United States Government Accountability Office

Report to the Chairman, Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, U.S. Senate

December 2016

PERMANENT FUNDING AUTHORITIES

Some Selected Entities Should Review Financial Management, Oversight, and Transparency Policies

GAO-17-59

GAO Highlights

Highlights of GAO-17-59, a report to the Chairman, Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, U.S. Senate

Why GAO Did This Study

While the annual appropriations process provides a regular venue to exercise Congress's power of the purse and conduct oversight, Congress has provided some entities with permanent funding authority, allowing them to collect and obligate funds outside of the annual appropriations process.

GAO was asked to review entities with authority to collect and obligate funds without further congressional action. This report (1) describes the different types of these authorities for entities funded by fines and penalties and for regulatory entities, and (2) assesses selected entities' policies and procedures to manage funds and facilitate oversight.

GAO selected five case studies to represent a diversity of permanent funding authorities in terms of collection type, entity size, and other factors: APHIS, CFPB, the CVF, the Trust Fund, and PCAOB. GAO reviewed laws, policies, procedures, and other documents. GAO also interviewed officials from these entities, their inspectors general, and others, and analyzed data from OMB and the Consolidated Financial Statements of the U.S. Government.

What GAO Recommends

To ensure efficient resource use, APHIS, CFPB, and SEC—in its oversight of PCAOB—should review reserve targets. To facilitate oversight, SEC should establish time frames for PCAOB's annual report. The Department of Agriculture, CFPB, PCAOB, and SEC agreed with GAO's recommendations.

View GAO-17-59. For more information, contact Susan Irving, Director for Federal Budget Analysis at (202) 512-6806 or irvings@gao.gov.

December 2016

PERMANENT FUNDING AUTHORITIES

Some Selected Entities Should Review Financial Management, Oversight, and Transparency Policies

What GAO Found

Permanent authorities to collect and obligate fees, fines, penalties and other funds without further congressional action vary in the degree to which Congress retains control over collections and obligations or delegates control to the entities that administer them. For the purposes of this report, GAO refers to these legal authorities as permanent funding authorities. GAO examined five case studies that illustrate the variation in permanent funding authorities: the Department of Agriculture's Animal and Plant Health Inspection Service (APHIS); the Consumer Financial Protection Bureau (CFPB); the Department of Justice's (DOJ) Crime Victims Fund (CVF); the Gulf Coast Restoration Trust Fund (Trust Fund); and the Public Company Accounting Oversight Board (PCAOB), overseen by the Securities and Exchange Commission (SEC).

Permanent funding authorities vary on three key dimensions: control over the amount of collections, control over use of collections, and autonomy over budget. For example, in some cases entities with these authorities, such as APHIS, control the amount of collections, while in other cases, such as the CVF, another entity, such as the courts, controls collections. There may also be statutory timing, amount, or purpose limitations on the use of collections. Moreover, under varying administrative structures, the entity may have the autonomy to formulate and execute its own budget, or its budget may be subject to review by external entities such as the Office of Management and Budget (OMB). Because government-wide data sources were not designed to inventory or analyze statutory authorities, they do not provide comprehensive information on permanent funding authorities.

All entities GAO examined have policies and procedures to manage and report on their permanent funding authorities. Some, however, could improve practices to manage funds and report information that facilitates oversight. GAO previously found that it is important for entities with operating reserves to establish appropriate target amounts to help ensure they use federal resources efficiently and responsibly. Neither APHIS, CFPB, nor PCAOB has analyzed program costs and risks to ensure that their operating reserve targets reflect current needs and probable contingencies. In addition, in the past 5 years PCAOB has reported its annual audited financial statements as early as April or as late as October of the following fiscal year. As a result, Congress and SEC may lack timely information to facilitate oversight. PCAOB is a nonprofit corporation created by Congress and, unlike federal agencies and certain other entities, it does not have a required time frame for publishing its financial statements.

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Abbreviations

APHIS	Animal and Plant Health Inspection Service
AQI	Agricultural Quarantine Inspection
CBO	Congressional Budget Office
CBP	U.S. Customs and Border Protection
CFPB	Consumer Financial Protection Bureau
CFS	Consolidated Financial Statements of the United States
Civil Penalty Fund	Consumer Financial Civil Penalty Fund
COSO	Committee of Sponsoring Organizations of the Treadway Commission
Council	Gulf Coast Ecosystem Restoration Council
CRS	Congressional Research Service
CVF	Crime Victims Fund
DOJ	Department of Justice
Federal Reserve	Board of Governors of the Federal Reserve System
IG	Inspector General

IOPA	Office of Internal Oversight and Performance Assurance
MRP	Marketing and Regulatory Programs
NOAA	National Oceanic and Atmospheric Administration
OAAM	Office of Audit, Assessment, and Management
OJP	Office of Justice Programs
OMB	Office of Management and Budget
OVC	Office for Victims of Crime
PCAOB	Public Company Accounting Oversight Board
RESTORE Act	Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012
SEC	Securities and Exchange Commission
Treasury	Department of the Treasury
Trust Fund	Gulf Coast Restoration Trust Fund
Uniform Guidance	Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
USDA	Department of Agriculture
VOCA	Victims of Crime Act of 1984

U.S. GOVERNMENT ACCOUNTABILITY OFFICE

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December 9, 2016

The Honorable Rob Portman
Chairman
Permanent Subcommittee on Investigations
Committee on Homeland Security and Governmental Affairs
United States Senate

Dear Mr. Chairman:

Congress exercises its constitutional power of the purse by appropriating funds and prescribing the conditions governing their use. While the annual appropriations process provides a regular venue to exercise this power, Congress makes funds available to some agencies and programs through laws other than annual appropriations acts. This type of spending—known as direct or mandatory spending—includes cases where Congress has provided agencies and entities with permanent authority to both collect and obligate funds from sources such as fees, fines, and penalties. For the purposes of this report, we refer to these legal authorities as “permanent funding authorities.” The amount of budgetary resources made available to individual entities through these authorities varies. For example, in fiscal year 2015 the Public Company Accounting Oversight Board (PCAOB) had a budget of $251 million, while the Department of Justice’s (DOJ) Crime Victims Fund (CVF) had $2.4 billion in budgetary resources available. Collections from permanent funding authorities are available to the agencies and entities that collect them without further congressional action; they are not provided through annual appropriation acts. Agencies subject to the annual appropriations process typically submit written justifications for their budget requests to the cognizant appropriations subcommittees. It is important to consider how the agencies and entities with permanent funding authority facilitate oversight to ensure effective management, transparency, and public accountability.

You asked us to examine entities to which Congress has granted authority to collect and obligate funds without further congressional action. Our objectives were to (1) describe the different types of permanent funding authorities that exist for entities that obtain collections from fines and penalties and for regulatory entities, how these authorities affect the balance between agency autonomy and congressional control, and the extent to which data are available on this type of funding authority; and (2) assess what is known about the extent to which selected entities with these authorities have and follow policies and procedures to manage funds and facilitate oversight of their collections and obligations.

To determine what different types of permanent funding authorities exist for entities that obtain collections from fines and penalties and for regulatory entities, their legal and fiscal characteristics, how the characteristics of these authorities affect the balance between agency autonomy and congressional control, and the extent to which government-wide data are available on this type of funding authority, we reviewed relevant statutes and examined government-wide data sources. Specifically, we examined the Office of Management and Budget's (OMB) MAX Information System of budget data, the Consolidated Financial Statements of the United States (CFS), and financial statements of selected individual agencies and entities for fiscal years 2014 and 2015. We found that, although these data do not provide comprehensive information on permanent funding authorities, they were reliable for the purposes of providing budget and financial information for individual entities. In the absence of comprehensive government-wide data, we selected five case studies to illustrate the breadth of permanent funding authorities. These five represent a diversity of: type of collection, purpose for which the funds may be used, entity type, entity size, and sector in which the entity operates. The selected case studies are shown in table 1.

Table 1: Selected Case Studies with Permanent Funding Authorities

Case Studies and their Administrative Structures	Description of Collections Under Review	FY 2015 Obligations (Dollars, in millions)
Animal and Plant Health Inspection Service (APHIS), a component of the Department of Agriculture	Regulatory user fees, as follows: • Agriculture Quarantine Inspection • Veterinary Services Import Export • Phytosanitary Export Certification • Trust Funds and Reimbursable Funds, including Plant Preclearance • Reimbursable Overtime • Veterinary Diagnostic	286[a]
Consumer Financial Protection Bureau (CFPB), an independent bureau[b]	CFPB's Bureau Fund is funded by transfers from the Board of Governors of the Federal Reserve System (Federal Reserve) and its Consumer Financial Civil Penalty Fund (Civil Penalty Fund) is funded by civil penalties collected by CFPB.	559

Case Studies and their Administrative Structures	Description of Collections Under Review	FY 2015 Obligations (Dollars, in millions)
Crime Victims Fund (CVF), administered by the Office of Justice Programs (OJP), a component of the Department of Justice (DOJ)	CVF receives funding from several sources, including: • Criminal fines • Forfeited appearance bonds • Penalty assessments imposed on individuals and corporations convicted of a crime. • Gifts, donations, and bequests from private parties.[c]	2,369[d]
Gulf Coast Restoration Trust Fund (Trust Fund), administered by the Department of the Treasury (Treasury). Treasury, the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA), and the Gulf Coast Ecosystem Restoration Council (Council)—an independent entity consisting of representatives of federal departments and agencies and Gulf Coast state governments—have programmatic responsibility over the Trust Fund.	The Trust Fund receives a percentage of payments of administrative or civil penalties paid by responsible parties in connection with the Deepwater Horizon oil spill pursuant to a court order, negotiated settlement, or other instrument.	14
Public Company Accounting Oversight Board (PCAOB) is a nonprofit corporation which operates under the oversight of the Securities and Exchange Commission (SEC)	Regulatory user fees, as follows:[e] • Accounting support fee • Registration and annual fees	251[f]

Source: GAO analysis of applicable laws, agency obligations data, and the President's budget. | GAO-17-59

[a]This figure shows APHIS's total obligations for the collections listed in the table. APHIS also receives annual appropriations, which are not included in this figure. Discretionary appropriations to APHIS's Salaries and Expenses account totaled $871 million in fiscal year 2015, excluding funds transferred from the Farm Service Agency's Hazardous Waste Management Account.

[b]CFPB is considered to be an Executive agency, as defined in 5 U.S.C. § 105. The administrative structure of CFPB is the subject of ongoing litigation. The outcome of this litigation is not expected to affect the findings, conclusions, and recommendations of this report. See appendix II for more information.

[c]While in general gifts are outside the scope of our review, they constitute a small amount of CVF funding—$172 in fiscal year 2015 according to DOJ officials, out of $2,640 million in total collections for that fiscal year—and this spending is not tracked separately from CVF's other collections.

[d]Congress has historically placed an annual limitation on CVF obligations. This figure includes obligations subject to that limitation and $8 million in obligations from the Antiterrorism Emergency Reserve, which is outside of the limitation.

[e]PCAOB also collects monetary penalties, which are not permanent funding authorities because they are subject to annual appropriations. Congress appropriated about $1 million of these penalties, which are used to fund a merit scholarship program, in fiscal year 2015.

[f]This figure shows PCAOB's approved budget, rather than obligations, because by statute PCAOB is a nonprofit corporation and is not an agency or establishment of the United States Government. Further, PCAOB does not follow the federal fiscal year and instead uses the calendar year as its fiscal year.

To determine what is known about the extent to which selected entities with these authorities have and follow policies and procedures to manage funds and to facilitate oversight of their collections and obligations, we:

- reviewed documentation related to the case studies listed above, including legal authorities, regulations, and agency and entity documents, as well as reports from inspectors general (IG), the Congressional Research Service, and our related reports;
- reviewed the selected agencies' and entities' policies and procedures related to financial management, transparency, and oversight, and compared them with internal control standards and related guidance;
- interviewed officials and staff from Animal and Plant Health Inspection Service (APHIS), Consumer Financial Protection Bureau (CFPB), DOJ, Department of the Treasury (Treasury), National Oceanic and Atmospheric Administration (NOAA), Gulf Coast Ecosystem Restoration Council (Council), and PCAOB, as well as the Board of Governors of the Federal Reserve System (Federal Reserve), the Securities and Exchange Commission (SEC), and OMB; and
- interviewed congressional staff from the committees of jurisdiction for the selected case study agencies and entities, as well as the Senate Committee on Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations, to obtain their views on the extent to which they receive timely and useful information to facilitate oversight.

Detailed information on our scope and methodology is included in appendix I. Detailed descriptions of the five selected case studies are contained in appendix II.

We conducted this performance audit from September 2015 to December 2016 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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Permanent funding authority is budget authority that is provided by laws other than appropriations acts and therefore is not necessarily subject to the annual appropriations process. The annual appropriations cycle provides a regularly-scheduled forum where Congress may exercise oversight over discretionary spending.[1] This process is initiated when the President submits a budget request to Congress for the upcoming fiscal year. As a general rule, subsequent to the President's budget submission, each agency provides budget justification materials to the House and Senate appropriations subcommittees with jurisdiction over its funding. These justifications vary in their form and content, but they typically consist of program descriptions and explanations for proposed increases or decreases in spending. The House and Senate appropriations subcommittees may hold hearings on the segments of the budget under their jurisdiction. These hearings typically focus on the details of agencies' justifications and include testimony by agency officials. After any hearings have been completed, each appropriations subcommittee marks up the regular bill under its jurisdiction, which is then reported to the full committees and later considered by the full House or Senate. While agency budget justification materials may include information on permanent funding authorities and other mandatory spending, action of the Appropriations Committees is not needed to provide budget authority because it has been established by previously-enacted laws.

We previously reported on backdoor spending authority—a colloquial phrase for "budget authority provided in laws other than appropriations acts."[2] Backdoor spending is a much broader category than permanent funding authorities. It includes contract and borrowing authorities, spending on entitlement programs such as Social Security, and spending by agencies, such as the Tennessee Valley Authority, that collect funds in exchange for a good or service.

Entities with permanent funding authorities obtain collections from a variety of sources, including:

- User fees—User fees are fees assessed to users for goods and services provided by the federal government. They generally apply to federal programs and activities that provide special benefits to identifiable recipients, above and beyond what is normally available to

[1]Discretionary spending refers to outlays from budget authority that is provided and controlled by appropriations acts. For more information on budget terminology, see GAO, *A Glossary of Terms Used in the Federal Budget Process,* GAO-05-734SP (Washington, D.C.: September 2005).

[2]GAO, *Budget Issues: Inventory of Accounts With Spending Authority and Permanent Appropriations,* GAO/AIMD-96-79 (Washington, D.C.: May 31, 1996). This inventory is currently being updated.

the public, and are normally related to the cost of the goods or services provided. Some user fees are regulatory user fees, which federal regulators assess on regulated entities in conjunction with regulatory activities.[3] Of the entities we selected for review, APHIS and PCAOB have permanent authority to collect and obligate regulatory user fees.[4]

- Fines and penalties—Criminal fines and penalty payments are imposed by courts as punishment for criminal violations. Civil monetary penalties are not a result of criminal proceedings but are employed by courts and federal agencies to enforce federal laws and regulations. Of the entities we selected for review, CFPB's Consumer Financial Civil Penalty Fund (Civil Penalty Fund), the CVF, and the Gulf Coast Restoration Trust Fund (Trust Fund) have permanent authority to collect and obligate fines, penalties, or both.
- Funds transferred from other entities—While payments for goods and services made by one federal agency to another are excluded from our review, we included interagency transfers that are not made in payment for a good or service. Specifically, CFPB receives quarterly transfers of funds from the Federal Reserve into its Bureau Fund.

