United States Government Accountability Office

Report to the Congress

June 2020

COVID-19

Opportunities to Improve Federal Response and Recovery Efforts

GAO Highlights

Highlights of GAO-20-625, a report to the Congress

COVID-19

Opportunities to Improve Federal Response and Recovery Efforts

Why GAO Did This Study

The outbreak of COVID-19 quickly spread around the globe. As of June 17, 2020, the United States had over 2 million reported cases of COVID-19, and over 100,000 reported deaths, according to federal agencies. Parts of the nation have also seen severely strained health care systems. Also, the country has experienced a significant and rapid downturn in the economy. Four relief laws, including the CARES Act, were enacted as of June 2020 to provide appropriations to address the public health and economic threats posed by COVID-19. In addition, the administration created the White House Coronavirus Task Force.

The CARES Act includes a provision for GAO to report bimonthly on its ongoing monitoring and oversight efforts related to the COVID-19 pandemic. This initial report examines key actions the federal government has taken to address the COVID-19 pandemic and evolving lessons learned relevant to the nation's response to pandemics, among other things.

GAO reviewed data and documents from federal agencies about their activities and interviewed federal and state officials as well as industry representatives. GAO also reviewed available economic, health, and budgetary data.

What GAO Recommends

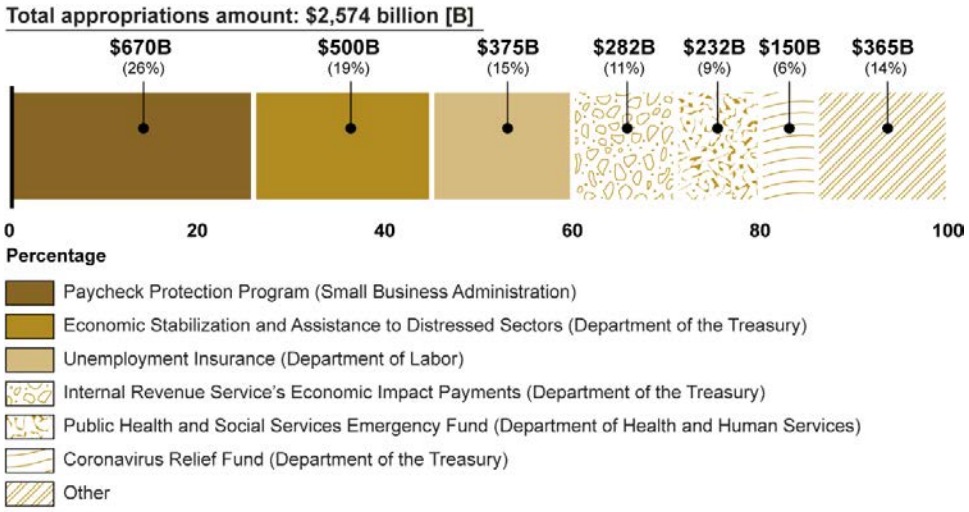
GAO is making 3 new recommendations for agencies and 3 matters for consideration for Congress that are detailed in this Highlights and in the report.

View GAO-20-625. For more information, contact A. Nicole Clowers, (202) 512-7114 or clowersa@gao.gov.

What GAO Found

In response to the national public health and economic threats caused by COVID-19, four relief laws were enacted as of June 2020, including the CARES Act, in March 2020. These laws have appropriated $2.6 trillion across the government. Six areas—Paycheck Protection Program (PPP); Economic Stabilization and Assistance to Distressed Sectors; unemployment insurance; economic impact payments; Public Health and Social Services Emergency Fund; and Coronavirus Relief Fund—account for 86 percent of the appropriations (see figure).

Appropriations for COVID-19 Response from COVID-19 Relief Laws Enacted as of May 31, 2020



Source: GAO analysis of appropriation warrant information provided by the Department of the Treasury as of May 31, 2020. | GAO-20-625

Note: COVID-19 relief laws enacted as of May 31, 2020 include the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123, 134 Stat. 146; Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020); CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020); and Paycheck Protection Program and Health Care Enhancement Act, Pub. L. No. 116-139, 134 Stat. 620 (2020).

These amounts represent appropriation warrants issued as of May 31, 2020, by the Department of the Treasury to agencies in response to appropriations made by COVID-19 relief laws. A warrant is an official document issued upon enactment of an appropriation that establishes the amount of money authorized to be withdrawn from the Treasury. These amounts could increase in the future for programs with indefinite appropriations. In addition, this figure does not represent transfers of funds that agencies may make between accounts or transfers of funds they may make to other agencies, to the extent authorized by law.

Total federal spending data are not readily available because, under Office of Management and Budget guidance, federal agencies are not directed to report COVID-19 related obligations (financial commitments) and expenditures until July 2020. It is unfortunate that the public will have waited more than 4 months since the enactment of the CARES Act for access to comprehensive obligation and expenditure information about the programs funded through these relief laws.

In the absence of comprehensive data, GAO collected obligation and expenditure data from agencies, to the extent practicable, as of May 31, 2020. For the six largest spending areas, GAO found obligations totaled $1.3 trillion and expenditures totaled $643 billion. The majority of the difference was due to the PPP, for which the Small Business Administration (SBA) obligated $521 billion. The amounts for loan guarantees will not be considered expenditures until the loans are forgiven, and for those that are not forgiven, whether they are timely repaid.

GAO also collected expenditure data on other programs affected by the federal response. For example, GAO also found that the Department of Health and Human Services (HHS) has provided $7 billion in COVID-19 Medicaid funding related to a temporary increase in the Federal Medical Assistance Percentage (FMAP), the statutory formula the federal government uses to match states' Medicaid spending. Based on the information GAO collected, government-wide spending totals at least $677 billion, as of May 31, 2020.

Given the sweeping and unfolding public health and economic crisis, agencies from across the federal government were called on for immediate assistance, requiring an unprecedented level of dedication and agility among the federal workforce, including those serving on the front lines to quickly establish services for those infected with the virus. Consistent with the urgency of responding to serious and widespread health issues and economic disruptions, agencies have given priority to moving swiftly where possible to distribute funds and implement new programs. As tradeoffs were made, however, agencies have made only limited progress so far in achieving transparency and accountability goals.

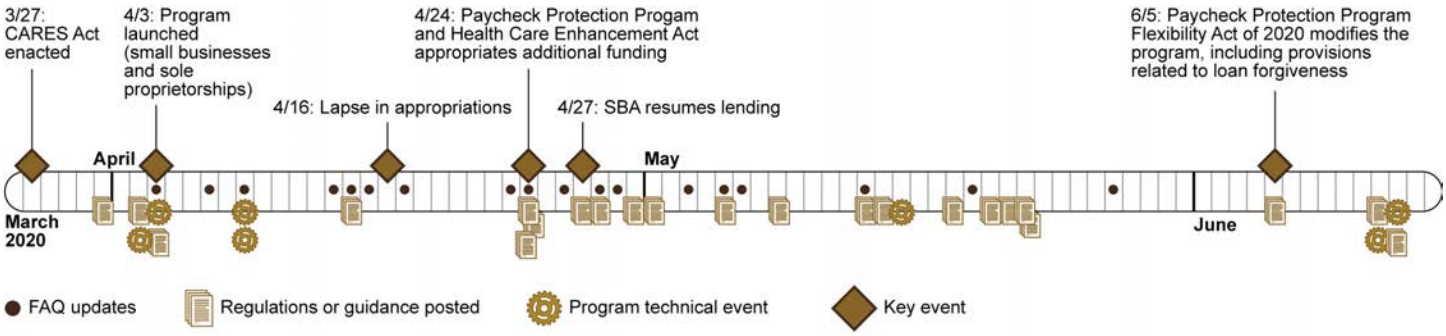
GAO has identified several challenges related to the federal response to the crisis, as well as recommendations to help address these challenges, including the following:

Viral testing. The Centers for Disease Control and Prevention (CDC) reported incomplete and inconsistent data from state and jurisdictional health departments on the amount of viral testing occurring nationwide, making it more difficult to track and know the number of infections, mitigate their effects, and inform decisions on reopening communities. However, HHS issued guidance on June 4, 2020, to laboratories that identifies required data elements to collect and how to report it to CDC. GAO will continue to examine activities related to COVID-19 testing.

Distribution of supplies. The nationwide need for critical supplies to respond to COVID-19 quickly exceeded the quantity of supplies contained in the Strategic National Stockpile, which is designed to supplement state and local supplies during public health emergencies. HHS has worked with the Federal Emergency Management Agency (FEMA) and the Department of Defense (DOD) to increase the availability of supplies. However, federal, state, and local officials have expressed concerns about the distribution, acquisition, and adequacy of supplies. GAO will continue to examine these issues as well as the administration's efforts to mitigate supply gaps.

Paycheck Protection Program. As of June 12, 2020, the Small Business Administration (SBA) had rapidly processed over $512 billion in 4.6 million guaranteed loans through private lenders to small businesses and other organizations adversely affected by COVID-19. The $512 billion represents loan obligations for SBA and does not include lender fees. As of May 31, 2020, SBA had expended about $2 billion in lender fees. SBA moved quickly to establish a new nationwide program, but the pace contributed to confusion and questions about the program and raised program integrity concerns. First, borrowers and lenders raised a number of questions about the program and eligibility criteria. To address these concerns, SBA and the Department of the Treasury (Treasury) issued a number of interim final rules and several versions of responses to frequently asked questions (see figure). However, questions and confusion remained. The Paycheck Protection Program Flexibility Act of 2020, enacted in June 2020, modified key program components. Second, to help quickly disburse funds, SBA allowed lenders to rely on borrower certifications to determine borrowers' eligibility, raising the potential for fraud. **GAO recommends that SBA develop and implement plans to identify and respond to risks in PPP to ensure program integrity, achieve program effectiveness, and address potential fraud. SBA neither agreed nor disagreed, but GAO believes implementation of its recommendation is essential.**

Timeline for Paycheck Protection Program, as of June 12, 2020



Source: GAO analysis of Small Business Administration data. | GAO-20-625

Economic impact payments. The Internal Revenue Service (IRS) and the Treasury moved quickly to disburse 160.4 million payments worth $269 billion. The agencies faced difficulties delivering payments to some individuals, and faced additional risks related to making improper payments to ineligible individuals, such as decedents, and fraud. For example, according to the Treasury Inspector General for Tax Administration, as of April 30, almost 1.1 million payments totaling nearly $1.4 billion had gone to decedents. **GAO recommends that IRS should consider cost-effective options for notifying ineligible recipients how to return payments. IRS agreed with the recommendation.**

Unemployment Insurance (UI). States are implementing three new, federally funded UI programs created by the CARES Act and, as of May 2020, states have received more than 42 million UI claims. The Department of Labor (DOL) has taken steps to help states manage demand, but DOL is developing its approach to overseeing the new UI programs. GAO will be evaluating DOL's monitoring efforts in future reports. Further, the UI program is generally intended to provide benefits to individuals who have lost their jobs; under PPP, employers are generally required to retain or rehire employees for full loan forgiveness. According to DOL, no mechanism currently exists that could capture information in real time about UI claimants who may receive wages paid from PPP loan proceeds. **GAO recommends that DOL, in consultation with SBA and Treasury, immediately provide help to state unemployment agencies that specifically addresses PPP loans, and the risk of improper payments associated with these loans. DOL neither agreed nor disagreed with the recommendation, but noted it was planning forthcoming guidance.**

Contract obligations. Government-wide contract obligations in response to the COVID-19 pandemic totaled about $17 billion as of May 31, 2020. Goods procured include ventilators; services contracted for include vaccine development. In addition, the CARES Act provided $1 billion for Defense Production Act (DPA) purchases—$76 million of which, for example, was awarded to increase production of N95 respirators.

GAO recommends Congress consider taking legislative action in the following areas:

Aviation-preparedness plan. In 2015, GAO recommended that the Department of Transportation (DOT) work with federal partners to develop a national aviation-preparedness plan for communicable disease outbreaks. DOT agreed, but as of May 2020, maintains that HHS and DHS should lead the effort. Thus far, no plan exists. **GAO recommends Congress take legislative action to require DOT to work with relevant agencies and stakeholders to develop a national aviation-preparedness plan to ensure safeguards are in place to limit the spread of communicable disease threats from abroad while at the same time minimizing any unnecessary interference with travel and trade.**

Full access to death data. The number of economic impact payments going to decedents highlights the importance of consistently using key safeguards in providing government assistance to individuals. IRS has access to the Social Security Administration's full set of death records, but Treasury and its Bureau of the Fiscal Service, which distribute payments, do not. **GAO recommends that Congress provide Treasury with access to the Social Security Administration's full set of death records, and require that Treasury consistently use it, to help reduce similar types of improper payments.**

Medicaid. GAO previously found that during economic downturns—when Medicaid enrollment can rise and state economies weaken—the FMAP formula does not reflect current state economic conditions. GAO previously developed a formula that offers an option for providing temporary automatic, timely, and targeted assistance. **GAO recommends Congress use this formula for any future changes to the FMAP during the current or any future economic downturn to help ensure that the federal funding is targeted and timely.**

Evolving lessons from the initial response highlight the importance of the following:

- Establishing clear goals and defining roles and responsibilities for the wide range of federal agencies and other key players are critically important actions when preparing for pandemics and addressing an unforeseen emergency with a whole-of-government response.
- Providing clear, consistent communication in the midst of a national emergency—among all levels of government, with health care providers, and to the public—is key.
- Collecting and analyzing adequate and reliable data can inform decision-making and future preparedness—and allow for midcourse changes in response to early findings.
- Establishing transparency and accountability mechanisms early on provides greater safeguards and reasonable assurance that federal funds reach the intended people, are used for the intended purposes, help ensure program integrity, and address fraud risks.

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Abbreviations

ASPR	Assistant Secretary for Preparedness and Response
CBO	Congressional Budget Office
CDC	Centers for Disease Control and Prevention
CMS	Centers for Medicare & Medicaid Services
COVID-19	Coronavirus Disease 2019
DHS	Department of Homeland Security
DOD	Department of Defense
DOL	Department of Labor
DOT	Department of Transportation
DPA	Defense Production Act
ESF	Emergency Support Function
FEMA	Federal Emergency Management Agency
FDA	Food and Drug Administration
FMAP	Federal Medical Assistance Percentage
FNS	Food and Nutrition Service
HHS	Department of Health and Human Services
HUD	Department of Housing and Urban Development
ICU	Intensive Care Unit
IRS	Internal Revenue Service
NCHS	National Center for Health Statistics
NRCC	National Response Coordination Center
OMB	Office of Management and Budget
PanCAP	COVID-19 Response Plan
PPP	Paycheck Protection Program
PUA	Pandemic Unemployment Assistance
SARS	Severe Acute Respiratory Syndrome
SBA	Small Business Administration
SNAP	Supplemental Nutrition Assistance Program
SNS	Strategic National Stockpile
State	Department of State
Treasury	Department of Treasury
UI	Unemployment Insurance
USAID	U.S. Agency for International Development
USDA	United States Department of Agriculture

VA	Department of Veterans Affairs
WHO	World Health Organization

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

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Matters for Congressional Consideration

- In the absence of efforts to develop a plan, we urge Congress to take legislative action to require the Secretary of Transportation to work with relevant agencies and stakeholders, such as the Departments of Health and Human Services and Homeland Security, and members of the aviation and public health sectors, to develop a national aviation-preparedness plan to ensure safeguards are in place to limit the spread of communicable disease threats from abroad while at the same time minimizing any unnecessary interference with travel and trade. (Matter for Consideration 1)
- To provide agencies access to Social Security Administration's more complete set of death data, we urge Congress to provide the Department of the Treasury with access to the Social Security Administration's full set of death records, and to require that the Department of the Treasury consistently use it. (Matter for Consideration 2)
- To help ensure that federal funding is targeted and timely, we urge Congress to use GAO's Federal Medical Assistance Percentage formula for any future changes to the Federal Medical Assistance Percentage during the current or any future economic downturn. (Matter for Consideration 3)

Recommendations for Executive Action

Recommendations for Executive Action

We are making a total of three recommendations—one each to the Department of Labor, Internal Revenue Service, and Small Business Administration:

- The Secretary of Labor should, in consultation with the Small Business Administration and the Department of the Treasury, immediately provide information to state unemployment agencies that specifically addresses the Small Business Administration's Paycheck Protection Program loans, and the risk of improper payments associated with these loans. (Recommendation 1)
- The Commissioner of Internal Revenue should consider cost-effective options for notifying ineligible recipients on how to return payments. (Recommendation 2)
- The Administrator of the Small Business Administration should develop and implement plans to identify and respond to risks in the Paycheck Protection Program to ensure program integrity, achieve program effectiveness, and address potential fraud, including in loans of $2 million or less. (Recommendation 3)

Introduction

June 25, 2020

Congressional Committees

Pandemic outbreaks can lead to catastrophic loss of life, as well as sustained damage to the economy, societal stability, and global security. The outbreak of Coronavirus Disease 2019 (COVID-19), a strain of coronavirus to which the public does not have immunity, was first reported on December 31, 2019, in Wuhan, China. In the weeks that followed, the virus quickly spread around the globe. On January 31, 2020, the Secretary of Health and Human Services declared a public health emergency for the United States, retroactive to January 27. [1] On March 11, 2020, the World Health Organization (WHO) characterized COVID-19 as a pandemic.

Unlike incidents that are discretely bounded in space or time (e.g., most natural or man-made disasters), a pandemic is not a singular event, but is likely to come in waves, each lasting weeks or months, and pass through communities of all sizes across the nation and the world at various times. Health care systems in some U.S. communities were put under severe strain and required assistance from federal and state governments, which led to the construction of temporary hospitals in untraditional locations, such as convention centers. And while a pandemic will not directly damage physical infrastructure such as power lines or computer systems, it threatens the operation of critical systems by potentially removing the essential personnel needed to operate them from the workplace for weeks or months.

The nation has already seen the spillover effects of a pandemic on the economy as millions have lost their jobs due to stay-at-home orders and business closures aimed at "flattening the curve," or taking the burden off the health care system by reducing infections to a manageable level. From March 21 to May 30, 2020, there was an increase of over 42 million unemployed Americans, turbulence in the stock market, and an overall downturn in the U.S. economy. As of June 17, the United States had approximately 2,104,000 reported cases and 103,000 reported deaths. [2]

In response to this unprecedented global crisis, Congress and the administration have taken a series of actions to protect the health and well-being of Americans. Notably, in March 2020, Congress passed, and the President signed into law, the CARES Act, which provides over $2 trillion in emergency assistance and health care response for individuals, families, and

[1] A public health emergency triggers the availability of certain authorities under federal law that enable federal agencies to take actions, such as temporarily reassigning certain state and local personnel and waiving certain administrative requirements. Subsequently, on March 13, 2020, the President declared COVID-19 a national emergency under the National Emergencies Act and a nationwide emergency under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). The President has also approved major disaster declarations under the Stafford Act for all 50 states, the District of Columbia, and five territories.

[2] Centers for Disease Control and Prevention (CDC) case counts include both confirmed and probable cases. National Center for Health Statistics (NCHS) provisional death counts include both confirmed and probable or presumed deaths. The counts reported are the total number of deaths received and coded as of the date of analysis and do not represent all deaths that occurred in that period. Provisional counts are incomplete because of the lag in time between when the death occurred and when the death certificated is completed, submitted to NCHS, and processed for reporting purposes. This delay is an average of 1-2 weeks and can range from 1-8 weeks or more, depending on the jurisdiction, age, and cause of death.

businesses affected by COVID-19. [3] In addition, the Paycheck Protection Program and Health Care Enhancement Act, enacted in April 2020, provides additional appropriations for small business loans, grants to health care providers, and COVID-19 testing. [4] Moreover, agencies from across the federal government were called on for assistance while shifting staff to telework, requiring an unprecedented level of dedication and agility among the federal workforce, including those serving on the front lines to quickly establish services for those infected with the virus.

The CARES Act also includes a provision for GAO to conduct monitoring and oversight of the use of funds made available to prepare for, respond to, and recover from the COVID-19 pandemic. [5] GAO is to report on, among other things, the pandemic's effects on the public health, economy, and public and private institutions of the United States, including the federal government's public health and homeland security efforts. Additionally, GAO is to report on loans, loan guarantees, and other investments and to conduct a comprehensive audit and review of charges made to federal contracts pursuant to the CARES Act, among other things.

Work on these oversight responsibilities is ongoing. As of June 17, 2020, GAO has 51audits under way related to the pandemic examining a variety of issues, including small business programs, the Strategic National Stockpile (SNS), the Defense Production Act (DPA), the Department of Veterans Affairs' response to COVID-19, child welfare and education, worker safety, homeowner and renter protections, and COVID-19 testing.

The CARES Act includes a provision for GAO to submit a report within 90 days of enactment on its ongoing monitoring and oversight efforts related to the COVID-19 pandemic, with subsequent reports due every 60 days. This report is the first in a series of bimonthly reports that will be issued between June 2020 and March 2021. GAO also plans to issue additional reports focusing on specific topics.

This first report examines

1. the key actions the federal government has taken, to date, to respond to and recover from COVID-19;
2. potential indicators for monitoring the public health system's preparedness for, response to, and recovery from COVID-19 and key areas of the economy targeted by federal efforts; and
3. evolving lessons learned relevant to the nation's response to the COVID-19 pandemic.

For this initial work, to examine key actions the federal government has taken to respond to the COVID-19 pandemic, we examined federal laws and agency documents, guidance, processes, and

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[3]Pub. L. No. 116-136, 134 Stat. 281 (2020).

[4]Pub. L. No. 116-139, 134 Stat. 620 (2020). As of June 1, 2020, two other relief laws also were enacted in response to the COVID-19 pandemic. See Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123, 134 Stat. 146 and Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020). In this report, we refer to these four laws, each of which was enacted as of May 31, 2020, and provides supplemental appropriations for the COVID-19 response, as "COVID-19 relief laws."

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

procedures, and available agency budgetary data; and we interviewed federal and state officials and industry representatives. Centralized data on federal spending for the pandemic response were not yet available as of June 2020; therefore, we obtained agency spending data from specific agencies that received some of the largest appropriations in the four COVID-19 relief laws. Data are generally reported as of May 31, 2020 unless otherwise noted in the report. We report the data as provided by the agencies. We found the data to be sufficiently reliable for our purposes.

To identify agencies' contract obligations in response to COVID-19, we reviewed Federal Procurement Data System-Next Generation data through May 31, 2020. We identified obligations related to COVID-19 using the National Interest Action code, as well as the contract description. We assessed the reliability of federal procurement data by reviewing existing information about the Federal Procurement Data System-Next Generation and the data it collects—specifically, the data dictionary and data validation rules—and performing electronic testing. We determined that the data were sufficiently reliable for the purposes of describing agencies' reported contract obligations in response to COVID-19.

We also reviewed prior GAO work, information from relevant federal agencies responsible for the pandemic response and oversight of the health care system, selected studies produced by experts in public health and epidemiology, data collected by state health departments, and examples of federal government response to past national emergencies. [6] We reviewed testing data and limitations reported by the Centers for Disease Control and Prevention (CDC) over time, including the most recent information from CDC's COVID Data Tracker website as of May 31, 2020. We also interviewed CDC officials to obtain information on steps taken to report testing data, and we reviewed federal laws, other requirements, and CDC guidance related to states' and laboratories' submission of testing data. We also visited alternate care facilities constructed by the U.S. Army Corps of Engineers in Colorado and the District of Columbia. We selected these facilities based on the type and size of the facility and geographic diversity.

To identify potential indicators for monitoring areas of the economy supported by the federal response to the pandemic, we reviewed a number of sources, including prior GAO work, releases from federal statistical agencies, data available on the Bloomberg Terminal, and input from internal GAO experts.

In carrying out our statutory oversight responsibilities, we generally received good cooperation from the audited agencies. However, we were not able to obtain timely information from some agencies, and for that reason we were not able to conduct some of the analyses we had planned. We encountered the most difficulty trying to obtain information from the Small Business Administration (SBA), and we are continuing to work with SBA to obtain information for our subsequent reports. See appendix I for additional details on the scope and methodology for this report.

In carrying out our work, we coordinated with other entities providing oversight of the nation's response to COVID-19. Specifically, the CARES Act created the Pandemic Response Accountability

[6]Where applicable, GAO plans to use the NCHS COVID-19 death data over time in our reporting for consistency, because it is considered to be the most reliable source of data since it is based on official death records. Differences between NCHS data and reports from other sources such as state health department websites should reduce over time as data are processed and counts are updated.

Committee within the Council of the Inspectors General on Integrity and Efficiency. [7] The mission of the Council of the Inspectors General on Integrity and Efficiency is to (1) prevent and detect fraud, waste, abuse, and mismanagement and (2) mitigate major risks that cut across program and agency boundaries. [8] Within a week of the enactment of the CARES Act, we began coordinating our work with Pandemic Response Accountability Committee leadership and the inspectors general of various agencies. This communication and coordination with these entities continues. Working with the National Association of State Auditors, Comptrollers, and Treasurers, we also established a working group consisting of inspectors general and auditors from the state and local levels of government. The CARES Act also established the Special Inspector General for Pandemic Recovery within the Department of the Treasury (Treasury), and we plan to coordinate with this office once it is operational. Finally, we plan to coordinate with the Congressional Oversight Commission, which was established to oversee implementation of the economic stabilization provisions by Treasury and the Board of Governors of the Federal Reserve System (Federal Reserve), and with the House of Representatives' Select Subcommittee on the Coronavirus Crisis.

We conducted this performance audit from March 2020 to June 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[7]The Council of the Inspectors General on Integrity and Efficiency is an independent entity within the executive branch that addresses integrity, economy, and effectiveness issues that transcend individual government agencies. It also increases the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the inspectors general.

[8]Fraud involves obtaining something of value through willful misrepresentation. Whether an act is fraudulent is determined through the judicial or other adjudicative system. Waste is the act of using or expending resources carelessly, extravagantly, or to no purpose. Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary operational practice given the facts and circumstances. This includes the misuse of authority or position for personal gain or for the benefit of another.

Background

COVID-19 is caused by a new coronavirus named Severe Acute Respiratory Syndrome CoV-2 (SARS-CoV-2). There are several different types of coronaviruses, some of which are responsible for the common cold, and some of which cause severe respiratory illness and have high mortality rates. [9] In addition to COVID-19, other severe outbreaks of respiratory illness caused by coronaviruses in the past 20 years include SARS and Middle East Respiratory Syndrome.

As of May 2020, researchers generally expect that those individuals who contract COVID-19 will develop antibodies that may provide some level of immunity. However, according to CDC, it is currently unknown if such antibodies can protect from reinfection with the same strain of virus or how long this protective immunity might last. Potential vaccines and therapies for COVID-19 are in the early stages of a multistep development process, so the timing of vaccine availability is still unknown. [10] The administration has a program to accelerate vaccine development, which aims to have a vaccine available by January 2021.

Health Effects of COVID-19

As of June 17, 2020, according to the WHO, there had been approximately 8,062,000 reported cases of COVID-19 that had resulted in 440,000 reported deaths worldwide. As mentioned above, there had been approximately 2,104,000 reported cases and 103,000 reported deaths in the United States. [11] However, according to CDC, the actual number of COVID-19 cases and deaths is unknown. [12] Figures 1 and 2 show the reported cumulative number of COVID-19 cases and deaths, respectively, in the United States from March 7 through June 17, 2020.

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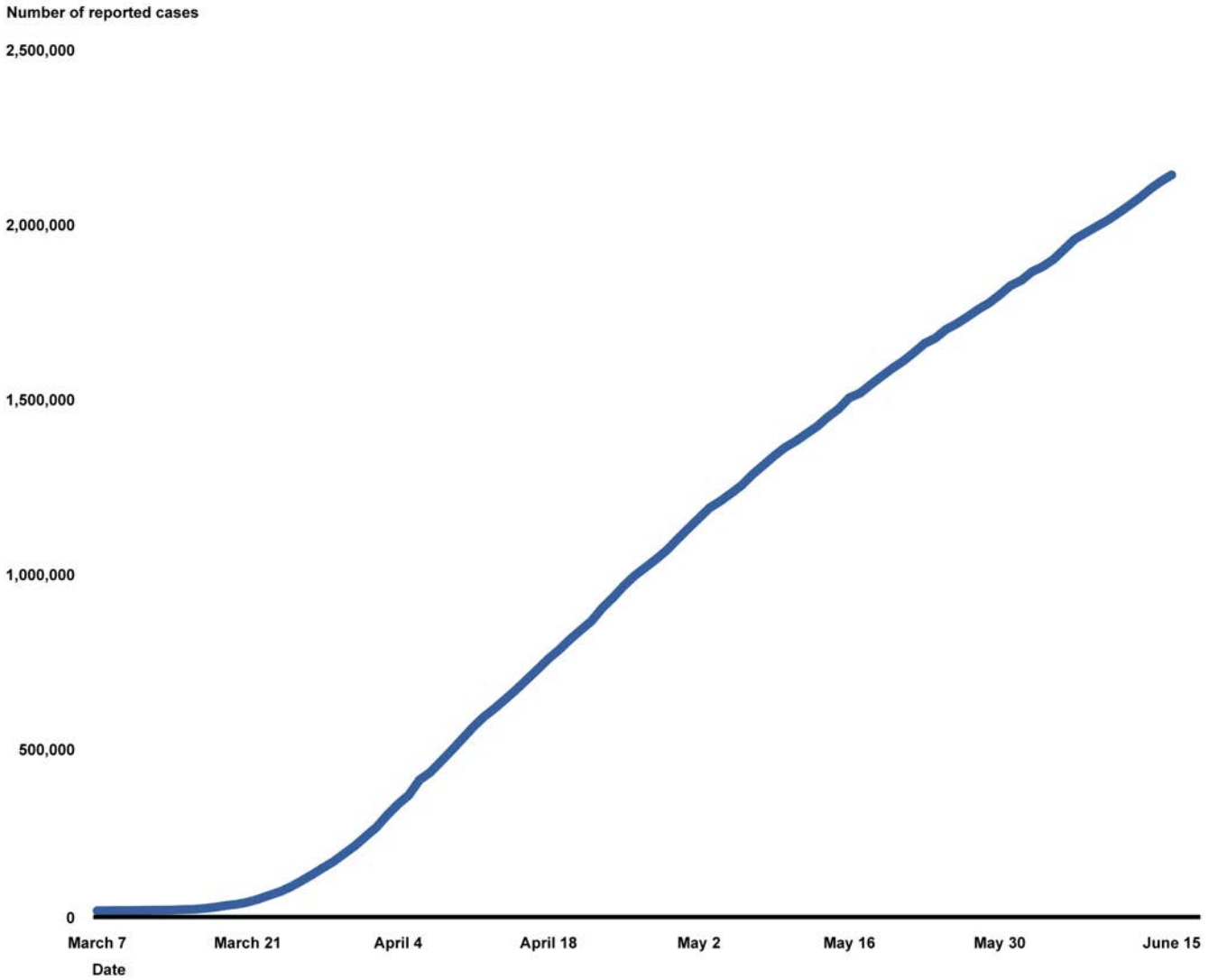
[9]For more information, see GAO, *Science & Tech Spotlight: Coronaviruses*, GAO-20-472SP (Washington, D.C.: March 2020); and *Science & Tech Spotlight: Social Distancing During Pandemics*, GAO-20-545SP (Washington, D.C.: May 2020).

[10]For more information, see GAO, *Science and Tech Spotlight: COVID-19 Vaccine Development*, GAO-20-583SP (Washington, D.C.: May 2020)

[11]CDC case counts include both confirmed and probable cases. CDC defines a confirmed case as meeting confirmatory laboratory evidence for COVID-19. According to CDC, a probable case is defined by one of the following: (1) meeting clinical criteria and epidemiologic evidence with no confirmatory laboratory testing performed for COVID-19; (2) meeting presumptive laboratory evidence and either clinical criteria or epidemiologic evidence; or (3) meeting vital records criteria with no confirmatory laboratory testing performed for COVID-19. NCHS provisional death counts include both confirmed and probable or presumed deaths. The counts reported are the total number of deaths received and coded as of the date of analysis and do not represent all deaths that occurred in that period. Provisional counts are incomplete because of the lag in time between when the death occurred and when the death certificate is completed, submitted to NCHS, and processed for reporting purposes. This delay is an average of 1-2 weeks and can range from 1-8 weeks or more, depending on the jurisdiction, age, and cause of death. NCHS also notes that COVID-19 deaths may be misclassified as deaths due to pneumonia or influenza in the absence of a positive test result.

[12]CDC notes that actual numbers of COVID-19 cases and deaths are unknown for a variety of reasons, including that people who have been infected may have not been tested or may have not sought medical care.

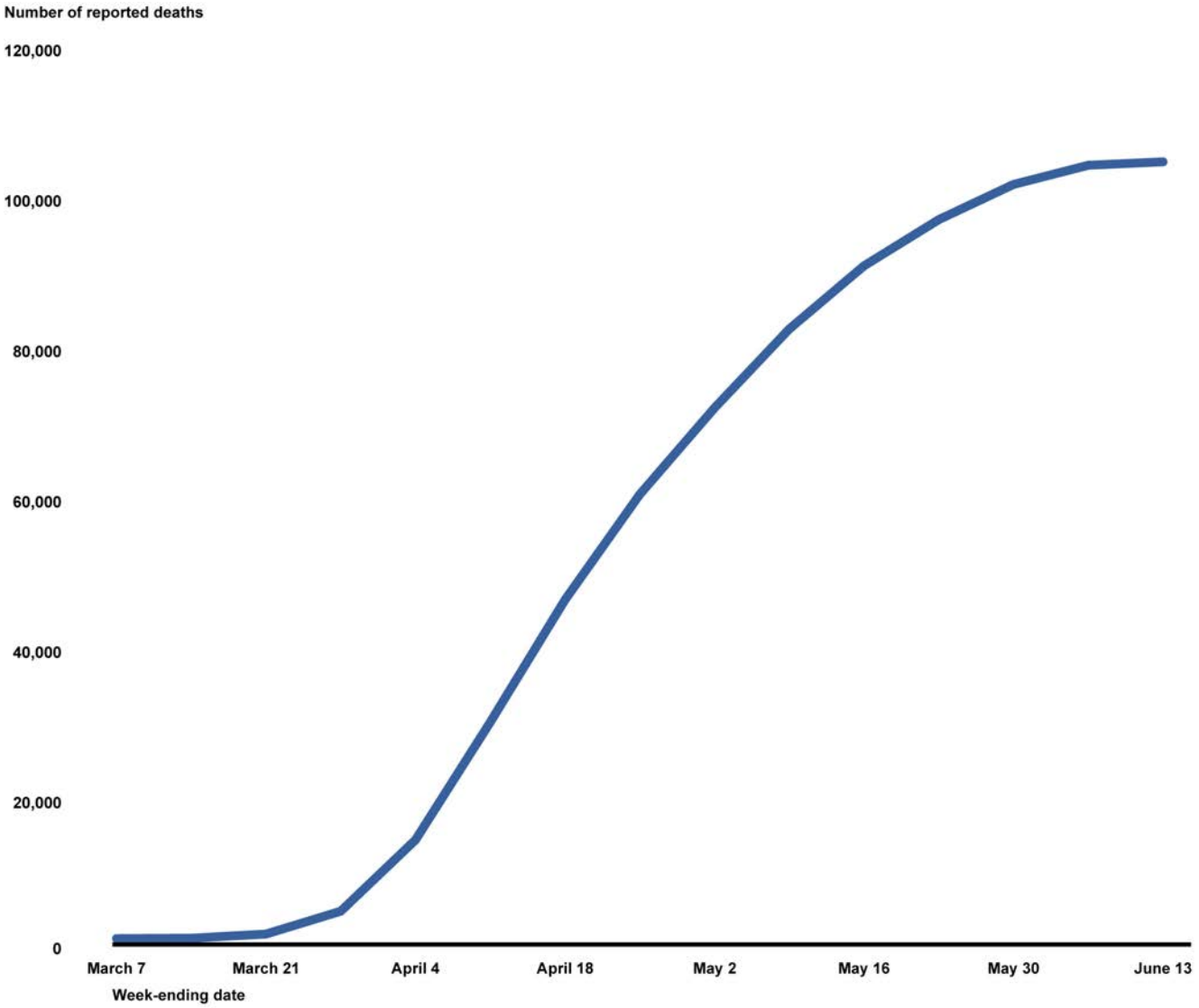
Figure 1: Reported Cumulative COVID-19 Cases: United States, as of June 17, 2020



Source: GAO analysis of Centers for Disease Control and Prevention (CDC) data. | GAO-20-625

Note: Reported COVID-19 counts include confirmed and probable cases. According to CDC, the actual number of cases are unknown for a variety of reasons, including that people who have been infected may have not been tested or may have not sought medical care. CDC reports daily case counts. While June 15, 2020, was the last available date for daily cases reported, the data presented in the figure were last updated on June 17, 2020.

Figure 2: Reported Cumulative COVID-19 Deaths: United States, as of June 17, 2020



Source: GAO analysis of National Center for Health Statistics (NCHS) data. | GAO-20-625

Note: National Center for Health Statistics (NCHS) provisional death counts include both confirmed and probable or presumed deaths. The counts reported are the total number of deaths received and coded as of the date of analysis and do not represent all deaths that occurred in that period. Provisional counts are incomplete because of the lag in time between when the death occurred and when the death certificate is completed, submitted to NCHS, and processed for reporting purposes. This delay is an average of 1-2 weeks and can range from 1 to 8 weeks or more, depending on the jurisdiction, age, and cause of death. NCHS also notes that COVID-19 deaths may be misclassified as deaths due to pneumonia or influenza in the absence of a positive test result. NCHS reports weekly death counts. While June 13, 2020, was the last available week-ending date for deaths reported, the data presented in the figure were last updated on June 17, 2020.

Economic Effects of COVID-19

The COVID-19 pandemic and related policies that limited certain economic activities have had a rapid and severe effect on the U.S. and global economies—by many measures, more rapid and more severe than the December 2007-June 2009 Great Recession. In order to limit social contact and slow the spread of the pandemic, nearly all U.S. states implemented policies that had the effect of limiting certain economic activities, in particular closures of nonessential businesses. Similarly, many other businesses and organizations voluntarily limited, substantially altered, or ceased operations in response to falling demand or in order to reduce the risk of contagion among their employees. Widespread business closures led to immediate and substantial job losses and have led to growing losses in revenue for those businesses. Measured economic activity has similarly slowed dramatically, as indicated, for example, by falling industrial production, retail sales, and personal income in the United States.

The pandemic has also led to a considerable degree of uncertainty about future economic activity, which has caused businesses to delay plans for investment and households both to delay large expenditures and to shift remaining spending toward essential household needs. Falling incomes and lower spending will reduce tax revenues to federal, state, and local governments, while heightened demands on federal and state social programs are likely to increase expenditures. [13]

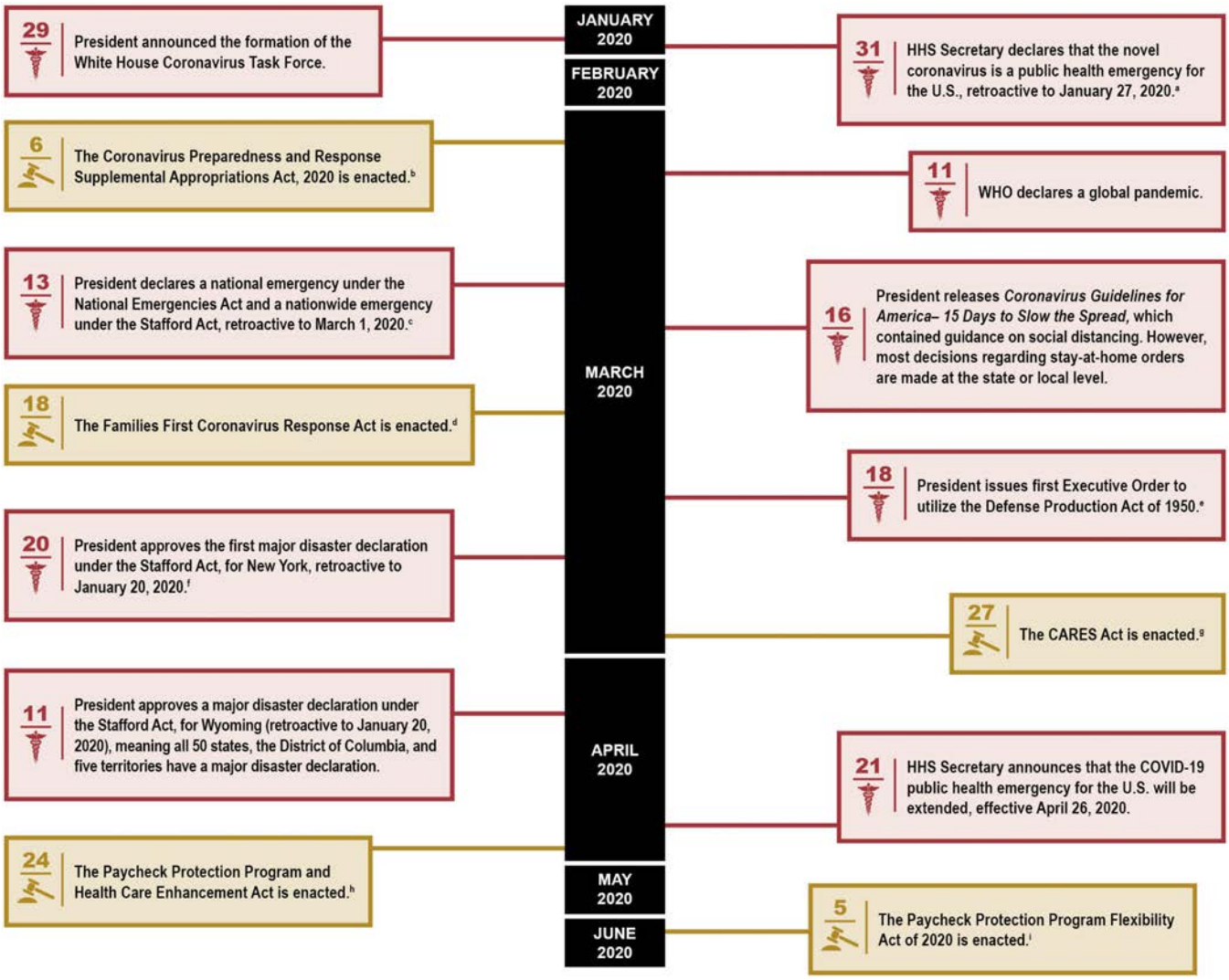
While these and other effects have been widespread across the U.S. economy, they have also disproportionately affected certain industries and households. Businesses that depend on interpersonal contact for providing goods and services—and others deemed nonessential under state orders—have been more severely impacted, including businesses in the leisure and hospitality sector and certain retailers. Moreover, low-income households have few liquid financial assets to assist in weathering even a relatively short economic downturn, and some of the most affected sectors tend to have significantly lower average earnings than other sectors. In addition, tribal governments are particularly dependent on revenues from tribally owned businesses, including in the severely affected leisure and hospitality sectors.

Timeline of Key Congressional and Administration Actions

In response to the COVID-19 pandemic and its effects, Congress and the administration have taken a series of actions. Figure 3 shows significant federal actions taken from January to June 2020.

[13]Federal, state, and local governments already faced a range of fiscal challenges and pressures prior to the pandemic. See GAO, *The Nation's Fiscal Health: Action Is Needed to Address the Federal Government's Fiscal Future*, GAO-20-403SP (Washington, D.C.: Mar. 12, 2020); *Intergovernmental Issues: Key Trends and Issues Regarding State and Local Sector Finances*, GAO-20-437 (Washington, D.C.: Mar. 23, 2020); and *State and Local Governments' Fiscal Outlook: 2019 Update*, GAO-20-269SP (Washington, D.C: Dec. 19, 2019).

Figure 3: Significant Federal Actions Related to COVID-19, as of June 5, 2020



Legend: HHS = Department of Health and Human Services; Stafford Act = Robert T. Stafford Disaster Relief and Emergency Assistance Act; U.S. = United States; WHO = World Health Organization.

Federal legislation enacted Declaration/guidance/announcement

Source: GAO analysis of legislation and Executive Branch data. | GAO-20-625

[a]The Secretary of Health and Human Services may declare a public health emergency if the Secretary determines that (1) a disease or disorder presents a public health emergency or (2) a public health emergency, including significant outbreaks of infectious disease or bioterrorist attacks, otherwise exists. 42 U.S.C. § 247d.

[b]The Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 provides $7.8 billion to agencies for health emergency prevention, preparedness, and response activities related to COVID-19, with HHS appropriated a majority of the funds. Pub. L. No. 116-123, 134 Stat. 146 (2020).

[c]A declaration under the National Emergencies Act authorizes the President to activate existing emergency authorities in other statutes, and the President must cite the authorities being exercised. 50 U.S.C. § 1621. A governor may request an emergency declaration under the Stafford Act if the situation is of such severity and magnitude that effective response is beyond the capabilities of the state and the affected local governments, and federal assistance is necessary. 42 U.S.C. § 5191. According to

the Federal Emergency Management Agency, the President declared a nationwide emergency pursuant to 42 U.S.C. § 5191(b) to avoid governors needing to request individual emergency declarations.

[d]The Families First Coronavirus Response Act provides supplemental appropriations for nutrition assistance programs and public health services and authorizes the Internal Revenue Service to provide tax credits for paid emergency sick leave and expanded family medical leave that the act requires certain employers to provide. In addition, the act provided states with flexibility to temporarily modify provisions of their unemployment insurance laws and policies related to certain eligibility requirements and provided additional federal financial support to the states. Pub. L. No. 116-127, 134 Stat. 178 (2020).

[e]The Defense Production Act gives the President broad authority to mobilize domestic industry in service of national defense (including programs for certain military activities, homeland security, stockpiling, space, and emergency preparedness activities under the Stafford Act, among other things). 50 U.S.C. § 4501 et seq.

[f]A governor may request a major disaster declaration under the Stafford Act if the disaster is of such severity and magnitude that effective response is beyond the capabilities of the state and affected local governments, and federal assistance is necessary. 42 U.S.C. § 5170.

[g]The CARES Act provides supplemental appropriations for federal agencies to respond to COVID-19. In addition, it also funds various loans, grants, and other forms of assistance for businesses, industries, states, local governments, and hospitals; provides tax rebates for certain individuals; temporarily expands unemployment benefits; and suspends payments and interest on federal student loans. Pub. L. No. 116-136, 134 Stat 281 (2020).

[h]The Paycheck Protection Program and Health Care Enhancement Act provides additional appropriations for small business loans, grants to health care providers, and COVID-19 testing. Pub. L. No. 116-139, 134 Stat. 620 (2020).

[i]The Paycheck Protection Program Flexibility Act of 2020 expands the amount of time Paycheck Protection Program borrowers have to use Program funds and modifies several key program components such as forgiveness eligibility criteria and limits on the use of funds for non-payroll costs. Pub. L. No. 116-142, 134 Stat. 641.

Structure of the U.S. Government's Pandemic Response

The COVID-19 pandemic has affected the entire country and required solutions to issues that have arisen as the event unfolded. As such, the operational response to the pandemic has required support from all of the nation's existing systems and structures designed to help manage the response to both public health emergencies and natural disasters across multiple federal departments. Overall, the White House Coronavirus Task Force is responsible for coordinating the whole-of-government response. The U.S. Government COVID-19 Response Plan (PanCAP) describes the structure and authorities to lead and coordinate this response. [14] According to officials responsible for supporting the response at the Federal Emergency Management Agency (FEMA) and the Department of Health and Human Services (HHS), although rapidly evolving situations have required some adaptation as the response unfolds, the PanCAP generally remains the operative plan for the federal response.

As described in the PanCAP, the Unified Coordination Group—made up of the FEMA Administrator, the HHS Assistant Secretary for Preparedness and Response (ASPR), and a CDC representative—has responsibility for operational command, leadership, and decision making for the COVID-19 pandemic response. The three leaders are partners in operational decision-making for the whole-of-government response and provide input to the White House Coronavirus Task

[14]According to the PanCAP, the purpose of the White House Coronavirus Task Force is to coordinate a whole-of-government approach, including with governors, state and local officials, and with members of Congress, to develop the best options for the safety, well-being, and health of the American people.

Force. The National Security Council also provides guidance to the White House Coronavirus Task Force on matters of policy.

According to FEMA and HHS officials involved in the response and operational documents used in response coordination, FEMA, ASPR, and CDC have complementary roles that correspond to their missions and expertise. The FEMA Administrator, for example, focuses on directing nationwide operational needs—such as the logistics of moving material, supplies, and personnel to meet emergent needs and tracking the delivery of these supplies. The ASPR and CDC representatives focus on issues that require their medical and public health expertise—such as community-based testing, hospital preparedness, and development and testing of potential therapeutics.

As with any emergency or major disaster triggering the need for a coordinated federal emergency protective measure response, the National Response Coordination Center (NRCC), which operates out of FEMA, is the hub for coordinating response actions and resources across federal agencies. To address the multiple dimensions of a pandemic response, eight operational task forces work out of the NRCC. For example, a laboratory diagnostic task force is responsible for coordinating with stakeholders to understand the COVID-19 testing supply chain and rapidly evolving testing needs. According to FEMA officials, these task forces bring together federal departments and agencies with the relevant expertise, authorities, and capabilities necessary to address unmet needs. Through these task forces, the NRCC can use existing authorities, processes, resources, and funding for each of the agencies that comprise each Emergency Support Function (ESF) under the National Response Framework to meet the needs of the response as they arise. [15] See appendix II for more information on federal structures to lead and coordinate the overall pandemic response.

[15]The National Response Framework is a guide to how the nation responds to all types of disasters and emergencies. The 15 ESFs provide the structure for coordinating federal interagency support for a response to an incident. They are mechanisms for grouping functions most frequently used to provide federal support to states and federal-to-federal support.

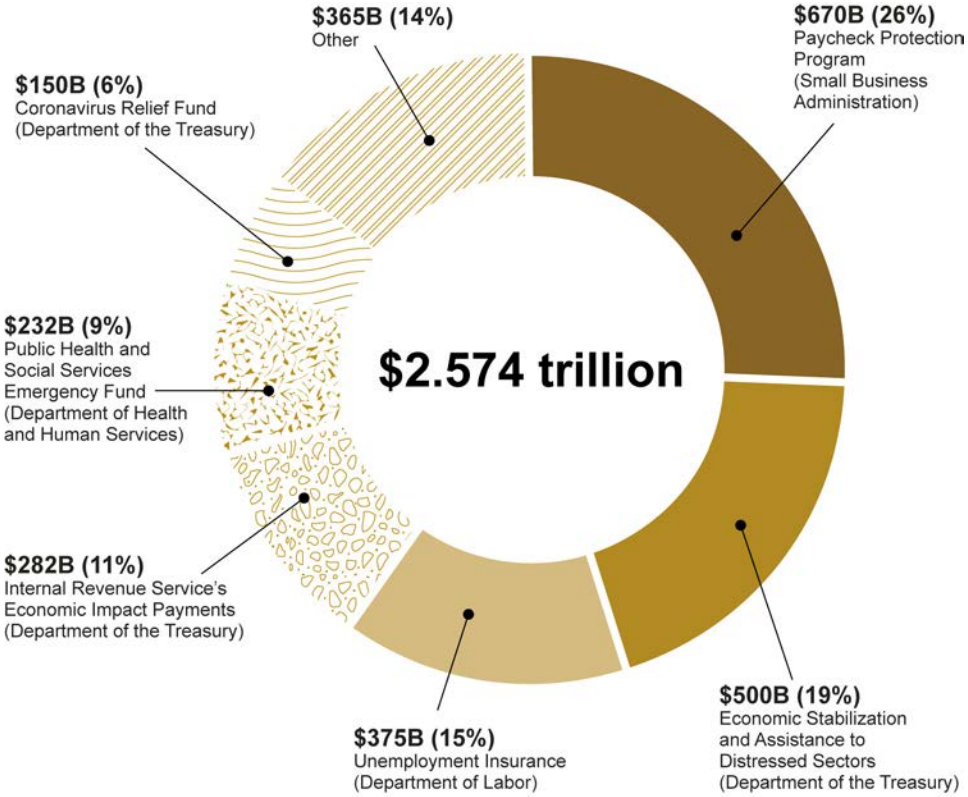
Major Findings

Key Federal Actions to Respond to and Recover from COVID-19

The federal response to COVID-19 has been a whole-of-government effort. In particular, the four COVID-19 relief laws appropriated about $2.6 trillion to fund response and recovery efforts, as well as to mitigate the public health, economic, and homeland security effects of COVID-19. [16] The Paycheck Protection Program, Economic Stabilization and Assistance to Distressed Sectors, unemployment insurance, Internal Revenue Service (IRS) economic impact payments, Public Health and Social Services Emergency Fund, and Coronavirus Relief Fund comprise $2.2 trillion, or 86 percent, of the $2.6 trillion appropriated as of May 31, 2020. Figure 4 shows appropriations for the COVID-19 response by major spending area.

[16]An appropriation provides legal authority for federal agencies to incur obligations and make payments out of the Treasury for specified purposes. An obligation is a definite commitment that creates a legal liability of the government for the payment of goods and services, or a legal duty on the part of the United States that could mature into a legal liability by virtue of actions on the part of the other party beyond the control of the United States. An expenditure is the actual spending of money, or an outlay. While these amounts are appropriated by the legislation, actual cash expenditures may occur over time and some amounts appropriated or obligated may not result in a cost to the federal government, such as loans that are expected to be paid with interest.

Figure 4: Appropriations for COVID-19 Response from COVID-19 Relief Laws Enacted, as of May 31, 2020, by Major Spending Area



Source: GAO analysis of appropriation warrant information provided by the Department of the Treasury as of May 31, 2020. | GAO-20-625

Notes: COVID-19 relief laws enacted as of May 31, 2020, include the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123, 134 Stat. 146; Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020); CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020); and Paycheck Protection Program and Health Care Enhancement Act, Pub. L. No. 116-139, 134 Stat. 620 (2020).
These amounts are based on warrants issued as of May 31, 2020 by Treasury to agencies in response to appropriations made by COVID-19 relief laws. A warrant is an official document issued upon enactment of an appropriation that establishes the amount of money authorized to be withdrawn from the Treasury. These amounts could increase in the future for programs with indefinite appropriations, which are appropriations that, at the time of enactment, are for an unspecified amount. In addition, this figure does not represent transfers of funds that agencies may make between accounts or transfers of funds they may make to other agencies, to the extent authorized by law.

Total federal spending data are not readily available because under Office of Management and Budget (OMB) guidance, federal agencies are not directed to report COVID-19 related obligations (government financial commitments) and expenditures until July 2020. [17] We will examine these spending data when they become available and include our analysis in our future reporting.

[17]Specifically, monthly reporting by federal agencies that have received COVID-19 supplemental appropriations will begin in July 2020 for spending during the month of June, and on a monthly basis thereafter. Agencies are required to report obligations and expenditures on a monthly basis using a specific code provided by OMB to link these funds to the supplemental appropriations. Agencies are to report this information to OMB and others, and it will be included in USASpending.gov, a publicly available website that is intended to provide a greater range of financial and non-financial data on federal spending. See http://USAspending.gov. See also Office of Management and Budget, *M-20-21 Implementation Guidance for Supplemental Funding Provided in Response to the Coronavirus Disease 2019* (Apr. 10, 2020).

In the absence of comprehensive data, we collected obligation and expenditure data from agencies, to the extent practicable, as of May 31, 2020. For the six largest spending areas, we found obligations totaled $1.3 trillion and expenditures totaled $643 billion.

GAO also collected expenditure data on other programs impacted by the federal response. For example, we found that HHS has provided $7 billion in COVID-19 Medicaid funding to states and territories, most of which is the result of the increased Federal Medical Assistance Percentage (FMAP), the statutory formula according to which the federal government matches states' spending for Medicaid services. Increased spending in Medicaid is not accounted for in the appropriations provided by the relief laws because they did not include supplemental appropriations for the FMAP increase. [18] Based on the information we collected, government-wide spending totals at least $677 billion, as of May 31, 2020.

The administration has taken a number of actions to respond to and recover from COVID-19. While certain federal departments and agencies—including HHS, Treasury, SBA, and FEMA—have lead roles, the federal response has spanned the government. In examining federal efforts, we grouped them into the following categories:

- Public health response
- Assistance to individuals
- Industry/economic support
- Assistance to states, localities, and tribes
- Federal contracting
- International response

We examine many of these efforts below, and additional information is provided in enclosures presented in appendix III.

HHS Took Action but Experienced Substantial Challenges with Its Initial COVID-19 Public Health Response

The four COVID-19 relief laws appropriated more than $250 billion to HHS to address various aspects of the public health response. According to HHS, the department has obligated about $101 billion of these appropriations and expended about $67 billion as of May 31, 2020, through grants, contracts, loans, direct payments, and other awards. For additional information on the supplemental appropriations to HHS and related obligations and expenditures, see "HHS COVID-19 Funding" in appendix III. Examples of obligations and expenditures include the following:

[18]Appropriations for Medicaid are made in annual appropriations laws based on estimates of Medicaid expenditures for the fiscal year.

- As of May 31, 2020, HHS expended about $65 billion to provide funding to providers, such as hospitals, to respond to COVID-19, according to the department. [19] This includes funding for Medicare providers, as well as providers heavily impacted by COVID-19; rural health care providers; skilled nursing facilities; and Indian Health Service, tribal, and Urban Indian facilities.
- CDC allocated about $12.1 billion for awards to state, local, territorial, and tribal organizations as of May 31, 2020, according to agency officials. Of this amount—about $10.3 billion—is to support COVID-19 testing nationwide. [20] CDC awarded the remaining $1.8 billion to these entities to support activities, including COVID-19 surveillance, epidemiology, laboratory capacity, infection control, mitigation, communications, and other preparedness and response activities. [21]
- As of May 31, 2020, HHS reported obligations of about $3.612 billion to support treatments or vaccines for COVID-19, of which about $18 million had been expended.

HHS and other agencies have taken a number of actions to respond to the medical and public health needs of the unprecedented COVID-19 pandemic. However, initial observations of the public health response have highlighted substantial challenges. These challenges are specific to COVID-19 testing and the distribution, acquisition, and adequacy of critical supplies and are detailed below.

CDC's Efforts to Collect Testing Data

HHS and its agencies, including CDC, have taken steps to meet the unprecedented need for COVID-19 testing data, although the data reported through May 31, 2020, have not been complete or consistent. Testing provides information that is paramount to protecting public health, according to CDC. HHS agencies faced a number of challenges with regard to testing. [22] CDC developed the first COVID-19 test, which was authorized for use on February 4, 2020. However,

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[19]The CARES Act appropriated $100 billion to the Public Health and Social Services Emergency Fund to reimburse eligible providers for health care related expenses or lost revenues that are attributable to COVID-19 (known as the Provider Relief Fund). The Paycheck Protection Program and Health Care Enhancement Act appropriated an additional $75 billion for the Provider Relief Fund.

[20]The Paycheck Protection Program and Health Care Enhancement Act appropriated $25 billion to HHS through the Public Health and Social Services Emergency Fund to support COVID-19 testing efforts, and of this amount, at least $11 billion was designated for state, local, territorial, and tribal organizations. CDC awarded about $10.3 billion to state, local, and territorial jurisdictions, and the Indian Health Service is administering $750 million in HHS funds to be distributed to Indian Health Service, tribal, and Urban Indian facilities.

[21]Of the $1.8 billion, CDC was still in the process of awarding $160 million to tribal organizations as of May 31, 2020, according to agency officials. Awards provided to these entities were from appropriations provided to HHS in the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, which designated at least $950 million to states, localities, territories, and tribal entities to carry out surveillance, epidemiology, laboratory capacity, infection control, mitigation, communications, and other preparedness and response activities, and the CARES Act, which designated at least $1.5 billion to states, localities, territories, and tribal entities for the same purposes.

[22]See "COVID-19 Testing" in appendix III for additional information on challenges related to COVID-19 testing that HHS agencies faced.

this test experienced accuracy and reliability issues that resulted in significant delays in testing nationwide during the critical early weeks of the outbreak.

Performing sufficient testing is an important consideration for reopening communities. Viral tests can detect the virus that causes the disease to identify those who currently have COVID-19, while serology tests, also known as antibody tests, detect antibodies produced by patients who had previously been infected and provide information on prevalence of past infections in a community. According to principles put forward by the White House, CDC, and Food and Drug Administration on April 27, 2020, states manage COVID-19 testing programs—with federal support—and they must have systems in place to collect and report critical data. [23] Testing data, particularly the total number of viral tests performed for COVID-19 and the percentage of viral tests with positive results, should be used to make decisions about reopening communities, according to federal guidelines. [24]

CDC—the official federal source for testing data—has reported testing data provided by state and jurisdictional health departments, which, in turn, received these data from laboratories. The data that CDC reported on the amount of viral testing occurring nationwide was not complete or consistent, but HHS recently took an initial step intended to improve these data by implementing its new authority under the CARES Act to prescribe the testing data that all laboratories must report, as discussed later in this section.

- **CDC reported data that were not complete.** Initial delays in testing during the early pandemic stages have resulted in limited information on the spread of COVID-19 in communities, and the sources of testing data CDC has used have changed with changes in testing practices over time. CDC initially reported that about 4,000 viral tests had been conducted nationwide from January 18, 2020, to February 29, 2020. These tests were performed by CDC, state, and other public health laboratories, which initially conducted all testing in the United States. Over time, CDC has added testing data from clinical or commercial laboratories, which CDC collected from states, in order to reflect additional types of laboratories performing tests, but as of May 31, 2020, testing data remained incomplete. [25]

  CDC's website stated that the data posted there included the majority of, but not all, data on testing in the United States, as of May 31, 2020. For example, testing data that CDC reported may not have included all tests performed by laboratories at point-of-care settings, such as physicians' offices. [26] Reporting all such data will likely become increasingly important because HHS estimated point-of-care testing will grow to 25 million tests per month by September 2020, or roughly half of the total tests that will be available at that time. According to CDC,

[23]White House, Centers for Disease Control and Prevention, and Food and Drug Administration, *Testing Blueprint: Opening Up America Again* (Apr. 27, 2020).

[24]For more information, see GAO, *Science and Tech Spotlight: COVID-19 Testing*, GAO-20-584SP (Washington, D.C.: May 2020) and *Science and Tech Spotlight: COVID-19 Modeling*, GAO-20-582SP (Washington, D.C.: June 2020).

[25]CDC initially collected data directly from state public health laboratories and six large commercial laboratories. In April, the agency collected additional data from state and jurisdictional health departments that reflected additional testing data from clinical and commercial laboratories. CDC has reported these data on its public facing website COVID Data Tracker.

[26]According to CMS, tests performed in physician offices are generally considered to be laboratory tests for purposes of the federal regulation of laboratories.

collecting point-of-care testing data is crucial and, as of June 4, 2020, it had undertaken multiple efforts to assist laboratories with reporting these data.

- **CDC reported data that were not consistent.** CDC reported testing data from different sources that have varied over time and have not been counting the tests the same way. The agency sought to improve the consistency of testing data by posting guidance on its website on May 6, 2020, for how the data should be submitted to states from clinical laboratories, which are one source of laboratory data, but not all sources from which CDC has collected state data have provided consistent testing data. For example, when states did not report data for a given day, CDC collected and reported testing data from states' websites that aggregate testing data, but some states' websites count the number of people tested while others count the number of samples tested, which could include multiple tests of one person. Further, in May 2020, CDC began reporting testing data it received directly from state health departments or obtained from other sources—reporting 16.8 million tests as of May 31, 2020. [27] CDC's website initially referred to these data as viral testing data. However, these data were inaccurate because some state submissions also included antibody tests that detect prior COVID-19 infections. CDC subsequently changed its website to acknowledge that the data may include antibody tests from some states. According to CDC, in order to act quickly, it began collecting data from states on the total number of tests performed in early April—when antibody tests were not common—and has since taken steps to distinguish viral and antibody testing data. However, as of June 9, 2020, CDC continued to report these types of tests together. [28]

We determined that the testing data that CDC has reported have not provided sufficiently reliable information on the amount of COVID-19 viral testing occurring over time because data have been incomplete and inconsistent, but a recent action could improve the testing data CDC reports. CDC maintains that these were the best testing data available and they have provided critical insights into how much testing has occurred. However, CDC acknowledged limitations to these data and we found that the absence of complete and consistent COVID-19 testing data reported through May 31, 2020, has made it more difficult to track and know the infection rate, mitigate the effect of infections, and inform decisions on reopening communities. The CARES Act included a provision requiring laboratories to submit the result of each COVID-19 test in a manner specified by the Secretary of Health and Human Services. [29] Accordingly, on June 4, 2020, HHS issued guidance, pursuant to its new authority under the CARES Act, that requires all laboratories performing viral tests or other tests to diagnose a possible case of COVID-19 to submit data for these tests. [30] Required data include those on point-of-care tests and those that identify whether a viral or antibody test was performed. Importantly, the guidance also identifies other required data

[27]CDC did not report the period of time during which these tests were performed.

[28]According to CDC, national laboratories reported that over 336,000 antibody tests were performed in the 15 states that included antibody tests in the data they provided CDC as of June 9, 2020. Although CDC told us that these national laboratories conducted the majority of antibody testing, the amount of additional antibody tests performed by other laboratories in these states was unclear.

[29]Pub. L. No. 116-136, § 18115, 134 Stat. at 574.

[30]Department of Health and Human Services, *COVID-19 Pandemic Response, Laboratory Data Reporting: CARES Act Section 18115* (June 4, 2020).

elements, such as patient demographic information, and directs laboratories to use existing regional, state, or local submission methods to provide these data, which, in turn, are sent to CDC. Laboratories must submit these data daily, starting as soon as possible and not later than August 1, 2020, according to the HHS guidance. We will continue to conduct work examining HHS and its component agencies' data reporting, plans, and activities related to COVID-19 testing.

Distribution, Acquisition, and Adequacy of Critical Supplies

The nationwide need for critical supplies to respond to COVID-19 quickly exceeded the quantity contained in the SNS, which is designed to supplement state and local supplies during public health emergencies. According to the President's budget proposal for fiscal year 2021, the SNS is the largest federally owned repository of pharmaceuticals, critical medical supplies, federal medical stations, and medical equipment available for rapid delivery to support the response to a public health emergency when state and local supplies are depleted. [31] In such an event, the SNS can be used as a short-term, stop-gap buffer, according to HHS officials. HHS's ASPR is responsible for overseeing the SNS.

According to ASPR officials we interviewed in April 2020, the SNS did not have the capacity to provide states with supplies at the scale necessary to respond to a nationwide event such as the COVID-19 pandemic. For example, according to an ASPR official, the SNS did not contain the number of N95 respirator masks that would be needed in a severe pandemic. In a hearing before the Senate Committee on Appropriations on February 25, 2020, the Secretary of Health and Human Services said that the SNS contained 30 million N95 respirator masks; he further noted that health care workers could need 300 million to respond to the COVID-19 pandemic. [32] According to ASPR officials, HHS did not replenish personal protective equipment to previous levels following the H1N1 pandemic of 2009, because of a lack of funding. Further, according to ASPR's website, the SNS is primarily designed and resourced to address discrete events—for example, limited displacements or localized disasters, such as hurricanes or terrorist attacks.

Annual appropriations for the SNS over the past decade ranged between $478 million (fiscal year 2013) and $705 million (fiscal year 2020), exclusive of the supplemental appropriations made available through the four relief laws enacted to assist the response to COVID-19. [33] However, ASPR officials told us that annual appropriations have not been sufficient to cover the costs associated with maintaining medical countermeasures necessary to respond to the tremendous increase in the number of material threats over the same period. In its fiscal year 2018-2022

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[31] Department of Health and Human Services, *Fiscal Year 2021 Public Health and Social Services Emergency Fund: Justification of Estimates for the Appropriations Committee*.

[32] HHS and Department of Defense officials' accounts of the number of N95 respirator masks contained in the SNS prior to the pandemic have varied. In a hearing before the Senate Committee on Homeland Security and Governmental Affairs on June 9, 2020, the Department of Defense Vice Director of Logistics noted that the SNS contained less than 18 million N95 respirator masks prior to the pandemic.

[33] For example, the CARES Act provided that up to $16 billion of the supplemental appropriations under the act are available for the SNS. Although SNS funding fluctuated between fiscal years 2009 and 2012 due to factors such as sequestration, it experienced relatively steady funding with gradual increases from fiscal years 2013 to 2020.

budget plan for medical countermeasure development, HHS noted the challenge of maintaining a stockpile of medical countermeasures to use against many low-probability, high-consequence threats, while also maintaining the capacity to rapidly respond to novel threats, like emerging infectious diseases. [34] In nine of the twelve years during this period (fiscal years 2009 through 2020), Congress appropriated to the SNS amounts equal to or more than what the administration requested. In fiscal year 2020, the administration did not make a separate request for SNS funding.

HHS has worked in coordination with FEMA and the Department of Defense (DOD) to increase the availability of supplies for COVID-19. For example, HHS, FEMA, and DOD have purchased additional supplies, which they have distributed to states and others. According to DOD officials, distribution was based on allocation guidance provided by HHS and FEMA. However, there have been reports that the federal acquisition and distribution efforts to supplement SNS supplies lacked coordination, and resulted in challenges obtaining supplies. For example, in April 2020, the National Governors Association—whose membership comprises state governors, territories, and commonwealths—noted in a memorandum to governors' offices that governors individually and through the association had called for improved coordination in the federal response to enable states to obtain critical supplies. [35]

The National Governors Association further noted that a more coordinated federal role would help states to obtain personal protective equipment, ventilators, and other critical supplies to protect responders and save lives without competition between states and with the federal government. Similarly, the Governors of Colorado and Michigan testified before the House Committee on Energy & Commerce in June 2020 that coordination of supplies between the federal government and states needed to be improved.

In addition, the United States Conference of Mayors surveyed 213 mayors in March 2020 and found that most cities did not have and could not obtain adequate equipment and supplies such as test kits, face masks, and ventilators. As a result, the United States Conference of Mayors asked the administration to "fully enforce" the Defense Production Act (DPA) for the purpose of increasing medical supplies. [36] That same month, the HHS Office of Inspector General reported on hospital shortages of personal protective equipment and other supplies, such as nasal swabs needed to test patients for COVID-19, in part due to supply chain issues or because supplies received from the SNS were not sufficient in terms of quantity or quality. [37] The President has

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[34]Department of Health and Human Services, *Public Health Emergency Medical Countermeasures Enterprise Multiyear Budget: Fiscal Years 2018-2022* (December 2019). The SNS contains countermeasures to respond to biological, chemical, radiological, and nuclear events.

[35]National Governors Association, *Governor Actions to Address PPE and Ventilator Shortages* (Apr. 13, 2020), available at https://www.nga.org/wp-content/uploads/2020/04/NGA-Medical-Equipment-Memo.pdf.

[36]The United States Conference of Mayors, *Nation's Mayors Urge President Trump to Fully Enforce the Defense Production Act* (Mar. 30, 2020), available at https://www.usmayors.org/2020/03/30/nations-mayors-urge-president-trump-to-fully-enforce-the-defense-production-act/.

[37]Department of Health and Human Services, Office of Inspector General, *Hospital Experiences Responding to the COVID-19 Pandemic: Results of a National Pulse Survey March 23-27, 2020*, OEI-06-20-00300 (Washington, D.C.: April 2020). In its report, the Office of Inspector General noted that its findings were based on the perspectives of the hospital administrators it collected information from during brief interviews at one point in time during the pandemic, that it did

taken several actions to allow federal agency use of DPA authorities to mitigate COVID-19 supply chain issues.

ASPR and FEMA officials told us that they did not consider the views of the National Governors Association or the United States Conference of Mayors to be representative or reflective of the entire response effort. Moreover, ASPR officials noted that many state stockpiles were inadequate, and that public reporting provides examples of where governors and mayors made unnecessarily large demands for federal resources. FEMA officials also noted that states overestimated their needs for supplies, such as ventilators. Although we requested information on the SNS inventory prior to the pandemic, the types and amounts of supplies that states requested, as well as what ASPR and FEMA distributed from the SNS in response to states' requests, HHS and FEMA had not provided this information as of June 12, 2020. We plan to continue to seek this information from the agencies.

Findings from a 2019 pandemic planning exercise conducted by HHS's ASPR in conjunction with multiple federal agencies, states, and stakeholders highlighted concerns about supply availability, as well as the SNS more generally, even before the emergence of COVID-19. [38] For example, ASPR's findings noted that domestic manufacturing capacity would be unable to meet the demands for personal protective equipment and other supplies in the event of a global influenza pandemic. The concerns highlighted by the planning exercise echo concerns we raised almost two decades ago. Specifically, in 2003, we reported that urban hospitals lacked the necessary equipment, such as personal protective equipment, to respond to a large influx of patients experiencing respiratory problems caused by a bioterrorism event requiring a similar response to a naturally occurring disease outbreak. [39]

In response to the findings from the 2019 exercise, ASPR recommended several actions, including the development of a prioritization strategy for the distribution and allocation of scarce resources, a report to Congress detailing supply chain shortages, and a legislative proposal to support the investment in and development of domestic manufacturing capability. HHS officials told us that the department had been unable to take action to address these recommendations prior to the COVID-19 pandemic. However, in comments provided by HHS, the Department said ASPR officials had met with key congressional staff in October 2019 to highlight findings from the exercise, including supply chain and personal protective equipment shortages, lack of domestic manufacturing capacity, and potential funding requirements for medical countermeasures development. Further, HHS officials told us that they have used lessons learned from the exercise to inform the ongoing response to the COVID-19 pandemic, but did not provide any specific examples.

