office of Planning, Research and Evaluation (OPRE) is collecting nationally representative data from child care providers about whether they applied for and received (or did not receive) PPP loans. According to OPRE officials, results from their first wave of data collection should be publicly available in fall 2021.

[202]Borrowers were asked to report the number of employees they had as part of their PPP loan application and may have reported zero if they were, for example, sole proprietors, independent contractors, or self-employed individuals, although SBA application instructions stated that these borrowers should enter one for number of employees.

Small Child Care Providers Received More Paycheck Protection Program Loans than Larger Providers



Source: GAO analysis of Paycheck Protection Program (PPP) data. | GAO-22-105051

Note: Canceled loans were excluded from our analysis. Borrowers may have reported having zero employees if they were, for example, sole proprietors, independent contractors, or self-employed individuals, although SBA application instructions stated that these borrowers should enter one for number of employees.

We also found that areas with high minority populations or high poverty received more PPP loans relative to their representation within the overall U.S. population.[203] Specifically, providers in areas with high minority populations, which include about 58 percent of the overall U.S. population, received about 67 percent of the PPP loans. High poverty areas, which include about 14 percent of the overall U.S. population, received about 20 percent of the PPP loans.[204]

OCC oversight. OCC has adapted or plans to adapt existing oversight practices to help ensure the accountability of COVID-19 supplemental funding. For instance, OCC added a column to its quarterly financial reporting form to capture information on state CARES Act expenditures, and officials said they will do the same for state CAA and American Rescue Plan Act of 2021 (ARPA) expenditures.[205] OCC also modified annual administrative reporting requirements and asked states to estimate, among other things, how many families and children were served whose subsidy was fully or partially paid using CARES Act funds.

[203]We use “areas” to refer to U.S. census tracts in this enclosure. Census tracts are statistical subdivisions of counties whose boundaries follow geographic features, such as streams, highways, railroads, and legal boundaries, and that generally contain between 1,200 and 8,000 people. For our analysis, we defined high-minority areas as census tracts with a minority population of at least 26 percent and high-poverty areas as census tracts where 20 percent or more of the population lived below the poverty line.

[204]Our analysis did not control for the extent to which child care providers may be concentrated in areas with high or low poverty or minority populations.

[205]In addition, nonfederal entities (states, U.S. territory and tribal governments, local governments, or nonprofitorganizations) that expend $750,000 or more in federal awards in a fiscal year are required to undergo a single audit—that is, an audit of the entity’s financial statements and federal awards, or a program-specific audit, for the fiscal year.

OCC officials said they plan to also collect other information specific to CAA and ARPA funds, as appropriate. For instance, OCC officials said they will collect information about the number and characteristics of providers that receive an ARPA child care stabilization grant, and are seeking public comment.[206] OCC is also seeking public comment to collect information on state uses of CCDF quality funds, including funds designated specifically for quality infant and toddler care and ARPA child care stabilization grants. Additionally, OCC officials said they plan to discuss state uses of COVID-19 supplemental assistance during upcoming on-site or virtual monitoring visits beginning October 2021.[207]

Methodology

To conduct this work, we reviewed relevant federal laws and agency guidance and interviewed OCC and SBA officials, and CCDF administrators in eight states. We selected these states based on the prevalence of COVID-19 among adults and children and for geographic diversity. Additionally, we surveyed state CCDF administrators in 50 states and the District of Columbia between January and March 2021, and received responses from all but one state. We also analyzed SBA PPP loan data and used U.S. Census Bureau, American Community Survey data (2015 through 2019, the most recent data available) to identify census tracts with certain demographics. We determined that these data were sufficiently reliable by interviewing federal officials and performing data checks to identify any missing data, outliers, or errors.

Agency Comments

We provided HHS, SBA, and the Office of Management and Budget (OMB) with a draft of this enclosure. HHS provided technical comments, which we incorporated as appropriate. SBA and OMB did not provide comments on this enclosure.

GAO's Ongoing Work

We will continue to review states' implementation of the various coronavirus relief and recovery packages to identify long-term strategies for improving the child care industry and supporting child care businesses, including the use of grants and/or contracts, improving payment practices, and strategies to recruit and retain the workforce.

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[206] ARPA included approximately $24 billion in funding for child care stabilization grants. According to OCC, states must provide at least 90 percent of these funds to qualified child care providers to support the stability of the child care sector during and after the COVID-19 public health emergency.

[207] OCC has a 3-year monitoring cycle and divides states (including the District of Columbia and Puerto Rico) into three cohorts with about 17 or 18 states per cohort. One cohort is visited each year, either on-site or virtually.

K–12 Education

Disruptions due to the COVID-19 pandemic led hundreds of thousands of students nationwide—primarily vulnerable students, such as those who are English learners or low-income—to miss days or weeks of virtual instruction or not show up for school at all during the 2020-2021 school year.

Several states conducted outreach to locate and re-engage these disconnected students. As education is primarily a state and local responsibility, these efforts undertaken by selected states may provide insights for educators nationwide attempting to reach these students, which is especially important as the pandemic continues to affect schools during the 2021-2022 school year.

Entity involved: The Office of Elementary and Secondary Education within the U.S. Department of Education (Education).

Background

The COVID-19 pandemic significantly disrupted the lives of students, families, and teachers nationwide, and the consequences may be felt for some time. For example, when school buildings closed during the 2020-2021 school year, many students, especially low-income students, did not have the devices and internet access they needed for virtual (online) learning. Even though many schools have provided students with computers and internet access to participate in virtual instruction, many students faced difficulties staying engaged in school. As a result, hundreds of thousands of students—possibly as many as three million students, according to one estimate—missed days or weeks of instruction or disappeared from school altogether.[208] Research and media reports have identified many reasons why students disconnect from school, such as having parents who are frontline workers and cannot stay home to help them with virtual learning, or the student having responsibility to assist younger siblings.

To help address the impact of the pandemic, Education has distributed to states COVID-19 relief funds that can be used for a broad range of needs, including efforts to address learning loss and engage students in virtual instruction.[209] In addition, Education has established the Student Engagement and Attendance Center, which supports states and school districts in a variety of

[208]Bellwether Education Partners, *Missing in the Margins: Estimating the Scale of the COVID-19 Attendance Crisis*, accessed August 9, 2021, https://bellwethereducation.org/publication/missing-margins-estimating-scale-covid-19-attendance-crisis.

[209]As we previously reported, Education has been tracking how states and territories are spending COVID-19 relief funds and according to the department as of August 31, 2021, states (including D.C. and Puerto Rico) had spent about $17 billion of the $197 billion in funding for the Elementary and Secondary School Emergency Relief (ESSER) Fund and Governor's Emergency Education Relief (GEER) Fund appropriated under three COVID-19 relief laws. Federal spending data alone provide an incomplete picture of the status of funds, as there are several factors that influence spending rates. For example, when school districts use available funds, school district officials said they have to budget for and obligate these funds before they are permitted to request payment from the state, which is when Education recognizes the funds as spent. This process can result in a significant lag between the rate at which the funds are being obligated, or used, and when a state reports it has spent the funds. According to Education officials, Education plans to modify its annual report on state and school district spending data to include obligations data in the subsequent annual reporting cycle.

activities, such as identifying strategies to reengage with students and families to facilitate learning recovery.

Overview of Key Issues

The pandemic caused or exacerbated many inequalities faced by students, making it more likely for some to disengage from school, particularly those who were already vulnerable. Public schools nationwide experienced significant declines in student enrollment during the 2020-2021 school year, according to the National Center for Education Statistics, with some students shifting to homeschooling.[210] States used a variety of efforts to locate unaccounted for students and re-engage them, but incomplete contact information for some students made this more difficult.

Vulnerable students were more likely to disengage from school. Officials in our four selected states said that certain groups of vulnerable students—such as students with disabilities, English learners, and those from low-income families—more often disengaged from school due to pandemic related barriers. (See table.)

[210] In June 2021, the National Center for Education Statistics reported that preliminary data show that public schools across 49 states (excluding Illinois) and the District of Columbia experienced a 3 percent decrease in student enrollment in the 2020-2021 school year.

Examples of Vulnerable Student Groups and Barriers to Staying Engaged in School During the COVID-19 Pandemic, According to Officials from Selected States, School Year 2020-2021

Student group	Examples of challenges offered by state officials
Disabilities	It was more difficult during the pandemic for some students to receive special education services, such as physical therapy and speech therapy, which are typically provided in person. These services were offered online but are more difficult to provide in an online setting.[a]
English Learners	Some parents of students for whom English is not their first language had additional difficulty working with schools and school staff to support their students. The language barrier meant parents did not always know how to ask for help to address problems with learning at home.[b]
Foster Care	Some students in foster care did not want to participate in virtual classes or turn on their device's camera because their foster facilities were noisy, distracting, or messy, and potentially embarrassing.
Homeless	Some students experiencing homelessness were very mobile during the pandemic, including students who moved around in families, shelters, and potentially out of state. These students often lacked access to or had spotty connections to the internet, devices, and a quiet place to learn and complete assignments.
Low-income	Many students in low-income families disengaged from school during the pandemic to take jobs and handle other responsibilities to support their families. In some cases, parents were in poor health or lost their jobs, meaning students had to work or care for siblings.
Native American	Some Native American students did not have reliable internet connectivity or access to direct educational support they normally received at school.[c]

Source: GAO analysis of information from state officials in California, Mississippi, New Mexico, and South Carolina. | GAO-22-105051

[a]We found that a variety of factors complicated the delivery of special education services to students during the COVID-19 pandemic. These factors include the wide range of needs of students with disabilities served under the Individuals with Disabilities Education Act (IDEA); the services specified in their individualized education programs; and the capacity of parents or caregivers to assist teachers and service providers in delivering general education, specialized instruction, and related services to their children. See GAO, *Distance Learning: Challenges Providing Services to K-12 English Learners and Students with Disabilities during COVID-19,* GAO-21-43 (Washington, D.C.; Nov. 19, 2020).

[b]We found that some English learners and their families had difficulty fully participating in distance learning during spring 2020 due to a lack of necessary technology, language barriers, and the demands of meeting basic family needs. Also, limited English comprehension affected the ability of families to assist students with the curriculum, according to representatives of professional associations and a technical assistance center. See GAO-21-43.

[c]Bureau of Indian Education-funded schools faced additional pandemic difficulties related to distance learning and internet connected devices during the 2020-2021 school year. See GAO, *Indian Education: Schools Need More Assistance to Provide Distance Learning*, GAO-21-492T (Washington, D.C.: Apr. 28, 2021).

States reported outreach efforts to locate and re-engage disengaged students. Officials in our selected states said they took a variety of approaches to locate and re-engage disengaged students (see table). State officials stressed the importance of relationships between students and teachers as a key factor in re-engaging students who were not participating in virtual learning during the pandemic. In addition, representatives from a non-profit organization that works with disengaged students said state leadership in developing and implementing outreach efforts is important, as many school districts do not have the resources. However, incorrect contact information for families that was outdated due to the pandemic made it more difficult to locate or work with students, according to state officials and the non-profit organization.[211]

[211]States with data systems across all school districts made obtaining and providing contact information easier than it was for states with data kept by individual districts, according to representatives from a non-profit organization.

Examples of Reported Efforts to Engage K-12 Students Disconnected by COVID-19 Pandemic during the 2020-2021 School Year, in Selected States

	California	Mississippi	New Mexico and South Carolina
Effort	Learning Continuity and Attendance Plans	School Attendance Officers	Academic Coaches
Description	California asked school districts to create plans detailing their engagement efforts during the pandemic, including efforts to engage disconnected students. This information included how the school district was going to accelerate learning, close the technology gap, provide virtual learning, support teachers and provide social and emotional support to students, and engage and re-engage students.	Mississippi employs school attendance officers who attempt to locate and re-engage disconnected students and were asked to focus on these students during the pandemic. Attendance officers take a team approach and work with schools and student families as part of the process.	New Mexico and South Carolina separately contracted with a non-profit organization to conduct outreach and re-engagement work with disconnected students. This program provides students with a personal academic coach to help them overcome social, emotional, and academic barriers as well as answer questions about technology and curriculum, and connect students to community support. Academic coaches can connect with students by phone, email, and social media and interview students about the barriers they face to learning. Officials in both states said they initially targeted students who had the highest need, and they reported that as they saw the effort benefiting students, they expanded access to the program.

Source: GAO summary of information from state officials in California, Mississippi, New Mexico, and South Carolina. | GAO-22-105051

Note: States may also refer to disconnected students as chronically absent and academically at risk.

State officials also shared a number of school-district-level efforts to address unaccounted for and disengaged students, including virtual and in-person tutoring offered at various times, providing additional social-emotional support, and partnering with expanded service providers to make home visits and work with students, such as the Boys and Girls Clubs of America. Some school districts are providing targeted summer enrichment activities to students, according to state officials.

States have seen significant declines in public school enrollment, especially in kindergarten. Public school enrollment in our selected states was down by tens of thousands of students in the 2020-2021 school year, and officials in our selected states said that this decline was mostly due to the pandemic. Officials in California told us that over 160,000 fewer students (including over 60,000 fewer kindergarteners) enrolled in the 2020-2021 school year than in the previous school year. Although enrollments in California's public schools had been decreasing annually, officials said the decline during the pandemic was far greater than in prior years. In all four states, the largest declines occurred in elementary school grades, in part because many families chose not to enroll their children in kindergarten, according to the some of the officials we interviewed. They said these students will be less prepared for first grade, and this condition would place more pressure on first grade teachers to cover missed material. Or, alternatively, the students could enter as older kindergarteners, which will put additional strain on kindergarten teachers and resources.

Students who left traditional public schools enrolled in private schools or public charter schools, were homeschooled, or reported no engagement in educational activities, according to officials we interviewed and data they provided. For example, officials in California shared information that showed parent registrations for private school and homeschool in school year 2020-2021 more than doubled over the previous year. In New Mexico, homeschool was the most common choice for families who did not re-enroll in public schools, according to information provided by state officials.[212]

Several thousand students were still unaccounted for toward the end of 2020-2021 school year. Even with these states' outreach efforts, officials in our selected states told us that some students remained unaccounted for towards the end of the 2020-2021 school year.[213] For example, officials in Mississippi said that even though, as of December 2020, they had over 2,700 unaccounted for students, that was a significant improvement from about 23,000 unaccounted for students they had at the beginning of the school year. Similarly, New Mexico had 2,010 unaccounted for students as of July 2021 compared to the 12,000 unaccounted for students at the beginning of the school year.

Methodology

To review how states addressed the engagement of students in virtual learning as a result of the pandemic, we interviewed state education officials in California, Mississippi, New Mexico, and South Carolina. We selected these states based on their enrollment and attendance data related to disconnected students for the 2020-2021 school year, information about their efforts to engage disconnected students, and demographic information, including proportion of students from low-income families, in different racial and ethnic groups, and states' diverse geographic locations.[214] We also reviewed related documentation provided by these states. We interviewed representatives of a non-profit organization that works with state educational agencies to address the needs of disconnected students, including in New Mexico and South Carolina.

Agency Comments

We provided Education and the Office of Management and Budget with a draft of this enclosure. Education provided technical comments, which we incorporated as appropriate. The Office of Management and Budget did not provide comments on this enclosure.

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[212]New Mexico officials said they polled parents about their plans for the 2021-2022 school year and the most common answer was they were unsure if they would return to public school. Others said they planned to return to public schools, would continue in private school, or homeschool.

[213]Officials in California said they would not have updated numbers of unaccounted for students until the end of the 2021 calendar year. Officials in South Carolina said that during the end of the 2019-2020 school year they suspended tracking student attendance because of the pandemic and as a result do not have updated information on the number of students that remain unaccounted for.

[214]For low-income families we analyzed data on students eligible for free or reduced price lunch from Education's National Center for Education Statistics Common Core of Data 2018-2019 as well as Census Bureau data on the percent of families below poverty by state in 2019. For racial composition we analyzed data from the Common Core of Data 2018-2019.

GAO's Ongoing Work

We will continue to monitor Education's efforts to help schools recover from the pandemic, how states and school districts are using the COVID-19 relief funds, and the challenges of pandemic-related learning loss and the approaches educators are finding to effectively address it.

Related GAO Products

Indian Education: Schools Need More Assistance to Provide Distance Learning. GAO-21-492T. Washington, D.C.: Apr. 28, 2021.

Distance Learning: Challenges Providing Services to K-12 English Learners and Students with Disabilities during COVID-19. GAO-21-43. Washington, D.C.: Nov. 19, 2020.

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Child Nutrition

The Food and Nutrition Service and states have used a variety of approaches to oversee child nutrition programs during the COVID-19 pandemic. However, states identified ongoing challenges with overseeing these programs, and the Food and Nutrition Service may be missing opportunities to fully leverage lessons learned from the pandemic to improve the management of child nutrition programs.

Entity involved: Food and Nutrition Service, within the Department of Agriculture

Recommendation for Executive Action

The Secretary of Agriculture should document the Department of Agriculture's plan to analyze lessons learned from operating child nutrition programs during the COVID-19 pandemic. This plan should include a description of how the department will gather perspectives of key stakeholders, such as Child and Adult Care Food Program institutions and nonschool Summer Food Service Program sponsors. The Department of Agriculture generally concurred with this recommendation.

Background

Child nutrition programs administered by the Department of Agriculture's (USDA) Food and Nutrition Service (FNS) supply cash reimbursements to schools or other programs for meals and snacks they provide to eligible children. In fiscal year 2019, before the pandemic, the four largest programs—the National School Lunch Program (NSLP), School Breakfast Program (SBP), Summer Food Service Program (SFSP), and Child and Adult Care Food Program (CACFP)—along with other child nutrition programs, received $23.1 billion in federal funds.[215]

During a typical year, NSLP and SBP subsidize meals for nearly 30 million children in approximately 95,000 elementary and secondary schools nationwide. These two programs are the largest of the child nutrition programs and typically serve children at school during the school year. In addition, SFSP and the Seamless Summer Option (SSO) typically provide meals for school-age children during the summer months.[216] Finally, CACFP provides meals to younger children enrolled for care at participating child care centers and day care homes and to school-age children participating in CACFP At-Risk Afterschool programs.[217]

[215]This review includes NSLP, SBP, SFSP, and CACFP. The Special Supplemental Nutrition Program for Women, Infants, and Children is not included in this review.

[216]State agencies may approve public or private nonprofit school district nutrition programs or organizations to participate in SFSP. SSO allows school districts to operate a modified version of NSLP and SBP in the summer or during unanticipated school closures.

[217]State agencies enter into agreements with CACFP institutions, which are independent centers or sponsoring organizations of day care homes or child care centers that assume responsibility for CACFP operations. CACFP also provides reimbursement for meals served to children who are residing in participating emergency shelters and to adults older than 60 years and functionally impaired adults who are enrolled in day care facilities.

The Families First Coronavirus Response Act (FFCRA) granted FNS authority to issue nationwide waivers in certain programs for specific purposes.[218] As we reported in July 2021, FNS extended several nationwide waivers in April 2021 for the 2021–22 school year.[219] FNS also issued a pair of waivers to allow schools to operate SSO during the school year and to claim SSO meals at the higher SFSP reimbursement rate. These waivers are intended to support access to nutritious meals, reduce the administrative burden associated with eligibility determinations, and minimize potential exposure to COVID-19.[220]

FNS's National Office is responsible for providing regulatory guidance, policy materials, and monitoring tools to its seven regional offices, which have the primary responsibility for oversight of state agencies administering child nutrition programs. Typically, regional offices monitor program compliance through management evaluations. In the course of management evaluations during typical years, regional officials review program areas through a combination of off-site and on-site monitoring activities.

At the state level, state agencies—generally education or agriculture agencies—administer the programs and issue guidance to school district nutrition programs and other local program operators.[221] The state agencies responsible for child nutrition oversee school meal programs, which includes conducting administrative reviews of local operators' administration of such programs. These reviews must include the accuracy of meal counting and claiming, nutritional quality, resource management, and other focus areas. State agencies also conduct regular reviews of local program operators' administration of CACFP and SFSP. School district nutrition programs and other local program operators are responsible for certifying students as eligible for free or reduced-price meals and for counting and claiming eligible meals for federal reimbursement, among other monitoring activities.

FNS has issued several nationwide waivers related to program monitoring activities during the pandemic to facilitate state and local monitoring of the child nutrition programs while allowing for social distancing for staff. Most recently, FNS issued three waivers allowing state agencies and local operators to conduct monitoring entirely off-site, rather than both off-site and on-site, for the school meal programs (NSLP, SBP, and SSO) and CACFP until 30 days after the end of the public health emergency.

Various COVID-19 relief laws have provided funding or authority to USDA to support child nutrition programs during the pandemic. For example:

[218] Pub. L. No. 116-127, § 2202(a), 134 Stat. 178, 185 (2020).

[219] According to FNS, although most of these waivers are available through June 30, 2022, FNS expects that the non-congregate feeding, meal time flexibility, and parent or guardian pick-up waivers will be used only for the duration and extent needed, as schools and child care providers work to safely and successfully reopen.

[220] For school year 2020–21, schools were allowed to operate either SFSP or SSO rather than the traditional school year programs. For school year 2021–22, schools will be able to operate SSO but not SFSP. According to FNS, SSO has stricter nutrition standards than SFSP and is typically reimbursed at the same rate as NSLP, while SFSP has a higher reimbursement rate. During school year 2021–22, schools operating SSO will be reimbursed at the SFSP rate.

[221] Throughout this enclosure, "school district nutrition program" refers to a school food authority—that is, the local authority responsible for operating school meal programs. Local program operators are school district nutrition programs, sponsors, or institutions that operate NSLP, SBP, SSO, SFSP, or CACFP.

- The Families First Coronavirus Response Act (FFCRA), enacted in March 2020, authorized and provided an indefinite appropriation for a new program, Pandemic Electronic Benefits Transfer (Pandemic EBT), which provides benefits to purchase food to households with children who would have received free or reduced-price school meals if not for school closures due to COVID-19.[222] The program also provides these benefits to households with eligible children in child care. According to FNS, during the summer of 2021, Pandemic EBT benefits were offered to all eligible children who resided in states with approved Summer Pandemic EBT plans.[223] As of August 31, 2021, FNS had obligated $34.432 billion for Pandemic EBT.

- The CARES Act, enacted in March 2020, provided $8.8 billion in supplemental funds.[224] As of August 31, 2021, FNS had obligated nearly all of this funding for child nutrition programs. According to FNS, it provided nearly all of this funding to states and other meal program operators and used the majority of the funds—$8.615 billion—to reimburse operators for the cost of meals served during the pandemic.[225]

- The Continuing Appropriations Act, 2021 and Other Extensions Act, enacted in October 2020, extended certain waiver authority granted in the FFCRA through September 2021 and provided an indefinite appropriation to cover the costs incurred as a result of the waiver extensions.[226] As of August 31, 2021, FNS had obligated $1.470 billion of this funding for child nutrition programs.

- The Consolidated Appropriations Act, 2021, enacted in December 2020, provided an indefinite appropriation to support CACFP institutions and school district nutrition programs that replaced some of the decline in reimbursement funding in spring 2020.[227]

Overview of Key Issues

School districts and other meal program operators served fewer meals during the first year of the pandemic than in the previous year, but the number of meals served in spring 2021 approached prepandemic levels. According to the most recent available data from FNS, during

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[222] Pub. L. No. 116-127, § 1101, 134 Stat. 178, 179-180 (2020).

[223] According to FNS, Summer Pandemic EBT was offered to (1) income-eligible school children who were enrolled in a school that participated in NSLP in school year 2020–21 and (2) enrolled SNAP recipients who were younger than 6 years or who were otherwise enrolled in an eligible child care institution, as defined by the FFCRA.

[224] Pub. L. No. 116-136, div. B, tit. I, 134 Stat. 281, 507 (2020).

[225] FNS used the remainder of the funds, $185 million, to operate Emergency Meals-to-You, a new partnership that delivered meals to address pandemic-related nutrition needs among children from low-income households in rural areas throughout spring and summer 2020. See our July 2021 report for more information about this program.

[226] Pub. L. No. 116-159, § 4602(a), (d), 134 Stat. 709, 745 (2020).

[227] Pub. L. No. 116-260, div. N, tit. VII, § 722, 134 Stat. 1182, 2097 (2020). This law provided an indefinite appropriation of funds, based on a formula that generally takes into account the difference between reimbursements paid from March through June 2019 and those paid from March through June 2020. According to FNS, because the Consolidated Appropriations Act, 2021, extends the authority under the Continuing Appropriations Act, 2021 and Other Extensions Act, obligations and expenditures under the Consolidated Appropriations Act, 2021, are accounted for under the Continuing Appropriations Act, 2021 and Other Extensions Act.

the first year of the pandemic (March 2020 through February 2021), school districts and other meal program operators operating NSLP, SBP, SFSP, and CACFP served 2.8 billion fewer meals than in the prior year—an overall drop of 30 percent.[228] The decline in meals served during the pandemic's first year was not uniform among meal types. Compared with the number of meals served in the prior year, the number of lunches served through NSLP, SFSP, and CACFP dropped by 40 percent while the number of breakfasts served through SBP, SFSP, and CACFP dropped by only 14 percent. FNS officials attributed the smaller decline in breakfasts served to the packaging of multiple meals at a time for grab-and-go service.[229]

The numbers of meals served during March and April 2021, as the pandemic entered its second year, were closer to the numbers of meals served during March and April 2019, a year before the pandemic began (see figure). Specifically, in April 2021, as vaccines became widely available for American adults and more schools offered in-person learning, the number of meals served was only 9 percent lower than in April 2019.[230]

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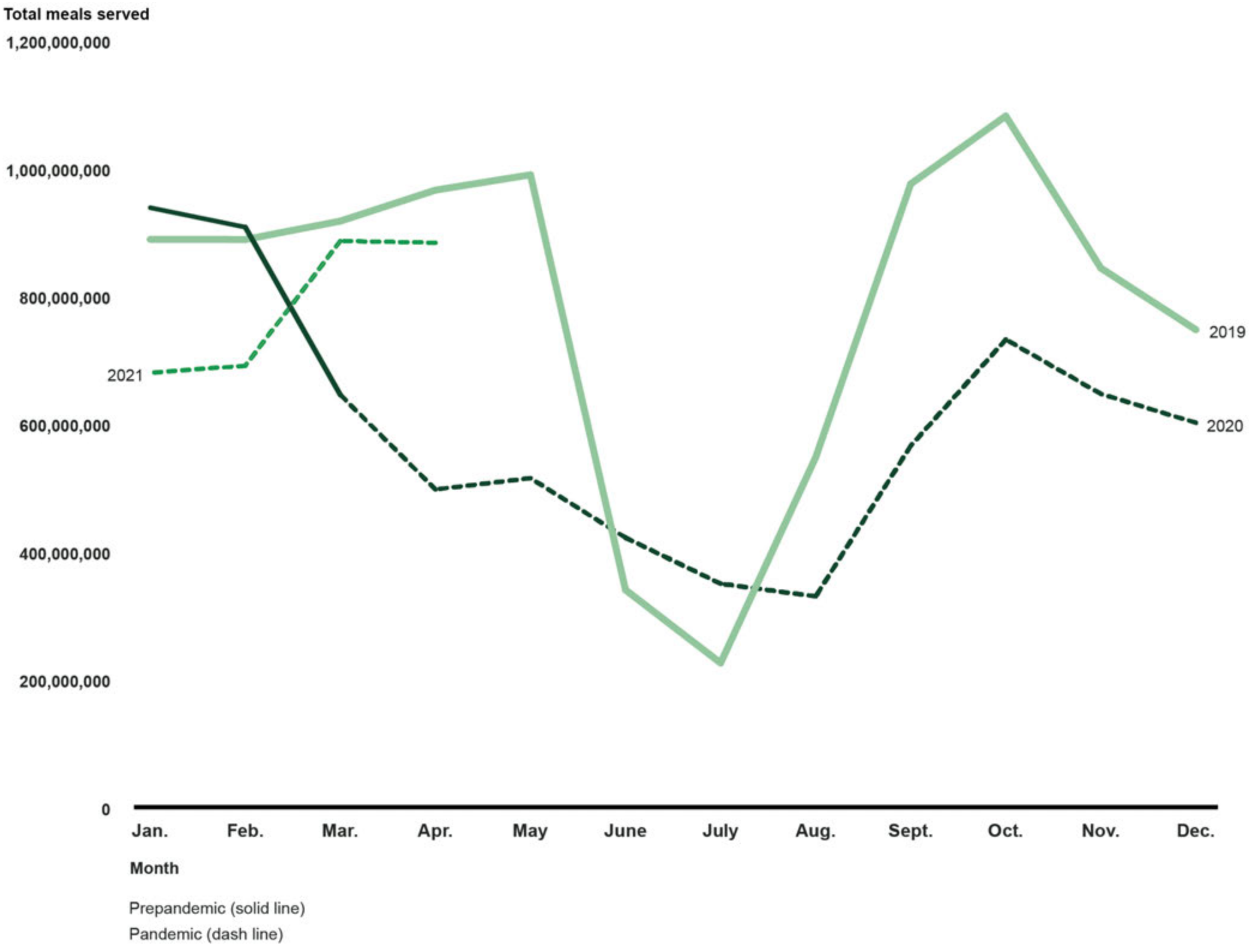
[228]As we reported in July 2021, the drop in meals served was not uniform among the child nutrition programs. While meals served under NSLP, SBP, and CACFP dropped, the total number of meals served under SFSP increased during the pandemic.

[229]In the year before the pandemic began, the number of lunches served was nearly twice the number of breakfasts served, according to FNS data.

[230]Data for meals served in April 2021 are the most recent data available as of September 10, 2021 that are sufficiently reliable for our purposes. According to FNS, state agencies submit monthly meal-claim reports to FNS; initial monthly tabulations reported 30 days after the end of the claim month include estimated data based on the previous year. However, the uncertainty of meal service during the COVID-19 pandemic has made it difficult for states to use historical data to report estimates of meals served, according to FNS. Data reported by states to FNS 90 days after the end of the claim month are based on actual meal claims rather than on estimates. We determined that 90-day data are sufficiently reliable for our purposes. According to FNS, these data are subject to revision.

Total Meals Served in Key Child Nutrition Programs in 2019, 2020, and 2021, by Month, as of Sept. 10, 2021



Source: GAO analysis of data from U.S. Department of Agriculture's Food and Nutrition Service, as of September 10, 2021. | GAO-22-105051

Notes: The monthly totals include four child nutrition programs: National School Lunch Program, School Breakfast Program, Summer Food Service Program, and Child and Adult Care Food Program (child meals only). Totals also include meals served through the Seamless Summer Option, a program that allows school districts operating the National School Lunch Program and School Breakfast Program to continue using the same meal service rules and claiming procedures as in the regular school year throughout the summer and during unanticipated school closures. According to the Food and Nutrition Service (FNS), the number of meals reported for any given month is subject to marginal revisions over time for a variety of reasons, including late claims and changes resulting from routine monitoring activity.

The totals shown are for meals served each month before and during the pandemic. Pandemic-related disruptions to school meal programs began in March 2020. As we reported in July 2021, meals served during June and July 2020 were higher than in the same months in 2019. In 2020, some districts and other providers were able to provide meals throughout the summer without congregate feeding (i.e., by using a grab-and-go model), which allowed some areas to increase the overall number of meals served in the summer months in 2020 compared with prior years.

Data for meals served in April 2021 are the most recent data available as of September 10, 2021 that are sufficiently reliable for our purposes. According to FNS, state agencies submit monthly meal-claim reports to FNS; initial monthly tabulations reported 30 days after the end of the claim month include estimated data based on the previous year. However, the uncertainty of meal service during the COVID-19 pandemic has made it difficult for states to use historical data to report estimates of meals served, according to FNS. Data reported by states to FNS 90 days after the end of the claim month are based on actual meal claims rather than on estimates. We determined that 90-day data are sufficiently reliable for our purposes. According to FNS, these data are subject to revision.

FNS officials told us that the numbers of meals served approached prepandemic levels during March and April of the 2020–21 school year because more schools were feeding more children who were attending school in person rather than virtually. In August 2021, officials from two of the four states where we conducted interviews told us that their states had mandated that all schools provide in-person learning during school year 2021–22, while officials from two other states told us that schools could decide whether to offer a virtual instruction option. FNS officials anticipated that the increase in students attending traditional, in-person schooling in 2021–22 would result in more meals served than during school year 2020–21. Although the most recent data show the numbers of meals served during March and April 2021 were closer to prepandemic levels, the extent to which meals were served to low-income students is not known because of the expanded eligibility for free meals during the pandemic.[231]

FNS and state agencies used a variety of monitoring approaches while balancing competing priorities, and state agencies identified ongoing challenges to maintaining program integrity. Recognizing that child nutrition programs may operate differently during the pandemic given the numerous flexibilities and waivers provided—including nationwide waivers that allow all monitoring to be conducted off-site—FNS allowed states to waive traditional program monitoring requirements. This flexibility was provided to state nutrition offices that provided a waiver request to FNS that included an alternative oversight plan that ensured continued program integrity. According to FNS officials, FNS had approved more than 60 of these oversight plans as of June 2021.[232] FNS provided state nutrition offices with a framework and template for these plans, and officials from two of the four FNS regional offices where we conducted interviews reported helping state nutrition offices in their region develop their plans, either directly or by facilitating best practice–sharing sessions with other states. According to FNS officials, much of the state oversight during the pandemic has taken the form of technical assistance.

FNS oversight and monitoring. To ensure that state nutrition offices were following their FNS-approved plans and implementing waivers correctly, the FNS National Office asked FNS regional offices to monitor, in real time, the state offices' implementation of the plans. Regional officials conducted real-time monitoring, known as touchpoints, for each state nutrition office by participating in three oversight activities per child nutrition program (NSLP, SFSP, and CACFP) and then providing a brief report of the activities to the FNS National Office. For example, if a state's oversight plan said the state would offer webinars to program operators operating CACFP under the nationwide waivers, a regional official would attend the webinar and, if any of the information conveyed in the webinar was incorrect, provide technical assistance to the state nutrition office to correct the information. According to FNS officials, this monitoring was important because it allowed the regional officials to provide real-time technical assistance as the pandemic evolved.

According to FNS officials, in addition to conducting the real-time monitoring, FNS regional offices continued to conduct traditional, retrospective management evaluations during the pandemic. However, owing to capacity constraints and pandemic complications, they reported conducting fewer management evaluations than they would in a typical year, targeting areas that were still applicable during the pandemic and focusing on specific areas of concern. To determine which

[231] In spring 2020, FNS began allowing schools and other meal operators to operate under summer meal programs. In addition, FNS waived the requirement that to provide free meals to all children, summer meal sites must be located in areas in which at least half the children are from low-income households.

[232] There are more than 60 state plans because in some states, multiple state agencies operate child nutrition programs. For example, in some states NSLP and CACFP are operated by different agencies. According to FNS officials, at least one state agency from most states submitted an oversight plan.

states and programs to review, FNS officials used a risk-based assessment tool to identify those for which the evaluations were most critical.

According to FNS officials, all management evaluations were conducted virtually; as a result, some portions could not be completed. For example, according to officials from one FNS regional office, warehouse reviews—an optional component of management evaluations for NSLP—have been put on hold during the pandemic to allow for social distancing. Officials from each state nutrition office we interviewed told us they had taken part in virtual management evaluations during the pandemic; in general, both state and FNS regional officials said these evaluations went well despite challenges. Because these reviews are retrospective, FNS officials from the National Office said they were aided by the regional office touchpoint reviews that provide timelier monitoring and technical assistance.

State agency oversight and monitoring. In a typical year, state nutrition offices conduct administrative reviews of a portion of their school district nutrition programs operating NSLP.[233] As a result of a flexibility allowing school districts to operate summer meal programs (through SSO and SFSP) rather than operating traditional school meal programs (through NSLP and SBP) during the pandemic, states have conducted fewer administrative reviews than is typical, according to state nutrition officials we interviewed. Specifically, as of June 2021:

- Nutrition officials in two of the four states said they had conducted no administrative reviews during the previous school year. In one of the two states, nutrition official attributed this to the fact that none of the state's school districts had operated NSLP. In the other state, where very few school districts chose to operate NSLP, state nutrition officials said they had focused their efforts on providing technical assistance rather than conducting administrative reviews.
- Nutrition officials in the two states that conducted administrative reviews of the school districts that chose to operate NSLP reported conducting more of the review components off-site than is typical. According to FNS guidance, strategies for conducting virtual monitoring include, for example, reviewing and verifying records by observing photographs or videos in situations where direct observation would normally occur and conducting interviews via telephone or video conference.

Some state nutrition officials we interviewed said that, in addition to conducting traditional monitoring such as administrative reviews, they used various strategies for conducting real-time oversight during the pandemic as outlined in their oversight plans. For example, officials from two state nutrition offices reported providing targeted technical assistance to local operators with identified risk factors, such as significant recent staff turnover. Specifically:

- Staff from one state nutrition office began in spring 2021 to make in-person coordinated support visits to high-risk school district nutrition programs. During these visits, they conducted components of administrative reviews with the local program operators to ensure the operators understood program requirements, including requirements concerning

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[233]State nutrition offices are required to conduct administrative reviews of each school district at least once in a 3-year review cycle. However, FNS has approved longer review cycles for some states, allowing them, for example, to review each district every 4 or 5 years.

monitoring. Although the state nutrition office staff conducted most of these review components virtually before the visits, they conducted a limited portion of the reviews on-site by observing a meal service.

- Staff from the other state nutrition office provided one-on-one technical assistance to school districts where they identified potential risks—for example, if they noticed meals being served to numbers outside the expected range or if the school nutrition program had new leadership. As of June 2021, this state nutrition office had conducted all of its pandemic monitoring and technical assistance virtually, using a variety of technology platforms.

According to state nutrition officials, these forms of technical assistance were intended to minimize confusion and assist operators in meeting program requirements. Some state nutrition officials noted that it can be difficult for local program operators to keep track of changes in program requirements that resulted from waivers.

Effects of competing priorities on monitoring. Federal and state nutrition officials we interviewed said that competing priorities, such as implementing waiver flexibilities and providing technical assistance, had created challenges to monitoring throughout the pandemic, particularly early on. For example, officials from FNS regional offices said that they delayed program monitoring at the start of the pandemic to help states interpret and implement the various FNS waivers. In general, FNS regional officials we interviewed said that they had not seen new types of program integrity concerns during the pandemic. However, officials from one regional office noted that state nutrition offices are affected by constrained resources, including time.

Additionally, because of a flexibility that allowed districts to operate summer meal programs during the regular school year, a wider variety of child nutrition programs were operating at the same time during the pandemic.[234] State nutrition officials from two states said that this had made monitoring and oversight more difficult because they were not accustomed to so many different child nutrition programs' operating concurrently.

Challenges and benefits of off-site monitoring. Nutrition officials we interviewed at the federal and state levels reported encountering both challenges and benefits in virtual monitoring. According to the officials, insufficient technology made off-site monitoring difficult, particularly at the start of the pandemic, when many staff were adjusting to remote work and implementing new technology. For example, officials from one FNS regional office noted that some state nutrition offices were not set up to telework at the start of the pandemic and did not have systems to forward their office phones, which hindered communication. Similarly, virtual desk-audits can require operators to scan large quantities of documents, which can be time consuming; also, in some instances, operators did not have access to the technology. Another challenge affecting virtual monitoring was the lack of physical presence and face-to-face interaction, according to some state and FNS officials.

Despite these challenges, in addition to health and safety benefits, in general, nutrition officials at the state and federal level said that off-site monitoring had offered benefits, such as cost savings

[234]During a typical school year, school districts operate NSLP and SBP. However, because of the pandemic and FNS flexibilities, school districts in many states have instead operated SFSP and SSO during the school year.

and limited travel. One state nutrition official we interviewed said that offsite monitoring had facilitated innovation because it caused the state nutrition office to reassess and streamline its monitoring process.

Considerations and ongoing challenges for program monitoring in school year 2021–22. To facilitate administrative reviews in the 2021–22 school year, FNS issued a waiver in May 2021 that allows states to conduct administrative reviews of school district nutrition programs operating only SSO (in addition to those operating NSLP).[235] Specifically, FNS waived certain administrative review requirements for programs operating only SSO during the school year and allowed the reviews to count toward state monitoring requirements. According to FNS officials, because administrative reviews are conducted on a multiyear cycle, this will help state nutrition offices to fulfill state monitoring requirements, given the April 2021 waiver allowing school districts to operate SSO during the school year.

According to nutrition officials in one state, they requested a monitoring waiver to extend their review cycle time by 1 year because they recognized that their state had conducted few, if any, administrative reviews in the prior school year and that conducting the necessary number of reviews in school year 2021–22 might be difficult. Nutrition officials in a second state said they were considering requesting a monitoring waiver for the same reasons. One state nutrition official expressed concern that after programs return to normal operations, the high degree of staff turnover in child nutrition programs and the length of time that programs will have operated with waivers could result in program integrity issues, such as lack of adherence to program requirements. According to FNS, allowing administrative reviews to continue for school districts operating only SSO should help ease the transition back to traditional program monitoring after the pandemic.

FNS is taking some steps to identify lessons learned for child nutrition programs from the pandemic, but it may be missing additional opportunities. FNS officials told us that they are primarily using an existing FNS School Meals Operations (SMO) study to gather information about lessons learned during the pandemic for child nutrition programs.[236] According to a notice in the Federal Register, this study will help FNS obtain (1) general descriptive data on characteristics of the child nutrition programs to inform the budget process and answer questions about topics of current policy interest; (2) program operations data to identify potential topics for training and technical assistance for state and school district nutrition programs; (3) administrative data to identify program trends and predictors; and (4) information on the use and effectiveness of the child nutrition waivers, which will be used to satisfy states' reporting requirements on those waivers under FFCRA.[237]

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[235]Traditionally, state agencies conduct administrative reviews for school district nutrition programs operating NSLP and SBP. For additional information about this waiver, see U.S. Department of Agriculture, Food and Nutrition Service, "Nationwide Waiver to Provide Flexibility for School Meal Programs Administrative Reviews of SFAs Operating Only the SSO in SY 2021–22," accessed Aug. 18, 2021, https://www.fns.usda.gov/cn/covid-19-child-nutrition-response-97.

[236]FNS officials told us that, in addition to conducting the SMO study, they are assessing pandemic-related challenges and lessons learned through regularly scheduled meetings with regions, stakeholders, and department officials. According to the officials, they respond to questions and address challenges through webinars, question-and-answer sessions, and policy guidance, as well as conducting listening sessions with state agencies.

[237]86 Fed. Reg. 20,654 (April 21, 2021). FNS plans to use the study to fulfill states' reporting requirements pursuant to section 2202 of FFCRA. FFCRA requires each state that receives a waiver under that section of the law to (1) report on the

Launched in spring 2021, the study will collect administrative and survey data on each of the four child nutrition programs from state agencies and will collect survey data from school district nutrition programs.[238] For example, as part of the state survey, FNS is collecting, as part of the state survey, perspectives from state agencies regarding state and local operational and financial challenges during the pandemic. FNS stated that because it recognized that the pandemic changed the way school meal programs operated, it expanded the SMO study's data collection efforts—initially planned prior to the pandemic—to include gathering survey and administrative data from the state agencies that oversee the CACFP and SFSP.[239]

Agencies can leverage lessons learned from an event to inform future efforts and limit the chance of recurring challenges. The experience of providing meals to children during the pandemic presents an opportunity for FNS to assess potential lessons learned for managing child nutrition programs.[240] Although FNS officials told us that the SMO study will be used to gather information about lessons learned from the pandemic, as of July 2021, FNS was unable to provide us with a plan for how it intends to comprehensively analyze lessons learned from the pandemic for child nutrition programs.[241] Further, the Federal Register notice mentioned above does not indicate whether FNS will analyze lessons learned to address operational and financial challenges.

Although FNS is collecting some information on these topics from states, FNS may miss opportunities to comprehensively identify lessons learned during the pandemic unless it documents a plan for analyzing them. Further, according to FNS officials, while the SMO study will survey state agencies that administer the federal child nutrition programs, the study will not gather local perspectives directly from CACFP institutions (e.g., child care centers and day care homes) or SFSP sponsors that are not school districts.[242] Without gathering perspectives from a full range of meal program operators—including CACFP institutions and SFSP sponsors (discussed below)—rather than only from state agencies and school districts, FNS will lack comprehensive information to aid its future planning.

District and state child nutrition officials identified challenges as well as opportunities during the pandemic. Nutrition officials we interviewed from districts, states, and organizations identified several challenges and opportunities related to operating child nutrition programs

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use of such waiver by the state and eligible service providers and (2) describe whether such waiver resulted in improved services to children. Pub. L. No. 116-127, § 2202(d), 134 Stat. 178, 185.

[238]Federal law authorizes FNS to conduct an annual national performance assessment of the school meal programs, which FNS plans to do through the SMO study in school year 2021–22. According to FNS, the SMO study is divided into three separate efforts, with data collection beginning in spring 2021 and ending in spring 2023.

[239]In addition, the SMO study will collect from state agencies, disaggregated data for the Child Nutrition programs. According to FNS, the data will be used to assess service levels and meal service reach during the waiver periods.

[240]The use of lessons learned is a principal component of an organizational culture committed to continuous improvement. Leading practices of a lessons learned process that we and others have identified include collecting, analyzing, validating, saving or archiving, and disseminating and sharing information and knowledge gained from positive and negative experiences.

[241]According to standards for internal control in the federal government, documentation is a necessary part of an effective internal control system.

[242]FNS officials told us that, rather than contact CACFP and SFSP sites directly, they plan to collect CACFP and SFSP site-level data from states and to gather perspectives of state agency officials and school district nutrition programs. FNS officials said that many school district nutrition programs operated CACFP and SFSP programs.

during the pandemic. Specifically, the officials identified challenges and, in some cases, opportunities with respect to information technology (IT) systems, food supply and storage, loss of revenue for local meal operators, waiver rollout and extensions, and the possibility of making some flexibilities permanent.

IT systems. State officials we interviewed identified financial and resource burdens and potential challenges to maintaining program integrity related to their child nutrition IT systems during the pandemic. For example:

- One state official explained that its state child nutrition information system was developed to be compatible with federal child nutrition programs under normal operations. The official said it took staff time and financial resources to update the state's system to accommodate each new waiver that FNS announced.
- Officials in a second state said that IT changes they made to accommodate waivers meant that built-in program integrity checks no longer functioned correctly. Instead, staff had to spend additional time conducting manual reviews to check for claims errors and help ensure program integrity.
- Officials from the second state also said that institutions at the local level that operate CACFP are particularly prone to technological challenges. FNS officials in one regional office noted that day care homes that previously used libraries to submit claims electronically often had to mail hard-copy claims during the pandemic because of extended library closures.
- Officials from three state agencies said that the pandemic highlighted opportunities for the federal government to limit the financial and resource burdens on their states, such as by investing in software, establishing a standalone fund to assist states with IT maintenance costs, and providing communication and technical assistance to states' IT software vendors.[243]

Food supply and storage. Officials from 11 of the 12 districts and three of the four states where we conducted interviews, and others, identified food supply or food storage challenges to operating child nutrition programs during the pandemic. These officials identified the following supply challenges, among others:

- Officials from two state nutrition programs said that districts experienced cancelations in their USDA Foods in Schools commodity orders because certain foods were no longer available.[244]
- Officials from 11 district nutrition programs told us it was difficult to acquire items such as individually wrapped foods or certain types of foods, such as milk, breads, and proteins because of food shortages, competition, or both.

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[243]FNS officials told us in April 2021 that, with the pandemic still ongoing, they had not considered ways to better capture data during emergencies but that FNS had provided technology innovation grants to states for system upgrades. However, nutrition officials in two states expressed some concerns related to these grants, including concerns that the grants are short term and add to states' administrative burden.

[244]The USDA Foods in Schools program provides USDA-purchased domestic agricultural products to schools and institutions participating in NSLP, SFSP, and CACFP.

- Officials from the National CACFP Sponsors Association told us that small, rural child care centers and day care homes may have found that required milk was not available on the day that they bought food for the week.

In addition, officials from half of the district nutrition programs in which we conducted interviews said that limits on storage space had prevented them from ordering food in large quantities or leveraging their USDA Foods in Schools commodities to offset pandemic-related costs. Officials from the Boys and Girls Clubs of America noted that storage space was also a challenge for local clubs providing food under SFSP and CACFP At-Risk Afterschool programs, especially if they were not colocated with schools, because they did not have access to additional storage located at schools.

State nutrition officials we interviewed suggested opportunities for a federal role in facilitating the use of USDA Foods in Schools commodities in a national emergency. For example, they suggested that USDA evaluate the food and menu items that would be needed in an emergency situation, identify vendors offering those items, and allow increased flexibility in timing of orders.[245]

Loss of revenue for local meal operators. In March 2021, we reported that a drop in revenue from meals served and an increase in program costs had caused financial challenges for local meal operators. In April 2021, FNS officials noted that the decline in meals served had been especially pronounced in spring 2020, when many institutions that provide meals—schools, child care centers, and day care homes—were closed. Helping offset these financial losses, in December 2020 the Consolidated Appropriations Act, 2021 was enacted, which provided additional funding for reimbursements for meals served in spring 2020.[246] Officials from three of the four state child nutrition programs cited challenges related to the process for receiving funding approval from FNS, noting that the information required was difficult or time consuming to compile.[247]

One state nutrition official we interviewed noted that CACFP institutions, such as child care centers, were especially in need of this funding because, unlike schools, they were less likely to have other sources of funding to compensate in the short term. Officials from the National CACFP Sponsors Association noted that some child care centers and day care homes, especially smaller providers, had to close before the funding became available.

Waiver rollout and extensions. As we reported in March 2021, nutrition officials in nearly all the districts where we conducted interviews found the waivers helpful in providing needed flexibilities

[245]FNS officials told us that they collaborated with stakeholders to cancel orders no longer needed because of menu changes, freeing up funds for other items. FNS officials said they continue to provide technical assistance to help states efficiently use food from the USDA Foods Program.

[246]Pub. L. No. 116-260, div. N, tit. VII, § 722, 134 Stat. 1182, 2097. This law provided an indefinite appropriation of funds based on a formula that generally takes into account any differences in reimbursements paid from March through June 2019 and reimbursements paid from March through June 2020.

[247]FNS established two temporary programs, one for schools and one for CACFP programs, to provide the reimbursement funds. To participate in these programs, state agencies were required to submit an application to FNS by February 25, 2021, and an implementation plan by April 26, 2021, showing how the state would calculate and disburse payments. In June 2021, state nutrition officials for the four states we interviewed said that they had not received these funds from FNS, so they had not been able to disburse funds to local program operators. However, FNS reported that as of August 11, 2021, it had disbursed funds to 52 state agencies.

to serve meals during the pandemic. However, they, along with officials from state child nutrition agencies and anti-hunger organizations in all four states, identified challenges related to the rollout of waivers. These challenges included the timing of waiver announcements and extensions, interpreting the waivers, delays in waiver-related guidance documents, and keeping up with the number of waivers announced.

State and local officials said that dealing with such challenges exhausted their financial and staff resources and made it difficult to plan for meal service and communicate accurate information to families. Officials from the Boys and Girls Clubs of America said that implementation of waivers was confusing for many of their clubs that operate under both SFSP and CACFP At-Risk because waivers were not always consistent across programs.

FNS officials told us they are examining potential policy changes, including identifying authority or legislative action that FNS may need to help prepare for future national emergencies. Additionally, officials in three of the four state child nutrition agencies and two of the FNS regional offices suggested that establishing a single emergency child nutrition feeding program or plan could help streamline the waiver implementation process and reduce the burdens on states and school district nutrition programs.

Potential to make some flexibilities permanent. Officials of some districts and states told us they believed that some of the child nutrition flexibilities provided during the pandemic should be made permanent. For example, officials from two state nutrition offices suggested that FNS should assess whether there are opportunities to expand off-site monitoring because of the cost and time savings. In June 2021, FNS officials told us that FNS is gathering information through the SMO study with the intent of assessing whether any flexibilities could be made permanent.

Methodology

To conduct our work, we reviewed relevant federal laws and agency guidance and documents. We also reviewed the most recent data available from FNS on meals served through child nutrition programs. To assess the reliability of these data, we reviewed existing information about the data and FNS's reporting processes, interviewed agency officials, and conducted manual testing of the data. We determined the data were sufficiently reliable for our purposes.

We also interviewed officials from FNS's National Office and four of its regional offices. Additionally, we interviewed state nutrition directors and officials representing anti-hunger organizations from four states—Georgia, Maine, Texas, and Washington, which we selected in part on the basis of variation in geographic location and school operating policies at the time of selection—as well as district nutrition officials from three school districts in each state. Further, we interviewed officials from the Boys and Girls Clubs of America, the National CACFP Association, and the School Nutrition Association to gain additional perspectives on feeding children in and outside school settings. The information gathered from these interviews is intended to provide examples of experiences of meal operators, states, FNS officials, and nutrition organizations during the COVID-19 pandemic and is not intended to be representative.

Agency Comments

We provided FNS and the Office of Management and Budget with a draft of this enclosure. FNS provided technical comments, which we incorporated as appropriate. Although it did not provide a formal letter, FNS stated in it technical comments that it generally concurred with our recommendation. FNS also said that the COVID-19 pandemic may continue to affect Child Nutrition program operations.

FNS stated that it is developing a plan to interview every state agency to determine how they used waivers to operate and administer all Child Nutrition programs during the COVID-19 pandemic. According to FNS, it will evaluate the information it collects to capture crucial information, lessons learned, and best practices to inform future policy making. FNS also stated that in fiscal year 2022 it will gather information from stakeholders at conferences to obtain perspectives of key stakeholders such as CACFP institutions and nonschool SFSP sponsors.

We are encouraged by FNS's plans to gather local perspectives directly from such stakeholders. Given the various efforts FNS is planning, we believe that now is an appropriate time to document the agency's plans to analyze lessons learned during the pandemic.

GAO's Ongoing Work

Our work on FNS's response to COVID-19 through its nutrition assistance programs, including child nutrition, is ongoing. We will continue to examine FNS's use of COVID-19 relief funds, its efforts to ensure program integrity, and its efforts to help vulnerable populations access the programs.

Related GAO Products

Federal Real Property Security: Interagency Security Committee Should Implement A Lessons-Learned Process. GAO-12-901. Washington, D.C.: September 10, 2012.

Grants Management: OMB Should Collect and Share Lessons Learned from Use of COVID-19-Related Grant Flexibilities. GAO-21-318. Washington, D.C.: March 31, 2021.

Standards for Internal Control in the Federal Government. GAO-14-704G. Washington, D.C.: September 2014.

Summer Meals: Actions Needed to Improve Participation Estimates and Address Program Challenges. GAO-18-369. Washington, D.C.: May 31, 2018.

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Unemployment Insurance Programs

Although fewer weekly claims for regular and CARES Act unemployment insurance benefits were submitted during summer 2021 than earlier in the pandemic, millions of unemployed workers continued to claim the CARES Act benefits until those programs ended in early September. The historic numbers of claims during the pandemic contributed to challenges—such as delayed benefit payments and increased amounts of overpayments—that have implications for future crises.

Entity involved: Department of Labor

Background

The unemployment insurance (UI) system is a federal–state partnership that provides temporary financial assistance to eligible workers who become unemployed through no fault of their own. States design and administer their own UI programs within federal parameters, and the Department of Labor (DOL) oversees states' compliance with federal requirements, such as by ensuring that states pay benefits when they are due. Regular UI benefits—those provided under the state UI programs in place before the CARES Act was enacted—are funded primarily through state taxes levied on employers and are intended to typically be lower than a claimant's previous employment earnings, according to DOL.[248]

The CARES Act created three federally funded temporary UI programs that expanded benefit eligibility and enhanced benefits, which were amended by the Consolidated Appropriations Act, 2021 and the American Rescue Plan Act of 2021.[249] These programs expired on September 6, 2021, although some states ended their participation before that date.

1. Pandemic Unemployment Assistance (PUA) authorized UI benefits for individuals not otherwise eligible for UI benefits, such as self-employed and certain gig economy workers, who were unable to work as a result of specified COVID-19-related reasons.[250]

[248]To be eligible for regular UI benefits, applicants generally must be able and available to work and actively seeking work. 42 U.S.C. § 503(a)(12). Administration of the regular UI program is financed by a federal tax on employers, according to DOL.

[249]The CARES Act also addressed other aspects of the UI system, such as authorizing certain flexibilities for states to hire additional staff and funding for Short-Time Compensation programs. In addition to the CARES Act, the Families First Coronavirus Response Act provided up to $1 billion in emergency grant funding to states in fiscal year 2020 for UI administrative purposes. In addition, on August 8, 2020, the President signed a memorandum directing the Department of Homeland Security's Federal Emergency Management Agency (FEMA) to provide up to $44 billion in lost wages assistance. Pursuant to the presidential memorandum, upon receiving a FEMA grant, states and territories could provide eligible claimants $300 or $400 per week—which included a $300 federal contribution—in addition to their UI benefits. The White House, *Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019* (Aug. 8, 2020). FEMA approved 53 states and territories to provide lost wages assistance to eligible claimants for a maximum of 6 weeks of unemployment experienced from the week ending on August 1, 2020, through the week ending on September 5, 2020. These 53 states and territories included the District of Columbia. For the purpose of this enclosure, we categorize the District of Columbia as a state.

[250]At the time of the program's expiration, PUA generally authorized up to 79 weeks of benefits. Pub. L. No. 117-2, § 9011(a), (b), 135 Stat. 4, 118; Pub. L. No. 116-260, div. N, tit. II, § 201(a), (b), 134 Stat. 1182, 1950-1951 (2020); Pub. L. No. 116-136, § 2102, 134 Stat. 281, 313 (2020).

2. Federal Pandemic Unemployment Compensation (FPUC) generally authorized an additional weekly benefit for individuals who were eligible for weekly benefits under the regular UI and CARES Act UI programs.[251]

3. Pandemic Emergency Unemployment Compensation (PEUC) generally authorized additional weeks of UI benefits for those who had exhausted their regular UI benefits.[252]

In addition, the Consolidated Appropriations Act, 2021 created the Mixed Earner Unemployment Compensation (MEUC) program, which was extended by the American Rescue Plan Act of 2021.[253] According to DOL, the MEUC program was intended to cover regular UI claimants whose benefits do not account for significant self-employment income and who thus may have received a lower regular UI benefit than they would have received had they been eligible for PUA.[254]

During the pandemic, regular UI claimants who exhausted their regular UI and PEUC benefits in certain states also had access to the Extended Benefits program. The program, which existed before the pandemic and provides up to an additional 13 or 20 weeks of benefits, is activated in states during periods of high unemployment, according to DOL.[255]

Overview of Key Issues

About half of the states stopped participating in at least one CARES Act UI program before the programs expired in September 2021. As of August 17, 2021, 26 states had announced their

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[251] FPUC generally authorized an additional $600 benefit through July 2020 as well as an additional $300 benefit for weeks beginning after December 26, 2020, through the end of the program. Pub. L. No. 117-2, § 9013, 135 Stat. 4, 119; Pub. L. No. 116-260, div. N, tit. II, § 203, 134 Stat. 1182, 1953; Pub. L. No. 116-136, § 2104, 134 Stat. at 318.

[252] At the time of the program's expiration, PEUC generally authorized an additional 53 weeks of benefits for claimants who were fully unemployed. Pub. L. No. 117-2, § 9016(a), (b), 135 Stat. 4, 119-120; Pub. L. No. 116-260, div. N, tit. II, § 206(a), (b), 134 Stat. 1182, 1954; Pub. L. No. 116-136, § 2107, 134 Stat. at 323.

[253] The MEUC program, which was voluntary for states, authorized an additional $100 weekly benefit for certain UI claimants who received at least $5,000 of self-employment income in the most recent tax year prior to their application for UI benefits. Pub. L. No. 117-2, § 9013(a), 135 Stat. 4, 119; Pub. L. No. 116-260, div. N, tit. II, § 261(a)(1), 134 Stat. 1182, 1961. The $100 weekly benefit was in addition to other UI benefits received by claimants; however, individuals receiving PUA benefits could not receive MEUC payments.

[254] According to DOL, 51 states and territories elected to participate in the MEUC program, and Idaho and South Dakota opted not to participate. However, 23 states terminated their participation in June or July 2021, before the program expiration date, and one intended to terminate participation but did not because of litigation at the state level, according to DOL. The remaining 27 states and territories continued participating in the MEUC program until it expired in September 2021. According to DOL, as of August 30, 2021, 1 week before the MEUC program expired, the following 18 states and territories had not begun paying benefits: Colorado, Georgia, Illinois, Iowa, Kansas, Louisiana, Nevada, New Jersey, Ohio, Oklahoma, Oregon, Rhode Island, Texas, the U.S. Virgin Islands, Vermont, Washington, West Virginia, and Wyoming. Before paying any benefits, Wyoming submitted notice to DOL that it planned to return all MEUC funds and not operate the program, according to DOL.

[255] DOL reported that as of September 26, 2021, the Extended Benefits program was activated in four states and territories because of high levels of unemployment. The Extended Benefits program was activated in all states except South Dakota at some point during the pandemic, according to DOL. If unemployment was not high enough to activate the Extended Benefits program in a state, or if regular UI claimants exhausted their PEUC and Extended Benefits, they may have been eligible for PUA benefits if they also met PUA eligibility requirements.

intention to terminate participation in at least one of these programs.[256] For example, according to DOL, all 26 of these states notified DOL that they intended to end participation in the FPUC program, and 22 notified DOL that they also intended to end participation in the PEUC and PUA programs.[257] Of these 26 states, 24 proceeded to terminate their participation in these programs between mid-June and late July, according to DOL.[258] For the week ending on June 12, 2021, DOL reported that 1.8 million continued claims for PUA and PEUC benefits were submitted in states that proceeded to terminate these programs over the next several weeks. This suggests that demand for these benefits likely would have continued if these states had not ended their participation.[259]

In public announcements, states generally cited labor shortages among their reasons for withdrawing from the CARES Act UI programs. However, preliminary data from DOL's Bureau of Labor Statistics (BLS) do not show an association between termination of participation in these programs and reductions in states' unemployment rates.[260] Also, initial results from our review of the economic literature suggest that expanded UI benefits during the pandemic generally did not discourage unemployed workers from returning to work; however, this conclusion could shift over time with changes in economic conditions.[261]

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[256]States participated in these UI programs under agreements with the Secretary of Labor. According to DOL, states were permitted to terminate, on providing 30 days' written notice to DOL, their participation in the FPUC, PEUC, PUA, and MEUC programs before the programs expired.

[257]The 22 states that submitted notice of their intent to withdraw from FPUC, PEUC, and PUA are Alabama, Arkansas, Georgia, Idaho, Indiana, Iowa, Louisiana, Maryland, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming. The four states that submitted notice of their intent to withdraw only from FPUC are Alaska, Arizona, Florida, and Ohio. According to DOL, 24 of these 26 states also submitted notice of their intent to withdraw from the MEUC program; the other two states (Idaho and South Dakota) had not been participating in the MEUC program.

[258]According to DOL, Indiana and Maryland announced their intent to terminate participation in the FPUC, PEUC, and PUA programs but, because of litigation at the state level, did not end their participation before the programs expired.

[259]According to DOL, after filing an initial claim to establish eligibility for UI benefits, individuals then generally file a continued claim on a weekly basis to claim benefits for the preceding week of unemployment. According to DOL, individuals did not submit claims for FPUC, and states added FPUC payments to existing regular UI, PUA, or PEUC claims. Nineteen of the 20 states that terminated the PUA and PEUC programs between mid-June and late July 2021 reported PUA and PEUC continued claims for the week ending on June 12, 2021. These 19 states include Georgia, which reported PUA but not PEUC continued claims data. The remaining state, Mississippi, did not report PUA or PEUC claims data. The number of continued claims provides some indication of the number of claimants potentially affected by these terminations; however, the number of continued claims is not an approximation of the number of unique individuals filing these claims, because individuals sometimes submitted multiple continued claims in a single period for multiple prior weeks of unemployment.

[260]According to BLS data, only six of the 24 states that terminated participation in the CARES Act UI programs in June had statistically significant decreases in their unemployment rates from June to July 2021. Two additional states that terminated participation in these programs in July also had statistically significant decreases in their unemployment rates from June to July 2021. However, given the short time frame, an association between program termination in July and a decrease in the unemployment rate from June to July is unlikely. Furthermore, BLS data show that 10 of the 29 states and territories that did not terminate participation in the CARES Act UI programs also had statistically significant decreases in their unemployment rates from June to July 2021. These BLS data include states' unemployment rates from July 2021, 1 month after states began terminating participation in the CARES Act UI programs, and BLS did not take into account potential explanatory factors. Data are preliminary and may change in future months. See Bureau of Labor Statistics, "News Release: State Employment and Unemployment—July 2021," Aug. 20, 2021.

[261]For example, one study found that over half of all unemployed individuals receiving the $600 FPUC supplement returned to work before the supplement expired at the end of July 2020. See Peter Ganong et al., *Spending and Job*

In July 2021, DOL issued guidance to states regarding their responsibilities after they stopped participating in the CARES Act UI programs or after the programs expired, whichever came first.[262] For example, states must process and pay PUA, FPUC, PEUC, and MEUC benefits to eligible claimants for all weeks of unemployment before the programs ended. In addition, for 30 days after the PUA program ended, states were required to continue accepting new PUA applications for weeks of unemployment before the program ended. States were also required to accept new PEUC and MEUC applications for weeks of unemployment before those programs ended, if state law allowed claims to be backdated.

In August 2021, the Secretary of the Treasury and the Secretary of Labor issued a joint letter to Congress affirming that states can use American Rescue Plan Act of 2021 funding to provide additional weeks of UI benefits to workers whose benefits expired in September and to workers who are not covered by the regular UI program.

Although claims for UI benefits were generally lower during summer 2021, overall demand for benefits remained high through early September. During the week ending on September 25, 2021, DOL reported that 298,255 initial claims for regular UI benefits were submitted nationwide, which was close to the lowest number since the surge of initial claims at the beginning of the pandemic.[263] DOL reported that more than 100,000 initial claims for PUA benefits were submitted nationwide during each week in August 2021; the PUA program expired on September 6.[264]

Despite the overall decline in initial claims since the beginning of the pandemic, initial claims throughout summer 2021 remained at a level that indicated more Americans were continuing to experience job losses than was typical in the year before the pandemic.[265] For example, the number of initial claims for regular UI benefits submitted each week from late June through late September ranged from about 55 percent to more than 100 percent higher than the number of initial claims submitted during the corresponding weeks in 2019.

Search Impacts of Expanded Unemployment Benefits: Evidence from Administrative Micro Data, Working Paper No. 2021-19 (Chicago: Becker Friedman Institute for Economics, University of Chicago, February 2021). An update to this study concluded that unemployment supplements were not the key driver of the job-finding rate through April 2021. See Peter Ganong et al., *Micro and Macro Disincentive Effects of Expanded Unemployment Benefits* (July 29, 2021). In addition, a Federal Reserve Board survey conducted in November 2020 found that unemployed workers most commonly cited health limitations, an inability to find work, and child care or family obligations as reasons for not returning to work. The survey question did not include expanded UI benefits as a potential response. See Board of Governors of the Federal Reserve System, *Economic Well-Being of U.S. Households in 2020* (May 2021).

[262] Department of Labor, *State Responsibilities after the Temporary Unemployment Benefit Programs under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, as Amended, End Due to State Termination of Administration or When the Programs Expire*, UIPL 14-21, Change 1 (Washington, DC: July 12, 2021).

[263] An initial claim is the first claim filed by an individual to determine eligibility for UI benefits after separating from an employer. Initial claims counts presented are not seasonally adjusted, and counts for the week ending on September 25, 2021, reflect advance initial claims, which are preliminary and subject to revision. In some cases, advance initial claims represent estimates submitted by states that are later revised.

[264] During the week ending on September 4, 2021, DOL reported that 94,638 initial PUA claims were submitted nationwide. For 30 days after the PUA program ended, states were required to continue accepting new PUA applications for weeks of unemployment before the program ended. During the week ending on September 25, 2021, DOL reported that 16,752 initial PUA claims were submitted nationwide.

[265] See the enclosure on Economic Indicators in appendix I for more information about economic conditions during summer 2021.

According to DOL officials, the number of continued claims may be a better measure of continuing demand for benefits than the number of initial claims. For example, states and territories reported that during the week ending on September 11, 2021, about 2.5 million continued claims were submitted for regular UI benefits and 431,340 continued claims were submitted for Extended Benefits.[266]

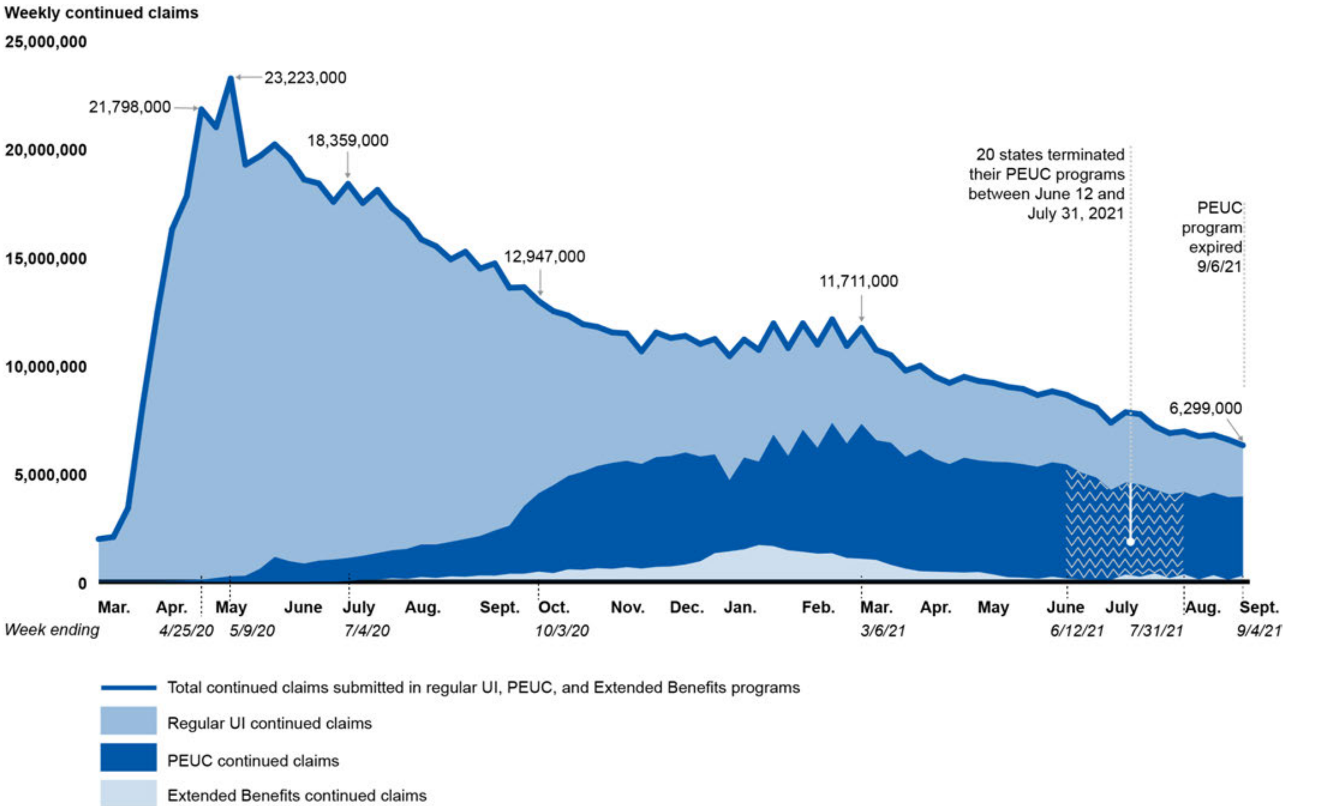
The number of regular UI continued claims submitted each week declined overall after the peak in late April and early May 2020 through September 2021 (see figure). Although some of this decline was due to claimants' finding employment, the decline was also likely due to other factors, such as claimants' exhausting regular UI benefits and beginning to claim PEUC or other benefits.[267] For example, the persistently high numbers of PEUC continued claims from fall 2020 through the program's expiration in early September 2021 suggest that many individuals were experiencing long-term unemployment and had likely exhausted their regular UI benefits.[268]

[266]States also reported that about 44,000 continued claims were submitted in other programs, including those for federal employees and newly discharged veterans, state additional benefit programs, and Short-Time Compensation or work-sharing, during the week ending on September 11, 2021. In addition, states reported continued claims submitted that week for the PUA and PEUC programs, which had expired on September 6, 2021. These continued claims were likely for weeks of unemployment before the programs expired.

[267]After exhausting regular UI benefits—generally available for up to 26 weeks in most states, according to DOL—eligible individuals were generally able to apply for (1) PEUC; then (2) the Extended Benefits program, if activated in a state; and finally, in certain circumstances, (3) PUA benefits. According to DOL, individuals did not submit claims for FPUC, and states added FPUC payments onto existing regular UI, PUA, or PEUC claims.

[268]In its Employment Situation news releases, BLS defines the long-term unemployed population as those who are jobless for 27 weeks or more.

Weekly Continued Claims Submitted Nationwide for Regular Unemployment Insurance, Pandemic Emergency Unemployment Compensation, and Extended Benefits, Mar. 1, 2020–Sept. 4, 2021



Source: GAO analysis of Department of Labor data on continued claims under the regular unemployment insurance (UI), Pandemic Emergency Unemployment Compensation (PEUC), and Extended Benefits programs. | GAO-22-105051

Note: After exhausting regular UI benefits—generally available for up to 26 weeks in most states, according to the Department of Labor (DOL)—eligible individuals were generally able to apply for (1) PEUC and then (2) the Extended Benefits program, if activated in a state. The weekly counts of continued claims shown are not seasonally adjusted. Counts are from DOL data that include any adjustments submitted by states as of September 30, 2021. All 53 states and territories reported regular UI claims in each week shown. The number of states and territories reporting PEUC claims varied by week; for example, fewer than half of the states and territories reported data before mid-May 2020 and at least 50 states and territories reported data each week from mid-July 2020 through mid-June 2021, when certain states began terminating their PEUC programs. The number of states reporting Extended Benefits claims each week varied, partly on the basis of the number of states with the program activated each week. The Extended Benefits program, which existed before the pandemic, is activated in states during periods of high unemployment, according to DOL.

During the week ending on September 4, 2021, before the pandemic UI programs expired on September 6, states and territories reported about 8.5 million continued claims submitted in the PUA and PEUC programs. This large number of claims, in addition to the approximately 2.4 million regular UI continued claims submitted that same week, suggests that demand for unemployment benefits remained high as the CARES Act UI programs expired. During the week ending on September 4, 2021, regular UI continued claims were about 81 percent lower than in the corresponding week of 2020 but were about 62 percent higher than in the corresponding week of 2019, before the pandemic.

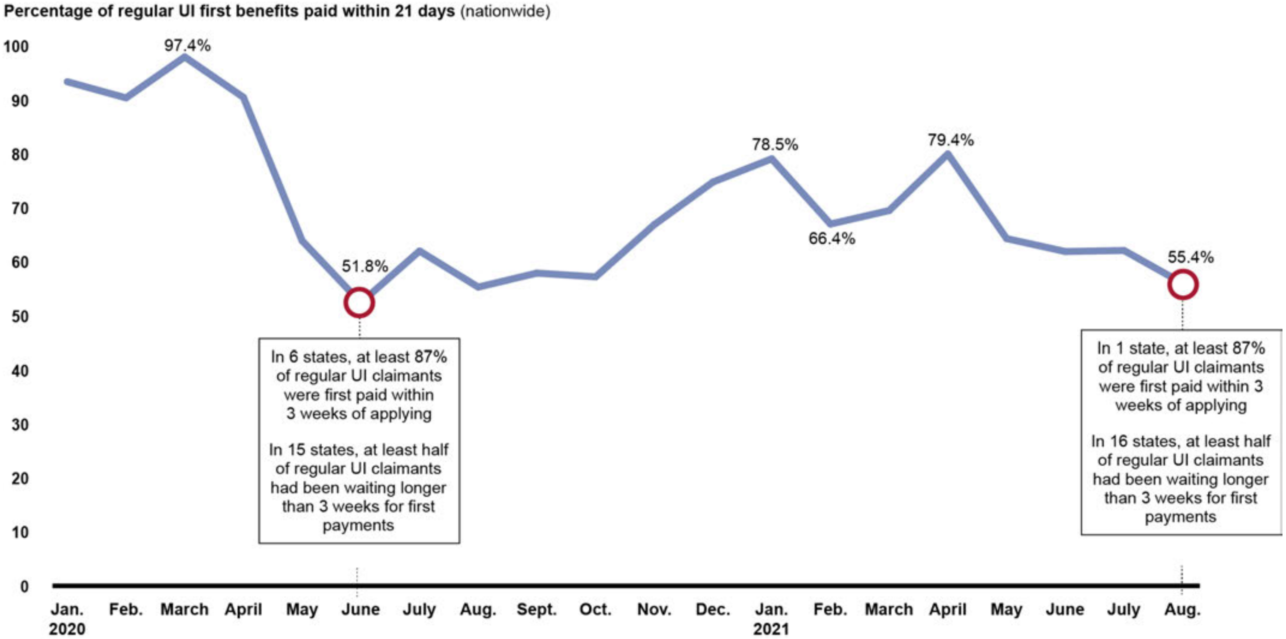
As we have previously reported, because of backlogs in processing historic numbers of claims in many states, among other data issues, the number of continued claims did not approximate the number of individuals claiming benefits during the pandemic. For example, backlogs in claims processing led to individuals submitting claims for multiple weeks of benefits in a single reporting period, which states counted as multiple claims for that reporting period, particularly in the PUA program. As a result, reliable conclusions about trends in the number of individuals claiming benefits cannot be drawn from data on continued claims.

Although the timeliness of regular UI first payments improved through early 2021, it has generally declined since April 2021, and some claimants still face substantial delays in receiving benefits. The timeliness of first payments of regular UI benefits declined substantially early in the pandemic, as states faced extensive claims-processing backlogs resulting from historically high numbers of claims.[269] As we have previously reported, first-payment timeliness nationwide improved from fall 2020 through January 2021. Subsequently, regular UI first-payment timeliness nationwide fluctuated from February through April 2021, then generally declined through August 2021.[270] First-payment timeliness was about 23 percentage points lower in August than in January 2021 (see figure).

[269]DOL monitors timeliness of benefit payments in the regular UI program. One of DOL's core performance measures is the percentage of all regular UI first payments made within either 14 or 21 days of the first week of benefits for which claimants are eligible; DOL considers 87 percent to be an acceptable level of performance. DOL uses 14 days as the timeliness goal for states with a waiting week requirement and uses 21 days for states without a waiting week requirement. According to DOL, some states require individuals who are otherwise eligible for benefits to serve a waiting period—generally 1 week—before receiving benefits. In its guidance released at the start of the pandemic, DOL recommended that states consider temporarily waiving their waiting week requirements. Thus, we focus on payments made within 21 days. We analyzed first-payment timeliness data that states had reported to DOL as of September 27, 2021. At that point, 52 of the 53 states and territories had reported data for August 2021 and all 53 had reported data for July 2021 and prior months.

[270]The extension of the CARES Act UI programs at the end of 2020, according to DOL officials, may have affected payment timeliness because states had to reassign staff and focus resources on implementing new program requirements.

Timeliness of First Payments of Regular Unemployment Insurance (UI) Benefits, Jan. 2020–Aug. 2021



Source: GAO analysis of Department of Labor data on timeliness of first benefits paid for regular UI. | GAO-22-105051

Note: We analyzed UI first-payment timeliness data that states had reported to the Department of Labor (DOL) as of September 27, 2021. At that point, 52 of the 53 states and territories had reported data for August 2021 and all 53 had reported data for July 2021 and prior months. One of DOL's core performance measures is the percentage of all regular UI first payments made within either 14 or 21 days of the first week of benefits for which claimants are eligible, depending on whether the state requires that individuals who are otherwise eligible for benefits serve a waiting period—generally 1 week—before receiving benefits. We focus on payments made within 21 days because in guidance released at the start of the pandemic, DOL recommended that states consider temporarily waiving their waiting week requirements. According to DOL, states must pay at least 87 percent of regular UI claims within 14 or 21 days to reach an acceptable level of performance.

According to DOL officials, when they asked officials in some states about the reasons for the decrease in timeliness in May and June 2021, they cited the additional time and effort needed to process backlogs of claims needing adjudication and appeals, decreased numbers of staff, and enhanced fraud prevention efforts that have resulted in more adjudication issues for states to resolve. In some states, many regular UI claimants continue to face delays before receiving their first payments. For example, in 16 states, at least half of regular UI claimants who received their first benefits in August 2021 had been waiting longer than 3 weeks. In addition, nationwide, about 21.7 percent of regular UI claimants who received their first benefits in August 2021 had been waiting longer than 10 weeks. By comparison, of the regular UI claimants nationwide who received their first benefits in March 2020, less than 3 percent had been waiting longer than 3 weeks and less than 1 percent longer than 10 weeks.

The number of states holding federal loans to pay UI benefits, and the total amount of these loans, decreased slightly in late summer 2021.[271] Because of persistently high numbers

[271]While the CARES Act UI programs are federally funded, regular UI is funded primarily through state and federal taxes on employers. When a state exhausts the funds available for regular UI benefits, it may borrow from the federal government. According to DOL data, even before the pandemic, many states were not collecting enough UI tax revenue to satisfy the solvency standard specified in DOL regulations providing for interest-free loans to states. See 20 C.F.R. § 606.32 (2019).

of UI claims during the pandemic, some states have held substantial federal loans to pay UI benefits. As of September 24, 2021, 12 states and territories held federal loans totaling about $45.3 billion. This total loan balance is approximately $8.2 billion less than we reported in July 2021, and seven states that previously held these loans have repaid them.[272]

As we have previously reported, some states have used their Coronavirus Relief Fund payments, under guidance from the Department of the Treasury, to pay for UI benefits in order to reduce or prevent loan balances and avoid possible future increases in employer tax rates.[273] Generally, if a federal loan balance to pay UI benefits is held by a state for 2 or more years, the rate of the federal tax on employers that is used to fund the UI program will increase.[274] States may continue to use these Coronavirus Relief Fund payments for expenses through the end of 2021.[275] In addition, the American Rescue Plan Act of 2021 provided funds to states, local governments, territories, and tribal governments. States and territories may use these funds, under an interim final rule from the Department of the Treasury, to restore their UI trust funds or to repay federal loan balances.[276]

States have continued to identify overpayments in the regular UI and CARES Act UI programs, and 30 states are reporting data to DOL on recovered PUA overpayments. DOL reported that as of September 27, 2021, states and territories had identified approximately $18.3 billion in overpayments made in UI programs during the first 5 quarters of the pandemic

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[272]At the end of 2010, after the 2007–2009 recession and early recovery, 30 states and territories held approximately $40.2 billion in federal loans to pay UI benefits. We did not adjust this 2010 loan balance amount for inflation. According to the National Bureau of Economic Research, the 2007–2009 recession began in December 2007 and ended in June 2009. The total loan balance held by states at the end of 2010 represented the highest year-end balance from the 2007–2009 recession until 2020. Total loan balances fluctuate throughout any given year.

[273]The CARES Act established the $150 billion Coronavirus Relief Fund to provide payments to state, local, territorial, and tribal governments to cover the costs of necessary expenditures incurred because of the COVID-19 pandemic. Pub. L. No. 116-136, § 5001, 134 Stat. 281, 501-504. In its guidance on the Coronavirus Relief Fund, the Department of the Treasury reported that states may use this funding to make payments to their state UI trust funds to prevent expenses related to the COVID-19 public health emergency from causing these UI trust funds to become insolvent. On January 15, 2021, the Department of the Treasury republished in a final form the guidance it had previously made available on its website regarding the Coronavirus Relief Fund. Prior to publication in the Federal Register, the last version of its guidance and frequently asked questions documents were dated September 2, 2020, and October 19, 2020, respectively. 86 Fed. Reg. 4,182 (Jan. 15, 2021).

[274]The regular UI program is primarily funded through state and federal taxes on employers. Under the Federal Unemployment Tax Act, employers are generally required to pay a federal unemployment tax at a rate of 6.0 percent on the first $7,000 of wages paid to an employee each year, which funds administrative costs associated with the regular UI program and the federal share of benefits paid under the Extended Benefits program, among other things. The Federal Unemployment Tax Act provides a credit of up to 5.4 percent against federal tax liability to employers who pay state taxes timely under an approved state UI program. If a state has outstanding loan balances on January 1 for 2 consecutive years and does not repay the full amount of its loans by November 10 of the second year, the Federal Unemployment Tax Act credit rate for employers in that state will be reduced. Thus, the federal taxes paid by employers will increase, all else being equal.

[275]The Department of the Treasury reported that as of December 31, 2020, it had obligated all of the $150 billion from the Coronavirus Relief Fund to state, local, territorial, and tribal governments. The Consolidated Appropriations Act, 2021 extended the period for states and other entities to use these funds through December 31, 2021. Pub. L. No. 116-260, div. N, tit. X, § 1001, 134 Stat. 1182, 2145.

[276]Coronavirus State and Local Fiscal Recovery Funds, 86 Fed. Reg. 26,786, 26,822 (May 17, 2021). Funds may be used to restore a state's unemployment trust fund to its balance on January 27, 2020, or to pay back advances received for the payment of benefits between January 27, 2020, and May 17, 2021. 31 C.F.R. § 35.6(b)(5).

combined (April 2020 through June 2021).[277] These reported overpayments are not necessarily a result of fraud, though some may be.[278] This $18.3 billion in reported overpayments includes

- $6.3 billion in FPUC overpayments,[279]
- $6.0 billion in PUA overpayments,[280]
- $5.4 billion in regular UI and Extended Benefits overpayments, and
- $0.7 billion in PEUC overpayments.[281]

States and territories may waive and not recover overpayments in certain circumstances.[282] States and territories reported waiving about $0.2 billion of regular UI, Extended Benefits, PEUC, and

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[277]As we have previously reported, DOL data show that the dollar amount of state-reported overpayments in the regular UI program increased substantially during the pandemic, coinciding with historically high numbers of UI claims. States have also reported large amounts of overpayments in the CARES Act UI programs. Regarding underpayments, states do not report the actual amount of underpayments to DOL. However, states estimate underpayments based on representative samples of paid and denied regular UI claims and report these estimates to DOL. In calendar year 2020, states estimated about $696 million in regular UI underpayments, although this estimate does not include the second quarter (April 1, 2020, through June 30, 2020). According to DOL officials, DOL provided operational flexibilities to states in response to the pandemic by temporarily suspending this sampling process during the second quarter of 2020 to allow states to implement the CARES Act UI programs.

[278]While overpayments may be caused by unintentional error, fraud involves obtaining something of value through willful misrepresentation. Whether an act is fraudulent is determined through the judicial or other adjudicative systems.

[279]FPUC benefits are paid in addition to other UI benefits. About 93 percent of reported FPUC overpayment amounts were paid on regular UI or PUA claims.

[280]States and territories report PUA overpayments data to DOL on a monthly basis, and the total amount shown includes overpayments related to identity theft. We accessed the PUA overpayments data on September 27, 2021; these data are subject to change as more states report data and as states revise previously reported data. For consistency with the regular UI overpayment data, which states and territories report on a quarterly basis, the PUA overpayment amount shown is for April 2020 through June 2021. As of September 27, 2021, 42 states and territories had reported an additional approximately $1.4 billion of PUA overpayments identified in July and August 2021. The number of states and territories that have reported PUA overpayments data varies by month; for example, 18 reported overpayment amounts in April 2020, 41 reported overpayment amounts in July 2021, and 20 reported overpayment amounts in August 2021.

[281]Because overpayment amounts by program are rounded to billions of dollars, the sum of these rounded amounts differs from the total overpayment amount. States and territories report regular UI, Extended Benefits, PEUC, and FPUC overpayments data to DOL on a quarterly basis. We accessed the data on September 27, 2021. At that point, not all states and territories had reported overpayment amounts for all programs in all quarters. States and territories may revise the amount of overpayments they have identified for 3 years after the reporting quarter, according to DOL. For this report, we excluded overpayments related to emergency unemployment compensation programs prior to the pandemic. Thus, the totals we calculate differ slightly from those available on DOL's UI overpayment recovery website, which, according to DOL officials, include nonpandemic emergency programs, such as those enacted during the 2007–2009 recession.

[282]According to DOL, states generally may waive a nonfraud overpayment, in accordance with state law, if the overpayment was not the fault of the claimant and if requiring repayment would be against equity and good conscience or would otherwise defeat the purpose of the UI law. States were authorized to waive PUA overpayments under the Consolidated Appropriations Act, 2021. According to this act, if an individual receives PUA benefits they were not entitled to, the state must generally require such individuals to repay the amount; however, the state can waive that requirement if the individual was without fault and repayment would be contrary to equity and good conscience. Pub. L. No. 116-260,

FPUC overpayments during the first 5 quarters of the pandemic combined (April 2020 through June 2021).[283] In response to a recommendation in our March 2021 report, DOL updated state reporting requirements for the PUA program in September 2021 to include the collection of data on waived PUA overpayments.[284]

In late May 2021, DOL's Office of Inspector General (OIG) reported, among other things, that some states did not perform required overpayment recovery activities.[285] Specifically, DOL's OIG found that 19 states (38 percent) did not perform the required overpayment recovery activities, such as benefit offsets, for the recipients to repay the UI overpayments.[286] The OIG further reported that once states identify overpayments, it is essential that they complete recovery activities to mitigate the risk of financial loss as a result of overpaid claims.[287] The OIG recommended that DOL assist states with reporting of claims, overpayments, and fraud to create clear and accurate information and then use the overpayment and fraud reporting to prioritize and assist states with fraud detection and recovery. DOL agreed with the OIG's recommendation and said it would take steps to implement the recommendation.

When states and territories recover overpayments, they report the recovered amount in the period when the recovery occurs. For example, states and territories reported recovering about $0.4 billion in the PEUC and FPUC programs combined from April 2020 through June 2021 (i.e., during the first 5 quarters those programs existed).[288] In response to a recommendation in our January 2021 report, DOL updated its state reporting requirements for the PUA program to include the collection of data on recovered PUA overpayments. As of September 27, 2021, 30 states had

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div. N, tit. II, § 201(d), 134 Stat. 1182, 1952. According to DOL, states are able to retroactively waive PUA overpayments from the beginning of the program onward.

[283]We accessed the waived overpayments data on September 27, 2021; these data are subject to change as more states and territories report data and as states and territories revise previously reported data.

[284]Department of Labor, *Pandemic Unemployment Assistance (PUA) Program: Updated Operating Instructions and Reporting Changes,* UIPL 16-20, Change 6 (Washington, DC: Sept. 3, 2021).

[285]Department of Labor, Office of Inspector General, *COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs*, Report No. 19-21-004-03-315 (Washington, DC: May 28, 2021).

[286]In this case, benefit offsets are benefits withheld by the state agency to satisfy the requirement for the recipient to repay an overpayment.

[287]DOL has issued various guidance during the pandemic related to overpayments, including the following: Department of Labor, *Program Integrity for the Unemployment Insurance (UI) Program and the UI Programs Authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020—Federal Pandemic Unemployment Compensation (FPUC), Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PEUC) Programs*, UIPL 23-20 (Washington, DC: May 11, 2020); *Addressing Fraud in the Unemployment Insurance (UI) System and Providing States with Funding to Assist with Efforts to Prevent and Detect Fraud and Identity Theft and Recover Fraud Overpayments in the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) Programs*, UIPL 28-20 (Washington, DC: Aug. 31, 2020); *Benefits Held by Banks and Financial Institutions as a Result of Suspicious and/or Potentially Fraudulent Activity and the Proportional Distribution Methodology Required for Recovering/Returning Federally Funded Unemployment Compensation (UC) Program Funds*, UIPL 19-21 (Washington, DC: May 4, 2021); and *Grant Opportunity to Support States with Fraud Detection and Prevention, Including Identity Verification and Overpayment Recovery Activities, in All Unemployment Compensation (UC) Programs*, UIPL 22-21 (Washington, DC: Aug. 11, 2021).

[288]We accessed the recovered overpayments data on September 27, 2021; these data are subject to change as more states and territories report data and as states and territories revise previously reported data.

reported some data on recovered PUA overpayments, reporting a combined total of about $0.3 billion recovered from April 2020 through June 2021.[289]

Because of the limited number of states and territories that had reported data on recovered and waived PUA overpayments to DOL as of September 27, 2021, our related recommendations remained open. Sustained reporting by more states is needed to help inform DOL, policymakers, and the public about the amount of PUA overpayments that states have waived and recovered and about the amount that remains outstanding.

States and territories also report the amounts of fraud overpayments—a subset of the total overpayment amounts.[290] During the first 5 quarters of the pandemic combined (April 2020 through June 2021), states and territories reported about $1.5 billion in overpayments they had identified as fraud across the UI programs.[291] However, according to DOL, states do not report these overpayments as fraud until investigations are complete and fraud has been confirmed, which may take a long time. As a result, states' and territories' ongoing investigations into whether overpayments were due to fraud could contribute to increasing amounts of fraud overpayments reported in the coming months. For example, four of the 47 states and territories that had reported PUA overpayments as of September 27, 2021, had not yet reported any fraud overpayments.

