



## IMPLEMENTING SOLUTIONS: THE IMPORTANCE OF FOLLOWING THROUGH ON GAO AND OIG RECOMMENDATIONS

**HENRY R. WRAY, JD**

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Subcommittee on Regulatory Affairs and Federal Management

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Chairman Lankford, Ranking Member Heitkamp, and members of the subcommittee, I appreciate the opportunity to submit a statement for the record of this important hearing.

My name is Henry Wray. Most recently, I have been a visiting fellow with the Mercatus Center's Government Accountability Project. Prior to that, I served as a staff attorney with your Committee as well as several House committees. I also worked for 30 years at the Government Accountability Office (GAO), primarily as an attorney and also for several years as a managing director.

### OVERVIEW

Throughout my career, I have observed first-hand the vital role that GAO and inspectors general (IGs) play in enhancing federal government performance, supporting congressional oversight, and serving as "watchdogs" on behalf of American taxpayers. As illustrated below, GAO and IG recommendations save billions of tax dollars and achieve countless nonfinancial benefits each year. There are, however, some significant issues in follow-through on audit recommendations that I will highlight.

1. The data on how agencies implement recommendations lack transparency.
2. Timely action on audit recommendations is frequently lacking.
3. Agency accountability for addressing recommendations is too lax.

For more information or to meet with the scholars, contact  
Robin Walker, 202-550-9246, [rwalker@mercatus.gmu.edu](mailto:rwalker@mercatus.gmu.edu)  
Mercatus Center at George Mason University, 3434 Washington Blvd., 4th Floor, Arlington, Virginia 22201

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As a result, Congress and the public are not realizing the maximum potential return on the crucial work of GAO and the IGs. I will offer several policy recommendations for legislative changes to enhance the visibility of audit recommendations and encourage agencies to act on them with a greater sense of urgency.

## VALUE OF AUDIT RECOMMENDATIONS

Each year GAO and the 72 agency IGs issue thousands of recommendations designed to improve the economy, efficiency, and effectiveness of the federal government. For example, GAO's recommendations resulted in financial benefits of \$74.7 billion for fiscal year 2015. IG recommendations for fiscal year 2014 carried potential taxpayer savings of about \$46.5 billion. Both GAO and the IGs also issue many recommendations carrying substantial nonfinancial benefits in terms of enhanced government performance and better service to the public.

The work of GAO and the IGs provides overall perspective on the most serious problems facing the federal government and how to address them. For example, starting in 1990, GAO has issued a biennial "high-risk list" of operations across government that are most vulnerable to fraud, waste, abuse, mismanagement, or other major shortcomings. The current high-risk list contains 32 problem areas.<sup>1</sup> Similarly, a law authored by this committee<sup>2</sup> requires IGs to compile annual reports of the most serious management and performance challenges facing their agencies—in effect, agency-specific high-risk lists. These products, which reflect key GAO and IG recommendations, provide essential roadmaps for executive branch officials, congressional overseers, and others seeking to improve government performance.

## ADDRESSING AUDIT RECOMMENDATIONS

While federal agencies are not, of course, required to agree with audit recommendations, they must (1) respond to each recommendation on a timely basis and (2) implement promptly and effectively those they do accept. These basic agency responsibilities are the same whether the recommendation comes from GAO or an IG. However, the protocols for addressing IG and GAO recommendations differ somewhat in their specifics.

As envisioned by the Inspector General Act of 1978, as amended (IG Act),<sup>3</sup> addressing IG recommendations is a two-step process. First, the agency concerned "resolves" the recommendation by a "management decision" that accepts or rejects it, and if the agency agrees with the recommendation, develops a corrective action plan. Second, final action occurs and the recommendation is "closed" once the corrective actions called for in the management decision have been fully implemented to the IG's satisfaction.

The following statutory time frames apply to the initial resolution and final implementation of IG recommendations:

- Agency heads must reach a management decision on all findings and recommendations in an IG report within six months after the report's issuance.
- Agency heads must complete final action on each management decision with regard to an IG recommendation within 12 months after report issuance.

1. GAO, High-Risk Series: An Update, GAO-15-290 (February 2015).

2. Reports Consolidation Act of 2000, Pub. L. No. 106-531, § 3(a), 114 Stat. 2537-2538 (2000), 31 U.S.C. 3516(d).

3. Pub. L. No. 95-452, 92 Stat. 1101 (1978), as amended, 5 U.S.C. App. 3.

- If an agency fails to complete action within 12 months, the IG must identify the matter in its semiannual report to Congress pursuant to the IG Act and continue listing it until final action is completed.<sup>4</sup>

The IG Act requires IG semiannual reports to contain a number of information items about audit recommendations. Among other things, the semiannual reports must summarize each audit report over six months old that lacks a management decision resolving its recommendations. This summary is to include an explanation of the reasons for failure to reach a management decision and a timetable for completing it.<sup>5</sup> The semiannual reports must also identify “significant” recommendations described in prior semiannual reports on which corrective action has not been completed, *i.e.*, open recommendations over six months old.<sup>6</sup>