As a result of ongoing supply issues, in addition to new purchases, FEMA, HHS, and DOD have provided supplies through other federal inventories and other efforts. For example, the Supply

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not independently verify the information, and that it found some evidence of response bias with larger hospitals under-represented.

[38]Department of Health and Human Services, Office of the Assistant Secretary for Preparedness and Response, *Crimson Contagion 2019 Functional Exercise After-Action Report* (January 2020). The pandemic planning exercise consisted of multiple meetings in 2019, which culminated in a four-day functional exercise held in August 2019.

[39]GAO, *Hospital Preparedness: Most Urban Hospitals Have Emergency Plans but Lack Certain Capacities for Bioterrorism Response*, GAO-03-924 (Washington, D.C.: Aug. 6, 2003).

Chain Task Force—jointly led by detailees from FEMA and DOD—has focused extensively on identifying and providing personal protective equipment, ventilators, and other resources requested by states, tribes, and territories, according to FEMA officials. The Supply Chain Task Force launched Project Air Bridge on March 29, 2020, to expedite the delivery of critical supplies.[40] Through this project, these agencies transport supplies from oversees manufacturers to distribute them to areas of need in the United States, reducing shipment time from weeks to days, according to FEMA's website.

More recently, on May 14, 2020, the Administration announced plans to restructure the SNS based on lessons learned from recent pandemics, including COVID-19. The President signed an Executive Order providing authority to the International Development Finance Corporation to make loans and take other actions to expand domestic production of strategic resources needed to respond to the COVID-19 pandemic.[41] Following the administration's announcement and Executive Order, ASPR issued a request for information to gather information from the private sector and other organizations on how to restructure the SNS and improve supply availability, among other things. We have ongoing work examining the materials states requested from the SNS for COVID-19; the alignment of supplies in the SNS with threat risks; coordination and communication with states, territories, localities, and tribes; and actions taken, if any, to mitigate supply gaps. We are also examining how federal agencies used authority under the DPA to obtain needed supplies.

Table 1 provides a summary of additional information on the federal public health response presented in enclosures in appendix III, which also include descriptions of GAO's future work.

[40]The Supply Chain Task Force is one of eight task forces run by the Unified Coordination Group, out of the National Response Coordination Center.

[41]Created in 2019 through the Better Utilization of Investments Leading to Development (BUILD) Act, the International Development Finance Corporation supports development through equity financing, debt financing, political risk insurance, and technical assistance.

Table 1: Areas in Which the Federal Government Has Taken Action in the Public Health Response to COVID-19	
Area name	**Description**
Relief for Health Care Providers	The Department of Health and Human Services is distributing more than $177 billion to financially support health care providers, finance care for COVID-19 patients and underserved populations, and finance existing Health Resources and Services Administration programs.
Nursing Homes	The Department of Health and Human Services required state survey agencies to focus on infection control inspections as many nursing homes faced outbreaks of COVID-19, and past inspections show that infection control deficiencies had been widespread and persistent prior to the pandemic.
Federal Efforts to Provide Medical Supplies	States' requests for medical equipment and supplies, such as personal protective equipment, quickly exceeded the capacity of the Strategic National Stockpile, resulting in a multiagency response to acquire and distribute material.
COVID-19 Testing	The Department of Health and Human Services plays a key role in coordinating test development and implementation, but faces challenges in facilitating testing and reporting results.
Vaccine and Therapeutics Development	Multiple federal agencies are taking actions to develop vaccines and therapeutics to prevent and treat COVID-19, including funding research and clinical trials, but it is not known when or if a safe and effective vaccine (or vaccines) and therapeutics will be widely available.
Medicaid Financing, Waivers, and Flexibilities	Federal assistance related to COVID-19 provided increased federal Medicaid funding for states and territories to support the costs of their Medicaid programs, including COVID-19 testing and treatment costs. The Centers for Medicare & Medicaid Services has also approved waivers and other flexibilities to help state Medicaid programs respond to the COVID-19 pandemic.
Medicare Waivers	In response to COVID-19, the Centers for Medicare & Medicaid Services expanded availability of Medicare services through widespread use of program waivers, including for telehealth services. Careful monitoring and oversight are required to prevent potential fraud, waste, and abuse that can arise from these new waivers.
Indian Health Service	Indian Health Service received over $1 billion in supplemental funds to prevent, prepare, and respond.
Veterans Health Care	The Veterans Health Administration has increased its capacity to deliver COVID-19 care for veterans, through efforts such as hiring clinical staff and increasing telehealth services, using existing and supplemental funds.
Military Health	The Department of Defense has taken steps to test and track COVID-19 cases among servicemembers, provide care through the military health system, and protect the health of U.S. military forces.
Medical Surge	Multiple federal agencies have deployed personnel, alternative care sites, and equipment to help surge medical and public health capabilities during the COVID-19 response.

DOD Support to Civil Authorities	The Department of Defense is providing people, equipment, and supplies to support civil authorities during the COVID-19 pandemic.
HHS COVID-19 Funding	Congress appropriated more than $250 billion to the Department of Health and Human Services to address various aspects of the public health response to COVID-19, of which about $101 billion had been obligated and about $67 billion had been expended as of May 31, 2020, according to department officials.

Source: GAO. | GAO-20-625

Intergovernmental Coordination, Efficiency, and Program Integrity Pose Challenges in Quickly Delivering Assistance to Individuals and Households

Multiple agencies provided timely assistance to individuals and households to alleviate the financial hardships faced by many as the country worked to stop the spread of COVID-19. Key efforts in this area included economic impact payments, unemployment insurance, and nutrition assistance. Agencies often faced challenges with intergovernmental coordination, efficiency, and program integrity.

Economic Impact Payments

The Internal Revenue Service (IRS) moved quickly to identify eligible recipients of the economic impact payments. Within 2 weeks after enactment of the CARES Act, Treasury, through its Bureau of the Fiscal Service (BFS), and IRS disbursed more than 81 million payments totaling more than $147 billion, all through electronic transfers to recipients' bank accounts. As of May 31, 2020, IRS and Treasury had disbursed 160.4 million payments worth $269.3 billion through a combination of electronic transfers to bank accounts, paper checks, and prepaid debit cards.[42]
The agencies faced difficulties with (1) identifying and then delivering payments to people who did not file tax returns for 2018 or 2019, including recipients with low adjusted gross incomes or whose sole income is federal benefits, such as Social Security; (2) delivering payments to recipients

[42]To help individuals and households deal with the financial stress caused by the pandemic, the CARES Act included a credit for tax year 2020 of up to $1,200 per eligible individual or $2,400 for individuals filing a joint tax return, plus up to $500 per qualifying child (as defined in section 24(c) of the Internal Revenue Code). The act also provided for an advance refund of the credit. Pub. L. No. 116-136, 134 Stat. 281 at 335–40. The CARES Act refers to the credit and the advance payments as Recovery Rebates. IRS refers to the advance refunds as Economic Impact Payments. The credit phases out gradually based on adjusted gross income. Those ineligible for the credit include (1) nonresident aliens, (2) individuals who can be claimed as a dependent by another taxpayer, and (3) an estate or trust. When spouses file jointly, both spouses must have Social Security numbers (SSN) valid for employment to receive the payment unless either spouse is a member of the U.S. Armed Forces at any time during the taxable year. In that case, only one spouse needs to have a SSN valid for employment. The Joint Committee on Taxation estimates that in fiscal year 2020 the payments will total almost $270 billion.

without bank accounts or who have limited or no internet access; and (3) quickly distributing paper checks, given that Treasury has capacity to deliver 5 to 7 million paper checks a week in addition to checks for other federal programs.

IRS and Treasury face additional risks related to making improper payments to ineligible individuals and fraud.[43] For example, IRS typically uses third-party data, such as the death records maintained by the Social Security Administration (SSA), to detect and prevent erroneous and fraudulent tax refund claims. Treasury and IRS did not use the death records to stop payments to deceased individuals for the first three batches of payments because of the legal interpretation under which IRS was operating. The first three batches of payments accounted for 72 percent of the payments disbursed as of May 31. According to the Treasury Inspector General for Tax Administration, as of April 30, almost 1.1 million payments totaling nearly $1.4 billion had gone to decedents.[44]

According to IRS officials, an IRS working group charged with administering the payments first raised questions with Treasury officials about payments to decedents in late March as Congress was drafting legislation. IRS counsel subsequently determined that IRS did not have the legal authority to deny payments to those who filed a return for 2019, even if they were deceased at the time of payment. IRS counsel further advised that the agency should exercise discretion provided for in the CARES Act to apply the same set of processing rules to recipients who had filed a 2018 return but not yet a 2019 return. IRS officials said on the basis of this determination they did not exclude decedents in their programming requirements.

According to Treasury officials, the CARES Act directed payments to taxpayers who filed a 2018 or 2019 return, or allowed IRS to use information from taxpayers' 2019 Social Security or Railroad Retirement Benefit Statement. Some of these taxpayers may have been deceased at the time the payments were delivered. Treasury officials also stated that the CARES Act mandated the delivery of the economic impact payments as "rapidly as possible." To fulfill this mandate, Treasury officials said Treasury and IRS used many of the operational policies and procedures developed in 2008 for the stimulus payments, and therefore did not use the death records as a filter to halt payments to decedents in the first three batches of payments.[45] However, in 2013, GAO identified weaknesses in IRS processes that allowed payments to deceased individuals and recommended corrective actions. As a result, IRS implemented a process to use death records to update taxpayers' accounts in order to identify and prevent improper payments.[46] Bypassing

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[43]An improper payment is defined as any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. It includes, but is not limited to, any payment to an ineligible recipient. See 31 U.S.C. § 3351(4). While improper payments may be the results of errors, they may also be the result of fraudulent activities. Fraud involves obtaining something of value through willful misrepresentation. Whether an act is fraudulent is determined through the judicial or other adjudicative system.

[44]According to IRS officials, these figures do not reflect returned checks or rejected direct deposits, the amount of which IRS and the Treasury are still determining.

[45]The Economic Stimulus Act of 2008 mandated that IRS send stimulus payments to over 100 million households. Pub. L. No. 110-185, 122 Stat. 613.

[46]GAO, *Management Report: Improvements Are Needed to Enhance the Internal Revenue Service's Internal Controls,* GAO-13-420R (Washington, D.C.: May 13, 2013).

this control for the economic impact payments, which has been in place for the past 7 years, substantially increased the risk of potentially making improper payments to decedents.

According to a Treasury official from the Office of Tax Policy, Treasury was unaware the payments may go to decedents. Treasury officials said that upon learning that payments had been made to decedents, Treasury and IRS, in consultation with counsel, determined that a person is not entitled to receive a payment if he or she is deceased as of the date the payment is to be paid. Such payments are potentially improper payments under the Payment Integrity Information Act of 2019. [47] BFS and IRS removed such payments starting with the fourth payment batch.

On May 6, 2020, IRS announced on its website that if a payment was issued to a decedent or incarcerated individual, the total amount should be returned. [48] However, IRS does not currently plan to take additional steps to notify ineligible recipients on how to return payments. Internal control standards state that management should communicate the necessary information to achieve the entity's objectives. Also, management should select appropriate methods to communicate, considering factors such as intended audience, availability of information, and cost to communicate information. [49] Ineligible payment recipients who do not visit IRS's website or do not have internet access may not be aware of the process to return payments.

IRS should consider cost-effective options for notifying ineligible recipients on how to return payments. For example, IRS sent letters to payment recipients' last known address, within 15 days after the economic impact payments were made, to provide information on how the payment was made and how to report any failure to receive the payment. IRS could consider sending a similar letter to all recipients or a subset of ineligible recipients notifying them about the payment return process. Without exploring cost-effective options to communicate the payment return process, ineligible recipients who would otherwise want to return the payments may be unaware how to do so.

The number of economic impact payments going to decedents also highlights the importance of consistently using safeguards in providing government assistance to individuals. IRS has full access to the death data maintained by SSA, but Treasury and BFS do not. Starting with the fourth batch of payments, IRS provided BFS temporary access to the full death data to filter out decedents until IRS was able to put in place its own process for filtering out such payments. We have suggested that Congress consider amending the Social Security Act to explicitly allow SSA to share its full death data with Treasury for data matching to prevent payments to ineligible individuals. [50] Both

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[47]Pub. L. No. 116-117, 134 Stat. 113 (2020). The Payment Integrity Information Act of 2019 repealed improper payment laws that were previously codified as amended at 31 U.S.C. 3321 note and enacted a new Subchapter in Title 31 of the U.S. Code, containing substantially similar provisions. 31 U.S.C. §§ 3351-3358. While the core structure of executive agency assessment, estimation, analysis, and reporting of improper payments remains consistent with the statutory framework under the previous improper payment laws, there are some differences and enhancements under the Payment Integrity Information Act of 2019.

[48]BFS also included a checkbox on the envelope that contained an economic impact payment paper check and instructions for returning the check. These instructions directed individuals who received the check to return the unopened envelope by mail to the Treasury if the recipient was deceased.

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

[50]GAO, *Improper Payments: Strategy and Additional Actions Needed to Help Ensure Agencies Use the Do Not Pay Working System as Intended*, GAO-17-15 (Washington, D.C.: Oct. 14, 2016).

Treasury and IRS having full access to death data will help ensure the integrity of direct payments to individuals if Congress considers this type of assistance in the future.

IRS is also concerned that fraudsters could be using personally identifiable information to receive payments that belong to eligible recipients by accessing the IRS Get My Payment portal and routing the payment to a fraudster's bank account. We previously raised concerns about the authentication safeguards of IRS's online portals and applications, including the need to implement updated guidance.[51]

Unemployment Insurance

The unprecedented number of unemployment insurance (UI) claims in the wake of the COVID-19 pandemic is posing challenges to states' capacity to process them, making it difficult for individuals to access UI benefits[52]. From March 21 to May 30, 2020, initial UI claims surpassed 42 million—compared to 5.1 million beneficiaries in all of fiscal year 2019, according to data provided by the Department of Labor (DOL)—and unemployment is expected to remain elevated. States are also implementing three new, federally funded programs created by the CARES Act that expand UI eligibility and benefits:[53]

- Pandemic Unemployment Assistance, which generally authorizes up to 39 weeks of UI benefits to those who would not otherwise be eligible, including the self-employed and certain gig workers, who are unable to work as a direct result of COVID-19;[54]
- Federal Pandemic Unemployment Compensation, which generally authorizes an additional $600 weekly benefit that augments UI benefits through July 2020;[55] and

[51]GAO, *Identity Theft: IRS Needs to Strengthen Taxpayer Authentication Efforts*, GAO-18-418 (Washington, D.C.: June 22, 2018). Specifically, we recommended that IRS develop a plan for implementing changes to its online authentication programs consistent with new guidance and implement improvements to its systems to fully implement the new guidance. As of January 2020, IRS had taken steps on these recommendations but had not yet fully implemented them.

[52] The UI program is a federal-state partnership, with states responsible for administering the program, and the Department of Labor's Employment and Training Administration responsible for overseeing the program. Regular UI benefits are funded primarily through state payroll taxes on employers, and administrative costs are primarily funded through a federal payroll tax on employers.

[53]According to data provided by DOL, as of June 9, 2020, all states had implemented Federal Pandemic Unemployment Compensation, 51 states had implemented Pandemic Unemployment Assistance, 40 states had implemented Pandemic Emergency Unemployment Compensation, and 40 states had implemented all three programs. For purposes of these programs, the District of Columbia and various U.S. territories count as states.

[54]Pub. L. No. 116-136, § 2102, 134 Stat. at 313.

[55]Pub. L. No. 116-136, § 2104, 134 Stat. at 318.

- Pandemic Emergency Unemployment Compensation, which authorizes an additional 13 weeks of UI benefits to those who exhaust their regular UI benefits.[56]

According to DOL officials and state workforce agency representatives, states face the following challenges in their efforts to address the needs of unemployed workers:

- **Antiquated data systems that cannot process such large volumes of claims.** According to DOL and representatives of state workforce agencies, states with UI information technology systems that date as far back as the 1970s have reported crashes due to the current claims volumes. While DOL has assisted states' efforts to modernize their UI systems in recent years by, for example, providing grants, technical assistance, and guidance, relatively few states had load-tested their systems for the current volume of claims, according to representatives of state workforce agencies.

- **Lack of adequate staff with the necessary experience to process claims.** DOL officials and state workforce agency representatives told us that many states had reduced the number of staff that manage UI claims before the pandemic, in response to strong economic conditions and historically low unemployment rates. These officials also explained that given the complex nature of the UI program, training staff to process claims can require several months, and the claims of self-employed and gig workers add another layer of complexity.

- **The increased risk of improper payments given the new programs and increased number of UI claims.** Overall, due to its reported level of improper payments, estimated at over $2.7 billion in overpayments in fiscal year 2019, the UI program has been designated as a high-priority program by DOL's Office of Inspector General. Furthermore, DOL's experience with temporary UI programs following natural disasters suggests there may be an increased risk of improper payments associated with CARES Act UI programs. For example, DOL's Office of Inspector General has found improper payments in past audits of the Disaster Unemployment Assistance program, the regulations for which generally apply to Pandemic Unemployment Assistance program. Specifically, improper payments may occur when UI claimants return to work but fail to report their employment, while continuing to claim benefits, among other reasons. There is also a risk of improper payments being made as a result of the new Paycheck Protection Program (PPP),[57] designed to provide loans to small businesses to help them keep their workers on payroll. Improper payments could occur if certain workers paid with PPP proceeds simultaneously also receive UI benefits.

These challenges have resulted in delays and frustrations for individuals seeking UI benefits. For example, according to a nationwide Washington Post-Ipsos poll conducted in late April and early May 2020, 40 percent of respondents who applied for UI benefits were unable to complete their applications due to technical problems, such as busy phone lines or system failures.[58]

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[56]Pub. L. No. 116-136, § 2107, 134 Stat. at 323.

[57] See Pub. L. No. 116-136, §§ 1102, 1106 (2020); 85 Fed. Reg. 20811, 20814 (Apr. 15, 2020).

[58]The Washington Post-Ipsos poll was conducted online April 28-May 4, 2020, among a random national sample of 8,086 U.S. adults ages 18 and over. The sample was drawn through an ongoing survey panel recruited through random

As businesses reopen and claimants seek reemployment, the UI program and its partners will face additional challenges, with large numbers of workers returning to work.[59] As of June 3, 2020, DOL had issued no new information specific to COVID-19 to states and others regarding reemployment services, although DOL has reminded states and other partners of existing resources and flexibilities that can support services for all jobseekers. According to DOL, states already have full authority to operate the programs that can serve jobseekers. Additionally, according to DOL, states and local partners are beginning to deliver services both virtually and in person, and are developing plans to deliver in-person services safely, such as by reconfiguring physical space.[60]

Even as individuals are offered the opportunity to return to work, they may choose not to do so. For example, although the $600 additional weekly benefit under Federal Pandemic Unemployment Compensation, currently available through July 2020, can help claimants and promote public health, it may be one of the reasons that individuals chose not to return to work as quickly as they could. Also, claimants may have health and safety concerns, making them hesitant to return to work.[61] DOL has encouraged states to ask employers to provide information when workers refuse to return to their jobs for reasons that do not support their continued eligibility for benefits.[62]

To assist states, DOL issues guidance documents and provides technical assistance and funding. DOL also conducts oversight of state UI activities, and is continuing to fully develop and implement its approach for overseeing the new UI programs. DOL began issuing guidance to states in March 2020 to assist them in processing their claims volume and implementing new CARES Act programs, which included, among other things, guidance to help states identify and prevent improper payments.

Specifically, DOL has provided technical assistance to states through webinars and conference calls; created a COVID-19 website for the UI programs; and created a COVID-19 email account for states' questions. Additionally, according to DOL, the department has worked collaboratively with an association of state workforce agencies to develop training to support implementation of the Pandemic Unemployment Assistance program and has provided technical assistance by, for

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sampling of U.S. households. Overall results have a margin of sampling error of plus or minus 1 percentage point. For results based on other subgroups, the margin of sampling error may be higher.

[59]DOL has issued about $222 million in discretionary grants to help address the workforce-related impacts of COVID-19, according to a press release dated May 27, 2020. Additionally, several existing programs, also overseen by DOL, can help unemployment insurance claimants find reemployment. These include programs authorized under the Workforce Innovation and Opportunity Act, and the Reemployment Services and Eligibility Assessment program. See Pub. L. No. 113-128, 128 Stat. 1425 (2014) and 42 U.S.C. § 506, respectively.

[60]Local workforce agencies provide a variety of employment services, including job search, training and other job preparation activities.

[61]According to DOL, most state laws allow for refusal of suitable employment for good cause, which may include, but are not limited to, the degree of risk to an individual's health and safety. Specifically related to the COVID-19 pandemic, DOL has issued guidance stating that if individuals have left an employer due to pandemic health concerns related to themselves or the care of others and do not return, state law can be used to determine if this was a good cause separation. Department of Labor, *Unemployment Insurance Program Letter*, No. 10-20 (Mar. 12, 2020).

[62]Department of Labor, *Unemployment Insurance Program Letter,* No. 23-20 (May 11, 2020). Additionally, DOL has provided guidance to state UI agencies that explains that individuals who refuse to return to work when requested by their employer or refuse a suitable job offer do not qualify for Pandemic Unemployment Assistance. Department of Labor, *Unemployment Insurance Program Letter,* No. 16-20, Change 1, Attachment 1 (April 27, 2020).

example, leveraging the assistance of its Chief Information Officer. DOL has disbursed to states nearly all of the $1.0 billion in emergency administrative funds provided through the Families First Coronavirus Response Act.[63] This additional funding is expected to assist states by addressing their capacity to process the massive volume of claims.[64]

DOL officials told us that they are developing comprehensive monitoring materials and training to guide DOL staff in conducting program reviews of states to help ensure that states have the necessary processes in place to properly operate the programs and to detect and recover overpayments. Improper payment prevention and detection for the UI program has long been a concern identified by the DOL Office of Inspector General.

In addition to the UI programs, the CARES Act created some programs through SBA to, among other things, help small businesses keep workers on their payroll. The new PPP created by the CARES Act could increase the risk of improper payments in the UI program. The UI program is generally intended to provide benefits to individuals who have lost their jobs; under PPP, employers are generally required to retain or rehire employees (or face reductions in loan forgiveness eligibility).[65] According to SBA officials, consistent with PPP regulations, employers that take PPP loans must generally rehire laid-off employees or face loan forgiveness reductions, and must report to the state UI agency if any of those employees refuse to return to work .[66]

In the information DOL has provided to state unemployment agencies, it notes that states are expected to enforce statutory provisions related to fraud, or risk violating their agreement to administer the CARES Act UI programs. However, this information does not mention PPP loans or the risk of improper payments associated with such loans. According to DOL, no mechanism currently exists that could capture information in real time about UI claimants who may receive wages paid from PPP loan proceeds. DOL told us it plans to issue questions and answers to state agencies about this risk in the near future. Federal internal control standards state that effective information and communication are vital for an entity to achieve its objectives.[67] As such, the standards state that management should externally communicate the necessary quality information to achieve its objectives. Given the large number of SBA PPP loans and the millions applying for UI benefits, such clarification would call state attention to the potential for fraudulent or otherwise improper payments.

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[63]Pub. L. No. 116-127, § 4102, 134 Stat. at 192. According to information provided by the DOL, as of May 19, 2020, it had provided $997,801,232 in emergency administrative funds to states.

[64]Administrative expenses may include staffing and systems costs.

[65] See Pub. L. No. 116-136, § 1106(d), 134 Stat. 281, 298-300 (2020); SBA, Business Loan Program Temporary Changes; Paycheck Protection Program—Requirements—Loan Forgiveness, (May 22, 2020). See also SBA, Paycheck Protection Program Loans Frequently Asked Questions, Question 36 and 40, pp. 12-13 (May 27, 2020).

[66]In an interim final rule posted on May 22, 2020, SBA required that PPP borrowers inform the applicable state unemployment insurance office if an employee rejected an offer of reemployment within 30 days of the employee's rejection of the offer in order to qualify for an exemption to a reduction in the loan forgiveness amount due to decreased employment numbers. 85 Fed. Reg. 33,004, 33,007 (June 1, 2020).

[67] GAO-14-704G. See Internal Controls, Principle 15.

Nutrition Assistance

To help people access grocery and meal assistance and reduce administrative demands on state agencies due to the pandemic, the U.S. Department of Agriculture's (USDA) Food and Nutrition Service (FNS) has approved hundreds of waivers and allowed other flexibilities across the Supplemental Nutrition Assistance Program (SNAP), child nutrition programs, and other programs.[68] For example, FNS allowed states to provide increased SNAP benefits through emergency allotments to households not already receiving the maximum amount to purchase food.

However, FNS has also denied some waiver requests from states, including some of which may affect particularly vulnerable populations. For instance, FNS denied requests from 31 states to suspend the requirement that college students work at least 20 hours per week or participate in federal work study to be eligible for SNAP. In letters to FNS, states reported that otherwise eligible students could not meet these requirements due to campus and business closures. FNS has also reiterated that states cannot provide emergency allotments to households that are already receiving the maximum SNAP benefit amount.[69] In a letter explaining these denials and others, FNS stated that it considered factors outlined in the Families First Coronavirus Response Act.[70] FNS officials further explained that they did not consider waiving restrictions on students' eligibility to be allowable under these factors, and that providing emergency allotments above maximum SNAP benefit amounts was prohibited based on provisions in the Families First Coronavirus Response Act and the Food and Nutrition Act of 2008.

Table 2 provides a summary of additional information on federal assistance to individuals presented in enclosures in appendix III, which also include descriptions of GAO's future work.

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[68]FNS has provided these waivers and other flexibilities using its authorities under the Families First Coronavirus Response Act and other existing authorities. For this report, we reviewed federal actions in response to COVID-19 for the following nutrition assistance programs: SNAP; child nutrition programs (including the National School Lunch Program, School Breakfast Program, Summer Food Service Program, and the Child and Adult Care Food Program, among other programs); the Special Supplemental Nutrition Program for Women, Infants, and Children; and the Emergency Food Assistance Program, which are all administered by USDA; and nutrition services for older adults, which is administered by HHS. More information on these programs is included in the enclosures of this report.

[69]These households had incomes averaging 23 percent of federal poverty guidelines (which was about $4,800 annually for a family of three in 2018), and made up an estimated 37 percent of SNAP households in fiscal year 2018, based on the most recent available data. See U.S. Department of Agriculture, Food and Nutrition Service, *Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2018* (Alexandria, Va.: 2019).

[70]U.S. Department of Agriculture, Food and Nutrition Service, *RE: Supplemental Nutrition Assistance Program (SNAP)–Denial of Certain Requests to Adjust SNAP Regulations* (Apr. 10, 2020). Section 2302 of the Families First Coronavirus Response Act allows the Secretary of Agriculture to adjust SNAP issuance methods and application and reporting requirements to be consistent with what is practicable under actual conditions in affected areas. In making such adjustments, the Families First Coronavirus Response Act provides that the Secretary shall consider the availability of offices and personnel in state agencies, any conditions that make reliance on electronic benefit transfer systems impracticable, any disruptions of transportation and communication facilities, and any health considerations that warrant alternative approaches. Pub. L. No. 116-127, § 2302(a)(2), 134 Stat. at 188-89.

Table 2: Areas in Which the Federal Government Has Taken Action to Assist Individuals in Response to COVID-19	
Area name	**Description**
Nutrition Assistance	The federal response to the COVID-19 pandemic included additional funds and increased flexibilities for state, tribal, and local agencies to provide nutrition assistance across various programs; however, some vulnerable populations may not be able to access assistance, and there are operational challenges in implementing program changes.
Child Care	The Administration for Children and Families' Office of Child Care is helping states to implement available flexibilities in the CARES Act and the Child Care and Development Block Grant Act of 1990, as amended, to address the impacts of COVID-19, but has not determined how it will collect data on states' use of CARES Act supplemental funding.
Emergency Financial Aid for College Students	The Department of Education awarded schools nearly all of the initial $6.3 billion designated for college students' emergency financial aid, but the department's evolving communications may have delayed schools' distribution of funds to students.
Leave Benefits and Tax Relief for Employers	Employers have begun claiming refundable tax credits to mitigate the cost of paid leave for employees; agreements between the Internal Revenue Service and the Small Business Administration to help ensure compliance have not been finalized.
Department of Housing and Urban Development Programs	The CARES Act appropriated approximately $12.4 billion to the Department of Housing and Urban Development, and the agency had obligated approximately 18 percent of program funds as of May 31, 2020.
Retirement Accounts	Expanded options for withdrawals and loans from retirement accounts can provide financial assistance during the pandemic, but may affect future retirement security.
Tax Deduction for Charitable Contributions	The CARES Act increases tax benefits for individuals and corporations that donate to nonprofits, but the effect on charitable giving is uncertain.
Unemployment Insurance Programs	The unprecedented volume of new unemployment insurance claims in the wake of the COVID-19 pandemic poses major challenges for federal and state officials to provide benefits, help with reemployment, and identify and prevent improper payments.
Federal Student Loans	The Department of Education quickly suspended interest accrual and student loan payments but some types of involuntary collections and communications to borrowers were more challenging to address quickly.
Economic Impact Payments	As of May 31, the Department of the Treasury and Internal Revenue Service (IRS) sent over 160 million payments to recipients for whom IRS has the necessary information. These payments totaled $269.3 billion. Treasury and IRS still face challenges to ensure that eligible individuals receive their payments, to prevent improper payments, and to combat fraud.
Housing Protections	Agencies have issued guidance on CARES Act housing protections, but challenges remain in ensuring that homeowners and renters benefit.

Source: GAO. | GAO-20-625

While Millions of Loans Were Made Quickly, Limited Safeguards and Lack of Timely and Complete Guidance Affected Economic and Industry Support

The CARES Act includes a number of programs to help industries and businesses. SBA's PPP is the largest of these programs and one of the first to be implemented. However, the limited safeguards and lack of timely and complete guidance and oversight planning have increased the likelihood that borrowers may misuse or improperly receive loan proceeds. For example, while SBA planned to review loans of more than $2 million, as of June 15, 2020, it had not provided details on how it planned to carry out that work, and it had not provided information on oversight plans for the more than 4 million loans of less than $2 million each.

The CARES Act authorized and appropriated $349 billion for SBA to guarantee loans to small businesses and other organizations adversely affected by COVID-19. [71] PPP loans, which are made by lenders but are guaranteed 100 percent by SBA, are low-interest (1 percent) and will be fully forgiven if certain conditions are met. As originally implemented by SBA, at least 75 percent of the loan forgiveness amount must have been for payroll costs. However, the Paycheck Protection Program Flexibility Act of 2020 modified this limit to at least 60 percent.

Status of Implementation

Lenders and SBA moved quickly to make and process PPP loans. As a result, the CARES Act funding for the program was exhausted within 2 weeks of its launch. Congress appropriated an additional $321 billion for PPP through the Paycheck Protection Program and Health Care Enhancement Act. [72] As of June 12, 2020, lenders had made about 4.6 million loans totaling about $512 billion or approximately 76 percent of the available funds. [73] The $512 billion represents loan guarantee obligations for SBA and does not include lender fees authorized by the CARES Act. The amount SBA will ultimately expend depends on the number of loans forgiven and, for those that are not forgiven, whether they are timely repaid. As of May 31, 2020, SBA had obligated about $521 billion in total for the PPP program and expended about $2.1 billion in lender fees.

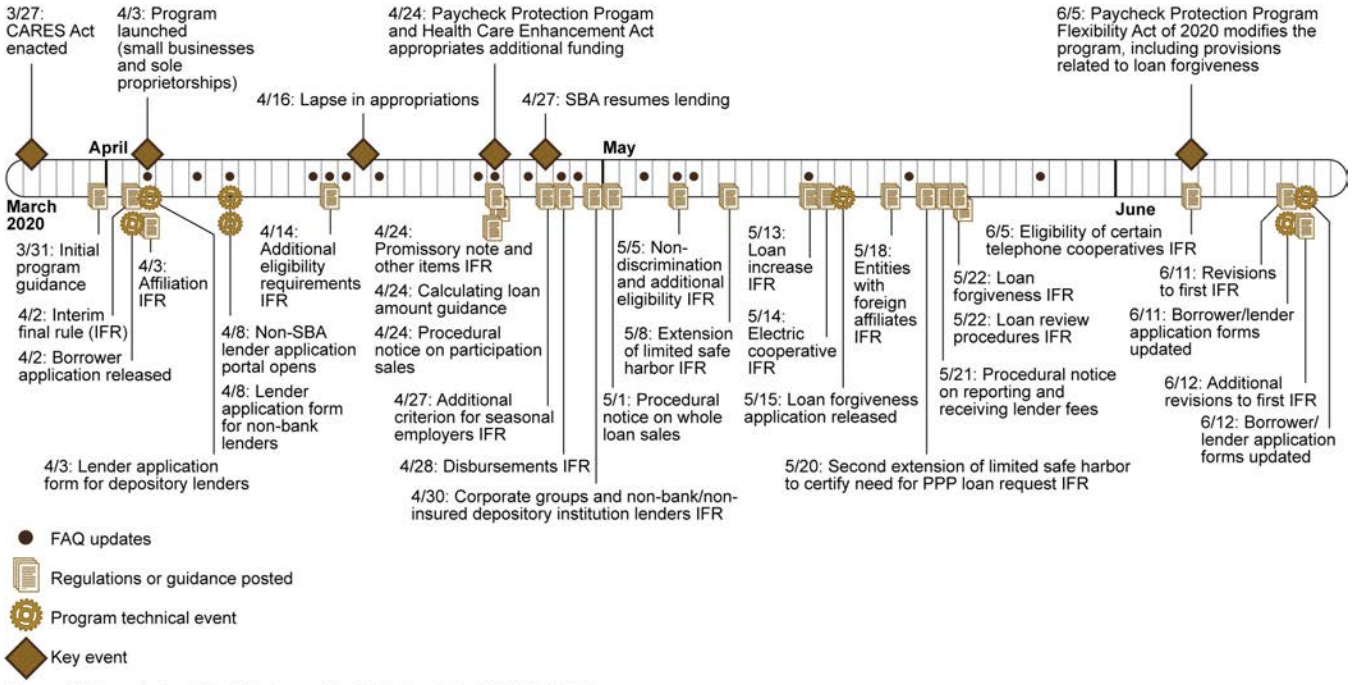
[71] Pub. L. No. 116-136, §§ 1102(b)(1), 1107(a)(1), 134 Stat. at 293, 301. PPP was authorized under SBA's 7(a) small business lending program.

[72] Pub. L. No. 116-139, § 101(a), 134 Stat. at 620.

[73] Totals reflect both rounds of PPP funding and loan cancellations as of June 12, 2020. Some borrowers, including publicly traded companies, have canceled their loans. According to SBA, more than 170,000 loans totaling about $38.5 billion had been canceled as of May 31, 2020.

To implement the program, SBA had issued 18 interim final rules and 17 updates to its frequently asked questions, as of June 15, 2020 (see fig. 5). The interim final rules and frequently asked questions address topics such as eligibility, calculating payroll costs, and loan forgiveness.

Figure 5: Timeline for Paycheck Protection Program, as of June 15, 2020



Source: GAO analysis of Small Business Administration data. | GAO-20-625

Critical Information on Loan Forgiveness

In its initial interim final rule posted on April 2, 2020, SBA provided some information on loan forgiveness for both borrowers and lenders, such as the percentage that borrowers had to spend on payroll costs to be eligible for forgiveness. [74] However, SBA did not release the loan forgiveness application until May 15, 2020, and delayed posting key regulations on loan forgiveness until May 22, 2020. [75] In the interim final rule, SBA stated that the agency was addressing lenders' and borrowers' need for clarity and certainty concerning loan forgiveness requirements. As a

[74] *See* 85 Fed. Reg. 20,811 (Apr. 15, 2020). In addition, SBA provided some information on loan forgiveness in responses to frequently asked questions posted on April 6, 8, 26, 29, and May 3.

[75] The CARES Act required SBA to issue guidance and regulations implementing PPP loan forgiveness within 30 days of enactment (by April 26, 2020). Pub. L. No. 116-136, § 1106(k) 134 Stat. at 301. The interim final rule that SBA posted on May 22, 2020, clarifies that lenders are generally responsible for reviewing the loan forgiveness application to make a decision regarding loan forgiveness. *See* 85 Fed. Reg. 33,004, 33,005 (June 1, 2020). If the lender determines that the borrower is entitled to forgiveness of some or all of the amount applied for under the statute and applicable regulations, the lender must request payment from SBA at the time the lender issues its decision to SBA. SBA may review the loan or loan application before sending forgiveness funds to the lender.

result, more than 4 million loans were approved before borrowers received this critical clarifying information on loan forgiveness.
Under the CARES Act, borrowers originally had 8 weeks after loan disbursement to use the funds and be eligible for forgiveness. [76] Representatives of a lender and a small business association told us that some borrowers were afraid to close their loans or start using the funds without additional guidance, resulting in additional economic stress for employees. Similarly, there have been reports of small businesses returning their loans out of concern that they may not qualify for loan forgiveness because there has been limited guidance on this topic.

Initial Safeguards

Given the immediate need for PPP loans, SBA worked to streamline PPP so that lenders could begin distributing funds as quickly as possible. SBA's initial interim final rule allowed lenders to rely on borrower certifications to determine the borrower's eligibility and use of loan proceeds, and required limited lender review of documents provided by the borrower to determine the qualifying loan amount and eligibility for loan forgiveness. [77]

Among other things, as set forth in the CARES Act, borrowers had to certify in good faith that (1) current economic uncertainty made the loan request necessary to support the applicant's ongoing operations and (2) the funds would be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments. To streamline the process, SBA required minimal loan underwriting from lenders—limited to actions such as confirming receipt of borrower certifications and supporting payroll documentation—leaving the program more susceptible to fraudulent applications. [78] As we have previously reported, reliance on applicant self-certifications can leave a program vulnerable to exploitation by those who wish to circumvent eligibility requirements or pursue criminal activities. [79]

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[76]The Paycheck Protection Program Flexibility Act of 2020, which was enacted on June 5, 2020, extended the "covered period" during which borrowers can spend forgivable expenses from 8 weeks to 24 weeks or December 31, 2020, whichever is earlier. On June 11, 2020, SBA posted an interim final rule implementing key provisions of the Paycheck Protection Program Flexibility Act of 2020. *See* 85 Fed. Reg. 36,308 (June 16, 2020).

[77] *See* 85 Fed. Reg. 20,811 (Apr. 15, 2020). The interim final rule stated that lenders would be held harmless for borrowers' failure to comply with program criteria.

[78] *See* 85 Fed. Reg. 20,811, 20,815 (Apr. 15, 2020). Because of the limited loan underwriting, lenders and SBA have less information from applicants to detect errors or fraud. For standard loans under SBA's 7(a) program, borrowers have to provide documentation that includes a completed application, personal and business financial statements, and income tax returns. However, the initial interim final rule's requirement that lenders follow applicable Bank Secrecy Act requirements may require lenders to collect additional identifying information from borrowers before approving a PPP loan. (The Bank Secrecy Act and its implementing regulations generally require financial institutions, including banks, to collect and retain various records of customer transactions, verify customers' identities, maintain anti-money laundering compliance programs, and report suspicious transactions.) In an interim final rule posted to SBA's website on May 22, 2020, SBA informed lenders that the lender would not receive its lender processing fee if SBA determined that the borrower was ineligible for a PPP loan. *See* 85 Fed. Reg. 33,010, 33,014 (June 1, 2020).

[79]GAO, *Aviation: FAA Needs to Better Prevent, Detect, and Respond to Fraud and Abuse Risks in Aircraft Registration*, GAO-20-164 (Washington, D.C.: Mar. 25, 2020).

In the initial interim final rule, SBA also stated that it would direct a small business that used PPP funds for unauthorized purposes to repay those amounts, and that the applicant could be subject to additional liability, such as fraud charges, if these funds were knowingly used for unauthorized purposes. [80] The rule also included some safeguards for lenders that were not federally insured depository institutions or federally insured credit unions, such as requiring that they comply with Bank Secrecy Act requirements. [81]

Ongoing Oversight

Because SBA had limited time to implement up-front safeguards for the loan approval process and assess program risks, ongoing oversight will be crucial. SBA has announced efforts to implement safeguards after loan approval but has provided limited information on how it will implement these safeguards. On April 28, 2020, Treasury and SBA announced that SBA would review loans of more than $2 million (about 30,000 loans that represent about 21 percent of the approved dollar amount of PPP loans as of June 12, 2020) to confirm borrower eligibility after the borrower applied for loan forgiveness. [82] In an interim final rule posted on May 22, 2020, SBA noted that it may review any PPP loan it deems appropriate.

These reviews may include whether a borrower was eligible for the PPP loan, calculated the loan amount correctly, used loan proceeds for the allowable uses, or was entitled to loan forgiveness in the amount claimed. [83] However, as of June 15, 2020, SBA had not provided us additional details—including time frames and specific review procedures—on how it would conduct its review of all loans for more than $2 million. Further, SBA had not informed us of any specific oversight plans for the more than 4 million loans of less than $2 million, including how it would identify which loans to review and the number of reviews planned. [84]

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[80]In addition to SBA, other federal agencies are taking steps to identify potential fraud in PPP. For example, on May 5, 2020, the Department of Justice announced that it was working to address abuse related to CARES Act programs and had charged two businessmen with allegedly seeking more than $500,000 in PPP loans fraudulently.

[81]Federally insured depository institutions are already subject to Bank Secrecy Act requirements.

[82]SBA later announced that PPP borrowers could repay the loan in full by May 18, 2020, and would be considered to have made their necessity certification in "good faith." That is, SBA would not investigate these borrowers for fraud related to this certification. On May 13, 2020, SBA stated in a response to a frequently asked question that SBA would deem borrowers who received PPP loans of less than $2 million to have made the required certification concerning the necessity of the loan request in good faith. SBA also stated it would review borrowers with loans greater than $2 million to determine if they had an adequate basis for making the required good-faith certification.

[83]According to the interim final rule, SBA will determine whether a borrower was eligible for a PPP loan based on the provisions of the CARES Act, the rules and guidance available at the time of the borrower's PPP loan application, and the terms of the borrower's loan application.

[84]After our cutoff date of June 15, 2020, SBA provided some additional information on its planned reviews of loans. Regarding the agency's reviews of loans over $2 million, SBA stated that it expects to facilitate these reviews, in part, through electronic screening of borrower and loan characteristics that may confirm the validity of the certification. Regarding the agency's reviews of loans of less than $2 million, SBA stated that loan files may be selected through appropriate statistical sampling or in response to specific reports or evidence of fraud or noncompliance.

Federal internal control standards state that management should consider the potential for fraud when identifying, analyzing, and responding to risks. [85] Because of the number of loans approved, the speed with which they were processed, and the limited safeguards, there is a significant risk that some fraudulent or inflated applications were approved. In addition, the lack of clear guidance has increased the likelihood that borrowers may misuse loan proceeds or be surprised they do not qualify for full loan forgiveness.

As discussed above, Congress has charged SBA with implementing the PPP and other provisions crucial to the nation's economic recovery. However, SBA to date has failed to provide information critical to our review, including a detailed description of data on loans made. [86] The agency provided primarily publicly available information in response to our inquiries. SBA officials met with GAO in the beginning of June to discuss questions we had provided about 6 weeks earlier. GAO continues to work with SBA officials to obtain needed data and other information.

Most agencies were generally able to provide GAO timely access to information for this report while executing their responsibilities during this unprecedented national crisis. In this regard, they have shown that it is not only possible but imperative to cooperate in a meaningful way with oversight of the trillions of dollars of public money appropriated in the COVID-19 relief laws as they carry out their responsibilities.

Federal Reserve Loans

The CARES Act also provides economic and business support by authorizing up to $454 billion and potentially certain other amounts for Treasury to support the Board of Governors of the Federal Reserve System (Federal Reserve) in establishing lending programs (or facilities) to provide liquidity to the financial system that provides lending to states, tribes, municipalities, and eligible businesses. The facilities are authorized under section 13(3) of the Federal Reserve Act and must be approved by the Secretary of the Treasury. [87]

In March and April 2020, the Federal Reserve introduced seven lending facilities supported through Treasury's CARES Act appropriated funds (see table 3). As of June 8, 2020, Treasury had committed $195 billion, or about 43 percent, of the $454 billion available from the CARES Act to support the seven facilities, and Treasury's funding will allow the facilities to support up to $1.95 trillion of transactions. As of the same date, two of the seven lending facilities—the Secondary Market Corporate Credit Facility and the Municipal Liquidity Facility—were operational, for which Treasury had disbursed $37.5 billion and $17.5 billion, respectively.

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[85] GAO-14-704G.

[86] Section 19010 of the CARES Act provides GAO with a broad right of access to records pertaining to any federal effort or assistance related to the pandemic, along with the right to make copies of such records, interview staff, and inspect facilities. Pub. L. No. 116-136, § 19010(d), 134 Stat. at 580-81.

[87] Section 13(3) of the Federal Reserve Act permits the Federal Reserve to provide emergency lending.

Table 3: Federal Reserve Lending Facilities with CARES Act Funding, as of June 8, 2020		
Name of facility	**Purpose**	**Facility activity**
1. Primary Market Corporate Credit Facility 2. Secondary Market Corporate Credit Facility	Support large businesses	Primary market facility: purchase qualifying bonds directly from and purchase portions of syndicated loans made to eligible issuers. Secondary market facility: purchase qualifying corporate bonds and U.S.-listed exchange-traded funds in the secondary market.
3. Main Street New Loan Facility 4. Main Street Priority Loan Facility 5. Main Street Expanded Loan Facility	Support small- and medium-sized businesses	New loan and priority loan facilities: purchase 95 percent participation interests in newly issued eligible loans that eligible lenders make to eligible borrowers. Expanded loan facility: purchase 95 percent participation interests in a new extension of credit under an existing eligible loan made by an eligible lender to an eligible borrower.
6. Municipal Liquidity Facility	Support states, and certain counties, cities, multi-state entities, and revenue bond issuers	Purchase eligible notes directly from eligible issuers at time of issuance.
7. Term Asset-Backed Securities Loan Facility	Support consumers and businesses	Provide non-recourse loans to U.S. companies secured by qualifying asset-backed securities generally backed by recently originated consumer and business loans.

Source: GAO analysis of Board of Governors of the Federal Reserve System (Federal Reserve) documents. | GAO-20-625

Treasury officials said they are monitoring market conditions to help inform how best to commit the remaining funds. Federal Reserve and Treasury officials said they are taking steps to bring the other five facilities into operation, but officials do not have specific dates for when most of the other facilities will become active. In its most recent periodic reports to Congress on the lending facilities, the Federal Reserve Board stated it continues to expect that the facilities will not result in losses to the Federal Reserve. Based in part on information from the Federal Reserve Board, the Congressional Budget Office (CBO) estimates no deficit effect to the federal government.

Table 4 provides a summary of additional information on federal support for industry and the economy presented in enclosures in appendix III, which also include descriptions of GAO's future work.

Table 4: Areas in Which the Federal Government Has Taken Action to Support Industry and the Economy in Response to COVID-19

Area name	Description
Small Business Programs	The Small Business Administration approved more than 1 million economic injury disaster loans, but information technology challenges and processing delays hampered implementation.
Paycheck Protection Program	The Paycheck Protection Program was designed to give assistance to small businesses and other organizations that were affected by COVID-19.
Federal Reserve Emergency Lending Programs	In response to the economic downturn caused by COVID-19, among other actions, the Board of Governors of the Federal Reserve System, with the Department of the Treasury approval, authorized the establishment of seven emergency lending programs (or facilities) supported through the Department of the Treasury funding appropriated under the CARES Act. The facilities are to help provide credit to eligible businesses, states, tribes, and municipalities. As of June 8, 2020, only two of the seven facilities were operational.
Tax Relief for Businesses	It is too early to know the extent businesses are taking advantage of certain tax relief options—such as carrying additional losses back to prior tax years—but refunds may be delayed if businesses who must submit amended returns do so on paper.
Aviation Sector Financial Assistance	The Department of the Treasury and the Federal Aviation Administration have begun to provide funding to help the nation's aviation industry and airports respond to and recover from the economic effects of the COVID-19 pandemic.
Agriculture Spending and Food Safety Inspections	The U.S. Department of Agriculture is providing $16 billion in direct payments to agricultural producers, as well as $3 billion in food purchases for redistribution to food banks, nonprofits, and other entities. Federal inspections of meat and poultry plants continue.
U.S. Department of Agriculture Support for Rural America	CARES Act funding provides support for U.S. Department of Agriculture programs to help address the COVID-19 pandemic in rural America.
Temporary Financial Regulatory Changes	Federal agencies have issued rules or statements on financial regulatory changes and have not exercised certain emergency authorities under the CARES Act.
Department of Commerce Support for Industries and the Economy	The CARES Act provided additional appropriations for four Department of Commerce bureaus to aid the economy and industries affected by the COVID-19 pandemic.
Department of Defense Working Capital Funds	COVID-19 could further impact the Department of Defense's working capital fund balances, even with additional appropriated amounts provided by the CARES Act.

Source: GAO. | GAO-20-625

The Four COVID-19 Relief Laws Provide Aid to States, Localities, Territories, and Tribes through Various Programs

The four COVID-19 relief laws enacted at the time of our review provide an estimated $335 billion in funds to agencies for assisting U.S. states, localities, territories, and tribes in their responses to the COVID-19 pandemic.[88] Six programs account for approximately 89 percent, or $299 billion, of the total estimated funding.

- **Coronavirus Relief Fund.** This new funding source, administered by Treasury, provides direct assistance to states, localities, tribal governments, the District of Columbia, and U.S. territories to help offset costs of their response to the COVID-19 pandemic.
- **Medicaid.** Medicaid is administered by states and territories according to plans approved by CMS, which oversees Medicaid at the federal level. This program finances health care for certain low-income and medically needy individuals, through federal matching of states' and territories' health care expenses. The Families First Coronavirus Response Act temporarily increased the federal matching rate for states that meet specific requirements and increased the federal Medicaid spending cap for territories. The act also provided an additional coverage option for the duration of the COVID-19 public health emergency.
- **FEMA's Disaster Relief Fund.** This fund is the major source of federal disaster recovery assistance for state, local, and territorial governments when a disaster occurs. For the COVID-19 pandemic, recipients can use funds to lessen the immediate threat to public health and safety, like standing up emergency medical facilities.[89]
- **Education Stabilization Fund.** Administered by the Department of Education, this fund provides formula and discretionary grants to states for support of educational services.[90] For example, local educational agencies, which receive funds from their state, may use funds for a variety of purposes in response to COVID-19, including technology acquisition to facilitate remote learning, activities to address unique needs of low-income students, and mental health services, among others. U.S. territories and Bureau of Indian Education programs receive funds under the Education Stabilization Fund as well.
- **Transit grants.** These are formula grants, administered by the Department of Transportation (DOT), that provide funding through pre-existing federal grant programs to state and local transit agencies and are available, among other things, to cover certain eligible operating, planning, and capital expenses, including administrative leave for workers, in response to conditions caused by COVID-19.

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[88]This total is based on an analysis of the appropriated amounts in the four COVID-19 relief laws enacted at the time of our review, along with the Congressional Budget Office's estimated outlays for Medicaid increases resulting from changes in program authorizations made under the laws.

[89]The CARES Act appropriated funds to the Disaster Relief Fund, which may be used for various disaster assistance programs, including the Public Assistance program, which provides assistance to states and localities.

[90]Funds under the Education Stabilization Fund provided through the Governor's Emergency Education Relief Fund are provided to the Governor of each state and Puerto Rico, as well as the Mayor of the District of Columbia.

- **Airport grants.** These are formula grants, administered by DOT, that provide funds for airports to prevent, prepare for, and respond to the effects of the COVID-19 pandemic. [91]

According to agency data, $159 billion of funds from these six programs had been disbursed (i.e., expended) as of May 31, 2020 (see table 5 for appropriations and expenditures). One program, the Coronavirus Relief Fund, has disbursed almost all appropriated funds, although the administering agency, Treasury, missed a deadline for disbursing these funds to tribal governments. Other programs have disbursed a smaller portion of available funds.

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

Table 5: Appropriations and Expenditures for Selected Federal Programs Providing COVID-19 Related Aid to States, Localities, Territories, and Tribes

Program	Appropriations (in dollars)	Expenditures as of May 31, 2020 (in dollars)
Coronavirus Relief Fund	$150 billion	$147 billion
Medicaid	52 billion [a]	7 billion
Federal Emergency Management Agency's Disaster Relief Fund	45 billion	1 billion [b]
Transit grants	25 billion	3 billion
Education Stabilization Fund	17 billion [c]	83 million
Airport grants [d]	10 billion	288 million

Source: GAO analysis of federal laws; Congressional Budget Office (CBO) data and information and data from the Centers for Medicare & Medicaid Services, the Departments of Education, Homeland Security, and Transportation, and Department of the Treasury. | GAO-20-625

Note: The COVID-19 relief laws appropriating the amounts described in this table are the Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020) and the CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020). Some appropriation amounts include an amount available for administration expenses or for the relevant inspectors general. Numbers are rounded to the nearest million or billion.

[a]Several provisions in the Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020), authorized an increase in Medicaid funds for states and territories. The largest increase to federal Medicaid spending is based on a formula change rather than a specific appropriated amount. The Congressional Budget Office estimated that federal expenditures from this change would be approximately $50 billion

[b]This amount represents all expenditures as of May 31, 2020, from the Disaster Relief Fund for COVID-19, some of which was for the Federal Emergency Management Agency's Public Assistance program, which provides assistance to states, territories, and tribes. Obligations for the Public Assistance program as of May 31, 2020, were $1.2 billion.

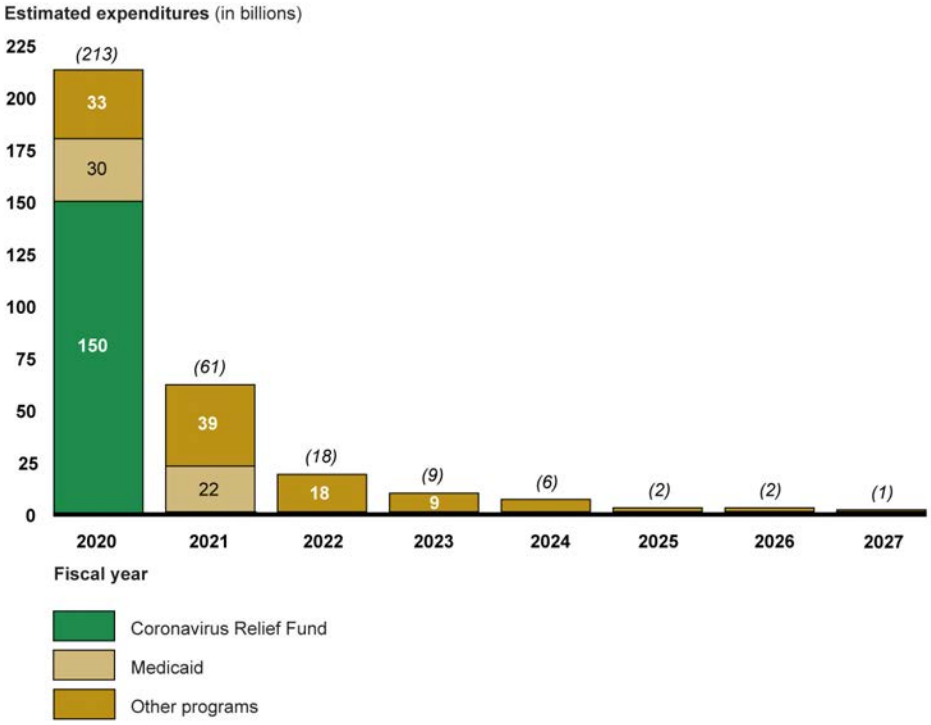
[c]This amount is an approximation and includes funds for the Elementary and Secondary School Emergency Relief Fund, the Governor's Emergency Education Relief Fund, Education Stabilization Fund discretionary grants, formula grants to other U.S. territories, and programs operated or funded by the Bureau of Indian Education. It does not include the nearly $14 billion in aid for institutions of higher education through the Education Stabilization Fund.

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

According to CBO estimates, over 85 percent of funds provided for these six programs will be expended in fiscal years 2020 and 2021 (see fig. 6). CBO estimates that Treasury will disburse all funds from the Coronavirus Relief Fund in fiscal year 2020 and that increased Medicaid payments will be made in fiscal years 2020 and 2021.[92] From fiscal years 2020 to 2030, agencies will expend funds for the programs that provide aid for disaster relief, education, transit, and airports.

[92]The increased Medicaid payments will end, by law, at the end of the quarter in which the national emergency ends, which could be earlier or later than the time frame CBO estimated.

Figure 6: Estimated Federal Expenditures for Selected Programs That Include COVID-19-Related Assistance to States, Localities, Territories, and Tribes



Source: GAO analysis of Congressional Budget Office data. | GAO-20-625

Note: The selected programs included are (1) the Coronavirus Relief Fund, (2) Medicaid, (3) the Federal Emergency Management Agency's Disaster Relief Fund, (4) the Education Stabilization Fund, (5) transit grants, and (6) airport grants. Estimated expenditures depicted in the figure for these programs total $312 billion, of which approximately $299 billion is for assistance to states, localities, territories, and tribes. The Congressional Budget Office's (CBO) estimates for the Education Stabilization Fund includes $14 billion for institutions of higher education. For the Disaster Relief Fund, CBO estimates expenditures of less than $500 million in fiscal years 2028 to 2030. Data for this figure come from CBO's analysis of COVID-19 relief laws, specifically: the Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020) and the CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020).

In addition to these large programs, states, localities, territories, and tribes have access to smaller amounts of funding through a number of other provisions in the COVID-19 relief laws, such as homeless assistance grants and economic development assistance. The Paycheck Protection Program and Health Care Enhancement Act requires HHS, as part of a larger appropriation for the agency, to provide $11 billion to states, localities, territories, and tribes for expenses associated with COVID-19 testing. [93] Also, the CARES Act appropriated funding to support loans available to states, the District of Columbia, and localities through the Federal Reserve's Municipal Liquidity Facility. [94] According to CBO estimates, these loans would have no effect on the federal budget deficit.

Table 6 provides a summary of additional information on federal assistance to states, territories, localities, and tribes presented in enclosures in appendix III, which also include descriptions of GAO's future work.

[93]Pub. L. No. 116-139, div. B., tit. I, 134 Stat. at 624.

[94]Pub. L. No. 116-136, § 4003, 134 Stat. at 470.

Table 6: Areas in Which the Federal Government Has Taken Action to Assist States, Localities, Territories, and Tribes in Response to COVID-19

Area name	Description
Education Stabilization Fund	The Education Stabilization Fund provides emergency funding to address the effects of the COVID-19 pandemic on education. It is too early to know how states and school districts will spend these funds and the effect they may have, but the understandable desire to spend the money quickly may increase the risks of noncompliance with spending and accountability requirements.
Transit Industry	The Federal Transit Administration has begun to distribute CARES Act funding, with most grants going to operating expenses.
Coronavirus Relief Fund	Almost the entire $150 billion fund has been disbursed to states, localities, tribal governments, the District of Columbia, and U.S. territories to help cover the costs of responding to the COVID-19 pandemic.
Assistance for Tribal Entities	Federal programs for tribes and their members received at least $9 billion in supplemental funding to respond to the COVID-19 pandemic, and tribal entities may be eligible for funding from other programs; however, federal agencies have sometimes delayed disbursements to tribal governments or limited tribal businesses' eligibility.
Disaster Relief Fund	The CARES Act appropriated $45 billion to the Disaster Relief Fund—the primary source of federal funding to provide disaster assistance to state, local, tribal, and territorial governments, among other things, following major disasters and emergencies declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Source: GAO. | GAO-20-625

Federal Agencies Have Obligated About $17 Billion on Contracts to Provide Critical Goods and Services

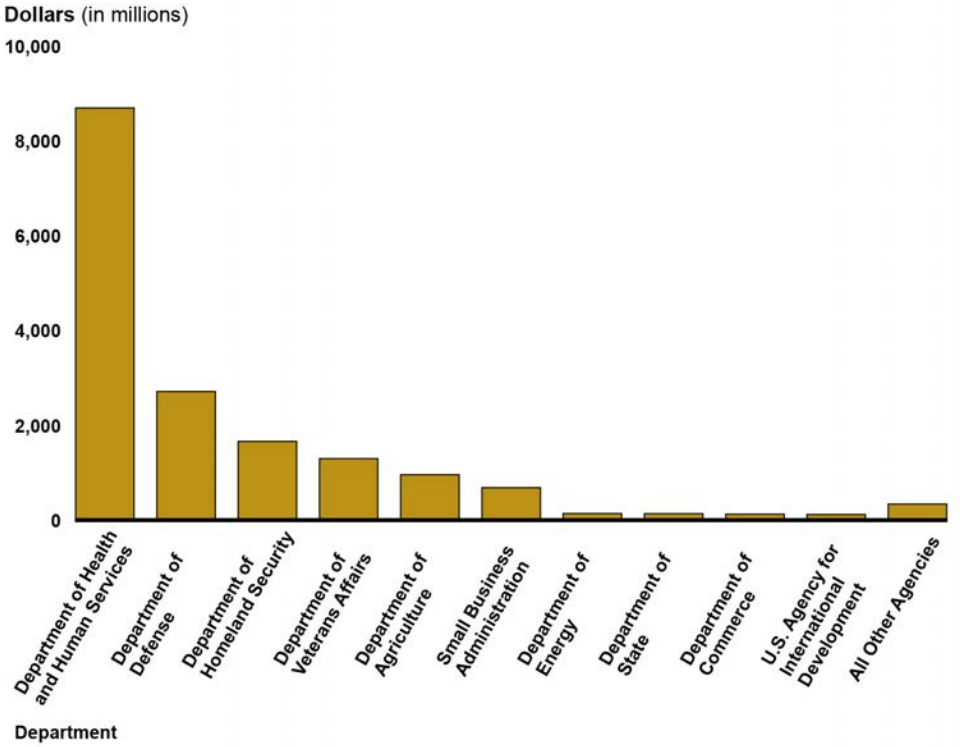
Government-wide Contract Obligations

Government-wide contract obligations in response to the COVID-19 pandemic totaled about $16.9 billion as of May 31, 2020, with HHS accounting for about half of these obligations. [95] See figure 7

[95]Federal procurement contract obligations are based on data in the Federal Procurement Data System-Next Generation. In addition to obligating dollars through contracts, the government may obligate funds through other vehicles, such as grants. This section is focused specifically on government-wide contract obligations, and obligations reported in this section do not include grants, cooperative agreements (such as those under Title III of the Defense Production Act), other transactions, real property leases, requisitions from Federal stock, training authorizations, or other non-FAR based transactions. We identified obligations related to COVID-19 using the National Interest Action code, as well as the contract description. For contract actions over $1 million, we removed obligations that were identified in the contract description as not related to COVID-19.

for total contract obligations broken down by agency and figure 8 for the top categories of goods and services procured.

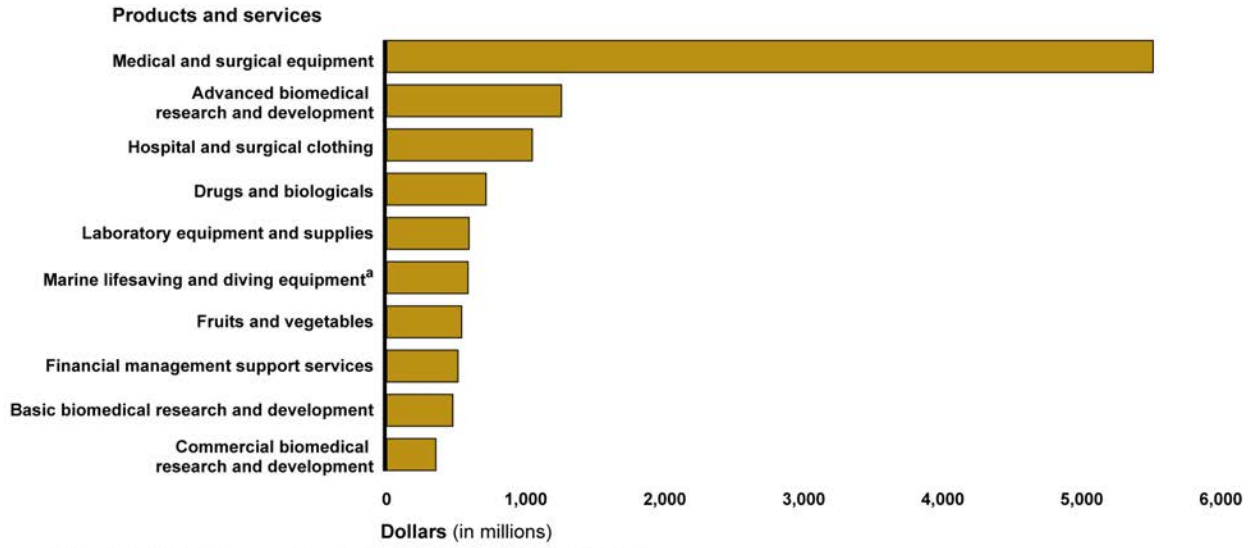
Figure 7: Contract Obligations in Response to COVID-19 by Agency, as of May 31, 2020



Source: GAO analysis of Federal Procurement Data System-Next Generation Data. | GAO-20-625

Note: Thirty departments and agencies across the federal government are included in the $339.2 million, or about 2 percent of total obligations, denoted as all other agencies. Federal procurement contract obligations do not include grants, cooperative agreements (such as those under Title III of the Defense Production Act), other transactions, real property leases, requisitions from Federal stock, training authorizations, or other non-FAR based transactions.

Figure 8: Top Products and Services Procured through Federal Contracts in Response to COVID-19, as of May 31, 2020



Source: GAO analysis of Federal Procurement Data System-Next Generation Data. | GAO-20-625

Note: Federal procurement contract obligations do not include grants, cooperative agreements (such as those under Title III of the Defense Production Act), other transactions, real property leases, requisitions from Federal stock, training authorizations, or other non-FAR based transactions.

[a]According to Defense Logistics Agency officials, many of the items they procured in response to COVID-19 were orders placed on a certain contract that, due to a system coding limitation, were coded as marine lifesaving and diving equipment. These obligations include gowns and critical care decontamination systems for face masks.

According to federal procurement data, examples of goods procured within the two categories of "medical and surgical equipment" and "hospital and surgical clothing" included about $3 billion for ventilators and about $2.1 billion for personal protective equipment, like N95 respirators and gloves. Examples of services included about $1.7 billion for basic and advanced biomedical research and development, about half of which was for vaccination development.

Federal agencies are tracking contract obligations in response to COVID-19 through the use of a National Interest Action code in the Federal Procurement Data System-Next Generation. The COVID-19 National Interest Action code was established on March 13, 2020, to track contract obligations, and is currently slated to expire on September 30, 2020. [96] Our prior work has reported on the importance of such codes for providing visibility into emergency or contingency contracting activities, which could have implications for tracking contract obligations in response

[96]National Interest Action codes were established in 2005 after Hurricane Katrina with the purpose of tracking federal procurements for specific disasters, emergencies, or contingency events. Based on a memorandum of agreement, DOD, the Department of Homeland Security (DHS), and the General Services Administration are jointly responsible for determining when a National Interest Action code should be established and closed. DOD requests new or extended National Interest Action codes on behalf of the military departments and defense agencies, DHS requests new or extended codes on behalf of the civilian agencies, and General Services Administration acts as the servicing agency by modifying the Federal Procurement Data System-Next Generation.

to COVID-19 over the longer term. [97] We will continue to monitor how long this code should be maintained.

Defense Production Act

The President has taken several actions to allow federal agency use of DPA authorities to mitigate COVID-19 supply chain issues, and the CARES Act provided $1 billion for DPA purchases to prevent, prepare for, and respond to the coronavirus, domestically or internationally. [98] In an Executive Order issued on March 18, 2020, the President delegated to the Secretary of Health and Human Services authority under the DPA to require preferential performance of contracts with respect to health and medical resources. [99] The President subsequently delegated further authorities under the DPA to, among other things

1. provide the Secretary of Health and Human Services the authority to prevent hoarding and price gouging of resources, such as personal protective equipment and disinfecting and sanitizing products;

2. provide the Secretary of Health and Human Services and the Secretary of Homeland Security the authority to expand production capacity of resources such as personal protective equipment and ventilators and to appoint the Assistant to the President for Trade and Manufacturing Policy as the National Defense Production Act Policy Coordinator during COVID-19 response;

3. provide the Secretary of Agriculture the authority to ensure that meat and poultry processors continue operations consistent with the guidance for their operation jointly issued by CDC and the Occupational Safety and Health Administration; [100] and

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[97]GAO, *2017 Disaster Contracting: Actions Needed to Improve the Use of Post-Disaster Contracts to Support Response and Recovery,* GAO-19-281 (Washington, D.C.: Apr. 24, 2019). In April 2019, we identified inconsistencies in establishing and closing these codes following previous disasters or emergencies, and recommended that the General Services Administration, in coordination with DHS and DOD, assess whether the criteria in their current National Interest Action code agreement meet the long-term needs for high visibility events and of users, such as FEMA, other agencies, and Congress. The General Services Administration and DOD concurred with our recommendation and took some steps to revise their agreement.

[98]See Pub. L. No. 81-774, 64 Stat. 798 (1950) (codified, as amended, at 50 U.S.C. §§ 4501 et seq.). Enacted in 1950, the DPA helps ensure the availability of industrial resources to meet national defense needs. DPA authorities allow the President to (1) require private companies to fulfill government contracts or orders the government designated as priorities before fulfilling contracts or orders from other customers, (2) provide financial incentives to private companies to increase production capabilities for critical security needs, and (3) collect information related to domestic industrial base issues. Over time, Congress has expanded the scope of the DPA to include certain emergency preparedness activities, and critical infrastructure protection and restoration.

[99]Exec. Order No. 13909, 85 Fed. Reg. 16,227 (Mar. 23, 2020).

[100]The Department of Agriculture (USDA) and the Food and Drug Administration established a Memorandum of Understanding creating a process for the two agencies to communicate and make determinations about circumstances in which USDA could exercise its authority under the DPA with regard to certain domestic food resource facilities that manufacture, process, pack, or hold foods, as well as to those that grow or harvest food, outside of USDA's exclusive jurisdiction.

4. provide the Chief Executive Officer of the United States International Development Finance Corporation the authority to, among other things, make loans to create, maintain, protect, expand, and restore the domestic industrial base capabilities, including supply chains within the United States and its territories. [101]

Since March 18, 2020, federal agencies have reported various uses of DPA authorities. For example, HHS announced that it used DPA authority to prioritize at least eight contracts to produce more than 150,000 ventilators for $2 billion by the end of 2020. Our analysis of agency data shows that the largest prioritized contract under the DPA was awarded in April 2020, to Philips for $646.7 million to produce 43,000 ventilators—2,500 of which were to be delivered to the SNS by the end of May 2020. According to HHS, as of June 12, 2020, Philips has delivered 2,524 ventilators to the SNS.

DOD reported awarding agreements under the DPA to expand domestic production of health and medical resources, such as N95 respirators and swabs. For example, in April 2020, DOD announced that it signed a $76 million technology investment agreement with 3M to help produce an additional 78 million N95 respirators by October 2020. 3M is expected to convert a current equipment supplier into an N95 producer and will also expand its own production capabilities to produce the respirators.

Contracting Flexibilities to Aid Response

The CARES Act authorized additional flexibilities for agencies when contracting for critical goods and services, including the following:

- **Undefinitized contract actions.** This contracting method allows contractors to begin work before reaching a final agreement with the government on contract terms and conditions. The CARES Act allows DOD to waive requirements related to time frames and limitations on the amounts that can be obligated by DOD before the contract action is defined. [102] Undefinitized contract actions can allow the government to fulfill requirements that are urgent or need to be met quickly when there is insufficient time to negotiate all terms. Our prior work has noted that undefinitized contract actions can pose risks to the government, such as when contractors lack incentives to control costs before all contract terms and conditions are defined. [103]

- **Other transaction authority.** Other transactions enable federal agencies to negotiate terms and conditions specific to a project without requiring them to comply with certain federal regulations. The CARES Act removes certain limitations on the use of other transactions for

[101] Exec. Order No. 13910, 85 Fed. Reg. 17,001 (Mar. 26, 2020); Exec. Order No. 13911, 85 Fed. Reg. 18,403 (Apr. 1, 2020); Exec. Order No.13917, 85 Fed. Reg. 26,313 (May 1, 2020); and Exec. Order No.13922, 85 Fed. Reg. 30,583 (May 19, 2020).

[102] Pub. L. No. 116-136, § 13005, 134 Stat. at 522.

[103] GAO, *Defense Contracting: DOD Has Enhanced Insight into Undefinitized Contract Action Use, but Management at Local Commands Needs Improvement*, GAO-10-299 (Washington, D.C.: Jan. 28, 2010).