Regardless of whether an entity is subject to the oversight built into the annual appropriations process, a key factor in improving accountability for achieving an entity's mission is to implement an effective internal control system. Internal control frameworks and OMB guidance provide protocols and standards for financial management that can be applied to federal spending, including permanent funding authorities. Our *Standards for Internal Control in the Federal Government* provides managers criteria for designing, implementing, and operating an effective internal control system.[5] Because it was established by Congress as a nonprofit

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[3]For more information on user fees, see GAO, *Federal User Fees: A Design Guide,* GAO-08-386SP (Washington, D.C.: May 29, 2008) and *Federal User Fees: Key Considerations for Designing and Implementing Regulatory Fees,* GAO-15-718 (Washington, D.C.: Sept. 16, 2015).

[4]While PCAOB is not an agency or establishment of the United States Government, its regulatory user fees are authorized by Congress.

[5]GAO, *Standards for Internal Control in the Federal Government,* GAO/AIMD-00-21.3.1 (Washington, D.C.: November, 1999). In September 2014 we issued an update to this report, which was effective beginning with fiscal year 2016. See GAO, *Standards for Internal Control in the Federal Government,* GAO-14-704G (Washington, D.C.: September 2014). We used the November 1999 standards because we reviewed financial information for fiscal years 2014 and 2015. The updated standards are consistent with the previous version.

corporation, PCAOB follows a different framework for assessing the effectiveness of its internal control over financial reporting: the Committee of Sponsoring Organizations of the Treadway Commission (COSO) *Internal Control-Integrated Framework* (2013 version).[6] COSO's internal control framework can be used by the private sector and nonprofit corporations. This framework is intended to enable organizations to develop systems of internal control that adapt to changing business and operating environments, mitigate risks to acceptable levels, and support sound decision making and governance of the organization.

Executive agencies are also required to follow financial management guidance issued by OMB. OMB Circular No. A-123, *Management's Responsibility for Internal Control*, provides guidance to federal managers on improving the accountability and effectiveness of federal programs and operations by establishing, assessing, correcting, and reporting on internal control.[7] In addition, OMB Circular No. A-136, *Financial Reporting Requirements*, contains guidance for submitting audited financial statements and Agency Financial Reports, among other things, while OMB Circular No. A-25, *User Charges*, establishes federal policy regarding fees assessed for government goods and services. Further, OMB's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) sets the standard requirements for financial management of federal awards across the federal government.[8]

[6] See Committee of Sponsoring Organizations of the Treadway Commission, *Internal Control – Integrated Framework* (New York: American Institute of Certified Public Accountants, 2013). http://www.coso.org/ic.htm

[7] We used the version of Circular No. A-123 dated December 21, 2004, to assess financial information for fiscal years 2014 and 2015. OMB issued a revised version of this circular on July 15, 2016, titled *Management's Responsibility for Enterprise Risk Management and Internal Control*. It is effective for fiscal year 2016. Among other things, the revised Circular provides evaluation guidance for our revised *Standards for Internal Control in the Federal Government* (GAO-14-704G) and additional guidance for enterprise risk management implementation.

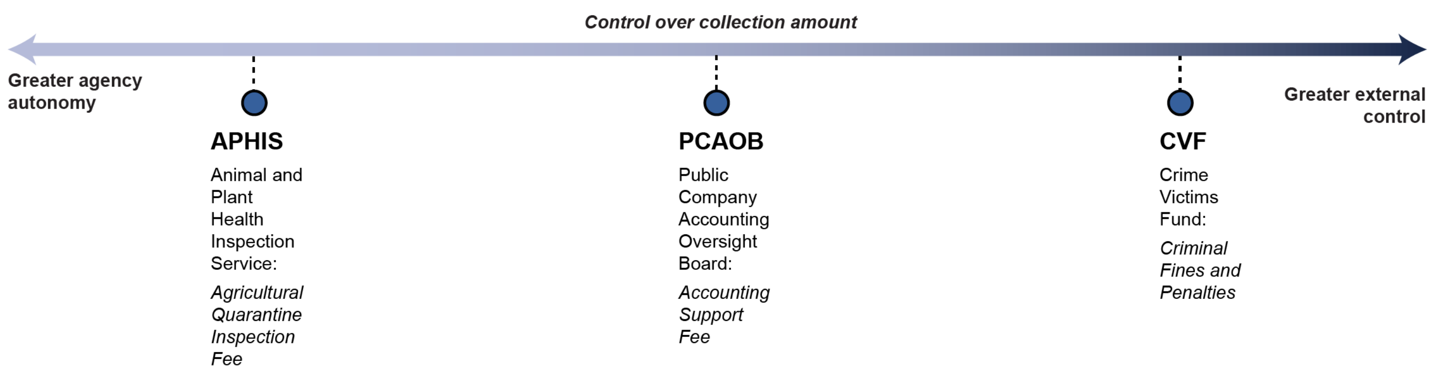
[8] 2 C.F.R. pt. 200, 78 Fed. Reg. 78,590 (Dec. 26, 2013).OMB's Uniform Guidance consolidated eight grants management circulars. The new Uniform Guidance required agencies to implement the policies and procedures for federal awards by promulgating a regulation to be effective by December 26, 2014.

Permanent Funding Authorities Provide Entities with Various Levels of Autonomy, and There Is No Central Source of Information on Them

Entities with Permanent Funding Authority Vary in Their Control over Amount of Collections

When enacting statutes that govern entities with permanent funding authority, Congress must decide how much authority to give entities to determine how much they can collect, and how much to limit that authority. These statutes provide entities with permanent funding authority and provide entities with varying degrees of control over the amount of their collections. As shown in Figure 1, Congress has given some of the selected entities more authority than others to determine how much they will collect in any given year, and in some cases other external events may determine how much an agency can collect.

Figure 1: Illustrative Examples of Varying Entity Control over Amount of Collections



Source: GAO analysis of relevant statutes. | GAO-17-59

Of our five case study entities, APHIS, PCAOB, and CFPB have some degree of control over the amount of their collections. APHIS has authority to set its fees through regulation, which by statute must be aligned with program costs.[9] PCAOB sets its Accounting Support Fee and registration and annual fees with SEC review and oversight. The Accounting Support Fee is charged to issuers, and brokers and dealers, to cover PCAOB's operating costs. PCAOB is required to equitably allocate this fee between issuers, brokers and dealers. Formulas for allocating the Accounting Support Fee among issuers, and among brokers and dealers, are set in statute. Criteria for setting the registration and annual fees are also set in statute.[10] Subject to a statutory cap, CFPB is authorized to determine the amount of funds reasonably necessary to carry out the authorities of the Bureau and request a transfer from the Federal Reserve of that amount to its Bureau Fund. [11]

For CFPB's Civil Penalty Fund, as well as for the CVF and for the Trust Fund, the amount collected is dependent on external events. CFPB's Civil Penalty Fund—which is used primarily to compensate consumers victimized by consumer law violators—is funded by civil penalties, the amount of which is dependent on the result of actions initiated by CFPB concerning consumer finance law violations. The administrators of the Civil Penalty Fund are not involved in CFPB decisions to initiate or settle such actions. Collections for the CVF are largely dependent on the outcome of criminal proceedings conducted by DOJ; the Office of Justice Programs (OJP), which administers the CVF, is not involved in these proceedings. Trust Fund collections come from payment of Clean Water Act civil penalties; these were determined by proceedings initiated by

[9]APHIS reviews each of its user fees biennially, as required by the Chief Financial Officers Act of 1990 and OMB Circular No. A-25. These reviews assess the extent to which fee collections are aligned with program costs and whether revisions to the fees are warranted. Our body of work on user fees has repeatedly found regular fee reviews to be important. See GAO, *Federal User Fees: Additional Analyses and Timely Reviews Could Improve Immigration and Naturalization User Fee Design and USCIS Operations*, GAO-09-180 (Washington, D.C.: Jan. 23, 2009), GAO-08-386SP, and GAO-15-718.

[10]See 15 U.S.C. § 7212(f), 15 U.S.C. § 7219(g), (h). These statutes are further implemented through PCAOB rules.

[11]This cap was created in the Consumer Financial Protection Act of 2010 (Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act). It was set as a percentage of the total operating expenses of the Federal Reserve in 2009. To date, CFPB's transfer requests have been less than the statutory cap. CFPB is also subject to sequestration, which further limits the amount CFPB can request from the Federal Reserve. For more information on CFPB, see appendix II. For more information on sequestration of mandatory spending, see GAO, *2014 Sequestration: Opportunities Exist to Improve Transparency of Progress Toward Deficit Reduction Goals,* GAO-16-263 (Washington, D.C.: Apr. 14, 2016).

DOJ with no involvement by the entities managing the programmatic components funded by the Trust Fund.

Time, Amount, and Purpose Provisions Govern the Use of Collections

Time, Amount, and Purpose in Appropriations Law

Federal departments, agencies, and other entities may not obligate funds except as authorized by appropriations enacted by Congress. The annual appropriations acts are the most common means of providing appropriations; however, other legislation may also provide appropriations.

In order for appropriated funds to be legally available for obligation, the obligation must:

- Occur within the **time** limits applicable to the appropriation,
- Be within the **amounts** Congress has established, and
- Be for a **purpose** authorized by statute.

Source: GAO, *Principles of Federal Appropriations Law: Third Edition, Volume I*, GAO-04-261SP (Washington, D.C. :January 2004, chapter 4. | GAO 17 59

The degree of autonomy an entity has over obligating its funds is also governed by statute, and it may or may not match the degree of control over the amount of collections. Statutory provisions define any limitations on the length of time funds are available to an entity, the amount of funds available, and the purposes for which the entity may use the funds. For example, the relative narrowness or breadth of the "purpose availability" as set forth in the statute affects the agency's discretion; a narrowly-drawn purpose is more restrictive than a broadly-drawn general purpose.

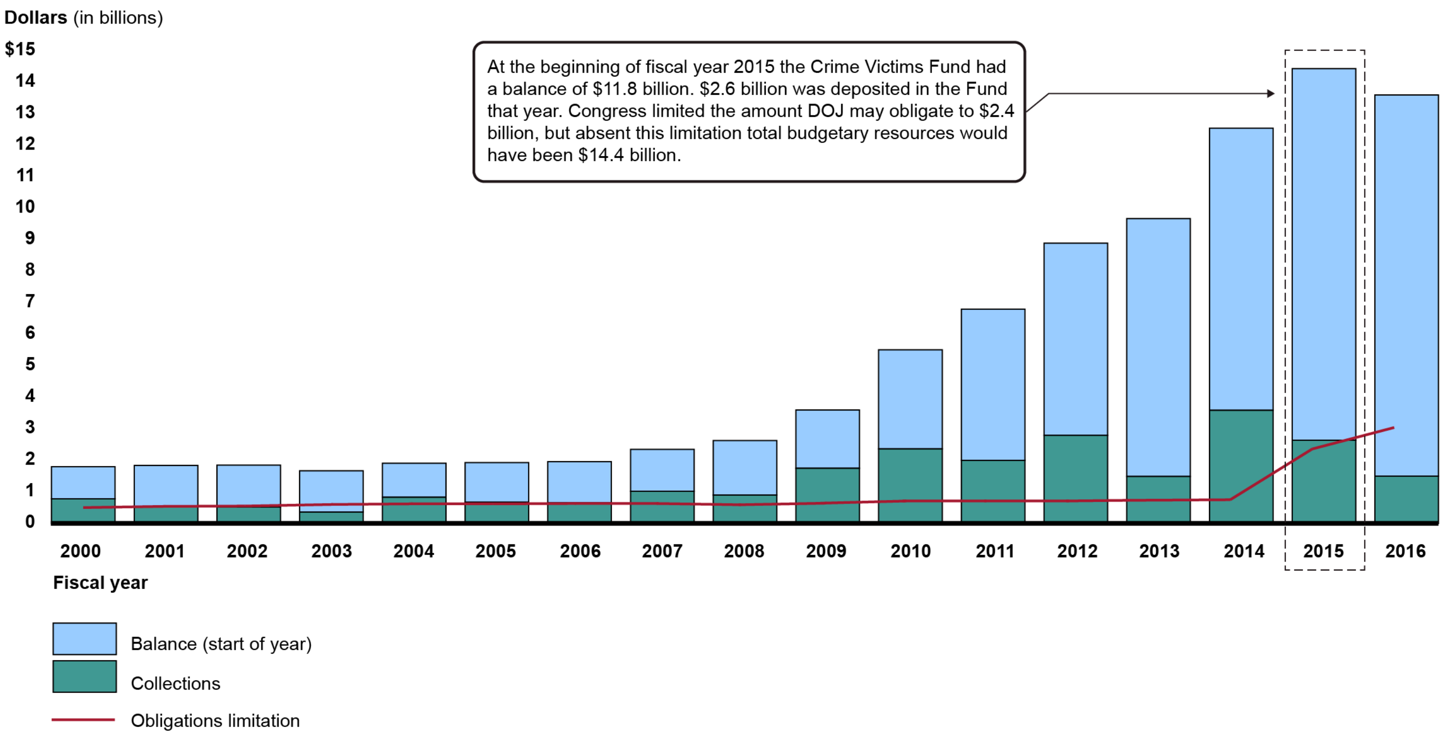
Four of the five selected case studies have no limitations on the time in which collected funds can be obligated; in other words, these entities have "no-year budget authority." Unlike most other entities we reviewed, PCAOB's funds are not bound by the fiscal laws applicable to appropriated funds.[12] PCAOB's authorizing statute provides that its budget must be approved by SEC. PCAOB rules, as approved by the SEC, further require that collections in excess of PCAOB's budget for that fiscal year are held in escrow for the following year, with the fee collections for that year reduced accordingly.

The annual budget approval by SEC also provides a spending *amount* limit for PCAOB; in contrast, CPFB, APHIS, and the Trust Fund have no limit on the amount of collections they may obligate. The statute establishing the CVF also did not limit the amount that could be obligated. However, annual appropriations acts have carried limitations on the amount of CVF funds that may be obligated in each fiscal year since

[12] PCAOB's authorizing statute states that its Accounting Support Fees and other receipts shall not be considered public monies of the United States 15 U.S.C. § 7219(c)(1). Like PCAOB, CFPB's Bureau Fund is not bound by all fiscal laws applicable to appropriated funds. However, there is no limitation on the time in which CFPB's Bureau Fund can be obligated. 12 U.S.C. § 5497(c)(2).

2000.[13] In almost every year collections have exceeded the obligation limitation, as shown in figure 2, resulting in a growing balance that is not available for obligation.

Figure 2: Crime Victims Fund Collections, Balance, and Obligations Limitation



Source: GAO analysis of the President's Budget for Fiscal Years 2002 through 2017 and Congressional Research Service Report R42672, The Crime Victims Fund: Federal Support for Victims of Crime (January 15, 2016). | GAO-17-59

Note: Balances shown here exclude the Antiterrorism Emergency Reserve, which had a $50 million balance at the end of fiscal year 2015, because it is not subject to the obligations limitation. Additionally, in January 2002 Congress enacted a one-time appropriation of $68.1 million for the Crime Victims Fund to assist in providing relief to the victims of the September 11, 2001 terrorist attacks. That appropriation is excluded from this analysis.

[13]GAO, *Department of Justice: Alternative Sources of Funding Are a Key Source of Budgetary Resources and Could Be Better Managed,* GAO-15-48 (Washington, D.C.: Feb. 19, 2015). In certain circumstances, reductions in mandatory spending can generate offsets that allow higher levels of discretionary spending than would otherwise be permitted under congressional budget rules or under statutory caps on discretionary spending. These types of policies—where appropriations limit the availability of unobligated funds from mandatory programs, which is scored as an offset to discretionary appropriations—are sometimes referred to as Changes in Mandatory Programs, or CHIMP.