In addition to reporting overpayments they identify under program requirements, states conduct independent assessments of representative samples of paid and denied claims of permanent UI programs to determine the accuracy of UI benefit payments and estimate the amount and rate of improper payments.[292] According to DOL, by conducting these assessments, states can develop and implement corrective actions if the assessments identify improper payments, including potentially fraudulent payments.[293] For fiscal year 2020, DOL allowed states to suspend these assessments for 3 months to enable the states to reassign staff to address increased claims

[289]As of September 27, 2021, states and territories had also reported recovering about $1.6 billion in the regular UI and Extended Benefits programs during the first 5 quarters of the pandemic combined (April 2020 through June 2021). However, the amounts recovered for any quarter may be from overpayments established in many previous periods. Thus, the total amount does not measure the extent to which overpayments made during the pandemic have been recovered.

[290]According to DOL guidance, an overpayment is established when a formal notice of determination has been issued. Whether an act is fraudulent is determined through the judicial or other adjudicative systems. According to DOL, because states may use different definitions for categorizing an overpayment as fraudulent, an overpayment that is classified as fraudulent in one state might not be classified as fraudulent in another state.

[291]We accessed the fraud overpayments data on September 27, 2021; these data are subject to change as more states and territories report data and as states and territories revise previously reported data. Of the $1.5 billion in overpayments identified as fraud, states and territories reported about $624 million from FPUC, $587 million from PUA, $293 million from the regular UI and Extended Benefits programs, and $33 million from PEUC.

[292]An improper payment is defined as any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. 31 U.S.C. § 3351(4). For the purpose of producing an improper payment estimate, when the executive agency cannot determine, due to lacking or insufficient documentation, whether a payment is proper or not, the payment shall be treated as an improper payment. 31 U.S.C. § 3352(c)(2).

[293]The state assessments of improper payments include potential fraud; however, states' definitions for categorizing an overpayment as fraudulent may vary.

volume.[294] According to DOL officials, the methodology for fiscal year 2020, including the 3-month suspension, was approved by the Office of Management and Budget (OMB) and complied with OMB guidance.[295]

Additionally, as we reported in November 2020, DOL made the decision not to include claims filed exclusively under the CARES Act UI programs in its existing program for estimating improper payments.[296] According to DOL officials, because PUA has unique and distinct eligibility requirements, applying the improper payment methodology for the regular UI program would not be appropriate. We also reported that DOL planned to conduct an improper payment risk assessment after the first year of each CARES Act UI program's operations.[297]

In July 2021, DOL officials told us that they were actively planning to conduct an improper payment risk assessment in accordance with OMB guidance and to then develop improper payment estimates for CARES Act UI programs.[298] Officials also said that DOL had formed a working group to develop new sampling and investigative methodologies to estimate improper payments for the PUA program and that DOL planned to extrapolate regular UI data to the PEUC program.[299] DOL officials stated that they anticipated the new improper payment estimates would be included in DOL's fiscal year 2022 agency financial report. We have previously reported that the identification of improper payments could suggest that a program is vulnerable to fraud; however, it is important to note that fraud is a specific type of improper payment and that improper payment estimates are not intended to measure fraud in a particular program.

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[294]DOL's fiscal year for reporting improper payment estimates covers July 1 of the previous year through June 30 of the current year. For example, DOL's fiscal year 2020 improper payment estimate generally covers July 1, 2019, through June 30, 2020. However, the sampling and investigation program was suspended for the quarter April 1, 2020, through June 30, 2020, because of operational flexibilities provided to states in response to the pandemic, according to DOL.

[295]In addition, DOL's OIG reported that an independent auditor had concluded that DOL had met all the statutory criteria for compliance with the Payment Integrity Information Act of 2019. The OIG also reported that DOL had received direction from OMB to utilize the results from the first 3 quarters of the program year for its improper payment reporting in fiscal year 2020 and that DOL's decision to suspend fourth quarter program year testing was approved by OMB. Department of Labor, Office of Inspector General, *The U.S. Department of Labor Complied with the Payment Integrity Information Act for FY 2020, but Reported Unemployment Insurance Information Did Not Represent Total Program Year Expenses*, Report No. 22-21-007-13-001 (Washington, DC: Aug. 6, 2021).

[296]According to DOL guidance, once a claim was selected for a state's assessment sample, any dollars provided through the FPUC program would be calculated as part of the claimant's Total Whole Amount of Overpayments/Underpayments as "Federal Supplemental Payment" in addition to dollars provided through the regular UI program.

[297]Guidance from OMB states that agency management is responsible for managing payment integrity risks to reduce improper payments and protect taxpayer funds. According to the guidance, all newly established programs should complete an improper payment risk assessment after the first 12 months of the program. See Office of Management and Budget, *Appendix C to OMB Circular A-123: Requirements for Payment Integrity Improvement*, OMB Memorandum M-18-20 (Washington, DC: June 26, 2018). In March 2021, OMB issued a revised version of OMB Circular A-123, Appendix C, effective starting in fiscal year 2021. See Office of Management and Budget, *Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*, OMB Memorandum M-21-19 (Washington, DC: Mar. 5, 2021).

[298]According to OMB guidance, agencies are to develop improper payment estimates for those programs determined to be susceptible to the risk of significant improper payments. See Office of Management and Budget, *Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*, OMB Memorandum M-21-19 (Washington, DC: Mar. 5, 2021).

[299]DOL officials stated that they do not plan to produce an improper payment estimate for the FPUC program, because the program augmented benefits under the regular UI program and CARES Act UI programs and did not have separate eligibility requirements.

For more information about fraud risks in the UI programs, DOL's efforts to address potential fraud, and the extent to which DOL has comprehensively assessed fraud risks, see the enclosure on Unemployment Insurance Fraud Risk Management in appendix I.

Methodology

To conduct this work, we analyzed regularly reported DOL data for calendar years 2019, 2020, and 2021, having obtained the most recent data on September 30, 2021. We reviewed relevant federal laws, DOL guidance, and DOL OIG reports. We interviewed DOL officials about program data and agency actions; we also interviewed DOL OIG officials and National Association of State Workforce Agencies staff. In addition, we reviewed data file documentation and written responses from DOL officials. Further, we interviewed DOL officials about the UI database, PUA claims data files, and data on outstanding federal loans to pay UI benefits, specifically related to state-reported data on claims counts, overpayments, payment timeliness, and loan balance amounts. We examined the data for outliers, missing values, and errors. We determined that the DOL data we used were sufficiently reliable for the purposes of this report.

Agency Comments

We provided DOL and OMB with a draft of this enclosure. DOL provided technical comments on this enclosure, which we incorporated as appropriate. OMB did not provide any comments.

GAO's Ongoing Work

We continue to examine the implementation and administration of CARES Act UI programs and the implications of high claims volumes during the pandemic on the timeliness of benefit payments and on overall program integrity. We are conducting additional work to examine selected claimants' experiences during the pandemic and experiences with accessing CARES Act UI programs. We are also continuing to analyze selected states' data on PUA benefit receipt, by race and ethnicity, as part of our ongoing work on the PUA program. In addition, we are examining programmatic risks and challenges for the UI program as well as options for program transformation.

GAO's Prior Recommendations

The table below presents our recommendations on UI programs from prior bimonthly CARES Act reports.

Prior GAO Recommendations Related to Unemployment Insurance (UI) Programs	
Recommendation	**Status**
The Secretary of Labor should ensure the Office of Unemployment Insurance collects data from states on the amount of overpayments waived in the Pandemic Unemployment Assistance (PUA) program, similar to the regular UI program (March 2021 report).	**Open—partially addressed.** The Department of Labor (DOL) agreed with our recommendation and on September 3, 2021, issued PUA program guidance and updated instructions for states to report PUA overpayments waived. As of September 27, 2021, this recommendation remained open, as PUA data were not yet available for September 2021. We will continue to monitor state reporting of PUA overpayments waived.
The Secretary of Labor should ensure the Office of Unemployment Insurance collects data from states on the amount of overpayments recovered in the PUA program, similar to the regular UI program (January 2021 report).	**Open—partially addressed.** DOL agreed with our recommendation and on January 8, 2021, issued PUA program guidance and updated instructions for states to report PUA overpayments recovered. As of September 27, 2021, only 30 states had begun reporting some data on the amount of PUA overpayments recovered. Sustained reporting by more states is needed to help inform DOL, policymakers, and the public about the amount of PUA overpayments states have recovered. We will continue to monitor state reporting of PUA overpayment recovery data.
The Secretary of Labor should ensure the Office of Unemployment Insurance pursues options to report the actual number of distinct individuals claiming benefits, such as by collecting these already available data from states, starting from January 2020 onward (November 2020 report).	**Open—partially addressed.** DOL partially agreed with our recommendation. Specifically, DOL agreed to pursue options to report the actual number of distinct individuals claiming UI benefits. However, DOL did not agree with the recommended retroactive effective date of the reporting. In a letter dated March 30, 2021, DOL stated that it had begun developing a new state report that would capture data related to distinct individuals claiming regular UI benefits; DOL estimated that this data collection might begin in early 2022. DOL also reiterated its concerns about the feasibility of states' reporting this information retroactively, including for the pandemic UI programs, without detracting from their primary obligation for timely and accurate claims processing. We maintain that DOL should pursue options to report the actual number of distinct individuals claiming UI benefits, retroactive to January 2020. Even if the information is unavailable for some time, these data are vital to understanding how many individuals received UI benefits as well as the size of the population supported by the UI system during the pandemic. Given the substantial investment in UI programs during the pandemic, an accurate accounting of the size of the population supported by this funding may be critical to understanding the efficiency and effectiveness of the nation's response to unemployment during the pandemic. An accurate accounting may also be critical to helping DOL and policy makers identify lessons learned about the administration and use of regular and expanded UI benefit programs.

Recommendation	Status
	In August 2021, DOL officials said their work on the new state report that would capture data related to distinct individuals claiming regular UI benefits had been delayed by other competing priorities related to implementing the American Rescue Plan Act of 2021. The officials said that in spite of this delay, they hoped to complete the report by early 2022.
The Secretary of Labor should ensure the Office of Unemployment Insurance revises its weekly news releases to clarify that in the current unemployment environment, the numbers it reports for weeks of unemployment claimed do not accurately estimate the number of unique individuals claiming benefits (November 2020 report).	**Closed—addressed.** DOL's weekly news release of December 10, 2020, clarified that the numbers reported for weeks of UI benefits claimed do not represent the number of unique individuals claiming benefits.
The Secretary of Labor should, in consultation with the Small Business Administration (SBA) and the Department of the Treasury, immediately provide information to state unemployment agencies that specifically addresses SBA's Paycheck Protection Program (PPP) loans, and the risk of improper payments associated with these loans (June 2020 report).	**Closed—addressed.** DOL issued guidance on August 12, 2020, clarifying that individuals working full time and being paid through PPP are not eligible for UI. The guidance also clarified that individuals working part time and being paid through PPP would be subject to certain state policies, including state policies on partial unemployment, to determine their eligibility for UI benefits. Further, the guidance clarified that individuals being paid through PPP but not performing any services would similarly be subject to certain provisions of state law. Finally, the guidance noted that an individual receiving full compensation would be ineligible for UI.

Source: GAO. I GAO-22-105051

Related GAO Products

Management Report: Preliminary Information on Potential Racial and Ethnic Disparities in the Receipt of Unemployment Insurance Benefits during the COVID-19 Pandemic. GAO-21-599R. Washington, D.C.: June 17, 2021.

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Unemployment Insurance Fraud Risk Management

The amount of fraudulent and potentially fraudulent activity in unemployment insurance programs increased substantially after the three CARES Act temporary expansions, relative to the amount of such activity in the regular unemployment insurance program before the pandemic. Improper payments have also been a long-standing concern in the regular unemployment insurance program, suggesting the program may be vulnerable to fraud. The Department of Labor continues to identify and implement strategies to address potential unemployment insurance fraud and has ongoing program integrity activities to identify risks. However, it has not comprehensively assessed fraud risks in alignment with leading practices identified in GAO's Fraud Risk Framework, which by law must be incorporated in guidelines established by the Office of Management and Budget for agencies.

Entity involved: Department of Labor

Recommendations for Executive Action

The Secretary of Labor should designate a dedicated entity and document its responsibilities for managing the process of assessing fraud risks to the unemployment insurance program, consistent with leading practices as provided in our Fraud Risk Framework. This entity should have, among other things, clearly defined and documented responsibilities and authority for managing fraud risk assessments and for facilitating communication among stakeholders regarding fraud-related issues.

The Secretary of Labor should identify inherent fraud risks facing the unemployment insurance program.

The Secretary of Labor should assess the likelihood and impact of inherent fraud risks facing the unemployment insurance program.

The Secretary of Labor should determine fraud risk tolerance for the unemployment insurance program.

The Secretary of Labor should examine the suitability of existing fraud controls in the unemployment insurance program and prioritize residual fraud risks.

The Secretary of Labor should document the fraud risk profile for the unemployment insurance program.

The Department of Labor neither agreed nor disagreed with our recommendation to designate a dedicated entity for managing the process for assessing fraud risks within the unemployment insurance program. The department stated that its Chief Financial Officer and the Employment and Training Administration's Assistant Secretary are responsible for risk assessment and management in the UI program. However, it is important that, consistent with our Fraud Risk Framework, the Department of Labor clearly document this designation and these officials' antifraud responsibilities.

The Department of Labor neither agreed nor disagreed with our other five recommendations. The department stated that its current process allows it to identify, evaluate, and manage risks. However, the department also said it will incorporate the recommended practices and approaches moving forward.

Background

The unemployment insurance (UI) system is a federal–state partnership that provides temporary financial assistance to eligible workers who become unemployed through no fault of their own. States design and administer their own UI programs within federal parameters, and the Department of Labor (DOL) oversees states' compliance with federal requirements, such as by ensuring states pay benefits when they are due. Regular UI benefits—those provided under the state UI programs in place before the CARES Act was enacted—are funded primarily through state taxes levied on employers and are intended to typically be lower than a claimant's previous employment earnings, according to DOL.[300]

The CARES Act created three federally funded temporary UI programs that expanded benefit eligibility and enhanced benefits, which were amended by the Consolidated Appropriations Act, 2021 and the American Rescue Plan Act of 2021.[301] These programs expired on September 6, 2021, although some states ended their participation before that date.

1. Pandemic Unemployment Assistance (PUA) authorized UI benefits for individuals not otherwise eligible for UI benefits, such as self-employed and certain gig economy workers, who were unable to work as a result of specified COVID-19-related reasons.[302]

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[300]To be eligible for regular UI benefits, applicants generally must be able and available to work and actively seeking work. 42 U.S.C. § 503(a)(12). Administration of the regular UI program is financed by a federal tax on employers, according to DOL.

[301]The CARES Act also addressed other aspects of the UI system, such as authorizing certain flexibilities for states to hire additional staff and funding for Short-Time Compensation programs. In addition to the CARES Act, the Families First Coronavirus Response Act provided up to $1 billion in emergency grant funding to states in fiscal year 2020 for UI administrative purposes. In addition, on August 8, 2020, the President signed a memorandum directing the Department of Homeland Security's Federal Emergency Management Agency (FEMA) to provide up to $44 billion in lost wages assistance. Pursuant to the presidential memorandum, upon receiving a FEMA grant, states and territories could provide eligible claimants $300 or $400 per week—which included a $300 federal contribution—in addition to their UI benefits. The White House, *Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019* (Aug. 8, 2020). FEMA approved 53 states and territories to provide lost wages assistance to eligible claimants for a maximum of 6 weeks of unemployment experienced from the week ending on August 1, 2020, through the week ending on September 5, 2020. These 53 states and territories included the District of Columbia. For the purpose of this enclosure, we categorize the District of Columbia as a state.

[302]At the time of the program's expiration, PUA generally authorized up to 79 weeks of benefits. Pub. L. No. 117-2, § 9011(a), (b), 135 Stat. 4, 118; Pub. L. No. 116-260, div. N, tit. II, § 201(a), (b), 134 Stat. 1182, 1950-1951 (2020); Pub. L. No. 116-136, § 2102, 134 Stat. 281, 313 (2020).

2. Federal Pandemic Unemployment Compensation (FPUC) generally authorized an additional weekly benefit for individuals who were eligible for weekly benefits under the regular UI and CARES Act UI programs.[303]

3. Pandemic Emergency Unemployment Compensation (PEUC) generally authorized additional weeks of UI benefits for those who had exhausted their regular UI benefits.[304]

In addition, the Consolidated Appropriations Act, 2021 created the Mixed Earner Unemployment Compensation (MEUC) program, which was extended by the American Rescue Plan Act of 2021.[305] According to DOL, the MEUC program was intended to cover regular UI claimants whose benefits do not account for significant self-employment income and who thus may have received a lower regular UI benefit than the benefit they would have received had they been eligible for PUA.[306]

See the enclosure on Unemployment Insurance Programs in appendix I for additional background information.

Federal and state entities continue to investigate and report on high levels of fraud, potential fraud, and fraud risks in the UI programs.[307] At the federal level, DOL's Office of Inspector General (OIG) and the Department of Justice (DOJ) continue to investigate potential UI fraud and highlight the level of fraud, potential fraud, and fraud risks in the UI programs. As of July 14, 2021, DOL OIG officials reported that they had opened more than 21,000 complaints and investigations involving alleged UI fraud since the pandemic began. The DOL OIG last reported that it had identified and recovered more than $160 million in UI fraud, according to the DOL OIG's website.

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[303]FPUC generally authorized an additional $600 benefit through July 2020 and authorized an additional $300 benefit for weeks beginning after December 26, 2020, through the end of the program. Pub. L. No. 117-2, § 9013, 135 Stat. 4, 119; Pub. L. No. 116-260, div. N, tit. II, § 203, 134 Stat. 1182, 1953; Pub. L. No. 116-136, § 2104, 134 Stat. at 318.

[304]At the time of the program's expiration, PEUC generally authorized an additional 53 weeks of benefits for claimants who were fully unemployed. Pub. L. No. 117-2, § 9016(a), (b), 135 Stat. 4, 119-120; Pub. L. No. 116-260, div. N, tit. II, § 206(a), (b), 134 Stat. 1182, 1954; Pub. L. No. 116-136, § 2107, 134 Stat. at 323.

[305]The MEUC program, which was voluntary for states, authorized an additional $100 weekly benefit for certain UI claimants who received at least $5,000 of self-employment income in the most recent tax year prior to their application for UI benefits. Pub. L. No. 117-2, § 9013(a), 135 Stat. 4, 119; Pub. L. No. 116-260, div. N, tit. II, § 261(a)(1), 134 Stat. 1182, 1961. The $100 weekly benefit was in addition to other UI benefits received by claimants; however, individuals receiving PUA benefits could not receive MEUC payments.

[306]According to DOL, 51 states and territories elected to participate in the MEUC program, and Idaho and South Dakota opted not to participate. However, 23 states terminated their participation in June or July 2021, before the program expiration date, and one state intended to terminate participation but did not because of litigation at the state level, according to DOL. The remaining 27 states and territories continued participating in the MEUC program until it expired in September 2021. According to DOL, when the MEUC program expired, the following 18 states and territories had not begun paying benefits: Colorado, Georgia, Illinois, Iowa, Kansas, Louisiana, Nevada, New Jersey, Ohio, Oklahoma, Oregon, Rhode Island, Texas, the U.S. Virgin Islands, Vermont, Washington, West Virginia, and Wyoming. [Note: DOL's information on states that had yet to make first MEUC payments was current as of July 29, 2021]. Before paying any benefits, Wyoming submitted notice to DOL that it planned to return all MEUC funds and not to operate the program, according to DOL.

[307]Fraud involves obtaining something of value through willful misrepresentation. Whether an act is fraudulent is determined through the judicial or other adjudicative systems. In this report, "fraud risk" includes existing circumstances that provide an opportunity to commit fraud.

DOL OIG efforts have also identified billions of dollars in potential UI fraud under investigation. In June 2021, DOL's OIG reported that it had identified nearly $8 billion of potentially fraudulent UI benefits paid from March 2020 through October 2020.[308]

In addition, since March 2020, DOJ has publicly announced charges in numerous fraud-related cases related to the UI programs. Specifically, from March 2020 through July 2021, 71 individuals pleaded guilty to federal charges of defrauding UI programs and federal charges were pending against 192 individuals.[309] See the enclosure on Federal Fraud-Related Cases in appendix I for more information about DOJ charges.

Several state auditors have also reported on fraud, potential fraud, and fraud risks in the UI programs. For example, state auditors in California, Louisiana, and Kansas identified millions of dollars in potentially fraudulent payments.[310]

Overview of Key Issues

Our review of DOL OIG reports, state audits, and DOJ cases identified several fraud risks in UI programs. On the basis of our review of DOL OIG reports, state audit reports, and DOJ cases, we identified the following fraud risks in UI programs:[311]

- *Applicants' falsifying information on income or employment eligibility to receive benefits.* For example, an individual who pleaded guilty to falsely reporting income information to receive UI benefits, including the additional $600 available through FPUC, obtained more than $13,000 in fraudulent benefits.
- *Applicants' using stolen identities or personally identifiable information (PII) to apply for benefits or receive benefits.* For example, an individual who pleaded guilty to filing fraudulent UI claims used the stolen identities of dozens of individuals to obtain more than $500,000.
- *Applicants' applying for, or receiving, benefits by using fake identity information.* For example, an individual who pleaded guilty to applying for UI benefits by using a fake Social Security number obtained an unspecified amount of fraudulent benefits.

[308] For more information, see Department of Labor, Office of Inspector General, *Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General*, Report No. 19-21-005-03-315 (Washington, DC: June 16, 2021).

[309] For the purpose of this enclosure, federal charges are defined as criminal complaints, criminal informations, and indictments. A charge is merely an allegation, and all defendants are presumed innocent until proven guilty beyond a reasonable doubt in a court of law. Twenty of the individuals who pleaded guilty had been sentenced as of July 31, 2021; sentences ranged from 3 months to 10 years in prison.

[310] Auditor of the State of California, *Employment Development Department: Significant Weaknesses in EDD's Approach to Fraud Prevention Have Led to Billions of Dollars in Improper Benefit Payments*, Report 2020-628.2 (Sacramento, CA: Jan. 28, 2021). Louisiana Legislative Auditor, Louisiana Workforce Commission, *Improper Payments in the Unemployment Insurance Program: Ineligible Incarcerated Recipients*, (Baton Rouge, LA: Apr. 28, 2021). Kansas Legislative Division of Post Audit, *Evaluating the Kansas Department of Labor's Response to COVID-19 Unemployment Claims (Part I),* Report No. R-21-003 (Topeka, KS: February 2021).

[311] The fraud risks identified in this report do not constitute an exhaustive list of all fraud risks affecting the UI programs.

- *Applicants' submitting fraudulent claims or erroneously receiving benefits in multiple states.* For example, an individual who pleaded guilty to applying for, and in many cases receiving, UI benefits from state administrators in at least 40 different states and the District of Columbia obtained approximately $350,000 in fraudulent benefits.
- *Prison inmates' applying for benefits for which they were not eligible.* For example, in a coordinated scheme, three individuals—two of whom have pleaded guilty—collected PII and filed fraudulent claims on behalf of more than 35 co-conspirators who were ineligible for benefits, including 15 incarcerated individuals. Using co-conspirators' PII, the three individuals filed 37 fraudulent claims that resulted in payment of at least $499,000 in benefits.
- *Current or former federal or state or territory employees' misusing their positions to fraudulently obtain benefits for themselves or others.* For example, a former territory employee pleaded guilty to federal program theft and accessing a protected computer in furtherance of fraud in connection with a scheme to defraud UI. He filed for pandemic-related unemployment benefits on his own behalf, falsely claiming that he was unemployed and eligible. In addition, he used his position as a customer service representative to submit fraudulent UI claims on behalf of others, and he directed the benefits from these fraudulent claims into a bank account he controlled. This individual obtained, or attempted to obtain, a total of $93,000 in benefits. He was sentenced to 10 months imprisonment followed by 3 years of supervised release and was ordered to pay more than $14,000 in restitution.

The amount of fraudulent and potentially fraudulent activity in UI programs increased substantially after the three CARES Act temporary expansions, relative to the amount of such activity in the regular UI program before the pandemic. The high benefit payment amounts offered during the pandemic created a significant financial incentive for fraudsters to target the UI program, according to officials from the National Association of State Workforce Agencies (NASWA).[312] In addition, DOL officials stated that the CARES Act UI programs are a key target for fraud because fraudsters can receive a large amount of money in one payment.

DOL, DOL OIG, and NASWA have identified factors that contribute to fraud risk in the UI programs. Information about fraud schemes in a program is a useful source for understanding fraud risks. According to DOL officials, fraud in the regular UI program has historically involved a misrepresentation of eligibility, such as an employee's failing to report returning to work, failing to report earned wages, or failing to fulfill work search requirements or an employer's failing to report a reason for separation. Officials stated that although DOL was aware of isolated occurrences of identity-related fraud before the pandemic, such as the use of false identities, it has seen an increase in the frequency and volume of identity-related fraud, as well as significantly more sophisticated fraud schemes, since the pandemic began.

According to DOL officials, the department is aware of fraud risks in CARES Act UI programs, particularly risks of fraudulent claim schemes and of fraudulent individual claims for benefits. In its fiscal year 2020 agency financial report, DOL acknowledged an increase in suspected fraudulent

[312]NASWA represents all 50 state workforce agencies, the District of Columbia, and U.S. territories.

activity—specifically, organized fraud schemes targeting the CARES Act UI program.[313] Moreover, according to NASWA officials, the UI system has faced unrelenting attacks by foreign organized crime groups during the pandemic. According to DOL officials, the most common fraud schemes during the pandemic have included the use of stolen PII to file a claim or multiple claims; the use of synthetic identities (i.e., real identities mixed with fictitious information); and the use of bot attacks in attempts to overwhelm state UI systems or launch phishing schemes to obtain individual PII to perpetrate future fraud.[314]

DOL officials also told us that they have observed the use of new fraud schemes targeting CARES Act UI programs.

- *Hijacking of bank accounts*. After an individual submits a legitimate application for UI benefits and provides bank account information for the funds' direct deposit, a fraudster will hack into the applicant's UI system account and reroute the deposit from the applicant's bank account to a bank account the fraudster can access.
- *Mimicking of state UI websites.* When people conduct Internet searches for their state's UI office, they may find, and file claims on, a fraudulent website that looks like the state workforce agency's website, thus providing their PII to fraudsters.

Factors contributing to fraud risk include conditions or actions that are most likely to cause or increase the possibility of fraud. Through our review of DOL OIG reports, state audit reports, and DOJ cases, we identified the following fraud risk factors in CARES Act UI programs:[315]

- *Reliance on self-certification.* The CARES Act allowed PUA applicants to self-certify their eligibility and did not require them to provide any documentation of self-employment or prior income. In October 2020, DOL's OIG reported that states cited the PUA self-certification requirement as a top fraud vulnerability.[316] We have previously reported that relying on program participants to self-report and self-certify information on agency forms, instead of verifying such information independently, could cause an agency to miss opportunities to prevent program fraud and abuse. To help address this risk, the Consolidated Appropriations Act, 2021, enacted in December 2020, included a requirement for individuals to submit documentation of employment or self-employment when applying for PUA.[317]

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[313] Department of Labor, *Agency Financial Report Fiscal Year 2020* (Washington, DC: Nov. 16, 2020).

[314] A bot, or bot-net, is a type of cybersecurity threat. Bot-net operators use a network, or bot-net, of compromised, remotely controlled systems to coordinate attacks and distribute phishing schemes, spam, and malware attacks. The services of these networks are sometimes available on underground markets (e.g., through the purchase of a denial-of-service attack or services to relay spam or phishing attacks).

[315] Factors contributing to fraud risk do not necessarily indicate that fraud exists but are often present when fraud occurs.

[316] Department of Labor, Office of Inspector General, *COVID-19: States Cite Vulnerabilities in Detecting Fraud While Complying with the CARES Act UI Program Self-Certification Requirement*, Report No. 19-21-001-03-315 (Washington, DC: Oct. 21, 2020).

[317] The Consolidated Appropriations Act, 2021 extended the PUA program and included a requirement that all PUA claimants must submit documentation substantiating employment, self-employment, or the planned

- *Waiver of waiting period.* During the pandemic, states were encouraged to process and pay claims quickly while experiencing a historic number of claims. In an effort to speed claims processing, DOL encouraged states to temporarily suspend the existing waiting period for benefits and the CARES Act provided full federal funding for the first week of regular UI benefits to states that did so. According to DOL officials, under the regular UI program, DOL allows states to take up to 21 days to make the first payment of benefits, giving them time to detect potential fraud. Waiving the waiting period meant that some states had less time to employ tools for fraud prevention and detection, according to NASWA officials.

- *Low staffing levels and antiquated IT systems.* In the beginning of the pandemic, outdated IT systems and low staffing levels made it difficult for many states to efficiently process the unprecedentedly high volume of claims and conduct internal control activities, according to DOL OIG officials. These officials also told us that state agency staffing levels are determined on the basis of claim volume levels in previous years. At the start of the pandemic, many state UI programs had been experiencing their lowest claims volume, and thus their lowest staffing and funding levels, since the 1970s. To process the high volume of claims after the pandemic began, many states reassigned benefit payment control staff to claims processing, with the result that few staff were working to prevent and detect fraud, according to DOL OIG officials. Additionally, DOL OIG officials stated that some state IT systems were not equipped to handle the volume of claims and some may not have been easily compatible with the NASWA UI Integrity Center's Integrity Data Hub resources.[318]

- *Variation in data analysis across states.* States' use of data mining, cross matching, and identity verification resources varies. According to DOL officials, the department does not have authority to require states use the databases available in the UI Integrity Center's Integrity Data Hub, such as the Identify Verification or Multi-State Cross Match databases. Additionally, not all states were able to cross-match claims with federal incarceration data and many states did not have access to state-level incarceration data.

DOL continues to identify and implement strategies to address potential fraud in the UI programs. DOL has taken steps to prevent and detect fraud in UI programs, including the CARES Act UI programs. In its fiscal year 2020 agency financial report, DOL highlighted a number of these steps, including (1) working with states and DOL's OIG to employ data mining and data analytics to detect fraud when a claim is filed, (2) holding routine conference calls with DOL's OIG and states to discuss and share information on UI fraud schemes, and (3) establishing training.

In May 2020, DOL began issuing specific fraud prevention and detection guidance in response to the challenges faced by state workforce agencies and the increase in suspected fraud, encouraging states to continue to uphold the integrity of the UI programs and to use the resources provided through the NASWA UI Integrity Center, including the Integrity Data Hub.[319] In addition, the

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commencement of employment or self-employment. Pub. L. No. 116-260, div. N, tit. II, § 241(a), 134 Stat. 1182, 1959-60.

[318]The Integrity Data Hub is a centralized, multistate data system that the UI Integrity Center operates in partnership with DOL, using DOL funding.

[319]According to DOL, this guidance included UIPL 23-20, UIPL 28-20, and Training and Employment Notice Nos. 03-20, 04-20, and 05-20. To facilitate the identification of potential fraud, states can access the NASWA UI Integrity Center's

guidance highlighted states' responsibilities to perform required cross-matches to prevent potential fraud.[320] The UI Integrity Center also provides a fraud-alert application to facilitate information sharing about fraud schemes between states and the DOL OIG. According to DOL officials, the department continues to invest in the Integrity Data Hub to enhance cross-matching functionality and ensure states have access to key fraud detection services. Officials said that key investments include the Multi-State Cross-match, the Identity Verification solution, and Account Verification Services.

Also, as we have previously reported, DOL made two allotments of $100 million available to states, in September 2020 and January 2021, respectively, to address potential fraud and identity theft in the PUA and PEUC programs.[321] According to DOL, states have reported using the funds from the January 2021 allotment to, among other things, hire additional data analytic and fraud investigator staff, hire third-party vendors to conduct fraud risk and cybersecurity assessments of states' UI systems, subscribe to identity verification and identity proofing solutions, and coordinate with finance departments and law enforcement to aid in the recovery of overpaid benefits. States also reported using this funding to make updates to their systems, including purchasing fraud prevention software, fraud detection software, and data mining tools. In addition, states reported enhancing their UI systems by implementing multifactor authentication, automating claim validation, and creating portals for individuals to report fraud.[322]

The American Rescue Plan Act of 2021 provided DOL with $2 billion to combat potential fraud, among other things.[323] In response, in August 2021, DOL officials issued a four-part plan for using this $2 billion that includes the following actions:[324]

- *Sending experts directly to states to help them address challenges related to fraud, benefit access, and benefit timeliness.* DOL officials said they have sent teams of experts in fraud, technology, and equity to help states identify claims processing deficiencies as well as opportunities to address equity in the UI system.[325] According to officials, these teams will focus on operations, communications, and process flows. The officials said the teams will also focus on technologies that support the timely distribution of benefits, reduction of backlogs, equitable access to UI benefits, and fraud prevention and detection. Six states—Colorado, Kansas, Nevada, Virginia, Washington, and Wisconsin—have volunteered to work with the teams, and officials said they are recruiting the next group of states. Officials also plan to develop a federal

Integrity Data Hub, operated in partnership with DOL. The UI Integrity Center operates the Integrity Data Hub, which allows states to submit claims for cross-matching and supports data analytics on multistate claims.

[320]The required cross matches include the National Directory of New Hires Cross-match, Quarterly Wage Records Cross-match, and the Systematic Alien Verification for Entitlement.

[321]We previously reported on how states used the funds from the September allotment.

[322]DOL monitors states' use of funds and progress in carrying out these efforts through quarterly reports from states.

[323]The American Rescue Plan Act of 2021 provided DOL with $2 billion to detect and prevent fraud, promote equitable access, and ensure the timely payment of UI benefits.

[324]Department of Labor, "Fact Sheet: Unemployment Insurance Modernization: American Rescue Plan Act Funding for Timely, Accurate and Equitable Payment in Unemployment Compensation Programs," Aug. 11, 2021, https://oui.doleta.gov/unemploy/pdf/FactSheet_UImodernization.pdf.

[325]We previously reported on potential inequities in the receipt of UI benefits by race and ethnicity in some states. See GAO, *Management Report: Preliminary Information on Potential Racial and Ethnic Disparities in the Receipt of Unemployment Insurance Benefits during the COVID-19 Pandemic*, GAO-21-599R (Washington, DC: June 17, 2021).

team that will supervise the state-level teams and maintain a repository of common problems and solutions. According to DOL officials, the federal team will also enhance DOL's technical assistance capacity.

- *Providing states with grants to combat potential fraud and address equity.* DOL officials said they plan to provide states with additional grants to help them combat potential fraud.[326] States will be able to use up to $140 million in grants provided under one of the allotments for the regular UI program, unlike previous allotments, which were focused on the PUA and PEUC programs. In addition, states receiving these grant funds must provide claims data to the DOL OIG during the duration of the grant for the purposes of investigating fraud and conducting audits. Officials also plan to provide states with grants to address equity issues, such as by improving access to the regular UI program for individuals with disabilities or individuals who have limited or no internet access.[327] According to DOL officials, states seeking these funds are required to identify the equity gaps they plan to address and the metrics they plan to use to measure improvement in equitable access.

- *Supporting states in fully modernizing their IT systems.* DOL officials said they plan to support states efforts to fully modernize their IT systems. The officials said they plan to select states that are in various stages of IT modernization and work with them to develop modular technology solutions that can be integrated with state systems.

- *Contracting with vendors that can assist states in preventing identity fraud.* According to DOL officials, they have awarded purchase agreements to three vendors that states can use to combat identity-related fraud. Officials noted that they have concerns about the equity of states' processes for flagging claims for potential fraud. The officials also noted that they hope to identify any gaps in applicants' access to benefits that may result from states' identity verification efforts.

In addition to working with states, DOL officials said they continue to collaborate with a variety of other entities to address fraud prevention, detection, and recovery. According to officials, they are working with the Social Security Administration to establish a secure data exchange that will allow states to cross-match UI claims data with incarceration records. Officials said they also meet regularly with the DOL OIG to discuss emerging UI fraud issues, streamline communication with states, and coordinate fraud prevention and recovery efforts. In addition, officials said they continue to participate in biweekly banking work group calls to discuss ongoing recovery efforts and improve communication among banking organizations, federal government agencies, and law enforcement agencies. Further, DOL has issued guidance requiring states to share claims data with the DOL OIG relating to the federal pandemic-related UI programs.

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[326]For more information about these fraud prevention grants, see Department of Labor, *Additional Funding to Assist with Strengthening Fraud Detection and Prevention Efforts and the Recovery of Overpayments in the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) Programs, as well as Guidance on Processes for Combatting Identity Fraud*, UIPL 28-20, Change 2 (Washington, DC: Aug. 11, 2021). Also see Department of Labor, *Grant Opportunity to Support States with Fraud Detection and Prevention, Including Identity Verification and Overpayment Recovery Activities, in All Unemployment Compensation (UC) Programs*, UIPL 22-21 (Washington, DC: Aug. 11, 2021).

[327]For more information about these equity grants, see Department of Labor, *Grant Opportunity for Promoting Equitable Access to Unemployment Compensation (UC) Programs*, UIPL 23-21 (Washington, DC: Aug. 17, 2021).

Although DOL has taken steps to identify risks through program integrity activities, it has not comprehensively assessed UI fraud risks. Although DOL has various program integrity efforts in place to identify risks in the regular UI program and the CARES Act UI programs and is conducting ongoing efforts that could inform a fraud risk assessment, it has not comprehensively assessed UI fraud risks in alignment with leading practices or documented a prioritized approach to managing fraud risks.

DOL conducts various program integrity efforts focused on identifying risks, including fraud risks, such as the following:

- *Enterprise risk management (ERM) effort.* According to a DOL official, DOL developed a risk register in 2019 as part of an agency-wide ERM effort.[328] This official also told us that staff responsible for managing the UI programs provided input about the risk register and flagged identity-related fraud as an identified and targeted risk.
- *Entity Level Controls Survey.* DOL reported that it conducts the annual Entity Level Controls Survey of DOL agency management and personnel to review risks related to financial and internal controls. According to DOL, the Entity Level Controls Survey canvasses agencies to assess fraud at an agency and program level. These surveys assist in assessing and maintaining a well-informed and fraud-aware culture and, according to DOL, have affirmed the implementation of antifraud controls.
- *Quarterly state risk assessments and reviews.* DOL's regional offices conduct quarterly state risk assessments and reviews. The risk assessments are designed to identify potential risk factors that may adversely affect a state's program administration. During these quarterly reviews, DOL staff may also conduct program integrity reviews to ensure that states have operational processes in place to prevent, detect, and recover improper and fraudulent payments and to keep the UI improper payment rate as low as feasible.
- *Benefit Accuracy Measurement Program.* Officials told us that DOL collects information about UI fraud from states' independent assessments of the accuracy of UI benefit payments and their estimates of improper payments, including fraud. See the enclosure on Unemployment Insurance Programs in appendix I for additional details about DOL's improper payment estimates.
- *Other antifraud efforts.* DOL officials also cited the fiscal year 2020 agency financial report for a significant discussion of antifraud efforts. In its most recent agency financial report, DOL reported that in fiscal year 2020, it conducted a variety of efforts to ascertain fraud risk. These efforts included reviews of risks affecting all DOL programs, required by the Payment Integrity Information Act of 2019.[329]

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[328] On March 22, 2019, the Secretary of Labor announced the establishment of the DOL Enterprise Risk Management Council. According to DOL, its ERM initiative provides leaders with an integrated, enterprisewide view of risk, risk tolerances, and risk mitigation efforts.

[329] In March 2020, Congress enacted the Payment Integrity Information Act of 2019, which repealed the Improper Payments Information Act of 2002, the Improper Payments Elimination and Recovery Act of 2010, and the Improper Payments Elimination and Recovery Improvement Act of 2012, and enacted substantially similar provisions

The Office of Management and Budget (OMB) requires agencies to assess the full spectrum of an organization’s risks and to identify those that are enterprise-level risks. Agencies are expected to rate those enterprise risks in terms of impact, build internal controls to monitor and assess the risk developments at various points in time, and incorporate risk awareness into their culture and operations.[330] While fraud risks can be a part of a broader assessment of enterprise risk such as ERM, such assessments do not take into account actions that agencies must undertake to manage fraud risks.

Our Fraud Risk Framework acknowledges that agencies may use initiatives such as ERM to assess their fraud risks. However, agencies, including DOL, must nonetheless fulfill the separate and independent fraud risk management requirements initially established by the Fraud Reduction and Data Analytics Act of 2015. The act, enacted in June 2016, required OMB to establish guidelines for federal agencies to create controls to identify and assess fraud risks and to design and implement antifraud control activities.[331] The act further required OMB to incorporate the leading practices from the Fraud Risk Framework in the guidelines. In its guidelines, OMB directed that agencies should adhere to the Fraud Risk Framework’s leading practices as part of their efforts to effectively design, implement, and operate an internal control system that addresses fraud risks. Managers are responsible for determining the extent to which the leading practices in the framework are relevant to their program and for tailoring the practices, as appropriate, to align with the program’s operations.

Although DOL has various program integrity efforts focused on identifying risks, including fraud risks, DOL has not clearly assigned defined responsibilities to a dedicated entity for designing and overseeing fraud risk management activities such as managing the fraud risk assessment process.[332] DOL indicated that it has not previously designated officials to be dedicated specifically to managing fraud risks because it manages these risks within the execution of existing payment integrity and ERM activities. Specifically, DOL officials noted that the agency’s Chief Financial Officer and the Employment and Training Administration’s Assistant Secretary are the senior executive officials responsible for payment integrity. DOL officials further clarified that this responsibility concerns risk management for fraudulent and nonfraudulent improper payments. Additionally, officials stated that the Employment and Training Administration has created, and will continue to build, a designated fraud team that will coordinate antifraud efforts. However, DOL officials did not provide documentation on the structure and fraud risk management responsibilities and authorities planned for this entity.

to replace them. Pub. L. No. 116-117, 134 Stat. 113 (2020) (codified at 31 U.S.C. §§ 3351-3358). The Payment Integrity Information Act also enacted some enhancements to improper payments law, including more detailed requirements for agency risk assessments. 31 U.S.C. § 3352.

[330]Office of Management and Budget, *OMB Circular No. A-123, Management's Responsibility for Enterprise Risk Management and Internal Control*, M-16-17 (July 2016).

[331]Although the Fraud Reduction and Data Analytics Act of 2015 was repealed in March 2020, the Payment Integrity Information Act of 2019 requires these guidelines to remain in effect, subject to modification by OMB as necessary and in consultation with GAO. Pub. L. No. 116-117, § 2(a), 134 Stat. 113, 131 - 132 (2020), codified at 31 U.S.C. § 3357. OMB established guidelines in OMB Circular No. A-123.

[332]Although the UI program is a federal–state partnership, our Fraud Risk Framework states that managers of federal programs maintain primary responsibility for enhancing program integrity.

The Fraud Risk Framework's leading practices note that enterprise-wide risk management processes may have functions that overlap with fraud risk management. Thus, enterprise-wide risk management processes may incorporate the roles and responsibilities of the antifraud entity specified in our leading practices in order to implement a strategic approach for assessing and managing fraud risks.[333] The framework notes that such an approach includes designating an entity with defined responsibilities and the necessary authority across the program to lead fraud risk management activities.

Without a dedicated entity with defined responsibilities to lead antifraud initiatives, including the process of assessing fraud risks to UI programs, DOL may not be strategically managing its UI fraud risks. For example, a dedicated antifraud entity could be held responsible for, among other activities, managing the fraud risk assessment process and coordinating antifraud initiatives across an agency's various programs to assure that agency activities called for by the Fraud Risk Framework are conducted. These activities include

- identifying inherent fraud risks facing the agency's programs,
- assessing the likelihood and impact of inherent fraud risks facing these programs,
- determining fraud risk tolerance,
- examining the suitability of existing fraud controls and prioritizing residual fraud risks, and
- documenting the programs' fraud risk profiles.

DOL's ongoing program integrity efforts could inform a fraud risk assessment; however, the agency has not comprehensively assessed UI fraud risks in alignment with leading practices. The second component of the Fraud Risk Framework—"Assess"—calls for federal managers to plan regular fraud risk assessments and assess risks to determine a fraud risk profile. Specifically, leading practices include tailoring the fraud risk assessment to the program and planning to conduct the assessment at regular intervals and at the time of any changes to the program or operating environment.

DOL provided, as evidence of its assessment of fraud risks, the template it used to develop the 2019 risk register (i.e., a compilation of risk across the organization). According to DOL officials, DOL had developed this template for ERM efforts. In addition, DOL officials cited the department's fiscal year 2021 Employment and Training Administration Operating Plan, which incorporates information from the risk register, according to the officials. They also pointed to a quarterly Integrity Strategic Plan progress report and additional ERM documents.

These documents demonstrate that the agency has taken some steps to develop an antifraud strategy and evaluate risk in business processes at DOL. However, these documents do not provide evidence that DOL has fully considered the specific UI fraud risks, analyzed the potential

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[333]The Fraud Risk Framework helps managers meet their responsibilities to assess and manage fraud risks as required by federal internal control standards.

likelihood and impact of fraud schemes, and documented prioritized fraud risks, as called for in leading practices.

In addition, DOL developed the 2019 risk register before the implementation of the CARES Act UI programs so the register does not incorporate fraud risks specific to these programs. A fraud risk assessment is particularly informative when the volume and nature of fraud risk indicators signifies an evolving fraud risk landscape, such as that observed in the CARES Act UI programs. Such an assessment helps program managers determine whether they have the right controls in place to combat the most likely and impactful risks facing the program.

Without comprehensively assessing UI fraud risks—including risks during the pandemic—in accordance with leading practices, DOL lacks reasonable assurance that it has identified the most significant fraud risks for the regular UI program that will exist after the pandemic. For example, some fraud risks identified in the CARES Act UI programs may continue to exist in the regular UI program after the expiration of the temporary UI programs. An analysis of fraud risks across all UI programs would also help DOL determine whether to establish additional fraud controls for the regular UI program and whether to make adjustments to existing controls. In addition, incorporating this analysis in a documented fraud risk profile and its broader antifraud strategy could position DOL to deal more effectively with any future emergency UI programs.

Continuing to collaborate with state workforce agencies—consistent with leading practices for stakeholder involvement—could also help DOL communicate information on fraud risks and emerging fraud schemes and share lessons learned related to fraud control activities. In addition, DOL could benefit from involving state workforce agencies in assessing fraud risks to UI programs and sharing information about fraud risks with state auditors. Fraud risk assessments that involve relevant internal and external stakeholders are more likely to be successful and to reflect a complete understanding of fraud risks and control vulnerabilities.

Effective fraud risk management helps ensure that federal programs' services fulfill their intended purpose, funds are spent effectively, and assets are safeguarded. If an agency is not managing fraud risks effectively in a steady state, it will not be positioned to do so during emergencies. The purpose of proactively managing fraud risks is to facilitate, not hinder, a program's mission and strategic goals by ensuring that taxpayer dollars and government services serve their intended purposes and by maintaining public trust in government. If done well, fraud risk management would allow DOL to both enhance the efficient and effective delivery of UI benefits to those in need and help prevent and detect fraudsters seeking benefits to which they are not entitled.

Methodology

To conduct this work, we reviewed information from DOJ to identify federal fraud–related charges related to unemployment insurance as of July 31, 2021, and analyzed related federal court documents. We also reviewed relevant DOL OIG and state audit reports. In addition, we interviewed DOL officials about fraud risk management efforts; we also interviewed DOL OIG and NASWA officials. Further, we reviewed enterprise risk management guidance and written responses from DOL officials.

Agency Comments

We provided a draft of this enclosure to DOL and OMB. DOL's Employment and Training Administration provided written comments, which are reproduced in appendix VII, as well as technical comments, which we incorporated as appropriate. OMB did not provide comments.

In its comments, DOL neither agreed nor disagreed with our six recommendations. More specifically, DOL neither agreed nor disagreed with our recommendation to designate a dedicated entity with responsibility for managing the process of assessing fraud risks to the UI program, consistent with leading practices as provided in our Fraud Risk Framework. DOL stated that the department's Chief Financial Officer and the Employment and Training Administration's Assistant Secretary are the designated senior executive officials responsible for risk assessment and management in the UI program, which includes both fraud and nonfraud improper payments. DOL stated that these officials make decisions on fraud risk management.

We acknowledge that the enterprise-wide risk management processes may incorporate the roles and responsibilities of the dedicated antifraud entity specified in the Fraud Risk Framework. However, as the framework discusses, it is a leading practice for this entity to have defined responsibilities, as well as the necessary authority across the program, to design and oversee fraud risk management activities. Until DOL has a dedicated antifraud entity, in alignment with leading practices, the department may not be well positioned to strategically manage UI fraud risks. We revised the recommendation slightly to reflect the importance of documenting the designation of the dedicated entity and its responsibilities.

In addition, DOL neither agreed nor disagreed with our five remaining recommendations to

- identify inherent fraud risks facing the unemployment insurance program,
- assess the likelihood and impact of inherent fraud risks in the unemployment insurance program,
- determine fraud risk tolerance for the unemployment insurance program,
- examine the suitability of existing fraud controls in the unemployment insurance program and prioritize residual fraud risks, and
- document the fraud risk profile for the unemployment insurance program.

DOL stated that its enterprise-wide risk management process allows it to identify, evaluate, and manage risks that could significantly disrupt the successful achievement of its mission and objectives. Additionally, DOL stated that it continues to identify fraud risks, assess the likelihood and impact of these risks, and identify and support controls regarding risks to the UI program as part of this enterprise-wide risk management process. However, DOL said that it will incorporate the practices and approaches from the Fraud Risk Framework in its risk assessment activities as it moves forward and will use these recommendations to build on its current risk assessment and management process. DOL further stated that the dedicated entity envisioned in the first recommendation will take on these responsibilities.

GAO's Ongoing Work

We continue to examine programmatic risks and challenges for the UI program as well as options for program transformation.

Related GAO Products

Telecommunications: FCC Should Take Action to Better Manage Persistent Fraud Risks in the Schools and Libraries Program. GAO-20-606. Washington, DC: Sept. 16, 2020.

A Framework for Managing Fraud Risks in Federal Programs. GAO-15-593SP. Washington, DC: July 28, 2015.

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Emergency Rental Assistance

The Department of the Treasury has taken steps to enable Emergency Rental Assistance grantees to spend their allocations more rapidly, but some grantees will be at risk of losing portions of their allocation when Treasury recaptures and reallocates excess funds.

Entity involved: Department of the Treasury

Background

Congress appropriated a total of $46.55 billion to the Department of the Treasury (Treasury) for the Emergency Rental Assistance (ERA) program, which Treasury disburses through two programs to state, territorial, and local governments (grantees) to provide financial assistance to eligible landlords and renter households.[334] Specifically, in December 2020, the Consolidated Appropriations Act, 2021 authorized Treasury to disburse about $25 billion to grantees to remain available until September 30, 2022 (referred to as ERA1 by Treasury).[335] In March 2021, the American Rescue Plan Act of 2021 authorized Treasury to disburse about $21.55 billion in additional funding to grantees to remain available until September 30, 2025 (referred to as ERA2 by Treasury).[336]

Treasury allocated ERA funds to grantees based primarily on their population, as required by the laws.[337] Landlords, renter households, and utility providers can then apply to grantees for assistance.[338] As of August 31, 2021, Treasury had disbursed all of the ERA1 appropriation to grantees (about $25 billion) and about $8.2 billion of the ERA2 appropriation to grantees that applied for funding, according to data from Treasury.[339] Beginning on September 30, 2021, the

[334]Grantees include states, the District of Columbia and U.S. territories (Puerto Rico, U.S. Virgin Islands, Guam, Commonwealth of the Northern Mariana Islands, and American Samoa), as well as local governments with more than 200,000 residents. Grantees for the first round of ERA funding also include the Department of Hawaiian Home Lands and Indian tribes or their tribally designated housing entities. Grantees must use the majority of their allocation to provide assistance to eligible households for the payment of rent, utilities, and other housing-related expenses. Grantees may also use a portion of their ERA allocation for administrative costs and housing stability services. In general, eligible households must (1) have experienced a financial hardship due to COVID-19 or qualified for unemployment benefits, (2) demonstrate a risk of housing instability or homelessness, and (3) have household income that does not exceed 80 percent of their area median.

[335]Pub. L. No. 116-260, div. N, tit. V, § 501, 134 Stat. 1182, 2069-2078 (2020) (codified at 15 U.S.C. § 9058a). The American Rescue Plan Act of 2021 extended the period of availability from December 30, 2021, to September 30, 2022. *See* Pub. L. No. 117-2, tit. III, § 3201(h), 135 Stat. 4, 58. The Consolidated Appropriations Act, 2021 reserved $15 million of the ERA1 appropriation for administrative expenses of the Secretary of the Treasury.

[336]American Rescue Plan Act of 2021 § 3201(g), 15 U.S.C. § 9058c(g). The law reserved a total of $33 million of the ERA2 appropriation for administrative expenses of the Secretary of the Treasury and Office of Inspector General.

[337]Consolidated Appropriations Act, 2021 § 501(b), 15 U.S.C. § 9058a(b); American Rescue Plan Act of 2021 § 3201(b), 15 U.S.C. § 9058c(b).

[338]Grantees are required to make reasonable efforts to obtain the cooperation of landlords and utility providers to accept ERA1 payments before they can be made directly to renter households. For ERA2 funds, grantees can make payments directly to renter households.

[339]As required by law, Treasury has made available 40 percent of the ERA2 allocations to grantees. American Rescue Plan Act of 2021 § 3201(c), 15 U.S.C. 9058c(c). Treasury is disbursing additional ERA2 funds to grantees that have substantially expended their ERA1 allocation and obligated at least 75 percent of their initial ERA2 allocation. According

Consolidated Appropriations Act, 2021 required Treasury to begin recapturing and reallocating excess unobligated ERA1 funds.[340]

Overview of Key Issues

ERA grantees have spent about $7.7 billion of their ERA allocations and served about 1.5 million unique households, based on Treasury data collected from grantees through August 2021. Specifically, for ERA1, grantees spent about $7.5 billion of their allocations—about 30 percent of the total ERA1 appropriation—including about $7.1 billion for assistance to households through August 2021, as well as about $284 million for administrative expenses, $75 million for housing stability services, and $76 million for tribal expenses through June 2021.[341] For ERA2, grantees spent about $223 million through August 2021—about 1 percent of the total ERA2 appropriation—including $207 million for assistance to households through August 2021, as well as about $15 million for administrative expenses and $470,000 for housing stability services through June 2021 (see table).[342]

to Treasury staff we interviewed in July 2021, some local governments that were eligible for an ERA2 allocation did not apply for the additional funds.

[340]Consolidated Appropriations Act, 2021 § 501(d), 15 U.S.C. 9058a(d). Treasury's reallocation guidance states that the agency will consider funds to be obligated that have been spent on financial assistance and housing stability services, needed to pay for assistance promised in a commitment letter, or when assistance has been approved through a binding agreement but not yet disbursed. Separately, Treasury is required to reallocate ERA2 funds beginning on March 31, 2022. American Rescue Plan Act of 2021 § 3201(e), 15 U.S.C. 9058c(e).

[341]Assistance to households includes current and future rent and utility payments and arrears. Housing stability services include those that enable eligible households to maintain or obtain housing, such as eviction prevention and eviction diversion programs, mediation between landlords and tenants, and housing counseling. Treasury's data do not separately identify tribal expenses for assistance to households, administrative expenses, and housing stability services. The reporting period for certain expenses varies based on whether Treasury collects them monthly or quarterly.

[342]Grantees generally transition to using ERA2 funds after exhausting their ERA1 allocations, which few have done based on Treasury's data. In addition, about 7 percent of ERA1 grantees and 12 percent of ERA2 grantees that were required to submit compliance reports did not for August 2021 and are excluded from Treasury's data.

Summary of Emergency Rental Assistance (ERA) Laws and Amounts Appropriated, Disbursed, and Spent (dollars in billions) through Aug. 2021

Authorizing law	Amount appropriated to Treasury	Amount disbursed to grantees	Amount spent by grantees
Consolidated Appropriations Act, 2021(ERA1)	25	24.985	7.506
American Rescue Plan Act of 2021 (ERA2)	21.55	8.248	0.223
Total	**46.55**	**33.233**	**7.729**

Source: GAO analysis of the Consolidated Appropriations Act, 2021; the American Rescue Plan Act of 2021; and Department of the Treasury (Treasury) data. | GAO-22-105051

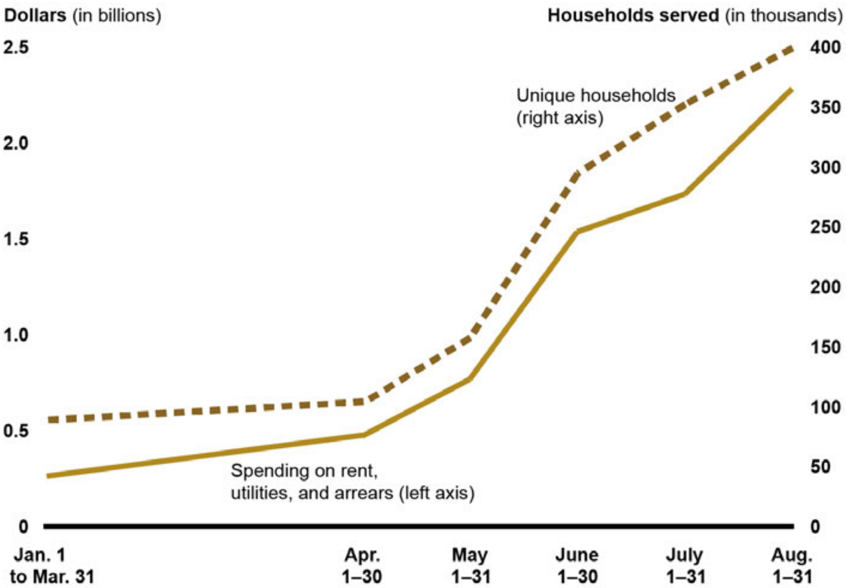
Note: The amounts disbursed are through August 31, 2021. The amount spent includes expenditures for assistance to households through August 2021, as well as expenses for administration and housing stability services through June 2021. The Consolidated Appropriations Act, 2021 set aside $15 million for administrative expenses of the Secretary of the Treasury. The American Rescue Plan Act of 2021 also set aside a total of $33 million for administrative expenses of the Secretary of the Treasury and Inspector General. As required by law, Treasury has made available 40 percent of the ERA2 allocations to grantees and is disbursing additional ERA2 funds to grantees that have substantially expended their ERA1 allocation and obligated at least 75 percent of their initial ERA2 allocation.

Grantees have primarily provided ERA1 funds to the lowest-income renter households. According to Treasury's data through June 2021, grantees provided about 63 percent of ERA1 funds to renter households with incomes at or below 30 percent of their area median (compared to 13 percent to those with incomes from 51 to 80 percent of their area median).[343] In addition, grantees have provided similar assistance for current and future payments versus arrears. At the end of June 2021, about 622,000 renter households had received assistance for current or future payments and 667,000 households had received assistance for arrears.

Although grantees were initially slow to spend ERA1 funds as they implemented and scaled up rental assistance programs, many have accelerated their spending in recent months. In August 2021, grantees provided about $2.3 billion in assistance to 399,000 unique households—a sharp increase from earlier reporting periods. For example, from January through March 2021, grantees provided about $282 million in assistance to about 89,000 renter households (see figure). At the same time, grantees have also spent more on each household served in recent months. In the first 3 months of the program (January–March 2021), grantees provided each household served with about $3,200 in assistance, on average. In comparison, grantees provided each household served in August 2021 with about $5,700 in assistance, on average.

[343]Percentage of households served by income level only reflects those households for which grantees reported income levels. Data on households served and households served by income level are collected from separate reports: households served is collected from monthly reports from January through August 2021, and households served by income level is collected from quarterly reports from January through June 2021. Some grantees may also have served households for which they did not collect income levels. Treasury allows grantees to use fact-specific proxies to determine income eligibility, such as the average income in an applicant's geographic area. For such applicants, grantees would not have collected specific income levels.

First-Round Emergency Rental Assistance (ERA1) Spending and Unique Renter Households Served, by Reporting Period (Jan.–Aug. 2021)



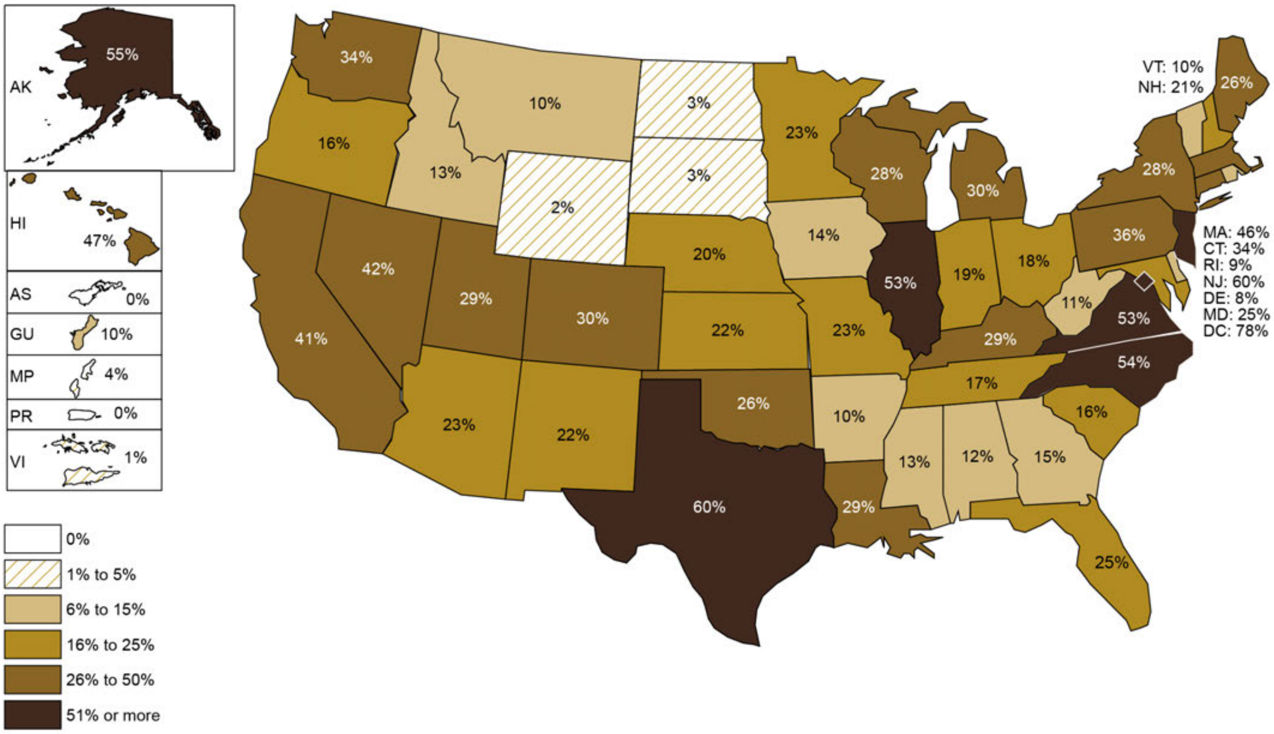
Source: GAO analysis of Department of the Treasury data. | GAO-22-105051

Yet, some grantees continue to experience delays in delivering ERA1 funds and may not be fully meeting the needs of landlords and lower-income renter households. Local grantees have generally spent their ERA1 allocations more quickly than state and territorial governments. Through August 2021, local grantees spent about 47 percent of their allocations, on average, compared to about 23 percent among state grantees.[344] Territorial governments spent an average of 3 percent of their allocations. Further, about 13 of the 350 local grantees and two of the five territorial grantees did not report spending any of their ERA1 allocation. In total, spending among all grantees in each state and territory as a percentage of their total ERA1 allocations ranged from 0 percent to about 78 percent (see figure).[345]

[344]For the purposes of this enclosure, we categorized the Department of Hawaiian Home Lands as a local grantee. Local grantees exclude grantees that redirected their allocations to county or state governments. Percentages reported throughout this enclosure are the expenditure ratio—the total spending on assistance to households divided by 90 percent of the total ERA1 allocation (or the proportion of the ERA1 allocation grantees are required to spend on assistance to households).

[345]Spending by states and territories includes spending by state and territorial governments, as well as their local governments that received separate ERA1 allocations, if applicable.

Percentage of First-Round Emergency Rental Assistance (ERA1) Allocations Spent by Grantees in U.S. States and Territories through Aug. 2021



Source: GAO analysis of Department of the Treasury data. | GAO-22-105051

Note: Percentages by U.S. state and territory include spending by state and territorial governments, as well as their local governments that received separate allocations, if applicable. Percentages are the total spending on assistance to households divided by 90 percent of the total ERA1 allocations (or the proportion of each ERA1 allocation grantees are required to spend on assistance to households).

Grantees that continue to experience delays spending their ERA1 allocation may forfeit unused funds when Treasury recaptures and reallocates excess funds. On September 30, 2021, Treasury was required to begin recapturing excess ERA1 funds that grantees had not obligated and reallocate them among those that had obligated at least 65 percent of their allocation.[346] On October 4, 2021, Treasury issued reallocation guidance for ERA1 funds, which clarified that for the first assessment of excess funds,

- Grantees that had not obligated at least 65 percent of their allocation through September 30, 2021 must submit a program improvement plan by November 15, 2021 that describes how they will accelerate their delivery of assistance;
- Grantees that had not achieved an expenditure ratio of at least 30 percent through September 30, 2021 will be determined to have excess funds equal to the difference between their current expenditures on assistance and the amount needed to achieve an expenditure ratio of 30 percent; and

[346] Although the Consolidated Appropriations Act, 2021 § 501(d), 15 U.S.C. § 9058a(d) requires Treasury to begin recapturing and reallocating excess ERA1 funds on September 30, 2021, Treasury officials said the act provides flexibility regarding when and how the agency must recapture and reallocate the excess funds among grantees.

- Grantees can initially limit or avoid recapture if Treasury approves their program improvement plan, or it they can certify to obligating at least 65 percent or expending 30 percent of their allocation by November 15, 2021.[347]

Every 2 months thereafter, Treasury will reassess grantee expenditures and redistribute recaptured funds based on availability and confirmed need.

Data on expenditures through August 2021 suggest that many grantees may need to develop program improvement plans and some may be determined to initially have excess funds. Treasury will make reallocation decisions based on expenditures and obligations from grantees; however, Treasury has not yet collected data on obligations.[348] Nonetheless, based on expenditures through August 2021, about 74 percent of grantees have spent less than 65 percent of their ERA1 allocation and 42 percent have expenditure ratios below 30 percent. Further, expenditure data suggest that few state and territorial grantees are on track to initially receive reallocated funds. Through August 2021, three of the 51 state grantees and no territorial grantees (among the five) have spent 65 percent or more of their ERA1 allocation. In comparison, many local grantees—101 of the 350 (about 29 percent)—have spent at least 65 percent of their ERA1 allocation.

Data on applications for assistance and rental payments suggest that significant demand for ERA funds remains unmet. Grantees continue to process a backlog of applications for assistance. For example, according to its dashboard, the California COVID-19 Rent Relief Program has provided assistance to about 24 percent of the nearly 204,000 complete applications it received through September 21, 2021.[349] Further, the nearly 421,000 renter households that received assistance from ERA1 and ERA2 funds in August 2021 would be equal to about one-fourth (23 percent) of the estimated number of lowest-income renter households that reported being very likely or likely to be evicted, based on September 2021 survey data from the Census Bureau.[350] It is critical that

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[347]Department of the Treasury, Emergency Rental Assistance Under the Consolidated Appropriations Act, 2021 Reallocation Guidance (October 4, 2021). For grantees that submit an approved program improvement plan, Treasury will assume a one-time addition to their expenditure ratio of 15 percent to help them meet the 30 percent minimum expenditure ratio.

[348]Treasury required grantees to submit their first detailed quarterly program and financial reports in October 2021, including information on ERA1 obligations and expenditures through September 30, 2021. However, these data, including data on obligations by grantee, were not available at the time of our review. In comments on this enclosure, White House officials said they believed data on obligations and expenditures through September 2021 would demonstrate improvements in grantee performance, which would limit the number of grantees required to develop program improvement plans and found to have excess funds and increase the number that are eligible to receive reallocated funds.

[349]California Department of Housing and Community Development, California COVID-19 Rent Relief Program Dashboard, accessed September 25, 2021, https://housing.ca.gov/covid_rr/dashboard.html. The dashboard does not indicate the extent to which all of the households that completed applications are eligible for assistance through ERA funds.

[350]Census Bureau, "Week 37 Household Pulse Survey: September 1 – September 13," accessed September 25, 2021, https://www.census.gov/data/tables/2021/demo/hhp/hhp37.html. This estimate had a relative margin of error of about ± 26 percent of the estimate at the 95 percent confidence level. Renter households with the lowest incomes had annual incomes of less than $25,000.

grantees deploy funds in a timely and effective manner to help curtail avoidable evictions and limit financial burdens on landlords, especially given uncertainty about eviction moratoriums.[351]

Treasury has identified reasons why spending has lagged among some grantees. According to Treasury, most grantees could not deploy funds immediately because they needed additional time to enhance existing rental assistance programs or develop new programs in order to accommodate the significant increase in the scale of operations made possible through ERA1 funding. Specifically, grantees have had to develop new policies and procedures, hire additional staff, and develop electronic application and data collection systems. In addition, some grantees have experienced overwhelming demand for ERA1 funds and lack sufficient staff capacity to address all applications in a timely manner. Further, the distribution of ERA1 funds from grantees to landlords, renter households, and utility providers may have been delayed in some areas while state and local legislatures deliberated how to administer the new funds.

Treasury has encouraged grantees to speed up their deployment of ERA1 funds by publishing promising practices and issuing updated guidance. In June 2021, Treasury published a series of promising practices based on engagement with grantees that are intended to help grantees speed up program implementation and improve access to ERA funds, among other goals. For example, the promising practices encourage grantees to simplify and automate application processes, partner with community organizations and other grantees, and proactively engage landlords and utility providers to inform them and their customers about the availability of ERA assistance. In September 2021, Treasury also published guidelines and examples to help grantees develop effective ERA program websites and applications.

In addition, Treasury has updated its ERA grantee guidance (known as frequently asked questions) several times to assist grantees in delivering ERA funds more efficiently—most recently in August 2021. Among other updates, Treasury has modified the guidance to

- encourage greater reliance on self-attestations and fact-specific proxies (such as average income in an applicant's geographic area) in lieu of more stringent documentation requirements;[352]
- shorten the required outreach period for landlords and utility providers before grantees can provide payments directly to renter households;
- allow grantees to make advance payments to landlords, utility providers, and nonprofit organizations while renters complete application and documentation requirements;

[351]The Centers for Disease Control and Prevention's eviction order prohibited evictions of covered renter households for the nonpayment of rent from September 4, 2020, through July 31, 2021. The agency later issued a new order that became effective on August 3, 2021, that prohibited evictions of covered renter households in areas with higher rates of COVID-19 through October 3, 2021. However, on August 26, 2021, the Supreme Court issued an opinion that determined that the agency did not have authority to issue the eviction order and blocked its enforcement. Separately, as of late August 2021, 12 states continued to restrict residential evictions, according to the Mortgage Bankers Association. For more information, see our March 2021 report on eviction moratoriums.

[352]Treasury has also published examples of self-attestation forms used by ERA grantees.

- expand the eligible uses of ERA funds to cover arrears at prior addresses and court costs associated with an eviction; and

- provide a pathway for households who are no longer renting due to eviction to receive assistance for relocation and other expenses.

Despite Treasury's guidance, some grantees may be hesitant to modify their standard practices for documentation, payments, and other aspects of their ERA programs out of concern that noncompliance with the federal ERA laws and requirements could result in negative audit findings and recoupment of funds. According to data collected and analyzed by the National Low Income Housing Coalition, documentation and payment policies vary across ERA grantees. For example, just over half of grantees (57 percent) allow applicants to self-attest that they meet certain eligibility criteria, about 28 percent provide payments directly to tenants, and fewer than half (48 percent) provide assistance for housing expenses beyond rent and utility payments.[353]

At the same time, Treasury must balance its goal for grantees to deliver rental assistance quickly with the competing need to safeguard the use of funds. Treasury has developed and implemented reporting requirements for grantees and is beginning to collect detailed data on their use of ERA funds. In August 2021, Treasury officials told us that an internal monitoring and oversight group was preparing to review grantee-submitted data to identify potential compliance issues. In addition, Treasury officials and staff from Treasury's Office of Inspector General told us that they continued to work together to finalize plans to monitor and oversee grantees' use of funds. However, as of late September 2021, neither had finalized plans to do so.

Methodology

To conduct this work, we interviewed officials from Treasury and Treasury's Office of Inspector General on efforts to implement and oversee the ERA program. We also analyzed Treasury's compliance report data from January through August 2021 to identify trends and reviewed ERA program documentation published by Treasury on its website.[354] In addition, we interviewed or reviewed the recent publications of a selection of stakeholder groups that represent grantees, landlords, and lower income households in order to identify potential successes and challenges associated with the ERA program.[355]

[353]National Low Income Housing Coalition, Treasury Emergency Rental Assistance (ERA) Dashboard, accessed August 31, 2021, https://nlihc.org/era-dashboard.

[354]We assessed the reliability of these data by interviewing knowledgeable agency officials and reviewing technical documentation. We found the data to be sufficiently reliable for describing spending and other trends.

[355]These stakeholders included the National Council of State Housing Agencies, National Low Income Housing Coalition, and National Multifamily Housing Council.

Agency Comments

We provided a draft of this enclosure to Treasury and the Office of Management and Budget (OMB). Treasury provided technical comments, which we incorporated, as appropriate. OMB did not provide comments on this enclosure.

GAO's Ongoing Work

We will continue to monitor Treasury's administration of the ERA program, including plans to monitor and oversee grantees' use of funds and reallocate excess funds.

Related GAO Product

COVID-19 Housing Protections: Moratoriums Have Helped Limit Evictions, but Further Outreach Is Needed. GAO-21-370. Washington, D.C.: March 15, 2021.

Contact information: John Pendleton, (202) 512-8678, pendletonj@gao.gov

Advance Child Tax Credit and Economic Impact Payments

The Department of the Treasury and the Internal Revenue Service quickly issued millions of advance child tax credit payments while also issuing the third round of economic impact payments, but they could do more to reach some eligible families.

Entities involved: Internal Revenue Service, within the Department of the Treasury

Recommendations for Executive Action

The Secretary of the Treasury, in coordination with the Commissioner of Internal Revenue, should estimate the number of individuals, including nonfilers, who are eligible for advance child tax credit payments, measure the 2021 participation rate based on that estimate, and use that estimate to develop targeted outreach and communications efforts for the 2022 filing season; the participation rate could include individuals who opt in and out of the advance payments.

The Department of the Treasury neither agreed nor disagreed with this recommendation, stating that while it supports the goal of the recommendation, it has not estimated the eligible population for the advance child tax credit. Treasury also stated that it and IRS continue to undertake advance child tax credit outreach, education, and media campaign efforts.

We maintain that without a comprehensive estimate of eligibility and a participation rate, which includes more nonfilers, Treasury and the Internal Revenue Service are missing an opportunity to assess the effectiveness of their outreach to nonfilers, who are likely experiencing poverty or hardship and may be in need of the CTC payments.

Background

The American Rescue Plan Act of 2021 (ARPA) authorized the Internal Revenue Service (IRS) and the Department of the Treasury to issue advance payments of the child tax credit (CTC), as amended by ARPA.[356] Additionally, IRS and Treasury continue to issue direct payments authorized by ARPA, known as economic impact payments (EIP), to eligible individuals to help address financial stress due to the pandemic.[357]

ARPA made several temporary changes that expanded eligibility for CTC to additional qualified individuals and increased the amount of the credit. These changes included temporarily eliminating the earned income requirement for eligible individuals to receive the refundable CTC.[358] ARPA also increased the maximum amount of the CTC—raising it from $2,000 per any

[356] Pub. L. No. 117-2, § 9611, 135 Stat. 4, 144–150 (2021).

[357] Pub. L. No. 117-2, § 9601, 135 Stat. 4, 138–144 (2021).

[358] The elimination of the earned income requirement applies to a taxpayer who has a principal place of abode in the United States for more than half of the taxable year (2021) or who is a bona fide resident of Puerto Rico for the taxable year. According to IRS, these taxpayers will claim the refundable child tax credit on Form 1040 and for all other taxpayers, the earned income requirement continues to apply to the additional child tax credit on Form 1040.

qualifying child to $3,600 for a young qualifying child (0 to 5 years old) and $3,000 for an older qualifying child (6 to 17 years old) (see figure).[359]

Income Qualifications for the Expanded Child Tax Credit, Based on Tax Year 2021

Tax filing status and Adjusted Gross Income (AGI) thresholds			Amount of credit per qualifying child	Amount of advance monthly payment
Married filing jointly	Head of household	Other filers[c]		
below $150,000	below $112,500	below $75,000	$3,600 (under age 6) $3,000 (ages 6-17)	$300 (under age 6) $250 (ages 6-17)
[a]$150,000 to $400,000	$112,500 to $200,000	$75,000 to $200,000	$2,000 to $3,600	$167 to $300
[b]above $400,000	above $200,000	above $200,000	$0 to $2,000	$0 to $167

Source: GAO analysis of the American Rescue Plan Act of 2021. | GAO-22-105051

[a]During this first phaseout, payment amounts are reduced to $2000 ($50 for each $1000 AGI exceeds the applicable thresholds).

[b]During this second phaseout, payment amounts are reduced to $0 ($50 for each $1000 AGI exceeds the applicable thresholds).

[c]Other filers include single and married filing separately.

As required by ARPA, IRS and Treasury are responsible for issuing half of the CTC through periodic advance payments (advance CTC).[360] IRS determines the amount of an individual's advance CTC payment by estimating the individuals' annual advance amount, which is 50 percent of the estimated amount of the CTC that the individual may claim on a 2021 tax return during the 2022 tax filing season. This annual advance amount for 2021 is generally based on an individual's processed 2020 tax return or on the individual's 2019 tax return if the IRS has not processed the 2020 tax return.

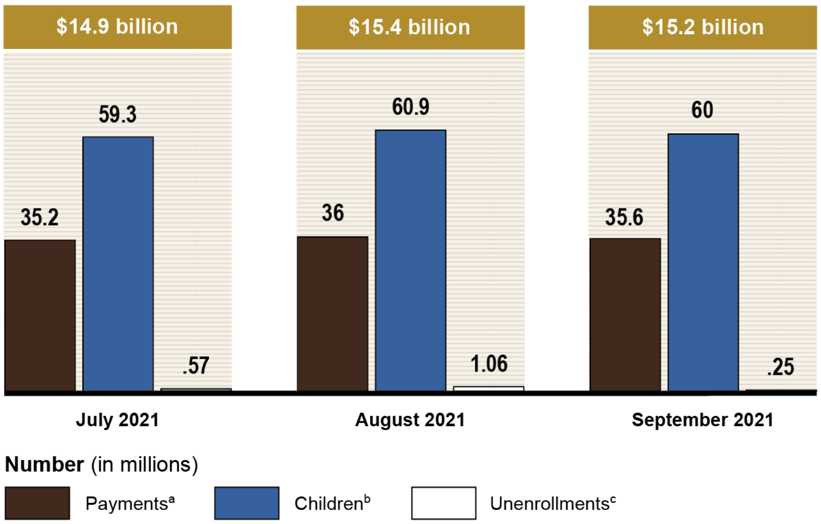
Eligible individuals automatically receive monthly advance CTC payments from July 2021 through December 2021, unless they unenroll from the payments. Eligible individuals may claim the remaining portion of their CTC when they file their 2021 tax return in 2022.

IRS reported that as of September 25, 2021, it had disbursed more than 106 million advance payments totaling over $45.5 billion—an average payment of $426 (see figure).

[359]In 2017, the maximum CTC amount was temporarily raised from $1,000 to $2,000 for tax years 2018 through 2025. 26 U.S.C. § 24(h) (2).

[360]Pub. L. No. 117-2, § 9611(b), 135 Stat. at 146–150, *codified at* 26 U.S.C. 7527A.

Advance Child Tax Credit Disbursals, by Month, as of Sept. 25, 2021



Source: GAO analysis of Internal Revenue Service data. | GAO-22-105051

[a]Number of payments is the volume of advance child tax credit payments IRS issued electronically or by paper check.

[b]Number of children is the total volume of qualifying children who received advance payments.

[c] Number of unenrollments is the cumulative volume of taxpayers who opted to unenroll from receiving advance payments.

In addition to issuing advance CTC payments, Treasury and IRS issued a third round of economic impact payments (EIP 3) to most eligible individuals.[361] IRS reported that as of September 24, 2021, it had processed more than 174 million EIP 3 payments totaling over $405 billion.[362]

ARPA directed IRS to make supplemental payments to individuals who received EIP 3 before their 2020 tax returns were processed but who are eligible for an additional payment based on their recently processed 2020 tax returns.[363] IRS reported that as of September 30, 2021, it had processed more than 10 million supplemental EIPs totaling over $21 billion.

Overview of Key Issues

IRS is conducting outreach to increase awareness of the advance CTC. IRS is conducting several outreach efforts to increase the public's awareness of advance CTC payments.

[361]The CARES Act (in March 2020) and the Consolidated Appropriations Act, 2021 (in December 2020) respectively authorized Treasury and IRS to issue EIP 1 and EIP 2 as direct payments to help individuals address financial stress due to the pandemic. Pub. L. No. 116-136, § 2201, 134 Stat. 281, 335–340 (2020); Pub. L. No. 116-260, § 272, 134 Stat. 1182, 1965–1976 (2020).

[362]IRS will issue EIP 3 through December 31, 2021. Pub. L. No. 117-2, § 9601(a), 135 Stat. at 140–141, *codified at* 26 U.S.C. § 6428B(g)(5).

[363]Individuals may be eligible for an additional supplemental payment if their adjusted gross income was lower, or if they claimed more qualifying dependents, on their 2020 tax return than on their 2019 tax return.

- IRS continues to coordinate with community organizations to raise awareness of the advance CTC payments.
- IRS provides multilingual outreach resources to improve communications to those with limited English proficiency and is urging nonfilers to use the CTC Non-filer Sign-Up Tool before it closes on October 15, 2021.[364]
- IRS is planning to include advance CTC messaging in its *Get Ready* campaign for the 2022 tax filing season. IRS officials said the annual campaign typically begins in November.

However, IRS and Treasury have not developed a comprehensive estimate of individuals who are potentially eligible for advance CTC payments and have not set a participation goal. IRS officials said the agency developed an updated estimate in April 2021 of 36.5 million filers. The estimate is based on processed tax year 2020 returns and includes individuals with dependent children who filed taxes for the first time to receive EIP 1. Yet this estimate is incomplete because it misses additional eligible nonfilers and their dependent children.

IRS officials said that they cannot estimate the number of eligible nonfilers and their dependent children because these individuals have not filed taxes. However, according to the officials, they plan to meet with Census Bureau officials to assess what data are needed to produce a CTC participation rate and to discuss next steps. IRS officials said it currently has a multiyear interagency agreement with the Census Bureau through March 2024 to obtain data to support its calculation of an Earned Income Tax Credit participation rate. Federal internal control standards state that management should obtain relevant data from reliable sources and use that information to achieve its objectives. This standard is reflected in Treasury's strategic plan, which sets a goal of improving analytics to accomplish objectives.

With an estimate of all individuals who are eligible for the advance CTC, including nonfilers, Treasury and IRS could measure the tax credit's participation rate. Participation rates for other refundable tax credits and federal benefit programs have helped policy makers better understand whether eligible recipients are aware of the credits' and programs' existence and accessibility.[365] For example, the Earned Income Tax Credit participation rate—over 75 percent, according to IRS—is at the high end of the range of participation rates for antipoverty programs. In contrast, we previously reported that the Temporary Assistance for Needy Families participation rate was about 34 percent.[366]

An advance CTC eligibility estimate and participation rate, including individuals who have opted in and out of the advance CTC payments, would provide greater clarity about which populations may

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[364]For individuals who requested an extension, October 15, 2021, is the last day to file a 2020 tax return.

[365]Tax credits targeted to individuals and businesses are generally provided to promote certain social and economic objectives. These tax credits can be nonrefundable, where the amount claimed is limited to the taxpayer's tax liability, or refundable, where the amount claimed is payable to the taxpayer as a refund to the extent that the tax credit exceeds the taxpayer's tax liability.

[366]The Earned Income Tax Credit is a refundable tax credit intended to encourage work by offsetting payroll taxes for low-income taxpayers. Temporary Assistance for Needy Families is a block grant to states that emphasizes work and time-limited cash assistance.

be at risk of not receiving the payment. These populations would benefit from targeted outreach and communications to learn more about the payments and how to claim the CTC during the 2022 filing season. For example, officials from one IRS partner organization we spoke with said IRS could do more to enhance its coordination with federal and state agencies to reach more nonfilers.[367] Moreover, this information could inform IRS's administration of other refundable tax credits as well as any future changes to the CTC that Congress is considering.

IRS conducted in-person events to help eligible taxpayers claim the advance CTC. In June and July 2021, IRS conducted in-person events in more than 27 cities across the country to help eligible individuals prepare and file their 2020 tax returns in order to receive the advance CTC. IRS conducted these events at Taxpayer Assistance Centers (TAC) and community outreach centers. Officials from the IRS Taxpayer Advocate Service and preparers from Low Income Tax Clinics who attended some of the events said the assistance helped people verify their identity to register for the advance CTC. They noted that two groups of individuals expressed confusion about their advance CTC eligibility—separated or divorced parents, who expressed confusion regarding which parent should receive the advance CTC, and individuals with mixed immigration status.

IRS assists individuals with the advance CTC. IRS and Treasury have provided several online tools to help individuals manage their CTC payments: the Advance Child Tax Credit Eligibility Assistant, the CTC Update Portal (CTCUP), and options for nonfilers to file simplified returns to register for payments. IRS has also established a dedicated phone line for CTC assistance.

Advance Child Tax Credit Eligibility Assistant. Individuals can use the Advance Child Tax Credit Eligibility Assistant to check their eligibility for the advance CTC. The tool provides generic questions and responses based upon the advance CTC qualifications, such as asking the user for the number of children claimed on the user's 2019 or 2020 tax return.

CTCUP. This online portal allows qualified individuals to check their eligibility for the advance payments, opt out of receiving the payments, update their bank account information, and change their mailing address. According to IRS data, as of September 20, 2021, around 1.9 million individuals had accessed the portal to opt out of payments, around 1.6 million individuals had made changes to their bank account information, and around 216,000 individuals had made changes to their mailing address.

IRS officials said IRS is planning further updates to CTCUP that will allow users to change personal information, such as marital status, income, and number of children. IRS also plans new portal features, such as a summary of an individual's 2021 advance CTC payments, and intends to make CTCUP available in Spanish.

To access the portal, individuals must log in using an established IRS online account or establish a new account with ID.me, a company that provides identity proofing and authentication. Users must upload documentary evidence, such as a driver's license, to verify their identity. Once ID.me

[367] IRS partners with nationwide and local organizations by providing outreach material, training, and tax preparation products for taxpayer assistance and education. IRS partner organizations are meant to serve low- to moderate-income populations, older Americans, students, military service members, people with disabilities, and other populations. IRS refers to these organizations as outreach partners.

is able to verify the information, the user can access CTCUP to make changes. ID.me provides support to users who experience challenges verifying their identity.

According to IRS and ID.Me officials, they are working together to monitor CTCUP fraud and ease of use. ID.me provides IRS with weekly reports on the percentages of users who successfully authenticated their identity and users who were unsuccessful after exhausting ID.Me's customer service options. According to ID.Me officials, they review their data with IRS to try to better understand users' behavior, including challenges that users encounter in completing the authentication process. As we have previously reported, designing authentication programs involves a balancing act—IRS needs to prevent fraudsters from using stolen taxpayer information to authenticate, but it must balance that against the burden of authentication on legitimate taxpayers. If IRS makes the authentication process too stringent, legitimate taxpayers may not be able to successfully authenticate.

Nonfiler tools. Individuals who do not normally file a tax return had two online options to file a simplified return in order to receive the advance CTC, EIP 3, and recovery rebate credit.[368] The Free File Alliance, a consortium of tax preparation companies, developed the CTC Non-filer Sign-Up Tool for IRS in June 2021 in time for the first round of payments in July. A Treasury official said that the CTC Non-filer Sign-Up Tool did not fully meet the needs of intended users. Specifically, the CTC Non-filer Sign-Up Tool could be difficult to access and navigate, particularly on a mobile device, which may be the only device available to some individuals to access the internet. Also, it was not available in Spanish.

On August 13, 2021, Treasury and the White House announced that Code for America, a civic technology nonprofit organization, would create a new tool to assist individuals who do not regularly file taxes to claim the advance CTC. On September 1, 2021, Code for America launched GetCTC, which is mobile friendly and available in English and Spanish. Individuals can also use GetCTC to receive EIP 3 and claim the recovery rebate credit.

Individuals had the option to use either the CTC Non-filer Sign-Up Tool or GetCTC. According to IRS officials, the CTC Non-filer Sign-Up Tool will be taken offline on October 15, 2021. However, individuals can still use GetCTC until November 15, 2021. Code for America officials said GetCTC will be available until then to ensure that qualified individuals receive the December 2021 advance CTC payment.

Dedicated CTC phone line. Anticipating high demand for customer support related to the advance CTC payments, IRS established a dedicated phone line for CTC assistance (1-800-908-4184) and increased the number of IRS customer service representatives. As of September 30, 2021, IRS had received 1.8 million phone calls through the hotline since it went live in June. According to IRS, 80,000 individuals spoke to an IRS customer service representative. IRS officials said callers asked questions regarding accessing CTCUP, missing payments, payment amounts, eligibility requirements, and changing the number of dependent children.

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[368] Eligible individuals can claim the recovery rebate credit on their tax year 2020 income tax return if they did not receive the first or second EIP. According to IRS data, as of September 24, 2021, over 3.9 million 2020 returns had claimed only a recovery rebate credit. These individuals would not have filed a tax return except to claim a recovery rebate credit because their income is below the minimum required tax filing threshold or all of their income is derived from federal benefits.

IRS is taking steps to prevent advance CTC identify theft, fraud, and overpayments.

Steps to prevent identity theft and fraud. IRS officials said that, in addition to authenticating the identity of individuals who use CTCUP and CTC Non-filer Sign-Up Tool, they revised fraud filters that were used on the original EIP Non-filer Tool.[369] Additionally, IRS has 15 fraud indicators targeting high-risk behaviors including questionable bank account behavior. IRS is also sharing all bank account changes in CTCUP with the Bureau of the Fiscal Service to ensure the bank account is valid. ID.me also provides IRS reports on fraudulent attempts to access CTCUP.

Steps to prevent overpayments. Individuals who receive advance CTC payments exceeding the amount of CTC they can properly claim on their 2021 tax return may need to repay some or all of the excess payment.[370] Some lower-income taxpayers will qualify for repayment protection. Individuals cannot qualify for full repayment protection—and will need to repay any excess amount—if their modified adjusted gross income for 2021 is above an established amount.[371] IRS continues to work on guidance and related communications to address taxpayer concerns about repayment protection. In addition, in preparation for the 2022 filing season, IRS plans to send a letter to payment recipients in December 2021 after it issues the last advance payment that will provide the total amount of advance CTC payments received.

IRS officials said the agency is still determining how it will monitor and report on advance CTC overpayments. IRS reports an annual improper payment rate, including overpayments, for the Additional Child Tax Credit.[372] The Additional Child Tax Credit has provided tax benefits to taxpayers who are raising children. The annual improper payment rate for the Additional Child Tax Credit has been based on data collected through multiyear compliance studies.[373] According to IRS officials, IRS has not yet determined whether it will include the advance CTC payments with the Additional Child Tax Credit improper payment estimate or will report a separate estimate for the advanced payments. IRS officials said they are discussing options with Treasury and Office of Management and Budget officials.

EIP disbursements for dependents. In June 2021, we tested 79 transactions for the second round of the economic impact payment (EIP 2) as well as 217 EIP 3 transactions that IRS processed

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[369]The original Non-filer Tool was operational from April 2020 to November 2020 to assist individuals receiving their first EIP. IRS updated the NFT to help eligible individuals receive the advance CTC.

[370]Pub. L. No. 117-2, § 9611 (b)(2), 135 Stat. 4 at 148–149, *codified at* 26 U.S.C. § 24(j)(2)(B).

[371]Taxpayers will not qualify for any repayment protection if their modified adjusted gross income is at or above certain amounts based on the filing status on their 2021 tax return. These amounts are $120,000 for those who are married and filing a joint return or are filing as a qualifying widow or widower; $100,000 for those who are filing as a head of household; and $80,000 for single filers or for those who are married and filing a separate return. Pub. L. No. 117-2, § 9611(b)(2), 135 Stat. at 148–149.

[372]Improper payments include both over- and underpayments.