HHS and DOD, such as congressional reporting requirements and who can approve certain transactions. [104] Our prior work has noted that other transactions can enable the government to attract companies it has not typically done business with to perform research, prototyping, and production of new technologies or products. We have also noted challenges with their use in terms of a risk of reduced accountability and transparency. [105]

The Federal Acquisition Regulation also has a variety of acquisition flexibilities to allow the government to more rapidly respond to its needs. For example, the regulation raises spending thresholds for using government purchase cards or simplified acquisition procedures when an emergency or major disaster is declared under the Stafford Act, and allows soliciting from only one source if, for example, the contracting officer determines that the circumstances of the contract action deem only one source reasonably available. [106]

Finally, the CARES Act included a provision that GAO provide a comprehensive audit and review of charges made to federal contracts pursuant to authorities provided in the act. [107] Our future work will evaluate agencies' planning and management of contracts awarded in response to the pandemic, including agencies' use of the flexibilities outlined above. Additionally, we plan to examine agencies' execution of section 3610 of the CARES Act, which allows federal agencies to reimburse contractors, subject to certain limitations, for expenses incurred to keep contractors' employees or subcontracts in a ready state during the public health emergency. [108] We also plan to assess the federal government's use of DPA authority to obtain the health and medical resources necessary to combat COVID-19 and to mitigate industrial base risks.

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[104]Pub. L. No. 116-136, §§ 3301, 13006, 134 Stat. at 383, 522.

[105]GAO, *Defense Acquisitions: DOD's Use of Other Transactions for Prototype Projects Has Increased,* GAO-20-84 (Washington, D.C.: Nov. 22, 2019); *Department of Homeland Security: Improvements Could Further Enhance Ability to Acquire Innovative Technologies Using Other Transaction Authority,* GAO-08-1088 (Washington, D.C.: Sept. 23, 2008); and *Defense Acquisitions: DOD Has Implemented Section 845 Recommendations but Reporting Can Be Enhanced*, GAO-03-150 (Washington, D.C.: Oct. 9, 2002).

[106]For Federal Acquisition Regulation emergency acquisition flexibilities generally, see FAR Subpart 18.2. Specifically, agencies are able to leverage increases to the micropurchase and simplified acquisition thresholds, and increases to thresholds for using simplified acquisition procedures for certain commercial items. In response to COVID-19, HHS, DOD, DHS, and the Department of Veterans Affairs have issued guidance related to the use of these authorities, which generally increase the micropurchase thresholds from either $3,500 or $10,000 to $20,000 and the simplified acquisition threshold from either $150,000 or $250,000 to $750,000.

[107]Pub. L. No. 116-136, § 19010(b), 134 Stat. at 580.

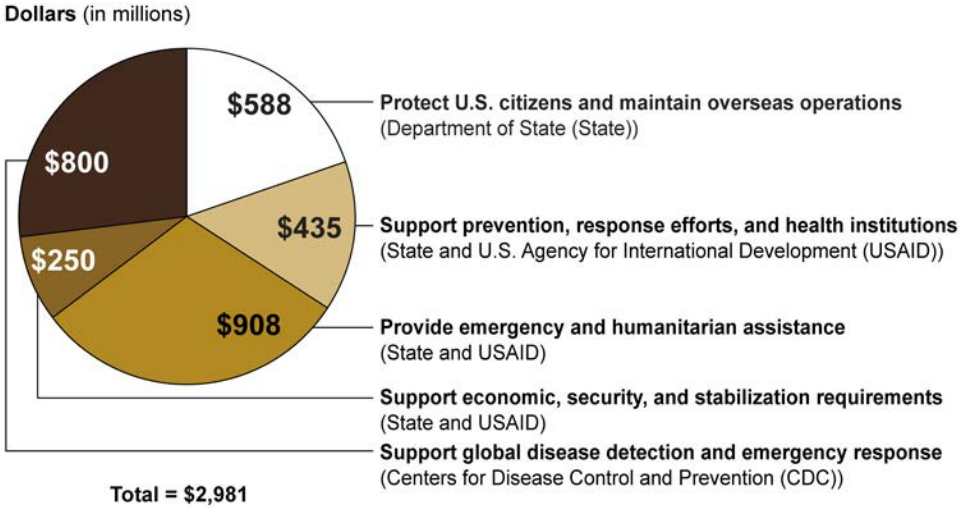
[108]According to section 3610 of the CARES Act, agencies may modify contracts or other agreements to reimburse contractors at the minimum applicable contract billing rate to keep contractors' employees or subcontractors in a ready state until September 30, 2020. This provision only applies to a contractor whose employees or subcontractors cannot perform work at a government-approved site due to facility closures or other restrictions and cannot telework because their job duties cannot be performed remotely.

U.S. Agencies Have Taken Steps to Respond to COVID-19 Abroad with Existing and Supplemental Funding

Funding for U.S. Agencies' International Response

Congress appropriated about $3 billion in supplemental funding to support the U.S. government's international response to the COVID-19 pandemic.[109] Of this funding the Department of State (State) and the U.S. Agency for International Development (USAID) received about $2.2 billion for diplomatic and foreign assistance programming, and Congress designated at least $800 million of CDC's COVID-19 supplemental appropriations for CDC's global disease detection and emergency response (see fig. 9). As of May 20, 2020, State and USAID reported allocating about $1.2 billion of the approximately $2.2 billion, while CDC officials told us that as of May 19, 2020, CDC had developed plans for $300 million of the $800 million.[110]

Figure 9: Key Areas of 2020 Supplemental Funding for International Response to COVID-19, as of June 1, 2020



Source: GAO analysis of State and USAID Strategy for Supplemental Funding to Prevent, Prepare for, and Respond to Coronavirus Abroad for all key areas except CDC funding. For CDC funding, source is GAO analysis of supplemental appropriations for international response to COVID-19. | GAO-20-625

Note: The supplemental funding also provided $95 million to USAID for operating expenses and $1 million to the USAID Office of Inspector General for COVID-19 related work. Pub. L. No. 116-123, tit. IV, 134 Stat. at 152; Pub. L. No. 116-136, div. B, tit. XI, 134 Stat. at 590. We did not include these funds in this figure.

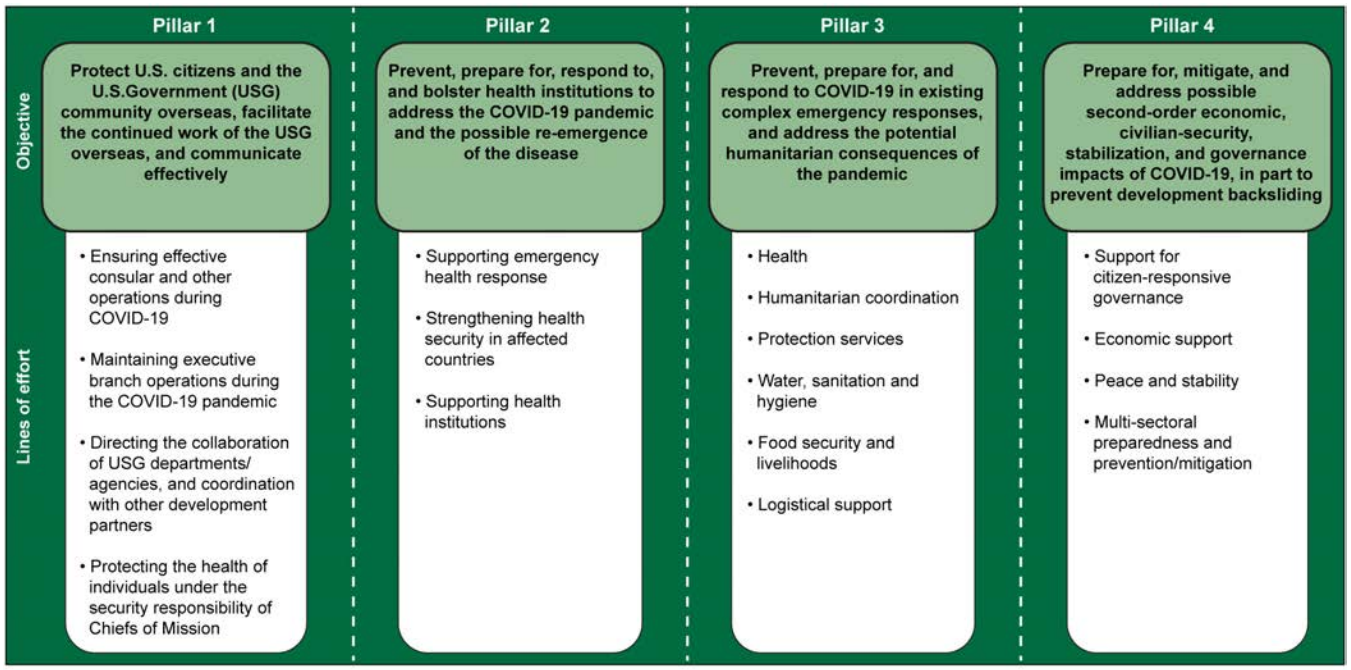
[109]This funding was provided through two supplemental appropriations, the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, and the CARES Act and directed to specific accounts. Pub. L. No. 116-123, tit. III and IV, 134 Stat. at 147 and 152-53; Pub. L. No. 116-136, div. B, tit. VIII and XI, 134 Stat. at 554 and 590. The supplemental funding also provided $95 million to USAID for operating expenses and $1 million to the USAID Office of Inspector General for COVID-19 related work. Pub. L. No. 116-123, tit. IV, 134 Stat. at 152; Pub. L. No. 116-136, div. B, tit. XI, 134 Stat. at 590. We did not include these funds in the $3 billion figure or any other funding totals for U.S. agencies' international response that we present in this report.

[110]More information on the response efforts that State, USAID, and CDC are supporting with these supplemental funds is included in an enclosure of this report.

Agency Strategies for Responding to COVID-19

State and USAID joint strategy. State and USAID developed a joint strategy organized under four pillars to respond to COVID-19 abroad. Each pillar in the strategy is associated with the different accounts managed by State and USAID that received supplemental funding. Figure 10 shows the strategy's objectives and planned lines of effort under each pillar.

Figure 10: March 2020 State and USAID Strategy on the Use of Supplemental Funding to Respond to COVID-19 Abroad



Source: Department of State (State) and U.S. Agency for International Development (USAID) Strategy for Supplemental Funding to Prevent, Prepare for, and Respond to Coronavirus Abroad. | GAO-20-625

CDC strategy. CDC officials told us that the agency developed a strategy for its global response to COVID-19 that provides an overarching framework for working to reduce the global burden of the pandemic while building the global capacity to prevent and control future pandemics. According to CDC officials, the agency's objectives include

- mitigating COVID-19 transmission in the community, across borders, and in healthcare facilities;
- supporting governments, nongovernmental organizations, and health care facilities in rapidly identifying, triaging, and diagnosing potential cases;
- addressing crucial unknowns regarding clinical severity and extent of transmission and infection; and

- ensuring readiness to implement vaccines and therapeutics when available.

Repatriation of U.S. Citizens and Global Health Assistance

Prior to the appropriation of supplemental funding, State, USAID, and CDC used available emergency funds to respond to COVID-19 abroad to repatriate U.S. citizens and provide health assistance.[111]

- **State's repatriation efforts.** As of May 31, 2020, State reported that it had obligated $159 million in emergency funds for expenses associated with evacuation and repatriation efforts, primarily on State-funded charter and contract aviation flights. As of May 31, 2020, State reported it had coordinated the repatriation of 98,726 Americans on 1,080 flights from 139 countries and territories since January 29, 2020, and was tracking some 10,000 additional people who had indicated an interest in being repatriated.[112]

- **USAID's global health assistance.** As of April 6, 2020, USAID had obligated nearly $100 million in existing, emergency funding to provide global health assistance in response to COVID-19 to over 50 countries. According to USAID, this funding supported interventions that included preventing and controlling infections in health facilities; conducting contact tracing; improving readiness to rapidly identify and treat cases; raising awareness in populations through risk communication; screening people at points of entry and exit; and purchasing key commodities.

- **CDC's global health assistance and repatriation efforts.** CDC officials told us that, before receiving supplemental funding, they used the Infectious Disease Rapid Reserve Fund to respond to the most urgent and immediate overseas needs.[113] CDC reported that, as of April 30, 2020, it had obligated more than $91 million of the $105 million available from this fund.[114] Among other things, the funding supported enhanced laboratory capacity, communication and education materials, training resources, and technical assistance to ministries of health in partner countries, as well as guidance on different aspects of repatriation, including transport, screening, isolation, and quarantine.

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[111]Repatriation is the process of sending a person back to his or her country of birth or citizenship.

[112]Approximately half of these flights were instances in which U.S. citizens paid airlines directly for commercial rescue flights but the U.S. government assisted in some way to make repatriation possible when regularly scheduled flights were unavailable as countries closed their borders and imposed other restrictions that stopped normal air travel.

[113]According to CDC, the Infectious Disease Rapid Reserve Fund provides funding that could be used to prevent, prepare for, or respond to an infectious disease emergency, domestic or international. See 42 U.S.C. § 247d–4a.

[114]In addition to using the Infectious Disease Rapid Reserve Fund, CDC also reported obligating $721,000 of $1.6 million in global health security funds carried over from fiscal years 2018-2020 that were available for the earliest stages of its response to COVID-19.

Table 7 provides a summary of additional information on federal actions related to the international response presented in enclosures in appendix III, which also includes descriptions of GAO's future work.

Table 7: Areas in Which the Federal Government Has Taken Action on the International Response to COVID-19	
Area name	**Description**
International Trade	U.S. agencies have taken trade-related actions to address medical supply chain issues and support U.S. international businesses
Response Efforts Abroad	In response to supplemental appropriations of about $3 billion to respond to COVID-19 abroad, the Department of State, the U.S. Agency for International Development, and the Centers for Disease Control and Prevention developed strategies and began to allocate these new funds.

Source: GAO. | GAO-20-625

Key Indicators to Facilitate Monitoring of Recovery Following the Federal Pandemic Response

In light of the CARES Act provision directing GAO to examine the effects of the pandemic, we are developing a series of indicators to monitor key areas of the health care system and the economy.[115] Indicators can be powerful tools both for assessing the overall position and for monitoring the progress of our nation in key areas. Indicators can help policymakers frame strategic issues, support public policy choices, and enhance accountability.[116] Indicators also play an important role in times of crisis. The COVID-19 pandemic and subsequent response have not only resulted in a significant public health crisis that is testing the limits of our health care system, but also has had a sizeable effect on the U.S. economy.

This first report presents several preliminary indicators or concepts for potential indicators. While these indicators may be suggestive of the ongoing effect of COVID-19 or the federal response, they are not exhaustive. We will continue to refine and update such indicators as conditions evolve and better, more timely data become available, especially for those related to public health.

Indicators to Monitor Areas of the Health Care System Supported by the Federal Pandemic Response

CDC and other federal entities have identified a framework of capabilities for preparing for, responding to, and recovering from public health emergencies. Relying on this framework, we reviewed a number of sources, including prior GAO work, information from relevant federal

[115]Pub. L. No. 116-136, § 19010(b), 134 Stat. at 580.

[116]See GAO, *Forum on Key National Indicators: Assessing the Nation's Position and Progress,* GAO-03-672SP (Washington, D.C.: May 2003).

agencies, and selected studies to begin identifying potential indicators that could be used to monitor the effect of COVID-19 on the nation's health care system (see app. I for more details). [117]

These selected indicators are intended to assess the nation's immediate response to COVID-19 as it first took hold, gauge its recovery from the effects of the pandemic over the longer term, and determine the nation's level of preparedness for future pandemics, involving either subsequent waves of COVID-19 or other infectious diseases. All of the indicators we identify below can be used to assess multiple effects with regard to response, recovery, and preparedness and, in most cases, could be used to measure progress or improvement in all three areas.

For additional GAO reports required under the CARES Act, we will continue to develop and refine these and other indicators and continue to monitor the effects of the pandemic on the health care system. [118] In particular, we will work to determine what key aspects of the pandemic response would be most useful to monitor from a federal public health perspective—which will then drive the development and refinement of indicators, the unit of analysis, and the data needed. The following describes potential indicators that we will continue to refine.

- **Rate of COVID-19 testing performed.** An adequate amount of appropriately targeted testing is critical for informing national responses to the COVID-19 pandemic. Viral tests—such as polymerase chain reaction tests—provide data on ongoing infections, while antibody tests, once they are more fully developed and implemented, will provide data on prevalence of past infections. Results from COVID-19 testing over time can help to determine the extent of infections across states and localities or other discrete populations and provide an evidence base for making decisions to either increase or decrease social distancing policies. Moreover, a sufficient rate of testing in states or localities where the number of confirmed cases of COVID-19 is increasing is needed to implement effective contact tracing and isolation, which is the established public health method for slowing the spread of an infection.
  One metric of the sufficiency of viral testing for COVID-19 is the proportion of tests in a given population that are positive for infection. The World Health Organization has recommended that governments bring their positivity rate to under five percent over a time period of at least two weeks. [119] A higher rate indicates that testing is focused on those mostly likely to be infected, which fails to detect other COVID cases, such as individuals who are infected but asymptomatic. Achieving a sufficient rate of testing depends, in part, on ensuring that all the supplies required to conduct the tests are made available. Thus, these supply requirements should figure into preparedness planning for potential future pandemic surges involving subsequent waves of COVID-19 infections. As noted earlier in this report, CDC obtains data from state health departments on the number of COVID-19 viral tests conducted, but

[117]See Centers for Disease Control and Prevention, *Public Health Emergency Preparedness and Response Capabilities: National Standards for State, Local, Tribal, and Territorial Public Health* (Atlanta, Ga.: January 2019) and Department of Homeland Security, *National Response Framework, Fourth Edition* (Washington, D.C.: October 2019).

[118]This work will include identifying areas where additional data are needed to ensure timely and accurate measurement and also working with National Academies and other experts. As more reliable and complete data become available for reporting, we will include trends for these and other indicators in our future CARES Act reporting.

[119]World Health Organization, *Public health criteria to adjust public health and social measures in the context of COVID-19* (May 12, 2020), p. 1.

aggregation to the national level is limited by inconsistencies in how the states report these data. [120]

Proportion of intensive care unit beds available. The sickest patients infected with COVID-19 often require care in hospital intensive care units (ICU), potentially including respiratory support on a ventilator, to survive. Tracking the proportion of hospital ICU beds that are available at regular intervals over time in particular geographic areas, such as states or localities, offers insight on changes in health systems' capacity to meet this need over the course of the pandemic. Individual states collect and publish ICU beds available on public dashboards and as part of their state re-opening plans.

In addition, the Secretary of HHS has requested hospitals to voluntarily submit data relating to COVID-19, including ICU bed availability data, on a daily basis through one of several mechanisms. [121] Most hospitals—60 percent as of early June 2020—have submitted their data to CDC's National Healthcare Safety Network. The data that hospitals submit through other mechanisms is recorded in a separate HHS data system called HHS Protect. However, these data are not currently merged with the data in NHSN on state and local ICU bed availability that CDC shares with state health departments and posts on its public website. CDC has suggested that participation is needed from 95 to 100 percent of hospitals to provide for effective analysis. [122] In addition, tracking the extent of ICU bed use over time by patients infected with COVID-19 could support preparedness planning of ICU surge capacity for potential future outbreaks of COVID-19 or other pathogens. We plan to examine how CDC and other HHS agencies continue to monitor ICU bed availability across states and localities in subsequent reports.

- **Higher than expected deaths from all causes.** Mortality from all causes compared to historical norms provides a potential indicator of the pandemic's broad effect on health care outcomes. [123] As the pandemic has affected the care provided to patients across the continuum of health care services, from primary care visits to emergency treatment of heart attacks, the full effect of COVID-19 goes beyond those infected with the disease. Of particular concern is the effect of COVID-related disruptions of the health care system on mortality.

  Data on pre-COVID-19 mortality is widely available at the state and local level, as well as nationally. Seasonally adjusted, these rates have tended to be highly consistent from year to year. That allows an estimation of how much mortality rose with the onset of the pandemic, and also provides a baseline by which to judge a return to pre-COVID levels. Notably, by focusing on mortality from all causes, this indicator is not affected by differences in how the states determine which deaths were caused by COVID-19. For example, figure 11 illustrates how mortality in the United States has increased since the onset of the COVID-19 pandemic relative to the rate of expected mortality that the CDC calculates for each week of the year

[120] In particular, some states have been combining viral and antibody tests in their reporting.

[121] Alex M. Azar II, *Coronavirus (COVID-19) Pandemic: HHS Letter to Hospital Administrators*, April 10, 2020.

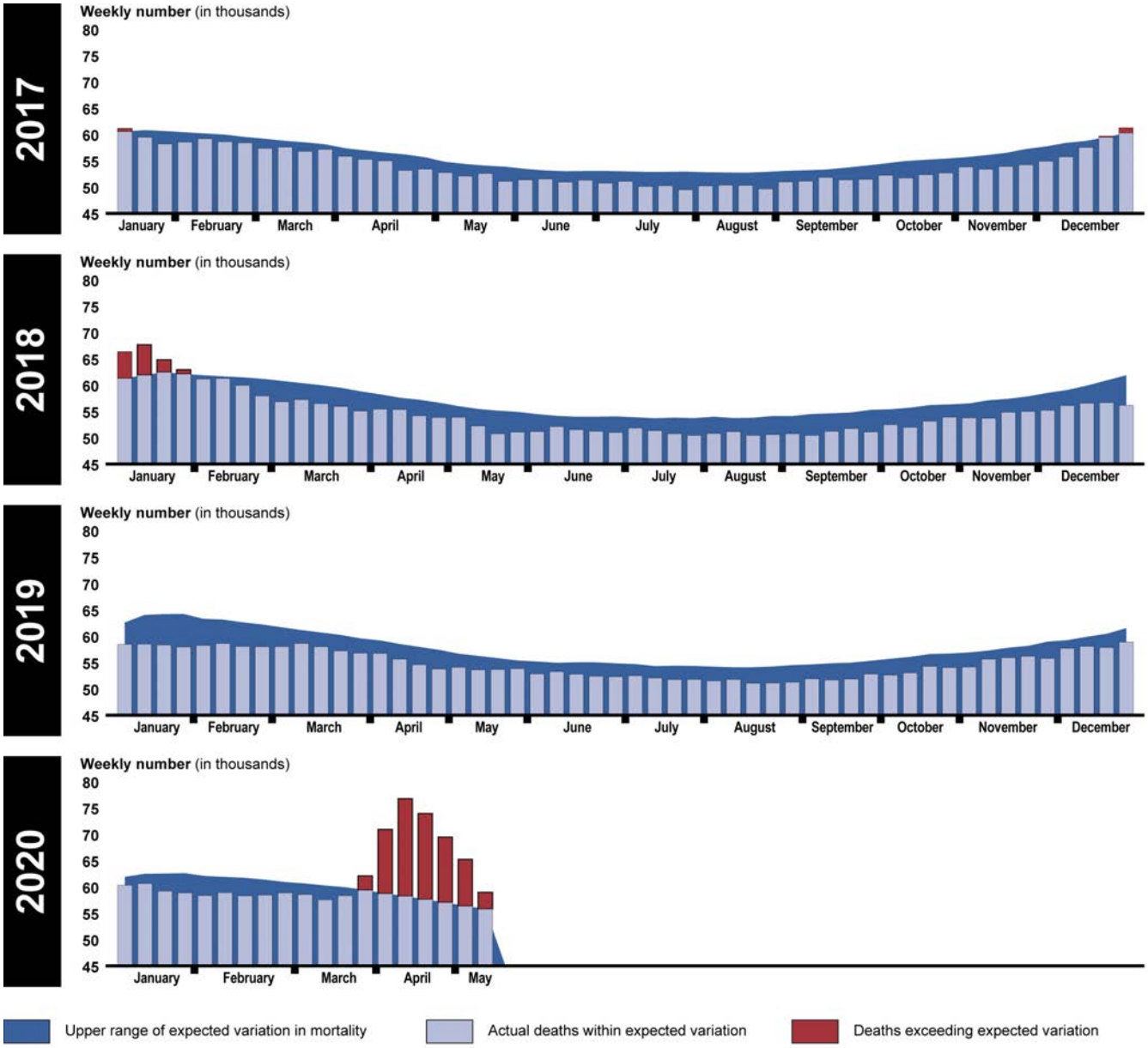
[122] Centers for Disease Control and Prevention, *CDC Activities and Initiatives Supporting the COVID-19 Response and the President's Plan for Opening America Up Again* (May 2020), pp. 15-16.

[123] Epidemiologists generally use the term "excess mortality" to describe deaths that exceed levels that have occurred over previous time periods in a given population, such as residents of a specific jurisdiction.

based on seasonal variations in previous years. [124] This means that comparisons across jurisdictions will not be biased by any such inconsistencies.

[124]Estimating excess deaths is subject to uncertainty and CDC's reporting of excess deaths is no exception. For each jurisdiction, a model is used to generate a set of expected counts, and the upper bound of the 95 percent confidence intervals of these expected counts is used to determine whether a significant increase in deaths has occurred. For more details on CDC's approach, see https://www.cdc.gov/nchs/nvss/vsrr/covid19/excess_deaths.htm, accessed on May 26, 2020.

Figure 11: CDC Data on Higher Than Expected Weekly Mortality



Source: GAO analysis of Centers for Disease Control and Prevention (CDC) data. | GAO-20-625

Notes: The figure shows the number of deaths in a given week that exceeded the upper bound threshold of expected deaths calculated by CDC on the basis of variation in mortality experienced in prior years. Please refer to https://www.cdc.gov/nchs/nvss/vsrr/covid19/excess_deaths.htm, accessed on May 26, 2020, for further details on how CDC estimates this upper bound threshold. Changes in the observed numbers of deaths in recent weeks should be interpreted cautiously as this figure relies on provisional data that are generally less complete in recent weeks.

- **Contact tracer workforce per capita**. In a public health crisis such as the COVID-19 pandemic, it is critical to have a sufficiently scaled workforce of contact tracers, who trace the contacts of each case of COVID-19 (or any other contagious) infection and quarantine exposed contacts in their homes or dedicated facilities. Although state and local public health agencies

typically maintain an existing capacity to conduct contact tracing for infectious diseases, the capacity is sufficient only to respond to isolated outbreaks or individual cases.
Contact tracing is resource intensive, since as cases rise, more individuals will be needed to ensure comprehensive contact tracing of all confirmed cases. The particular features of the COVID-19 pandemic—asymptomatic infected persons, lack of any treatment, and its ability to spread rapidly—requires a significantly larger workforce than currently exists. According to the National Association of County and City Health Officials, the benchmark rate is 30 contact tracers per 100,000 people. This equates to about 98,460 contact tracers needed to cover the entire U.S. population during the peak of the pandemic.

Although the health care system generates enormous amounts of data, many factors make it challenging to identify indicators that can appropriately characterize an evolving event such as a pandemic. For example, although the number of ICU beds is collected through a variety of sources, there is no national standard for what specific treatments are made available to patients who occupy those beds. As a result, ICU bed availability provides a broad indicator of hospital capacity, but does not identify the specific areas where hospital resources for treating COVID-19 patients may be lacking. There are also gaps in reporting on the public health workforce, including the number of contact tracers currently employed by state and local health departments. Although many states and localities are actively recruiting for contact tracing personnel, there is no comprehensive source of continuous data.

Developing a robust system of indicators will require systems to collect standardized data that can be used to facilitate continuous, real-time data sharing on COVID-19 between health care providers, as well as among public health authorities at the national, state, and local levels. As part of our ongoing work, we will continue to examine where there are gaps in the data being collected and will identify ways to improve such data collection efforts.

Indicators to Monitor Areas of the Economy Supported by the Federal Pandemic Response

We identified a number of economic indicators to facilitate ongoing and consistent monitoring of areas of the economy supported by the federal pandemic response, in particular the COVID-19 relief laws. [125] These indicators provide a foundation for more rigorous analytical work over time to better identify whether federal responses are having their intended effect. They include measures of labor market stress, household financial stress, small business credit markets, corporate credit markets, and state and local government finances (see table 8 below). [126] To the extent that federal pandemic responses are effective, we would expect to see improvements in outcomes related to these indicators. However, while trends in these indicators may be suggestive

[125]Future legislation may also be considered as the federal response evolves.

[126]We identify additional indicators and provide more details on each indicator in appendix IV.

of the effect of provisions of the CARES Act and related legislation over time, those trends will not on their own provide definitive evidence of effectiveness.[127]

The Federal Reserve has acted to support the economy as well, by lowering interest rates, expanding the money supply, and announcing a range of programs to provide liquidity to businesses of varying sizes—some supported by funds appropriated under the CARES Act through the Treasury's Exchange Stabilization Fund. The effect of public health measures against the pandemic and the decisions of state government officials to relax policies that limit certain economic and social activity could also have a significant impact on the economy and the indicators we have identified. We continue to consider a variety of additional indicators and qualitative sources of information, and may include them in future reports as more data become available or as circumstances related to the pandemic and the economy evolve.

[127]Determining the effect of the federal response to the pandemic, in particular the CARES Act and related legislation as they are being implemented, will be a challenge. Changes over time in the indicators we have identified may well be changes that would have occurred absent federal responses or could be attributed to other policies and interventions, such as the actions of the Federal Reserve not directly related to the CARES Act, or the actions of states and local governments.

Table 8: Indicators for Monitoring Areas of the Economy Supported by the Federal Pandemic Response	
Category	**Key indicators**
Labor market stress	• Initial unemployment insurance claims • Employment-to-population ratio
Household financial stress	• Consumer Credit Default Composite Index • Supplemental Nutrition Assistance Program (SNAP) household participation
Small business credit markets	• Small Business Health Index • Underwriting standards on small business loans
Corporate credit markets	• Spreads on investment grade corporate bonds
State and local government finances	• Spreads on municipal bonds • State and local government employment
Health sector	• Health care employment • Volume of elective procedures • Hospital operating margins • Gross domestic product in health care services

Source: GAO. | GAO-20-625

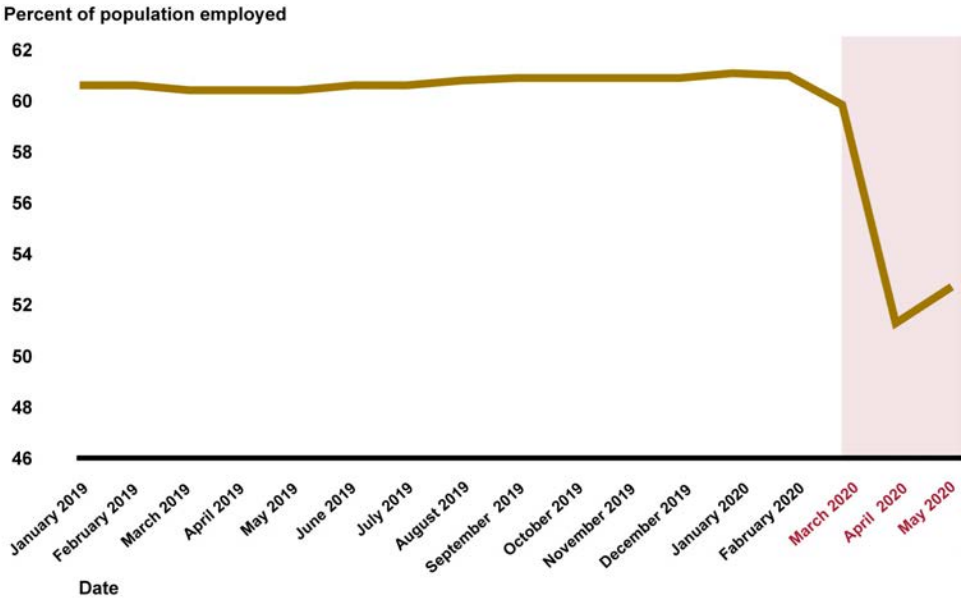
Note: Initial unemployment claims, state and local government employment, and the employment-to-population ratio are from the Department of Labor. The Consumer Credit Default Index is from S&P/Experian. Supplemental Nutritional Assistance Program household participation is from the Department of Agriculture. The Small Business Health Index is from Dun & Bradstreet. Underwriting standards on small business loans are from the Board of Governors of the Federal Reserve System and Federal Reserve Bank of Kansas City. Spreads on investment grade corporate bonds are from option-adjusted spreads on dollar-denominated investment grade corporate bonds available through Bloomberg's Fixed Income Credit Monitoring. Spreads on municipal bonds are based on the Bloomberg-Barclays Municipal Bond Index. See appendix IV of the report for additional information.

Available data thus far primarily reflect the severity of the pandemic. For example, the employment-population ratio rose by 1.5 percentage points to 52.8 percent in May, remaining near its lowest level ever recorded in April (see fig. 12), credit card defaults are at their highest level since 2012, and banks are tightening standards on loans to small businesses. [128] In addition, investor perceptions of risk increased substantially in corporate and municipal credit markets in February and March, but have fallen somewhat since the Federal Reserve announced programs to provide support to these markets. If federal responses are effective, then over time these data could become more reflective of federal efforts. For example, monthly hospital margins may

[128]While both the employment-to-population ratio and the unemployment rate will be sensitive to how the Bureau of Labor Statistics measures the number of employed individuals, calculating the employment-to-population ratio requires fewer assumptions and will be more stable to fluctuating measures of who is in the labor force.

reflect whether federal efforts to increase reimbursement and funding to providers is positively affecting their bottom line and financial health. The indicators and recent trends are discussed in more detail in appendix IV.

Figure 12: Employment-to-Population Ratio, January 2019 to May 2020



Source: GAO, Department of Labor. | GAO-20-625

Note: While both the employment-to-population ratio and the unemployment rate will be sensitive to how the Bureau of Labor Statistics measures the number of employed individuals, calculating the employment-to-population ratio requires fewer assumptions and will be more stable to fluctuating measures of who is in the labor force.

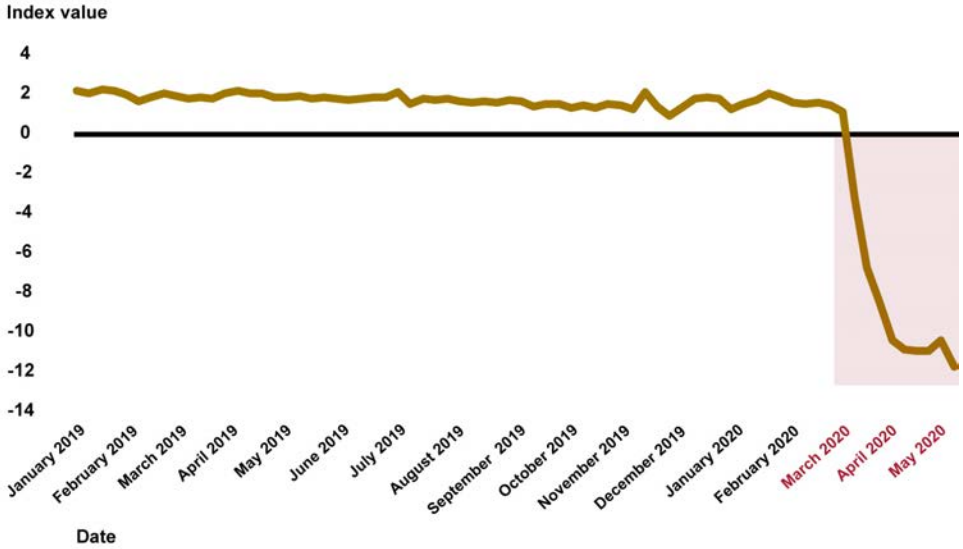
To complement these indicators, various rigorous analytical methods, along with information on the implementation of federal responses to the pandemic, can be used to assess program effect and produce reliable evidence. For example, estimation techniques, such as regression discontinuity design, difference-in-difference, event study, and interrupted time series, can be used to better identify the effectiveness of a program by comparing observed outcomes to an estimate of what would have happened in the absence of the program.[129] Impact estimates are a critical component of a program's net social benefits, along with program costs, risks borne by the federal government, and any moral hazard federal actions might induce in private behavior.

Aggregate economic conditions will have a significant influence on the more targeted indicators that we identified. We intend to monitor broader economic conditions in order to better understand their effect on the areas of the economy supported by the federal response to the

[129]See GAO, *Troubled Asset Relief Program: June 2009 Status of Efforts to Address Transparency and Accountability Issues,* GAO-09-658 (Washington, D.C.: June 17, 2009); *Program Evaluation: A Variety of Rigorous Methods Can Help Identify Effective Interventions,* GAO-10-30 (Washington, D.C.: Nov. 23, 2009); *Troubled Asset Relief Program: Status of Programs and Implementation of GAO Recommendations*, GAO-11-74 (Washington, D.C.: Jan. 12, 2011), and *Dodd-Frank Regulations: Impacts on Community Banks, Credit Unions and Systemically Important Institutions*, GAO-16-169 (Washington, D.C.: Dec. 30, 2015) for additional information on these methods.

pandemic.[130] A range of measures of national economic activity in recent months have made clear that the economy remains under substantial stress. For example, a measure of weekly economic activity that aggregates several disparate economic indicators provided further evidence of a rapid and severe economic contraction in the United States (see fig. 13).[131] In addition, falling demand has substantially reduced actual and expected inflation in the near term, with some forecasters and market prices predicting deflation, a critical economic risk.[132]

Figure 13: Weekly Economic Index, January 2019 to May 16, 2020



Source: GAO, Federal Reserve Bank of New York. | GAO-20-625

Note: The level of the Weekly Economic Index corresponds to a year-over-year growth rate in gross domestic product were conditions to remain at that level for a full quarter.

The fiscal response from Congress combined with the severe economic contraction will generate a substantial increase in federal debt, as expenditures increase and tax revenues fall. Federal debt held by the public increased by $1.4 trillion in April alone. While interest rates on Treasury securities are low at the moment, reducing the cost of newly issued debt, the long-term fiscal challenges facing the United States have been exacerbated by the pandemic and will require attention once the economy has returned to consistent growth and public health goals have been attained.[133]

[130]The aggregate effect of fiscal, monetary and public health efforts are also likely to be reflected in broader economic conditions—at least relative to what economic conditions would have been absent those policy measures.

[131]Daniel J. Lewis, Karel Mertens, and Jim Stock, "U.S. Economic Activity during the Early Weeks of the SARS-Cov-2 Outbreak," *Federal Reserve Bank of New York Staff Report No. 920* (April 2020).

[132]Sustained deflation would make labor market adjustment substantially more difficult—making employers more likely to lay off workers—and lead to additional defaults as it raised the real value of debt payments.

[133]See GAO, *The Nation's Fiscal Health: Action Is Needed to Address the Federal Government's Fiscal Future*, GAO-20-403SP (Washington, D.C.: Mar. 12, 2020).

Total U.S. imports and exports also fell markedly in March and April relative to a year ago, with travel and transportation services trade falling at much faster rates than overall trade. Imports of COVID-19-related products, which include protective garments and medical devices, surged in March and April relative to a year ago, although COVID-19-related exports fell in April after increasing in March.[134] Abroad, measures of economic and financial risk remain elevated in advanced and emerging market economies.

Evolving Lessons Learned from Initial COVID-19 Response and Past Crises and Emergencies Highlight Areas for Continued Attention

The nation has made some progress in fighting COVID-19. However, the virus continues to pose risks to all Americans and there is a concern of another wave of infection this fall, which could coincide with the seasonal influenza and hurricane season—further straining federal agencies responsible for responding to these events, as well as the health care system. Additionally, the nation's initial response to COVID-19 highlights the challenges presented by an inherent fragmentation across responsibilities and capabilities in the federal biodefense response and health care system, which includes private, public (local, state, and federal governments), and nonprofit entities.

Lessons from the initial response, as well as experience from past economic crises, disasters, and emergencies, highlight areas where continued attention and oversight are needed—with the focus on improving ongoing response efforts and preparing for potential additional waves of infection. These lessons include establishing clear goals and defining roles and responsibilities among those responding to a crisis, providing clear communication, collecting and analyzing data to inform future decisions, and establishing mechanisms for accountability and transparency.

Establish clear goals and define roles and responsibilities. The unprecedented scale of the COVID-19 pandemic and the whole-of-government response required to address it highlights the critical importance of clearly defining the roles and responsibilities for the wide range of federal departments and other key players involved when preparing for pandemics and addressing an unforeseen emergency. Following prior catastrophic events, we have noted challenges related to a lack of coordination and communication within the federal government.

In February 2020, we issued a report evaluating early implementation efforts of the National Biodefense Strategy which, among other things, sets goals and objectives to help the nation prepare for and rapidly respond to biological incidents to minimize their effect. Implementing

[134]World Customs Organization, *HS classification reference for Covid-19 medical supplies, 2nd edition* (April 9, 2020). The import and export values are based on Harmonized Schedule (HS) codes at the 6-digit level identified by the World Customs Organization and the World Health Organization. While these are a useful indication of trends in the imports and exports of COVID-19-related products, because HS 6-digit numbers are broad categories that cover more than one product, data at the HS 6-digit level may include a mix of COVID-19-related and non-COVID-19- related products. For this reason, the value reported may over-estimate the imports and exports of COVID-19-related products.

the strategy could help the federal government prepare for large-scale events like the COVID-19 pandemic by ensuring coordination across federal programs. However, at the time of the COVID-19 pandemic, implementation efforts were new, and we reported a number of challenges that could limit the successful implementation of the strategy in the longer term.[135] For example, we found that the strategy did not provide clear, detailed processes, roles, and responsibilities for joint decision-making. We recommended, and HHS agreed, that the Secretary of Health and Human Services should take steps to clearly document agreed-upon processes, roles, and responsibilities for making and enforcing enterprise-wide decisions.

During the response to Hurricanes Irma and Maria—which hit the U.S. Virgin Islands and Puerto Rico within 2 weeks of each other in September 2017, causing catastrophic damage—there was at times a lack of clarity in the roles and responsibilities of the supporting agencies, and agency capabilities were not always aligned with response needs.[136] For example, in September 2019, we reported that HHS was responsible for leading the federal public health and medical services response during the disaster, and in that role called upon support agencies, including the Department of Veterans Affairs (VA), to assist. During the response there were conflicting expectations of VA's role—VA had expected to run shelter operations, while HHS had expected the agency to support medical operations. As a result of this work, we made seven recommendations to HHS to improve its planning for public health emergencies. HHS agreed with five of the seven recommendations.

This example from a past federal emergency response effort highlights the importance of clearly defined federal roles and responsibilities in any newly established programs and activities such as the federal response to the COVID-19 pandemic. We will draw on these lessons to inform our ongoing and future audit work in response to our CARES Act oversight responsibilities. See appendix VI for a list of ongoing work spanning the spectrum of the federal government's efforts to respond to and recover from the COVID-19 pandemic, as of June 17, 2020.

Provide clear, consistent communication. In the midst of a nationwide emergency, clear and consistent communication—among all levels of government, with health care providers, and to the public—is key. We have reported that uncoordinated communication from federal to state and local jurisdictions, and to providers and the general public, has contributed to confusion, frustration, and in some cases, individuals' failure to seek or receive public health interventions, such as influenza vaccination, in the past.[137]

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[135]GAO, *National Biodefense Strategy: Additional Efforts Would Enhance Likelihood of Effective Implementation*, GAO-20-273 (Washington, D.C.: Feb. 19, 2020). At the highest level, the National Biodefense Strategy, issued in 2018, is designed to help guide the nation's assessment of, prevention of, preparation for, response to, and recovery from biological incidents. The Strategy presents an opportunity to identify gaps and consider enterprise-wide risk and resources for investment trade-off decisions covering multiple biological threats.

[136]GAO, *Disaster Response: HHS Should Address Deficiencies Highlighted by Recent Hurricanes in the U.S. Virgin Islands and Puerto Rico*, GAO-19-592 (Washington, D.C.: Sept. 20, 2019).

[137]GAO, *Influenza Pandemic: Lessons from the H1N1 Pandemic Should Be Incorporated into Future Planning*, GAO-11-632 (Washington, D.C.: June 27, 2011). In response to the global spread of the H1N1 influenza virus, the United Nations' World Health Organization declared the first human influenza pandemic in more than 4 decades on June 11, 2009.

We reported that in the summer of 2009, HHS conveyed to state and local jurisdictions, and to the public, that a robust H1N1 vaccine supply was expected to be available in October 2009. Ultimately, however, far fewer doses were made available that month, which fell short of the expectations of state and local governments and the public. As a result, the credibility of the federal government was diminished.[138] In addition, before it became apparent that the H1N1 pandemic would require a primarily public health response, some state officials cited concerns about the shared federal leadership roles of HHS and the Department of Homeland Security (DHS). State officials reported receiving large volumes of information—often through multiple daily conference calls or via e-mail—from both federal agencies. The amount of information—which was sometimes the same information and sometimes inconsistent—was overwhelming.

Similarly, in March 2020—in the midst of responding to the COVID-19 pandemic—the federal government issued inconsistent guidance regarding the safety of group gatherings. On March 15, 2020, CDC published guidance stating that because large gatherings can contribute to the spread of COVID-19, in-person gatherings should be limited to 50 people or fewer. The next day, the White House issued guidance—including the CDC logo—encouraging people to avoid social gatherings of more than 10 people.[139]

It is important to note that in an emergency, information may change rapidly as a situation evolves, so some corresponding evolution of messages to the public is understandable. The continued evolution of events in a crisis places an even greater premium on effective communication. As more information became known about how COVID-19 spread, federal guidelines shifted to include new advice to the public on precautions such as wearing face masks in public and social distancing. However, failure to effectively manage expectations and communication during a pandemic could undermine the public's trust in the government at a time when the government's responsibility to convey critical health and safety information is paramount. The lack of clear, consistent communication from the federal government can lead to a loss of credibility with the public and other stakeholders, which is very important, since responding effectively to a pandemic requires the public's participation.

Collect and analyze adequate and reliable data to drive future decisions. Data collection and analysis efforts during a pandemic can inform decision-making and future preparedness—and allow for midcourse changes in response to early findings. Previous GAO work on preparedness highlights how data collection and analysis could inform the response to COVID-19, and preliminary data emerging from the initial response could inform preparations for a second wave of infections.

- Since 2006, HHS has been required to establish and improve upon, in collaboration with state, local, and tribal public health officials, a near real-time electronic nationwide public health situational awareness capability through an interoperable network of systems to share data and information to enhance early detection, rapid response to, and management of potentially catastrophic infectious disease outbreaks such as COVID-19, novel emerging

[138]GAO, *Influenza: Progress Made in Responding to Seasonal and Pandemic Outbreaks,* GAO-13-374T (Washington, D.C.: Feb. 13, 2013).

[139]See CDC's *Interim Guidance for Coronavirus Disease 2019 (COVID-19),* March 15, 2020 and *The President's Coronavirus Guidelines for America,* March 16, 2020.

threats, and other public health emergencies.[140] However, HHS has made little progress in establishing such a network.[141] We currently have open recommendations to HHS related to this lack of progress and plan to begin new work evaluating the status of the capability in the summer of 2020.[142]

- Information collected and reported following a pandemic can inform response to future public health emergencies. FEMA policy requires that after-action reviews be conducted after presidentially-declared major disasters to identify strengths, areas for improvement, and potential best practices of response and recovery efforts. However, we reported in May 2020 that, as of January 2020, FEMA had completed after-action reviews for only 29 percent of disasters since January 2017.[143]
  Further, we reported that FEMA lacks a formal mechanism for documenting and sharing best practices, lessons learned, and corrective actions nationwide. We recommended that FEMA prioritize the completion of after-action reviews, document lessons learned at the headquarters level, and develop guidance for sharing such reviews with external stakeholders when appropriate. DHS concurred with our recommendations and stated it is taking steps to address them, including by implementing a new system for tracking best practices and lessons learned, among other things. Ensuring that FEMA and all other agencies participating in the COVID-19 response are consistently identifying best practices and areas of improvement will be critical to mounting an effective response now and in the future.

- Preliminary information on the effects of COVID-19 highlight the importance of additional data collection to target response activities to the most affected groups. For example, though all populations are at risk of COVID-19, early monitoring indicated that certain populations are more at risk. Preliminary findings indicate that older adults—those over the age of 65—are more likely to be hospitalized and to die from the virus, and the majority of persons hospitalized also have underlying medical conditions, such as hypertension, obesity, or chronic lung disease.[144] Additionally, those findings indicate that black populations might be disproportionately affected, representing a larger proportion of hospitalized COVID-19

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[140]See Pandemic and All-Hazards Preparedness Act, Pub. L. No. 109-417, § 202, 120 Stat. 2831, 2847 (2006) (codified, as amended, at 42 U.S.C. § 247d-4(c)). The network is to include, for example, data and information from state, local, and tribal public health entities, including laboratories; federal health agencies; zoonotic disease monitoring systems; public and private sector health care entities; immunization information systems; and public environmental health agencies.

[141]GAO, *Public Health Information Technology: Additional Strategic Planning Needed to Establish Electronic Situational Awareness Capabilities*, GAO-11-99 (Washington, D.C.: Dec. 17, 2010); *Public Health Information Technology: HHS Has Made Little Progress toward Implementing Enhanced Situational Awareness Network Capabilities*, GAO-17-377 (Washington, D.C.: Sept. 6, 2017).

[142]HHS has neither concurred nor disagreed with these recommendations.

[143]GAO, *National Preparedness: Additional Actions Needed to Address Gaps in the Nation's Emergency Management Capabilities*, GAO-20-297 (Washington, D.C.: May 4, 2020).

[144]Centers for Disease Control and Prevention, *Morbidity and Mortality Weekly Report*, Vol. 69, No. 15 (Apr. 17, 2020).

patients.[145] Nursing homes and other congregate care settings, such as jails and prisons, have also been severely affected by COVID-19 due to limited capacity to isolate infected individuals and inability to practice social distancing.[146] More study of these early findings can help target a response to appropriate communities.

Establish transparency and accountability mechanisms. In emergency situations, such as the COVID-19 pandemic, it is understandable, and appropriate, for agencies to want to get funds out the door quickly. However, without the necessary safeguards in place, funds may not get to the intended places or be used for the intended purposes.[147] Therefore, it is important that agencies integrate transparency and accountability mechanisms with mission achievement.

For example, clearer explanations of the good faith necessity certification in SBA's initial interim final rule for PPP could have helped avoid uncertainty concerning loan eligibility. To help quickly disperse funds, SBA's initial interim final rule allowed lenders to rely on borrower certifications to determine the borrower's eligibility; however, the rule provided minimal additional information to borrowers on the required good faith necessity certifications.[148] On April 23, 2020—20 days after the program launched—SBA posted an answer to a frequently asked question, stating that it is unlikely that publicly traded companies with substantial market value and access to capital markets will be able to make the required good faith necessity certification. According to data from FactSquared as of June 1, 2020, about 70 publicly traded companies that were approved for about $435 million had returned their PPP loans.[149]

Agencies need to provide transparent reporting so that Congress and others have assurance that effective and efficient safeguards over federal funds are established—and that funds are being used for their intended purposes. Lessons from the Recovery Act demonstrate the value of having a transparent website for publicly reporting spending, as well as how such data provides a foundation for identifying fraud, waste, and abuse.[150] A key feature of the Recovery.gov website

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[145]Centers for Disease Control and Prevention, *Morbidity and Mortality Weekly Report*, Vol. 69, No. 15 (Apr. 17, 2020); and Vol. 69, No. 18 (May 8, 2020).

[146]Centers for Disease Control and Prevention, *Morbidity and Mortality Weekly Report*, Vol. 69 (May 6, 2020); and Vol. 69, No. 12 (Mar. 27, 2020). See also Centers for Medicare & Medicaid Services, *COVID-19 Nursing Home Data,* accessed June 4, 2020, https://data.cms.gov/stories/s/COVID-19-Nursing-Home-Data/bkwz-xpvg.

[147]GAO's *Standards for Internal Control in the Federal Government* and *A Framework for Managing Fraud Risks in Federal Programs (Fraud Risk Framework)* provide standards and leading practices, respectively, in many key areas to help federal agencies ensure accountability in and transparency of emergency funding and manage any related risks. GAO is also in the process of reviewing the design of key financial management internal controls of agencies that are receiving COVID-19 funding, and informing such agencies about control weaknesses that need to be remedied. See appendix V for additional information on standards for internal control and fraud risk management.

[148]PPP borrowers are required to certify in good faith that "current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant."

[149]FactSquared is a data analysis company that reviewed thousands of Securities and Exchange Commission filings to identify these loans. We performed keyword searches of Securities and Exchange Commission filings and identified a list of companies very similar to the one reported by FactSquared. SBA officials told us that any returned funds would be available to be re-loaned as long as the program was still active. More generally, according to SBA more than 170,000 PPP loans totaling about $38.5 billion had been cancelled as of May 31, 2020.

[150]The Recovery Act refers to the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115.

was the ability to allow users to track spending by project and the location where funds were spent.[151] We also reported on how the Recovery Accountability and Transparency Board's Recovery Operation Center effectively served as a centralized location for analyzing data on Recovery Act spending and its recipients through use of advanced data analytics.

The Pandemic Response Accountability Committee has established a website—pandemic.oversight.gov—which will eventually serve as a repository of detailed information on federal spending related to COVID-19.[152] The site will include monthly obligations and expenditures on federal awards and contracts related to COVID-19 funds as reported by participating agencies. However, as of June 1, 2020, this information is not yet available. The site will also include reports related to COVID-19 by the Pandemic Response Accountability Committee itself, individual inspectors general offices, and us.

Early implementation of such capabilities would help ensure real-time oversight and monitoring of COVID-19 funding and facilitate identifying fraud and errors before payments are made.[153] As we have previously reported, preventive activities generally offer the most cost-effective investment of resources.[154] Therefore, effective managers of fraud risks focus their efforts on fraud prevention in order to avoid a costly "pay-and-chase" model, to the extent possible.

To date, the transparency of the use and distribution of CARES Act funding has been mixed. According to Treasury, spending information should soon be available and we will examine the level of transparency of the reported information. In addition, in some cases, agencies have already released information about where COVID-19 funds are flowing. For example, HHS released data on all providers that (1) received Provider Relief Fund payments, and (2) certified they meet the terms and conditions for those payments. In other cases, such information has not been released. SBA has not been as transparent in its reporting on the $670 billion PPP. SBA has regularly published summary data, including on the number and dollar amount of loans approved, number of lenders and loans by lender type, and loans by state and industry. However, SBA has not made data on individual loans available on its website as it has done for other loan guarantee programs, although SBA has stated on its website that it plans to do so at an unspecified future date. In an interview on June 1, 2020, SBA officials declined to comment on whether they planned to release loan-level data. The officials later noted concerns about personal privacy and commercially sensitive business information that they said were not presented by traditional SBA business loan programs.

Total federal COVID-related spending will be publicly reported using existing reporting requirements within agency financial systems and existing reporting under the Federal Funding Accountability and Transparency Act of 2006, as amended by the Digital Accountability and

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[151]GAO, *Recovery Act: Grant Implementation Experiences Offer Lessons for Accountability and Transparency,* GAO-14-219 (Washington, D.C.: Jan. 24, 2014).

[152]We accessed the Pandemic Response Accountability Committee website—pandemic.oversight.gov—on June 1, 2020.

[153]See GAO-14-219 and GAO, *Federal Spending Accountability: Preserving Capabilities of Recovery Operations Center Could Help Sustain Oversight of Federal Expenditures*, GAO-15-184 (Washington, D.C.: Sept. 14, 2015).

[154]See GAO, *A Framework for Managing Fraud Risks in Federal Programs,* GAO-15-593SP (Washington, D.C.: July 28, 2015).

Transparency Act (DATA Act).[155] Federal agencies that have received COVID-19 supplemental appropriations are required to report obligations and expenditures on a monthly basis using a disaster emergency fund code provided by OMB to link these funds to the supplemental appropriations.[156] According to OMB, agencies will begin the monthly reporting, as required by the CARES Act, with June 2020 data to be displayed on USASpending.gov in July 2020.[157] It is unfortunate that the public will have waited more than 4 months since the passage of the CARES Act for access to spending information presented in a systematic way. GAO will monitor USASpending.gov regarding the accessibility and transparency of this reporting.

As monthly data related to COVID-19 spending become available on USAspending.gov, Treasury faces the challenge of ensuring that the data are presented in a way that maximizes their transparency and usefulness. We have previously identified several key practices to help ensure the transparent presentation of federal spending data, including by presenting data in a way that enables users to easily explore them.[158] These practices include tools such as interactive maps and visualizations and search functions to help users find information or display search results using tables, charts, and maps.

We have also previously reported on the importance of being transparent about the quality of the information presented on USAspending.gov, including the value of clearly identifying data limitations.[159] Treasury has made progress related to both of these issues for data displayed on USAspending.gov. As Treasury moves forward with CARES Act implementation, the inclusion of COVID-19 spending data on USAspending.gov presents an opportunity to further build on these efforts. Clear presentation of these data, search functions that provide a roadmap to COVID-19-specific data, and information regarding any data limitations will enhance transparency and help ensure that Congress and the public can quickly and easily find, understand, and analyze CARES Act spending data.

Issues for congressional oversight. While Congress has taken a number of actions to help address the pandemic, it continues to consider additional actions—both to improve ongoing efforts and implement new ones—and develop plans for congressional oversight of the nation's response to and recovery from COVID-19. As we have previously reported, congressional oversight plays a vital role in spurring agency progress on matters of national importance.[160] On the basis of our work on past large scale government responses to economic downturns and other crises,

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[155]Pub. L. No. 109-282, 120 Stat. 1186 (Sept. 26, 2006); Pub. L. No. 113-101, 128 Stat. 1146 (May 9, 2014), *codified at* 31 U.S.C. § 6101 note.

[156]Agencies are to report this information to OMB and others, and it will be displayed on USASpending.gov—a publicly available website that includes detailed data on federal spending for nearly all accounts across the federal government.

[157]Quarterly data submitted in August 2020 will include data for April, May and June 2020, and the disaster emergency fund code designation.

[158]For a full discussion of all the practices we identified, see GAO, *Open Data: Treasury Could Better Align USAspending.gov with Key Practices and Search Requirements*, GAO-19-72 (Washington, D.C.: Dec. 13, 2018).

[159]GAO, *DATA Act: Quality of Data Submissions Has Improved but Further Action Is Needed to Disclose Known Data Limitations*, GAO-20-75 (Washington, D.C.: Nov. 8, 2019) and GAO-19-72.

[160]See, for example, GAO, *High Risk Series: Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas,* GAO-19-157SP (Washington, D.C.: Mar. 6, 2019).

we have identified several key areas for congressional oversight that are applicable to the current efforts to combat the pandemic (see table 9).

Table 9: Key Areas for Congressional Consideration in Overseeing the Federal Response to the COVID-19 Pandemic

Key area	Oversight considerations
Fiscal assistance	How effective are current funding delivery mechanisms for providing fiscal assistance to individuals, states, and localities, and should they be modified or supplemented by other approaches to support the delivery of public services?
Whole-of-government response and recovery	How effectively is the federal government communicating and collaborating? How effectively is it implementing and assessing policy changes enacted in response to the pandemic? What more needs to be done?
Collaborative governance	What can the federal government do to better partner with state and local governments and the nonprofit and private sectors to leverage the public investment in addressing the economic crisis and fostering recovery?

Source: GAO. | GAO-20-625.

While all three key areas are relevant to ongoing discussions about additional action, three issues in particular—which relate to fiscal assistance and whole-of-government response and recovery and where we have made recommendations that agencies have not implemented—merit congressional attention and consideration:

- **Aviation preparedness.** With the recurring threat of communicable diseases quickly spreading around the globe through air travel, it is imperative that the U.S. aviation system is sufficiently prepared to help respond to any future communicable disease threat. In 2015, we recommended that the Secretary of Transportation work with relevant stakeholders, such as HHS and DHS, to develop a national aviation-preparedness plan for communicable disease outbreaks.[161] Such a plan could establish a mechanism for coordination between the aviation and public health sectors and guide preparation for communicable disease nationally and for individual airlines and airports.
  While the DOT agreed that a plan is needed, as of May 2020, no such plan had been developed. Since our report, DOT has maintained that because HHS and DHS are responsible for communicable disease response and preparedness planning, respectively, these departments should lead any efforts to address planning for communicable disease outbreaks, including for transportation. GAO maintains that DOT is in the best position to lead a multiagency effort to develop a national aviation-preparedness plan and that such a plan is critically needed. Among other reasons, DOT's Office of the Secretary is the liaison to the international aviation organization that has developed standards—including a national aviation pandemic plan—which member states are obligated to implement under an international aviation treaty signed by the United States.[162]

[161]GAO, *Air Travel and Communicable Diseases: Comprehensive Federal Plan Needed for U.S. Aviation System's Preparedness*, GAO-16-127 (Washington, D.C.: Dec. 16, 2015).

[162]Member states, including the United States, are obligated to establish regulations or take other appropriate steps to implement the International Civil Aviation Organization standards within their own civil aviation systems. Additionally, member states are obligated to notify the International Civil Aviation Organization of a "difference" from the international standard, if they find it impractical to fully comply with an international standard or

In the absence of a national aviation-preparedness plan, DOT officials point to ongoing efforts to engage with interagency partners at HHS and DHS, as well as industry stakeholders, to better collaborate on communicable disease response and preparedness as they relate to civil aviation. While these efforts are helpful, the United States will not be prepared to minimize and quickly respond to future communicable disease events and garner international cooperation in addressing pandemics without such a plan.

- **Full access to death data.** According to an analysis by the Treasury Inspector General for Tax Administration, the number of economic impact payments going to decedents—almost 1.1 million payments totaling nearly $1.4 billion as of April 30—highlights the importance of consistently using key safeguards in providing government assistance to individuals. The Social Security Act provides IRS access to SSA's full set of death records, but does not provide such access to Treasury and BFS, which distribute payments. We have previously suggested that Congress consider amending the Social Security Act to explicitly allow SSA to share its full death data with Treasury for data matching to prevent payments to ineligible individuals. While having this access would not have prevented the economic impact payments to deceased individuals based on IRS's initial legal determination regarding these payments, such access remains an important safeguard. We maintain that providing Treasury with access to SSA's full set of death records, and requiring that Treasury consistently use it, could help reduce similar types of improper payments in other circumstances.

- **Fiscal assistance through Medicaid.** In the Families First Coronavirus Response Act, Congress provided additional Medicaid funding to states temporarily through the FMAP—the statutory formula according to which the federal government matches states' spending for Medicaid services. We have found that during economic downturns—when Medicaid enrollment can rise and state economies weaken—the FMAP formula, which is based on each state's per capita income, does not reflect current state economic conditions. In addition, past efforts to provide states with temporary increases in the FMAP were not as timely or responsive as they could have been.
  To effectively stabilize states' funding of Medicaid programs during such periods, assistance should be provided—or at least authorized—near the beginning of a downturn. Furthermore, to be efficient, funds should be targeted to states commensurate with their level of need.
  To help ensure that federal funding efficiently and effectively responds to states' needs, we previously developed a formula that offers an option for providing temporary automatic, timely, and targeted assistance during a national economic downturn through an increased FMAP.[163] The formula's automatic trigger would use readily available economic data (e.g., the monthly employment-to-population ratio) to begin assistance. Targeted state assistance would be calculated based on (1) increases in state unemployment and (2) reductions in total wages and salaries. Using this formula could help make any future changes to the FMAP during the current economic downturn timelier and targeted.

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otherwise differ from the standard in their regulations or practices. Chicago Convention on International Civil Aviation art. 38, Apr. 4, 1944, 61 Stat 1180, T.I.A.S. No. 1,591.

[163]GAO, *Medicaid: Prototype Formula Would Provide Automatic, Targeted Assistance to States during Economic Downturns,* GAO-12-38 (Washington, D.C: Nov. 10, 2011).

Conclusions

The COVID-19 pandemic has had devastating effects on the health and economic well-being of Americans, and it has necessitated a whole-of-government response on an unprecedented scale. Both the Congress and the administration have acted to mobilize resources quickly to help the nation respond to and recover from the pandemic. However, the negative effects of the pandemic on families, communities, and health care systems and on the long-term economic condition of millions of Americans and U.S. businesses are likely to persist into the future. Lessons learned from examining the federal response can be a helpful resource as the nation seeks to rebuild community health care systems and economies and to make them more resilient in the face of future disruptions.

Our work for this first report identified initial opportunities to improve the federal government's ongoing response and recovery efforts. In particular, we found the following:

- The federal government continues to lack a national aviation-preparedness plan for communicable disease outbreaks. Until we have a national aviation-preparedness plan, we risk being unprepared to respond quickly and effectively to communicable disease events, including the continued spread of COVID-19.
- DOL has not provided information to state unemployment agencies about the risk of improper payments associated with certain employees potentially simultaneously receiving both pay funded with PPP funds and unemployment benefits. Confusion about this issue increases the risk of improper payments to beneficiaries and misuse of limited funds.
- IRS does not currently plan to take additional steps to notify ineligible recipients on how to return payments.
- SBA has not provided details on how it plans to identify and respond to risks in PPP to ensure program integrity, achieve program effectiveness, and address potential fraud, including in loans of $2 million or less.

In addition, our work highlights the importance of previous matters for consideration for Congress that, if implemented, could improve effectiveness and program integrity of the fiscal assistance provided to states and individuals. These include matters related to Treasury's access to the full death data, and revising the FMAP formula to be automatically responsive during economic downturns (see fig. 14).

We will continue to provide real-time, ongoing oversight of the federal response to COVID-19 to help ensure transparency and accountability and to identify opportunities for improvement, as appropriate.

Figure 14: Matters for Congressional Consideration and Recommendations

Matters for Congressional Consideration

We urge Congress to take legislative action to require the Secretary of Transportation to work with relevant agencies and stakeholders, such as the Departments of Health and Human Services and Homeland Security, and members of the aviation and public health sectors, to develop a national aviation-preparedness plan to ensure safeguards are in place to limit the spread of communicable disease threats from abroad while at the same time minimizing any unnecessary interference with travel and trade.

We urge Congress to provide the Department of the Treasury with access to the Social Security Administration's full set of death records, and to require that the Department of the Treasury consistently use it.

We urge Congress to use GAO's Federal Medical Assistance Percentage formula for any future changes to the Federal Medical Assistance Percentage during the current or any future economic downturn.

Recommendations for Executive Action

1. The Secretary of Labor should, in consultation with the Small Business Administration and the Department of the Treasury, immediately provide information to state unemployment agencies that specifically addresses the Small Business Administration's Paycheck Protection Program loans, and the risk of improper payments associated with these loans.

2. The Commissioner of Internal Revenue should consider cost-effective options for notifying ineligible recipients on how to return payments.

3. The Administrator of the Small Business Administration should develop and implement plans to identify and respond to risks in the Paycheck Protection Program to ensure program integrity, achieve program effectiveness, and address potential fraud, including in loans of $2 million or less.

Source: GAO analysis. | GAO-20-625

Agency Comments and Our Evaluation

We shared a draft of this report with multiple agencies for review and comment. [164] Agency comments specific to the enclosures in appendix III are included in each enclosure.

In their comment letters, DHS, HHS, Education, IRS, and Treasury noted the unprecedented level of effort displayed by the federal workforce in responding to the crisis. We agree that the efforts of the federal workforce to respond quickly and broadly to the public health and economic crises have been remarkable, and we added language to our report to this effect.

In addition, agencies provided the following comments:

Department of Labor. While DOL officials neither agreed nor disagreed with our recommendation, In its comments, reproduced in appendix VII, DOL noted that it is preparing questions and answers regarding individuals collecting UI benefits while simultaneously receiving payment from the PPP. DOL also said that it has reached out to SBA to help inform this guidance, and expects to release it to state UI agencies within the next month.

Internal Revenue Service. In its comments, reproduced in appendix VIII, IRS agreed with our recommendation to consider additional options to notify ineligible recipients on how to return payments.

Department of the Treasury. In its comments, reproduced in appendix IX, Treasury highlighted its role in implementing certain CARES Act provisions, including economic impact payments, Payroll Support Program, Coronavirus Relief Fund, Federal Reserve lending facilities, and the PPP. Regarding PPP, Treasury noted the successes of the program, including the speed with which SBA and Treasury launched the program and how quickly loans were processed. Treasury also stated that it and SBA took care to introduce safeguards to prevent fraud and misuse of funds. In the report, we discuss the safeguards that SBA put in place before loan approval. However, we also note that although Treasury and SBA had announced efforts to implement safeguards after loan approval, SBA has provided limited information on how it will implement these safeguards. In its letter and technical comments, Treasury also stated that although our report notes that some of the loan forgiveness regulations were not issued until May, the CARES Act and other regulations that SBA released prior to May addressed loan forgiveness requirements. In the report, we describe SBA's prior regulations and guidance but note the critical nature of the regulations posted in May, which state that SBA was addressing lenders' and borrowers' need for clarity and certainty concerning loan forgiveness requirements.

[164]We shared a draft of this report with the Departments of Defense, Education, Labor, Housing and Urban Development, Commerce, Health and Human Services, Veterans Affairs, Homeland Security, State, Agriculture, the Interior, Transportation, and the Treasury. We also shared a draft with the Federal Reserve, Small Business Administration, Federal Deposit Insurance Corporation, National Credit Union Administration, Office of the Comptroller of the Currency, Consumer Financial Protection Bureau, Federal Housing Finance Agency, Farm Credit Administration, U.S. Agency for International Development, Office of Management and Budget, and Internal Revenue Service.

Small Business Administration. SBA provided written comments that are reproduced in appendix X. [165] In those comments, SBA did not state whether it agreed or disagreed with our recommendation to the agency. However, it commented on our interactions with the agency, as summarized below:

- SBA stated that we mischaracterized the agency's interactions with GAO, noting that it had provided documents to GAO and made staff available for meetings. As noted in the report, SBA provided primarily publicly available information in response to our inquiries and in the beginning of June discussed questions we had provided about 6 weeks earlier. In its technical comments, SBA also said that we had requested interviews by June 1, 2020, and that the agency had complied with that request. In fact, we first asked to meet with agency officials on April 13, 2020, and provided a list of questions to discuss on April 15, 2020. We provided June 2, 2020, as the last possible date we could meet with them.

- Regarding the detailed description of data on loans that SBA had made, SBA stated that we had indicated for the first time in a June 1, 2020, interview that we were seeking individual loan data. In fact, we requested data dictionaries to guide a request for loan-level data on May 21, 2020, and requested loan-level data on May 27, 2020, even though the data dictionaries had not been provided. SBA had not provided the information as of June 17, 2020, or indicated when it planned to do so. We remain interested in receiving the requested data dictionaries and loan-level data and plan to continue to engage with SBA on this matter.

SBA also provided technical comments that we incorporated as appropriate. Some of these comments were more than technical in nature, as summarized below:

- SBA stated that it was not accurate to suggest that safeguards for PPP are limited or that the agency had not planned for oversight. Specifically, it said that GAO ignored safeguards the agency put in place and interim final rules that it had issued on loan review and forgiveness. In our report, we do discuss the safeguards that SBA put in place before loan approval, and we cite both interim final rules. In an interview on June 1, 2020, we asked SBA for additional details on the reviews it planned for loans of more than $2 million and any reviews of loans of less than $2 million; SBA declined to comment.

- SBA said that we make an unsupportable leap in linking lenders' streamlined obligations during loan approval to fraudulent applications. As we note in the report, we have previously reported that reliance on applicant self-certifications can leave a program vulnerable to exploitation by those who wish to circumvent eligibility requirements or pursue criminal activities.

- SBA said that we had not given it enough credit for the extraordinary work the agency had undertaken to implement the CARES Act. We agree that SBA has significant responsibilities under the CARES Act and has worked quickly to implement new programs such as PPP and to

[165] SBA provided a cover letter with a 12-page enclosure containing SBA's comments. The first page of the enclosure presented SBA's overarching comment. The remainder of the enclosure presented comments that were largely of a technical nature. Appendix X includes SBA's cover letter and the first page of the enclosure.

get loans to struggling small businesses quickly. In the report and related enclosures, we note that SBA moved quickly to process an unprecedented volume of loans.

- SBA questioned our use of testimonial evidence obtained from six lender associations that represent a variety of lenders and one small business association we interviewed, stating that it was not representative. In the two report enclosures on SBA, we note that their views are not generalizable to other lender and small business associations but offered important perspectives.

U.S. Agency for International Development. USAID provided written comments, reproduced in appendix XI, highlighting its efforts to respond to COVID-19 abroad.

Department of Homeland Security/Federal Emergency Management Agency. In its comments, reproduced in appendix XII, DHS outlined the significant challenges facing the nation in responding to the COVID-19 pandemic and FEMA's lead role in addressing them.

Department of Veterans Affairs. VA provided written comments, reproduced in appendix XIII, highlighting its efforts to respond to the COVID-19 pandemic.

Technical comments. The following agencies also provided technical comments, which we incorporated as appropriate: SBA, State, Education, Treasury, IRS, OMB, USAID, the Federal Reserve, HHS, DHS, DOT, DOD, Department of Commerce, USDA, and VA.

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

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

Gene L. Dodaro

Comptroller General of the United States

Congressional Addressees

The Honorable Richard C. Shelby
Chairman
The Honorable Patrick J. Leahy
Vice Chairman
Committee on Appropriations
United States Senate

The Honorable Lamar Alexander
Chairman
The Honorable Patty Murray
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Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable Ron Johnson
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The Honorable Gary C. Peters
Ranking Member
Committee on Homeland Security and Governmental Affairs
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The Honorable Frank Pallone, Jr.
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The Honorable Greg Walden
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The Honorable Bennie Thompson
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The Honorable Mike D. Rogers
Ranking Member
Committee on Homeland Security
House of Representatives

The Honorable Carolyn B. Maloney
Chairwoman
The Honorable Jim Jordan
Ranking Member
Committee on Oversight and Reform

House of Representatives

Appendixes

Appendix I: Scope and Methodology

To examine key actions the federal government has taken and identify criteria for assessing those actions as appropriate, we reviewed our prior work related to federal disaster management; analyzed the most recent agency data on a range of activities, obligations, and expenditures related to the Coronavirus Disease 2019 (COVID-19) pandemic response as of May 31, 2020 (unless otherwise noted in the report); reviewed federal laws, agency guidance, processes, and procedures; and interviewed agency officials. In addition, we examined publicly released documents or obtained information from agencies within the Board of Governors of the Federal Reserve System, Department of Agriculture, Department of Commerce, Department of Defense, Department of Education, Department of Health and Human Services, Department of Housing and Urban Development, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs , Federal Aviation Administration, Federal Emergency Management Agency, Internal Revenue Service, Small Business Administration, and U.S. Agency for International Development.