The case study entities operate in different sectors and engage in different activities to accomplish the purposes for which they were established. Accordingly, there is also a difference in the specificity of the legal provisions regarding the purposes for which the funds may be used. The purpose clause for CFPB's Bureau Fund is relatively broad: it is available to "pay the expenses of the bureau in carrying out its duties and responsibilities." The purpose clause for CFPB's Civil Penalty Fund is relatively narrow: the primary purpose is to compensate victims of consumer finance law violations.[14] The purpose clause for the CVF is also relatively narrow. CVF funds are authorized to be used for specific crime victims' assistance and compensation purposes. Its authorizing statute provides formulas for DOJ to allocate funding among those purposes, which include grants under the Children's Justice Act program, funding for victim assistance services, and a victim notification system, among other things.[15]

APHIS's fees may be used to pay for program expenses. The Veterinary Services Import Export fee, for example, is available to pay for inspections of animals, animal products, and animal by-products at ports of entry, among other things. In addition, the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act), which established the Trust Fund, specifies the activities for which it may be used, including restoration and protection of the Gulf Coast Region, and certain programs with respect to the Gulf of Mexico.[16] PCAOB's funds are available by statute to protect the interests of investors and further the public interest by overseeing the audits of the financial statements of public companies, and to oversee the financial statement audits and selected practices and procedures of brokers and dealers, among other things.

[14]When victims cannot be located or it is not otherwise practicable to use funds for victim payments, the Civil Penalty Fund may be used for consumer education and financial literacy programs

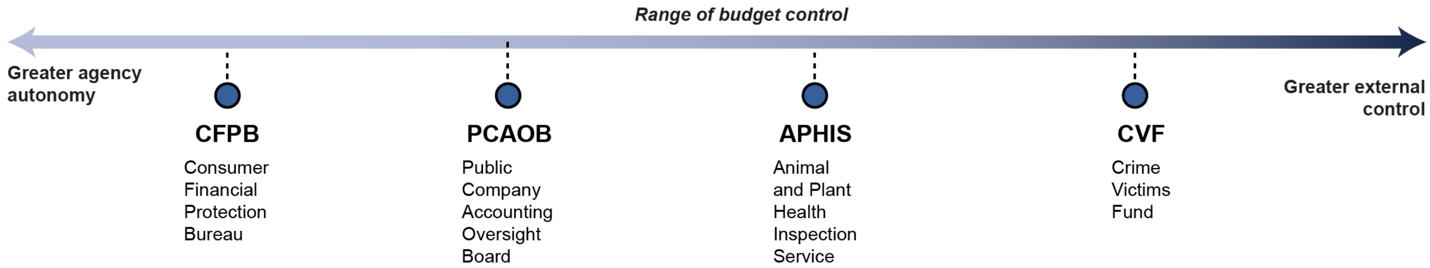
[15]Victims of Crime Act of 1984 (VOCA), as amended (42 U.S.C. § 10601 et seq). For more information on the authorized uses of the CVF, see appendix II.

[16]33 U.S.C. § 1321.

Entities with Permanent Funding Authorities Have Varying Degrees of Budget Autonomy

Statutes that establish permanent funding authorities also define the degree of external review and approval needed to formulate and execute a budget, that is, budget autonomy. Figure 3 illustrates the significant variation in the degree of autonomy the selected entities have in formulating and executing their budgets and the degree to which they are subject by statute to external control and review.

Figure 3: Budget Autonomy of Selected Entities



Source: GAO analysis of relevant statutes. | GAO-17-59

Subject to a statutory funding cap on the total amount transferred from the Federal Reserve, the CFPB has control over the formulation of its budget.[17] The budget is prepared within CFPB and is approved by the CFPB Director. The Federal Reserve and OMB receive information about CFPB's budget following its formulation; the Federal Reserve confirms that the amount requested does not exceed the statutory cap before it transfers the funds to the CFPB but does not have a role in CFPB's budget process. Following formulation of its budget, CFPB provides figures to OMB for inclusion in the appendix to the President's budget.

In contrast, OJP and APHIS, as components of executive departments, prepare their budgets as part of the overall departmental budget process. Their spending and collection plans are part of the cognizant department's budget and, as such, are subject to budget review by their respective departmental budget apparatus, and to OMB review and apportionment. The same is true for the components of NOAA and the Treasury that control distributions from parts of the Trust Fund. The Council prepares its own budget. According to Council officials, OMB reviews and approves the budget but has never expressed any concerns

[17]CFPB's Bureau Fund is subject to sequestration.

or recommended any changes; OMB also apportions funds for the Council.

PCAOB has less budget autonomy than CFPB but more than components of executive departments. PCAOB's budget is not subject to a departmental-level review, or OMB review or apportionment, but PCAOB's specific budget amount for each year must be approved by the SEC which reviews PCAOB's budget in detail prior to giving approval.

Government-wide Data Sources Were Designed to Meet Other Needs and Do Not Specifically Identify Permanent Funding Authorities

The available sources of government-wide financial data—the OMB MAX database and the Consolidated Financial Statements of the United States (CFS)—do not report separately on collections made on the basis of permanent funding authorities. As discussed above, permanent funding authorities vary significantly in the degree of authority given to entities to set the amount of funds collected, determine the amount of funds obligated, and formulate and execute budgets. Comprehensive identification of permanent funding authorities would require a detailed government-wide review of statutory authorities to collect and obligate funds. Neither the MAX database nor the CFS are designed to inventory or analyze these statutes.

OMB MAX data are compiled to assemble the President's Budget. These data can be used to identify some permanent funding authorities through funds such as offsetting collections and trust fund offsetting receipts.[18] However, not all permanent funding authorities are captured in these categories. For example, funds collected by two of our selected agencies—CFPB and PCAOB—are classified in OMB MAX data not as offsetting collections or trust fund offsetting receipts but rather as special and trust fund receipts.

Nor does the CFS identify comprehensive data on permanent funding authorities because it is designed to present the United States Government's financial position and condition under U.S. generally accepted accounting principles. Thus, it presents high-level financial information; entities that are a component, or managed by a component,

[18]Offsetting collections by law are to be credited to appropriations or fund expenditure accounts. Laws authorizing offsetting collections make them available for obligations to meet the account's purpose without further congressional action. Trust fund offsetting receipts are permanently appropriated and therefore, can be used without subsequent annual appropriation legislation. See GAO-05-734SP.

of an executive department, such as APHIS in the Department of Agriculture (USDA) or the CVF in DOJ, would not be separately reported in the CFS.[19] In addition, PCAOB is excluded because, among other things, its authorizing statute states that its funds are not considered public monies of the United States. The purpose of the CFS is to provide the President, Congress, and the American people with a comprehensive view of the federal government's finances on an accrual basis, that is, its financial position and condition, revenues and costs, assets and liabilities, and other obligations and commitments.[20] It is not designed to differentiate between types of collections in the same way we did in this review. For example, CFS combines all collections where the government provides a good or service to the public for a price into a single category, "earned revenue." Earned revenue includes both collections from regulatory user fees—such as from the National Credit Union Administration—which are within our scope—and collections for market-like activities—such as fees paid to rent a campsite at a National Park. Some collections from earned revenue sources need further congressional appropriation before these funds can become available to the federal agency. Some of the permanent funding authorities within the scope of our review are not categorized as, or included in, earned

[19]CFS includes information from 154 entities including Chief Financial Officers Act agencies, significant entities and funds, and a portion of legislative and judicial branch entities. Criteria used in determining which entities are part of the CFS are: Under the first, conclusive criterion, any entity appearing in the "Federal Programs by Agency and Account" section of the federal budget is included in the consolidated reporting entity. Certain entities not meeting the conclusive criteria are also included in the consolidated reporting entity based on a consideration of the indicative criteria in the aggregate, as the general purpose financial statements might be misleading or incomplete if the organization were not included. Indicative criteria are that an entity: (1) exercises government sovereign power to carry out federal functions, (2) is owned by the federal government, particularly if the ownership is of the organization and not just the property, (3) is subject to the direct or continuing administrative control of the reporting entity, (4) carries out federal missions and objectives, (5) determines the outcome or disposition of matters affecting recipients of services that the federal government provides, and (6) has a fiduciary relationship with a reporting entity. The requirements for consolidation will change beginning in fiscal year 2018 with the implementation of the Federal Accounting Standards Advisory Board Statement of Federal Financial Accounting Standards No. 47, Reporting Entity.

[20]The CFS also includes sustainability information, which is not presented on an accrual basis.

revenue. For example, the fines collected by the CVF and transfers to CFPB's Bureau Fund are "non-exchange" revenues in CFS.[21]

Some Case Study Entities Could Improve Funds Management and Information Reporting That Facilitate Oversight

Selected Entities Assessed Internal Controls, Produced Financial Reports, and Have Internal Oversight Mechanisms, but PCAOB Lacks a Deadline for Its Annual Report

Case study entities we reviewed—APHIS, CFPB, CVF, the Trust Fund, and PCAOB—use varying policies and procedures to manage and report on their permanent funding authorities. Internal control procedures, financial management policies, and oversight mechanisms help facilitate proper stewardship of federal resources, congressional oversight, and public transparency.

Financial Reporting and Internal Controls

All of the case study entities have policies and procedures in place to assess and report on the effectiveness of their internal controls based on standards established by external entities. All entities we reviewed are also subject to annual financial audits that include opinions on their internal controls. OMB Circular No. A-123 states that it is applicable to executive agencies. Of our case studies, USDA, DOJ, Commerce, Treasury, and the Council are required to follow OMB Circular No. A-123.[22] According to CFPB officials, although the agency is not required to

[21]Non-exchange revenues are generated from transactions such as taxes, duties, fines, and penalties that do not require a Government entity to give value directly in exchange for the inflow of resources.

[22]See Office of Management and Budget, *Management's Responsibility for Internal Control*, OMB Circular No. A-123 (Washington, D.C.: Dec. 21, 2004).

follow OMB circulars, it chooses to follow relevant aspects of Circular No. A-123 as a leading practice.[23]

Circular No. A-123 requires agency management to assess and improve internal controls based on standards we have established in *Standards for Internal Control in the Federal Government*.[24] To fulfill this responsibility, for example, DOJ annually assesses and reports the effectiveness of its internal controls to support efficient and effective program operations, reliable financial reporting, and compliance with applicable laws and regulations—including OJP's management of the CVF.[25] Because PCAOB is a nonprofit corporation and not a part of the federal government, it is not bound by OMB Circular No. A-123.[26] PCAOB voluntarily adopted COSO's *Internal Control-Integrated Framework* (2013 version) principles to assess the effectiveness of its internal control over financial reporting and engages an external auditor to review these controls.[27] This assessment and the external audit are published in PCAOB's annual report.

All of the permanent funding authorities we reviewed were included in audited financial statements; however, the level of detail on permanent funding authorities in the financial statements varies across entities. For entities within executive departments, collections from permanent funding authorities are covered by standard financial management and oversight practices, and collections are included in the department-level audited

[23]CFPB is required by statute to assert the effectiveness of its internal controls that apply to financial reporting to us as part of our audit of their annual financial statements.

[24] See GAO/AIMD-00-21.3.1.

[25]Auditors found a significant deficiency that OJP—among other DOJ components—incorrectly reported costs between strategic goals on the fiscal year 2014 and interim fiscal year 2015 Statement of Net Costs. See DOJ, *FY 2015 Agency Financial Report,* (Washington, D.C.: November 2015).

[26]15 U.S.C. § 7211(a).

[27]Our standards for internal control are adapted for the government sector from COSO's framework. COSO internal control principles can be used by the private and nonprofit sectors. See Committee of Sponsoring Organizations of the Treadway Commission, *Internal Control-Integrated Framework,* (New York: American Institute of Certified Public Accountants, 2013) and GAO/AIMD-00-21.3.1.

financial statements.[28] For example, APHIS's user fees and the CVF are included in the financial statements for USDA and DOJ, respectively. Financial statement reporting of the Trust Fund reflects divided control over its funds: Treasury includes the Trust Fund in its statements, amounts NOAA receives from the Trust Fund are included in Commerce's financial statements, and amounts that the Council receives are reported in its audited financial statement. Treasury also publishes monthly unified financial reports—cash flow and balance statements for the Trust Fund as a whole—as well as periodic statements on Trust Fund allocations and obligations. These unified reports provide only financial data without any information on programs or projects funded by the Trust Fund. The other two entities we reviewed—CFPB and PCAOB—prepare their own financial statements, which are audited by independent auditors.[29]

Timeliness of Audited Financial Report Publication

Agencies and government corporations are required by OMB Circular No. A-136 to submit performance and accountability reports, agency financial reports, or annual management reports to OMB and Congress no later than November 15—less than 2 months after the end of the federal fiscal year.[30] As a nonprofit corporation, PCAOB is not bound by these requirements. PCAOB submits its annual report, including its audited financial statements, to SEC, which transmits a copy to the congressional authorizing committees within 30 days of receipt, as required by law.[31] In the past 5 years, the report has been released as early as April or as late

[28]While these financial statements provide some useful information on entities in executive departments with permanent funding authorities, we were not necessarily able to use department-level financial statements to determine an exact amount of collections and obligations from these permanent funding authorities. Agencies may roll up information on their component with these types of authorities into the agency-level financial statement. For example, APHIS does not publicly report audited financial information on its sources of funding that can be separated from USDA's financial statement.

[29]We are directed to audit CFPB's financial statements. 12 U.S.C. § 5496(a). According to PCAOB officials, PCAOB chooses to use an independent auditor that is not subject to its oversight to conduct the integrated audit of its financial statements and internal control over financial reporting, which can help to avoid actual or perceived conflicts of interest. CFPB is included in the Consolidated Financial Statements of the United States Government, while PCAOB is excluded.

[30]The deadline to submit financial statements to OMB established in A-136 is November 15; the statutory deadline is March 1 of the following year. See OMB, *Financial Reporting Requirements*, Circular No. A-136 (revised) (Washington, D.C.: Sept. 18, 2014) and 31 U.S.C § 3515.

[31]15 U.S.C. § 7211(h).

as October of the following fiscal year. PCAOB officials told us that, beginning with the 2013 annual report, they established an internal target of March 31 to submit the report to SEC. According to SEC officials, on September 29, 2016, PCAOB submitted a copy of its 2015 annual report, including audited financial statements, to SEC, and the report was transmitted to Congress on October 12, 2016.[32] SEC promulgated a rule outlining PCAOB's budget process—including the preparation and submission of PCAOB's budget, among other things—as part of its oversight role.[33] This rule provides for time frames and deadlines to help ensure the timely submission and approval of PCAOB's budget, as well as time frames for quarterly reports on PCAOB spending and staffing levels. However, SEC has not set rules that provide deadlines for PCAOB's annual report. In contrast, SEC has established time frames for other entities that file reports with the commission. For example, SEC-registered companies are required to file SEC-10k reports—which include audited financial statements—within 60, 75, or 90 days after the end of the company's fiscal year, depending on the company's size. Further, COSO's internal control framework states that the organization should communicate with external parties regarding matters affecting the functioning of internal controls.[34] Failure to provide timely financial reporting could delay important information for Congress to use in conducting oversight. Failure to communicate its financial position through its annual report in a timely and transparent way is inconsistent with PCAOB's vision "to be a model regulatory organization." Furthermore, some staff for the committees of jurisdiction for the PCAOB and SEC told us that knowing when PCAOB's annual report was going to be published—as they would if PCAOB had a deadline for publishing its annual report—would assist the committee in conducting oversight.[35]

[32]The Chairman's letter accompanying PCAOB's 2014 annual report was dated April 1, 2015. While the letter accompanying the 2013 annual report was not dated, the Independent Auditor's Report included in this report was dated October 21, 2014.

[33]17 C.F.R. § 202.190.

[34]Committee of Sponsoring Organizations of the Treadway Commission, *Internal Control - Integrated Framework* (New York: American Institute of Certified Public Accountants, 2013).

[35]The committees of jurisdiction for PCAOB and SEC are the House and Senate Appropriations Committees, Subcommittees on Financial Services and General Government; the Senate Committee on Banking, Housing, and Urban Affairs; and the House Committee on Financial Services.