[373] In fiscal year 2020, IRS estimated that 12 percent, or $4.5 billion, of the total Additional Child Tax Credit payments of $39.1 billion were improper. The most recent data on the Additional Child Tax Credit improper payment rate are from a National Research Program study of 2017 tax returns filed predominantly in calendar year 2018. The National Research Program collects data on reporting, payment, and filing compliance that supports strategic decisions about the placement and types of resources necessary to effectively address taxpayer needs.

from December 31, 2020, through May 27, 2021.[374] As a result of our testing, we found instances in which IRS disbursed EIPs to individuals for ineligible dependents, such as dependents with invalid Social Security numbers, in four of the EIP 2 transactions and nine of the EIP 3 transactions.

IRS limited the processing of EIP 3 dependent credits to a maximum of 15 dependents to help prevent the disbursement of invalid EIPs.[375] IRS set the 15-dependents limitation on the basis of its experience with disbursing the first round of EIP. Specifically, for processing EIP 3 transactions, IRS stated that 15 dependents was a reasonable threshold for identifying errors related to dependent counts without affecting a significant number of transactions.

In March 2021, IRS developed program requirements to notify specific Wage and Investment (W&I) staff when the 15-dependent limitation was applied, so that the staff could review the accounts affected and determine whether the taxpayers had additional dependents who were eligible for the EIP 3 dependent credit. However, in discussions with W&I staff, we learned that they had not received any notifications when the 15-dependents limitation was applied.

When testing EIP 3 transactions, we found that IRS had applied the 15-dependents limitation to 27 transactions but that the affected accounts were not reviewed by W&I staff. As a result, the taxpayers had not received their additional payments as of June 2021. To address this issue, IRS stated that it plans to perform a one-time review of all accounts that were subject to the 15-dependents limitation and process any additional EIP 3 for taxpayers with more than 15 eligible dependents before the end of calendar year 2021.

Methodology

To review how Treasury and IRS issued and administered advance child tax credits and economic impact payments, we examined Treasury and IRS data as of September 30, 2021, as well as federal laws and agency guidance. We interviewed Treasury and IRS officials to determine whether the data were sufficiently reliable to describe the number and amount of payments disbursed, and we determined that the data were sufficiently reliable for this purpose. We also interviewed IRS officials at four Taxpayer Assistance Centers (TAC)—in Atlanta, GA; Houston, TX; Milwaukee, WI; and St. Louis, MO—that sponsored in-person events in June and July 2021 to help eligible families prepare and file tax returns to receive the advance CTC. We selected the four TACs to represent both high and low attendance at these events.

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[374] We performed testing of these 79 EIP 2 transactions and 217 EIP 3 transactions in connection with our audit of IRS's fiscal year 2021 financial statements. The EIPs we tested consisted of two monetary unit samples of 61 EIP 2 transactions and 166 EIP 3 transactions. Additionally, we tested all transactions for married taxpayers filing jointly who claimed at least 15 dependents, which consisted of 18 EIP 2 transactions of $10,200 or more each and 51 EIP 3 transactions of $23,800 each.

[375] To determine EIP 3 disbursements, IRS used 2020 tax return information, 2019 tax return information (if the 2020 tax return was not available), or information for those who receive certain federal benefits. For married taxpayers filing jointly who claimed more than 15 dependents on the tax return, IRS limited the EIP 3 disbursement to $23,800 comprising (1) an individual credit of $2,800 for married taxpayers filing jointly, or $1,400 multiplied by two, and (2) a dependent credit of $21,000 for 15 dependents, or $1,400 multiplied by 15.

We asked representatives from 18 selected IRS outreach partners to provide us with their perspectives on IRS's outreach coordination with their organizations. We selected eight partners on the basis of their national outreach to underserved populations such as low-income families, veterans, and seniors; we also selected 10 partners on the basis of their local outreach to communities in zip codes with high numbers of potential nonfilers (according to IRS data). This sample is not representative; however, these partners provided illustrative examples of how organizations worked with IRS to reach traditionally underserved communities and of aspects of the IRS communications plan that worked well. Their responses also highlighted potential areas for improvement. In addition, we interviewed representatives from Free File Alliance, Code for America, and ID.me.

To test IRS's controls over the processing of EIP 2 and EIP 3 transactions and whether IRS conformed with the EIP provisions of the Consolidated Appropriations Act, 2021 and ARPA, we statistically selected two monetary unit samples.[376] The first sample consisted of 61 EIP 2 transactions, totaling $79,560, that were processed during the period from December 31, 2020, through January 28, 2021.[377] The second sample consisted of 166 EIP 3 transactions, totaling $536,717, that were processed during the period from March 11, 2021, through May 27, 2021.[378] In addition, during our review of the EIP 2 and EIP 3 populations, we identified transactions for married taxpayers filing jointly who claimed at least 15 dependents. These consisted of 18 EIP 2 transactions of $10,200 or more, totaling approximately $310,200, and 51 EIP 3 transactions of $23,800, totaling approximately $1.2 million. We selected all 69 transactions for testing.

Our tests consisted of reviewing IRS tax module records and related individual tax returns to validate the accuracy of IRS's records, which IRS used to determine eligibility, calculate the EIPs, and determine whether any duplicate EIPs were issued. We also reviewed payment confirmations from the Bureau of the Fiscal Service to determine whether the EIPs were issued for the correct amounts and to the correct individuals and to confirm that no offsets were applied against the EIPs.

Agency Comments

We provided a draft of this enclosure to Treasury, IRS, and the Office of Management and Budget. Treasury provided written comments, which are reproduced in appendix IX, and technical comments, which we incorporated as appropriate. IRS also provided technical comments, which we incorporated as appropriate. The Office of Management and Budget did not provide comments.

Treasury neither agreed nor disagreed with our recommendation. Treasury stated that while it supports the goal of our recommendation, it has not estimated the eligible population for the advance child tax credit (CTC). Treasury said it has not performed this action because there are several eligibility requirements for the CTC that are not known to IRS until the taxpayer files an

[376]Pub. L. No. 116-260, § 272, 134 Stat. 1182, 1965–1976 (2020) and Pub. L. No. 117-2, § 9601, 135 Stat. 4, 138–144 (2021), respectively.

[377]We selected the EIP 2 sample from the population of approximately 152 million transactions, totaling $148 billion.

[378]We selected the EIP 3 sample from the population of approximately 169 million transactions, totaling $397 billion.

income tax return to claim the CTC. However, we note that IRS established an estimate of eligible taxpayers based on tax year 2020 returns. Nevertheless, this estimate is incomplete because it misses eligible nonfilers and their dependent children. An advance CTC eligibility estimate and participation rate, including individuals who opt in and out of the payments, would provide Treasury and IRS greater insight regarding populations, particularly nonfilers, that may be at risk of not receive the payments.

Treasury also stated in its comments that, with IRS, it continues to undertake advance CTC outreach, education, and media campaign efforts. Treasury stated that in June and July 2021, IRS sent two rounds of letters to inform more than 30 million families who previously filed taxes that they may be eligible to receive advance CTC payments. At the same time, IRS publicized the CTC Non-Filer Tool at numerous outreach events. Treasury also published a file containing zip code data that show the number of children who may be eligible for the advance CTC but who had not been claimed on a recent tax return. Treasury stated that this information is designed to help local governments and nonprofits target their outreach work so that this crucial relief gets to all eligible families. Last, Treasury stated that it and IRS have developed partnerships within and beyond the tax community to help eligible individuals access their payments.

Without an estimated eligibility rate that includes nonfilers and a participation goal, Treasury and IRS are missing an opportunity to use data to determine whether their outreach strategy, which will extend throughout the 2022 filing season, is effectively reaching those who are outside the tax system. These individuals are more likely to be experiencing poverty or hardship and may be more in need of the CTC payments.

GAO’s Ongoing Work

We will continue to monitor IRS and Treasury's efforts to analyze data that could potentially improve communication and outreach to nonfilers. We will also continue to monitor IRS and Treasury’s progress to ensure eligible individuals receive the advance payments of the CTC and EIP 3.

GAO’s Prior Recommendations

The table below presents our recommendations on economic impact payments from prior bimonthly and quarterly CARES Act reports.

GAO's Prior Recommendations Related to Economic Impact Payments	
Recommendation	**Status**
The Secretary of the Treasury, in coordination with the Commissioner of Internal Revenue, should release interim findings on the effectiveness of the notices it sent in September 2020 to nonfilers who are potentially eligible for economic impact payments; incorporate that analysis into Internal Revenue Service (IRS) outreach efforts as appropriate; and then, if necessary, release an update based on new analysis after the 2021 filing season (July 2021 report).	**Open—not addressed.** The Department of the Treasury neither agreed nor disagreed with this recommendation and stated that it shares the underlying goal of reaching as many nonfilers as possible to encourage them to claim economic impact payments (EIP) online. However, Treasury does not plan to release any interim findings until it completes its analysis. According to Treasury officials, additional time will be needed to process and analyze data as the 2021 filing season was extended to October 15, 2021. Treasury officials also said outreach efforts for the advance child tax credit (advance CTC) included reminders that individuals who had not filed a 2020 federal income tax return could be eligible to receive EIP and recovery rebate credits (RRC).
The Commissioner of Internal Revenue should periodically review control activities for issuing direct payments to individuals to determine that the activities are designed and implemented appropriately as IRS disburses a third round of economic impact payments (EIP 3) and prepares for advance payments on the child tax credit. These control activities should include appropriate testing procedures, quality assurance reviews, and processes that ensure payments distributed by tax partners reach the intended recipients (March 2021 report).	**Closed—addressed**. IRS took steps to implement our recommendations, such as updating control procedures for issuing direct payments to individuals. Additionally, individuals had the opportunity to update their bank account information during the 2021 filing season, which ran from February 12 through May 17, 2021. IRS officials said that the updated procedures resulted in the transmission of a small number of EIP 3 payments to incorrect bank accounts. The officials said they anticipated the same for July 2021 advance CTC payments. The number of direct payments that were rejected was over 5.3 million for the second round of EIP and close to 2.5 million for EIP 3. Additionally, over 500,000 direct payments were rejected for the July 2021 advance CTC payments.
The Secretary of the Treasury, in coordination with the Commissioner of Internal Revenue, should begin tracking and publicly reporting the number of individuals who were mailed EIP notification letter and subsequently filed for and received an EIP and should use that information to inform ongoing outreach and communications efforts (November 2020 report).	**Open—partially addressed**. Treasury and IRS agreed with this recommendation. According to Treasury officials, Treasury began analyzing data in January 2021 on those individuals who received a notice and subsequently filed for, and received, a first-round EIP (EIP 1). According to Treasury officials, additional time will be needed to process and analyze data, because the 2021 filing season had been extended to October 15, 2021. Treasury officials also said that outreach efforts for the advance CTC included reminders to individuals who had not filed a 2020 federal income tax return that they could be eligible to receive EIPs and RRC.
The Secretary of the Treasury, in coordination with the Commissioner of Internal Revenue, should make estimates of eligible recipients who have yet to file for an EIP, and other relevant	**Open—partially addressed**. Treasury and IRS neither agreed nor disagreed with this recommendation, but they took some actions that

Recommendation	Status
information, available to outreach partners to raise awareness about how and when to file for EIPs (September 2020 report).	were consistent with it. For example, in September 2020, the agencies used tax return information to identify nearly 9 million individuals who had not received an EIP 1 and then notified these individuals that they may be eligible for a payment. The letters also provided instructions for requesting a payment. In addition, IRS publicly released detailed zip code data from the notices to help community outreach partners with their own outreach efforts. Treasury officials said that additional time would be needed to process and analyze the data to determine who did or did not claim an EIP or RRC, because the 2021 filing season had been extended to October 15, 2021. Officials also said that a challenge to conduct this analysis is the information tax returns used in developing the September 2020 notices do not contain enough information to determine eligibility, limiting Treasury's ability to make a determination. Treasury officials said that because of resource constraints, Treasury and IRS have been focusing on delivering the advance CTC. In June 2021, Treasury published a file containing, by zip code, the number of children who may be eligible to be claimed for the advance CTC but who had not been claimed on a recent tax return.
The Secretary of the Treasury, in coordination with the Commissioner of Internal Revenue, should update and refine the estimate of eligible recipients who have yet to file for an EIP to help target outreach and communications efforts (September 2020 report).	**Open—partially addressed**. Treasury and IRS neither agreed nor disagreed with this recommendation, but they took some actions that were consistent with it. For example, in January 2021, Treasury revised its estimate of eligible recipients who had not yet filed for an EIP 1 to 8 million. According to Treasury officials, this estimate is based on the 9 million notices IRS sent in September 2020. Treasury officials stated that some of the 9 million recipients likely have since claimed the EIP, but Treasury did not provide data supporting this claim. Treasury officials said that additional time would be needed to process and analyze the data to determine who did or did not claim an EIP or RRC, because the 2021 filing season was extended to October 15, 2021. Officials also said that a challenge to conducting this analysis is that the information tax returns used in developing the September 2020 notices do not contain enough information to determine eligibility, limiting Treasury's ability to make these determinations. Treasury officials said that because of resource constraints, Treasury and IRS have been focusing on delivering the advance CTC. In June 2021, Treasury published a file containing, by zip code, the number of children who may be eligible to be claimed for the

Recommendation	Status
	advance CTC but who had not been claimed on a recent tax return.
The Commissioner of Internal Revenue should consider cost-effective options for notifying ineligible recipients on how to return payments (June 2020 report).	**Closed—addressed**. Treasury and IRS took steps to implement our recommendation, such as requesting on the IRS website that individuals voluntarily mail the appropriate EIP amount sent to decedents back to IRS, for both electronic and paper check payments. Treasury has also held and canceled payments made to decedents, along with payments that have been returned. As of April 30, 2021, around 57 percent (just over $704 million) of the $1.2 billion in EIP 1 sent to deceased individuals had been recovered. As of March 2021, Treasury and IRS had not taken any further action to recoup unreturned payments to decedents. IRS officials determined that further actions, such as initiating erroneous refund cases against decedents' estates that had not returned payments, could be burdensome to taxpayers, the federal court system, and IRS. As a result, IRS officials concluded that doing so was not prudent at that time.

Source: GAO. | GAO-22-105051

Related GAO Products

Identity Theft: IRS Needs to Strengthen Taxpayer Authentication Efforts. GAO-18-418. Washington, D.C.: June 22, 2018.

Refundable Tax Credits: Comprehensive Compliance Strategy and Expanded Use of Data Could Strengthen IRS's Efforts to Address Noncompliance. GAO-16-475. Washington, D.C.: May 27, 2016.

Standards for Internal Control in the Federal Government. GAO-14-704G. Washington, D.C.: September 10, 2014.

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Agricultural Debt Relief

The U.S. Department of Agriculture has identified about 21,564 socially disadvantaged agricultural producers who qualify for debt relief payments under the American Rescue Plan Act of 2021; as of September 2021, less than $1.2 million of the $4 billion initially set aside for the program had been expended pending the outcome of a legal challenge to the program.

Entities involved: Farm Service Agency, within the U.S. Department of Agriculture

Background

The U.S. Department of Agriculture (USDA) provides billions of dollars through loans and other farm programs to support agricultural producers (that is, farmers and ranchers). For example, according to USDA's *FY 2021 Budget Summary*, in fiscal year 2020, the department provided about $8.4 billion in farm loans. In calendar year 2020, federal direct payments and federal crop insurance net payments to agricultural producers were projected to be about $52 billion, as we reported in March 2021.[379] Agricultural producers often require loans to buy agricultural real estate, make capital improvements, and purchase supplies and equipment. Several types of lenders provide credit to agricultural producers, including commercial banks and USDA's Farm Service Agency (FSA). FSA focuses its lending on agricultural producers who are generally unable to obtain credit elsewhere.

However, as we noted in our July 2019 report on agricultural lending, some demographic groups are considered underserved by the credit market or have alleged discrimination by USDA and others in providing agricultural loans. USDA has, through public statements, acknowledged the department's history of systemic discrimination in its policies and programs.

The American Rescue Plan Act of 2021 (ARPA) directs the Secretary of Agriculture to provide payments of up to 120 percent of the outstanding direct and guaranteed farm loan balances for each socially disadvantaged producer to pay off the balance of the producer's loans.[380] Direct loans are funded and serviced by FSA as the lender. Guaranteed loans are made by USDA-approved traditional lenders, such as banks and credit unions, with the backing of FSA.

Under ARPA, socially disadvantaged agricultural producers are those who are members of a socially disadvantaged group whose members have been subjected to racial or ethnic prejudice.[381] According to USDA, under the ARPA debt relief program, payments may represent 120 percent of a loan balance (as of January 1, 2021) with 20 percent intended to cover tax liabilities and other fees. FSA is responsible for implementing the program.

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[379] In our March 2021 report (GAO-21-387), the sum of about $52 billion includes about $46 billion in direct payments and about $6 billion in crop insurance indemnities minus producer-paid premium.

[380] Pub. L. No. 117-2, § 1005, 135 Stat. 4, 12-13.

[381] Section 1005 of ARPA references the definition of socially disadvantaged farmers and ranchers outlined in the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. No. 101-624, § 2501(a), 104 Stat. 3359, 4064 (codified as amended at 7 U.S.C. § 2279(a)). This statute defines them as farmers or ranchers who are members of a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities. Under this definition, according to USDA, members of socially disadvantaged groups include, but are not limited to, American Indians or Alaskan Natives, Asians, Blacks or African Americans, Hispanics or Latinos, and Native Hawaiians or other Pacific Islanders.

Congress provided such sums as may be necessary for the program, and USDA set aside $4 billion dollars to implement it. However, as of September 2021, FSA had issued debt relief payments to only four agricultural producers before legal challenges stopped the agency from making further payments. In June 2021, a federal judge issued a temporary restraining order prohibiting USDA from forgiving loans under the debt relief program until such time as the court could rule on whether a preliminary injunction was warranted. A preliminary injunction would prevent FSA from issuing debt relief payments pending the outcome of a court case alleging discrimination. Later in that same month, before the first court could consider the matter, a separate court issued a preliminary injunction preventing USDA from making debt relief payments nationwide. Subsequently, additional lawsuits challenging the program on the basis of discrimination have been filed. Generally, the complaints allege that the race of the loan account holder, even a member of a socially disadvantaged group, should not be the basis in awarding debt forgiveness. According to USDA's website, FSA plans to continue to process paperwork for eligible socially disadvantaged agricultural producers until the preliminary injunction is lifted and the agency is able to make payments.

Overview of Key Issues

FSA has identified loan accounts that are eligible or potentially eligible for the program. Socially disadvantaged agricultural producers do not apply to participate in USDA's ARPA debt relief program. Rather, FSA identifies the producers with eligible direct loan accounts and potentially eligible guaranteed loan accounts.[382] In September 2021, FSA officials stated that the agency had identified 21,564 agricultural producers with direct (18,586) or guaranteed (2,978) loan accounts that are eligible or potentially eligible for the program.[383]

These agricultural producers have a total unpaid loan balance of about $4.6 billion. When accounting for tax liabilities and other fees on these loan balances, as of September 2021, FSA officials estimated that potential payments would total about $5.6 billion, which exceeds the $4 billion currently set aside to fund the program.[384] However, according to USDA, not all of the agricultural producers with eligible loan accounts may choose to participate in the program. FSA explained that, in rare instances, eligible agricultural producers elect to not receive a payment for various personal reasons.

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[382]For this report, we refer to the producers with guaranteed loan accounts as being "potentially eligible" because FSA plans to issue a separate notice of funding availability specifying the time frames and requirements for guaranteed loan accounts, according to the agency's website and a May 2021 notice of funding availability on the program. According to the May 2021 notice, the separate notice will also cover direct loan accounts that no longer have collateral and have been previously referred to the Department of the Treasury for debt collection for offset (e.g., are delinquent or in foreclosure), which were not included among the accounts FSA identified as eligible.

[383]The number of socially disadvantaged agricultural producers with eligible loan accounts can change over time. For example, according to FSA officials, between December 31, 2020, and July 31, 2021, about 5,500 agricultural producers updated their identification in FSA's database from non-socially disadvantaged to a member of a socially disadvantaged group. The total for direct loans, 18,586, includes 457 agricultural producers with Farm Storage Facility Loans, a type of direct loan eligible for debt relief.

[384]According to FSA, if the initial amount set aside is insufficient to meet all payments, the ARPA legislation provides for sums as necessary to execute the program, and an additional amount will be made to make payments to all eligible accounts.

FSA sent notification letters to the majority of agricultural producers with eligible direct loan accounts. Although the preliminary injunction prevents USDA from making payments under the program, USDA sent "notification letters" to the majority of agricultural producers it identified as having eligible direct loans; it plans to do so at a later date for guaranteed loans. These letters specified the terms of the debt relief, including FSA's calculation of payments for direct loan accounts. The letters also emphasized that agricultural producers will be sent notification regarding guaranteed loans at a later date and that they are still indebted for any debt not eligible for a payment. If the agricultural producers agreed to the terms, they were to sign the letter and send it back to USDA.[385]

As of September 16, 2021, FSA officials said that the agency sent notification letters to approximately 14,170 of the agricultural producers with eligible direct loans and received approximately 9,669 signed letters back. The remaining producers had not responded, as of September 2021. For those agricultural producers that returned signed letters, FSA is ready to make payments if the injunction is lifted, according to agency officials. FSA officials said that the agency did not send notification letters to all of the agricultural producers with eligible direct loan accounts at one time because it sends notification letters as it determines and validates planned payments, which officials said is a time-consuming process.

FSA plans to send notification letters related to guaranteed loan accounts after it issues a subsequent notice of funding availability, according to FSA.

FSA provided some characteristics of the agricultural producers with eligible direct and potentially eligible guaranteed loan accounts. FSA provided us with some information about the characteristics of agricultural producers with eligible direct loan accounts or potentially eligible guaranteed loan accounts, as of September 2021:

- More than 50 percent of producers with eligible accounts are located in Arkansas, Oklahoma, Texas, or Puerto Rico.
- Most of the eligible direct loan accounts and potentially eligible guaranteed loan accounts are for debts of less than $600,000.

USDA also provided information on participation in the debt relief program by agricultural producer group. USDA's data suggest that the largest group of producers with eligible accounts were identified as American Indian or Alaskan Native, followed by producers that were identified as Hispanic or Latino, and producers that were identified as Black or African American. However, in September 2020, the USDA Office of the Inspector General found that, in violation of departmental policy, some of FSA's data on race and ethnicity were based on USDA employees' visual assessments of agricultural producers instead of being voluntarily provided by the agricultural producers themselves. According to FSA, for the ARPA debt relief program, agricultural producers are required to certify their race and ethnicity to receive payments. Because of this

[385]Depending on the type of operation and loan terms, more than one producer may be required to sign the notification letters. According to FSA's *Notice of Funds Availability; American Rescue Plan Act of 2021 Section 1005 Loan Payment (ARPA)*, agricultural producers also have the options of declining to participate or requesting a meeting with FSA to discuss the letter's contents. 86 Fed. Reg. 28,329 (May 26, 2021).

certification process, we requested information on the number of producers who voluntarily provided or certified their race and ethnicity data. These data will allow us to confirm the distribution of eligible loans by socially disadvantaged agricultural producer group for the loan programs included in the ARPA debt relief program. However, although FSA provided these data, the agency did not do so in time to be reviewed and incorporated into the report. We will be analyzing this information and reporting on it in our future updates.

Methodology

To conduct this work, we reviewed federal laws, agency guidance on USDA's website, and FSA officials' written responses to our questions about the notification letters sent and received by USDA and participation by socially disadvantaged producers, among other topics. We also reviewed summary data that USDA provided to us as of July 28 and September 15, 2021, as well as FSA data for direct loans as of January 1, 2021, and guaranteed loans as of December 31, 2020. Based on our review of the written responses from USDA officials, we determined that these data were reliable for our purposes of supporting the description of the total number, location, and loan size associated with eligible or potentially eligible accounts as of July 28 and September 15, 2021. We were unable to determine whether the data by socially disadvantaged agricultural producer group were sufficiently reliable for race and ethnicity.

Agency Comments

We provided FSA and the Office of Management and Budget with a draft of this enclosure. FSA provided technical comments, which we incorporated as appropriate. The Office of Management and Budget did not provide comments.

GAO's Ongoing Work

We will continue to monitor USDA's spending for and implementation of its ARPA debt relief program for socially disadvantaged agricultural producers.

Related GAO Products

Agricultural Lending: Information on Credit and Outreach to Socially Disadvantaged Farmers and Ranchers Is Limited. GAO-19-539. Washington, D.C.: July 11, 2019.

Indian Issues: Agricultural Credit Needs and Barriers to Lending on Tribal Lands. GAO-19-464. Washington, D.C.: May 9, 2019.

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Shuttered Venue Operators Grant

The Small Business Administration's Shuttered Venue Operators Grant program, which had awarded $9.7 billion out of a total appropriation of $16.25 billion as of September 20, 2021, has faced information technology challenges and concerns about the agency's ability to effectively oversee the program.

Entity involved: Small Business Administration

Background

In 2020 and 2021, businesses in the performing arts and entertainment industries experienced economic hardship due to the COVID-19 pandemic. To assist these businesses, the Consolidated Appropriations Act, 2021, enacted in December 2020, authorized and appropriated $15 billion to the Small Business Administration (SBA) to implement the Shuttered Venue Operators Grant (SVOG) program. The American Rescue Plan Act of 2021, enacted in March 2021, appropriated an additional $1.25 billion for the program and modified certain eligibility requirements.[386]

- **Eligibility.** Eligibility is limited to live venue operators, promoters, live performing arts organization operators, movie theater operators, museums, talent representatives, and theatrical producers. Entities must have been in operation as of February 29, 2020, and must have lost at least 25 percent in gross earned revenue during at least one quarter of 2020 (compared to the same quarter in 2019), among other eligibility criteria.[387]

- **Prioritization of grant awards.** During the first 28 days of the program, SBA was required to prioritize applicants that lost significant gross earned revenue between April and December 2020 (compared to the same period in 2019). Specifically, during the first 14 days of the program accepting applications, SBA could only award grants to otherwise eligible applicants that had experienced a 90 percent or greater revenue loss. During the next 14 days, SBA could only award grants to otherwise eligible applicants that had experienced a 70 percent or greater revenue loss. After the priority period, SBA was required to award grants to all other eligible entities. In addition, SBA had to reserve at least $2 billion for eligible entities with up to 50 full-time employees during the first 59 days of the program.

- **Grant amounts.** SBA is authorized to award initial grants equal to 45 percent of an eligible applicant's 2019 gross earned revenue. SBA also is authorized to award supplemental grants, if funding is available, to initial grant recipients that lost at least 70 percent during the most recent calendar quarter of 2021 (compared to the same quarter in 2019). Grant recipients can receive a maximum of $10 million in combined funding for their initial and supplemental awards.

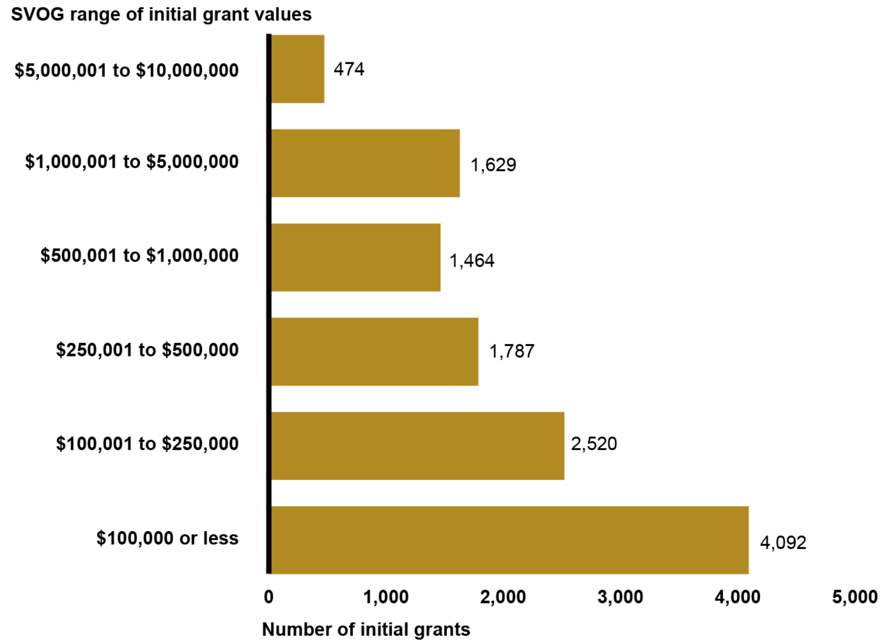
[386]The American Rescue Plan Act of 2021 modified grant eligibility requirements to allow entities that received a Paycheck Protection Program loan on or after December 27, 2020, to apply for SVOG. The loan amount must be deducted from the SVOG grant amount.

[387]SBA program guidance defines gross earned revenue as total earned revenue from sales of goods or services (and excludes other fund sources, such as donations, governmental assistance, or returns on investments). In addition, entities must operate primarily in the U.S.; submit a good faith certification of need; and demonstrate that their principal business activity, model, and site meet the characteristics of an eligible type of entity.

- **Fund usage.** Grant recipients may spend initial grants on certain expenses incurred between March 2020 and December 2021 that enabled ongoing business operations (e.g., payroll costs, rent/mortgage payments). Grant recipients must return any initial funds not spent within 1 year of disbursement and maintain and submit records within 15 days of expending their grant to demonstrate compliance with grant requirements.[388]

Through the program, SBA is responsible for awarding $16.25 billion in grants to replace revenue that eligible businesses in the performing arts and entertainment industries lost due to the pandemic. As of September 20, 2021, the agency had issued decisions on 95 percent of applications. As of this date, applicants had requested 82 percent of the $16.25 billion in grant funds and SBA had awarded $9.7 billion, of which $9.5 billion had been disbursed. Grant recipients—located in all 50 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands—were awarded about $812,000 on average. Most grant recipients (70 percent) received $500,000 or less (see figure). In addition, of the funds awarded, $5.6 billion went to entities with up to 50 full-time employees.

Shuttered Venue Operators Grant (SVOG) Initial Grant Recipients, by Grant Amount, as of Sept. 20, 2021



Source: GAO analysis of Small Business Administration data. | GAO-22-105051

According to SBA, the program stopped accepting new applications on August 20, 2021. On August 27, 2021, SBA began inviting grant recipients that meet the 70 percent loss requirement to request supplemental grants. SBA officials said that eligible grant recipients would have 2 weeks to indicate their interest in receiving supplemental grants, after which SBA could not guarantee those

[388] If an eligible entity receives a supplemental grant, these funds, as well as the initial grant, may be used for costs incurred between March 2020 and June 2022. Grant recipients must return any supplemental funds (as well as initial funds) not spent within 18 months of disbursement, dating from the date of the initial award.

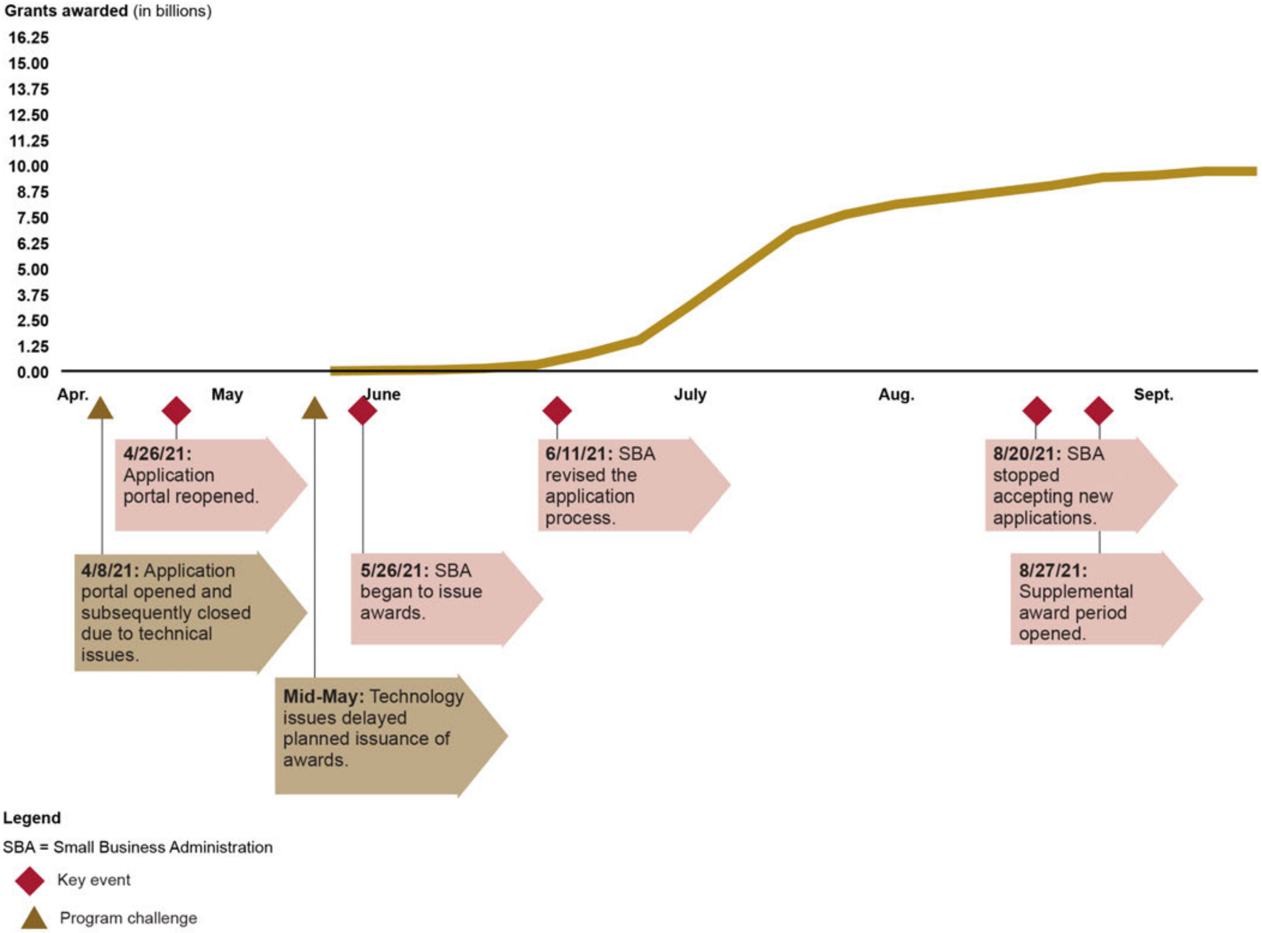
funds would remain available. On September 24, 2021, SBA announced that it had begun issuing supplemental award decisions.

Overview of Key Issues

Information technology issues delayed the intake and processing of SVOG applications, but SBA modified its review process to speed up award issuance. On March 19, 2021, SBA announced it would start accepting SVOG applications on April 8, 2021, through an online portal. However, SBA closed the online application portal within hours of opening due to an error in the software code that prevented applicants from completing the applications. SBA delayed the start of the program for 2 weeks while it worked with its contractor to make the portal operable. On April 23, 2021, SBA announced that it would reopen the portal on April 24, 2021, but shifted the date to April 26, 2021, due to concerns from stakeholders about reopening on a Saturday.

Upon reopening the portal to applicants on April 26, 2021, SBA had to work with its contractor to develop and integrate technical features necessary for the agency to review applications and award grants. As a result, SBA delayed its issuance of awards from the initially announced timeline of mid-May 2021 to May 26, 2021. According to one performing arts industry group, its membership had experienced significant financial hardship due to the pandemic and found these delays frustrating. Representatives from the industry group told us their members had been waiting to receive financial assistance since the program was authorized in December 2020. They explained that the delays meant their members' access to much needed financial assistance kept being prolonged. See the figure below for a timeline of the SVOG program.

Timeline for the Shuttered Venue Operators Grant Program, as of Sept. 20, 2021



Source: GAO analysis of SBA data and documentation. | GAO-22-105051

Even after additional features were added to the portal, SBA was not meeting internal goals for processing applications, according to SBA officials. SBA officials told us their initial goal was to issue decisions within the first 14 days of grant awards for all applicants that had experienced a 90 percent or greater revenue loss between April and December 2020 (compared to the same period in 2019). According to SBA data, by June 9, 2021, the program had issued only 90 awards, totaling $127.9 million. On June 10, 2021, SBA revised its goal for processing applications and set a new goal of internally finalizing decisions regarding eligibility for 10,000 applications by July 4, 2021, according to agency officials.

To process applications more quickly, SBA officials told us they revised the review process after June 10, 2021. According to SBA, the agency modified its review approach for verifying applicants' information to align with standards used in other federal programs, such as the Restaurant Revitalization Fund. Previously, the agency had assessed and verified information that all applicants submitted using external government databases. Beginning in mid-June 2021, SBA started to rely more on applicants' attestation and submitted documents to validate certain eligibility components for selected applicants. In addition, SBA began to disburse funds to grant recipients in a single lump-sum payment, rather than using its earlier method of disbursing funds in installments based on risk factors. The rate at which SBA awarded grants increased after it implemented these application revisions, among other changes.

SBA's Office of Inspector General (OIG) raised concerns about SBA's ability to conduct effective program oversight. On April 7, 2021, the SBA OIG issued a management alert expressing concerns about SBA's implementation of the program, including policies and procedures to address potential misuse of program funds.[389] The management alert suggested four actions for strengthening program oversight (see table). Because the management alert does not make recommendations, OIG officials told us they are not following typical procedures to monitor SBA's progress in implementing the four suggested actions. However, OIG officials had information on SBA's progress from documents that SBA submitted following the management alert's issuance. OIG officials said SBA had fully addressed two of the suggested actions.

[389]Small Business Administration, Office of Inspector General, *Management Alert: Serious Concerns About SBA's Control Environment and the Tracking of Performance Results in the Shuttered Venue Operators Grant Program*, Report Number 21-13 (Apr. 7, 2021). According to the OIG, SBA cites 2 CFR 200 as the applicable regulation for this federal award.

SBA's Implementation of Suggested Actions in the OIG Shuttered Venue Operators Grant Management Alert, as of Aug. 2021

Office of Inspector General (OIG) suggested actions for SBA	Status	SBA actions
Reassess its audit plan for the program to strengthen internal controls and reduce risk of fund misuse. SBA's audit plan classified the majority of awards as low-risk due to the size of the award (less than $1 million) and planned to subject them to limited oversight.	In progress	SBA is revising the program's audit plan.
Implement federally required performance measures to determine the impact of program funds.	In progress	SBA is developing performance goals and measures for the program.
Ensure sufficient resources are available to implement and oversee the program.	Completed	SBA hired a sufficient number of grant officers to effectively administer the program.
Clearly establish federal grant requirements for the program to ensure compliance during the implementation and oversight phases.	Completed	SBA updated the program description listed on the Catalog of Federal Domestic Assistance to provide consistent information about grant requirements.

Source: Small Business Administration (SBA). | GAO-22-105051

In some instances, SBA's updates to guidance resulted in confusion for applicants. SBA has issued several types of program guidance for applicants, such as an application checklist and frequently asked questions. However, SBA reversed guidance under which many applicants had operated for multiple months. For example, on July 27, 2021, SBA issued modified guidance, stating that applicants could appeal or request a reconsideration of their application decisions. This reversed earlier guidance, in effect since February 2021, that prohibited appeals or reconsiderations. SBA has been making funding decisions since late May 2021, which means that applicants denied funding and operating under the old guidance did not know they would have an opportunity to appeal the denial. As a result, some applicants operating under the old guidance may have had to close their businesses or seek other financial support in the months before the guidance changed. According to SBA, the agency is retroactively applying the modified guidance. On August 2, 2021, SBA began inviting all declined applicants to appeal their denials. On August 6, 2021, SBA invited grant recipients awarded at least $100 less than they had requested to request reconsideration of their grant amount.

Representatives from five industry groups told us SBA's approach to updating guidance sometimes made it difficult to understand program requirements, but they added that SBA has been responsive to their feedback. For example, representatives from two industry groups noted that SBA did not appear to fully understand their industries' diverse business models when creating written descriptions of program eligibility requirements. SBA has also updated some guidance to improve its clarity in response to feedback from industry groups, according to representatives from a commercial theater industry group and museum industry groups. SBA officials said their iterative approach to disseminating program guidance was necessary for reasons that included wanting to ensure the guidance reflected lessons learned as the program progressed.

Methodology

We reviewed SBA data on applications and grants awarded as of September 20, 2021. We determined these data were sufficiently reliable for our purposes by discussing the data collection and quality-check processes with knowledgeable SBA officials. We also reviewed relevant laws and SBA program guidance, policies, and procedures. We interviewed SBA officials to discuss their experiences in administering the program and assistance to program participants. Further, we reviewed the SBA OIG's management alert for the program and relevant agency documents that pertain to concerns raised in the alert. In addition, we interviewed OIG officials to discuss SBA's responses to the alert. Finally, we interviewed five associations that represent SVOG-eligible businesses. Their views are not generalizable to all SVOG eligible businesses, but offered important perspectives.

Agency Comments

We provided SBA and the Office of Management and Budget (OMB) with a draft of this enclosure. SBA provided technical comments, which we incorporated as appropriate. OMB did not provide comments on this enclosure.

GAO's Ongoing Work

Our work assessing SBA's implementation of the SVOG program is ongoing. We plan to examine the characteristics and experiences of SVOG participants. We also plan to examine the safeguards SBA implemented to help ensure that grants were awarded to applicants that met program requirements and were used to pay for eligible expenses.

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Restaurant Revitalization Fund

The Small Business Administration awarded all of the $28.6 billion in Restaurant Revitalization Fund assistance by June 30, 2021.

Entity involved: Small Business Administration

Background

In 2020 and 2021, restaurants, bars, and other food service businesses experienced substantial revenue loss due to the COVID-19 pandemic and related business closures, disrupted business models, and decreased customer demand for indoor dining. On March 11, 2021, the American Rescue Plan Act of 2021 established the Restaurant Revitalization Fund (RRF) and appropriated $28.6 billion for the Small Business Administration (SBA) to provide support to eligible entities that suffered revenue losses related to the COVID-19 pandemic.

- **Eligibility.** Businesses eligible for RRF assistance included restaurants, food stands, caterers, bars, and similar places of business that serve food or drink.[390] Eligibility requirements included that businesses had to have fewer than 20 locations and had to not have been permanently closed.[391] Assistance may be used for 11 types of business expenses, including payroll, mortgage, rent, supplies, and food and beverages.[392]

- **Assistance size and requirements.** The maximum funding amount was $5 million per location and $10 million for businesses with multiple locations or affiliates. The minimum funding amount was $1,000. Assistance was awarded based on the recipients' documented revenue losses.[393] The funds do not need to be repaid as long as they are used for eligible expenses by March 11, 2023. Recipients that do not fully expend award funds prior to December 31, 2021, will be required to complete annual reporting submissions until they

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[390]The following businesses were also eligible: bakeries, breweries, microbreweries, brewpubs, distilleries, food carts, food trucks, inns, lounges, saloons, snack and nonalcoholic beverage bars, taprooms, tasting rooms, taverns, and wineries.

[391]Other requirements related to legal structure, ownership, and other federal relief funding. Eligibility was limited to C corporations, S corporations, partnerships, limited liability companies, sole proprietors, self-employed individuals, independent contractors, and tribal businesses. Eligibility was limited to businesses that earned at least 33 percent of 2019 gross receipts from on-site sales of food and beverage to the public. Franchisees were eligible, but nonprofit organizations, businesses operated by state or local governments, and publicly traded companies were not. Applicants also could have received an SBA Paycheck Protection Program loan or Economic Injury Disaster Loan, but they could not have received a Shuttered Venues Operators Grant or have had a pending application for that grant.

[392]Other eligible expense types are debt service; utility payments; maintenance, including construction of outdoor seating and maintenance on walls, floors, deck surfaces, furniture, fixtures, and equipment; covered supplier costs; and operating expenses. Covered supplier costs are expenditures (1) for goods essential to operations and made pursuant to a contract, order, or purchase order prior to the RRF funding; or (2) for purchase of perishable goods pursuant to a contract, order, or purchase order in effect before or at any time during the period beginning on February 11, 2020, and ending on March 11, 2023.

[393]Funding amounts were based on revenue losses as documented through gross receipts less any Paycheck Protection Program loans or other federal COVID-19 relief payments.

fully expend the award funding or until March 11, 2023. SBA plans to put a new form in the application portal for recipients to report on their use of award funds in October 2021.

- **Application period.** SBA accepted RRF applications from May 3, 2021 to May 24, 2021.[394] SBA began approving applications on May 7, 2021, and disbursing funds on May 10, 2021.

The American Rescue Plan Act required that during the first 21 days of the program, eligible entities owned and controlled by women, veterans, or socially and economically disadvantaged small business concerns as defined in the Small Business Act receive priority in award assistance.[395] The 21-day period ended on May 24, 2021. After SBA launched the RRF, three federal lawsuits were filed challenging the 21-day priority period—one in the Eastern District of Tennessee (Vitolo et. al. v. Guzman) and two in the Northern District of Texas (Greer's Ranch Café et. al. v. Guzman and Blessed Cajuns et. al. v. Guzman), which led to three adverse court rulings against SBA.

With the expiration of the 21-day priority period on May 24, 2021, and in light of certain court rulings issued on May 27 and May 28, 2021, SBA began processing RRF applications in the order received, without regard to priority status.[396] SBA continued to process applications and issue RRF assistance until the fund was exhausted on June 30, 2021.

Overview of Key Issues

All RRF funds had been awarded as of June 30, 2021. Specifically, SBA disbursed funds totaling $28.5 billion to 100,650 recipients (see figure). Thirty-six percent of applicants received funding. According to SBA, an estimated 177,300 applicants were not approved because the fund was exhausted. Businesses applied for a total of $72.2 billion in funding, which was $43.7 billion more than was appropriated for the program.

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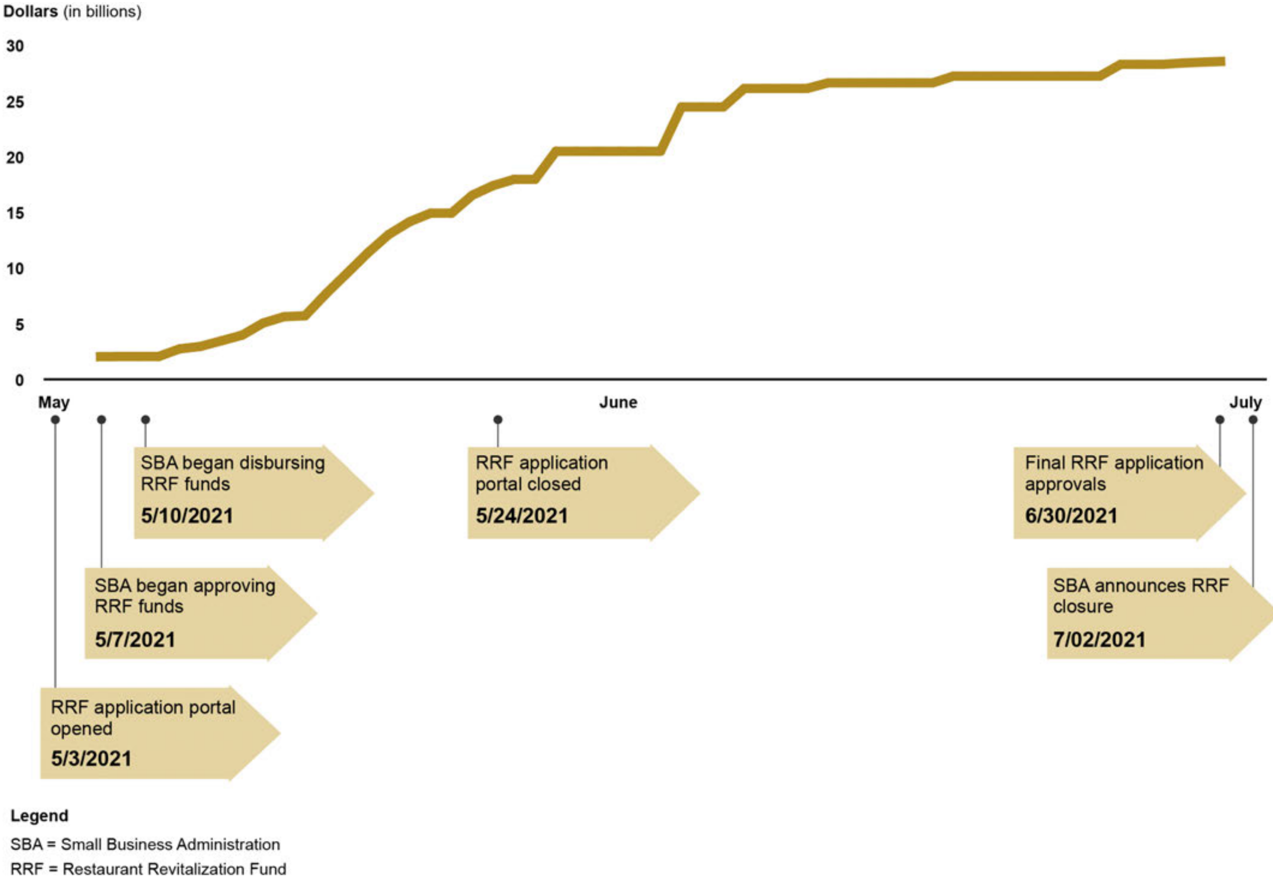
[394] Applicants could apply online (through an SBA application portal), by telephone, or through SBA Point of Sale restaurant partners (technology companies that provide software, hardware, and payment services to the restaurant industry) Square and Toast which provided application submission for their current customers. Other SBA Point of Sale partners such as Clover, NCR and Oracle provided supporting documentation and knowledge support to their current customers.

[395] Pub. L. No. 117-2, § 5003(c)(3), 135 Stat. 4, 88-89 (codified at 15 U.S.C. § 9009c(c)(3)).

[396] SBA did not fund 2,964 priority-period applicants that it approved for awards. As a result of the litigation, funding went to businesses that submitted applications before these 2,964 did. The RRF program's funding was exhausted before these 2,964 applications became eligible based on the first-come first-served basis.

Timeline for the Restaurant Revitalization Fund Program, as of July 2021



Source: GAO analysis of SBA data. | GAO-22-105051

Funds were distributed across all U.S. states, but were concentrated in urban areas. According to SBA data,

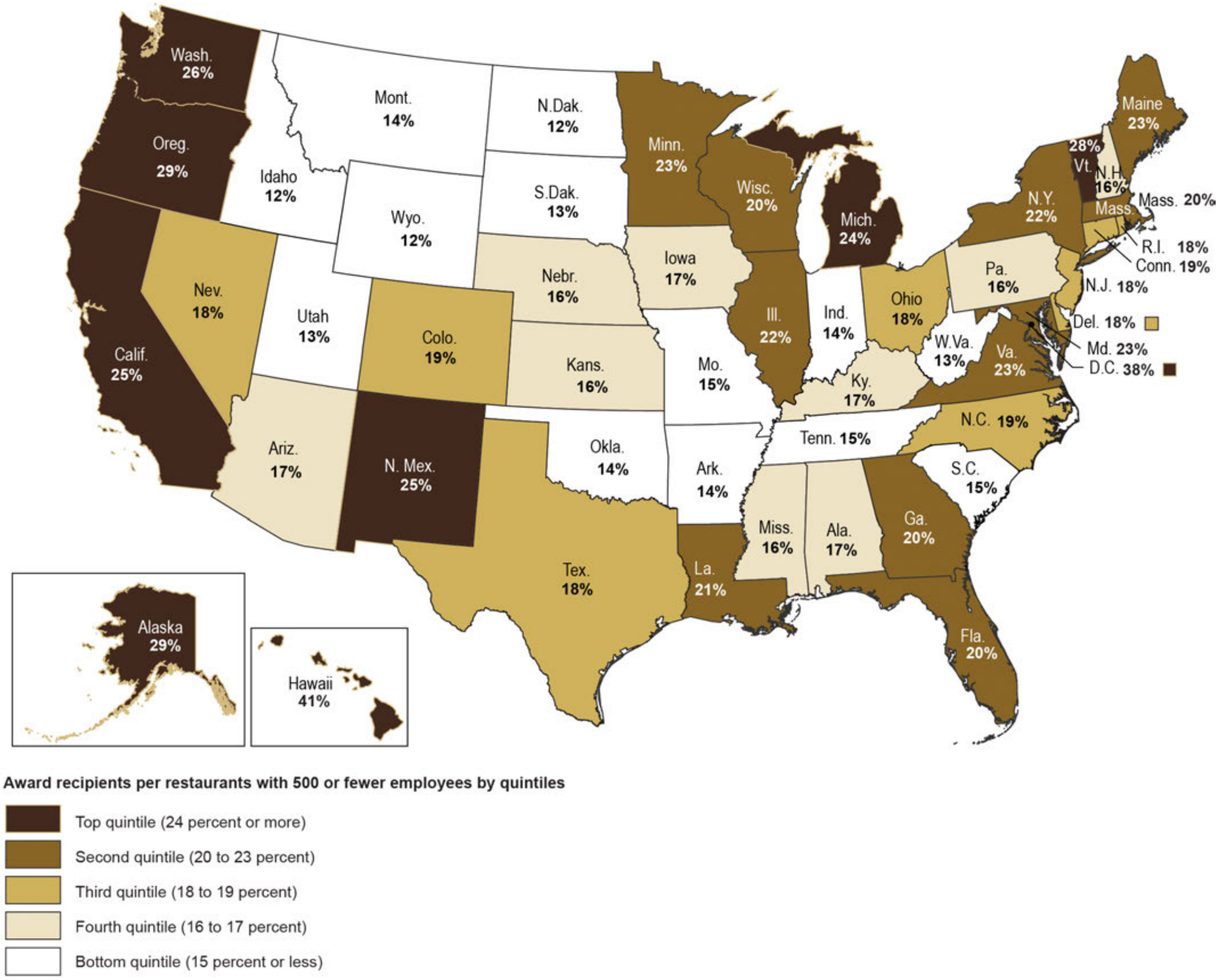
- 85 percent of recipients were located in urban areas (85,128 recipients, $26 billion);
- 27 percent of recipients operated in low- to moderate-income areas (27,210 recipients, $7.3 billion), which include rural and urban areas;[397]
- states with the most recipients and funds were California (15,962 recipients, $5.7 billion), New York (9,753 recipients, $3.7 billion), and Texas (6,372 recipients, $1.7 billion); and
- states with the fewest recipients and funds were South Dakota (193 recipients, $25.6 million), North Dakota (170 recipients, $26 million), and Wyoming (123 recipients, $18.1 million).

[397]SBA recipient data for RRF included indicators for rural and urban areas and low- to moderate-income areas, which SBA identified using the recipient's address.

Between 12 and 41 percent of potentially eligible recipients per state received funding, as shown in the figure below.[398] The states with the fewest recipients as a percentage of eligible restaurants were Idaho (304 recipients, $47.5 million), North Dakota (170 recipients, $26 million), and Wyoming (123 recipients, $18.1 million), each with 12 percent. The states with the greatest number of recipients as a percentage of potentially eligible recipients were Hawaii (1,145 recipients, $414.4 million) with 41 percent, the District of Columbia (729 recipients, $400.5 million) with 38 percent, and Oregon (2,337 recipients, $530.9 million) with 29 percent. Not every potentially eligible restaurant in each state applied for funding.

[398]We used the Census Bureau's 2018 Statistics of U.S. Businesses data to estimate the number of restaurants per state that were potentially eligible for the RRF program. More specifically, we designated "total" restaurants in each state as those with 500 or fewer employees and that had a North American Industry Classification System code definition of "Food Services and Drinking Places" (NAICS 722) from the most recent County Business Patterns data from the Census Bureau. While these data do not align with the eligibility criteria for RRF recipients—such as not having more than 20 locations and receiving 33 percent or more of their revenue from food or drink—they provide reasonable estimates for comparing eligible business populations at the state level.

Restaurant Revitalization Fund Recipients, as a Percentage of the Total Number of Restaurants with 500 or Fewer Employees in Each State, as of June 30, 2021

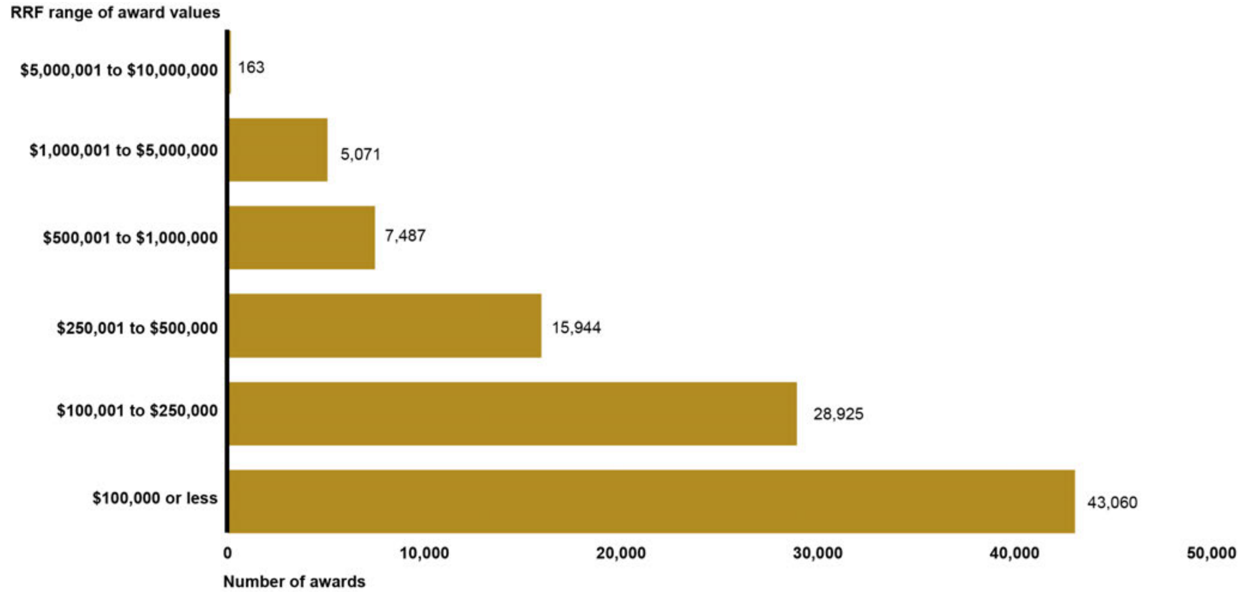


Source: GAO analysis of Small Business Administration (SBA) and U.S Census Bureau data; MapInfo (map). | GAO-22-105051

Note: We used the Census Bureau's 2018 Statistics of U.S. Businesses data to estimate the number of restaurants per state that were potentially eligible for the Restaurant Revitalization Fund program. More specifically, we designated "total" restaurants in each state as those with 500 or fewer employees and that had a North American Industry Classification System code definition of "Food Services and Drinking Places" (NAICS 722) from the most recent County Business Patterns data from the Census Bureau. While these data do not align with the eligibility criteria for Restaurant Revitalization Fund recipients—such as not having more than 20 locations and receiving 33 percent or more than of their revenue from food or drink—they provide reasonable estimates for comparing eligible business populations at the state level. This analysis shows recipients as a percentage of estimated eligible entities in a state, which differs from recipients as a percentage of applicants in a state (which ranged from an average of 22 percent in Rhode Island and to 48 percent Hawaii in and 36 percent across the U.S.).

Most funding amounts (87 percent) were for less than $500,000 (see figure). According to SBA data, approximately 10 percent of recipients were franchisees (businesses that purchase the right to sell a company's goods or services under the company's business model and trademark). Of those recipients, Subway franchisees were the largest group (2,868 recipients), followed by Dunkin' Donuts franchisees (302 recipients) and IHOP franchisees (296 recipients). In addition, when considering total funding amount per franchise chain, 41 percent of the RRF funds disbursed to franchisees went to those representing 10 franchise chains.

Restaurant Revitalization Fund (RRF) Recipients, by Assistance Amount, as of June 30, 2021



Source: GAO analysis of Small Business Adminstration (SBA) data. | GAO-22-105051

Methodology

To conduct this work, we reviewed SBA documentation on the RRF program and interviewed SBA officials. We analyzed SBA's recipient data and assessed the reliability of these data by interviewing SBA officials.[399] We determined that the data were sufficiently reliable for reporting aggregate recipient data, including the number and dollar amount by geography and other demographic descriptions. We also reviewed court decisions and other relevant legal documents related to the program. We interviewed two industry groups that represent eligible businesses; their views are not generalizable to all eligible businesses.

Agency Comments

We provided SBA and the Office of Management and Budget with a draft of this enclosure. SBA and the Office of Management and Budget did not provide comments on this enclosure.

GAO's Ongoing Work

Our work assessing SBA's implementation of the RRF program is ongoing. We continue to examine the characteristics and experiences of program participants and the safeguards SBA has implemented to help ensure that funds were disbursed to applicants that met program requirements and were used to pay for eligible expenses.

[399]Data on RRF recipients are available at https://data.sba.gov/dataset/rrf-foia.

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Assistance for Fishery Participants

As of September 15, 2021, of the $298 million in CARES Act funding for fisheries participants, $214.4 million has been disbursed to eligible fisheries participants; none of the additional $300 million in COVID-19 relief funds made available under the Consolidated Appropriations Act, 2021, has been disbursed because the agency is still receiving and reviewing spend plans.

Entity involved: National Oceanic and Atmospheric Administration, within the Department of Commerce

Background

Commercial and recreational marine fisheries are critical to the nation's economy, contributing approximately $99.5 billion to the U.S. gross domestic product and supporting approximately 1.7 million jobs in 2016, according to the National Oceanic and Atmospheric Administration (NOAA).[400] Widespread restaurant closures in the spring of 2020 led to a decrease in demand for seafood, adversely affecting the fisheries industry.

The 2020 CARES Act authorizes the Department of Commerce to provide assistance to eligible tribal, subsistence, commercial, and charter fishery participants affected by COVID-19, which may include direct relief payments.[401] The act appropriated $300 million to the Department of Commerce to assist fishery participants.[402] After $2 million in administrative fees were assessed by NOAA, $298 million of the $300 million was obligated for eligible fishery participants. These include tribes, persons, fishing communities, aquaculture businesses not otherwise eligible for certain assistance, processors, and other fishery-related businesses, who have incurred, as a direct or indirect result of COVID-19, certain specified economic revenue losses or other negative impacts.[403] Businesses such as vessel repair businesses, restaurants, and seafood retailers are not considered fishery-related businesses eligible to receive this CARES Act funding, according to NOAA's website.

An additional $300 million for certain COVID-19-related fisheries disaster assistance was appropriated under the Consolidated Appropriations Act, 2021, signed by the President into law on December 27, 2020.[404] The amount provided is only to be allocated to states bordering the

[400] U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, *Fisheries Economics of the United States, 2016*, Technical Memorandum NMFS-F/SPO-187a (Silver Spring, Md.: December 2018). Information on gross domestic product and jobs includes data on commercial seafood harvesters, processors, dealers, wholesalers, distributors, importers, and retailers, as well as recreational fishing trips and fishing equipment. Data for 2016 were the most recent available at the time of our review.

[401] Pub. L. No. 116-136, § 12005(a), 134 Stat. at 518.

[402] *Id.* § 12005(d).

[403] *Id.* § 12005(b). Specifically, "fishery participants" are defined as belonging to these categories and as having incurred, as a direct or indirect result of the COVID-19 pandemic, economic revenue losses greater than 35 percent as compared with their prior 5-year average revenue or any negative impacts to subsistence, cultural, or ceremonial fisheries. Additionally, the CARES Act provided that the Department of Commerce may use up to 2 percent of the $300 million for administration and oversight activities.

[404] Pub. L. No. 116-260, div. M, tit. I, 134 Stat. 1182, 1909-10. Specifically, the act appropriated $300 million, to remain available until September 30, 2021, to prevent, prepare for, and respond to COVID-19, domestically or internationally, which is to be only for activities authorized under section 12005 of the CARES Act.

Atlantic, Pacific, or Arctic Oceans, the Gulf of Mexico, or the Great Lakes, as well as to territories and certain tribes.[405] As of September 7, 2021, all funds appropriated under the Consolidated Appropriations Act, 2021 have been obligated, according to NOAA officials.

Overview of Key Issues

CARES Act funding was allocated in May 2020, and most of it was obligated in July 2020. On May 7, 2020, the Secretary of Commerce announced the allocation of about $298 million of the $300 million in CARES Act funding for states, tribes, and territories with fishery participants.[406]

NOAA used these allocations to obligate almost $297 million of the available $298 million in funding to the three interstate marine fisheries commissions—Atlantic States, Gulf States, and Pacific States—from June 30 through July 2, 2020, and to the government of Puerto Rico on July 14, 2020. NOAA also obligated $993,000 to the government of the U.S. Virgin Islands on November 13, 2020.[407]

The commissions play an important role in disbursing funds as part of NOAA's fishery disaster assistance program, which provides funding to fishery participants experiencing economic losses from specific events, such as hurricanes or oil spills.[408] For the CARES Act funding, the commissions worked with states, tribes, and territories in their regions to develop spend plans for NOAA's review and approval. These plans explain how states, tribes, and territories will verify whether fishery participants meet the requirements of the CARES Act to receive funds.

- As of May 1, 2021, NOAA had received the 30 plans it anticipated from the states and territories. As of July 1, 2021, all 30 plans had been reviewed and approved.
- Additionally, as of May 1, 2021, 30 tribal spend plans had been submitted to NOAA and all had been approved.

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[405] The act provides that of the $300 million, $30 million is for COVID-19-related fishing impacts for specified tribal fishery participants, and $15 million is for COVID-19-related fishing impacts to nontribal commercial, aquaculture, processor, and charter fishery participants in states bordering the Great Lakes. Additionally, the act provides that each eligible state and territory, other than those states only bordering the Great Lakes, is to receive an amount equal to not less than 1 percent of the total $300 million, and not greater than, from amounts provided under the CARES Act or this appropriation, that state's or territory's total annual average revenue from commercial fishing operations, aquaculture firms, the seafood supply chain, and charter fishing businesses.With regard to tribes, the act specifies that tribes eligible for funding are federally recognized tribes in any of the nation's coastal states and territories as well as federally recognized tribes in any of the nation's Great Lakes states with fisheries on the tribe's reservation or ceded or usual and accustomed territory.

[406] According to NOAA officials, allocations represent the maximum amount of total funding that fishery participants in a particular state, tribe, or territory can receive. These allocations are net of administrative fees that NOAA assessed. Additional administrative fees can be assessed by grantees, such as the interstate marine fisheries commissions, according to NOAA officials.

[407] Puerto Rico and the U.S. Virgin Islands are not part of an interstate marine fisheries commission.

[408] The commissions, established in the 1940s, partner with NOAA on data collection and the management of fisheries resources that are shared across states, such as striped bass. Since Puerto Rico and the U.S. Virgin Islands are not part of the interstate marine fisheries commissions, they handle their own disbursement processes.

Once a state, tribe, or territory's spend plan has been approved by NOAA, that entity solicits and reviews applications from fishery participants, determines whether participants meet the eligibility criteria, and determines the direct payment amount based on the methodology outlined in its spend plan.[409] The respective interstate marine fisheries commissions disburse the appropriate amount of funds directly to the fishery participant consistent with the approved spend plan, though some states and tribes may disburse funds themselves.[410]

More than 70 percent of CARES Act funding had been disbursed to fishery participants as of September 15, 2021. As of September 15, 2021, the three interstate marine fisheries commissions had disbursed over 70 percent of obligated funds ($214.4 million out of the $298 million) to fishery participants in 22 states, 17 tribes, and 2 U.S. territories as shown in the table below.[411] As we previously reported in our March 2021 report, NOAA officials told us that they expected the vast majority of CARES Act funds to be disbursed to fishery participants by May 2021.

[409]NOAA officials said that states, tribes, and territories can also use existing records, such as fishing permits, to identify eligible recipients.

[410]As noted previously, Puerto Rico and the U.S. Virgin Islands are not part of an interstate marine fisheries commission, so they will disburse funds directly to fishery participants.

[411]Puerto Rico disbursed funds directly to fishery participants, since it is not part of an interstate marine fisheries commission.

Disbursement of CARES Act Funding, as of September 15 , 2021

Interstate commission	State	Funds disbursed ($ in thousands)
Atlantic States Marine Fisheries Commission	Massachusetts	27,676
	Florida	23,447
	Maine	17,129
	New Jersey	10,825
	New York	6,398
	North Carolina	5,255
	Virginia	4,483
	Rhode Island	3,168
	Maryland	3,000
	New Hampshire	2,660
	Connecticut	1,821
	Georgia	1,525
	South Carolina	1,483
	Delaware	992
	Puerto Rico[a]	358
Gulf States Marine Fisheries Commission	Louisiana	14,397
	Alabama	3,254
	Mississippi	1,415
	Texas	958
Pacific States Marine Fisheries Commission	Washington	38,563
	California	18,042
	Oregon	15,768
	Hawaii	4,279
	West Coast Tribes[b]	6,350

Interstate commission	State	Funds disbursed ($ in thousands)
	Alaska Tribes[c]	932
	Guam	176
Total		214,354

Source: GAO analysis of Department of Commerce data. | GAO-22-105051

Note: The CARES Act appropriated $300 million to the Department of Commerce to assist fishery participants. Pub. L. No. 116-136, § 12005(d), 134 Stat. at 518.

[a]Puerto Rico is not part of an interstate marine fisheries commission.

[b]According to National Oceanic and Atmospheric Administration officials, 16 of the 30 tribes from this group have received funding.

[c]According to National Oceanic and Atmospheric Administration officials, one eligible tribe from this group has received funding.

NOAA officials acknowledged that the vast majority of funds had not been disbursed by May 2021 for a few reasons. Officials told us that that the amount of funding provided under the CARES Act and the number of states involved in the process was larger than any past fishery disaster the agency has been involved with. In addition, Washington and Alaska, which together account for about one-third of the allocated funds ($99.3 million), took longer than the other states to submit spend plans and review applications. According to NOAA officials, this was due in part to the number of applications that needed to be reviewed by these states as part of implementing their spend plans and in part to the review process occurring during the fishing season when fishery participants were not available to meet with state officials to discuss identified issues in their applications. NOAA officials said that during conversations with state and commission officials, they have shared lessons learned from the disbursement process in an attempt to help other states disburse the funds in a more expedited manner.

An additional $300 million in COVID-19 relief funds was appropriated in December 2020, and as of September 7, 2021, all of the funds have been obligated but none have been disbursed. Of the $300 million in additional COVID-19 relief funds appropriated under the Consolidated Appropriations Act, 2021, $255 million has been allocated by NOAA to the three fisheries commissions, Puerto Rico, and the U.S. Virgin Islands. The remaining $45 million was allocated to specified tribal fishery participants and to fishery participants bordering the Great Lakes. As of September 7, 2021, all funding has been allocated and obligated but no funds have been disbursed, according to agency officials. Fourteen states have approved spend plans and have initiated their application processes to disburse funds. According to NOAA officials, the agency is still receiving and reviewing spend plans from the remaining marine coastal states and territories, and the Great Lakes states. As of September 15, 2021, NOAA has received 10 spend plans to review, and is still waiting to receive 12 spend plans.[412]

[412]Of the 10 spend plans, NOAA received seven plans from the marine coastal states and territories, and three plans from the Great Lakes states.

Methodology

To conduct this work, we reviewed NOAA data as of September 15, 2021; examined documents related to NOAA's data system; and interviewed officials familiar with the data system. We determined that the data were sufficiently reliable for our purposes by reviewing agency documents and speaking with agency officials. We also reviewed relevant laws, including the CARES Act and the Consolidated Appropriations Act, 2021, and agency documents, and interviewed NOAA officials.

Agency Comments

We provided a copy of this enclosure to NOAA and the Office of Management and Budget (OMB) for review and comment. NOAA provided us with technical comments, which we have incorporated as appropriate. OMB did not provide comments on this enclosure.

GAO's Ongoing Work

We will continue to monitor CARES Act assistance to fishery participants in ongoing and planned work.

GAO's Prior Recommendations

The table below presents our recommendation on assistance for fishery participants from prior bimonthly and quarterly CARES Act reports.

Prior GAO Recommendation Related to Assistance for Fisheries Participants

Recommendation	Status
The Assistant Administrator for the National Oceanic and Atmospheric Administration (NOAA) Fisheries should develop a mechanism to track the progress of states, tribes, and territories in meeting timelines established in spend plans to disburse funds in an expedited and efficient manner. (January, 2021)	**Closed—implemented.** In February 2021, NOAA developed an electronic tracking tool to track the disbursement of funds to fisheries participants, and as of July 2021, the agency was regularly inputting data into this tool to monitor the progress of states, tribes, and territories to disburse funds.

Source: GAO. I GAO-22-105051

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Food Safety Inspections

The U.S. Department of Agriculture has taken steps to continue required inspections of meat and poultry and track the COVID-19 status of inspectors.

Entity involved: Food Safety and Inspection Service, within the U.S. Department of Agriculture

Background

COVID-19 has caused disruptions in the U.S. food supply chain, from the farms that produce raw agricultural commodities to the food-processing and distribution network that enables consumers to use these commodities. The 7,799 inspectors and other frontline staff from the U.S. Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) work in more than 6,500 federally inspected meat and poultry plants and other establishments.[413] These inspectors help ensure the safety and wholesomeness of meat and poultry that enter interstate commerce. FSIS also has responsibility for inspecting meat and poultry products at U.S. ports and conducting audits of foreign food safety inspection systems.

During the pandemic, some FSIS inspectors have been exposed to COVID-19, and the risk of such exposure has posed a potential challenge for FSIS in continuing food safety inspections. According to April 2020 interim guidance from the Centers for Disease Control and Prevention (CDC) and the Occupational Safety and Health Administration, working in close conditions, as is common in meat and poultry plants, may contribute to exposure to COVID-19. In January 2021, the Occupational Safety and Health Administration published COVID-19 worker safety guidance, including recommendations for workplace COVID-19 prevention programs and policies.[414] See the enclosure on Worker Safety and Health in appendix I for more information on the Occupational Safety and Health Administration's efforts during the pandemic.

As of July 2021, USDA had obligated and spent $32 million of the $33 million in CARES Act funds that Congress appropriated to FSIS in March 2020 to prevent, prepare for, and respond to COVID-19 with regard to food safety inspections.[415] FSIS spent almost $24 million for food safety inspections, including to cover costs to maintain staffing of FSIS inspectors and to fund achievement awards.[416] For example, officials told us that USDA most recently used $13.9 million of these funds for achievement awards to frontline and other FSIS employees who volunteered to

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[413]The Food and Drug Administration (FDA) covers food safety activities for other types of food production. FDA did not receive CARES Act funds for food safety-related activities.

[414]Department of Labor, Occupational Safety and Health Administration, *Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace* (Jan. 29, 2021), accessed February 12, 2021, https://www.osha.gov/coronavirus/safework. In January 2021, we reported on the Department of Labor Occupational Safety and Health Administration's efforts to protect worker safety and health.

[415]Pub. L. No. 116-136, div. B, tit. I, 134 Stat. 281, 506 (2020).

[416]As we reported in March 2021, USDA used CARES Act funds to provide FSIS employees with personal protective equipment. In addition, as we reported in November 2020, USDA used the funds to maintain staffing of FSIS inspectors, including to cover costs for additional hours worked by part-time inspectors, to bring in inspectors from other USDA offices, and to pay for nonreimbursable overtime. Nonreimbursable overtime occurs when an inspector has already worked a full shift and needs to work additional hours at another establishment that is not in an overtime status and subject to paying FSIS an overtime fee, according to USDA officials. The agency also used almost $400,000 for state inspections, laboratory testing of pathogens in meat and poultry products, and training.

perform in-plant inspection from March 2020 through June 2020.[417] Of the remaining $8 million, FSIS used these funds for supplies and materials, such as personal protective equipment. USDA plans to use any remaining CARES Act funds for award payouts to in-plant personnel, according to officials.

Overview of Key Issues

FSIS continued U.S. inspection activities and conducted remote audits to evaluate foreign inspection systems during the COVID-19 pandemic. According to USDA officials, during the COVID-19 pandemic, FSIS has maintained required inspection services to ensure that establishments including meat and poultry plants can operate. FSIS also continued to execute its fiscal year 2021 testing plan—sampling of pathogens in meat and poultry products—with no impact from the COVID-19 pandemic.

In addition to inspections at U.S. plants, FSIS took steps to continue monitoring and verifying that foreign food safety inspection systems met U.S. standards. In carrying out this responsibility, FSIS typically uses a three-pronged approach—point-of-entry reinspection of imported meat and poultry products, reviews of annual self-reporting tools by countries that export to the U.S., and on-site verification audits—and it largely maintained this approach during the pandemic.[418]

Although FSIS was not able to conduct on-site audits in foreign countries because of COVID-19, the agency implemented a remote audit process, consisting of virtual meetings and electronic information exchanges, to evaluate the effectiveness of foreign food safety inspection systems through document review and interviews.[419] According to officials, FSIS also used available data streams to monitor for food-related recalls, illness outbreaks, natural disasters, issuance of inspection system audit reports by third parties, and animal disease outbreaks in countries exporting to the U.S. The remote audit approach is similar to the one taken by some trading partners for auditing the U.S. inspection system during this time, according to FSIS officials.

According to agency documentation, as of December 2020, the remote audit is to assess inspection records for a designated period within the last 12 months and seek to verify ongoing effectiveness of foreign inspection programs. Throughout the pandemic, these remote audits,

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[417]According to FSIS officials, 6,700 frontline employees and other employees qualified for the award. The value of the individual awards is based on how many hours qualified employees worked in the establishments during the time frame. The minimum award for individual employees who worked during this time frame is $500, and the award value increases for every in-plant hour worked. The awards ranged from $500 to approximately $4,000.

[418]According to officials, FSIS continued to perform ongoing point-of-entry reinspections of all imported meat and poultry products, as well as reviews of self-reporting tool submissions by countries that export such products to the U.S. The self-reporting tool is the system FSIS uses to obtain information from foreign countries seeking to demonstrate that their documented food safety inspection systems achieve a level of public health protection equivalent to the U.S. inspection system. FSIS has not denied or delayed any reinspection service requests for imported meat, poultry, catfish, or processed egg products, according to officials.

[419]The remote audit approach serves as a temporary measure to fulfill FSIS requirements in lieu of conducting on-site audits of foreign food safety inspection systems. The proposed remote audit schedule includes all ongoing equivalence audits postponed during fiscal year 2020, as well as those countries scheduled for fiscal year 2021. The proposed audit schedule includes the following countries: Australia, Austria, Canada, China, Finland, France, Honduras, Iceland, Italy, Mexico, Netherlands, New Zealand, Nicaragua, Poland, San Marino, Thailand, and Vietnam.

among other things, have not shown evidence of any systemic failures to comply with U.S. equivalency standards representing an immediate threat to public health, according to FSIS officials.

FSIS may leverage performance-monitoring data used by foreign authorities, if available, to assess the effectiveness of foreign authorities' inspection systems. This approach is similar to how FSIS collects and utilizes data to monitor and verify the effectiveness of the U.S. inspection system. The remote audit process has proven to be a useful tool for reviewing foreign inspection systems in the absence of being able to travel internationally to perform on-site audits, according to officials. FSIS is currently in the process of scheduling on-site audits in locations where it is safe to do so; however, lessons learned from the remote audit process will be applied to enhance the efficiency and effectiveness of future audits, according to officials. They noted that such audits will incorporate a blend of virtual meetings and document review with on-site observations.

USDA has tracked FSIS inspectors' and other staff's COVID-19-related absences and identified lessons learned. According to USDA documentation, as of August 23, 2021, 1,692 inspectors and staff (or about 22 percent of total inspectors and other frontline staff) had reported a COVID-19 diagnosis confirmed by a test or medical professional since the first reported case in March 2020. Of these employees, 1,620 had returned to work, seven were self-quarantining, and 14 were deceased.[420]

Although FSIS does not specifically require employees to report COVID-19 infections and relies on staff to self-report, FSIS employees are required to report an absence from work. According to USDA's FSIS Human Pandemic Operations Plan, under the agency's leave directive, FSIS employees are required to report to their supervisors if they will be absent from duty and, in the event of a human pandemic, supervisors and managers should initiate a follow-up for any unscheduled employee absence.[421] Upon notification of a positive COVID-19 test result from an employee, FSIS gathers pertinent information such as illness onset, testing date and result, last time in the building, and contact with other employees at the workplace. The agency uses the information to determine any necessary notifications to FSIS and meat and poultry plant personnel, according to officials.

In response to the pandemic, USDA and the meat and poultry industry implemented intervention measures.

[420]According to USDA officials, as of June 28, 2021, FSIS continued to collect information related to employees who tested positive for COVID-19, but this information is reported to USDA through an internal SharePoint system. The total number of FSIS employees with a confirmed diagnosis of COVID-19 does not equal the total number of employees who have returned to work, were self-quarantining, or were deceased because the status of some employees is not indicated in USDA documentation provided to us. According to USDA documentation, the number of employees who had a COVID-19 diagnosis is cumulative, and this cumulative number includes employees who have returned to work (i.e., recovered from the disease) and deceased employees. This number combines inspectors and staff, whose occupational exposures may vary.

[421]See U.S. Department of Agriculture, Office of the Administrator, *The Food Safety and Inspection Service Human Pandemic Operations Plan* (March 2020) and U.S. Department of Agriculture, Food Safety and Inspection Service, *Leave*, FSIS Directive 4630.2 (Washington, D.C.: Sept. 15, 2010).

- Earlier in the pandemic, some meat and poultry plants closed temporarily as an intervention measure in response to COVID-19 cases among workers, according to CDC.
- In accordance with the department's COVID-19 workplace safety plan dated July 28, 2021, USDA began requiring its employees to wear a mask in federal buildings and vehicles owned or leased by the government, regardless of the employee's vaccination status, if located in an area of "substantial" or "high" community COVID-19 transmission.[422] In an update to the plan on August 23, 2021, the department also stated federal employees who work in areas that have stricter state, local, or tribal mask mandates should follow those masking requirements.
- According to the company's website, as of August 2021, as an intervention measure, a national meat and poultry company is requiring all of its employees to be fully vaccinated against COVID-19 by November 1, 2021.

USDA officials said that, as of August 2021, there were no establishments that had to close because of a lack of available FSIS inspectors during the pandemic.

For future pandemics, FSIS intends to update its emergency plan—the FSIS Human Pandemic Operations Plan—annually and apply lessons learned, according to officials. The plan will inform leadership preparation and decision-making for any future pandemics, according to officials. They also said that storing up personal protective equipment is one lesson learned from the COVID-19 pandemic experience.

According to these officials, another lesson learned is to rely on the expertise of federal partners such as CDC, the Occupational Safety and Health Administration, and state and local health departments. For example, FSIS recently issued a notice for establishments (meat and poultry plants) to follow the latest CDC guidance—wearing masks when FSIS personnel are present, regardless of vaccination status, if located in an area of "substantial" or "high" community COVID-19 transmission—by August 9, 2021.[423] According to FSIS, if an establishment does not meet these expectations, the agency may take additional measures to reduce COVID-19 exposure for FSIS plant personnel, such as not providing inspection service to the establishment until it follows CDC guidance.

Methodology

To conduct this work, we reviewed the most recent USDA data on COVID-19 illnesses and exposures among FSIS employees available as of August 23, 2021; the CARES Act; agency

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[422]See U.S. Department of Agriculture, *USDA COVID-19 Workplace Safety Plan* (July 28, 2021, and Aug. 23, 2021), accessed August 6, 2021, and August 27, 2021, respectively, https://www.usda.gov/coronavirus/workplacesafetyplan. FSIS supplemented the *USDA COVID-19 Workplace Safety Plan* with an appendix for FSIS-specific guidelines. For example, FSIS frontline employees are required to wear face shields in addition to face masks.

[423]See U.S. Department of Agriculture, The Food Safety and Inspection Service, *Measures to Protect FSIS Inspection Program Personnel (IPP) From COVID-19 Infection*, FSIS Notice 30-21 (Washington, D.C.: Aug. 4, 2021). FSIS advised establishment managers and employees to use the CDC COVID Data Tracker website, which is updated daily, to determine whether they are located in an area of "substantial" or "high" community COVID-19 transmission.

policy and other guidance; USDA expenditure data as of July 23, 2021; and written responses to questions we emailed FSIS officials. We assessed the reliability of agency data by reviewing relevant USDA and FSIS documents, our prior use of the data sources, and written responses from the agency about the data. We determined the data were sufficiently reliable for estimating the number of FSIS staff who had become ill with COVID-19.

Agency Comments

We provided a draft of this enclosure to USDA and the Office of Management and Budget for review and comment. USDA and the Office of Management and Budget did not have any comments related to this enclosure.

GAO's Ongoing Work

We plan to assess federal efforts to protect worker safety and health in meat and poultry plants during the COVID-19 pandemic in ongoing work.

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Airport Grants

The Federal Aviation Administration is administering grants to help the nation's airports respond to and recover from the economic effects of the COVID-19 pandemic.

Entity involved: Federal Aviation Administration, within the Department of Transportation

Background

Historic decreases in passenger demand for air travel due to the COVID-19 pandemic significantly affected U.S. airports' abilities to generate the revenue needed for operating and infrastructure costs. According to data filed with the Department of Transportation (DOT), U.S. airlines carried about 47 percent fewer passengers in March 2021 than in March 2019. One airport association estimates that U.S. airports will face $40 billion in operating losses and additional costs related to COVID-19 from March 2020 to March 2022. Airport associations reported that passenger traffic increased over the summer months of 2021, particularly at airports serving domestic leisure travelers. However, airports serving more international or business travelers have not had the same levels of recovery. Additionally, it is unclear how the delta variant, or other COVID-19 variants, will affect air travel demand in the fall and winter months of 2021. The CARES Act, the Consolidated Appropriations Act, 2021, and the American Rescue Plan Act of 2021 provided a combined total of $20 billion in federal funding for U.S. airports to respond to the COVID-19 pandemic, although funding allocation and certain allowable uses differ under each act.

Obligations and expenditures. Of the $20 billion combined total in federal COVID-19 relief funding provided by the CARES Act, Consolidated Appropriations Act, 2021, and the American Rescue Plan Act of 2021 for U.S. airports, about $16 billion has been obligated and $8 billion expended by FAA as of September 27, 2021, according to FAA officials.

CARES Act. The CARES Act, signed into law on March 27, 2020, provided $10 billion to support U.S. airports of all sizes to prevent, prepare for, and respond to the COVID-19 pandemic.[424] Airport owners—also known as airport sponsors—may use CARES Act funds for any purpose for which airport revenues may be lawfully used, including for airport operating expenses and debt service. As of September 27, 2021, the Federal Aviation Administration (FAA) had obligated over $9 billion and expended over $7 billion to reimburse airports for eligible costs and to increase the federal share for 2020 Airport Improvement Program (AIP) grants, according to FAA officials (see table). As of September 27, 2021, FAA had processed CARES Act grant applications for 3,229 U.S. airports.

[424]Pub. L. No. 116-136, 134 Stat. 281, 596-97. The CARES Act gives the Federal Aviation Administration (FAA) the authority to retain up to 0.1 percent of the $10 billion (up to $10 million) provided for Grants-in-Aid for Airports to fund the award and oversight by FAA of grants made under the CARES Act.

FAA Obligations and Expenditures for CARES Act Airport Grants, as of September 27, 2021		
Funding group	**Obligations ($ thousands)**	**Expenditures ($ thousands)**
Increase federal share for 2020 Airport Improvement Program (AIP) grants[a]	$548,325	$381,345
Commercial service airports[b]	$7,210,565	$5,901,947
Primary airports[c]	$1,635,766	$933,169
General aviation airports[d]	$100,480	$76,162
Reallocated CARES Act funds[e]	$290,775	$131,683
Total	**$9,785,911**	**$7,424,305**

Source: GAO analysis of CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020) and data from the Federal Aviation Administration (FAA). | GAO-22-105051

[a]The CARES Act directed FAA to allocate funding to these groups through various formulas. Approximately 3,300 airports in the U.S. are part of the national airport system and are eligible to receive federal AIP grants to fund infrastructure projects. The CARES Act appropriated at least $500 million to increase the federal share to 100 percent for grants awarded for airport infrastructure projects under fiscal year 2020 and supplemental discretionary grants.

[b]Commercial service airports are publicly owned airports with at least 2,500 passenger boardings per year and scheduled air service.

[c]Primary airports are large, medium, and small hub and non-hub airports with more than 10,000 passenger boardings per year.

[d]General aviation airports are public-use airports with fewer than 2,500 passenger boardings per year and no scheduled air service.

[e]Under the Consolidated Appropriations Act, 2021, unallocated CARES funds as of December 27, 2020 were to be allocated under the Consolidated Appropriations Act, 2021 using the primary commercial service and certain cargo airports allocation formula. According to FAA officials, FAA calculated that $290,774,557 in CARES Act funds are available for reallocation under the Consolidated Appropriations Act, 2021.

Consolidated Appropriations Act, 2021. The Consolidated Appropriations Act, 2021, enacted on December 27, 2020, provided $2 billion in additional federal aid to help eligible airports and certain tenants to prevent, prepare for, and respond to COVID-19.[425] Airports must use Consolidated Appropriations Act, 2021 grant funding for costs related to operations, personnel, cleaning, sanitization, janitorial services, combating the spread of pathogens at the airport, and debt service payments.[426] Certain amounts are also available to provide relief from rent and minimum annual guarantees to airport concessions. As of September 27, 2021, FAA had obligated about $2 billion and expended about $570 million to reimburse airports for eligible costs,

[425]Pub. L. No. 116-260, div. M, tit. IV, 134 Stat. 1182, 1939-41 (2020). Division M of the Consolidated Appropriations Act, 2021 is also referred to as the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA). The Consolidated Appropriations Act, 2021, made up to $5 million of the $2 billion in funding available for the Small Community Air Service Development Program.

[426]The 31 airports that received CARES Act funds in excess of four times their annual operating expenses are excluded from receiving Consolidated Appropriations Act, 2021 funding. *See* Pub. L. No. 116-260, 134 Stat. at 1939. Specific amounts appropriated by the Consolidated Appropriations Act, 2021 are also available to cover lawful expenses to support FAA contract tower operations and to provide relief from rent and minimum annual guarantees to on-airport car rental, on-airport parking, and in-terminal concessions.

according to FAA officials (see table). As of September 27, 2021, FAA had processed Consolidated Appropriations Act, 2021 grant applications for 2,966 U.S. airports.

FAA Obligations and Expenditures for the Consolidated Appropriations Act, 2021 Airport Grants, as of September 27, 2021

Funding group	Obligations ($ thousands)	Expenditures ($ thousands)
Primary commercial service airports and certain cargo airports[a]	$1,751,347	$542,290
Non-primary commercial service and general aviation airports[b]	$38,854	$8,550
Non-primary airports participating in the Federal Aviation Administration (FAA) Contract Tower program[c]	$4,783	$660
Tenant relief for primary commercial service airports	$199,416	$15,267
Small Community Air Service Development Program[d]	$4,000	$4,000
Total	**$1,998,400**	**$570,767**

Source: GAO analysis of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. M, tit. IV, 134 Stat. 1182, 1939-41 (2020), and data from the Federal Aviation Administration (FAA). | GAO-22-105051

[a]The Consolidated Appropriations Act, 2021 directed FAA to allocate funding to these groups through various formulas. Primary commercial service airports are publicly owned airports with more than 10,000 passenger boardings per year and scheduled air service. Cargo airports are airports that, in addition to any other air transportation services that may be available, are served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 100 million pounds.

[b]Non-primary commercial service airports have at least 2,500 and no more than 10,000 passenger boardings each year. General aviation airports are public-use airports with fewer than 2,500 passenger boardings per year or no scheduled air service.

[c]Non-primary airports are the same as non-primary commercial service airports, and have at least 2,500 and no more than 10,000 passenger boardings each year. The Federal Contract Tower Program, established in 1982, allows the agency to contract out the operation of certain towers.

[d]The Small Community Air Service Development Program is a grant program designed to help small communities address air service and airfare issues.

American Rescue Plan Act of 2021. The American Rescue Plan Act of 2021, enacted on March 11, 2021, provided an additional $8 billion for airport assistance.[427] The allowable uses of funds are similar to those for the Consolidated Appropriations Act, 2021, and are available for costs related to operations, personnel, cleaning, sanitization, janitorial services, combating the spread of pathogens at the airport, and debt service payments. Certain amounts are available to increase the federal share for AIP grants, and to provide relief from rent and minimum annual guarantees to airport concessions. As of September 27, 2021, FAA had obligated over $4 billion and expended about $300 million to reimburse airports for eligible costs, according to FAA officials (see table). As of September 27, 2021, FAA had processed American Rescue Plan Act of 2021 grant applications for 1,147 U.S. airports.

[427]Pub. L. No. 117-2, § 7102(a), 135 Stat. 4, 96.