Where applicable, GAO plans to use the National Center for Health Statistics (NCHS) COVID-19 death data over time in our reporting for consistency, because it is considered to be the most reliable source of data since it is based on official death records. Differences between NCHS data and reports from other sources, such as state health department websites, should reduce over time as data are processed and counts are updated. To assess the reliability of data related to public health and agency spending of funds allocated to address the pandemic, we reviewed information on the sources and methods by which these data were collected and reported, and we followed up with knowledgeable individuals as needed to answer questions about the appropriate use and potential limitations of these data. We found these data to be sufficiently reliable for our purposes.

We reviewed testing data and limitations reported by the Centers for Disease Control and Prevention (CDC) over time, including the most recent information from CDC's COVID Data Tracker website as of May 31, 2020. We also interviewed CDC officials to obtain information on steps taken to report testing data, and we reviewed federal laws, other requirements, and CDC guidance related to states' and laboratories' submission of testing data. We also conducted interviews with laboratory and public health industry groups to obtain their perspectives on agency actions and challenges; six associations that represent a variety of lenders and an association that represents small businesses; representatives from borrower, loan servicer, and private collection agency stakeholder groups; and representatives of the National Association of State Workforce Agencies.

We reviewed information from selected housing industry experts and housing stakeholder groups, the *Standards for Internal Control in the Federal Government*, *A Framework for Managing Fraud Risks in Federal Programs*, and GAO's work on the Internal Revenue Service's authentication efforts and other measures to address fraud risk and improper payments. [166] In addition, we obtained a

[166]GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: September 2014) and GAO, *A Framework for Managing Fraud Risks in Federal Programs,* GAO-15-593SP (Washington, D.C.: July 28, 2015).

listing of all appropriation warrants issued by the Fiscal Service to the respective federal agencies for the COVID-19 relief laws enacted at the time of our review.[167]

We compared each appropriation amount to the respective law or other supporting documentation. We also obtained the amounts that have been obligated and spent directly from some federal agencies' own financial records as of May 31, 2020. To identify agencies' contract obligations in response to COVID-19, we reviewed Federal Procurement Data System-Next Generation data through June 1, 2020. We identified obligations related to COVID-19 using the National Interest Action code, as well as the contract description. We assessed the reliability of federal procurement data by reviewing existing information about the Federal Procurement Data System-Next Generation and the data it collects—specifically, the data dictionary and data validation rules—and performing electronic testing. We determined that the data were sufficiently reliable for the purposes of describing agencies' reported contract obligations in response to COVID-19.

To identify indicators for monitoring the economy, we first reviewed the federal responses to the pandemic, in particular the COVID-19 relief laws, and identified five key provisions intended to support the economy, corresponding to five different areas of the economy: labor markets, households, small business credit markets, corporate credit markets, and markets associated with state and local government finances.[168] We identified these key provisions based on their relative size, in dollars, as well as their potential economic effects. We then identified economic indicators corresponding to those five areas of the economy in order to provide a timely, general sense of how those areas of the economy were performing.

To identify potential indicators, we reviewed a number of sources, including prior GAO work, releases from federal statistical agencies, data available on the Bloomberg Terminal, and input from internal GAO experts. We assessed the reliability of the data we intend to use for monitoring and reporting on areas of the economy supported by the federal pandemic response, in particular the COVID-19 relief laws. We took a number of steps to determine the reliability of proposed data sources and indicators including reviewing relevant documentation, reviewing prior GAO work, and interviewing data providers. The quality of some available data, and collection methods, have been influenced by the COVID-19 pandemic. Nevertheless, we found that, collectively, the indicators were sufficiently reliable to provide a general sense of how these areas of the economy are performing.

Further, we reviewed the federal responses to the pandemic, in particular the COVID-19 relief laws, and identified five key provisions intended to support the economy. We identified these key provisions based on their relative size, in dollars, as well as their potential economic effects. We

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[167]The Fiscal Service issues warrants to federal agencies, which reflect the dollar amount authorized to be obligated and expended for the specified purpose and period of availability provided by law. The four COVID-19 relief laws enacted at the time of our review include the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123, 134 Stat. 146; the Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020); the CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020); and the Paycheck Protection Program and Health Care Enhancement Act, Pub. L. No. 116-139, 134 Stat. 620 (2020). In this report, we refer to these four laws as "COVID-19 relief laws."

[168] Future legislation may also be considered as the federal response evolves.

reviewed measures of the size of the provisions based on the appropriation specified in the laws, when available, or appropriations requested by relevant agencies. [169]
As a result of this analysis, we identified the following five key provisions in support of the U.S. economy in federal responses to the pandemic thus far:

1. Economic stabilization and assistance to distressed sectors, which provides liquidity to support lending to eligible businesses, states, municipalities, and tribes related to losses incurred as a result of the pandemic.

2. The Paycheck Protection Program (PPP), which provides funding to the Small Business Administration to guarantee loans—that may be forgiven—to small businesses and other eligible entities to cover payroll and other eligible costs over 8 weeks. [170]

3. Expanded unemployment insurance, which provides federally funded income support to unemployed individuals by expanding eligibility for unemployment compensation benefits, increasing weekly benefit amounts by $600, and extending the number of weeks of benefit eligibility.

4. Recovery rebates (also known as economic impact payments), which provide direct payments of up to $1,200 per qualifying adult and up to $500 per qualifying child.

5. Payments to states, local, tribal, and territorial governments for pandemic-related spending through the Coronavirus Relief Fund.

These provisions and their potential economic effects are summarized in table 10 below. To the extent that these provisions and their implementation through various programs and agencies are effective, we might expect a number of outcomes in different areas of the economy, including businesses continuing operations, making timely payments on obligations, and maintaining employment, as well as reduced financial stress for households facing unemployment and state, local, and tribal governments facing reduced revenues and increased expenditures.

[169] We focused on provisions in the CARES Act and Paycheck Protection Program and Health Care Enhancement Act, which have the largest provisions in dollars.

[170] The program originally provided loan forgiveness for an 8-week period, however, the Paycheck Protection Program Flexibility Act of 2020, enacted on June 5, 2020, amended the loan forgiveness period to 24 weeks or December 31, 2020, whichever is earlier, and modified several key program components such as forgiveness eligibility criteria and limits on the use of funds for non-payroll costs. Pub. L. No. 116-142, 134 Stat. 641.

Table 10: Key Provisions of the Federal Response to the Pandemic Intended to Support the Economy and Potential Economic Effects

Program	Dollar amount (appropriation or estimate)	Potential economic effects
Economic stabilization and assistance to distressed sectors	500 billion (appropriation in CARES Act), including up to 454 billion and potentially certain other amounts in funding to the Department of the Treasury's Exchange Stabilization Fund to support facilities established by the Federal Reserve to provide liquidity to businesses, states, municipalities, and tribal governments; and not more than 46 billion to support, among other entities, passenger and cargo air carriers and businesses critical to maintaining national security	• Providing liquidity to businesses based in the U.S. • Maintaining employment and preventing household financial stress among workers, as liquidity is contingent on, among other factors, maintaining employment through September 2020 • Supporting state, municipal, and tribal government finances
Paycheck Protection Program (PPP)	670 billion (appropriation) [a]	• Providing guarantees for loans to small businesses for payroll and other expenses, including businesses with fewer than 500 employees and nonprofits • Maintaining employment and preventing household financial stress among workers in small businesses
Unemployment insurance	293 billion (appropriation requested by Department of Labor)	• Preventing household financial stress
Recovery rebates (also known as economic impact payments by IRS)	282 billion (appropriation requested by IRS) [b]	• Preventing household financial stress, particularly among low- and moderate-income households
Coronavirus Relief Fund payments	150 billion (appropriation in CARES Act)	• Helping state, local, tribal, and territorial governments cover the costs of responding to the pandemic

Sources: GAO analysis of Congressional Research Service, Congressional Budget Office, Internal Revenue Service (IRS), and Joint Committee on Taxation (JCT) documents. | GAO-20-625

[a]The CARES Act appropriated $349 billion, however, this appropriation was amended by the Paycheck Protection Program and Health Care Enhancement Act to approximately $670 billion. Pub. L. No. 116-139, § 101(a)(2), 134 Stat. 620, 620 (2020).

[b]As of May 31, 2020, IRS and Treasury had disbursed 160.4 million payments worth $269.3 billion.

Those aspects of the federal response to the pandemic that are aimed at supporting the economy may help sustain U.S.-based businesses through the economic stabilization and assistance to distressed sectors and PPP programs, as both programs provide liquidity intended to keep businesses viable and allow them to keep employees on payroll.[171] Furthermore, each of these programs provide incentives for businesses to maintain their employment levels in sectors of the economy that have been negatively impacted by widespread policies that limit certain economic activity and falling demand.

[171]While not aimed at the economy, federal responses focused on public health, to the extent they are successful, are likely to have a significant—perhaps even larger—effect on the economic conditions.

- Businesses may maintain employment to the extent that they are able to access sufficient liquidity from these programs, which will in turn affect the extent to which households will face financial hardship during the pandemic.
- For those households that do face unemployment and financial stress, the unemployment insurance enhancements and economic impact payments may assist them in paying their bills while the economy remains weak.
- Like businesses and households, state, local, and tribal governments are also likely to face growing challenges, in particular from falling tax revenue and higher spending. Along with the payments provided to these governments in the COVID-19 relief laws, lending facilities set up by the Federal Reserve—some of which are supported by Department of the Treasury through funding appropriated under the CARES Act—may reduce state and local government fiscal stress while local economies remain weak.

We focused our review of potential health care indicators on response, recovery, and preparedness, which we selected as a well-established framework that is typically used to monitor large-scale, unanticipated adverse events. [172] To identify potential indicators, we reviewed a number of sources, including prior GAO work, information from relevant federal agencies responsible for the pandemic response and oversight of the health care system, selected reports produced by experts in public health and epidemiology, data collected by state health departments, and a review of the re-opening plans for all 50 states and the District of Columbia. [173] We included data to demonstrate how one indicator—number of excess deaths from all causes—could be used to examine patterns over time. We did not independently assess the methodology and underlying data reported by the CDC, but note the limitations, as CDC has reported them, to such an analysis.

[172]See CDC, *Public Health Emergency Preparedness and Response Capabilities: National Standards for State, Local, Tribal, and Territorial Public Health* (Atlanta, GA: January 2019) and DHS, *National Response Framework, Fourth Edition,* (Washington, D.C.: October 2019).

[173]Specifically, we reviewed information and reports from CDC, the Centers for Medicare & Medicaid Services, and the Assistant Secretary for Preparedness and Response. We reviewed data, dashboards, and reports published by the CDC, COVID Tracking project (www.covidtracking.com, accessed on 5/19/2020), and COVID Exit Strategy (www.covidexitstrategy.org, accessed on 6/3/2020), the World Health Organization, the Harvard Global Health Institute, and the University of Washington's Institute for Health Metrics and Evaluation. In addition to reviewing reopening plans for the 50 states and the District of Columbia, we also reviewed reopening plans and metrics identified in plans such as those created by the CDC, the White House Coronavirus Task Force, #Open-Safely, and the American Enterprise Institute's *National Coronavirus Response: A Road Map to Reopening*.

Appendix II: Structures to Lead and Coordinate the Federal Pandemic Response

This appendix describes key aspects of the structures in place to help the federal government lead and coordinate the whole-of-government response. Although, it is too early to conduct a full evaluation of the extent to which gaps in planning or issues in implementation have posed response challenges, we are conducting a variety of work that will address such issues.

Response Plans

The COVID-19 Pandemic Crisis Action Plan

The Pandemic Crisis Action Plan Adapted U.S. Government COVID-19 Response Plan (PanCAP), issued March 13, 2020, was created to outline key federal decisions, federal actions, and interagency coordination structures that may be used during the Coronavirus Disease 2019 (COVID-19) pandemic response. The mission of the federal response is to leverage available federal resources to prepare for, respond to, and recover from COVID-19. The plan aims to help federal departments and agencies to coordinate activities to limit the spread of COVID-19; to mitigate the effect of illness, suffering, and death; and to sustain critical infrastructure and key resources in the United States.

Response Plans and Structures that Support the PanCAP

According to the PanCAP, the overall response should be conducted under the National Response Framework and the Biological Incident Annex to the Response and Recovery Federal Interagency Operational Plans, and federal agencies are to support the response through the Emergency Support Functions (ESF).

- **National Response Framework.** The National Response Framework (Fourth Edition October 2019), which builds on over 25 years of emergency management guidance, is a guide to how the nation responds to all types of incidents. It describes specific authorities and best practices for managing incidents that range from the serious but purely local to those that are catastrophic and national in scope. Within the framework, the term "response" includes actions to save lives, protect property and the environment, stabilize the incident, and meet basic human needs following an incident. The National Response Framework is one of five planning frameworks (Prevention, Protection, Mitigation, Response, and Recovery) designed to support the overarching vision for working to create a secure, resilient nation.[174]

[174]These five frameworks were created in response to Presidential Policy Directive-8, which aims to galvanize federal action and facilitate an integrated, all-of-nation, capabilities-based approach to preparedness. Published in March 2011, the directive calls for the establishment of a risk-informed National Preparedness Goal to define the

- **Federal interagency operational plans.** As with the frameworks, these plans are part of the National Preparedness System. Their purpose is to describe the concept of operations for integrating and synchronizing existing national-level capabilities to support the corresponding local, state, tribal, territorial, insular area, and federal plans.
- **The Biological Incident Annex to the Response and Recovery Federal Interagency Operational Plans**. This annex was published in August 2008 to outline the actions, roles, and responsibilities associated with response to a human disease outbreak of known or unknown origin that requires federal assistance.
- **Emergency Support Functions.** ESFs are the federal government's primary coordinating structure for building, sustaining, and delivering response capabilities. There are 15 ESFs, organized by specific functional areas for the most frequently needed capabilities during an emergency. ESFs are designed to coordinate the provision of related assets and services by federal departments and agencies. Table 11 details the federal department or agency that serves as the designated coordinator for each of the 15 ESFs.

capabilities needed to respond to the nation's greatest risk and a National Preparedness System, consisting of an integrated set of guidance, programs, and processes that will enable the nation to meet the goal. The frameworks are the highest level of guidance within the National Preparedness System. They are designed to describe how the nation is to coordinate, share information, and work together to achieve the goal.

Table 11: Emergency Support Functions (ESF)	
Emergency Support Function	**Lead federal agency**
ESF #1: Transportation	Department of Transportation
ESF #2: Communications	Department of Homeland Security National Communication System
ESF #3: Public Works and Engineering	Department of Defense/U.S. Army Corps of Engineers
ESF #4:Firefighting	U.S. Forest Service
ESF #5: Information and Planning	Federal Emergency Management Agency (FEMA)
ESF #6 Mass Care, Emergency Assistance, Housing, and Human Services	FEMA
ESF #7: Logistics Management	General Services Administration and FEMA
ESF #8: Public Health and Medical Services	Department of Health and Human Services
ESF #9: Search and Rescue	FEMA
ESF #10: Oil and Hazardous Materials Response	Environmental Protection Agency
ESF #11:Agriculture and Natural Resources	Department of Agriculture
ESF #12: Energy	Department of Energy
ESF #13: Public Safety and Security	Department of Justice
ESF #14 Cross-Sector Business Coordination	Department of Homeland Security (DHS) and Cybersecurity and Infrastructure Security Agency
ESF #15 External Affairs	DHS

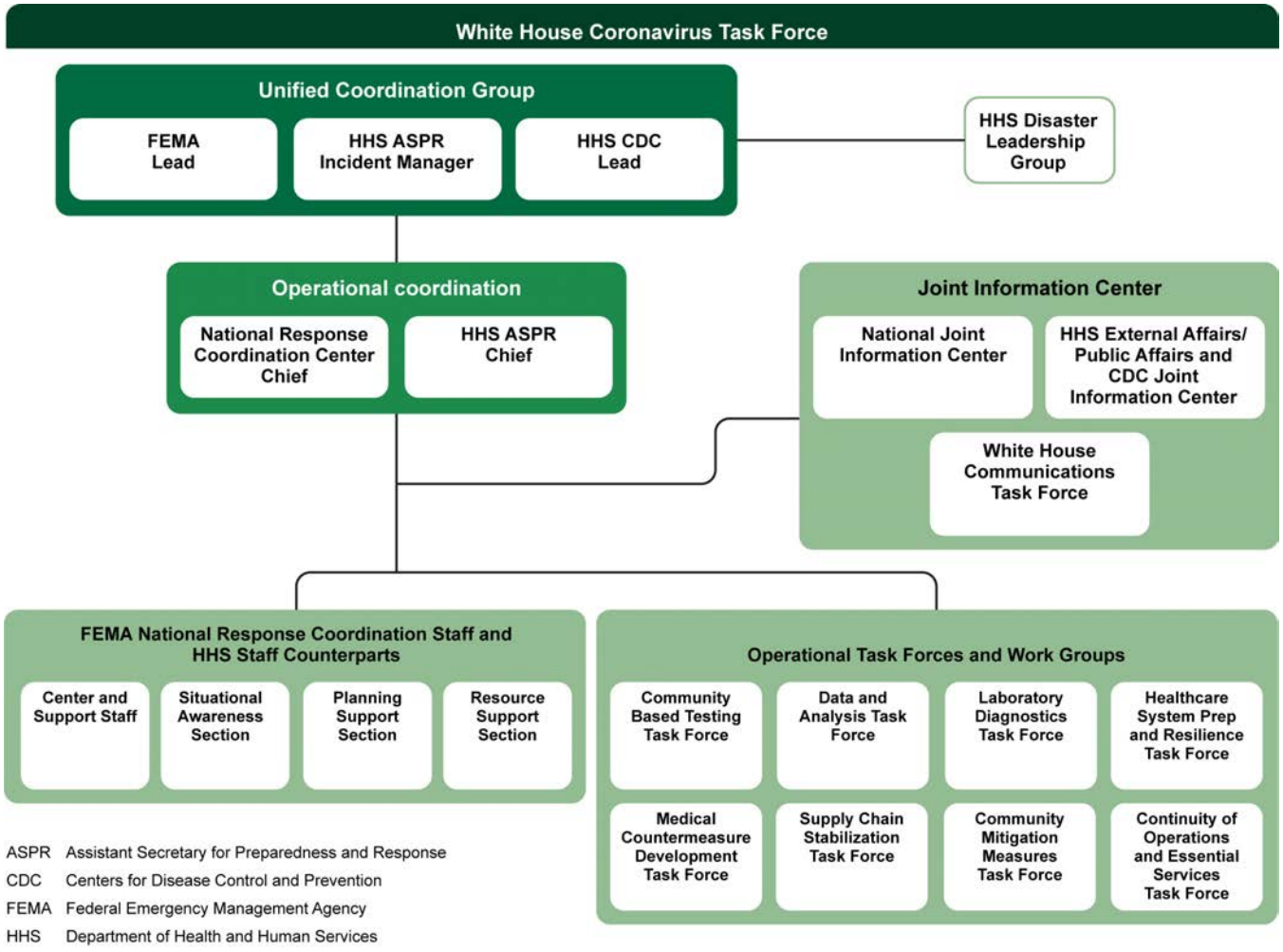
Source: GAO analysis of National Response Framework and FEMA documentation. | GAO-20-625

Key Players

The White House Coronavirus Task Force. This task force, led by the Vice President, is responsible for coordinating a whole-of-government approach, including governors, state and local officials, and members of Congress, to develop the best options for the safety, well-being, and health of the American people. The task force was formed on January 27, 2020, and the Vice President began leading it on February 26, 2020.

Unified Coordination Group. The group comprises senior leaders representing state, tribal, territorial, insular area and federal interests and, in certain circumstances, local jurisdictions, the private sector, and nongovernmental organizations (see fig. 15). Members must have significant jurisdictional responsibility and authority. The composition of the group varies, depending on the scope and nature of the disaster. The Unified Coordination Group leads the unified coordination staff. As the primary field entity for federal response, the group integrates diverse federal authorities and capabilities and coordinates federal response and recovery operations. The Administrator of the Federal Emergency Management Agency (FEMA), the Department of Health and Human Services' (HHS) Assistant Secretary for Preparedness and Response (ASPR), and a representative of the Centers for Disease Control and Prevention (CDC) jointly lead the Unified Coordination Group for COVID-19.

Figure 15: Organizational Structure of the Unified Coordination Group



Source: GAO analysis of National Response Coordination Center documentation. | GAO-20-625

Eight operational task forces. These task forces exist to provide operational guidance and secure resources to coordinate the whole-of-government response to COVID-19. Table 12 describes the responsibilities of these task forces and examples of their actions.

Table 12: Description of Operational Task Forces and Examples of Actions

Task force & key federal agencies	Responsibilities and key tasks	Examples of actions taken
Laboratory Diagnostic Task Force (LDTF) Department of Health and Human Services (HHS) and the Federal Emergency Management Agency (FEMA)	Coordinate with stakeholders to understand the COVID-19 testing supply chain and rapidly evolving testing needs. Inform supply, allocation, and prioritization of resources for testing, diagnostics, and reporting. Increase clarity in guidance to laboratory stakeholders and provide assistance to enable labs to test at their full capacity.	Established connection with the Centers for Disease Control and Prevention (CDC) on tribal testing strategies and future support. Supports states requesting additional technical assistance.
Community Based Testing Sites Task Force (CBTSTF) HHS and FEMA	Create community-based testing sites that are federally supported, state managed, and locally executed to increase provisional nationwide COVID-19 testing.	From March 20, 2020, through June 8, 2020, 247,616 samples were collected from CBTSTF locations and 243,145 tests were processed for results.
Supply Chain Task Force (SCTF) Department of Defense (DOD) and FEMA	Maximize the nationwide availability of mission-essential protective and lifesaving resources and equipment based on need.	From June 5 – 7, 2020, six Project Airbridge flights carrying essential supplies arrived in New York, NY; Columbus, OH; and Chicago, IL. As of June 8, 2020, more than 200 of these supply flights had been completed.
Healthcare Resilience Task Force (HRTF) HHS and FEMA	Develop and provide guidance and procedures to build, preserve, and extend health and medical capacity. Work to optimize health care delivery, including the health care workforce, facilities, and supplies.	Supporting HHS's Assistant Secretary for Preparedness and Response (ASPR). Working with Emergency Medical Services (EMS) stakeholders and interagency partners to propose courses of action and mitigation options to address funding and the personal protective equipment (PPE) needs of EMS agencies.
Community Mitigation Task Force (CMTF) HHS and FEMA	Assist state, local, tribal, territorial, and federal leaders to implement and continually revise community mitigation strategies to slow disease transmission, and reduce morbidity and mortality. Keep a particular focus on protecting individuals at higher risk for severe illness, while preserving the health care and public health systems, critical infrastructure and essential workforce.	Developing new language on risk by age groups; underlying conditions; and ethnic and minority populations. Discussed strategies and CDC resources on returning workforces to worksites with the U.S. Pan Asian American Chamber of Commerce.
Medical Countermeasures Task Force (MCMTF) HHS and FEMA	Establish baseline understanding of current status, needs, and gaps for COVID-19 medical countermeasures	Emergency Use Authorizations granted by the Food and Drug Administration include 61 molecular diagnostic tests, 28 laboratory-developed tests, 12

	(MCM) development across the United States Government (USG). Align MCM development and utilization across department and interagency partners to avoid duplication of effort, identify opportunities for synergy, and fill potential gaps. Identify and prioritize approaches and related needs to accelerate MCM development and address questions regarding use of currently available MCMs. Provide reports to ASPR, MCM lead, and other USG response managers.	antibody tests, one antigen test, and one home collection kit. Supporting development, preclinical studies, clinical trials, and manufacturing efforts for vaccines and therapeutics.
Data and Analysis Task Force HHS and FEMA	Provide comprehensive data and analytics to support evidence-based decisions for COVID-19 response and recovery operations.	Provides daily situational awareness reports on COVID-19 indicators and collects daily hospital data for states and territories, according to FEMA officials. These officials also stated that the task force projects demand, by state, for ventilators, PPE, and therapeutics and estimates the potential impact of community mitigation strategies.
Continuity Task Force (CTF) FEMA	Maintain situational awareness and coordination across federal departments and agencies. Identify operational risks. Report on status of activities. Facilitate opportunities to mitigate effects to operations.	The CTF is continuing to monitor COVID-19 related announcements sent by state and local authorities.

Source: GAO analysis of FEMA documentation. | GAO-20-625

The Department of Defense (DOD). DOD has specific roles, resources and authorities to bring to bear on pandemic response. Under the authority, direction, and control of the Under Secretary of Defense (Policy), the Assistant Secretary of Defense (Homeland Defense Global Security) provides overall coordination for DOD support to civil authorities. In a health crisis, the Assistant Secretary serves as the DOD focal point for federal departments and agencies and other entities on public health and medical support, preparedness, and policy matters for the defense support of civil authorities. The U.S. Northern Command and U.S. Indo-Pacific Command provide support to U.S. civil authorities—such as the Department of Homeland Security (DHS) or other federal agencies—for domestic emergencies and other activities in their respective areas of responsibility, when authorized or directed to do so by the President or the Secretary of Defense. [175] The

[175]Both U.S. Northern Command (USNORTHCOM) and U.S. Indo-Pacific Command (USINDOPACOM) are two of six geographic Unified Combatant Commands of the United States Armed Forces. USNORTHCOM's area of responsibility encompasses the continental United States, Alaska, Canada, Mexico, Puerto Rico, the U.S. Virgin Islands, and the surrounding water out to approximately 500 nautical miles, to include the North Pole. USINDOPACOM's area of

National Guard Bureau coordinates the deployment of National Guard resources residing in the U.S. Northern Command and U.S. Indo-Pacific Command areas of responsibility.[176] In addition, the U.S. Army Corps of Engineers is the federal government's lead public works and engineering support agency. The Defense Logistics Agency works with other U.S. government departments and agencies to facilitate medical logistics support, including the transportation of personal protective equipment, to and between critical areas.

Coordination and Communication Centers

National Response Coordination Center (NRCC). The NRCC is a multiagency coordination center located within FEMA Headquarters. By statute and policy, the FEMA Administrator has overall responsibility and authority for operating the NRCC.[177] The NRCC's staff coordinates the overall federal support for major incidents and emergencies. These staff consist of FEMA personnel, appropriate ESFs from various federal agencies, and other appropriate personnel and agencies. In addition, Regional Response Coordination Centers operate within each of FEMA's 10 regional offices to facilitate communication between the NRCC and state, local, territorial, and tribal governments. According to a senior FEMA official, these regional offices help to ensure that state and local governments receive important information and are able to ask questions regarding COVID-19 response and recovery efforts. Further, the NRCC makes and manages mission assignments—work orders directing another federal agency to utilize its authorities and resources under federal law in support of response efforts (see table 13).[178] Mission assignments are a critical way to apply federal resources to the response, and FEMA can reimburse federal agencies out of the Disaster Relief Fund for carrying them out.

responsibility stretches from the waters off the west coast of the U.S., including Hawaii and U.S. territories, to the western border of India, and from Antarctica to the Bering Sea.

[176]National Guard personnel may be ordered to active duty voluntarily and with the consent of their Governor pursuant to 10 U.S.C. § 12301(d). Under qualifying circumstances, National Guard personnel may be ordered to active duty without their consent or the consent of their Governor pursuant to 10 U.S.C. §§ 251, 252, 12301(a), 12302, 12304, and 12310.

[177]See 6 U.S.C. § 314(a)(17).

[178]42 U.S.C. § 5170a.

Table 13: Selected Examples of Mission Assignments for the COVID-19 Pandemic Response as of May 13, 2020	
Description of mission assignment	**Estimated cost at time of request (in dollars)** [a]
The Department of Defense (DOD) was tasked with providing 10 million N95 respirators to FEMA to support critical equipment shortfalls during COVID-19 response.	10 million
The Department of Veterans Affairs (VA) National Acquisition Center was tasked with receiving, processing, and responding to requests from FEMA regions for deliveries of pharmaceuticals. VA will execute operational management and oversight of requests and track VA deliveries of pharmaceuticals to state requestors.	3 million
The U.S. Army Corps of Engineers (USACE) was tasked with providing enterprise-wide tracking and reporting related to nationwide efforts to address medical facility shortages arising from the COVID-19 pandemic.	6.5 million

Source: GAO analysis of Federal Emergency Management Agency (FEMA) data. | GAO-20-625

[a]This is a rough estimate entered in the request system—not the financial system of record—at the time the request and is not a reliable indicator of actual costs. Reliable data about actual costs are available later in the process after FEMA reconciles the mission assignments in its financial system.

HHS Secretary's Operation Center (SOC). The SOC is the primary emergency operations structure for HHS tasked with protecting the health, safety, and security of the nation. It serves as the focal point for public health and medical information collection, sharing, and analysis, and it facilitates the coordination of HHS preparedness, response, recovery, and mitigation. The SOC also provides strategic situational awareness to support decision-making at the HHS leadership level.

HHS Joint Information Center. The Joint Information Center coordinates incident-related public information under ESF #8 (public health and medical services) and is authorized to release general medical and public health response information to the public. When possible, a recognized spokesperson from the public health and medical community (state, local, or tribal) delivers relevant community messages. After consultation with HHS, the lead Public Affairs Officer from other relevant centers may also release general medical and public health response information.

Appendix III: Report Enclosures

Relief for Health Care Providers

The Department of Health and Human Services is distributing more than $177 billion to financially support health care providers, finance care for COVID-19 patients and underserved populations, and finance existing Health Resources and Services Administration programs.

Entities involved: Department of Health and Human Services, Centers for Medicare & Medicaid Services, Health Resources and Services Administration

Key Considerations and Future GAO Work

As the Department of Health and Human Services (HHS) works to get funds to providers quickly, it will be important that robust internal controls are in place to help ensure funds are appropriately distributed and used. For example, it is important that funds not be provided to ineligible providers, such as hospitals that have closed, despite the imperative of a quick federal response to the COVID-19 crisis. We plan to conduct additional work to examine HHS's efforts to provide assistance to providers.

Background

The scale of the nationwide COVID-19 pandemic requires a whole-of-government approach to respond, including multiple federal agencies to support the public health and medical response. HHS is designated as the lead agency for responding to a public health emergency, including a pandemic. [179] The COVID-19 pandemic has severely strained health care resources in some areas and severely reduced revenue that hospitals and other health care providers generate from the provision of nonessential health services.

To respond to these crises, the CARES Act and other laws enacted in response to the pandemic provided significant additional funding for health care providers, including increased Medicare payments to eligible providers. The Centers for Medicare & Medicaid Services (CMS), within HHS, administers Medicare. The Health Resources and Services Administration (HRSA), also within HHS, provides funding and support for a wide variety of programs, most commonly through grants that serve millions of people each year, that are designed to improve access to health care services for people who are uninsured, isolated, or medically vulnerable.

The CARES Act appropriated $100 billion to reimburse eligible health care providers for health-care-related expenses or lost revenues that are attributable to COVID-19, known as the Provider Relief Fund. [180] The Paycheck Protection Program and Health Care Enhancement Act (PPPHCEA)

[179]Given the nationwide response required to address the COVID-19 pandemic, HHS is designated as the lead federal agency for the public health and medical portion of the response, while the Department of Homeland Security's Federal Emergency Management Agency is designated as the lead agency for coordinating the overall federal response.

[180]Pub. L. No. 116-136, div. B, tit. VIII, 134 Stat. 281, 563 (2020).

appropriated an additional $75 billion for the fund. [181] The CARES Act also appropriated about $1.6 billion for HRSA programs. [182] In addition, the Coronavirus Preparedness and Response Supplemental Appropriations Act appropriated $100 million, and the PPPHCEA appropriated $600 million for HRSA programs. [183]

Overview of Key Issues

Provider Relief Fund. As of May 31, 2020, HHS had allocated almost $77.4 billion from the Provider Relief Fund, with about $97.6 billion not yet allocated. HHS made about 380,000 payments based on provider billing information by that date, totaling almost $65.2 billion. Payments range from less than $100 for some medical practices to more than $100 million for some hospital systems. HHS allocated $50 billion for general relief for health care providers and almost $27.4 billion targeted for high-impact hospitals, rural providers, Indian Health Service facilities, and skilled nursing facilities. [184]

- **General relief for health care providers**. HHS allocated $50 billion from the Provider Relief Fund for general distribution to Medicare facilities and providers based proportionally on eligible providers' share of 2018 net patient revenue from the Medicare fee-for-service program. [185] These funds were distributed in two waves. The initial $30 billion distribution began on April 10, 2020, 2 weeks after the enactment of the CARES Act. Distribution of the remaining $20 billion began on April 24, 2020. Providers were required to sign an attestation confirming receipt of the funds and agreeing to the terms and conditions within 90 days of receiving payment or return the funds. The conditions include having active Medicare billing privileges and treating Medicare patients after January 31, 2020.

- **High-impact hospitals.** The COVID-19 pandemic has had a particular impact on hospitals in certain parts of the nation, and therefore, HHS is distributing $12 billion to hospitals on the front lines. Specifically, these payments are going to 395 hospitals that, based on information they submitted to HHS, provided inpatient care for 100 or more COVID-19 patients through April 10, 2020. Collectively, these facilities accounted for about 130,000 COVID-19 admissions, roughly 70 percent of the national total reported to CMS. Of the $12 billion allocation, $2 billion of these payments are being distributed among the hospitals based on their Medicare Disproportionate Share funding. The remaining $10 billion is being distributed based on the

[181]Pub. L. No. 116-139, div. B, tit. I, 134 Stat. 620, 622 (2020).

[182]Pub. L. No. 116-136, 134 Stat. 281 (2020)

[183]Pub. L. No. 116-123, div. A, tit. III, 134 Stat. 146, 149 (2020); Pub. L. No. 116-139, div. B, tit. I, 134 Stat. 620, 626 (2020).

[184]A portion of the Provider Relief Fund will be used to reimburse health care providers for COVID-related treatment of the uninsured. In addition, the Families First Coronavirus Response Act and the PPPHCEA each appropriated $1 billion to reimburse providers for conducting COVID-19 testing for the uninsured.

[185]One-third of Medicare beneficiaries receive care from Medicare Advantage plans, not fee-for-service Medicare. These plans receive a set, capitated amount to finance care for each beneficiary. Any payments that providers received from Medicare Advantage plans were not considered in the calculations for this distribution from the Provider Relief Fund. These providers may be eligible for future distributions.

number of COVID-19 admissions, with each recipient hospital receiving about $77,000 per admission. Hospitals in New York and New Jersey received a total of about $6.7 billion of this funding.

- **Rural providers.** HHS is distributing $10 billion to rural hospitals, including rural acute care general hospitals and Critical Access Hospitals, Rural Health Clinics, and Community Health Centers located in rural areas. HHS said that this funding reflects the greater risk of closure of rural entities due to the reduced patient volumes attributable to COVID-19. According to HHS, these entities have lower operating margins than providers in more populated areas.
- **Skilled nursing facilities.** HHS is distributing nearly $4.9 billion to skilled nursing facilities (SNF). Each SNF is to receive a fixed distribution of $50,000, plus a distribution of $2,500 per bed. All certified SNFs with six or more certified beds are eligible for this targeted distribution.
- **Indian health care providers.** Another $500 million was allocated for Indian Health Service, tribal, and Urban Indian organization facilities. Distribution includes a base payment plus an amount based on operating expenses. This funding complements other funding provided to Indian Health Service, tribal, and Urban Indian organization facilities for responding to COVID-19, including but not limited to, expanding capacity for telehealth.

See table below for a summary of Provider Relief Fund allocations.

Summary of Allocations from the Provider Relief Fund, as of May 31, 2020		
Description	**Amount (dollars)**	**When distribution began**
General relief to health care providers	50 billion	April 10, 2020
Relief to high-impact hospitals [a]	12 billion	May 1, 2020
Relief to rural health care facilities	10 billion	May 1, 2020
Relief to skilled nursing facilities	4.9 billion	May 22, 2020
Relief to Indian health care providers	500 million	May 22, 2020
Unallocated funds	97.6 billion	not applicable

Source: Summary of Department of Health and Human Services funding data. | GAO-20-625

[a]Of the $12 billion allocation, $2 billion of these payments are being distributed among the hospitals based on their Medicare Disproportionate Share funding.

HRSA programs. Congress appropriated nearly $2.3 billion in funding for a number of existing HRSA programs as part of the response to the COVID-19 pandemic. [186] The majority of the funds appropriated for HRSA programs—$2.02 billion—are for the Health Center Program. This program makes grants to health centers that provide a comprehensive set of primary and preventative health care services to individuals regardless of their ability to pay. As of May 31, HHS obligated $2.00 billion and expended almost $215 million of the funds appropriated for the Health Center Program. Also as of May 31, approximately one-third of health centers had accessed supplemental funding under the CARES Act (see table below). According to HRSA officials, health centers may wait to access the supplemental funding until they have created a budget that aligns with the funding requirements, and some may wait until the budget is approved by HRSA.

[186]Congress appropriated about $1.6 billion for HRSA programs in the CARES Act. See Pub. L. No. 116-136, 134 Stat. 281 (2020). In addition to the CARES Act, Congress appropriated funds for HRSA programs in other COVID-19 laws. For example, Congress included appropriations for the Health Center Program, administered by HRSA, in the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 ($100 million) and the PPPHCEA ($600 million). See Pub. L. No. 116-123, div. A, tit. III, 134 Stat. 146, 149 (2020); Pub. L. No. 116-139, div. B, tit. I, 134 Stat. 620, 626 (2020).

Summary of Supplemental Funding Distributed to Health Resources and Services Administration (HRSA) Grantees, as of May 31, 2020

Program or activity	Appropriations (source) [a]	Number of awards and type of recipient	Number (percentage) of grantees that accessed award funds [b]
Health Centers Program	$1.32 billion (CARES Act)	1,387 Health Centers	463 (33.3)
	$100 million (Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020)	1,381 Health Centers	817 (59.2)
	$600 million (Paycheck Protection Program and Health Care Enhancement Act)	1,385 Health Centers	33 (2.4)
Rural Health	$180 million (CARES Act)	46 states for Small Rural Hospital Improvement Program	16 (34.8)
		14 Telehealth Resource Centers	0 (0.0)
		52 tribal organizations [c]	not available [d]
Ryan White HIV/AIDS Program	$90 million (CARES Act)	581 program recipients	33 (5.7)
Health Care Systems' Poison Control Activities	$5 million (CARES Act)	52 organizations representing 55 Poison Control Centers	1 (1.9)

Source: GAO summary of information from Department of Health and Human Services websites and HRSA officials. | GAO-20-625

[a] HRSA has allocated a small proportion of total funding for activities such as program oversight, documenting outcomes, and technical assistance. Funding sources are CARES Act Pub. L. No. 116-136, 134 Stat. 281 (2020), Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123, 134 Stat. 146 (2020), and Paycheck Protection Program and Health Care Enhancement Act, Pub. L. No. 116-139, 134 Stat. 620 (2020).

[b] The percentage of grant recipients accessing funds is as of May 31, 2020.

[c] The CARES Act directs HRSA to allocate at least $15 million of these funds to tribes, tribal organizations, Urban Indian Health organizations, or health service providers to tribes. HRSA made these grant awards on May 28, 2020.

[d] Grants to tribal organizations were awarded a few days before the cutoff date of reporting fund access.

To manage the funds and activities related to the COVID-19 response, HRSA officials said they plan to continue to use established controls, such as requiring grantee reporting requirements; HRSA has also added new protocols specific to COVID-19 funding. For example, these new protocols include creating distinct accounting codes to separately track the use of the supplemental funding by the originating law; analyzing spending data to identify outliers, anomalies, and patterns; and providing targeted technical assistance to grantees.

Additional relief for Medicare providers. The CARES Act authorized additional financial relief to certain providers. Among those provisions were the following:

- **Expansion of the Accelerated and Advance Payment Programs.** Section 3719 of the CARES Act authorized the expansion of the Accelerated and Advance Payment Programs, which are typically used to make available emergency funding and address cash flow issues for providers

and suppliers when there is disruption in claims submission or claims processing, including during a public health emergency or presidentially declared disaster.
Under the expanded programs, active Medicare providers can apply for loans of up to 100 or 125 percent of the payments they received for a prior 3-month or 6-month period, depending on the type of provider or supplier. Recoupment of the advance and accelerated payments, through the offsetting of new Medicare claims, begins not more than 120 days after the funds are disbursed and continues for 3 or 8 months, depending on the type of provider or supplier. Any remaining balances not recovered through withholding of Medicare claims payments will be demanded for payment. Provider applications for the Advanced Payment Program were discontinued beginning on April 26, 2020, in light of grant payments made available through the Provider Relief Fund. CMS has made accelerated and advance payments of about $100 billion.

- **Sequestration adjustment.** The CARES Act temporarily suspends a 2-percent reduction in Medicare payments required under prior law between May 1, 2020, and December 31, 2020. The Congressional Budget Office estimated that this will increase Medicare payments to providers by $6 billion in 2020.

- **Prospective payment add-on.** For the emergency period, in some circumstances hospitals will be paid 20 percent more for treating patients with confirmed cases of COVID-19 who are enrolled in fee-for-service Medicare. The Congressional Budget Office estimated that the add-on will apply to about 1 million Medicare beneficiaries and increase Medicare payments by about $2 billion in 2020.

GAO Methodology and Agency Comments

To conduct our work, we examined publicly released HHS documents and obtained information from CMS and HRSA. We provided a draft of this report to HHS and the Office of Management and Budget for review and comment. Both agencies provided technical comments on this enclosure, which we incorporated as appropriate.

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Nursing Homes

The Department of Health and Human Services required state survey agencies to focus on infection control inspections as many nursing homes faced outbreaks of COVID-19, and past inspections show that infection control deficiencies had been widespread and persistent prior to the pandemic.

Entities involved: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Centers for Disease Control and Prevention

Key Considerations and Future GAO Work

Given the number of COVID-19 cases and deaths at nursing homes, we plan to examine Centers for Medicare & Medicaid Services (CMS) guidance and oversight of infection prevention and control and emergency preparedness in nursing homes in more depth in future GAO work.

Background

Nationwide, approximately 15,500 nursing homes provide care to about 1.4 million elderly or disabled residents, who are particularly vulnerable to the spread of infections. Because of this, the health and safety of nursing home residents—who are often in frail health and living in close proximity to one another—has been a particular concern during the COVID-19 pandemic. [187] One of the first major outbreaks reported in the United States occurred in a Washington State nursing home in February 2020. Since then, there has been a rapid increase in the number of U.S. nursing home cases and deaths. According to CMS, nursing homes reported over 95,000 confirmed cases and almost 32,000 deaths as of May 31, 2020 (based on reporting from 88 percent of nursing homes). [188]

CMS, an agency within the Department of Health and Human Services (HHS), is responsible for ensuring that nursing homes nationwide meet federal quality standards to participate in the Medicare and Medicaid programs. These standards require, for example, that nursing homes establish and maintain an infection prevention and control program. To monitor compliance with

[187]COVID-19 has affected vulnerable populations in other settings beyond nursing homes, including assisted living facilities. However, as the federal role in oversight of nursing homes is more significant than in other settings such as assisted living facilities, the federal response has been more focused on nursing homes.

[188]Beginning in May 2020, CMS implemented a new reporting requirement for nursing homes to report COVID-19 cases and deaths directly to the Centers for Disease Control and Prevention (CDC) on an ongoing basis. Prior to this new requirement, the Department of Health and Human Services had not collected data from all nursing homes on COVID-19 cases or deaths. According to CMS, as of May 31, approximately 88 percent of nursing homes had reported the required data to CDC.CMS acknowledged that, because this is a new reporting requirement, there may be inaccuracies in nursing homes' initial data submissions. For example, the data reported from the nursing homes' submissions as of the week ending May 31 included several records marked as having failed CMS quality assurance checks. For future reports, we plan to further examine the reliability of CMS data related to COVID-19 in nursing homes.

these standards, CMS enters into agreements with agencies in each state government—known as state survey agencies—and oversees the work the state survey agencies do.

CMS's Center for Clinical Standards and Quality has responsibility for overseeing state survey agencies' survey and certification activities, among others. In response to the pandemic, the Centers for Disease Control and Prevention (CDC) has provided infection prevention and control assessments through on-the-ground deployments and remote technical assistance. [189] The HHS Assistant Secretary for Preparedness and Response has also been involved in the response to COVID-19 in nursing homes.

Congress specifically appropriated $100 million in the CARES Act for the survey and certification program, and it directed the agency to prioritize the use of funds for nursing home facilities in localities with community transmission of COVID-19. [190] According to CMS, the agency plans to provide state survey agencies approximately $81 million through September 30, 2023.

Overview of Key Issue

Through our analysis of CMS data on infection prevention and control deficiencies cited in nursing homes surveyed prior to the pandemic, we found the following:

- Infection prevention and control deficiencies were the most common type of deficiency state survey agencies cited, with most nursing homes having an infection prevention and control deficiency cited in 1 or more years from 2013 through 2017 (13,299 nursing homes, or 82 percent of all surveyed homes). In each individual year from 2013 through 2017, the percentage of surveyed nursing homes with an infection prevention and control deficiency ranged from 39 percent to 41 percent. In 2018 and 2019, we found that this continued, with about 40 percent of surveyed nursing homes having an infection prevention and control deficiency cited each year. This is an indicator of persistent problems at these nursing homes.
- Further, in each year from 2013 through 2017, nearly all infection prevention and control deficiencies (about 99 percent in each year) were classified by surveyors as not severe, meaning the surveyor determined that residents were not harmed. Our review of CMS data shows that CMS rarely implemented enforcement actions for these deficiencies: from 2013 through 2017, CMS implemented enforcement actions for 1 percent of these infection prevention and control deficiencies classified as not severe. [191]

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[189]CDC reported that as of early June, the agency had completed 42 on-the-ground deployments to nursing homes to support their response to COVID-19 cases and CDC had also performed over 600 remote infection control assessments for nursing homes.

[190]Pub. L. No. 116-136, div. B, tit. VIII, 134 Stat. 281, 557 (2020).

[191]In general, for deficiencies with a higher severity CMS may impose certain enforcement actions so that the enforcement actions are implemented—that is, put into effect—immediately. For other deficiencies with a lower severity, the nursing home may be given an opportunity to correct the deficiencies, which, if corrected before the scheduled effective date, can result in the imposed enforcement action not being implemented. CMS may

In response to the pandemic, HHS, primarily through CMS and CDC, has taken actions to address infection prevention and control in nursing homes, and a selected list of these actions is included below. These actions include, for example, providing guidance and technical assistance to nursing homes to improve infection control practices, shifting to targeted infection control inspections of nursing homes, and enhancing reporting requirements for nursing homes. Specifically:

- On March 1, CDC released infection control and prevention strategies for long-term care facilities, including nursing homes and assisted living facilities. The strategies encourage long-term care facilities to actively screen all residents daily for fever and COVID-19 symptoms, and to notify state or local health departments within 24 hours of suspected or confirmed COVID-19 cases, severe respiratory infections causing hospitalization or death, and clusters of respiratory infections. This guidance was updated on May 19.

- On March 4, CMS limited and prioritized the types of survey activities allowed in health care facilities. On March 20, CMS temporarily suspended state survey agencies' use of standard surveys for nursing homes, and instead required state survey agencies to conduct targeted infection prevention and control surveys of selected providers identified through collaboration with CDC and the HHS Assistant Secretary for Preparedness and Response.

- On March 13, CMS issued guidance for nursing homes to improve their infection control practices in order to help prevent the transmission of COVID-19, including by restricting visitors and cancelling communal dining and group activities.

- On April 19, CMS notified state survey agencies about planned requirements for nursing homes to report COVID-19 cases and deaths through CDC's National Healthcare Safety Network and to inform residents, their families, and residents' representatives of COVID-19 cases in their facilities. On April 25, CDC launched the online nursing home COVID-19 reporting tool through its National Healthcare Safety Network. On May 8, CMS issued an interim final rule to establish these requirements and make this COVID-19 reporting to CDC mandatory. [192]

- On April 30, CMS announced that it will convene an independent commission to help guide nursing homes during the President's "Opening Up America Again" initiative.

- On May 18, CMS provided recommendations to state and local officials for reopening nursing homes. These included criteria for relaxing restrictions as well as survey activities and visitation considerations for each phase of reopening.

- On May 19, CDC released guidance on CDC recommendations for nursing homes and health departments related to COVID-19 testing, including recommendations on how to prioritize and conduct testing.

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not implement imposed enforcement actions because the nursing home came into compliance prior to the implementation date of the enforcement action, among other reasons. Nursing homes are required to submit a plan of correction that addresses how the home would correct the noncompliance and implement systemic change to ensure the deficient practice would not recur.

[192]85 Fed. Reg. 27,550, 27,627 (May 8, 2020) (to be codified at 42 C.F.R. § 438.80(g)).

- On June 1, CMS released data as of May 24 on the results of its new federal reporting requirement for nursing homes to report COVID-19 cases and deaths to CDC. On June 4, these data were updated with results as of May 31.
- On June 4, CMS released data on the results of the infection control focused surveys state survey agencies had completed since March.

GAO Methodology and Agency Comments

To conduct this work, we reviewed agency guidance and other relevant information on CMS's response to the COVID-19 pandemic. We also summarized information from our May 2020 report that analyzed data obtained from CMS on nursing home infection control deficiencies from 2013 through 2017, as well as similar publicly available data on infection control deficiencies in 2018 and 2019. [193]

We provided a draft of this report to HHS for review and comment. HHS provided technical comments on this enclosure, which we incorporated as appropriate.

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Related GAO Product

Infection Control Deficiencies Were Widespread and Persistent in Nursing Homes Prior to COVID-19 Pandemic. GAO-20-576R. Washington, D.C.: May 20, 2020.

[193]This report is our most recent analysis of CMS nursing home infection prevention and control deficiency data, part of a broader GAO body of work examining oversight of nursing homes including ongoing work examining HHS actions to address COVID-19. For brief summaries of some GAO reports more generally on the health and welfare of the elderly in nursing homes and other settings since 2015, including any recommendations, see *Nursing Homes: Better Oversight Needed to Protect Residents from Abuse*, GAO-20-259T, (Washington, D.C.: Nov. 14, 2019).

Federal Efforts to Provide Medical Supplies

States' requests for medical equipment and supplies, such as personal protective equipment, quickly exceeded the capacity of the Strategic National Stockpile, resulting in a multiagency response to acquire and distribute material.

Entities involved: Department of Health and Human Services, Assistant Secretary for Preparedness and Response, Federal Emergency Management Agency, Department of Defense

Key Considerations and Future GAO Work

While agencies have taken actions to provide medical equipment and supplies, such as personal protective equipment (PPE) and ventilators, to states and other entities to help health care workers to respond to the COVID-19 pandemic, concerns have been reported about the distribution, acquisition, and adequacy of supplies from the Strategic National Stockpile (SNS) and other sources. For example, in April 2020, the National Governors Association, whose membership comprises state governors and the leaders of territories and commonwealths, noted in a memorandum to governors' offices that the need for PPE, ventilators, and other supplies was resulting in competition between states and with the federal government. [194] We previously raised concerns about supply gaps. Specifically, in 2003, we reported that urban hospitals lacked the necessary equipment, such as PPE, to respond to a large influx of patients experiencing respiratory problems caused by a bioterrorism event requiring a similar response to a naturally occurring disease outbreak.

Findings from a 2019 pandemic planning exercise conducted by the Office of the Assistant Secretary for Preparedness and Response (ASPR) within the Department of Health and Human Services (HHS) in conjunction with multiple federal agencies, states, and stakeholders highlighted similar concerns about supply availability, as well as the SNS more generally. [195] For example, the report noted that domestic manufacturing capacity would be unable to meet the demands for PPE and other supplies in the event of a global influenza pandemic. In response to these findings, ASPR recommended several actions, including the development of a prioritization strategy for the distribution and allocation of scare resources, a report to Congress detailing supply chain shortages, and a legislative proposal to support the investment in and development of domestic manufacturing capability. HHS officials told us that the department had been unable to take action to address these recommendations as of June 2020 due to the COVID-19 pandemic. However, in comments provided by HHS, the department told us ASPR officials had met with key Congressional staff in October 2019 to highlight findings from the exercise, including supply chain and PPE shortages, lack of domestic manufacturing capacity, and potential funding requirements for medical counter measures development. Further, HHS officials also told us that they have used

[194]National Governors Association, Governor Actions to Address PPE and Ventilator Shortages, (Apr 13, 2020), available at https://www.nga.org/wp-content/uploads/2020/04/NGA-Medical-Equipment-Memo.pdf.

[195]Department of Health and Human Services, Office of the Assistant Secretary for Preparedness and Response, *Crimson Contagion 2019 Functional Exercise After-Action Report* (January 2020). The pandemic planning exercise consisted of multiple meetings in 2019, which culminated in a four-day functional exercise held in August 2019.

lessons learned from the exercise to inform the ongoing response to the COVID-19 pandemic, but did not provide any specific examples.

We are conducting a comprehensive body of work on the SNS in response to the Pandemic and All-Hazards Preparedness and Advancing Innovation Act of 2019 and the CARES Act. [196] This work includes examining the materials states requested from the SNS for COVID-19 and, more generally, the decisions behind purchases for the SNS over time. As part of this work, we plan to review progress made in restructuring the SNS based on lessons learned from recent pandemics, an effort the administration announced on May 14, 2020. Further, we also plan to examine the alignment of supplies in the SNS with threat risks; coordination and communication with states, territories, localities, and tribes; and actions taken, if any, to mitigate supply gaps. We are also examining the role that the Federal Emergency Management Agency (FEMA) played in distributing supplies in conjunction with HHS and others, and how federal agencies used authority under the Defense Production Act to obtain needed supplies.

Background

The SNS, overseen by ASPR, is the largest federally owned repository of pharmaceuticals, critical medical supplies, federal medical stations, and medical equipment available for rapid delivery to support the response to a public health emergency when state and local supplies are depleted, according to the President's budget proposal for fiscal year 2021. [197] In such an event, the SNS can be used as a short term stop gap buffer, according to HHS officials. Critical equipment and supplies needed by healthcare workers during the pandemic have included PPE—such as N95 respirator masks, surgical gowns, and gloves—and ventilators to assist critically ill patients with breathing.

HHS is designated as the lead agency to address the public health and medical portion of the response, and as the needs of the pandemic increased nationwide, FEMA was designated as the lead agency for coordinating the overall federal response. At that point, responsibility for supporting and informing decisions about the allocation, distribution, and procurement of COVID-related supplies shifted to the Supply Chain Task Force, one of eight task forces run by the Unified Coordination Group. [198] The Supply Chain Task Force is jointly led by detailees from FEMA and the Department of Defense (DOD). In some cases, the White House Task Force—to which the Unified Coordination Group provided input—may make final decisions about supply issues, according to ASPR officials.

[196]Pandemic and All-Hazards Preparedness and Advancing Innovation Act of 2019, Pub. L. No. 116-22, § 403(a)(5), 133 Stat. 905, 946-47; CARES Act, Pub. L. No. 116-136, § 19010, 134 Stat. 281, 579-81 (2020).

[197]Department of Health and Human Services, *Fiscal Year 2021 Public Health and Social Services Emergency Fund: Justification of Estimates for the Appropriations Committee*.

[198]The Unified Coordination Group, run out of the National Response Coordination Center, is led jointly by FEMA and HHS and works to establish joint priorities and allocate resources, among other activities.

The four relief laws enacted to assist the response to COVID-19 appropriated funding for HHS activities that could include but were not limited to the SNS. [199] As of May 31, 2020, HHS reported it plans to use $16.71 billion to purchase PPE and ventilators for immediate use as well as to replenish SNS inventory, and to purchase supplies to expand testing for COVID-19, among other purposes. In addition, HHS reported obligations of almost $6.9 billion for the SNS, of which about $330 million had been expended as of May 31, 2020.

Overview of Key Issues

The nationwide need for critical PPE and supplies to protect responders and to treat Americans sickened with COVID-19 quickly exceeded quantities contained in the SNS. Specifically, in March 2020, ASPR began distributing supplies from the SNS to states and other entities, and within 1 month, the inventory of requested supplies was largely exhausted. [200]

ASPR distributed SNS supplies to states primarily using a pro-rata allocation strategy, an approach ASPR officials said the Centers for Disease Control and Prevention—which most recently managed the stockpile until October 2018—used to distribute materials to states in previous public health emergencies, including the H1N1 pandemic of 2009. This pro-rata strategy allocated supplies to states in proportion to their populations. Given the finite amount of supplies contained in the SNS and the widespread demand, ASPR officials told us and information on ASPR's website noted that this allocation strategy was the most equitable approach. [201]

In each of the first and second allocations, ASPR distributed 25 percent of available SNS supplies to 62 areas across all 50 states, four large metropolitan areas, and the eight territories and freely associated states, according to ASPR officials. [202] In the last substantial distribution of supplies from the SNS—based on a decision made by the Unified Coordination Group—ASPR provided most of the remaining SNS inventory to states, reserving 10 percent for federal health care and other responders.

ASPR's website noted that the supplies distributed from the SNS were likely less than states had requested. According to the Governor of Michigan, who testified before the House Committee on Energy & Commerce Congress in June 2020, the supplies the state received from the SNS were insufficient to meet the state's needs in the early days of the pandemic. FEMA officials told

[199]The four relief laws enacted to assist the response to COVID-19 are the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123, 134 Stat. 146; Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020); CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020); and Paycheck Protection Program and Health Care Enhancement Act, Pub. L. No. 116-139, 134 Stat. 620 (2020).

[200]In January 2020, ASPR began distributing SNS supplies to HHS and DOD medical staff assisting in the HHS-led repatriation efforts of U.S. citizens from cruise ships. The SNS maintains an $8 billion supply of other materials, such as antibiotics, vaccines, antitoxins, and antivirals, according to HHS officials

[201]ASPR also distributed extra supplies to states with a high number of COVID-19 cases.

[202]The four large metropolitan areas were Chicago, the District of Columbia, Los Angeles County, and New York City. The eight territories and freely associated states were American Samoa, Federated States of Micronesia, Guam, Marshall Islands, Northern Mariana Islands, Palau, Puerto Rico, and the U.S. Virgin Islands.

us, however, that in the early days of the pandemic it was difficult for states to assess their true resource needs. As such, officials noted many states submitted requests that over-estimated the amount of supplies and medical equipment they needed. We requested information on the SNS inventory prior to the pandemic, the types and amounts of supplies that states requested, as well as what ASPR and FEMA distributed from the SNS in response to states' requests; however, HHS and FEMA did not provide this information as of June 12, 2020. We plan to continue to seek this information from the agencies.

According to ASPR officials, the SNS was not designed or funded to provide states with supplies at the scale necessary to respond to a nationwide event such as the COVID-19 pandemic. According to ASPR's website, the SNS is primarily designed and resourced to address discrete events—for example, limited displacements or localized disasters, such as hurricanes or terrorist attacks. Annual appropriations for the SNS over the past decade ranged between $478 million (fiscal year 2013) and $705 million (fiscal year 2020), exclusive of the supplemental appropriations made available through the four relief laws enacted to assist the response to COVID-19. [203] However, ASPR officials told us that annual appropriations have not been sufficient to cover the costs associated with maintaining medical countermeasures necessary to respond to the tremendous increase in the number of material threats over the same period. In its multiyear fiscal year 2018-2022 budget plan for medical countermeasure development, HHS noted the challenge of maintaining a stockpile of medical countermeasures to use against many low-probability, high-consequence threats, while also maintaining the capacity to rapidly respond to novel threats, like emerging infectious diseases. [204] In nine of the twelve years during this period (fiscal years 2009 through 2020), Congress appropriated to the SNS amounts equal to or more than what the administration requested. In fiscal year 2020, the administration did not make a separate request for SNS funding.

According to an ASPR official, the SNS did not contain the number of N95 respirator masks that would be needed in a severe pandemic. In a hearing before the Senate Committee on Appropriations on February 25, 2020, the Secretary of Health and Human Services said that the SNS contained 30 million N95 respirator masks; he further noted that health care workers could need 300 million to respond to the COVID-19 pandemic. [205] According to ASPR officials, most of the remaining masks contained in the SNS were purchased in response to the H1N1 pandemic of 2009 and therefore were dated. [206] ASPR distributed these masks with a caution to states to inspect them upon receipt and discard masks that were unusable due to their quality. In May 2020, FEMA officials told us that demand for PPE has been greater than ever before.

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[203]For example, the CARES Act provided that up to $16 billion of the supplemental appropriations under the act are available for the SNS. Although SNS funding fluctuated between fiscal years 2009 and 2012 due to factors such as sequestration, it experienced relatively steady funding with gradual increases from fiscal years 2013 to 2020.

[204] U.S. Department of Health and Human Services, *Public Health Emergency Medical Countermeasures Enterprise Multiyear Budget: Fiscal Years 2018-2022* (Dec. 2019). The SNS contains countermeasures to respond to biological, chemical, radiological, and nuclear events.

[205] HHS and DOD officials' accounts of the number of N95 respirator masks contained in the SNS prior to the pandemic have varied. In a hearing before the Senate Committee on Homeland Security and Governmental Affairs on June 9, 2020, the Department of Defense Vice Director of Logistics noted that the SNS contained less than 18 million N95 respirator masks prior to the pandemic.

[206] According to ASPR officials, HHS did not replenish PPE to previous levels following H1N1, because of a lack of funding.

As a result of the near depletion of the SNS, as well as the shift in responsibilities from HHS to the Supply Chain Task Force, FEMA, HHS, and other federal agencies have taken actions to provide additional supplies to states and other entities. For example:

- **Supplies from other federal inventories**. DOD made materials from its own stockpile, intended to support the military, available for the public health response. For example, according to FEMA, DOD has distributed almost 14 million N95 respirator masks from its inventory to cities, states, and the Department of Veterans Affairs (VA). In addition, federal agencies report any excess personal property, including supplies, to a centralized database maintained by the General Services Administration (GSA), which provides reports of available material to FEMA daily, according to GSA officials. [207]

- **New purchases**. HHS, FEMA, and DOD have purchased additional supplies, which they have distributed to states and others. [208] According to HHS and our review of federal procurement data, in March and April 2020, HHS awarded contracts to purchase approximately 600 million N95 respirator masks and over 60,000 ventilators. HHS also announced an agreement to purchase up to 4.5 million protective fabric suits. ASPR officials told us that they distribute most of these supplies to states as they are available or that manufacturers distribute them to their existing customers. However, the manufacture and delivery of some supplies may take over a year. According to FEMA officials, in addition to PPE, to aid states in their COVID-19 testing efforts, the agency has purchased and distributed swabs and products used to preserve collected specimens. According to DOD, as of May 20, 2020, it had purchased 4.6 million N95 respirator masks, 14.1 million other masks, 8,000 ventilators, and 2.6 million gowns, among other things, for military and federal agencies. FEMA officials told us in May 2020 that HHS, FEMA, and the Supply Chain Task Force were transitioning some of the procurement responsibilities—which have largely been led by FEMA—to DOD and that DOD's responsibilities would include purchasing materials to refill the SNS. While DOD officials said they would purchase some of the materials for the SNS, HHS would determine the procurement needs.

- **Donations**. HHS received donations of pharmaceuticals for the SNS, which it then distributed to several states at their request. HHS also planned to distribute one of these pharmaceuticals to VA. For example, in March 2020, Sandoz and Bayer Pharmaceuticals donated 30 million doses of hydroxychloroquine sulfate and 1 million doses of Resochin (chloroquine phosphate), respectively. On March 28, 2020, the Food and Drug Administration (FDA) granted an emergency use authorization (EUA) for the use of these two pharmaceutical products for treatment of certain hospitalized patients. [209] However, on June 15, 2020, FDA announced that it was revoking the EUA, because the agency determined these products were unlikely to be effective treatments for COVID-19 and that the known and potential benefits of these products do not outweigh their known and potential risks, which include serious cardiac adverse

[207]GSAXcess is GSA's online property system used for reporting, searching, and selecting excess personal property.

[208]Supplies purchased by FEMA and DOD may be reimbursed by HHS at a later date. According to FEMA officials, in April 2020, HHS entered into an agreement with FEMA that allows ASPR to reimburse FEMA for the acquisition and distribution of supplies, durable goods, and services in response to COVID-19.

[209]Under an EUA, FDA may allow the use of unapproved medical products or unapproved uses of approved medical products provided certain legal criteria are met, including a finding by the FDA that available scientific evidence suggests the product's benefits outweigh the potential risks.

events. In addition to receiving donations of chloroquine phosphate and hydroxychloroquine sulfate, in May 2020, Gilead Sciences, Inc., donated quantities of remdesivir to the SNS to treat approximately 78,000 patients. [210]

- **Project Airbridge**. This effort, operated by the Supply Chain Task Force, was created to reduce the time it takes for six large U.S. medical supply distributors to bring PPE and other critical supplies from overseas manufacturers into the country for their respective customers. According to FEMA, the agency pays for the air transportation of the supplies from overseas into the United States. Once the supplies are in the country, the medical suppliers distribute 50 percent to areas of need, as indicated by Centers for Disease Control and Prevention data. They then distribute the remaining 50 percent through their normal commercial networks, although the federal government has purchased some of these supplies to provide to states, according to FEMA officials. According to FEMA's website, this effort reduces shipment time from weeks to days.

GAO Methodology and Agency Comments

To understand the federal distribution and acquisition of PPE and other supplies from the SNS and other sources, we reviewed information contained in FEMA daily situation briefs and on HHS, DOD, and FEMA websites. The information in this enclosure highlights examples of the types of distribution and acquisition that these entities made; it is not an exhaustive list. In addition, we interviewed or obtained written responses from ASPR and FEMA about agency actions to increase supply and how they made distribution decisions. We provided a draft of this report to HHS, DHS, and DOD for review and comment. HHS, DHS, and DOD provided technical comments on this enclosure, which we incorporated as appropriate

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Related GAO Product

Hospital Preparedness: Most Urban Hospitals Have Emergency Plans but Lack Certain Capacities for Bioterrorism Response. GAO-03-924. Washington, D.C.: August 6, 2003.

[210]FDA issued an EUA for the use of remdesivir in certain hospitalized patients on May 1, 2020.

COVID-19 Testing

The Department of Health and Human Services plays a key role in coordinating test development and implementation, but faces challenges in facilitating testing and reporting results.

Entities involved: Department of Health and Human Services, Centers for Disease Control and Prevention, Food and Drug Administration, National Institutes of Health, Federal Emergency Management Agency

Key Considerations and Future GAO Work

The Department of Health and Human Services (HHS) and other agencies have taken key actions to facilitate COVID-19 testing development, but faced several challenges resulting in significant delays in testing nationwide and a dearth of quality information on testing at the federal level. Specifically, agencies faced challenges developing accurate tests quickly and coordinating needed testing supplies. Furthermore, the absence of complete and consistent COVID-19 testing data reported through May 31, 2020, has made it more difficult to track and know the number of infections, mitigate their effects, and inform decisions on reopening communities.

We will continue to conduct work examining HHS and its component agencies' ongoing roles with regard to testing. This will include an examination of trends and gaps in testing, as well as data reporting, among other things, to help further identify challenges faced by the federal government and others in expanding testing capacity. It will also include an examination of federal funding directed toward COVID-19 testing.

Background

Testing people for COVID-19 and isolating those who test positive are of paramount importance to help control the virus's spread in the community, according to the Centers for Disease Control and Prevention (CDC). The absence of approved drugs to treat COVID-19 and uncertain timing for a vaccine to prevent the disease underscore the importance of federal efforts to help facilitate adequate testing to control the spread of the virus and collect complete and standardized testing data to track and make adjustments to the levels of testing where needed.

The Food and Drug Administration (FDA), the agency in charge of regulating medical device products (including diagnostic tests) marketed in the United States for use in detecting or diagnosing COVID-19 infections, has authorized three types of tests for this purpose: molecular and antigen diagnostic tests to detect the presence of the virus that causes COVID-19 (known as viral tests), and serology tests to detect antibodies produced in the bodies of patients who have had COVID-19, even if they did not show symptoms (known as antibody tests). [211]

[211]Molecular diagnostic viral tests detect the presence of genetic material from SARS-CoV-2, the virus that causes COVID-19. The antigen viral test detects the presence of a protein that is part of SARS-CoV and SARS-CoV-2. Antibody

The CARES Act contains several provisions related to testing, including those providing appropriations. For example, it requires laboratories that perform or analyze COVID-19 tests to report the results to HHS in a form and manner as the Secretary prescribes until the end of the emergency declaration. [212] With regard to funding, the CARES Act appropriates $4.3 billion to CDC, including $1.5 billion for grant funding for state, territorial, local, or tribal organizations, to carry out surveillance and ensure laboratory capacity, among other things, and provides for continuity of funding for fiscal year 2019 Public Health Emergency Preparedness (PHEP) cooperative agreement recipients. [213] In addition to CARES Act appropriations, funding was appropriated for testing in other COVID-19 relief laws, including $25 billion in the Paycheck Protection Program and Health Care Enhancement Act, 2020, of which $11 billion is directed to state, territorial, local, or tribal organizations. [214] Furthermore, $2 billion was appropriated to provide funding for testing for the uninsured. [215] As of May 31, 2020, HHS reported obligations of about $714 million to specifically support testing, of which about $44 million had been expended. In addition, HHS reported over $12 billion in obligations supporting state, local, territorial, and tribal organizations' response to COVID-19, including testing support, among other things, of which $489 million has been expended.

Overview of Key Issues

As the coordinating agency for the federal response to public health and medical emergencies, HHS has a lead role in facilitating and overseeing the development and implementation of COVID-19 tests. [216] According to principles put forward by HHS agencies and the White House, states manage COVID-19 testing programs with federal support, and federal agencies play a key role in facilitating the development and implementation of those programs by, among other

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tests can provide information on prevalence of past infections in a community. At this time, it is not known whether the presence of antibodies to SARS-CoV-2 provides immunity to subsequent infections with the virus or, if immunity is provided, how long that protection will last. See our May 2020 spotlight for more technical information on COVID-19 testing.

[212]CARES Act, Pub. L. No. 116-136, div. B, tit. VIII, § 18115, 134 Stat. 281, 574 (2020).

[213]The activities supported by PHEP support the National Response Framework, which guides how the nation responds to hazards, including infectious disease outbreaks. Recipients of PHEP funding include all 50 states, four major metropolitan areas, and eight U.S. territories and freely associated states. The CARES Act also appropriated $27.015 billion to the Public Health and Social Services Emergency Fund (PHSSEF), of which at least $3.5 billion is available to the Biomedical Advanced Research and Development Authority (BARDA) for necessary expenses of manufacturing, production, and purchase of diagnostics and small molecule active pharmaceutical ingredients, among other things. The CARES Act appropriated an additional $100 billion to the PHSSEF to reimburse provider entities for expenses for testing supplies, among other things, and $6 million to the National Institute of Standards and Technology to support science measurement for viral testing and manufacturing. Pub. L. No. 116-136, div. B, tit. VII, 134 Stat. 511, 554, 560-61, 563.

[214]Paycheck Protection Program and Health Care Enhancement Act, Pub. L. No. 116-139, div. B, tit. I, 134 Stat. 620, 623-24. This provision also requires states to submit testing plans to HHS.

[215]See Families First Coronavirus Response Act, div. A, tit. V, Pub. L. No. 116-127, 134 Stat. 178, 182; Paycheck Protection Program and Health Care Enhancement Act, div. B, tit. I, 134 Stat. 626.

[216]In late May 2020, HHS submitted a congressionally mandated report detailing its strategic plan for testing, including the nationwide goals of 12.9 million tests in May and June and 40–55 million tests per month by September. See Department of Health and Human Services, *Report to Congress: COVID-19 Strategic Testing Plan* (May 24, 2020).

things, providing expedited regulatory authorization and guidance and accelerating research. The Assistant Secretary for Health was appointed by the Secretary of Health and Human Services to coordinate testing efforts across key HHS agencies, which took the following selected actions:

- FDA authorized COVID-19 viral and serology tests under an Emergency Use Authorization (EUA) authority that was provided in the Pandemic and All-Hazards Preparedness Reauthorization Act. [217] As of June 16, 2020, FDA had issued 139 EUAs to test kit manufacturers and commercial and other laboratories; 119 EUAs were for molecular and antigen diagnostic (viral) tests, and 20 were for antibody tests.

- CDC issued guidance, including priorities for testing and guidance on reopening, and awarded more than $12 billion to state, territorial, local, and tribal organizations to respond to COVID-19, such as by expanding laboratory capacity for testing, with CARES Act and other supplemental appropriations. As of May 31, 2020, CDC had deployed more than 1,000 of its staff for the COVID-19 response, including joining emergency response teams to assist in local public health efforts such as providing guidance on laboratory capacity and testing strategies, according to CDC officials.

- The National Institutes of Health (NIH) launched a $1.5 billion program to speed the development of COVID-19 testing called Rapid Acceleration of Diagnostics (RADx). Under the program, private entities can submit proposals for diagnostic innovations, and NIH can select, fund, and support certain proposals. NIH also began a study to quantify undetected cases of COVID-19 through antibody testing, has undertaken the development of new tests, and has been providing validation support in the development of new antibody testing in collaboration with CDC and FDA.