Oversight by Inspectors General and Similar Entities

All entities we reviewed are subject to oversight by internal, independent organizations, such as IGs. The extent to which IGs examine the collection and obligation of permanent funding authorities varies:

- APHIS is subject to oversight by the USDA IG, which audits USDA's annual financial statements. Although the IG has performed many program audits on APHIS, none of the IG's recent work has focused on APHIS collecting and obligating user fees.
- CFPB is subject to oversight by the IG of the Board of Governors of the Federal Reserve System and CFPB.[36] For example, the IG has audited CFPB's Civil Penalty Fund and budget process.
- The DOJ IG conducts internal audits related to DOJ components' management of the CVF, such as accounting and reporting of amounts distributed to the Federal Bureau of Investigation and the Executive Office for United States Attorneys, as well as external audits of CVF grant recipients and subrecipients.
- The Treasury IG has oversight authority for all components of the Trust Fund, including those administered by NOAA and the Council.[37]
- PCAOB voluntarily established its Office of Internal Oversight and Performance Assurance (IOPA), which performs functions similar to an IG by examining PCAOB program performance and making recommendations to PCAOB.[38] Although the SEC IG does not regularly exercise oversight over PCAOB, SEC requests audits and other inquiries from IOPA.

[36]Pub. L. No. 111-203 §1081 (July 21, 2010).

[37]Pub. L. No. 112-141, Div A, Title I, Subtitle F, 126 Stat. 588 (July 6, 2012).

[38]PCAOB's IOPA provides internal examination of PCAOB's programs and operations to help ensure the internal efficiency, integrity, and effectiveness of those programs and operations. IOPA conducts its audit work in accordance with Government Auditing Standards. GAO, *Government Auditing Standards: 2011 Revision*, GAO-12-331G (Washington, D.C.: December 2011).

Some Selected Entities Lack Operating Reserve Policies Responsive to Actual Needs and Probable Contingencies

All entities we examined carry over unobligated balances, some of which are used as operating reserves.[39] The purpose, nature, and policies that govern these unobligated balances vary. APHIS, CFPB, and PCAOB have not used fully documented analyses of program costs and risks to ensure that their operating reserve targets reflect actual operational needs and probable contingencies.[40] If these entities maintain unnecessarily high reserve balances, they could be underusing their resources; if the reserve balances are too low, these entities could risk being unable to conduct their statutory missions.

When unobligated balances are used as operating reserves, it is important for entities to establish appropriate target ranges, using a risk-based strategy, to help ensure resources are used efficiently and responsibly.[41] Maintaining a reserve balance is important for entities that are entirely funded by user fees, as authorized by Congress. This ensures that program operations can be sustained in case of unexpected changes in collections or costs. The magnitude and risks of these fluctuations in fee collections vary depending on the design of the fee and factors to which collections are sensitive. For example, APHIS officials told us that the volume of animal exports, and the associated fee collections, can be affected by disease outbreaks. For unobligated balances to be effective as a reserve, entities need to understand a fee's vulnerabilities and be deliberate in the design of a reserve fund. We have also previously found that when unobligated balances are used as operating reserves, it is advisable to establish a target range for those reserves that is justified with program data and risk management considerations. This helps ensure the effective use of federal resources.

APHIS maintains operating reserves for four of the six fees we examined: the Agricultural Quarantine Inspection (AQI), Phytosanitary Export

[39]Unobligated balances refer to the portion of the obligational authority that has not yet been obligated.

[40]PCAOB's operating reserve is authorized by an SEC rule. In accordance with that rule, funds in PCAOB's reserve may be used only in accordance with the budget for that following fiscal year or a supplemental budget approved by SEC. If SEC has not approved a budget for a fiscal year, PCAOB may spend funds from its reserve and continue to incur obligations as if the last PCAOB budget approved by SEC were continuing in effect for the new fiscal year. See 17 C.F.R. § 202.190(d).

[41]We previously reported on key questions to manage revenue instability for fee-funded programs. See GAO, *Federal User Fees: Fee Design Options and Implications for Managing Revenue Instability*, GAO-13-820 (Washington, D.C.: Sept. 30, 2013).

Certification, Veterinary Diagnostics, and Veterinary Services Import Export fees, as shown in table 2. APHIS told us that the agency generally targets a 3-to-5 month reserve target for its fees. Regulations pertaining to the AQI and Phytosanitary Export Certification fees document and explain the 3-to-5 month reserve target, while the Veterinary Service Import Export fee rule provides for a reserve equal to 25 percent of annual program costs. The Veterinary Diagnostic fee rule provides for a reasonable reserve, the amount of which is not specified. Officials said they manage their reserves by reviewing the current balances on a regular basis to ensure they remain aligned with targets and have sufficient cash on hand. For example, they consider upcoming capital improvements, such as repairs to veterinary facilities damaged by animals.

Table 2: Fiscal Year 2015 Operating Reserves for APHIS User Fees

User fees and associated programs with operating reserves	Operating reserve, end of year, fiscal year 2015 (dollars, in millions)
Agricultural Quarantine Inspection Agricultural quarantines and inspections of people, goods, and means of conveyance by APHIS and the Department of Homeland Security's U.S. Customs and Border Protection at ports of entry, and preclearance or preinspection services at a site outside of the United States.	123
Phytosanitary Export Certification Inspection and certification services for plants and plant products being shipped to foreign countries to verify that products have been inspected and are free of pests.	0[a]
Veterinary Diagnostics Laboratory tests required to import and export animals to determine if a disease is present.	5
Veterinary Services Import Export Inspection services for import and export of live animals, processing applications for import permits, and quarantine of animals in APHIS owned or operated animal import centers, among other things.	12

Source: GAO analysis of APHIS data. | GAO-17-59

[a]APHIS issued a final rule revising the Phytosanitary Export Certification Fee in July 2009. According to officials, new fee rates under this rule established an operating reserve for this fee beginning in fiscal year 2016. For more information on APHIS's user fees, see appendix II.

Although APHIS monitors the level of its reserves for consistency with the target range, according to officials, it has not analyzed the established targets for these operating reserves based on program data and probable risks. APHIS officials told us that this 3-to-5 month target is based on a practice the agency has used for all fee reserves for at least 2 decades. Officials said that this level would ensure the stability of the program in case of potential fluctuations in fee volume, bad debts, or unanticipated crises, and that the upper end of the target is the amount they estimate would be needed to complete an orderly shutdown of the program if operations were to cease. In 2002, APHIS analyzed the amount of funds required for an orderly shutdown of certain fee-funded programs. The agency found that 4.4 months of AQI user fee reserves and 5.4 months of Veterinary Services user fee reserves would be needed to shut down these programs.

In 2013, we found both that APHIS's projected reserve target for the AQI user fee exceeded the historical use of the fund in past crises and that the projected reserve balance exceeded the 3-to-5-month target.[42] We recommended that the Secretary of Agriculture establish a reserve target for the AQI user fee that is more closely aligned with program needs and risks, based on past experience. In October 2015, APHIS published a final rule amending the AQI fee, which the agency estimated would meet its goal of a 3-to-5-month operating reserve. In September 2016, APHIS officials told us they have not analyzed this target to ensure that it is aligned with actual program costs and risks. In addition, for the Phytosanitary Export Certification, Veterinary Services Import Export, and Veterinary Diagnostic fees, according to officials, APHIS has not analyzed the range of reserves needed based on program data and probable risks to ensure that it is not overfunding or underfunding the reserves for these fee-based programs. Because APHIS has not clearly established target reserve levels based on actual program data and probable risks, the agency does not know whether its current target is appropriate. If the reserve balance is unnecessarily high, amounts that could be used to pay for Phytosanitary Export Certification, Veterinary Services, and Veterinary Diagnostic program costs may be sitting idly. In contrast, if the reserve balance is too low, it may not be sufficient to protect against an unexpected decline in fee collections or other probable contingencies.

CFPB's Bureau Fund operating reserve policy, which was last updated in 2014, establishes a reserve target of $128 million for the Bureau Fund.[43] Consistent with this target, at the end of fiscal year 2015 CFPB had a

[42]See GAO, *Agricultural Quarantine Inspection Fees: Major Changes Needed to Align Fee Revenues with Program Costs*, GAO-13-268 (Washington, D.C.: Mar. 1, 2013).

[43]CFPB has also had unobligated balances in the Civil Penalty Fund. These balances are not used as a reserve and are available for allocation for payments to victims of consumer finance law violations in future years or, to the extent, that victims cannot be identified or located, to pay for consumer education and financial literacy programs.

$129 million unobligated balance in the Bureau Fund. The majority of the operating reserve target—$117.7 million—is CFPB's estimate of the cost of 3 months of salaries and travel plus 15 percent of non-pay, non-travel obligations. The operating reserve policy states that these funds are needed in case of delays in the transfers to CFPB from the Federal Reserve, adjustments to financial plans such as unexpected changes in the timing of expenditures, and significant external unanticipated events such as a financial crisis. However, the policy does not explain what assumptions were made when determining that more than 3 months of operating expenses is needed to address these risks. Further, according to Federal Reserve staff and CFPB officials, payment of requested funds is almost always made within 6 to 7 calendar days of the transfer request. Occasionally a transfer has required 2 weeks, and once several years ago a transfer required 3 weeks.

The operating reserve target also includes $10.5 million for other contingencies, such as litigation that results in judgments not in the bureau's favor or damages to capital assets. CFPB's operating reserve policy provides more detailed analysis and assumptions to support the $10.5 million portion of the operating reserve, but not the $117.7 million portion. According to officials, CFPB discusses the operating reserve policy and the actual reserve amount on a routine basis in budget decision processes and financial management meeting with bureau executives. CFPB has not, however, analyzed its Bureau Fund operating reserve target since 2014 to determine whether it is consistent with current risks and probable contingencies, or to ensure the amount needed for each of the four purposes for the reserve are based on appropriate assumptions. Such an analysis could conclude that the reserve amount should be higher, lower, or unchanged. If CFPB determined that the reserve should be lower, it could lead to reduced transfers from the Federal Reserve. Unused Federal Reserve funds would otherwise be transferred to the Treasury and become available for appropriation by the Congress.[44]

[44]The transfers to CFPB's Bureau Fund come from the earnings from the Federal Reserve Banks. According to Federal Reserve officials, the amount of the transfer is pro-rated among the twelve banks based on each bank's capital and surplus balances; the Federal Reserve Bank of Richmond transfers each of the 12 banks' shares into CFPB's account at the New York Federal Reserve Bank. After paying its operating expenses, a pro-rated share of the CFPB transfer, and dividends to member banks, each Reserve Bank funds a capital surplus account from net earnings. The aggregate amount of the capital surplus account may not exceed the amount set in statute. Any remaining earnings are transferred to the Treasury. 12 U.S.C. § 289(a).

The CVF account has a large unavailable balance and an additional reserve for antiterrorism emergencies.[45] The annual statutory obligation limit for the CVF has resulted in an unavailable unobligated balance of about $12 billion at the end of fiscal year 2015. DOJ has the authority to maintain up to $50 million in available unobligated funds for the antiterrorism emergencies reserve,[46] and funded the reserve to this maximum level in fiscal years 2014 and 2015.[47] This reserve pays for emergency expenses and other services for victims of terrorism or mass violence within the United States and abroad. For example, DOJ recently used about $4 million of the antiterrorism emergency reserve for a grant to assist victims of the June 17, 2015 Emanuel African Methodist Episcopal Church shooting in Charleston, South Carolina.

The Gulf Coast Restoration Trust Fund (Trust Fund) consists of no-year money that will remain available until expended. The Trust Fund had a balance of about $800 million at the end of fiscal year 2015; this reflected settlement money that had been received but not yet obligated. The Trust Fund is and will be used for projects, programs and activities that restore and protect the environment and economy of the Gulf Coast region through restoration of the Gulf Coast ecosystem, workforce development and promotion of tourism, and marine observation and research.

PCAOB retains an operating reserve, which it regularly uses to sustain operations in the next fiscal year. An SEC rule permits—but does not require—PCAOB to include up to a 5-month reserve when setting its budget and Accounting Support Fee. According to SEC, this is to “provide that the delays in the billing and collection of the Accounting Support Fee that are inherent in statute, and significant unforeseen events, should not threaten the liquidity of the organization.” PCAOB regularly relies on this reserve—which officials said totaled $132.2 million at the beginning of 2015—to fund operations for the first 5 months of its fiscal year. In the last two years, annual issuer Accounting Support Fee payments—which account for the majority of its collections—were due May 29, 2015, and May 31, 2016.[48] Each year, PCAOB bills issuers based on market data

[45]As previously discussed, in each fiscal year since 2000 annual appropriations acts have carried limitations on the amount of CVF funds that DOJ may obligate in that year.

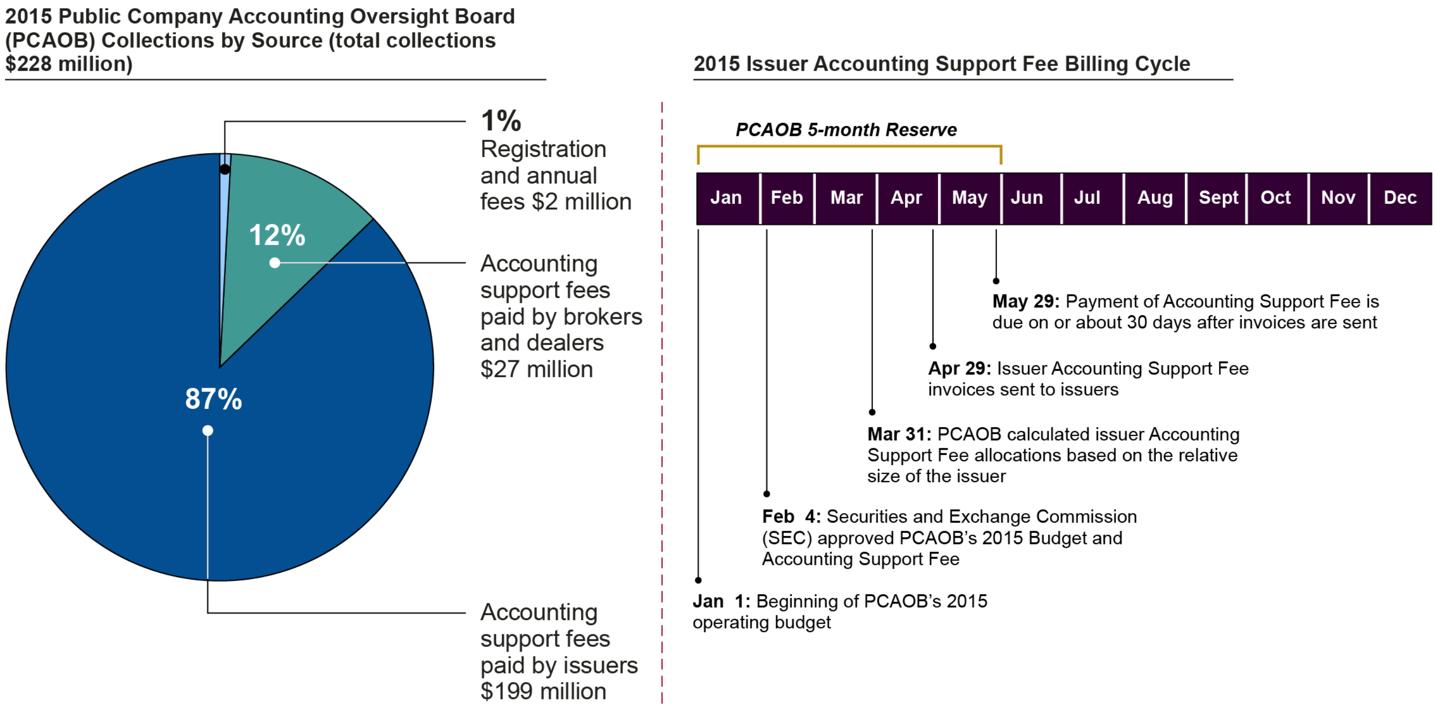
[46]42 U.S.C. § 10601(d)(5)(A).

[47]We previously reported on the CVF unavailable balance. See GAO-15-48.