FAA Obligations and Expenditures for the American Rescue Plan Act of 2021 Airport Grants, as of September 27, 2021

Funding group	Obligations ($ thousands)	Expenditures ($ thousands)
Primary commercial service airports and certain cargo airports[a]	$3,814,655	$215,509
Increase federal share for 2021 and select 2020 Airport Improvement Program (AIP) grants	$486,531	$82,933
Non-primary commercial service and general aviation airports[b]	$39,206	$2,292
Tenant relief for primary commercial service airports[c]	$0	$0
Total	**$4,340,391**	**$300,734**

Source: GAO analysis of the American Rescue Plan Act, 2021, Pub. L. No. 117-2, § 7102, 135 Stat. 4, 96-98, and data from the Federal Aviation Administration (FAA). | GAO-22-105051

[a]The American Rescue Plan Act of 2021 directed FAA to allocate funding to these groups through various formulas. Primary commercial service airports are publicly owned airports with more than 10,000 passenger boardings per year and scheduled air service. Cargo airports are airports that, in addition to any other air transportation services that may be available, are served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 100 million pounds.

[b]Non-primary commercial service airports have at least 2,500 and no more than 10,000 passenger boardings each year. General aviation airports are public-use airports with fewer than 2,500 passenger boardings per year or no scheduled air service.

[c]Primary commercial airport sponsors may only use these funds to provide relief from rent and minimum annual guarantees to in-terminal airport tenants, subject to additional conditions. An eligible large airport concession is one that is in-terminal and has maximum gross receipts, averaged over the previous three fiscal years, of more than $56,420,000. An eligible small airport concession is one that is in-terminal and is a small business with maximum gross receipts, averaged over the previous three fiscal years, of less than $56,420,000, and is a joint venture.

Overview of Key Issues

Airport grant administration, challenges, and oversight. With regard to COVID-19 relief funding appropriated by the CARES Act, Consolidated Appropriations Act, 2021, and the American Rescue Plan Act of 2021, FAA is processing airport grant applications, obligating funds, and reviewing invoices to reimburse airport sponsors. FAA has also provided guidance on airport grant requirements for these programs, including for workforce retention and tenant relief, which we discuss further below.

As we previously reported, FAA has identified challenges to administering CARES Act airport grants, including the need to process grants for over 3,000 airport sponsors under expedited time frames, with expanded eligible uses for these funds. To address the increased workload of processing and monitoring three new airport relief grant programs, FAA has established a dedicated team, including two full-time employees and three annuitants with prior airport grant management experience, to review and process airport payment requests. Since we last reported, FAA identified additional workload challenges related to administering the airport tenant relief portions of the Consolidated Appropriations Act, 2021 and the American Rescue Plan Act of 2021. Airport association representatives also noted that FAA was slow to administer and implement the American Rescue Plan Act of 2021 in the spring and summer of 2021, in part because FAA was administering other airport grant programs at the same time. According to airport association representatives, delays and uncertainty around grant rollout for the American Rescue Plan Act of 2021 funds have created challenges for airports' financial planning efforts. To address some of these challenges, FAA reported that it has detailed additional personnel to assist in reviewing concessions rent relief plans, which we will discuss in further detail below under airport tenant relief.

With regard to monitoring and oversight, FAA officials also reported that the agency hired a contractor in the fall of 2020 to review FAA's reimbursement processes for CARES Act grants and provide recommendations on auditing policies and procedures. FAA officials said that the contractor had completed its review of FAA's reimbursement processes for CARES Act funding, and issued several recommendations for improvement.[428] Specifically, the contractor recommended that FAA (1) provide airport sponsors with job aids (including a guide and checklist) on how to submit reimbursement requests to ensure completeness and consistency, (2) create a centralized document to improve reviews of reimbursement requests, and (3) standardize how the agency communicates its decisions to airports. FAA officials reported that FAA has taken steps to streamline its reimbursement process and publish updated guidance on its CARES Act website for airports, and will continue to improve its processes based on these recommendations. FAA officials reported that they have hired the same contractor to conduct reviews of the Consolidated Appropriations Act, 2021 funds.[429] FAA is also currently in the process of searching for and hiring a contractor to oversee the American Rescue Plan Act of 2021 funds.

As non federal entities, public airport sponsors that receive federal grants are also subject to the Single Audit Act, and they must undergo a single audit of those awards annually when their expenditures meet a certain dollar threshold—currently $750,000 or more in a fiscal year.[430] Single

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[428]FAA officials also reported that they had hired the contractor to develop an electronic dashboard to monitor and track funds. However, FAA officials said that they issued a stop work order for the dashboard when they determined that the contractor did not have the technical expertise necessary to create it. Similarly, FAA determined that the tracker the contractor created to monitor CARES Act audits was not efficient, because it required too many steps to use.

[429]Specifically, FAA officials reported that the contractor will assess whether FAA is properly identifying and addressing any issues in a timely manner, and will conduct sampling and testing of payment requests.

[430]The Single Audit Act is codified, as amended, at 31 U.S.C. §§ 7501-06, and implementing Office of Management and Budget guidance is reprinted in 2 C.F.R. part 200. The Single Audit Act establishes requirements for non federal entities (defined as states, localities, and nonprofit organizations) that receive federal awards to undergo audits of those awards annually (unless a specific exception applies) when their expenditures meet a certain dollar threshold. More specifically, nonfederal entities that expend $750,000 or more in federal awards in a fiscal year are required to undergo a single audit—that is, an audit of an entity's financial statements and federal awards, or a program-specific audit, for the fiscal year. 31 U.S.C. § 7502; 2 C.F.R. § 200.501. If public airport sponsors do not meet this threshold in a fiscal year, then they are subject to applicable local and state audit requirements. Because private owners of public-use airports are not non federal entities as defined by the Single Audit Act, private owners of public-use airports are not subject to the Single Audit Act; however, they are still subject to grant assurances that they agree to when they accept federal airport grants. For example, under one grant assurance, a private owner of a public-use airport would agree to keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. Additionally, private owners of public-use airports must make any documents pertinent to a grant available to the Comptroller General for the purpose of audit and examination. Finally, DOT may require that an appropriate audit be conducted by a recipient.

audits of an entity's financial statements and federal awards can help identify deficiencies in an award recipients' compliance with applicable laws and regulations, help ensure the appropriate use of federal funds, and reduce the likelihood of federal improper payments. FAA officials stated that, in accordance with Single Audit Act requirements, the agency notifies airport sponsors if the amount of their expenditures triggers the $750,000 threshold. The airport sponsor must then confirm annually that the audit was completed and uploaded to the Federal Audit Clearinghouse. FAA officials explained that airport sponsors' independent auditors conduct the Single Audits, but FAA often provides technical assistance about CARES Act grant expenditures. If the audits identify a finding, FAA then follows up with the airport to ensure they have taken corrective action. Additionally, the DOT Office of Inspector General may check compliance and review single audit reports for DOT fund recipients, and is currently reviewing DOT's processes for verifying that these audits have been completed, among other things.

Airport grant funding uses. Airport association representatives told us that the federal funding provided has been critical. FAA has begun to collect and consolidate data from airports on general spending categories for CARES Act funding through grant close-out reports, which are completed once all allocated airport funds have been expended. As of September 27, 2021, FAA officials said that 765 CARES Act airport grants, totaling $2.47 billion, have been closed out. For these grants, the majority of airport grant funds have been used for payroll and debt servicing. As for Consolidated Appropriations Act, 2021 and American Rescue Plan Act of 2021 funding, FAA officials reported that they have not yet begun to close out these grants as of September 2021. However, airport associations said that airport sponsors are generally using these grants to pay down debt and pay for operating expenses such as payroll.

Workforce retention requirements and monitoring. Certain airport sponsors accepting CARES Act grant funds were required to continue to directly employ at least 90 percent of the number of employees onboard as of March 27, 2020, through the end of the calendar year 2020.[431] The Consolidated Appropriations Act, 2021 extended these same workforce retention requirements through February 15, 2021. Airports that accept American Rescue Plan Act of 2021 grants were subject to the same workforce retention requirements through September 30, 2021.[432] According to FAA, the 131 largest U.S. airports were subject to this requirement under the Consolidated Appropriations Act, 2021.

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[431]Certain airport sponsors that are subject to workforce retention requirements include large, medium, and small-hub airports. As such, airports that were not classified as large, medium, or small-hub airports were exempt from this requirement. More specifically, non-hub and non-primary airports are excluded from the workforce retention requirement. As a result, non-hub primary commercial service airports (airports with more than 10,000 annual passenger boardings, but less than 0.05 percent of total annual passenger boardings); non-primary commercial service airports (airports with at least 2,500 and no more than 10,000 passenger boardings each year); general aviation airports (public-use airports that do not have scheduled service or have scheduled service with fewer than 2,500 passenger boardings each year); and reliever airports (airports designated by FAA to relieve congestion at commercial service airports) are all exempt from the workforce retention requirement. Airports were required to retain 90 percent of full-time equivalent employees working at the airport as of March 27, 2020, as the baseline comparison. According to FAA guidance, airport sponsors did not need to count contractors providing services other than airport management, tenants, or concessionaires. Airport sponsors may make adjustments for retirements or voluntary employee separations when calculating the workforce retention percentage.

[432]As with the CARES Act and the Consolidated Appropriations Act, 2021, DOT could waive the workforce retention requirement under the American Rescue Plan Act of 2021, if DOT determined that the airport was experiencing economic hardship as a direct result of the requirement, or the requirement reduces aviation safety or security.

FAA officials said at the time that airport sponsors execute a COVID-19 relief grant, sponsors certify that they will meet the workforce retention requirements and report their employee numbers. Since we last reported in July 2021, FAA has continued to monitor compliance with workforce retention requirements for the 131 affected airports. More specifically, FAA officials stated that they receive workforce retention information from airports through a dedicated CARES Act email and track these employee numbers, comparing them to the March 27, 2020 baseline data, to ensure airports are meeting the 90-percent threshold. Airport associations told us that airports have not faced challenges meeting these workforce retention requirements.

Airport tenant relief. As part of the Consolidated Appropriations Act, 2021 requirements, airport sponsors that accept tenant relief funds will waive rent and minimum annual guarantee obligations for eligible airport tenants beginning December 27, 2020, until the relief equals the total tenant relief allocation amount and to the extent permissible under state and local laws.[433] Eligible airport tenants include on-airport car rental and parking as well as in-terminal concession tenants.

To administer the tenant relief portion of the Consolidated Appropriations Act, 2021 funding, FAA officials have calculated airport allocations and informed airport sponsors of the amount of eligible concessions relief, including funds they can use for administration costs.[434] FAA is requesting that airport sponsors provide tenant relief plans with their payment requests when they are ready to accept their concessions-relief funding. FAA officials said they are reviewing these plans to ensure that airport sponsors are providing relief according to the law and FAA guidance prior to approving payment. According to FAA guidance, FAA requires airport tenants to provide certifications of eligibility directly to airport sponsors, who then keep the documentation on file for possible audits. As previously mentioned, FAA officials said that monitoring concessions relief funding and understanding the contractual structures between an airport and its concessionaires are new scopes of work for FAA's Office of Airports and thus, FAA has detailed personnel from its Office of Civil Rights to review concessions relief plans and train other FAA staff on how to conduct these reviews.

Airport representatives noted that determining tenant eligibility and how to provide concessionaire relief on a proportional basis under the Consolidated Appropriations Act, 2021 can be complex due to varying tenant agreements. Airport association representatives stated, however, that FAA has mostly addressed these challenges related to airports' roles in determining tenant eligibility and providing relief. For example, FAA has provided guidance on how to administer concession relief through the FAQs posted to FAA's website, which the agency updated with additional clarifications in April 2021. FAA has also held videoconferences to answer airports' tenant relief questions, and has established a dedicated email for airports to direct questions to FAA headquarters. Airport association representatives reported that airports have been able to get their questions answered through FAA's dedicated email.

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[433] Both the Consolidated Appropriations Act, 2021, and the American Rescue Plan Act of 2021 direct airport sponsors to provide such relief to the extent permissible under state laws, local laws, and applicable trust indentures.

[434] Airport tenant relief allocation amounts were calculated based on each airport's passenger boardings compared to total passenger boardings of all airports eligible for concessions relief for calendar year 2019.

As previously mentioned, the American Rescue Plan Act of 2021 also provides in-terminal concession tenant relief funding for eligible airport sponsors. FAA officials reported that they would not begin processing these tenant relief applications until after October 1, 2021, however, because of their need to manage fiscal year-end operations. Representatives from an airport association and an airport concessionaires association noted, however, that airports continue to have questions about the tenant relief portion of the American Rescue Plan Act of 2021. Specifically, the concessionaires association noted that some airports are unclear about the eligibility requirements for concessions that operate through various business models, such as joint ventures, and whether they would qualify as large or small concessions. To help address some of these questions, FAA officials stated that they are considering updating guidance to airports on this tenant relief funding based on feedback from airports and lessons learned from administering the Consolidated Appropriations Act, 2021 tenant relief funds.

An airport concessionaires association told us although airport traffic has begun to recover, the dedicated tenant relief continues to be important to help airport businesses respond to the impacts of COVID-19. They noted that although many concessionaires have started to re-open and rehire, these businesses are far from returning to full-service and staffing. In particular, these concessionaires face increasing challenges due to the uncertainty around COVID-19's effect on passenger traffic in the fall and winter of 2021, and difficulty recruiting and hiring staff during the pandemic.

Methodology

To conduct this work, we analyzed FAA data on airport funding as of September 27, 2021. We determined the data were sufficiently reliable for the purposes of our reporting by performing interviews with agency officials and reviewing relevant documentation. We also reviewed the CARES Act, the Consolidated Appropriations Act, 2021, and American Rescue Plan Act of 2021 and related agency guidance, and conducted interviews with agency officials and representatives from airport associations, and an airport concessions association, selected to represent a wide variety of industry and airport types.

Agency Comments

We provided FAA and the Office of Management and Budget (OMB) with a draft of this enclosure. FAA provided technical comments that we incorporated as appropriate. OMB did not have any comments on this enclosure.

GAO's Ongoing Work

Our work on aviation industry COVID-19 financial assistance is ongoing. We will continue to monitor FAA's administration of grants under the CARES Act, the Consolidated Appropriations Act, 2021, and the American Rescue Plan Act of 2021. We will also continue to monitor aviation operations, impacts, and lessons from the COVID-19 pandemic through other ongoing work.

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Payroll Support Assistance to Aviation Businesses

The Department of the Treasury has nearly completed making payroll assistance payments to the aviation industry; however, it has not developed policies and procedures to ensure that warrants, which give the federal government the ability to purchase stock in the companies of certain program recipients, are acted upon in a manner that will provide appropriate compensation to the federal government.

Entity Involved: Department of the Treasury

Recommendations for Executive Action

The Secretary of the Treasury should develop policies and procedures to determine when to act on warrants obtained as part of the Payroll Support Program to provide appropriate compensation to the federal government.

Treasury agreed with our recommendation and said the agency is in the process of creating a policy to dispose of the warrants obtained as part of the Payroll Support Program.

Background

The CARES Act established the Payroll Support Program (PSP1) in March 2020, and the Consolidated Appropriations Act, 2021 established a Payroll Support Program Extension (PSP2) in December 2020.[435] In March 2021, the American Rescue Plan Act of 2021 created a new round of the program (PSP3).[436] PSP1 included up to $32 billion in financial assistance for passenger air carriers, cargo air carriers, and aviation contractors. PSP2 provided up to $16 billion, and PSP3 provided up to $15 billion in financial assistance for passenger air carriers and aviation contractors.

Payments from PSP1, PSP2, and PSP3 were to be used exclusively for the continuation of wages, salaries, and benefits. To help ensure recipients' compliance with the Payroll Support Program agreement terms, Treasury developed a program agreement that includes various compliance requirements, and Treasury also developed a compliance monitoring approach with two levels of testing. Treasury also requires that some recipients provide taxpayer protections through notes and/or warrants.[437] Specifically, for PSP1, PSP2, and PSP3 recipients, Treasury requires passenger air carriers that received payments of more than $100 million and contractors that received more

[435] CARES Act, Pub. L. No. 116-136, § 4112, 134 Stat. 281, 498 (2020) (codified at 15 U.S.C. § 9072); Pub. L. No. 116-260, div. N, tit. IV, § 402, 134 Stat. 1182, 2052-61 (2020).

[436] Pub. L. No. 117-2, § 7301, 135 Stat. 4, 104-107.

[437] The Secretary has the authority to receive from Payroll Support Program recipients notes and warrants, or other financial instruments that the Secretary determines provide appropriate compensation to the federal government for providing financial assistance. Notes are financial instruments whose value is a percentage of the payroll support provided over a certain threshold. Notes are a form of indebtedness, and notes must be repaid by recipients. Warrants are an option to buy shares of stock at a predetermined price before a specified date.

than $37.5 million to provide warrants and/or notes as taxpayer protection.[438] Further, Treasury required cargo carriers that received payments through PSP1 to provide notes equal to 56 percent of the payroll support over $50 million. The notes have a 10-year term, and the warrants must be exercised by Treasury within 5 years.

Passenger air carriers are experiencing rising demand for domestic leisure travel; however, it remains uncertain how passenger demand will respond as the pandemic continues. However, bookings for domestic business travel will likely return at a slower pace, and between 10 to 30 percent of this business travel may not return after the pandemic, according to a ratings agency. International travel is also expected to return at a slower pace than domestic leisure travel, according to a consulting firm's projections, with international travel not expected to return to prepandemic levels until 2023 or 2024. Further, the aviation industry is expected to incur operating losses through the end of 2021, although these losses are likely to be less than the losses the industry experienced in 2020, according to a ratings agency.

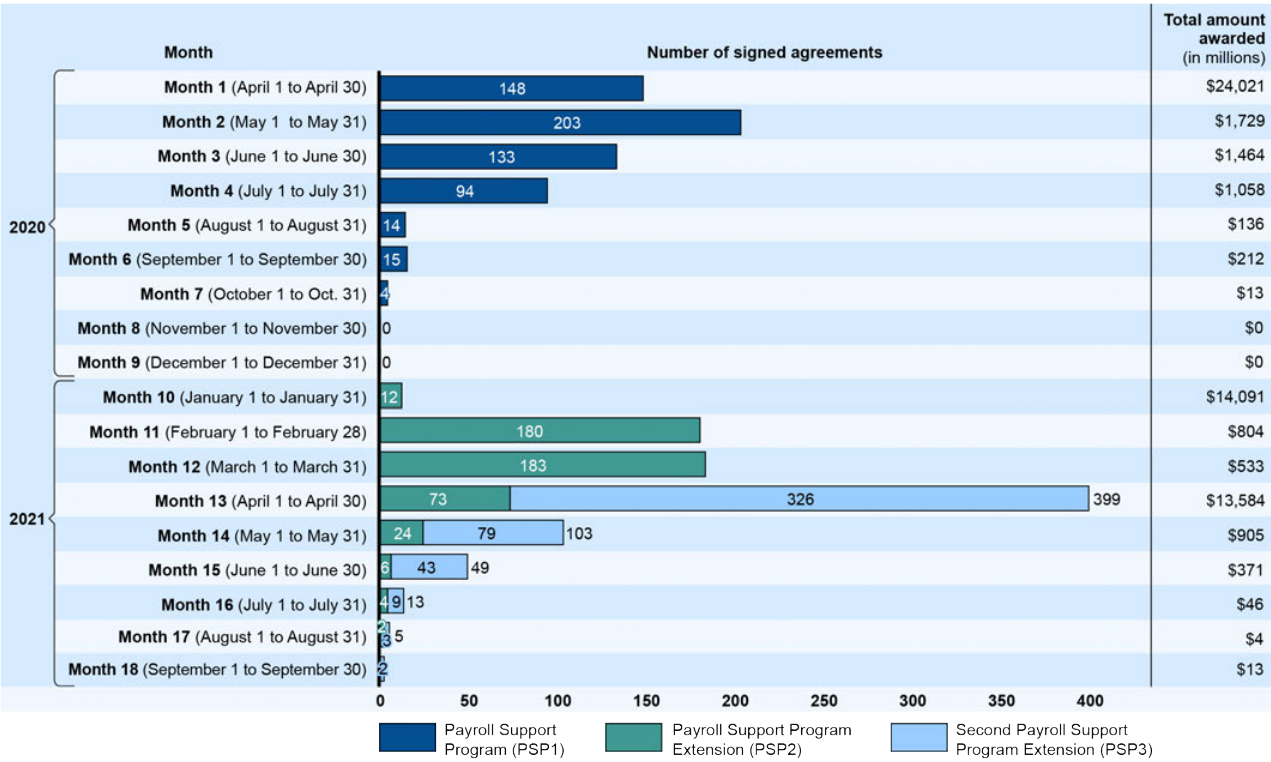
Overview of Key Issues

Treasury made $59 billion in payments out of $63 billion provided for PSP1, PSP2, and PSP3. As of September 2021, across PSP1, PSP2, and PSP3, Treasury had made payments of $50.1 billion to the 10 largest passenger air carriers—the remaining passenger air carriers received $3.4 billion. Aviation contractors received $4.6 billion across PSP1, PSP2, and PSP3. Cargo carriers received $827.7 million through PSP1.[439] Through PSP1, PSP2, and PSP3, Treasury provided payments to 402 companies—254 passenger air carriers and 148 contractors—as of September 2021. See figure below for additional information on the pace and amount of PSP1, PSP2, and PSP3 payments.

[438] In some cases, for recipients that were related but independently operated, Treasury required a weighted threshold for providing notes. As a result, some recipients that did not meet the $37.5 million threshold provided notes.

[439] The CARES Act provided funding for cargo air carriers for PSP1, whereas the Consolidated Appropriations Act, 2021 and the American Rescue Plan Act of 2021 did not provide funding for cargo air carriers for PSP2 and PSP3, respectively. Of the $4 billion appropriated for cargo air carriers in PSP1, $3.2 billion was not awarded because total demand by cargo air carriers for PSP1 funds was far below available funds.

Payment Amount and Number of Agreements Signed for the Payroll Support Program (PSP1), Payroll Support Program Extension (PSP2), and Second Payroll Support Program Extension (PSP3), as of September 2021



Source: GAO analysis of Department of the Treasury data. | GAO-22-105051

Treasury has nearly completed making payments for PSP3, and as of September 2021, has administered 98 percent of PSP3 funds. As of September 2021, Treasury has administered $14.7 billion out of $15 billion available under PSP3. As directed by statute, only recipients that received PSP2 payments were eligible for PSP3 payments.[440] Treasury has made PSP3 payments to 462 recipients—287 passenger air carriers and 175 contractors. According to Treasury officials, the remaining PSP3 agreements will be signed and funds released once PSP2 applicants have resolved outstanding issues. For passenger air carriers, the 10 largest payments averaged $1.3 billion, and the remaining passenger air carrier payments averaged $3.1 million. For contractors, the 10 largest payments averaged $50.4 million, and the remaining contractor payments averaged $2.3 million.

As we reported in July 2021, according to Treasury officials, passenger air carriers received PSP3 payments equal to 93 percent of their PSP2 payment and contractors received PSP3 payments equal to their PSP2 payment.[441] Three selected industry associations and two companies we interviewed said that not having to complete an application for PSP3 streamlined the process compared to previous iterations of the program.

[440]Pub. L. No. 117-2, § 7301, 135 Stat. at 104-05.

[441]Due to the high demand for the program and as authorized in statute, PSP2 payments provided by Treasury were 46 percent of the total approved payment amount for passenger air carriers and 30.4 percent of the total approved payment amount for contractors.

Across PSP1, PSP2 and PSP3, Treasury required warrants from 14 recipients and notes from 36 recipients; however, Treasury does not have policies and procedures for when to act upon these warrants. By statute, Treasury may receive warrants, notes, or other financial instruments which the Secretary determines provide appropriate compensation to the federal government for provision of financial assistance.[442] As detailed in Treasury guidance and on Treasury's website, Treasury requires that recipients of Payroll Support Program payments over a certain dollar amount provide notes and/or warrants to Treasury.[443] Specifically, passenger air carriers receiving over $100 million of payroll support are required to provide notes equal to 30 percent of the payroll support provided over $100 million with a 10-year term. Contractors receiving over $37.5 million of payroll support must provide notes equal to 44 percent of the payroll support provided over $37.5 million with a 10-year term.[444] Payroll Support Program recipients that received payroll support over the dollar amounts listed above must also provide warrants, if they are publicly traded companies. The number of warrants a recipient is required to provide is equal to 10 percent of the principal amount of the note issued by the participant, divided by an exercise price.[445] In total, across PSP1, PSP2, and PSP3, the note principal amount that must be paid by 36 recipients is $15.1 billion, and 14 recipients provided a total of 58 million warrants. See table below for additional details.

[442]Pub. L. No. 116-136, § 4117, 134 Stat. at 500-01; Pub. L. No. 116-260, § 408, 134 Stat. at 2059; Pub. L. No. 117-2, § 7301(b)(4), 135 Stat. at 107.

[443]The CARES Act, Consolidated Appropriations Act, 2021, and the American Rescue Plan Act of 2021 authorized Treasury to receive warrants and other financial instruments from recipients.

[444]According to Treasury officials, Treasury is taking a measured approach to maximizing both the intrinsic and time value of the notes. The notes do not mature until the 2030-2031 timeframe, and Treasury currently has no plans to sell these notes and expects that the notes will be repaid in full on or before maturity.

[445]For passenger air carriers that received financial support through PSP1, the exercise price is generally equal to the value of the shares as of market close on April 9, 2020. For cargo air carriers that received financial support through PSP1, the exercise price is equal to the market value of the shares as of market close on May 1, 2020. For PSP2, the exercise price is generally equal to the value of the shares as of market close on December 24, 2020. For PSP3, the exercise price is generally equal to the value of the shares as of market close on March 10, 2021. In some instances, a recipient provides a note, but does not provide a warrant.

Information about Notes and Warrants Provided to the Department of the Treasury for the Payroll Support Program (PSP1), Payroll Support Program Extension (PSP2), and Second Payroll Support Program Extension (PSP3), as of September 2021

	Number of payments that required notes	Total note principal amount (in millions)	Number of payments that required warrants	Total number of warrants (in millions)
PSP1				
Passenger air carriers	13	$6,757.4	13	33.4
Cargo air carriers	2	$262.2	1	0.6
Contractors	19	$530.0	0	N/A
PSP2				
Passenger air carriers	12	$3,869.3	12	14.1
Contractors	8	$75.9	0	N/A
PSP3				
Passenger air carriers	11	$3,568.1	11	9.8
Contractors	8	$75.9	0	N/A

Source: GAO analysis of Department of the Treasury data. | GAO-22-105051

According to Office of Management and Budget Circular A-129, which provides guidance on managing federal loan programs and other financial assets, agencies are required to establish appropriate controls over programmatic functions and operations. This guidance also requires management to employ a reporting framework to inform proactive portfolio management.

Treasury has not exercised any of the warrants for common stock it holds in the 14 businesses mentioned above. As Treasury continues to hold these warrants for stock purchases, the warrants may increase in value as the airline industry recovers. For example, based on the current stock price at market close on October 1, 2021, its warrants from one recipient would be valued at 159 percent above the predetermined price Treasury would have to pay to act on them.

However, Treasury has not documented policies and procedures to guide when to act on the warrants to fulfill the statutory purpose to provide appropriate compensation to the federal government. As we reported in 2010, acquiring an ownership interest in private companies can help protect taxpayers by enabling the government to earn returns when it sells its shares and the institutions repurchase their shares or redeem their warrants. According to Treasury officials, it is likely that—if the airline industry continues to recover—the Payroll Support Program, through the exercising of these warrants, could end up with a profit. According to Treasury officials, as these warrants do not mature until the 2024-2026 timeframe, Treasury is taking a measured approach to disposing of the warrants. By establishing policies and procedures over warrant processes, Treasury will help ensure that management has the information needed for informed decision making on when to act on the warrants it holds, thereby maximizing the benefit to the federal government.

Treasury's compliance monitoring approach is in progress, and some recipients may undergo compliance monitoring for up to 10 years. Treasury developed a compliance monitoring approach for PSP1 that involved two levels of compliance testing. All recipients undergo the first level of compliance testing, which is a set of automated testing rules applied to each submitted compliance report. Specifically, at the end of each quarter, recipients must submit a quarterly compliance report to Treasury via an online portal that Treasury has developed. This report includes information about the amount of payroll support funds expended during the quarter, financial statements, a copy of the recipient's IRS Form 941, and information about changes in the number of employees and the amount spent on wages, salary, and benefits, among other things.

If an issue is identified during the first level of compliance testing, the recipient is elevated to the second level of compliance testing, which involves a more detailed review by a Treasury analyst. Treasury officials said that they are using the same compliance monitoring approach for PSP2 and PSP3, with some updates. As we previously reported, for PSP2 compliance monitoring, Treasury developed a portal to assess recipients' compliance with the employee recall requirements included in the PSP2 agreement.[446]

As of July 2021, PSP1 compliance monitoring is underway, and according to Treasury officials, PSP1 compliance monitoring will end with the second quarter of 2022. For PSP2 recipients, Treasury began conducting compliance monitoring in the first quarter of 2021, and PSP2 compliance monitoring will end with the first quarter of 2023. Treasury officials said that they expect that PSP3 compliance monitoring will begin with the third quarter of 2021, and PSP3 compliance monitoring will end with the second quarter of 2023. However, if a recipient received a PSP1, PSP2, or PSP3 payment that required a note or warrant, then the recipient can remain in the program for up to 10 years, and will continue to undergo compliance testing. According to the Payroll Support Program agreement, the recipient must submit quarterly compliance reports until no notes or warrants are outstanding or held by Treasury.

According to Treasury documents, Treasury requires that when recipients submit a quarterly compliance report, they certify their compliance with the terms and agreements of the Payroll Support Program agreement and maintenance of effective internal controls, as well as certify the veracity and accuracy of any data, documents, or information submitted to Treasury. According to Treasury officials, while Treasury is not required to validate that the information in the financial statements is accurate, Treasury monitors publicly reported financial information for recipients whose payment requires notes and warrants. Treasury officials said that monitoring publicly reported financial information is intended to help Treasury confirm that financial information recipients submit as part of Treasury's compliance monitoring approach is accurate.

[446]As we reported in July 2021, under the Consolidated Appropriations Act, 2021, PSP2 recipients were required to recall any employees involuntarily furloughed by the PSP2 recipient between either October 1, 2020 (for recipients that received PSP1 assistance), or March 27, 2020 (for recipients that did not receive PSP1 assistance), and the date such passenger air carrier or contractor entered into a PSP2 agreement, among other requirements.

The Payroll Support Program agreement requires recipients to establish and maintain effective internal controls, among other things. Treasury officials said that recipients can develop a wide range of internal controls, and that internal control systems differ across recipients. Therefore, Treasury relies on recipients' certification that their internal control systems are adequate and appropriate. However, Treasury officials said that if they find evidence that recipients do not have effective internal controls in place, they could do additional compliance testing and ask the recipient to provide additional information. For example, Treasury officials said that if a recipient reported that they used more funds than they had received from Treasury, indicating an accounting or reporting weakness, Treasury would conduct additional compliance testing.

Industry associations said that Payroll Support Program payments provided critical assistance to the industry. Five selected industry associations and three selected companies we interviewed said that while challenges existed with the program, it provided critical financial assistance for the industry. For example, a member from one industry association said Payroll Support Program payments helped create lasting jobs in three of its locations, and due to the payments it received, the company did not have to lay off employees. Another member from the same industry association said Payroll Support Program payments helped keep this companies' employees on payroll and ensured that employees were up-to-date on training requirements. This helped ensure that the industry could quickly restart, because the company did not have to hire new employees.

However, in certain cases, increased demand for air travel has exceeded airlines' ability to return capacity to service, resulting in rescheduled and canceled flights. Airlines have experienced workforce shortages because they reduced their employment levels through voluntary measures, such as early retirement, and involuntary measures, such as furloughs, and retraining and recertifying some staff can, in some cases, be a lengthy process.

Lessons learned from the implementation of the Payroll Support Program could inform similar programs in the future. Our reviews of PSP1, PSP2, and PSP3 offer some lessons learned that Treasury and Congress could consider when establishing and implementing future federal government relief programs.

Clear communication. Treasury's communication with applicants about the Payroll Support Program was not always clear. For example, as we reported in March 2021, recipients raised concerns about the need for additional guidance. Further, four selected industry associations and one company we interviewed said that Treasury did not provide status updates or timeframes about the application process. Five selected industry associations and one company told us that communication between Treasury and applicants—for example, the ability to get in touch with Treasury staff and get answers to time-sensitive questions—did not improve throughout Treasury's implementation of PSP1, PSP2, and PSP3. Clear communication from Treasury could help ensure program transparency and keep applicants informed about program requirements and timeframes.

Identifying which type of assistance would best help achieve a defined goal. Treasury officials told us that they implemented the Payroll Support Program by following the requirements laid out in statute; however, oversight bodies and members of Congress continue to raise concerns that certain actions taken by recipients may not serve the interests of taxpayers and aviation workers.

For example, specific concerns have been raised about businesses obtaining funds from more than one federal financial assistance program. However, the laws that authorized the three rounds of the Payroll Support Program did not prohibit businesses from accessing other federal financial assistance. In contrast, new programs authorized in December 2020 and March 2021, however, including the Coronavirus Economic Relief for Transportation Services program and Aviation Manufacturing Jobs Protection program, do provide funding limitations in relation to other COVID-19 relief funding received by eligible recipients. Additionally, as we have stated in prior work, as Congress contemplates future assistance to aid the aviation industry's recovery, Congress may wish to consider how to best define goals and objectives for future assistance, which may help determine which tools are needed and most appropriate to support an aviation industry recovery following the pandemic.

Methodology

To conduct this work, we reviewed the CARES Act, the Consolidated Appropriations Act, 2021, and the American Rescue Plan Act of 2021. We also reviewed Treasury guidance and documents, and interviewed Treasury officials. We reviewed PSP1 data as of September 1, 2021, PSP2 data as of September 8, 2021, and PSP3 data as of September 22, 2021. We reviewed these data for outliers and missing information, and we determined that Treasury's data were sufficiently reliable for the purposes of summarizing the number, value, and timing of Payroll Support Program payments, as well as the number of warrants and the total note principal amount. In addition, we conducted interviews with a selection of five companies and six industry associations representing businesses eligible to apply for Payroll Support Program payments.

Agency Comments

We provided Treasury and the Office of Management and Budget (OMB) with a draft of this enclosure. Treasury provided technical comments, which we incorporated as appropriate. Treasury's general comments are reproduced in appendix IX. In its management response, Treasury agreed with our recommendation and said the agency is in the process of creating a policy that will allow Treasury to evaluate when and how to act to dispose of the warrants obtained as part of the Payroll Support Program. OMB did not provide comments on this enclosure.

GAO's Ongoing Work

We will continue to monitor Treasury's implementation of federal financial assistance programs for the transportation sector authorized by COVID-19 relief laws in December 2020 and March 2021.

GAO's Prior Recommendations

The table below presents our recommendation on payroll support assistance for aviation businesses from a prior bimonthly CARES Act report.

Prior GAO Recommendation Related to Payroll Support Assistance for Aviation Businesses	
Recommendation	**Status**
The Secretary of the Treasury should finish developing and implement a compliance monitoring plan that identifies and responds to risks in the Payroll Support Program (PSP) to ensure program integrity and address potential fraud, including the use of funds for purposes other than for the continuation of employee wages, salaries, and benefits (November 2020 report).	**Closed-implemented.** In April 2021, GAO confirmed that the Department of the Treasury (Treasury) had developed, documented, and implemented a risk-based approach to monitor PSP recipients' compliance with the terms of the assistance. Treasury's risk-based approach entails a two level compliance review. In the first level review, automated testing is conducted on all recipients' quarterly reports using factors/thresholds that can trigger recipients being moved to the next review. In the second level review, Treasury analysts conduct a more detailed review of recipients that failed the first level review or were selected for other reasons. Treasury has also developed penalties and a process for remediating noncompliance with PSP agreement terms through Payroll Support Program agreements. As of April 2021, Treasury has identified noncompliance by recipients and applied penalties, as appropriate.

Source: GAO. | GAO-22-105051

Related GAO Products

Financial Assistance: Ongoing Challenges and Guiding Principles Related to Government Assistance for Private Sector Companies. GAO-10-719. Washington, D.C.: August 3, 2010.

Troubled Asset Relief Program: June 2009 Status of Efforts to Address Transparency and Accountability Issues. GAO-09-658. Washington, D.C.: June 17, 2009.

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Loans for Aviation and Other Eligible Businesses

As directed by the CARES Act, the Department of the Treasury required certain loan recipients to provide financial assets, such as warrants that give the federal government the ability to purchase stock, to protect taxpayer interests; however, it has not developed policies and procedures to ensure these warrants are acted upon in a manner that will benefit taxpayers.

Entity involved: Department of the Treasury

Recommendation for Executive Action

The Secretary of the Treasury should develop policies and procedures to determine when to act on warrants obtained as part of the loan program for aviation and other eligible businesses to benefit the taxpayers. Treasury agreed with our recommendation and said the agency is in the process of creating a policy to dispose of the warrants obtained as part of the loan program.

Background

The CARES Act authorized the Department of the Treasury to provide up to $46 billion in loans and loan guarantees to certain aviation businesses and other businesses deemed critical to maintaining national security (national security businesses).[447] This loan program was intended to provide liquidity to these sectors. Treasury executed 35 loan agreements with businesses in these targeted sectors, totaling about $22 billion. Consistent with the CARES Act, the executed loans have a duration of 5 years or less. Of these 35 loans, as of October 1, 2021, 10 loans have been fully repaid and the total value of outstanding loans is about $1.1 billion, as shown in the table below.[448]

[447]CARES Act, Pub. L. No. 116-136, § 4003, 134 Stat. at 470 (codified at 15 U.S.C. § 9042). The CARES Act did not provide criteria for which businesses were "critical to maintaining national security." Treasury established the following definition: (1) performing under a "DX"-priority-rated contract or order under the Defense Priorities and Allocations System regulations (15 C.F.R. pt. 700) or (2) operating under a valid top secret facility security clearance under the National Industrial Security Program regulations (32 C.F.R. pt. 2004). Treasury guidance further noted that applicants that did not meet either of these criteria may still be considered for loans, if based on the recommendation and certification by the Secretary of Defense or the Director of National Intelligence, the applicant's business is critical to maintaining national security.

[448]As directed by the CARES Act, Treasury coordinated with the Department of Transportation (DOT) to determine the eligibility of certain applicants. DOT confirmed applicants held the appropriate air carrier certificates and the status of their operations, and reported this information to Treasury, according to DOT. Treasury also coordinated with the Department of Defense to determine the eligibility of applicants.

Executed and Outstanding Loans for the CARES Act Loan Program for Aviation and Other Eligible Businesses as of October 1, 2021

Loan category	Number of loans executed	Total loan amount approved by Treasury ($ millions)	Number of loans outstanding	Total outstanding loan amount ($ millions)[a]
Passenger and cargo air carrier	17	21,116	9	382
Repair station operator	5	19	5	20
Ticket agent	2	21	1	0.6
National security business	11	736	10	744
Total	**35**	**21,891**	**25**	**1,147**

Source: GAO analysis of Department of the Treasury data. | GAO-22-105051

Note: Section 4003 of the CARES Act authorized maximum assistance available through loans in three categories: passenger air carrier, repair station operator, and ticket agent ($25 billion); cargo air carrier ($4 billion); and businesses critical to maintaining national security ($17 billion). CARES Act, Pub. L. No. 116-136, § 4003, 134 Stat. 281, 470 (2020). To match the Department of the Treasury's reporting on these loans, and because air carriers that received loans could provide both passenger and cargo air services, we combined all air carriers into a single category.

[a]Includes all loan disbursements and increases in loan principal amount arising from payment-in-kind interest, less any repayments of principal.

In nearly all cases, borrowers with loans over $300 million had to draw down 10 percent of the loan amount when the loan was executed, while borrowers with loans less than $300 million had to draw down the entire loan amount. Eight companies—seven passenger air carriers and one national security business—had loans over $300 million, and all drew down at least the 10 percent required by Treasury near the time the loan was executed.[449] Under the loan agreements, seven of these borrowers had until May 28, 2021, to draw down additional loan funds. With the passage of this deadline, Treasury will not make any additional loan disbursements.

The CARES Act set out conditions for this loan program including that borrowers, among other things, (1) not reduce employment levels by more than 10 percent from levels as of March 24, 2020, through September 30, 2020, (2) refrain from share buybacks and dividend payments, and (3) limit compensation to employees with salaries over certain amounts until 1 year after the date the loan or loan guarantee is no longer outstanding. Additionally, the CARES Act permitted Treasury to make loans to publicly traded companies only if those businesses provided a

[449]The eight companies are Alaska Airlines, American Airlines, Frontier Airlines, Hawaiian Airlines, JetBlue Airways, SkyWest Airlines, United Airlines, and Yellow Corporation—formerly known as YRC Worldwide. When Treasury increased loan commitments, Treasury did not require borrowers to make additional draws to reach 10 percent of the new total commitment. Yellow Corporation drew down the full approved loan amount of $700,000,000. The other seven companies, all passenger air carriers, had drawn down about $1.6 billion of the $20.8 billion in loan funds Treasury made available to them. As of October 1, 2021, six of these seven passenger air carriers have repaid the loans in full.

warrant—an option to buy shares of stock at a predetermined price before a specified date—or equity interest—ownership in a company—to Treasury.[450]

Overview of Key Issues

Treasury has developed and is applying a four-pronged approach to compliance monitoring and relies on loan recipients to certify the accuracy of submitted information. According to Treasury officials, the agency is using a four-pronged approach to monitor loan recipients' compliance with the terms and conditions of loan agreements, including restrictions on compensation to employees with salaries over certain amounts and dividend payments.

- On a quarterly basis, recipients answer questions, through an online portal, to determine compliance with loan agreement terms. These questions focus on employee headcount, internal controls, and other loan agreement requirements. Treasury conducts two levels of review on recipients' answers to these questions. In the first level of review, Treasury uses an automated process to verify that the answers submitted by the recipient indicate compliance with loan agreement terms and conditions. If the first level of review identifies a potential compliance issue, then a Treasury analyst conducts a second, more detailed review of the answers submitted by the recipient and the documents submitted. In this second review, a Treasury analyst will also contact the recipient to discuss the issue, if needed. During this review, potential compliance issues are cleared or determined to be an actual compliance issue that requires remediation.
- On a quarterly basis, recipients must submit reports and certifications on a variety of financial topics. Staff with the Bank of New York Mellon, which serves as Treasury's financial agent, and Treasury's recipient monitoring group review these reports and certifications to ensure all recipients are complying with the terms and conditions of loan agreements.
- On an ongoing basis, Treasury's asset management group reviews recipients' financial statements and relevant media reports, and meets with recipients' management to discuss the business environment and any identified concerns.
- On an ongoing basis, Bank of New York Mellon staff monitor the principal and interest payments from borrowers. As the financial agent for Treasury, the Bank of New York Mellon collects payments from borrowers and relays to Treasury any issues or problems with payments.

According to Treasury officials, recipients certify that the information submitted through the agency's online portal is correct. The officials stated that the reliance on recipient self-certification is an acceptable level of risk since about 90 percent of the outstanding loan funds are to publicly traded companies. As publicly traded companies, these businesses are subject to financial reporting requirements established by the Securities and Exchange Commission, such as preparing and making public annual and quarterly reports on financial condition that contain audited financial statements.

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[450]For other businesses, Treasury had discretion to obtain a warrant or equity interest or senior debt instrument.

Certain terms and conditions of the loan agreements, including restrictions on paying dividends to shareholders and compensation for employees with salaries over certain thresholds, are in effect for 1 year after loans have been repaid in full. Therefore, Treasury expects to continue monitoring all loan recipients' compliance with loan agreement terms and conditions through at least the second quarter of 2022. Since the loans can have a duration of up to 5 years, depending on the repayment status, Treasury may keep this compliance monitoring process in place through 2026.

Treasury's approach to address noncompliance with loan agreement terms and conditions varies depending on the situation. Most of the penalties for noncompliance are laid out in the terms and conditions of each loan agreement; however, according to Treasury officials, they have the authority to negotiate amendments to agreements and address compliance violations as appropriate. In cases of noncompliance with any terms and conditions, Treasury's practice is to contact the borrower and instruct it to remedy the violation as soon as possible. For example, if a recipient does not provide compliance information on time, Treasury would contact the recipient immediately after the deadline and notify it of the noncompliance and that it will face penalties if the requested information is not provided within 30 days.

If Treasury determines that a loan recipient has intentionally submitted inaccurate information as part of its compliance reporting, Treasury may refer the case to the Treasury Office of Inspector General for investigation. Under the terms of the loan agreements, in certain circumstances Treasury has the ability to accelerate the loan—require payment of the loan before the terms of the loan agreement specify—in whole or in part. According to Treasury officials, as of September 2021, Treasury found one borrower to be materially noncompliant with loan agreement terms and conditions; however, the borrower remedied the noncompliance, and Treasury does not plan to take further action.[451]

Treasury monitors the performance of outstanding loans using real-time information. According to Treasury officials, they use real-time information—such as filings with the Securities and Exchange Commission and phone calls with the management teams of loan recipients—to monitor the operations and overall financial health of borrowers. Treasury officials also use this information to assess the need for corrective action to avoid defaults or noncompliance. For example, if a borrower did not meet the required collateral to loan value ratio, Treasury would work with the borrower to fix the issue. This could include the borrower providing additional collateral or paying down the loan. According to Treasury officials, as of September 2021, no borrowers have missed any loan payments.

[451]On August 3, 2021, Treasury issued a Notice of Non-Compliance to Caribbean Sun Airlines, Inc., a borrower through the Treasury loan program, because this borrower did not respond to a request from the Special Inspector General for Pandemic Recovery to fill out a survey about its experience with the loan program. Pursuant to this Notice of Non-Compliance, if Caribbean Sun Airlines, Inc. did not respond to the survey by September 2, 2021, an event of default would occur, which would allow Treasury to pursue remedies including declaring the loan immediately due and payable. Caribbean Sun Airlines, Inc. did not respond by September 2, 2021, and therefore, an event of default occurred with the loan. Following the event of default, Treasury again communicated with Caribbean Sun Airlines, Inc. about the need to complete the survey. Caribbean Sun Airlines, Inc. responded to the survey on September 10, 2021, and therefore, according to Treasury officials, is now in compliance with the loan terms and conditions and Treasury does not plan to take further action on this matter. According to Treasury officials, Caribbean Sun Airlines, Inc. has not been found to be out of compliance with other terms and conditions of the loan agreement.

Treasury anticipates the loan program may make money for taxpayers, but has not developed policies and procedures to guide when it will act on the warrants. The CARES Act required Treasury to receive warrants or equity interest as a condition of making loans to publicly traded businesses.[452] The terms and conditions for these must be designed to provide for Treasury's reasonable participation in equity appreciation for the benefit of taxpayers.[453] The law further provided that for the primary benefit of taxpayers, Treasury may sell, exercise, or surrender financial instruments it obtained. Also, according to Office of Management and Budget Circular A-129, which provides guidance on managing federal loan programs and other financial assets, agencies are required to establish appropriate controls over programmatic functions and operations. This guidance also requires management to employ a reporting framework to inform proactive portfolio management.

As taxpayer protection for the loan program, Treasury received warrants, which allow the purchasing of common stock, from nine businesses equal to 10 percent of the total loan amount drawn.[454] According to Treasury officials, these warrants have a 5-year term and expire in 2025. Before these warrants expire, Treasury may use these warrants to buy stock in these nine businesses at the agreed upon price. Treasury also received shares equal to 29.6 percent of Yellow Corporation common stock as taxpayer compensation. Treasury has not acted upon any of the warrants for stock it holds in these nine businesses. While seven of these nine businesses have already repaid the loan, Treasury still holds the warrants for stock purchases and—as the airline industry recovers—these warrants may increase in value.

As stated above, Treasury must use these warrants or any senior debt instruments received as part of granting these loans for the primary benefit of the taxpayer. However, Treasury has not developed policies and procedures for determining when to act on the warrants to benefit the taxpayer. According to Treasury officials, the agency has not finalized a policy on when to act upon or exercise the warrants held through this program because it does not plan to dispose of these warrants in 2021. The reasons for this include (1) uncertainty due to the ongoing pandemic, (2) some of the warrants are not profitable at this time, and (3) Treasury has until 2025 to exercise these warrants, which according to Treasury officials removes any urgency for having a policy on disposing of these warrants in 2021.

According to Treasury officials, it is likely that—if the airline industry continues to recover and borrowers do not default—the loan program, through the exercising of these warrants, could end up with a profit. For example, based on the stock price at market close on October 1, 2021, the warrants from one borrower would be valued at 159 percent above the predetermined price Treasury would have to pay to act on them. By establishing policies and procedures over warrant

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[452] In the event that the business is not publicly traded, Treasury must receive either a warrant or equity interest in the business, or a senior debt instrument issued by the business. Pub. L. No. 116-136 § 4003(d)(1)(B), 134 Stat. at 474.

[453] Specifically, the CARES Act requires that the terms and conditions for these financial instruments be designed to provide for a reasonable participation by Treasury, for the benefit of taxpayers, in equity appreciation in the case of a warrant or other equity interest, or a reasonable interest rate premium, in the case of a debt instrument. Pub. L. No. 116-136 § 4003(d)(2), 134 Stat. at 474-75.

[454] These nine businesses are passenger air carriers, specifically: Alaska Airlines, American Airlines, Frontier Airlines, Hawaiian Airlines, JetBlue Airways, Mesa Airlines, Republic Airways, SkyWest Airlines, and United Airlines. As of October 2021, all but one of these businesses are public companies.

processes, Treasury will help ensure that management has the information needed for informed decision-making on when to act on the warrants it holds, in order to benefit the taxpayers.

Methodology

To conduct this work, we reviewed the most recent Treasury data on the status of executed loans as of October 1, 2021; reviewed the CARES Act; and interviewed Treasury officials. We are continuing to use the data on loans that we have found reliable through interviews with agency officials on the data's consistency and completeness during prior reviews. We determined the data were sufficiently reliable for the purposes of our enclosure. We also reviewed the loan transaction summaries prepared by Treasury to confirm the nine businesses that provided warrants to Treasury through the loan program—Alaska Airlines, American Airlines, Frontier Airlines, Hawaiian Airlines, JetBlue Airways, Mesa Airlines, Republic Airways, SkyWest Airlines, and United Airlines—and these businesses' quarterly financial reports (10-Q), if available, to understand the number of warrants and predetermined price to use them.

Agency Comments

We provided Treasury and the Office of Management and Budget (OMB) with a draft of this enclosure. Treasury provided technical comments, which we incorporated as appropriate. OMB did not provide comments on this enclosure. Treasury's general comments are reproduced in appendix IX. In its management response, Treasury agreed with our recommendation and said the agency is in the process of creating a policy that will allow Treasury to evaluate when and how to act to dispose of the warrants obtained as part of the loan program.

GAO's Ongoing Work

We will continue to monitor Treasury's implementation of federal financial assistance programs for the transportation sector authorized by COVID-19 relief laws in December 2020 and March 2021.

Related GAO Products

Financial Assistance: Lessons Learned from CARES Act Loan Program for Aviation and Other Eligible Businesses. GAO-21-198. Washington, D.C.: December 10, 2020.

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Aviation Manufacturing Jobs Protection Program

The Department of Transportation set up a cross-organizational team to distribute payroll support assistance to aviation manufacturing businesses and announced it will offer $482.3 million in funding to 313 businesses that applied in the first application period.

Entity involved: Department of Transportation

Background

In March 2021, the American Rescue Plan Act of 2021 was enacted, establishing the Aviation Manufacturing Jobs Protection (AMJP) Program.[455] Through this program, the Department of Transportation (DOT) is to provide up to $3 billion in funding to eligible aviation manufacturing companies to pay up to half of their compensation costs for certain categories of employees, for up to 6 months.[456] While some aviation manufacturing companies were eligible for other federal COVID-19 relief programs such as the three rounds of the Payroll Support Program (PSP), and the Paycheck Protection Program (PPP), others were not eligible due to their size, among other reasons.[457] In response to reduced commercial passenger demand during the COVID-19 pandemic, airlines parked or retired a substantial portion of their aircraft fleet, which in turn reduced demand for new commercial airplanes, engines, and spare parts, and also affected companies that provide aircraft maintenance services.

DOT will provide AMJP program funds to eligible applicants to help cover payroll and facilitate the retention or rehiring of employees.[458] For a company to be eligible, among other criteria, it must have involuntarily furloughed or laid off at least 10 percent of its workforce in 2020 as compared to 2019 or experienced a 15 percent decline in 2020 revenues compared to 2019.[459] Companies that received financial assistance from the first round of PSP (PSP1) or that are still expending PPP assistance as of the date of application to the AMJP program are ineligible for the program.[460]

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[455] Pub. L. No. 117-2, §§ 7201-02, 135 Stat. 4, 101-07.

[456] Under the American Rescue Plan Act of 2021, DOT may use up to 1 percent of the funds appropriated ($30 million) for implementation costs and administrative expenses. Pub. L. No. 117-2 § 7202(a), 135 Stat. at 103.

[457] The Payroll Support Programs provided funds to be used by air carriers and aviation contractors for employee wages, salaries, and benefits. To be an eligible contractor for the Payroll Support Programs, the CARES Act and Treasury guidance defined a contractor as a person that, under contract with a passenger air carrier conducting operations under 14 C.F.R. pt. 121, performs catering functions or functions on airport property that are directly related to the air transportation of persons, property, or mail, such as ground-handling of aircraft, among other things. Eligibility for the Paycheck Protection Program was limited to small businesses (as defined by provisions authorizing the program).

[458] AMJP recipients must agree to use funds for statutorily authorized purposes, which are the continuation of employee wages, salaries, and benefits and to facilitate the retention, rehire, or recall of employees of the employer. Funds cannot be used for back pay of returning rehired or recalled employees. Pub. L. No. 117-2, § 7202(b), 135 Stat. at 103.

[459] For a company to be eligible for AMJP funding, it must be a company that actively manufactures an aircraft, aircraft engine, propeller, or a component, part, or systems of an aircraft or aircraft engine under a Federal Aviation Administration production approval; hold specific certifications; or operate certain certified processes, among other requirements. The company must also be established, created, or organized under the laws of the United States, and have significant operations in and the majority of employees engaged in aviation manufacturing or maintenance, repair, and overhaul activities and services based in the United States.

[460] The American Rescue Plan Act of 2021 provides that employers that received financial assistance under the Payroll Support Program (PSP1) established by section 4113 of the CARES Act (codified at 15 U.S.C. § 9073) are ineligible. The

When applying to the AMJP program, a company must identify the group of employees that are eligible for payroll support through the program.[461] Employees in the eligible employee group must meet certain criteria, including: (1) cannot exceed 25 percent of a company's U.S. workforce as of April 1, 2020, (2) cannot have a compensation level greater than $200,000 per year, and (3) must be engaged in aviation manufacturing or maintenance, repair, and overhaul activities or services. In order to receive AMJP funding, companies also have to make several commitments, including—but not limited to—a commitment that they will not involuntarily furlough or lay off employees for whom they are receiving AMJP funding for the duration of the agreement.[462] Once an AMJP agreement is in place with a company, DOT may require continuing disclosure and reporting in support of requests for disbursement of funds.[463] If DOT receives eligible AMJP applications that exceed the $3 billion appropriated for the AMJP program, it must reduce the funds provided to companies on a pro-rated basis.

Overview of Key Issues

DOT officials set up a cross-organizational team to manage the AMJP program and develop and communicate eligibility and application requirements. The AMJP program is managed out of DOT's Office of the Secretary (OST); however, many offices have been involved with the set-up of the program. These include the Federal Highway Administration, Federal Motor Carrier Safety Administration, Pipeline and Hazardous Materials Safety Administration, Federal Rail Administration, and several offices within OST. The Federal Aviation Administration has provided technical support as needed.

DOT officials told us they met with officials at the Department of the Treasury and the Small Business Administration (SBA) to discuss how to administer the AMJP program based on experiences administering other federal COVID-19 relief programs. According to DOT officials, they also discussed ways to verify the eligibility of applicants that received funds under Treasury or

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Act does not address employers that have received financial assistance under two similar programs, the Payroll Support Program Extension (PSP2) established by the Consolidated Appropriations Act, 2021, and the Payroll Support Program Extension (PSP3) established by the American Rescue Plan Act of 2021.

[461] Each company has to identify its eligible employee group and the amount of the total compensation level for the eligible employee group, supported by sworn financial statements or other appropriate data.

[462] Specifically, entities with certain certificates related to passenger airplanes with a seating capacity of 50 or more, must agree to refrain from conducting involuntary layoffs or furloughs or reducing pay rates and benefits for the eligible employee group until September 30, 2021, or the duration of the agreement and receipt of funds, whichever period ends later. Entities that do not fall within this group must agree to refrain from these actions for the duration of the agreement and receipt of funds. If an approved company experiences natural attrition within the eligible employee group, or terminates any employee in the eligible employee group due to performance or conduct issues in accordance with employer policy, DOT will not require the company to backfill vacancies. However, the company will be required to disclose any reduction in the total compensation costs for the eligible employee group and DOT may make comparable reductions in the actual disbursements to the company. For the duration of the agreement and receipt of funds, companies must provide DOT with immediate notice and justification of involuntary furloughs or layoffs that exceed 10 percent of the company's workforce for whom they are not receiving AMJP funding. In addition, for the duration of the AMJP agreement, a company must also commit to fund all compensation costs for the eligible employee group that are not paid from AMJP funds; this company-provided funding must be at least 50 percent of compensation costs.

[463] Process for Eligible Businesses Requesting Support under the Aviation Manufacturing Jobs Protection (AMJP) Program, 86 Fed. Reg. 31,573 (June 14, 2021).

SBA COVID-19 relief programs, such as PSP1 and PPP respectively, during the period that would disqualify applicants from the AMJP program.

In April 2021, DOT published a request for emergency approval of information collection for the AMJP program in the Federal Register and released its public AMJP website with information about the program.[464] A second notice, published in the Federal Register in June 2021, outlined the process for eligible companies to apply for the AMJP program.[465] DOT hosted three webinars about the program, its eligibility requirements, and the application process, and published audio and video recordings and presentation slides to the AMJP website. It also created and published a Frequently Asked Questions document that DOT officials told us was routinely monitored and considered for potential updates as additional questions were submitted. DOT officials also told us they directly addressed questions via telephone and email.

According to DOT officials, DOT has hired a financial support contractor to, among other duties, manage AMJP application validation, conduct work related to financial controls and stratification of risk, and coordinate review of applications for completeness. According to DOT officials, DOT officials will review and validate the process the contractor uses for application review and then make an independent determination of an applicant's eligibility and payroll support payment size. DOT officials told us that they can request additional information from applicants when they find inconsistencies, deficiencies, or defects in the application, and have asked applicants to provide corrected information when needed.[466]

While DOT is able to verify some eligibility requirements against government data, for other requirements, officials told us they must rely on the self-certification of applicants. For example, DOT officials stated that disclosure rules on Treasury and Internal Revenue Service's ability to share taxpayer information constrains DOT from being able to verify the timing of Employee Retention Credit use—instead DOT must rely on applicants to self-certify if and when they accrued, requested, or planned to request the Employee Retention Credit.[467] DOT officials told us that post-award audits may be considered to verify self-certified information for some recipients.

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[464] Agency Request for Emergency Approval of an Information Collection of Information Associated With the Aviation Manufacturing Jobs Protection (AMJP) Program, 86 Fed. Reg. 19,695 (Apr. 14, 2021).

[465] 86 Fed. Reg. 31,573.

[466] Pursuant to the Federal Register Notice, DOT may seek additional supporting documentation from any applicant at any time, either during the application review process or subsequently. 86 Fed. Reg. at 31,577.

[467] *See* 26 U.S.C. § 6103. According to DOT officials, they anticipated making the first AMJP awards during the third quarter of calendar year 2021, which ended on September 30, 2021. By statute, a company cannot receive an AMJP award if the company was allowed an Employee Retention Credit during the quarter proceeding the award—in the case of AMJP awards made in the third quarter of calendar year 2021, a company cannot be allowed the Employee Retention Credit in the second quarter of calendar year 2021, which ended on June 30, 2021. The first AMJP application deadline was July 13, 2021, 13 days after the end of the second quarter of calendar year 2021. DOT officials told us that most businesses would not have had time to complete the second quarter tax filing prior to the July 13, 2021 AMJP application deadline. As such, DOT relied on companies' self-certification on whether the applicant accrued, requested, or planned to request an Employee Retention Credit during the second calendar quarter ending June 30, 2021. According to DOT officials, DOT will conduct post-award reviews that, among other things, will consider corrective measures if DOT discovers an AMJP recipient was allowed an Employee Retention Credit during the calendar quarter immediately preceding the AMJP award.

In addition, DOT officials told us that all AMJP recipients are subject to post-award reporting requirements, performance assessment, and compliance reviews. Standard reporting will occur at three points—within 10 days of a business entering into an AMJP agreement, when businesses request an interim disbursement of award funds (if applicable), and a final report when the final payment request is made. DOT officials also stated that selected recipients designated as higher-risk will be required to submit a payroll report within 10 business days after the businesses' regular payroll is made to employees.

DOT re-opened the application process due to confusion about one of the AMJP program limitations. On July 26, 2021, DOT announced that it would re-open the AMJP application for an additional 4 weeks, starting August 4, 2021, through September 1, 2021, due to confusion about eligibility requirements for the program. In particular, DOT officials told us that they had heard from some companies that thought they had to make a choice between applying for the AMJP program or claiming the Employee Retention Credit, which is not accurate.[468] By statute, DOT cannot enter into an AMJP agreement with companies that were allowed the Employee Retention Credit under the CARES Act for the quarter immediately prior to the one in which they enter into an AMJP agreement.[469] DOT initially opened applications to the program for four weeks, from June 15, 2021, through July 13, 2021. DOT officials told us they received over 350 applications during this period, far lower than the approximately 4,900 companies DOT officials estimated were eligible to apply. DOT officials stated that they received 196 applications during the second application period, which they are in the process of reviewing for eligibility as of late September 2021.

DOT announced it will offer $482.3 million in funding to 313 businesses that applied in the first application period. Officials told us they entered into the first AMJP agreements and disbursed $196.8 million to 264 businesses as of late September 2021.[470] DOT officials expect to announce in November 2021 initial offers of funding for businesses that applied in the second application period. As required by statute, DOT must enter into all AMJP agreements within 6 months of the effective date of the first AMJP agreement.

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[468]DOT officials refer to this as the Employee Retention Tax Credit (ERTC). By statute, DOT cannot enter into an AMJP agreement with a company that was allowed the Employee Retention Credit (Pub. L. No. 116-136 § 2301, 134 Stat. 281, 347 (2020) (codified at 26 U.S.C. § 3111 note)) for the immediately preceding calendar quarter from the quarter in which they enter the AMJP agreement. Pub. L. No. 117-2, § 7202(c), 135 Stat. at 104. As we reported in July 2021, eligible employers of any size—including tax-exempt entities, certain governmental entities, and self-employed individuals with employees—can claim the refundable Employee Retention Credit, as established under the CARES Act and as provided by the Consolidated Appropriations Act, 2021 and American Rescue Plan Act of 2021. The credit amount is based on qualified wages paid to employees, including certain health care expenses.

[469]For example, if a company was allowed the Employee Retention Credit in the quarter ending June 30, 2021, then they could not enter into an AMJP agreement in the quarter ending September 30, 2021. However, according to DOT's application, companies in this situation can tell DOT if they want to enter into an AMJP agreement after October 1, 2021, and receive AMJP funds.

[470]For AMJP recipients, DOT anticipates disbursing at least 50 percent of the estimated public contribution of the AMJP payroll assistance financial award shortly after receiving a fully executed AMJP agreement from an eligible company, subject to certain limitations. The amounts and timing of subsequent funding disbursements will be addressed in the AMJP agreements with each company and will depend upon companies' reports and supporting documentation of allowable costs incurred during the term of the agreement.

Selected industry associations were generally complimentary of DOT's transparency and communication about the AMJP program and its application requirements, although some expressed challenges with the clarity of DOT guidance. Representatives from four selected industry associations we interviewed told us that DOT officials were responsive and made an effort to provide answers when the program's eligibility requirements or application process were unclear. Representatives told us that DOT's webinars, Frequently Asked Questions document, and responsiveness to direct questions from individual companies were all helpful. For example, representatives from three industry associations told us that their members had submitted direct questions to DOT and received responses, sometimes within days.

However, representatives also told us that some program requirements were not always clear, such as how to calculate the eligible employee group for the program. For example, one industry association told us they received questions from members about whether they could round up when calculating the number of employees in the eligible group. Industry association representatives also told us that while the aviation manufacturing industry was starting to see an increase in demand in summer 2021, there was still a need for the AMJP program. In particular, representatives said that the assistance would help some companies rehire workers and start making parts that have longer lead times, allowing the industry to prepare for a rebound in demand and potentially minimize future disruptions to the supply chain.

Methodology

To conduct this work, we reviewed the American Rescue Plan Act of 2021 and DOT's Federal Register notices related to the AMJP program. We also reviewed DOT guidance, documents, and webinars, and interviewed DOT officials. In addition, we conducted interviews with a selection of four industry associations representing companies eligible to apply for the AMJP program.

Agency Comments

We provided DOT and the Office of Management and Budget (OMB) with a draft of this enclosure. DOT provided technical comments, which we incorporated as appropriate. OMB did not provide comments on this enclosure.

GAO's Ongoing Work

We will continue to monitor DOT's administration and oversight of the AMJP program, including the steps it is taking to provide appropriated funds consistent with statutory and program requirements and to monitor program recipients' compliance with these requirements.

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Transit Industry

Transit agencies will continue to use COVID-19 relief funds to cover operating expenses, including revenue losses, and are taking steps to strengthen rider confidence.

Entity involved: Federal Transit Administration, within the Department of Transportation

Background

Millions of Americans rely on public transportation systems for mobility and access to jobs, education, and essential services, such as medical care and grocery shopping. Within the Department of Transportation (DOT), the Federal Transit Administration (FTA) provides grants to state departments of transportation, local public transit systems, and tribes to support and expand services. These services may include buses, subways, light rail, commuter rail, trolleys, and ferries in urban, rural, and tribal areas.

The CARES Act appropriated about $25 billion to FTA to support the transit industry through two formula programs—the Urbanized Area Formula program ($22.7 billion) and the Formula Grants for Rural Areas program ($2.2 billion).[471] CARES Act grant funds were made available to transit agencies for COVID-19-related expenses incurred on or after January 20, 2020; FTA allocated the $25 billion to urbanized areas, states, and tribes on April 2, 2020.[472] These funds must now be directed, to the maximum extent possible, to payroll and operating expenses.[473] There is no limit on the amount of funds that recipients may use for operating expenses, and the funds are available until expended.[474]

On December 27, 2020, the Consolidated Appropriations Act, 2021 appropriated an additional $14 billion to FTA for the transit industry to prevent, prepare for, and respond to COVID-19.[475] Further, on March 11, 2021, the American Rescue Plan Act of 2021 (ARPA) appropriated approximately

[471]Pub. L. No. 116-136, 134 Stat. 281, 599 (2020). Formula programs allocate funding to recipients using a distribution formula set by statute. Within the funds appropriated for the Rural Area formula program, $30 million is set aside for tribal transit programs. The CARES Act provided an additional $75 million set-aside for the administration and oversight of the appropriated funds.

[472]An urbanized area is an area, defined and designated by the Secretary of Commerce, that encompasses a population of 50,000 or more. Designated recipients of FTA Urbanized Area formula funds can include entities designated by local officials, state governors, and local public transportation operators; alternatively, a state or regional authority responsible for public transportation may be the designated recipient. 49 U.S.C. § 5302.

[473]As of December 27, 2020, recipients were required to direct funds, to the maximum extent possible, to payroll and operations of public transit (including payroll and expenses of private providers of public transportation), unless the recipient certifies to the Secretary of Transportation that the recipient has not furloughed any employees. If the recipient has certified this, the agency may employ relief funds for other uses such as capital or planning expenses. Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. M, tit. IV, 134 Stat. 1182, 1947 (2020).

[474]These flexibilities are exceptions to the usual process for FTA's Urbanized Area and Rural Area formula programs. An additional exception is that there is no requirement for local matching funds for grants provided to large and small urban areas and rural areas. All other Urbanized Area and Rural Area program requirements apply to CARES Act funds, with the exception that operating expenses and certain capital expenses do not have to be included in a transportation improvement program, a long-range transportation or statewide transportation plan, or a statewide transportation improvement program.

[475]Pub. L. No. 116-260, div. M, tit. IV, 134 Stat. 1182, 1945. Division M of the Consolidated Appropriations Act, 2021 is also referred to as the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA).

$30.5 billion to FTA for the same purpose.[476] Both of these acts provide funding to urbanized areas and states differently than the CARES Act, using a formula based on operating expenses reported to FTA in 2018.[477] FTA is allocating the majority of the funds appropriated by the two acts through its Urbanized Area and Rural Area formula programs, similar to its allocation of funds appropriated by the CARES Act.[478] Consolidated Appropriations Act, 2021 funds are available for obligation until expended, but ARPA funds are available for obligation until the end of fiscal year 2024.

Overview of Key Issues

Transit agencies have expended the majority of CARES Act funds and are beginning to obligate and expend funding from the Consolidated Appropriations Act, 2021 and ARPA. According to FTA data, as of August 31, 2021, transit agencies had obligated about 98 percent of allocated CARES Act funds and had expended 81 percent of the funds (see table). In addition, transit agencies had obligated about 49 percent of allocated funds from the Consolidated Appropriations Act, 2021 and about 22 percent of allocated formula funds from ARPA. FTA officials reported that as of August 31, 2021, 102 applications for new grants had been submitted for Consolidated Appropriations Act, 2021 funds and 149 applications had been submitted for ARPA funds.[479]

[476]Pub. L. No. 117-2, § 3401, 135 Stat. 4, 72.

[477]The Consolidated Appropriations Act, 2021 limited funding to 75 percent of an urbanized area's 2018 operating expenses and 125 percent of a state's 2018 rural operating expenses when combined with the amount of CARES Act funding it received. ARPA limited funding to 132 percent of an urbanized area's 2018 operating expenses when combined with the amount of other COVID-19 relief funding it has previously received. For an urbanized area that has already received COVID-19 relief funding exceeding this percentage, ARPA limited funding to 25 percent of the area's 2018 operating expenses. ARPA limited funding to varying percentages, ranging from 5 to 20 percent, of a state's 2018 rural operating expenses, also based on the amount of COVID-19 relief funding it has already received. Operating expenses for 2018 were determined from data reported to FTA's National Transit Database.

[478]Of the available funds in both relief acts, $65 million is set aside for tribal transit programs and approximately $100 million is set aside for FTA's program for the enhanced mobility of seniors and individuals with disabilities. Under ARPA, an additional $1.675 billion was appropriated for FTA's Capital Investment Grants program, $100 million for the Intercity Bus program, $25 million for Competitive Planning grants, and about $2.2 billion for competitive grants for urbanized and rural area recipients who need additional assistance because of the pandemic. Consolidated Appropriations Act, 2021 and ARPA funds are also provided at 100 percent federal share—that is, no local match is required. In this report, we refer to these acts as "COVID-19 relief laws" and refer to the funding appropriated by these laws as "COVID-19 relief funds."

[479]FTA officials review grant applications to ensure that a transit agency's proposed expenditures are eligible for reimbursement by FTA. Only transit agencies whose applications are approved may obligate funding.

FTA Allocations and Transit Agency Obligations and Expenditures of COVID-19 Relief Funds for Formula Programs, as of Aug. 31, 2021

Funding source	Allocations[e] ($ millions)	Obligations ($ millions)	Expenditures ($ millions)
CARES Act[a]	24,925	24,389	20,142
Consolidated Appropriations, 2021[b]	13,990	6,841	2,262
American Rescue Plan Act of 2021[c]	26,547	5,757	342
Total[d]	**65,462**	**36,986**	**22,746**

Source: GAO analysis of Federal Transit Administration (FTA) data. | GAO-22-105051

Note: FTA Formula programs include the Urbanized Area Formula program, the Formula Grants for Rural Areas program, the Tribal Transit program, the Intercity Bus program, and the Enhanced Mobility of Seniors & Individuals with Disabilities program.

[a]The CARES Act appropriated $25 billion for transit industry grants.

[b]The Consolidated Appropriations Act, 2021 appropriated $14 billion.

[c]The American Rescue Plan Act of 2021 appropriated about $30.5 billion, including approximately $26.5 billion to FTA formula funding programs.

[d]Numbers in columns may not sum to totals because of rounding.

[e]Allocations do not include funding set aside for FTA administration and oversight.

Transit agency officials reported using COVID-19 relief funds to cover operating expenses and mitigate the virus's spread and also reported steps to strengthen rider confidence.

Use of COVID-19 relief funds for operating expenses. Officials from each of the 20 transit agencies where we conducted interviews said they used COVID-19 relief funds to cover operating expenses. According to the officials, such expenses included purchasing equipment to mitigate the spread of COVID-19 (five agencies) and labor costs (four agencies). Additionally, officials said they used COVID-19 relief funds to offset lost revenue, such as revenue from fares (10 agencies). Officials from all 20 agencies reported receiving COVID-19 relief funds through the CARES Act. Officials from 10 agencies reported also receiving COVID-19 relief funds through the Consolidated Appropriations Act, 2021, in addition to the CARES Act, and officials from nine agencies reported receiving COVID-19 relief funds through ARPA. Officials from four agencies said they had received COVID-19 relief funds through all three acts.

Steps to mitigate COVID-19 spread. Officials from the 20 transit agencies told us they had taken one or more steps to mitigate the spread of COVID-19 that were generally similar to those we identified in November 2020. For example, officials said they had practiced enhanced cleaning (18 agencies) and social distancing (17 agencies) and provided personal protective equipment (15 agencies) and barriers for drivers (eight agencies). Additionally, officials from all of the 20 agencies said they had followed federal requirements such as mask mandates. Further, officials said they generally relied on some combination of tools, guidance, and resources from state and local health departments (12 agencies), the Centers for Disease Control and Prevention (10 agencies), FTA (seven agencies), and the Transportation Security Administration (five agencies) to develop COVID-19 mitigation measures.

Ongoing negative effects of the COVID-19 pandemic. Officials from the 20 transit agencies reported ongoing negative effects of the COVID-19 pandemic—including reduced ridership (16 agencies), lost fare revenue (12 agencies), and service reductions (10 agencies). In addition, officials expressed concern about the possibility of continued reduced ridership (12 agencies) and lost fare revenue (seven agencies). Officials from five of the 20 agencies said they planned to delay the use of COVID-19 relief funds to mitigate future uncertainty such as continued fare revenue shortfalls. Moreover, officials from seven agencies said they were concerned there would be an ongoing shortage of drivers and staff.

Steps to strengthen rider confidence. Transit agency officials told us they were taking steps to strengthen rider confidence and increase ridership. Officials from 13 of the 20 agencies said they had worked to strengthen rider confidence via public outreach efforts. For example, officials from one transit agency said they had undertaken a publicity campaign to increase rider confidence, highlighting their enhanced sanitation efforts via internet and television advertisements and providing information resources on the agency website. Additionally, officials from 14 transit agencies said they were relying on COVID-19 mitigation measures, such as increased sanitation and mask requirements, to strengthen rider confidence.

Tribal transit agencies reported similar uses of COVID-19 relief funds as nontribal transit agencies, but said their service had been severely affected by the pandemic. Four of the five tribal transit agencies where we conducted interviews had either suspended or reduced service at some point during the pandemic. According to a transit association official, tribal transit agencies were more likely than nontribal transit agencies to suspend operations for some period during the pandemic. Officials from two of the five agencies said their agencies had shut down completely for 6 to 15 months, between March 2020 and June 2021. Officials from one tribal transit agency told us that as of July 2021, transit service remained suspended because of the difficulty of hiring new staff.

Similar to nontribal transit agencies, officials from the five tribal transit agencies we interviewed reported using COVID-19 relief funds to cover operating expenses, such as salaries (four agencies) and equipment purchases to mitigate the spread of COVID-19 (two agencies). For example, officials from all five tribal transit agencies reported implementing COVID-19 mitigation measures on their transit systems that were generally similar to the measures implemented by nontribal transit agencies. Officials reported using sanitation measures, physical distancing, and mask requirements.

Some transit agencies are reserving COVID-19 relief funds because of continued uncertainty, while some urbanized areas are still determining allocations at a local level. The CARES Act and the Consolidated Appropriations Act, 2021 provide funding that is available until expended and transit agencies may reserve funds to cover COVID-19 related expenses for the next few years. FTA officials told us that recipients are carefully weighing the short- and long-term effects of the pandemic when determining how to reserve or spend COVID-19 relief funds. Officials from five transit agencies said that they are planning to reserve the use of COVID-19 relief funds to mitigate future uncertainty.

However, some urbanized areas are still determining how to distribute funding allocated under the COVID-19 relief laws among local transit agencies. For example, the funding recipient for the Chicago, Illinois, urbanized area, which encompasses areas in three states, is the Regional Transportation Authority (RTA). Officials from the Chicago Transit Authority (CTA), a transit agency within that urbanized area, told us that dividing allocations requires significant discussion between RTA and transit agencies in the area. CTA officials told us RTA has had to decide how to split its funds–which were allocated to it based on the urbanized area's 2018 operating expenses under the Consolidated Appropriations Act, 2021–among three large transit agencies.[480] Officials said RTA is also undergoing the same process to decide how to distribute ARPA funds. According to FTA officials, the agency had not identified any grant administration challenges other than waiting for recipients to decide how to split allocated funds at the local level.

FTA has integrated COVID-19 relief programs into its existing review processes and announced that the agency will begin supplemental oversight of these funds. FTA officials told us that the agency is including oversight of COVID-19 relief funds in its regular oversight program for Urbanized Area and Rural Area program funding recipients. Under FTA's Triennial and State Management review programs, the agency evaluates how Urbanized Area and Rural Area funding recipients are meeting statutory and administrative requirements every 3 years. According to FTA officials, these reviews will now incorporate supplemental guidance and instructions for the oversight of COVID-19 relief funds. In March 2021, we reported that FTA had reinitiated Triennial and State Management oversight activities in October 2020.

In addition, FTA announced on April 20, 2021, that the agency would begin new supplemental oversight activities for recipients of COVID-19 funds, which will include spot reviews of expenses charged to FTA grants and the documentation of these expenses. In some cases, FTA will also look at the grant recipient's financial systems during the spot reviews. FTA officials told us that they expect to complete 119 spot reviews this year and said that these reviews will help ensure proper documentation and the eligibility of expenses charged to COVID-19 relief grants.

Further, according to the officials, FTA continues to provide webinar series to address areas of risk in grant management and to educate recipients. FTA officials said that as of August 31, 2021, they had awarded grants to six recipients that had not previously received any FTA formula funding. Moreover, the DOT Office of Inspector General announced a new audit of FTA's COVID-19 Relief Funding oversight in July 2021. This initial audit will focus on the design of FTA's controls addressing relief funding requirements and on oversight risks throughout the grant life cycle.

Methodology

To conduct this work, we analyzed COVID-19 relief laws, applicable regulations, and FTA data on transit industry grant funding, including tribal transit funding, as of August 31, 2021. We found these data to be reliable for the purposes of describing federal allocations and transit agency obligations and expenditures.

[480] Prior to the pandemic, RTA's three transit agencies–Metra, Pace, and CTA–transported 2 million riders each day across three states and six counties. Riders from these three agencies took over 500 million trips in 2019.

We reviewed written responses from FTA officials about how they were implementing provisions of the CARES Act; the Consolidated Appropriations Act, 2021; and ARPA. In addition, we interviewed officials from 20 selected nontribal transit agencies and five of 10 selected tribal transit agencies. We interviewed officials, either by phone or through written questions and responses, regarding challenges they had experienced related to the pandemic and the provision of COVID-19 relief funds. We selected the 30 transit agencies on the basis of the amounts of CARES Act funds they had obligated. We selected agencies that had obligated varying amounts of COVID-19 relief funds, which we categorized as high, medium, or low amounts of relief funding. Finally, we interviewed representatives of the Community Transportation Association of America and the American Public Transportation Association to discuss the impact of COVID-19 relief funds on their members.

Agency Comments

We provided DOT and the Office of Management and Budget (OMB) with a draft of this enclosure. DOT provided technical comments, which we incorporated as appropriate. OMB did not provide comments on this enclosure.

GAO's Ongoing Work

Our work on transit industry COVID-19 relief funds is ongoing. We will continue to work with our audit partners to monitor these programs.

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Coronavirus Economic Relief for Transportation Services (CERTS)

The Department of the Treasury worked with federal agencies and industry groups to develop eligibility guidance and has obligated all of $2 billion available.

Entities involved: Department of Transportation, Department of the Treasury, and United States Coast Guard

Background

In December 2020, the Consolidated Appropriations Act, 2021 was enacted, establishing the Coronavirus Economic Relief for Transportation Services (CERTS) Program.[481] Through this program, the Department of the Treasury must provide $2 billion in grant funding to eligible providers of transportation services that have experienced certain revenue losses because of COVID-19.[482]

According to industry associations, revenue losses can be attributed to declines in travel that affected multiple forms of transportation, including some of these transportation service providers. For the purposes of the CERTS Program, transportation service providers generally include private-sector operators of motor coaches (e.g., intercity buses), school buses, and passenger vessels (e.g., small cruise ships and river boats). They also include pilot organizations that provide vessels with pilots who navigate trade and cruise ships into and out of the port.[483] While some of these companies may have received federal financial assistance from other COVID-19 relief programs, such as the Payroll Protection Program, the CERTS Program provides funding exclusively to transportation service providers in these industries.

Treasury is awarding CERTS Program grants to eligible applicants to, for example, help cover payroll, rehire employees who have been laid off, and cover certain overhead and operational expenses.[484] In addition to meeting other requirements, applicants must certify that they have experienced revenue losses of 25 percent or more annually as a result of COVID-19. Applicants must also certify that the amount of assistance sought, when combined with any other pandemic-related federal financial assistance they have received, does not exceed the total revenue they earned during calendar year 2019.[485]

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[481] Pub. L. No. 116-260, div. N, tit. IV, subtit. B, § 421, 134 Stat. 1182, 2061-2068 (2020) (codified at 15 U.S.C. § 9111).

[482] 15 U.S.C. § 9111(b)-(c).

[483] The CERTS Program guidance's definition of a "pilotage transportation service provider" or "pilotage company" is a private-sector company, organization, group, or association whose principal business is providing pilotage services regulated by a state in accordance with federal requirements. The definition does not include companies providing towing or other tug assist services.

[484] CERTS Program funding may be used only for statutorily authorized activities such as these activities.

[485] According to Treasury guidance, pandemic-related federal financial assistance includes "assistance under the Paycheck Protection Program, and the Economic Injury Disaster Loan Program, tax credits under the Employee Retention Tax Credit due to COVID-19, and, for sole proprietors, Federally funded unemployment benefits under the CARES Act, as amended, such as the Federal Pandemic Unemployment Compensation (FPUC) and the Pandemic Unemployment Assistance (PUA) programs."

According to program guidance, all CERTS grant applicants eligible for financial assistance that submit a complete application and are approved by Treasury will receive an award, based primarily on their annual lost revenue and the aggregate annual lost revenues of all eligible applicants in that industry.

Overview of Key Issues

As of October 6, 2021, Treasury had obligated all of the $2 billion appropriated for CERTS Program grants to eligible providers of transportation services. Treasury accepted CERTS applications through July 19, 2021. Treasury received 2,091 completed applications, including 1,646 from motor coach companies, 224 from school bus companies, 204 from passenger vessel companies, and 17 from pilot organizations. As of October 6, 2021, Treasury had awarded CERTS Program grants to 1,447 applicants.

Treasury officials said they are providing grant funding to approved applicants in one or two payments. Treasury guidance states that this approach will ensure that grantees receive the bulk of their funds on a rolling basis instead of waiting until Treasury has finished reviewing all applications. For grantees that will receive two payments, the first payment averaged approximately $1.3 million per grantee, representing an estimated 80 percent of the total funding the grantee will receive, according to Treasury officials. After reviewing all applications, Treasury made a second payment to some grantees. .

Treasury officials said they began making grant payments to eligible companies in mid-August and finished reviewing applications and making final payments in October 2021.

Treasury developed a process to determine grant eligibility in consultation with the Department of Transportation (DOT) and U.S. Coast Guard (USCG). Before accepting applications, Treasury officials met with DOT and USCG officials to identify the information Treasury would need to verify the eligibility of applicants in the motor coach, school bus, and passenger vessel industries, which DOT and USCG regulate. For example, officials from DOT's Federal Motor Carrier Safety Administration (FMCSA) provided information about the motor coach industry to Treasury officials and worked with them to develop a process for verifying that applicants were authorized operators of motor coaches. To become an authorized motor coach operator, FMCSA requires companies to obtain a unique USDOT number and comply with applicable federal and state statutes and regulations.[486]

After the application period ended, Treasury sent FMCSA applications that did not provide Treasury with sufficient information to verify that the motor coach applicant was an authorized operator (e.g., the USDOT number was missing or was not an authorized operator's USDOT number). FMCSA officials said they reviewed more than 700 such applications.

[486]Although DOT, in technical comments, suggested using the term "passenger carriers," we are using the term "motor coach operators" for clarity and consistency with CERTS Program guidance. DOT also suggested the term "active and properly registered," but we are using the term "authorized" for the same reasons.

Treasury also required school bus companies, passenger vessel companies, and pilot organizations to submit information in their applications that existing federal and state sources could validate. For example:

- *School bus companies*. Treasury required applicants to submit, among other information, the name of a school, school district, or state department of education for which the company provided school bus services to transport students in 2019. Treasury was able to compare this information with some information from state departments responsible for student transportation. Treasury also used applicants' tax returns to verify that transporting students was their principal business.

- *Passenger vessel companies*. Treasury required applicants to submit vessel names and official numbers as documented on a certification of inspection issued by USCG. Treasury was able to compare the applicants' information with information from USCG.

- *Pilot organizations*. Treasury required applicants to submit a copy of the operating license or other document issued by a state pilot commission, board, or oversight body. Treasury was able to compare these documents with information obtained from those entities.

In addition, Treasury required applicants to submit tax returns to show that they met revenue loss and other eligibility requirements, such as having a certain number of employees. According to Treasury officials, they also coordinated with the Department of Labor (DOL) to draft CERTS Program guidance related to unemployment insurance, and they compared the applicant list for the CERTS Program with Small Business Administration information to determine whether an applicant had received other federal financial assistance related to the COVID-19 pandemic.

Treasury plans to monitor awardees' use of grant funds by requiring them to update Treasury on their anticipated expenditures of these funds at least once every 90 days from the date of receipt. Treasury will review these reports to verify that applicants are using grant funds for eligible activities. In addition, Treasury officials told us they are conducting a risk assessment on the design of the CERTS Program and will conduct a similar assessment of the grant award process in 2022.

Most selected industry associations expressed satisfaction with Treasury's communication about the CERTS Program but also reported some challenges related to the application time frames and requirements. Officials of six of the seven industry associations where we conducted interviews were generally complimentary of Treasury's outreach and communication on the CERTS Program. For example:

- Officials from one association said that Treasury officials solicited early and frequent input from multiple industry groups, which Treasury incorporated into the program guidance and application requirements.

- Officials from another industry association said that within weeks after the enactment of the Consolidated Appropriations Act, 2021, Treasury officials contacted them to learn about their industry. Specifically, officials of one school bus association we interviewed said that Treasury met with them regularly from January 2021 through July 2021 to learn about the school bus industry, including characteristics of private contractors and drivers, and the impact of the pandemic on these groups.

Officials from one association were more critical of Treasury's outreach and communication, saying that they would have liked Treasury to communicate with industry members directly in addition to communicating through their industry association.

Moreover, officials from six of the industry associations reported some challenges related to the application time frames and Treasury's requirements.[487] For example:

- Officials from three of the industry associations said they would have preferred that Treasury had begun accepting applications for the CERTS Program sooner.
- Officials from six of the industry associations we interviewed reported challenges in using "ID.me," a company that provides secure identity proofing, authentication, and group affiliation verification for government and businesses across industries. Treasury required applicants to verify their identity through ID.me before they could complete a CERTS Program application.
- Officials from six of the industry associations said that some of their members were confused by certain information requirements in the application. Examples included a requirement to provide a tax form that did not apply to the applicant and a requirement to provide calendar-year tax information, although the applicant had filed its taxes for a fiscal year.[488]

Nevertheless, industry associations we interviewed said that Treasury officials had generally addressed these issues—either by providing instructions or, in some cases, making changes to the application—and that many of their members had successfully completed the CERTS Program application.

Methodology

To conduct this work, we reviewed the Consolidated Appropriations Act, 2021; applicable statutes and regulations; and Treasury guidance and documentation. We conducted interviews with USCG, DOT, and Treasury officials to understand Treasury's approach to implementing, monitoring, and overseeing the CERTS Program. We also reviewed Treasury data on the number and value of CERTS Program grants and total obligations as of October 6, 2021, and asked Treasury about these data's source and reliability. On the basis of our review and Treasury's response, we determined that the data were sufficiently reliable for the purposes of summarizing the number of grants awarded and their amounts.

In addition, we interviewed USCG and DOT officials, asking them to describe how they worked with Treasury officials to develop and implement the CERTS Program. Finally, we interviewed officials

[487] Officials from the seventh industry association said that they had not received much feedback on the application time frame and requirements from members, because most members were not eligible for CERTS funding.

[488] The tax form mentioned was the Employer's Quarterly Federal Tax Return Form 941.

from seven associations representing the motor coach, school bus, passenger vessel, and pilotage industries to obtain their perspectives on the CERTS Program and application process. We selected these associations from each of the four industries on the basis of their role in the coalition that advocated for the program, their inclusion in our prior reports, and Treasury and stakeholder recommendations.

Agency Comments

We provided Treasury, DOT, and the Office of Management and Budget with a draft of this enclosure. DOT provided technical comments, which we incorporated as appropriate. Treasury and the Office of Management and Budget did not provide comments.

GAO's Ongoing Work

We will continue to monitor Treasury's oversight of the CERTS Program, including steps it takes to ensure that the obligation and expenditure of appropriated funding meet statutory and program requirements.

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Paycheck Protection Program

The Small Business Administration has simplified its processes as it continues to review and forgive Paycheck Protection Program loans.

Entities involved: Small Business Administration, Department of the Treasury

Background

Since March 2020, Congress has provided commitment authority of about $814 billion for the Paycheck Protection Program (PPP) under the Small Business Administration's (SBA) largest guaranteed loan program, its 7(a) small business lending program.[489] PPP loans, made by lenders but guaranteed 100 percent by SBA, are low interest (1 percent) and fully forgivable if certain conditions are met.[490]

As of July 30, 2021, lenders had made about 11.5 million PPP loans, totaling about $791 billion.[491] Of those, lenders made about 5.1 million loans (totaling about $521 billion) during Round 1 (April through August 2020). SBA relaunched the program (Round 2) on January 11, 2021, following enactment of the Consolidated Appropriations Act, 2021, which authorized additional PPP loans and made changes to the program. Among other things, the act expanded the categories of forgivable nonpayroll costs and allowed PPP borrowers to receive a second PPP loan (second draw loans) of up to $2 million provided that they meet certain criteria.[492] In 2021 (Round 2 of PPP), lenders made about 6.3 million loans totaling about $271 billion.

As of September 26, 2021, SBA had received about 7.3 million loan forgiveness decisions from lenders and made payments on about 7 million of those (about $553 billion).[493]

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[489] *See* Pub. L. No. 116-136, §§ 1102(b), 134 Stat. 281, 293 (2020); Pub. L. No. 116-139, § 101(a), 134 Stat. 620, 620 (2020); Pub. L No. 116-260, div. N, tit. III, §323(a) 134 Stat. 1182, 2018-19 (2020); Pub. L. No. 117-2, § 5001(d) 135 Stat. 4, 85 (2021). The program also paid fees to lenders for their participation in the program.

[490] As originally implemented by SBA, at least 75 percent of the loan forgiveness amount must have been for payroll costs. In addition, the CARES Act required loans to be used within an 8-week period in order for the loans to be fully forgiven. However, the Paycheck Protection Program Flexibility Act of 2020 modified this to at least 60 percent and allowed borrowers to pay or incur those expenses over a 24-week period. Pub. L. No. 116-142, § 3, 134 Stat. 641, 641-42 (2020). Under the Paycheck Protection Program Flexibility Act of 2020, the loan forgiveness covered period for PPP loans was to end the earlier of 24 weeks after origination or December 31, 2020. The Consolidated Appropriations Act, 2021 further modified the covered period for forgiveness to allow the borrower to choose a covered period ending any date between 8 and 24 weeks after origination. Pub. L. No. 116-260, div. N, tit. III, § 306, 134 Stat. 1182, 1997 (2020).

[491] New applications were accepted through May 31, 2021, and SBA had until June 30, 2021, to process submitted applications.

[492] The Consolidated Appropriations Act, 2021 expanded the categories of forgivable nonpayroll costs to include certain operations, property damage, supplier, and worker protection expenditures. PPP borrowers were eligible to receive a second PPP loan of up to $2 million provided that they met certain criteria, such as having not more than 300 employees, having used the full amount of their initial PPP loan only for authorized uses, and having revenue losses of at least 25 percent in a quarter of 2020 when compared to the same quarter in 2019. Pub. L No. 116-260, div. N, tit. III, § 311, 134 Stat. 1182, 2001 (2020); *see also* 86 Fed. Reg. 3712 (Jan. 14, 2021).