Other agencies have taken on important roles in the COVID-19 testing response. [218] For example, the Federal Emergency Management Agency (FEMA) is working to source and procure testing

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[217]See Pub. L. No. 108-136, § 1603, 117 Stat. 1392, 1684 (2003) (codified as amended at 21 U.S.C. §§ 360bbb-3). The EUA authority allows for tests that "may be effective" to be made available in a much shorter time frame than typically would be necessary for approval or clearance because it requires a lower level of evidence than the "effectiveness" standard that is required for FDA product approvals and clearances. During certain emergencies, FDA may issue EUAs when the agency determines the tests may be effective, for example, at diagnosing an infection, among other criteria. To approve a test outside of an emergency, FDA determines whether there is reasonable assurance that the tests developed for clinical use are safe and effective or that they otherwise meet the applicable statutory standard. On February 4, 2020, FDA issued the first EUA for a COVID-19 test, a viral test developed by CDC. Based upon the CDC request, use of this test was limited to qualified laboratories designated by CDC and, for those laboratories in the United States, certified under the Clinical Laboratory Improvement Amendments to perform high-complexity tests.

[218]Actions from other HHS agencies include the following: the Office of the Assistant Secretary for Preparedness and Response worked with the Federal Emergency Management Agency to deploy testing-related assets from the Strategic National Stockpile. BARDA partnered with and provided funding to 19 test developers using CARES Act funding. The Centers for Medicare & Medicaid Services (CMS) increased the Medicare payment rate for COVID-19 tests from $51 to $100, imposed COVID-19 reporting requirements on nursing homes, and recommended that all nursing home residents and staff receive a baseline test and weekly retesting under certain circumstances. The Health Resources and Services Administration provided $583 million in funding to health centers to expand testing, with an additional $225 million specifically for rural health clinics, and will award $17 million to health center program look-alikes. The Indian Health Service will administer $750 million in HHS funds to be awarded to Indian Health Service, tribal, and Urban Indian facilities to support testing capacity.

supplies that are to be provided to states, territories, localities, and tribes to help increase testing capacity for a limited duration in support of their individualized reopening and testing plans. HHS and FEMA are also leading a joint federal Laboratory Diagnostics Task Force focused on increasing nationwide COVID-19 testing by providing equipment, supplies, and testing resources, and by establishing community-based testing sites in certain locations prior to turning those over for state management. In addition, the White House issued a testing blueprint for states in April that establishes broad roles and principles for states, localities, tribes, the federal government, and the private sector in facilitating expansion of needed testing capacity.

Nonetheless, federal agencies faced several challenges in facilitating COVID-19 testing development, resulting in significant delays in testing capacity nationwide and a dearth of quality information on testing at the federal level. Challenges included the following:

- **Developing accurate tests quickly.** In early February, the sole FDA-authorized COVID-19 viral test was deployed by CDC to state public health laboratories, and it experienced accuracy and reliability issues that resulted in significant delays in testing nationwide during the critical early weeks of the outbreak. [219] In response to concerns about the availability of COVID-19 tests, FDA made several policy changes. In late February, FDA announced that it did not intend to object if certain laboratories began viral testing with their own equipment while they prepared an EUA request, provided the test was validated and notification was provided to FDA, as described in the guidance document. According to FDA, this helped balance the urgent need to increase testing capacity in the United States while providing enough oversight to provide assurance that patients could depend on the results of these tests. Subsequently in mid-March, FDA revised the policy to apply to manufacturers of commercial test kits. Also in mid-March, testing increased in commercial laboratories, and the EUA for the initial CDC test was updated to address the accuracy and reliability concerns.

  FDA also announced in mid-March that it did not intend to object to test developers distributing antibody tests without an EUA, provided that they validated the tests and included certain statements noting any limitations with the tests. According to FDA, it did so to enable the initial use of these tests to determine the prevalence of COVID-19 infections in different communities and to aid in research on the extent to which antibodies may protect against infection. FDA officials further noted that facilitating the development of tests early on was necessary to learn more about how best to use antibody tests. Nonetheless, quality and reliability concerns arose concerning available antibody tests, and FDA reevaluated the risks and benefits of this approach, announcing on May 4, 2020, that test developers must submit EUA applications with test validation data. Concerns surrounding the accuracy of both viral and antibody tests continued into May and June; for example, on May 14, 2020, FDA announced it was investigating reports of false-negative results with Abbott's ID NOW viral test, and on May 21, 2020, FDA announced the removal of 27 antibody tests from the market, including those for which there was not a pending EUA request or issued EUA and those voluntarily withdrawn from the market. In addition, on June 16, 2020, FDA revoked the

[219]According to CDC, by late February, FDA issued CDC an enforcement discretion allowing public health laboratories to use CDC's test under different guidance, and CDC distributed newly manufactured CDC test kits.

EUA it had granted for an antibody test developed by Chembio Diagnostic System, Inc. due to concerns with the accuracy of the test.

- **Coordinating sufficient testing supplies.**Early in the national response to COVID-19, shortages of key testing supplies became problematic due to unprecedented domestic demand and overall global competition, which contributed to the delay in broad-scale testing. There were shortages in test kit supplies such as swabs and testing reagents, which the United States had not stockpiled, according to FDA officials, and also shortages in personal protective equipment needed to administer tests.
  According to FDA officials, the agency has limited authority to address supply shortage issues, but took steps to encourage increased manufacturing of supplies. [220] For example, FDA worked to seek potential alternatives to key testing components that were in short supply, including swabs and transport media to keep the sample viable for testing, through publishing and updating information about these alternatives once they were validated to ensure they would not adversely affect test performance. CDC officials told us they worked with FEMA to expand the items that are supplied through the International Reagent Resource (IRR)—a CDC-established entity providing public health laboratories with reagents and other resources—to make it easier for public health laboratories to obtain necessary supplies. However, the IRR was hampered by a lack of available reagents needed to run the tests, according to CDC officials. Laboratory and public health industry groups said they experienced ongoing needs with regard to supplies, including shortages of federal funding for manufacturing and testing machines and the need for centralized federal coordination for procurement of needed supplies.

- **Facilitating the collection of complete and consistent testing data.** CDC has taken steps to meet the unprecedented need for COVID-19 testing data, although the data reported on its website through May 31, 2020, have not been complete or consistent. CDC reports testing data that it collects from public health, hospital, private, and commercial laboratories, as submitted to state and jurisdictional health departments. As of May 31, 2020, CDC's website stated that the data posted there included the majority of, but not all, data on testing in the United States. For example, testing data that CDC reported may not have included all tests performed by laboratories at point of care settings, such as physicians' offices. [221] In addition, CDC reported testing data from different sources that have varied over time and have not been counting tests the same way. The agency sought to improve the consistency of testing data by posting guidance on its website on May 6, 2020, for how the data should be submitted to states from clinical laboratories, which are one source of laboratory data. However, not all sources from which CDC has collected state data have provided consistent testing data. For example, when states did not report data for a given day, CDC collected and reported testing data from states' websites that aggregate testing data, but some states' websites count the number of people tested while others count the number of samples tested, which could include multiple tests of

[220]According to FDA officials, the agency lacks authority to require medical device manufacturers to notify FDA of potential shortages or to respond to FDA requests about potential supply chain disruptions. However, we note that the CARES Act requires such notification from manufacturers of devices that are critical to public health or for which the Secretary determines that information on supply disruptions is needed during a public health emergency. CARES Act, div. A, tit. III, §3121, 134 Stat. 363 (codified at 21 U.S.C. §356j).

[221]According to CMS, tests performed in physician offices are generally considered to be laboratory tests for purposes of the federal regulation of laboratories.

one person. Furthermore, some state submissions of viral testing data included in CDC's data also included antibody tests. According to CDC, in order to act quickly, it began collecting data from states on the total number of tests performed in early April—when antibody tests were not common—and has since taken steps to distinguish viral and antibody tests. However, as of June 9, 2020, CDC continued to report these types of tests together. [222]

Further, in June, HHS took an additional step intended to help collect complete and consistent viral testing data by implementing authority enacted in March as part of the CARES Act. Specifically, the CARES Act included a provision requiring laboratories to submit the result of each COVID-19 test in a manner specified by the Secretary of Health and Human Services. [223] Accordingly, on June 4, 2020, HHS issued guidance that, pursuant to its new authority under the CARES Act, requires all laboratories to submit data on viral tests and other tests they perform to diagnose a possible case of COVID-19. Required data include those on point-of-care tests and those that identify whether a viral or antibody test was performed. [224] Importantly, the guidance also identifies other required data elements, such as patient demographic information, and directs laboratories to use existing regional, state, or local submission methods to provide these data, which, in turn, are sent to CDC. Laboratories must submit these data daily, starting as soon as possible and not later than August 1, 2020, according to the HHS guidance. We will continue to conduct work examining HHS and its component agencies' data reporting, plans, and activities related to COVID-19 testing.

GAO Methodology and Agency Comments

To conduct this work, we reviewed testing data and limitations reported by CDC over time, including the most recent information from CDC's COVID Data Tracker website as of May 31, 2020. We also interviewed HHS agency officials to obtain information on steps taken to develop tests, coordinate supplies, and report testing data, and we reviewed federal laws, other requirements, and CDC guidance related to states' and laboratories' submission of testing data. Further, we conducted interviews with laboratory and public health industry groups to obtain their perspectives on agency actions and challenges with regard to testing. [225] We provided a draft of this report to HHS, FEMA, and the Office of Management and Budget (OMB) for review and comment. HHS and OMB provided technical comments on this enclosure, which we incorporated as appropriate. FEMA did not provide comments on this enclosure.

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[222]According to CDC, national laboratories reported that over 336,000 antibody tests were performed in the 15 states that included antibody tests in the data they provided CDC as of June 9, 2020. Although CDC told us that these national laboratories conducted the majority of antibody testing, the amount of additional antibody tests performed by other laboratories in these states was unclear.

[223]Pub. L. No. 116-136, § 18115, 134 Stat. at 574.

[224]Department of Health and Human Services, *COVID-19 Pandemic Response, Laboratory Data Reporting: CARES Act Section 18115* (June 4, 2020).

[225]Specific groups we interviewed included the American Clinical Laboratory Association, the American Public Health Association, the Association of Public Health Laboratories, the Association of State and Territorial Health Officials, the Council of State and Territorial Epidemiologists, and the National Association of County and City Health Officials.

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Related GAO Products

Science & Tech Spotlight: COVID-19 Modeling. GAO-20-582SP. Washington, D.C.: June 4, 2020.

Science & Tech Spotlight: COVID-19 Testing. GAO-20-584SP. Washington, D.C.: May 20, 2020.

Vaccine and Therapeutics Development

Multiple federal agencies are taking actions to develop vaccines and therapeutics to prevent and treat COVID-19, including funding research and clinical trials, but it is not known when or if a safe and effective vaccine (or vaccines) and therapeutics will be widely available.

Entities involved: Department of Health and Human Services, Food and Drug Administration, Department of Veterans Affairs, Department of Defense, Biomedical Advanced Research and Development Authority, National Institutes of Health

Key Considerations and Future GAO Work

While multiple federal agencies are taking actions to develop vaccines and therapeutics to prevent and treat COVID-19, questions remain about their timing and distribution. Even with federal efforts to accelerate development of numerous vaccine candidates, a vaccine will not be available for some time and may initially be available for emergency use, meaning it has not yet been determined to be safe and effective for use. Significant manufacturing capacity will be required; other potential hurdles in the eventual delivery of vaccines include cost, distribution systems, and special handling called cold chain requirements (i.e., maintaining proper vaccine temperatures during storage and handling to preserve potency).

The number of vaccine doses that need to be produced to protect more than 300 million Americans and the global community is unknown, since effective protection against COVID-19 may require more than one dose per person. In addition, with vaccine development underway at large manufacturers located in multiple countries, concerns have been raised regarding the extent to which any vaccine developed or manufactured in one country would be available globally, beyond the borders in which it is produced.

Following the 2009 H1N1 influenza pandemic, in June 2011 we reported lessons learned from the federal response to that pandemic, which could be considered in the current pandemic response. Specifically, we found that effective communication on the availability of vaccine is central to a successful response. Although the federal government was able to purchase and distribute millions of doses of H1N1 vaccine, the vaccine was not widely available when the public expected it and at the peak of demand. Because the failure to effectively manage public expectations can undermine government credibility, it is essential that vaccine production efforts be paired with effective communication strategies regarding the availability of a vaccine once it is available.

As of May 31, 2020, the Department of Health and Human Services (HHS) reported it had allocated $5,467 million in supplemental appropriations provided under the COVID-19 relief laws enacted as of that date to support efforts related to COVID-19 vaccines and therapeutics; of this amount, $3,612 million has been obligated and $18 million has been expended. [226] We plan to conduct

[226]These laws include (1) the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123, 134 Stat. 146; (2) the Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020); (3) the CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020); and (4) the Paycheck Protection and Health Care Enhancement Act, Pub. L. No. 116-139, 134 Stat. 620 (2020).

further work in this area in response to the CARES Act, including work on (1) federal efforts to accelerate and coordinate development and testing of vaccines and therapeutics and (2) the process and policies related to development, approval, and distribution of vaccines and therapeutics.

Background

Vaccination is critical for reducing infection rates and severity of disease and mortality due to COVID-19, but as of June 2020, there are no COVID-19 vaccines approved by the Food and Drug Administration (FDA), and developing a vaccine takes time. Vaccine development is a lengthy process that involves a rigorous series of steps to identify a potential vaccine candidate, conduct preclinical research and clinical trials to assess safety and effectiveness, and manufacture it. Because COVID-19 is a novel virus with no documented immunity in the general population, public health experts say safe and effective vaccines for COVID-19 would provide the most efficient path for fully resuming normal activities.

Therapeutics to treat COVID-19 are also important, particularly until a vaccine becomes available; however, no drug has been proven to be safe and effective and approved by FDA for treating COVID-19 at this time. The time frame for developing and distributing an effective vaccine and therapeutics is uncertain. Some reports have predicted that distribution of a vaccine may be 12 to 18 months away at the earliest, and initial distribution may be limited (e.g., to health care providers or first responders) until more doses are manufactured.

Numerous federal agencies, including the Departments of Health and Human Services (HHS), Veterans Affairs (VA), and Defense (DOD), are involved in supporting the development of vaccines and therapeutics for COVID-19. Within HHS, the Biomedical Advanced Research and Development Authority (BARDA) and the National Institutes of Health (NIH) generally fund and conduct research and development, including support for clinical trials. [227] FDA is responsible for regulating and approving vaccines and therapeutics for marketing in the United States, and it may issue an emergency use authorization to allow the emergency use of unapproved drugs or unapproved uses of approved drugs if certain criteria are met. DOD and VA also generally fund and conduct research of candidates for vaccines and therapeutics and can provide testing sites for clinical trials.

The CARES Act and the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, appropriated funding for HHS activities to support the development of vaccines and therapeutics for COVID-19. [228] This funding included the following:

- **FDA.** The CARES Act appropriated $80 million for activities that include, but are not limited to, the development of necessary medical countermeasures and vaccines. The Coronavirus

[227] BARDA is part of the HHS Office of the Assistant Secretary for Preparedness and Response.

[228] VA and DOD also received funding to prevent, prepare for, and respond to coronavirus; we are requesting and reviewing agency information to determine how much of these appropriations the departments are devoting to vaccine and therapeutic development.

Preparedness and Response Supplemental Appropriations Act, 2020, appropriated $61 million to prevent, prepare for, and respond to coronavirus, domestically or internationally, including, but not limited to, the development of necessary medical countermeasures and vaccines. [229]

- **NIH.** The CARES Act appropriated $945.4 million, including $706 million for the National Institute of Allergy and Infectious Diseases, to prevent, prepare for, and respond to coronavirus, of which not less than $156 million is provided for vaccine and infectious diseases research facilities. The Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, appropriated $836 million to the National Institute of Allergy and Infectious Diseases to prevent, prepare for, and respond to coronavirus, domestically or internationally. [230]

- **Public Health and Social Services Emergency Fund.** The CARES Act appropriated $27.015 billion to this HHS emergency fund for activities that include, but are not limited to, developing countermeasures and vaccines and purchasing vaccines and therapeutics. Not less than $3.5 billion of this money is provided to BARDA for manufacturing, producing, and purchasing vaccines and therapeutics, among other things. The Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, appropriated a total of $3.4 billion to this fund to prevent, prepare for, and respond to coronavirus, domestically or internationally, including the development of necessary medical countermeasures and vaccines, prioritizing platform-based technologies with U.S.-based manufacturing capabilities, and the purchase of vaccines, therapeutics, among other things. [231]

Overview of Key Issues

Numerous federal agencies are facilitating the development of multiple candidates for vaccines and therapeutics for COVID-19. These efforts include developing vaccines using different mechanisms to prompt the body to produce antibodies and efforts to accelerate the time frame in which a vaccine could be available. However, the timing of when a vaccine or therapeutic will be available to the general public is unknown due to the lengthy multistep development process. Additionally, it is likely that many candidates will fail to complete the multistep process.

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[229]CARES Act, Pub. L. No. 115-136, div. B, tit. I, 134 Stat. 281, 509 (2020); Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123, div. A. tit. I, 134 Stat. 146. Medical countermeasures are drugs, vaccines, and devices to diagnose, treat, prevent, or mitigate potential health effects of exposure to chemical, biological, radiological, and nuclear agents.

[230]CARES Act, div. B, tit. VIII, 134 Stat. at 555-56; Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, div. A, tit. III, 134 Stat. at 148. Of the Coronavirus Preparedness and Response Supplemental $836 million appropriation to the National Institute of Allergy and Infectious Diseases, the act provides that not less than $10 million shall be transferred to the National Institute of Environmental Health Sciences for worker-based training to prevent and reduce exposure of hospital employees, emergency first responders, and other workers who are at risk of exposure to coronavirus through their work duties.

[231]CARES Act, div. B, tit. VIII, 134 Stat. at 560-61; Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, div. A, tit. III, 134 Stat. at 149-50.

NIH, BARDA, FDA, VA, and DOD are all participating in the Accelerating COVID-19 Therapeutic Interventions and Vaccines (ACTIV) partnership with the European Medicines Agency and biopharmaceutical companies. This new public-private partnership, which includes senior scientists representing government, industry, non-profit, philanthropic, and academic organizations, has four focus areas: preclinical therapeutics, clinical trial therapeutics, clinical trial capacity, and vaccines. According to NIH, the preclinical therapeutics working group is standardizing and sharing preclinical evaluation methods. These federal agencies are also participating in Operation Warp Speed, a public-private partnership to facilitate the development, manufacturing, and distribution of COVID-19 countermeasures, including vaccines, according to HHS. The department reported that financial resources for this effort include CARES Act and other supplemental funding.

As of June 1, 2020, there were at least 14 federally funded clinical trials related to COVID-19 vaccine or therapeutics at various stages, according to NIH's ClinicalTrials.gov. [232] Of these, at least two were trials of vaccine candidates and at least 12 were trials related to therapeutics. Currently, drugs or vaccines approved or developed for other purposes, as well as other investigational therapeutic agents, are being studied for the treatment of COVID-19. Additional planned and ongoing federally funded trials have not yet been posted on the ClinicalTrials.gov website.

Examples of HHS agencies' activities include the following:

- **BARDA** has expanded existing partnerships and established new ones to develop vaccines, therapeutics, and other medical countermeasures to protect against COVID-19. As of June 1, 2020, BARDA reported funding development activities for five vaccines and eight therapeutics. For example, BARDA awarded more than $430 million to one company for late-stage development of an investigational vaccine the company developed with NIH, with the ultimate goal of FDA licensure. The agency also awarded about $456 million to support nonclinical studies and a phase 1 clinical trial for another COVID-19 investigational vaccine using the same vaccine platform as an investigational Ebola vaccine. [233] This clinical trial is set to begin no later than fall 2020, with the goal of making COVID-19 vaccine available for emergency use in the United States in early 2021. BARDA is also working with a manufacturer to accelerate advanced clinical trials and large-scale manufacturing to produce up to 300 million vaccine doses for the United States.

- **FDA** is reviewing regulatory submissions related to vaccines, therapeutics, and other medical countermeasures and is conducting work, such as scientific and technical evaluation of data, related to emergency use authorizations for some of those products. Under an emergency use authorization, FDA may allow therapeutics and vaccines to be used to respond to a declared

[232]According to NIH, ClinicalTrials.gov provides the best source for up-to-date information on clinical trials and studies related to COVID-19 in the United States, as the website is updated regularly, and the number of clinical trials related to COVID-19 is increasing. The website was created to establish a registry of clinical trials information for both federally and privately funded trials conducted under investigational new drug applications to test the effectiveness of experimental drugs for serious or life-threatening diseases or conditions.

[233]Clinical trials are conducted in phases, with phase 1 focused on the safety of the drug. Phase 1 is usually conducted with a small number of healthy volunteers, and the goal is to determine the drug's most frequent and serious adverse events and, often, how the drug is broken down and excreted by the body.

emergency such as COVID-19 without formal FDA approval, as long as certain conditions are met and the scientific evidence suggests the benefits outweigh the potential risks. According to HHS, FDA's activities are new or are continuations of activities started under funding from the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020. For therapeutics, FDA has created a special emergency program, the Coronavirus Treatment Acceleration Program, to move new treatments to patients as quickly as possible, while at the same time finding out whether they are helpful or harmful. As of June 1, 2020, FDA reported 186 active trials of therapeutic agents and another 467 development programs for therapeutic agents in the planning stages. FDA has also granted emergency use authorization for one therapeutic to treat COVID-19 as of June 15, 2020. [234] The agency has used its authority to make experimental COVID-19 treatments available through expanded access to patients not eligible to participate in clinical trials. FDA has not granted emergency use authorization of a COVID-19 vaccine to date. Under an emergency use authorization, FDA may allow the use of unapproved therapeutics and vaccines (or unapproved uses of approved products) to respond to a declared emergency such as the COVID-19 pandemic provided that certain criteria are met. These include an FDA determination that, based on the available scientific evidence, the product's known and potential benefits outweigh its known and potential risks.

- **NIH** is expanding upon earlier research on other coronaviruses—for example, severe acute respiratory syndrome (SARS) and Middle East respiratory syndrome (MERS)—to inform the development of vaccine and therapeutic candidates for COVID-19. NIH is also conducting and supporting research on a number of vaccine candidates in various stages of development and several studies of possible therapeutics for COVID-19, including a number of preclinical activities. For example, NIH is providing preclinical services such as research to assess different animal models that replicate COVID-19 disease. NIH is also studying whether convalescent plasma—blood plasma from individuals who have recovered from COVID-19—can help reduce the progression of the disease in patients with mild symptoms, according to HHS. In addition, NIH posted on its website treatment guidelines for COVID-19, based on scientific evidence and expert opinion, that it plans to update frequently as additional data and information become available.

DOD and VA are working with HHS agencies and have ongoing activities related to vaccines and therapeutics for COVID-19. Examples of activities include the following:

- **DOD** is funding and conducting research on candidates for vaccines and therapeutics. For example, DOD is conducting research on different therapeutic candidates, including a study on the investigational drug remdesivir.

- **VA** is conducting and providing sites for clinical trials for vaccine and therapeutic candidates. For example, VA is conducting a clinical trial to determine if a treatment approved for patients with prostate cancer (degarelix) is beneficial in treating veterans who have been hospitalized

[234]On March 28, 2020, FDA granted emergency use authorization for hydroxychloroquine sulfate and chloroquine phosphate for treatment of certain hospitalized patients. However, on June 15, 2020, FDA announced that it was revoking the emergency use authorization for these two therapeutics because the agency determined they were unlikely to be effective treatments for COVID-19 and that the known and potential benefits of these products do not outweigh their known and potential risks, which include serious cardiac adverse events.

with COVID-19. VA facilities are also serving as sites for an NIH-led clinical trial studying remdesivir as a treatment for COVID-19.

GAO Methodology and Agency Comments

To conduct this work, we reviewed the most recent HHS, DOD, and VA information on vaccine and therapeutic development efforts as of June 2020, including clinical trial information from NIH's clinical trial website, ClinicalTrials.gov, (accessed June 1, 2020); relevant federal laws; and agency documents (e.g., agency strategic plan for COVID-19 research). The information in this enclosure highlights examples of the types of development activities conducted or supported by these agencies; it is not an exhaustive list.

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

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Related GAO Products

Science & Tech Spotlight: COVID-19 Vaccine Development. GAO-20-583SP. Washington, D.C.: May 26, 2020.

Influenza: Progress Made in Responding to Seasonal and Pandemic Outbreaks. GAO-13-374T. Washington, D.C.: February 13, 2013.

Influenza Vaccine: Federal Investments in Alternative Technologies and Challenges to Development and Licensure. GAO-11-435. Washington, D.C.: June 27, 2011.

Influenza Pandemic: Lessons from the H1N1 Pandemic Should Be Incorporated into Future Planning. GAO-11-632. Washington, D.C.: June 27, 2011.

Influenza Pandemic: Applying Lessons Learned from the 2004–05 Influenza Vaccine Shortage. GAO-06-221T. Washington, D.C.: November 4, 2005.

Medicaid Financing, Waivers, and Flexibilities

Federal assistance related to COVID-19 provided increased federal Medicaid funding for states and territories to support the costs of their Medicaid programs, including COVID-19 testing and treatment costs. The Centers for Medicare & Medicaid Services has also approved waivers and other flexibilities to help state Medicaid programs respond to the COVID-19 pandemic.

Entities involved: Centers for Medicare & Medicaid Services, Department of Health and Human Services

Key Considerations and Future GAO Work

We designated Medicaid a high-risk program in 2003 because the size, growth, and diversity of the program present oversight challenges for states, territories, and the federal government. These factors, among others, may contribute to the risk of inadequate oversight and reporting on Medicaid's COVID-19 funds to states and territories.

- **Public reporting of COVID-19 Medicaid spending.** The CARES Act requires each agency administering COVID-19 funds to report monthly to the Office of Management and Budget (OMB) and others on the use of those funds. OMB guidance specifies that agencies should submit spending information for COVID-19 funds to USAspending.gov for public reporting. [235] According to officials from the Centers for Medicare & Medicaid Services (CMS), CMS will not separately report the COVID-19 components of Medicaid payments through USAspending.gov. Instead, CMS officials told us they are coordinating with OMB and are considering ways to report Medicaid COVID-19 funding publicly through sites other than USAspending.gov.

  Exempting large amounts of spending from the standard COVID-19 reporting reduces the usefulness of that information to the Congress and the public. It will be important for CMS to report the data in a way that allows Congress and the public to quickly and easily find, understand, and analyze Medicaid spending, including enabling it to be combined with the USAspending.gov data. We will continue to follow developments related to CMS's public reporting, including the timing of that reporting, in future updates.

- **Potential for duplicate or overlapping payments.** COVID-19 funds are available through multiple agencies within the Department of Health and Human Services (HHS), as well as agencies outside of HHS, such as the Small Business Administration. Absent proper communication and tracking of payments across these different entities, there is a risk for duplicate or overlapping payments.
  For example, CMS has authorized at least 35 states to make retainer payments to support home- and community-based service providers (such as adult day-care centers) to help ensure their availability once the public health emergency ends. If retainer payments are made to the centers, as well as to the individuals providing the services (such as personal

[235] OMB memorandum M-20-21 notes that some provisions may be excluded from this requirement, and in these instances, agencies should work with their OMB representative to identify an alternative reporting approach to provide transparency on how the funds are spent.

care attendants), these payments could duplicate financial assistance provided through unemployment benefits or small business loans. We have work underway looking at efforts to monitor use of funding activities, including addressing risks and challenges—such as the potential for duplication—associated with these activities.

- **Potential for improper payments.** In 2018, over one-third of the $36 billion of estimated Medicaid improper payments were related to states' noncompliance with provider screening and enrollment requirements. States maintain their primary responsibility for screening providers to ensure that they have not been convicted of program-related fraud and abuse and are not operating with suspended or revoked medical licenses, among other things. States may seek CMS approval to waive certain other provider screening and enrollment requirements during the pandemic, which may increase risks of improper payments and improper medical care. CMS and states will need to work together to consider how to best track and identify ineligible providers during this pandemic.

- **Ensuring state spending is appropriately matched with federal funds.** States and territories share the costs of Medicaid with the federal government. The federal government matches states' spending for Medicaid services, and that match can vary across different groups of individuals. States will need to adjust their information systems to account for the temporary increase in federal matching funds authorized by the Families First Coronavirus Response Act (FFCRA), including the optional 100 percent federal matching funds for uninsured individuals who receive COVID-19 testing or related services. Federal oversight will be important to help ensure that these different matching rates are appropriately applied. CMS is modifying the system used by states to report quarterly Medicaid expenditures. This includes labeling expenditures matched at the increased federal matching rate and expenditures for COVID-19 testing or related services with a 100 percent federal matching rate. CMS officials also reported they are modifying oversight to include reviews of these expenditures reported at higher or increased federal matching rates specific to the COVID-19 relief laws.
  In August 2018, we found that CMS had not consistently reviewed expenditures with higher matching rates when reviewing states' use of federal matching funds. While CMS has taken some steps to improve its oversight, we have outstanding recommendations aimed at further actions, including clarifying guidance for reviewers to better ensure appropriate matching rates are used. Taking action to more systematically review states' use of different matching rates could help ensure that COVID-19 funds are being used appropriately.

Background

Medicaid is one of the nation's largest sources of funding for health care services for low-income and medically needy individuals, covering an estimated 76 million people and spending approximately $667 billion in fiscal year 2019. Medicaid offers a wide range of benefits, including inpatient and outpatient hospital care, physician services, laboratory testing, and x-ray services. Medicaid is also the largest source of coverage for long-term care services and supports, which provide assistance for low-income individuals who are elderly or disabled. These services totaled

over $167 billion in 2016 and were provided in institutional facilities, such as nursing homes and intermediate care facilities, or through home- and community-based care. [236]

States and territories administer their Medicaid programs within broad federal rules and according to state plans approved by CMS, which oversees Medicaid at the federal level. The federal government matches states' spending for Medicaid services according to a statutory formula known as the Federal Medical Assistance Percentage (FMAP). [237]

Additionally, states may request approval from CMS to waive certain Medicaid requirements. If approved, such waivers can allow states to limit the availability of services geographically, to target services to specific populations or conditions, or to limit the number of persons served—actions not generally allowed for state plan services.

The Families First Coronavirus Response Act (FFCRA) made a few key changes to the Medicaid program. [238] These changes increase federal funding available to states and territories to help them respond to the COVID-19 pandemic.

- **FMAP increase.** FFCRA provides for a temporary 6.2 percentage point increase in the FMAP—retroactive to January 1, 2020—for states that meet specific requirements. The Congressional Budget Office (CBO) estimates spending on these increases to be approximately $50 billion, occurring over fiscal years 2020–2021. [239]
- **Diagnostic testing for the uninsured.** FFCRA creates an option for states to provide Medicaid coverage of COVID-19 diagnostic testing and related services to uninsured individuals. This coverage, if elected by the state, is eligible for a 100 percent federal match. CBO estimates that federal expenditures on this provision will total approximately $2 billion in 2020 and 2021.

Overview of Key Issues

Medicaid spending. As of May 31, 2020, COVID-19-related federal Medicaid expenditures totaled approximately $7.2 billion, or 7 percent of total federal spending on Medicaid services for this

[236]According to CMS, services for home- and community-based care totaled approximately $94 billion in fiscal year 2016.

[237]The FMAP is calculated based on each state's per capita income relative to national per capita income. For the District of Columbia and U.S. territories, the FMAP is set by statute regardless of their per capita incomes. Additionally, federal law specifies a specific maximum amount, or allotment, for federal contributions to Medicaid spending in U.S. territories, in contrast to the states and the District of Columbia, for which federal Medicaid spending is open-ended.

[238]Pub. L. No. 116-127, 134 Stat. 178 (2020).

[239]CBO's estimate does not account for additional Medicaid costs associated with evaluation and treatment of COVID-19, nor any increased Medicaid enrollment resulting from the economic disruption brought about by COVID-19. CBO notes that actual federal spending on Medicaid is likely to be greater.

time period. [240] The table below provides a breakout by state and territory of the federal Medicaid spending for COVID-19-related and total Medicaid services. [241]

[240]The most recent available payment information is for the second quarter of fiscal year 2020 (January 1, 2020, through March 31, 2020). States can report payments and adjustments to payments up to 2 years after a quarter ends.

[241]As of May 31, 2020, CMS had not provided states with guidance or training for reporting federal spending increases as a result of the FMAP increase provided under FFCRA. The agency plans to provide guidance and training by mid-June.

Federal Medicaid COVID-19 and Total Expenditures, by State and Territory		
State or territory	COVID-19-related federal Medicaid expenditures [a] ($ in millions)	Total federal Medicaid services expenditures in 2020 [a] ($ in millions)
Alabama	98	1,248
Alaska	18	389
Arizona	145	2,901
Arkansas	79	1,365
California	538	14,639
Colorado	126	1,475
Connecticut	105	1.270
Delaware	33	426
District of Columbia	41	612
Florida	428	4,423
Georgia	166	1,941
Hawaii	26	352
Idaho	33	468
Illinois	279	3,741
Indiana	190	3,038
Iowa	68	972
Kansas	58	612
Kentucky	125	2,457
Louisiana	150	2,568
Maine	45	567
Maryland	1	10
Massachusetts	267	3,138
Michigan	212	3,286
Minnesota	6	73
Mississippi	88	1,185
Missouri	156	1,879
Montana	16	330
Nebraska	35	340
Nevada	43	746
New Hampshire	22	286
New Jersey	197	2,480
New Mexico	66	1,385
New York	1,088	11,851
North Carolina	180	2,111
North Dakota	17	210
Ohio	323	4,572
Oklahoma	82	951
Oregon [b]	less than $1million [b]	1,899
Pennsylvania	400	4,520
Rhode Island	31	434

South Carolina	103	1,260
South Dakota	14	160
Tennessee	176	1,958
Texas	632	7,280
Utah	43	614
Vermont	24	294
Virginia [c]	--	2
Washington [c]	--	--
West Virginia	51	865
Wisconsin	245	1,791
Wyoming	8	96
States total [d]	**7,195**	**101,468**
American Samoa [c]	--	--
Guam	1	25
Northern Mariana Islands	1	9
Puerto Rico	21	550
Virgin Islands	1	20
Territories total [d]	**24**	**604**

Legend: -- = not applicable

Source: GAO analysis of data from the Centers for Medicare & Medicaid Services. | GAO-20-625

Note: Federal Medicaid payments were available for the second quarter of fiscal year 2020—January 1, 2020, through March 31, 2020—and do not include expenses for program administration. Five states (Delaware, Maryland, Massachusetts, Minnesota, and Nevada) and two territories (Puerto Rico and Virgin Islands) reported uncertified state expenditures. Certified state expenditures have been reviewed by states and are certified as being Medicaid allowable expenditures. Both certified and uncertified state expenditures are preliminary, as they are subject to further review and are likely to be updated as states continue to report their expenditures and receive federal matching funds. States can report payments and adjustments to payments up to 2 years after a quarter ends.

[a]Expenditures from January 1, 2020, through March 31, 2020.

[b]Oregon reported $29,707 in COVID-19 expenditures.

[c]Virginia, Washington, and America Samoa had no reported COVID-19 expenditures.

[d]Totals may not sum exactly due to rounding.

State waivers and flexibilities. In addition to its normal waiver authority, CMS has additional authorities in certain emergency circumstances to waive Medicaid requirements to help ensure the availability of care. As of May 31, 2020, CMS had approved 200 different waivers to provide states with flexibility to respond to the pandemic. Common types of flexibilities that states sought and CMS approved are shown in the table below.

Common Types of State Flexibilities Approved by Centers for Medicare & Medicaid Services, March 16, 2020, to May 31, 2020

Purpose of flexibility	Number of specific flexibilities approved
Maintain beneficiary eligibility for services	• Forty-three states suspended fee-for-service prior authorizations, which are normally required before beneficiaries can obtain certain services. [a] • Forty-two states extended the dates for reassessing and reevaluating beneficiaries' needs, which are normally required for beneficiaries to retain eligibility for some home- and community-based services. [b]
Expand beneficiary eligibility	• Forty-four states permitted virtual evaluations, assessments, and person-centered planning normally conducted in person. [b] • Sixteen states expanded coverage to uninsured individuals for COVID-19 testing. [c]
Remove obstacles to beneficiary access to care	• Forty-four states allowed telehealth to continue to provide some services that were previously provided in person. [c] • Ten states were approved to allow early refills of certain medications to avoid interruption in care. [c]
Increase the availability of providers	• Fifty-one states waived some requirements to allow licensed out-of-state providers to enroll in their programs—to provide needed services without being licensed in the state or enrolled in another state Medicaid program or Medicare—to maintain provider capacity. [a,d] • Eleven states authorized payments changed or added for telehealth services. [c]

Source: GAO analysis of Centers for Medicare & Medicaid Services approval documentation for states and District of Columbia. | GAO-20-625

[a]States received approval under section 1135 of the Social Security Act, which authorizes the Secretary of Health and Human Services to temporarily waive or modify certain federal health care program requirements, including Medicaid requirements, to ensure that sufficient health care items and services are available to meet the needs of enrollees during an emergency.

[b]States received approval to make changes to their section 1915(c) home- and community-based services waivers under an Appendix K amendment in order to respond to the emergency.

[c]States received approval to revise policies in their Medicaid state plan related to eligibility, enrollment, benefits, premiums and cost sharing, and payments. To make these changes, states must submit a State Plan Amendment to the Centers for Medicare & Medicaid Services for approval.

[d]States approved to temporarily enroll licensed out-of-state providers must follow certain requirements, which include screening providers to ensure they are licensed in another state and are not on the Department of Health and Human Services Office of the Inspector General's list of providers excluded from participating in the Medicaid or Medicare program.

GAO Methodology and Agency Comments

To conduct this work, we reviewed federal laws, the most recently available CMS data, CMS Medicaid guidance, OMB guidance, CBO spending estimates, and our prior work related to Medicaid. We also discussed CBO estimates with CBO officials. We discussed CMS's Medicaid expenditure reporting system with CMS officials and conducted data reliability checks on state-reported expenditure data.

We provided a draft of this report to HHS and OMB for review and comment. HHS provided technical comments on this enclosure, which we incorporated as appropriate. OMB did not provide comments on this enclosure.

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Related GAO Product

Medicaid: CMS Needs to Better Target Risks to Improve Oversight of Expenditures. GAO-18-564. Washington, D.C.: August 6, 2018.

Medicare Waivers

In response to COVID-19, the Centers for Medicare & Medicaid Services expanded availability of Medicare services through widespread use of program waivers, including for telehealth services. Careful monitoring and oversight are required to prevent potential fraud, waste, and abuse that can arise from these new waivers.

Entities involved: Centers for Medicare & Medicaid Services, Department of Health and Human Services

Key Considerations and Future GAO Work

The Medicare program has longstanding requirements and safeguards to help ensure that beneficiaries receive only medically necessary services and quality care. Despite these safeguards, our past work has shown that Medicare's improper payments—payments that were either incorrect or should not have been made at all—reached an estimated $46 billion in fiscal year 2019. As the Centers for Medicare & Medicaid Services (CMS) approves waivers and flexibilities to expand the availability of Medicare services during the COVID-19 pandemic, it will need to carefully monitor such services to identify potential fraud, waste, and abuse given the temporary suspension of some of these program safeguards.

Telehealth services can enable beneficiaries to receive and providers to furnish services in a safe environment, but they also raise several challenges. For example, the transmission of patients' medical information over potentially unsecure systems such as cell phones raises challenges involving patient privacy and cybersecurity. Moreover, telehealth services may not alleviate all access concerns since many beneficiaries lack the technical capability to utilize some of these services.

Whether CMS will have complete and accurate data to track utilization and spending on services furnished under the new flexibilities and waivers is not clear. Specifically, while CMS is requiring the use of certain identifiers to be included on claims for these services, the extent to which providers will actually be using the identifiers is not clear.

GAO plans to conduct additional work on the processes CMS used to determine which waivers to issue and their effects on Medicare providers and beneficiaries.

Background

Section 1135 of the Social Security Act authorizes the Secretary of Health and Human Services to temporarily waive or modify certain federal health care requirements, including in the Medicare program, to increase access to medical services when both a public health emergency and a disaster or emergency have been declared. The Administrator of CMS typically implements section 1135 waivers, which apply only to federal requirements. CMS was authorized to begin issuing

section 1135 waivers on March 13, 2020, as a result of the Secretary's declaration of a public health emergency in response to COVID-19 on January 31, 2020, and the President's declaration of a disaster or emergency under both the Robert T. Stafford Act Disaster Relief and Emergency Assistance Act and the National Emergencies Act on March 13, 2020.

The 1135 waivers are generally retroactive to March 1, 2020, and will end no later than the termination of one of the underlying emergencies or 60 days from the date the waiver is published, unless the Secretary extends it for additional periods of up to 60 days. For the purposes of this enclosure, we refer to the duration of the waiver as the "emergency period."

There are two types of Medicare 1135 waivers:

- **Blanket waivers** apply automatically to all applicable providers and suppliers in the emergency area, which encompasses the entire United States in the case of the COVID-19 pandemic. Providers and suppliers do not need to apply individually or notify CMS that they are acting upon the waiver. They are required to comply with normal rules and regulations as soon as it is feasible to do so.
- **Provider/supplier individual waivers** may be issued upon application for states, providers, or suppliers only if an existing blanket waiver is not sufficient.

In response to the pandemic, Congress also enacted legislation to expand the Secretary's authority to waive certain Medicare requirements. The Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, amends section 1135 of the Social Security Act to allow the Secretary to waive certain Medicare telehealth payment requirements during the emergency period. [242]

The CARES Act further expands the Secretary's authority to approve telehealth flexibilities under section 1135 waivers as well as providing other flexibilities. For example:

- Section 3705 authorizes the Secretary of Health and Human Services to temporarily waive the requirement for face-to-face visits between home dialysis patients and physicians during the emergency period.
- Section 3706 allows physicians and nurse practitioners to conduct face-to-face visits required to recertify patients' ongoing eligibility for hospice care via telehealth during the emergency period.
- Section 3708 allows nurse practitioners, clinical nurse specialists, and physician assistants to order home health services for Medicare beneficiaries in accordance with state law. [243]

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[242] Pub. L. No. 116-123, Div. B, § 102, 134 Stat. 146, 156-57 (2020).

[243] Pub. L. No. 116-136, §§ 3705, 3706, 3708, 134 Stat. 281, 418-19. CMS issued an interim final rule to implement section 3708. See 85 Fed. Reg. 27,550 27,599 (May 8, 2020). The changes under this provision are permanent and not limited to the emergency period.

Overview of Key Issues

As of May 15, 2020, CMS had issued over 200 blanket waivers after receiving thousands of individual requests. The blanket waivers cover flexibilities for hospitals, skilled nursing facilities, home health agencies, and hospices, among others. They also cover provider licensing and enrollment, enforcement activities, and documentation requirements. Providers may use flexibilities provided under the blanket waivers to the extent they are consistent with applicable state laws, state emergency preparedness plans, and state scope of practice rules.

In addition to waivers of statutory requirements, CMS has also used its authority to waive or modify its policies or regulations in order to allow providers greater flexibility in treating beneficiaries during the emergency period.

The following are examples of changes that CMS has approved, including under blanket waivers.[244]

Expansion of telehealth services. Typically in Medicare, telehealth services may only be furnished under limited circumstances—for example, in certain (largely rural) areas, to patients located in certain medical facilities. Changes that CMS has approved include the following:

- Telehealth services may be furnished to patients in any part of the country (including nonrural areas) and at any location, including patient homes.
- Telehealth services may be furnished to both new and established patients.
- Additional nonphysicians (including physical/occupational therapists and speech language pathologists) may also furnish telehealth services.
- More than 130 new service types were added to the approximately 100 existing telehealth service types, and frequency limits on several types of services were lifted.

Increased capacity. CMS approved a number of flexibilities that expand the capacity of hospitals and health care systems to treat COVID-19 patients in nontraditional sites. For example:

- *Expansion of hospital capacity*. Hospitals typically must meet certain requirements to participate in Medicare, including providing services within their own buildings. Changes that CMS has approved include the following:
    - Hospitals may provide patient care at nonhospital buildings or spaces provided that the location is approved by the state.

[244]For more information on all COVID-19 related waivers approved by CMS, see https://www.cms.gov/about-cms/emergency-preparedness-response-operations/current-emergencies/coronavirus-waivers (downloaded on 5/15/20).

    - Rural Health Clinics and other health centers may expand service locations without the new locations being independently approved by Medicare.

- *Emergency Medical Treatment and Active Labor Act (EMTALA).* By law, any Medicare-participating hospital with a dedicated emergency department must provide a medical screening examination and, if necessary, stabilizing treatment to any individual who arrives in its emergency department for examination or treatment, regardless of the ability to pay for the services.
    - CMS is allowing hospitals to set up alternative screening sites on campus to perform medical screening examinations as a triage function, as well as allowing hospitals to redirect, relocate, and screen individuals at a location other than the hospital campus for the medical screening examination in accordance with a state emergency or pandemic preparedness plan.

- *Physician Self-Referral Law (Stark Law).* Federal law generally prohibits a physician from making referrals for certain health care services to an entity with which the physician (or an immediate family member) has a financial relationship, unless an exception applies. Entities that submit claims for services furnished pursuant to a prohibited referral are subject to financial sanctions.
    - CMS issued blanket waivers of sanctions for certain referrals that would otherwise violate the Stark Law as long as they are solely for COVID-19 purposes. For example, a physician may refer, without penalty of sanctions, a Medicare beneficiary to a home health agency owned by the physician's immediate family member that does not meet the requirements for the rural provider exception.

Workforce expansion. CMS is making it easier for physicians and other practitioners to enroll and provide services in Medicare. Once the public health emergency is lifted, providers will be required to come into full compliance with all screening and enrollment requirements.

- *Expedited process for provider enrollment in Medicare*. Changes that CMS has approved include the following:
    - Expediting any pending or new applications and waiving criminal background checks associated with fingerprint-based criminal background checks.

    - Allowing physicians whose privileges to practice at a hospital will expire to continue practicing at the hospital and allowing new physicians to begin practicing before full approval.

- *Use of nonphysicians*. Federal regulations require that certain services can only be furnished by physicians and may not be delegated to nonphysicians such as nurse practitioners or physician assistants. Changes that CMS has approved include the following:

    - Physicians in skilled nursing facilities may delegate tasks to nonphysicians, although the physician must continue to provide supervision.

- *In-person or on-site visits*. Federal regulations require providers to conduct certain in-person or on-site visits for patients in certain settings such as skilled nursing facilities. Changes that CMS has approved include the following:
    - Allowing in-person visits for skilled nursing facility patients to be conducted via telehealth, as appropriate.

Reducing administrative burdens. CMS is temporarily eliminating certain reporting and other paperwork requirements that providers must complete in order to be paid by Medicare. For example, CMS is delaying scheduled program audits that may require additional information from providers, such as additional documentation to support the billing of services.

GAO Methodology and Agency Comments

To conduct this work we reviewed agency materials, applicable federal laws, and agency guidance, and obtained written answers to questions from CMS officials. HHS and the Office of Management and Budget provided technical comments on this enclosure, which we incorporated as appropriate.

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Indian Health Service

Indian Health Service received over $1 billion in supplemental funds to prevent, prepare, and respond.

Entities involved: Indian Health Service, Department of Health and Human Services

Key Considerations and Future GAO Work

We plan to monitor the Indian Health Service's (IHS) use of CARES Act-related funds going forward and the agency's response and recovery efforts. Separately, we also plan to examine disparities in health outcomes related to COVID-19 among different populations, including the American Indian and Alaska Native (AI/AN) population, and the behavioral health impacts of COVID-19.

Background

IHS, an agency within the Department of Health and Human Services (HHS), is charged with providing health care services to over 2 million AI/AN people who are members or descendants of federally recognized tribes. [245] IHS provides health care services either directly through a system of facilities such as hospitals, health clinics, and health stations that are federally operated by IHS, or indirectly through facilities that are operated by tribes or others. [246] In addition, IHS awards contracts and grants to Urban Indian Organizations that provide health care to AI/AN people residing in urban centers.

The AI/AN people tend to experience health disparities when compared to other Americans. As of October 2019, AI/AN people had a life expectancy that was 5.5 years less than all other races or ethnicities in the United States and died at higher rates than other Americans from many preventable causes, including diabetes mellitus and chronic lower respiratory diseases. Such health disparities underscore the importance of access to quality health care, particularly given that individuals with these health conditions are at greater risk of developing serious complications from COVID-19. As of May 31, 2020, IHS had reported 11,220 confirmed cases of COVID-19, with the Navajo Nation experiencing more cases per capita than most U.S. states. [247]

[245]Federally recognized tribes have a government-to-government relationship with the United States and are eligible to receive certain protections, services, and benefits by virtue of their status as Indian tribes. The Secretary of the Interior publishes annually in the Federal Register a list of all tribal entities that the Secretary recognizes as Indian tribes. As of January 30, 2020, there were 574 federally recognized tribes. See 85 Fed. Reg. 5462 (Jan. 30, 2020).

[246]As of February 2019, IHS, tribes, and tribal organizations operated 46 hospitals and 353 health centers as well as a range of other health facilities—of which 24 hospitals and 50 health centers were federally operated IHS facilities. IHS also enters into agreements with 41 Urban Indian Organizations.

[247]For more information on the number of reported COVID-19 cases, see https://www.ihs.gov/coronavirus, accessed May 21, 2020.

Congress provided IHS supplemental funding for its COVID-19 efforts in two of the four enacted COVID-19 relief acts, including $64 million in the Families First Coronavirus Response Act and $1.032 billion in the CARES Act. [248] The table below provides more information on the sources of these funds and how IHS allocated them.

[248]In addition to funds Congress specifically appropriated for IHS, HHS allocated supplemental appropriations to IHS, tribal, and Urban Indian facilities. For example, HHS allocated $500 million to IHS, tribal, and Urban Indian facilities from the Provider Relief Fund, for which Congress provided funding to reimburse eligible health care providers for health care related expenses and lost revenues attributable to coronavirus. See, e.g., Pub. L. No. 116-136, div. B, tit. VIII, 134 Stat. 281, 563 (2020). HHS also allocated $70 million to IHS—$30 million of which went to IHS-operated health programs and $40 million of which went to IHS National Supply Service Center—from the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020. In addition, Congress appropriated funding specifically for tribes, tribal organizations, Urban Indian Health Programs, and health care service providers to tribes, including $750 million for testing in the Paycheck Protection Program and Health Care Enhancement Act. Pub. L. No. 116-139, div. B, tit. I, 134 Stat. 620, 624 (2020).

Allocation of Supplemental Funding Provided to the Indian Health Service (IHS) to Address COVID-19		
Funding source	**Purpose**	**Amount ($)**
Families First Coronavirus Response Act	COVID-19 testing	64 million
CARES Act	IHS, tribal, and Urban Indian Organization COVID-19 prevention and response activities	515 million
	Purchased/referred care	155 million
	Expansion of telehealth	95 million
	Medical equipment needs	74 million
	Electronic health record stabilization and support	65 million
	Facilities maintenance and improvement	41 million
	Unanticipated needs	30 million
	Support Tribal Epidemiology Centers and national surveillance coordination activities at IHS headquarters	26 million
	Public health support and federal staff support	16 million
	Sanitation and potable water	10 million
	COVID-19 test kits and materials	5 million
Total [a]		**1.096 billion**

Source: GAO review of federal laws and agency documents. | GAO-20-625

[a]The total does not include allocations by the Department of Health and Human Services (HHS) to IHS, tribal, or Urban Indian Health Programs. For example, it does not include $70 million HHS allocated to IHS—$30 million of which went to IHS-operated health programs and $40 million of which went to IHS National Supply Service Center—from the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020. It also does not include $500 million HHS allocated to IHS, tribal, and Urban Indian facilities from the Provider Relief Fund, for which Congress provided funding to reimburse eligible health care providers for health care related expenses and lost revenues attributable to coronavirus. See, e.g., Pub. L. No. 116-136, div. B, tit. VIII, 134 Stat. 281, 563 (2020). It also does not include appropriations specific to tribes, tribal organizations, or Urban Indian Health Programs. For example, it does not include $750 million Congress appropriated specifically for tribes, tribal organizations, Urban Indian Health Programs, and health care service providers to tribes for testing in the Paycheck Protection Program and Health Care Enhancement Act. Pub. L. No. 116-139, div. B, tit. I, 134 Stat. 620, 624 (2020).

Overview of Key Issues

As of April 23, 2020, IHS had allocated all $1.096 billion in supplemental funding to support IHS-identified priorities related to COVID-19, including prevention, detection, treatment, and recovery. Of this amount, $515 million was allocated to federal, tribal, and Urban Indian programs for prevention and response activities. [249]

[249]According to IHS officials, they consulted with tribal and Urban Indian Organization leaders when making decisions to ensure that funding would meet the needs of their populations. IHS officials agreed to allocate resources using existing distribution methodologies, distribute resources to all without any set-asides for hotspots, and allow maximum flexibility to allow each tribal and Urban Indian community to respond to its unique needs.

Examples of additional efforts supported by the supplemental funds include the following:

- **Access to testing.** IHS allocated a total of $69 million in supplemental funds to support testing. This included $64 million from the Families First Coronavirus Response Act that was used to purchase rapid point-of-care tests for IHS and tribal health facilities ($61 million) and Urban Indian Organizations ($3 million). IHS also reported that it allocated an additional $5 million from the CARES Act for testing. As of April 13, 2020, IHS reported that it had received 250 rapid testing machines and distributed them to select locations to ensure remote and rural populations are being reached. According to IHS, as of April 27, 2020, the agency had expanded testing capacity from 98 to 298 sites primarily due to the distribution of these machines.

- **Telehealth services.** IHS allocated $95 million to expanding telehealth services to help ensure AI/AN people can access health care they need from home without putting themselves or others at risk. [250] IHS reported that it conducted a pilot project with six IHS sites using a secure meeting system already in place in certain locations for behavioral health services. After addressing lessons learned, IHS began training employees across the agency on how to use its system.

- **Public health support efforts.** According to IHS officials, they used funds to support various public health efforts. For example, IHS developed a reporting system that provides information on available hospital beds, intensive care unit beds, tests, ventilators, and personal protective equipment. IHS officials told us they will be using funds from the $26 million allocated for Tribal Epidemiology Centers and to expand national surveillance coordination activities. In addition, IHS officials told us they switched to a web-based reporting system to make it easier for tribes and Urban Indian Organizations to report and tabulate data. IHS officials told us that federal facilities are required to report data and tribes and Urban Indian Organizations can do so voluntarily. According to officials, IHS is receiving more reports from tribes and Urban Indian Organizations than it was prior to this change.

IHS officials described several challenges as they work to implement these efforts. For example, IHS officials noted they faced challenges obtaining personal protective equipment and material for IHS, tribal organizations, and Urban Indian Organizations. [251] In another example, IHS reported that the increased use of telehealth services is pushing or exceeding the limits of broadband availability in remote and rural areas. Officials told us they are assessing bandwidth at IHS facilities to identify ways to address issues. IHS officials also reported that the agency is seeing staffing shortages associated with personnel who have health conditions that put them at high-risk of

[250] Officials noted that regulatory flexibilities from the Centers for Medicare & Medicaid Services, along with information from the Office of the Inspector General, regarding billing visits that would normally be required in person and the enforcement of certain Health Insurance Portability and Accountability Act rules, allow providers to use everyday technologies to hold appointments.

[251] IHS officials told us they have a liaison working to facilitate requests from IHS and tribal health sites to the Federal Emergency Management Agency (FEMA). Although Urban Indian Organizations are unable to request personal protective equipment directly through FEMA, they can access the IHS National Supply Service Center as more supplies are successfully acquired. The National Supply Service Center—a program that provides advice, consultation, and assistance to IHS and any tribal facilities on supply management issues—coordinates and manages the purchase and distribution of medical/health-care-related supplies for IHS and tribal health care facilities nationwide.

COVID-19 and other related sick leave, or are experiencing impacts of school closures. In addition, IHS officials said that federal, tribal, and Urban Indian facilities are reporting surges in behavioral health issues, including domestic violence, which the officials said will have long-lasting effects on the AI/AN population.

GAO Methodology and Agency Comments

To conduct this work, we reviewed federal laws and agency documents, including weekly letters sent from IHS to tribes and Urban Indian Organizations that summarize the agency's actions to date, and interviewed agency officials. We provided a draft of this report to HHS for review and comment. HHS did not provide comments on this enclosure.

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Veterans Health Care

The Veterans Health Administration has increased its capacity to deliver COVID-19 care for veterans, through efforts such as hiring clinical staff and increasing telehealth services, using existing and supplemental funds.

Entities involved: Department of Veterans Affairs, Veterans Health Administration

Key Considerations and Future GAO Work

We have previously reported shortcomings in staffing capacities and human capital management at the Department of Veterans Affairs (VA). For example, in October 2017, we recommended that the Veterans Health Administration (VHA) develop and implement a process to accurately count all physicians providing care at each medical center. As of January 2020, VHA continued to disagree with this recommendation and previously asserted that the ability to count physicians does not affect its ability to assess workload. We maintain that an accurate count of all physicians is necessary for effective workforce planning, and we have identified this recommendation as warranting priority attention from the head of the department. While VA is currently reporting sufficient staffing at all facilities, it will be important to monitor the extent to which VHA has the staffing capacity to respond to the evolving medical needs of veterans during the COVID-19 pandemic.

We have also previously reported shortcomings in VA's oversight of its nursing home care. [252] Specifically, in July 2019, we found that VA did not conduct the quarterly monitoring of contractor performance for community living center and state veterans home inspections. We also found that VA did not require the state veterans home contractor to identify all failures to meet quality standards as deficiencies during its inspections. We recommended that the Under Secretary of Health develop a strategy to regularly monitor the contractors' performance in conducting these inspections. We also recommended that the Under Secretary of Health require that all failures to meet quality standards be cited as deficiencies in state veterans home inspections. In light of these prior concerns, as well as the high incidence of COVID-19 in nursing homes, we have additional work planned to review VA's oversight of nursing home care provided to veterans during the COVID-19 pandemic.

In addition, Congress raised concerns in April 2020 about personal protective equipment (PPE) shortages at VA medical centers, concerns that were also cited in a VA Office of Inspector General report and multiple media reports based on accounts by VA employees and others. VHA officials reported on May 6, 2020, they had a sufficient PPE supply to allow them to distribute equipment among sites based on need and they followed CDC guidance for conservation and prioritization of equipment. Ensuring an adequate supply of PPE is essential to the safety and well-being of both employees and veterans. Given the importance of this issue, we will be examining the acquisition and management of PPE, among other COVID-19 supply chain and acquisition management matters.

[252]VA provides nursing home care through VA-owned community living centers and pays for care in veterans' homes that are owned and operated by states.

Given these concerns, we plan to examine, among other things, VA's support of the civilian public health response to COVID-19; VA's use and oversight of the supplemental funds for COVID-19; infectious disease prevention in VA's long-term care programs; and VA's management and expenditure of COVID-19 emergency funds to procure necessary, time-critical medical supplies, such as PPE.

Background

VA administers one of the largest health care systems in the United States and is charged, through VHA, with providing health care services to the nation's eligible veterans and beneficiaries. VHA provides health care to more than 9 million veterans through VA medical centers, community-based outpatient clinics, and community living centers. [253]

VA received approximately $20 billion in supplemental funding to support its efforts to address COVID-19. [254] VHA plans to use these supplemental funds, along with existing funds, to deliver care for veterans in response to COVID-19. According to VA documents, VHA reported 14,140 cumulative veteran cases of COVID-19, including 1,440 active veteran cases, 11,329 convalescent veteran cases, and 1,371 veteran deaths as of June 12, 2020. [255]

Overview of Key Issues

In response to COVID-19, VHA officials told us that they increased capacity, tested both veterans and staff, and expanded telehealth services to care for veterans, among other actions. In addition, VHA supports the civilian public health response as part of VA's statutory mission to fulfill its obligations during times of national public health emergency, including providing support to the Department of Defense and the Public Health Service.

Health care capacity. VHA announced it had increased capacity for COVID-19 patients by taking a number of steps:

- postponing elective admission or procedures, such as dental care or nonemergency surgeries;

[253]A community living center is a VA-owned and -operated nursing home.

[254]Families First Coronavirus Response Act, Pub. L. No. 116-127, div. A, tit. VI, 134 Stat. 178, 183 (2020) ($60M) and the CARES Act, Pub. L. No. 116-136, div. B, tit. X, 134 Stat. 281, 583 (2020) ($19.6B). Funds appropriated to VA under the Families First Coronavirus Response Act are available until September 30, 2022. Funds appropriated for VA programs under the CARES Act are available until September 30, 2021, except those for the VA Office of the Inspector General (OIG). Funds for the OIG are available until September 30, 2022.

[255]VA defines convalescent cases as those patients tested or treated at a VA facility for known or probable COVID-19 who are either post-hospital discharge or 14 days after their last positive test, whichever comes later.

- discharging patients who did not need continued hospitalization;
- providing outpatient care for veterans through telehealth services when possible;
- separating inpatient care into two zones, one for patients who have been diagnosed with or suspected of COVID-19 and one for those who have not; and
- activating new or nonclinical areas, such as repurposing specialty care areas, operating rooms, and administrative spaces, to increase bed capacity for potential surge of COVID-19 patients.

According to VHA documents, VA medical centers had occupancy rates of 54 percent or less for its acute care beds, its intensive care unit beds, and its negative pressure beds as of June 12, 2020. [256] VHA officials told us achieving such capacity better positions them to provide support to veteran and civilian public health response.

Testing and screening. VHA officials told us they follow Centers for Disease Control and Prevention (CDC) guidance to determine when to test veterans for COVID-19. [257] According to VA documents, VHA tested 230,846 patients, which primarily includes veterans and may also include tests for employees or civilians being treated at VA as part of its public health emergency response as of June 12, 2020. VHA officials told us that they test patients both at VA facilities and by sending specimens to off-site labs for processing.

VHA told us it is screening its employees, contractors, and visitors for COVID-19 symptoms when they enter the grounds of a VA facility. If they screen positive for symptoms, employees or contractors are referred for COVID-19 testing at the VA facility or through private providers.

PPE. According to officials, VHA has issued protocols for PPE usage that align with CDC guidance. [258] VHA officials also told us they created a national tracking tool for PPE supplies. As of April 20, 2020, medical center staff are required to manually enter PPE quantities in the tracking tool daily, and the tool allows VHA to reallocate supplies if a facility is expected to have a shortage. VHA uses its national supply to rebalance PPE supplies if it anticipates shortages.

Telehealth services. VHA officials told us they have increased network bandwidth to support telework and telehealth video connections between physicians and patients. VHA officials also said they are well within their network bandwidth capacity based upon bandwidth expansion performed during the early phase of VA's response to COVID-19. VHA told us it has increased its telehealth video visits from 2,400 a day prior to COVID-19 to approximately 26,000 a day as of May 21, 2020. According to VHA officials, VHA increased its telephone visits from 20,000 a day prior to COVID-19 to approximately 170,000 a day as of early May 2020.

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[256]Negative pressure beds are used to contain airborne contaminants within the room, thereby reducing the risk of disease transmission.

[257]The CDC guidance for testing prioritizes individuals based on conditions such as their symptoms, type of employment (i.e., health care workers or workers in congregate settings), and type of residence (i.e., long-term care facilities or other congregate living settings).

[258]The CDC issued optimization strategies for PPE shortages in health care facilities.

Staffing. VHA told us it is using various strategies for staffing, recruiting, and retaining employees in response to COVID-19. VHA officials told us that all facilities have adequate staffing, and hiring was ramped up between March 29 and May 28, 2020, to bring on 3,410 nurses and 539 physicians. VHA also noted that overall staff absenteeism between April and May 2020 was lower than average. To help ensure adequate staffing, VHA told us that it has recruited staff by offering benefits such as dual compensation waivers to retirees (primarily nurses), expanding child care subsidies, and decreasing onboarding times. [259] VHA is supplementing staff in areas harder hit by the pandemic through its VA Travel Nurse Corps Program and deploying VHA staff through its Disaster Emergency Medical Personnel System. [260]

Community living centers. As of March 10, VHA required community living centers to implement safeguards aimed at limiting COVID-19 exposure risk for two of its most susceptible patient populations: nursing home residents and spinal-cord injury patients. These requirements include no visitors except for end-of-life hospice patients, suspension of new patient admissions, and daily screening of staff. [261] VHA officials told us that centers nationwide conducted testing of all patients and staff for COVID-19, although this testing is not performed on a recurring basis due to limited testing supplies. VHA officials told us that they isolate patients in these centers who test positive for COVID-19.

Community care. When veterans need health care services that are not available at VA medical facilities or within required driving distances or time frames, VHA may purchase care from non-VA providers through its community care program. [262] On March 24 and March 30, 2020, VHA issued guidance for community care in response to COVID-19, which advised providers to weigh the need for a community care authorization for routine care against the risks of exposing veterans to COVID-19. VHA told us that urgent visits in the community decreased by 50 percent in March 2020. [263] However, VHA told us that other referrals to community care, such as home health authorizations and inpatient care, have increased. VHA told us that urgent and emergency care in the community is available and is being utilized.

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[259]When employees retire, assuming they qualify under the federal retirement system statutes administered by the Office of Personnel Management (OPM), they receive an annuity. Generally, when an agency rehires a retired civil service employee who receives an annuity, that employee's salary rate is subject to a reduction (offset) by the amount of the annuity. By law, agencies may request a waiver of the salary offset—known as a dual compensation waiver—from OPM for specific purposes, such as emergency hiring or other unusual circumstances.

[260]The Disaster Emergency Medical Personnel System is VHA's main program for deploying clinical and nonclinical staff to an emergency or disaster. The Travel Nurse Corps program is a VA-operated internal pool of registered nurses available for temporary short-term assignments at VA medical centers throughout the country.

[261]On June 2, 2020, VHA officials told us community living centers with COVID-19 isolated areas were permitted to take new patient admissions.

[262]On June 6, 2019, the VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018 (VA MISSION Act) established the Veterans Community Care Program, which consolidated the Veterans Choice Program along with several other community care programs. The Veterans Community Care Program uses regional networks of licensed health care community providers called Community Care Networks to provide medical, dental, and pharmacy services to eligible veterans who are unable to receive care at local VA medical facilities. As of May 29, 2020, two Community Care Networks were fully implemented, while the others were at varying stages of implementation.

[263]Eligible veterans may seek urgent care in the community care program without prior authorization.

GAO Methodology and Agency Comments

To conduct this work, we reviewed VHA guidance and documents, reviewed federal laws, and interviewed VHA officials. We provided a draft of this report section to VA for review and comment. In its comments, VA noted that it has been open, throughout the pandemic, for all care where clinical urgency outweighed the risk of COVID-19. VA said it began expanding services on May 18, 2020 at 20 sites, using a phased approach centered on veteran safety, in alignment with White House and CDC guidance. VA also provided technical comments, which we incorporated as appropriate.

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Related GAO Products

VA Nursing Home Care: VA Has Opportunities to Enhance Its Oversight and Provide More Comprehensive Information on Its Website. GAO-19-428. Washington, D.C.: July 3, 2019.

Veterans Health Administration: Better Data and Evaluation Could Help Improve Physician Staffing, Recruitment, and Retention Strategies. GAO-18-124. Washington, D.C.: October 19, 2017.

Military Health

The Department of Defense has taken steps to test and track COVID-19 cases among servicemembers, provide care through the military health system, and protect the health of U.S. military forces.

Entities involved: Department of Defense, Defense Health Agency

Key Considerations and Future GAO Work

We plan to examine the Department of Defense's (DOD) actions to provide care within the military health system and to protect the health of U.S. military forces in response to COVID-19 in future work.

Background

The COVID-19 global pandemic has the potential to affect DOD's ability to accomplish its mission and impair the military's readiness. In addition to supporting the national response to the COVID-19 pandemic, DOD must also maintain the medical readiness of the U.S. military force. To that end, the department must continue to provide health care for servicemembers, among others, as well as institute measures to protect the health of military servicemembers. To do this, DOD has taken steps to provide testing and treatment through the military health system, among other actions.

DOD received approximately $10 billion in funding from the CARES Act, including $3.8 billion for the Defense Health Program to prevent, prepare for, and respond to COVID-19. [264] The Defense Health Program was also appropriated $82 million by the Families First Coronavirus Response Act for health services consisting of COVID-19 related items and services. [265]

Overview of Key Issues

In 2019, DOD provided health care for approximately 9.6 million individuals, including servicemembers and their dependents, and operated 475 military Medical Treatment Facilities

[264]Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, div. B, title III, 134 Stat. 281, 518 (March 27, 2020). The military health system supports medical readiness and provides medical care for servicemembers, retired servicemembers, and their dependents. The Defense Health Program is one component of DOD's Unified Medical Budget and includes funding for servicemembers' health care.

[265]Families First Coronavirus Response Act (FFCRA), Pub. L. No. 116-127, title II, 134 Stat. 178, 181 (March 18, 2020).

(MTF) across the military health system. [266] Since 2017, DOD has been reforming the military health system, including consolidating the administration of the MTFs under the Defense Health Agency (DHA). However, DOD and the DHA have temporarily paused reform efforts to prioritize their response to COVID-19. Key aspects of DOD's response to COVID-19 include the following:

COVID-19 testing in the military health system. DOD has shifted its COVID-19 testing efforts from an initial diagnostic testing focus on individuals with symptoms to include screening of asymptomatic individuals. On April 22, 2020, DOD announced a tiered approach to testing, prioritizing diagnostic testing for personnel in the following order:

- **Tier 1**: personnel responsible for critical national defense capabilities;
- **Tier 2:** engaged fielded forces around the world;
- **Tier 3:** forward-deployed and redeploying forces; and
- **Tier 4:** remaining DOD personnel.

In April 2020, DOD officials stated the department's goal of testing 60,000 personnel by early June 2020, and then 200,000 per month thereafter. DOD reported in early May that it had completed Tier 1 testing. As of May 21, 2020, DOD officials stated that the department had performed 93,536 tests in DOD labs. As of June 1, 2020, DOD had identified 9,885 confirmed cases of COVID-19 within the department (see table). The Navy accounts for approximately 38 percent of cases among servicemembers.

[266]DOD provides health care to active-duty and retired servicemembers and their families, dependent survivors, and certain reserve component members and their families.

Number of COVID-19 Cases Reported by the Department of Defense, as of June 1, 2020			
	Cumulative cases	Hospitalized	Deaths
Military	6,596	189	3
Civilian	1,516	145	19
Dependent	1,124	51	5
Contractor	649	63	9
Total	**9,885**	**448**	**36**

Source: GAO analysis of Department of Defense data. | GAO-20-625

DOD has taken steps to advance testing capability in the military health system for its personnel. For example:

- DOD leveraged an existing contract to develop a COVID-19 test that can be processed on the diagnostic system currently used throughout the military health system.
- Army officials stated that the Army is working to develop high-throughput tests for COVID-19, which would increase processing capacity from approximately 60 patient tests every 8 hours to 275 or more patient tests every 8 hours.
- DHA established procedures for MTFs that lack in-house testing capacity, including a goal of ensuring all tests are processed in 72 hours or less.

COVID-19 treatment in the military health system. DOD has taken steps to advance treatment of COVID-19 patients in the military health system. For example:

- DOD officials stated that the department obtained treatment courses of the antiviral drug remdesivir, originally in development by DOD to counter the Ebola virus. The Army signed a cooperative agreement with an industry partner to provide the drug for treatment of COVID-19 patients in the military health system. Currently, 13 MTFs have this capability, and several patients have received the treatment.
- DHA has issued periodic guidance to the MTFs, including interim guidance on topics such as medical countermeasures and personal protective equipment, among others.

Protecting the health and medical readiness of U.S. military forces. DOD Instruction 6200.03, *Public Health Emergency Management (PHEM) Within the DOD* (March 28, 2019) , establishes policy, assigns responsibilities, and provides direction to ensure mission assurance and readiness for public health emergencies. In addition, the department issued initial health protection guidance specific to COVID-19 on January 30 and has issued 11 supplemental guidance documents since (see table).

Health Protection Guidance and Supplements Issued by the Department of Defense in Response to the COVID-19 Pandemic, as of June 11, 2020

Guidance	Issue date	Subject
Initial guidance	January 30, 2020	*Force Health Protection Guidance for the Novel Coronavirus Outbreak*
Supplement 1	February 7, 2020	*Monitoring Personnel Returning from China During the Novel Coronavirus Outbreak*
Supplement 2	February 25, 2020	*Military Installation Commanders' Risk-Based Measured Responses to the Novel Coronavirus Outbreak*
Supplement 3	March 10, 2020	*Use of Personal Protective Equipment and Non-Pharmaceutical Interventions during the Coronavirus Disease 2019 Outbreak*
Supplement 4	March 11, 2020	*Personnel Traveling During the Novel Coronavirus Outbreak*
Supplement 5	April 7, 2020	*Movement and Medical Treatment of COVID-19 Patients, Symptomatic Persons Under Investigation, or Potentially Exposed COVID-19 Persons*
Supplement 6	April 7, 2020	*Coronavirus Disease 2019 Laboratory Diagnostic Testing Services*
Supplement 7	April 8, 2020	*Use of Cloth Face Coverings, Personal Protective Equipment, and Non-Pharmaceutical Interventions During the Coronavirus Disease 2019 Pandemic*
Supplement 8	April 13, 2020	*Protecting Personnel in Workplaces during the Response to the Coronavirus Disease 2019 Pandemic*
Supplement 9	May 26, 2020	*Deployment and Redeployment of Individuals and Units during the Novel Coronavirus Disease 2019 Pandemic*
Supplement 10	June 11, 2020	*Coronavirus Disease 2019 Clinical Laboratory Diagnostic Testing Services*
Supplement 11	June 11, 2020	*Coronavirus Disease 2019 Surveillance and Screening with Testing*

Source: GAO analysis of DOD information. | GAO-20-625

Note: The issuance of Supplement 7 on April 8, 2020, rescinded the guidance provided by Supplement 3.