Agency responses to GAO recommendations are subject to only one statutory requirement. When GAO makes a recommendation to an agency head, the agency must submit a written statement to the congressional appropriations and oversight committees “on action taken on the recommendation” within 60 days.<sup>7</sup> These statements are commonly referred to as 60-day letters. There is no statutory time frame for completing action on GAO recommendations. However, GAO maintains an online database that tracks open recommendations usually for a period of four years.<sup>8</sup>

## DATA TRANSPARENCY PROBLEMS

In an effort to assess the timeliness of agency responses to IG recommendations, I reviewed the websites and most recent semiannual reports for IG offices at a number of major agencies.<sup>9</sup> I found it surprisingly difficult to obtain comprehensive data on open recommendations from these sources. None of the IG websites has an online database of open recommendations; thus, the semiannual reports provide the main source of information. Unfortunately, trying to work with the semiannual reports is quite challenging. The semiannual reports are generally lengthy and cumbersome. They also present information on recommendations in different and often confusing ways. Sometimes key information is either missing or so obscure that I could not locate it. (In fairness, part of the problem is that the information requirements for semiannual reports laid out in the IG Act are themselves complicated and confusing.)

## LACK OF TIMELY ACTION ON AUDIT RECOMMENDATIONS

Despite these limitations, the data that can be culled from the semiannual reports clearly indicate that timeliness in addressing IG recommendations is a significant problem at both the resolution and implementation stages.

4. Notably, these requirements are not contained in the IG Act itself but were added by section 6009 of the Federal Acquisition Streamlining Act of 1994, as amended, 110 Stat. 394, 5 U.S.C. App. note. The text of section 6009 appears in the U.S. Code Appendix in a note following section 5 of the IG Act.

5. Section 5(a)(10) of the IG Act.

6. Section 5(a)(3) of the IG Act.

7. 31 U.S.C. 720. The statement is due to the oversight committees 60 days after the report is issued and to the appropriations committees with the first appropriation request submitted more than 60 days after report issuance.

8. See GAO, “Reports and Testimonies: Recommendations Database.”

9. The agencies were the Departments of Defense, Education, Health and Human Services, Homeland Security, Housing and Urban Development, Interior, Justice, Labor, Transportation, and Veterans Affairs, as well as the Office of Personnel Management and the Social Security Administration.

*Unresolved recommendations over six months old.* There is a considerable variation among agencies in the number of recommendations left unresolved for over six months. Some agency IGs reported few or none at their agencies. As the following examples in table 1 illustrate, however, the picture is far different at other agencies.

Table 1. Unresolved Recommendations over Six Months Old

Agency	Unresolved Recommendations	Dollar Value
Department of Education	84 recommendations	\$47,304,232
Department of Health and Human Services	50 reports (number of recommendations not specified)	\$177,682,000
Department of Labor	26 recommendations	\$26,672,398
Department of Transportation	36 recommendations	\$493,070,000

*Unimplemented recommendations over 12 months old.* Here again, it is difficult to obtain clear data from the semiannual reports. However, the reports and other sources do provide some insights. The most recent semiannual report for the Veterans Affairs IG, for example, lists 102 open recommendations over one year old having potential cost savings of \$1.76 billion. The Transportation Department IG reports 663 open recommendations carrying potential savings of over \$2.4 billion. A quick review indicates that many of these are well over one year old. Likewise, the IG for the Homeland Security Department reports 583 open recommendations, many of which are well over one year old. A March 2015 compendium of open recommendations by the IG for Health and Human Services summarizes about 80 that are over one year in age. They include 28 from 2013, 22 from 2012, and 22 from 2011 or earlier. Two go back to the 1990s. The compendium highlights what the IG considers to be the office’s “top 25” open recommendations. Six of these date from 2011 or earlier; one is from 2001.

It is possible that some agencies may not be aware of the statutory one-year time frame for implementation of IG recommendations. The Department of Homeland Security witness at the December 10 hearing stated that the Department has a goal to implement recommendations within two years—twice the statutory deadline.

*GAO open recommendations.* The pace of addressing GAO recommendations also is problematic. According to Comptroller General Gene Dodaro’s testimony, there are currently about 4,800 open GAO recommendations to federal agencies.<sup>10</sup> For example, GAO’s database lists almost 400 such recommendations at the Department of Homeland Security and approximately 375 at the Department of Health and Human Services. Most notably, the database shows over 1,000 open recommendations at the Department of Defense and its components. This goes a long way toward explaining why Defense owns seven of the 32 of problem areas on GAO’s high-risk list, far more than any other agency. Six of these problem areas have languished on the high-risk list since the 1990s.

Mr. Dodaro’s prepared statement describes key open recommendations, frequently dating back several years, that carry billions of dollars of potential cost savings.<sup>11</sup> One example he cites is a January 2012

10. GAO, “Government Efficiency and Effectiveness: Implementing GAO Recommendations Can Achieve Financial Benefits and Strengthen Government Performance,” GAO-16-272T, December 10, 2015.