[48] PCAOB uses a calendar year as its fiscal year. 17 C.F.R. § 202.190.

and other information for the prior year that are published by the end of March.[49] For example, in 2015 the Accounting Support Fee was billed to issuers at the end of April and due at the end of May, which is 5 months into PCAOB's fiscal year, as shown in figure 4. The Accounting Support Fee paid by issuers accounted for 87 percent of PCAOB's total collections in 2015.

Figure 4: Public Company Accounting Oversight Board (PCAOB) 2015 Collections by Source and Issuer Accounting Support Fee Collection Timeline



Source: GAO analysis of PCAOB and SEC documents. | GAO-17-59

Note: PCAOB is permitted to retain an operating reserve of up to 5 months of operating expenses.

SEC officials told us that, at the time that SEC developed its budget rule for PCAOB, the operating reserve maximum was set based on availability of market data and the timing for collecting the Accounting Support Fee.[50] PCAOB officials also told us that in practice the 5-month reserve is set to

[49] According to officials, PCAOB sends invoices for the Accounting Support Fee to issuers in the spring and to brokers and dealers in the fall.

[50] SEC's budget rule was issued in July 2006. 71 Fed. Reg. 41997, July 24, 2006.

cover operational needs but not contingencies—such as unforeseen events like a financial crisis that could affect fee collections or operations, or a significant unforeseen funding delay. SEC rules provide procedures for approving supplemental budgets. In the event that PCAOB needs more funding than provided for in its annual SEC-approved budget, PCAOB may submit a supplemental budget to SEC that includes the reason for the request and the proposed source of funds. SEC officials told us that the supplemental budget process could be used in lieu of a reserve in the event of unforeseen contingencies. SEC and PCAOB have not, however, documented a risk analysis to examine possible contingencies, examined the extent to which the supplemental budget process could effectively address them, and determined whether and how much of a reserve is needed for such contingencies. Without reserve targets based on a documented analysis of actual needs and probable contingencies, SEC and PCAOB officials cannot provide reasonable assurance that the reserve target is appropriate. For example, an emergency or unanticipated circumstance might hinder PCAOB's ability to send out fee bills or collect payments which might result in PCAOB needing more than a 5-month reserve to maintain operations.

Selected Entities Provide Varying Information to Committees of Jurisdiction

The selected entities provide information to committees of jurisdiction, the nature and frequency of which varies, according to committee staff we spoke with. Staff of committees of jurisdiction also told us that the entities briefed members and staff. The committees of jurisdiction also ask questions of all of our case study entities on an ad-hoc basis to conduct their oversight. These committees also have held hearings at which officials of our case study entities testified, but the frequency with which the case study entities are invited to testify varies. For example, PCAOB testified before the House Financial Services Committee in September 2016 at the Committee's request. According to PCAOB and SEC officials, prior to that hearing it had been years since PCAOB had been asked to testify before Congress. In contrast, CFPB regularly testifies at hearings held by its committees of jurisdiction (the House Committee on Financial Services and Senate Committee on Banking, Housing, and Urban

Affairs). In addition, CFPB is required to provide certain committees with annual and semiannual reports.[51]

Staff of the committees of jurisdiction we spoke to generally said the case study entities are responsive to their requests for information. They also told us that additional information and transparency from entities can improve congressional oversight. Staff of some committees of jurisdiction told us that they find it helpful for entities they oversee to take initiative to provide information to assist with their oversight. Some of these staff told us that, going forward, they may want more information pertaining to CVF grants. In the case of CFPB, staff from the committees of jurisdiction we spoke to had varying opinions about the responsiveness and quality of information from the bureau. Some staff said that CFPB was slow to respond to their questions and the bureau's responses did not always answer their questions. Further, staff told us that in several instances CFPB's responses did not meet their needs and they noted that the Office of the Comptroller of the Currency—another federal entity subject to their oversight—has been more responsive in terms of timeliness and substance. Other staff said that CFPB was as responsive as other federal entities subject to their oversight and that delays in communications were expected based on the volume of information the bureau has been asked to compile.

Conclusions

With the autonomy that permanent funding authorities provide to entities comes a great responsibility to manage funds in a way that demonstrates prudent stewardship of resources, facilitates oversight, promotes transparency, and fosters public accountability. While the entities we selected for our case studies all have policies and procedures to help achieve these goals, some could improve how they set operating reserve targets and report in a timely manner.

Maintaining an operating reserve can help certain entities with permanent funding authorities manage the risks of funding delays or revenue instability. Operating reserve targets should be set to maintain an adequate amount in case of operational needs and probable

[51]For example, among other things, CFPB is required annually to prepare and submit a report to the House and Senate Appropriations Committees regarding the financial operating plans and forecasts of the Director (12 U.S.C. § 5497), and required semiannually to report to, and appear before, the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services and the Committee on Energy and Commerce of the House concerning its activities and budget (12 U.S.C. § 5496).

contingencies, yet not reserve an excessive amount that should be available for other purposes. APHIS's and CFPB's reserve targets, as well as the PCAOB reserve target set by SEC, were not set based on a documented analysis of actual program needs and probable contingencies. Further, the agencies have not fully documented the underlying assumptions for the reserve targets, which could help ensure a common understanding of the policy within the agency and facilitate oversight by Congress, IGs, and others. In 2013, we recommended that the Secretary of Agriculture establish a reserve target for the AQI user fee that is more closely aligned with program needs and risks, based on past experience.[52] As of September 2016, APHIS had not provided information showing that its AQI reserve target reflects realistic program risks. We believe that our 2013 recommendation remains relevant. Until APHIS, CFPB, and SEC (for PCAOB) review and fully document an analysis of operating reserve targets, the entities, Congress, and the public cannot know whether the targets are based on actual program needs and probable contingencies.

Similarly, it is important for entities with permanent funding authorities to report timely and relevant information that facilitates congressional oversight, promotes transparency, and fosters public accountability. SEC, however, has not established a time frame for PCAOB's annual report, which includes its audited financial statements. In contrast, federal agencies, government corporations, and SEC-registered companies do have established deadlines for financial reporting. Because PCAOB lacks such a deadline, Congress and the public may not receive timely information about its collections and spending.

Recommendations for Executive Action

To ensure efficient use of resources and plan for realistic risks, we recommend that the Secretary of Agriculture direct APHIS to review and document its operating reserve targets including an analysis of individual program needs, risks, and probable contingencies, for each of the following fees:

- Veterinary Services Import Export,
- Veterinary Diagnostic, and
- Phytosanitary Export Certification.

[52] GAO-13-268.

Similarly, to ensure efficient use of resources and plan for realistic risks, we recommend that the Director of CFPB review and document its operating reserve targets for the Bureau Fund, including an analysis of program needs, risks, and probable contingencies.

We further recommend that the SEC Chair, in exercising the commission's authority to oversee PCAOB, take the following actions:

- To ensure that the reserve target SEC set for PCAOB safeguards against realistic risks and probable contingencies, including potential unforeseen funding delays, analyze—and document the analysis of—program needs and probable contingencies, in consultation with PCAOB as appropriate; and
- To ensure that timely information is available to facilitate congressional oversight, promote transparency, and foster public accountability, establish a deadline for PCAOB's required annual report, including its audited financial statements.

Agency Comments and Our Evaluation

We provided a draft of this report to the Secretaries of Agriculture, Commerce, and the Treasury; the Attorney General; the Director of CFPB; the Executive Director of the Council; the General Counsel of PCAOB; and the Chair of SEC for review and comment. We also shared copies of this report with the Federal Reserve and OMB.

In their written comments, reproduced in appendixes III through VI, USDA, CFPB, SEC, and PCAOB concurred with our recommendations. USDA's response stated that the agency will analyze operating reserve targets for its Veterinary Services Import Export, Veterinary Diagnostic, and Phytosanitary Import Export user fees to ensure that those targets align with program needs, risks, and probable contingencies. APHIS will update internal guidance to include a required analysis for calculating operating reserve targets. CFPB's response stated that, in response to our recommendation, it has already begun reviewing its operating reserve policy based on an analysis of actual needs and contingencies. SEC's response expressed agreement that PCAOB should analyze, with SEC review, program costs and risks to ensure that the operating reserve targets reflect actual needs and probable contingencies. SEC's response further stated that the commission will work with PCAOB to establish a required time frame for PCAOB to submit its financial statements to SEC. PCAOB's response stated that it will coordinate with SEC, as appropriate, to analyze its operating reserve target and consult with SEC, as appropriate, regarding a deadline for its annual report. CFPB, DOJ, the

Federal Reserve, NOAA, PCAOB, SEC, and Treasury provided technical comments, which we incorporated as appropriate. The Council had no comments.

A draft of this report contained a recommendation to the SEC Chair to direct PCAOB to establish a frequency with which to review the methodology for equitably distributing the Accounting Support Fee among issuers, brokers, and dealers. In oral comments on the draft report, the Chief Financial Officer of SEC and the General Counsel of PCAOB provided additional information that they already review the methodology as part of the annual fee-setting process. Therefore, we removed that recommendation and revised the report accordingly.

We are sending copies of this report to the aforementioned entities and appropriate congressional committees. In addition, the report is available at no charge on our website at http://www.gao.gov.

Should you or your staff have any questions about this report, please contact me at (202) 512-6806 or irvings@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix VII.

Sincerely yours,

Susan J. Irving

Susan J. Irving
Director for Federal Budget Analysis, Strategic Issues

Appendix I: Objectives, Scope, and Methodology

Our objectives were to (1) describe the different types of permanent funding authorities that exist for entities that obtain collections from fines and penalties and for regulatory entities, how these authorities affect the balance between agency autonomy and congressional control, and the extent to which data are available on this type of funding authority; and (2) assess what is known about the extent to which selected entities with these funding authorities have and follow policies and procedures to manage funds and facilitate oversight of their collections and obligations.

For the purposes of this report, permanent funding authorities are defined as permanent legal authorities to collect and obligate funds from sources such as fees, fines, and penalties. We exclude amounts that come from exchange-type transactions, such as fees paid to rent a campsite in a National Park, because the market-like nature of those transactions provides a built-in type of oversight based on buyer demand for the good or service. Similarly, we excluded federal insurance programs and pension funds, entitlement programs such as Social Security and Medicare, government-sponsored enterprises, congressionally chartered organizations, and payments for goods and services made by one federal agency to another federal agency. In addition, we excluded collections that reimburse an appropriation because that funding is not available without further congressional action.

To accomplish our first objective, we assessed government-wide data sources to determine the extent to which they provide a comprehensive list of permanent funding authorities. Specifically, we analyzed data from Office of Management and Budget's (OMB) MAX system and reviewed the Consolidated Financial Statements (CFS) of the United States for fiscal years 2014 and 2015 and spoke with internal experts and knowledgeable agency staff.[1] For OMB MAX data we reviewed budget authority classified as offsetting collections to assess whether they provide a comprehensive list of permanent funding authorities. Offsetting collections totaled $234 billion in fiscal year 2015, about 6 percent of $3,766 billion in federal revenues. We determined that offsetting

[1]We have been unable to render an opinion on CFS since its inception. We did not render an opinion for fiscal years 2014 and 2015 because of persistent problems with the Department of Defense's finances, the federal government's inability to account for and reconcile certain transactions, an ineffective process for preparing the consolidated financial statements, and significant uncertainties. However, we determined that it is sufficiently reliable for the purposes of this engagement. See GAO, *Financial Audit: U.S. Government's Fiscal Years 2015 and 2014 Consolidated Financial Statements-* GAO-16-357R (Washington, D.C.: Feb. 25, 2016).

collections are not an accurate measure of permanent funding authorities because in some cases funds classified in MAX as offsetting collections are not available without further congressional action. In addition, some permanent funding authorities—including funding for the Consumer Financial Protection Bureau and the Public Company Accounting Oversight Board—are not classified as offsetting collections. Further, while MAX identifies offsetting receipts and governmental receipts, those collections are typically subject to appropriation depending on the specific authorizing legislation for the collection, and therefore outside the scope of our review. For CFS we analyzed the Statement of Net Cost and the Statement of Operations and Changes in Net Position. We focused on earned revenue and non-exchange revenue, neither of which provides government-wide information on permanent funding authorities because they combine various sources of collections, some of which are outside the scope of our review. We also spoke with knowledgeable OMB staff regarding uses and limitations of MAX data.

To analyze the different types of permanent funding authorities, we selected five case studies that illustrate their breadth. More specifically, we selected this set of case studies to reflect a diversity of:

- collection types, such as fees, fines, penalties, and other types of collections;
- purposes for which the funds may be used, as established by statute;
- type of entity, including entities that are subject to more executive control, such as components of executive departments, and entities that are subject to less executive control;
- size of the entity in terms of total budgetary resources available for fiscal year 2014; and
- sector in which the entity operates, such as financial regulation, environmental restoration, or justice.

To make these selections, we first identified an initial list of 22 potential entities that fit within the scope of this review using our prior reports, reports from the Congressional Research Service (CRS) and the Congressional Budget Office (CBO), the Sourcebook of United States Executive Agencies issued by the Administrative Conference of the United States, and independent regulatory agencies listed in the Paperwork Reduction Act. We also used budget data from OMB's MAX database and the Fiscal Year 2016 President's Budget to identify funding from sources other than annual appropriations and determine each entity's total budgetary resources available for fiscal year 2014. We found the data to be sufficiently reliable for this purpose. We then reviewed relevant statutes for potential entities to verify that they have permanent funding authorities and to ensure that our selections represented a variety of purposes for which the funds may be used. Using this process, we selected the 5 case studies for review, as shown in table 3. While the case studies were selected to reflect a broad diversity of characteristics of permanent funding authorities, findings from the case studies cannot be generalized to all such authorities.

Table 3: Selected Case Studies with Permanent Funding Authorities

Case Studies and their Administrative Structures	Description of Collections Under Review	FY 2015 Obligations (Dollars, in millions)
Animal and Plant Health Inspection Service (APHIS), a component of the Department of Agriculture	Regulatory user fees, as follows: • Agriculture Quarantine Inspection • Veterinary Services Import Export • Phytosanitary Export Certification • Trust Funds and Reimbursable Funds, Including Plant Preclearance • Reimbursable Overtime • Veterinary Diagnostic	286[a]
Consumer Financial Protection Bureau (CFPB), an independent bureau[b]	CFPB's Bureau Fund is funded by transfers from the Board of Governors of the Federal Reserve System (Federal Reserve) and its Consumer Financial Civil Penalty Fund (Civil Penalty Fund) is funded by civil penalties collected by CFPB.	559
Crime Victims Fund (CVF), administered by the Office of Justice Programs (OJP), a component of the Department of Justice (DOJ)	CVF receives funding from several sources, including: • Criminal fines • Forfeited appearance bonds • Penalty assessments imposed on individuals and corporations convicted of a crime. • Gifts, donations, and bequests from private parties.[c]	2,369[d]
Gulf Coast Restoration Trust Fund (Trust Fund), administered by the Department of the Treasury (Treasury). Treasury, the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA), and the Gulf Coast Ecosystem Restoration Council (Council)—an independent entity consisting of representatives of federal departments and agencies and Gulf Coast state governments—have programmatic responsibility over the Trust Fund.	The Trust Fund receives a percentage of payments of administrative or civil penalties paid by responsible parties in connection with the Deepwater Horizon oil spill pursuant to a court order, negotiated settlement, or other instrument.	14

Case Studies and their Administrative Structures	Description of Collections Under Review	FY 2015 Obligations (Dollars, in millions)
Public Company Accounting Oversight Board (PCAOB) is a nonprofit corporation which operates under the oversight of the Securities and Exchange Commission (SEC)	Regulatory user fees, as follows: [e] • Accounting support fee • Registration and annual fees	251[f]

Source: GAO analysis of applicable laws, agency obligations data, and the President's budget. | GAO-17-59

[a]This figure shows APHIS's total obligations for the collections listed in the table. APHIS also receives annual appropriations, which are not included in this figure. Discretionary appropriations to APHIS's Salaries and Expenses account totaled $871 million in fiscal year 2015, excluding funds transferred from the Farm Service Agency's Hazardous Waste Management Account.