DOD has taken steps designed to prevent infection and spread of COVID-19. For example, DOD issued travel restrictions in March 2020 and later extended them through June 30, including permanent changes of station, work-related travel, and servicemember leave.

In addition, DOD agencies have been encouraged to maximize telework, and officials estimated that 970,000 active-duty and civilian personnel were teleworking. [267] However, DOD officials stated that some personnel, such as new recruits or Navy sailors deployed on ships, are unable

[267]The Defense Manpower Data Center reported that as of March 31, 2020, there were approximately 1.4 million active-duty servicemembers and approximately 760,000 DOD civilian employees.

to telework or maintain social distancing due to mission requirements. DOD officials announced guidelines on April 22 to prevent infection in those cases:

- screening with questionnaires and temperature checks to identify at-risk individuals;
- mandating a 14 to 21 day quarantine, depending on a risk assessment;
- requiring additional testing and temperature checks prior to leaving quarantine;
- limiting interaction outside of the unit; and
- observing protective measures such as face covering and hand washing.

GAO Methodology and Agency Comments

To conduct this work, we reviewed DOD guidance and documentation and the most recent DOD data available as of June 11, 2020. We also interviewed DOD officials knowledgeable about COVID-19 response efforts and reviewed publicly available DOD media reports, statements, and documents **.** We provided a draft of this report to DOD for review and comment. DOD provided technical comments on the report, but had no comments related to this enclosure.

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Medical Surge

Multiple federal agencies have deployed personnel, alternative care sites, and equipment to help surge medical and public health capabilities during the COVID-19 response.

Entities involved: Department of Health and Human Services, Office of the Assistant Secretary for Preparedness and Response, U.S. Public Health Service, Centers for Disease Control and Prevention, Department of Defense, Department of Veterans Affairs, Department of Homeland Security, Federal Emergency Management Agency

Key Considerations and Future GAO Work

In June 2020, we reported on shortcomings related to the Department of Health and Human Services' (HHS) Office of the Assistant Secretary for Preparedness and Response's (ASPR) planning for, and training of, its National Disaster Medical System (NDMS) responder workforce. We found that these shortcomings hinder ASPR's ability to ensure that it has an adequate number of responders, with the right skill sets, enrolled in NDMS to respond effectively to public health emergencies, such as COVID-19. We made five recommendations, including that HHS develop an NDMS responder workforce target that accounts for the critical skills and competencies needed to meet current and future programmatic results, and develop a process to better evaluate the training provided to NDMS responders. HHS agreed with our recommendations but has not yet taken action to address them.

Further, in September 2019, we identified several deficiencies in HHS's leadership in the public health and medical response to Hurricanes Irma and Maria in 2017, including that HHS experienced shortages of responders and relied on the Department of Defense (DOD) to provide medical response personnel, which could create vulnerability if DOD is needed for its primary missions. In that report, we also identified concerns about coordination and misalignment of federal resources, including resources from DOD, the Department of Veteran's Affairs (VA), and the Department of Homeland Security (DHS). We recommended that HHS develop agreements with support agencies that include response capability and limitation information. HHS has yet to take action to address this recommendation.

In light of these prior concerns, and in response to the CARES Act, in our future work we plan to monitor the extent to which HHS and other agencies are coordinating deployments and ensuring resources are being used most effectively to respond to the medical and public health needs during the COVID-19 response. As part of our work, we plan to examine HHS's and DHS's response and recovery efforts to COVID-19 and related coordination among supporting agencies.

Background

The scale of the nationwide COVID-19 pandemic requires a whole-of-government approach to respond, including multiple federal agencies to support the public health and medical response.

HHS is designated the lead agency for responding to a public health emergency, including a pandemic. [268] As part of this role, HHS provides resources such as surge personnel and equipment to support the public health and medical needs of the response. Additionally, HHS may work with its federal partners, including DOD, DHS, and VA, which can also deploy related supports to help surge medical and public health capabilities during a response to a public health emergency.

Overview of Key Issues

Since January 2020, HHS and its federal partners—DOD, VA, DHS—have deployed personnel to surge the national public health and medical response to the COVID-19 pandemic. Several of these agencies also supported the response by providing alternative care sites or equipment to supplement state and local health systems.

Examples of HHS agencies' personnel and equipment deployed for the medical and public health response to COVID-19 between January and May 2020 include the following:

- **ASPR.** ASPR deployed more than 135 of its staff to assist in the COVID-19 response, as well as about 1,200 public health and medical responders enrolled in its NDMS, according to ASPR officials. These individuals, such as physicians, nurses, and paramedics, work outside the federal government but are placed in an intermittent employee status when deployed to respond to public health emergencies. [269]

  ASPR deployed some of these responders to help American citizens who were potentially infected with COVID-19 disembark from cruise ships to quarantine locations in the United States, as well as repatriate citizens returning from China. In addition to personnel, ASPR also deployed more than 40 Federal Medical Stations, a form of alternative care site and medical equipment, to provide additional bed capacity and related equipment to local health systems across the country. [270] For example, these Stations were used to augment state medical response resources in Louisiana.

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[268]Given the nationwide response required to address the COVID-19 pandemic, HHS is designated as the lead agency to address the public health and medical portion of the response, while DHS's Federal Emergency Management Agency (FEMA) is designated as the lead agency for coordinating the overall federal response, according to HHS officials.

[269]According to ASPR officials, responding to a pandemic is outside the primary scope for NDMS, because NDMS responders should be primarily working in their civilian jobs within the traditional health care system during a pandemic.

[270]A Federal Medical Station is a deployable health care facility and is one resource maintained in the Strategic National Stockpile. Each Federal Medical Station is equipped with a 3-day supply of medical and pharmaceutical resources to sustain up to 250 stable, primary, or chronic care patients. Federal Medical Stations are not freestanding but require a building in which to operate and can be staffed with federal, state, or local medical personnel. The HHS spend plan for appropriations provided under the CARES Act allocates funding to procure high-acuity kits to expand the capability of Federal Medical Stations to provide high levels of care to patients severely impacted by disease and respiratory distress. Specifically, the HHS spend plan states that the agency anticipates using $525 million to support surge personnel and alternate care sites and equipment.

- **U.S. Public Health Service.** U.S. Public Health Service, within HHS, deployed more than 4,100 Commissioned Corps Officers to support the COVID-19 response, according to U.S. Public Health Service officials. Overseen by the U.S. Surgeon General, the Commissioned Corps is a team of public health officers whose duty stations are typically within federal agencies, including the Centers for Disease Control and Prevention (CDC), Food and Drug Administration, Indian Health Service, and National Institutes of Health. However, these officers can be temporarily assigned to assist with a federal response.
  Many of these officers include physicians, nurses, pharmacists, and others who can provide public health and medical care. For the COVID-19 response, these officers were deployed to provide surge capacity to support field hospitals and other public health and medical missions. For example, agency officials reported that Commissioned Corps Officers were deployed to assist American citizens returning from China and Japan and to provide clinical care at a long-term care nursing facility in Kirkland, Washington, and at alternative care sites in New York City and Detroit. In addition, Commissioned Corps Officers have deployed to provide assistance in community-based testing sites across the country, according to agency officials. [271]

- **CDC.** CDC deployed more than 1,000 of its staff for the COVID-19 response, according to the agency. For example, CDC officials stated that the agency deployed personnel to staff domestic quarantine stations established to prevent, delay, and mitigate the introduction of additional cases and transmission to the United States. At the request of state health departments, CDC also deployed emergency response teams to provide services, including implementing infection control measures, supporting laboratories, establishing surveillance systems, and investigating outbreaks in high-risk settings, such as long-term care facilities.

Examples of DOD, DHS, and VA personnel; alternative care sites; and equipment deployed for the medical and public health response to COVID-19 between January and May 2020 include the following:

- **DOD.** DOD deployed over 60,000 personnel, including more than 4,000 medical personnel, to respond to COVID-19 through its Defense Support of Civil Authorities Mission, which allows other federal agencies, such as HHS, to call on DOD for support during disasters and declared emergencies. For example, to assist with COVID-19, DOD medical personnel have provided medical support at alternative care facilities and worked alongside civilian medical staff at medical hospitals and facilities in various states. In addition, the U.S. Army Corps of Engineers, which serves as the primary federal agency for engineering-related response efforts, supported the response to the pandemic by leading the construction of 38 alternative care sites that supplied more than 15,000 additional beds for patients with COVID-19, according to agency officials (see figure). (For more information see “DOD Support for Civilian Authorities” in appendix III.)

[271]Agencies where Commissioned Corps Officers are stationed (referred to as their “duty station”), such as CDC, can deploy their officers internally for certain purposes. The deployed Commissioned Corps officers included officers deployed outside of their duty stations as well as officers internally deployed to programs or sites of greatest need within their respective duty station (i.e., agency) to respond to COVID-19, according to U.S. Public Health Service Officials.

U.S. Army Corps of Engineers Constructed Alternative Care Facilities in Washington, D.C., and Loveland, Colorado

From left to right: view of units constructed in one of the halls, at Washington D.C. site; a rapid treatment unit, which are for patients who are declining in health and need to be stabilized before being transferred to the hospital, at the Washington D.C. site; hall with rooms at a Loveland, CO site.

Source: GAO. | GAO-20-625

- **Federal Emergency Management Agency (FEMA).** Within DHS, FEMA's workforce is designed to scale up and deploy to help support response to and recovery from all types of disasters, including during a pandemic. FEMA deployed more than 3,100 employees across all states and territories to support the COVID-19 response. According to FEMA officials, these employees provided support for response coordination and communication. For example, at state request, FEMA deployed Incident Management Assistance Teams to serve as initial responders to assess state and local needs and facilitate local response to COVID-19.

- **VA.** In addition to its role providing health care and benefits to veterans, the VA's "Fourth Mission" is to serve as a health care backup to the general public during times of war, terrorism, national emergencies, and natural disasters through requests from other agencies, such as HHS. In response to COVID-19, VA deployed personnel and equipment and provided beds in its medical facilities as surge capacity to care for nonveterans. For example, VA reported that it had deployed more than 540 staff to support state and community nursing homes. VA also provided more than 240 beds to civilians in at least 10 of its medical centers. VA also loaned a mobile pharmacy unit and deployed VA staff to assist an alternative care site in Michigan and deployed Veterans Health Administration clinical staff to Connecticut to help treat COVID-19 patients who were experiencing homelessness.

GAO Methodology and Agency Comments

To conduct this work, we collected deployment information and interviewed officials from HHS and three of its federal partners—DOD, DHS, and VA—which had provided personnel and alternative care sites during the medical and public health response to Hurricanes Irma and Maria in the U.S. Virgin Islands and Puerto Rico (see our September 2019 report). Deployment information includes examples of personnel deployed to support the public health and medical response to COVID-19, as well as alternative care sites and equipment deployed for that purpose. Dates for deployment information vary by agency.

Further, the information in this enclosure highlights examples of the types of medical and public health personnel, alternative care sites, and equipment supports provided by these agencies; it is not an exhaustive list of all supports provided by HHS, DOD, DHS, and VA during the response to COVID-19. For example, for additional information on medical supplies and equipment provided by federal agencies from the Strategic National Stockpile, see "Federal Efforts to Provide Medical Supplies" in appendix III.

We provided a draft of this report to HHS, DOD, DHS, and VA for review and comment. HHS and DOD provided technical comments on this enclosure, which we incorporated as appropriate. DHS and VA did not comment on this enclosure.

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Related GAO Products

Public Health Preparedness: HHS Should Take Actions to Ensure It Has an Adequate Number of Effectively Trained Emergency Responders. GAO-20-525. Washington, D.C.: June 18, 2020.

Disaster Response: HHS Should Address Deficiencies Highlighted by Recent Hurricanes in the U.S. Virgin Islands and Puerto Rico. GAO-19-592. Washington, D.C.: September 20, 2019.

2017 Hurricanes and Wildfires: Initial Observations on the Federal Response and Key Recovery Challenges. GAO-18-472. Washington, D.C.: September 4, 2018.

DOD Support to Civil Authorities

The Department of Defense is providing people, equipment, and supplies to support civil authorities during the COVID-19 pandemic.

Entities involved: Department of Defense, including active duty, reserve and National Guard forces, the U.S. Army Corps of Engineers, and the Defense Logistics Agency

Key Considerations and Future GAO Work

In February 2017, we reported that severe infectious disease would likely limit the Department of Defense's (DOD) ability to provide support to civil authorities as part of the broader national response. At that time we recommended that DOD use existing coordination mechanisms with the Department of Health and Human Services (HHS) and the Federal Emergency Management Agency (FEMA) to explore opportunities to improve preparedness and response to a pandemic if DOD's capabilities are limited. DOD concurred with this recommendation and implemented it by expanding interagency coordination and exercises with HHS and FEMA. The COVID-19 pandemic will test the effectiveness of these coordination mechanisms.

We plan to examine the support DOD provides to civil authorities as part of the response to and recovery from COVID-19 and related coordination among the supporting agencies.

Background

While DOD's primary mission is to defend the nation, the department is often asked to play a prominent role supporting civil authorities and must be prepared to provide rapid response when called upon during disasters and declared emergencies (natural or man-made). DOD provides such support through its Defense Support of Civil Authorities mission.

Consistent with the National Response Framework—a guide to how the federal government, states, and localities, and other public and private-sector institutions should respond to disasters and emergencies—DOD is authorized to provide support to civil authorities when requested by another federal agency and approved by the Secretary of Defense, or when directed by the President. Requesting agencies could include, for example, FEMA, HHS, or U.S. Department of Agriculture. DOD provides such support through federal military forces, DOD civilians, DOD contract personnel, or DOD component assets—to include the National Guard and the U.S. Army Corps of Engineers.

National Guard forces may provide support to civil authorities when ordered to active duty—commonly referred to as Title 10 duty status. [272] When ordered to active duty, National Guard forces are funded and commanded by DOD. National Guard personnel may also be ordered in a duty status pursuant to Title 32 U.S.C. § 502(f)—commonly referred to as Title 32 duty status—by the President or Secretary of Defense and with the consent of the Governor. [273] When operating in a Title 32 duty status, National Guard forces are funded by DOD and commanded by the state. [274]

Overview of Key Issues

Multiple federal agencies, including FEMA, HHS, and the U.S. Secret Service, have requested assistance from DOD for the COVID-19 pandemic. Specifically, as of June 5, 2020, DOD had responded to more than 253 FEMA mission assignments. To conduct that assistance, as of May 2020, more than 57,200 military personnel, including more than 41,000 National Guard personnel in Title 32 status, had supported the COVID-19 response. Initially DOD supported multiple requests for assistance from HHS and U.S. Secret Service—including providing temporary housing for U.S. citizens who were evacuated from China and the *Grand Princess* cruise ship and medical support to the White House. After the COVID-19 emergency declaration on March 13, 2020, FEMA assumed its role as the lead federal agency for the federal government's response to COVID-19, while HHS is continuing to lead the public health and medical response.

In responding to these requests for assistance and mission assignments, DOD organizations, units, and personnel (including active duty and reserves) have provided a number of capabilities, such as medical supplies (including personal protective equipment (PPE), ventilators, and testing materials); medical units and personnel; mobile medical facilities (including hospitals and ships); support personnel (e.g., planners and public affairs); access to and use of military bases; and transportation capabilities. For example:

- Medical personnel have supported civil authorities in a variety of capacities, including providing medical support at personal housing units for patients awaiting COVID-19 test results, providing medical support at alternative care facilities, and working alongside civilian medical staff at medical hospitals and facilities. As of May 27, 2020, more than 500 DOD medical personnel, including doctors, nurses, respiratory therapists, and medical support personnel, remained in support of COVID-19 operations.

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[272]National Guard personnel may be ordered to active duty voluntarily and with the consent of their Governor pursuant to 10 U.S.C § 12301(d). Under qualifying circumstances, National Guard personnel may be ordered to active duty without their consent or the consent of their Governor pursuant to 10 U.S.C. §§ 251, 252, 12301(a), 12302, 12304, and 12310.

[273]Title 32 of the United States Code governs the National Guard. National Guard members may be placed in a duty status pursuant to 32 U.S.C. § 502(f)(2)(A) to support operations or missions undertaken by the member's unit at the request of the President or the Secretary of Defense.

[274]DOD reports that National Guard forces typically operate in response to domestic disasters or emergencies in a State or Territorial Active-duty Status, funded by and under the command of their state or territory. These operations are not defense support of civil authorities.

- The Navy deployed the medical ships USNS *Comfort* and USNS *Mercy*, which provided medical care to COVID-19 and non-COVID-19 patients in New York and California, respectively. The USNS *Comfort* treated 182 patients while docked in Manhattan, New York, from March 30, 2020 to April 30, 2020. The USNS *Mercy* docked in Los Angeles, California, on March 27, 2020, and treated 77 non-COVID patients before departing on May 15, 2020. Both ships were initially tasked with providing trauma, emergency, and other care to non-COVID patients, to provide relief to shore-based civilian hospitals and allow them to focus on the treatment of COVID-19 patients. However, on April 6, 2020, the USNS *Comfort* began accepting COVID-19 patients to admit more patients and relieve pressure on New York City hospitals.

- The Defense Logistics Agency has provided a number of medical supplies and equipment to federal agencies, including N95 masks, ventilators, more than 1 million commercial-shelf meals, hand sanitizer, 100,000 human remains bags, and $10 million in pharmaceutical items. The agency also delivered 11,000 face shields to New York first responders, which it produced using 3D printing. In addition, the agency provided excess vehicles to state officials for delivering school lunches. (For more information on federal distribution and acquisition of PPE and other supplies, see "Federal Efforts to Provide Medical Supplies" in appendix III.

- The U.S. Army Corps of Engineers responded to 64 mission assignments from FEMA, totaling $1.8 billion, and an additional $4.5 million from the National Emergencies Preparedness Program. The U.S. Army Corps of Engineers conducted 1,155 assessments for alternate care facilities and awarded 38 construction contracts to add 15,074 beds to the nation's health care system. The construction of these facilities includes modifying 21 existing sports arena and convention centers, and 17 existing hotels and dormitories in 18 states, the District of Columbia, and the Virgin Islands. The design of these alternate care facilitates can allow for treatment of both COVID-19 and other patients.

- More than 80 military laboratories performed certified clinical COVID-19 testing, and DOD is involved in five different vaccine research and development efforts.

- On April 20, 2020, the Defense Logistics Agency procured and distributed 6.8 million N95 respirators from a private manufacturer.

- DOD provided 20 million N95 respirators to FEMA and HHS.

Army Medical Personnel Transport a Patient to Intensive Care Unit at an Alternative Care Facility in New York During COVID-19 Pandemic

Source: U.S. Army/Cpl. Rachel Thicklin. | GAO-20-625

As of May 2020, more than 40,000 National Guard members from almost all 50 states, the District of Columbia, the U.S. Virgin Islands, Puerto Rico, and Guam had provided support in State or Territorial Active-duty, Title 32, or Title 10 status to support the COVID-19 pandemic response efforts. [275] These efforts include activating National Guard personnel from their civilian occupations, as well as employing National Guard teams in each state and territory specifically created to respond to chemical, biological, radiological, and nuclear incidents. [276]

National Guard personnel have supported their state, tribal, and local authorities in a variety of manners, including the following:

- **Supporting COVID-19 testing efforts.** For example, the Nebraska National Guard supported three mobile testing sites, the Florida National Guard provided personnel for testing teams to assist nursing homes and veterans' nursing facilities, and the Rhode Island National Guard is providing over half of the state's testing capacity.
- **Supporting the production, delivery, and training of PPE supplies.** For example, the Texas National Guard assisted in the production of medical PPE masks, the Arizona National Guard

[275]According to DOD officials, a majority of the National Guard support provided under Title 32 status was reimbursable support provided under a FEMA mission assignment.

[276]The National Guard maintains 57 civil support teams—one in each state, territory, and the District of Columbia, with two teams in California, New York, and Florida—whose primary mission is to identify and assess potential biological, chemical, and radiological agents and provide recommendations on ways to counter or neutralize the effects. These specialized teams receive training specific to their functional areas of expertise, such as HAZMAT operations or technician certifications, in addition to traditional required military education.

provided PPE supplies to the Navajo Nation, and the Kansas National Guard provided PPE training to inmates and staff at the Lansing Correctional Facility.

- **Supporting food distribution efforts.** For example, the Maryland National Guard prepared and delivered meals to emergency encampments for homeless people displaced due to COVID-19, the North Carolina National Guard supported community food banks, and the Louisiana National Guard delivered over 2 million pounds of food.
- **Other support and missions.** For example, when first responders were overtasked, the New York National Guard provided daily support at the Rotterdam call center, vetting incoming calls as well as decreasing wait times for the New York State Coronavirus Hotline.

Georgia National Guard Member Provides Food to Local Schools During COVID-19 Pandemic

Source: U.S. Army/Sgt. 1st Class R.J. Lannom Jr. | GAO-20-625

GAO Methodology and Agency Comments

To conduct this work, we reviewed documentation and the most recent data available from DOD through June 5, 2020, interviewed DOD officials, and obtained information from military websites (e.g., Defense Visual Information Distribution Service photos). We provided a draft of this report to DOD for review and comment. DOD provided technical comments on this enclosure, which we incorporated as appropriate.

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Related GAO Products

2017 Hurricanes and Wildfires: Initial Observations on the Federal Response and Key Recovery Challenges. GAO-18-472. Washington, D.C.: September 4, 2018.

Defense Civil Support: DOD, HHS, and DHS Should Use Existing Coordination Mechanisms to Improve Their Pandemic Preparedness. GAO-17-150. Washington, D.C.: February 10, 2017.

HHS COVID-19 Funding

Congress appropriated more than $250 billion to the Department of Health and Human Services to address various aspects of the public health response to COVID-19, of which about $101 billion had been obligated and about $67 billion had been expended as of May 31, 2020, according to department officials.

Entities involved: Department of Health and Human Services

Key Considerations and Future GAO Work

As part of our monitoring and oversight responsibilities in the CARES Act, we are conducting work examining the Department of Health and Human Services' (HHS) use of appropriations contained in four relief laws enacted to help fund the response to COVID-19. Specifically, we will be examining the status of obligations and expenditure of these funds; the activities funded, including how those activities were determined; and efforts to monitor funding use and any related challenges.

Background

HHS received approximately $250.6 billion in supplemental appropriations from four relief laws enacted to assist the response to COVID-19. [277] The following table provides HHS appropriations and HHS's reported obligations and expenditures, by COVID-19 relief law.

[277]Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123, 134 Stat. 146; Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020); CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020); Paycheck Protection Program and Health Care Enhancement Act, Pub. L. No. 116-139, 134 Stat. 620 (2020).

Supplemental Appropriations to HHS for COVID-19 Response and HHS's Reported Obligations and Expenditures, by Law, as of May 31, 2020

Legislation	Appropriations ($ millions)	Obligations ($ millions)	Expenditures ($ millions)
Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (Pub. L. No. 116-123)	6,497.0	4,398.9	484.4
Families First Coronavirus Response Act (Pub. L. No. 116-127)	1,314.0	351.2	152.1
CARES Act (Pub. L. No. 116-136)	142,833.4	55,733.6	38,197.2
Paycheck Protection Program and Health Care Enhancement Act (Pub. L. No. 116-139)	100,000.0	40,247.9	28,555.8
Total	**250,644.4**	**100,731.5**	**67,389.5**

Source: Department of Health and Human Services (HHS) data and GAO analysis of appropriation warrant information provided by the Department of the Treasury. | GAO-20-625

Note: HHS reported that of its total COVID-19 supplemental appropriations, the agency transferred $289 million to the Department of Homeland Security, and $300 million in appropriations are not available until future actions by HHS.

Overview of Key Issues

Of the $250.6 billion appropriated, HHS reported that it had obligated about $100.7 billion and expended about $67.4 billion, as of May 31, 2020. The following table provides HHS's reported appropriations, obligations, and expenditures by HHS agency.

HHS Reported Appropriations, Obligations, and Expenditures for COVID-19 Response, by Agency, as of May 31, 2020

Agency or key fund	Appropriations ($ millions)	Obligations ($ millions)	Expenditures ($ millions)
Administration for Children and Families	6,274.0	5,410.9	256.9
Administration for Community Living	1,205.0	1,204.7	69.0
Agency for Toxic Substances and Disease Registry	12.5	1.4	0.5
Centers for Disease Control and Prevention	6,500.0	1,998.6	231.1
Centers for Medicare & Medicaid Services [a]	200.0	11.5	0.0
Food and Drug Administration	141.0	8.0	0.4
Health Resources and Services Administration	1,320.0	1,317.8	167.2
Indian Health Service	1,096.0	611.2	567.6
National Institutes of Health	1,781.4	247.2	7.9
Public Health and Social Services Emergency Fund (PHSSEF) [b]	231,689.5	89,536.1	66,088.6
Office of the Assistant Secretary for Preparedness and Response	19,323.0	8,128.4	492.4
Biomedical Advanced Research and Development Authority	6,190.0	3,658.3	19.9
Provider Relief Fund [c]	177,000.0	65,360.6	65,204.0
Other PHSSEF	29,176.5	12,388.8	372.3
Substance Abuse and Mental Health Services Administration	425.0	384.2	0.5
Total	**250,644.4**	**100,731.5**	**67,389.5**

Source: Department of Health and Human Service (HHS) data. | GAO-20-625

Note: The COVID-19 relief laws included provisions for HHS to transfer appropriated funds to various HHS agencies. HHS also reported that of its total COVID-19 appropriation, the agency transferred $289 million to the Department of Homeland Security, and $300 million in appropriations are not available until future actions by HHS.

[a]These amounts do not reflect Medicaid and Medicare expenditures. As of May 31, 2020, COVID-19 related federal Medicaid expenditures totaled approximately $7.2 billion or 7 percent of total spending on Medicaid services for this time period. In addition, the Congressional Budget Office estimated that some provisions of the CARES Act will increase Medicare payments to providers by $8 billion in 2020 and 2021.

[b]The Public Health and Social Services Emergency Fund (PHSSEF) is an account HHS generally uses to provide appropriations to certain HHS offices, such as the Office of the Assistant Secretary for Preparedness and Response. Congress has appropriated amounts to this fund for the COVID-19 response to support certain HHS agencies and response activities. PHSSEF appropriations transferred to other HHS agencies or key funds not specifically listed are included under “Other PHSSEF.” For example, the Health Resources and Services Administration received $975 million in transfers from the PHSSEF, and this is represented in the table in “Other PHSSEF.”

[c]The Provider Relief Fund reimburses eligible health care providers for health care related expenses or lost revenues that are attributable to COVID-19. The CARES Act and Paycheck Protection Program and Health Care Enhancement Act appropriated $175 billion in funding for provider relief. In addition, the Families First Coronavirus Response Act and the Paycheck Protection Program and Health Care Enhancement Act designated up to $2 billion to reimburse providers for COVID-19 testing for uninsured individuals.

HHS's reported obligations and expenditures have been for a variety of COVID-19 selected response activities, including activities to support testing, the development of vaccines or therapeutics, and the acquisition of critical supplies. The following table provides HHS's reported appropriations, obligations, and expenditures by key response activity.

HHS's Reported Appropriations, Obligations, and Expenditures for COVID-19 Response, by Selected Key Response Activity, as of May 31, 2020

Key activity	Total HHS appropriations ($ in millions)	Total HHS obligations ($ in millions)	Total HHS expenditures ($ in millions)
Health Centers [a]	2,020.0	2,000.5	214.7
Head Start	750.0	1.8	0.0
Provider Relief Fund [b]	177,000.0	65,360.6	65,204.0
Support to state, local, territorial, and tribal organizations for preparedness	13,980.1	12,209.8	489.4
Strategic National Stockpile	16,710.0	6,880.6	330.2
Telehealth	159.5	35.0	0.0
Testing	3,094.8	714.5	43.7
Vaccines or therapeutics	5,467.2	3,612.4	18.1
Other response activities	31,462.8	9,916.3	1,089.5
Total	**250,644.4**	**100,731.5**	**67,389.5**

Source: Department of Health and Human Service (HHS) data. | GAO-20-625

Note: HHS reported appropriations, obligations, and expenditures for these activities based on the primary programmatic recipient organization of the funds, although some activities apply to multiple categories. For example, certain funds in the "support to state, local, territorial, and tribal organizations for preparedness" category were provided for testing but are not reflected in the "testing" category.

[a]Health Centers provide a comprehensive set of primary and preventative health care services to individuals regardless of their ability to pay. Approximately $17 million of this funding is for Health Center Program look-alikes, which are centers that do not receive Health Center Program funding but meet program requirements.

[b]The Provider Relief Fund reimburses eligible health care providers for health care related expenses or lost revenues that are attributable to COVID-19. The CARES Act and Paycheck Protection Program and Health Care Enhancement Act appropriated $175 billion in funding for provider relief. In addition, the Families First Coronavirus Response Act and the Paycheck Protection Program and Health Care Enhancement Act designated up to $2 billion to reimburse providers for COVID-19 testing for uninsured individuals.

GAO Methodology and Agency Comments

We requested, and HHS provided, data on appropriations, obligations, and expenditures by HHS agency and by key response activity, as of May 31, 2020. We also obtained and analyzed appropriation warrant information provided by the Department of the Treasury as of May 31, 2020. To assess the data provided by HHS, we compared them with the federal spending database, USASpending.gov, as well as HHS's spending database, taggs.hhs.gov, and HHS's website, but we did not independently validate the data. [278] We also reviewed the four relief laws enacted to assist the response to COVID-19. We provided a draft of this report to HHS and the Office

[278]We searched HHS's Tracking Accountability in Government Grants System website and USASpending.gov—a publicly available website developed and operated by the Department of the Treasury that includes detailed data on federal spending, including obligations, across the federal government. See https://taggs.hhs.gov/coronavirus (accessed June 1, 2020) and https://USAspending.gov (accessed June 1, 2020).

of Management and Budget (OMB) for review and comment. HHS did not comment on this enclosure. OMB provided technical comments, which we incorporated as appropriate.

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Nutrition Assistance

The federal response to the COVID-19 pandemic included additional funds and increased flexibilities for state, tribal, and local agencies to provide nutrition assistance across various programs; however, some vulnerable populations may not be able to access assistance, and there are operational challenges in implementing program changes.

Entities involved: Department of Agriculture, Food and Nutrition Service; Department of Health and Human Services, Administration for Community Living

Key considerations and Future GAO Work

We will continue to monitor these issues in ongoing and planned work regarding the effect of COVID-19 on nutrition assistance programs.

Background

Several long-standing nutrition programs provide assistance to different populations in need, including the following:

- The Supplemental Nutrition Assistance Program (SNAP), the largest nutrition assistance program, is intended to help low-income individuals and households obtain a more nutritious diet by supplementing their income with benefits to purchase allowed food items.
- Child nutrition programs, including the National School Lunch Program, the School Breakfast Program, Summer Food Service Program, the Child and Adult Care Food Program, and other programs provide paid, free, or reduced-price meals and snacks to eligible children in child care centers and schools, or during the summer or when schools are otherwise closed.
- The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) provides benefits to purchase food packages, such as infant formula and vegetables, to low-income pregnant, breastfeeding and nonbreastfeeding postpartum women, infants, and children up to age 5 who are at nutritional risk, as well as health and nutritional support services.
- The Emergency Food Assistance Program (TEFAP) provides groceries to low-income individuals through food banks.
- Older Americans Act (OAA) nutrition services provide meals and other nutrition services for older adults delivered either at home or in a congregate setting.

In fiscal year 2019, these programs received $103.7 billion in federal funds, of which SNAP accounted for $73.5 billion, and child nutrition programs accounted for $23.1 billion. [279] SNAP, child nutrition programs, WIC, and TEFAP are administered by the Department of Agriculture's Food and Nutrition Service (FNS), while nutrition services provided under the OAA are administered by the Department of Health and Human Services' Administration for Community Living (ACL).

Overview of Key Issues

In response to COVID-19, the Families First Coronavirus Response Act (FFCRA) and the CARES Act provided additional funding for these nutrition assistance programs to meet the needs of existing and new recipients of these benefits. [280] Federal officials anticipate much of the additional funding will be used for new recipients. For example, unofficial 2020 data from FNS show weekly SNAP applications increasing in most states in the period from mid-March through April, compared with the month of January, with 16 states experiencing an average increase of 100 percent or more. [281] (see table). Some of these program flexibilities were provided on a nationwide basis, while others were provided on a state-by-state basis, in some cases subject to federal approval or notification.

[279]Funding levels for Older Americans Act nutrition services include nutrition services for Title III programs and nutrition and supportive services for Title VI programs.

[280]See generally FFCRA, Pub. L. No. 116-127, 134 Stat. 178 (2020) and the CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020).

[281]For reporting purposes in this enclosure, the District of Columbia is referred to as a state.

Additional Funding and Examples of Program Flexibilities Provided for Nutrition Assistance Programs Due to COVID-19		
Program name	**Additional funding provided (in dollars)** [a]	**Examples of program flexibilities provided in response to COVID-19 under authorities in FFCRA, the CARES Act, or other authorities** [b]
Supplemental Nutrition Assistance Program (SNAP)	15.5 billion [c]	• Time limits for SNAP benefits for certain working-age adults without disabilities or dependents and who are not meeting specified work requirements are suspended. • Current SNAP recipients may receive emergency allotments up to the maximum amount allowed per household size. • Applicant or recipient interview requirements can be waived or adjusted.
Child nutrition programs (e.g., school and summer meals programs)	8.8 billion	• Meals can be served outside meal times and in noncongregate settings. • Parents or guardians can pick up meals to bring home to eligible children without the child needing to be present. • Summer meals programs can serve areas that do not meet the requirement that at least half of the children are in low-income households.
The Emergency Food Assistance Program (TEFAP)	850 million *Of this amount, 250 million can be used for costs associated with the distribution of commodities.*	• States may adjust TEFAP income eligibility guidelines to expand participant eligibility at any time, consistent with program regulations. • States have the flexibility to collect addresses to account for social distancing, such as over the phone or by photographing a written address as an individual maintains a safe distance. • Eligible recipient agencies can utilize a drive-through model, or deliver foods to central pick-up locations or to participants' homes.

Nutrition services under the Older Americans Act (OAA)	750 million *Of this amount , 30 million are for Native American nutrition services.*	• Meals provided at congregate sites can be packaged to take home. • States can transfer 100 percent of OAA nutrition services funds between the congregate and home-delivered meal programs to address identified needs. • Nutrition requirements can be waived for meals to address limited food availability.
Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)	500 million	• Beneficiaries do not need to be physically present to enroll or reenroll in WIC or to pick up electronic benefit cards or paper coupons. • Substitutions are allowed for types and amounts of certain WIC-prescribed foods if their availability is limited. • State agencies may issue up to 4 months of benefits on benefit cards at one time to reduce need for contact with WIC staff.

Source: GAO analysis of relevant provisions of the Families First Coronavirus Response Act (FFCRA) and the CARES Act (funding information), and information from the Department of Agriculture's Food and Nutrition Service and the Department of Health and Human Services' Administration for Community Living. | GAO-20-625

[a]The funding shown in this table only includes funds provided under FFCRA, the CARES Act, or both, depending on the program. Other funding may have been separately provided for these programs, such as through annual appropriations acts.

[b]Some of these program flexibilities were provided on a nationwide basis, while others were provided on a state-by-state basis, in some cases subject to federal approval or notification. All of the flexibilities described in the table, whether nationwide or on a state-by-state basis, are temporary in nature, and the duration varies depending on the program and the specific flexibility.

[c]The Department of Agriculture received an indefinite appropriation of necessary amounts for Pandemic EBT (Electronic Benefits Transfer). The Office of Management and Budget subsequently apportioned $8.9 billion for Pandemic EBT for fiscal year 2020. This amount is not included in the $15.5 billion for SNAP shown in this table.

FNS has also denied some states' waiver requests for certain nutrition programs, including some which may affect particularly vulnerable populations. For example:

- For SNAP, as of June 1, 2020, FNS had approved 97 requests from states for waivers and denied 128, including denying requests from 31 states asking to suspend the requirement that college students work at least 20 hours per week or participate in federal work study to be eligible for SNAP. [282] In letters to FNS, states reported that otherwise eligible students could

[282]Counts in this section include requests from states, tribes, and U.S. territories, and do not include extensions of earlier approved requests. For SNAP, these counts include approvals for emergency allotments, but do not include adjustments that states have made under SNAP's state options or blanket waivers, which FNS officials indicated require FNS notification rather than approval. As of June 1, 2020, states had notified FNS of making over 400 such adjustments for SNAP (excluding extensions of earlier adjustments).

not meet these requirements due to campus and business closures. In a letter explaining this denial and others, FNS stated that it considered factors outlined in FFCRA, which allows the Secretary of Agriculture to adjust SNAP issuance methods and application and reporting requirements to be consistent with what is practicable under actual conditions in affected areas. [283] FNS officials said that the agency did not consider waiving restrictions on students' eligibility to be allowable under FFCRA's factors for adjustments. In the same denial letter, FNS reiterated that states are not able to provide emergency allotments to households that are already receiving the maximum SNAP benefit amount. [284] FNS officials told us this was prohibited based on provisions in the Food and Nutrition Act of 2008 as well as FFCRA.

- For WIC, as of June 1, 2020, FNS had approved over 600 waiver requests and denied or deemed not waivable 60 waiver requests from states. For example, FNS denied requests related to waiving certain food package items. The agency also deemed not waivable requests to permit recipients to roll over unused benefits into subsequent months. FNS officials explained that the agency does not have authority to waive this requirement or to approve requests that do not meet criteria for WIC waivers laid out in FFCRA. [285]

For other programs, such as child nutrition programs and OAA nutrition services, agency officials told us that states or localities could exercise most program waivers or flexibilities provided under FFCRA or the CARES Act without first obtaining federal agency approval. [286]

Federal agencies have faced various challenges in their efforts to respond to the pandemic. FNS and ACL officials said the volume of requests and questions from states during this period has been unprecedented, and providing guidance in an ever-changing and uncertain environment has been challenging. For example, FNS officials told us that it was challenging to integrate aspects of SNAP and the school meals programs for "Pandemic EBT" (Electronic Benefits Transfer), but that FNS did so in order to quickly issue guidance for this new program. This program, authorized under FFCRA, provides supplemental allotments to households already receiving SNAP benefits and new issuances to households not already receiving benefits through the EBT card system for families with children who would have received free or reduced-price school meals, if not

[283]U.S. Department of Agriculture, Food and Nutrition Service, "RE: Supplemental Nutrition Assistance Program (SNAP)–Denial of Certain Requests to Adjust SNAP Regulations," April 10, 2020. Specifically, section 2302 of FFCRA provides that, in making such adjustments, the Secretary shall consider the availability of offices and personnel in state agencies, any conditions that make reliance on electronic benefit transfer systems impracticable, any disruptions of transportation and communication facilities, and any health considerations that warrant alternative approaches. Pub. L. No. 116-127, § 2302(a)(2), 134 Stat. at 188-89.

[284]These households had incomes averaging 23 percent of federal poverty guidelines (which was about $4,800 annually for a family of three in 2018), and made up an estimated 37 percent of SNAP households in fiscal year 2018, based on the most recent available data. See U.S. Department of Agriculture, Food and Nutrition Service, *Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2018* (Alexandria, VA: 2019).

[285]For example, section 2204 of FFCRA authorizes the Secretary of Agriculture, if requested by a state agency, to modify or waive any WIC regulatory requirement that the Secretary determines (a) cannot be met by a state agency due to COVID-19; and (b) the modification or waiver of which is necessary to provide assistance under WIC. Pub. L. No. 116-127, § 2204, 134 Stat. at 187.

[286]See, e.g., Pub. L. No. 116-127, § 2202(a), 134 Stat. at 185 and Pub. L. No. 116-136, § 3222(b), 134 Stat. at 379.

for school closures due to COVID-19. [287] Also, ACL officials discussed, for example, the challenge of providing guidance to help keep older adults, staff, and volunteers safe from exposure to COVID-19, and the need for additional considerations as some states began to reopen.

Federal officials said that state and local agencies are facing operational challenges due to having to operate in the new pandemic environment that is affecting business processes, staff capacity, and technology. For instance, federal officials said the ability to easily modify data systems to incorporate new flexibilities varies among state and local agencies, and agencies are concerned with associated costs. In the case of Pandemic EBT, federal officials noted that states are needing to coordinate across data systems for SNAP and school meals in order to serve existing SNAP households alongside a new population of non-SNAP households, and such coordination may be challenging. As of June 1, 2020, 39 states had approved plans to issue Pandemic EBT benefits in their states, according to information provided by FNS. In addition, federal officials said that state or local capabilities to provide assistance remotely vary widely. For WIC, for example, while providing assistance online or by phone rather than in person has resulted in fewer missed appointments for some WIC recipients, limited technology at local WIC clinics can create challenges to delivering services, FNS officials said.

GAO Methodology and Agency Comments

To conduct our work, we reviewed the most recent data available from FNS on states' requests for flexibilities as of June 1, 2020, as well as unofficial data collected by FNS on states' SNAP applications for January through April 2020. We also reviewed relevant federal laws and agency guidance and interviewed agency officials at FNS and ACL. We provided a draft of this enclosure to FNS and ACL for review and comment. FNS provided technical comments, which we incorporated as appropriate. ACL did not provide comments on this enclosure.

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Related GAO Products

Nutrition Assistance Programs: Agencies Could Do More to Help Address the Nutritional Needs of Older Adults. GAO-20-18. Washington, D.C.: November 21, 2019.

Food Insecurity: Better Information Could Help Eligible College Students Access Federal Food Assistance Benefits. GAO-19-95. Washington, D.C.: December 21, 2018.

[287]The Department of Agriculture received an indefinite appropriation of necessary amounts for Pandemic EBT. Pub. L. No. 116-127, § 1101(i), 134 Stat. at 180. The Office of Management and Budget subsequently apportioned $8.9 billion for this program for fiscal year 2020.

Supplemental Nutrition Assistance Program: More Complete and Accurate Information Needed on Employment and Training Programs. GAO-19-56. Washington, D.C.: November 20, 2018.

Summer Meals: Actions Needed to Improve Participation Estimates and Address Program Challenges. GAO-18-369. Washington, D.C.: May 31, 2018.

Child Care

The Administration for Children and Families' Office of Child Care is helping states to implement available flexibilities in the CARES Act and the Child Care and Development Block Grant Act of 1990, as amended, to address the impacts of COVID-19, but has not determined how it will collect data on states' use of CARES Act supplemental funding.

Entity involved: Office of Child Care, Administration for Children and Families, Department of Health and Human Services

Key Considerations and Future GAO Work

In March 2020, we found issues with the Office of Child Care's (OCC) oversight of State Plans, and we made several relevant recommendations to help strengthen Child Care and Development Fund (CCDF) program integrity, with which the Department of Health and Human Services (HHS) agreed. Implementing these recommendations could also help OCC to improve states' accountability in overseeing the use of CCDF and CARES Act funds received after our March 2020 report. These recommendations include, among others, that the Director of OCC (1) establish internal written policies to effectively implement and document the State Plan review and approval process for future review and approval periods, (2) define informational needs related to the results of state program-integrity activities, and (3) communicate externally to the states its informational needs related to the results of states' program-integrity activities.

In related work, we will review OCC's plans to oversee spending of the CARES Act monies and to support states in their efforts to address the child care impacts of COVID-19.

Background

The Child Care and Development Block Grant (CCDBG) Act authorizes discretionary funding for the federal child care subsidy program known as CCDF, which was appropriated more than $8 billion in federal funds in 2019, and, on average, assists about 1.3 million eligible children from low-income families on a monthly basis. The CCDF is administered as a block grant to the states by OCC, an office within HHS's Administration for Children and Families (ACF). [288]

The CARES Act provides an additional $3.5 billion for the Child Care and Development Block Grant, the discretionary funding portion of CCDF, to help states prevent, prepare for, and respond to

[288]For reporting purposes, in this enclosure we use "states" to also refer to U.S. territories and tribes. Discretionary CCDF funds are entirely federal funds that are allocated to states based on a statutory formula. See 42 U.S.C. § 9858m. Under the program, these discretionary funds do not require a state match. CCDF is also made up of mandatory and matching funding, which is authorized under the Social Security Act (42 U.S.C. § 618) and administered by the Department of Health and Human Services.

coronavirus. [289] For example, under the provisions of the CARES Act, states may use funds to provide child care assistance to health care sector employees and other essential workers without regard to the CCDBG Act's income eligibility requirements. States may also use funds to provide payments and assistance to child care providers facing decreased enrollment or related closures, and, further, are encouraged to place conditions on payments to child care providers that ensure providers continue to pay their staff's salaries and wages. [290]

Overview of Key Issues

OCC finalized and provided CARES Act supplemental funding allocations to states on April 14, 2020. Funds were allocated to states based on the CCDF discretionary funding formula in the CCDBG Act. [291] OCC has also developed and updated a variety of CCDF-specific guidance and resources to help states implement program flexibilities in the CARES Act and the CCDBG Act that may help address the impacts of COVID-19. [292] OCC officials said their most pressing priority has been to help states understand the federal flexibilities that already exist under the CCDBG Act for using the child care funding available to them and how to use these flexibilities appropriately. To do so, OCC officials have held calls with state CCDF administrators and developed several guidance documents that summarize applicable provisions of the CARES Act and highlight available flexibilities in the CCDBG Act.

According to OCC, if states cannot meet certain CCDF program requirements—such as for comprehensive background checks for child care providers—due to a national emergency, for instance—or wish to substantially change elements of their State Plans that are required to receive CCDF funding, they can submit a waiver request or a Plan amendment. [293] In a tip sheet for states, OCC describes conditions under which states may choose to submit a request to waive certain federal requirements or amend their State Plans and time frames for doing so. As of June 8, 2020,

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[289]Pub. L. No. 116-136, div. B, tit. VIII, 134 Stat. 281, 557 (2020). The funds are to remain available through September 30, 2021, and are to supplement, not supplant, state general revenue funds for child care assistance for low-income families without regard to requirements in sections 658E(c)(3)(D)–(E) or 658G of the CCDBG Act. Further, payments made under the CARES Act may be obligated by the states in fiscal year 2020 or the succeeding 2 fiscal years.

[290]Id. at 557-558.

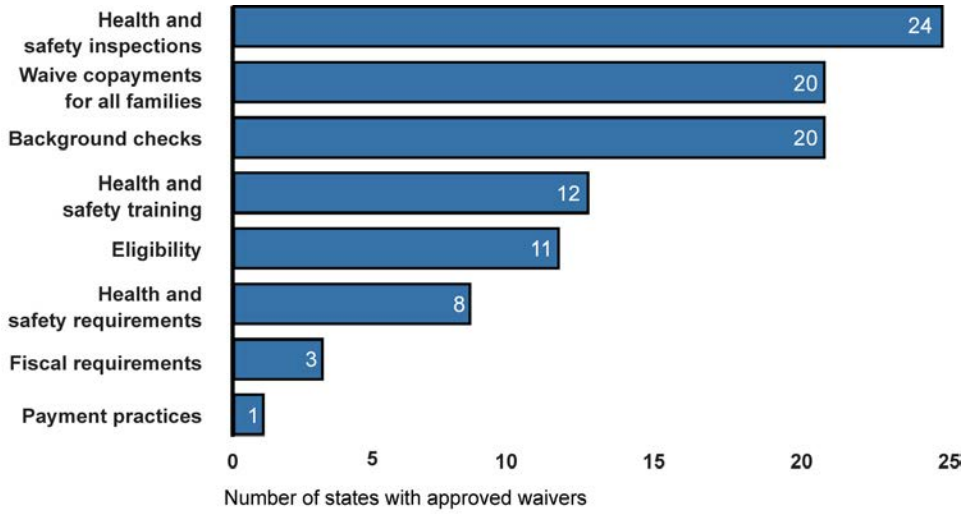
[291]Generally, the discretionary funding formula is based on three primary factors: (1) ratio of the number of children under age 5 in the state to the number of children under age 5 in the country; (2) ratio of the number of children in the state who receive free or reduced price school lunches under the Richard B. Russell National School Lunch Act to the number of such children in the country; and (3) a weighting factor determined by dividing the 3-year average national per capita income by the 3-year average state per capita income (as calculated every 2 years). See 42 U.S.C. § 9858m(b).

[292]For example, OCC initially developed answers to CCDF Frequently Asked Questions in Response to COVID-19 and held a nationwide state CCDF administrators call in March 2020—prior to enactment of the CARES Act—to share available resources from the CCDBG Act to address the pandemic. OCC has continued to update its resources to include CARES Act-specific information (e.g., guidance issued on April 9, 2020, that discusses CARES Act flexibilities).

[293]The CCDBG Act allows the Secretary of Health and Human Services to waive any provision of the act under certain circumstances. 42 U.S.C. § 9858g(c)(1). In order to receive CCDF funding, states are required to develop and submit to OCC for approval a State Plan that includes assurances and certifications regarding state licensing requirements, the use of block grant funds, and health and safety standards, among other things. 42 U.S.C. § 9858c(c).

HHS had approved waiver requests from 35 states, most frequently related to health and safety inspections (see figure).

States with Approved Child Care and Development Block Grant Act Waivers, as of June 8, 2020



Source: Child Care Waiver Approval Summary, Office of Child Care. | GAO-20-625

Upon requesting a waiver, states must certify and describe how the health, safety, and well-being of children served through CCDF would not be compromised as a result of the waiver. [294] OCC officials said they expect states to satisfy the intentions of CCDBG Act requirements, to the extent possible. For example, an OCC official noted that it is currently difficult, if not impossible, for child care providers in some locations to obtain and process fingerprint checks—one component of a state's background check requirements—due to COVID-19. In such cases, they said, HHS may grant a waiver for the fingerprint requirement specifically, but not for the background check more generally, which states could still conduct using a provider's name, Social Security number, or other identifying information.

OCC officials have not yet determined specifically how they will monitor and oversee CARES Act supplemental funding. These officials said they envision using certain existing CCDF practices, such as quarterly financial reports and reviews of State Plans, but are still considering what additional steps or modifications to current data collection will be needed. Without modifications, current CCDF reporting requirements will not necessarily capture complete information on the use of CARES Act funds, such as the number of essential workers that are provided child care subsidies regardless of income, the number of child care providers that receive assistance while closed to aid in their possible reopening, and the number of child care providers that receive assistance that had not done so prior to the pandemic. An OCC official did note that OCC will probably need to track CARES Act funding separately because it has a different obligation period for the states than CCDBG Act funding; however, the official expressed concern about states' current capacity to make internal changes to their data management systems. Additionally, OCC officials said they will need to consider whether additional reporting requirements would require Office of Management

[294] 42 U.S.C. § 9858g(c)(2)(C).

and Budget clearance and the additional burden such requirements may place on states as they respond to the pandemic.

GAO Methodology and Agency Comments

To conduct this work, we reviewed relevant federal laws and the most recent agency guidance as of June 8, 2020, and interviewed OCC officials.

ACF provided technical comments, which we incorporated as appropriate.

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Related GAO Products

Child Care and Development Fund: Office of Child Care Should Strengthen Its Oversight and Monitoring of Program-Integrity Risks. GAO-20-227. Washington, D.C.: March 2, 2020.

Child Care and Development Fund: Subsidy Receipt and Plans for New Funds. GAO-19-222R. Washington, D.C.: February 15, 2019.

Child Care: States Report Child Care and Development Funds Benefit All Children in Care. GAO-19-261. Washington, D.C.: April 25, 2019.

Emergency Financial Aid for College Students

The Department of Education awarded schools nearly all of the initial $6.3 billion designated for college students' emergency financial aid, but the department's evolving communications may have delayed schools' distribution of funds to students.

Entities Involved: Department of Education

Key Considerations and Future GAO Work

GAO plans to conduct additional work on the needs of college students during the pandemic and how the Department of Education (Education) and institutions of higher education are working to address these needs.

Background

Institutions of higher education (schools) throughout the country have faced unprecedented disruptions due to COVID-19. In March 2020, schools across the nation closed their physical campuses and began exclusively providing online classes. As a result, students may have incurred additional unexpected expenses, such as the purchase of a laptop or a last-minute flight home. For students with limited financial resources, these unplanned expenses, in combination with a declining economy, could potentially disrupt their educational pursuits. In fact, some higher education associations predict that college enrollment in academic year 2020–2021 will generally decrease as a result of COVID-19's effects on the economy and changes to instruction delivery and campus operations.

The CARES Act appropriated about $14 billion for the Higher Education Emergency Relief Fund (HEERF), of which about $12.6 billion was appropriated for grants to schools to prevent, prepare for, and respond to the coronavirus. [295] The CARES Act directed Education to allocate these funds to eligible schools using a funding formula. [296] Schools are required to distribute at least

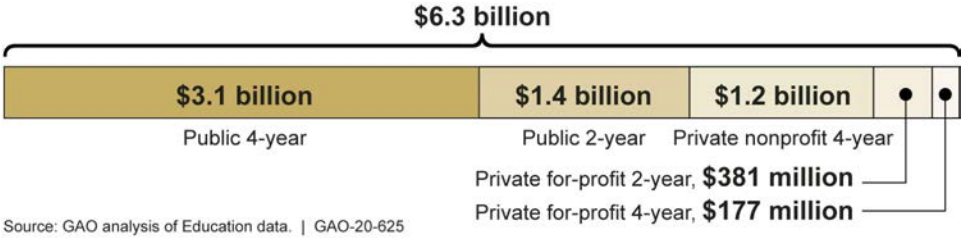
[295]The remaining HEERF funds were appropriated for the following purposes: about $1 billion for additional awards under parts A and B of title III, parts A and B of title V, and subpart 4 of part A of title VII of the Higher Education Act to address needs directly related to coronavirus; and about $349 million for part B of title VII of the Higher Education Act for schools that the Secretary of Education determines have the greatest unmet needs related to coronavirus. Pub. L. No. 116-136, §§ 18001(b)(3), 18004(a), 134 Stat. 281, 564, 567-68 (2020).

[296]Specifically, by law, Education is required to apportion these funds using the following formula: 75 percent based on a school's relative share of full-time equivalent enrollment of Federal Pell Grant recipients who were not exclusively enrolled in distance education prior to the coronavirus emergency; and 25 percent based on a school's relative share of full-time equivalent enrollment of students who were not Federal Pell Grant recipients and who were not exclusively enrolled in distance education prior to the coronavirus emergency. Pub. L. No. 116-136, § 18004(a)(1), 134 Stat. at 567. Because the statutory funding formula uses full-time equivalents instead of student headcounts, schools receive less funding for part-time students than they do for full-time students, although both types of students may incur the same

50 percent of the funds they receive—about $6.3 billion—to students as emergency financial aid grants (emergency student aid) for expenses related to disrupted campus operations due to the coronavirus. [297] Schools can use the remaining funds for additional student grants, or to cover institutional costs associated with significant changes in instruction delivery due to the coronavirus.

Education decided to award the $12.6 billion to schools in two stages, starting with $6.3 billion designated for emergency student aid. In the 2 weeks after the CARES Act was enacted, Education got the new grant program up and running, which included determining how to apply the funding formula, calculating the amounts allocated to each school, and developing procedures needed to operationalize the program. Education officials told us that applying the funding formula was time consuming because it required data the department does not collect, including student enrollments calculated in full time equivalents and the number of students enrolled in online programs. They also said that Education immediately coordinated with the Department of the Treasury to determine whether the grants could be disbursed to students as "emergency assistance," and therefore be exempt from taxation and consideration in future financial aid determinations. [298] Education's application of the funding formula resulted in more than two-thirds of the $6.3 billion designated for emergency student aid being allocated to public 2-year and 4-year schools (see figure).

Allocation of Higher Education Emergency Relief Funds Designated for Emergency Student Aid Due to COVID-19, by Sector



Notes: Schools of less than 2 years are included in the 2-year school categories above. The Department of Education also allocated about $25 million to 2-year private, nonprofit schools and about $1.7 million to the Commonwealth of Puerto Rico Department of Education.

On April 9, 2020, Education notified schools of their individual allocations to help inform their planning and provided them with the paperwork required to apply for the emergency student aid funds. About 1 week later, on April 17, 2020, Education began to award HEERF emergency student aid funds to schools.

types of expenses. Thus, schools with a larger percentage of part-time students, such as public 2-year schools, may have received less funding per student than other schools.

[297]Pub. L. No. 116-136, § 18004(c), 134 Stat. at 568. These expenses may include eligible expenses under a student's cost of attendance, such as food, housing, course materials, technology, health care, and child care.

[298]The Department of the Treasury subsequently issued guidance clarifying that emergency financial aid grants under the CARES Act were exempt from federal taxation. Internal Revenue Service, *FAQs: Higher Education Emergency Relief Fund and Emergency Financial Aid Grants under the CARES Act,* accessed June 17, 2020, https://www.irs.gov/newsroom/faqs-higher-education-emergency-relief-fund-and-emergency-financial-aid-grants-under-the-cares-act. Also Education encouraged schools to exclude emergency financial aid grants from the calculation of a student's expected family contribution on a case-by-case basis, according to the grant's funding certification and agreement.

Overview of Key Issues

As of May 31, 2020, Education had awarded more than $6 billion in HEERF emergency student aid to more than 4,000 schools, according to Education's data. [299] However, representatives from five of the seven higher education associations we contacted said that Education's evolving communications created difficulties that contributed to delays in schools' disbursing emergency student aid. Education introduced new information about student eligibility nearly 2 weeks after schools began to submit the required paperwork for funding and also took subsequent actions on the issue of eligibility.

Evolving communications. In a letter provided to schools on April 9, 2020, concurrent with the grant announcement, Education stated that the CARES Act provides schools with significant discretion on how to award the emergency aid to students. The letter also stated that each school may develop its own system and process for determining how to allocate these funds. On April 21, 2020—when half of eligible schools had already applied for funds—Education released a "Frequently Asked Questions" (FAQ) document that provided new information about student eligibility. Specifically, it stated that only students who are, or could be, eligible for federal student aid programs under section 484 of the Higher Education Act of 1965, as amended, may receive emergency financial aid grants. [300] The document further specified that the criteria to participate in such programs include, among other things, U.S. citizenship or eligible noncitizen status; a valid Social Security number; registration with Selective Service (if the student is male); and a high school diploma, GED, or completion of high school in an approved homeschool setting. Students who are not eligible for federal student aid programs include undocumented students, including those with Deferred Action for Childhood Arrivals (DACA) status, among others. [301]

These changes created challenges for schools, according to representatives of five higher education associations we contacted. Representatives from one association told us that some schools had already developed their plans for how to distribute the funds prior to the release of Education's FAQ document, so they had to start their planning process over in response to the new information provided on student eligibility. This association also conducted a survey of its members in May and reported that more than half of its respondents said the new information about student eligibility greatly altered schools' plans for distributing funds. [302] Absent Education's FAQ document, more than three-quarters of respondents indicated they would not have restricted funds to students eligible to participate in federal student aid programs.

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[299]Some schools, including some with significant endowments, have decided not to pursue the grant funds allocated to them . Education officials stated that such schools will have to inform Education that they are declining their allocated amount by a yet to be determined date. They also said they are still determining how these funds will be reallocated to other schools.

[300]See 20 U.S.C. § 1091. Litigation challenging Education's actions related to student eligibility for emergency student aid is currently pending in federal court. See Oakley v. DeVos, No. 20-3215 (N.D. Cal. filed May 11, 2020) and Washington v. DeVos, No. 20-182 (E.D. Wash. filed May 19, 2020).

[301]See Federal Student Aid, "Financial Aid and Undocumented Students: Questions and Answers" (February 2019).

[302]Responses were based on surveys from 587 schools of varying sectors and accounted for a 23 percent response rate.

To confirm students' eligibility for federal student aid for purposes of awarding student emergency aid grants, schools generally plan to use the federal student aid application (Free Application for Federal Student Aid or FAFSA), according to representatives of all seven higher education associations we contacted. Representatives of four associations told us that schools were uncertain about how else they could verify student eligibility, and two of them said that as of May 2020 schools were awaiting further direction from Education as to whether students could self-attest to meeting the eligibility requirements. Given this uncertainty, some schools only planned to award grants to students currently verified as eligible for federal student aid, according to four associations. This approach may exclude potentially eligible students who are also in need. For example, it may limit emergency aid to veterans, who are less likely to have applied for federal student aid, according to one veterans' education organization.

In late May and June, Education took additional actions related to student eligibility for emergency student aid. On May 21, 2020, Education posted an update to its website reiterating the statements in its FAQ document about student eligibility for emergency aid, and also stating that the agency would not initiate any enforcement action based solely on the statements because they lack the force and effect of law. [303] On June 17, 2020, Education published an interim final rule in the *Federal Register* to formalize its interpretation that eligibility for emergency student aid is limited to those students who are eligible for federal student aid. [304] In the rule, Education also states that it will not enforce this eligibility interpretation against schools that distributed HEERF funds to students prior to the publication of the rule. The rule also describes processes schools could use to verify the eligibility of students who are not currently receiving federal student aid. [305] Two federal courts have issued preliminary injunctions, temporarily prohibiting Education from enforcing the student eligibility provisions in its April 21, 2020 FAQ document and the interim final rule with respect to certain schools in Washington and California. [306]

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[303]See https://www2.ed.gov/about/offices/list/ope/caresact.html. In this same update, Education further stated that "[i]n contrast, the underlying statutory terms in the CARES Act are legally binding, as are any other applicable statutory terms, such as the restriction in 8 U.S.C. § 1611 on eligibility for Federal public benefits including such grants."

[304]Eligibility of Students at Institutions of Higher Education for Funds Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, 85 Fed. Reg. 36,494 (June 17, 2020) (amending 35 C.F.R. § 668.2). Specifically, the rule provides that "Student, for purposes of the phrases 'grants to students' and 'emergency financial aid grants to students' in sections 18004(a)(2), (a)(3), and (c) of the [CARES Act], is defined as an individual who is, or could be, eligible under section 484 of the [Higher Education Act], to participate in programs under title IV of the [Higher Education Act]."

[305]For example, Education states in the rule that "Students who choose not to fill out a FAFSA but otherwise meet the title IV eligibility criteria may verify their eligibility by completing an application designed by the institution in which the student attests under the penalty of perjury to meeting the requirements of section 484 of the [Higher Education Act]."

[306]See Washington v. DeVos, No. 20-182 (E.D. Wash. June 12, 2020) (order granting plaintiff's motion for preliminary injunction) (prohibiting Education from "implementing or enforcing the provisions in the April 21, 2020 guidance and the Interim Final Rule that restricts the discretion of higher education institutions in the State of Washington to determine which students will receive CARES Act student emergency financial assistance grants to only those students who are eligible for federal financial aid under Title IV, section 484 of the Higher Education Act, in any manner or in any respect, and shall preserve the status quo" until further order of the court. See also Oakley v. DeVos, No. 20-3215 (N.D. Cal. June 17, 2020) (order granting plaintiff's motion for preliminary injunction) (prohibiting Education from "[i]mposing or enforcing any eligibility requirement for students to receive HEERF assistance," including those set forth in the April 21, 2020, FAQ document and the interim final rule, with respect to any community college in California while the lawsuit is pending).

Distribution approaches. Schools are using various approaches to determine generally who receives emergency student aid, according to representatives of all seven higher education associations we contacted. These representatives also said that schools may be using multiple approaches, which could include the following:

- Applications: Representatives of all seven associations said some schools are using applications, and four associations noted that the applications they have seen were short and generally asked students to identify the expenses they incurred due to COVID-19's disruption of their studies.
- Formulas: Representatives of six associations said some schools are using formulas to distribute funds based on students' level of financial need. For example, some schools are awarding a greater amount to students who qualify for Pell Grants because they have demonstrated exceptional financial need.
- Identifying student groups: Representatives of four associations said some schools are identifying groups of eligible students with demonstrable expenses and distributing funds based on those expenses without requiring an application. For example, they said a group could include students in a certain course who must purchase supplies to continue their studies.

Reporting requirements. Representatives from five of the seven higher education associations we contacted said the reporting requirements described in Education's April 9, 2020, funding certification and agreement were not sufficiently clear. [307] On May 6, 2020, Education issued a letter to schools that modified the timing, scope, and format of these reporting requirements. The May 6 letter temporarily instructed schools to post spending information on their school websites. Required information includes the estimated number of students eligible for aid, the method for determining which students received aid and how much, and the total amount of funds awarded, among other things. It is unclear how long schools will report in this manner, as Education officials told us they are still determining how schools will report to Education and when such reporting will occur.

Timing of aid. With regard to timing, Education's April 9 letter to schools emphasized the goal of getting money to students in need as quickly as possible. While schools have 1 year to spend the funds, representatives from three higher education associations told us that most schools plan to distribute the majority of their funds before the fall term begins. [308] Representatives from the other four associations noted varying trends among schools, with some schools planning

[307]Section 18004(e) of the CARES Act requires schools receiving HEERF funds to submit a report to Education (at such time and in such manner as the Secretary may require), that describes the use of such funds. See Pub. L. No. 116-136, § 18004(e), 134 Stat. at 568. The funding certification and agreement directed each recipient to report to Education 30 days from the date of the agreement, and every 45 days thereafter, on: how grants were distributed to students, the amount of each grant awarded to each student, how the amount of each grant was calculated, and any instructions or directions given to students about the grants.

[308]The funding certification and agreement generally requires that schools spend their funds within 1 year of the date of their funding certification and agreement.

to distribute the majority of their funds before the fall 2020 term begins and others planning to retain some funds for distribution later in the year.

GAO Methodology and Agency Comments

To conduct this work, we reviewed Education documents and its most recent obligation data, available as of the end of May 2020, as well as relevant federal laws and regulations. We interviewed officials from Education. We also interviewed or received written responses from representatives of seven higher education associations, whose collective membership includes thousands of schools. We selected these associations to reflect a range of school sectors and relevant school administrators. We conducted these interviews in late April and received written responses from all seven associations in early May.

We provided a draft of this report to Education for review and comment. In its written comments, Education stated that the report sections related to Education's actions in response to the pandemic were inaccurate, flawed, incomplete, and unfair. We disagree with this characterization and note that Education did not identify any specific statement in this enclosure as inaccurate. We believe that we accurately described the key facts relating to Education's implementation of the emergency student aid grants under the CARES Act. Education also raised questions about certain information sources. In developing our methodology, we followed our quality assurance framework, and we developed criteria to select higher education associations that are knowledgeable, credible, and provide diverse views.

Education commented that the draft report and enclosures are unfair and incomplete because GAO did not mention the Department's diligence enough. More specifically, for this enclosure, Education noted that GAO did not convey the magnitude and speed under which its CARES Act grant work was completed. We acknowledge Education's broader efforts to administer its sizable grant portfolio and note that this enclosure credits Education with taking steps to implement the HEERF emergency student aid grant program within 2 weeks of the enactment of the CARES Act, specifically mentioning the need for Education to apply the funding formula, calculate individual school allocations, and develop operational procedures in that time. Further, we also noted that Education began to award funds about a week after schools could apply. In response to Education's comments, we added details about Education's work with the Department of the Treasury as well as the difficulties Education faced in implementing the funding formula. Further, Education noted that our enclosure was incomplete because we did not compare Education's work under the CARES Act to the prior administration's work in implementing the American Recovery and Reinvestment Act of 2009. Such a comparison was beyond the scope of our work for this enclosure.

In its comments, Education also stated that developing guidance in anticipation of every question any school could have would have resulted in delays in disbursing funds, noting that it did not want to hold up the disbursement of funds because some schools would need additional explanation on which students are eligible for this aid. Education further stated that there should have been no question about which students were eligible for emergency aid. Education stated

that it nonetheless provided additional clarification, including in FAQ documents, in response to an increasing number of questions about student eligibility. Education noted that our example of some schools discarding their initial distribution plans after Education released its April 21 FAQ document ignored the flexibility of its communications not being legally binding at that time. However, Education did not clarify that its interpretation of student eligibility was not legally binding until May 21, 1 month after the release of the FAQ document. Further, Education appears to intend its interpretation to be legally binding, as indicated by the issuance of the interim final rule. Education also provided technical comments, which we incorporated as appropriate.

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Leave Benefits and Tax Relief for Employers

Employers have begun claiming refundable tax credits and deferring employer payroll taxes to mitigate the cost of paid leave for employees; agreements between the Internal Revenue Service and the Small Business Administration to help ensure compliance have not been finalized.

Entities involved: Department of the Treasury, Internal Revenue Service, Small Business Administration, Department of Labor

Key Considerations and Future GAO Work

Establishing controls, and using data to test those controls, helps the Internal Revenue Service (IRS) ensure compliance with tax laws. Obtaining Small Business Administration (SBA) data to identify Paycheck Protection Program (PPP) loan recipients is an important step to ensure employers comply with requirements for the Employee Retention Credit. We have ongoing work examining PPP and will continue to monitor the establishment of controls and collaboration and data sharing efforts between IRS and SBA.

Background

As the COVID-19 pandemic contributed to a fall in the employment-population ratio, Congress passed and the President has signed into law legislation intended to help employers support and retain affected employees. [309] Specifically, the enacted legislation generally allows employers to use tax credits and payroll tax deferrals to offset certain paid sick leave and other employee-related expenses. IRS is responsible for administering and ensuring compliance with the tax aspects of these provisions. The Department of Labor (DOL) oversees leave policy compliance under this legislation. IRS's general capacity to implement new initiatives such as these is an ongoing challenge cited in our High Risk Report.

The Families First Coronavirus Response Act (FFCRA), as amended by the CARES Act, requires covered employers to provide emergency paid sick leave and expanded family and medical leave to eligible employees affected by COVID-19 through December 31, 2020. Covered employers generally must provide eligible employees (1) up to 80 hours of emergency paid sick leave, subject to an aggregate payment cap, and (2) up to 12 weeks of emergency family and medical leave, including 2 weeks unpaid and 10 weeks paid at no less than two-thirds the eligible employee's regular rate of pay, subject to an aggregate payment cap. [310] Covered employers generally

[309]The employment-population ratio represents the percentage of the population that is currently working. In April 2020 the ratio dropped from 60 percent to about 51 percent. In May 2020, the ratio increased to 52.8 percent.

[310]Pub. L. No. 116-127, §§ 3101–3106, 5101–5111, 134 Stat. 178, 189-192, 195-201 (2020); Pub. L. No. 116-136, §§ 3601, 3602, 134 Stat. 281, 410 (2020).The emergency paid sick leave may be used for quarantine and other situations related to COVID-19 that leave employees unable to work, and both leave provisions cover care for a minor child whose school or care provider is unavailable due to COVID-19.

face liability for not offering the leave or discharging, disciplining, or discriminating against any employee for taking paid leave. [311]

FFCRA and the CARES Act include provisions for tax credits to mitigate the cost of this leave for smaller employers and to provide other tax relief. The Joint Committee on Taxation estimates that these provisions will lead to about $172 billion in foregone revenue for fiscal years 2020–2030.

- **Paid leave credits.** Businesses and tax-exempt organizations with fewer than 500 employees, as well as self-employed individuals are eligible for refundable FFCRA credits. [312] The credits are equal to the qualified leave wages, plus the employer share of Medicare taxes paid with respect to the qualified wages and allocable health plan expenses, from April 1 through December 31, 2020. Credit recipients who receive a PPP loan cannot count the wages paid for by the credit as payroll costs toward loan forgiveness. [313]

  The payroll tax credits may be claimed on the employer's employment tax return, typically Form 941, *Employer's Quarterly Federal Tax Return.* To receive immediate relief, employers may reduce their semiweekly or monthly payroll tax deposits by the amount of their credit. If an anticipated credit amount remains after reducing deposits, the employer may receive an up-front refund by filing Form 7200 *, Advance Payment of Employer Credits Due to COVID-19*.

- **Employee Retention Credit.** Under the CARES Act, employers of any size—including tax-exempt entities and self-employed individuals with employees—can receive the refundable Employee Retention Credit. The credit equals 50 percent of qualified wages (up to $10,000 per employee) paid from March 13 through December 31, 2020, including certain health care expenses. [314] Eligible employers are those who experience, in calendar year 2020, either (1) full or partial suspension of operation during any calendar quarter due to government orders limiting activity in response to COVID-19, or (2) a decline in gross receipts of more than 50 percent, compared with the same quarter in 2019.

  PPP recipients are not eligible for the Employee Retention Credit, unless they repaid the loan by May 18, 2020. Wages for which the FFCRA credits are allowed are not included in wages for

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[311]Covered employers that fail to provide emergency paid sick leave to eligible employees are considered to have committed minimum wage violations under the Fair Labor Standards Act of 1938, as amended, and they are subject to penalties described therein in addition to being liable to the affected employees. Covered employers are subject to additional penalties for discharging, disciplining, or discriminating against any employee for taking paid leave. The prohibitions and enforcement provisions in the Family and Medical Leave Act of 1993, as amended, apply to leave under the expanded family and medical leave provisions. Employees may also bring civil action against covered employers that violate the expanded family and medical leave provisions.