[493] Under SBA rules and guidance, the borrower submits the forgiveness application to the lender. The lender then has 60 days from receipt of the application to review and submit its forgiveness decision (approved in full, approved in part, or denied) to SBA. SBA reviews the lender decision and remits the appropriate forgiveness amount to the lender. In general, SBA must remit the forgiveness amount to the lender within 90 days of that amount being determined. SBA

SBA implemented the program rapidly and millions of small businesses have benefited from PPP. However, the speed with which SBA implemented the program left it with limited safeguards to identify and respond to program risks, including susceptibility to improper payments and fraud. Consequently, we have made four recommendations since June 2020 to ensure program integrity, achieve program effectiveness, and address potential fraud. As discussed in more detail below, SBA has partially addressed each of these recommendations.

As of August 31, 2021, SBA had obligated about $810.3 billion across the two rounds of PPP, including lender fees, and expended about $809.7 billion, according to SBA.

Overview of Key Issues

Status of loan reviews. For Round 1 loans, SBA conducted an initial automated review of all loans to identify anomalies or attributes that may indicate noncompliance with eligibility requirements, fraud, or abuse.[494] Loans with any identified issues were subject to manual review. Any issue identified would need to be resolved before borrowers could receive a second draw PPP loan or have their loan forgiven. According to SBA officials, SBA had completed about 114,000 manual reviews and 20,500 reviews were pending, including 6,200 loans pending higher authority reviews by more experienced analysts for partial or full denial of forgiveness, as of July 26, 2021.

In April 2020, SBA and the Department of the Treasury (Treasury) announced that SBA would review borrower eligibility for all loans of more than $2 million. In October 2020, SBA released questionnaires to be filled out by for-profit and nonprofit businesses that, together with their affiliates, received PPP loans with an original principal amount of $2 million or greater. According to SBA, the agency would use the information collected through these questionnaires to inform its assessment of whether a business's certification that economic uncertainty made the loan request necessary to support the business's ongoing operations was made in good faith.[495]

As we reported in July 2021, SBA was processing loan forgiveness decisions for these large loans slowly. Almost all loan forgiveness decisions for loans of $2 million or more submitted as of May 17, 2021, were processed in more than 90 days. In contrast, SBA processed about 79 percent of loans of less than $500,000 in 10 days or less.

In part to review loans more quickly, SBA has discontinued the use of the loan necessity questionnaires, which were designed to help SBA evaluate the good faith certification made by PPP borrowers on their loan application that economic uncertainty made the loan request

and Treasury officials told us they interpreted the CARES Act requirement to remit funds within 90 days to be subject to SBA's review of loans. Of the approximately 7.3 million loan forgiveness decisions submitted to SBA by lenders as of September 26, 2021, 4,622,125 were for loans made in 2020 and 2,653,132 were for loans made in 2021.

[494]For a discussion of potential fraud in PPP, see the enclosure on Federal Fraud-Related Cases in app. I.

[495]As set forth in the CARES Act, borrowers had to certify in good faith that, among other things, (1) current economic uncertainty made the loan request necessary to support the applicant's ongoing operations and (2) the funds would be used for allowed business-related purposes, such as to retain workers and maintain payroll or to make mortgage payments, lease payments, or utility payments.

necessary to support ongoing operations.[496] In a July 29, 2021, response to a frequently asked question posted on its website, SBA explained that the results of the loan reviews that it had completed to date showed that audit resources would be more efficiently deployed across all loans if the loan necessity questionnaires were discontinued. The agency also noted that the loan necessity reviews, including the review of borrowers' completed questionnaires, were lengthy and had caused delays beyond the 90-day statutory timeline for forgiveness.

In July 2021, we made two recommendations to SBA to improve its loan review process.

- We found that SBA had not documented policies and procedures for some elevated reviews conducted when SBA determines that the borrower is ineligible for a PPP loan or for the loan amount or loan forgiveness amount claimed by the borrower. Consequently, we recommended that SBA establish time frames for finalizing and issuing these procedures. In response, SBA agreed with the recommendation and told us it was working to finalize its procedures for these reviews, but had not yet done so as of September 2021.
- We also found that although SBA developed tools such as a web portal and lender hotline, its system for responding to lender inquiries was ad hoc. Some lenders, lender associations, and state banking associations also noted that SBA was not responsive to lender inquiries, including on loan reviews and the status of loan forgiveness determinations. Consequently, we recommended that SBA develop and implement a process to ensure it responds in a timely manner to PPP lender inquiries on loan reviews. In response, SBA agreed with the recommendation and said it would provide procedures to us, but had not yet done so as of September 2021.

Changes to loan forgiveness process. On July 30, 2021, SBA published an interim final rule with changes meant to simplify the loan forgiveness process for borrowers with the smallest loans.[497]

- *Changes to loan forgiveness application process.* Some borrowers now have the option to apply for forgiveness directly to SBA instead of their lender. This option is available to borrowers with loans of $150,000 or less whose lenders have opted into using SBA's direct borrower forgiveness platform.[498] Similar to loan forgiveness applications submitted directly to the lender, the lender would approve (or deny) the loan forgiveness request. Once the lender submits its decision to SBA, SBA reviews the decision and sends any loan forgiveness proceeds

[496] The Associate General Contractors of America, Inc., filed a lawsuit in December 2020 alleging, among other things, that the necessity questionnaires and the process used to approve them violated the Administrative Procedure Act and the Paperwork Reduction Act. Among other things, the lawsuit filings noted that the questionnaires ask borrowers to describe their business success (or failure) after applying for the loan, not the status of their operations at the time they applied for the loan.

[497] 86 Fed. Reg. 40921 (July 30, 2021).

[498] Borrowers will continue to be required to submit their loan forgiveness application to their lender (rather than through the SBA platform) if (1) the lender does not opt into using the direct borrower forgiveness process; (2) the borrower's PPP loan amount is greater than $150,000; (3) the borrower does not agree with the data as provided by the SBA system of record or cannot validate their identity in the platform (for example, if there is an unreported change of ownership); or (4) for any other reason the platform rejects the borrower's submission. As of August 2, 2021, 882 of the approximately 5,500 lenders that issued PPP loans had opted into using the direct forgiveness platform.

to the lender. SBA believes that (1) lenders that opt in will have reduced costs, increased efficiency, and more timely remittance of forgiveness payments from SBA and (2) borrowers who submit loan forgiveness applications directly through SBA's direct borrower forgiveness process will experience less wait time and uncertainty than submitting through their lender.[499] The new platform began accepting loan forgiveness applications on August 4, 2021.

- *Changes to documentation requirements.* Borrowers who received a second draw PPP loan of $150,000 or less in 2021 and did not submit documentation of revenue reduction at the time of loan application may use an alternative method of documenting the required revenue reduction.[500] An independent third-party contractor has developed a COVID Revenue Reduction Score (COVID score) that will be assigned for each second draw PPP loan of $150,000 or less and that will be visible to the lender and certain borrowers in the platform.[501] The lender may review the borrower's score in the platform. When the COVID score meets or exceeds the value required for validation of the borrower's revenue reduction, use of the COVID score will satisfy the requirement for the borrower to document revenue reduction. If the COVID score does not validate the required revenue reduction for the borrower, the borrower must either provide documentation directly to the lender or upload it through the platform for its lender to review.

In July 2021, we reported that SBA had not issued guidance for key aspects of the forgiveness process and made two recommendations in this area.

- The CARES Act requires SBA to make an advance purchase for the expected forgiveness amount of a PPP loan within 15 days of receiving a report on the expected forgiveness amount from a lender, and outlines a process for lenders to initiate the advance purchase. As of July 2021, SBA had not implemented this provision. Consequently, we recommended that SBA implement the advance purchase provision in the CARES Act or report to Congress why it has not complied, including seeking statutory flexibilities or exceptions believed appropriate. In response, SBA said it would notify Congress of its request to seek statutory flexibility on this matter or would request that Congress repeal the advance purchase requirement, but had not yet done so as of September 2021.

- As of early July 2021, SBA had not yet finalized a process for PPP lenders to claim the loan guarantee if a borrower ceases operations or defaults on a loan. We recommended that SBA establish time frames for finalizing and issuing a PPP-specific loan guarantee purchase process, including allowing lenders to claim the SBA guarantee when they have evidence the

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[499]According to SBA, many smaller PPP lenders have expressed concerns that they do not have the technology or human resources to develop efficient electronic loan forgiveness platforms to process loan forgiveness applications.

[500]Among other things, to be eligible for a second draw PPP loan, a borrower had to have experienced a revenue reduction of not less than 25 percent during one quarter of 2020 compared to the same quarter in 2019.

[501]The independent third-party contractor will use a Consumer Demand Recovery Index that combines multiple data sources on the consumption of products or services (such as foot traffic, third-party data, and credit card spending) provided by businesses. Further, using the Business Operations Response Index, the score will measure the businesses' return to operational status, which includes employment and unemployment data, business-to-business payment transactions, mobility, and foot traffic at workplace and visitor frequency at physical locations.

business ceased operations or declared bankruptcy. In July 2021, SBA issued a procedural notice on lenders' servicing responsibilities for PPP loans and SBA's guarantee purchase process. According to the notice, SBA will honor its guarantee and purchase 100 percent of the outstanding balance of the loan in applicable circumstances provided that the lender has complied with all the PPP requirements, including the lenders' underwriting requirements and the document collection and retention requirements. The process outlined in the procedural notice would also apply to requests for guarantee purchase and charge-off for loans to businesses that have permanently closed and do not plan to submit a forgiveness application or have filed for Chapter 7 bankruptcy protection, among other circumstances.

Methodology

To conduct this work, we reviewed SBA guidance and data on PPP loan forgiveness applications and obligations and expenditures, and interviewed officials from SBA. We assessed the reliability of the SBA data by reviewing documentation and interviewing SBA officials. We determined that the data were sufficiently reliable for reporting the status of loan forgiveness applications and PPP expenditures.

Agency Comments

We provided SBA, Treasury, and the Office of Management and Budget (OMB) with a draft of this enclosure. Treasury provided technical comments, which we incorporated as appropriate. SBA and OMB did not provide comments on this enclosure.

GAO's Ongoing Work

Our work on PPP is ongoing. We continue to examine SBA's loan review and forgiveness processes and the fraud risks in the program. We also continue to monitor SBA's progress toward developing and implementing corrective actions to address the material weaknesses identified by its financial statement auditor.

GAO's Prior Recommendations

The table below presents our recommendations on the Paycheck Protection Program from prior bimonthly and quarterly CARES Act reports.

Prior GAO Recommendations Related to the Paycheck Protection Program

Recommendation	Status
The Administrator of the Small Business Administration (SBA) should conduct and document a fraud risk assessment for the Paycheck Protection Program (PPP) (March 2021 report).	**Open—partially addressed.** SBA agreed with the recommendation, stating that it would work to ensure that a fraud risk assessment for PPP is completed. According to SBA officials, as of July 2021, SBA had hired a contractor to conduct a formal fraud risk assessment and the assessment was underway.
The Administrator of SBA should develop a strategy that outlines specific actions to monitor and manage fraud risks in the Paycheck Protection Program on a continuous basis (March 2021 report).	**Open—partially addressed.** SBA agreed with the recommendation, stating that it would work to ensure that fraud risks are monitored on a continuous basis. According to SBA officials, as of July 2021, SBA had begun conducting a formal fraud risk assessment, which is an important part of developing a strategy to manage fraud risks.
The Administrator of SBA should expeditiously estimate improper payments and report estimates and error rates for PPP due to concerns about the possibility that improper payments, including those resulting from fraudulent activity, could be widespread (November 2020 report).	**Open—partially addressed.** SBA neither agreed nor disagreed with our recommendation at the time of our report. In response to our recommendation, SBA stated that it was planning to conduct improper payment testing for PPP and that it takes improper payments seriously. SBA officials stated that SBA had submitted a sampling plan to the Office of Management and Budget in February 2021. In July 2021, they said that SBA would use this sampling plan to estimate both improper payments and error rates for PPP in the fourth quarter of fiscal year 2021. They noted in August 2021 that SBA would officially report the improper payment rate in its Fiscal Year 2022 Agency Financial Report, not the same report for fiscal year 2021, because of timing.
The Administrator of SBA should develop and implement plans to identify and respond to risks in PPP to ensure program integrity, achieve program effectiveness, and address potential fraud, including in loans of $2 million or less (June 2020 report).	**Open—partially addressed.** At the time of our report, SBA neither agreed nor disagreed with our recommendation. As we reported in September 2020, SBA had said that it planned to review all PPP loans of $2 million or more and further stated that it may review any PPP loan it deems appropriate, including loans of less than $2 million. In late December 2020, SBA provided a Loan Review Plan outlining steps it planned to take to review PPP loans. The document describes three steps in the process: automated screenings of all loans, manual reviews of selected loans, and quality control reviews to ensure the quality, completeness, and consistency of the review process. In February and April 2021, SBA provided additional documents referenced in the plan that give further details on how SBA and its contractors will conduct the various reviews. However, SBA is still implementing its oversight plan and has yet to complete other critical steps to address potential fraud, including conducting a fraud risk assessment.

Source: GAO. I GAO-22-105051

Related GAO Product

Paycheck Protection Program: SBA Added Program Safeguards, but Additional Actions Are Needed. GAO-21-577. Washington, D.C.: July 29, 2021.

Contact information: William B. Shear, (202) 512-8678, shearw@gao.gov

Coronavirus State and Local Fiscal Recovery Funds

To provide assurance that funds are expended in accordance with program requirements, the Department of the Treasury should comply with federal internal control standards by establishing policies and procedures for administering the Coronavirus State and Local Fiscal Recovery Funds as states and localities plan for using and managing their allocations.

Entities involved: Department of the Treasury and Office of Management and Budget

Recommendation for Executive Action

The Secretary of the Treasury should design and document timely and sufficient policies and procedures for monitoring recipients of Coronavirus State and Local Fiscal Recovery Funds to provide assurance that recipients are managing their allocations in compliance with laws, regulations, agency guidance, and award terms and conditions, including ensuring that expenditures are made for allowable purposes.

Treasury agreed with the recommendation.

Background

COVID-19 relief laws have appropriated $500 billion to the Department of the Treasury to provide direct funding to states, the District of Columbia, localities, tribal governments, and U.S. territories to help them respond to, and recover from, the COVID-19 pandemic.[502] This amount includes $350 billion appropriated to Treasury through the American Rescue Plan Act of 2021 (ARPA) for the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) in March 2021.[503]

The CSLFRF allocates funds to states, the District of Columbia, localities, tribal governments, and U.S. territories to cover a broad range of costs stemming from the fiscal effects of the COVID-19 pandemic.[504] Localities consist of metropolitan cities, counties, and smaller local governments,

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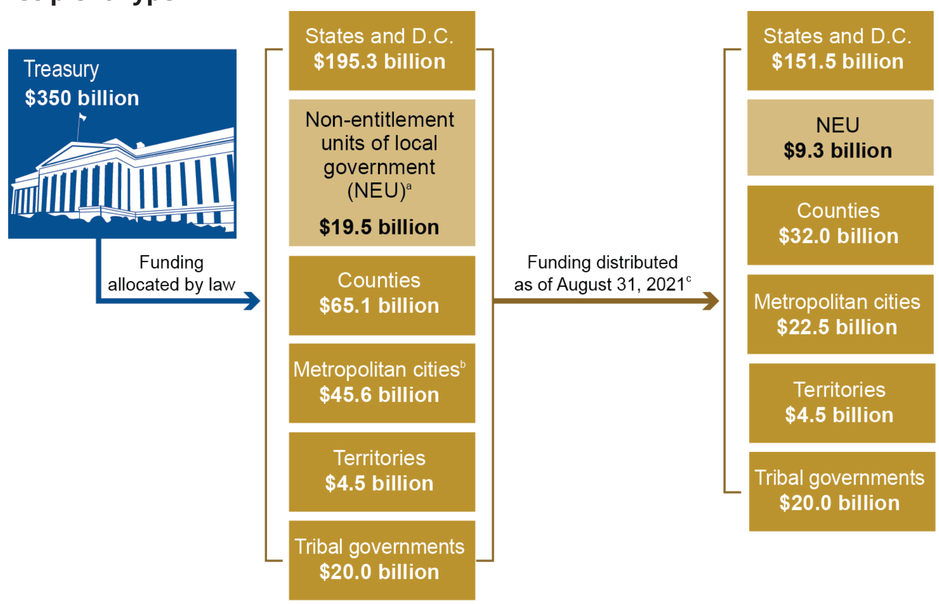
[502]COVID-19 relief laws have appropriated other COVID-19 funding, including the $500 billion, to these entities to address specific purposes.

[503]In addition, the CARES Act established the $150 billion Coronavirus Relief Fund (CRF) for Treasury to provide payments to state, local, territorial, and tribal governments to cover the costs of necessary expenditures incurred because of the COVID-19 pandemic between March 1, 2020, and December 31, 2021. CARES Act, Pub. L. No. 116-136, div. A, tit. V, § 5001, 134 Stat. 281, 501-04 (2020), as amended by the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. N, tit. X, § 1001, 134 Stat. 1182, 2145 (2020) (codified at 42 U.S.C. § 801). Pursuant to implementing Treasury guidance on permissible uses of CRF funds, CRF recipients may use their allocations to offset costs incurred related to either the pandemic's direct effects (e.g., public health needs) or its indirect effects (e.g., harm to individuals or businesses as a result of COVID-19-related closures). 86 Fed. Reg. 4,182 (Jan. 15, 2021).

[504]Pub. L. No. 117-2, tit. IX, subtit. M, § 9901, 135 Stat. 4, 223 (2020) (codified at 42 U.S.C. §§ 802-803). Section 9901 of ARPA appropriated $350 billion for two funds—the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund. For purposes of this report, we discuss these two funds as one—the Coronavirus State and Local Fiscal Recovery Funds, or CSLFRF. For the purposes of the CSLFRF, ARPA establishes that the District of Columbia is considered to be a state. 42 U.S.C. §§ 802(g)(5), 803(g)(9).

referred to as non-entitlement units of local government.[505] According to Treasury data, it had distributed approximately $240 billion in CSLFRF funds to recipients as of August 31, 2021. The figure below shows the amounts of funding the CSLFRF allocates to various recipient types as well as the amount of funding Treasury had distributed to each recipient type as of August 31, 2021.

Coronavirus State and Local Fiscal Recovery Funds Allocations and Treasury Distributions as of Aug. 31, 2021, by Recipient Type



Source: GAO analysis of the American Rescue Plan Act of 2021 and Department of the Treasury (Treasury) information. | GAO-22-105051

[a]Non-entitlement units of local government are local governments typically serving populations of less than 50,000, such as cities, villages, towns, or townships.

[b]Metropolitan cities are the central cities or any other cities within a metropolitan area that have a population of 50,000 or more.

[c]ARPA provides that to receive their Coronavirus State and Local Fiscal Recovery Funds allocations, states, the District of Columbia, and U.S. territories must first provide Treasury with a signed certification stating that they require their allocations to carry out allowable activities and will comply with relevant requirements when they use their allocations. According to Treasury, states that have experienced a net increase of more than 2 percentage points in their unemployment rate from February 2020 to the date of the latest available data will receive their full allocation of funds in a single distribution; other states will receive funds in two equal tranches, with the second tranche provided within 12 months after certification. Governments of U.S. territories will receive a single distribution. Treasury is required to distribute allocations to metropolitan cities, states (for distribution to NEUs), and counties in two equal tranches, providing the first allocation within 60 days after ARPA's enactment, or May 10, 2021, to the extent practicable, and providing the second allocation no earlier than 12 months after the first. After receiving allocations for distribution to NEUs, states have 30 days to make those distributions, unless Treasury grants an extension. According to Treasury, tribal governments will receive two distributions: the first distribution in May 2021 and the second distribution, based on employment data, in June 2021.

[505]A metropolitan city is defined as the central city within a metropolitan area (i.e., a standard metropolitan statistical area as established by the Office of Management and Budget) or any other city within a metropolitan area that has a population of 50,000 or more. 42 U.S.C. § 803(g)(4). Non-entitlement units of local government (NEUs), are local governments typically serving populations of less than 50,000. 42 U.S.C. §§ 803(g)(5), 5302(a)(5). NEUs include cities, villages, towns, townships, or other types of local governments. NEUs receive their CSLFRF allocation through their state governments. State governments will receive a specific allocation of these funds from Treasury for this purpose and are responsible for distributing these funds to NEUs within their state. 42 U.S.C. § 803(b)(2).

ARPA established four key eligible-use categories for which recipients can use the CSLFRF payments:[506]

1. Respond to the COVID-19 pandemic or its negative economic impacts, including assistance to households, small businesses, and nonprofits or aid to impacted industries, such as tourism, travel, and hospitality

2. Respond to workers performing essential work during the COVID-19 pandemic, by providing premium pay to the recipients' eligible workers or grants to eligible employers that have eligible workers who perform essential work

3. Provide government services to the extent of any revenue reduction resulting from the COVID-19 pandemic relative to revenues collected in the recipient government's most recent prepandemic full fiscal year

4. Make necessary investments in water, sewer, or broadband infrastructure

Recipients must incur obligations with their CSLFRF payments by December 31, 2024, and must liquidate those obligations by December 31, 2026.[507]

On May 10, 2021, Treasury released an interim final rule implementing the CSLFRF, which includes guidance for recipients on the eligible uses of CSLFRF payments.[508] The interim final rule states that CSLFRF recipients have flexibility, within the four key eligible-use categories identified in ARPA, to determine how best to use the payments to meet the needs of their communities and populations. The interim final rule also urges all recipients to develop plans, in consultation with their constituents and communities, for spending their allocations across the four categories. Further, the interim final rule establishes a framework for determining the types of programs and services that are eligible under ARPA and provides examples of uses that recipients may consider.

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[506]ARPA requires recipients receiving CSLFRF payments to provide Treasury with a detailed accounting of the uses of funds, including, in the case of a state or territory, modifications to the state's or territory's tax revenue sources in addition to such other information as Treasury requires for the administration of the fund. 42 U.S.C. §§ 802(d)(2), 803(d).

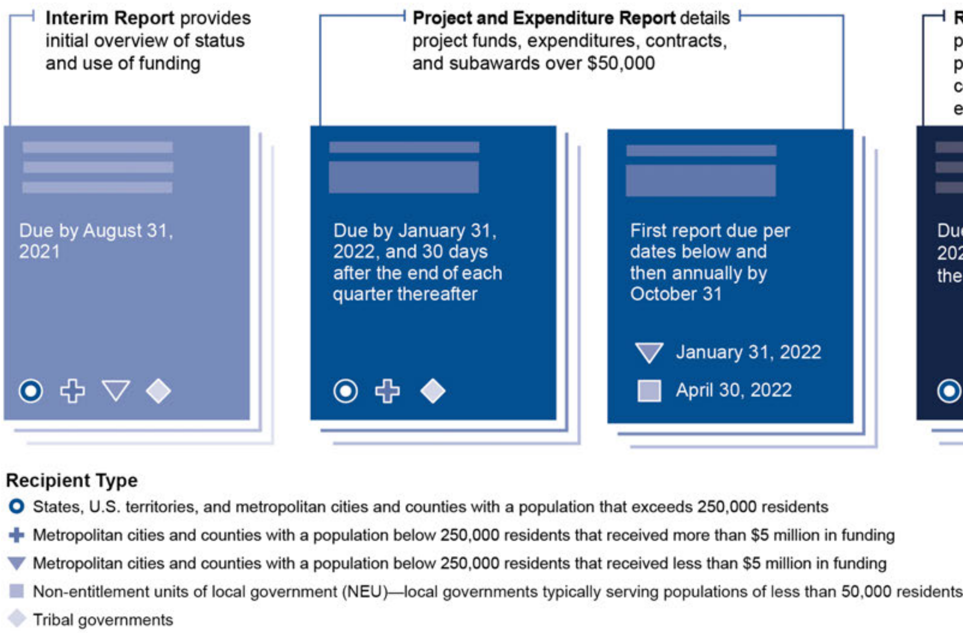
[507]CSLFRF recipients may not use their allocations for deposit into any pension fund. Furthermore, states, the District of Columbia, and territories may not use their allocations to either directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation made between March 3, 2021, and the end of the fiscal year in which the recipient expends the last of the funds it receives that reduces any tax or delays the imposition of any tax or tax increase. However, multiple state Attorneys General have filed suit against the federal government regarding this provision, alleging that it can be read as prohibiting a state from reducing taxes in any manner and thus impinges on the sovereignty of the states to set their own tax policy. In July 2021, the U.S. District Court for the Southern District of Ohio found that the provision exceeds Congress's power under the Constitution and enjoined Treasury from enforcing the provision against Ohio. *Ohio v. Yellen*, No. 1:21-CV-00181 (S.D. Ohio, July 1, 2021). On August 27, 2021, Treasury appealed the decision to the U.S. Court of Appeals for the Sixth Circuit. Cases in other states remain ongoing. If a recipient fails to comply with these requirements and restrictions, it must repay an amount equal to the amount of funds used in violation of these requirements and restrictions. Pub. L. No. 117-2, tit. IX, subtit. M, § 9901, 135 Stat. at 223-33 (codified at 42 U.S.C. §§ 802-803).

[508]Subsequently, on May 17, 2021, Treasury published the interim final rule in the Federal Register. See Coronavirus State and Local Fiscal Recovery Funds, 86 Fed. Reg. 26,786.

Treasury requested public comments on the interim final rule by July 16, 2021. Before issuing the interim final rule, Treasury published a document containing answers to frequently asked questions (FAQs) about the program. Treasury updates this document periodically in response to questions received from stakeholders.

Treasury's interim final rule also identifies reporting requirements for recipients. For example, specified recipients are required to submit reports that provide information on their use of the funding and projects undertaken with the funding, among other things. On June 24, 2021, Treasury released the Compliance and Reporting Guidance for the CSLFRF program, which provides additional detail and clarification for each recipient's compliance and reporting responsibilities. The figure below shows reporting requirements for the five types of recipients.

Treasury's Reporting Requirements for the Coronavirus State and Local Fiscal Recovery Funds, by Recipient Type, as of October 7, 2021



Source: GAO analysis of Department of the Treasury information. | GAO-22-105051

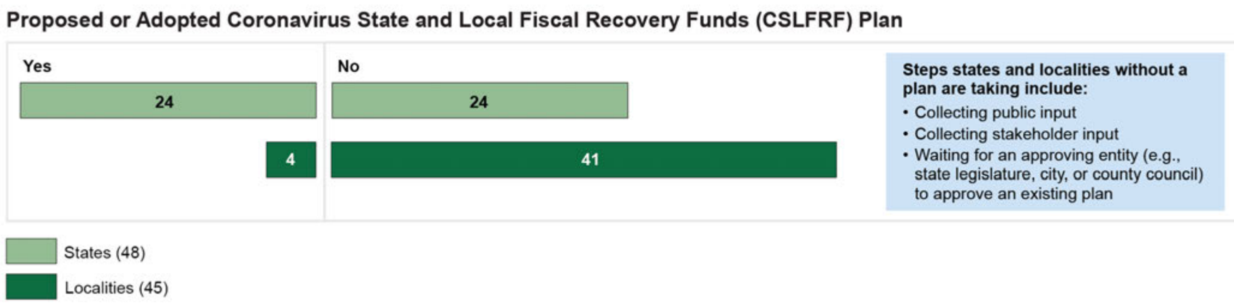
Overview of Key Issues

States' and selected localities' plans for CSLFRF allocations. We surveyed states and localities (cities and counties) to, among other things, determine the status of their plans for spending CSLFRF allocations across the ARPA eligible use categories.[509] Of the 48 states and 45 localities

[509]We sent a survey to budget officials in the 50 states and the District of Columbia. We also sent surveys to city and county officials in a randomly selected nongeneralizable sample of 48 localities (24 metropolitan cities and 24 counties) that had received some of their CSLFRF allocations from Treasury as of June 17, 2021. We administered all three surveys from July 1 through August 6, 2021. We received responses from 48 states (including the District of Columbia) and 45 localities (22 cities and 23 counties). For the purposes of the CSLFRF, ARPA establishes that the District of Columbia is considered a state. 42 U.S.C. § 802(g)(5). Therefore, in discussing survey responses, we use "states" to refer to the 50 states and the District of Columbia. Furthermore, unless otherwise noted, we use the single term "localities" to refer to

that responded to our survey, 24 states and four localities (two cities and two counties) reported having a proposed or adopted spending plan as of July 2021 for using their CSLFRF allocations (see figure). The remaining 24 states and 41 localities reported that they did not have a proposed or adopted plan. Officials from two associations representing state and local governments told us that many states and localities were still in the process of developing plans for their CSLFRF allocations because they have until the end of 2024 to obligate them.

Number of States and Localities That Reported Having a Proposed or Adopted Plan for Spending Their CSLFRF Allocations, as of July 2021



Source: GAO. | GAO-22-105051

Note: We surveyed state budget officials in all 50 states and the District of Columbia and surveyed city and county officials in a randomly selected nongeneralizable sample of 48 localities (24 metropolitan cities and 24 counties). The results of these surveys cannot be generalized to the larger population of states and localities receiving CSLFRF allocations. We administered the three surveys from July 1 through August 6, 2021. We received responses from 48 states (including the District of Columbia) and 45 localities. The data shown reflect states' and localities' responses to a survey question asking whether they had a proposed or adopted plan for how they will use their CSLFRF allocations.

The 24 states and four localities that reported having a proposed or adopted CSLFRF plan provided documentation for our review. Our review of the documentation provided by the 24 states found the following:

- Documentation or written survey responses for 19 states showed that their legislatures had appropriated at least some of the funds from their CSLFRF allocations. However, some of these states' documentation and written responses also showed that they will need to take additional steps to appropriate their full allocations or determine specific uses for funds already appropriated. One state appropriated funds from its CSLFRF allocation to various state programs and initiatives—including transportation, water protection and sustainability, and reemployment assistance—in appropriations for fiscal year 2021–2022. In response to an open-ended survey question, a budget official stated that the state is still determining which activities the appropriations for these programs and initiatives will support.

- Documentation or written survey responses for five states identified proposals or recommendations for using allocations that their states' executives had made but their legislatures had not yet acted on. For example, one state's governor had developed an ARPA budget that recommended a range of uses for the state's CSLFRF allocation, including assisting those most affected by the pandemic and upgrading the state's broadband and

metropolitan cities and counties. While the results of these surveys cannot be projected to the full population of states and localities receiving funding, they provide descriptive information about the spending and management of CSLFRF allocations and about perceptions of the clarity of Treasury's CSLFRF guidance across a range of geographic areas.

water infrastructure. As of July 2021, the state legislature had not yet adopted the governor's budget proposal.

The four localities that reported having a proposed or adopted spending plan provided documentation that varied in the level of detail and in the breadth of projects covered. For example, one city provided the mayor's spending proposal, which included appropriations for various projects, such as increasing affordable housing units, revitalizing tourism, and incentivizing grocery stores to locate within food desert areas. Further, one county provided meeting minutes as its plan, which documented county officials agreeing to use some of its CSLFRF allocation to improve broadband service to unserved and underserved households and businesses. The county also reported that it was unsure how it would use all of its allocation at this time.

States and localities that reported having a proposed or adopted CSLFRF spending plan also reported intending to spend their allocations across multiple eligible use categories. Specifically, 22 of the 24 states and three of the four localities reported that they planned to spend some portion of their CSLFRF allocation on public health, on responding to the pandemic's economic impact, or on both. States also frequently reported investments in infrastructure, offsets to state revenue losses, and administrative costs as areas in which they planned to use their CSLFRF allocations. Two of the four localities that reported having a proposed or adopted plan reported that they did not have spending plans in place for three-quarters of their allocations.

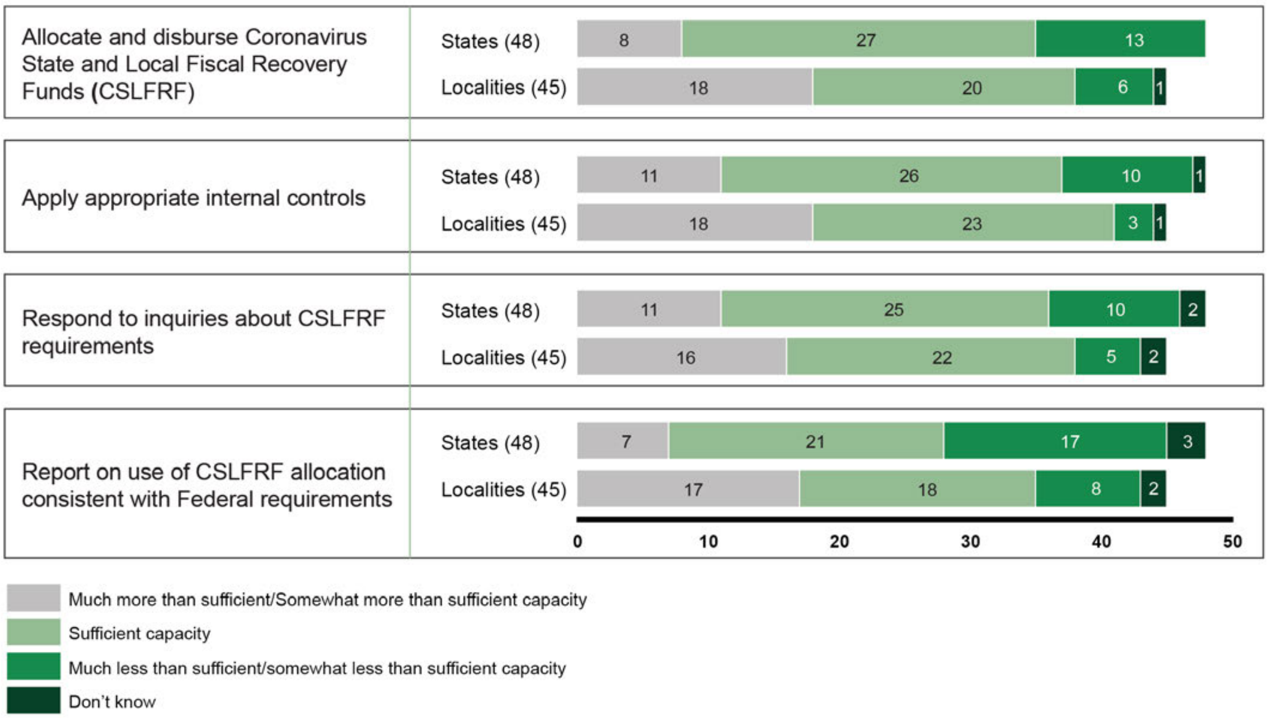
The 24 states and 41 localities that reported not having a proposed or adopted CSLFRF spending plan also reported needing to take additional steps before proposing or adopting a plan. Those steps included collecting public or stakeholder input (e.g., other levels of government or businesses) or waiting for approval from a legislative body. For example, in response to an open-ended survey question, one state official reported that the governor's emergency relief and recovery office was working with state agencies and other stakeholders (e.g., local governments and businesses) to finalize a plan before consulting with the state's executive leaders and its legislature to revise and approve it. Similarly, officials from two cities stated in response to open-ended survey questions that they needed to develop other plans for their respective cities, such as infrastructure and expenditure plans, before proposing or adopting a plan for using their CSLFRF allocations.

States' and localities' self-reported capacity for managing allocations. Most states and localities that responded to our survey reported that they had sufficient or more than sufficient capacity to manage their CSLFRF allocations in accordance with federal requirements.[510] For example, 35 of 48 states and 38 of 45 localities reported they had either sufficient or more than sufficient capacity to allocate and disburse CSLFRF funds. However, some of the states and localities that responded to our survey reported that they had insufficient capacity to manage

[510]For the purposes of this report, "capacity" refers to both the maintenance of appropriate resources and the ability to effectively manage and use those resources. In a July 2021 report, we identified several types of capacity: organizational (i.e., the degree to which an organization is institutionally prepared for grant management and implementation, including its ability to employ technology for grant oversight and reporting); human capital (i.e., the extent of sufficient staff with the knowledge and technical skills needed to effectively meet its goals and objectives); and financial (i.e., the extent of an organization's ability to meet financial responsibilities related to federal grants, such as matching requirements).

their CSLFRF allocations in accordance with federal requirements. For example, 17 of 48 states and eight of 45 localities reported that they had somewhat less than or much less than sufficient capacity to report on the use of their CSLFRF allocations consistent with federal requirements (see figure).

States' and Localities' Reported Capacity for Managing Their CSLFRF Allocations, as of July 2021



Source: GAO. | GAO-22-105051

Note: We surveyed state budget officials in all 50 states and the District of Columbia and surveyed city and county officials in a randomly selected nongeneralizable sample of 48 localities (24 metropolitan cities and 24 counties). The results of these surveys cannot be generalized to the larger population of states and localities receiving CSLFRF allocations. We administered the three surveys from July 1 through August 6, 2021. We received responses from 48 states (including the District of Columbia) and 45 localities. The data shown reflect states' and localities' responses to a survey question asking about the sufficiency of their capacity (i.e., number of staff, expertise, financial systems, and IT systems) to administer their CSLFRF allocations in accordance with federal requirements.

Forty-four of 48 states and 30 of 45 localities also reported that they had taken or planned to take one or more additional steps to help them manage their CSLFRF allocations. These states and localities most often reported that they had hired or planned to hire new staff (39 states and 13 localities)—including contractors or consultants—or had reassigned existing staff (38 states and 18 localities) to support the management of their CSLFRF allocations. For example, in response to an open-ended survey question, one state official commented that the state was adding five staff to a central office to manage CSLFRF allocations to agencies, respond to statewide inquiries, and meet the program's reporting requirements. In addition, this official stated that the state's agencies would need to add staff resources to manage their own CSLFRF responsibilities.

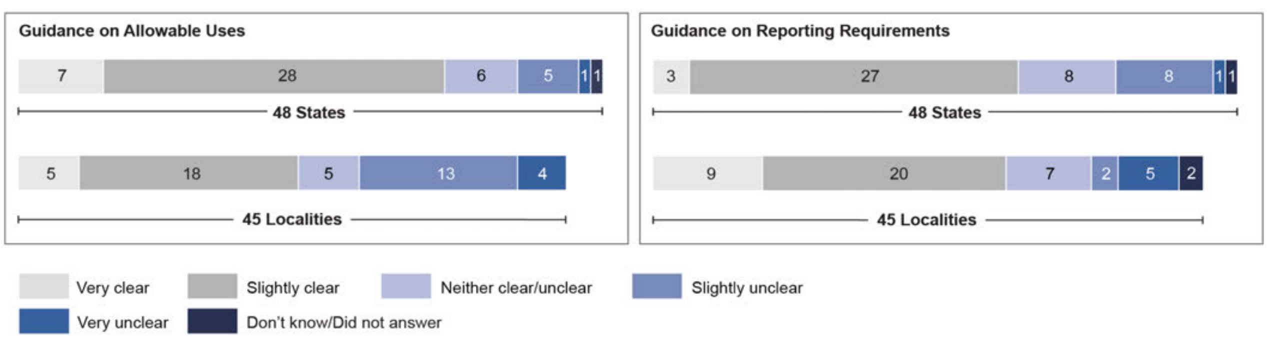
Additional steps that states and localities reported having taken or planning to take included implementing new internal controls or amending existing ones (28 states and nine localities); procuring new financial management or information technology systems (16 states and four localities); expanding fraud detection efforts (21 states and 10 localities); and creating a new entity (e.g., office or task force) to oversee CSLFRF spending (19 states and four localities). Likewise, one county official stated, in response to an open-ended survey question, that the county had created a financial recovery team and would use contracted auditors to ensure fiscal and contractual CSLFRF compliance.

Six states reported that they may face challenges in expanding staff capacity. For example, one state, responding to an open-ended survey question, stated that onboarding contract staff is a long process and is unlikely to help the state meet its staffing needs. The state is therefore relying on existing staff, who have been strained by the demands of responding to the pandemic, to manage its allocation.

Similarly, some localities expressed concern about their ability to ensure they had sufficient staff capacity for managing their CSLFRF allocations. For example, in response to open-ended survey questions, officials from three counties stated that they were concerned about their ability to maintain routine operations during periods of increased workload when fulfilling CSLFRF reporting requirements. Officials from three associations representing state and local governments told us that because of the extensive compliance and reporting requirements, smaller localities that do not regularly receive federal funding assistance may face capacity challenges when managing their CSLFRF allocations. Some of the officials said these jurisdictions generally have fewer staff and less institutional knowledge and awareness of federal processes than larger localities have, which could limit the smaller localities' ability to fully understand and comply with CSLFRF requirements.

States' and localities' perspectives on clarity of Treasury's CSLFRF guidance. Few states and localities responding to our survey indicated that Treasury's guidance on the allowable uses of CSLFRF funds and the program reporting requirements was very clear (see figure).

States' and Localities' Views on Clarity of Treasury's CSLFRF Guidance on Allowable Uses of Funds and Reporting Requirements, as of July 2021



Source: GAO. | GAO-22-105051

Note: We surveyed state budget officials in all 50 states and the District of Columbia and surveyed city and county officials in a randomly selected nongeneralizable sample of 48 localities (24 metropolitan cities and 24 counties). The results of these surveys cannot be generalized to the larger population of states and localities receiving CSLFRF allocations. We administered the three surveys from July 1 through August 6, 2021. We received responses from 48 states (including the District of Columbia) and 45 localities. The data shown reflect states' and localities' responses to two survey questions asking about the clarity of the Department of the Treasury's guidance on, respectively, the allowable uses of Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) and CSLFRF reporting requirements.

In addition, most of the states and localities that responded to our survey reported needing additional information about the allowable uses of CSLFRF funds. Most of the states and nearly half of the localities also reported needing additional information about the program's reporting requirements.

Allowable uses of CSLFRF funds. The majority of states (29 of 48) and localities (29 of 45) that responded to our survey reported needing additional information about allowable uses of CSLFRF funds. For states, examples of such information included guidance on whether incarcerated persons are considered underserved populations; guidance on the taxability of funds provided to small businesses; and guidance on water projects, such as those for irrigation, dams, and levees. Similarly, examples of information that localities reported needing included whether CSLFRF funds could be used to purchase laptops and software for remote work and emergency communication radios for emergency and safety employees.

In addition, 12 states and six localities reported that they needed additional information related to calculating revenue losses. For example, one state reported that it needed additional information about what could be considered a revenue loss. In a response to an open-ended survey question, one city official stated that the city needed clarity on how local tax increases from previous years affect the revenue replacement calculation.

Representatives of three associations representing state and local governments told us that, in response to feedback from their members, the associations had asked Treasury for additional information on the allowable uses of funds. For example, representatives of two associations said that their members were uncertain whether they could pool their CSLFRF funds with other jurisdictions to pursue regional efforts, such as behavioral health and broadband projects. In addition, in a comment submitted to Treasury about its interim final rule for implementing the CSLFRF, an association representing local governments noted that a lack of clarity on the allowable uses of the funds might hamper its members' ability to achieve an equitable economic recovery, a key goal of the program.

Treasury officials told us they intend the final rule to address recipients' questions and concerns and to provide additional information recipients need to effectively manage their allocations. They said that as of September 2021, Treasury was reviewing comments on the interim final rule. Before finalizing the rule, Treasury has taken steps to respond to recipients' questions, including those related to allowable uses, in updates to its FAQ document. For example, Treasury's FAQ document includes a six-page section devoted to questions about revenue loss. Treasury also specified in a July 2021 update that jurisdictions could pool their funds to pursue regional projects. One state reported that it had fewer questions about potential allowable uses with each FAQ update Treasury published.

CSLFRF reporting requirements. Thirty-two states and 17 localities that responded to our survey reported needing additional information about CSLFRF reporting requirements. For example, states reported that they needed to know, among other things, details about the system through which they would have to report. States cited specific information that would be helpful for meeting reporting requirements, such as a CSLFRF reporting system user guide and data dictionary, information about the data requirements (e.g., system data fields and business rules), and reporting templates for the system.

Of the 17 localities that reported needing additional information about the reporting requirements, five reported that they wanted Treasury to provide relevant training or webinars. Since mid-June 2021, Treasury has provided seven webinars on CSLFRF reporting requirements, including overviews of the relevant guidance and specific technical assistance topics (e.g., evidence-based interventions and program evaluations). Of the six localities that requested information about the reporting system, one county wanted the reporting templates, to help it set up its own reporting systems, and another county asked whether the portal would allow prime recipients to upload data files in addition to entering data manually.

Two localities responding to the survey reported that they had obtained support from associations representing state and local governments to supplement their understanding of Treasury's guidance. One association developed webinars and told us they hosted weekly calls, and another association created on-line forums where members could share ideas and concerns with other government officials.

In August 2021, after we administered our survey, Treasury issued additional guidance on CSLFRF reporting requirements.[511] This guidance includes a user guide for the reporting system, with detailed instructions for navigating the system and entering required information. Treasury also issued a template for recipients' Recovery Plan Performance Reports, which identifies information that recipients will be required to include in the reports. Treasury also plans to issue a user guide for submitting Project and Expenditure Reports.

States' and localities' concerns about single audits of CSLFRF recipients. CSLFRF recipients may be subject to single audits as required by the Single Audit Act. The act establishes requirements for states, the District of Columbia, localities, Indian tribes, U.S. territories, and nonprofit organizations that receive federal awards to undergo single audits (or, in limited circumstances, program-specific audits) of those awards annually (unless a specific exception applies) when their expenditures meet a certain dollar threshold.[512]

The Single Audit Act's Compliance Supplement provides guidance and policy for performing single audits. Specifically, the supplement includes information about the programs' objectives, procedures, and compliance requirements. Without such information, auditors would need to research compliance requirements for each program in numerous statues and regulations. Each year, the Office of Management and Budget (OMB) works with agencies over multiple months to compile this information and issues the information in the supplement. According to OMB, CSLFRF and other programs included as part of ARPA, enacted in March 2021, were not included in the 2021 Compliance Supplement, because agencies did not have sufficient time to provide OMB with the inputs required for those programs to be included in the August 2021 publication of the Compliance Supplement.

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[511] Department of the Treasury, *Treasury's Portal for Recipient Reporting: State and Local Fiscal Recovery Funds*, ver. 1.0 (Aug. 9, 2021), accessed Sept. 30, 2021, https://home.treasury.gov/system/files/136/SLFRF_Treasury-Portal-Recipient-Reporting-User-Guide.pdf.

[512] The Single Audit Act is codified, as amended, at 31 U.S.C. §§ 7501-06, and implementing Office of Management and Budget guidance is reprinted in 2 C.F.R. part 200. Nonfederal entities (states, U.S. territories, Indian tribes, local governments, or nonprofit organizations) that expend $750,000 or more in federal awards in their fiscal year are required to undergo a single audit—that is, an audit of the entity's financial statements and federal awards or a program-specific audit, in limited circumstances, for the fiscal year. 31 U.S.C. § 7502; 2 C.F.R. § 200.501.

In July 2021, we asked states and localities whether their single audits would include CSLFRF and if they needed additional guidance to complete them. Among survey respondents that expected their single audits to include CSLFRF, some expressed concern about the timeliness of the 2021 Compliance Supplement. One respondent reported that auditors are not able to adequately plan their audit procedures for CSLFRF until the Compliance Supplement is available. Respondents also expressed the need for additional guidance, such as clarification of requirements to report CSLFRF data on the Schedule of Expenditures of Federal Awards and to report non-entitlement unit distributions, revenue loss, and subrecipient monitoring.

These concerns expressed by states and localities are similar to those we previously reported. Specifically, in March 2021, we reported that auditors who conduct single audits for entities whose fiscal year ends on June 30 have expressed a need to receive the Compliance Supplement by no later than April each year to effectively plan their audits and conduct interim testing.[513] In our March 2021 report, we recommended that OMB work with federal agencies and the audit community (e.g., agencies' inspectors general; the National Association of State Auditors, Comptrollers, and Treasurers; and the American Institute of Certified Public Accountants) to incorporate measures into OMB's process for preparing single audit guidance to better ensure that such guidance is issued in a timely manner and is responsive to users' input and needs.

OMB neither agreed nor disagreed with our recommendation. Although OMB stated that it shares the draft Compliance Supplement with the grant and audit communities as part of the Compliance Supplement preparation process, OMB has not taken additional steps to ensure that the Compliance Supplement and other single audit guidance are issued in a timely manner and are responsive to users' input and needs. OMB officials stated that they believe there is currently an appropriate balance between the timeliness of issuing the annual Compliance Supplement and the consideration given to inputs and comments from federal agencies and the audit and grantee community. However, the survey respondents expressed concerns similar to the audit community's concerns that we previously reported.

In July 2021, we further recommended that OMB, in consultation with Treasury, issue timely and sufficient single audit guidance for auditing recipients' uses of CSLFRF payments. OMB neither agreed nor disagreed with our recommendation. In August 2021, OMB issued the 2021 Compliance Supplement and stated that issuance of an addendum containing CSLFRF guidance was forthcoming.

Standards for internal control in the federal government require that management identify, analyze, and respond to change—such as by providing timely guidance— as part of a risk assessment process. The lack of timely single audit guidance could prevent auditors from completing and issuing timely audit reports, which could in turn limit federal agencies' ability to ensure their awardees' appropriate use of the CSLFRF and reduce the likelihood of improper payments.

Treasury's monitoring of recipients' internal controls. In April 2021, Treasury established the Office of Recovery Programs to oversee programs authorized through the COVID-19 relief laws (primarily the CARES Act, the Consolidated Appropriations Act, 2021, and ARPA). Given Treasury's

[513]Other entities' fiscal years may end on other dates, such as March 31, September 30, or December 31.

role in administering the CSLFRF, Treasury's newly established Office of Recovery Programs has an opportunity to create a robust system of CSLFRF recipient monitoring that provides assurance that funds are expended for allowable purposes and recipients are managing their allocations in compliance with laws, regulations, agency guidance, and the awards' terms and conditions.

Treasury's current efforts to administer the CSLFRF program include developing recipient reporting guidance and, according to officials, planning the department's approach to recipient monitoring.

Developing recipient reporting guidance. Treasury's Compliance and Reporting Guidance for the CSLFRF program includes a table listing internal control best practices for recipients. These best practices relate to written policies and procedures, written standards of conduct, risk-based due diligence, risk-based compliance monitoring, and record maintenance and retention. In addition, the guidance includes requirements for recipients to report on their CSLFRF expenditures at various intervals, beginning with an interim period and followed by quarterly and annual periods. Further, the guidance notes that recipients and subrecipients will be subject to an audit under the Single Audit Act when their annual expenditures in federal awards meet a certain dollar threshold.

Planning recipient monitoring. In our interview with CSLFRF program officials in Treasury's Office of Recovery Programs, the officials stated that Treasury's procedures for monitoring of CSLFRF recipients will include recipient risk assessment, systematic review of relevant single audit reports, data collection and monitoring, risk-based and event-based compliance reviews, remediation, escalation, and recoupment. Treasury officials also indicated that single audit report findings related to eligibility will serve as a fundamental compliance control. In addition, according to the officials, Treasury plans to conduct reviews of recipients' interim, quarterly, and annual reporting data. Further, the officials said Treasury plans to assess the risk of recipient noncompliance, using information from sources such as whistleblower reports or media reports and following up as needed with reviews of selected recipients.

However, as of August 2021, Treasury's key internal processes and control activities for the timely monitoring of recipients' use of their CSLFRF allocations for allowable purposes and for responding, as appropriate, to CSLFRF internal control and compliance findings were in the development phase. According to Treasury officials, the key internal processes and control activities had not been finalized or documented. The officials noted that program development had occurred within a short timeframe since the enactment of ARPA in March 2021 and that finalizing and documenting internal processes and control activities for the new program required time and resources. Further, vacancies in top-level leadership positions in the Office of Recovery Programs have contributed to uncertainty about how the final program policies and procedures will be implemented.

Federal internal control standards state that management should design control activities to achieve objectives and respond to risks and should implement control activities through policies. As part of this process, management designs control activities in response to the entity's objectives and risks to achieve an effective internal control system. Management then documents the internal control responsibilities in policies at an appropriate level of detail to allow management to effectively monitor the control activity.

Until Treasury properly designs and documents policies and procedures to guide CSLFRF program officials and other responsible oversight parties in the Office of Recovery Programs, there is a risk that key control activities needed to help ensure program management fulfills its recipient monitoring and oversight responsibilities may not be established or applied effectively and consistently. This risk may be particularly acute with respect to monitoring state and local recipients with insufficient capacity to manage their CSLFRF allocations in accordance with federal requirements, as some survey recipients noted. Given that Treasury had distributed approximately $240 billion of the CSLFRF as of August 31, 2021, it is important that sufficient policies and procedures be developed and implemented expeditiously to prevent potentially unallowable uses of CSLFRF by recipients from going undetected and uncorrected.

Methodology

To conduct this work, we surveyed budget officials in the 50 states and the District of Columbia.[514] We also sent surveys to city and county officials in a randomly selected nongeneralizable sample of 48 localities (24 metropolitan cities and 24 counties).[515] We generated our sample of cities and counties by using Treasury data on localities that had received at least some of their CSLFRF allocations as of June 17, 2021. We then grouped the data on the basis of small, medium, and high allocation amounts. We also used the U.S. Census Bureau's division of regions to achieve geographic diversity across four regions. The sampled localities included entities within each of the 24 strata formed by the combination of allocation amounts, region, and type of locality (city or county).

The results of the three surveys cannot be generalized to the larger population of states and localities receiving funding, including to non-entitlement units of local government or to other recipients of CSLFRF allocations (i.e., territories and tribal governments). However, the survey results provide useful information about respondents' planned use and management of state and local CSLFRF allocations, self-reported capacity to manage allocations, and perceptions of the clarity of Treasury's CSLFRF guidance on allowable uses of funds and reporting requirements.

We asked state, city, and county officials to respond to each question from the perspective of their state, city, or county as a whole. We did not independently verify whether officials sought input from other state, city, or county offices when completing the survey. The survey questions were designed to obtain state, city, and county officials' perspectives on their state's, city's, or county's planned use and management of its CSLFRF allocations at the time the officials were completing the survey. Each of the three surveys also included questions to obtain officials' perspectives regarding the clarity of Treasury's CSLFRF guidance on allowable uses and reporting requirements at the time they completed the survey.

We administered the surveys from July 1, 2021, through August 6, 2021. We pretested a draft of the surveys with officials in two states, one city, and one county to help ensure that the questions were understandable and answerable. We received responses from 48 states, including the

[514]For the purposes of the CSLFRF, ARPA establishes that the District of Columbia is considered a state. 42 U.S.C. § 802(g)(5). Therefore, in discussing survey responses, we use "states" to refer to the 50 states and the District of Columbia.

[515]We did not include non-entitlement units of local government in our sample.

District of Columbia; 22 cities; and 23 counties. We assessed data reliability by checking for missing values and survey response errors and followed up with officials on survey responses as appropriate. After completing these checks, we determined that the final survey data were sufficiently reliable for the purpose of obtaining states' and selected counties' and cities' perspectives on their planned use and management of their CSLFRF allocations and the clarity of Treasury's CSLFRF guidance on allowable uses and reporting requirements.

In addition, we interviewed a nongeneralizable sample of officials from five associations representing state and local governments to obtain their perspectives on the CSLFRF program. Furthermore, we reviewed federal laws and Treasury guidance, interviewed Treasury officials, and collected Treasury's written responses to questions that we posed.

Agency Comments

We provided a draft of this report to Treasury and OMB for review and comment.

Treasury provided written comments, which are reproduced in appendix IX. Treasury agreed with our recommendation in this enclosure and stated that it is in the process of designing, documenting, and implementing a risk-based compliance program to monitor recipient use of CSLFRF program funds. Treasury also provided technical comments, which we integrated as appropriate.

OMB did not provide comments on this enclosure.

GAO's Ongoing Work

We currently have multiple ongoing or planned reviews of the funding that federal COVID-19 relief laws appropriated for agencies across the federal government to provide payments to states, the District of Columbia, localities, territories, and tribal governments for responding to, and recovering from, the COVID-19 pandemic. Our work on the CSLFRF, in particular, is ongoing. We will continue to review the extent to which federal agencies provide effective guidance to help recipients achieve accountability and transparency for their use of payments. We also plan to examine how CSLFRF recipients spend their payments, address challenges they face in managing the funds, and evaluate outcomes of their funded projects.

We will continue to monitor OMB and Treasury's efforts to provide CSLFRF guidance, and we will work with the audit community to determine whether concerns previously expressed have been addressed by the 2021 Compliance Supplement. We will also continue to monitor the status of our open recommendations.

GAO's Prior Recommendations

The table below presents our recommendations on single audits from prior bimonthly and quarterly CARES Act reports.

Prior GAO Recommendations Related to Single Audits

Recommendation	Status
The Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury, should issue timely and sufficient single audit guidance for auditing recipients' uses of payments from the Coronavirus State and Local Fiscal Recovery Funds. (July 2021 report).	**Open—not addressed.** OMB neither agreed nor disagreed with our recommendation. OMB officials stated that OMB is working with Treasury to prepare audit guidance for the Coronavirus State and Local Fiscal Recovery Funds and has already shared a draft document with interested grant and audit stakeholders for inputs and comments. OMB will issue the final audit guidance for the Coronavirus State and Local Fiscal Recovery Funds as an addendum to the 2021 Compliance Supplement, but did not provide a planned issuance date. We will continue to monitor the actions OMB takes in response to our recommendation.
The Director of the Office of Management and Budget (OMB) should work in consultation with federal agencies and the audit community (e.g., agency Offices of Inspector General; National Association of State Auditors, Comptrollers, and Treasurers; and American Institute of Certified Public Accountants), to the extent practicable, to incorporate appropriate measures in OMB's process for preparing single audit guidance, including the annual Single Audit Compliance Supplement, to better ensure that such guidance is issued in a timely manner and is responsive to users' input and needs (March 2021 report).	**Open—partially addressed.** OMB neither agreed nor disagreed with our recommendation. In response to this report, OMB stated that it is actively working, to the extent practicable, to update processes to better ensure that the single audit guidance is issued in a timely manner and is responsive to users' input and needs. For example, in the preparation and publication of the 2021 Compliance Supplement, OMB shared the draft audit guidance to both the grant and audit communities for inputs and comments. OMB also worked with agencies to address the technical comments and make necessary edits on specific programs that are reflected in the final Compliance Supplement. For comments on the general sections, OMB provided the responses through the federal notice. However, the audit community continues to express concerns with the process and provided a detailed description of such concerns in written feedback in late August. In addition, as we previously reported, auditors who conduct single audits for entities with June 30 year-ends have expressed a need to obtain the Compliance Supplement by no later than April of each year in order to effectively plan their audits and conduct interim testing. The 2021 Compliance Supplement was not issued until August 2021 and lacked guidance for several ARPA programs. OMB officials stated in August 2021 that they were working with agencies to prepare audit guidance for ARPA programs as an addendum to the 2021 Compliance Supplement, but they did not provide a planned issuance date. We met again with OMB and the audit community in September 2021 to further discuss the audit community's concerns and the additional single audit guidance needed. We will continue to monitor the actions OMB takes in response to our recommendation.

Source: GAO. I GAO-22-105051

Related GAO Products

COVID-19: Continued Attention Needed to Enhance Federal Preparedness, Response, Service Delivery, and Program Integrity. GAO-21-551. Washington, D.C.: July 19, 2021.

State and Local Governments: Fiscal Conditions During the COVID-19 Pandemic in Selected States. GAO-21-562. Washington, D.C.: July 15, 2021.

COVID-19: Sustained Federal Action Is Crucial as Pandemic Enters Its Second Year. GAO-21-387. Washington, D.C.: March 31, 2021.

COVID-19: Federal Efforts Could Be Strengthened by Timely and Concerted Actions. GAO-20-701. Washington, D.C.: September 21, 2020.

COVID-19: Opportunities to Improve Federal Response and Recovery Efforts. GAO-20-625. Washington, D.C.: June 25, 2020.

Standards for Internal Control in the Federal Government. GAO-14-704G. Washington, D.C.: September 2014.

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Federal Contracts and Agreements for COVID-19

As of September 30, 2021, federal agencies continued to obligate billions of dollars monthly in support of COVID-19 response efforts through contracts and other transaction agreements, with drugs and treatments continuing to be the predominant type of good and service procured.

Entities involved: U.S. Department of Agriculture; Department of Defense; Department of Health and Human Services; and Department of Homeland Security, among others

Background

Federal agencies have used a variety of contracting mechanisms to provide vital goods and services in support of federal, state, and local COVID-19 response efforts.[516] For example, federal agencies have reported billions of dollars in obligations on contracts subject to the Federal Acquisition Regulation—which provides uniform policies and procedures for acquisitions by all executive agencies.[517] Our prior work on disaster contracting has found that contracts play a key role in federal emergency response efforts, and that contracting during an emergency can present a unique set of challenges as officials can face significant pressure to provide critical goods and services as expeditiously and efficiently as possible. The January 2021 *National Strategy for the COVID-19 Response and Pandemic Preparedness* emphasizes the important role contracts will continue to play during the response. The strategy states that the federal government will fully leverage contract authorities to strengthen the vaccine supply chain; staff vaccination sites; and fill supply shortages for personal protective equipment, drugs, and therapeutics.

In addition, federal agencies like the Department of Defense (DOD) and Department of Health and Human Services (HHS) have relied on the use of other transaction agreements—which are not subject to the Federal Acquisition Regulation—for activities such as vaccine development and manufacturing in response to COVID-19.[518] Our prior work has noted that the flexibility to tailor other transaction agreements can help agencies attract companies that do not typically do business with the government. However, their use also carries a risk of reduced accountability and transparency. The CARES Act relaxed certain requirements on the use of other transaction agreements in response to COVID-19 for HHS and DOD—for example, related to congressional reporting and who can approve certain transactions.[519]

As federal contracting activity through contracts and agreements continues to play a critical role in response to the pandemic, it is important to ensure that the use of these contracts and

[516]The CARES Act includes a provision for GAO to provide a comprehensive audit and review of federal contracting pursuant to the authorities provided in the Act. In addition to specific contracting reviews, we have reported on federal contracting in response to the pandemic as part of regularly issued government-wide reports on the federal response to COVID-19.

[517]For the purposes of this report, "contract obligations" refers to obligations on procurement contracts that are subject to the Federal Acquisition Regulation and does not include, for example, grants, cooperative agreements, loans, other transactions for research, real property leases, or requisitions from federal stock.

[518]Other transaction authorities allow certain agencies to enter into agreements "other than" standard government contracts or other traditional mechanisms. Agreements under these authorities are generally not subject to federal laws and regulations applicable to federal contracts or financial assistance, allowing agencies to customize their other transaction agreements to help meet project requirements and mission needs.

[519]Pub. L. No. 116-136, §§ 3301, 13006, 134 Stat. 281, 383, 522 (2020).

agreements in response to COVID-19 are accurately reported and visible to congressional decision makers, entities with oversight responsibilities, and taxpayers. National Interest Action (NIA) codes were established in 2005 following Hurricane Katrina to enable the consistent tracking of emergency or contingency-related contracting actions in the Federal Procurement Data System (FPDS).[520] The COVID-19 NIA code was established on March 13, 2020, to track contract actions and associated obligations in response to the pandemic in FPDS. The Department of Homeland Security (DHS) and DOD have subsequently extended the code four times—generally in 6-month increments, and most recently until March 30, 2022.[521]

Overview of Key Issues

Agencies obligated $86.9 billion on federal contracts, with DOD and HHS accounting for three-quarters of obligations as of September 30, 2021. At the beginning of the response, HHS accounted for the most federal contract obligations. However, as the response has progressed, DOD's contract obligations surpassed HHS's. The increase in DOD's contract obligations is due, in part, to DOD's support of interagency acquisition needs, which has included awarding contracts on behalf of HHS for vaccine and therapeutic production and medical supplies.

As of September 30, 2021, DOD accounted for about 51 percent and HHS for about 24 percent of the total obligations made by federal agencies in response to the COVID-19 pandemic. U.S. Department of Agriculture (USDA) obligations, almost all of which were in support of the Farmers to Families Food Box Program, accounted for $6.2 billion, or 7 percent of total obligations made in response to COVID-19 (see figure).[522]

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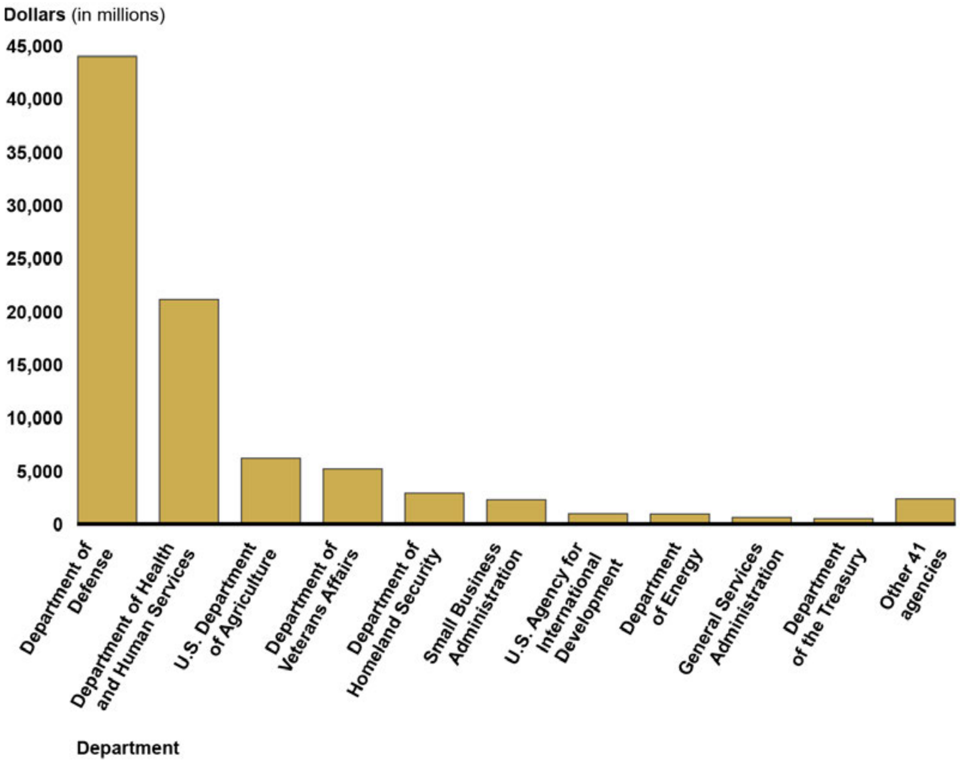
[520]The memorandum of agreement guiding the use of NIA codes does not address tracking of other transaction agreements. Our prior work has identified challenges with how the Departments of Defense, Health and Human Services, and Homeland Security tracked other transaction agreements in response to COVID-19. Our recommendations related to these findings are detailed later in this enclosure.

[521]According to the memorandum of agreement guiding the management of the NIA code, DHS and DOD are responsible for making determinations about whether to establish or close a code, based on a variety of considerations. The General Services Administration (GSA)—the agency that operates and maintains FPDS—is responsible for adding or updating the NIA code in the system based on DHS's and DOD's decisions. The extensions of the code are consistent with our prior recommendations to DHS, DOD, and GSA related to the importance of ensuring federal agencies, the public, and Congress have visibility into contract actions and associated obligations related to emergency response efforts.

[522]In May 2020, USDA implemented the Farmers to Families Food Box Program to assist commodity suppliers impacted by the pandemic and to provide food assistance to the public. To accomplish these goals, USDA contracted with hundreds of distributors to purchase billions of dollars in fresh fruits, vegetables, dairy, and meat products, and package these products into family-sized food boxes for delivery to food banks, community and faith-based organizations, and other non-profit entities across the country. USDA ended the Farmers to Families Food Box Program on May 31, 2021, but has reported it would use pandemic assistance funding to purchase fresh produce to be offered in boxes to those in need through the Emergency Food Assistance Program (TEFAP), administered by Food and Nutrition Service.

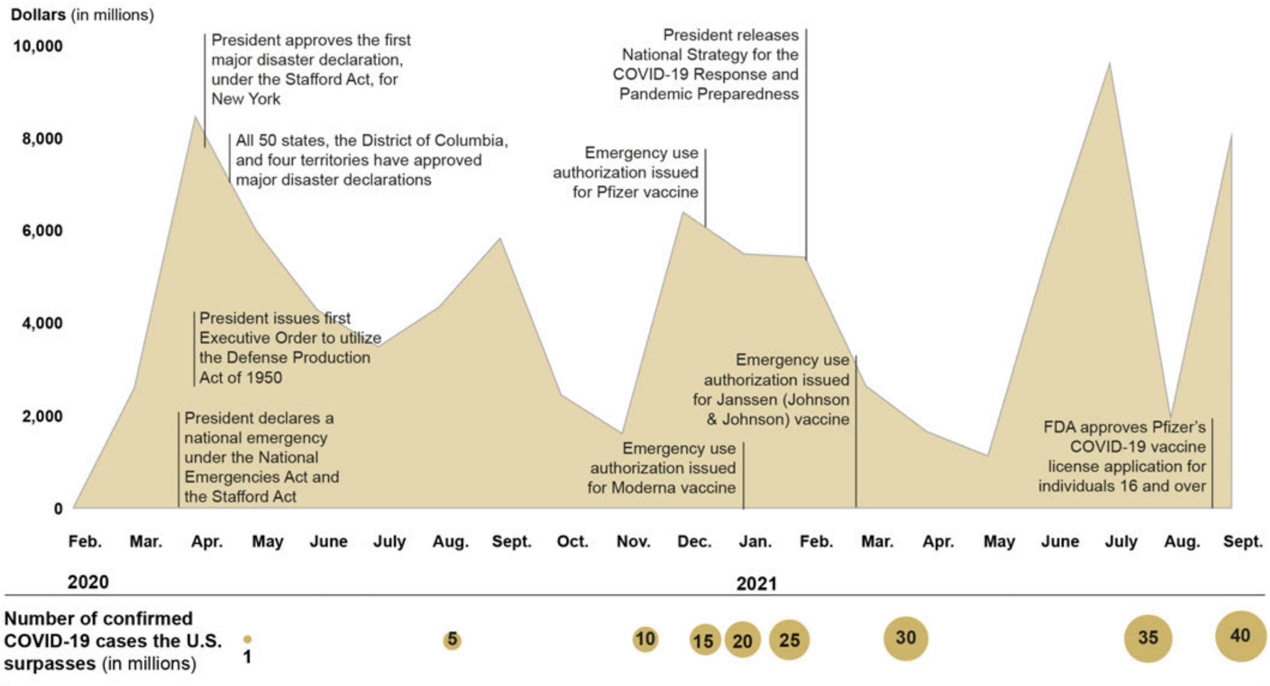
Contract Obligations in Response to COVID-19 by Federal Agency, as of September 30, 2021



Source: GAO analysis of Federal Procurement Data System data. | GAO-22-105051

In our July 2021 report, we reported that government-wide contract obligations related to COVID-19 totaled $61.4 billion through May 31, 2021; by September 30, 2021, those obligations had increased by about $25.5 billion—to $86.9 billion. DOD accounted for about $19.6 billion, or about 77 percent of the increase in total contract obligations since May 31, 2021. See figure for government-wide obligations and confirmed COVID-19 cases by month.

Government-wide COVID-19-Related Contract Obligations and Confirmed COVID-19 Cases by Month, Feb. 2020–Sept. 2021



Source: GAO analysis of Federal Procurement Data System data. | GAO-22-105051

Types of goods and services purchased and competition rate changed over the course of the pandemic. As the response to the pandemic has progressed, the types of goods and services purchased have shifted from primarily medical equipment and supplies—such as ventilators and personal protective equipment—to drugs and treatments, such as COVID-19 vaccines and therapeutics.

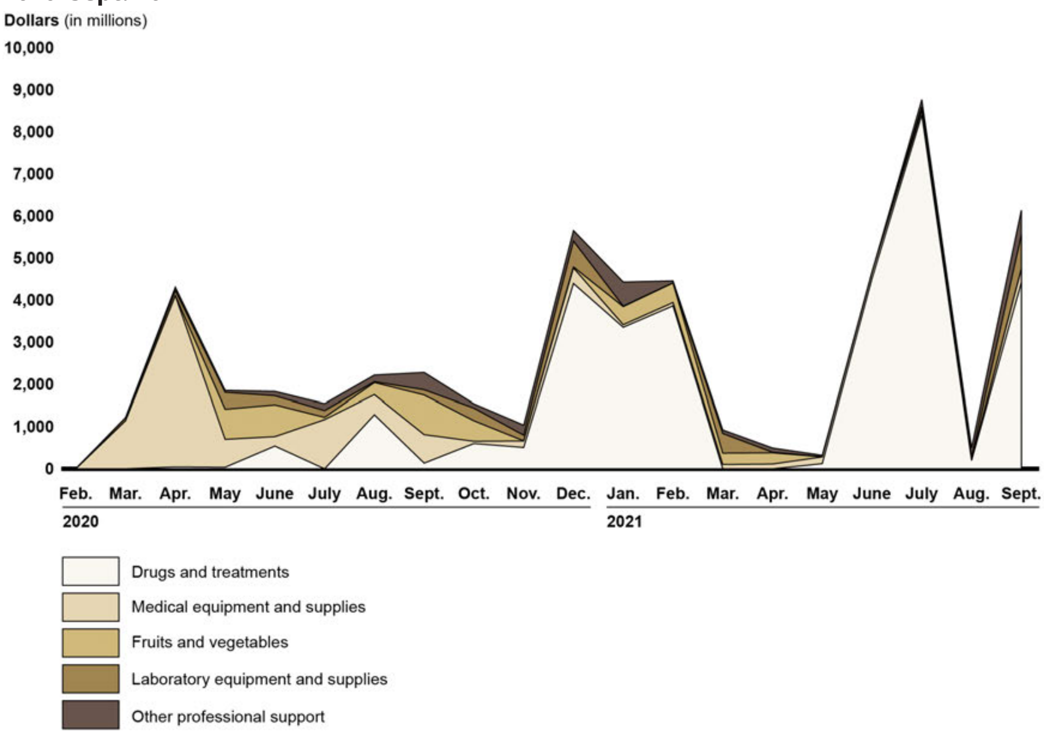
- We reported in July 2021 that drugs and treatments were the largest area of government-wide obligations and that remains the case. This area accounted for 37 percent of total obligations. These obligations increased about tenfold from $3 billion as of November 2020, prior to the Food and Drug Administration's emergency use authorizations for the Pfizer, Moderna, and Janssen vaccines, to about $31.9 billion as of September 30, 2021.[523] Obligations for drugs and treatments increased by $17.6 billion from May 31, 2021, to September 30, 2021, with over 50 percent, or $9.3 billion, of the increase due to the purchase of additional COVID-19 vaccines from Pfizer to support booster shots, pediatric vaccinations, and international vaccine donations. An additional $4.1 billion of the increase was for the purchase of therapeutics to treat COVID-19 from Regeneron and Merck, and $3.3 billion of the increase was for additional doses of COVID-19 vaccines from Moderna.

[523]Emergency use authorizations allow for the temporary use of unapproved medical products. Janssen Pharmaceutical Companies are a part of Johnson & Johnson.

- Medical equipment and supplies—including personal protective equipment like nitrile gloves—increased by about $708.1 million since May 31, 2021, and accounted for about $10.1 billion, or 12 percent of government-wide contract obligations as of September 30, 2021.
- Obligations for laboratory equipment and supplies—including COVID-19 test kits—increased by an additional $965.7 million since May 31, 2021, to $3.6 billion as of September 30, 2021.

See figure for obligation amounts for the most-procured goods and services over time.

Contract Obligation Amounts for Top Five Goods and Services Procured in Response to COVID-19 by month, Feb. 2020–Sept. 2021



Source: GAO analysis of Federal Procurement Data System data. | GAO-22-105051

Note: In addition to what is reflected in the figure, agencies canceled, or deobligated, $176.5 million and $335.1 million for drugs and treatments in July 2020 and April 2021, respectively.

As of September 30, 2021, COVID-19-related contracts for goods continued to be competed less frequently than contracts for services. About 74 percent of the obligations for goods were on contracts that were not awarded competitively, compared with about 40 percent of the obligations for services. For example, about $29.6 billion, or 93 percent, of the $31.9 billion in obligations for drugs and treatments and about $8.2 billion, or 82 percent, of the $10.1 billion in obligations for medical and surgical equipment were on contracts awarded noncompetitively.

Since our July 2021 report, the proportion of COVID-19 related contracts identified as having been awarded noncompetitively increased from 58 percent as of May 31, 2021, to 62 percent as of September 30, 2021—about $54.3 billion.[524] Throughout the course of the pandemic, the percentage of obligations on these noncompetitive contracts has fluctuated from a low of 25 percent of obligations in February 2020 to a high of 94 percent of obligations in July 2021. The higher rate of obligations on noncompetitively awarded contracts was driven in part by large noncompetitive awards for vaccine production.

Agencies must provide for full and open competition when awarding contracts, unless one of several limited exceptions applies, such as when there is an unusual and compelling urgency for a needed supply or service. Agencies cited an urgent need for awarding contracts noncompetitively for about 84 percent, or about $45.8 billion, of the contract obligations associated with noncompetitive awards.[525]

Federal agencies' use of undefinitized contracts increased. Undefinitized contracts are one technique that agencies have reported using to respond to COVID-19. Undefinitized contracts can enable the government to quickly fulfill requirements that are urgent or need to be met quickly by allowing contractors to begin work before reaching a final agreement with the government on all contract terms and conditions.[526] Since May 31, 2021, undefinitized contract obligations for COVID-19 have increased from about $5 billion to about $5.5 billion as of September 30, 2021, totaling about 8 percent of government-wide obligations on contracts awarded in response to COVID-19. This increase was driven in part by undefinitized contracts made by HHS for vaccine kit services to support booster shots and pediatric vaccinations.

DOD continued to report the highest amount of undefinitized contract obligations, identifying about $4.2 billion, or about 10 percent of its overall COVID-19-related contract obligations as being on undefinitized contracts. DOD's use of undefinitized contracts included the procurement of goods and services such as N95 respirator production and constructing alternate care facilities to treat COVID-19 patients. Our prior work has shown that, while undefinitized contract actions can allow the government to fulfill requirements that are urgent or need to be met quickly, these types of contracts can pose risks to the government. For example, contractors may lack incentives to control costs before all contract terms and conditions are defined.[527]

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[524]Our methodology for identifying noncompetitive contracts is explained in detail at the end of this enclosure.

[525]For the purposes of this report, obligations on contracts identified as using the unusual and compelling urgency exception include those associated with contracts subject to Federal Acquisition Regulation 6.302-2, as well as orders under multiple award contracts, which are subject to separate requirements under Federal Acquisition Regulation subpart 16.5. Specifically, under Federal Acquisition Regulation 16.505(b)(2), orders on multiple award contracts require contracting officers to give every awardee a fair opportunity to be considered for a delivery order or task order exceeding $3,500, with exceptions, including if the agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays. When using the unusual and compelling urgency exception to full and open competition, agencies still must request offers from as many potential sources as is practicable under the circumstances.

[526]Undefinitized contracts include letter contracts, as well as other undefinitized actions. Letter contracts are a preliminary contract that authorizes the contractor to begin work immediately, and undefinitized contract actions include any contract action for which the contract terms, specifications, or price are not agreed upon before performance has begun under the action. Federal Acquisition Regulation 16.603 and Defense Federal Acquisition Regulation Supplement 217.74.

[527]We reviewed the agencies' use of undefinitized contracts in response to COVID-19 in July 2021, including the use of CARES Act flexibilities for such contracts.

Use of other transaction agreements has stabilized, but transparency of certain awards could be improved. In addition to contract obligations, DOD, HHS, and DHS have reported using other transaction agreements in response to COVID-19, with obligations on these agreements remaining about the same as we reported in July 2021, at $12.5 billion.[528] In July 2021, we found that about $12 billion of the $12.5 billion, or about 96 percent, was used for vaccine development and manufacturing; medical research and development, such as COVID-19 rapid test kits; and applied defense research and development, such as COVID-19 therapeutics.

In July 2021, we also found that agencies did not use a systematic approach to consistently and accurately track other transaction agreements awarded in response to COVID-19 and the associated dollars obligated. Specifically, HHS, DOD, and DHS reported obligating $10.9 billion on COVID-19 other transaction agreements in FPDS. However, our analysis of FPDS data, agency data, and agreement documents found these agencies obligated at least $12.5 billion—a $1.6 billion difference.[529] In addition to this $1.6 billion, HHS's National Institutes of Health officials told us that as of August 2021, they had obligated about $560 million on COVID-19 agreements, which were not reported in FPDS.[530] Officials told us that while they do not report their use of agreements to FPDS (as they are not required to do so by statute or policy), they began reporting these agreements in a database used by HHS to track grant awards in May 2021.[531]

Methodology

To identify agencies' federal contract and other transaction agreement obligations and competition rate on contracts in response to COVID-19, we reviewed data reported in FPDS through September 30, 2021.[532] We primarily identified contract obligations related to COVID-19

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[528]Our July 2021 report on COVID-19 other transaction agreements analyzed data as of March 14, 2021.

[529]HHS was responsible for a majority of the $1.6 billion in inaccurate reporting. We previously found in January 2021 that HHS misreported its COVID-19 agreements as procurement contracts because it reports agreements into the procurement module of FPDS. In our January 2021 report, we recommended that HHS should accurately report data in the federal procurement database system and provide information that would allow the public to distinguish between spending on other transaction agreements and procurement contracts. HHS agreed with our recommendation and is taking steps to address it.

[530]We did not include the $560 million in our FPDS data analysis.

[531]We recommended that HHS, DOD, and DHS—in coordination with other agencies responsible for a government-wide initiative intended to improve federal contracting systems—consider prioritizing the development and implementation of a systematic approach to consistently and accurately track other transaction agreements used for national interest events, such as the COVID-19 pandemic, and the associated dollars obligated. HHS and DOD agreed and partially agreed, and are exploring options that would address the recommendations. DHS disagreed and stated it is required to report only certain agreements to FPDS—none of which were COVID-19 related—and that COVID-19 agreements that had been inaccurately reported were not required to be reported. DHS also noted that it tracks its agreements internally, including those that are COVID-19 related. However, the primary purpose of our recommendation was to increase accuracy and transparency for the public to better understand the use of agreements and dollars obligated, regardless of what is required to be reported.

[532]FPDS data from SAM.gov accessed through September 30, 2021. For purposes of this report, "competition rate" is the percentage of total obligations associated with contracts awarded competitively. We calculated competition rates as the percentages of obligations on competitive contracts and orders over all obligations on contracts and orders. Competitive contracts included contracts and orders coded in the FPDS as "full and open competition," "full and open after exclusion of sources," and "competed under simplified acquisition procedures" as well as orders coded as "subject to fair opportunity," "fair opportunity given," and "competitive set aside." Noncompetitive contracts included contracts

using the NIA code. We supplemented the use of the NIA code by searching for “COVID-19” and “coronavirus” in the contract description field to identify a limited number of additional contract obligations.[533] For contract actions over $1 million, we removed obligations that were identified in the contract description as not related to COVID-19.

We assessed the reliability of federal procurement data by reviewing existing information about FPDS and the data it collects—specifically, the data dictionary and data validation rules—and by performing electronic testing. For the other transaction agreements that HHS misreported as contracts, we removed the $1.6 billion associated obligations from our reported contract obligations and reported them instead as other transaction agreement obligations. We supplemented our FPDS analysis with analysis of agency-provided data and interviews with agency officials. We determined that the data were sufficiently reliable for the purposes of describing agencies’ reported contract obligations in response to COVID-19.

Agency Comments

We provided HHS, DOD, DHS, the U.S. Department of Agriculture (USDA), and the Office of Management and Budget with a draft of this enclosure. HHS, DOD, USDA, and the Office of Management and Budget did not provide comments. DHS provided technical comments, which we incorporated as appropriate.

GAO’s Ongoing Work

We have work underway related to DOD’s use of advance and progress payments during the response to COVID-19.

GAO’s Prior Recommendations

The table below presents our recommendations on federal contracts and agreements for COVID-19 from prior bimonthly and quarterly CARES Act reports.

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and orders coded in the FPDS as “not competed,” “not available for competition,” and “not competed under simplified acquisition procedures,” as well as orders coded as an exception to “subject to fair opportunity,” including “urgency,” “only one source,” “minimum guarantee,” “follow-on action following competitive initial action,” “other statutory authority,” and “sole source.” Even for contracts identified as noncompetitive, agencies may have solicited more than one source.

[533] In November 2019 we identified some inconsistencies in the information agencies report in the contract description field in the FPDS. Data on DOD contract obligations based on information in the description field were available only through July 1, 2021, due to differences in the time frames for which DOD data are made publicly available.

Prior GAO Recommendations Related to Federal Contracts and Agreements for COVID-19	
Recommendation	**Status**
The Secretary of Agriculture should direct the Administrator of the Agricultural Marketing Service to issue guidance—such as an acquisition alert or a reminder to contracting officials—on the use of the COVID-19 National Interest Action code for the Farmers to Families Food Box Program or successor food distribution program to ensure it accurately captures COVID-19-related contract obligations in support of the program (March 2021 report).	**Closed-Implemented.** The U.S. Department of Agriculture (USDA) neither agreed nor disagreed with our recommendation. In February 2021, following our identification of contract data reporting challenges using the COVID-19 National Interest Action code for the Farmers to Families Food Box Program, Agricultural Marketing Service officials said they conducted training with staff to review National Interest Action code data entry protocols. At that time, a senior Agricultural Marketing Service official also sent an email reminder to procurement division personnel about OMB's guidance on the use of the COVID-19 National Interest Action code. Following this training and email, officials took action to retroactively report contract actions for the program with the National Interest Action code. In May 2021, the Agricultural Marketing Service updated its instructions for entering contract actions into the Federal Procurement Data System to include a reminder to utilize the proper National Interest Action code, if applicable.
The Secretary of Agriculture should direct the Administrator of the Agricultural Marketing Service to assess the contracting personnel needed to fully execute the award and administration of existing contracts in support of the Farmers to Families Food Box Program or successor future food distribution program, and take the necessary steps to ensure it has adequate contracting staff in place to award and administer any future contracts for the program (March 2021 report).	**Open-Partially Addressed.** USDA neither agreed nor disagreed with our recommendation, and as of September 2021 had not fully assessed the contracting personnel needed to execute and administer contracts in support of the Farmers to Families Food Box Program or successor food distribution program. According to Agricultural Marketing Service officials, they have discontinued the program, and are using other methods of hunger relief, so they do not anticipate needing additional permanent staff. Agricultural Marketing Service officials are planning to use an existing contract vehicle to obtain additional staff support for contract documentation needs for the awards that have been made under the Farmers to Families Food Box Program and other food purchasing efforts. Agricultural Marketing Service officials have prepared a statement of work for the contract support services needed, which includes information on the number of Farmers to Families Food Box program contracts needing support services and other tasks. Agricultural Marketing Service officials expect interested vendors to submit staffing plans identifying the number of staff needed to accomplish the work under the contract, and to award the contract by the end of calendar year 2021.
The Assistant Secretary for Preparedness and Response (ASPR), in coordination with the appropriate offices within the Department of Health and Human Services (HHS), should accurately report data in the federal procurement database system and provide information that would allow the public	**Open-Partially Addressed.** ASPR agreed with our recommendation, and as of April 2021, ASPR officials stated that they have discussed within ASPR the need to consistently identify other transaction agreements in the Federal Procurement Data System (FPDS) and explored how their contract writing system may

Recommendation	Status
to distinguish between spending on other transaction agreements and procurement contracts (January 2021 report).	interface with the FPDS other transaction agreement module in the future. In August 2021, ASPR officials added that in the meantime, they have issued guidance to their contracting teams to manually track other transaction agreements in their contract writing system. We will continue to monitor ASPR's efforts to implement our recommendation.
The Secretary of Homeland Security, in coordination with the Secretary of Defense, should (1) revise the criteria in the 2019 National Interest Action (NIA) code memorandum of agreement to clearly identify steps they will take to obtain input from key federal agencies prior to extending or closing a National Interest Action code, (2) establish timelines for evaluating the need to extend a National Interest Action code, and (3) define what constitutes a consistent decrease in contract actions and routine contract activity to ensure the criteria for extending or closing the National Interest Action code reflect government-wide needs for tracking contract actions in longer term emergencies, such as a pandemic (September 2020 report).	**Closed-Implemented.** The Department of Homeland Security (DHS) did not agree with our recommendation. However, in March 2021, DHS, in coordination with the Department of Defense (DOD), issued a revised memorandum of agreement. The revised agreement establishes a process and timelines for communicating and evaluating NIA code extensions by requiring the General Services Administration to notify other federal agencies no less than seven days before a NIA code is set to expire so that agencies can request an extension as needed. The revised agreement also more clearly defines what constitutes a consistent decrease in contract actions to ensure criteria for extending or closing a NIA code is consistently applied.
The Secretary of Defense, in coordination with the Secretary of Homeland Security, should (1) revise the criteria in the 2019 National Interest Action code memorandum of agreement to clearly identify steps they will take to obtain input from key federal agencies prior to extending or closing a National Interest Action code, (2) establish timelines for evaluating the need to extend a National Interest Action code, and (3) define what constitutes a consistent decrease in contract actions and routine contract activity to ensure the criteria for extending or closing the National Interest Action code reflect government-wide needs for tracking contract actions in longer term emergencies, such as a pandemic (September 2020 report).	**Closed-Implemented.** DOD did not agree with our recommendation. However, in March 2021 DOD, in coordination with DHS, issued a revised memorandum of agreement. The revised agreement establishes a process and timelines for communicating and evaluating NIA code extensions by requiring the General Services Administration to notify other federal agencies no less than seven days before a NIA code is set to expire so that agencies can request an extension as needed. The revised agreement also more clearly defines what constitutes a consistent decrease in contract actions to ensure criteria for extending or closing a NIA code is consistently applied.

Source: GAO. I GAO-22-105051

Related GAO Products

COVID-19 Contracting: Actions Needed to Enhance Transparency and Oversight of Selected Awards. GAO-21-501. Washington, D.C.: July 26, 2021.

COVID-19 Contracting: Observations on Federal Contracting in Response to the Pandemic. GAO-20-632. Washington, D.C.: July 29, 2020.

Defense Acquisitions: DOD's Use of Other Transactions for Prototype Projects Has Increased. GAO-20-84. Washington, D.C.: November 22, 2019.

DATA Act: Quality of Data Submissions Has Improved but Further Action Is Needed to Disclose Known Data Limitations. GAO-20-75. Washington, D.C.: November 8, 2019.

Disaster Contracting: FEMA Continues to Face Challenges with Its Use of Contracts to Support Response and Recovery. GAO-19-518T. Washington, D.C.: May 9, 2019.

2017 Disaster Contracting: Actions Needed to Improve the Use of Post-Disaster Contracts to Support Response and Recovery. GAO-19-281. Washington, D.C.: April 24, 2019.

2017 Disaster Contracting: Action Needed to Better Ensure More Effective Use and Management of Advance Contracts. GAO-19-93. Washington, D.C.: December 6, 2018.

Department of Homeland Security: Further Action Needed to Improve Management of Special Acquisition Authority. GAO-12-557. Washington, D.C.: May 8, 2012.

Defense Contracting: DOD Has Enhanced Insight into Undefinitized Contract Action Use, but Management at Local Commands Needs Improvement. GAO-10-299. Washington, D.C.: January 28, 2010.

Department of Homeland Security: Improvements Could Further Enhance Ability to Acquire Innovative Technologies Using Other Transaction Authority. GAO-08-1088. Washington, D.C.: September 23, 2008.

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Vaccines Provided Abroad

COVID-19 Vaccines Global Access, known as COVAX—a key U.S.-supported initiative to provide vaccines abroad—has exceeded its fundraising target but, because of supply limitations and other challenges, is not projected to reach its goal of delivering 2 billion doses in 2021. COVAX now expects to achieve this goal in early 2022.

Entities involved: Coalition for Epidemic Preparedness Innovations; Gavi, the Vaccine Alliance; World Health Organization; United Nations Children's Fund; Department of Health and Human Services; Department of State; and U.S. Agency for International Development

Background

Providing safe and effective vaccines to protect people from COVID-19 is crucial to mitigating the public health and economic impacts of the virus and to ending the pandemic.[534] In addition to limiting cases and deaths, slowing transmission of COVID-19 through vaccination is critical to deterring the emergence of new virus variants. By contrast, uncontrolled transmission anywhere in the world increases the risk of variants that can evade current vaccines, diagnostics, and therapeutics, thereby prolonging the pandemic globally and endangering the fragile U.S. recovery. The World Health Organization's (WHO) reporting indicates that about 6.1 billion vaccine doses had been administered worldwide as of September 29, 2021. However, according to WHO estimates, a total of 11 billion to 12 billion doses will be needed to vaccinate at least 70 percent of the world's population in order to end the pandemic.[535]

In April 2020, WHO and seven other global health organizations created the Access to COVID-19 Tools Accelerator (ACT-Accelerator), an effort to rapidly develop and provide equitable access to vaccines, diagnostics, and therapeutics.[536] The vaccine-related component of the ACT-Accelerator is known as COVID-19 Vaccines Global Access (COVAX). Several global health organizations—the Coalition for Epidemic Preparedness Innovations (CEPI);[537] Gavi, the Vaccine Alliance (Gavi);[538] and WHO—colead COVAX, with the United Nations Children's Fund (UNICEF) as a key implementing partner.[539] COVAX is the only global initiative working with governments and manufacturers to ensure COVID-19 vaccines are available worldwide to both higher-income and lower-income countries, according to WHO.[540] As of September 2021, 193 countries had signed up as members

[534] As of October 1, 2021, more than 233 million confirmed cases of COVID-19 had been reported worldwide, including more than 4.7 million deaths, according to the World Health Organization.