[b]CFPB is considered to be an Executive agency, as defined in 5 U.S.C. § 105. The administrative structure of CFPB is the subject of ongoing litigation. The outcome of this litigation is not expected to affect the findings, conclusions, and recommendations of this report. See appendix II for more information.

[c]While in general gifts are outside the scope of our review, they constitute a small amount of CVF funding—$172 in fiscal year 2015 according to DOJ officials, out of $2,640 million in total collections for that fiscal year—and this spending is not tracked separately from CVF's other collections.

[d]Congress has historically placed an annual limitation on CVF obligations. This figure includes obligations subject to that limitation and $8 million in obligations from the Antiterrorism Emergency Reserve, which is outside of the limitation.

[e]PCAOB also collects monetary penalties, which are not permanent funding authorities because they are subject to annual appropriations. Congress appropriated about $1 million of these penalties, which are used to fund a merit scholarship program, in fiscal year 2015.

[f]This figure shows PCAOB's approved budget, rather than obligations, because by statute PCAOB is a nonprofit corporation and is not an agency or establishment of the United States Government. Further, PCAOB does not follow the federal fiscal year and instead uses the calendar year as its fiscal year.

To describe the authorities under review, including how they affect the balance between agency autonomy and congressional control, we reviewed relevant statutes as well as reports from the CRS, CBO, and our prior work. We also interviewed officials from the aforementioned agencies and entities as well as OMB and the Board of Governors of the Federal Reserve System (Federal Reserve).

To accomplish our second objective, we reviewed relevant documents including legal authorities and regulations, the selected entities' audited financial statements for fiscal years 2014 and 2015, budget requests for fiscal years 2016 and 2017, and internal policies and procedures related to financial management and transparency. We also reviewed reports from inspectors general, CRS, and our prior reports. We interviewed officials from Animal and Plant Health Inspection Service (APHIS), Consumer Financial Protection Bureau (CFPB), Department of Justice (DOJ), Department of the Treasury (Treasury), National Oceanic and Atmospheric Administration (NOAA), Gulf Coast Ecosystem Restoration Council (Council), Public Company Accounting Oversight Board (PCAOB), Securities and Exchange Commission (SEC), OMB, and the

Federal Reserve. We also interviewed officials from the offices of the Department of Agriculture (USDA), DOJ, Treasury, and SEC inspectors general, as well as PCAOB's Office of Internal Oversight and Performance Assurance, which provides oversight similar to an inspector general. We requested a meeting with the Inspector General for the Federal Reserve and CFPB and instead received written responses to our questions. We compared the selected entities' policies and procedures to criteria from appropriate internal control frameworks. Specifically, we compared APHIS, CFPB, DOJ, Treasury, NOAA, and Council policies and procedures to Standards for Internal Control in the Federal Government and OMB Circular No. A-123, *Management's Responsibility for Internal Control*. [2] We compared PCAOB policies and procedures to Committee of Sponsoring Organizations of the Treadway Commission *Internal Control-Integrated Framework* principles.[3] As applicable, we also compared selected entities' policies and procedures to OMB Circular No. A-136, *Financial Reporting Requirements* and, for entities that collect user fees, OMB Circular No. A-25, *User Charges*.

To examine the extent to which the selected entities provide information to facilitate congressional oversight, we spoke with staff of their committees of jurisdiction, as well as the Senate Committee on Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations. Specifically, we requested meetings with the majority and minority staff of the following committees and subcommittees:

- House and Senate Appropriations Committees, Subcommittees on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies; Commerce, Justice, Science, and Related Agencies; and Financial Services and General Government;
- Senate Committee on Agriculture, Nutrition, and Forestry;

[2]GAO, *Standards for Internal Control in the Federal Government,* GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999). In September 2014 we issued an update to this report which was effective beginning with fiscal year 2016. See GAO, *Standards for Internal Control in the Federal Government,* GAO-14-704G (Washington, D.C.: September 2014). We used the November 1999 standards because we reviewed financial information for fiscal years 2014 and 2014. The updated standards are consistent with the previous version. We also used the version of Circular No. A-123 dated December 21, 2004, to assess financial information for fiscal years 2014 and 2015. OMB issued a revised version of this circular on July 15, 2016. It is effective for fiscal year 2016.

[3]Committee of Sponsoring Organizations of the Treadway Commission's internal control framework can be used by the private sector and nonprofit corporations. PCAOB is a nonprofit corporation. See http://www.coso.org/ic.htm

- House Committee on Agriculture;
- Senate Committee on Banking, Housing, and Urban Affairs;
- House Committee on Financial Services;
- House and Senate Committees on the Judiciary;
- Senate Committee on Environment and Public Works; and
- House Committee on Transportation and Infrastructure.

Using a standard list of semistructured interview questions that we provided in advance, we interviewed staff of these committees and subcommittees that were available to meet with us on or before September 15, 2016. We interviewed eight committees and subcommittees by this date, including at least one committee or subcommittee with jurisdiction over each of the five case studies.

We conducted this performance audit from September 2015 to December 2016 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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Five Case Studies of Permanent Funding Authorities

This appendix provides detailed information on the five case studies of permanent funding authorities presented in this report: the Department of Agriculture's Animal and Plant Health Inspection Service (APHIS), the Consumer Financial Protection Bureau (CFPB), the Department of Justice's Crime Victims Fund (CVF), the Gulf Coast Restoration Trust Fund (Trust Fund), and the Public Company Accounting Oversight Board (PCAOB). For each case study, we present information on the entity's role, mission, and administrative structure; the nature and use of collections; and funds control and management.

United States Department of Agriculture

Overview

Role and Mission

APHIS is a multi-faceted agency with a broad mission that includes protecting and promoting U.S. agricultural health, regulating genetically engineered organisms, administering the Animal Welfare Act, and carrying out wildlife damage management activities. APHIS carries out this mission through programs funded by various sources, including six programs funded by user fees, trust funds, and reimbursable funds that are available without further congressional action, as shown in Table 4.

Administrative Structure

APHIS is a component of the Department of Agriculture (USDA), within its Marketing and Regulatory Programs (MRP) mission area. The Undersecretary of MRP delegated to the APHIS Administrator complete authority to establish and approve all APHIS user fees.

Entity Name: Animal and Plant Health Inspection Service (APHIS)

Statutory Authority: The Food, Agriculture, Conservation, and Trade Act of 1990, as amended; the Plant Protection Act, as amended; and the Animal Health Protection Act, as amended

Funding and Management

Nature and Use of Collections

APHIS is funded in part by six user fees that it has authority to collect and obligate without further congressional action: the Agricultural Quarantine Inspection (AQI) fee, Phytosanitary Export Certification fee, Veterinary Services Import Export fee, Veterinary Diagnostics fee, Reimbursable Overtime, and Trust Funds and Reimbursable Funds.

Fees amounts should be reasonably based on the cost of the technical assistance, goods, or services, provided to the fee-payer by APHIS. The fee collections are available until expended. The fees are authorized to be obligated for the purposes for which they are collected. APHIS collected a total of $254 million from these fees for fiscal year 2015, as shown in table 4.

Table 4: Total Fee Collection by Type of User Fee for Fiscal Year 2015

User fees and associated programs	Total collections for fiscal year 2015 (dollars in millions)
Agricultural Quarantine Inspection Agricultural quarantines and inspections of people, goods, and means of conveyance by APHIS and the Department of Homeland Security's U.S. Customs and Border Protection at ports of entry, or for preclearance or preinspection services at a site outside of the United States.	169[a]
Veterinary Services Import Export Inspection services for import and export of live animals, processing applications for import permits, and quarantine of animals in APHIS owned or operated animal import centers.	45
Phytosanitary Export Certification Inspection and certification services for plants and plant products being shipped to foreign countries to verify that products have been inspected and are free of pests and disease.	19
Trust Funds and Reimbursable Funds Trust funds for plant preclearance activities in which products are inspected before shipment to the United States, among other things.	7
Reimbursable Overtime Overtime services relating to inspection of imports and exports, laboratories, and ports of entry.	8
Veterinary Diagnostics Laboratory tests required to import and export animals to determine if disease is present.	6
Total	254

Source: GAO analysis of APHIS information

APHIS also receives amounts from annual appropriations. APHIS's mandatory budget authority is subject to sequestration.

[a]This shows the amount of AQI fee collections retained by APHIS. In addition, APHIS transfers AQI fee collections to U.S. Customs and Border Protection (CBP) within the Department of Homeland Security, which partially covers CBP's AQI program costs. APHIS transferred $467 million to CBP in fiscal year 2015.

Funds Control and Management

APHIS adheres to our *Standards for Internal Control in the Federal Government* and OMB Circular No. A-123 as guidance for establishing, assessing, correcting, and reporting on internal controls. Moreover, the Department of Agriculture's (USDA) Quick Reference Guide provides guidance for assessing agency internal controls.

To set certain user fees, APHIS uses activity based costing to arrive at the appropriate cost. This process is guided by the *Statement of Federal Financial Accounting Standards 4, Managerial Cost Accounting Standards and Concepts*. In 2010, APHIS hired an outside consultant to review the Agricultural Quarantine Inspection (AQI) fee setting process. As previously discussed, in March 2013 GAO recommended that the Secretary of Agriculture revise AQI user fees to more fully cover program costs. APHIS subsequently improved the process and issued final rules to revise AQI and reimbursable overtime fees in 2015.

APHIS reviews its fees and charges on a biennial basis in accordance with USDA department-wide policy and OMB Circular No. A-25. Among other things, the reviews include assurance that existing charges are adjusted to reflect unanticipated changes in costs or market values, and evaluation of opportunities to charge additional user fees.

APHIS regularly monitors its user fees through Status Funds Reports. The reports track available funds, costs incurred, and services provided. They are used during monthly Status of Funds meetings with the Program Deputy Administrators and the APHIS Administrator for the purpose of monitoring balances during fiscal year closeout.

Oversight and Transparency

APHIS is subject to oversight by the USDA Office of Inspector General (IG). The USDA IG has done many program audits on APHIS, but its recent work has not focused on the collection or spending of APHIS's user fees or other funds. USDA IG audits USDA's consolidated financial statements, which include APHIS's financial statements, and assesses department-wide internal controls as part of this process. USDA IG also examines APHIS's biennial fee review as part of its audit of USDA's consolidated financial statements. APHIS financial statement data is part of the USDA financial statement. USDA's financial statement and its audit are published annually in USDA's Agency Financial Report.

APHIS has an internal evaluation unit, the Program Assessment and Accountability Unit, that provides program assessment and evaluation services. The unit does not conduct financial or compliance audits. Its work largely entails performance reviews and rarely do the reviews involve user fee collection and spending.

APHIS promotes transparency in a variety of ways. The agency posts information on its website, including its Budget Summary, its Annual Plan, and its Strategic Plan. In addition, APHIS uses the notice and comment rulemaking process to update its user fees. The agency posts information related to this process on its website as well as in the *Federal Register*. According to APHIS officials, these rulemakings typically cover a 5-year time period. Also, APHIS responds to occasional industry requests for information regarding fees. To further facilitate transparency the agency conducts stakeholder meetings, webinars, and listening sessions.

Overview

Role and Mission

CFPB's mission is to help consumer finance markets work by making rules more effective, consistently and fairly enforcing those rules, and empowering consumers to take more control over their economic lives. CFPB also aims to ensure that, with respect to consumer financial products and services:

- markets operate transparently and efficiently to facilitate access and innovation;
- consumers are (1) provided with timely and understandable information to make responsible decisions about financial transactions and (2) protected from unfair, deceptive, or abusive acts and practices and from discrimination;
- outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed; and
- federal consumer financial law is enforced consistently to promote fair competition.

Administrative Structure

CFPB is, by statute, an independent bureau. CFPB is headed by a Director who is appointed by the President and confirmed by the Senate. The Director serves a 5-year term and may remain after the term expires until a successor has been appointed and confirmed.

Appendix II

Entity Name: Consumer Financial Protection Bureau (CFPB)

Statutory Authority: Consumer Financial Protection Act of 2010; Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act), as amended

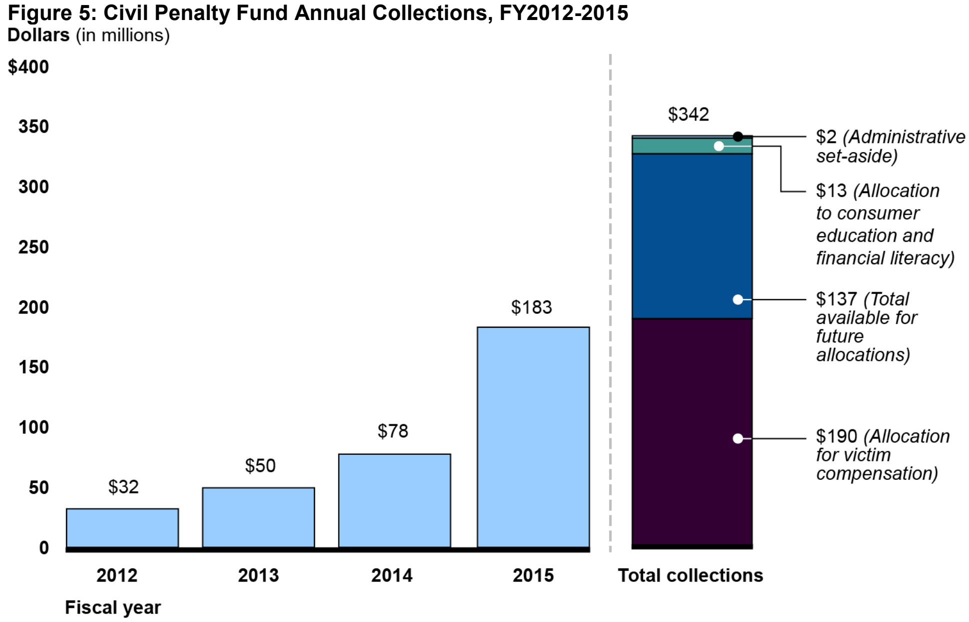
Funding and Management

Nature and Use of Collections

CFPB's Bureau Fund is used to pay the bureau's operating costs. It is funded by quarterly transfers from the Board of Governors of the Federal Reserve System (Federal Reserve) at CFPB's request, subject to a statutory limit. CFPB's bureau fund is also subject to sequestration. For fiscal year 2015, CFPB requested and received quarterly transfers totaling $485 million; this was $134 million less than the statutory limit of $619 million.

The Consumer Financial Civil Penalty Fund (Civil Penalty Fund) is used primarily to compensate victims of consumer finance law violations; it is funded by civil penalties paid by the violators. When victims cannot be located or it is not otherwise practicable to use funds for victim payments, funds may be used for consumer education and financial literacy programs. Figure 5 shows the Civil Penalty Fund's annual collections:

Figure 5: Civil Penalty Fund Annual Collections, FY2012-2015



Source: GAO analysis of the Financial Report of the Consumer Financial Protection Bureau for fiscal year 2015. | GAO-17-59

Funds Control and Management

CFPB has internal policies regarding budget formulation and financial operations, and internal procedures regulating Bureau Fund and Civil Penalty Fund collections and payments (for example, detailed procedures for depositing Civil Penalty Fund collections in the New York Federal Reserve Bank and administering the deposits).

The Civil Penalty Fund is overseen by a Civil Penalty Fund Governance Board, which establishes guidelines for administering the Civil Penalty fund, monitors its performance, advises or directs the Fund Administrator, and reviews proposals for spending on consumer education and financial literacy programs.