[312]FFCRA, § 7001–7004, 134 Stat. at 210–219; CARES Act § 3606, 134 Stat. at 411–412. A refundable tax credit reduces tax liability, dollar for dollar; if the credit exceeds tax liability, a refund is due. Full-time and part-time employees are counted. Both credits have maximum payouts. Self-employed individuals may not file for an advance on their credit refund.

[313]15 U.S.C. § 636(a)(36)(A)(viii)(II)(dd), (ee). PPP recipients must meet certain criteria for loan forgiveness; see "Paycheck Protection Program" in appendix III.

[314]CARES Act, § 2301, 134 Stat. at 347–351. For employers with more than 100 full time employees in 2019, the credit is calculated on wages paid to employees who are not providing services. For smaller employers, all wages are countable.

the Employee Retention Credit, among other exclusions from wages. [315] Employers can claim the credit on Form 941 and may reduce payroll tax deposits by the credit amount, or file Form 7200 for an advance refund.

- **Deferred payroll tax payments.** The CARES Act granted all employers the option to defer deposits and payments of the employer share of Social Security tax that they would otherwise be required to make during the period beginning March 27 through December 31, 2020. [316] Self-employed individuals may defer half of their Social Security tax due. [317] Deferred deposits are to be reported on Form 941.

Overview of Key Issues

The Wage and Hour Division (WHD) within DOL began enforcement actions related to the leave implementation on April 18, 2020, after a limited stay of enforcement. [318] Employees who believe their covered employer violated FFCRA may call a toll-free number for technical assistance or to file a complaint. As of May 29, 2020, WHD reported it had resolved over 700 compliance actions and had hundreds more underway. WHD investigators are conducting investigations remotely due to COVID-19 health concerns, and the agency reports it remains fully operational. According to DOL, covered employers must document the name of the employee, the dates of requested leave, a statement from the employee that he or she is unable to work, and the reason. For example, in the case of an employee's request to self-quarantine, DOL recommends that employers document the name of the health care provider who gave that advice.

For the employer tax credits, IRS began releasing guidance and is processing refunds. As of May 31, 2020, IRS said it had received 8,754 e-fax submissions, reviewed 7,185 Form 7200s, and issued $54.2 million in refunds. [319] More information will be available, including amounts of payroll tax deferrals and the number of employees of credit recipients, after second quarter Form 941s are due on July 31, 2020.

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[315] Employees counted under a Work Opportunity Tax Credit are not counted for purposes of the Employee Retention Credit.

[316] CARES Act, § 2302, 134 Stat. at 351–352. To be considered timely, deferred payments of 50 percent of tax are to be made by December 31, 2021, with the remainder due December 31, 2022. The employer share of social security tax is 6.2 percent of taxable earnings up to the cap on taxable income, which finances the Social Security trust funds.

[317] Self-employed individuals pay the employer and employee tax share, which is 12.4 percent of taxable earnings, up to the cap on taxable income.

[318] During the limited stay of enforcement period starting April 1, 2020, the date the FFCRA leave provisions became effective, WHD reserved its right to exercise its enforcement authority if the employer violated FFCRA willfully, failed to provide a written commitment to future compliance with FFCRA, or failed to remedy a violation upon notification by DOL. After April 17, 2020, this limited stay of enforcement was lifted.

[319] Multiple forms may be included in each e-fax submission. This may include duplicate submissions and aggregate submissions from the same employer. Per credit information is not available until employers file Form 941 for the second quarter.

IRS released Form 7200 and its instructions on April 1, 2020. In late March IRS began posting, and has updated, online information for each of the credits, followed by information in early April on the payroll tax deferrals. IRS also released draft revisions to Form 941 and its instructions, with final versions expected by the end of June 2020, according to IRS officials. When second quarter paper Form 941s with credit claims are filed, IRS officials said they will be grouped by date received and processed as IRS employees are available and facilities reopen.

For each of the credits, IRS shared with us its initial plans on ensuring compliance, addressing outreach, revising forms, updating technology, and training. IRS also provided staff with guides for reviewing and processing Form 7200, including steps to verify filer identity and signatures. IRS officials said they have met with SBA to develop a memorandum of understanding for SBA to provide data on PPP recipients to help ensure employers comply with requirements. They anticipated finalizing the memorandum this summer.

GAO Methodology and Agency Comments

To conduct this work, we reviewed DOL and IRS data as of May 31, 2020; reviewed federal laws, agency guidance and plans; and interviewed agency officials. IRS and Treasury provided technical comments, which we integrated as appropriate. DOL and SBA did not have any comments on this enclosure.

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Department of Housing and Urban Development Programs

The CARES Act appropriated approximately $12.4 billion to the Department of Housing and Urban Development, and the agency had obligated approximately 18 percent of program funds as of May 31, 2020.

Entities involved: Department of Housing and Urban Development

Key Considerations and Future GAO Work

When disasters occur, Congress often appropriates additional Community Development Block Grant funding for disaster recovery (CDBG-DR) through supplemental appropriations. These appropriations often provide HUD the authority to waive or modify many of the statutory and regulatory provisions governing the CDBG program, thus providing states with flexibility and discretion to address recovery needs. Congress provided HUD the same broad authority to waive statutory and regulatory requirements for the HUD programs that received CARES Act supplemental appropriations. [320] We reported in March 2019 that both HUD and CDBG-DR grantees have encountered administrative challenges, such as issues with grantee capacity, procurement, and improper payments. We recommended that HUD develop and implement a comprehensive monitoring plan to effectively manage the CBDG-DR grant portfolio. HUD agreed with this recommendation. [321] Such comprehensive monitoring plans could be beneficial to the HUD programs responsible for carrying out the additional administrative and oversight responsibilities under the CARES Act. [322] HUD officials noted that CDBG-DR grants are higher risk due to their scale and the types of permitted activities and that they believe CDBG funding provided by the CARES Act does not pose the same risk. Further, HUD officials also noted that extending hiring flexibilities and lengthening temporary positions would help the agency achieve the full benefits of the comprehensive monitoring program, as most of the CARES Act grants will last and require monitoring beyond 2021.

Additionally, we and HUD's Office of Inspector General have reported on persistent management challenges at HUD, which could affect the agency's management and oversight of the funding provided by the CARES Act. [323] Specifically, in July 2016, we found that HUD had not consistently incorporated key practices into its operations requirements to help ensure effective management,

[320]Pub. L. No. 116-136, div. B, tit. XII, 134 Stat. 281, 601-13 (2020).

[321]HUD has submitted information on steps the agency has taken in response to the recommendation, including completing risk analyses for the four largest 2017 CDBG-DR grantees and developing a pilot risk assessment to inform its broader risk management efforts. We are evaluating the information. As of June 8, 2020, this recommendation remains open.

[322]The HUD Office of Inspector General included administration of disaster recovery assistance on its list of top management challenges facing HUD. See HUD Office of Inspector General, *Top Management Challenges Facing the U.S. Department of Urban Development in 2020 and Beyond* (Washington, D.C.: Oct. 18, 2019).

[323]In addition to administration of disaster recovery assistance, the HUD Office of Inspector General listed human capital, providing adequate monitoring and oversight of operations and program participants, and modernizing technology and management and oversight of information technology as top management challenges facing HUD. See HUD Office of Inspector General, *Top Management Challenges Facing the U.S. Department of Urban Development in 2020 and Beyond.*

including in the areas of performance planning and reporting, information technology, and human capital. Turnover among senior leadership, shifting priorities, and resource constraints had contributed to difficulties implementing needed changes at the agency. We made eight recommendations for HUD to more fully implement key practices; three remain open, including two designed to improve agency governance and operations. [324] By implementing these recommendations, HUD will be better positioned to address the challenges posed by COVID-19.

We plan to continue to monitor HUD's use of CARES Act-related funds going forward.

Background

The CARES Act appropriated funds to HUD programs for purposes of providing additional resources to prevent, prepare for, and respond to housing needs related to COVID-19. [325] The act included more than $9 billion for grant programs (CDBG, homeless assistance grants, and Housing Opportunities for Persons with AIDS); $3.3 billion for rental housing assistance and public and Native American housing (Tenant-Based Rental Assistance, Project-Based Rental Assistance, Public Housing Operating Fund, Native American programs, and rental assistance for the elderly and disabled); and $2.5 million for fair housing programs (see figure).

[324]HUD agreed with the report's recommendations. Of those that remain open, two address key management practices. Specifically, one of the recommendations is to establish a process and schedule for regularly reviewing, revising, and updating HUD's human capital strategic plan, strategic workforce plan, and succession plan. The other recommendation is to establish a process and schedule for reviewing and updating policies and procedures to help ensure that those for key management functions remain current and complete. As of October 2019, HUD had developed an internal management calendar and associated standard operating procedures in response to the recommendations. The purpose of the management calendar is to document recurring processes of program offices across the agency, assist in planning and managing the agency's deliverables to ensure that critical deadlines are met, and provide information on ongoing reporting requirements occurring across the agency. We will determine whether HUD has fully implemented the two recommendations when the agency provides documentation showing how the management calendar is used for updating (1) human capital, workforce, and succession plans; and (2) policies and procedures for key management functions.

[325]Pub. L. No. 116-136, div. B, tit. XII, 134 Stat. *at* 601-13.

Status of Supplemental CARES Act Funding Obligations for HUD Programs as of May 31, 2020

HUD program office	Program[a]	Funding (Appropriated / Obligated)	Purpose	Expiration
Community Planning and Development	Community Development Block Grant	$5 billion / $215.8 million (4%)	Support state and local government activities to prevent, prepare for, and respond to COVID-19	9/30/22
	Emergency Solutions Grants	$4 billion / $136.4 million (3%)	Provide homeless assistance and prevention activities for individuals and families	9/30/22
	Housing Opportunities for Persons with AIDS	$65 million / $6.5 million (10%)	Maintain operations and rental assistance, supportive services, and other necessary actions	9/30/21[b]
Public and Indian Housing	Tenant-Based Rental Assistance	$1.25 billion / $377.8 million (30%)	Maintain public housing agency operations and take other necessary actions during the period of COVID-19	Available until expended
	Public Housing Operating Fund	$685 million / $685 million (100%)	Maintain public housing agency operations and take other necessary actions during the period of COVID-19	9/30/21
	Native American Programs	$300 million / $39.4 million (13%)	Maintain normal operations and fund eligible affordable housing activities during the period of COVID-19	9/30/24
Housing	Project-Based Rental Assistance	$1 billion / $800 million (80%)	Help property owners or sponsors that receive project-based rental assistance maintain normal operations and take other necessary actions during the period of COVID-19	Available until expended
	Section 202: Housing for the Elderly	$50 million / $0 (0%)	Help property owners or sponsors that receive project-based rental assistance maintain normal operations and take other necessary actions during the period of COVID-19	9/30/23
	Section 811: Housing for Persons with Disabilities	$15 million / $0 (0%)	Help property owners or sponsors that receive project-based rental assistance maintain normal operations and take other necessary actions during the period of COVID-19	9/30/23
Fair Housing and Equal Opportunity	Fair Housing	$2.5 million / $0.3 million (11%)	Address fair housing issues and support fair housing education and outreach activities relating to COVID-19	9/30/21

Total designated: $12.37 billion
Toal obligated (18%): $2.26 billion

Source: CARES Act and GAO analysis of Department of Housing and Urban Development (HUD) data. | GAO-20-625

[a]The CARES Act also appropriated $50 million to HUD for management and administration of CARES Act funding and $5 million to the HUD Office of the Inspector General for audits and investigations. Pub. L. No. 116-136, div. B, tit. XII, 134 Stat. at 601, 612.

[b]Funding for permanent supportive housing competitive grantees ($10 million) is to remain available until September 30, 2022.

Under the CARES Act, HUD must develop new formulas for allocating the appropriated funds for certain programs based on need or other metrics. [326] Tenant-Based Rental Assistance funds will be allocated based on need, as determined by the HUD Secretary, to provide additional subsidy for tenants facing higher rental costs due to the pandemic. In addition, funds designated for CDBG and Emergency Solutions Grants (homeless assistance) require new allocation formulas.

Further, the CARES Act included funding to help support HUD's administration and oversight of the programs, including $50 million for management and administration. [327] The $50 million comprises $35 million for administrative support—which includes information technology needs and telework support—and $15 million for the program offices administering most of the funding. Further, the act appropriated $5 million to the HUD Office of Inspector General for audits and investigations. [328]

[326]Pub. L. No. 116-136, div. B, tit. XII, 134 Stat. *at* 601-602, 604-610.

[327]Pub. L. No. 116-136, div. B, tit. XII, 134 Stat. *at* 601.

[328]Pub. L. No. 116-136, div. B, tit. XII, 134 Stat. *at* 612. Officials from HUD's Office of the Inspector General said they are developing a COVID-19-related audit plan.

Overview of Key Issues

- **Implementation challenges.** The CARES Act provided HUD with broad authority to waive statutes and regulations related to many of its programs. [329] Accordingly, HUD published a waiver notice on April 10, 2020, that encouraged public housing authorities to continue using available funding to house families, keep families in their homes, and conduct critical operations that can be done remotely and safely. However, a few industry groups have cautioned that because the thousands of local agencies that administer HUD programs are not required to seek waivers for these and other eligible activities, they may not use them. Inconsistent use or implementation of these waivers may result in many households not receiving needed subsidy increases, losing their subsidies, or being evicted.

- **Oversight challenges.** Since HUD received CARES Act funding for several of its programs, the agency designed an approach to help manage resources across the agency, strengthen data and technology systems in support of additional processing and reporting, and monitor program performance, among other goals. Specifically, HUD established the HUD Cares Act Compliance Response Team, which is tasked with implementing an oversight plan that focuses on the impact of the CARES Act on HUD people, processes, and technology. In addition, HUD established a central website with CARES Act funding information, guidance, and other information for grantees and other entities. While some program officials noted that they had not encountered any challenges to implementing the CARES Act provisions to date, another noted that administering the funds during an agency-wide shift to telework had been challenging. [330] In addition, officials from two program offices noted that they anticipated ongoing challenges with monitoring and reporting using HUD's databases and technology resources.

GAO Methodology and Agency Comments

To conduct this work, we reviewed HUD guidance and other documentation on the agency's website, written responses from HUD officials, our past work on the identified programs, and information from selected housing industry experts.

We provided a draft of this report section to HUD for review and comment. In its comments, reproduced in appendix XV, HUD noted that its Cares Act Compliance Response Team had identified reporting-related challenges to implementing the CARES Act. The agency said that it would continue putting processes in place to overcome challenges, and the CARES Act Compliance

[329]Pub. L. No. 116-136, div. B, tit. XII, 134 Stat. *at* 601-13. This authority did not apply to fair housing, nondiscrimination, labor standards, and environmental requirements.

[330]The HUD Office of Inspector General reported in June 2020 that based on a survey of selected HUD employees, the agency was generally well prepared for mandatory telework, but network connection issues and limited access to information technology resources disrupted operations to varying degrees, among other findings. See Department of Housing and Urban Development Office of Inspector General, *Telework Impact on HUD's Operations Due to the COVID-19 Pandemic* (Washington, D.C.: June 1, 2020).

Response Team would continue working to provide comprehensive and timely compliance monitoring. HUD also noted that top leadership is providing oversight and governance through a steering committee. In addition, HUD provided technical comments, which we incorporated as appropriate.

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Related GAO Products

Priority Open Recommendations: Department of Housing and Urban Development. GAO-20-500PR. Washington, D.C.: April 23, 2020.

Disaster Recovery: Better Monitoring of Block Grant Funds Is Needed . GAO-19-232. Washington, D.C.: March 25, 2019.

Department of Housing and Urban Development: Actions Needed to Incorporate Key Practices into Management Functions and Program Oversight. GAO-16-497. Washington, D.C.: July 20, 2016.

Retirement Accounts

Expanded options for withdrawals and loans from retirement accounts can provide financial assistance during the pandemic, but may affect future retirement security.

Entities involved: Department of the Treasury, Department of Labor, the Federal Retirement Thrift Investment Board

Key Considerations and Future GAO Work

We will continue to monitor these issues in additional work regarding the effect of COVID-19 on retirement accounts.

Background

Federal law both encourages workers to save for retirement and allows early access to retirement account assets. In the case of employer-sponsored retirement plans, such as 401(k) plans, early access to assets is allowed under certain circumstances, such as financial hardship. In addition, owners of individual retirement accounts (IRA) can access savings from their IRA at any time for any reason, though early withdrawals (before age 59 ½) from both IRAs and employer-sponsored retirement plans may be subject to an additional 10 percent tax and are generally included in taxable income. IRAs and employer-sponsored defined contribution plans, like 401(k) plans, contained more than $19 trillion at the end of 2019, according to data from the Investment Company Institute. In March 2019 we reported that individuals in their prime working years (ages 25 to 55) removed about $69 billion of their retirement savings early, according to 2013 data. The Internal Revenue Service, within the Department of the Treasury, is primarily responsible for enforcing IRA tax laws and works together with the Department of Labor to enforce laws governing 401(k) plans.

To provide assistance to those affected financially by the pandemic, the CARES Act temporarily expanded options for withdrawals from retirement accounts—for example, by waiving the 10 percent additional tax on some early withdrawals. [331] The act also expanded loan options for employer-sponsored retirement accounts and allowed for repayment of assets withdrawn from IRAs related to COVID-19. [332] It also temporarily suspended the requirement that individuals with certain retirement accounts must begin taking withdrawals in retirement (known as required minimum distributions) at a certain age, typically 72. [333] The Joint Committee on Taxation

[331]See CARES Act, Pub. L. No. 116-136, § 2202(a), 134 Stat. 281, 340-42 (2020).

[332]Loans are not permitted from IRAs. However, under the CARES Act, individuals that take a COVID-19 related distribution from eligible retirement accounts, including 401(k)s and IRAs, are generally able to repay all or part of the distribution within three years after the date that the distribution was received without owing federal income tax on the distribution amount that was repaid. See Pub. L. No. 116-136, § 2202(a)(3), 134 Stat. at 340-41.

[333]The age for required minimum distributions is 70 ½ for individuals who turned 70 ½ before January 1, 2020.

estimates that these CARES Act provisions will reduce federal tax revenues by about $7 billion over the 2020–2030 period, primarily in the first few years.

Overview of Key Issues

Withdrawals and loans from retirement plans. The CARES Act waives the 10 percent additional tax for certain early withdrawals from eligible retirement accounts for amounts up to $100,000 taken between January 1, 2020, and December 31, 2020. [334] The act also allows loans of up to $100,000 from employer-sponsored retirement accounts within 180 days of enactment and extended due dates of current loans by 1 year. [335] These changes apply to individuals affected by COVID-19. This includes individuals (or their spouse or dependent) who tested positive for COVID-19, or who face adverse financial consequences due to COVID-19—for example, from being quarantined, losing child care, being furloughed or laid off, or having reduced work hours. Retirement plan sponsors may rely on self-certification that the individual is affected by COVID-19.

While such withdrawals or loans can help workers facing financial difficulties, they can also affect a worker's long-term retirement security by reducing account assets and investment gains that could have been realized if those assets had remained in the account. While data on the number of COVID-19-related withdrawals or loans are not currently available, the Federal Retirement Thrift Investment Board anticipates being able to track such data for federal workers by July 2020. While federal workers have generally had more employment stability than private-sector workers during the pandemic, they may still have experienced child care loss, spousal employment loss, or other COVID-19-related situations, so their future withdrawal and loan activity patterns may give an indication of potential trends nationwide.

Some situations may affect the process of withdrawing retirement account assets or paying them back.

- Some individuals with employer-sponsored retirement plans may have trouble accessing their account savings during the pandemic if their employer goes out of business or is temporarily closed.
- While loans from employer-sponsored retirement accounts may be repaid through payroll deduction, repayment of IRA assets that are withdrawn may be handled differently because individuals do not typically contribute to IRAs through payroll deduction.

Required minimum distributions. Required minimum distributions from certain retirement accounts were also suspended by the CARES Act through December 31, 2020, which effectively makes the tax for failing to make such withdrawals inapplicable for this period. [336] This flexibility

[334]See Pub. L. No. 116-136, § 2202(a), 134 Stat. at 340-42.

[335]See Pub. L. No. 116-136, § 2202(b), 134 Stat. at 342.

[336]See Pub. L. No. 116-136, § 2203, 134 Stat. at 343-44.

could allow individuals with such accounts to avoid making withdrawals during a period of depressed financial market conditions. In such conditions, the required minimum distribution may be proportionally larger than it would be in typical market conditions because the distribution amount is calculated based on the account balance at the end of the prior year. Suspending the required minimum distributions may also allow individuals to maintain their current tax bracket by eliminating an income stream that could have otherwise increased their taxable income.

GAO Methodology and Agency Comments

To conduct this work we reviewed federal laws, agency guidance, and relevant data and publications, and interviewed agency officials. The Department of the Treasury provided technical comments, which we incorporated as appropriate. The Department of Labor and the Federal Retirement Thrift Investment Board did not provide comments on the enclosure.

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Related GAO Products

Retirement Savings: Additional Data and Analysis Could Provide Insight into Early Withdrawals. GAO-19-179. Washington, D.C.: March 28, 2019.

The Nation's Retirement System: A Comprehensive Re-evaluation Is Needed to Better Promote Future Retirement Security. GAO-18-111SP. Washington, D.C.: October 18, 2017.

Tax Deduction for Charitable Contributions

The CARES Act increases tax benefits for individuals and corporations that donate to nonprofits, but the effect on charitable giving is uncertain.

Entities Involved: Internal Revenue Service

Key Considerations and Future GAO Work

We plan to monitor the Internal Revenue Service's (IRS) implementation of the new provisions as part of our annual IRS Filing Season work and our oversight of business-related provisions of the CARES Act.

Background

Our nation depends on charitable organizations to provide vital services to citizens. The nonprofit sector comprises a significant part of our economy. Researchers estimated that giving to charitable organizations totaled $428 billion in 2018. [337] Federal tax law permits individual and corporate taxpayers to reduce their tax liability by deducting contributions to charitable organizations on their income tax returns. Individual taxpayers may deduct the amount of a contribution to a charitable organization from their gross income if they itemize their deductions. Charitable contributions are generally limited to 10 percent of a corporation's taxable income and to 50 percent of an individual's contribution base (generally, adjusted gross income). [338]

The statute known as the Tax Cuts and Jobs Act, indirectly reduced the scope of this tax benefit, among other things. [339] The act increased the standard deduction amount for individuals and limited the deduction for state and local taxes and the mortgage interest deduction. [340] These changes caused more individuals to claim the standard deduction instead of itemizing their deductions. As a result, many individuals who previously deducted charitable contributions no longer itemized their deductions and therefore no longer claimed the charitable contributions deduction.

The CARES Act made a number of changes to the charitable contributions deduction, including the following:

[337]Donation totals were reported by Giving USA in June, 2019.

[338]26 U.S.C. 170(b)(1), (2). For 2018 through 2025, the limit on deductions for cash contributions from individuals to charitable organizations is increased to 60 percent. 26 U.S.C. 170(b)(1)(G).

[339]Pub. L. No. 115-97.

[340]Pub. L. No. 115-97, §§ 11021, 11042, 11043, 131 Stat. 2054, 2072–2073, 2085–2087 (2017).

- allowing individuals who do not itemize to deduct up to $300 from their adjusted gross income. The deduction is available for cash contributions made only during 2020, [341]
- suspending the limit on the tax deduction for charitable contributions of cash made by individuals in 2020,
- increasing the limit to 25 percent of the corporation's taxable income for the tax deduction for charitable contributions of cash made by corporations in 2020, and [342]
- increasing the limit to 25 percent of the contribution base for the tax deduction for charitable contributions of food inventory in 2020

The Joint Committee on Taxation estimates these provisions will lead to more than $2.5 billion in reduced federal revenue in fiscal years 2020 to 2030. However, the effect of these changes will likely not be known until after the end of the 2020 filing season.

Overview of Key Issues

According to IRS officials, IRS is in the process of updating guidance related to these changes. However, IRS has not yet issued that guidance or updated the forms on which the charitable tax deductions are claimed. In our 2019 report on tax-exempt entities, we found that taxpayers may engage in abusive tax schemes that take advantage of charitable deductions. However, IRS audits of all abusive tax schemes were trending downward between 2008 and 2017. We also found that IRS could better leverage data it already collected on abusive tax schemes involving tax-exempt entities. In response, we made a number of recommendations to IRS to enhance its efforts to identify and combat abusive tax schemes that involve tax-exempt entities. IRS has not yet implemented those recommendations.

GAO Methodology and Agency Comments

To review how IRS administered the deduction, we examined federal laws, agency guidance, and GAO's work on tax-exempt organizations.

[341] Pub. L. No. 116-136, § 2204, 134 Stat. 281, 345 (2020).

[342] CARES Act, § 2205, 134 Stat. at 345–346 (2020). These changes apply only to cash contributions to public charities and do not apply to contributions to supporting organizations or for the establishment of a new, or maintenance of an existing, donor advised fund.

We provided a draft of this enclosure to Treasury, OMB, and IRS for review and comments. In written comments, IRS provided technical comments, which we incorporated as appropriate. OMB and Treasury did not comment on this enclosure.

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Related GAO Products

Tax-Law Enforcement: IRS Could Better Leverage Existing Data to Identify Abusive Schemes Involving Tax-Exempt Entities. GAO-19-491. Washington, D.C.: September 5, 2019.

Tax-Exempt Organizations: Better Compliance Indicators and Data, and More Collaboration with State Regulators Would Strengthen Oversight of Charitable Organizations. GAO-15-164. Washington, D.C.: December 17, 2014.

Unemployment Insurance Programs

The unprecedented volume of new unemployment insurance claims in the wake of the COVID-19 pandemic poses major challenges for federal and state officials to provide benefits, help with reemployment, and identify and prevent improper payments.

Entity involved: Department of Labor

Key Considerations and Future GAO Work

As the nation begins to recover from the COVID-19 crisis, the workforce system and the unemployment insurance (UI) program will face challenges with reemployment and program integrity efforts. [343] Reemployment efforts could be slowed by, among other things: (1) minimal information from the Department of Labor (DOL) to its UI partners to date on how to assist millions of Americans in returning to work, and (2) enhanced UI benefits that could discourage certain individuals from returning to work when their workplaces reopen because their UI benefits are greater than their regular wages. Also, experiences with previous temporary UI expansions—such as disaster-related UI programs—and efforts to identify those claimants who return to work while improperly receiving UI benefits suggest that the CARES Act programs may be at an increased risk of improper payments.

One such program that could expose the UI program to improper payments is the new Paycheck Protection Program (PPP), designed to provide loans to small businesses to help them keep their workers on payroll. Improper payments could result if certain workers paid with PPP proceeds simultaneously receive UI benefits. The Small Business Administration (SBA), which administers the PPP, has stated that, consistent with PPP regulations, employers that take PPP loans must generally rehire laid-off employees or face loan forgiveness reductions, and must report to the state UI agency if any of those employees refuse to return to work. For its part, DOL has an opportunity to address this risk, in coordination with SBA. Although DOL plans to issue questions and answers to state unemployment agencies about this risk in the near future, it has not yet provided such information.

To ensure that proper controls are in place to prevent and detect certain individuals from simultaneously receiving pay funded with PPP and UI payments, we recommend that DOL, in consultation with the SBA and Treasury, immediately provide information to state unemployment agencies that specifically addresses SBA's PPP loans, and the risk of improper payments associated with these loans. Challenges stemming from such program integrity issues could result in the loss of millions of dollars that may be difficult to recover.

[343]The nation's public workforce system, overseen by the Department of Labor, refers to a network of state and local partners that provide services to jobseekers, including unemployment insurance claimants, through programs primarily administered by the departments of Labor and Education. Services such as job search assistance, career counseling, skills assessments, and certain training services are provided at the local level through nearly 2,400 American Job Centers.

We are starting work that will examine, among other issues, states' challenges in processing the record level UI claims and addressing program integrity, as well as DOL's related assistance in these areas.

Background

The need for UI benefits has rarely been greater than during the COVID-19 pandemic. The UI program is a federal-state partnership that, among other things, provides temporary financial assistance to eligible workers who become unemployed through no fault of their own. [344] The regular UI program is funded primarily through federal and state taxes levied on employers. States design and administer their own UI programs within federal parameters, and DOL oversees states' compliance with federal requirements, such as ensuring that states pay benefits when they are due. To be eligible for UI benefits, applicants generally must be able and available to work, and actively seeking work. [345]

In addition to the regular UI program, the CARES Act created three new, federally funded temporary UI programs that expand UI benefit eligibility and enhance benefits: [346]

1. Pandemic Unemployment Assistance (PUA) generally authorizes up to 39 weeks of UI benefits to individuals not otherwise eligible for UI benefits, such as the self-employed and certain gig economy workers, who are unable to work as a result of COVID-19; [347]

2. Federal Pandemic Unemployment Compensation (FPUC) generally authorizes an additional $600 benefit that augments weekly UI benefits available under the regular UI program, as well as CARES Act UI programs; [348] and

3. Pandemic Emergency Unemployment Compensation (PEUC) authorizes an additional 13 weeks of UI benefits to those who exhaust their regular UI benefits. [349]

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[344]We refer to the UI program as the regular UI program and the benefits paid under the program as regular UI benefits.

[345]Federal law requires states to have, as a condition of eligibility for UI administrative grants, laws that require claimants to be able to work, available to work, and "actively seeking work" as a condition of eligibility for UI benefits. 42 U.S.C. § 503(a)(12).

[346]According to data provided by DOL, as of June 9, 2020, all states had Federal Pandemic Unemployment Compensation, 51 states had implemented Pandemic Unemployment Assistance, 40 states had implemented Pandemic Emergency Unemployment Compensation, and 40 states had implemented all three programs. For purposes of these programs, the District of Columbia and various U.S. territories count as states.

[347]Pub. L. No. 116-136, § 2102, 134 Stat. at 313.

[348]Pub. L. No. 116-136, § 2104, 134 Stat. at 318.

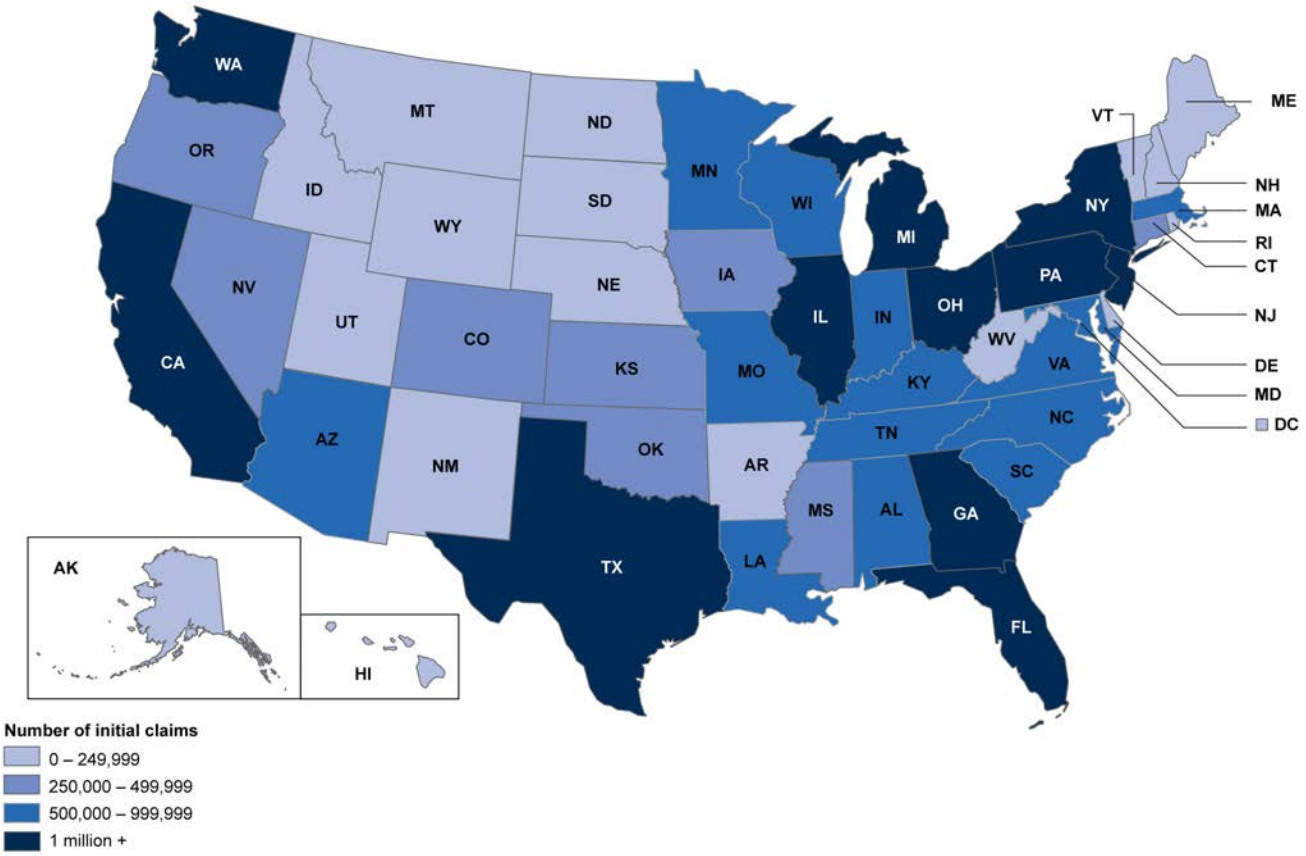
[349]Pub. L. No. 116-136, § 2107, 134 Stat. at 323. In addition, the act also addressed other elements of the unemployment insurance system. For example, the act also authorized certain flexibilities for states in hiring additional state agency staff.

In addition to the CARES Act, the Families First Coronavirus Response Act (FFCRA) provided up to $1 billion in emergency grant funding to states in fiscal year 2020 for administrative purposes. The first half of the funding is available to states that meet requirements related to notifications related to UI and access to the application process. The second half of the funding is available to states that experience at least a 10 percent increase in quarterly UI claims over the same quarter of the previous calendar year, and meet, among others, certain requirements related to easing UI eligibility requirements for individuals, such as waiving work search requirements.

Overview of Key Issues

Record new UI claims and CARES Act program implementation. In the wake of the COVID-19 pandemic, new claims have reached historic levels, posing challenges for states' capacity to process them and for state and federal implementation of the CARES Act programs. In fiscal year 2019, the most recent year of data available, the UI program paid about $27.3 billion in benefits for 5.1 million beneficiaries, according to information provided by DOL. However, over the 3-month period from March through May 2020, the number of initial UI claims had surpassed 42 million, compared to about 2 million claims in all programs as of the end of February 2020, and unemployment is expected to remain elevated. For the period from March 21 to May 30, 2020, eleven states each had over 1 million initial UI claims (see figure).

Total Initial Unemployment Insurance Claims by State, March 21 to May 30, 2020



Source: GAO analysis of Department of Labor data. | GAO-20-625

Note: Data reflect information on initial regular unemployment insurance claims, reported weekly by the Department of Labor and are subject to change. Data presented in the figure are not seasonally adjusted. Additionally, according to the Department of Labor, although the department instructed states to report Pandemic Unemployment Assistance claims separately, it is possible that some states included data for such claims in their regular claims data. Data retrieved on June 8, 2020.

According to DOL officials, state UI programs face challenges with antiquated data systems and an insufficient level of staff with the necessary experience to process claims, especially those involving claims for gig and other non-traditional workers who ordinarily would not qualify for UI benefits. For example, DOL officials told us that states with older information technology (IT) systems—that in some cases date as far back as the 1970s—have reported crashes with the current claims volumes. In addition, some individuals have reported having difficulty accessing UI benefits.

While DOL has assisted states' efforts to modernize their IT systems in recent years by, for example, providing grants, technical assistance, and guidance, relatively few states had load-tested their systems for the volume of claims they have been receiving, according to the National Association of State Workforce Agencies (NASWA). [350] To support states' implementation of the CARES Act UI programs, DOL has provided technical assistance by, for example, leveraging the

[350]The National Association of State Workforce Agencies represents agencies from all 50 states, the District of Columbia, and U.S. territories that deliver training, employment, career services, certain employer services, and labor market information, and that administer unemployment insurance and veteran reemployment programs.

assistance of its Chief Information Officer, according to DOL. Regarding states' challenges with insufficient staffing, NASWA officials told us that many states had reduced the number of staff that manage UI claims in response to strong economic conditions and historically low unemployment rates that prevailed before the pandemic. NASWA officials also explained that given the complex nature of the UI program, training staff to process claims can require several months of training. Additionally, NASWA and DOL Office of Inspector General (OIG) officials said that even for staff experienced in processing UI claims, learning to process claims for gig and other nontraditional workers presents an added layer of complexity. To address the processing of such workers' claims, DOL has collaborated with NASWA to develop training, according to DOL.

DOL has disbursed to states nearly all of the emergency administrative funding under FFCRA. DOL officials provided information that they had disbursed all of the $500 million for the first half of administrative funding, and disbursed about $498 million of the $500 million authorized for the second half of the funding. As of June 3, 2020, Puerto Rico is the only state or territory that has not applied for the second allotment.

Reemployment challenges. The UI program and public workforce system will face the challenge of large numbers of workers returning to their job as businesses reopen, with little information to date from DOL on reemployment efforts. Although as of June 3, 2020, DOL has reminded states and workforce system partners of existing resources and flexibilities that can support services for jobseekers overall, DOL had issued no new information to workforce system partners regarding reemployment of UI claimants affected by the COVID-19 pandemic. According to DOL, states already have full authority to operate the programs that can serve jobseekers. Additionally, according to DOL, states and local partners are beginning to deliver services both virtually and in person, and are developing plans to deliver in-person services safely, such as by reconfiguring physical space.

Even as individuals are offered the opportunity to return to work, they may choose not to do so. While the $600 additional weekly benefit under FPUC, currently available through July 2020, may help claimants by, for example, helping them avoid taking on debt or accessing their retirement funds [351] and may play a role in promoting public health, it could pose challenges to efforts to rehire certain workers—especially minimum-wage earners and others with lower paying jobs—throughout its duration. Also, claimants may have health and safety concerns, making them hesitant to return to work. [352] DOL has encouraged states to ask employers to provide information when workers refuse to return to their jobs for reasons that do not support their continued eligibility for benefits. [353]

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[351]For information about the implications of the CARES Act on retirement security, see "Retirement Accounts" in appendix III.

[352]According to DOL, most state laws allow for refusal of suitable employment for good cause, which may include, but are not limited to, the degree of risk to an individual's health and safety. Specifically related to the COVID-19 pandemic, DOL has issued guidance stating that if a person has left an employer due to pandemic health concerns related to that person or to the care of others and does not return, state law can be used to determine if this was a good cause separation. Department of Labor, *Unemployment Program Insurance Letter* No. 10-20, March 12, 2020.

[353] *Unemployment Insurance Program Letter*, No. 23-20 (May 11, 2020). Additionally, DOL has provided guidance to state UI agencies that explains that individuals who refuse to return to work when requested by their employer or refuse a suitable job offer do not qualify for Pandemic Unemployment Assistance. *Unemployment Insurance Program Letter*, No. 16-20, Change 1, Attachment 1 (April 27, 2020).

Program integrity efforts. State UI agencies are expected to face challenges with efforts to identify and detect improper payments. [354] To assist states with these efforts, DOL has provided guidance to state UI agencies that the CARES Act UI programs operate in tandem with the regular UI program's existing eligibility requirements. In addition, DOL stated that it will work with its OIG, which received appropriations under the CARES Act to conduct certain oversight activities.

Program integrity will likely remain an ongoing concern for DOL and the states with the implementation—and cessation—of CARES Act UI programs. Due to its level of reported improper payments, UI has been designated as a high priority program for addressing this issue by the DOL OIG. Experience with temporary UI programs following natural disasters suggests there may be an increased risk of improper payments associated with CARES Act UI programs. For example, the DOL OIG has found improper payments in past audits of the Disaster Unemployment Assistance program, the regulations for which generally apply to PUA. DOL reported that 32 percent of the over $2.7 billion in estimated benefits overpaid to claimants in fiscal year 2019 was due to them returning to work while continuing to claim regular benefits. Moreover, according to the Secret Service, multiple states appear to be experiencing organized fraud targeting the UI program involving the misuse of personally identifiable information, with potential losses in the hundreds of millions of dollars. Additionally, the new Paycheck Protection Program (PPP) created by the CARES Act could increase the risk of the UI program for improper payments. The program, administered by the Small Business Administration (SBA) provides guarantees for forgivable loans to assist small businesses in, among other things, keeping their workers on payroll. [355] The UI program is generally intended to provide benefits to individuals who have lost their jobs, while under PPP employers are generally required to retain or re-hire employees (or face reductions in loan forgiveness eligibility).

According to SBA officials, consistent with PPP regulations, employers that take PPP loans must generally rehire laid-off employees or face loan forgiveness reductions, and must report to the state UI agency if any of those employees refuse to return to work. [356] In its guidance to state unemployment agencies, DOL notes that states are expected to enforce statutory provisions related to fraud, or risk violating their agreement to administer the CARES Act UI programs. However, it does not address PPP loans specifically, or the risk of improper payments associated with such loans, although DOL told us it plans to issue questions and answers about this risk in the near future. According to DOL, although UI claimants' income and reemployment are both reportable, no mechanism currently exists that could capture information in real time about UI claimants who may receive wages paid from PPP loan proceeds. Federal internal control standards state that effective information and communication are vital for an entity to achieve its objectives.

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[354]An improper payment is defined as any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. It includes, but is not limited to, any payment to an ineligible recipient. See 31 U.S.C. § 3321 note. While improper payments may be the results of errors, they may also be the result of fraudulent activities.

[355] *See* Pub. L. No. 116-136, §§ 1102, 1106, 134 Stat. 281, 286, 297; 85 Fed. Reg. 20,811 (Apr. 15, 2020).

[356]In an Interim Final Rule posted on May 22, 2020, SBA required that PPP borrowers inform the applicable state unemployment insurance office if an employee rejected an offer of reemployment within 30 days of the employee's rejection of the offer in order to qualify for an exemption to a reduction in the loan forgiveness amount due to decreased employment numbers. See 85 Fed. Reg. 33,004, 33,007 (June 1, 2020).

[357] As such, the standards state that management should externally communicate the necessary quality information to achieve its objectives. Given the large number of SBA loans and the millions applying for unemployment benefits, additional information would call state attention to the potential for improper payments.

GAO Methodology and Agency Comments

To conduct this work, we reviewed information DOL provided as of May 2020; reviewed relevant federal laws, agency guidance, and DOL Office of Inspector General reports; and interviewed DOL and SBA officials, DOL Office of Inspector General officials, and representatives of the National Association of State Workforce Agencies.

We shared a draft of this report with DOL and SBA officials. While DOL neither agreed nor disagreed with our recommendation, it noted that DOL is preparing questions and answers regarding individuals collecting UI benefits while simultaneously receiving payment from the PPP. DOL also said that it has reached out to SBA to help inform this guidance, and expects to release it to state UI agencies within the next month. SBA provided technical comments that we incorporated as appropriate.

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[357] GAO-14-704G. See Internal Controls Principle 15.

Federal Student Loans

The Department of Education quickly suspended interest accrual and student loan payments but some types of involuntary collections and communications to borrowers were more challenging to address quickly.

Entities involved: Department of Education

Key Considerations and Future GAO Work

As the Department of Education (Education) continues to implement applicable CARES Act provisions and other agency actions to offer student loan relief and to address areas of borrower confusion, it must also plan for returning to normal operations, currently scheduled to begin after September 30, 2020. It will be critical to ensure that borrowers are fully informed and prepared for federal student loan interest accrual, payments, and collections when they resume. We will continue to review Education's implementation and communication efforts.

Background

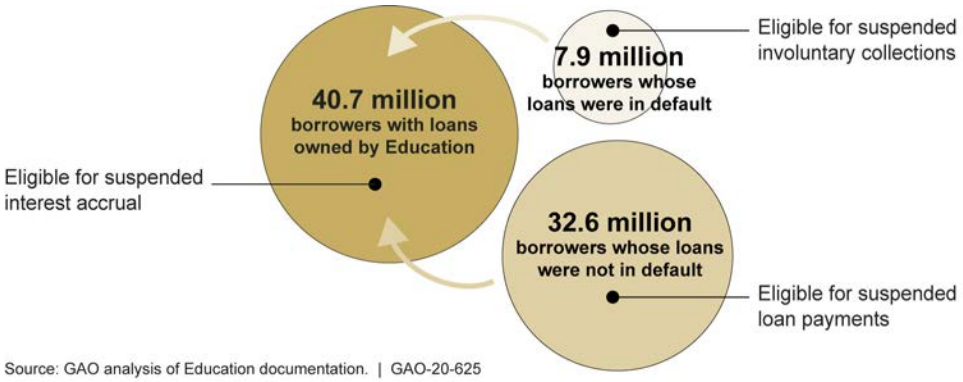
Federal student loans are an important resource to help individuals access higher education. As of March 31, 2020, student borrowers had a combined $1.5 trillion in outstanding federal student loan debt, according to data from Education. The majority of these loans are part of the William D. Ford Federal Direct Loan (Direct Loan) program and are owned by Education. However, some older federal student loans were made under the Federal Family Education Loan (FFEL) and Federal Perkins Loan programs, and may not be owned by Education. Loan servicers under contract with Education are responsible for maintaining federal student loan records, communicating with borrowers about the status of their loans, and processing payments. Education also contracts with private collection agencies to collect payments from borrowers who have defaulted on their loans.

The CARES Act and actions taken by Education provided several types of relief to borrowers with federal student loans owned by Education. These included suspending: (1) interest accrual, (2) all payments due, and (3) involuntary collections for any such loans in default. [358] According to

[358] On March 27, 2020, the CARES Act was enacted, which suspended payments due, interest accrual, and involuntary collections for Direct Loans and FFEL loans held by Education, through September 30, 2020. See Pub. L. No. 116-136, § 3513(a), (b), (e), 134 Stat. 281, 404-05 (2020). Involuntary collections may include wage garnishments and offsets of tax refunds or federal benefit payments. In addition, Education has taken several actions, including some prior to the enactment of the CARES Act, to implement similar relief to borrowers, including those with other federal loans held by Education, such as Perkins loans. In this enclosure, we do not differentiate between actions Education took independently of the CARES Act and actions Education took under the CARES Act. In addition, the CARES Act requires the Secretary of Education to ensure that, for the purpose of reporting loan information to consumer reporting agencies, any payment that has been suspended under the CARES Act is treated as if it were a regularly scheduled payment made by a borrower. The CARES Act also provides that, for the purpose of federal student loan rehabilitation or forgiveness programs for which a borrower is otherwise qualified, the Secretary shall deem each month for which a loan payment

Education, this relief applies to the period between March 13, 2020, and September 30, 2020. See figure for more information about the number of borrowers eligible for this relief. Private student loans and federal loans owned by commercial lenders or schools (rather than Education) are not eligible for this relief.

Number of Borrowers Eligible for Relief under the CARES Act Federal Student Loan Provisions and Department of Education (Education) Actions, April 2020



Source: GAO analysis of Education documentation. | GAO-20-625

Note: According to Education, the numbers of borrowers whose loans were in default and borrowers whose loans were not in default do not add to 40.7 million due to rounding.

Overview of Key Issues

Suspending interest accrual and payments. Education reported that, as of mid-April 2020, it had suspended federal student loan interest accrual and payments for all eligible borrowers, effective through September 30, 2020. This included suspending interest accrual for all 40.7 million borrowers with loans owned by Education and suspending payments for 32.6 million of those borrowers whose loans were not in default, according to Education. Education implemented these suspensions retroactively to March 13, 2020, the date a national emergency was declared.[359]

Suspending involuntary collections for defaulted loans. Some types of involuntary collections, particularly wage garnishments, were more challenging to halt. Given that some involuntary collections occurred on or after March 13, 2020, Education implemented processes to provide refunds to borrowers.

was suspended under the CARES Act as if the borrower had made a payment. Pub. L. No. 116-136, § 3513(c)-(d), 134 Stat. at 404.

[359] According to Education, the 32.6 million borrowers it described as eligible for suspended loan payments through the CARES Act and agency actions include borrowers who did not owe any payments for a variety of reasons including because they were in school or were in the grace period—usually 6 months—after completing school. They also include less than 1 percent of borrowers who opted to continue making payments, as of May 2020. In addition, Education officials said that the portfolio of loans continues to change due to a variety of factors including new loans entering loan servicers' systems and loans moving from in-school status to grace period status. Education said that as such changes occur during the time period covered by the CARES Act and agency actions, the loans are updated to zero percent interest as well as to suspended payment status (forbearance), when appropriate.

- Some borrowers continued to have their wages garnished as of early June 2020, according to Education. Education officials said halting garnishment of wages on defaulted loans has been challenging because Education must first notify employers in writing, and then employers must stop the garnishments. Education reported that its designated servicer began sending notifications to employers who were garnishing wages in mid-April, after the servicer established a new automated process for notifying employers. [360] Once notifications were sent, Education officials, as well as a private collection agency group and a borrower group, noted that some employers may have experienced delays in receiving these notifications due to telework operations, suspended operations, or outdated contact information. Given continued wage garnishments, Education reported that it started to issue refunds to borrowers in mid-April and it has since reduced the time it takes to process a refund. Education said that it was conducting additional outreach to employers that continue to garnish wages. [361]

- Education reported that, as of March 2020, it had ordered other collections on defaulted loans taken from Social Security payments and federal tax refunds by the Department of Treasury (Treasury), as well as collection activities such as phone calls to borrowers by private collection agencies, to be halted for borrowers who were subject to such collections on or after March 13, 2020. Education stated in June 2020, that Treasury collected over $2.3 billion from over 1 million borrowers before halting collections and that most of these collections occurred on or after March 13, 2020 and before March 20, 2020 when Education ordered that those collections be halted. Education also reported that it had requested that Treasury refund involuntary payments collected on or after March 13, 2020. [362] Similarly, Education reported working with its collection contractors to issue refunds for any collections they made on or after March 13, 2020. [363]

Ineligible loans. For at least 6.9 million borrowers with federal student loans, one or more of their loans were ineligible for relief under the CARES Act provisions or Education's actions because they are not owned by Education. This includes more than 50 percent of borrowers with FFEL loans (about 6.9 million borrowers) and about 80 percent of borrowers with Perkins Loans (about 1.6 million borrowers), according to Education as of April 2020. [364] Federal loans that are ineligible for

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[360] Before Education's designated servicer sent notifications in writing to employers, Education reported that its servicer also called some employers with the largest number of borrowers under wage garnishment orders to instruct them to cease all wage garnishments for eligible borrowers.

[361] A class-action lawsuit was filed in federal district court against the Department of Education on April 30, 2020, alleging that Education failed to suspend wage garnishment in violation of the CARES Act. Barber v. DeVos, No. 20-1137 (D. D.C. filed Apr. 30, 2020).

[362] In its comments on the draft enclosure, Education stated that it has transmitted such requests for 99.8 percent of refunds and is working with Treasury to identify borrower mailing addresses for the remaining 0.2 percent of outstanding refunds. Education also stated that more than 85 percent of the offset payments that were ultimately refunded were collected prior to the passage of the CARES Act.

[363] A class-action lawsuit was filed in federal district court against the Departments of Education and Treasury on May 29, 2020, alleging that they failed to suspend offsets from tax refunds in violation of the CARES Act. Cole v. Mnuchin, No. 20-1423 (D. D.C. filed May 29, 2020).

[364] Education noted that these numbers should not be added because some borrowers have both FFEL and Perkins Loans that are not owned by Education.

the pandemic-related relief under the CARES Act provisions or Education's actions may be eligible for other types of relief, such as income-driven repayment plans or emergency forbearance. [365] Some loan holders have voluntarily suspended payments or interest accrual for ineligible federal or private loans. Examples of relief being offered include:

- One state university system that holds over $90 million in Perkins Loans announced in April 2020 that it would (1) suspend interest accrual for all loans and (2) suspend loan payments for borrowers with overdue payments and for others upon request, through September 30, 2020.
- Some private student loan lenders—including at least two that also service a large proportion of federal student loans—are offering borrowers relief options such as 90 days of suspended payments.

Communicating with borrowers. Education faced challenges in providing borrowers with timely and accurate information during the initial weeks of implementing the CARES Act provisions and agency actions to provide relief to borrowers. Implementing this relief involved Education quickly making changes to its contracts with servicers to include the new policies and servicers quickly reprogramming their loan processing systems in order to apply the provisions retroactively. Education and a servicer stakeholder group noted that these steps were occurring at the same time that staff were moving to remote work during the pandemic. While these changes were occurring, some borrowers may have received incorrect information. For example, Education reports and borrower groups described instances in which loan records did not initially reflect suspended payments and interest accrual or were incorrectly marked as delinquent. In addition, Education identified instances in which call centers experienced high rates of dropped calls or representatives provided incorrect information. For example, three of nine servicers responded incorrectly to at least 40 percent of Education's "secret shopper" questions on April 7, 2020.

By mid-April 2020, Education and servicers had increased communication to borrowers about student loan relief by updating and expanding their websites and sending out individual borrower communications. Specifically, Education updated its website about available relief to expand and revise the information it began posting on March 13, 2020. It also verified that servicer websites included a prominent link to their frequently asked questions web pages. Servicers varied in the extent to which they chose to provide supplementary information to help borrowers understand how the available student loan relief applied to their circumstances. For example, one servicer included multiple pages of information on various borrower scenarios, and another provided more general information and advised borrowers to refer to Education guidance. Once certain types of relief had been implemented, servicers were also required to distribute notification letters to borrowers, using a template provided by Education.

[365] Income-driven repayment plans allow eligible borrowers to make payments based on their income and family size. Education also issued guidance on April 3, 2020, stating that it considered the President's March 13, 2020, declaration of a national emergency concerning the COVID-19 outbreak to be equivalent to a federally declared major disaster, as defined in the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The guidance provided information on additional emergency flexibilities and regulatory relief available to institutions of higher education and their students.

Education has tracked implementation and communication of student loan relief through daily monitoring reports and other communications with servicers. [366] Among other information, these daily reports track call center traffic and wait times; the results of Education's "secret shopper" calls to servicer call centers; and borrower opinions on social media. Officials told us that they worked with servicers to address identified issues. In mid-April 2020, Education sent servicers letters outlining their specific strengths and areas of needed growth, based on its daily monitoring reports. For example, on April 10, 2020, Education instructed one servicer to improve its call center operations because its wait times were longer than most other servicers, and about 10 percent of borrower calls were dropped during the reviewed time period.

While the availability and accuracy of information on the CARES Act provisions and agency actions to provide student loan relief generally improved over time, some areas of confusion or inaccuracy persisted into late April and May. Education monitoring reports identified fewer instances of inaccurate responses by call center staff, and borrower advocacy groups told us that many initial areas of confusion improved by mid-April 2020. However, Education and stakeholder groups identified continuing challenges or additional actions needed, which Education has worked to address. For example:

- **Loan forgiveness:** Throughout April 2020, Education monitoring reports identified inconsistencies in the information the agency provided to servicers regarding how borrower relief affected the Public Service Loan Forgiveness program. [367] The agency found that this led servicers to provide some borrowers with inaccurate information. Education reported taking actions in May to address it, such as by revising servicer contracts to include consistent information to servicers about this issue.

- **Credit reports:** Borrower stakeholder groups identified concerns about how suspended payments could affect the credit scores of some borrowers . According to Education, it identified challenges related to credit reporting through its monitoring efforts. For example, it identified an issue with one of its loan servicers incorrectly reporting suspended loan payments to credit service companies as a deferred payment due to a coding error, which negatively affected borrower credit information reported by at least one credit service company. Education reported that the servicer has updated its coding and sent corrected files to credit service companies. [368] Education also reported coordinating with the Consumer Financial Protection Bureau to reach out to a credit service company about its approach to factoring suspended student loan payments into its credit reporting.

- **Loans in Default:** Education monitoring reports continued to identify challenges related to private collection agency call centers for borrowers with defaulted loans, such as long wait times and dropped calls. In late April 2020, Education officials said they were developing plans

[366] Education stated that recent changes to its quality assurance process helped with this oversight.

[367] For example, Education officials said that the department provided inconsistent information to servicers about the need for borrowers to meet the Public Service Loan Forgiveness program employment requirements during the period when borrower loan payments are suspended.

[368] A class-action lawsuit was filed on May 20, 2020, alleging one of the loan servicers furnished inaccurate information about borrowers to consumer reporting agencies, and that consumer reporting agencies failed to ensure accurate reporting, in violation of state and federal law. See Sass v. Great Lakes Educational Loan Services, No. 20-3424 (N.D. Cal. filed May 20, 2020).

to improve private collection agency customer service. Education also identified a need to develop default loan servicer procedures specifically related to rehabilitating defaulted loans during the period of student loan relief and communicate this information to borrowers. [369] In mid- to late April, the agency updated its default loan servicer contract and issued guidance to provide such information.

GAO Methodology and Agency Comments

To conduct this work, we reviewed data reported by Education; reviewed relevant federal laws and agency guidance, and interviewed Education officials, as well as representatives from borrower, loan servicer, and private collection agency stakeholder groups. We assessed the reliability of data reported by Education by reviewing documents and responses from officials.

We provided a draft of this report to Education for review and comment. In its written comments, Education stated that report sections related to Education's actions in response to the pandemic were inaccurate, flawed, incomplete, and unfair. In its comments on this enclosure, Education stated that GAO did not correctly describe the actions taken by the agency or the role of its monitoring efforts in identifying and addressing challenges that arose. We disagree with this characterization and believe we accurately described and characterized the key facts relating to Education's implementation of applicable CARES Act provisions and Education's actions to provide relief to student borrowers. The enclosure notes that the agency was facing a significant task in quickly implementing wide-ranging relief to borrowers. For example, we noted that Education quickly made changes to its contracts with servicers to include the new policies, while servicers quickly reprogrammed their loan processing systems in order to apply the provisions retroactively. We describe these steps to provide context about the work involved in implementing student loan relief. While recognizing these efforts by Education, we also noted that the process of quickly implementing these changes involved some instances of temporary or ongoing confusion for borrowers, as well as cases where Education's own monitoring reports found that servicers were providing incorrect information. This is an important part of illustrating the complex process of implementing the CARES Act provisions and related agency actions to provide student loan relief, including the impact on borrowers.

Education also objected to our use of the phrase "challenges" to describe aspects of implementing and communicating about student loan relief provided under the CARES Act and agency actions. We continue to believe that "challenges" is an appropriate term because it encapsulates both the complex tasks required of Education and servicers to implement far-reaching relief quickly and the impact on borrowers who were waiting to obtain complete information, see the relief reflected in their loan records, and receive refunds, where appropriate, during a time where many people are facing economic challenges.

[369] One way borrowers can get their loans out of default is through loan rehabilitation, a repayment option in which borrowers who make nine on-time monthly payments within 10 months have the default removed from their credit reports.

Further, Education stated that we referenced findings from its monitoring reports without acknowledging that the monitoring reports themselves allowed Education to identify issues and act to address them. We disagree with this characterization. We described Education's oversight in several places, including a full paragraph that highlights Education's monitoring efforts, as well as references throughout the enclosure noting that Education took action when challenges were identified. We did not provide detailed descriptions of Education's efforts to improve its overall monitoring processes prior to the implementation of student loan relief related to the pandemic because that is outside the scope of this review. While recognizing the value of Education's daily monitoring reports and noting that Education employed them to take action, findings from the reports are important to include because they illustrate borrowers' experiences during a stressful time as well as the ongoing work needed to fully and accurately implement borrower relief for a variety of types of loans and repayment scenarios.

In a few instances, we modified text in the enclosure to provide additional context or clarity or to add information provided by Education in its response. For example, we added contextual information noting that Education and servicers were implementing relief while working remotely during the pandemic, and provided additional details about involuntary collections that Education provided in its comment letter. We also modified our description of Education's new guidance and contract changes regarding loan rehabilitation to clarify that these actions were taken to provide additional information rather than to correct existing information. Education also provided technical comments, which we incorporated as appropriate.

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Economic Impact Payments

As of May 31, the Department of the Treasury and Internal Revenue Service (IRS) sent over 160 million payments to recipients for whom IRS has the necessary information. These payments totaled $269.3 billion. Treasury and IRS still face challenges to ensure that eligible individuals receive their payments, to prevent improper payments, and to combat fraud.

Entities Involved: Department of the Treasury, Internal Revenue Service, and Bureau of the Fiscal Service, Social Security Administration, U.S. Department of Veterans Affairs, and Railroad Retirement Board.

Key Considerations and Future GAO Work

The Department of the Treasury (Treasury) has stated that certain barriers currently prevent it from identifying and preventing payments to ineligible recipients. For example, Treasury and the Internal Revenue Service (IRS) sent almost 1.1 million payments totaling nearly $1.4 billion to deceased individuals. [370] IRS announced that if a payment was issued to a deceased or incarcerated individual, the total amount should be returned. However, IRS does not currently plan to take additional steps to notify ineligible recipients on how to return payments. IRS should consider cost effective options for notifying ineligible recipients on how to return payments; without which, ineligible recipients who would otherwise want to return the payments may be unaware how to do so. Also, IRS has full access to the death data maintained by the Social Security Administration (SSA), but Treasury and its Bureau of the Fiscal Service (BFS), which distribute the payments, do not. We have suggested that Congress consider amending the Social Security Act to explicitly allow the SSA to share its full death data with Treasury for data matching to prevent payments to ineligible individuals. [371] We are currently doing additional work evaluating IRS's administration of the Economic Impact Payments.

Background

The CARES Act included direct payments for eligible individuals to address financial stress due to the pandemic. These Economic Impact Payments provide up to $1,200 per eligible individual or $2,400 for individuals filing a joint tax return, plus up to $500 per qualifying child. [372] The payment

[370]According to IRS officials, these figures, which were reported by the Treasury Inspector General for Tax Administration, do not reflect returned checks or rejected direct deposits—the amount of which IRS and the Treasury are still determining.

[371]SSA maintains two sets of death data. SSA's complete file of death records that includes state-reported death data as "full death data" (or "full death file") as distinguished from the limited, publicly available file that excludes state-reported records, commonly referred to as the "Death Master File."

[372]Pub. L. No. 116-136, 134 Stat. 281, 335–340 (2020) (to be codified at 26 U.S.C. § 6428). These payments are in an advance refund for a tax year 2020 tax credit. The CARES Act refers to this credit and the advance refund as Recovery Rebates for Individuals. IRS refers to the advance refunds as Economic Impact Payments.

phases out gradually based on adjusted gross income (AGI). [373] The payments can be offset by the federal government only to collect delinquent child support obligations. [374] The Joint Committee on Taxation estimates that in fiscal year 2020, the payments will total almost $270 billion.

Treasury and IRS are working together to quickly identify eligible recipients and process payments. [375] As of May 31, 2020, Treasury and IRS disbursed 160.4 million payments totaling $269.3 billion.

Overview of Key Issues

On April 10, two weeks after passage of the CARES Act, IRS and Treasury disbursed the first batch of more than 81 million payments, totaling more than $147 billion. They deposited payments directly into taxpayers' bank accounts using information from Tax Years 2019 or 2018 tax returns. [376] On April 17, IRS and Treasury also began sending paper checks to eligible individuals for whom banking information was unavailable. The first batch of checks was sent to 7 million individuals. Starting on May 15, BFS also sent debit cards to nearly 4 million qualified recipients for whom the IRS has no bank account information on file. See first figure for a timeline of Treasury and IRS actions and second figure for number of payments made by direct deposit, paper check, and debit card as of May 31.

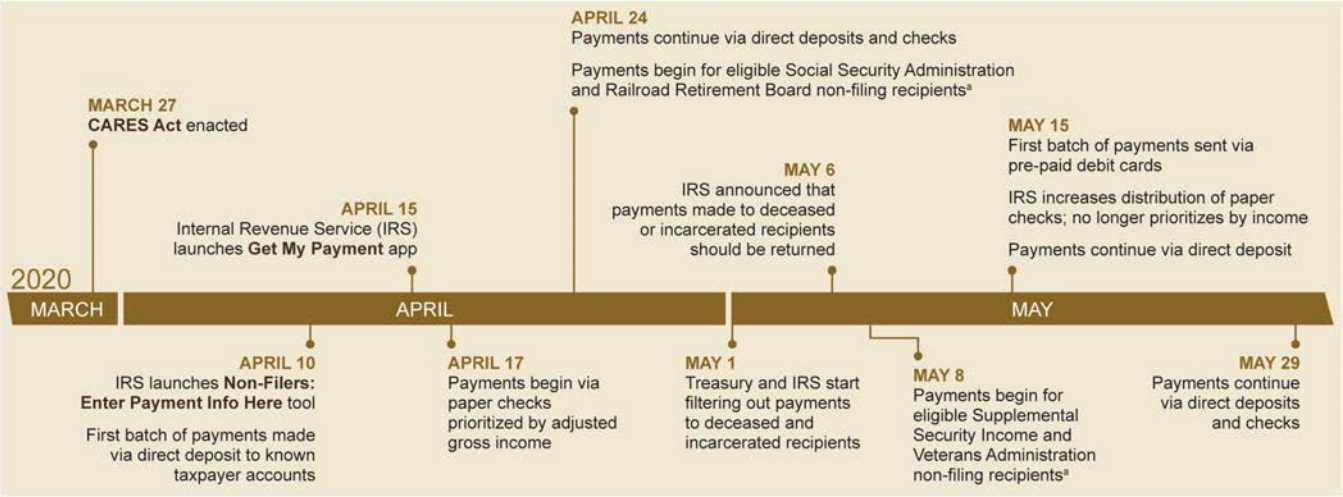
[373]For individuals with a tax return filing status of single or married filing separately, the 5 percent phase out begins at $75,000 AGI. For individuals using the head of household filing status, the phase out begins at $112,500. For married couples filing jointly, the phase out begins at $150,000 AGI. For taxpayers with no qualifying children, the payment is fully phased out if AGI is at or above $99,000 for single and married filing separately taxpayers, $136,500 for head of household taxpayers, and $198,000 for married filing jointly taxpayers. Those ineligible for the credit include (1) nonresident aliens, (2) individuals who can be claimed as a dependent by another taxpayer, and (3) an estate or trust. When spouses file jointly, both spouses must have Social Security numbers (SSN) valid for employment to receive a payment, unless either spouse is a member of the U.S. Armed Forces at any time during the taxable year. In that case, only one spouse needs to have a SSN valid for employment.

[374]The Economic Impact Payments can be offset through the Treasury Offset Program (TOP) only to collect delinquent child support obligations that have been referred by the state to TOP.

[375]IRS sends payment files to Treasury's Bureau of the Fiscal Service, which then processes the payments.

[376]As permitted by the statute, if the individual had not filed a Tax Year 2019 return, the IRS used information from the individual's Tax Year 2018 return, if such a return had been filed.

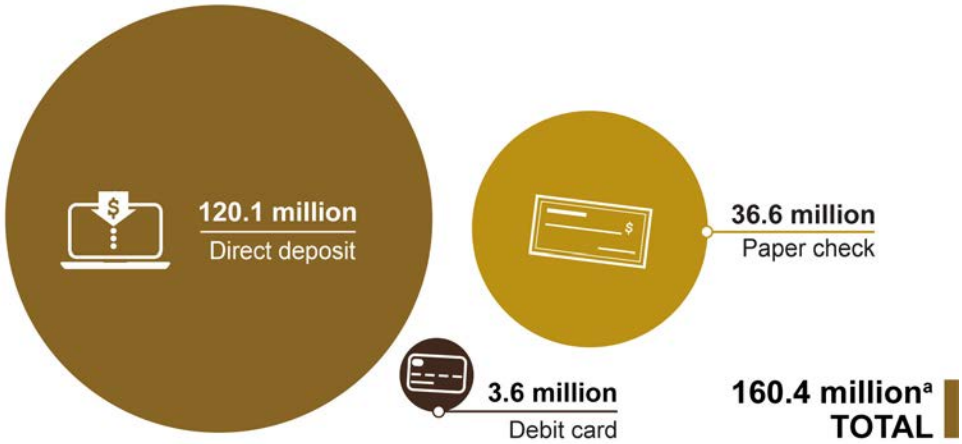
Timeline of Treasury and IRS Actions to Deliver Economic Impact Payments



Source: GAO analysis of Internal Revenue Service and Department of the Treasury data. | GAO-20-625

[a] IRS does not begin payments to representative payees for Social Security, Railroad Retirement Board, and Supplemental Security Income benefits until May 22; payments to representative payees for Veterans' Administration benefits begin May 29.

Total Number of Payments Made by Direct Deposit, Paper Check, or Debit Card as of May 31, 2020



Source: Internal Revenue Service. | GAO-20-625

[a] Individual payment types may not sum to total due to rounding.

IRS and Treasury faced a number of challenges to distribute the payments quickly:

- **Limited paper check capacity:** According to Treasury officials, Treasury can distribute 5 to 7 million paper checks a week in addition to the checks it distributes for other Federal programs. IRS and Treasury initially prioritized mailing checks to people with low AGI, starting with individuals with an AGI of less than $20,000, then mailed checks to individuals with progressively higher AGI amounts IRS plans to continue issuing payments through December 10; the majority of these payments will be corrections of returned payments. On June 3, Treasury announced that payments had been sent to all eligible individuals for whom the IRS has the necessary information to make a payment.

- **No, or incorrect, bank information**: IRS does not have bank account information for all taxpayers. For example, some taxpayers chose to receive a paper check refund for 2019 and 2018. Also, some tax filers use temporary accounts during the filing season; these accounts are typically opened by a tax preparation service and closed after the filing season ends. Any payments made to inactive or closed accounts are rejected by the bank, returned to Treasury, and converted to a paper check. On April 15, IRS launched *Get My Payment* (GMP), an online portal that allows taxpayers to enter their bank account information to receive a direct deposit. [377] As of May 15, IRS reported 434 million visits to GMP, 14.2 million bank accounts received, and 179 million taxpayers who received confirmation of their payment status.

- **Non-filers**: IRS had to figure out how to deliver payments to people who did not file tax returns for 2019 or 2018. Individuals with gross income below a certain amount, including some individuals who receive federal benefits, such as Social Security that is not subject to tax, are among those who do not generally need to file a tax return. IRS announced it would automatically deliver payments to eligible non-filers using data provided by the SSA, U.S. Department of Veterans Affairs (VA) and the Railroad Retirement Board (RRB). However, the data did not include information on qualifying children. [378] To get a payment for a qualifying child, SSA, RRB, and VA benefit recipients, who did not file a tax return for tax years 2018 or 2019, needed to use an online non-filer tool to enter information about a qualifying child by certain dates. [379] Otherwise, IRS said these recipients will have to file a Tax Year 2020 return (in 2021) to receive a payment for a qualifying child.

  According to IRS officials, from April 10 to May 17, 2020, payment calculations did not include additional money for qualifying children claimed on returns submitted through the online non-filer tool. IRS officials estimate up to 450,000 recipients did not receive a payment that included additional money for their qualifying children. IRS officials said they are working to identify and adjust the accounts of these filers to recognize the number of qualifying children claimed and provide supplemental payments by the end of July. IRS officials said that returns received after May 17 marked the qualifying children correctly and they were included in the payment computation.

- **Hard-to-reach populations**: IRS recognized it would have challenges reaching individuals without bank accounts (unbanked), who are homeless, who have limited or no internet access, or who have limited English proficiency. To assist these populations, IRS is working with other federal agencies and community partners such as the United States Interagency Council on Homelessness and Men of Valor, which works with newly released prisoners. IRS also produced outreach materials, such as social media posts, in multiple languages and IRS launched a Spanish version of the *Get My Payment* tool on May 4, 2020. Treasury and IRS also

[377]The tool also allowed individuals to check on their eligibility and the status of their payment.

[378]Among other requirements, a qualifying child must be under age 17 at the end of the taxable year and younger than the individual eligible for the payment or permanently or totally disabled.

[379]Social Security retirement, survivor or disability insurance (SSDI) benefits and Railroad Retirement benefit recipients had to complete the application by April 22, 2020, and Supplemental Security Income and Department of Veterans Affairs benefit recipients had to enter the same information by May 5, 2020.

began sending prepaid debit cards to nearly 4 million qualified recipients for whom the IRS has no bank account information on file starting on May 15.

- **U.S. territories:** Residents of the five U.S. territories who meet income thresholds and other CARES Act eligibility requirements are eligible for the Economic Impact Payments. [380] According to IRS officials, IRS and Treasury do not directly oversee the administration of payments to residents in the U.S. territories. Each territory developed a plan to disburse payments to eligible residents. IRS and Treasury reviewed and approved these plans to ensure they comport with the CARES Act and then provided funding to the local tax authority. [381] In return, local tax authorities are responsible for distributing payments and for reconciling any payments made to ineligible recipients, such as decedents. IRS officials reported that as of May 18, territories received 80 percent of their total funds approved. [382] According to IRS officials, there have been instances where territory residents submitted their bank information through the IRS's online tools. IRS officials are coordinating with local tax authorities to avoid making duplicative payments.