[535] Some COVID-19 vaccines require one dose and others require two doses.

[536] The seven other organizations are the Coalition for Epidemic Preparedness Innovations; FIND; Gavi, the Vaccine Alliance; the Global Fund; Unitaid; Wellcome; and the World Bank Group.

[537] The Coalition for Epidemic Preparedness Innovations is a global partnership between public, private, philanthropic, and civil society organizations working together to accelerate the development of vaccines against emerging infectious diseases and to enable equitable access to these vaccines for people during outbreaks.

[538] Gavi is an international organization, created in 2000, that brings together public and private sectors with the shared goal of saving lives and protecting people's health by increasing equitable and sustainable use of vaccines.

[539] This enclosure refers to CEPI, Gavi, WHO, and UNICEF collectively as COVAX partners.

[540] According to COVAX partners and documentation, COVAX is not a legal entity but rather a collaborative mechanism that relies on existing institutions wherever possible.

of COVAX.[541] This included 101 higher- and middle-income countries paying for vaccines themselves (i.e., self-financing) and 92 eligible low- and middle-income countries relying on donor funding.[542]

The U.S. has provided funding in support of COVAX. Through the Consolidated Appropriations Act, 2021, Congress appropriated $4 billion for the Global Health Programs account and directed that the funds be administered by the U.S. Agency for International Development (USAID) and made available as a contribution to Gavi.[543] In February 2021, the U.S. announced that it would provide an initial $2 billion contribution to COVAX through Gavi to support access to safe and effective vaccines for the 92 low- and middle-income countries participating in COVAX. USAID obligated the initial $2 billion for COVAX to Gavi in March 2021 and the remaining $2 billion in July 2021.

The U.S. has also provided dose donations in support of COVAX. In May 2021, the U.S. announced plans to donate 80 million vaccine doses abroad from its own surplus supply, providing the majority of the doses through COVAX. The U.S. later announced that it had donated more than 110 million doses from its own supply. In June 2021, the U.S. announced it would facilitate the purchase of 500 million vaccine doses to be provided through COVAX—including 200 million to be delivered by the end of 2021—to the 92 low- and middle-income countries as well as eight additional self-financing countries in the African Union.[544] According to the White House, this represented “the world’s largest-ever purchase and donation of vaccines by a single country.” In September 2021, the U.S. committed to donating an additional 500 million vaccine doses. These additional doses will be provided through COVAX to the same countries referenced in the June announcement, according to administration officials.[545]

The U.S. government has also taken steps apart from COVAX to increase the availability of COVID-19 vaccines abroad. These include the following actions:

- *Bilateral vaccine donations.* In addition to providing doses through COVAX, the U.S. has donated millions of vaccines on a bilateral basis, beginning with doses it provided to Canada, Mexico, South Korea, and Taiwan in June 2021. According to the Department of State, the U.S. will continue to make donations as it receives more surplus supply.

- *Support for local vaccine production.* The U.S. has taken a number of steps to bolster vaccine production overseas. For example, in March 2021, the President announced a vaccine partnership with India, Japan, and Australia to support increased production of COVID-19 vaccines for the Indo-Pacific region. Additionally, in June 2021, the U.S.

[541] In this enclosure, “countries” refers to COVAX participant economies, not all 193 of which are independent states.

[542] According to Gavi, the 92 low- and middle-income countries relying on donor funding includes all countries with a gross national income per capita of less than $4,000, based on 2018 and 2019 World Bank data, as well as countries meeting other World Bank criteria for receiving donor assistance.

[543] Specifically, Congress directed that the funds be made available as a contribution to the GAVI Alliance. Pub. L. No. 116-260, Div. K, tit. IX, 134 Stat. 1182, 1822 (2020).

[544] The announcement stated that the remaining 300 million doses would be delivered by June 2022.

[545] The U.S. government supports COVAX in a variety of other ways as well. For example, USAID serves as a member on the Gavi board and is the primary U.S. government liaison to COVAX; the Department of State has been diplomatically involved in global fundraising efforts for COVAX; and the Department of Health and Human Services sits on the ACT-Accelerator Facilitation Council, which oversees COVAX.

International Development Finance Corporation announced that it would provide €600 million (approximately $720 million) in joint financing with other G7 development finance institutions to support vaccine manufacturing in South Africa. According to the announcement, the vaccines will be distributed primarily to the African Union, South Africa, and COVAX.[546]

Overview of Key Issues

COVAX has four primary lines of effort, each led by one of the co-leading organizations—CEPI, Gavi, and WHO—in collaboration and coordination with UNICEF, other organizations, governments, civil society, and industry, according to COVAX (see table below).

[546]The administration has also expressed its support for waiving intellectual property rights on COVID-19 vaccines, which may allow other countries to produce them domestically. See the enclosure on International Trade for more details.

COVAX Key Lines of Effort and Leadership

Key lines of effort and lead organization	Efforts
COVAX Facility and COVAX Advance Market Commitment (AMC) Lead: Gavi	The COVAX Facility is the global procurement mechanism for COVID-19 vaccines through which COVAX is to ensure fair and equitable access to vaccines for all 193 participating countries. Gavi manages the facility, including overseeing the operation and governance structures, managing relationships with participants, coordinating fundraising efforts, and negotiating advance purchase agreements with manufacturers.[a] Guided by an allocation framework developed by WHO, the COVAX Facility distributes doses to help protect the most at-risk groups in all participating countries, raising coverage levels as evenly as possible across countries over time. A key goal of the framework is to ensure an initial proportional allocation of doses to enable all participating countries to cover 20 percent of their population. Self-financing countries can request vaccine doses sufficient to vaccinate 10 to 50 percent of their populations. The amount they pay into the facility serves as an insurance policy that increases their chances of securing vaccines, even if their own bilateral deals fail. The COVAX AMC is the financing mechanism that supports the participation of 92 low- and middle-income countries in the COVAX Facility, enabling access to donor-funded doses of safe and effective vaccines.[b] The primary focus of the COVAX AMC is to ensure that these 92 countries have equitable access to the vaccines, and at the same time, as higher-income, self-financing countries. Gavi coordinates the design, operation, and fundraising for the COVAX AMC.
Development and manufacturing Lead: CEPI	CEPI invests in research and development (R&D) across a variety of promising vaccine candidates with the aim of supporting the ongoing development of safe and effective COVID-19 vaccines that COVAX can make available to countries participating in the COVAX Facility. As of August 31, 2021, CEPI had invested $1.7 billion in its portfolio, which comprised at least 12 active candidate vaccines, including four targeting emerging variants. By that date, four of these candidates had shown clinical efficacy in preventing severe disease, of which two had received WHO's emergency use listing (i.e., qualified for emergency use).[c] In addition, CEPI secured first right of refusal to potentially more than 1.7 billion doses for the COVAX Facility through its R&D contracts, according to CEPI. CEPI also made strategic investments in vaccine manufacturing, which included reserving dose manufacturing capacity at a network of facilities, securing glass vials to hold 2 billion doses of vaccine, and securing adjuvant supply.[d] WHO provides R&D technical coordination. In work related to this line of effort, the COVAX Manufacturing Task Force, which COVAX established in May 2021, addresses COVID-19 vaccine supply and manufacturing challenges.
Policy and allocations Lead: WHO	WHO provides guidance to member states on vaccine policy, regulation, safety, R&D, allocation, and country readiness and delivery. For example, WHO develops evidence-based immunization policy recommendations, issues emergency use listing of vaccines to enable international procurement and facilitate authorization across member states, and provides global coordination and member state support for vaccine safety monitoring. WHO has conducted related work on vaccine access and allocation, including setting up an allocation team with Gavi and designing an allocation algorithm and general governance procedures that member states endorsed. The algorithm is continually being adjusted to respond to, and account for, changing context, unstable supply, and new "features" of the COVAX Facility (e.g., dose sharing, dose donations, cost-sharing). The first phase of the vaccine allocation started in January 2021, when doses became available to the COVAX Facility. During this phase, a WHO–Gavi Joint Allocation Taskforce uses the algorithm to determine the volume of vaccines that should be allocated to each country participating in COVAX within a given period. An independent advisory group validates the allocation decisions, which are endorsed by the Director-General of WHO. The procurement

Key lines of effort and lead organization	Efforts
	agencies—UNICEF and PAHO—then use this information to prepare the shipments to countries. Allocation decisions can change for various reasons, including lack of preparedness at the country level or refusal of vaccines because of short shelf life.
Procurement and delivery at scale Lead: Gavi in collaboration with WHO, UNICEF, and PAHO	In addition to administering the COVAX Facility and the COVAX AMC, Gavi makes vaccine procurement decisions and provides funding for, and oversight of, UNICEF's and PAHO's vaccine purchases on behalf of the facility. UNICEF, in collaboration with PAHO, leads efforts to purchase and deliver doses of COVID-19 vaccines for COVAX to countries' ports of entry. As the single largest vaccine buyer in the world, UNICEF leverages its expertise to purchase COVID-19 vaccine doses and manage their freight, logistics, and storage. In addition, Gavi, UNICEF, and WHO are working with governments to ensure that countries are ready to receive, distribute, and administer the vaccines with appropriate cold-chain equipment (e.g., cold rooms, refrigerators, freezers, cold boxes, and vaccine carriers), syringes, vehicles, health care workers trained to dispense vaccine, and other aspects of the delivery logistical operations in place.

Source: GAO analysis of COVID-19 Vaccines Global Access (COVAX); Coalition for Epidemic Preparedness Innovations (CEPI); Gavi, the Vaccine Alliance (Gavi); World Health Organization (WHO); United Nations Children's Fund (UNICEF); and Pan American Health Organization (PAHO) documents. | GAO-22-105051

Note: "Countries" refers to COVAX participant economies, not all 193 of which are independent states. "COVAX partners" refers to CEPI, Gavi, WHO, and UNICEF.

[a]Because normal liability insurance is not available to manufacturers, each country receiving COVID-19 vaccines through the COVAX Facility is required to indemnify manufacturers, donors, distributors, and other stakeholders against any losses they incur from the deployment and use of the vaccines, according to COVAX documents.

[b]The COVAX AMC includes a no-fault compensation mechanism, a key benefit for lower-income countries, administered by WHO. According to COVAX partners, this mechanism provides fair, no-fault, lump-sum compensation to any individual in the 92 low- and middle-income countries covered by the COVAX AMC who suffers a serious adverse event from any vaccine procured or distributed through the COVAX Facility.

[c]As of August 31, 2021, the Moderna, University of Oxford–AstraZeneca, Novavax, and Curevac COVID-19 vaccines had shown clinical efficacy in preventing severe disease, according to CEPI. Of these, the Moderna and University of Oxford–AstraZeneca vaccines had received WHO's emergency use listing.

[d]An adjuvant is a component of a vaccine that helps the immune system response.

COVAX's key goal for 2021 is to deliver 2 billion vaccine doses to COVAX participating countries. To help end the acute phase of the pandemic, COVAX set a goal of delivering 2 billion vaccine doses to COVAX participating countries—including at least 1.3 billion doses for low- and middle-income countries—by the end of 2021. According to COVAX, these 2 billion doses would cover at least 20 percent of populations in all participating COVAX countries and would be sufficient to vaccinate the most at-risk population groups, including health care workers, elderly adults, and people with underlying health conditions.

As late as June 2021, COVAX partners (i.e., CEPI, Gavi, WHO, and UNICEF) projected that this goal could be met—and potentially exceeded—if COVAX raised at least $9.3 billion in total funding commitments by June 2021.[547] As of July 2021, COVAX partners said that they were in the process of updating COVAX's strategy and goals for 2022.

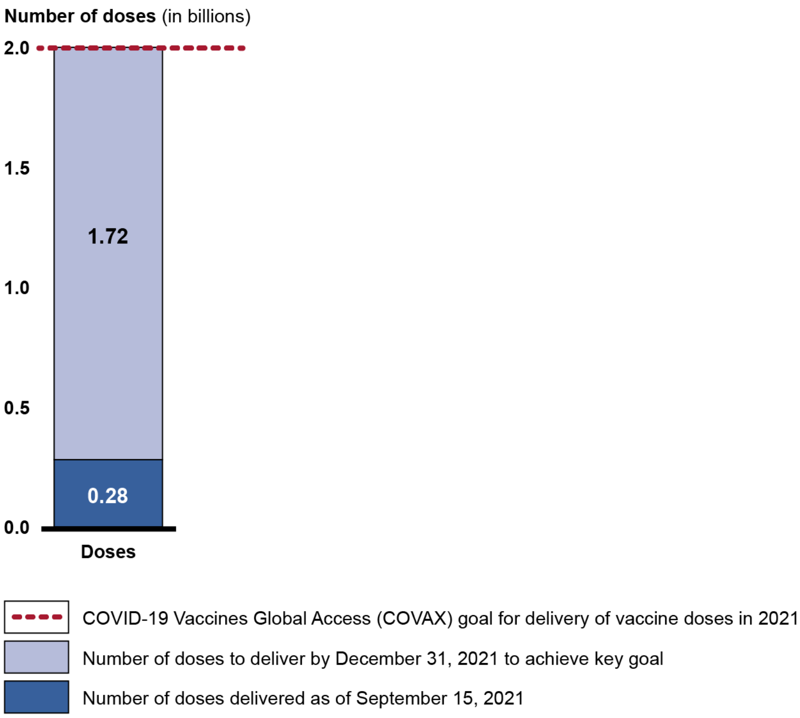
COVAX exceeded its fundraising target but was no longer projected as of September to deliver 2 billion doses in 2021, primarily because of supply challenges. By June 2021, COVAX

[547]Commitments include funds pledged and funds provided.

had raised more than $9.6 billion in funding commitments, surpassing the June fundraising target amount needed to purchase sufficient vaccine doses to achieve COVAX's 2021 goal. According to Gavi, as of September 2021 at least $6.7 billion of COVAX's funding commitment pledges had been fulfilled and as of August 2021 its total funding commitments had increased to about $9.8 billion.

However, our analysis of UNICEF data found that COVAX will likely not meet its goal of delivering 2 billion doses by the end of 2021.[548] COVAX anticipated in April 2021 that nearly half a billion doses would be shipped by the middle of 2021. Yet data that UNICEF reported on September 15, 2021, indicated that only about 279 million doses had been delivered through COVAX to 141 participating countries and that relatively few additional doses—about 4.1 million—were in transit.[549] Therefore, as of that date, COVAX was still 1.7 billion doses, or about 86 percent, short of its goal of delivering 2 billion doses in 2021 (see figure). As of September 8, 2021, COVAX partners expected to achieve this goal in the first quarter of 2022.

COVAX Progress toward Goal of Delivering 2 Billion Vaccine Doses to Participating Countries in 2021, as of Sept. 15, 2021



Source: GAO analysis of United Nations Children's Fund data. | GAO-22-105051

COVAX and UNICEF data demonstrate that limited vaccine supply is the primary challenge preventing COVAX from achieving its key goal. According to the September 8, 2021, COVAX Global Supply Forecast (the most recent forecast), COVAX had agreements with 11 different vaccine

[548]Data are from UNICEF's COVID-19 Market Dashboard, which UNICEF regularly produces and processes using data reported from sources it believes to be reliable.

[549]Of these approximately 279 million doses, about 213 million doses were delivered to low- and middle-income countries. The approximately 66 million remaining doses were delivered to self-financing countries.

developers to purchase up to 4.974 billion doses.[550] However, UNICEF-reported data show that as of September 15, manufacturers had made available fewer than 286 million doses for delivery through COVAX and that COVAX had delivered 98 percent of these doses. Further, the September 8, 2021, COVAX Global Supply Forecast estimated that under the most likely scenario, only about 1.4 billion doses will be available to COVAX by the end of 2021, including doses it purchased from manufacturers and donated doses (estimated on the basis of commitments from donor countries).[551] This represents a 26 percent decrease from the COVAX Global Supply Forecast on July 27, 2021 (the previous forecast), which projected that 1.9 billion doses would be available to COVAX by the end of 2021.

COVAX partners attributed the initiative's limited vaccine supply to, among other factors, high-income countries' bilateral deals with manufacturers to purchase a significant portion of the available vaccine supply early in the pandemic. Although COVAX received funding pledges early in the pandemic, it lacked adequate cash resources to purchase sufficient doses of the limited vaccine supply, according to COVAX partners. In addition, COVAX partners said that bilateral dose donations outside COVAX, manufacturing scale-up challenges, and export restrictions have contributed to the limited supply of vaccine doses available to COVAX. For example, according to COVAX and USAID documents as of September 2021, vaccine supply from a major COVAX manufacturer, the Serum Institute of India, had been constrained since the spring of 2021, when the Indian government instituted export restrictions in response to a spike of COVID-19 cases in India.[552]

COVAX partners said that they had taken steps to try to increase vaccine production. For example, COVAX developed a manufacturing task force to address delays caused by supply shortages and manufacturing disruptions. According to COVAX partners, the task force brokers agreements between stakeholders, supports technology transfers, and examines new manufacturing opportunities. For example, in July 2021, the task force launched a marketplace to match critical raw material suppliers with vaccine manufacturers in an effort to accelerate the global production of vaccine doses for COVAX. COVAX has also solicited donations of excess vaccine doses from higher-income countries to increase the supply of vaccines available to lower- and middle-income countries. WHO reported that as of September 17, 2021, COVAX had received pledges for about 722 million dose donations, of which about 114 million had been delivered.[553]

COVAX partners expect that vaccine supply will increase dramatically later this year. The COVAX Global Supply Forecast on September 8, 2021, projected that of the 1.4 billion vaccine doses expected to be available to COVAX by the end of 2021, approximately 1.1 billion doses would

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[550]According to COVAX, these agreements include both committed-dose agreements, in which COVAX is required to purchase a set number of doses, and optional-dose agreements, which give COVAX the option to purchase a set number of doses. COVAX's ability to purchase these vaccine doses is contingent on its ability to raise the funds required to fulfill the purchase agreements.

[551]COVAX expects that approximately 1.2 billion of the 1.4 billion doses will be available for—but not necessarily delivered to—low- and middle-income countries, covering about 20 percent of their populations.

[552]According to COVAX documents, COVAX contracted with the Serum Institute of India to manufacture up to about 1.6 billion vaccine doses (including both committed and optional-dose agreements) for countries participating in COVAX.

[553]This does not include dose donations announced after September 17, 2021, including the additional 500 million dose donations the U.S. announced on September 22, 2021. COVAX partners accounted for donated vaccine pledges in their September 8, 2021, statement that COVAX would not achieve its goal of delivering 2 billion vaccines by the end of 2021.

become available from September through December. However, as of September 2021, the extent to which factors such as Delta and other variants and the increasing demand for booster shots would affect the limited supply remained unclear. Further, partners predict that once the supply constraints are alleviated, other factors, such as countries' abilities to absorb and administer the vaccines, may significantly affect COVAX's progress in meeting its goal.

COVAX partners have taken some steps to address other key challenges that may affect progress. COVAX documents and partners identified other key challenges, in addition to the limited supply of vaccine doses, that may affect progress in ending the pandemic, including progress toward COVAX's goal of delivering 2 billion doses in 2021. Some of these challenges, as well as steps taken to respond to these challenges, are shown in the table below.

Other Key Challenges Affecting COVAX Efforts to Deliver Vaccines and Steps Taken to Address These Challenges, as Reported by COVAX Partners

Challenge	Steps taken
Earmarked vaccine donations. Some high-income countries, including the U.S., have donated vaccine doses to help COVAX progress toward its vaccination coverage goals. However, WHO officials indicated that some of these donors have earmarked doses for specific countries. This earmarking works against COVAX's goal of ensuring equitable distribution of vaccine doses to COVAX countries.	COVAX partners are working with donor countries to try to ensure that COVAX can determine a fair and equitable distribution of COVID-19 vaccines. Additionally, WHO is adjusting its allocation framework to account for earmarked vaccine doses provided both bilaterally and through COVAX.
High demand. Some COVAX AMC countries are asking for higher vaccine coverage than originally targeted through COVAX. This high demand is based in part on the countries' desires to receive better protection against variants and to keep pace with the vaccine rollout in high-income countries. Moreover, some high-income countries have begun to offer booster shots to their own populations, further increasing demand.	COVAX partners support higher vaccination coverage and have increased COVAX's fundraising targets accordingly. They are also developing a cost-sharing program for doses that AMC countries request in excess of COVAX's 2021 goal of making vaccines available for 20 percent of their populations. Additionally, COVAX partners are working with the World Bank and other partners to finance additional vaccine doses for AMC countries.
Variation in countries' health system capacity. COVAX partners have reported wide variation in the capacity of countries' health systems to receive and administer COVID-19 vaccines on a large scale. For example, a World Bank report on country readiness between November 2020 and February 2021 found that about 70 percent of all countries surveyed did not have processes in place to train the large numbers of health care workers needed for a mass vaccination campaign.	COVAX and others have taken a number of steps to address health system capacity. For example, as of July 2021, COVAX had raised $799 million in pledges to contribute to the costs of delivering doses. Country governments can use these contributions to fund delivery logistical operations, including the purchase of hardware such as cold-chain equipment. UNICEF and the World Bank also separately provide funding for delivery costs. Additionally, UNICEF and the Pan American Health Organization are offering technical assistance and supporting delivery logistical operations. As another example, UNICEF and WHO have been providing technical assistance for developing and implementing countries' National Deployment and Vaccination Plans. This assistance includes providing support to train health care workers, strengthen cold-chain and vaccine management capacity, develop risk communication and community engagement strategies, and prepare detailed plans to reach local target populations.
Variants. Virus variants of concern, including the Delta variant, have higher transmissibility and may have higher morbidity and mortality rates than the original strain of the COVID-19 virus. It is also unclear whether existing vaccines may be less effective against future variants, thereby potentially complicating efforts to end the pandemic.	Although COVAX partners' assessment is that existing COVID-19 vaccines have so far proven effective against severe disease from known virus variants, COVAX partners have taken steps to address other potential challenges from variants. For example, CEPI is supporting research to develop vaccines that are more effective against variants. Additionally, COVAX partners are reevaluating existing manufacturing contracts to allow the COVAX Facility flexibility to procure vaccines that will be effective against variants. COVAX partners are also conducting clinical trials to determine whether mixing different vaccine types increases protection and are continuing to monitor clinical trials on variants.

Challenge	Steps taken
Vaccine hesitancy. COVAX partners have identified vaccine hesitancy at both the country and individual levels as a significant factor affecting COVAX's progress towards its target vaccination coverage. Some countries, including certain countries within the COVAX AMC, are facing vaccine demand issues related to product preferences. These preferences stem from perceptions regarding vaccine safety; perceived performance against COVID-19, including variants; and views about the country of origin. Such hesitancy increases the possibility that doses will expire before they can be administered. In turn, this increases demand for other vaccines that are limited in supply.	COVAX partners have engaged with policy makers and regulators in individual countries to communicate to the public that the benefits of vaccines are greater than the risks. Additionally, COVAX partners are working to disseminate accurate information about vaccines and expectations for vaccine doses and to unify messaging across COVAX. To address vaccine hesitancy among individuals, COVAX partners have collaborated with local champions to build public trust and encourage vaccinations by increasing the visibility of successful vaccinations.

Source: GAO analysis of Coalition for Epidemic Preparedness Innovations (CEPI); Gavi, the Vaccine Alliance (Gavi); World Health Organization (WHO); United Nations Children's Fund (UNICEF); and World Bank documents and interviews. | GAO-22-105051

Notes: "COVAX partners" refers to CEPI, Gavi, WHO, and UNICEF.
"Advance Market Commitment (AMC) countries" refers to 92 low- and middle-income economies that receive donor-funded doses through COVID-19 Vaccines Global Access (COVAX). "Countries" refers to AMC economies, not all of which are independent states.
COVAX is part of the Access to COVID-19 Tools (ACT) Accelerator, a larger multilateral effort to combat the COVID-19 pandemic. The ACT-Accelerator includes the Health Systems Connector, a crosscutting work area aimed at addressing in-country health systems bottlenecks to facilitate country readiness.

Methodology

To conduct this work, we reviewed documents and data from CEPI, Gavi, WHO, and UNICEF regarding COVAX's structure and operations, the goals and status of COVAX efforts, and steps that COVAX partners have taken to address identified challenges. We also interviewed CEPI, Gavi, WHO, and UNICEF officials knowledgeable about COVAX. We reviewed UNICEF data on the status of COVAX vaccine supply and deliveries as of September 15, 2021. To assess the reliability of these data, we performed logic tests and interviewed UNICEF about the reliability and limitations of the data. We determined that the data were sufficiently reliable for the purposes of this work.

In addition, we reviewed White House documents and interviewed, or obtained written responses from, officials at the Department of Health and Human Services, the Department of State, and USAID regarding COVAX, the bilateral provision of COVID-19 vaccine doses to other countries, and other U.S. efforts to increase the availability of the vaccine abroad. We also reviewed relevant laws, including the Consolidated Appropriations Act, 2021.[554]

Agency Comments and Third-Party Views

We provided the Department of Health and Human Services, the Department of State, USAID, the Office of Management and Budget (OMB), CEPI, Gavi, UNICEF, and WHO with a draft of this enclosure. All except OMB and CEPI provided technical comments, which we incorporated as appropriate.

[554]Pub. L. No. 116-260.

GAO's Ongoing Work

We plan to conduct additional work to examine in-country readiness and delivery of COVID-19 vaccines abroad.

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International Trade

U.S. imports of COVID-19-related products, such as face masks, ventilators, gloves, and hand sanitizers, have fluctuated, while U.S. exports of COVID-19 vaccines to the European Union and the United Kingdom have increased in recent months.

Background

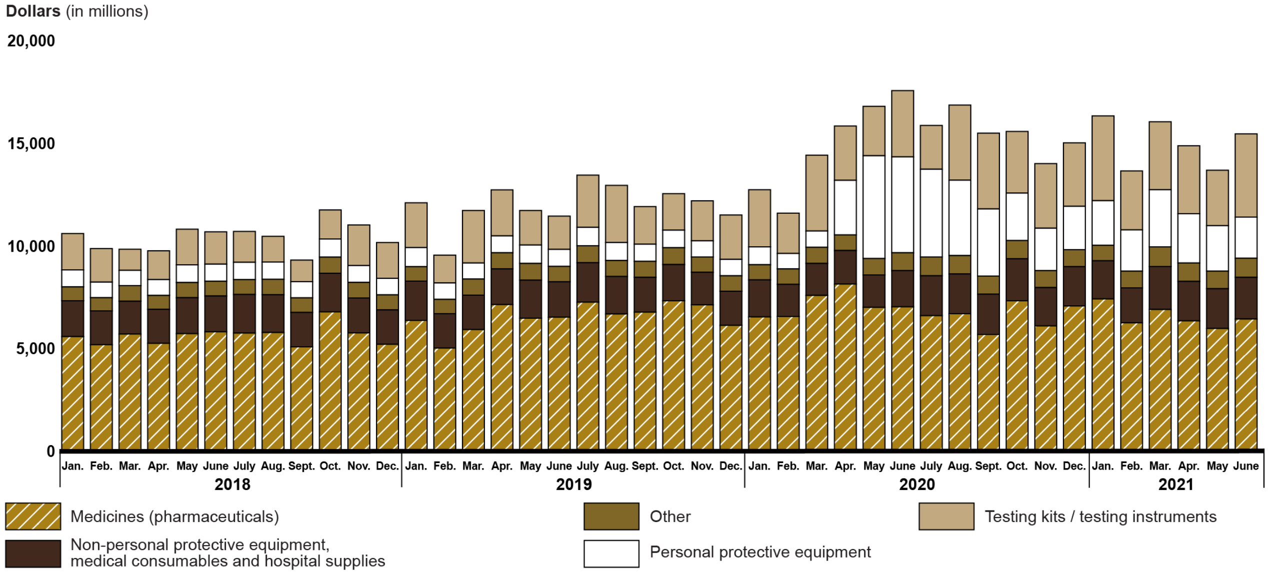
The COVID-19 pandemic has disrupted businesses around the world as well as international supply chains. According to the United Nations Conference on Trade and Development, world merchandise trade grew by 11.6 percent from the first quarter through the second quarter of 2021—a significant improvement over the 21 percent quarterly decline from the first through the second quarter of 2020.[555]

U.S. trade of COVID-19-related products. U.S. imports of COVID-19-related products (e.g., face masks, ventilators, gloves, and hand sanitizers) have fluctuated. U.S. imports of products in categories related to the COVID-19 response decreased slightly from March through June 2021. However, imports of such products in June 2021 were 32 percent higher than in February 2020, the last month before the transmission of COVID-19 started to become widespread in the U.S., according to the Centers for Disease Control and Prevention (CDC) (see figure).[556]

[555]For more information about overall trade trends in 2021, see United Nations Conference on Trade and Development, "Global Merchandise and Services Trade Nowcast June 2021," accessed Aug. 19, 2021, https://unctad.org/system/files/official-document/gdsdsimisc2021d4_en.pdf.

[556]U.S. Census Bureau trade statistics—a widely used source analyzing U.S. international trade—do not contain precise data on imports of COVID-19-related products. As a result, we estimated the import value of all product types and categories within those types using Harmonized Tariff Schedule of the United States (HTS) statistical reporting numbers and associated product groupings listed by the U.S. International Trade Commission (USITC) in *COVID-19 Related Goods: U.S. Imports and Tariffs*, Investigation No. 332-576, USITC Publication 5073 (Washington, D.C.: June 2020). Revisions to the HTS on July 1, 2020, and January 1, 2021, provided several new HTS-10 statistical reporting numbers for previously identified COVID-19-related product categories. We identified these product categories and included them in our analysis.

Monthly U.S. Imports of COVID-19-Related Products, by Product Type, Jan. 2018–June 2021



Source: GAO analysis of U.S. Census Bureau trade statistics. | GAO-22-105051

Note: U.S. Census Bureau trade statistics—a widely used source analyzing U.S. international trade—do not contain precise data on imports of COVID-19-related products. As a result, we estimated the import value of all product types and categories within those types using Harmonized Tariff Schedule of the United States (HTS) statistical reporting numbers and associated product groupings listed by the U.S. International Trade Commission (USITC). Examples of products included in the "Other" category of product type include hospital beds and wheelchairs. See U.S. International Trade Commission, *COVID-19 Related Goods: U.S. Imports and Tariffs*, Investigation No. 332-576, USITC Publication 5073 (Washington, D.C.: June 2020). Revisions to the HTS on July 1, 2020, and January 1, 2021, provided several new HTS-10 statistical reporting numbers for previously identified COVID-19-related product categories. We identified these product categories and included them in our analysis. Some HTS categories represent more than one product, and some categories contain products that are not directly relevant to COVID-19 responses. Product categories that USITC identified as COVID-19 related refer only to the subset of goods considered to be COVID-19 related in each HTS-10 statistical reporting number. Therefore, the values shown may overestimate the imports of products directly relevant to COVID-19 responses. Nevertheless, the values shown are useful indicators for tracking import trends for such products. For more information about factors influencing import trends in various types of COVID-19-related products, see U.S. International Trade Commission, *COVID-19 Related Goods: The U.S. Industry, Market, Trade and Supply Chain Challenges*, Investigation No. 332-580 (December 2020).

Total trends in import value are related to changes in both the quantity and price of the imported goods. For example, the unit value of nasal swabs decreased by 30 percent from May 2020 through May 2021, while the quantity imported increased by 69 percent during the same period. Overall, the import value of nasal swabs increased from $23 million in May 2020 to $28 million in May 2021.

Many factors affecting product availability, such as supply chain constraints, export restrictions, and product demand, may drive trends in imports of COVID-19-related products. For example, according to the Bureau of Labor Statistics (BLS), drastically reduced shipping capacity and urgent demand for personal protective equipment pushed the costs of air freight transportation services for shipments of goods from foreign countries to the U.S. to unprecedented heights in spring 2020. In addition, according to the United Nations Conference on Trade and Development, more than 80 countries banned exports of medical and personal protective goods in the early phases of the pandemic, and 60 percent of those restrictions remained in place as of June 11, 2021. Overall, the need for medical supplies in response to the pandemic explains the increase in imports of these products since early 2020. Fluctuations in the number of COVID-19 cases may shift the demand for some COVID-19 products, such as pharmaceuticals and diagnostic equipment, over time.

From March through June 2021, imports of COVID-19-related products from China—which accounted for 11 percent of such imports overall in May—and from the rest of the world fluctuated. Specifically, imports of COVID-19-related products from China decreased by 26 percent (from $2.75 billion to $2.05 billion) and total imports of such products from other countries decreased by 12 percent (from $16.2 billion to $14.1 billion) from March through May 2021 before increasing by 7 percent from May through June 2021.[557] Previously, from December 2020 through March 2021, imports of COVID-19-related products from China had risen by 12 percent (from $2.44 billion to $2.75 billion) and imports of such products from other countries had risen by 7 percent (from $15.1 billion to $16.2 billion).[558]

Total U.S. trade of COVID-19 vaccines with European Union (EU) member countries and the United Kingdom (UK) increased in recent months.[559] From January through May 2021, the value of U.S. COVID-19 vaccine exports more than doubled (from roughly $62.3 million to $125.3 million) and the value of U.S. COVID-19 vaccine imports rose almost 11-fold (from $1.3 million to $15.3 million) (see figure). After a decline in the value of exports from January through April 2021, U.S. export and import value of COVID-19 vaccines to EU countries and UK more than tripled from April through May 2021. From April through May 2021, U.S. exports of these vaccines to EU countries and the UK increased from $38.6 million to $125.3 million, and U.S. import values of these vaccines increased from $3.6 million to $15.3 million. U.S. Census Bureau trade statistics indicate that EU member countries and the UK exported the majority of vaccines most similar to the COVID-19 vaccines imported by the U.S. from January through May 2021.[560]

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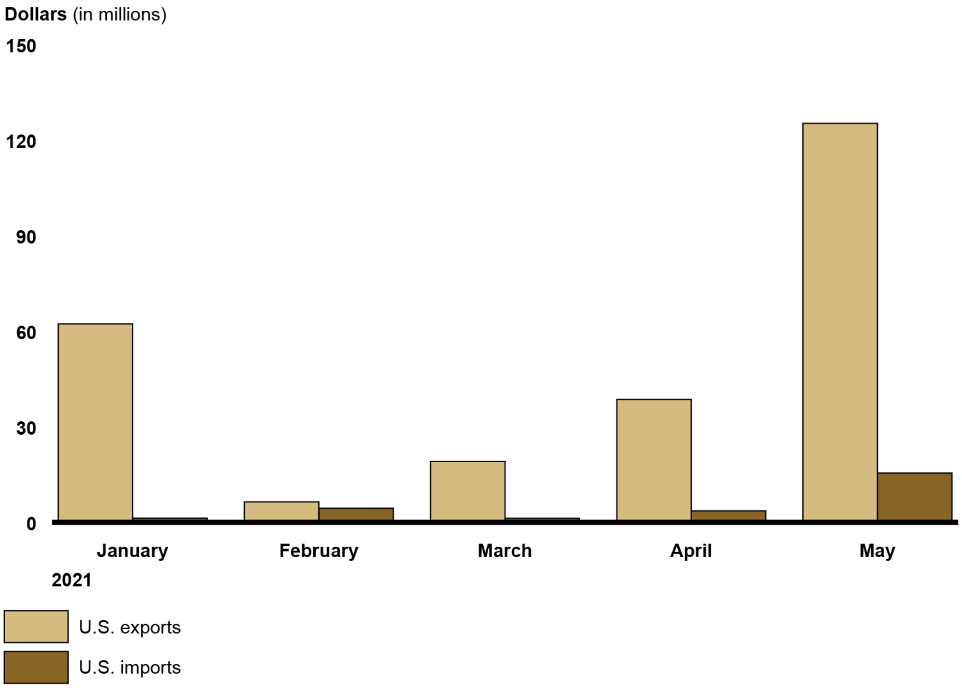
[557]Some HTS categories identified in USITC Publication 5073 represent more than one product, and some categories contain products that are not directly relevant to COVID-19 responses. Product categories that USITC identified as COVID-19 related refer only to the subset of goods considered to be COVID-19 related for each HTS-10 statistical reporting number. Therefore, the values we present may overestimate the imports of products directly relevant to COVID-19 responses. Nevertheless, these values are useful indicators for tracking import trends of such products.

[558]Since 2018, certain imports from China have been subject to tariffs imposed by the Office of the U.S. Trade Representative (USTR) at the direction of the President under Section 301 of the Trade Act of 1974. In response to the COVID-19 pandemic, USTR excluded some of these tariffs on certain medical-care-related products. In March 2021, USTR extended 99 tariff exclusions for COVID-19-related products, such as personal protective equipment and other medical care products, through September 30, 2021.

[559]We used statistics on international trade in goods published by the EU Commission’s Eurostat and Her Majesty’s Revenue and Customs to identify U.S. imports and exports of vaccines against SARS-related coronaviruses (which we refer to as COVID-19 vaccines) from EU member countries and the UK—specifically, trade recorded under the 3002.20.01 Harmonized System product category in these two databases

[560]According to the Census Bureau trade statistics, from January through June 2021, 73 percent of imports of vaccines classified under the HTS reporting number (3002.20.0080) that includes the FDA-authorized COVID-19 vaccines came from EU member countries or the United Kingdom. Products entering the U.S. under this HTS statistical reporting number includes several other vaccines not related to COVID-19, such as shingles, whooping cough, and human papillomavirus.

U.S. Trade of COVID-19 Vaccines with the European Union and United Kingdom, Jan.–May 2021



Source: GAO analysis of EU Commission and UK trade statistics. | GAO-22-105051

Note: We used international trade statistics on goods published by the European Union (EU) Commission's Eurostat and Her Majesty's Revenue and Customs trade in goods statistics to identify imports and exports of vaccines against SARS-related coronaviruses (which we refer to as COVID-19 vaccines) between the U.S. and EU member countries and between the U.S. and the United Kingdom. We converted euros and pounds sterling into U.S. dollars using monthly exchange rate data from Federal Reserve Economic Data. Specifically, we used the listed exchange rate on the earliest available day of data in each month as of July 21, 2021, from https://fred.stlouisfed.org/series/EXUSEU and https://fred.stlouisfed.org/series/EXUSUK to convert euros and pounds, respectively, to dollars. As a result, our estimates of COVID-19 vaccine trade flows are dependent on the euro-dollar and pound-dollar exchange rates in addition to prices and quantities. The values shown may be underestimated, because the data for some EU member countries were not available. Because of rounding, numbers in columns may not sum to totals shown.

U.S. exports of all vaccines for human use, including COVID-19 vaccines, averaged $128 million per month in 2020 but totaled $820 million in May 2021 and $1.5 billion in June 2021. The price per dose of the COVID-19 vaccines varied. We estimate that the per-dose cost to the federal government for U.S. and EU-approved vaccines ranged from $4 (AstraZeneca) to $20 (Pfizer), on the basis of reporting from the Congressional Research Service.[561]

The EU and UK governments have taken steps to regulate COVID-19 vaccine trade.

[561]We used data from a March 2021 Congressional Research Service report, detailing the number of COVID-19 vaccine doses for which government agencies contracted with several vaccine manufacturers as well as the value of the contracts, to estimate the value per dose of U.S.- or EU-approved COVID-19 vaccines. See table 1 in Congressional Research Service, *Operation Warp Speed Contracts for COVID-19 Vaccines and Ancillary Vaccination Materials*, CRS Report No. IN11560 (March 2021), accessed Sept. 7, 2021, https://crsreports.congress.gov/product/pdf/IN/IN11560.

- In 2020, the EU and UK governments each allowed exemptions from value-added taxes on certain imports of COVID-19 vaccines to reduce supply chain constraints on acquiring COVID-19 vaccines.
- On January 29, 2021, the European Commission of the EU issued a regulation imposing an export authorization requirement on certain COVID-19 vaccines. On March 11, 2021, the commission extended this requirement.[562]
- On March 24, 2021, the European Commission of the EU issued a regulation allowing authorities to consider whether an export authorization would threaten the security of the supply of specified vaccines and active substances used for their manufacture to EU member countries.
- On June 29, 2021, the European Commission of the EU extended these regulations through September 2021. According to the commission, these regulations are intended to ensure timely access to COVID-19 vaccines for all EU citizens and to increase transparency regarding vaccine exports to countries outside the EU.

EU member countries and the UK increased their global exports of COVID-19 vaccines from January through April 2021. Exports of COVID-19 vaccines from EU member countries increased from $180 million in January to $1.44 billion in April, while exports of COVID-19 vaccines from the UK increased from around $1 million in January to almost $9 million in April. Overall, EU member countries and the UK exported more than $2.8 billion worth of COVID-19 vaccines from January through April 2021.

Meanwhile, the U.S. government has taken actions to increase the availability of COVID-19 vaccines to other countries.

- In July 2021, we reported that the federal government had taken several steps to increase domestic production of COVID-19 vaccines. An increase in domestic supply, along with a leveling off in domestic demand for vaccines, could create more opportunities for COVID-19 vaccine exports.
- The Office of the U.S. Trade Representative stated in May 2021 that it would begin negotiations at the World Trade Organization to facilitate waiving intellectual property rights on COVID-19 vaccines, which may allow other countries to produce them domestically.[563]
- The FDA has allowed AstraZeneca COVID-19 vaccines—which is produced, but not authorized for use, in the U.S.—to be exported to other countries.

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[562]Generally, under the regulation, the export authorization shall be granted unless the exports pose a threat to the execution of the EU advance purchase agreements concluded with vaccine manufacturers. These agreements commit vaccine producers to deliver a set amount of vaccines to EU member countries, according to the European Commission.

[563]USTR stated that it plans to negotiate for the intellectual property rights waiver at the World Trade Organization. A number of countries have yet to support the waiving intellectual property rights for COVID-19 vaccines, and many multinational pharmaceutical companies oppose the measure.

- The U.S. has provided funding, donated surplus doses, and taken other steps in support of efforts to provide vaccines to other countries, including those that cannot afford to buy vaccines themselves. (For more information, see the Vaccines Provided Abroad enclosure in app. I.)

Methodology

To conduct this work, we reviewed the most recent publicly available U.S. trade statistics from the Census Bureau as well as U.S. International Trade Commission data on product categories that contain COVID-19-related products.[564] We analyzed EU and UK trade data from the European Commission and Her Majesty's Revenue and Customs that were available as of July 19, 2021, to study trends in exports and imports of vaccines against SARS-related coronaviruses (i.e., COVID-19) from and to EU member countries and the UK.[565] We converted euros and pounds sterling into U.S. dollars, using monthly exchange rate data from Federal Reserve Economic Data.[566]

We determined that the trade data were sufficiently reliable for our reporting purposes. According to an EU Commission report on the quality of EU trade statistics, data on imports from, and exports to, countries outside the EU from 2016 through 2019 were likely fully accounted for because they rely on customs declarations.[567] Her Majesty's Revenue and Customs also conducts several validation and credibility checks of its trade data to ensure their accuracy before publication.

Agency Comments

We provided a draft of this enclosure to the Office of Management and Budget, which had no comments on this enclosure.

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[564]We compared COVID-19-related HTS-10 codes before and after July 1, 2020, and before and after January 1, 2021. If we found no match, we checked USITC guidance to determine whether the original code had been annotated or discontinued. If it had been annotated or discontinued, we included imports of those codes after July 1, 2020, or January 1, 2021, in our analysis. For instance, according to guidance provided by the USITC, products under 4818.50.0000 were to be split into two new HTS-10 product categories, 4818.50.0080 and 4818.50.0020, on July 1, 2020. Therefore, we included imports for products contained in 4818.50.0080 and 4818.50.0020 after July 1, 2020, in our calculations.

[565]Companies may produce FDA-approved COVID-19 vaccines in other countries before shipping to importers in the United States. For example, in September 2020, Pfizer announced that it was producing its COVID-19 vaccine at its production plants in Belgium and that BioNTech's production would take place in Germany.

[566]Specifically, to convert euros and pounds, respectively, to dollars, we used the exchange rate on the first day in each month, shown at https://fred.stlouisfed.org/series/EXUSEU and https://fred.stlouisfed.org/series/EXUSUK as of August 10, 2021.

[567]Eurostat, *Quality Report on European Statistics on International Trade—2016-2019 Data: 2020 Edition*, Eurostat Statistical Reports (European Commission: Dec. 17, 2020), accessed June 9, 2021, https://ec.europa.eu/eurostat/en/web/products-statistical-reports/-/ks-ft-20-008.

GAO's Ongoing Work

We will continue to monitor U.S. trade of COVID-19-related products and COVID-19 vaccines.

Related GAO Products

COVID-19: Efforts to Increase Vaccine Availability and Perspectives on Initial Implementation. GAO-21-443. Washington, D.C.: April 14, 2021.

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Federal Fraud-Related Cases

Federal agencies' enforcement actions on fraud-related charges help protect consumers and ensure that taxpayer dollars and government services related to COVID-19 serve their intended purposes.

Entities involved: Government-wide

Background

The public health crisis, economic instability, and increased flow of federal funds associated with the COVID-19 pandemic present increased pressures and opportunities for fraud.[568] By proactively managing fraud risks, federal officials can help safeguard taxpayer dollars to ensure they serve their intended purpose, particularly given that Congress had appropriated about $4.8 trillion as of August 31, 2021, to fund COVID-19 response and recovery efforts.[569]

According to GAO's *A Framework for Managing Fraud Risks in Federal Programs*, among other things, effective managers of fraud risks refer instances of potential fraud to Offices of Inspector General (OIG) or other appropriate parties, such as law enforcement entities or the Department of Justice (DOJ), for further investigation.

The extent of fraud associated with the COVID-19 relief funds appropriated to date has not yet been determined. One of the many challenges is that because of fraud's deceptive nature, programs can incur financial losses related to fraud that are never identified, and such losses are difficult to reliably estimate. However, many individuals have already pleaded guilty to federal charges of defrauding COVID-19 relief programs—including the Small Business Administration's (SBA) Paycheck Protection Program (PPP) and Economic Injury Disaster Loan (EIDL) program, the Department of Labor's (DOL) unemployment insurance (UI) programs, and economic impact payments (EIP) issued by the Department of the Treasury and Internal Revenue Service.[570] Also, one individual has been convicted at trial of PPP-related fraud, and four individuals have been convicted at trial of fraud related to both the PPP and EIDL program.[571] In addition, numerous others faced related federal charges as of July 31, 2021.

Further, federal hotlines have received numerous complaints from the public, many of them alleging potential fraud involving COVID-19 relief funds. For example, from March 2020 through

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[568] Fraud and "fraud risk" are distinct concepts. Fraud—obtaining something of value through willful misrepresentation—is challenging to detect because of its deceptive nature. Fraud risk (which is a function of likelihood and impact) exists when individuals have an opportunity to engage in fraudulent activity, have an incentive or are under pressure to commit fraud, or are able to rationalize committing fraud. Fraud risk management is a process for ensuring program integrity by continuously and strategically mitigating the likelihood and impact of fraud. When fraud risks can be identified and mitigated, fraud may be less likely to occur. Although the occurrence of fraud indicates there is a fraud risk, a fraud risk can exist even if actual fraud has not yet been identified or occurred.

[569] An appropriation provides legal authority for federal agencies to incur obligations and make payments out of the U.S. Treasury for specified purposes.

[570] In July 2021, we reported that SBA's initial implementation of PPP contributed to increased risk of improper payments and extensive fraud. Also in July 2021, we reported on efforts SBA has taken to address risks of fraud in the EIDL program and provision of funds to ineligible applicants.

[571] We consider convictions to be cases where an individual was convicted of a fraud-related charge at trial.

July 2021, our hotline—known as FraudNet—received over 2,700 complaints related to the CARES Act, many of which involve SBA's PPP and EIDL program, DOL's UI program, and EIPs (see text box).[572]

Report Fraud, Waste, and Abuse

GAO's FraudNet supports accountability across the federal government. Allegations of fraud, waste, or abuse can be submitted via the FraudNet portal or by calling the hotline at 1-800-424-5454.

Source: GAO | GAO-22-105051

In addition to fraud against federal programs, scammers are also targeting consumers, which can result in financial losses and undermine health and safety. For example, the Federal Trade Commission (FTC) is tracking complaints related to COVID-19 fraud against consumers. According to FTC reporting, the agency had received over 347,000 reports about fraud and over 69,000 reports about identity theft as of August 4, 2021.[573] Also according to FTC reporting, over a third of the reports about fraud indicated a financial loss and cost Americans over an estimated $518 million.

Overview of Key Issues

Since March 2020, DOJ has publicly announced charges in numerous fraud-related cases involving COVID-19 relief programs, COVID-19-related consumer fraud schemes, or other types of fraud related to COVID-19.[574] The charges—filed across the U.S. and investigated by a range of law enforcement agencies—include making false statements and engaging in identity theft, wire and bank fraud, and money laundering.[575] The number of individuals facing fraud-related charges has continued to grow in the past year and will likely increase, as these cases take time to develop.[576]

[572]While not all of the complaints received involve allegations of potential fraud, many of them do.

[573]According to FTC, the fraud reports reflect complaints in the Consumer Sentinel Network that mention COVID, stimulus, N95, and related terms. The identity theft reports reflect complaints that mention COVID, stimulus, or related terms in the following identity theft subtypes: tax, employment and wage, government benefits, and government documents.

[574]A charge is merely an allegation, and all defendants are presumed innocent until proven guilty beyond a reasonable doubt in a court of law.

[575]The federal government may enforce laws through civil or criminal action. Such action may be resolved through a trial, a permanent injunction, a civil settlement, or a guilty plea. Since March 2020, DOJ has resolved three PPP fraud-related cases involving three individuals and their respective companies through a civil settlement. For example, in one case, a company and its sole individual owner agreed to pay over $230,000 to settle civil fraud allegations that the company obtained multiple PPP loans after the owner certified that the company would not receive multiple loans. In addition to the federal government, state governments have brought COVID-19-related unemployment insurance fraud charges.

[576]The statute of limitations for mail fraud and wire fraud prosecutions is 5 years (18 U.S.C. § 3282), except for mail and wire fraud schemes that affect a financial institution, in which case the statute is 10 years (18 U.S.C. § 3293). Also, based on our analysis, these cases can take many years to resolve. For example, the Department of Housing and Urban Development OIG closed cases in 2017–2020 resulting from Hurricane Sandy in 2012.

Fraud against federal programs. From March 2020 through July 2021, 198 individuals pleaded guilty to federal charges of defrauding COVID-19 relief programs, including SBA's PPP and EIDL program, DOL's UI programs, and EIPs.[577] For example:

- In one case, an individual was sentenced to more than 11 years in prison after fraudulently seeking over $24 million in PPP loans. This individual pleaded guilty to wire fraud and money laundering and admitted that he had fraudulently sought PPP loans on behalf of nearly a dozen different companies. Specifically, this individual admitted to making several false and misleading statements about the companies' respective payroll expenses and submitting fraudulent documentation in support of his applications when, in fact, none of the businesses had employees or paid wages consistent with the amounts claimed in the applications. Based on this individual's false statements and documentation, lenders paid out over $17 million. The individual used the proceeds for personal expenses including purchasing multiple homes, paying off mortgages, and purchasing multiple luxury cars. In addition to the prison sentence, this individual was ordered to pay over $17 million in restitution. See the enclosure on the Paycheck Protection Program in appendix I for more information on the program.

- As part of another case, an individual pleaded guilty to wire fraud associated with a scheme to defraud the EIDL program. The individual submitted an EIDL application on behalf of a business he owned, certifying that he would use the loan proceeds solely as working capital to alleviate economic injury caused by disaster. After obtaining a loan for $150,000, the individual fraudulently misapplied the loan proceeds by purchasing a boat for his personal use and by paying for other expenditures that were in violation of EIDL rules and regulations.

- Three individuals pleaded guilty to wire fraud associated with a scheme to defraud UI by using information belonging to other people, including prison inmates, to file for pandemic-related unemployment benefits, falsely stating that these other people had lost their jobs because of the COVID-19 pandemic. In exchange for cash payments, one of these individuals provided third parties with the debit cards loaded with UI benefits. Each of these individuals caused the state unemployment agency to disburse approximately $353,000 to $477,000 in fraudulently obtained UI benefits. For more information on potential fraud in the UI programs, see the enclosure on Unemployment Insurance Fraud Risk Management, and for more information on the UI programs, see the enclosure on Unemployment Insurance Programs in appendix I.

- One individual pleaded guilty to a charge of conspiracy to commit bank fraud in connection with EIPs. This case involved the individual and his conspirators creating counterfeit checks, including counterfeit pandemic relief checks; depositing the checks online and at various bank ATMs; and withdrawing the funds before the victim institutions identified the checks as fraudulent.

[577]One of these individuals pleaded guilty to federal charges of defrauding the Coronavirus Food Assistance Program. Some of the 198 individuals pleaded guilty to charges related to more than one federal program. Specifically, 25 individuals pleaded guilty to federal charges related to both PPP and EIDL, two individuals pleaded guilty to federal charges related to both PPP and UI, three individuals pleaded guilty to federal charges related to both EIDL and UI, and one individual pleaded guilty to federal charges related to PPP, EIDL, and UI, as of July 31, 2021. Forty-nine of the 198 individuals had been sentenced as of July 31, 2021. Sentences ranged from time served and 2 years of supervised release to more than 11 years in prison and restitution of over $17 million.

As of July 31, 2021, five individuals had been convicted at trial for COVID-19 relief fraud.[578] For example, a federal jury found four individuals guilty of conspiracy to commit bank fraud and wire fraud, 11 counts of wire fraud, eight counts of bank fraud, and conspiracy to commit money laundering for obtaining more than $18 million in PPP and EIDL COVID-19 relief funds. These individuals used fake, stolen, and synthetic identities to submit fraudulent applications for PPP and EIDL loans, submitted false and fictitious documents to lenders and SBA, and then used the fraudulently obtained funds as down payments on luxury homes and to purchase other luxury items.[579]

Federal charges were pending against 465 individuals for attempting to defraud COVID-19 relief programs as of July 31, 2021.[580]

Consumer fraud. In addition to fraud against federal programs, fraud can result in financial losses to consumers and undermine health and safety. From March 2020 through July 2021, 15 individuals or entities pleaded guilty to federal charges related to consumer fraud.[581] For example, in one case, a company and its owner pleaded guilty to charges related to the unlawful importation, sale, and mailing of an unregistered pesticide product marketed as a killer of airborne viruses such as COVID-19. In another case, an individual devised a scheme to defraud an investor and obtain money under fraudulent pretenses related to the purchase and resale of personal protective equipment (PPE) to hospitals and retailers in response to the COVID-19 pandemic. This individual pleaded guilty to wire fraud and money laundering.

There were also federal charges pending against 55 individuals or entities related to consumer fraud as of July 31, 2021. For example, an individual was indicted for allegedly defrauding a company that developed and manufactured COVID-19 test kits by falsely representing that his own company was certified to perform testing, was an “end user” of the tests, and would not attempt

[578]One of these individuals had been sentenced as of July 31, 2021. This individual was sentenced to 37 months in federal prison and 3 years of supervised release and ordered to pay restitution of $2,068,700 for PPP-related fraud. As of July 31, 2021, there had not been any convictions related to UI, EIP, or other federal COVID-19 relief programs.

[579]One of these individuals was also found guilty of two counts of aggravated identity theft. Another individual was also found guilty of one count of aggravated identity theft. A third individual was also found guilty of one count of money laundering. Two of the individuals were charged with violation of pretrial release in late August 2021 after allegedly removing their tracking bracelets, and bench warrants have been issued for their arrests.

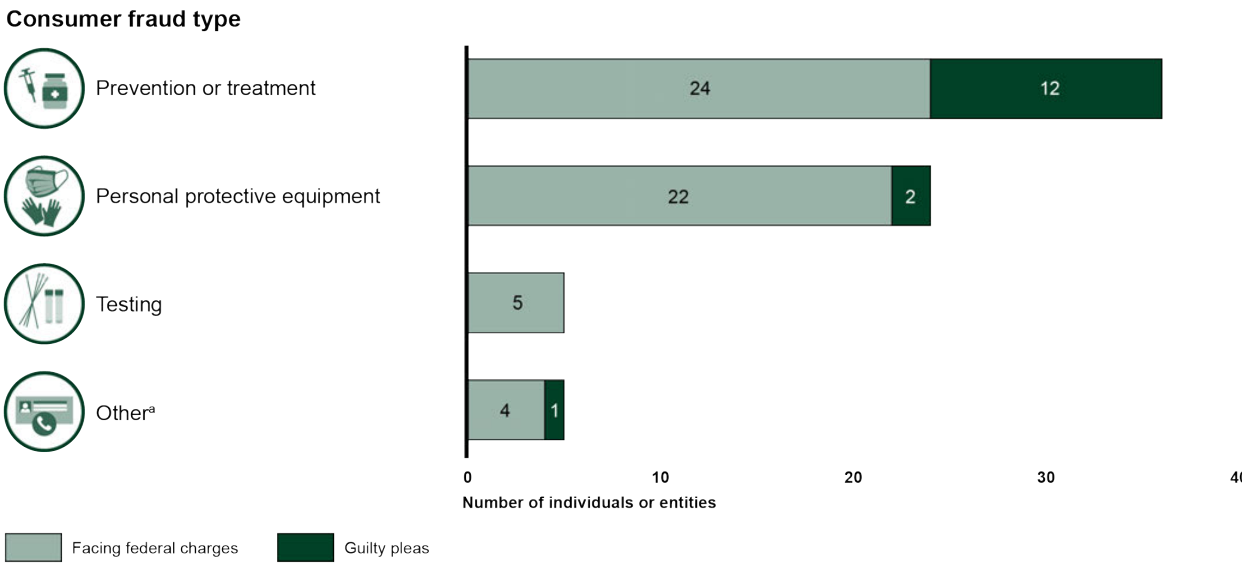
[580]The majority of these individuals were charged with attempting to defraud SBA’s PPP and EIDL program, DOL’s UI programs, or EIPs. Three individuals were charged with attempting to defraud only other federal COVID-19 relief programs, including the Higher Education Emergency Relief Fund and the Provider Relief Fund. Also, some of these 465 individuals faced charges related to more than one federal program. Specifically, 55 individuals faced federal charges related to both PPP and EIDL, eight individuals faced federal charges related to both EIDL and UI, and one individual faced federal charges related to the Provider Relief Fund and EIDL as of July 31, 2021. Three individuals faced federal charges related to PPP, EIDL, and UI; one individual faced federal charges related to PPP, the Accelerated and Advance Payments Program, and the Provider Relief Fund; one individual faced charges related PPP, EIDL, and EIP; and one individual faced charges related to PPP, EIDL, and Medicare.

[581]One of the 15 individuals or entities has also pleaded guilty to federal charges of defrauding a COVID-19 relief program. Also, 11 of the 15 individuals had been sentenced as of July 31, 2021. Sentences for individuals ranged from 1 year of probation to more than 5 years in prison followed by 5 years of supervised release. In addition to these 15 individuals or entities, since March 2020, DOJ resolved a civil complaint of consumer fraud against one entity through a civil settlement.

to resell them. This individual advertised online that he was selling “Food and Drug Administration-approved COVID-19 test kits” and attempted to sell the tests at a substantial markup.[582]

As of July 31, 2021, the majority of individuals and entities that had pleaded guilty or faced federal charges for COVID-19-related consumer fraud schemes were allegedly involved in schemes related to prevention or treatment or PPE sales (see figure).

Number of Individuals or Entities Who Have Pleaded Guilty to or Faced Federal Charges for Consumer Fraud, as of July 31, 2021



Source: GAO analysis. | GAO-22-105051

[a]The “other” category can include individuals or entities who engaged in deceptive business practices, making COVID-19-related claims that caused consumers to suffer or potentially suffer financial or other losses unrelated to prevention or treatment, personal protective equipment, or testing. For example, one individual pleaded guilty and was sentenced to 63 months in prison for, among other things, creating a website to sell other goods that were sought after during the pandemic and not delivering those goods.

Further, as COVID-19 vaccines have become available, potential consumer fraud related to vaccines has emerged. While the extent of vaccine-related fraud is unknown, DOJ has publicly announced charges or other actions in consumer fraud cases involving individuals or entities that claimed to offer vaccines to prevent COVID-19. For example, DOJ announced charges against three individuals for allegedly creating a fraudulent replication of a vaccine company’s website and stating that consumers could buy COVID-19 vaccines. Further, DOJ announced charges against another individual for selling immunization pellets that this individual allegedly falsely claimed would provide lifelong immunity to COVID-19. This individual allegedly created and provided counterfeit COVID-19 vaccination cards to make it appear that customers received an authorized COVID-19 vaccine.

Other federal cases. The federal government is also pursuing charges including conspiracy, wire fraud, and theft that are related to COVID-19 but separate from consumer fraud—including vaccine-related fraud—and fraud against the federal programs discussed earlier. From March 2020

[582]This individual was also accused of fraudulently obtaining a loan from SBA’s EIDL program.

through July 2021, 14 individuals pleaded guilty to these types of federal charges.[583] For example, one individual was sentenced to 46 months in prison and 3 years of supervised release, ordered to pay over $530,000 in restitution, and ordered to forfeit $527,000 and a vehicle after pleading guilty to embezzling more than $500,000 from AmeriCorps and to agreeing to accept a bribe for the administration of grants under the CARES Act. Another individual pleaded guilty to hoarding and price gouging, admitting that she began accumulating nearly 20,000 N95 respirator masks starting in February 2020 in anticipation of a shortage that would be caused by the COVID-19 pandemic, and that she sold the masks for up to $15 each.

There were also other federal charges pending against 29 individuals as of July 31, 2021. For example, one individual was indicted on charges for his role in a $9.3 million health care kickback scheme. Among other things, this individual was charged with conspiracy to commit health care fraud and wire fraud for allegedly conspiring with others to pay and receive kickbacks in exchange for referring Medicare beneficiaries to his clinical laboratory for testing that they did not need. Specifically, among other things, this individual submitted at least $260,000 in claims related to medically unnecessary testing that was improperly bundled with COVID-19 testing.[584]

Other federal efforts to address and prevent future fraud-related cases. In addition to DOJ filing fraud-related charges against individuals and entities for actions related to COVID-19, other federal agencies have undertaken efforts to address fraud-related cases and prevent such cases in the future.

Taking administrative and other enforcement actions. FTC and the Food and Drug Administration have issued warning letters to companies for allegedly selling fraudulent COVID-19-related products, including those making deceptive or scientifically unsupported claims about their ability to prevent or treat COVID-19. In addition, FTC has sought civil penalties against individuals and entities for allegedly engaging in deceptive practices related to the COVID-19 pandemic.[585] In one case, FTC brought action against two companies and two officers of those companies in connection with the labeling, advertising, marketing, distribution, and sale of products they claimed would treat, prevent, or cure COVID-19. One of the officers agreed to settle the charges and is barred from making similar unsupported health claims in the future and was ordered to provide refunds to defrauded consumers. In another case, the Environmental Protection Agency

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[583]Eight individuals had been sentenced as of July 31, 2021. Sentences ranged from 2 years of probation and a $75,000 fine to almost 4 years in prison, 3 years of supervised release, and an order to pay over $530,000 in restitution and to forfeit $527,000 and a vehicle. In addition to these eight individuals, since March 2020, DOJ resolved complaints against three individuals or entities for activities such as hoarding and price gouging through settlements.

[584]This individual was also indicted on wire fraud charges for allegedly submitting fraudulent applications seeking a PPP loan and an EIDL in the name of his clinical laboratory. In addition, two other individuals were charged separately for their roles in the $9.3 million health care kickback scheme. In May 2021, DOJ announced criminal charges against 14 defendants, including these three individuals, for their alleged participation in various health care fraud schemes resulting in over $143 million in false billings. In September 2021, DOJ announced charges against five defendants who allegedly engaged in the misuse of Provider Relief Fund monies and nine defendants who allegedly engaged in various health care fraud schemes designed to exploit the COVID-19 pandemic, resulting in the submission of over $29 million in false billings.

[585]The COVID-19 Consumer Protection Act, which became law in December 2020 as part of the Consolidated Appropriations Act, 2021, gives FTC authority to seek civil penalties on the first offense for scams and deceptive practices related to the COVID-19 pandemic. Pub. L. No. 116-260, div. FF, tit. XIV, § 1401, 134 Stat. 1182, 3275-3276 (2020).

ordered a website to stop selling pesticides, such as a “disinfection card” that claims to protect the wearer from coronavirus.

Establishing task forces and working groups. On May 17, 2021, the Attorney General established the COVID-19 Fraud Enforcement Task Force to marshal the resources of DOJ in partnership with agencies across the government.[586] The task force held its first meeting on May 27, 2021, where task force members discussed priority goals, including increased efforts to combat fraud related to COVID-19 relief programs. Also on May 17, 2021, the President established the Initiative on Identity Theft Prevention and Public Benefits to develop recommendations on prevention measures to respond to the threat of identity theft in public benefits programs. Through the initiative, the White House’s American Rescue Plan Implementation Coordinator and the Office of Management and Budget (OMB) are working with relevant stakeholders to develop recommendations and proposals.

Further, on July 15, 2021, the Chair of the Pandemic Response Accountability Committee announced the formation of a new working group focused on preventing and addressing identity fraud in pandemic response programs. The working group is a joint effort of multiple agency Inspectors General. In addition, the Federal Bureau of Investigation Springfield Field Office organized a PPP and EIDL fraud working group consisting of its federal partners—the Internal Revenue Service Criminal Investigations and the SBA OIG.

Providing information to the public about emerging fraud schemes. As a result of complaints from the public alleging potential fraud involving COVID-19 relief funds received through hotlines and other fraud detection efforts, federal agencies have warned the public about emerging fraud schemes, which can help prevent future cases of fraud against federal programs and consumers. For example, in March 2021, DOL launched a website to help the public better understand UI identity theft. The website also provides resources for those who may have been victims of identity theft, including a list of contact information for each state to report UI identity theft.[587] We previously reported on examples of agency warnings to the public about emerging fraud schemes in our quarterly July 2021 report.

Methodology

To conduct this work, we reviewed information from DOJ to identify federal fraud-related charges related to COVID-19 relief funding as of July 31, 2021. We also analyzed related federal court

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[586]According to a related press release, the task force will augment and incorporate the existing coordination mechanisms within DOJ. Also, it will work closely with interagency partners to share information and insights gained from prior enforcement experience to reduce the potential threat to the American people and COVID-19 relief. In addition, it will help agencies increase their fraud prevention efforts by providing information about fraud trends and illicit tactics. Further, it will bolster efforts to investigate and prosecute the most culpable domestic and international criminals, prevent the exploitation of government assistance for personal and financial gain, and recover stolen funds.

[587]Officials from the National Association of State Workforce and its UI Integrity Center, funded by and operated in partnership with DOL, said that identity theft remains the biggest challenge for states in addressing potential UI fraud. According to officials, states have recently experienced increases in instances of criminals taking over legitimate claimants’ UI accounts and rerouting benefits to other bank accounts. In January 2021, we reported that states were working to address these account takeovers through communication campaigns that raise public awareness about phishing attempts to steal account information, as well as coordinating with law enforcement and banking institutions.

documents. In addition, we reviewed FTC reports on complaints related to fraud and identity theft and press releases from other federal entities, including the Pandemic Response Accountability Committee, FTC, DOL, and the Environmental Protection Agency, describing COVID-19 fraud-related efforts.

Agency Comments

We provided OMB with a draft of this enclosure. OMB provided technical comments, which we incorporated as appropriate.

GAO's Ongoing Work

We will continue our oversight of government-wide fraud risk management efforts.

Related GAO Products

Economic Injury Disaster Loan Program: Additional Actions Needed to Improve Communication with Applicants and Address Fraud Risks. GAO-21-589. Washington, D.C.: July 30, 2021.

Paycheck Protection Program: SBA Added Program Safeguards, but Additional Actions Are Needed. GAO-21-577. Washington, D.C.: July 29, 2021.

A Framework for Managing Fraud Risks in Federal Programs. GAO-15-593SP. Washington, D.C.: July 28, 2015.

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FEMA's Disaster Relief Fund and Assistance to State, Local, Tribal, and Territorial Governments

The Federal Emergency Management Agency does not consistently interpret and apply COVID-19 Public Assistance guidance and provide timely approval of COVID-19 applications for Public Assistance, causing undue burdens and stress for communities.

Entity involved: Federal Emergency Management Agency, within the Department of Homeland Security

Recommendations for Executive Action

The Federal Emergency Management Agency Administrator should improve the consistency of the agency's interpretation and application of the COVID-19 Public Assistance policy within and across regions by further clarifying and communicating eligibility requirements nationwide.

The Federal Emergency Management Agency Administrator should require the agency's Public Assistance program employees in the regions and at its Consolidated Resource Centers to attend training on changes to COVID-19 Public Assistance policy to help ensure it is interpreted and applied consistently nationwide.

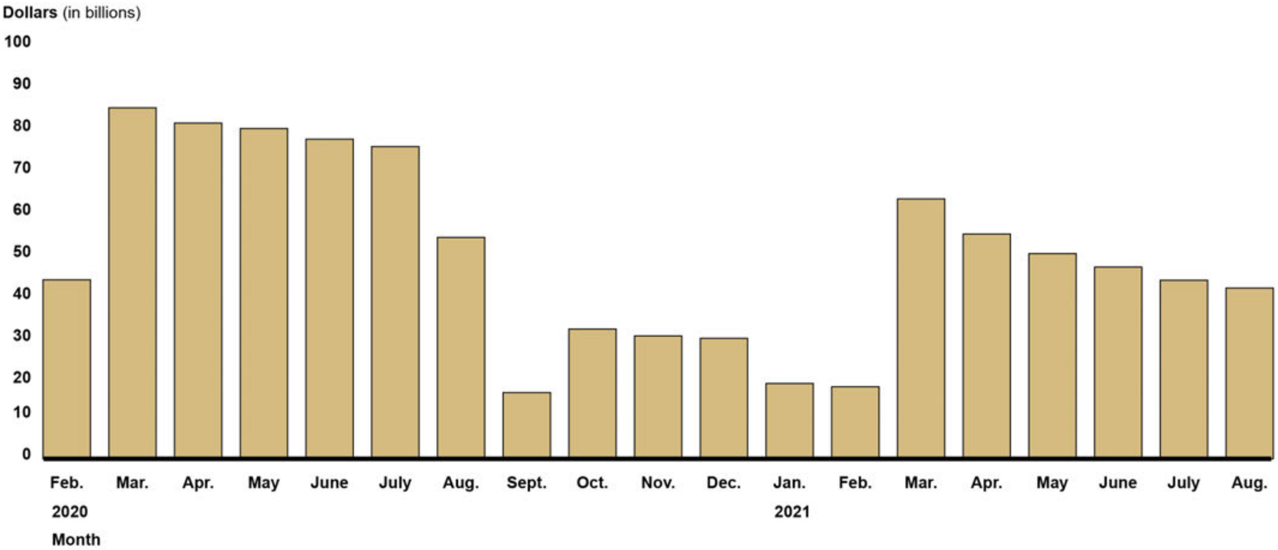
The Department of Homeland Security concurred with both recommendations and outlined actions it has taken to improve the consistency of the agency's interpretation and application of the COVID-19 Public Assistance Policy and train employees in the regions and at its Consolidated Resource Centers.

Background

Before the COVID-19 pandemic, the Federal Emergency Management Agency's (FEMA) Disaster Relief Fund—the primary source of federal disaster assistance for state, local, tribal, and territorial governments—had never been used during a nationwide public health emergency.[588] As of August 31, 2021, FEMA had obligated more than $80 billion from the Disaster Relief Fund to respond to COVID-19. As of the same date, the Disaster Relief Fund's balance was more than $40 billion.

[588]The Disaster Relief Fund receives an annual appropriation and has routinely received supplemental appropriations. In March 2020, the CARES Act was enacted, appropriating $45 billion for the Disaster Relief Fund. Pub. L. No. 116-136, div. B, tit. VI, 134 Stat. 281, 543 (2020). The Consolidated Appropriations Act, 2021 appropriated $17 billion to the Disaster Relief Fund for major disasters and an additional $2 billion to provide assistance for COVID-19-related funeral expenses. Pub. L. No. 116-260, div. F, tit. III, 134 Stat. 1182, 1462 (2020); Pub. L. No. 116-260, div. M, tit. II, 134 Stat. at 1910. In March 2021, the American Rescue Plan Act of 2021 appropriated $50 billion to the Disaster Relief Fund. Pub. L. No. 117-2, § 4005, 135 Stat. 4, 79.

FEMA's Disaster Relief Fund Balance, by Month, Feb. 2020– Aug. 2021



Source: GAO analysis of Federal Emergency Management Agency's (FEMA) Disaster Relief Fund monthly reports. | GAO-22-105051

FEMA has used the Disaster Relief Fund to respond to the COVID-19 pandemic by providing three primary types of disaster assistance.

1. *Individual Assistance.* FEMA provides Individual Assistance to disaster survivors to cover necessary expenses and serious needs—such as housing assistance, counseling, or funeral assistance—which cannot be met through insurance or low-interest loans. For the COVID-19 response, FEMA has provided lost wages assistance, funeral assistance, and crisis counseling.

2. *Public Assistance.* FEMA provides Public Assistance to state, local, tribal, and territorial governments, and certain types of private nonprofit organizations so that communities can quickly respond to, and recover from, major disasters or emergencies. After natural disasters, Public Assistance tends to be used for emergency cleanup and for permanent reconstruction projects—for example, to rebuild damaged public infrastructure. For all 59 major disaster declarations for COVID-19, FEMA has authorized Public Assistance for emergency protective measures only. This may include eligible medical care, purchase and distribution of food, noncongregate medical sheltering, operation of Emergency Operations Centers, and the purchase and distribution of personal protective equipment.
   On February 2, 2021, the President issued a memorandum that directed FEMA to fully reimburse state, territorial, and tribal governments for all work eligible for emergency protective measures assistance through September 30, 2021.[589] On August 17, 2021, the President extended this full reimbursement through December 31, 2021.[590] According to FEMA officials, FEMA's Public Assistance Workforce, which manages FEMA's Public Assistance

[589]White House, *Memorandum on Maximizing Assistance from the Federal Emergency Management Agency* (Feb. 2, 2021).

[590]White House, *Memorandum on Maximizing Assistance to Respond to COVID-19* (Aug. 17, 2021).

workload, consists of approximately 1,800 employees, of which more than 1,000 have supported the COVID-19 effort in some capacity from their primary duty station.

3. *Mission assignments.* FEMA also issues mission assignments—work orders directing other federal agencies to provide direct assistance to state, local, tribal, and territorial governments—to support disaster response and recovery. For the COVID-19 response, for example, FEMA issued a mission assignment to the Department of Defense to fund National Guard deployments to support state and territorial response efforts.

Overview of Key Issues

FEMA's use of the Disaster Relief Fund to support COVID-19 activities. As of August 31, 2021, FEMA had obligated more than $80 billion from the Disaster Relief Fund to respond to COVID-19.

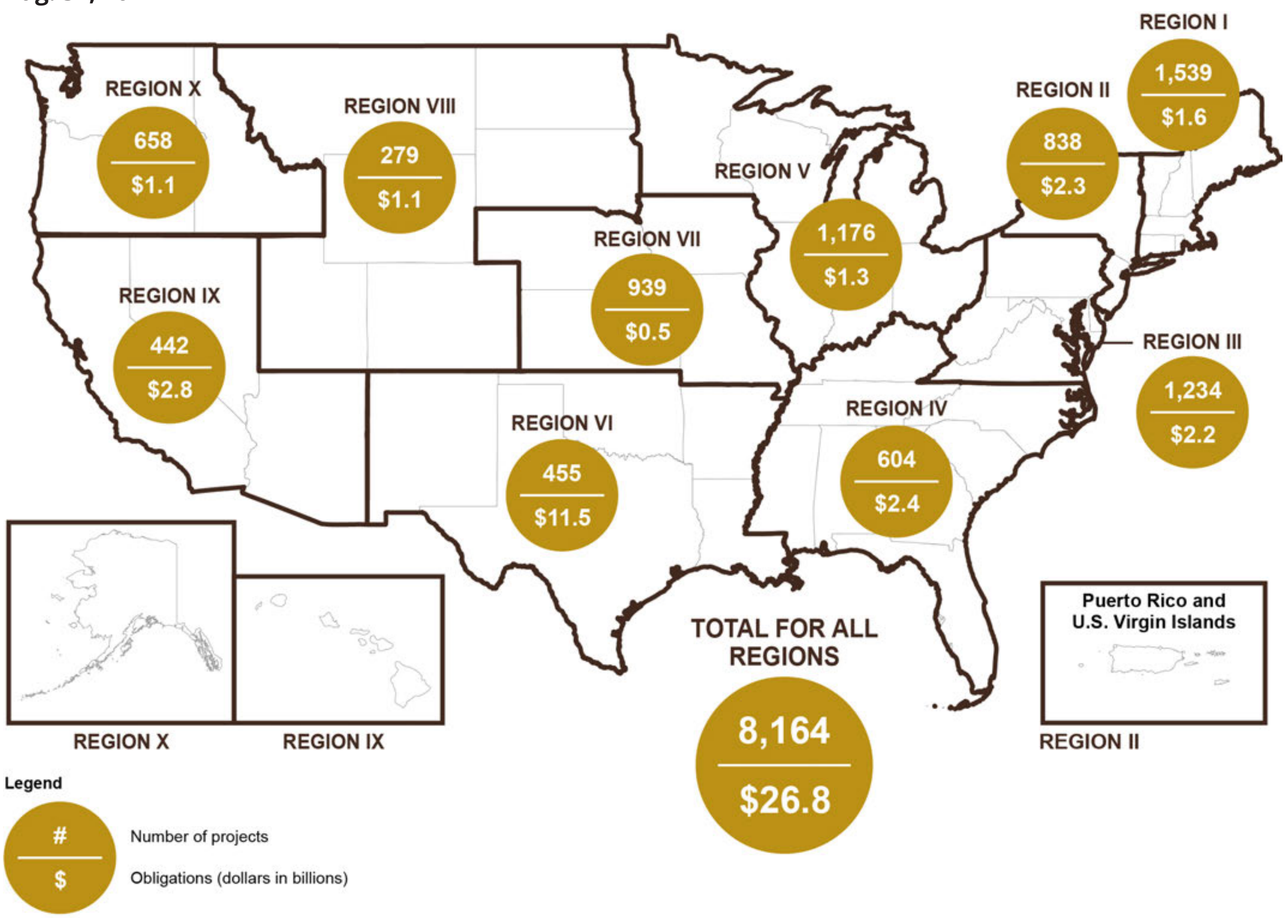
Individual Assistance. On August 8, 2020, a presidential memorandum directed that up to $44 billion be made available from the Disaster Relief Fund to provide lost wages assistance to supplement unemployment insurance compensation.[591] According to FEMA officials, as of August 31, 2021, FEMA had obligated approximately $39 billion for the Lost Wages Assistance program. Further, in December 2020, the Consolidated Appropriations Act, 2021, appropriated $2 billion to the Disaster Relief Fund for eligible funeral expenses for individuals or households with COVID-19-related funeral expenses.[592] On April 12, 2021, FEMA began accepting and processing applications for COVID-19 funeral assistance via a dedicated call center number.

Public Assistance. FEMA officials stated that as of August 31, 2021, FEMA had received 25,274 applications for Public Assistance and awarded $30.7 billion. From September 28, 2021 through December 31, 2021, FEMA anticipates it will receive 5,600 additional public assistance projects for an estimated additional $8.8 billion. With the emergence of the Delta variant of COVID-19, there could be an increase in COVID-19-related Public Assistance projects. From September 1, 2020 to August 31, 2021, FEMA obligated a total of approximately $26.8 billion for Public Assistance for almost 8,200 projects. The figure below shows the number of projects and award amount for each of FEMA's 10 regions from September 1, 2020, through August 31, 2021.

[591] White House, *Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019* (Aug. 8, 2020). Pursuant to the presidential memorandum, upon receiving a FEMA grant, states and territories may provide eligible claimants $300 or $400 per week—which includes a $300 federal contribution—in addition to their Unemployment Insurance benefits. The presidential memorandum directed that the program would end either when $44 billion had been obligated, the balance of the Disaster Relief Fund reached $25 billion, on December 27, 2020, or upon the enactment of legislation providing supplemental federal unemployment compensation, whichever comes first.

[592] Pub. L. No. 116-260, div. M, tit. II, 134 Stat. at 1910. The American Rescue Plan Act of 2021 also stated that FEMA is to provide financial assistance for COVID-19-related funeral expenses. Pub. L. No. 117-2, § 4006, 135 Stat. 4, 79.

Number of Projects and Amounts Obligated for Public Assistance for COVID-19, by FEMA Region, Sept. 1, 2020–Aug. 31, 2021



Source: GAO's presentation of Federal Emergency Management Agency (FEMA) data. | GAO-22-105051

According to FEMA officials, for COVID-19 declarations, FEMA can only provide Public Assistance funding for emergency measures to protect public health and safety. A January 21, 2021, presidential memorandum expanded the definition of eligible activities under FEMA's Public Assistance Program to include measures implemented to facilitate the safe opening and operation of all eligible facilities, including schools, domestic violence shelters, and transit systems, among others. Such assistance may include funding for the provision of personal protective equipment and disinfecting services and supplies.[593] According to FEMA officials, the memorandum will likely have a significant impact on their resources and operations. Specifically, FEMA officials stated

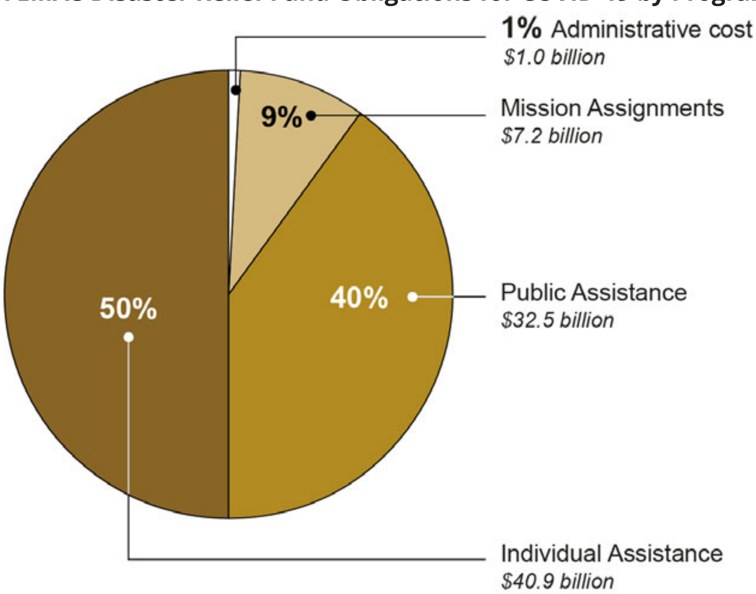
[593]White House, *Memorandum to Extend Federal Support to Governors' Use of the National Guard to Respond to COVID-19 and to Increase other Federal Assistance Provided to States* (Jan. 21, 2021). A subsequent presidential memorandum, issued on February 2, 2021, required FEMA to provide 100 percent cost share reimbursement for work eligible under Public Assistance for emergency protective measures from January 20, 2020, through September 30, 2021. This requirement did not include the operational expenses made eligible by the January 21, 2021, memorandum, which receive 100 percent cost share reimbursement from January 21, 2021, through September 30, 2021. White House, *Memorandum on Maximizing Assistance from the Federal Emergency Management Agency* (Feb. 2, 2021). On August 17, 2021, the President extended this full reimbursement for all work eligible under Public Assistance through December 31, 2021. White House, *Memorandum on Maximizing Assistance to Respond to COVID-19* (Aug. 17, 2021).

that the eligibility of reopening and operating expenses for schools and other facilities is likely to significantly increase the number of applicants and cost of eligible claims under Public Assistance.

Mission assignments. FEMA has issued mission assignments to multiple federal agencies—the Department of Agriculture, Department of Labor, Environmental Protection Agency, and Department of Defense, among others—to assist in the COVID-19 response. For example, FEMA issued a mission assignment to the Department of Defense to fund National Guard deployments to assist in recovery efforts. The presidential memorandum issued on January 21, 2021, provided that FEMA would fully reimburse expenses for National Guard activities to respond to COVID-19, which may include vaccination distribution.[594] According to FEMA, the estimated cost for National Guard assistance totaled more $5.6 billion as of August 31, 2021.

The figure below shows FEMA's obligations for COVID-19, by program and activity.

FEMA's Disaster Relief Fund Obligations for COVID-19 by Program and Activity through August 2021



Source: GAO analysis of Federal Emergency Management Agency's (FEMA) Disaster Relief Fund monthly report. | GAO-22-105051

Note: The amounts shown include Disaster Relief Fund obligations through August 31, 2021 and projections through September 30, 2021. Percentages are rounded to the nearest whole number.

FEMA's Disaster Relief Fund supports a variety of activities.

Mass vaccination sites. The President directed FEMA to establish Pilot Community Vaccination Centers (CVC) as part of a national effort to speed the pace of COVID-19 vaccination campaigns and ensure equitable access to vaccinations. Pilot CVCs were established through a partnership between FEMA; the Centers for Disease Control and Prevention; other federal agencies; and states. After an initial 8-week operational period, CVC pilot sites are closed or transitioned to the state entity to fully operate. According to FEMA officials, the last CVC pilot site closed on June 20, 2021. FEMA told us that as of June 20, 2021, the pilot CVCs had given more than 5.6 million doses

[594]White House, *Memorandum to Extend Federal Support to Governors' Use of the National Guard to Respond to COVID-19 and to Increase other Federal Assistance Provided to States* (Jan. 21, 2021).

of vaccines across 39 locations, including sites that had extended their participation in the pilot program.[595] FEMA officials stated that, as of September 8, 2021, there are no plans to re-establish pilot CVC sites in response to the COVID-19 Delta variant, as state and local jurisdictions currently have the capacity to continue providing vaccinations as needed.

Work and associated costs to support the distribution and administration of COVID-19 vaccines may be eligible for Public Assistance. As such, FEMA is coordinating with other federal agencies to meet state, local, tribal, and territorial needs. Specifically, FEMA officials stated that as of August 31, 2021, the agency had obligated more than $5.83 billion to states, tribes, and territories for vaccine distribution through the Public Assistance Program. In addition, FEMA is deploying additional personnel to vaccination sites where they will assist people seeking access to the vaccine. According to FEMA officials, eligible work and costs under Public Assistance for vaccine distribution may include, but is not limited to,

- leasing facilities or equipment to administer and store the vaccine,
- providing staffing and training support,
- providing personal protective equipment and other administrative supplies, and
- using technology to register and track vaccine administration.

FEMA funeral assistance for COVID-19-related deaths. In December 2020, the Consolidated Appropriations Act, 2021, appropriated $2 billion to the Disaster Relief Fund for eligible funeral expenses for individuals or households with COVID-19-related funeral expenses.[596] FEMA began accepting applications on April 12, 2021. According to FEMA data, as of August 30, 2021, the call center had received and was processing 264,544 applications, had approved 165,154 applications, and had awarded more than $1 billion.

COVID-19 Funeral Assistance provides up to $9,000 per deceased individual to applicants who incurred COVID-19-related funeral expenses on or after January 20, 2020, and meet eligibility requirements. The maximum assistance provided to an applicant who incurred expenses for multiple deaths per state or territory is $35,500. FEMA provides financial assistance for eligible funeral expenses including remains transfer, caskets and urns, burial plots and cremation niches, and markers and headstones.[597] According to FEMA's interim policy, the death certificate must directly or indirectly attribute the death to COVID-19 and the death must have occurred in the U.S., including the U.S. territories and the District of Columbia. However, in June 2021, FEMA amended

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[595]The initial pilot period for each location was 8 weeks; however, jurisdictions were able to request an extension of an additional 4 weeks. During this period, the site would receive federal staffing and support but not an additional vaccine allocation.

[596]Pub. L. No. 116-260, div. M, tit. II, 134 Stat. at 1910. The American Rescue Plan Act of 2021 also stated that FEMA is to provide financial assistance for COVID-19-related funeral expenses. Pub. L. No. 117-2, § 4006, 135 Stat. 4, 79.

[597]Eligible expenses also include eligible interment expenses that include transportation to identify the deceased for up to two people, interment, funeral services, officiant of the services, and costs for up to five death certificates. Costs associated with travel to scatter ashes outside of a memorial service and clothing to attend a funeral service are among expenses not eligible for reimbursement under the program. Applicants must be U.S. citizens, noncitizen nationals, or qualified aliens who paid for funeral expenses that are not covered by other sources, such as burial insurance.

its policy to allow applicants more flexibility in attributing a death to COVID-19 without amending the death certificate. Specifically, for deaths that occurred between January 20, 2020, and May 16, 2020, applicants can submit a signed statement or letter from the certifying official on the death certificate, or from the medical examiner or coroner in the jurisdiction in which the death occurred, that attributes the death to COVID-19. The signed statement must be accompanied by a death certificate. For deaths occurring after May 16, 2020, applicants must include a copy of the death certificate that attributes the death to COVID-19.

FEMA does not accept online applications for COVID-19 Funeral Assistance. According to FEMA officials, the agency established a dedicated, toll free call center number and hired a contractor to accept and support the processing of applications for COVID-19 Funeral Assistance. As of July 22, 2021, the call center is staffed by approximately 1,900 operators across the U.S. Further, according to FEMA officials, as of August 31, 2021, the average time needed to complete an application was about 20 minutes. FEMA has not established a deadline to apply at this time.

After completing an application with a call center representative, applicants receive an application number they can use to provide supporting documentation to FEMA online, by fax, or mail. In addition, FEMA sends applicants a letter requesting additional documents to support their application for COVID-19 funeral assistance. Applicants approved for COVID-19 Funeral Assistance will receive a check by mail or direct deposit, depending on the option chosen when applying for assistance. Applicants who are not approved for COVID-19 Funeral Assistance will receive a decision letter explaining why they are not approved, their rights to appeal the decision, and information on how to appeal it. Applicants have 60 days from the date of the decision letter to appeal FEMA's decision.

According to FEMA officials, in June 2021, FEMA identified a malfunction in its financial system that resulted in duplicate COVID-19 Funeral Assistance payments to 65 applicants in Georgia. As of September 30, 2021, 49 of the 65 duplicate payments, totaling almost $295,000, had been successfully recalled by the Department of the Treasury or voluntarily refunded by applicants. FEMA officials told us that they were continuing to reach out to applicants to ask them to voluntarily return the duplicate payments. If applicants do not voluntarily return these payments, FEMA will consider other means, such as garnishing wages, to retrieve the money. According to FEMA officials, as of September 10, 2021, FEMA made technical enhancements to the system to increase memory and database size to accommodate increased funeral assistance payments. However, FEMA was still working on other enhancements to the system to repair the underlying issue that caused duplicate payments to be paid. FEMA officials stated that they were not aware of any other duplicate payments going out to applicants.

The scope of FEMA's COVID-19 Funeral Assistance is unprecedented. In the decade before the COVID-19 pandemic, FEMA had processed approximately 6,000 applications for funeral assistance after other natural disasters, according to FEMA officials. The officials told us that FEMA has internal controls to mitigate fraudulent activity and described these internal controls as effective for preventing and identifying fraud. According to the officials, to develop the internal controls, FEMA relied on numerous sources and lessons learned from previous disasters. The officials said that as of August 31, 2021, FEMA had flagged 22,275 of the 264,321 applications it had received for additional review based on its fraud controls. Of the flagged applications, 11,497 were cleared for continued processing; 1,239 applications remained under review; 9,499 applications were pending additional documentation from the applicant; and 40 applications were pending adjudication for potential fraud.

Delays in FEMA's processing of Public Assistance applications. FEMA is experiencing delays in processing applications for COVID-19 Public Assistance. Applicants and state emergency management personnel have raised concerns to FEMA about the time it takes to complete and approve applications for COVID-19 Public Assistance.

Senior state emergency managers we spoke with in one state said that long processing times have created financial challenges for communities that are awaiting reimbursement from FEMA for expenses they incurred. For example, these officials told us that they submitted 823 projects to FEMA for Public Assistance. Of these, as of August 26, 2021, 195 applications were determined to have ineligible expenses, 92 were pending, 86 were withdrawn, 248 were going through formulation[598], and 202 had been approved and obligated funding. According to these state officials, on average, it took FEMA 236 days to make ineligibility determinations for the 195 applications with ineligible expenses and about 135 days to approve and make obligations for the 202 approved applications once they were submitted. The long processing time led some applicants to seek other funding sources for their projects and also created additional stress and financial burden for applicants already dealing with a disaster; it also created additional strain on state, territorial, and federal personnel who were assisting applicants.