Oversight and Transparency

CFPB formulates its budget without substantial input by any external agency. The bureau sends budget material to the Federal Reserve with its quarterly fund transfer request, with copies to the Senate Committee on Banking, Housing, and Urban Affairs, the House Committee on Financial Services, and the House and Senate Committees on Appropriations. This information is also posted to CFPB's public website. The bureau also sends budget information to OMB for reporting in the President's Budget Appendix, but according to CFPB and Federal Reserve officials neither the Federal Reserve nor OMB have authority to provide substantial input on its budget. CFPB's budget has been audited by an independent audit firm each year since fiscal year 2011. These reports were issued after the budget for the fiscal year under review was put into effect. The auditors reviewed compliance with policies and procedures, and did not constitute a line-item review of proposed spending.

CFPB is required by the Consumer Financial Protection Act to make an annual attestation to us regarding internal controls that apply to financial reporting. CFPB bases this attestation on OMB Circular No. A-123. According to CFPB officials, it is required to use internal control guidance widely accepted in the Federal Government, and chooses to use relevant aspects of Circular No. A-123 as a best practice to make that assessment.

The Inspector General (IG) of the Federal Reserve and the CFPB continually audits the bureau based on statutory responsibilities and risk assessment. In addition, the IG in 2014 and 2015 sent an annual list of CFPB major management challenges to the CFPB Director.

CFPB has a website with information for consumers, educators, tax preparers, regulated entities, and the public, among others. This site also carries CFPB's financial and operational reports. CFPB's authorizing statute requires the bureau to submit a number of reports to Congress. These include annual reports on consumer complaints—which CFPB incorporates into its semiannual report to Congress—CFPB's enforcement of fair lending requirements, and its efforts to improve consumer financial literacy. CFPB is required to submit a semiannual report on its budget and performance to the Senate Committee on Banking, Housing and Urban Affairs and the House Committees on Financial Services, and Energy and Commerce.

Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Director of CFPB is removable only for cause. (See 12 U.S.C. § 5491(c)(3).) ("The President may remove the Director for inefficiency, neglect of duty, or malfeasance in office.") In October 2016, the U.S. Court of Appeals for the District of Columbia Circuit held that the structure of CFPB was unconstitutional because it was headed by a single Director who was only removable for cause. The court severed the for-cause removal provision from the statute, meaning that the President has the power to remove the Director at will at any time. (See *PHH Corp. v. Consumer Fin. Prot. Bureau*, 839 F.3d 1 (D.C. Cir. 2016).) CFPB filed a petition on November 18, 2016, asking the court to rehear the case.

Crime Victims Fund

Overview

Role and Mission

The CVF supports a broad array of programs and services that focus on helping victims in the immediate aftermath of crime and continuing to support them as they rebuild their lives. The CVF funds victim compensation and assistance in every U.S. state and certain territories, as well as training, technical assistance, and other capacity-building programs designed to enhance service providers' ability to support victims of crime in communities across the nation.

Administrative Structure

The CVF is administered by the Office for Victims of Crime within the Office of Justice Programs, a DOJ agency.

Entity Name: Department of Justice (DOJ) Crime Victims Fund

Statutory Authority: Victims of Crime Act of 1984 (VOCA), as amended

Funding and Management

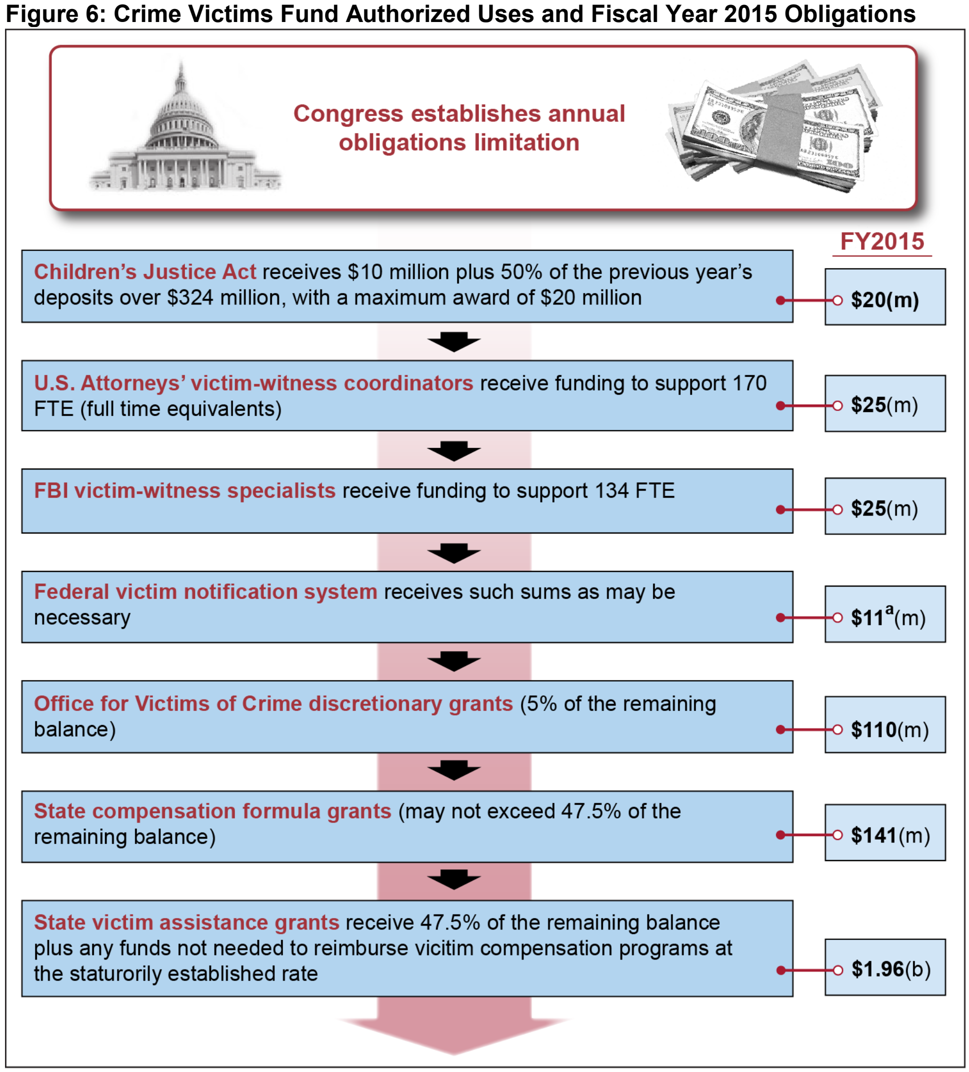
Nature and Use of Collections

Money deposited into the Crime Victims Fund (CVF) comes from the following sources:

- criminal fines;
- forfeited appearance bonds;
- penalty assessments imposed on individuals and corporations convicted of a crime.
- gifts, donations, and bequests by private parties.

According to DOJ officials, funds remitted to the CVF are collected primarily by each local Clerk of Courts nationwide. DOJ cannot determine the amount of collections derived from each of the sources listed above because the data show only how much was remitted from each court. VOCA provides formulas for DOJ to allocate CVF funds among specific purposes, as shown in figure 6.

Figure 6: Crime Victims Fund Authorized Uses and Fiscal Year 2015 Obligations



Source: GAO analysis of DOJ documents and obligations data. | GAO-17-59

[a]This includes $6.5 million for system enhancements and $4.3 million for system operation. Numbers may not add due to rounding.

For each fiscal year since 2000, Congress has limited the amount of CVF funds that DOJ may obligate through provisions in annual appropriations acts. The CVF is also subject to sequestration. The obligations limitation ranged from $705 million to $745 million annually from fiscal year 2010 through fiscal year 2014. The amount DOJ may obligate under the obligations limitation has increased significantly in each of the last 2 fiscal years: it rose to $2,361 million in fiscal year 2015 and $3,042 million in fiscal year 2016. The annual obligations limitation has resulted in an unavailable unobligated balance of about $12 billion at the end of fiscal year 2015. Separately, there is a $50 million available unobligated balance for the antiterrorism emergency reserve, which is funded by the CVF and pays for services for victims of terrorism or mass violence within the United States and abroad.

Funds Control and Management

The CVF is included within DOJ's annual Agency Financial Report. This report includes DOJ's financial statements, the associated Independent Auditor's Report, and an analysis of the alignment between major costs and strategic goals. The fiscal year 2015 Agency Financial Report also addresses the challenge presented with the rapid increase in CVF funds available for obligation. According to the report, the Office of Justice Programs (OJP) and the Office for Victims of Crime (OVC) plan to manage the additional funding by increasing staff resources at the program office level and within the Office of the Chief Financial Officer to oversee and monitor the funds; incorporate additional risk criteria to its risk assessment process to increase the monitoring priority of these awards; and prepare quarterly risk indicator reports to identify and resolve potential issues.

OVC distributes the bulk of CVF funds through grants, as shown in figure 6 above. OJP's Office of Audit, Assessment, and Management manages policies and procedures for the issuance of CVF grants by OVC, and oversees grant monitoring. Each fiscal year, OJP is required by statute to monitor both10 percent of its open, active award amount and 10 percent of its open, active grants. OJP uses a risk assessment to determine which grants are monitored; the risk assessment considers the type of grant, the type of entity receiving the grant (e.g., state, municipality, or nonprofit), the amount of the grant, potential excess cash, awards with unobligated balances, and reported grant implementation concerns. Additionally, in accordance with the Single Audit Act of 1984, as amended, and Office of Management and Budget (OMB) Uniform Guidance, entities that spend $750,000 or more in federal financial assistance in a fiscal year must have an independent audit—referred to as a single audit—conducted for that year. OJP officials said they use the most recent single audit opinion as part of its risk assessment. Additionally, as part of the DOJ Inspector General's (IG) resolution process, OJP follows up with the grantee and the DOJ IG to address issues identified in grant audits and outstanding audit recommendations. OVC also publishes performance reports for its victim assistance and victim compensation formula grants. According to officials, DOJ follows OMB's Uniform Guidance in managing CVF grants.

Oversight and Transparency

DOJ's IG audits CVF through internal audits focused on DOJ, as well as external audits focused on recipients of CVF grants. In fiscal years 2015 and 2016, Congress appropriated $10 million annually from the CVF to the DOJ IG to carry out these audits. According to officials, the DOJ IG uses a risk-based approach to set priorities for potential audits. The IG also solicits proposals for audits from DOJ and its components.

CVF collections and obligations are reported as part of the President's Budget. OJP's Performance Budget also shows CVF obligations and details how the component would spend its requested level of CVF budget authority, including how funds would be allocated per the formula established by VOCA and specific plans for using the funds within these allocations, such as providing child advocacy services for children involved in court proceedings. The Performance Budget also shows how CVF obligations align with DOJ's strategic goals and objectives. According to officials, the OJP Performance Budget is reviewed by DOJ and OMB before it is submitted to Congress.

Information on CVF is available to the public on DOJ's website. For example, OVC's website includes a biennial Report to the Nation. This report explains the sources and amount of CVF collections, as well as the annual obligations limitation. The report also shows how these funds are used, including performance information for victim compensation and victim assistance. In addition, in 2013, OJP published the final report for its Vision 21 Initiative to transform victims' services. This report is publicly available on OJP's website. It discusses the role of the Crime Victims Fund in supporting victims and funding victims' services.

Appendix II

Entity Name: Gulf Coast Restoration Trust Fund (Trust Fund)
Statutory Authority: Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States (RESTORE) Act of 2012, as amended

Overview

Role and Mission

The Trust Fund distributes funds to protect and restore the Gulf Coast ecosystem and economy affected by the Deepwater Horizon oil spill. Money is given on a formula and project basis to restore affected areas, develop the region's economy, and conduct related research.

Administrative Structure

The Trust Fund is one of a number of federal trust funds managed by Treasury's Bureau of the Fiscal Service.

Trust Fund components are managed by three entities:

- The Council, consisting of representatives from federal agencies and Gulf Coast state governments;
- Treasury's Office of the Fiscal Assistant Secretary; and
- NOAA's RESTORE Act Science Program.

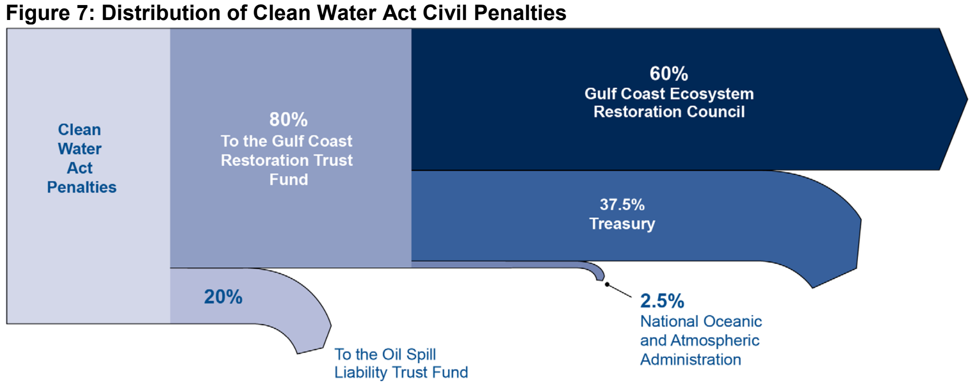
The Gulf Restoration and Science Program Coordination Forum provides regular communication and coordination on Gulf of Mexico restoration science amongst the entities funded as a result of the Deepwater Horizon event, including the three agencies that administer the Trust Fund. The forum, however, does not oversee the entities.

Funding and Management

Nature and Use of Collections

The Trust Fund collections are derived from Clean Water Act civil penalties paid by three companies in connection with the Deepwater Horizon oil spill: BP, Transocean, and Anadarko. Interest from the collections is also deposited in the Fund. These collections are distributed as shown in Figure 7 below.

Figure 7: Distribution of Clean Water Act Civil Penalties



Source: GAO analysis of agency data. | GAO-17-59

Note: This figure does not include distribution of interest income

The Trust Fund has collected $816 million from Transocean and $128 million from Anadarko, which represent the full payment due from those companies. Under an April 2016 consent decree, beginning in 2017 BP will pay civil penalties of $5.5 billion over 15 years, $4.4 billion of it to the Trust Fund. For purposes of control and distribution of the Trust Fund, the three federal agencies administer five statutory components, as follows:

- The Gulf Coast Ecosystem Restoration Council (Council) distributes a total of 60 percent of the Trust Fund. Under the Spill Impact Component, the Council distributes 30 percent of Trust Fund collections in grants to state governments using a formula based on population and metrics of damage from the Deepwater Horizon oil spill. Under the Comprehensive Plan Component, the Council distributes 30 percent of Fund collections to individual projects and programs selected by the Council for restoring and protecting the Gulf region.
- The Department of the Treasury (Treasury) distributes 37.5 percent of the Trust Fund. Under the Direct Component, Treasury distributes 35 percent of Trust Fund collections in grants to state government agencies in Alabama, Mississippi, Texas, and Louisiana; to county governments in Florida; and to parish governments in Louisiana. In addition, under the Centers of Excellence Component, Treasury also distributes 2.5 percent of Fund collections in grants to five Gulf Coast states for science, technology, and monitoring.
- Under the National Oceanic and Atmospheric Administration (NOAA) Science Component, NOAA distributes 2.5 percent of Fund collections primarily through cooperative and other types of agreements for marine research and other related scientific purposes dealing with the Gulf of Mexico ecosystem.
- Of the interest received on the deposited civil penalty payments, 50 percent is given to the Council for the Comprehensive Plan Component, 25 percent to NOAA for the RESTORE Act Science Program, and 25 percent to Treasury for the Centers of Excellence Component.

The RESTORE Act provides that the Council draw from the Trust Fund for its administrative expenses. In addition, the act provides that NOAA may draw from the Trust Fund for its administrative expenses up to 3 percent of its Trust Fund allocation; the balance of its expenses is paid from its annual budget. According to Treasury officials, Treasury's expenses to administer programs are paid from Treasury's annual budget. The Trust Fund is also subject to sequestration.