11. See GAO, “Government Efficiency and Effectiveness,” 16–28.

recommendation that the Centers for Medicare and Medicaid Services (CMS) improve the accuracy of coding adjustments in a way that could reduce excess payments by \$3.2 to \$5.1 billion over three years. He states:

CMS said it would take our findings into consideration, but as of April 2015 the agency has not established definitive plans or timeframes for improving the accuracy of its adjustment. Until CMS updates its practices, excess payments due to differences in coding practices are likely to increase.<sup>12</sup>

GAO issues an average of 1,800 recommendations yearly; thus it appears that most of its 4,800 open recommendations are over one year old. Since GAO generally stops tracking open recommendations after four years, there is no telling how many even older recommendations remain unimplemented. Finally, GAO does not currently track agency 60-day letters in response to its recommendations so the extent of compliance with this requirement cannot be determined.

## POLICY RECOMMENDATIONS FOR IMPROVING AUDIT FOLLOW-UP

*The statutory six-month deadline for reaching management decisions resolving IG recommendations should be shortened.* As noted, management decisions entail deciding whether the agency agrees with an IG recommendation, and if it does, developing a corrective action plan. It is hard to understand why this process should take up to six months, at least in the vast majority of cases. The six-month window seems particularly excessive when one considers that agency officials usually have a good idea of what the IG recommendations will be well before a final report is issued through their earlier review of the draft report and other interactions with the auditors during the audit process. The six-month deadline probably could be cut in half, moving it much closer to the 60-day deadline applicable to GAO recommendations.

*Deadlines for implementing IG recommendations should be based on targets set for each recommendation.* Unlike the management decision step, the second step of implementing recommendations does not lend itself to a one-size-fits-all deadline. Some recommendations may be capable of full implementation well short of the current one-year deadline. Conversely, many others deal with complex problems that may legitimately take considerably longer to implement. Moreover, implementation of some recommendations may hinge on actions at least partially beyond the agency's control, such as the enactment of legislation. Given these considerations, one approach would be to replace the current one-year implementation deadline with a requirement that corrective action plans developed in management decisions set specific target completion dates for each recommendation. These individually tailored target dates could then be used as deadlines for reporting on implementation. The target dates might be made subject to modification (lengthening or shortening) as implementation proceeds based on changed circumstances and with the concurrence of the IG.

*Need for online, searchable IG open recommendations databases.* Requiring tighter statutory deadlines for action on IG recommendations, while appropriate, is not a complete solution. Agencies often fail to meet the current more generous deadlines and, in any event, there is no practical sanction for noncompliance. Adding greater transparency and visibility with respect to IG recommendations and their implementation could further enhance agency accountability. One way of doing this is to require each IG website to establish a comprehensive database of open recommendations along the lines of the GAO model.

12. Ibid., 19.

As discussed above, it is now very difficult to obtain clear, consistent, and comprehensive information on open recommendations from IG web sites and semiannual reports. Searchable, online databases would make this information readily accessible. Facilitating the tracking of agency action (or inaction) on recommendations is only one benefit. Such databases would also provide enhanced and much more user-friendly access to the important work done by the IGs. This, in turn, should promote greater attention to and use of IG reports and recommendations by Congress, academics, the media, and other interested parties.

Ideally, information from individual IG recommendations databases could be incorporated at some point into a government-wide database of IG recommendations under the auspices of the Council of the Inspectors General on Integrity and Efficiency.

*Database content.* The databases should incorporate a search feature capable of retrieving information on each open recommendation to meet the varied interests of all potential users. The following are some search fields that might be included:

- the subject matter, agency component, text and estimated taxpayer savings for each recommendation along with a link to the full report;
- the text of the agency's management decision; and
- the status of each recommendation in relation to applicable timeliness and other requirements.

In addition, there should be a means of highlighting particularly important recommendations such as, for example, those that:

- significantly impact the agency's most serious management and performance challenges as identified by the IG;
- significantly impact GAO high-risk list items applicable to the agency; or
- carry estimated cost savings over a specified threshold.

*Changes to 60-day letters on GAO recommendations.* Comptroller General Dodaro stated at the December 10 hearing that he intends to review the current statutory 60-day letter process governing agency responses to GAO recommendations. He expressed interest in expanding the recipients to include authorizing committees and also looking at the timeliness and quality of the letters.

I would suggest that GAO be made a mandatory recipient of the 60-day letters as well. GAO could then track the letters for compliance with the 60-day deadline and include this information in its recommendations database. The 60-day letter provision could be further expanded to require that agency response contain a specific corrective action plan for each recommendation including target completion dates. GAO could then review each letter and submit to the congressional recipients any comments it deemed appropriate concerning the adequacy of the agency corrective action plan and reasonableness of the target completion dates. GAO could also use the target completion dates (subject to modification as appropriate) to track implementation progress on its recommendations database. These statutory enhancements should improve the timeliness and quality of 60-day letters. In essence, they would require agencies to accord GAO recommendations the same level of attention and accountability as IG recommendations.

## CONCLUSION

The outstanding work of the GAO and agency IGs has never been more important than it is today given the massive financial and performance challenges facing the federal government. I commend the subcommittee for its efforts to ensure that this work gets the attention and action it deserves so that it can achieve maximum impact. I would be happy to provide any further assistance that might be useful to these efforts.