FEMA officials stated that FEMA currently has a backlog of 3,002 applications that are pending a determination memorandum for potentially ineligible expenses.[599] As of September 2021, FEMA's median time to process an application is 51 days if there is not an issue with expense eligibility. However, if there is an eligibility issue, the median number of days to process the application is 138 days. [600]

FEMA officials acknowledged concerns that they had heard regarding the application process for COVID-19 Public Assistance and took actions to address them. In an effort to make the application process easier and to improve timeliness in making an eligibility determination, FEMA took steps that included clarifying information collection and documentation requirements and simplifying and streamlining the application process. In addition, to reduce the backlog of ineligibility determinations, in February 2021, FEMA established the Determination Memorandum task force consisting of 27 personnel, including analysts and attorneys, who were experienced determination memorandum writers. To improve the application process, the task force created a review process to ensure that the memorandums were written clearly and stated the appropriate determinations based on the specifics of the projects.

According to FEMA officials, as a result of these steps, there has been a reduction in FEMA's backlog of ineligibility determinations and number of requests for additional information from

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598 Project formulation is the process of documenting the eligible facility, eligible work and eligible costs for a project.

599 FEMA uses determination memorandums to inform applicants that some of the expenses claimed on their application are ineligible for reimbursement.

600 According to FEMA officials, the median processing times for COVID-19-related projects is faster than non-COVID-19-related projects. As of August 30, 2021, the median processing time for COVID-19-related projects from project creation to initial obligation was 80 days compared to 135 days for non-COVID-related projects.

applicants. However, with the emergence of the Delta variant for COVID-19, the number of COVID-19-related Public Assistance applications could increase, which could affect the backlog of ineligibility determinations. We will continue to monitor FEMA's processing of COVID-19-related public assistance claims.

FEMA inconsistently applied COVID-19 Public Assistance policies. FEMA issued several COVID-19 related policies for Public Assistance.[601] FEMA inconsistently interpreted and applied its policies for COVID-19 Public Assistance within and across its regions.[602] State emergency managers we spoke with from four of the 10 regions provided multiple examples of FEMA's inconsistency in interpreting and applying its policy regarding the eligibility of expenses for reimbursement from its Public Assistance Program.

Overtime*.* Officials we spoke with in two states said that FEMA inconsistently interpreted and applied its policies for reimbursement of overtime expenses for Emergency Medical Services workers. For example, according to the officials, in some cases FEMA said that these expenses were eligible for reimbursement only if the Emergency Medical Service worker was responding to a patient who had already tested positive for COVID-19; however, FEMA did not interpret this policy consistently across communities in the state and across other regions. In addition, based on ongoing issues that applicants faced, one of these states requested that FEMA clarify its policy on overtime pay for Emergency Medical Service workers. However, as of August 2021, according to officials in one state, FEMA had not provided clarity on its policy, while officials in the other state said that the issue had been resolved.[603]

Personal protective equipment*.* Officials in one state said that at one point FEMA had deemed the provision of personal protective equipment at correctional facilities as ineligible for reimbursement in their region but that states in other regions had received reimbursement for the same expense. Furthermore, officials we spoke with in two states said that FEMA imposed requirements for reimbursement for personal protective equipment and disinfectant for schools that they believed were inconsistent with its policy at the time and doing so created challenges for schools reopening. FEMA officials we spoke with in August 2021 acknowledged that the agency's interpretation and application of its policy related to reimbursement for personal protective equipment varied across regions.

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[601]FEMA issued a series of policies from March 2020 to April 2021 that describe eligible expenses for the use of Public Assistance for COVID-19. Some of the key policies issued are: FEMA, *Coronavirus (COVID-19) Pandemic: Eligible Emergency Protective Measures*, FEMA Fact Sheet (March 2020); *Coronavirus (COVID-19) Pandemic: Work Eligible for Public Assistance (Interim)*, FEMA Policy FP 104-009-19 (September 2020); *Coronavirus (COVID-19) Pandemic: Medical Care Eligible for Public Assistance (Interim) (Version 2)*, FEMA Policy #104-21-0004 (March 2021); and *Coronavirus (COVID-19) Pandemic: Safe Opening and Operation Work Eligible for Public Assistance (Interim)* FEMA Policy FP-104-21-0003 (April 2021).

[602]We have previously reported past challenges with FEMA's management of the Public Assistance Program. Specifically, in 2018 related to the response to Hurricanes Harvey, Irma, and Maria we reported on issues over the lack of consistency in eligibility determinations and the knowledge and experience of program staff as presenting potential challenges for recovery.

[603]FEMA's guidance includes requirements for determining the eligibility of labor costs, including overtime. See FEMA, *Public Assistance Program and Policy Guide*, FP 104-009-2 (June 1, 2020); and *Coronavirus (COVID-19) Pandemic: Medical Care Eligible for Public Assistance (Interim) (Version 2)*, FEMA Policy #104-21-0004 (March 2021).

Based on our conversation with state emergency managers, we found that inconsistent interpretation and application continues in one state. For example, state officials told us that reimbursement for PPE has been inconsistent across counties within the state. That state reported that although the expenses for PPE were incurred around mid-2020, after which FEMA issued a clarifying policy, current interpretation of the prior policy as it applies to PPE continues to be inconsistent.

Noncongregate sheltering. Officials we spoke with in one state said that FEMA had inconsistently interpreted and applied its policy across FEMA regions for reimbursement of expenses for noncongregate sheltering.[604] According to FEMA policy, noncongregate sheltering can be approved for up to 30 days or longer if justified.[605] However, officials in this state said that FEMA had not approved reimbursement for noncongregate sheltering costs beyond 14 days but had approved it for longer periods in states in other regions.

FEMA officials in headquarters acknowledged these challenges and have taken initial steps to address them. For example, in December 2020, FEMA established the Request For Information task force that included subject matter experts from its four Consolidated Resource Centers and local hires who were experienced determination memorandum writers.[606] The intent of this task force was to improve the consistency of FEMA's interpretation and application of policy. As part of the Request For Information task force, FEMA personnel reviewed every instance where FEMA was planning to request additional supporting documentation from applicants. As a result of the task force's efforts, FEMA identified common scenarios that FEMA could use to train staff and improve consistency across regions. FEMA officials said that they communicated the task force's findings in writing and in meetings with FEMA regional personnel and associations of state emergency managers.

Based on our discussions with FEMA headquarters officials and state emergency managers, we identified four key areas that contributed to the inconsistent interpretation and application of COVID-19 policy for Public Assistance.

1. *Changes in policy.* Although FEMA's *Public Assistance Program and Policy Guide* defines policies and procedures for the Public Assistance Program, it does not specifically address COVID-19 Public Assistance. FEMA had not previously used the Public Assistance Program to respond to a nationwide emergency such as the COVID-19 pandemic. As a result, FEMA officials said that they quickly developed and issued a series of policy documents clarifying the use of Public Assistance to respond to COVID-19, which FEMA personnel interpreted and applied

[604] Noncongregate sheltering helps protect public health and safety—for example, by providing an isolated or individual shelter for those who test positive for COVID-19 and do not require hospitalization.

[605] FEMA has traditionally required applicants to request time extensions every 30 days to ensure non-congregate sheltering operations are still necessary. However, FEMA eliminated the requirement to submit time extensions in 30 day increments for COVID-19 declarations. See FEMA, *Update to Non-Congregate Sheltering Delegation of Authority Public Assistance Program and Policy Guide Waiver*, Memorandum for Regional Administrators Regions I – X (Dec. 16, 2020); and FEMA, *Frequently Asked Questions*, *Coronavirus (COVID-19) Pandemic: Non-Congregate Sheltering* (March 2020).

[606] FEMA's Consolidated Resource Centers house Public Assistance officials who conduct peer reviews of completed projects, depending on the expertise of the specialist developing the project. Other specialists at the centers check to ensure the accuracy of the scope of work, cost estimates, and supporting documents for the project and provide feedback on ways to improve work on future projects.

differently.[607] FEMA officials stated that they work hard to retain consistency in policies that are issued, but it is difficult with every state and region not experiencing the same thing at the same time.

State emergency managers we interviewed stated that changes in policy were interpreted and applied inconsistently within and across regions. Similarly, the National Governors Association letter to FEMA on May 12, 2021, stated that prior to FEMA issuing clarifying policy, states and territories received inconsistent messaging across FEMA regions about the eligibility of items for reimbursement, such as masks and disinfectant for schools and increased operating costs for 24/7 emergency operations center. According to the letter, subsequent changes to FEMA's policy guidance resulted in three different eligibility requirements based on arbitrary dates, which led to challenges in verifying duplication of benefits and untangling obligated funds and caused strain on personnel at the state, territorial, and federal levels. In the letter, the National Governors Association stated that they continue to be challenged by FEMA's COVID-19 Public Assistance guidance and recommended that the FEMA Administrator implement better communication of policy changes and decisions that are disseminated by the FEMA regions to ensure consistency of messaging across the country.[608] FEMA officials stated that as of October 1, 2021, they had not issued a response to this recommendation. In addition, in September 2021, the National Emergency Management Association made recommendations to streamline Public Assistance to FEMA and specifically stated that FEMA's changing policies made it challenging for states to determine which policies applied to specific projects at any given time, and prolonged the application and review process.[609] On September 8, 2021, FEMA issued a policy that provides retroactive reimbursement at 100 percent federal cost share for Public Assistance expenses incurred from January 20, 2020 through December 31, 2021.[610]

2. *Delegation of authority to FEMA regions.* According to FEMA officials, FEMA's 10 regions have the authority and responsibility to make final eligibility determinations, while FEMA's Consolidated Resource Centers handle all processing of applications, including cost estimates and compliance reviews. FEMA officials said that although they strive to achieve consistency in interpretation and application of policy, differences arise because of the delegated authority. According to FEMA officials, COVID-19 is unusual because it affects every state and every region at the same time, unlike the disasters that FEMA policies typically address.

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[607] Some of FEMA's policy changes were dictated by presidential memorandum. See, e.g., White House, *Memorandum to Extend Federal Support to Governors' Use of the National Guard to Respond to COVID-19 and to Increase other Federal Assistance Provided to States* (Jan. 21, 2021).

[608] See National Governors Association, *Letter to FEMA on Public Assistance Guidelines* (May 12, 2021). The National Governors Association serves as the voice of leaders of 55 states, territories, and commonwealths. It is the mechanism used by governors to identify priority issues and deal with matters of public policy and governance at the state, national, and global levels.

[609] The National Emergency Management Association is a nonpartisan, nonprofit 501(c)(3) association dedicated to enhancing public safety by improving the nation's ability to prepare for, respond to, and recover from all emergencies, disasters, and threats to our nation's security. It is the professional association of and for emergency management directors from all 50 states, eight U.S. territories, and the District of Columbia.

[610] FEMA issued this policy in response to an August 17, 2021 Presidential Memorandum. See White House, Memorandum on Maximizing Assistance to Respond to COVID-19 (Aug. 17, 2021). For the FEMA policy, see Coronavirus (COVID-19) Pandemic: Safe Opening and Operation Work Eligible for Public Assistance (Interim), FEMA Policy 104-21-0003, Version 2 (Sep, 8, 2021).

FEMA officials stated that because of delegated authority, the 10 regions' interpretation and application of COVID-19 policies may not be the same in every circumstance, and they continue to discuss methods to improve in this area. According to FEMA officials, some of the different outcomes exist because there are different circumstances behind projects in different places.

3. *Training of staff.* FEMA officials stated that training on COVID-19 policy is available to but not required for individuals handling Public Assistance applications. As part of its task force to reduce inconsistent application of policy, FEMA identified training gaps among its staff at Consolidated Resource Centers and among state, local, tribes, and territorial partners and began to address these gaps through training and mentoring staff. According to FEMA officials, FEMA works closely with the regions and state, local, tribal, and territorial partners in an effort to apply policy consistently across all COVID-19 declarations. Specifically, FEMA officials stated that for each policy developed for COVID-19 Public Assistance, FEMA provided training on an as needed basis. FEMA also developed frequently asked questions and fact sheets and placed them on their website for employees to access as needed. Additionally, FEMA hosted a series of webinars that were available to staff and state, local, tribal, and territorial governments that addressed eligibility requirements for reimbursable Public Assistance expenses for COVID-19. However, staff at Consolidated Resource Centers, among others, were not required to take this training.[611]

4. *Experience and knowledge of staff*. Emergency management officials from two states attributed inconsistent interpretation and application of COVID-19 Public Assistance policies to the experience level of the person making the eligibility determination for applications. In September 2021, the National Emergency Management Association stated that "the movement of Public Assistance projects through the entire process successfully and efficiently is heavily reliant on the knowledge of the FEMA representatives to ensure proper policy intent compliance and to avoid future audits. The lack of experience of FEMA representatives presents constant challenges as they do not have a full understanding of the project scope nor the policy that would back the project eligibility." In addition, according to National Emergency Management Association officials, the rotation of personnel reviewing COVID-19 Public Assistance applications could affect eligibility determinations for that project. For example, if an application is in process and has to be transferred to a different person to review, that individual may not have a full understanding of the project scope including prior determinations made by their predecessor. This could result in expenses that were initially determined to be eligible for Public Assistance to ultimately be deemed ineligible.

According to FEMA's *National Disaster Recovery Framework*, the federal government is responsible for ensuring that information is distributed in an accessible manner and is well understood, so that all stakeholders are informed and aware of the process.[612] FEMA has acknowledged that in spite of its efforts, inconsistent interpretation and application of Public Assistance policy for COVID-19 continues to occur within and across regions. Given the current rise in the COVID-19

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[611]FEMA officials told us that they held several 2-day mandatory training, and the most recent one held in March 2021 included a session on Public Assistance eligibility requirements for COVID-19.

[612]Department of Homeland Security, *National Disaster Recovery Framework,* 2nd ed. (Washington, D.C.: June 2016).

Delta variant across the nation, FEMA is likely to receive applications for reimbursement for a larger number of projects than it estimated earlier in 2021. By improving the consistency of its interpretation and application of COVID-19 Public Assistance policy, FEMA can help ensure that applicants for Public Assistance receive timely and consistent reimbursement for eligible expenses.

Methodology

To conduct this work, we reviewed FEMA's monthly Disaster Relief Fund reports to obtain FEMA obligations data for Individual Assistance, Public Assistance, and mission assignments for February 2020 through August 2021 and projected obligations data through September 2021. We reviewed federal laws and FEMA policies and guidance on how states, local, tribal, and territorial governments may apply for, and receive, assistance to respond to the COVID-19 pandemic. We also reviewed data from FEMA's advisories on mass vaccination sites, Public Assistance, and funeral assistance related to COVID-19. Although we present FEMA data on Public Assistance and COVID-19 Funeral Assistance, we did not independently determine the reliability of the data.

In addition, we reviewed presidential memorandums issued on August 8, 2020, January 21, February 2, and August 17, 2021; FEMA's Frequently Asked Questions; and previous GAO reports on FEMA's response to the COVID-19 pandemic and other natural disasters. Further, we reviewed letters to FEMA from the National Governors Association and National Emergency Management Association on FEMA's Public Assistance Program. We also interviewed state emergency officials from Illinois, North Carolina, Pennsylvania, and Washington as well as representatives from the National Governors Association and the National Emergency Management Association. Finally, we interviewed FEMA officials regarding their efforts to implement COVID-19 Funeral Assistance and the COVID-19 Public Assistance Program.

Agency Comments

We provided a draft of this enclosure to the Department of Homeland Security (DHS), FEMA, and the Office of Management and Budget (OMB). In its comments, which are reproduced in appendix V, DHS concurred with both recommendations and outlined actions it has taken to improve the consistency of the agency's interpretation and application of the COVID-19 Public Assistance Policy and train employees in the regions and at its Consolidated Resource Centers. Specifically, FEMA stated that on September 8, 2021, it issued the *Safe Opening and Operation Interim Policy* which amends the applicable time period of eligibility retroactively to the beginning of the incident period for activities related to the safe opening and operation of facilities. This policy also specifies that work conducted from the beginning of the incident period to December 31, 2021, will be reimbursed at a federal cost share of 100 percent. According to FEMA's management response letter, FEMA believes this policy will improve the consistent interpretation and application of COVID-19 Public Assistance Policy nationwide. We agree that the newly issued policy and the period of time it covers should assist FEMA in improving the consistency of its decision-making on this issue; however, it does not necessarily address the variance in interpretation on other issues, such as overtime for Emergency Medical Services employees or non-congregate sheltering. Further, given this is a recently issued policy, we will continue to monitor its implementation to see if it fully addresses our recommendation. Additionally, FEMA stated that it has taken a number of actions to educate staff on changes to COVID-19 Public Assistance policy to ensure that interpretation and application are consistent nationwide. For example, FEMA conducted a Public Assistance Training on September 9, 2021, which included a section on COVID-19 related policies and guidance, including helping applicants navigate COVID-19 project development. It is too early to measure the impact of FEMA's efforts to educate staff on changes to COVID-19 Public Assistance policy.

GAO's Ongoing Work

We will continue to monitor issues related to FEMA's Disaster Relief Fund, workforce, and funeral assistance for COVID-19 related deaths. Specifically, we will monitor obligations for Individual Assistance, Public Assistance, and mission assignments, as well as the balance in the fund. In addition, we will continue to monitor and assess the controls FEMA is using to prevent fraud, waste, and abuse in its delivery of COVID-19 funeral assistance. We will continue to report on this program in our CARES Act reporting through April 2022.

GAO's Prior Recommendations

The table below presents our recommendations on FEMA's response to COVID-19 from prior bimonthly and quarterly CARES Act reports.

Prior GAO Recommendations Related to COVID-19	
Recommendation	**Status**
The Federal Emergency Management Agency Administrator should adhere to the agency's protocols listed in the updated 2019 Tribal Consultation Policy by obtaining tribal input via the four phases of the tribal consultation process when developing new policies and procedures related to COVID-19 assistance. (March 2021 report).	**Open—partially addressed.** In March 2021, DHS concurred with our recommendation. DHS stated that FEMA's National Tribal Affairs Adviser, based in the Office of External Affairs, will coordinate with other FEMA offices and directorates, as appropriate, to review the agency's adherence to protocols listed in the Tribal Consultation policy. According to FEMA officials, in March 2021, FEMA conducted formal consultation with Tribal Leaders on COVID-19 Funeral Assistance before finalizing the interim policy. In April 2021, FEMA sent letters to tribal leaders discussing (1) FEMA policy and procedure for financial assistance to individuals and households for COVID-19 related funeral expenses incurred after January 20, 2020; and (2) framework, policy details and requirements for determining the eligibility of safe opening and operation work and costs under the Public Assistance Program.
The Federal Emergency Management Agency Administrator should provide timely and consistent technical assistance to support tribal governments' efforts to request and receive Public Assistance as direct recipients, including providing additional personnel, if necessary, to ensure that tribal nations are able to effectively respond to COVID-19. (March 2021 report).	**Open—partially addressed.** In March 2021, DHS concurred with our recommendation. DHS stated that FEMA's Recovery Directorate will publish a memorandum that will contain direction to FEMA regions regarding the assignment of Public Assistance Program delivery managers to promote equitable delivery of Public Assistance to tribal governments. According to FEMA officials, on August 6, 2021, FEMA sent a memorandum that provided updates on how FEMA would deliver assistance. This guidance provides FEMA's regional staff the ability to work with all tribal applicants to understand their capacity to address issues through their assigned Public Assistance program delivery manager. As of October 1, 2021, FEMA did not have data on the outcome of this assistance.
The Administrator of the Federal Emergency Management Agency—who heads one of the agencies leading the COVID-19 response through the Unified Coordination Group—consistent with their roles and responsibilities, should work with relevant federal, state, territorial, and tribal stakeholders to devise interim solutions, such as systems and guidance and dissemination of best practices, to help states enhance their ability to track the status of supply requests and plan for supply needs for the remainder of the COVID-19 pandemic response. (GAO-20-701)	**Open—partially addressed.** In September 2020, DHS disagreed with this recommendation, noting, among other things, work that FEMA had already done to manage the medical supply chain and increase supply availability. Although DHS disagreed with our recommendation, it began taking some actions in March 2021. As of May 2021, DHS has not demonstrated action to devise interim solutions that would systematically help states, tribes, and territories effectively track, manage, and plan for supplies to carry out the COVID-19 pandemic response in the absence of state-level end-to-end logistics capabilities that would track critical supplies required for a response of this scale. We note that we made this recommendation to both DHS and HHS with the intent that they would work together under the Unified Coordination Group to address challenges reported by state officials with both public health and emergency management responsibilities. Moreover, we recommended they take actions that were consistent with the roles and responsibilities that were to be more clearly defined as HHS took a more central role in leading supply distribution. The recommendation to define

Recommendation	Status
	those roles and responsibilities remains open. Moreover, although both DHS and HHS have reported separate actions, taken as part of other efforts within each separate purview, neither has articulated how they worked with the other nor how they assessed whether the actions changed the experiences of state officials who reported issues during our prior work. Without systematic and deliberate action to help states ensure they have the support they need to track, manage, and plan for supplies, states, tribes, and territories on the front lines of the whole-of-nation COVID-19 response may continue to face challenges that hamper their effectiveness.

Source: GAO. | GAO-22-105051

Related GAO Products

FEMA Disaster Workforce: Actions Needed to Address Deployment and Staff Development Challenges. GAO-20-360. (Washington, D.C.: May 4, 2020).

Disaster Response: Federal Assistance and Selected States and Territory Efforts to Identify Deaths from 2017. GAO-19-486. (Washington, D.C.: Sept. 13, 2019.

Disaster Assistance: *Opportunities to Enhance Implementation of the Redesigned Public Assistance Grant Program.* GAO-18-30. (Washington, D.C.: Nov. 8, 2018)

2017 Hurricanes and Wildfires: Initial Observations on the Federal Response and Key Recovery Challenges. GAO-18-472 (Washington, D.C.: Sept. 4, 2017).

Disaster Recovery: FEMA's Public Assistance Grant Program Experienced Challenges with Gulf Coast Rebuilding. GAO-09-129. (Washington, D.C.: Dec. 18, 2008).

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COVID-19 Impact on IRS Enforcement

In response to the pandemic's onset in March 2020, the Internal Revenue Service significantly reduced its efforts to enforce taxpayer compliance. In July 2020, IRS started increasing these enforcement efforts by making changes to address the challenges of operating in a pandemic environment.

Entity involved: Internal Revenue Service, within the Department of the Treasury.

Background

The Internal Revenue Service's (IRS) tax enforcement efforts help collect tax revenue from noncompliant taxpayers and promote voluntary tax compliance. We have included enforcement of tax laws on our High-Risk List due to the need for IRS to improve tax compliance and address the gross tax gap, or the difference between taxes owed by individuals and businesses and the taxes they paid voluntarily and on time.[613]

IRS's efforts to enforce tax compliance include examination programs to help ensure that taxpayers file accurate tax returns. IRS's Wage and Investment (W&I), Small Business and Self-Employed (SB/SE), and Large Business and International (LB&I) divisions conduct examinations based on the type of taxpayer. Examinations can be conducted by mail and telephone or in person, such as at an IRS office or a taxpayer's location. IRS also uses automated compliance checks, such as the Automated Underreporter (AUR) program, to verify taxpayer compliance by comparing information reported by taxpayers to information reported to IRS by third parties, such as employers and banks. IRS collection efforts seek to enforce taxpayers' compliance with tax filing requirements and payment of taxes.[614]

Overview of Key Issues

Beginning in March 2020, IRS closed its on-site operations and generally suspended its key tax enforcement programs to protect staff and taxpayers from transmitting COVID-19 and because it had limited ability to perform work remotely. In addition, IRS provided tax compliance relief to taxpayers experiencing COVID-19 hardships. This relief included postponing certain collection activities and limiting examinations in the field.

IRS began to resume some enforcement activities in July 2020 by transitioning staff to telework, revising the types of work they were to do, and increasing the use of technology. However, IRS faced significant work backlogs along with process challenges and reduced staff availability. IRS continued to slowly resume enforcement activities in the fall and winter of 2020. As of June 2021, IRS had made major improvements but had not achieved prepandemic levels in caseload and tax revenue for all enforcement activities. IRS is considering ways to identify lessons learned and make

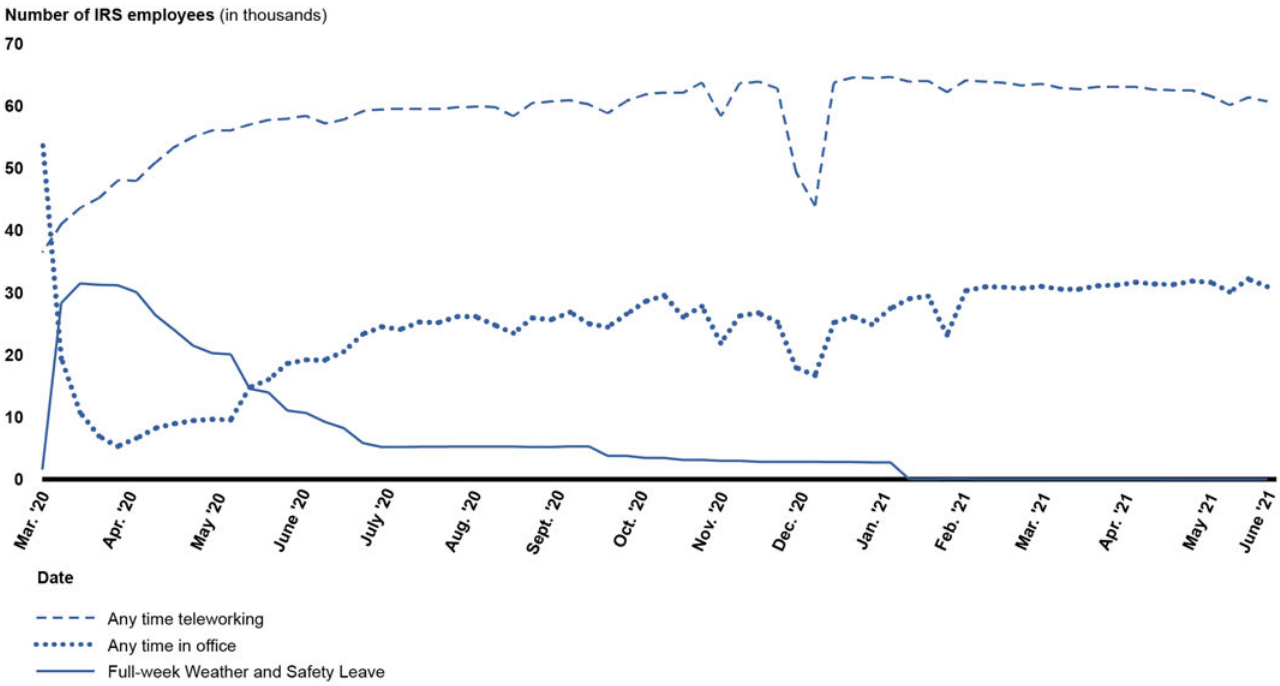
[613]Every 2 years, we report on federal programs and operations that are vulnerable to waste, fraud, abuse, and mismanagement, or that need broad reform—our High-Risk List. For more information, see our March 2021 report. IRS enforcement reduces the gross tax gap by collecting unpaid tax revenue, resulting in a "net" tax gap. In 2019, IRS estimated that the average annual net tax gap was $381 billion for tax years 2011–2013.

[614]SB/SE Collection administers these programs for taxpayers served by all divisions.

permanent changes as appropriate to improve enforcement and prepare for future disruptions to operations.

Use of Weather and Safety Leave over time. At the beginning of the pandemic, few IRS staff were working in the office, while many others began teleworking. Under IRS policy, staff who were unable to work in either of these settings were placed in Weather and Safety Leave, a type of paid leave typically used when it is unsafe for staff to come into the office due to inclement weather or some other reason (see figure).

Internal Revenue Service (IRS) Staff Work Status, Mar. 2020–June 2021



Source: GAO analysis of Internal Revenue Service data. | GAO-22-105051

Note: The major declines for teleworking and time in the office generally occurred during holiday periods for which federal staff generally also use accumulated annual leave

As of June 2021, almost no staff were on full-week Weather and Safety Leave, while more than 60,000 IRS staff performed at least some of their work remotely and approximately 30,000 performed at least some work from the office.[615]

The pandemic's effects on enforcement caseloads and revenue. We found that nearly all IRS enforcement caseloads dropped substantially from June 2019 to June 2020. Caseloads increased from June 2020 to June 2021, but not all activities have returned to their prepandemic levels (see table). Although not all changes can be attributed to the pandemic, it was a key factor during the period.

[615]We were not able to analyze the amount of time that IRS staff charged to enforcement activities as comparable work time measures are not kept across the various divisions and activities.

Enforcement Caseload Trends for IRS Examination, Automated Underreporter, and Collection Activities for June 2019, 2020, and 2021

Activity/caseload measures	June 2019	June 2020	June 2021	FY 2019–21 % Change
SB/SE—Field Examination[a]				
Starts	96,870	90,301	75,379	-22.19
Closures	108,379	67,369	85,736	-20.89
SB/SE—Correspondence Examination[a]				
Starts	164,661	143,068	99,284	-39.70
Closures	156,242	125,404	184,867	18.32
SB/SE—AUR[a]				
Starts	1,420,125	1,302,067	1,829,166	28.80
Closures	1,361,778	829,538	1,673,051	22.86
W&I—Correspondence Examination[a]				
Starts	217,242	209,964	262,014	20.61
Closures	236,027	180,895	277,971	17.77
LB&I—Examination[a]				
Starts	13,727	17,147	17,477	27.32
Closures	16,819	12,853	14,376	-14.53
SB/SE—Collection Inventory[b]				
Unpaid taxes—automated collection	6,097,332	5,742,953	6,191,968	1.55
Unpaid taxes—field collection	699,708	534,807	514,221	-26.51
Unfiled returns—automated collection	1,317,229	2,222,384	1,313,936	-0.25
Unfiled returns—field collection	49,709	86,113	46,836	-5.78

Legend: AUR = Automated Underreporter; FY = fiscal year; LB&I = Large Business and International; SB/SE = Small Business and Self-Employed; W&I = Wage and Investment

Source: GAO analysis of Internal Revenue Service (IRS) data. | GAO-22-105051

[a]Examination and AUR caseloads are tracked by the number of cases started and cases closed.

[b]Collection inventory is measured by the number of taxpayer modules being pursued for unpaid taxes or unfiled returns. A module is a record for a specific taxpayer covering one return for one tax period.

The table shows that the pandemic's effect on caseload varied by the type of enforcement activity. By June 2021, caseloads for AUR and W&I correspondence examinations, which are highly automated, had recovered from the 2020 decline and exceeded the 2019 levels. In LB&I, field examiners generally were ready to telework, which enabled them to start even more examinations, but closures declined because they rely on other parts of IRS that were shut down or at reduced staffing.

By June 2021, workloads in collection for both unpaid taxes and unfiled returns had mostly returned to or were trending toward the 2019 levels. One exception is field collection, where the June 2021 unpaid tax inventory was below the June 2019 and June 2020 levels. SB/SE collection officials said that collecting unpaid taxes in the field generally involves face-to-face contact with taxpayers, unlike the other two activities, which involve collecting unpaid taxes by mail and telephone.

The pandemic also affected the revenue collected through enforcement actions.[616] The table below shows that enforcement revenue declined across all the major enforcement activities during the height of the pandemic in June 2020, although the decline was smaller for collection from unfiled tax returns. Collection officials explained that they shifted staff to work more unfiled tax return cases and fewer unpaid tax cases in the early part of the pandemic because that work could be done remotely without face-to-face contact. Collection officials said they shifted staff back to more unpaid tax cases as safety procedures were implemented.

[616]Other factors beyond the pandemic may affect these revenue collection trends. For example, time lags of months if not years exist between completing examinations and collecting the related revenue.

Enforcement Revenue in June 2019, 2020, and 2021 for Selected Major Enforcement Activities			
Enforcement activities	**Amount—June 2019 ($)**	**Amount—June 2020 ($)**	**Amount—June 2021 ($)**
All enforcement activities	41,657,106,427	35,760,140,668	47,362,241,265
Selected major activities			
Field examination[a]	2,836,883,338	2,345,763,320	3,241,727,554
Campus examination[b]	1,059,321,674	861,381,325	1,022,024,404
Automated underreporter[c]	3,370,695,783	2,873,110,884	3,662,829,596
Collection—taxes owed	29,585,743,434	24,949,583,505	33,525,724,252
Collection—unfiled returns	2,572,959,696	2,381,635,066	2,980,318,305

Source: GAO analysis of Internal Revenue Service (IRS) data. | GAO-22-105051

[a]Involves examinations done by IRS revenue agents in IRS field offices.

[b]Involves examinations done by IRS examiners through mail from IRS campus locations.

[c]Involves matching information returns filed by third parties to report income such as wages to tax returns filed by taxpayers.

Operational challenges and IRS's actions. According to IRS management, enforcement activities across IRS generally were not telework ready because the case work largely relied on paper processes.[617] Office closures limited access to physical case files; when staff were able to come to the office, IRS faced logistical challenges of keeping staff socially distanced. Staff did not have computers, scanners, and printers to telework from home, and it took IRS time to procure and distribute this equipment. Enforcement staff were limited in their ability to safely meet taxpayers face to face. Meanwhile, interruptions to mail, phone, and print operations caused delays and backlogs in casework. The table below shows these common operational challenges and the actions IRS took across its divisions.

[617]As discussed later, LB&I examination and SB/SE field collection staff were telework ready, according to IRS officials.

IRS Pandemic-Related Enforcement Challenges and Actions through June 2021

Challenges	Actions[a]
Becoming telework ready: ◆ Case work largely relied on paper processes	Provided telework training and equipment/technology
◆ Office closures limited access to physical case files	Revised guidance to clarify how staff could work out of the office
◆ Very few processes allowed work to be done virtually/out of the office	Assessed caseload to prioritize and assign work that could be done remotely
◆ Agency lacked telework equipment (computers, document scanning, etc.)	Brought in clerical staff to digitize case files
Identifying work for staff whose duties were interrupted by the suspension of enforcement activities	Solicited feedback from staff about their concerns with resuming activities
Completing work despite shutdown of mail, phone, and print operations	Used video conferencing technology and digital signatures to enhance interactions between IRS staff and taxpayers while maintaining safety
Ensuring IRS staff and taxpayer safety at IRS offices or taxpayer locations	Managed reentry to offices to allow staff to safely pick up or perform work

Source: GAO analysis of Internal Revenue Service (IRS) information | GAO-22-105051

[a]Actions are not meant to correspond directly with the challenges on the same lines.

Because staff were not telework ready, IRS enforcement managers stated that many staff experienced downtime during the summer of 2020 while IRS acquired equipment so they could work from home. Downtime was also an issue for staff who had been doing much of their work remotely using IRS equipment before the pandemic, such as highly graded examination and collection staff who meet with taxpayers in the field and do the most complex work. Although these staff were telework ready, some of them could not do as much work as before the pandemic. If they did meet with taxpayers, they faced challenges in keeping the interactions safe.

Interruptions in support services, such as mail, phone, and print operations, also hampered resumption of enforcement activities. Many of these operations were not restarted until mid- or late summer 2020. As a result, IRS staff and taxpayers could not communicate with each other, leading to delays and increases in backlogged enforcement casework.

IRS managers and documents indicated that safety concerns among IRS staff and taxpayers were a major challenge related to the pandemic. When staff did go into the office to pick up or drop off paper case files, IRS faced logistical challenges in ensuring that staff stayed socially distant. IRS also had to ensure that taxpayers were kept safe during interactions with staff.

To understand and address enforcement staff concerns, IRS collected feedback in both formal and informal settings. For example, one division held virtual town hall meetings, while others sought feedback through an electronic mailbox. IRS managers said that staff feedback helped them address staff questions and concerns about resuming enforcement activities from safety and practical standpoints.

In addition to these agency-wide changes, individual IRS divisions made changes to address specific pandemic-related challenges. We discuss some division-specific changes below, based on interviews with enforcement managers and a review of related documents.

LB&I examinations. LB&I managers stated that most of their examiners were already telework ready, but that LB&I relied heavily on paper processes for case files located in its offices. LB&I arranged for staff to go into the office as needed to retrieve, print, and scan files and also provided staff with printers and scanners to work remotely. Additionally, LB&I changed its Information Document Request process. Normally, when taxpayers do not comply with a request to provide IRS with documents in a timely manner, IRS is authorized to obtain taxpayer documents through a summons. LB&I approved changes to make time frames more flexible and reduce the use of summonses since many corporate taxpayers' employees were not working in an office. The division also established a process by which examiners could virtually close an examination case without having to go into an office.

SB/SE field and office examinations. Given challenges with starting new examinations, SB/SE directed office examiners to work taxpayer claims and ongoing examinations that could be worked virtually. SB/SE used more virtual technology to allow field examiner staff to safely interact with taxpayers. Video conferencing proved to be popular with staff, and IRS is obtaining more licenses to allow its use. If examiners needed to retrieve documents from taxpayers, they arranged to meet outdoors. Further, SB/SE developed procedures to exchange information virtually through secure communication channels and set up a virtual Taxpayer Digital Communications pilot project at the Philadelphia campus.

W&I correspondence examinations. Because W&I examiners had not previously teleworked, IRS issued a memorandum in May 2020 that allowed work to be done outside of the office. To make the work portable, W&I managers scanned examination case files until safety protocols were established, and then clerks did the scanning. W&I also arranged for examiners to visit the campus to pick up paper files as needed. With the shutdown of mail operations, W&I initiated e-fax to allow taxpayers to send IRS documents. When phone and mail operations became more available during fall 2020, W&I changed telephone scripts and call routing to shorten call times and take more calls, according to IRS officials. IRS also initiated a call-back function in January 2021 that allows a taxpayer to receive a call from IRS rather than remain on hold.

AUR. Although AUR document matching is automated, interactions with taxpayers rely on a paper process. During the early stages of the pandemic, AUR management brought program managers onto the campuses to assess work to be done based on critical needs and staff availability. Managers determined what work was portable and which staff should work at the campuses. Because AUR's systems did not allow for document scanning, management had to decide how many clerks to bring in to a campus to prepare paper case files for AUR staff to pick up and work remotely.

SB/SE field collection. Field collection management said its staff were telework ready but were generally assigned more unfiled return work during the early part of the pandemic because this work is more automated and can be done without field visits, unlike unpaid tax cases. Field collection management provided guidance to carve out exceptions for certain unpaid tax work to continue, such as egregious employment tax returns, pyramid schemes, high-income taxpayers, and high-risk cases where the government might lose the opportunity to collect money. Since September 2020, SB/SE has been changing the case mix to get back to a normal distribution of unfiled return and unpaid tax cases.

SB/SE campus collection.[618] Given that staff generally were not telework ready, management used the shutdown period to train staff to use new equipment to access phones and online systems. Automated Collection System (ACS) management said they opened some phone lines by mid-April of 2020. SB/SE suspended collection actions, but taxpayers could respond to collection notices and ask for hardship exceptions or to pay in installments. ACS and Compliance Services Collection Operations (CSCO) managers said that when the print sites reopened at the end of June 2020, IRS prioritized which notices involving unpaid taxes to send based on factors such as operational status and staff's ability to help taxpayers settle their accounts and to respond to taxpayer inquiries. IRS remained behind on notices until September 2020 after deciding to freeze sending new notices so that it could catch up on processing older notices. As a result, IRS delayed issuing some notices until November 2020.

CSCO set up dedicated e-fax lines so that taxpayers could submit documents electronically. SB/SE also scanned documents received by mail as much as possible to get work to remote staff. Further, ACS has been piloting an online text chat service with taxpayers, allowing taxpayers to authenticate their identities, send documents, and settle specific account issues. Another new feature allows taxpayers to request a telephone call-back from IRS at a specific time rather than remaining on hold. Also, IRS is attempting to reduce the number of people calling by redirecting taxpayers to online resources. Managers said that expanding self-help options has been a successful change to operations during the pandemic.

Lessons learned. Our review also looked at how IRS is tracking lessons learned from changes made to resume enforcement activities. Although IRS has not yet finalized its plans, enforcement managers across IRS said they were considering how to track the lessons learned. Similarly, these IRS managers stated that they are considering ways to assess changes that have been working well during the pandemic and that should be kept or revised. Recognizing a hesitancy to abandon processes and procedures that worked prior to the pandemic, IRS officials said they are asking staff to consider whether the pandemic-induced changes would help them work enforcement cases outside of a pandemic environment.

IRS managers stated that the agency recognizes the need to move from paper-based to more digital processes. Agency officials said that responding to challenges posed by the pandemic has encouraged this transition and has demonstrated that it can be done. Virtual tools that allow for video communication and sharing information electronically have shown signs of being useful. As a result, the enforcement managers we interviewed said these tools will be made available for staff if they find them useful and if taxpayers are willing to participate. Similarly, IRS is looking for ways to expand acceptance of digital signatures on electronic documents.

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[618] Campus collection efforts to collect unpaid taxes or unfiled tax returns include the Automated Collection System, which sends notices and handles taxpayer calls, and the Compliance Services Collection Operations, which screens and sorts incoming taxpayer responses and creates inventory batches that are sent to the appropriate unit to be worked.

Methodology

To describe the effect of the pandemic on IRS tax enforcement caseloads and revenue, we reviewed data in IRS systems for reporting on key enforcement programs using data points as of the end of June in fiscal years 2019 (prior to the pandemic), 2020 (during the height of the IRS shutdown due to the pandemic), and 2021 (the most recent available month). We identified the key programs by reviewing data on all of the enforcement activities of the three IRS divisions responsible for individual and business taxpayers—SB/SE, W&I, and LB&I—and, in consultation with IRS officials, we selected those areas generally recognized as having the greatest effects on the use of IRS resources to enforce tax laws. To describe the effect of the pandemic on staffing, we reviewed data on IRS staff use of Weather and Safety Leave and time working remotely or in the office. We assessed the reliability of the data by reviewing existing information about data IRS collects—specifically, the data dictionary and data validation methods—and by interviewing officials responsible for data reporting. We determined that the data were sufficiently reliable for the purpose of describing changes to IRS enforcement activities during the pandemic.

To identify the challenges faced by IRS during the pandemic and changes made to address those challenges, including any lessons learned, we interviewed division officials responsible for managing the programs and reviewed supporting data and documentation. We summarized the challenges and IRS's changes and interviewed IRS officials to corroborate the summary.

Agency Comments

We provided IRS, the Department of the Treasury, and the Office of Management and Budget with a draft of this enclosure. They did not have any comments on this enclosure.

GAO's Ongoing Work

We will continue to monitor IRS's administration of tax enforcement programs.

Related GAO Product

High Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas. GAO-21-119SP. Washington, D.C.: March 2, 2021.

Contact information: James R. McTigue Jr., (202) 512-6806, mctiguej@gao.gov

Postal Service

The U.S. Postal Service's mail volume increased, its on-time performance declined, and its finances declined in the third quarter of fiscal year 2021 as compared to the same period in 2020, which was just after the onset of the COVID-19 pandemic.

Entity involved: U.S. Postal Service

Background

The U.S. Postal Service (USPS) plays a critical role in the nation's communication and commerce, a role highlighted in 2020 as USPS delivered billions of pieces of mail throughout the COVID-19 pandemic including ballots, Census forms, and recovery rebate checks, in addition to an unprecedented surge of packages. As an independent establishment of the executive branch, USPS is expected to provide affordable, quality, and universal postal service. USPS is also expected to be financially self-sufficient by covering its expenses through revenues generated from the sale of its products and services. However, USPS has not been able to cover its expenses since fiscal year 2007 due to (1) long-term declines in its most profitable mail products and (2) rising expenses, such as for compensation and benefits. As a result, USPS's financial viability has been on our High-Risk List since 2009.

USPS's mail volume, on-time delivery performance, revenue, and expenses changed significantly since the onset of the COVID-19 pandemic. In addition, we reported in April 2021 that USPS took actions to reduce its costs that may have also reduced its on-time performance, such as reducing late and extra mail transportation trips. We reported that some of these actions were suspended by USPS prior to the general election on November 3, 2020. We also reported in April 2021 that when comparing 2020 to 2019, USPS's

- overall mail volume declined even with increases in the volume of packages;
- on-time performance fell with a steep decline nationwide in December 2020; and
- net loss grew even though revenue increased by $4.3 billion.[619]

To help USPS respond to the COVID-19 emergency, the CARES Act, as amended in late 2020, provided USPS up to $10 billion in additional funding for COVID-19-related operating expenses.[620]

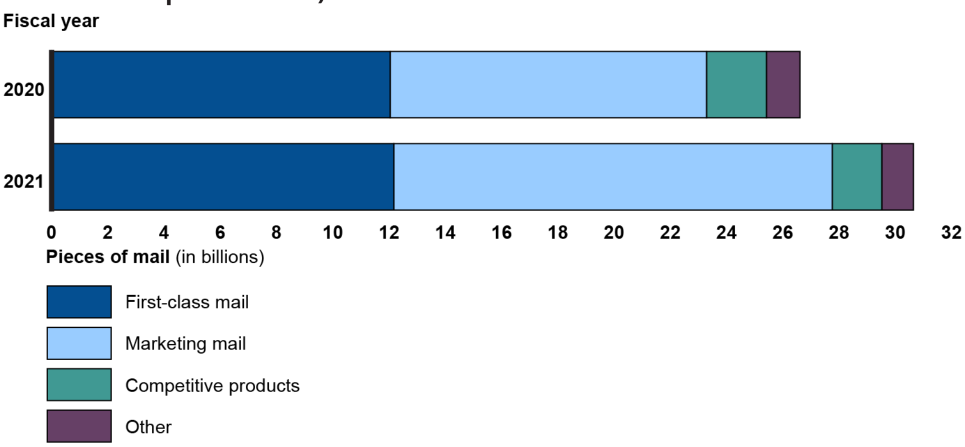
[619] We compared calendar year 2020 to calendar year 2019 in our April 2021 report.

[620] The Consolidated Appropriations Act, 2021 amended CARES Act authority to borrow this amount by providing that USPS shall not be required to repay such amounts borrowed. Pub. L. No. 116-260, div. N, tit. VIII, § 801, 134 Stat. 1182, 2119 (2020) (amending Pub. L. No. 116-136, div. A, tit. VI, § 6001, 134 Stat. 281, 504-05 (2020)). As of July 29, 2021, USPS had received all of the $10 billion available. The funds available under the CARES Act, as amended, are in addition to USPS's borrowing authority under 39 U.S.C. § 2005, which authorizes USPS to borrow up to $3 billion in any one fiscal year and not more than $15 billion in total. As of June 30, 2021, USPS has borrowed $11 billion of the $15 billion available.

Overview of Key Issues

Mail volume. In the third quarter of fiscal year 2021, overall mail volume increased by about 4.0 billion pieces (about 15.1 percent) when compared to the same period in fiscal year 2020 (see figure). This change is almost entirely attributable to Marketing Mail volumes rebounding from significant declines that occurred in the beginning of the COVID-19 pandemic. Marketing Mail volume increased 4.3 billion pieces (39 percent) year over year. Mail volume trended toward prepandemic levels, which meant increases for market-dominant products such as First Class Mail (e.g., letters, cards, billing statements) and Marketing Mail (e.g., advertisements, flyers, newsletters), and decreases for competitive products (primarily packages), which spiked during the early parts of the pandemic. For example, in the third quarter of fiscal year 2021, competitive package volume was about 14 percent lower than it was in the same period in fiscal year 2020.

Change in Mail Volume for Selected Mail Types between Third Quarters in Fiscal Year 2020 and 2021 (in thousands of piece of mail)



Source: GAO analysis of U.S. Postal Service information. | GAO-22-105051

On-time performance. Nationally, while on-time performance for market-dominant products was slightly lower during the third quarter of fiscal year 2021 as compared to the same period in fiscal year 2020, performance continued to rebound from USPS's December 2020 lows. On-time performance for First Class Mail averaged 87.6 percent nationally from April through June 2021, as compared to 90.8 percent for the same period in fiscal year 2020. Moreover, since the first quarter of fiscal year 2021 ended with a December on-time performance for First Class Mail of 69 percent, the third quarter showed continued improvement as on-time performance for First Class Mail increased from 87.27 percent in April 2021, to 87.59 percent in May 2021, to 87.95 percent in June 2021, but remained well below 2020 levels.

Revenue and expenses. USPS reported a net loss of $3 billion for the third quarter of fiscal year 2021, as compared to a net loss of $2.2 billion for the same period in fiscal year 2020.[621] USPS earned about $845 million more in operational revenue in the third quarter of fiscal year 2021

[621] Excluding non-cash workers' compensation adjustments for each period that vary significantly based on interest rate and other actuarial revaluations, the loss for the 2021 third quarter would have been approximately $2.3 billion, compared to a loss of approximately $2.4 billion for the same quarter last year.

when compared to the third quarter of fiscal year 2020. Revenue from USPS's market-dominant products increased by about $1.3 billion, mainly due to increased volume of marketing mail, while revenue for USPS's competitive products declined by about $466 million as package volume decreased.

USPS's expenses increased by approximately $1.6 billion for the third quarter in fiscal year 2021 when compared to the same period in fiscal year 2020. USPS attributed the increase to several factors, such as

- a $900 million increase in worker's compensation expenses due to changes in interest rates;
- a retiree health benefits increase of $387 million, also due to changes in interest rates; and
- an increase in transportation expenses of $182 million, reflecting higher package volumes on trucks, changes in transportation modes, and higher fuel prices.

COVID-19 funding. As of July 2021, USPS had received all $10 billion of its CARES Act funding. USPS requested this funding for operating expenses incurred due to the COVID-19 emergency from March 2020 to May 2021.[622] These expenses included categories such as overtime, hiring and training costs of new employees, absenteeism, and costs of sanitizing work areas (see table).

[622]USPS can request this funding for COVID-19 related expenses under its memorandum of understanding with the Department of the Treasury. As required by statute, USPS must determine that, due to the COVID-19 emergency, USPS will not be able to fund operating expenses without borrowing money. CARES Act, Pub. L. No. 116-136, div. A, tit. VI, § 6001, 134 Stat. 281, 504-05 (2020).

Amounts Requested by USPS under the CARES Act, as Amended, for COVID-19-Related Operating Expenses Incurred Mar. 2020–May 2021

Expense category	Dollars requested (in millions)
Supplies & services	$303
COVID leave	492
Transportation	73
Hiring/training costs for new employees	159
Increase in carriers out after 6 p.m.	66
Overall overtime cost increase	2,000
Inefficiency factor—general inefficiency of 2 percent of salaries and benefits for time spent managing personal protective equipment, sanitizing work areas, social distancing in postal facilities, among other things.	1,495
Inefficiency Factor—New Hires/Absenteeism	401
Additional expenses incurred in providing USPS's statutorily mandated infrastructure and operations during the COVID-19 emergency[a]	5,011
Total (rounded):	**$10,000**

Source: GAO analysis of U.S. Postal Service (USPS) data. | GAO-22-105051

Note: These funds are made available by the CARES Act, Pub. L. No. 116-136, div. A, tit. VI, § 6001, 134 Stat. 281, 504-05 (2020), as amended by the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. N, tit. VIII, § 801, 134 Stat. 1182, 2119 (2020). USPS requests these funds pursuant to a memorandum of understanding with the Department of the Treasury.

[a]According to USPS's memorandum of understanding with the Department of the Treasury, these additional expenses are due to changes in product volumes attributable to the COVID-19 emergency versus pre-COVID forecasts in USPS's financial plans, taking into account (1) the costs captured above for Supplies and Services, (2) the revenue and expenses of all products and services, and (3) the actions USPS was unable to undertake to account for the reduction in volumes because of its statutory mandates, such as the requirement to provide 6-days-a-week delivery. *See, e.g.,* Pub. L. No. 116-260, div. E, tit. V, 134 Stat. 1182, 1423 (2020).

As stated above, USPS has not been able to cover its expenses with its revenues since fiscal year 2007 due to long-term declines in its most profitable mail products and rising expenses, such as for compensation and benefits. USPS has maintained its operations since then through a combination of actions, such as taking on debt and not making required payments for pensions and retiree health care benefits. USPS stated that it took those actions to preserve cash to continue to provide universal postal service.

USPS's cash balance has decreased from $25.5 billion at the end of March 2021 to $22.8 billion at the end of June 2021. USPS officials stated that the main reason for this decrease was a $3 billion repayment of short-term debt to the federal government and the expenditure of USPS's CARES Act funds. As of the end of June 2021, USPS had expended $9.6 billion of its CARES Act funds to cover its operating expenses such as payroll and transportation costs. As of the end of July 2021, USPS had received all $10 billion of its CARES Act funding. As we reported in April 2021 and July 2021, USPS continued to preserve cash in 2021 by forgoing making required retiree health care and pension payments. However, USPS reported that its current cash balance is insufficient to support USPS's $82 billion in annual operating expenses, its capital investments, and to prepare for unexpected contingencies.

USPS's cash balance could be reduced in the coming years. As stated above, USPS has received all of its CARES Act funds. USPS's volume of packages is now decreasing, which has reduced its revenue growth. USPS also deferred payments of about $1.8 billion for the employer's share of the Social Security payroll tax on wages from March 27, 2020, through December 31, 2020, as allowed under the CARES Act. Payment of half of this deferred amount is due on December 31, 2021, and payment of the other half is due on December 31, 2022. [623]

Methodology

To conduct this work, we analyzed USPS data on volume, on-time performance, and revenue and expenses, as of June 2021, which were the latest data available. We used USPS's 10-Q financial statement for the third quarter of fiscal year 2021. To determine the reliability of the data we used, we interviewed relevant USPS officials about volume, on-time performance, and financial data that they either provided us directly or that we obtained from publicly available reports. They described where the data came from, how they were collected, and controls in place to provide assurance the data were complete and accurate. Based on this interview and relevant USPS documents we reviewed, we determined all data used were sufficiently reliable for the purposes of reporting on USPS mail volumes, on-time performance levels, revenues, and expenses.

We also reviewed applicable federal laws and interviewed USPS officials.

Agency Comments

We provided USPS and the Office of Management and Budget (OMB) with a draft of this enclosure for review and comment. USPS provided technical comments that we incorporated as appropriate. USPS also provided general comments, which are reproduced in appendix X. In its comments, USPS provided additional context about its financial condition, recent service performance, and anticipated plans to address these issues. OMB did not provide any comments.

Related GAO Products

U.S Postal Service: Better Use of Climate Data Could Enhance the Resilience of Postal Facilities to Climate Change Effects. GAO-21-104152. Washington, D.C.: September 30, 2021.

U.S. Postal Service: Further Analysis Could Help Identify Opportunities to Reduce Injuries among Non-Career Employees. GAO-21-556. Washington, D.C.: August 17, 2021.

[623] CARES Act, Pub. L. No. 116-136, div. A, tit. II, § 2302, 134 Stat. 281, 351–52 (2020).

U.S. Postal Service: Volume, Performance, and Financial Changes since the Onset of the COVID-19 Pandemic. GAO-21-261. Washington, D.C.: April 29, 2021.

High Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas. GAO-21-119SP. Washington, D.C.: March 2, 2021.

High Risk Series: Restructuring the U.S. Postal Service to Achieve Sustainable Financial Viability. GAO-09-937SP. Washington, D.C.: July 28, 2009.

Contact information: Jill Naamane, Acting Director, (202) 512-2834, naamanej@gao.gov

Appendix II: Highlights Pages from Recently Issued GAO COVID-19 Products

Contracting Flexibilities

We issued *COVID-19 Contracting: Actions Needed to Enhance Transparency and Oversight of Selected Awards,* GAO-21-501, on July 26, 2021.

GAO@100
Highlights

Highlights of GAO-21-501, a report to congressional committees

July 2021

COVID-19 CONTRACTING

Actions Needed to Enhance Transparency and Oversight of Selected Awards

Why GAO Did This Study

In March 2020, Congress passed the CARES Act as part of the federal response to COVID-19. The act had certain provisions for federal contracting, including providing additional flexibilities. Contracting plays a critical role in the pandemic response as agencies obligate billions of dollars for goods and services.

The act also included a provision for GAO to review federal contracting in response to COVID-19. This report examines, among other objectives, the extent to which the Departments of Defense, Health and Human Services, and Homeland Security—the only agencies that reported using other transaction agreements in response to COVID-19 in the federal procurement database—used such agreements, including awards to consortia, and oversight of such use.

GAO analyzed federal procurement data as of March 2021; reviewed a nongeneralizable sample of 15 agreements selected based on high dollar amounts, agency, a mix of products and services, among other criteria; reviewed agency policies; and interviewed agency officials.

What GAO Recommends

GAO is making 14 recommendations to selected agencies, to improve the transparency of agreement awards in the federal procurement database and update policies to improve the oversight of agreements awarded through consortium management firms. The agencies agreed with 11 of the recommendations and did not agree with three of them. GAO continues to believe the recommendations are valid, as discussed in the report.

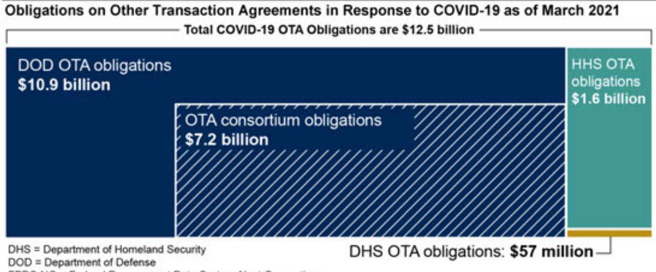
View GAO-21-501. For more information, contact Marie A. Mak at (202) 512-4841 or makm@gao.gov.

What GAO Found

In response to COVID-19, as of March 2021, the Departments of Defense, Health and Human Services, and Homeland Security obligated at least $12.5 billion using a contracting mechanism that gave them the flexibility to quickly respond to urgent pandemic needs. This mechanism—known as an other transaction agreement—is not subject to certain federal contract laws and requirements but allowed the agencies to customize the agreements. Agencies cited the timeliness of awards as a major factor for using these agreements, including awards that accelerated COVID-19 vaccine manufacturing.

The Department of Defense used this mechanism to award $7.2 billion to consortium members—organizations and federal contractors organized around a specific topic area—through one consortium management firm (see figure).

Obligations on Other Transaction Agreements in Response to COVID-19 as of March 2021



DHS = Department of Homeland Security
DOD = Department of Defense
FPDS-NG = Federal Procurement Data System-Next Generation
HHS = Department of Health and Human Services
OTA = Other transaction agreement

Source: GAO analysis of FPDS-NG data and information from DOD, HHS, and DHS. | GAO-21-501

GAO's analysis found two challenges with how the agencies tracked these agreements due to limitations with the federal procurement database. First, the three agencies did not properly identify at least $1.6 billion of the $12.5 billion as COVID-19-related agreements. Second, the Department of Defense reported that one consortium management firm received $7.2 billion in agreements, as noted above. In actuality, the management firm distributed nearly all of the awarded dollars to five pharmaceutical companies, with each receiving $450 million to $2 billion. The database is the only way for Congress and the public to track these obligations, but transparency is limited without accurate reporting.

Also, two agencies' policies on other transaction agreements did not address the requirement for enhanced oversight of certain activities that consortium management firms may perform, potentially posing risks to the government. According to Office of Federal Procurement Policy guidance, these types of activities require enhanced oversight because they can closely support tasks fundamental to the public interest, such as the award of contracts. By not addressing such oversight in their policies, agencies may not fully consider the range of actions they should take to mitigate risks of inappropriate influence for government decisions.

United States Government Accountability Office

VA CLC Infection Prevention

We issued *COVID-19: VA Should Assess Its Oversight of Infection Prevention and Control in Community Living Centers*, GAO-21-559, on July 28, 2021.

GAO@100 Highlights

Highlights of GAO-21-559, a report to congressional addressees

July 2021

COVID-19

VA Should Assess Its Oversight of Infection Prevention and Control in Community Living Centers

Why GAO Did This Study

Close to 8,000 veterans per day received nursing home care provided by VA in CLCs in fiscal year 2020. COVID-19 has posed significant risks to nursing home residents and staff, as residents are often in frail health, and residents and staff have close daily contact with each other.

The CARES Act includes a provision that GAO monitor the federal response to the pandemic. This report describes, among other objectives, guidance and training VA has issued to help CLCs respond to the pandemic and examines VA's oversight of infection prevention and control in CLCs during the pandemic.

GAO analyzed documents, including guidance, training-related materials, and CLC self-assessments of their infection prevention and control practices. GAO also interviewed VA officials and CLC staff, the latter from five facilities selected based on factors such as having been cited for infection prevention and control deficiencies prior to the pandemic.

What GAO Recommends

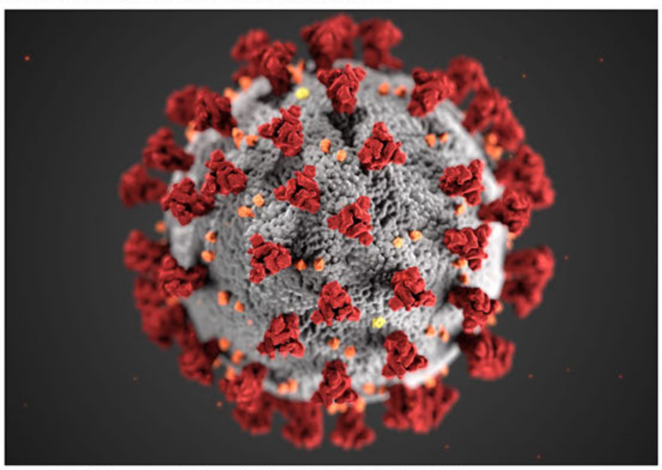
VA should conduct a retrospective assessment of its oversight of infection prevention and control in CLCs during the COVID-19 pandemic to identify lessons learned and be better prepared for future infectious disease outbreaks. VA concurred with GAO's recommendation in principle. VA plans to review the results of CLCs' assessments of their infection prevention and control practices and require CLCs to take any needed corrective actions.

View GAO-21-559. For more information, contact Sharon Silas at (202) 512-7114 or silass@gao.gov.

What GAO Found

The Department of Veterans Affairs (VA) took steps—such as issuing guidance and trainings—to support the response to the COVID-19 pandemic in Community Living Centers (CLC), which are VA-owned and -operated nursing homes. This guidance focused on, for example, limiting CLC entry and testing residents and staff for COVID-19, while the trainings were intended to prepare staff for, among other things, a surge in cases.

However, the agency conducted limited oversight of infection prevention and control in these facilities during the first year of the pandemic, from March 2020 through February 2021. In particular, the agency suspended annual in-person inspections of CLCs before resuming them virtually in February 2021. The agency also required that CLCs conduct a one-time self-assessment of their infection prevention and control practices but did not review the results in a timely manner to make more immediate improvements.



Source: Centers for Disease Control and Prevention, Alissa Eckert, Dan Higgins. | GAO-21-559

VA officials acknowledged these shortcomings as the agency responded in real time to the rapidly evolving pandemic. As VA has described this time as a "learning period," it could benefit from assessing its decisions and actions related to oversight of infection prevention and control during the pandemic to identify any lessons learned. Such an assessment would align with VA's plans to assess and report on the agency's overall response to the pandemic as well as its strategic goal to promote continuous quality improvement in CLCs. Results from such an assessment—which could look at both successes and missed opportunities—could help VA better prepare for future infectious disease outbreaks in CLCs.

United States Government Accountability Office

Contractor Paid Leave Reimbursements

We issued *COVID-19 Contracting: Contractor Paid Leave Reimbursements Could Provide Lessons Learned for Future Emergency Responses*, GAO-21-475, on July 28, 2021.

GAO@100 **Highlights**

Highlights of GAO-21-475, a report to congressional addressees

July 2021

COVID-19 CONTRACTING

Contractor Paid Leave Reimbursements Could Provide Lessons Learned for Future Emergency Responses

Why GAO Did This Study

In March 2020, Congress passed the CARES Act, which provides over $2 trillion in emergency assistance for those affected by COVID-19.

Section 3610 of the CARES Act enables agencies, at their discretion, to reimburse contractors for paid leave provided to their employees and subcontractors who are unable to access work sites due to facility closures or other restrictions, and whose duties cannot be performed remotely during the pandemic. The CARES Act also includes a provision for GAO to review federal contracting pursuant to authorities provided in the Act.

In September 2020, GAO found that agencies had not made much use of section 3610 authority as of July 2020, and expectations of future use varied.

This report (1) examines how selected federal agencies have used section 3610 authority and (2) presents selected contractors' perspectives on COVID-19 paid leave reimbursement. GAO reviewed guidance and data and interviewed cognizant officials from four agencies with contract obligations greater than $10 billion in fiscal year 2019. GAO also selected a non-generalizable sample of 15 contractors that received or requested section 3610 reimbursements from one or more of the selected agencies and conducted semi-structured interviews of contractor representatives.

What GAO Recommends

OMB should collect and share lessons learned from federal agencies' implementation of COVID-19 paid leave reimbursement. OMB concurred with this recommendation.

View GAO-21-475. For more information, contact Timothy J. DiNapoli at (202) 512-4841 or dinapolit@gao.gov.

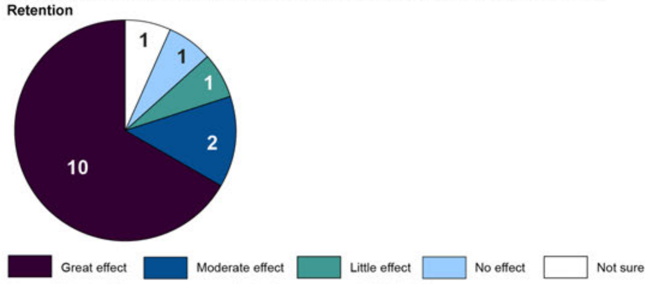
What GAO Found

To help government contractors keep their workforce in a ready state during the COVID-19 pandemic, section 3610 of the CARES Act generally authorized government agencies to reimburse contractors for paid leave provided to contractor personnel and subcontractors during the national emergency. Section 3610 did not appropriate specific funding for this purpose. The four agencies GAO reviewed—the Departments of Defense, Energy, and Homeland Security, and NASA—reported use of section 3610 authority totaling at least $882.8 million over 14 months. The extent to which the agencies used the authority varied, from $1.4 million at Homeland Security to $760.7 million at Energy.

Further, Defense officials estimated that defense contractors have more than $4 billion in paid leave costs that are potentially eligible for reimbursement under section 3610. Defense officials also noted, however, that the department does not plan to reimburse this full amount using existing funding. Agencies also based their reimbursement decisions on the nature of the work performed by contractors, such as whether telework was an option.

Twelve out of the 15 contractors GAO interviewed reported that paid leave reimbursement had a great or moderate effect on their ability to retain employees (see figure), in particular those with specialized skills or clearances.

Selected Contractors' Views on the Effect of Paid Leave Reimbursement on Workforce Retention



Source: GAO analysis of contractor representative interview responses. | GAO-21-475

Given the urgency of the pandemic, agencies prioritized quick implementation of section 3610 over a more deliberative process, resulting in variations such as how agencies tracked use of the authority. Officials from all four agencies said that they either have captured or intend to capture lessons learned from implementing section 3610 and are willing to share these with other federal agencies. However, the Office of Management and Budget (OMB)—which coordinates government-wide contracting policy—has not collected and shared lessons learned. With coordination from OMB's Office of Federal Procurement Policy, the government could seize an opportunity to enhance implementation of paid leave reimbursement provisions that may be enacted as part of rapid federal responses to future emergencies.

United States Government Accountability Office

Child Welfare

We issued *Child Welfare: Pandemic Posed Challenges, but also Created Opportunities for Agencies to Enhance Future Operations*, GAO-21-483, on July 29, 2021.

GAO@100 **Highlights**

Highlights of GAO-21-483, a report to congressional committees

July 2021

CHILD WELFARE

Pandemic Posed Challenges, but also Created Opportunities for Agencies to Enhance Future Operations

Why GAO Did This Study

The Coronavirus Disease 2019 (COVID-19) pandemic has raised concerns about the welfare of children and disruptions to child welfare services.

This work was conducted as part of GAO's COVID-19 monitoring and oversight responsibilities under the CARES Act. It examines (1) challenges child welfare agencies reported as a result of the pandemic; (2) actions these agencies reported taking to respond to challenges, including using the additional funds and other supports provided by HHS; and (3) practices agencies reported they may continue based on what they learned during the pandemic.

GAO interviewed and gathered information from officials at HHS; five state and 10 local child welfare agencies in California, Florida, Illinois, New York, and Texas, selected for factors such as high numbers of children in foster care and confirmed COVID-19 cases; and eight national organizations with child welfare expertise. GAO also reviewed relevant federal laws, regulations, and HHS guidance; analyzed reports states submitted to HHS in July 2020 about their plans for using CARES Act funds; and conducted a survey between December 2020 and February 2021 of child welfare administrators in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands (referred to as states).

View GAO-21-483. For more information, contact Kathryn Larin at (202) 512-7215 or larink@gao.gov.

What GAO Found

Child welfare officials GAO interviewed in five selected states reported challenges affecting both child protective and foster care services during the pandemic in 2020-2021. Officials interviewed in all five state and 10 local child welfare agencies noted concerns about unreported child abuse and neglect, as children had less contact with mandated reporters such as teachers and doctors due to school and office closures. Officials also discussed challenges initially accessing technology and personal protective equipment needed to reduce health risks to staff and families. In addition, officials in four state and all 10 local agencies discussed delays in child welfare hearings because of court closures, which can affect when children can reunify with their parents or be adopted.

Aided by federal funding and other supports provided by the Department of Health and Human Services (HHS), child welfare agencies reported navigating pandemic challenges by increasing assistance to families and providing virtual services. HHS distributed CARES Act funds in amounts ranging from $15,686 to $4,690,717 to states for certain child welfare services, and provided various flexibilities to allow child welfare agencies to adapt their work. Child welfare officials in 35 of the 53 states GAO surveyed reported that they had reached out to support families who had previously been in contact with the agency to offer assistance, such as with food, diapers, and formula. Officials in GAO's survey also reported that most agencies in their state had implemented various forms of virtual services. This included facilitating visits for children in foster care to spend time with their biological families (52 states), participating in court hearings (47 states), and providing virtual health services (35 states).

Child welfare officials in the 53 states GAO surveyed reported that they may continue providing virtual services (see figure), strengthening stakeholder partnerships, and updating disaster plans after the pandemic ends. Officials interviewed in all five state and 10 local agencies discussed benefits they observed when providing virtual services, such as increased options for children in foster care to spend time with their biological families (e.g., virtual dinners and bedtime stories). In addition, these officials discussed considerations for determining when virtual services are appropriate. Officials in all of the state and local agencies also discussed the importance of stakeholder communication and partnerships, such as with community organizations and health and education departments, which allowed them to quickly share information and serve families. Lastly, officials in all of these agencies discussed being unprepared for the pandemic. Officials in several agencies said they needed to update their disaster plans, for example, to include health safety guidance.

Virtual Services Child Welfare Agencies May Continue after the COVID-19 Pandemic

Source: GAO survey of state child welfare administrators. | GAO-21-483

United States Government Accountability Office

Implementation of Paycheck Protection Program

We issued *Paycheck Protection Program: SBA Added Program Safeguards, but Additional Actions Are Needed*, GAO-21-577, on July 29, 2021.

GAO@100 Highlights

Highlights of GAO-21-577, a report to congressional addressees

July 2021

PAYCHECK PROTECTION PROGRAM

SBA Added Program Safeguards, but Additional Actions Are Needed

Why GAO Did This Study

Since March 2020, Congress has provided commitment authority of about $814 billion for PPP, which provides small businesses with low-interest loans that SBA fully guarantees.

The CARES Act includes a provision for GAO to monitor funds provided for the COVID-19 pandemic. This report examines (1) safeguards that SBA put in place during the PPP loan approval process, (2) the PPP loan forgiveness process, including processes for unforgiven loans, and (3) SBA's oversight of PPP loans and lenders.

GAO reviewed SBA documentation; surveyed a generalizable sample of PPP lenders; analyzed data on loan forgiveness applications; compared SBA processes against federal guidance on credit programs; and interviewed staff from SBA, the Department of the Treasury, and four trade associations representing lenders.

What GAO Recommends

GAO recommends that SBA (1) finalize a process for claiming the PPP loan guarantee, (2) implement the statutory requirement to purchase PPP loans in advance of loan forgiveness or seek statutory exceptions to the requirement, (3) finalize procedures for the steps of its loan review process that are not yet documented, and (4) develop and implement a process to ensure timely communication with lenders. SBA generally agreed with the four recommendations, including seeking statutory flexibility or repeal of the requirement to purchase PPP loans in advance of loan forgiveness.

View GAO-21-577. For more information, contact William B. Shear at (202) 512-8678 or shearw@gao.gov.

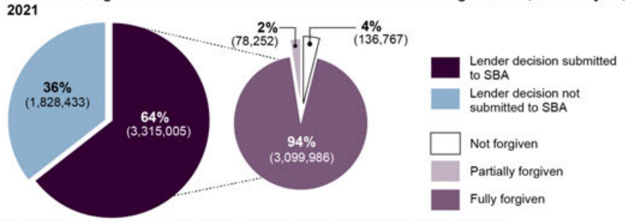
What GAO Found

The Small Business Administration (SBA) quickly implemented the Paycheck Protection Program (PPP) in April 2020 to assist small businesses adversely affected by COVID-19. But SBA's initial limited program safeguards resulted in improper payments and fraud risks. In June 2020 and March 2021, GAO recommended that SBA do more to oversee PPP and identify and respond to fraud risks. In response, SBA implemented compliance checks for applications submitted in 2021 and stated it would conduct a fraud risk assessment.

PPP loans are fully forgivable (do not have to be repaid) if borrowers meet certain conditions. As of May 2021, SBA had made determinations on 3.3 million loan forgiveness applications (see figure) but had not issued guidance for key aspects of the forgiveness process. Specifically:

- SBA had not yet finalized a process on how lenders can claim the SBA guarantee if the loan is not fully forgiven or when they have evidence the business ceased operations or declared bankruptcy. Without such a process, lenders' capital will remain tied up, limiting their ability to make non-PPP loans to small businesses.
- SBA had not implemented, nor sought exceptions to, a statutory requirement to purchase loans prior to loan forgiveness upon submission of reports by lenders concerning the amount expected to be forgiven.

SBA Loan Forgiveness Determinations on PPP Loans Made During Round 1, as of May 17, 2021



Source: GAO analysis of Small Business Administration (SBA) Paycheck Protection Program (PPP) loan forgiveness data. | GAO-21-577

SBA has enhanced its oversight of PPP, such as by conducting in-depth reviews of selected loans, but it has not documented certain loan review steps or developed a process to improve communication with lenders.

- SBA has not yet finalized procedures for senior-level reviews of borrower eligibility and loan forgiveness decisions, increasing the risk of inconsistent or incorrect loan determinations.
- Although SBA has developed tools such as a web portal to communicate with lenders, it has not developed a process to ensure its responses to lenders are timely. Some lenders responding to GAO's survey said SBA had not responded in a timely manner or at all to inquiries on loan forgiveness applications, which has created confusion and uncertainty for lenders and borrowers and made it difficult for them to make management decisions.

United States Government Accountability Office

BOP Response to COVID-19

We issued *Bureau of Prisons: BOP Could Further Enhance its COVID-19 Response by Capturing and Incorporating Lessons Learned*, GAO-21-502, on July 29, 2021.

GAO@100 Highlights

Highlights of GAO-21-502, a report to congressional addressees

July 2021

BUREAU OF PRISONS

BOP Could Further Enhance its COVID-19 Response by Capturing and Incorporating Lessons Learned

Why GAO Did This Study

BOP was responsible for the custody and care of about 129,000 federal inmates in BOP-managed facilities, and employed more than 37,000 staff as of May 2021. Because of confined spaces, the prison population is particularly vulnerable during infectious disease outbreaks, such as COVID-19. About $620 million has been appropriated to or designated by BOP for COVID-19- related efforts.

GAO was asked to review BOP's approach to responding to COVID-19. This report addresses, among other objectives: (1) BOP's development and updates of COVID-19 guidance; (2) BOP's provision of PPE, COVID-19 tests and vaccines, and infection and fatality rates for inmates and staff; and (3) the impact of COVID-19 on inmates and staff~~,~~ and the extent to which BOP has incorporated lessons learned into its response.

GAO reviewed BOP policies, data, and other documentation related to the impact of COVID-19 and how BOP addressed it. GAO also conducted non-generalizable interviews of officials from five BOP facilities and one private facility operating under contract with BOP, selected based on inmate infection rates and other factors.

What GAO Recommends

GAO is making three recommendations that BOP evaluate communication of COVID-19 guidance, develop an approach to capture and share best practices and lessons learned; and develop an approach to ensure facilities apply these practices as appropriate. BOP concurred with all three recommendations.

View GAO-21-502. For more information, contact Gretta L. Goodwin at (202) 512-8777 or goodwing@gao.gov.

What GAO Found

The Federal Bureau of Prisons (BOP) has developed COVID-19 guidance, with input in part from the Centers for Disease Control and Prevention, and periodically updates this guidance, but some BOP staff reported to GAO confusion in how to implement BOP's guidance. In addition, the Department of Justice's Office of Inspector General surveyed BOP staff and reported that of the 28 percent of employees who responded, 59 percent of respondents thought BOP's guidance was not clear. Routinely evaluating how it communicates its COVID-19 guidance to staff, and modifying its approach as needed based on staff feedback, would help BOP ensure that staff can understand and effectively implement the protocols for COVID-19 and any future public health emergency.

As of May 2021, BOP's data showed that:

- BOP obligated nearly $63 million for personal protective equipment (PPE)—such as masks, hand sanitizers, gloves and COVID-19 testing kits—for staff and inmates.
- 45,660 inmates had tested positive, and 237 inmates had died from the virus. In addition, 6,972 staff members tested positive, with four deaths.
- BOP fully vaccinated about 56 percent of all inmates in BOP-managed facilities (73,050 inmates) and about 50 percent of all staff (19,000 staff)

COVID-19 has affected inmates and staff. For example, inmates faced reduced access to certain programs, services, visitors and facility spaces. For staff, quarantining procedures have resulted in reduced staff availability and increased the use of overtime. BOP has processes, such as teleconferences among BOP officials and facilities inspections, to identify best practices and lessons learned related to its COVID-19 response. However, BOP does not capture or share, bureau-wide, the lessons and practices discussed at its teleconferences, or have an approach for ensuring facilities apply them, as appropriate. Implementing approaches for such actions would help BOP ensure that the lessons and practices it identifies reach all facilities that could benefit from them, and that facilities actively improve their COVID-19 response efforts.

A BOP Facility's Housing Tents for Inmates in Quarantine and Isolation

Source: BOP. | GAO-21-502

United States Government Accountability Office

Assessing Vendors and Contracting Lessons Learned

We issued *COVID-19 Contracting: Opportunities to Improve Practices to Assess Prospective Vendors and Capture Lessons Learned*, GAO-21-528, on July 29, 2021.

GAO@100 Highlights

Highlights of GAO-21-528, a report to congressional addressees

July 2021

COVID-19 CONTRACTING

Opportunities to Improve Practices to Assess Prospective Vendors and Capture Lessons Learned

Why GAO Did This Study

In response to COVID-19, agencies awarded contracts for goods and services to vendors from a range of industries and with varying levels of federal contracting experience, but some vendors have been unable to deliver under those contracts.

The CARES Act included a provision for GAO to review COVID-19-related federal contracting under the act. This report addresses (1) COVID-19 contract obligations and characteristics of vendors, (2) contracting challenges, including with agency assessments of vendors, and (3) whether lessons learned efforts reflect those challenges.

GAO analyzed federal procurement data on agencies' reported COVID-19 contract obligations through May 31, 2021. GAO examined a nongeneralizable sample of 28 contracts with high dollar values or other characteristics from four agencies—DOD, HHS, USDA, and DHS. GAO interviewed officials, including Office of Management and Budget (OMB) officials about their emergency acquisition guidance.

What GAO Recommends

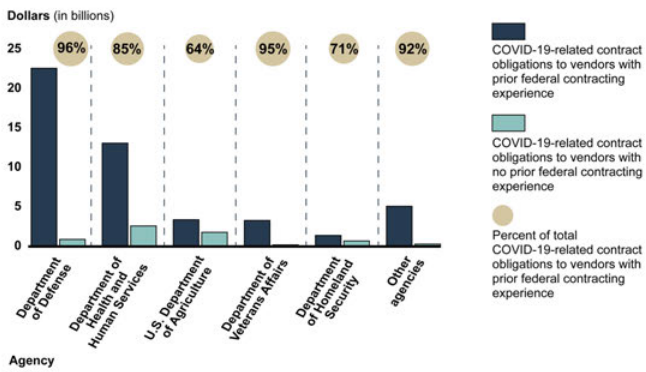
GAO is making 10 recommendations, including that agencies establish processes to better collect and communicate contracting lessons learned during emergencies such as COVID-19. Agencies agreed with nine recommendations. OMB did not agree to establish time frames for updating its guidance. GAO continues to believe OMB should do so, as discussed in this report.

View GAO-21-528. For more information, contact Marie A. Mak at (202) 512-4841 or makm@gao.gov.

What GAO Found

As of May 31, 2021, agencies obligated $61.4 billion for contracts in response to the COVID-19 pandemic. Agencies cancelled $4 billion in obligations, in some cases due to contract terminations. The proportion of obligations to vendors with prior federal experience government-wide was 88 percent but varied by agency (see figure). In calendar year 2020, agencies awarded about 5 times as many contracts to vendors without prior federal contracting experience for COVID-19, as compared to contracts awarded overall in preceding calendar years.

COVID-19-Related Contract Obligations to Vendors with or without Prior Federal Contracting Experience for the Five Agencies with the Most Obligations, as of May 31, 2021



Source: GAO analysis of Federal Procurement Data System data. | GAO-21-528

For the selected contracts GAO reviewed across four agencies—the Departments of Defense (DOD), Health and Human Services (HHS), Agriculture (USDA), and Homeland Security (DHS)—contracting officials identified a number of challenges, including:

- working with vendors new to federal contracting or vendors supplying products they had not previously provided;
- operating under limited time frames to make awards; and
- contracting for supplies and services the agency does not typically buy.

The four agencies are collecting and sharing lessons learned related to their COVID-19 response. However, HHS and DHS have not included contracting lessons learned, even though they identified contracting challenges. Collecting contracting lessons learned could inform future emergency response efforts. Furthermore, although interagency coordination was critical to the response, contracting lessons learned are at risk of not being reflected in formal interagency lessons learned efforts. Without a process to do so, federal agencies risk missing an opportunity to memorialize contracting and coordination practices that were successful, as well as those that were not, for future emergencies.

United States Government Accountability Office

Oversight of COVID-19 Assistance

We issued *COVID-19 Pandemic: Actions Needed to Improve Federal Oversight of Assistance to Individuals, Communities, and the Transportation Industry*, GAO-21-105202, on July 29, 2021.

GAO@100 Highlights

Highlights of GAO-21-105202, a testimony before the Committee on Transportation and Infrastructure, House of Representatives

July 29, 2021

COVID-19 PANDEMIC

Actions Needed to Improve Federal Oversight of Assistance to Individuals, Communities, and the Transportation Industry

Why GAO Did This Study

In response to the public health and economic crises created by the COVID-19 pandemic, Congress provided billions of dollars across a range of agencies to mitigate the effects of COVID-19. This included billions to:

- FEMA's Disaster Relief Fund to provide assistance to individuals as well as state, local, tribal, and territorial governments, and
- DOT and Treasury to provide financial assistance to the transportation sector.

This statement describes: (1) the federal response and selected relief programs administered by FEMA, DOT, and Treasury and (2) lessons learned based on GAO's reviews of selected COVID-19 relief programs, including related recommendations and their implementation status. This statement is based on GAO's body of work on the CARES Act issued from June 2020 through July 2021.To update this information, GAO reviewed agency documentation; and interviewed agency officials, industry associations, and selected businesses that applied to these programs on the latest implementation efforts.

What GAO Recommends

GAO has made numerous recommendations to help improve the government's ongoing response and recovery efforts and prepare for future public health emergencies, including the six identified in this statement. While Treasury took action to develop a compliance monitoring program, the other five recommendations to FEMA and DOT still need to be implemented.

View GAO-21-105202. For more information, contact Heather Krause at (202) 512-2834 or krauseh@gao.gov or Chris P. Currie at (404) 679-1875 or curriec@gao.gov

What GAO Found

The Federal Emergency Management Agency (FEMA), Department of Transportation (DOT), and Department of the Treasury (Treasury), among others, continue to provide financial assistance to mitigate the effects of the COVID-19 pandemic.

- FEMA reported obligating over $79 billion from its Disaster Relief Fund to respond to COVID-19. Through several programs, FEMA is providing help to individuals with funeral costs; reimbursing communities for vaccine distribution; and funding federal agencies' efforts to support communities, including National Guard deployments.
- DOT and Treasury continue to make available the over $200 billion appropriated by COVID-19 relief laws for financial assistance to the transportation sector, including to air carriers, airports and airport tenants, Amtrak, and transit agencies. Through several financial assistance programs, GAO's work has found DOT and Treasury have provided critical support to the transportation sector during a period of sharp declines in travel demand and uncertainty about the pace and nature of the recovery. Depending on the program, financial assistance has reportedly enabled recipients to avoid layoffs, maintain service, and ramp up operations as demand for their services improves.

Based on GAO's prior work examining responses to public health and fiscal emergencies, including the COVID-19 pandemic, GAO has (1) identified key lessons learned that could improve the federal response to emergencies, and (2) made several related recommendations, including ones that highlight the importance of applying these lessons learned.

Lessons learned
• Coordinate, establish, and define roles and responsibilities among those responding to the crisis and address key capability gaps.
• Provide clear, consistent communication.
• Collect and analyze data to inform decision-making and future preparedness.
• Establish mechanisms for accountability and transparency to help ensure program integrity and address fraud risks.
• Consider challenges posed by setting up new programs quickly.

Source: GAO. | GAO-21-105202

For example, DOT has not developed a national aviation preparedness plan to ***coordinate, establish, and define roles and responsibilities*** for communicable diseases across the federal government. GAO recommended in 2015 that DOT work with federal partners to develop such a plan, but it has not taken any action. Without such a plan, the U.S. is less prepared to respond to future communicable disease events. In addition, FEMA has faced challenges ***collecting and analyzing data*** on requests for supplies, such as personal protective equipment, made through the federal government. In 2020, GAO recommended that FEMA work with relevant stakeholders to develop an interim solution to help states track the status of their supply requests and plan for supply needs. FEMA has not taken action on this recommendation, and until the agency develops a solution, states, tribes, and territories will likely continue to face challenges that hamper the effectiveness of their COVID-19 response.

United States Government Accountability Office

Economic Injury Disaster Loans

We issued *Economic Injury Disaster Loan Program: Additional Actions Needed to Improve Communication with Applicants and Address Fraud Risks*, GAO-21-589, on July 30, 2021.

GAO@100 Highlights

Highlights of GAO-21-589, a report to congressional addressees

Why GAO Did This Study

Between March 2020 and February 2021, SBA provided about 3.8 million low-interest EIDL loans and 5.8 million grants (called advances) totaling $224 billion to help small businesses adversely affected by COVID-19. Borrowers can use these low-interest loans and advances to pay for operating and other expenses.

The CARES Act includes a provision for GAO to monitor funds provided for the COVID-19 pandemic. This report examines, among other objectives, the characteristics of program applicants and recipients; the challenges EIDL applicants experienced and the extent to which SBA has addressed them; and the steps SBA has taken to address risks of fraud and provision of funds to ineligible applicants.

GAO reviewed documents from SBA, an EIDL contractor, and two of its subcontractors. In addition, GAO analyzed loan application data, conducted five discussion groups with applicants, and interviewed staff from SBA, six Small Business Development Centers, and six business associations. GAO also analyzed socioeconomic, demographic, and geographic data on EIDL program participants.

What GAO Recommends

GAO recommends that SBA develop a comprehensive communications strategy that includes guidelines for the type and timing of information to be provided to potential and actual applicants of its disaster response programs. SBA agreed with the recommendation.

View GAO-21-589. For more information, contact William B. Shear at (202) 512-8678 or ShearW@gao.gov.

July 2021

ECONOMIC INJURY DISASTER LOAN PROGRAM

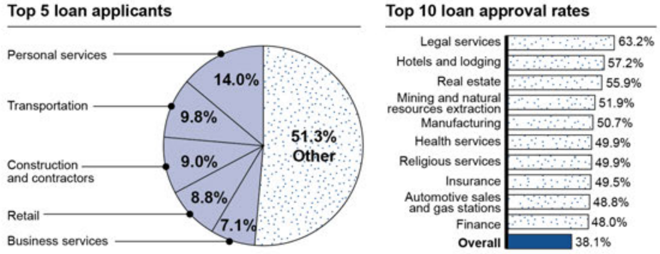
Additional Actions Needed to Improve Communication with Applicants and Address Fraud Risks

What GAO Found

Economic Injury Disaster Loan (EIDL) applicants and recipients varied in terms of business size, years in operation, and industry, based on GAO's analysis of Small Business Administration (SBA) data from March 2020 through February 2021:

- **Business size**. A majority of EIDL applicants (about 81 percent) and EIDL recipients (about 86 percent) were smaller businesses (10 or fewer employees).
- **Years in operation.** A majority of EIDL applicants (about 63 percent) had been in operation for less than 5 years. However, businesses in operation for more than 5 years received the majority of total EIDL loan dollars and had higher approval rates compared to newer businesses.
- **Industry.** Businesses in the personal services and transportation industries made up the largest share of applicants, while those in the legal services and lodging industries were approved for loans at the highest rates (see figure).

Top Loan Applicants and Approval Rates by Business Industry



Source: GAO analysis of Small Business Administration (SBA) data. | GAO-21-589

In addition, small businesses in counties with higher median household income, better internet access, and more diverse populations generally received more loans per 1,000 businesses and larger loans.

EIDL applicants have faced a number of challenges, according to applicants and other business stakeholders GAO interviewed between August 2020 and February 2021. For example, applicants from five discussion groups and several stakeholders cited lack of information and uncertainty about application status as major concerns. In addition, until February 2021, SBA did not provide important information to potential applicants, such as limits on loan amounts and definitions of certain program terms. Lack of important program information and application status put pressure on SBA's resources and negatively affected applicants' experience. For example, SBA's customer service line experienced call surges that resulted in long wait times, and SBA's data showed that 5.3 million applications were duplicates. SBA's planning documents describe in general

United States Government Accountability Office

terms the public outreach to be conducted following disasters, but they do not detail the type or timing of the information to be provided. Developing and implementing a comprehensive communication strategy that includes these details could improve the quality, clarity, and timeliness of information SBA provides to its applicants and resource partners following catastrophic disasters.

GAO's ongoing review of the EIDL program related to COVID-19 has found that the program is susceptible to providing funding to ineligible and fraudulent applicants. For example, as GAO reported in January 2021, SBA had approved at least 3,000 loans totaling about $156 million to businesses that SBA policies state were ineligible for the EIDL program, such as real estate developers and multilevel marketers, as of September 30, 2020. In addition, GAO found that between May and October 2020, over 900 U.S. financial institutions filed more than 20,000 suspicious activity reports related to the EIDL program with the Financial Crimes Enforcement Network. Further, GAO's analysis of 51 Department of Justice cases involving fraud charges for EIDL loans as of March 2021 found that these cases involved identity theft, false attestation, fictitious or inflated employee counts, and misuse of proceeds.

Over the course of its COVID-19 response, SBA has made some changes to address these risks. For example, beginning in June 2020, SBA took actions to improve loan officers' ability to withhold funding for applicants suspected of fraud. However, SBA has not yet implemented recommendations GAO has previously made to address EIDL program risks.

- In January 2021, GAO recommended that SBA conduct data analytics across the EIDL portfolio to detect potentially ineligible and fraudulent applications (GAO-21-265). SBA did not agree or disagree with this recommendation. However, in May 2021, SBA officials stated the agency was in the process of developing analysis to apply certain fraud indicators to all application data.
- In March 2021, GAO recommended that SBA (1) implement a comprehensive oversight plan to identify and respond to risks in the EIDL program, (2) conduct and document a fraud risk assessment, and (3) develop a strategy to address the program's assessed fraud risks on a continuous basis (GAO-21-387). SBA agreed with all three recommendations. In May 2021, SBA officials stated that the agency had started to assess fraud risk for the program.

Fully implementing these recommendations would help SBA to safeguard billions of dollars of taxpayer funds and improve the operation of the EIDL program.

Biodefense Preparedness

We issued *Biodefense: After-Action Findings and COVID-19 Response Revealed Opportunities to Strengthen Preparedness*, GAO-21-513, on August 4, 2021.

GAO@100 Highlights

Highlights of GAO-21-513, a report to congressional committees

August 2021

BIODEFENSE

After-Action Findings and COVID-19 Response Revealed Opportunities to Strengthen Preparedness

Why GAO Did This Study

The COVID-19 pandemic shows how catastrophic biological incidents can cause substantial loss of life, economic damage, and require a whole-of-nation response involving multiple federal and nonfederal entities. The 2018 National Biodefense Strategy outlines specific goals and objectives to help prepare for and respond to such incidents.

The CARES Act includes a provision for GAO to conduct monitoring and oversight of federal efforts to prepare for, respond to, and recover from COVID-19. This report addresses: (1) interagency plans key federal agencies developed, and exercises they conducted, to help prepare for biological incidents; and (2) the extent to which exercises and real-world incidents revealed opportunities to better achieve National Biodefense Strategy objectives.