Funds Control and Management

The Trust Fund is governed by the RESTORE Act, which gives Treasury overall authority to administer it. Treasury has issued regulations to implement provisions in the RESTORE Act governing the Fund. OMB regulations and Uniform Guidance on grants and cooperative agreements also apply to distributions from the Trust Fund by the Council, Treasury, and NOAA. Each of the three federal entities administering programs provides guidance to recipients of money from the Trust Fund, and has staff that monitors the use of such money.

Oversight and Transparency

The RESTORE Act gives the Treasury's Inspector General (IG) audit authority over the Trust Fund. The IG has undertaken audits including reviews of the work of the Council, the establishment of Centers of Excellence, Treasury's management of the Direct Component, and reviews of the establishment and management of the NOAA RESTORE Act Science Program. It plans to continue such audits going forward. In addition, the Treasury IG contracts with an independent accounting firm to review the Council's financial statements.

According to officials, annual financial data for the Treasury and NOAA distributions from the Trust Fund are in the financial statements of Treasury and the Department of Commerce, respectively. These agencies' financial statements are audited by an independent accounting firm.

The three entities that control the Trust Fund have separate websites which contain copies of reports and information on operations and procedures. In addition, the entities communicate with stakeholders and the public through means such as public meetings, webinars, and appearances at conferences.

Appendix II

Entity Name: Public Company Accounting Oversight Board (PCAOB)

Statutory Authority: Sarbanes-Oxley Act of 2002 (Title I), as amended, and Investor Protection and Securities Reform Act of 2010 (Title IX of Dodd-Frank Wall Street Reform and Consumer Protection Act), as amended

Overview

Role and Mission

PCAOB oversees the audits of the financial statements of public companies to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports. PCAOB also oversees the audits of financial statements and related review of selected practices and procedures of brokers and dealers.

Administrative Structure

PCAOB is a nonprofit corporation established by Congress.

PCAOB has a five member Board, including a Chairman. The Board members are appointed to staggered 5-year terms by SEC, after consulting with the Chairman of the Board of Governors of the Federal Reserve System and the Secretary of the Treasury. PCAOB Board members can be removed by SEC. PCAOB is subject to SEC oversight, which includes reviewing and approving its annual budget and Accounting Support Fee paid by issuers, brokers, and dealers.

Funding and Management

Nature and Use of Collections

PCAOB's oversight function and related activities are funded almost entirely through the Accounting Support Fees assessed to issuers and to brokers and dealers registered with the Securities and Exchange Commission (SEC). The amount assessed to each issuer is based on the entity's relative average, monthly market capitalization during the preceding calendar year. Issuers include public companies and investment companies. The amount assessed to brokers and dealers is based on the entity's relative average, quarterly tentative net capital.

PCAOB also assesses fees to firms applying for registration and annual fees to PCAOB-registered public accounting firms. The registration and annual fees are to be collected in amounts sufficient to recover the costs of processing and reviewing applications and annual reports. The amount of the annual fee varies by the size of the public accounting firm, measured by the number of employees and issuer audit clients.

By statute, PCAOB funds are specifically not to be treated as federal funds and therefore are generally not subject to federal fiscal laws. For example, PCAOB's funds are not subject to the miscellaneous receipts statute, which requires that money received by the Government from any source shall be deposited in the Treasury and is not available for obligation. PCAOB's funds are, however, subject to sequestration.

PCAOB's budget is reviewed and approved by SEC and the amount of fees collected for a fiscal year—which, for PCAOB, is the calendar year—may not exceed the recoverable budget expenses of the PCAOB. If in any fiscal year PCAOB receives collections in excess of its budget, PCAOB is to hold those excess funds in escrow. The funds in escrow are released to PCAOB at the beginning of the next fiscal year and reduce PCAOB's total Accounting Support Fee for that fiscal year. SEC permits PCAOB to retain a reserve of up to 5 months of operating costs at the beginning of its fiscal year. Table 5 shows PCAOB's fee collections for fiscal years 2014 and 2015.

Table 5: Public Company Accounting Oversight Board Collections, by Source

Dollars in Millions

	Fiscal Year	
	2014	**2015**
Issuer Accounting Support Fee	225	199
Broker-Dealer Accounting Support Fee	27	27
PCAOB registration and annual fees from accounting firms	2	2
Total	**254**	**228**

Source: GAO Analysis of PCAOB Annual Reports | GAO-17-59

Note: In addition to the collections listed above, PCAOB collects monetary penalties, which, by statute, are to be used to fund merit scholarships for accounting students, subject to appropriation. PCAOB awarded 72 scholarships of $10,000 for academic year 2016-2017.

Funds Control and Management

PCAOB, as a nonprofit corporation, may choose which, if any, internal control framework to follow. In assessing the effectiveness of its internal control over financial reporting, PCAOB uses the criteria established in the Committee of Sponsoring Organizations of the Treadway Commission's (COSO) *Internal Control – Integrated Framework* (2013 version) .

As part of its oversight, SEC may promulgate rules to govern PCAOB's financial management. For example, SEC created a rule outlining PCAOB's budget process. The rule includes timelines for preparing and submitting PCAOB's budget and describes what should be included in the budget submission. Additionally, SEC's budget rule requires PCAOB to send SEC quarterly reports on its spending and staffing, and other information requested by SEC.

Oversight and Transparency

SEC oversees PCAOB, including approving the board's rules, standards, and budget. SEC's oversight activities have included open meetings to vote on whether to approve PCAOB's budget. Also, SEC's Office of Financial Management and Office of the Chief Accountant coordinate the review of PCAOB's budget.

PCAOB established an Office of Internal Oversight and Performance Assurance (IOPA) to internally examine its programs and operations. IOPA is tasked with helping to ensure the internal efficiency, integrity, and effectiveness of those programs and operations through annual and special reviews, audits, and inquiries, and reviews of allegations of wrongdoing by PCAOB employees. As such, IOPA functions similarly to an Inspector General.

PCAOB is required to submit an annual report, including its annual financial statements, to SEC. SEC then transmits a copy of the report to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services. PCAOB also briefs or testifies in hearings as requested by Congress. Because of PCAOB's structure as a non-profit corporation instead of a federal agency, Congress can seek information directly or work through SEC to get information about PCAOB. Some committees of jurisdiction we spoke to told us they conduct oversight of PCAOB through SEC.

PCAOB promotes transparency through its website. This includes information on its mission, budget, strategic plans, operations (through its annual reports), webcasts of its meetings and webinars, as well as summary results of IOPA's review findings. It also includes general information on registration and annual fees, and the Accounting Support Fee. This information is available to SEC and Congress for transparency in their oversight activities. The availability of this information provides transparency to the public, including those who pay the Accounting Support Fee and the entities that PCAOB regulates.

Appendix III: Comments from the U.S. Department of Agriculture

USDA

United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

NOV 0 9 2016

Ms. Susan J. Irving, Director
Federal Budget Analysis, Strategic Issues
Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Ms. Irving:

Thank you for providing the United States Department of Agriculture (USDA) the opportunity to comment on the Government Accountability Office's (GAO) Draft Report "Permanent Funding Authorities: Some Selected Entities Should Review Financial Management, Oversight, and Transparency Policies" (17-59).

USDA's Animal and Plant Health Inspection Service (APHIS) has a policy to establish fees at levels that will recover, to the fullest extent possible, all costs from providing the requested services. As such, fees will be reviewed at least biennially to ensure proper cost recovery of APHIS user fee program costs. While our current user fee reserve target has served APHIS well, we do recognize that a more robust review will provide a data-centric basis for target levels.

We have addressed the Recommendation made to the Secretary of Agriculture.

GAO Recommendation

To ensure efficient use of resources and plan for realistic risks, GAO recommends that the Secretary of Agriculture direct APHIS to review and document its operating reserve targets including an analysis of individual program needs, risks, and probable contingencies, for each of the following fees: Veterinary Services Import Export, Veterinary Diagnostic, and Phytosanitary Export Certification.

USDA Response

USDA agrees with this Recommendation. The three regulatory user fees noted above fall within two of APHIS' program areas: Veterinary Services and Plant Protection and Quarantine. Each of these program areas has its own mission, goals, and objectives that support APHIS' overall mission to protect the health and value of American agriculture and natural resources.

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Susan J. Irving
Page 2

Regarding the three regulatory user fees noted above, APHIS will undertake an analysis and document the operating reserve targets to ensure that those targets align with program needs, risks, and probable contingencies. We will update APHIS Directive 2150.1, "Developing User Fees for APHIS Services," to incorporate the requirement of performing an analysis for calculating operating reserve targets.

Sincerely,

Elvis S. Cordova

Elvis Cordova
Acting Under Secretary
Marketing and Regulatory Programs

Appendix IV: Comments from the Consumer Financial Protection Bureau

cfpb Consumer Financial Protection Bureau

1700 G Street NW, Washington, DC 20552

November 14, 2016

Ms. Susan J. Irving
Director for Federal Budget Analysis, Strategic Issues
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Ms. Irving,

Thank you for the opportunity to review and comment on the Government Accountability Office's draft report, titled *Permanent Funding Authorities: Some Selected Entities Should Review Financial Management, Oversight, and Transparency Policies* (GAO-17-59). I appreciate GAO's engagement with the Consumer Financial Protection Bureau over the course of this review.

The Bureau has worked hard to develop and maintain strong internal controls, to be responsive to oversight by auditors and Congress, and to promote transparency. We are pleased that GAO's report highlights much of this work, and that GAO found that CFPB's funds management, information reporting, and accountability are generally effective.

GAO's draft report underscores the utility of maintaining an operating reserve, and emphasizes the importance of setting operating reserve targets to ensure an adequate amount to meet operational needs and probable contingencies. To that end, GAO recommends that the CFPB review and document our operating reserve targets for the Bureau Fund, including an analysis of program needs, risks, and probable contingencies. The Bureau concurs with this recommendation and has already begun reviewing the operating reserve policy based on an analysis of current needs and contingencies. We will also review the practices of other federal financial regulatorary agencies such as the Office of the Comptroller of the Currency (OCC), which maintained reserves of over $1 billion as of the end of 2015, to make sure we are also incorporating industry best practices as applicable. The Bureau notes that our current policy was established in 2014, and

consumerfinance.gov

with the benefit of additional time and experience, the Bureau is confident that a review of the operating reserve targets will ensure that they are set at appropriate levels.

We remain committed to transparency and prudent management of our funds, and appreciate the opportunity to improve our processes.

Sincerely,

Stephen J. Agostini

Stephen J. Agostini
Chief Financial Officer

consumerfinance.gov

Appendix V: Comments from the Public Company Accounting Oversight Board

PCAOB
Public Company Accounting Oversight Board

1666 K Street, N.W.
Washington, DC 20006
Telephone: (202) 207-9100
Facsimile: (202) 862-8430
www.pcaobus.org

November 16, 2016

Ms. Susan J. Irving
Director for Federal Budget Analysis, Strategic Issues
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Ms. Irving:

Thank you for providing the United States Government Accountability Office's draft report "Permanent Funding Authorities: Some Selected Entities Should Review Financial Management, Oversight, and Transparency Policies."

As the Draft Report notes, the Public Company Accounting Oversight Board (PCAOB) is not an agency of the federal government and, with the exception of its civil monetary penalties, is not subject to the congressional appropriations process. Nonetheless, the PCAOB is subject to oversight by the Securities and Exchange Commission (SEC) and, more generally, is committed to conscientious financial management and transparency in light of its public interest mission. I appreciate that the Draft Report notes a number of the governance measures the PCAOB has put in place, both to implement legal requirements and, as a matter of best practice, to fulfill its commitment to careful stewardship of its resources, transparency and accountability to external constituents.

The Draft Report also notes several opportunities for the SEC and PCAOB to enhance the PCAOB's oversight and accountability. I agree with and support GAO's recommendations on these topics.

Reserve Target. First, as the Draft Report notes, the PCAOB's "operating reserve target" has been established through an SEC rule promulgated in 2006.[1] GAO recommends that the SEC Chair, "[t]o ensure that the reserve target SEC set for PCAOB safeguards against realistic risks and probable contingencies, including potential unforeseen funding delays, analyze – and document the analysis of – program

1 See 17 C.F.R. 202.11(d)(3) (2006) (providing for PCAOB to have a five month working capital reserve).

PCAOB
Public Company Accounting Oversight Board

Ms. Susan J. Irving
November 16, 2016
Page 2

needs and probable contingencies, in consultation with PCAOB as appropriate." The PCAOB will coordinate with the SEC, as appropriate, to analyze this issue.

Annual Report. The Draft Report next recommends that the SEC "establish a deadline for PCAOB's required annual report." While the variation in release dates for the PCAOB's annual report has never affected our willingness or ability to provide the SEC or Congress information for their oversight, I agree that an external deadline could expedite the annual report process, as well as enhance its uniformity and predictability. Accordingly, the PCAOB will consult with the SEC, as appropriate, if and when the SEC considers setting such a deadline.

Thank you again for the opportunity to review and comment on the Draft Report, as well as for your staff's professionalism in conducting this review. The PCAOB appreciates GAO's recommendations and intends to work closely with the SEC as they consider them.

Sincerely,

James R. Doty
Chairman

Appendix VI: Comments from the Securities and Exchange Commission

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

November 17, 2016

Susan J. Irving
Director for Federal Budget Analysis
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Ms. Irving:

Thank you for the opportunity to review the draft report of the examination you conducted at the request of the U.S. Senate Permanent subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs. We appreciate the insight that the Government Accountability Office ("GAO") has provided regarding the funding of the Public Company Accounting Oversight Board ("PCAOB").

You noted that the PCAOB has policies and procedures to manage and report on its permanent funding authority. You also noted two areas where practices could be improved for the PCAOB to analyze its needs for budgetary reserves and report information that facilitates oversight, which we discuss below.

The draft report reflects the GAO view that it is important for entities with operating reserves to establish appropriate target amounts to help ensure the efficient and responsible use of their funding. The SEC, by regulation, establishes a five-month reserve limit for the PCAOB to observe when it develops its annual budget and fees. By establishing the five-month reserve limit, the regulation seeks to strike a balance between (1) giving the PCAOB the ability to collect sufficient funds to handle contingencies and (2) not assessing issuers and broker-dealers more fees, or sooner, than necessary.[1] While the five month reserve has been adequate over the 10 years since implementing the regulation, we agree with the draft report's recommendation that the PCAOB should analyze, with review by the SEC, program costs and risks to ensure that the operating reserve targets reflect current needs and probable contingencies.

The draft report also notes that the PCAOB is a nonprofit corporation and, unlike federal agencies and certain other entities, it does not have a required time frame for publishing its financial statements. The statute requires the PCAOB to submit its annual report to the SEC, and the SEC thereafter to transmit the report to specified Congressional committees.[2] We agree with the draft report's recommendation that a required time frame be established for PCAOB submission of its financial statements to the SEC, and we will work with the PCAOB to establish such a time frame.

1 See Section II.B of Release 33-8724 accompanying the Budget Rule.

2 See Section 101(h) of the Act.

We appreciate the GAO's attention to these important issues, and we would like to thank you and your staff for your work.

Sincerely,

Wesley R. Bricker
Interim Chief Accountant

Kenneth A. Johnson
Chief Financial Officer

Appendix VII: GAO Contact and Staff Acknowledgements

GAO Contact

Susan J. Irving, (202) 512-6806 or irvings@gao.gov

Staff Acknowledgements

In addition to the contact named above, Susan Murphy, Assistant Director, and Laurel Plume, Analyst-in-Charge, managed all aspects of this assignment. Steve Berke, Sharon Miller, Silvia Porres, Amanda Postiglione, and Justin Riordan made major contributions to this report. Also contributing to this report in their areas of expertise were Mary Denigan-Macauley, Lorraine Ettaro, Nkenge Gibson, Cody Goebel, Valerie Kasindi, Dawn Locke, Jeremy Manion, Julia Matta, Diana Maurer, Kim McGatlin, John Mingus, Andrew Pauline, Robert Robinson, Nina Rostro, Stewart Small, and Karen Tremba.

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