GAO reviewed biological incident plans and after-action reports from exercises and real-world incidents from calendar years 2009 through 2019, including a non-generalizable sample of 19 reports selected based on threat scenario and other factors. GAO interviewed federal and state officials to obtain their perspectives on plans, exercises, and the COVID-19 response.

What GAO Recommends

GAO is making four recommendations each to DHS, DOD, HHS, and USDA, including that the secretaries work through the Biodefense Steering Committee to communicate exercise priorities and conduct monitoring. The departments generally concurred but in response to comments GAO modified the recommendations to reflect that the secretaries work through the Committee identified above.

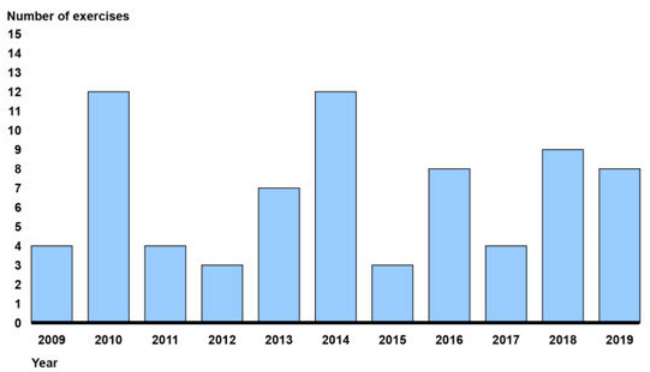
For more information, view GAO-21-513 or contact Chris Currie at (404) 679-1875 or CurrieC@gao.gov.

What GAO Found

Key federal agencies, including the Departments of Homeland Security (DHS), Defense (DOD), Health and Human Services (HHS), and Agriculture (USDA), developed a range of interagency response plans to prepare for nationally significant biological incidents. These strategic, operational, and tactical level plans address responding to a broad spectrum of biological threats, including those that are intentional, accidental, or naturally occurring.

DHS, DOD, HHS, and USDA conducted numerous interagency exercises to help prepare for and respond to a wide variety of biological incidents, such as anthrax attacks, influenza pandemics, and diseases affecting plants and animals. Specifically, GAO identified 74 interagency biological incident exercises conducted from calendar years 2009 through 2019.

Number of Interagency Biological Incident Exercises Conducted, Calendar Years 2009 through 2019



Source: GAO analysis of documentation from the Departments of Homeland Security, Defense, Health and Human Services, and Agriculture. | GAO-21-513

GAO's analysis of after-action reports for selected interagency biological incident exercises and real-world incidents, as well as the COVID-19 response, identified long-standing biodefense challenges. GAO found that the nation lacked elements necessary for preparing for nationally significant biological incidents, including a process at the interagency level to assess and communicate priorities for exercising capabilities. Further, it determined that agencies do not routinely work together in monitoring results from exercises and real-world incidents to identify patterns and root causes for systemic challenges. Assessing and communicating exercise priorities and routinely monitoring the results of the exercises and incidents will help ensure the nation is better prepared to respond to the next biological threat.

United States Government Accountability Office

Hospital Capacity Data Collection

We issued *COVID-19: HHS's Collection of Hospital Capacity Data*, GAO-21-600, on August 5, 2021.

GAO@100 Highlights

Highlights of GAO-21-600, a report to congressional addressees

August 2021

COVID-19

HHS's Collection of Hospital Capacity Data

Why GAO Did This Study

The magnitude of the COVID-19 pandemic has underscored the importance of having quality data to help the federal government understand the health care system's capacity to provide care and to inform the allocation of resources. HHS launched HHS Protect in April 2020 to capture hospital capacity data. Throughout the public health emergency HHS has made changes to how information is collected and used.

The CARES Act includes a provision for GAO to report on its ongoing COVID-19 monitoring and oversight efforts. GAO was asked to examine HHS's implementation of HHS Protect. In this report, GAO describes (1) HHS's implementation of HHS Protect hospital capacity reporting requirements and the challenges experienced by reporting entities; (2) HHS's and stakeholders' use of the data, if at all; and (3) lessons learned about ensuring the collection of quality hospital capacity data during a public health emergency.

GAO reviewed agency guidance and HHS Protect hospital capacity dashboards and reports, and interviewed HHS officials as well as officials from three states that report or reported directly to HHS Protect on behalf of their hospitals. These states were selected for variation in geography and the mix of rural and non-rural hospital facilities. GAO also interviewed officials from public health stakeholder groups including hospital associations, epidemiological associations, and local health organizations. GAO provided a draft of this report to HHS for review and comment. HHS had no comments on the report.

View GAO-21-600. For more information, contact Jessica Farb at (202) 512-7114 or farbj@gao.gov.

What GAO Found

During the COVID-19 pandemic, the Department of Health and Human Services (HHS) made frequent and significant changes to the collection of hospital capacity data. In April 2020, HHS created a new data ecosystem—HHS Protect—to capture, among other things, national- and state-level data on inpatient and intensive care beds in use, supplies of personal protective equipment (PPE), and COVID-19 treatments. Subsequently, HHS changed the methods through which data could be reported to HHS Protect and also changed reporting requirements. According to HHS officials, this was done to capture more complete data and to capture more information, such as data on influenza-related hospitalizations and COVID-19 vaccines administered. Reporting entities said they experienced multiple challenges implementing the changes, including a lack of clarity on the requirements and logistical challenges such as having to adapt their systems to provide the data. As HHS made changes, HHS issued updated guidance to clarify reporting requirements.

HHS uses hospital capacity data to identify and address resource shortages and to inform the public. For example, according to HHS officials, HHS has used the data to provide assistance such as staff resources or supplies in 40 states. Additionally, HHS has shared the hospital capacity data to inform the public. However, public health stakeholders told GAO they have relied on state and local data for their purposes rather than data from HHS Protect. For example, epidemiological association officials said their members relied on state and local data for case investigation because they contained more detailed information and did not use HHS Protect data on hospital capacity. According to HHS officials, some states that may not be collecting their own data rely on HHS Protect capacity data to inform their public health response to the pandemic.

HHS agency officials and stakeholders identified the need for stakeholder engagement and improved communication among key lessons learned to better ensure the collection of quality hospital capacity data during a public health emergency. For example, HHS officials told GAO that there is a need for dialogue and external validation to ensure data quality and accuracy. They also noted that the need for a system like HHS Protect will continue beyond the COVID-19 pandemic. Officials GAO interviewed from stakeholder organizations and selected states noted that increased collaboration and communication—as well as more time to implement changes—would have facilitated the implementation of the changes to the data collection process. These lessons learned are consistent with GAO's January 2021 recommendation that HHS engage with stakeholders to review and inform the alignment of ongoing data collection and reporting standards through establishing an expert committee. HHS agreed with the recommendation, but as of June 2021, the department has not implemented it.

United States Government Accountability Office

Federal Debt Management

We issued *Federal Debt Management: Treasury Quickly Financed Historic Government Response to the Pandemic and Is Assessing Risks to Market Functioning,* GAO-21-606, on August 17, 2021.

GAO@100 Highlights

Highlights of GAO-21-606, a report to congressional committees

August 2021

FEDERAL DEBT MANAGEMENT

Treasury Quickly Financed Historic Government Response to the Pandemic and Is Assessing Risks to Market Functioning

Why GAO Did This Study

The federal government's fiscal response to the COVID-19 pandemic dramatically increased the government's borrowing needs. Treasury borrows money needed by issuing Treasury securities. The ability to borrow large amounts of money quickly and cheaply is especially important during a crisis, when government spending tends to increase and revenues tend to decrease. Any disruptions in investor demand for Treasury securities or the functioning of the Treasury market can have costly implications for the federal government and taxpayers.

The CARES Act includes a provision for GAO to report on its monitoring and oversight efforts related to the COVID-19 pandemic. This report examines (1) how the cost and liquidity of Treasury securities changed during COVID-19; (2) actions Treasury is taking to mitigate future disruptions; and (3) the actions Treasury took to finance the federal government's response to the pandemic.

GAO analyzed data on Treasury securities; reviewed agency and market research; and interviewed market participants across key financial sectors (e.g., broker-dealers, banks, mutual and money market funds), market experts, and Treasury and Federal Reserve officials.

What GAO Recommends

GAO recommends that Treasury clarify the department's policy for managing its operating cash balance to include all relevant factors it considers when determining the appropriate cash balance and communicate this policy to the public. Treasury agreed with the recommendation.

View GAO-21-606. For more information, contact Yvonne Jones at (202) 512-6806 or jonesy@gao.gov.

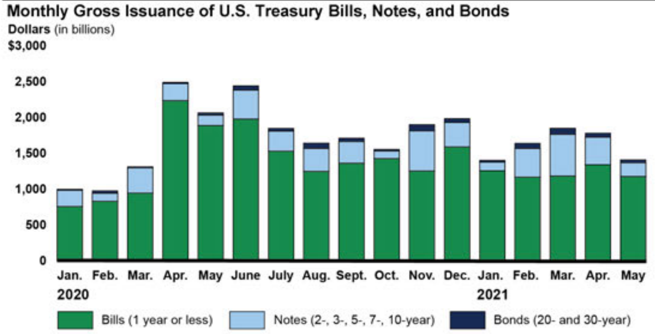
What GAO Found

In response to COVID-19, in March 2020 many investors rapidly sold their Treasury securities for cash. This led to a severe liquidity disruption when prices fell and transaction costs rose for Treasury notes and bonds in the secondary market. The Federal Reserve acted quickly to support market functioning, including purchasing trillions of dollars of Treasury securities.

This market disruption highlighted risks to the Treasury market. For example, growth in federal debt and regulatory changes may reduce broker-dealers' willingness and ability to intermediate trades (facilitate purchases and sales) of Treasury securities for investors. In April 2021 Treasury initiated an interagency effort to examine options that could help mitigate future disruptions in the market.

Following the market disruption, Treasury quickly raised trillions of dollars to fund the federal response to COVID-19. It dramatically increased its issuance of bills—including adding regular, weekly auctions of cash management bills, which have historically been issued irregularly to cover near-term financing gaps. The bills were met with strong investor demand. For example, GAO found almost no difference between cash management bill and other bill yields during this time.

Monthly Gross Issuance of U.S. Treasury Bills, Notes, and Bonds



Source: GAO analysis of Department of the Treasury Daily Treasury Statement. | GAO-21-606

Note: Notes and bonds includes Treasury Floating Rate Notes and Inflation Protected Securities.

Due to the uncertainty created by COVID-19, Treasury maintained a historically high operating cash balance of around $1.6 trillion. Its stated policy is to hold a level of cash generally sufficient to cover one week of outflows. However, other factors not explicitly reflected in its policy informed how it managed the cash balance during COVID-19. Market participants told GAO that they were unclear about all of these factors. They said that understanding the level and trajectory of the cash balance is important because it affects market expectations for the size of Treasury issuance, supply of bank reserves, and short-term lending rates—all of which inform their business strategies and support market functioning. Additionally, uncertainty about the size of the cash balance can lead to volatility in financial markets. This, in turn, can affect Treasury's borrowing costs.

United States Government Accountability Office

Immigration Courts

We issued *COVID-19: Improvements Needed in Guidance and Stakeholder Engagement for Immigration Courts,* GAO-21-104404, on August 31, 2021.

GAO@100 Highlights

Highlights of GAO-21-104404, a report to congressional addressees

August 2021

COVID-19

Improvements Needed in Guidance and Stakeholder Engagement for Immigration Courts

Why GAO Did This Study

Each year, EOIR issues decisions for hundreds of thousands of cases of foreign nationals charged as removable under U.S. immigration law. Approximately 500 immigration judges at 66 immigration courts nationwide determine whether these individuals are removable from the U.S. and, if so, whether they are eligible for any requested relief from removal. During the COVID-19 pandemic, EOIR faced unprecedented challenges adapting its operations to continue its mission.

GAO was asked to review EOIR's management of court operations during the COVID-19 pandemic. This report examines, among other things, (1) EOIR's modifications to court operations and related guidance and (2) EOIR's engagement with court stakeholders.

GAO reviewed EOIR's policies and guidance during the pandemic; and interviewed EOIR headquarters officials and staff at six immigration courts selected to include different dockets and caseloads, among other factors. GAO interviewed stakeholders, such as private bar attorneys representing foreign nationals and attorneys representing the government, proximate to these six courts. GAO also analyzed EOIR caseload data to determine any changes during the pandemic.

What GAO Recommends

GAO is making four recommendations, including that EOIR issue guidance on mask-wearing requirements tailored to the courtroom setting, and regularly engage with court stakeholders. EOIR concurred with the recommendations.

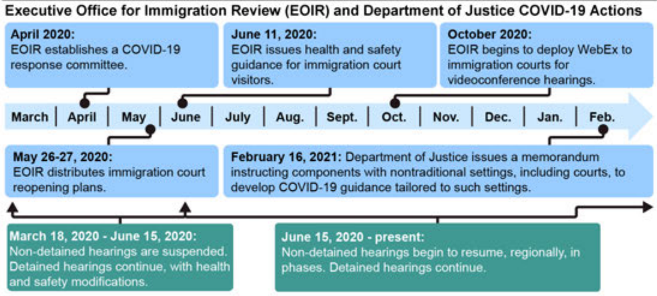
View GAO-21-104404. For more information, contact Rebecca Gambler at (202) 512-8777 or gamblerr@gao.gov.

What GAO Found

The Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR) took steps to modify immigration court operations and guidance to respond to COVID-19. For instance, EOIR implemented health and safety measures at immigration courts, such as requiring social distancing. From mid-March 2020 until mid-June 2020, EOIR also temporarily suspended hearings for individuals not in immigration detention. Immigration courts took other steps to reduce the number of people physically present in EOIR space, such as rotating immigration judges' and staffs' schedules. EOIR data indicate its courts delayed nearly 600,000 hearings from March through October 2020 due to court closures.

Senior EOIR officials told GAO that EOIR expected all those present in a courtroom to wear masks for the duration of a hearing. However, EOIR did not issue mask-wearing guidance tailored to courtrooms—nontraditional office settings, according to DOJ—that articulated this expectation because officials said that DOJ's existing guidance applies to all EOIR space. GAO identified several instances in which judges did not always require or wear masks in their courtrooms. Issuing tailored guidance could help EOIR better ensure that court staff and visitors understand expectations during hearings, particularly as public health guidance evolves.

Executive Office for Immigration Review (EOIR) and Department of Justice COVID-19 Actions



Sources: EOIR and Department of Justice documentation and interviews. | GAO-21-104404

EOIR did not regularly engage with stakeholders during the COVID-19 pandemic. Stakeholders told GAO that the pandemic highlighted long-standing limitations in EOIR's stakeholder engagement. For example, from fall of 2017 through April 2021, EOIR generally ceased holding regular stakeholder meetings. Stakeholders said these meetings historically provided opportunities for two-way communication with EOIR, which was increasingly important during the pandemic. Stakeholders noted challenges engaging with EOIR on their concerns regarding modifications to court hearing schedules and health and safety matters, such as EOIR's process to respond to COVID-19 exposures. Taking steps to regularly engage with court stakeholders could help EOIR address their concerns about its response to the pandemic and maintain positive relationships in the future.

United States Government Accountability Office

Medicaid HCBS Waivers

We issued *Medicaid Home and Community-Based Services: Evaluating COVID-19 Response Could Help CMS Prepare for Future Emergencies*, GAO-21-104401, on September 8, 2021.

GAO@100 Highlights

Highlights of GAO-21-104401, a report to congressional committees

September 2021

MEDICAID HOME- AND COMMUNITY-BASED SERVICES

Evaluating COVID-19 Response Could Help CMS Prepare for Future Emergencies

Why GAO Did This Study

During emergencies, including COVID-19, CMS may approve certain temporary changes to states' Medicaid programs to ensure access to care. These changes are critical to beneficiaries who rely on HCBS to perform daily activities, such as eating, and who may face greater risk of COVID-19.

The CARES Act includes a provision for GAO to report on its ongoing COVID-19 monitoring and oversight efforts. In addition, GAO was asked to examine temporary changes to Medicaid in response to COVID-19. This report (1) describes temporary changes to Medicaid HCBS programs, including selected states' experience in making these changes; and (2) examines CMS's monitoring and evaluation of the effects of those changes.

GAO reviewed documentation of temporary changes approved by CMS and relevant CMS policies, procedures, and analyses. GAO also interviewed Medicaid officials from CMS and six states selected based on variation in Medicaid expenditures and geographic region. GAO assessed CMS's monitoring and evaluation activities using CMS's *Pandemic Plan* and federal internal control standards.

What GAO Recommends

GAO is making two recommendations to CMS to (1) develop procedures to monitor temporary changes to HCBS programs during public health emergencies; and (2) evaluate the temporary changes after the COVID-19 emergency and address opportunities for improvement. The Department of Health and Human Services concurred with GAO's recommendations.

View GAO-21-104401. For more information, contact Carolyn L. Yocom at (202) 512-7114 or yocomc@gao.gov.

What GAO Found

COVID-19 presented risks to Medicaid home- and community-based services (HCBS) programs, where providers help beneficiaries with daily activities, such as bathing, dressing, and eating. To maintain access to services and prevent disease spread, all states received approval for temporary changes to their HCBS programs from the Centers for Medicare & Medicaid Services (CMS), within the Department of Health and Human Services. These changes enabled selected states to limit in-person contact to reduce the spread of the disease, but also led to new challenges to ensuring beneficiary health and welfare.

Examples of Temporary Changes to States' Medicaid Home- and Community-Based Services Due to COVID-19, as of December 2020

Source: GAO analysis of documents from the Centers for Medicare & Medicaid Services. | GAO-21-104401

CMS focused on supporting states' implementation of temporary changes and conducted limited oversight of the effects of the changes. CMS's *Pandemic Plan* establishes the need for monitoring to make mid-course corrections and conducting evaluations after the pandemic to inform future emergency response.

- **CMS relied on states to monitor during the emergency.** CMS has no procedures for monitoring temporary changes during an emergency. Instead, states had the primary responsibility to monitor the effects of temporary changes during the COVID-19 emergency, according to CMS officials. CMS provided limited guidance to states on monitoring the changes, and did not request that states share any data, such as COVID-19 infections or deaths, with CMS. Without developing monitoring procedures in advance of future public health emergencies, CMS is unlikely to conduct necessary monitoring.
- **CMS's plan for evaluating after the emergency is unclear.** CMS officials told GAO that they intend to evaluate temporary changes made to HCBS programs, but had not developed plans to do so. Officials said they will continue to review regular state reporting on steps taken to ensure the overall quality of HCBS programs. However, this reporting may not provide useful information for evaluating how temporary changes affected access to HCBS or the prevention of disease spread, and some reports are not due for more than 3 years. Without a full evaluation, CMS may miss opportunities to better prepare for future emergencies.

United States Government Accountability Office

Food Box Program

We issued *USDA Food Box Program: Key Information and Opportunities to Better Assess Performance,* GAO-21-353, on September 8, 2021.

GAO@100 Highlights

Highlights of GAO-21-353, a report to congressional committees

September 2021

USDA FOOD BOX PROGRAM

Key Information and Opportunities to Better Assess Performance

Why GAO Did This Study

The COVID-19 pandemic caused disruptions in the U.S. food supply chain and contributed to a national hunger crisis. In response, USDA implemented the Food Box Program in May 2020. USDA directed a total of $6 billion in congressional appropriations to the program, which lasted 1 year. The program included organizations such as food banks, which received food boxes; contractors that purchased and delivered the food; and food producers, such as farmers and ranchers.

The CARES Act contained a provision for GAO to conduct monitoring and oversight of the use of funds related to the COVID-19 pandemic. This report examines the extent to which USDA collected and analyzed data on participants in the program, including data necessary to assess performance in meeting program goals.

GAO analyzed information from USDA's website, database, and departmental guidance. GAO also compared USDA's efforts to collect and analyze data on the program against federal guidance, USDA's strategic plan, and documents that include lessons learned. GAO also interviewed USDA officials.

What GAO Recommends

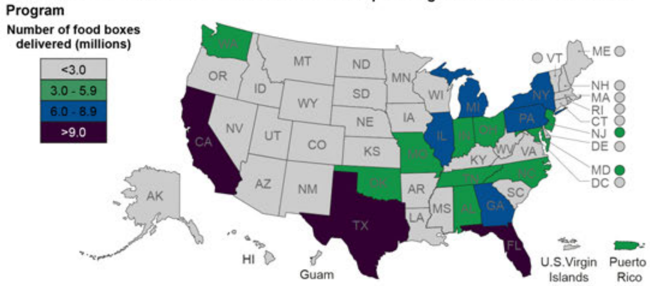
GAO recommends that USDA apply the lesson learned from the Food Box Program regarding collecting and analyzing data to assess program goals to current and future emergency food assistance programs. USDA agreed with the recommendation.

View GAO-21-353. For more information, contact Steve D. Morris at (202) 512-3841 or morriss@gao.gov.

What GAO Found

Through contractors, the U.S. Department of Agriculture's (USDA) Farmers to Families Food Box Program purchased fresh fruits and vegetables, dairy, and meat products from producers and delivered them to recipient organizations, such as food banks. USDA's goals for the program included providing food to those in need, helping contractors retain jobs, and supporting producers. USDA collected large amounts of data and analyzed various data on deliveries to recipient organizations—that is, total number of food boxes delivered to each state and per million people in each state—and determined that the program met its goal of providing food to those in need. GAO further analyzed USDA's data and found that 243 contractors delivered more than 176 million food boxes to recipient organizations across the U.S. and territories by the end of the program (see figure). GAO's analysis also found that food boxes were delivered to nearly 78 percent of all U.S. counties, including to more than 89 percent of counties where at least 20 percent of the population lives in poverty.

Number of Food Boxes Contractors Delivered to Recipient Organizations for the Food Box Program



Sources: GAO analysis of U.S. Department of Agriculture (USDA) information; Map Resources (map). | GAO-21-353

USDA could not analyze the program's performance in meeting its other two goals: (1) helping contractors (i.e., distributors of goods) retain jobs and (2) helping food producers faced with declining demand—because USDA did not systematically collect the necessary data. For example, USDA did not collect data on (1) the number of jobs contractors might have lost but ultimately retained as a result of participating in the program and (2) the number, category, and size of participating producers or whether the pandemic had reduced demand for or sales of the type of product the producer provided for the program.

USDA officials acknowledged that a key lesson learned during the implementation of the Food Box Program was the need to collect and analyze such data but that the department did not have time to do so. Federal guidance expresses the importance of balancing speed with transparency, and states that federal managers should use data and evidence to achieve program goals. By applying this lesson learned to current and future emergency food assistance programs, USDA would have greater assurance that it can assess program effectiveness even when it must move quickly in implementing a program.

United States Government Accountability Office

Exposure Notification

We issued *Exposure Notification: Benefits and Challenges of Smartphone Applications to Augment Contact Tracing*, [GAO-21-104622](GAO-21-104622), on September 9, 2021.

GAO@100

Highlights of GAO-21-104622, a report to congressional addressees

September 2021

TECHNOLOGY ASSESSMENT

Exposure Notification

Benefits and Challenges of Smartphone Applications to Augment Contact Tracing

Why GAO did this study

With the emergence and rapid global spread of COVID-19, smartphone apps have been developed to supplement manual contact tracing, which is a public health measure used to slow the spread of infectious disease.

GAO was asked to conduct a technology assessment of exposure notification apps. This report discusses (1) the benefits of exposure notification apps; (2) the current level of deployment in the U.S.; (3) challenges affecting their use; and (4) policy options that may help address these challenges for future use.

To address these objectives, GAO reviewed agency documentation, met with officials from several federal agencies, and conducted a review of technical and policy literature. GAO also interviewed representatives from companies involved in the development of exposure notification apps, public health organizations, federally funded research and development centers, and academic researchers. In addition, GAO analyzed information from a selection of states. GAO is identifying policy options in this report.

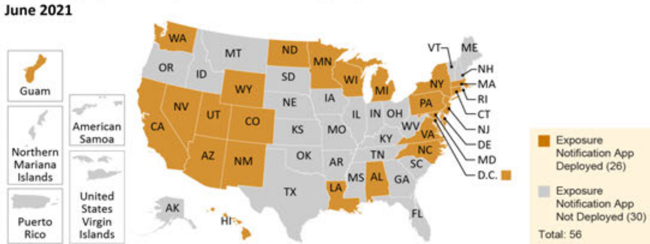
GAO received technical comments on a draft of this report from five federal agencies and five organizations included in the review, which it incorporated as appropriate.

View GAO-21-104622. For more information, contact Karen L. Howard at (202) 512-6888 or, howardk@gao.gov or Vijay A. D'Souza, at (202) 512-6240, dsouzav@gao.gov.

What GAO found

Exposure notification applications (apps)—which determine the proximity of users and notify people who have been in close contact with another user who was likely infectious—are expected to enhance the speed and reach of contact tracing and help slow the spread of infectious diseases such as COVID-19. As of June 2021, almost half (26/56) of U.S. states, territories, and the District of Columbia had deployed an app for COVID-19, all using a system developed jointly by Google and Apple (see figure). In the absence of a national app, states independently launched apps, resulting in a staggered rollout over 10 months beginning in August 2020.

Map of deployment of exposure notification apps by U.S. states and territories, as of June 2021



Source: GAO analysis of data from Goggle, Apple, the Association of Public Health Laboratories, and other sources, including state-level public health departments' websites. | GAO-21-104622

Reported app development costs for selected states varied, ranging from no cost (provided by a nonprofit organization) to $700,000. Marketing costs for selected states ranged from $380,000 to $3.2 million. Reported app download levels in the selected states ranged from 200,000 to more than 2 million, as of June 2021.

GAO identified several challenges limiting app use and the ability of states and others to determine whether the apps were effective:

Accuracy of measurements	Technical limitations to measuring distance and exposure can result in inaccurate exposure notifications.
Privacy and security concerns	The public may lack confidence that its privacy is being protected, in part, due to a lack of independent privacy and security assessments and a lack of federal legal protections.
Adoption	States have faced challenges attracting public interest in downloading and using an exposure notification app.
Verification code delays	States faced challenges in promptly providing people who tested positive for COVID-19 with a verification code necessary to notify other close contacts of potential exposure using the app.
Evidence of effectiveness	Limited data are available to evaluate the effectiveness of the apps.

Source: GAO. | GAO-21-104622

United States Government Accountability Office

GAO developed the following four policy options that could help address challenges related to exposure notification apps. The policy options identify possible actions by policymakers, which may include Congress, other elected officials, federal agencies, state and local governments, and industry. See below for details of the policy options and relevant opportunities and considerations.

Policy Options to Help Address Challenges of Exposure Notification Apps for Future Use

	Opportunities	Considerations
Research and Development (report page 41) Policymakers could promote research and development to address technological limitations.	• Research on technological limitations could help increase accuracy, encouraging users to download and use the apps. • Research on technologies and architectures other than those used by U.S. states could lead to improvements. • Partnerships with technology companies could spur innovation and help with integrating improvements.	• The research needed may be costly. • Improvements may not be cost-effective, since existing apps may already be sufficiently accurate. • Research may result in apps that are not functional for the next pandemic, since the current apps were developed for COVID-19.
Privacy and Security Standards and Practices (report page 42) Policymakers could promote uniform privacy and security standards and practices for exposure notification apps.	• Uniform standards and best practices could help address real and perceived risks to the public's data, potentially increasing adoption. • Standards developed by a broad coalition of stakeholders could increase the likelihood of stakeholder agreement and buy-in.	• Policymakers would need to balance the need for privacy and security with the costs of implementing standards and practices. • Implementation of privacy requirements may need to be flexible, since jurisdictions could use different approaches. • Standards and practices could be challenging to oversee and enforce.
Best Practices (report page 43) Policymakers could promote best practices for approaches to increasing adoption and to measure the effectiveness of exposure notification apps.	• Best practices could help authorities better promote app adoption. • Best practices could help state public health authorities by providing information on procedures and potential approaches for distributing verification codes in a timely manner. • Best practices could help public health authorities establish a more rigorous way to measure the extent of app use and any resulting improvements in notifying exposed people.	• Best practices could require consensus from many public- and private-sector stakeholders, which can be time- and resource-intensive. • Current best practices may have limited relevance to a future pandemic. • In some cases, stakeholders may lack sufficient information or the experience to develop best practices.
National Strategy (report page 44) Policymakers could collaborate to enhance the pandemic national strategy and promote a coordinated approach to the development and deployment of exposure notification apps.	• Enhanced national coordination that builds on the underlying infrastructure and lessons learned from COVID-19 could prompt faster deployment of apps in the future. • A future national marketing campaign with cohesive and coherent messaging could result in wider adoption. • Policymakers could recommend a national app that public health authorities could decide to use based on their individual needs. A national app could add more functions by integrating exposure notification capabilities with test scheduling and vaccine delivery coordination.	• A coordinated national approach would likely have associated costs and require sustained funding during the pandemic. • Coordination of groups with divergent perspectives and interests may pose challenges to defining outcomes, measuring performance, and establishing a leadership approach. • It is unclear whether potential users would be more or less likely to trust a national exposure notification app than one developed by a state government.

Source: GAO. | GAO-21-104622

Characteristics of Paycheck Protection Program Borrowers

We issued *Paycheck Protection Program: Program Changes Increased Lending to the Smallest Businesses and in Underserved Locations*, GAO-21-601, on September 21, 2021.

GAO@100 **Highlights**

Highlights of GAO-21-601, a report to congressional addressees

September 2021

PAYCHECK PROTECTION PROGRAM

Program Changes Increased Lending to the Smallest Businesses and in Underserved Locations

Why GAO Did This Study

The COVID-19 pandemic resulted in significant turmoil in the U.S. economy, leading to temporary and permanent business closures and high unemployment. In response, in March 2020, Congress established PPP under the CARES Act and ultimately provided commitment authority of approximately $814 billion for the program over three phases. When initial program funding ran out in 14 days, concerns quickly surfaced that certain businesses were unable to access the program, prompting a series of changes by Congress and SBA.

The CARES Act includes a provision for GAO to monitor the federal government's efforts to respond to the COVID-19 pandemic. GAO has issued a series of reports on this program, and has made a number of recommendations to improve program performance and integrity. This report describes trends in small business and lender participation in PPP.

GAO analyzed loan-level PPP data from SBA and county-level data from four U.S. Census Bureau products and surveyed a generalizable sample of PPP lenders, stratified by lender type and size. GAO also reviewed legislation, interim final rules, agency guidance, and relevant literature, as well as interviewed SBA officials.

View GAO-21-601. For more information, contact John Pendleton at (202) 512-8678 or pendletonj@gao.gov.

What GAO Found

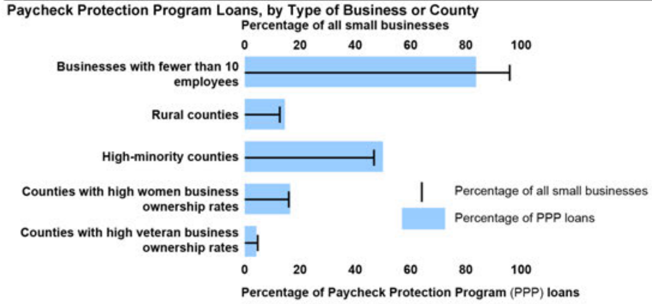
The Paycheck Protection Program (PPP) supports small businesses through forgivable loans for payroll and other eligible costs. Early lending favored larger and rural businesses, according to GAO's analysis of Small Business Administration (SBA) data. Specifically, 42 percent of Phase 1 loans (approved from April 3–16, 2020) went to larger businesses (10 to 499 employees), although these businesses accounted for only 4 percent of all U.S. small businesses. Similarly, businesses in rural areas received 19 percent of Phase 1 loans but represented 13 percent of all small businesses. Banks made a vast majority of Phase 1 loans.

In response to concerns that some underserved businesses—in particular, businesses owned by self-employed individuals, minorities, women, and veterans—faced challenges obtaining loans, Congress and SBA made a series of changes that increased lending to these businesses. For example,

- SBA admitted about 600 new lenders to start lending in Phase 2 (which ran from April 27–August 8, 2020), including nonbanks (generally, lending institutions that do not accept deposits).
- SBA developed guidance after Phase 1 helping self-employed individuals participate in the program.
- SBA targeted funding to minority-owned businesses in part through Community Development Financial Institutions in Phases 2–3. (Phase 3 ran from January 12–June 30, 2021.)

By the time PPP closed in June 2021, lending in traditionally underserved counties was proportional to their representation in the overall small business community (see figure). While lending to businesses with fewer than 10 employees remained disproportionately low, it increased significantly over the course of the program.

Paycheck Protection Program Loans, by Type of Business or County



Source: GAO analysis of Small Business Administration and Census Bureau data. | GAO-21-601

United States Government Accountability Office

DOD Pandemic Response

We issued *COVID-19: Defense-Wide Working Capital Fund Cash Management and Defense Logistics Agency Pandemic Response,* GAO-21-104590, on September 22, 2021.

GAO@100 Correspondence Summary

What GAO Found

Three Department of Defense (DOD) agencies, including the Defense Logistics Agency (DLA), use the Defense-Wide Working Capital Fund (DWWCF) to fund their operations and then deposit the proceeds from sales of goods and services to their customers back into the fund. DOD received $500 million from the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) for the DWWCF in order to position the agency to respond to the Coronavirus Disease 2019 (COVID-19) pandemic. GAO found:

DOD Actions Helped Maintain DWWCF Balances within Targeted Ranges. Several transactions increased the DWWCF cash balances. In particular, the DWWCF received nearly $600 million in allotments from appropriations from January 2020 through January 2021, including $500 million from the CARES Act. DLA, which uses the DWWCF to fund operations, such as providing consumable items and fuel to its military customers and other federal agencies, also received $2 billion in advance billings from the Department of Health and Human Services (HHS) and Federal Emergency Management Agency (FEMA) from April 2020 through September 2020. DOD officials said they also took actions that had the effect of mitigating the extent to which DWWCF cash balances exceeded the targeted upper cash requirement. DOD transferred $241 million to military services' working capital funds and reduced fuel prices by 20 percent, among other things. DLA officials said that they expect the $3.6 billion cash balance to decline as advance-billed orders are filled and fuel prices recover.

DLA Responded to a Surge in Medical Materials Demand during the Pandemic. From March 2020 through May 2021, DLA executed about 31,000 contract actions marked as COVID-19–related, resulting in $3.67 billion in contract obligations. DLA officials said FEMA and HHS became DLA's largest customers for COVID-19–related items during the pandemic. COVID-related procurements included test kits, gloves, N95 respirators, hand sanitizers, surgical masks, ventilators, and protective gowns, among other things.

DLA Did Not Plan for Pandemic Support, but It Tracked Performance and Identified Lessons Learned. DLA officials told GAO they were not tasked with planning to support civilian agencies in a pandemic, and they had not developed plans for supporting other federal agencies during a pandemic prior to the current pandemic. However, DLA continued to monitor and measure its medical supply chain performance during the pandemic using previously established measures, which showed that its performance decreased during the pandemic. Officials from DLA and from its customer agencies attributed this decrease to difficulties experienced by vendors in responding to medical material demand during the global pandemic.

DLA Increased Medical Contracting and Reduced Contracting in Some Other Areas. GAO's analysis found that DLA obligated $40.1 billion on contracts from March 2020 through February 2021, a decrease of more than $2.0 billion (4.8 percent) as compared with the same 12-month period prior to the pandemic. DLA obligations increased in 64 of 134 product service groups, with the largest increases occurring in the medical, dental, and veterinary equipment and supplies; firefighting, rescue, and safety equipment and environmental protection equipment and materials; and instruments and laboratory equipment groups. DLA obligations decreased in 69 of 134 product service groups, with the largest decreases occurring in the fuels, lubricants, oils and waxes and the aerospace craft components and accessories product service groups.

Of the 11,832 DLA vendors used during this period, GAO found that DLA obligations related to 6,208 (52.5 percent) decreased, 4,960 (41.9 percent) increased, and 664 (5.6 percent) had no change. DLA obligations related to vendors providing medical, dental, and veterinary equipment and supplies had the largest increases, and obligations related to those providing fuels, lubricants, oils, and waxes and those providing aerospace components had the largest decreases. The decreases did not significantly alter the proportion of DLA contracting obligations going to vendors in three primary socioeconomic groups (small disadvantaged, women–owned, and minority–owned).

Why GAO Did This Study

This report responds to a request from the Readiness Subcommittee of the House Armed Services Committee that GAO review DOD's management of the DWWCF cash balance and DLA's response to the COVID-19 pandemic, and it is part of GAO's body of work in response to the CARES Act. This report provides information on: (1) actions DOD took from October 2018 through March 2021 to maintain the DWWCF cash balance between its targeted upper and lower cash requirements; (2) the effects of the pandemic on DLA's supply chain management activity, including medical supplies, starting in March 2020; (3) DLA's planning to support a pandemic event and tracking of its performance in meeting customer needs from March 2020 through June 2021; and (4) changes in DLA's contracting activity, by type of product and individual vendor, from March 2019– February 2020 and March 2020–February 2021. GAO reviewed DWWCF cash balances and budget estimates; DLA readiness reports and performance measures; and federal contracting data; and interviewed officials of DLA and its customers.

For more information, contact Elizabeth A. Field at (202) 512-2775 or fielde1@gao.gov.

GAO-21-104590

Dedicated User Fees

We issued *COVID-19: Reviewing Existing Policies Could Help Selected Agencies Better Prepare for Dedicated User Fee Revenue Fluctuations,* [GAO-21-104325](GAO-21-104325), on September 29, 2021.

GAO@100 Highlights

Highlights of GAO-21-104325, a report to congressional committees

September 2021

COVID-19

Reviewing Existing Policies Could Help Selected Agencies Better Prepare for Dedicated User Fee Revenue Fluctuations

Why GAO Did This Study

Each year, federal agencies collect billions of dollars in dedicated user fee revenue from fees charged to users of federal goods and services, which are dedicated by law for a specific purpose or program. The COVID-19 pandemic disrupted critical government operations for agencies that rely on these revenues.

The CARES Act included a provision for GAO to review the effects of the pandemic on public institutions of the U.S. This report examines how dedicated user fee revenues have changed since the onset of the pandemic and how selected agencies managed revenue changes related to the pandemic, among other objectives.

To determine revenue changes, GAO compared dedicated user fee revenues in fiscal years 2020 and 2021 to amounts from prior years. GAO selected three agencies to review—FAA, NPS, and USCIS—based on whether they relied on dedicated user fee revenue to a high (FAA and USCIS) or low (NPS) extent, among other factors. GAO interviewed officials at the selected agencies and reviewed relevant documents to determine how these agencies managed revenue changes, and compared those actions to internal control standards and leading practices for fee design.

What GAO Recommends

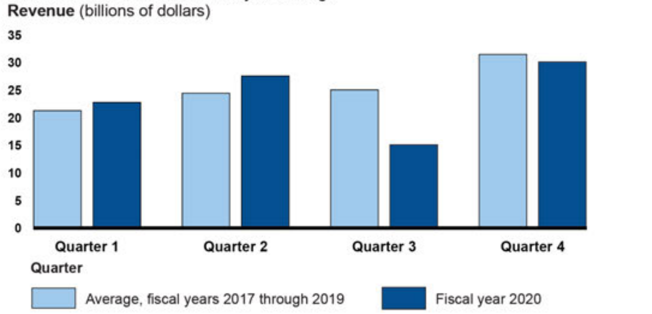
GAO is recommending that FAA and NPS review their cash management plan and target carryover balance policy, respectively, and document processes to review the plan and policy in the future. The Departments of Transportation and the Interior concurred with GAO's recommendations.

View GAO-21-104325. For more information, contact Jeff Arkin at (202) 512-6806 or arkinj@gao.gov.

What GAO Found

Executive branch agencies' revenues from dedicated user fees were lower in fiscal year 2020 and in the first half of fiscal year 2021 compared to average annual revenues in fiscal years 2017 through 2019, the 3 fiscal years prior to the start of the COVID-19 pandemic. Following the declaration of the pandemic as a national emergency in March 2020, these revenues were about 39 percent lower than the previous 3-year average during the same period.

Executive Branch Agencies' Revenue from Dedicated User Fees in Fiscal Year 2020 Was Lower Overall than the Previous 3-year Average



Source: GAO analysis of Department of the Treasury data. | GAO-21-104325

Note: For more details, see figure 2 in GAO-21-104325.

The Federal Aviation Administration (FAA), National Park Service (NPS), and U.S. Citizenship and Immigration Services (USCIS) all prioritized spending on essential expenses, sought to increase available funds or operational flexibilities, and relied on carryover balances to cover essential expenses during the pandemic. However, FAA and NPS have not documented plans to review certain management plans and policies.

- FAA drafted a cash management plan containing measures to help it carry out mission-critical functions in a time of Airport and Airway Trust Fund (AATF) revenue instability. FAA officials told GAO they may revisit the plan to align it with leadership priorities in case of future AATF revenue instability. However, FAA has not documented plans to conduct such a review, which could help FAA better prepare for future periods of revenue instability.
- NPS parks relied on funds carried over from previous years during the pandemic to various extents, depending on local circumstances. NPS requires many fee-collecting parks to carry over no more than 35 percent of the previous year's revenue from certain fees. The agency has not completed an analysis to determine the efficacy of this policy since its implementation in 2010. Because of this, NPS may not be maintaining its carryover balances in the most effective way.

United States Government Accountability Office

Telework Cybersecurity

We issued *COVID-19: Selected Agencies Overcame Technology Challenges to Support Telework but Need to Fully Assess Security Controls*, GAO-21-583, on September 30, 2021.

GAO@100 Highlights

Highlights of GAO-21-583, a report to congressional addressees

September 2021

COVID-19

Selected Agencies Overcame Technology Challenges to Support Telework but Need to Fully Assess Security Controls

Why GAO Did This Study

In response to the onset of the COVID-19 pandemic, in March 2020 the Office of Management and Budget directed federal agencies to maximize their use of telework to enable the workforce to remain safe while ensuring that government operations continue. Telework is essential to continuity of operations but also brings added cybersecurity risks.

The *CARES Act* contains a provision for GAO to monitor the federal response to the pandemic. GAO was also asked to examine federal agencies' preparedness to support expanded telework. GAO's objectives were to determine (1) selected agencies' initial experiences in providing the IT needed to support remote access for maximum telework and (2) the extent to which selected agencies followed federal information security guidance for their IT systems that provide remote access.

GAO selected 12 agencies for review that varied in their percentages of reported employee telework use and sent a questionnaire to solicit these agencies' perspectives on the use of IT in transitioning to maximum telework. GAO also reviewed the selected agencies' information security documentation and interviewed relevant officials.

What GAO Recommends

GAO is making a total of nine recommendations to six agencies to document and assess relevant controls, and to fully document remedial actions for systems supporting remote access. The agencies agreed with the recommendations.

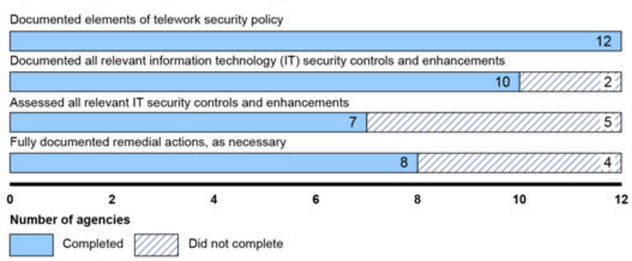
View GAO-21-583. For more information, contact Jennifer R. Franks at (404) 679-1831 or franksj@gao.gov.

What GAO Found

Each of the 12 agencies GAO selected for review had information technology (IT) in place to support remote access for telework during the COVID-19 pandemic. Although the agencies initially experienced IT challenges in supporting remote access for maximum telework, they generally overcame them. For example, seven agencies were challenged in providing sufficient bandwidth to provide remote access for teleworkers, but they increased bandwidth as needed to ensure networks could handle additional remote connections. In addition, while the increased number of remote connections brings additional cybersecurity risks, all of the selected agencies reported that they continued activities intended to help ensure the security of their information and systems.

While the selected agencies had documented elements of a telework security policy, such as permitted telework devices and forms of remote access, not all agencies had fully addressed other relevant federal guidance for securing their systems that support remote access for telework (see figure). Specifically, two agencies had not fully documented relevant IT security controls to protect those systems. In addition, assessments for systems that five agencies relied upon for remote access did not address all relevant controls to ensure the controls were operating effectively. Further, four selected agencies had not fully documented remedial actions to mitigate weaknesses they had previously identified.

Extent to Which 12 Selected Agencies Followed Federal Information Security Guidance in Implementing Their IT Systems That Support Remote Access for Telework



Source: GAO analysis of agency IT security documentation. | GAO-21-583

Although one of the selected agencies subsequently resolved its shortcomings, others had not. For the agencies that did not fully follow federal information security guidance, agency IT security officials stated that these conditions existed for various reasons, such as out-of-date documentation, among others. If agencies do not sufficiently document relevant security controls, assess the controls, and fully document remedial actions for weaknesses identified in security controls, they are at increased risk that vulnerabilities in their systems that provide remote access could be exploited.

United States Government Accountability Office

HUD Oversight

We issued *COVID-19: Additional Risk Assessment Actions Could Improve HUD Oversight of CARES Act Funds,* GAO-21-104542, on September 30, 2021.

GAO@100 Highlights

Highlights of GAO-21-104542, a report to congressional committees

September 2021

COVID-19

Additional Risk Assessment Actions Could Improve HUD Oversight of CARES Act Funds

Why GAO Did This Study

The COVID-19 pandemic and resulting economic downturn created housing instability for many families and individuals. Congress appropriated about $12.4 billion to HUD in CARES Act funds to prevent, prepare for, and respond to housing needs related to COVID-19. GAO has previously reported on HUD's persistent management challenges and noted the potential for these challenges to affect the implementation and oversight of HUD's COVID-19 response.

The CARES Act includes a provision for GAO to monitor the federal government's efforts to respond to the COVID-19 pandemic. This report examines HUD's actions to oversee its CARES Act funding and manage risks, and HUD's implementation and monitoring of the CARES Act funds of selected community development, homelessness, and rental assistance programs.

GAO reviewed HUD documentation and analyzed HUD spending data, focusing on the four programs that received the most CARES Act funding. GAO also interviewed HUD officials and associations representing HUD funding recipients.

What GAO Recommends

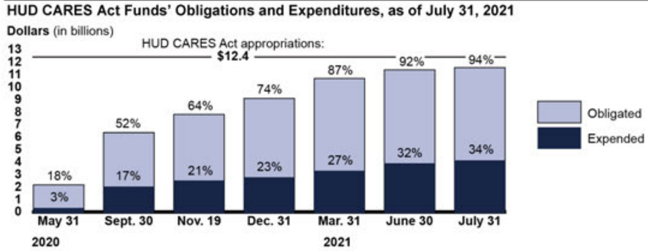
GAO makes two recommendations to HUD to take additional steps to assess, document, and mitigate program and fraud risks for its CARES Act-funded programs. HUD agreed with our recommendation to take additional actions on fraud risk. HUD disagreed with our recommendation to take additional actions on program risks. GAO continues to believe the recommendation is valid, as discussed in this report.

View GAO-21-104542. For more information, contact Alicia Puente Cackley at (202) 512-8678 or cackleya@gao.gov.

What GAO Found

The Department of Housing and Urban Development's (HUD) oversight of $12.4 billion in CARES Act funding included monitoring spending and addressing reporting requirements, but further action is needed to more fully assess program and fraud risks. As of July 2021, HUD obligated 94 percent of its CARES Act funds, and 34 percent had been expended (see figure). The CARES Act significantly increased funding for some HUD programs—for example the Emergency Solutions Grant (ESG) program for homelessness assistance received more than 10 times its fiscal year 2020 funding. GAO previously reported that programs should update risk assessments when funding or the operating environment changes. To respond to COVID-19, HUD expedited its risk assessment process, and concluded the CARES Act funds did not substantially affect programs' risks or existing controls. While HUD's assessment identified risk factors and short-term steps to address them, it did not include some leading fraud risk management practices GAO previously identified. For example, HUD did not identify programs' new fraud risks or evaluate fraud risk tolerance. Additional risk assessment actions could help HUD better identify and address potential program and fraud risks of its CARES Act programs.

HUD CARES Act Funds' Obligations and Expenditures, as of July 31, 2021



Source: GAO analysis of Department of Housing and Urban Development (HUD) data. | GAO-21-104542

As of July 2021, HUD's Community Development Block Grant (CDBG) and ESG programs expended about 15 percent of their CARES Act funds, mostly for emergency payments that can include rental assistance. HUD officials said spending is slow because some grantees have limited capacity to administer the larger grants, other federal funding is available, and CDBG grantees had until mid-August 2021 to apply for CARES Act funds. HUD is providing grantees with training and support to help them administer and use the CARES Act funds and developing specific monitoring guidance.

Almost all of the CARES Act's $1.25 billion for the Housing Choice Voucher program has been expended. To help public housing agencies navigate COVID-19, HUD issued numerous program waivers, such as letting owners self-certify property conditions in lieu of inspections. To monitor compliance, HUD is developing a portal for public housing agencies to report their use of the funds, which officials anticipate will be operational in December 2021. HUD also awarded a contract to support the program's CARES Act monitoring, including collecting information on waiver use.

United States Government Accountability Office

IHS COVID-19 Contracting

We issued *COVID-19 Contracting: Indian Health Service Used Flexibilities to Meet Increased Medical Supply Needs*, GAO-22-104745, on October 14, 2021.

GAO@100 Highlights

COVID-19 CONTRACTING

Indian Health Service Used Flexibilities to Meet Increased Medical Supply Needs

October 2021

Highlights of GAO-22-104745, a report to congressional addressees.

Why This Matters

The Indian Health Service (IHS) serves over 2 million American Indians and Alaska Natives. These groups have been disproportionately vulnerable to negative outcomes from COVID-19. During emergencies, federal contracting staff face pressure to work quickly to meet increased needs. We examined some of IHS's COVID-related contracts to see how the agency's efforts fared.

Key Takeaways

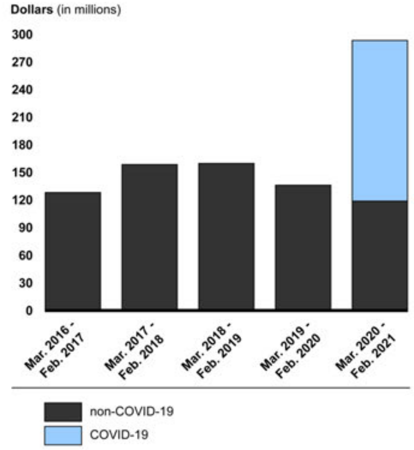
Despite facing challenges, including unprecedented demand for medical supplies, IHS was able to acquire needed products from a variety of vendors. IHS contract obligations for products, excluding prescription drugs, increased substantially during COVID-19 to address emergent needs for additional personal protective equipment, lab supplies, and more. Using emergency contracting flexibilities available under federal regulation, IHS

- bought personal protective equipment and other medical products in bulk
- awarded contracts noncompetitively
- used streamlined procedures for higher dollar contracts to obtain medical supplies faster

However, we found that IHS contracting officers did not notice that some COVID-related supplies were delivered late. Officials attributed this oversight to the spike in volume as well as the urgency of procurements during a pandemic.

Contracting officers are responsible for ensuring the terms of a contract are met—under normal circumstances and in emergency acquisitions. IHS officials told us that they began taking intermediate steps to improve tracking of products during 2020; the agency is currently obtaining new software to improve contractor oversight.

IHS Contract Obligations Increased Substantially Due to COVID-19



Source: GAO analysis of Federal Procurement Data System data. | GAO-22-104745

How GAO Did This Study

We analyzed relevant federal procurement data through June 30, 2021. We also reviewed four contracts—covering about 1/4 of obligations in IHS's largest product category (medical and surgical instruments, equipment, and supplies). We also interviewed IHS contracting officials.

For more information, contact: Marie A. Mak at (202) 512-4841 or makm@gao.gov

United States Government Accountability Office

Federal Reserve Lending Programs

We issued *Federal Reserve Lending Programs: Credit Markets Served by the Programs Have Stabilized, but Vulnerabilities Remain*, GAO-22-104640, on October 19, 2021.

GAO@100 Highlights

Highlights of GAO-22-104640, a report to congressional committees

October 2021

FEDERAL RESERVE LENDING PROGRAMS

Credit Markets Served by the Programs Have Stabilized, but Vulnerabilities Remain

Why GAO Did This Study

On July 30, 2021, the last of the 13 Federal Reserve lending facilities stopped purchasing assets or extending credit. However, some of these facilities, including facilities that were supported through Department of the Treasury funding appropriated under section 4003(b)(4) of the CARES Act, continue to hold outstanding assets and loans. The Federal Reserve will continue to monitor and manage the facilities until these assets and loans are no longer outstanding.

The CARES Act included a provision for GAO to periodically report on section 4003 loans, loan guarantees, and investments. This report examines the Federal Reserve's continued oversight and monitoring of the CARES Act facilities; what available evidence suggests about the facilities' effects on corporate credit markets, states and municipalities, and small businesses; and the characteristics of Main Street Lending Program participants, among other things.

GAO reviewed applicable laws and agency and Federal Reserve Bank documentation; analyzed agency and other data on the facilities and credit markets; interviewed Federal Reserve and Treasury officials and representatives of state and local governments; and conducted a generalizable survey of for-profit Main Street borrowers.

View GAO-22-104640. For more information, contact Michael E. Clements at (202) 512-8678 or clementsm@gao.gov.

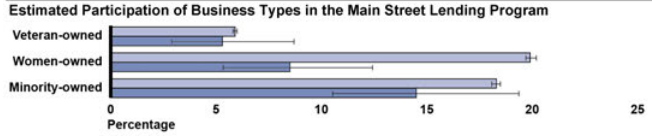
What GAO Found

The Board of Governors of the Federal Reserve System (Federal Reserve) authorized 13 lending programs—known as facilities—to ensure the flow of credit to various parts of the economy affected by the COVID-19 pandemic. The last of the nine facilities supported through CARES Act funding ceased purchasing assets, such as corporate bonds, or extending credit by January 8, 2021. As of September 1, 2021, the CARES Act facilities held about $19 billion in assets. The Federal Reserve oversight reviews completed in December 2020 identified opportunities to enhance certain areas, including internal process and controls. These reviews also identified areas for continued monitoring, such as cybersecurity and conflicts of interest. GAO found that Federal Reserve's plans for ongoing monitoring of the facilities align with federal internal control standards for ongoing monitoring of an entity's internal control system.

Available indicators suggest the facilities helped improve access to credit and liquidity in the corporate and municipal credit markets. For example, corporate bond spreads (which reflect borrowing costs) have remained low, and municipal spreads have decreased to prepandemic levels. Also, officials from state and local entities that participated in the Municipal Liquidity Facility (which targeted the municipal bond market) generally said the facility was beneficial and helped restore investor confidence in the municipal bond market. However, corporate and municipal credit markets remain vulnerable. For corporate credit markets, corporate bonds outstanding remain elevated and the high level of debt leaves businesses vulnerable to distress. Municipal credit markets also remain vulnerable because of the pandemic's extended duration, which may adversely affect local economies. According to surveys of small and independent businesses and lenders, access to credit has improved, but recovery remains slow, including for businesses in the services sector.

Loans made under the Main Street facilities (which targeted small and mid-sized businesses and nonprofits) were concentrated among small for-profit businesses in certain economic sectors, such as restaurants. According to GAO's generalizable survey of Main Street borrowers, an estimated 88 percent said that the program was "very important" in helping them maintain operations. Women-owned businesses participated at lower rates compared to their representation among U.S. businesses. Although estimates of veteran- and minority-owned business participation were somewhat lower compared to their representation among U.S. businesses, the differences were not statistically significant (see figure).

Estimated Participation of Business Types in the Main Street Lending Program



Source: GAO survey of program participants; U.S. Census Bureau's 2019 Annual Business Survey. | GAO-22-104640

United States Government Accountability Office

IRS IT Investments

We issued *Information Technology: Cost and Schedule Performance of Selected IRS Investments,* GAO-22-104387, on October 19, 2021.

GAO@100

Highlights

Highlights of GAO-22-104387, a report to congressional committees

October 2021

INFORMATION TECHNOLOGY

Cost and Schedule Performance of Selected IRS Investments

Why GAO Did This Study

IRS relies extensively on IT investments to annually collect more than $3.5 trillion in taxes, distribute more than $450 billion in refunds, and carry out its mission of providing service to America's taxpayers in meeting their tax obligations. For fiscal year 2020, the agency reported spending approximately $2.8 billion for these investments.

The Joint Explanatory Statement accompanying the Financial Services and General Government Appropriations Act, 2020 included a provision for GAO to annually review the status of IRS's IT investments. GAO's specific objectives were to (1) summarize IRS's reported performance for selected IT investments, including CADE 2; (2) identify IRS's reported progress in implementing its 2019 IT modernization plan; and (3) identify the IT-related actions IRS has taken to maximize telework and operate during the COVID-19 pandemic, and any impacts of those actions.

GAO obtained IRS's reported performance information for a nonprobability sample of five investments, and compared performance to agency targets. GAO also compared modernization activities that IRS reported completing to those identified in the agency's 2019 IT modernization plan. Further, GAO reviewed agency documentation to identify reported IT actions taken to continue to operate during the pandemic and reported associated impacts. GAO also interviewed cognizant IRS officials.

View GAO-22-104387. For more information, contact David B. Hinchman at (214) 777-5719 or hinchmand@gao.gov

What GAO Found

The Internal Revenue Service (IRS) reported that the five investments GAO reviewed met most of the performance goals set by the agency for fiscal years 2019 and 2020. Specifically, IRS reported that most of the three investments in development were within 10 percent of performance goals, a variance the Office of Management and Budget considers not to be significant. An exception was the Customer Account Data Engine (CADE) 2, a program intended to modernize tax processing, that reportedly spent about 15 percent less than budgeted for 2020. For the two investments in operations and maintenance, IRS reported that for fiscal years 2019 and 2020 one investment met all five operational performance goals established by the agency, while the other met three of five goals in fiscal year 2019 and four of five in fiscal year 2020.

While CADE 2 had lower reported costs than expected for 2020 and was within 10 percent of schedule goals for 2019 and 2020, its longer term performance and outlook are troubling. IRS began developing CADE 2 in 2009 to replace its 60-year-old Individual Master File (IMF)—IRS's authoritative data source for individual tax account data. Since 2009, IRS has revised the program's cost, schedule, and scope goals on numerous occasions, including seven times between 2016 and 2019. Accordingly, a key major program milestone for replacing selected IMF functions, known as transition state 2, has slipped 9 years—from 2014 to 2023. Further, CADE 2 is now expected to replace core functions of IMF, rather than the entire system. The CADE 2 delays and IRS's continued use of IMF are troubling given, that IMF (1) is one of the oldest systems in the federal government; (2) has software written in an archaic language that IRS stated is no longer taught in school; and (3) is supported by a workforce with specialized skills that are increasingly harder to find. In June 2021, IRS reported that it planned to replace and fully retire IMF by 2030. Accordingly, IRS will continue to face IMF challenges for several more years.

For its agency-wide modernization plan, IRS reported completing most of its activities intended for fiscal years 2019 and 2020 within cost and on or ahead of schedule. The updated plan identified 59 activities for completion in fiscal years 2019 and 2020. IRS reported that, by the end of fiscal year 2020, it had completed 54 of the 59 activities early or on schedule and the remaining five activities 3 to 7 months later than initially planned. Regarding cost, IRS reported that it spent $9 million less than the $300 million planned for fiscal year 2019 and $19.9 million less than the $271 million planned for fiscal year 2020.

To respond to the pandemic, IRS took a number of information technology (IT)-related actions to maximize telework capabilities for its employees, including deploying IT equipment, such as laptops, and upgrading its network infrastructure bandwidth. For fiscal year 2020, IRS spent $104 million for these actions from emergency appropriations included in pandemic-related legislation. According to IRS officials, the long-term impact of sustaining an increased level of telework on the budget had not been determined. In contrast, IRS said the actions to maximize telework capabilities delayed plans for IT modernization and operations. For example, IRS reported that staffing resources initially allocated for CADE 2 had been reassigned to support COVID-19 responsibilities, resulting in a 7-month delay in the scheduled completion of key development activities.

United States Government Accountability Office

Appendix III: List of Ongoing GAO Work Related to COVID-19 as of September 30, 2021

Accountability for Bureau of Indian Education Spending of COVID-19 Funds

Agencies' Human Capital Flexibilities in Response to Coronavirus Pandemic

Agencies' Readiness and Use of Telework for COVID-19 Response

Air Travel Disease Research and Development

Aviation Contact Tracing

Aviation Operations in a Pandemic Environment

CARES Act Assistance to Farmers

CARES Act International Humanitarian Assistance

CARES Act Title IV Federal Reserve Facilities II

U.S. Customs and Border Protection Trade Facilitation

Contact Tracing App Technology Assessment

Behavioral Health Impacts

Defense Production Act Capstone

COVID-19 Diagnostic Testing

COVID-19 Disparities

COVID-19 in Nursing Homes: Data and Challenges

COVID-19 in Nursing Homes: Federal Policies

Meat and Poultry Worker Safety

COVID-19 Services for Older Adults

COVID-19 Testing Lessons Learned

Unemployment Assistance for Contingent Workers

Vaccine Allocation Methodology

Vaccine Distribution and Communication

Employer Tax Provisions

Critical Manufacturing Supply Chain

Department of State Overseas Operations

COVID-19: State Repatriation

Department of Defense Advance and Progress Payments during COVID-19 National Emergency

Election Administration during the COVID-19 Pandemic

Election Assistance Commission Guidance and Grants Oversight during the COVID-19 Pandemic

Federal Agencies' Reentry

Financial Regulatory Oversight during COVID-19

Freedom of Information Act Processing during COVID-19

Fraud Risks in Small Business Administration (SBA) Pandemic Relief Programs

Health Insurance Loss

Department of Health and Human Services (HHS) Medicare Telehealth Waivers for COVID-19

HHS Public Relations Campaign

HHS's Public Health Situational Awareness Capability

Housing Finance System in the Pandemic

IHS Response to COVID-19

Department of the Interior and Department of the Treasury's COVID-19 Response to Tribes

K-12 Disconnected Students during the COVID-19 Pandemic

Medicaid Telehealth during COVID-19

Operation Warp Speed

Oversight of Unemployment Insurance

Pandemic Learning Loss

Political Interference at Selected HHS Agencies

Post-COVID-19 Federal Space Planning

Regulatory Flexibilities for COVID-19 Response

Regulatory Flexibilities Timeline

SBA Assistance to Venues and Restaurants

Scientific Integrity at Selected HHS Agencies

Social Security Administration Service Delivery during COVID-19

State Small Business Credit Initiative Funds for COVID-19 Response

Strategic National Stockpile Contents and Management Review

Tax Policy Effects on Businesses by Sex, Race, and Ethnicity

Tax Policy Effects on Households by Sex, Race, Ethnicity

Tribal Epidemiological Data Access

Transportation Security Administration COVID-19-Related Directives for Transportation Systems

Unemployment Insurance Risks and Transformation

U.S. Department of Agriculture Human Pandemic Preparedness Plan for Food Safety Inspections

Vaccine Development

Appendix IV: Comments from the Department of Health and Human Services

DEPARTMENT OF HEALTH & HUMAN SERVICES | OFFICE OF THE SECRETARY

Assistant Secretary for Legislation
Washington, DC 20201

September 30, 2021

Jessica Farb
Managing Director, Health Care
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Subject: GAO OCTOBER 2021 CARES ACT

Dear Ms. Farb:

Pursuant under the ***GAO October 2021 CARES Act*** – Health and Human Services (HHS), attached are departmental comments to the Draft GAO Report for the U.S. Government Accountability Office's (GAO) ***COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response*** (GAO-22-105051).

Comments from the department are in response to request from specified congressional committees in regards to the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136.

The Department appreciates the effort that went into this report.

Sincerely,

Rose M. Sullivan -S

Digitally signed by Rose M. Sullivan -S
Date: 2021.09.29 22:45:39 -04'00'

Rose Sullivan
Acting, Assistant Secretary for Legislation
Principal Deputy Assistant Secretary for Legislation

Attachment

GENERAL COMMENTS FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S DRAFT REPORT ENTITLED — COVID-19: ADDITIONAL ACTIONS NEEDED TO IMPROVE ACOUNTABILITY AND PROGRAM EFFECTIVENESS OF FEDERAL RESPONSE (GAO-22-105051)

The U.S. Department of Health & Human Services (HHS) appreciates the opportunity from the Government Accountability Office (GAO) to review and comment on this draft report.

Recommendation 1

The Administrator of the Health Resources and Services Administration (HRSA) should establish time frames for analyzing and reviewing all payment discrepancy types to address identified risks and identify overpayments made from the Provider Relief Fund, such as payments made in incorrect amounts or payments to ineligible providers, as soon as practicable.

Response

HRSA partially concurs with GAO's recommendation.

As discussed with GAO, HRSA, an Operating Division of HHS, is actively implementing its Post-Payment Quality Control Review (QCR) process. The Post-Payment QCR process was finalized and implemented in December 2020, and is outlined in the Provider Relief Fund (PRF) Post-Payment Manual that HRSA provided to GAO on August 10, 2021. The QCR process helps HRSA ensure it made appropriate payments to eligible providers, identify overpayments, and assess risk. As PRF payments to providers are ongoing, the QCR process evolves with new payment phases.

The Post-Payment QCR process includes the Post-Payment Matrix process, which helps mitigate risk. The Post-Payment Matrix process includes the initial identification of post-payment discrepancy types, assignment of a resolution path to each discrepancy type, and prioritization of each discrepancy type. HRSA prioritizes post-payment discrepancy types based on high visibility cases, total dollar amounts, number of providers impacted, number of outlier providers or payment amounts, and complexity to review.

Due to the already established time frames for the prioritized discrepancy types, HRSA partially concurs with GAO's recommendation. HRSA has a schedule for implementing and completing post-payment analysis and reviews of prioritized discrepancy types. For the remaining discrepancy types, evaluations will occur after HRSA reviews the prioritized discrepancy types to determine if any additional overpayments may exist where HRSA has not already recovered funds under prioritized discrepancy reviews or offset by Phase 4 PRF payments. Due to the interdependencies of the discrepancy types, the upcoming Phase 4 payments, and the challenges associated with predicting exactly how long priority reviews will take to conduct, HRSA has not made schedules beyond the first quarter of 2022 to date. For the time frames related to these remaining discrepancy types, HRSA concurs with GAO's recommendation. HRSA anticipates having a schedule for discrepancy reviews beyond Q1 2022 by December 15, 2021, to reflect any additional discrepancy categories as well as the status of existing and completed reviews. However, this schedule may be subject to change based on the status of Phase 4 payments, which HRSA anticipates will begin in mid-December, and any future payment phases.

GENERAL COMMENTS FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S DRAFT REPORT ENTITLED — MATERNAL MORTALITY AND MORBIDITY: ADDITIONAL EFFORTS NEEDED TO ASSESS PROGRAM DATA FOR RURAL AND UNDERSERVED AREAS (GAO-21-283)

Recommendation 2
The Administrator of HRSA should finalize and implement post-payment recovery of any Provider Relief Fund overpayments, unused payments, or payments not properly used.

Response
HRSA partially concurs with GAO's recommendation.

The recommendation, as stated, deals with three types of payments: (1) overpayments – determined through the Post-Payment QCR process, (2) unused payments – determined through reporting, and (3) payments not properly used – determined through audit.

Implementation of HRSA's audit strategy, which includes seeking repayment for payments not properly used and seeking repayment for unused payments, is dependent upon providers reporting data and cannot be conducted in advance of the first reporting cycle closing. This cycle closes on September 30, 2021, and HRSA has publicly stated that a 60 day grace period will be given to all affected providers who have not reported by this date, and delaying any compliance action during this period. Therefore, HRSA cannot implement these two processes until after the grace period ends (i.e., November 30, 2021). Additionally, for unused payments, HRSA has established a deadline of 30 days after the end of the reporting period and any applicable grace periods for providers to repay funds. As such, HRSA cannot implement recovery efforts based on unused funds before January 1, 2022, and therefore HRSA cannot concur with this portion of GAO's recommendation.

HRSA has parallel processes for the recovery of overpayments, including overpayments identified during the Post-Payment QCR process and overpayments due to rejected attestations. All processes begin with HRSA first seeking repayment and then, if necessary, debt collection through the Program Support Center (PSC).

In 2020, HRSA signed a Memorandum of Understanding with PSC and, in summer 2021, HRSA finalized the debt collection procedures with PSC as well as procedures for debt payments sent to UnitedHealth Group or HRSA directly, instead of PSC. On August 25, 2021, HRSA sent PSC the first group of debts for collection. As of September 2021, PSC is actively seeking recovery of nine PRF Phase 1 General Distribution overpayments totaling $9.2 million identified through the Post-Payment QCR process.

In fall 2021, HRSA will send updated pre-notification letters to providers who continue to reject attestation, but have not yet returned the funds. These pre-notification letters will describe the recently launched Partial Returns portal, which is a resource for providers if they want to return some, but not all, of their funds. If providers do not change their attestation status and/or return their funds within the 15-day period further granted in the pre-notification letter, HRSA will begin the debt collection process, which PSC will conduct.

Appendix V: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

September 24, 2021

Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Management Response to Draft Report GAO-22-105051, "COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response"

Dear Mr. Dodaro:

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS or the Department) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

Since the start of the COVID-19 public health emergency, the Federal Emergency Management Agency (FEMA) has provided an unprecedented amount of assistance to state, local, tribal, and territorial (SLTT) governments in taking action to protect public health and safety. In particular, FEMA's Public Assistance (PA) program awarded more funding in 2020 than in any prior year, amounting to approximately five times the previous annual average. Further, FEMA's PA program exceeded this number in just the first half of 2021. As of September 23, 2021, FEMA's PA program obligated more than \$31.3 billion as part of the response to COVID-19 and expects this sum will continue to rapidly grow as the nation combats the surging delta variant and ongoing emergency.

At the outset of COVID-19, FEMA made significant changes to the PA process to avoid delays and remove barriers to providing assistance to the public and SLTT governments, such as simplifying information and application requirements and enabling applicants to apply directly to FEMA. Despite the increase in PA applications for COVID-19 assistance, the steps FEMA took to simplify and streamline the PA process resulted in significantly faster processing times from project creation to initial funding for COVID applications (80 days) than non-COVID applications (135 days). DHS leadership believes it is important to recognize that FEMA addressed challenges in delivering

COVID-19 assistance with innovative approaches that resulted in significantly improved results, including measurably faster processing timeframes for COVID-19 PA requests.

From the early stages of the COVID-19 public health emergency, FEMA also took action to address the need for clear guidance by publishing fact sheets and other policy documents which assist stakeholders in understanding how PA funding could be used to support COVID-19 emergency response efforts. As the emergency evolved, however, so too did the needs of stakeholders and the challenge of meeting those needs, such as the timeframes of work eligibility during the COVID-19 incident period. On August 17, 2021, the President directed FEMA to use the full capacity and capability of the Federal Government to protect communities and assist SLTTs.[1] Accordingly, FEMA issued FEMA Policy 104-21-0003, Version 2, "Coronavirus (COVID-19) Pandemic: Safe Opening and Operation Work Eligible for Public Assistance (Interim)," on September 8, 2021, (Safe Opening and Operation Interim Policy). This policy revised the applicable period of work eligibility from the beginning of the incident period until the end of the performance period for work that includes COVID-19 diagnostic testing, purchase and distribution of personal protective equipment, cleaning and disinfection, screening and temperature scanning, and installation of temporary physical barriers and signage to support social distancing.

The draft report contained 18 recommendations, including two for FEMA with which the Department concurs. Attached find our detailed response to each recommendation. FEMA previously submitted technical comments addressing several accuracy, contextual, and other issues under a separate cover for GAO's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,

JIM H
CRUMPACKER

Digitally signed by JIM H CRUMPACKER
Date: 2021.09.24 08:04:39 -04'00'

JIM H. CRUMPACKER, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

Attachment

[1] *See* Memorandum "Maximizing Assistance to Respond to COVID-19," dated August 17, 2021 at: https://www.whitehouse.gov/briefing-room/statements-releases/2021/08/17/memorandum-on-maximizing-assistance-to-respond-to-covid-19/.

Attachment: Management Response to Recommendations Contained in GAO-22-105051

GAO recommended that the FEMA Administrator:

Recommendation 11: Improve the consistency of the agency's interpretation and application of the COVID-19 Public Assistance policy within and across regions by further clarifying and communicating eligibility requirements nationwide.

Response: Concur. With the September 8, 2021 issuance of the Safe Opening and Operation Interim Policy, FEMA amended the applicable time period of eligibility retroactively to the beginning of the incident period for activities related to the safe opening and operation of facilities. This policy also specifies that work conducted from the beginning of the incident period to December 31, 2021, will be reimbursed at a Federal cost share of 100 percent.

Per this policy, funding is available to SLTT government entities and certain private nonprofit organizations for work conducted from January 20, 2020, onward, with the 100 percent Federal cost share effective through December 31, 2021. All PA-eligible applicants can seek reimbursement for safe opening and operation costs for facilities including schools and government facilities open to the public. FEMA believes that this policy will improve the consistent interpretation and application of COVID-19 PA policy nationwide.

FEMA also took appropriate steps to distribute this policy update, including transmitting an issuance memo and the Safe Opening and Operation Interim Policy to all FEMA Regional Administrators and Regional Recovery Division Directors on September 8, 2021, as well as posting the updated Safe Opening and Operation Interim Policy to FEMA.gov on September 9, 2021. Further, a Congressional Advisory announcing the updated policy was sent to congressional offices, as well as distributed to 54,000 recipients by FEMA's Intergovernmental Affairs, on September 9, 2021. The Safe Opening and Operation Policy was also featured in the weekly FEMA Bulletin, which is distributed to 61,000 subscribers, on September 14, 2021.

DHS requests the GAO consider this recommendation resolved and closed, as implemented.

Recommendation 12: Require the agency's Public Assistance Program employees in the region and at its Consolidated Resource Centers to attend training on changes to COVID-19 Public Assistance policy to help ensure it is interpreted and applied consistently nationwide.

3

Response: Concur. FEMA took a number of actions to educate staff on changes to COVID-19 PA policy to ensure that interpretation and application are consistent nationwide. On September 9, 2021, for example, FEMA PA Training Section conducted a webinar with 380 PA Program Delivery Managers, which covered issues related to the equitable provision of PA, an update on COVID-19-related policies and guidance, and guidance on helping applicants navigate COVID-19 project development. Of note, participants were particularly engaged during a question and answer session related to policy clarifications. FEMA will continue to seek opportunities to educate staff as future changes are made to PA policy, as appropriate.

DHS requests the GAO consider this recommendation resolved and closed, as implemented.

Appendix VI: Comments from the Internal Revenue Service

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

OFFICE OF THE
CHIEF RISK OFFICER

September 23, 2021

Mr. James R. McTigue, Jr.
Director, Tax Issues, Strategic Issues Team
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. McTigue:

On behalf of the Commissioner and the Senior Leadership team at the Internal Revenue Service, thank you for the opportunity to review your draft report titled: **COVID 19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response** (GAO-22-105051).

The IRS continues to play an important role in serving our country during these unprecedented times. We have proudly worked to further important economic relief measures passed by Congress during the pandemic. We have delivered Economic Impact Payments, advance payments of the Child Tax Credit (CTC) and many other critical initiatives in 2020 and 2021. Our work to implement the American Rescue Plan continues as millions of American families have received their advance CTC payment for the months of July, August, and September.

We appreciate your input and recommendation in this report. As the recommendation is directed to the Secretary of the Treasury, in coordination with the IRS, we defer to Treasury on this recommendation. Technical comments have been provided separately.

If you have any questions, please contact me at Thomas.A.Brandt@IRS.gov. Thank you.

Sincerely,

Thomas A. Brandt

Thomas A. Brandt
IRS Chief Risk Officer

Enclosure

Enclosure

RECOMMENDATIONS

RECOMMENDATION 1
The Secretary of the Treasury, in coordination with the Commissioner of Internal Revenue, should estimate the number of individuals who are eligible for the advance child tax credit payments, measure the 2021 participation rate based on that estimate, and use that estimate to develop targeted outreach and communications efforts for the 2022 filing season; participation could include individuals who opt in and out of the advance payments. (Recommendation 17)

COMMENTS
IRS defers to Treasury on this recommendation.

Appendix VII: Comments from the Department of Labor, Employment and Training Administration

U.S. Department of Labor

Employment and Training Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210

September 29, 2021

The Honorable Gene Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Dodaro:

On behalf of the U.S. Department of Labor (Department or DOL), I want to thank you for the opportunity to review and comment on the Government Accountability Office's (GAO) draft report entitled, "COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response" (GAO-22-105051).

The GAO report makes six recommendations (numbered 5 through 10) to the Department, based on GAO's *Framework for Managing Fraud Risks in Federal Programs* (GAO-15-593SP). This letter describes how the Department is responding to each one.

DOL takes the issue of fraud seriously, considering it a top priority and proactively working to address and mitigate fraud risks in the Unemployment Insurance (UI) program. As acknowledged in the GAO report, the level and breadth of criminal fraud attacks targeting the UI system since the onset of the COVID-19 pandemic has been unprecedented and present new challenges for the system. The incidences of criminal fraud accelerated during the COVID-19 pandemic in significant part due to the structure of the COVID-19 pandemic-related UI program. DOL agrees with the GAO's view that these criminals will likely continue to target the UI program post-COVID-19 pandemic. DOL has engaged in comprehensive fraud risk assessment in the UI program throughout the COVID-19 pandemic, and DOL continues to analyze the fraud risks that have arisen and continue to arise during the COVID-19 pandemic and apply lessons learned. As we continue these efforts, we welcome new tools and approaches to improve and protect this critical economic safety net program.

The GAO's Fraud Risk Management Enclosure, included in the GAO's shared draft report, identifies a number of fraud risks in the UI program. DOL has previously identified each of these areas as fraud risks in the UI program, and the Department has taken or is engaged in efforts to mitigate these risks. For example, to address the growing use of false identities in filing UI claims, DOL has awarded Blanket Purchase Agreements (BPA) to three vendors capable of offering National Institute of Standards and Technology-compliant Identity Assurance Level 2 (IAL2) and Authenticator Assurance Level 2 (AAL2) Identity Verification and Fraud Protection (ID proofing) services to support state UI identity verification needs. States may request DOL to issue orders against DOL's BPAs for ID proofing services. Also, many states have adopted these types of identity verification services, and some have used funding provided by DOL to do so. To address perpetrators of fraud filing claims in multiple states using the same identity, DOL funded the Integrity Data Hub (IDH), which developed a Multi-State Cross Match to allow states to inquire if the same identity has been used to file claims in multiple states.

Similarly, for claims filed in the name of deceased individuals, DOL invested in a resource through the IDH that includes access to the Death Master File and provides states with identity fraud scoring using advanced identity analytics and fraud risk models scoring. In response to increasing numbers of claims filed by or falsely using the identities of incarcerated individuals, DOL is working collaboratively with the Social Security Administration (SSA) to provide state UI agencies with access to an incarceration cross match using the SSA's Prisoner Update Processing System data on an expedited timeline.

GAO's first recommendation to DOL (Recommendation 5) focuses on creating an organizational structure conducive to fraud risk management, per element 1.2 of GAO's Fraud Risk Management Framework:

- *Recommendation 5:* The Secretary of Labor should designate a dedicated entity with responsibility for managing the process of assessing fraud risks to the unemployment insurance program, consistent with leading practices as provided in our Fraud Risk Framework. This entity should have, among other things, defined responsibilities and authority for managing fraud risk assessments and for facilitating communication among stakeholders regarding fraud-related issues.

  DOL's Response: The Department notes that, as previously reported to GAO and the Office of Management and Budget (OMB), the Department's Chief Financial Officer (CFO) and the Employment and Training Administration's (ETA) Assistant Secretary are the designated Senior Executive Officials responsible for risk assessment and management in the UI program, which includes both fraud and non-fraud improper payments. These Senior Executive Officials utilize risk tools that the Department uses as a best practice to empower management to assess risk and make risk-based decisions on a number of matters, including fraud risk management.

The remaining five recommendations to DOL in this report (Recommendations 6 through 10) focus on the other leading practices for comprehensively assessing UI fraud risks, based on GAO's Fraud Risk Management Framework, element 2.2 (pp. 12-16) – Identify and Assess Risks to Determine the Program's Fraud Risk Profile:

- *Recommendation 6:* The Secretary of Labor should identify inherent fraud risks facing the unemployment insurance program.
- *Recommendation 7:* The Secretary of Labor should assess the likelihood and impact of inherent fraud risks facing the unemployment insurance program.
- *Recommendation 8:* The Secretary of Labor should determine fraud risk tolerance for the unemployment insurance program.
- *Recommendation 9:* The Secretary of Labor should examine the suitability of existing fraud controls in the unemployment insurance program and prioritize residual fraud risks.
- *Recommendation 10:* The Secretary of Labor should document the fraud risk profile for the unemployment insurance program.

  DOL's Response: The essence of these five GAO recommendations is that the Department should use the GAO's Fraud Risk Framework in assessing the fraud risks facing the UI program. The Department has a robust Enterprise Risk Management (ERM) process that allows the Department to identify, evaluate, and manage risks that could significantly disrupt the successful achievement of its mission and objectives. And as discussed, above, the Department has and continues to identify fraud risks; assesses the likelihood of the impact of these risks on the UI program; and identified and supported controls regarding these risks. Nevertheless, the Department welcomes best practices and new approaches to improve on our current risk assessment and management process, and it will use these recommendations to build upon the ERM program that the Department created to be tailored and responsive to the evolving risk profile of the UI program. We will incorporate the additional best practices and approaches from the GAO Fraud Risk Framework in our risk assessment activities moving forward. The designated Senior Executive Officials identified in Recommendation 5 will take on this responsibility.

We have also enclosed the Department's technical comments on the draft report.

Again, thank you for the opportunity to review the draft report. If you would like additional information, please do not hesitate to call me at (202) 693-2772.

Sincerely,

Angela Hanks

Angela Hanks
Acting Assistant Secretary

Enclosure

Appendix VIII: Comments from the Department of Labor, Occupational Safety and Health Administration

U.S. Department of Labor

Occupational Safety and Health Administration
Washington, D.C. 20210

September 28, 2021

The Honorable Gene Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Dodaro:

Thank you for the opportunity to comment on the Government Accountability Office's (GAO) draft report, *COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response*. The following comments are submitted on behalf of the Department of Labor's Occupational Safety and Health Administration (OSHA).

The report recommends that the Assistant Secretary of Labor for Occupational Safety and Health should assess—as soon as feasible and, as appropriate, periodically thereafter—various challenges related to resources and to communication and guidance that OSHA has faced in its response to the COVID-19 pandemic and should take related actions as warranted.

OSHA agrees that it is important to assess lessons learned and best practices for the agency's operational response to COVID-19. However, OSHA firmly believes that while the pandemic is ongoing, the agency's resources are best used towards helping employers and workers mitigate exposures to the coronavirus. OSHA intends to conduct a review of the agency's COVID-19 response after work responding to the pandemic subsides and operations return to normal.

In the interim, OSHA has provided and continues to provide operational guidance on implementing COVID-19 policies and procedures to the agency's regional and area offices through various means – including posting information on an internal webpage accessible to all field staff, and providing timely information through emails and meetings.

OSHA welcomes this review, and appreciates the opportunity to respond to GAO's draft report.

Sincerely,

James Frederick
Acting Assistant Secretary

Appendix IX: Comments from the Department of the Treasury

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

September 28, 2021

Jessica Lucas-Judy
Director, Tax Issues
Government Accountability Office
441 G St., N.W.
Washington, DC 20548

Dear Ms. Lucas-Judy:

I write regarding the Government Accountability Office's (GAO) draft report entitled *COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response* (Draft Report). The U.S. Department of the Treasury appreciates GAO's efforts and has provided technical comments under separate cover.

Since March 2020, Treasury has played a critical role in implementing programs and initiatives under three comprehensive statutes – the Coronavirus Aid, Relief, and Economic Security (CARES) Act; the Consolidated Appropriations Act, 2021; and the American Rescue Plan Act of 2021 – to tackle the economic effects of the COVID-19 pandemic and bring critical aid to the American people. The Draft Report makes four recommendations to Treasury regarding four of these programs: the Coronavirus State and Local Fiscal Recovery Fund (SLFRF), payments of the advance Child Tax Credit (CTC), the Payroll Support Program (PSP), and loans to the aviation industry. We take each in turn.

SLFRF

Established by the American Rescue Plan Act, the SLFRF provides support to state, local, and tribal governments in their efforts to contain COVID-19 and respond to the impact of COVID-19 on their communities, residents, and businesses. The Draft Report recommends that Treasury design and document timely and sufficient policies and procedures for monitoring SLFRF recipients to provide assurance that recipients are managing their allocations in compliance with laws, regulations, agency guidance, and award terms and conditions. We agree with this recommendation, and as noted in the report, are in the process of designing, documenting, and implementing a risk-based compliance program to monitor recipient use of SLFRF program funds. Treasury is committed to ensuring the SLFRF provides the American people the additional support they need in an effective and timely manner while also minimizing opportunities for waste, fraud, and abuse.

Advance CTC

The advance CTC is one of the most important tax cuts for working families in more than a generation. The American Rescue Plan Act increased the Child Tax Credit from $2,000 per child to $3,000 per child for children over the age of six and from $2,000 to $3,600 for children under the age of six, and raised the age limit from 16 to 17. Just four months after the passage of the

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

American Rescue Plan Act, families of 60 million children started to receive monthly payments, on the same day of every month, providing relief in every corner of the country. Moreover, families of 26 million lower-income children are now receiving the full credit for the first time.

The Draft Report recommends that Treasury, in coordination with the IRS, estimate the number of individuals eligible for advance CTC payments, measure the participation rate based on that estimate, and use the estimate to develop targeted outreach and communications efforts. Treasury supports the goal of this recommendation, and, indeed, Treasury and the IRS have undertaken – and continue to undertake – historic and sweeping advance CTC outreach, education, and media campaign efforts. We note that there are several eligibility requirements for the CTC, including with respect to a child's relationship and residency with the taxpayer claiming them for the CTC. This relationship and residency information is not known to the IRS until the taxpayer files an income tax return to claim the CTC, and because of this, Treasury has not estimated the eligible population. Treasury and the IRS have instead focused their outreach efforts on informing families of their potential eligibility for the CTC based on available information, as well as working with a broad and growing partner base to reach people in vulnerable and underserved communities, including a wide spectrum of national, state, and local community and professional groups and organizations (*e.g.*, homeless organizations, food banks, and social service groups).

In June and July 2021, for example, the IRS sent two rounds of letters to more than 30 million American families who, based on previously filed tax return information, may be eligible to receive advance CTC monthly payments. Also during that timeframe, information on how to file a return and on how to use the Non-filer Sign-up Tool was publicized at numerous IRS outreach events.[1] Further, to assist with outreach efforts, in June 2021, Treasury published a file containing, by ZIP Code, the number of children who may be eligible to be claimed for the advance CTC but who had not been claimed on a recent tax return.[2] Treasury has also published monthly tables that list by state the dollar amount of payments, the number qualifying children associated with those payments, and the average payment amount.[3] All of this information is designed to help local governments and non-profits target their outreach work so that this crucial relief gets to all eligible families.

PSP

Through three rounds of payments under the PSP, Treasury has provided critical assistance to hundreds of air carriers and aviation contractors to enable them to weather the COVID-19

[1] See https://www.irs.gov/newsroom/irs-holds-additional-weekend-events-july-23-24-to-help-people-with-child-tax-credit-payments-and-economic-impact-payments.
[2] The file is available here: https://home.treasury.gov/system/files/131/Estimated-Counts-of-Children-Unclaimed-for-CTC-by-ZIP-Code-2019.pdf.
[3] They are available at https://home.treasury.gov/system/files/131/Advance-CTC-Payments-Disbursed-July-2021-by-State-07142021.pdf, https://home.treasury.gov/system/files/131/Advance-CTC-Payments-Disbursed-August-2021-by-State-08112021.pdf and https://home.treasury.gov/system/files/131/Advance-CTC-Payments-Disbursed-September-2021-by-State-09142021.pdf.

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

pandemic. To protect taxpayers, Treasury received equity warrants for each PSP award that was provided to a major passenger or cargo air carrier – fourteen airlines in all. The Draft Report recommends that Treasury develop policies and procedures to determine when to act on these warrants to provide appropriate compensation to the federal government. We agree with this recommendation and are in the process of creating a policy that will allow Treasury to evaluate when and how to act to dispose of these warrants.

Loans to the Aviation Industry

To secure the loans made to major airlines under the CARES Act, Treasury obtained equity warrants. The Draft Report recommends that Treasury develop policies and procedures to determine when to act on the warrants obtained as part of the CARES Act's loan program for aviation and other eligible businesses to benefit the taxpayers. We agree with this recommendation and are in the process of creating a policy that will allow Treasury to evaluate when and how to act to dispose of these warrants.

**

Thank you again for the opportunity to review the Draft Report and for your consideration of our comments.

Sincerely,

Craig Radcliffe
Deputy Assistant Secretary for Banking and Finance
Office of Legislative Affairs

Appendix X: Comments from the United States Postal Service

UNITED STATES POSTAL SERVICE

September 22, 2021

Ms. Jill Naamane
Director, Physical Infrastructure
United States Government Accountability Office
441 G Street, NW
Washington, DC 20548-0001

Dear Ms. Naamane:

On behalf of the United States Postal Service, this letter responds to your invitation to comment on the draft of the Government Accountability Office's (GAO's) October CARES Act Report.

The Postal Service has had a net loss every year since 2007. This net loss is driven primarily by two factors: declining mail volume, which has decreased every year since 2007; and burdensome pre-funding requirements for our retiree health benefits resulting from the Postal Accountability and Enhancement Act of 2006.

As the pandemic has caused people to shift towards online purchases, package revenues grew in the first half of fiscal year 2021 compared to the same period last year. However, purchasing behaviors are: package revenue decreased in the third quarter of fiscal year 2021 compared to the previous year. Furthermore, we face increased competition as our competitors expand their own delivery networks; this includes retailers who are beginning to manage their own delivery operations.

Even with increased package volumes, we anticipate that we will end the year with a substantial financial loss. For the first three quarters of fiscal year 2021, we had net loss of $ 2.8 billion; however, if non-cash workers' compensation adjustments are excluded, we would have a net loss of $4.3 billion.

Funding from the CARES Act has helped us to fund operating expenses, including those stemming from COVID-19, such as personal protective equipment and the increased use of sick leave. However, funds are needed to make investments to provide quality delivery service, including in a new fleet of postal delivery vehicles. Our cash reserves are insufficient to pay for both these investments, especially given our unfunded mandates.

To allow the Postal Service to continue to provide robust, on-time delivery service to every American household, while also ensuring financial sustainability, we have released "Delivering for America: Our Vision and Ten-Year Plan to Achieve Financial Sustainability and Service Excellence." This plan includes self-help initiatives to increase revenue and cut costs, which are expected to yield $58 billion in additional income over the next 10 years. It also includes greater authority to change prices for market dominant products in line with market and business conditions; the Postal Regulatory Commission granted us this authority in November 2020. The plan includes two important initiatives that must be legislated by Congress or implemented administratively:

475 L'Enfant Plaza SW
Washington, DC 20260-5005
www.usps.com

- The integration of our retiree health plans with Medicare. The Postal Service and its employees have paid $34 billion in taxes into Medicare. It is necessary to integrate our plans with Medicare for us to realize the same benefits from the Medicare system that the private sector enjoys.

- The creation of a fairer system for allocating the payment of pension benefits between the Postal Service and the rest of the federal government for our employees in the Civil Service Retirement System.

Finally, the plan includes approximately $40B of investment in our employees, facilities, and automation capabilities to improve operations and service performance.

The pandemic has created service challenges for our service performance throughout fiscal year 2021. As your report notes, we have improved our service in the third quarter the year. However, truly achieving service excellence – defined as providing 95 percent service performance across all product categories – requires that we implement the initiatives in our strategic plan.

Thank you for calling attention to the financial and service performance challenges that must be addressed for us to continue to provide prompt, reliable, and efficient universal postal services, and for providing us with the opportunity to comment. We remain committed to providing high-quality mail delivery throughout the United States. We would be pleased to assist your office with further information or discussion of this matter if you believe it would be helpful.

Sincerely,

Luke T. Grossmann
Senior Vice President, Finance and Strategy

Appendix XI: Comments from the Department of Veterans Affairs

DEPARTMENT OF VETERANS AFFAIRS
WASHINGTON

September 24, 2021

Ms. Jessica Farb
Managing Director
Health Care
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Farb:

The Department of Veterans Affairs (VA) has reviewed the Government Accountability Office (GAO) draft report: ***COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response*** (GAO-22-105051).

VA concurs with GAO's findings and provides technical comments to the draft report. VA appreciates the opportunity to comment on your draft report.

Sincerely,

Tanya J. Bradsher
Chief of Staff

Enclosure

Contacts

Report Director(s)

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