Treasury and IRS sent some payments to households with deceased individuals. Typically, IRS uses third-party data, such as the death records maintained by the SSA to detect and prevent erroneous and fraudulent tax refund claims. However, Treasury and IRS did not use the death records to stop payments to deceased individuals for the first three batches of payments because of the legal interpretation under which IRS was operating. The first three batches of payments accounted for 72 percent of the payments disbursed as of May 31. According to the Treasury Inspector General for Tax Administration, as of April 30, almost 1.1 million payments totaling nearly $1.4 billion went to decedents. [383]

According to IRS officials, an IRS working group charged with administering the payments first raised questions with Treasury officials about payments to decedents in late March as Congress was drafting legislation. IRS Counsel subsequently determined that IRS did not have the legal authority to deny payments to those who filed a return for 2019, even if they were deceased at the time of payment. IRS Counsel further advised—exercising discretion provided for in the statute—to apply the same set of processing rules to recipients who had filed a 2018 return but not yet a 2019 return. IRS officials said on the basis of this determination, they did not exclude decedents in their programming requirements.

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[380]The five U.S. territories are Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

[381]IRS, Treasury, and the IRS Chief Counsel (International) approved Puerto Rico's plan on May 1, 2020, and the remaining four territories' plans on May 4, 2020.

[382]As of May 18, 2020, the total appropriations (U.S. dollars) for each territory is as follows: American Samoa, $32.8 million; Guam, $134.8 million; the Northern Mariana Islands, $47.1 million; Puerto Rico, $3.1 billion; the U.S. Virgin Islands, $84.7 million. Because these appropriations are estimates based on the number of eligible recipients, territories are able to request additional funds if needed. For example, Northern Mariana Islands and Guam were appropriated an additional $7.6 million and $24.1 million, respectively.

[383] According to IRS officials, these figures do not reflect returned checks or rejected direct deposits—the amount of which IRS and the Treasury are still determining.

According to Treasury officials, the CARES Act directed payments to taxpayers who filed a 2019 return, or 2018 return, or allowed IRS to use information from their 2019 Social Security or Railroad Retirement Benefit Statement. Some of these taxpayers may have been deceased at the time the payments were delivered. Treasury officials also stated that the CARES Act mandated the delivery of the economic impact payments as "rapidly as possible." To fulfill this mandate, Treasury officials said that for the first three batches of payments, Treasury and the IRS used many of the operational policies and procedures developed in 2008 for the stimulus payments which did not include using death records as a filter to halt payments to decedents. [384] However, in 2013 GAO identified weaknesses in IRS processes that allowed payments to deceased individuals and recommended corrective actions. As a result, IRS implemented a process to use death records to update taxpayers' accounts in order to identify and prevent improper payments. [385] Bypassing this control for the economic impact payments, which has been in place for the past seven years, substantially increases the risk of potentially making improper payments to decedents.

According to a Treasury official from the Office of Tax Policy, Treasury was unaware the payments would go to decedents until it was reported in various media outlets. Treasury officials said that upon learning that payments had been made to decedents, Treasury and the IRS in consultation with counsel, determined that a person is not entitled to receive a payment if he or she is deceased as of the date the payment is to be paid. Therefore, Treasury instructed IRS and the Bureau of the Fiscal Service to remove decedents from receiving the payments, consistent with Treasury's and the IRS's legal determination. Such payments are potentially improper payments under the Payment Integrity Information Act of 2019. [386] BFS and IRS removed such payments starting with the fourth payment batch.

On May 6, 2020, IRS announced that if a payment was issued to a deceased or incarcerated individual, the total amount should be returned. IRS also published guidance on its website instructing such individuals on how to return the payments. According to IRS officials, IRS also worked with federal and state prison officials to assist in the return of payments made to incarcerated individuals. BFS also included a checkbox on the envelope that contained an EIP paper check and instructions for returning the check. These instructions directed individuals who received the check to return the unopened envelope by mail to the Treasury if the recipient were deceased. However, IRS does not currently plan to take additional steps to notify ineligible recipients on how to return payments.

Internal control standards state that management should communicate the necessary information to achieve the entity's objectives. Also, management should select appropriate methods to communicate, considering factors such as intended audience, availability of information, and cost

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[384]The Economic Stimulus Act of 2008 mandated that IRS send stimulus payments to over 100 million households. Pub. L. No. 110-185 (2008).

[385]GAO, *Management Report: Improvements Are Needed to Enhance the Internal Revenue Service's Internal Controls,* GAO-13-420R (Washington, D.C.: May 13, 2013).

[386]Pub. L. No. 116-117, 134 Stat. 113 (2020). The Payment Integrity Information Act of 2019 repealed improper payment laws that were previously codified as amended at 31 U.S.C. 3321 note and enacted a new Subchapter in Title 31 of the U.S. Code, containing substantially similar provisions. 31 U.S.C. §§ 3351-3358. While the core structure of executive agency assessment, estimation, analysis, and reporting of improper payments remains consistent with the statutory framework under the previous improper payment laws, there are some differences and enhancements under the Payment Integrity Information Act of 2019.

to communicate information. [387] Ineligible payment recipients who do not visit IRS's website or do not have internet access may not be aware of the process to return payments. IRS should consider cost effective options for notifying ineligible recipients on how to return payments. For example, for the economic impact payments, IRS sent letters to payment recipients' last known address, within 15 days after the payment was made, to provide information on how the payment was made and how to report any failure to receive the payment. IRS could consider a similar letter to all recipients or a subset of ineligible recipients notifying them about the payment return process. Without exploring cost effective options to communicate the payment return process, ineligible recipients who would otherwise want to return the payments may be unaware how to do so.

IRS is also concerned about fraud risks related to identity theft. For example, if fraudsters have acquired someone's personally identifiable information, they could use this information to access IRS's *Get My Payment* and the *Free-Filer/Non-Filer Return* portals to enter their own bank account information, and receive a fraudulent payment. In addition, fraudsters who filed a false tax return for 2019 or 2018, evaded IRS's fraud detection, and received a refund may receive another payment from IRS. In June 2018, GAO raised concerns about IRS's inability to securely authenticate taxpayers online, including that IRS had not yet implemented security controls for authenticating taxpayers consistent with updated guidance from the National Institute of Standards and Technology. For example, we recommended that IRS develop a plan for implementing changes to its online authentication programs consistent with new guidance and implement improvements to IRS's systems to fully implement the new guidance. As of January 2020, IRS had taken steps on these recommendations but not yet fully implemented them. In addition, full access to the death data by Treasury and BFS as GAO has previously suggested, along with consistent use of the full death data when making payments, by both IRS and Treasury, should help reduce fraudulent payments.

GAO Methodology and Agency Comments

To review how IRS and Treasury administered the payments, we reviewed the most recent IRS data as of May 31, 2020, examined federal laws and agency guidance, outreach and communication plans; and interviewed IRS and Treasury officials. We also reviewed the Standards for Internal Control in the Federal Government, GAO's fraud risk framework, and GAO's work on IRS authentication efforts and other measures to address fraud risk and improper payments.

We provided a draft of this enclosure to Treasury, OMB, and IRS for review and comments. In written comments, IRS agreed with our recommendation to consider additional options to notify ineligible recipients on how to return payments. Treasury, OMB, and IRS also provided technical comments which we incorporated as appropriate.

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

Related GAO Products

Improper Payments: Strategy and Additional Actions Needed to Help Ensure Agencies Use the Do Not Pay Working System as Intended, GAO-17-15 Washington, D.C.: Oct. 14, 2016.

Identity Theft: IRS Needs to Strengthen Taxpayer Authentication Efforts, GAO-18-418 Washington, D.C., June 22, 2018.

Financial Audit: IRS's Fiscal Years 2018 and 2017 Financial Statements, GAO-19-150 Washington, D.C.: Nov. 9, 2018.

Housing Protections

Agencies have issued guidance on CARES Act housing protections, but challenges remain in ensuring that homeowners and renters benefit.

Entities involved: Federal Housing Finance Agency, Department of Housing and Urban Development, Department of Veterans Affairs, Department of Agriculture, Consumer Financial Protection Bureau, Fannie Mae and Freddie Mac (the enterprises).

Key Considerations and Future GAO Work

As the COVID-19 pandemic continues, it will be important for the agencies and government-sponsored housing enterprises to sustain efforts to provide clear and accessible information to affected parties about the CARES Act's homeowner and renter protections. Individuals lacking internet access or having difficulty determining whether the protections apply to them are among those for whom continued outreach will be critical.

Given the broad reach and time-limited nature of the act's housing protections, the agencies also will need to ensure that their compliance monitoring is comprehensive and timely as possible. Accomplishing this goal during the COVID-19 pandemic may require adjusting standard practices or schedules, particularly if compliance monitoring is typically conducted on-site or infrequently. Also, because the act did not define specific oversight responsibilities, agencies will need to be proactive in developing or directing monitoring efforts.

Finally, the agencies and enterprises will need to carefully manage information on mortgage forbearances granted under the act. The rapid implementation of new loan status codes has the potential to introduce errors and reduce the reliability of data for reporting purposes.
We plan to conduct additional work on the implementation of the CARES Act's homeowner and renter protections, including the extent to which compliance with these protections is being monitored and enforced.

Background

Many mortgage borrowers and renters either are, or are at risk of, falling behind on housing payments as a result of lost income due to COVID-19. The CARES Act provides temporary protections for millions of households against foreclosure and eviction, as well as temporary forbearance on mortgage payments. These provisions apply to single-family (one-to-four unit) and multifamily (five-or-more unit) properties with federally backed mortgages and renters living in properties with federally backed mortgages or that receive certain types of federal housing assistance. [388]

[388]The CARES Act defines federally backed mortgages as those purchased or securitized by the housing enterprises Fannie Mae and Freddie Mac; insured by the Department of Housing and Urban Development, a component of which

As of the second quarter of calendar year 2020, there were more than 40 million federally backed single-family mortgages and more than 80,000 federally backed multifamily mortgages outstanding. [389] In addition, there were more than 10 million rental units in properties with federally backed multifamily mortgages and millions of additional rental units financed with Low-Income Housing Tax Credits or that receive various types of federal rental housing assistance (public housing, for example). [390] The table provides more information on the CARES Act housing protections.

is the Federal Housing Administration; guaranteed or insured by the Department of Veterans Affairs or Department of Agriculture (USDA), a component of which is the Rural Housing Service; or directly made by USDA. The enterprises are currently under the conservatorship of the Federal Housing Finance Agency.

[389]Industry estimates suggest that the total number of outstanding single-family mortgages in the United States was roughly 50 million as of May 2020.

[390]Estimating the total number of rental units covered by the CARES Act is difficult for a number of reasons. For example, rental properties can be assisted by multiple federal programs, so adding up program totals results in double-counting. For perspective, however, there were about 44 million occupied rental units in the United States in 2018 (the most recent nationwide data available), according to data from the U.S. Census Bureau's American Community Survey.

Foreclosure, Eviction, and Mortgage Forbearance Protections in the CARES Act	
Covered population	**CARES Act protection**
Property owners with federally backed single-family mortgages	Section 4022 prohibits foreclosures and foreclosure-related evictions for 60 days beginning on March 18, 2020, and provides up to 180 days of mortgage forbearance (with potential extensions of up to an additional 180 days) for borrowers who have experienced a financial hardship related to the COVID-19 emergency. Borrowers are not required to document financial hardship to receive forbearance.
Property owners with federally backed multifamily mortgages	Section 4023 provides up to 90 days of mortgage forbearance for borrowers who have experienced a financial hardship related to the COVID-19 emergency. Borrowers receiving forbearance may not evict tenants for nonpayment of rent or charge fees to tenants for late payment of rent for the duration of the forbearance period.
Tenants in properties with federally backed mortgages or assisted by specified federal housing programs.	Section 4024 prohibits landlords for a 120-day period, beginning March 27, 2020, from (1) initiating legal action to recover possession of a rental unit due to nonpayment (i.e., evict a tenant) or (2) charging fees to tenants for nonpayment of rent.

Source: Coronavirus Aid, Relief, and Economic Security Act (CARES Act). | GAO-20-625

Note: Vacant or abandoned properties are not covered by the foreclosure moratorium. In May 2020, federal agencies and the enterprises extended moratoriums on foreclosures and foreclosure-related evictions for property owners with federally backed single-family mortgages through June 30, 2020.

As of early June 2020, federal agencies were still compiling information from mortgage servicers on the number of forbearances granted under the CARES Act through May 2020. However, industry estimates provide some perspective on the number of single-family borrowers struggling with mortgage payments due to the COVID-19 pandemic. According to estimates from the Mortgage Bankers Association (MBA), the percentage of single-family mortgages in forbearance grew from 0.25 percent as of March 8, 2020 (about 3 weeks prior to the enactment of the CARES Act) to 8.46 percent as of May 24, 2020 (about 8 weeks after enactment). [391] According to MBA, the 8.46 percent figure represents about 4.2 million homeowners.

Overview of Key Issues

The federal rollout of guidance to affected parties about the CARES Act housing protections was initially fragmented and uneven, but has improved over time with the development of more centralized and comprehensive information sources, including the launch of a joint Consumer Financial Protection Bureau (CFPB), Federal Housing Finance Agency (FHFA), and Department of

[391] MBA's estimates are based on a weekly survey of mortgage servicers. According to MBA, the survey for the March 8, 2020, figure covered about 45 percent of the primary mortgages serviced in the single-family mortgage market, while the survey for the May 24, 2020, figure covered about 75 percent. Accordingly, the difference between the two figures should be interpreted with some caution.

Housing and Urban Development (HUD) website in May 2020. [392] As discussed below, federal agencies and the government-sponsored housing enterprises have issued guidance or made information available to housing stakeholders.

Guidance to servicers. Agency and enterprise guidance to servicers includes, among other things, the moratorium periods for foreclosures and evictions, the length of initial and any renewal forbearance periods, and loan status codes to use for reporting CARES Act forbearances. Agency and enterprise officials said that, in addition to formal written notices, they provided or clarified guidance through other means, such as web-based training and conference calls. The enterprises also issued scripts for single-family mortgage servicers to guide their discussions with borrowers about CARES Act forbearances. Although not specifically required by the act, guidance from the agencies and enterprises states that borrowers will not be required to repay missed mortgage payments in one lump sum after the forbearance period ends.

Information for borrowers and renters. The agencies and enterprises have information on their websites to help renters and mortgage borrowers (including landlords) understand the protections and responsibilities that apply to them. They also have disseminated information in other ways. For example, HUD developed flyers or brochures for HUD-assisted public housing agencies and multifamily property owners to distribute to tenants on the eviction moratorium and what to do if they are having trouble paying rent. Additionally, the enterprises created online loan lookup tools that allow renters in multifamily properties to determine whether the property they live in has a mortgage purchased or securitized by Fannie Mae or Freddie Mac and is therefore covered by the CARES Act protections. [393]

A number of implementation and oversight challenges will need to be overcome to help ensure that homeowners and renters receive the CARES Act protections.

- **Helping borrowers and renters.** Given the complexity of the provisions and the multiple types of federal housing assistance, a key challenge is helping borrowers and renters understand whether the act's protections apply to them and what the protections are. The act did not require covered borrowers and renters to be directly notified of their rights and options, and much of the information available to these individuals is on agency and enterprise websites. As a result, individuals lacking internet access or having difficulty determining whether they live in a covered property may not be exercising protections they are entitled to. Tenants in single-family properties in particular could have difficulty determining whether their residence has a federally backed mortgage. [394] Existing loan lookup tools for single-family properties are designed for property owners and require inputting information a tenant likely would not have. [395]

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[392]The website includes information on the housing programs of the Department of Veterans Affairs—which provided input to the website, according to agency officials—and the Department of Agriculture. See https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/.

[393]The enterprises also have loan lookup tools that existed prior to the CARES Act for single-family property owners.

[394]According to data from the U.S. Census Bureau's American Housing Survey, over one-half of renter-occupied housing units were in single-family properties as of 2018.

[395]Users must enter the last four digits of the property owner's Social Security number. A tenant also would have to confirm that they have the property owner's consent to look up the loan.

Representatives of a housing advocacy group we spoke with said they were aware of reported cases where renters covered by the CARES Act protections had wrongly received notices of eviction. They also expressed concern that homeowners who were misinformed about or unaware that lump-sum repayment of missed mortgage payments is not required after a forbearance might choose to forgo a forbearance and end up in default. These scenarios illustrate the importance of timely and accessible information for affected parties about the act's housing protections.

- **Managing data and financial implications.** The rapid implementation of the CARES Act created challenges in recording forbearances in agency and enterprise loan monitoring systems used by mortgage servicers. The agencies and enterprises repurposed existing loan status codes or made changes to their loan monitoring systems to capture CARES Act forbearances. Additionally, HUD and USDA instructions to servicers in May 2020 acknowledged that servicers may previously have been using more than one code to record the forbearances, but should use a single designated code going forward. Because these changes may increase the potential for miscoding and misinterpretation of data, careful management and analysis of loan information will be needed to ensure accurate reporting on CARES Act forbearances. Additionally, while the forbearances may help stabilize the mortgage market and potentially mitigate long-term credit losses, actions to manage the back end of the forbearance periods will require significant financial commitments by the agencies and the enterprises. For example, HUD's Federal Housing Administration (FHA) developed a new foreclosure mitigation option for the COVID-19 pandemic. For eligible borrowers, FHA will effectively fund no-interest, no-fee loans subordinate to the original mortgage. These loans will cover payments missed during the forbearance period and will not come due until the borrower refinances, pays off the mortgage, or sells the home. The size of the associated financial commitments will depend, in part, on the ultimate number and length of forbearances granted under the CARES Act, which is not yet known.

- **Overseeing implementation.** Overseeing servicer and landlord implementation of CARES Act provisions also will present challenges. The act does not define specific oversight responsibilities or contain reporting requirements for servicers and landlords, so detection of any noncompliance with the act's protections will depend on monitoring programs developed or directed by each agency. Agency officials described steps they are taking to update their oversight tools in light of the CARES Act housing protections, including changes to information systems and servicer quality assurance and compliance reviews. However, monitoring and enforcing protections for millions of households during the COVID-19 pandemic could strain the capacity of the agencies to provide timely and comprehensive oversight, particularly if compliance monitoring is typically performed on-site or only once a year. [396] Additionally, enterprise officials said that while they will respond to any reported violations of CARES Act protections, their compliance monitoring is focused on their own policies. Further, agencies may not have information needed to monitor protections for all renters. For example, agency

[396]For example, HUD's Office of Public and Indian Housing noted that its annual reviews of public housing agencies are generally conducted on-site but that review staff are currently not traveling. According to HUD officials, on-site reviews facilitate the audit of tenant files (to evaluate compliance with eviction policies, for example) and allow housing agency staff to be available to provide certain information required for the reviews.

officials said they do not have information on rental agreements for or tenants in single-family properties with federally backed mortgages.

GAO Methodology and Agency Comments

To conduct this work, we reviewed agency and enterprise data, guidance, and other documentation, including information on their websites. We also interviewed or reviewed written responses from agency and enterprise officials and selected housing stakeholder groups.

We provided a draft of this enclosure to HUD, FHFA, USDA, CFPB, the Department of Veterans Affairs, the Office of Management and Budget, Fannie Mae, and Freddie Mac for review and comment. In its comments, reproduced in appendix XV, HUD noted its efforts to inform affected parties about the CARES Act's housing protections and said it was working to provide timely and comprehensive compliance monitoring. Additionally, HUD, FHFA, the Office of Management and Budget, and Freddie Mac provided technical comments, which we incorporated as appropriate. USDA, CFPB, the Department of Veterans Affairs, and Fannie Mae did not provide comments.

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Small Business Programs

The Small Business Administration approved more than 1 million economic injury disaster loans, but information technology challenges and processing delays hampered implementation.

Entities Involved: Small Business Administration

Key Considerations and Future GAO Work

As COVID-19 continues, it will be important for the Small Business Administration (SBA) to address the following as it implements the Economic Injury Disaster Loan (EIDL) program: information technology challenges, transparency around loan and advance amounts, processing delays, and communication issues, among other issues.

We will soon begin additional work on the EIDL program, including on SBA guidance, policies, and procedures, and on the types of borrowers using the program.

Background

A majority of the more than 30 million small businesses in the United States have been adversely affected by COVID-19. In response, the CARES Act expanded existing SBA programs and appropriated additional funding to help impacted businesses. The CARES Act also created the Paycheck Protection Program (PPP). (A separate enclosure covers PPP.)

The CARES Act temporarily expanded eligibility for SBA's EIDL program and appropriated funds for related emergency EIDL advances. [397] The EIDL program provides low-interest loans of up to $2 million for expenses—such as operating expenses—that cannot be met because of a disaster. [398] The CARES Act expanded EIDL program eligibility to include additional small business entities and relaxed some approval requirements, such as demonstrating that the business could not obtain credit elsewhere. [399] It also appropriated $10 billion to create a program to provide small businesses up to $10,000 in advances toward payroll, sick leave, and other business obligations. Borrowers do not have to repay these advances, even if they are subsequently denied the EIDL.

[397] *See* Pub. L. No. 116-136, §§ 1107(a)(6), 1110, 134 Stat. 281, 302, 306.

[398] Prior to the CARES Act's enactment, SBA had about $1.1 billion in disaster loan credit subsidy available to support about $7 billion to $8 billion in disaster loans. Loan credit subsidy covers the government's cost of extending or guaranteeing credit and is used to protect the government against the risk of estimated shortfalls in loan repayments. The loan credit subsidy amount is about one-seventh of the cost of each disaster loan.

[399] Prior to CARES Act changes, eligible businesses included small businesses, most private non-profits of any size, small aquaculture enterprises, and small agricultural cooperatives.

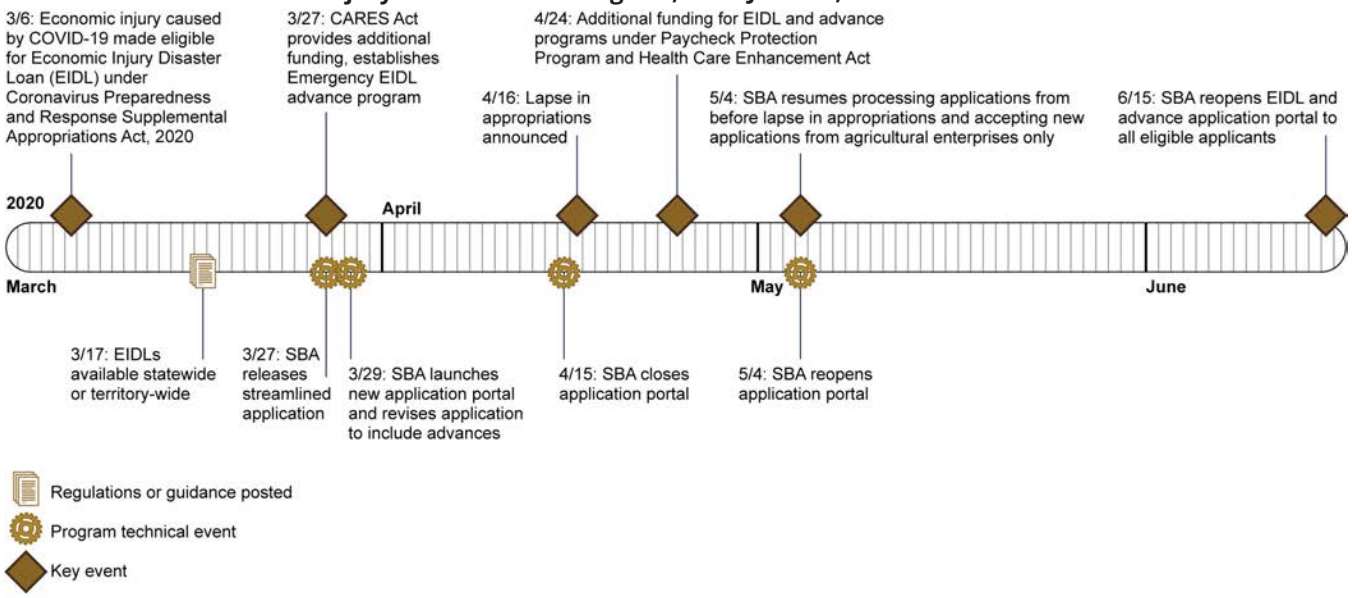
The CARES Act also provided $17 billion in funding to SBA to cover the principal, interest, and any associated fees that small businesses owe on certain loans for a 6-month period. [400] Further, it provided $240 million in grants for selected SBA resource partners to provide counseling, training, and education on SBA resources and business practices related to COVID-19.

Overview of Key Issues

The CARES Act created new SBA programs and expanded existing ones, but some experienced implementation challenges. These programs include the following:

EIDL and EIDL Advances. SBA closed its application portal and stopped accepting new EIDL applications on April 15, 2020 (see figure below). The next day the agency announced that the lending authority for EIDLs and the funding for EIDL advances had been exhausted. In the Paycheck Protection Program and Health Care Enhancement Act enacted on April 24, 2020, Congress appropriated an additional $50 billion in loan subsidy for EIDLs and $10 billion for EIDL advances. [401] With this additional funding, on May 4, 2020, SBA resumed processing previous applications and accepting new applications from agricultural enterprises only.

Timeline for the Economic Injury Disaster Loan Program, as of June 15, 2020



Source: GAO analysis of Small Business Administration data. | GAO-20-625

As of June 11, 2020, SBA had approved about 1.3 million EIDLs totaling about $91 billion, or an average of about $68,000 for each loan. According to SBA officials, this was more EIDLs than SBA

[400] Pub. L. No. 116-136, §§ 1107(a)(7), 1112, 134 Stat. 281, 302, 309.

[401] The Act also made small agricultural enterprises who were previously ineligible for EIDL temporarily eligible for a loan.

had approved for all previous disasters combined. As of June 11, 2020, SBA had processed about 3.2 million advances totaling about $11 billion, or an average of about $3,300 for each advance.

Both the EIDL and EIDL advance programs encountered various challenges, including:

- **Information technology:** SBA's application portal exposed applicant data, and some applicants had to reapply to the program when SBA transitioned to a new application system. Prior to the CARES Act, SBA accepted EIDL applications on its Disaster Loan Application Portal. SBA shut down this portal on March 25, 2020, after the data incident. [402] The next day, SBA provided a temporary solution that allowed applications to be submitted via a document-hosting service. Subsequently, SBA launched a new application portal with a streamlined application. According to SBA officials, the agency asked applicants that had not yet been processed in the old system to reapply through the new portal because their applications would be processed faster and they would be able to request an EIDL advance. SBA officials also told us that those that reapplied kept their original position in the application queue.

- **Size of loans and advances:** SBA placed limits on the size of both EIDLs and EIDL advances. SBA's standard operating procedures for EIDL state that the legislative limit of $2 million applies to EIDLs, depending on the financial effect of the disaster. [403] According to SBA officials, when SBA first began to provide EIDLs related to COVID-19, it limited the loans to 6 months of working capital up to a maximum of $500,000. They then noted that as SBA began to process thousands of applications, the agency lowered the cap to $15,000 for several days as it monitored available funding before restoring the maximum to $500,000. The officials told us that when SBA reopened its EIDL application portal on May 4, 2020, the agency established the maximum loan amount at $150,000 where it has remained. In addition, SBA announced on April 13, 2020, that all advances would be limited to $1,000 per employee up to a maximum of $10,000. [404] According to SBA officials, they took these steps to provide assistance to as many small businesses as possible with the funds available. SBA officials also said that the change in the applicant's financial condition attributable to the effect of the disaster is often less than the loan limits. However, the U.S. Chamber of Commerce, for example, has stated that low limits would result in insufficient funding for many small businesses.

- **Processing times:** Businesses reported delays in receiving loans and advances from SBA. For example, representatives from a small business association we interviewed stated that some applicants had not received their loans or advances more than a month after submitting an application. SBA officials said that as loan requests reached historical levels, it eliminated projections for EIDL processing times. The CARES Act requires SBA to provide EIDL advances to applicants within 3 days after receiving an application. However, SBA officials stated that the agency faced challenges in processing the advances in the 3 days required by the CARES

[402]It has been reported that about 8,000 applicants' personal identifying information, including Social Security numbers and financial and contact information, was potentially visible to other applicants. In response to the breach, SBA reportedly alerted applicants whose information was compromised, temporarily disabled the portal, and offered a year of free credit monitoring.

[403]The size of a given borrower's loan is based on the change in the borrower's financial condition attributable to the effect of the disaster. This change must result in the inability of the borrower to meet its obligations or to pay ordinary and necessary operating expenses.

[404]SBA stated that the amount of the advance is determined by the number of employees as of January 31, 2020.

Act. But they noted that they established the new advance program in 7 business days and were able to disburse over $10 billion in advances in about a month. To improve processing of both loans and advances, the officials told us that SBA increased its staffing, made process improvements, and improved its technology.

- **Lack of communication:** Business owners have reported a lack of communication from SBA, contributing to their uncertainty about future planning. For example, representatives from a small business association said that its members were frustrated with the lack of communication from SBA regarding their application status. SBA officials said that although the application portal does not show an applicant's status, applicants could contact SBA call center agents for status updates and that SBA sends emails at different stages of the process to applicants. Additionally, SBA has not provided important program information, such as the maximum amounts it has imposed on the loans, on its website or in announcements. However, SBA officials said that applicants become aware of such information when they engage with a SBA loan officer or are preliminarily offered a loan amount.

Other SBA programs. The CARES Act supported other SBA programs such as:

- **Debt relief for certain 7(a) loans, 504 loans, and microloans:** The CARES Act appropriated $17 billion to pay the principal, interest, and any associated fees that small businesses owe on these loans for a 6-month period. [405] SBA has issued implementation notices for these programs.
- **Funding for Small Business Development Centers and Women's Business Centers:** The CARES Act appropriated $240 million for grants to SBA resource partners for small business education and counseling and $25 million for resource partner associations to establish a centralized hub for information related to COVID-19 disruptions and a related training program. [406] SBA published funding opportunities in April 2020.

GAO Methodology and Agency Comments

To conduct this work, we reviewed SBA documentation on the programs and interviewed SBA officials. In addition, we interviewed officials from six associations that represent a variety of lenders and an association that represents small businesses. Their views are not generalizable to other lender and small business associations but offered important perspectives.

[405] 7(a) loans are loans for working capital and other general business purposes, while 504 loans support investment in major assets such as real estate and heavy equipment. SBA's Microloan Program integrates micro-level financing with training and technical assistance for women, low-income individuals, minority entrepreneurs, and other small businesses that need a small amount of assistance.

[406] Small Business Development Centers provide technical assistance (business counseling and training) to small businesses and aspiring entrepreneurs. Women's Business Centers provide counseling and training to assist women in starting and growing small businesses.

SBA provided written comments on the draft report, which we summarize in the agency comments section of the report. The agency also provided technical comments that we incorporated as appropriate.

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Related GAO Products

Small Business Administration: Disaster Loan Processing Was Timelier, but Planning Improvements and Pilot Program Evaluation Needed, GAO-20-168. Washington, D.C.: February 7, 2020.

Small Business Administration: Agency Has Controls to Comply with Paperwork Reduction Act but Could Improve Accessibility and Consistency of Disaster Loan Information, GAO-17-67. Washington, D.C.: November 21, 2016.

Small Business Administration: Additional Steps Needed to Help Ensure More Timely Disaster Assistance, GAO-14-760. Washington, D.C.: September 29, 2014.

Paycheck Protection Program

The Paycheck Protection Program was designed to give assistance to small businesses and other organizations that were affected by COVID-19.

Entities involved: Small Business Administration, Department of the Treasury

Key Considerations and Future GAO Work

To ensure program integrity, achieve program effectiveness, and address potential fraud in the program, we recommend that the Small Business Administration (SBA) develop and implement plans to identify and respond to risks in the Paycheck Protection Program (PPP), including in loans of $2 million or less.

We have additional work underway on PPP, including on the types of lenders making PPP loans, the borrowers receiving the loans, and the safeguards that SBA has implemented to help ensure that lenders and borrowers complied with program requirements.

Background

There are more than 30 million small businesses in the United States, many of which have been adversely affected by COVID-19. The CARES Act appropriated $349 billion for PPP under SBA's 7(a) small business lending program. [407] PPP loans are low-interest loans that will be forgiven if certain conditions are met. [408] Key features of PPP loans include:

- **Eligibility.** In addition to 7(a) eligible businesses, the following are eligible: a business, 501(c)(3) nonprofit organization, 501(c)(19) veteran's organization, or tribal business that has 500 or fewer employees or, if applicable, the SBA's size standard for the number of employees for the industry in which they operate; sole proprietors; independent contractors; and eligible self-employed individuals. [409]

[407] Pub. L. No. 116-136, §§ 1102(b), 1107(a)(1), 1112, 134 Stat. 281, 293, 301. The 7(a) program is SBA's largest guaranteed loan program.

[408] The CARES Act includes other provisions for SBA, including an expansion of its Economic Injury Disaster Loan program. Borrowers can apply for both PPP and disaster loans to cover different expenses. (A separate enclosure discusses the Economic Injury Disaster Loan program.)

[409] Businesses must also meet certain other eligibility criteria such as being in business as of February 15, 2020, and not engaged in any illegal activity. In addition, under the CARES Act, businesses assigned a North American Industry Classification System code in the Accommodation and Food Services sector with no more than 500 employees per physical location are eligible to receive a PPP loan. To be eligible for the standard 7(a) program, a business must be an operating for-profit small firm (according to SBA's size standards) located in the United States and must be unable to obtain conventional credit at reasonable terms elsewhere.

- **Rate and terms.** PPP provides loans with a 100 percent SBA loan guarantee. As implemented by SBA, PPP loans have a maximum term of 2 years and a 1 percent interest rate. [410]
- **Usage.** Loans can be used for payroll and non-payroll costs. Payroll costs include compensation to employees; payments for vacation, parental, family medical, or sick leave; and payments for the provision of employee health and retirement benefits. Non-payroll expenses include costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave; mortgage interest payments; rent payments; utility payments; and interest payments on any other debt obligations that were incurred before February 15, 2020. As originally implemented by SBA, at least 75 percent of the loan proceeds must have been used for payroll costs. However, the Paycheck Protection Program Flexibility Act of 2020 modified this limit to at least 60 percent.
- **Participating lenders.** In addition to approved 7(a) lenders, additional authorized lenders determined by SBA and the Department of the Treasury (Treasury) to have the necessary qualifications to process, close, disburse, and service loans under PPP can participate. [411]

Overview of Key Issues

Implementation status. On April 3, 2020, SBA began administering PPP in collaboration with Treasury, and the $349 billion originally appropriated in the CARES Act for the program was obligated by April 16, 2020. [412] On April 24, 2020, Congress appropriated an additional $321 billion for PPP through the Paycheck Protection Program and Health Care Enhancement Act, for a total of $670 billion. [413] On April 27, 2020, SBA resumed accepting new applications for the program.

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[410]Loan maturity and interest rate are only relevant to the portion of the loan not forgiven. The Paycheck Protection Program Flexibility Act of 2020 was enacted on June 5, 2020. Pub. L. No. 116-142, 134 Stat. 641 (2020). The act extended the minimum loan maturity date for new loans to 5 years. It also, among other things, extended the "covered period" during which borrowers can spend forgivable expenses from 8 weeks to 24 weeks and automatically extended the loan deferral period until SBA renders a decision on forgiveness. On June 11, 2020, SBA posted an interim final rule implementing key provisions of the Paycheck Protection Program Flexibility Act of 2020. *See* 85 Fed. Reg. 36,308 (June 16, 2020).

[411]For example, under PPP certain Farm Credit System lenders were approved to participate.

[412]SBA published an initial interim final rule on April 2, 2020, to establish PPP terms, such as interest rate, maturity date, and payment deferral period. *See* 85 Fed. Reg. 20,811 (Apr. 15, 2020). The interim final rule indicated that SBA had consulted with Treasury on aspects of the program's design.

[413]Of the second round of funding, Congress set aside $30 billion to be lent by insured depository institutions or credit unions with consolidated assets of between $10 billion and $50 billion, and $30 billion to be lent by community financial institutions and insured depository institutions and credit unions with consolidated assets of less than $10 billion. On May 28, 2020, SBA and Treasury announced that an additional $10 billion would be set aside for community development financial institutions.

Approved loans. As of June 12, 2020, lenders had made about 4.6 million loans totaling about $512 billion, using up about 76 percent of the available funds. [414] This greatly exceeded all of SBA's lending under the 7(a) program in fiscal years 1990-2019 combined. [415]

Lenders. As of June 12, 2020, about 5,500 lenders had made PPP loans. [416] About 65 percent of the lenders were banks with less than $1 billion in assets, and about 17 percent were nonbanks. [417]

Loan amounts. As shown in the table below, about 86 percent of loans (about $137 billion) were for loans of $150,000 or less; however, the almost 2 percent of loans that were greater than $1 million (about $180 billion) accounted for 35 percent of funds, as of June 12, 2020.

[414]Totals reflect loan cancellations as of June 12, 2020. As discussed later, some borrowers, including publicly traded companies, have canceled their loans. According to SBA, more than 170,000 loans totaling about $38.5 billion had been canceled as of May 31, 2020. SBA officials told us that cancellations were still being reported to the agency.

[415]From fiscal year 2000 to fiscal year 2019, SBA made about 1.2 million 7(a) loans totaling about $333 billion. On average, SBA made about 62,000 loans totaling about $16.7 billion annually.

[416]In fiscal year 2019, about 1,600 lenders made 7(a) loans.

[417]Nonbanks are broadly defined as institutions other than banks that offer financial services.

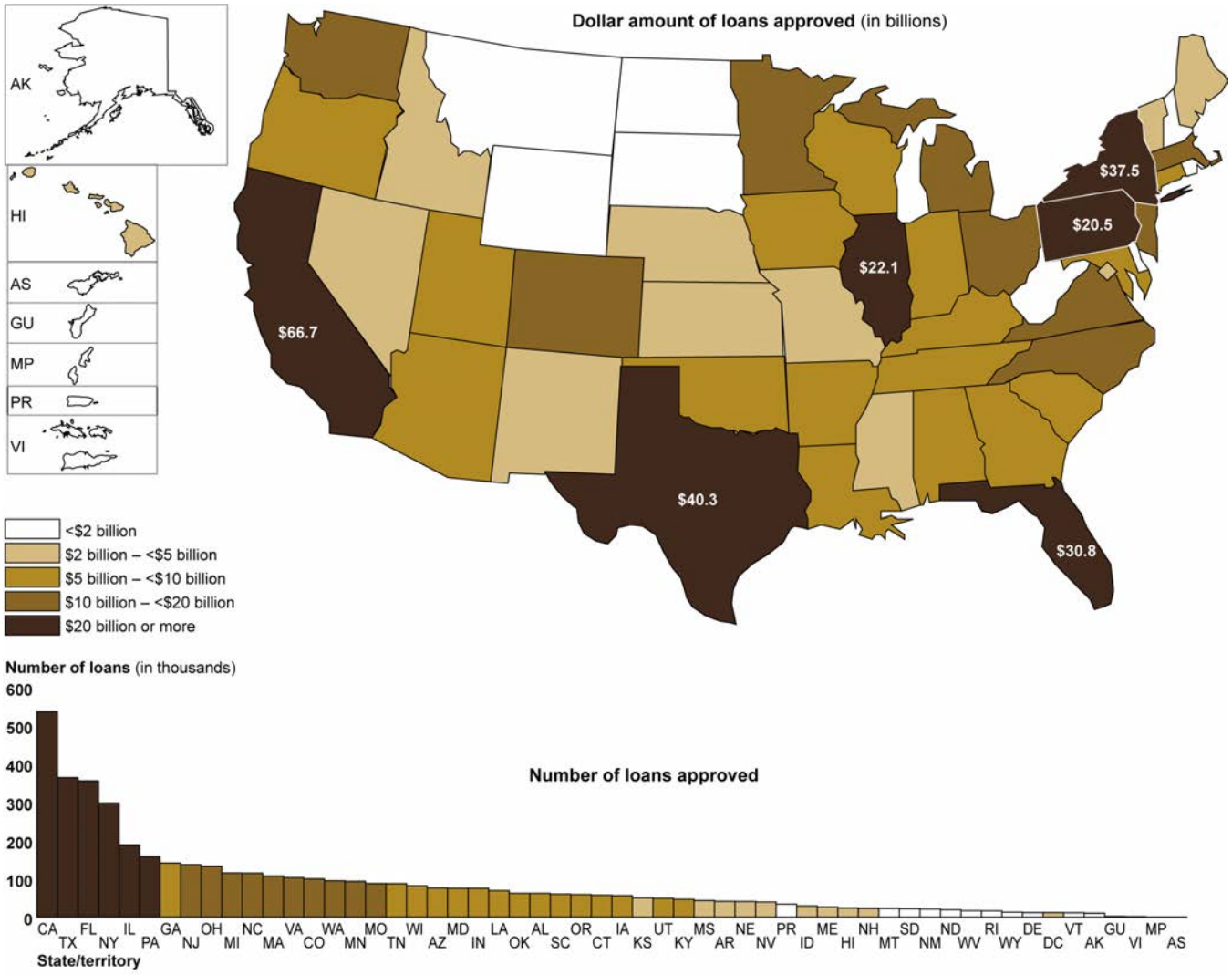
Number, Dollar Amount, and Distribution of Paycheck Protection Program Loans, as of June 12, 2020				
Amount of loan (dollars)	**Number of approved loans**	**Approved dollars ($)**	**Percent of approved loans (%)**	**Percent of approved dollars (%)**
150,000 and less	3,926,477	136,683,699,300	85.8	26.7
150,001 - 350,000	370,507	83,240,884,629	8.1	16.2
350,001 - 1,000,000	197,277	112,238,433,258	4.3	21.9
1,000,001 - 2,000,000	52,586	72,856,742,215	1.1	14.2
2,000,001 - 5,000,000	24,734	73,523,496,712	0.5	14.4
More than 5 million	4,807	33,728,428,031	0.1	6.6
Total	**4,576,388**	**512,271,684,145**	**100**	**100**

Source: Small Business Administration | GAO-20-625

Distribution of funds. As of June 12, 2020, businesses in six states had received $20 billion or more in loans totaling 33 percent (or about $218 billion) of the appropriated funds. [418] (See figure below.)

[418]The six states are California, Florida, Illinois, New York, Pennsylvania, and Texas. Economists at the Federal Reserve Bank of New York conducted research on the first round of PPP funding, examining the allocation of credit. They focused on whether PPP loans had gone to the areas of the country and sectors of the economy hardest hit by COVID-19. They found that there was no statistically significant relationship between the severity of the economic effect of COVID-19—measured both in terms of cases and unemployment claims—and the share of small businesses getting PPP loans, after excluding New York and New Jersey. See Haoyang Liu and Desi Volker, *Where Have the Paycheck Protection Loans Gone So Far?* (New York, NY: May 6, 2020).

Paycheck Protection Program Loans by State and U.S. Territory, as of June 12, 2020



Sources: GAO analysis of Small Business Administration data. | GAO-20-625

Note: According to SBA, the location had not been confirmed for 173 approved loans in the amount of $6,409,358 as of June 12, 2020.

Loan recipients by industry. As of June 12, 2020, of the $670 billion authorized for PPP, the top three industries in terms of loan dollars were health care and social assistance (12.9 percent); professional, scientific, and technical services (12.7 percent); and construction (12.4 percent) (see figure below).

Paycheck Protection Program Loans by Industry, as of June 12, 2020

Industry	Number of loans	Amount of loans	Percentage of total amount
Health care and social assistance	479,650	$66,292,313,990	12.9%
Professional, scientific, and technical services	595,293	65,309,212,473	12.7
Construction	438,921	63,649,725,461	12.4
Manufacturing	221,051	53,513,293,921	10.4
Accommodation and food services	347,553	41,177,730,603	8.0
Retail trade	425,701	39,729,580,053	7.8
Other services (except public administration)	484,161	30,198,840,159	5.9
Wholesale trade	159,639	27,417,933,285	5.4
Administrative and support and waste management and remediation services	226,726	26,050,426,337	5.1
Transportation and warehousing	161,794	16,386,158,203	3.2
Real estate and rental and leasing	227,717	15,212,964,843	3.0
Finance and insurance	157,874	11,972,703,265	2.3
Educational services	75,139	11,777,762,272	2.3
Unclassified establishments	222,980	9,938,249,311	1.9
Information	64,627	9,085,575,653	1.8
Arts, entertainment, and recreation	107,810	7,714,593,398	1.5
Agriculture, forestry, fishing, and hunting	130,512	7,656,804,061	1.5
Mining	20,743	4,470,882,471	0.9
Public administration	12,590	1,705,345,108	0.3
Management of companies and enterprises	8,417	1,559,460,156	0.3
Utilities	7,490	1,452,129,120	0.3
	4,576,388	**$512,271,684,143**	**100.0%**

Source: GAO analysis of Small Business Administration data. | GAO-20-625

PPP experienced challenges related to information technology issues; rules and guidance issued on a rolling basis; initial concerns about lender participation and borrower access; and loans to publicly traded companies.

Information technology issues. Information technology issues related to SBA's loan processing system caused delays for both new and established lenders trying to access the system. SBA's loan system for its standard 7(a) program was not built to process the volume of loans SBA received. In addition, three associations that represent lenders told us that lenders encountered delays trying to obtain access to the system for new users. According to one association, it took between 48 hours and 2 weeks for lenders to get access to the system. To help increase access, SBA created a separate portal for lenders that were not familiar with SBA's existing loan processing system and provided a customer service number to assist lenders with information technology issues. SBA officials also told us that they increased the processing system's memory, expanded the number of telecommunication lines, established a pacing mechanism that limits the number of loans any

one lender can enter into the system per hour, and established batch file processing for lenders with more than 5,000 applications.

Rolling rules and guidance and difficulty reaching SBA. SBA has issued rules and guidance on PPP on a rolling basis. Although this was necessary to some extent given the need to get funds to small businesses quickly, the frequently updated guidance sometimes left lenders and borrowers confused. For example, SBA issued an interim final rule providing key program terms the night before the program launched along with a number of subsequent interim final rules on topics such as loan disbursement. [419] The agency also has published answers to frequently asked questions on a rolling basis. [420] According to SBA officials, they frequently updated their guidance to be responsive to lender and borrower feedback and concerns. In addition, Treasury officials noted that most of the additional rules and guidance enhanced borrower or lender flexibility.

- **Regularly updated guidance.** Lenders have struggled to keep up with the latest program rules due to the continually evolving nature of this guidance. For example, representatives of two lender associations informed us that lenders were initially told in a conference call with SBA that they must disburse loan funds within 5 days of loan approval. According to SBA officials, they have no recollection of such a conference call taking place. A later response to a frequently asked question on a different topic (published online on April 8, 2020) stated that lenders must disburse loan funds no later than 10 days from loan approval. On April 28, 2020, SBA posted an interim final rule on disbursements that reiterated this requirement and provided more details. [421]

- **Lack of time stamp on responses to frequently asked questions.** The responses to frequently asked questions are dated but no time is listed. The responses note that the U.S. government will not challenge lender actions that conformed to the guidance and rules in effect at the time. [422] Without the time listed, lenders cannot know the guidance that is in place when they make loans. Representatives of a lender group told us that their members had expressed concerns that they might process a loan shortly after SBA released a policy change of which they were unaware, possibly resulting in the loan being challenged.

- **Difficulty reaching SBA.** Representatives of two lender associations and a small business association we interviewed told us that their members indicated that it was difficult to reach anyone at SBA to get clarification on guidance. Although SBA established numbers for borrowers and lenders to call with questions about PPP, it encouraged borrowers to contact their lenders with questions about their application, and for lenders to contact staff in SBA's district offices. However, representatives of lender and small business associations we interviewed told us that often no one answered when members called the district office;

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[419]SBA posted the initial interim final rule defining key program terms 6 days after the CARES Act was enacted.

[420]SBA started providing responses to frequently asked questions on April 3, 2020, and had updated them 17 times as of June 15, 2020. The responses provided clarification on topics such as calculating payroll costs.

[421] *See* 85 Fed. Reg. 26,321, 26,322-23 (May 4, 2020).

[422]In a subsequent answer to a frequently asked question and in the loan forgiveness and loan review procedures interim final rules, SBA stated that borrowers and lenders may rely on—and SBA would review applications based on—the rules and guidance "available" at the time of the loan application.

when someone did answer, members noted that the person did not always know the answer or provided incorrect information.

Initial lender concerns about access, liquidity, and liability. According to representatives from four lender associations we talked to, their members were initially concerned about accessing the program, maintaining liquidity, or being held liable. SBA and Treasury subsequently released additional rules and guidance on these topics.

- **Access.** Some lenders, particularly nonbank lenders, initially experienced challenges accessing the program. While SBA provided the lender agreement for depository institutions, federally insured credit unions, and Farm Credit System institutions prior to the program's launch, it did not provide the agreement for nonbank lenders until 5 days after the program started. According to SBA and Treasury officials, this additional time was necessary because SBA was required by the CARES Act to confirm that these new categories of lenders were capable of participating in the program. SBA also reached out to groups such as community development financial institutions and minority deposit institutions to encourage their participation as lenders. In addition, the requirement that certain lenders have a certain portfolio size precluded some lenders from participating, such as community development financial institutions that lend to small businesses that mainstream lenders consider too risky. On April 30, 2020, SBA posted an interim final rule lowering portfolio requirements for community development financial institutions, majority minority-, women-, or veteran/military-owned financial institutions, and certain other nonbank lenders.

- **Liquidity.** Due to high borrower demand, lenders—particularly smaller banks and nonbank lenders—initially expressed concerns about having enough liquidity to provide loans prior to funding reimbursement from SBA. On April 9, 2020, the Federal Reserve announced the creation of a PPP Liquidity Facility to supply liquidity to participating financial institutions through term financing backed by PPP loans to small businesses. [423] However, until April 30, 2020—approximately 2 weeks after the initial PPP funds were exhausted—nonbank lenders could not access the additional liquidity offered by this facility. As noted previously, Congress appropriated more funds for PPP on April 24, 2020.

- **Liability.** Representatives of two lender associations said that prior to the program's launch, lenders expressed concerns about being held liable for loan application errors or misinterpretation of established program parameters. In response to these concerns, SBA stated in the initial interim final rule that lenders could rely on borrower certifications to determine eligibility and use of loan proceeds—that is, attestations from borrowers in their applications that they needed the loan and had provided accurate information, among other things.

Borrower access. Some borrowers experienced challenges, including banks giving preference to existing customers and independent contractors and the self-employed requiring additional regulations and guidance.

[423]The PPP Liquidity Facility allows Federal Reserve Banks to lend to borrowers eligible to originate PPP loans and take PPP loans as collateral. The PPP Liquidity Facility was launched on April 16, 2020.

- **Preference for lenders' existing customers.** Some lenders reportedly gave preference to applicants who had borrowed from them before because of concerns about complying with Bank Secrecy Act requirements. [424] This preferential treatment resulted in delayed participation by certain small businesses.

- **Independent contractors and self-employed required additional guidance.** Although, according to SBA, independent contractors and the self-employed could apply on April 3, 2020, SBA did not post guidelines for these two groups until 2 days before the first round of PPP funding was exhausted. Treasury officials told us that additional guidance was required because the concept of payroll costs does not naturally apply to these types of individuals and businesses.

Loans to publicly traded companies. According to analysis by FactSquared as of June 1, 2020, more than 400 publicly traded companies were approved for about $1.4 billion in loans. [425] On April 23, 2020, SBA issued guidance stating that borrowers should carefully review the required certification to ensure that they qualify. [426] In the same guidance, SBA reiterated that borrowers must self-certify that their PPP loan is necessary, and stated that it is unlikely that many publicly traded companies will be able to make this certification in good faith. [427] In subsequent rules and guidance, SBA announced that borrowers who had previously applied for a PPP loan could repay the loan in full by May 18, 2020, and would be considered to have made their certifications in "good faith." According to FactSquared, about 70 public companies had returned about $435 million in PPP loans as of June 1, 2020.

GAO Methodology and Agency Comments

To conduct this work, we reviewed SBA data on the program, reviewed interim final rules and guidance issued by SBA and Treasury, and interviewed SBA and Treasury officials. In addition, we interviewed officials from six associations that represent a variety of lenders and an association that represents small businesses. Their views are not generalizable to other lender and small business associations but offered important perspectives.

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[424]The Bank Secrecy Act requires banks and other financial institutions to take precautions against money laundering and other illicit financial activities by conducting due diligence activities and informing Treasury of suspicious activity by their customers.

[425]FactSquared is a data analysis company. It had reviewed 14,667 Securities and Exchange Commission filings since April 3, 2020, the first day to apply for PPP loans. We performed keyword searches of Securities and Exchange Commission filings and identified a list of companies very similar to the list reported by FactSquared.

[426]Borrowers must certify in good faith that the"[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant."

[427]Specifically, SBA noted that it is unlikely that a public company with substantial market value and access to capital markets will be able to make the required certification in good faith, and such a company should be prepared to demonstrate to SBA, upon request, the basis for its certification.

SBA and Treasury provided written comments on the draft report, which we summarize in the agency comments section of the report. Both agencies also provided technical comments that we incorporated as appropriate.

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Federal Reserve Emergency Lending Programs

In response to the economic downturn caused by COVID-19, among other actions, the Board of Governors of the Federal Reserve System, with the Department of the Treasury approval, authorized the establishment of seven emergency lending programs (or facilities) supported through the Department of the Treasury funding appropriated under the CARES Act. The facilities are to help provide credit to eligible businesses, states, tribes, and municipalities. As of June 8, 2020, only two of the seven facilities were operational.

Entities Involved: The Federal Reserve System; Department of the Treasury.

Key Considerations and Future GAO Work

During the 2007-2009 financial crisis, the Board of Governors of the Federal Reserve System (Federal Reserve) established emergency lending programs (or facilities) to stabilize financial markets. The facilities were operated by Federal Reserve Banks. In July 2011, we recommended that the Federal Reserve (1) strengthen procedures in place to guide the Federal Reserve Banks' efforts to manage access to the programs by high-risk borrowers and (2) document a plan to estimate and track losses that could occur within and across all emergency lending activities and to use this information to inform policy decisions. Because the Federal Reserve created similar facilities that are supported by CARES Act funds to respond to the COVID-19 pandemic, both recommendations remain relevant. Federal Reserve officials told us that they have taken actions to address these recommendations for the recently established facilities. We will review these actions and provide a more detailed review of the Federal Reserve facilities in a separate study mandated in the CARES Act.

Background

To provide economic relief, the CARES Act appropriated $500 billion to the Department of the Treasury (Treasury) to provide loans, loan guarantees, and investments to states, tribes, municipalities, and eligible businesses through the Exchange Stabilization Fund (ESF). [428] The CARES Act authorized up to $454 billion and potentially certain other amounts for Treasury to support the Federal Reserve in establishing lending facilities. The facilities are authorized under section 13(3) of the Federal Reserve Act and approved by the Secretary of the Treasury. [429]

[428]Pub. L. No. 116-136, § 4003, 134 Stat. 281, 470 (2020). Treasury's ESF was mandated under the Gold Reserve Act of 1934 to help maintain an orderly system of currency exchange rates. The CARES Act appropriated $500 billion to the ESF to support loans, loan guarantees, and investments for businesses affected by COVID-19. The act defines eligible businesses as those created or organized in the United States with significant operations in and a majority of employees based in the United States.

[429]Section 4003(b) of the CARES Act also made up to $46 billion available to support passenger and cargo air carriers, and other eligible businesses, as well as businesses critical to maintaining national security. Any amount left from this

Section 13(3) facilities must comply with requirements relating to loan collateralization and taxpayer protection, among others. In addition to incorporating these Section 13(3) requirements, the CARES Act also placed certain restrictions—for example, related to corporations' stock repurchases, dividends, and executive compensation—for certain facilities supported with Treasury's CARES Act funding.

Overview of Key Issues

CARES Act facilities . In March and April 2020, the Federal Reserve introduced seven lending facilities supported through Treasury's CARES Act appropriated funds. (See table below.) To implement these seven facilities, the Federal Reserve is using or will use legal entities known as special purpose vehicles (SPV) to purchase qualifying assets from or initiate lending to eligible institutions, and a Reserve Bank, which is part of the Federal Reserve System, commits to lending to the SPV. Treasury has also made or will make equity investments in the SPVs with CARES Act funds. According to Federal Reserve officials, designing a program structure for each facility to meet the needs of the targeted market segment while balancing measures to protect taxpayers requires several considerations and steps in the design phase. As of June 8, 2020, Treasury had committed $195 billion, or about 43 percent, of the $454 billion from the CARES Act available to support the seven facilities. Treasury officials said they are monitoring market conditions to help inform how best to commit the remaining funds. Treasury's funding will allow the facilities to support up to $1.95 trillion of transactions. In the most recent periodic reports to Congress on the lending facilities, the Federal Reserve Board stated it continues to expect that the facilities will not result in losses to the Federal Reserve. Based in part on information from the Federal Reserve Board, CBO estimates no deficit effect to the federal government.

As of June 8, 2020, two of the seven lending facilities—the Secondary Market Corporate Credit Facility and the Municipal Liquidity Facility—were operational, for which Treasury disbursed $37.5 billion and $17.5 billion, respectively. Based on the most recent publicly available Federal Reserve data for the Secondary Market Corporate Credit facility, the total outstanding amount of loans provided by the Federal Reserve Bank of New York, as of May 19, 2020, was about $1.3 billion. [430] Federal Reserve and Treasury officials said they are taking steps to bring the other five facilities into operation. The Term Asset-Backed Securities Loan Facility is scheduled to begin operating on June 17, 2020, but officials do not have specific dates for when the other facilities will become active. Almost all of these facilities will cease purchasing eligible assets by September 30, 2020 (the Municipal Liquidity Facility will cease purchases on December 31, 2020), unless extended by the Federal Reserve and Treasury. [431]

$46 billion in assistance will be available to the Federal Reserve to support lending to eligible businesses, states, tribes, and municipalities. Section 13(3) of the Federal Reserve Act permits the Federal Reserve to provide emergency lending.

[430]As of June 8, 2020, the Federal Reserve had not published data on the Municipal Liquidity Facility.

[431]For most facilities that include an SPV, the responsible Federal Reserve Banks will continue to fund the SPV after the facility's termination date until the SPV's underlying assets mature or are sold.

Federal Reserve Lending Facilities with CARES Act Funding, as of June 8, 2020		
Name of Facility	**Purpose**	**Facility Activity**
1. Primary Market Corporate Credit Facility 2. Secondary Market Corporate Credit Facility	Support large businesses	Primary market facility: purchase qualifying bonds directly from and purchase portions of syndicated loans made to eligible issuers. Secondary market facility: purchase qualifying corporate bonds and U.S.-listed exchange-traded funds in the secondary market.
3. Main Street New Loan Facility 4. Main Street Priority Loan Facility 5. Main Street Expanded Loan Facility	Support small- and medium-sized businesses	New loan and priority loan facilities: purchase 95 percent participation interests in newly issued eligible loans that eligible lenders make to eligible borrowers. Expanded loan facility: purchase 95 percent participation interests in a new extension of credit under an existing eligible loan made by an eligible lender to an eligible borrower.
6. Municipal Liquidity Facility	Support states, and certain counties, cities, multi-state entities, and revenue bond issuers	Purchase eligible notes directly from eligible issuers at time of issuance.
7. Term Asset-Backed Securities Loan Facility	Support consumers and businesses	Provide non-recourse loans to U.S. companies secured by qualifying asset-backed securities generally backed by recently originated consumer and business loans.

Source: GAO analysis of Federal Reserve documents. | GAO-20-625

Design of CARES Act facilities. In designing the CARES Act facilities, the Federal Reserve has created term sheets, agreements, and related documents for each facility, and solicited and taken steps to address public comments. For example, for the Main Street lending facilities, the Federal Reserve received over 2,000 comments on the initial design of the facilities and, in response to the comments, expanded the loan options and eligibility for businesses. [432]

Non-CARES Act facilities. The Federal Reserve also established four facilities that do not receive support through CARES Act appropriated funds. These facilities aim to provide liquidity to the financial sector and businesses. As of June 8, 2020, all four of these facilities were operational and will terminate on specific dates in 2020 or 2021, unless extended. [433] (See table.)

[432]It also created a third loan facility option—the Main Street Priority Loan Facility—targeting borrowers with higher debt.

[433]The Primary Dealer Credit Facility will terminate on September 17, 2020, the Money Market Mutual Fund Liquidity Facility and the Paycheck Protection Program Liquidity Facility will terminate on September 30, 2020, and the Commercial Paper Funding Facility will terminate on March 17, 2021, unless extended.

Federal Reserve Lending Facilities without CARES Act Funding, as of June 8, 2020		
Name of Facility	**Purpose**	**Facility Activity**
1. Commercial Paper Funding Facility	Serve as funding backstop to provide liquidity for U.S. issuers of commercial paper.	Purchase commercial paper from eligible companies. Eligible issuers include U.S. issuers of commercial paper, including municipal issuers and U.S. issuers with a foreign parent company.
2. Money Market Mutual Fund Liquidity Facility	Assist money market mutual funds in meeting demands for redemption by investors.	Make non-recourse loans available to eligible financial institutions that are secured by high-quality assets purchased by the financial institution from money market mutual funds.
3. Paycheck Protection Program (PPP) Liquidity Facility	Facilitate lending by eligible borrowers that provide loans to small businesses under the Paycheck Protection Program.	Lend to institutions eligible for making PPP loans on a non-recourse basis, taking PPP loans as collateral. [a]
4. Primary Dealer Credit Facility	Provide support to primary dealers to facilitate the availability of credit to businesses and households.	Provide loans to primary dealers in exchange for collateral.

Source: GAO analysis of Federal Reserve documents. | GAO-20-625

[a]The Federal Reserve established the PPP Liquidity Facility under its section 13(3) authority to encourage participation in the PPP established under the CARES Act. See "Paycheck Protection Program" in appendix III for more information on the PPP.

Oversight of all facilities. According to an official from the Federal Reserve's Division of Reserve Bank Operations and Payment Systems (RBOPS)—a division that oversees the policies and operations of the Federal Reserve Banks, RBOPS plans to conduct reviews of the 11 facilities and has formed oversight teams to check for consistency in controls across the facilities. The RBOPS official also said initial reviews will focus on the facilities' design, and after facilities are operational, will include operations and risk management.

In addition to establishing lending facilities, the Federal Reserve took regulatory and monetary policy actions to support the flow of credit to households, businesses, and the U.S. economy.

GAO Methodology and Agency Comments

To conduct this work, we reviewed Federal Reserve documentation on each facility, including term sheets and related press releases, reports to Congress on the facilities, and the most recent agency transaction data on the facilities available, as of June 8, 2020. We also interviewed Federal Reserve and Treasury officials. We provided a copy of this enclosure to the Federal Reserve and Treasury for review. They provided technical comments that we incorporated, where appropriate.

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Related GAO Product

Federal Reserve System: Opportunities Exist to Strengthen Policies and Processes for Managing Emergency Assistance , GAO-11-696 Washington D.C.: July 21, 2011.

Tax Relief for Businesses

It is too early to know the extent businesses are taking advantage of certain tax relief options—such as carrying additional losses back to prior tax years—but refunds may be delayed if businesses who must submit amended returns do so on paper.

Entities Involved: Department of the Treasury, Internal Revenue Service

Key Considerations and Future GAO Work

As the Internal Revenue Service (IRS) receives net operating loss (NOL) refund requests, it is important that it consider the implications of not allowing amended income tax returns for sole proprietors to be filed by some means other than paper, such as electronic fax (e-fax). For some refunds, an amended return is required to be processed before issuing a tentative refund. Also, continued outreach to businesses, issuance of guidance, and updated forms are key steps to help businesses correctly leverage CARES Act tax relief. We will continue to monitor the status and content of IRS's plans for processing and reviewing returns, conducting outreach, and issuing guidance.

Background

In anticipation of business losses resulting from the pandemic, the CARES Act includes tax measures to help businesses receive cash refunds or other reductions to tax obligations. [434] The Joint Committee on Taxation estimates these measures will lead to about $174 billion in foregone revenue in fiscal years 2020-2030. The IRS general capacity to implement new initiatives, such as the CARES Act, and to carry out enforcement and taxpayer service programs is an ongoing challenge cited in our High Risk Report.

The tax law changes in the CARES Act modify several provisions of the law known as the Tax Cuts and Jobs Act (TCJA): [435]

- **NOL carrybacks:** The CARES Act allows carrybacks for up to 5 years for NOLs in tax years beginning 2018-2020, which may provide a cash refund for certain taxpayers. [436] Tax years prior to 2018 had a higher tax rate, increasing the likelihood of a carryback refund. The use of a carryback is optional and may affect other tax obligations. Carrybacks, and

[434]Pub. L. No. 116-136, 134 Stat. 281 (2020).

[435] Pub. L. No. 115-97, 131 Stat. 2054 (2017).

[436]CARES Act, § 2303, 134 Stat. at 352–356. An NOL occurs when a corporation's allowable deductions exceed its gross income for a tax year. During an NOL year, a corporation generally does not owe any income taxes. TCJA generally repealed NOL carrybacks and required NOLs to be carried over indefinitely. The NOL offsets the corporation's taxable income in other tax years.

carryforwards—which TCJA allowed a deduction for up to 80 percent of taxable income—can reduce 100 percent of taxable income for tax years 2018-2020 under the CARES Act. [437]

Taxpayers that elected to spread over multiple years payments of a transitional repatriation tax established in the TCJA (referred to as "section 965" tax), can make an election to exclude those years from the carryback period to produce a refund in other years. [438] NOL refunds are typically claimed on an amended income tax return or paper Forms 1139 and 1045. However, IRS issued temporary procedures to allow for e-fax of Forms 1139 and 1045 for a quick tentative refund. [439]

- **Acceleration of alternative minimum tax (AMT):** Corporations with AMT credits may claim a refund for tax years beginning in 2018 and 2019 and file Form 1139 for 2018 to receive a tentative refund for some or all of these credits. [440] The TCJA repealed the AMT, but most corporations could claim their remaining unused minimum tax credits through 2021.
- **Increased limits on business interest:** For tax years 2019 and 2020, taxpayers may generally deduct business interest expense in amounts not to exceed the sum of interest income, 50 percent of their adjusted taxable income. [441] Taxpayers may also use 2019 adjusted taxable income in computing their 2020 business interest expense deduction. Businesses may elect not to use 2019 adjusted taxable income in 2020, to take the deduction, as it may affect other credits or deductions.
- **Excess business losses:** For non-corporate businesses—such as partnerships and sole-proprietors—the limit that TCJA enacted on deductions for excess losses is removed for tax years 2018-2020. [442] Businesses can amend returns for 2018 or 2019 to claim refunds.

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[437]Losses carried forward can reduce future taxable income and tax, but cannot reduce taxable income below zero.

[438]As a result of provisions of TCJA, some businesses with deferred foreign income were paying a transition tax that could be spread in installments over 8 years. 26 U.S.C. § 965. Corporations that elect to exclude the transition tax years from the carryback period may receive a higher refund. 26 U.S.C. § 172(b)(1)(D)(iv), (v).

[439]Corporations file Form 1139, Corporation Application for Tentative Refund. Individuals, estates and trusts file Form 1045, Application for Tentative Refund. See: IRS, Temporary procedures to fax certain Forms 1139 and 1045 due to COVID-19, accessed June 3, 2020, https://www.irs.gov/newsroom/temporary-procedures-to-fax-certain-forms-1139-and-1045-due-to-covid-19.

[440]CARES Act, § 2305, 134 Stat. at 357. Prior to TCJA, corporations were required to calculate their tax liability under two sets of rules – they compute their regular tax liability and their tentative AMT liability and pay whichever is greater. If the tentative AMT is more than the regular tax, the difference between them is AMT. The purpose of the AMT is to prevent companies from eliminating their tax liability from over use of certain corporate tax preferences. In general, AMT applies a lower tax rate to a broader tax base by limiting the use of tax preferences and disallowing credits and deductions. Under the CARES Act, corporations may get a 50 percent refundable credit for tax year 2018 and 100 percent for tax year 2019, or claim the entire refundable amount for its first tax year beginning with 2018.

[441]CARES Act, § 2306, 134 Stat. at 358. TCJA limited the business interest expense deduction to the sum of interest income, 30 percent of adjusted taxable income and floor plan financing interest expense. TCJA, § 13301, 131 Stat. at 2117. The higher limitation does not apply to partnerships until tax year 2020, and special rules apply to partnerships for tax years beginning in 2019.

[442]CARES Act, § 2304, 134 Stat. at 356. An excess business loss is the amount by which the total deductions from all trades or businesses exceed a taxpayer's total gross income and gains from those trades or businesses, plus $250,000 ($500,000 for a joint return). 26 U.S.C. § 461(i)(3)(A).

Overview of Key Issues

Complete data on the number of businesses taking advantage of these provisions, and the associated dollar amounts, will not be available until after tax year 2020 income tax returns are processed. The table shows information on e-fax cases, as of June 1, 2020. Data on refund dollar amounts is being captured, according to IRS officials, but it was not available in time for this report.

CARES Act Net Operating Loss (NOL) and Alternative Minimum Tax (AMT) Tentative Refund Cases, as of June 1, 2020

Form and provision	E-fax cases [a]	Number of businesses filing	Number of forms in suspense [b]
Form 1139, AMT only	558	547	17
Form 1139, NOL or AMT	2,440	2,175	133
Form 1045, NOL	1,799	1,656	284

Source: GAO analysis of Internal Revenue Service data. | GAO-20-265

[a]A single case may include multiple fax submissions. Submissions for the same identification number, form and tax period generally are one case. Submissions for the same number and form, but different tax periods, are separate cases.

[b]Suspense indicates additional information is needed and/or the case is being held because notices and letters cannot be issued currently.

In early April, IRS began releasing guidance for taxpayers, following later with Frequently Asked Questions (FAQs). In a FAQ on NOL carrybacks, IRS indicated that although the current instructions stated otherwise, taxpayers who carry back NOLs to year in which they had section 965 inclusions may use Forms 1139 and 1045 to apply for refunds for these years . In a separate FAQ, IRS provided instructions for claiming an AMT refund on Form 1139 and for recalculating the credit on Form 8827. [443] IRS officials said an updated Form 1139 is anticipated in October 2020, and instructions for Form 1045 will precede that release.

Some businesses will need to file an amended income tax return prior to using e-fax to file Forms 1139 and 1045. IRS officials told us they do not have immediate plans for updating the forms used to file an amended return and their instructions. For sole proprietors, amended returns can only be filed on paper. IRS officials said they are unsure how many businesses would need to have an amended return processed prior to receiving a refund. They said they chose to not provide e-fax capabilities for amended returns because of a need to prioritize computer system and staff capacities. [444] IRS officials anticipated they will meet the statutory 90-day time frame for processing NOL and AMT refunds filed on Forms 1139. [445] IRS officials said adjusting to e-fax and the need to shift employees to telework has been a challenge.

Once a form is received through e-fax, IRS is using existing procedures—with some modifications—for processing and reviewing tentative refunds. These procedures include controls to ensure proper and accurate refund amounts. Our assessment of these controls will be part of future work.

[443]Form 8827, *Credit for Prior Year Minimum Tax—Corporations*, is used to calculate the minimum tax credit for AMT, the refundable amount, and any to be carried forward.

[444]Amended corporate income tax returns may be electronically filed. IRS plans to offer electronic filing for Form 1040X, *Amended U.S. Individual Tax Return*, this summer. See: IRS, announcement, accessed June 15, 2020, https://www.irs.gov/newsroom/irs-announces-form-1040-x-electronic-filing-options-coming-this-summer-major-milestone-reached-for-electronic-returns.

[445]26 U.S.C. § 6411(d)(2); CARES Act, § 2305(d)(1), 134 Stat. at 357.

IRS released transition guidance regarding elections that affect the business interest expense deduction.[446] The IRS Notice also extended the time to make an election for tax years 2018-2020, or taxpayers may withdraw a prior election.

IRS officials said FAQs specific to excess business loss may be necessary.

GAO Methodology and Agency Comments

To conduct this work, we reviewed IRS data as of June 1, 2020; reviewed federal laws, agency guidance; and interviewed IRS officials. IRS and Treasury provided technical comments, which we integrated as appropriate.

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[446]Revenue Procedure 2020-22, April 10, 2020, allows certain real property trade or business or a farming business, which can elect to not be subject to the limitation, to make late elections and to withdraw previously made elections. This transition guidance was necessary, in part, because the CARES Act amended provisions which had been previously amended by TCJA and for which there were proposed, but not final regulations. 83 Fed. Reg. 67490 (Dec. 28, 2018).

Aviation Sector Financial Assistance

The Department of the Treasury and the Federal Aviation Administration have begun to provide funding to help the nation's aviation industry and airports respond to and recover from the economic effects of the COVID-19 pandemic.

Entities involved: U.S. Department of Transportation, Federal Aviation Administration; Department of the Treasury.

Key Considerations and Future GAO Work

We will continue to monitor CARES Act financial assistance to the aviation sector in ongoing and planned work.

Background

The U.S. aviation industry—including passenger air carriers, cargo air carriers, and aviation manufacturers and contractors—is vital to the U.S. economy, generating billions of dollars in revenues each year, catalyzing economic growth, and influencing the quality of peoples' lives around the globe. The nation's airports are also important contributors to the U.S. economy, roughly 3,300 of which are eligible to receive federal Airport Improvement Program (AIP) grants to fund infrastructure projects. As we reported in February 2020, from fiscal years 2013 through 2017, airports received an average of $3.2 billion annually in federal AIP grants. [447]

In 2019, U.S. air carriers transported a record-level nearly 811.5 million domestic passengers, according to the Bureau of Transportation Statistics. Additionally, air transportation contributed almost $149 billion to the U.S. economy in 2019 and accounted for approximately 507,000 jobs in 2018, according to the Bureau of Economic Analysis. However, the COVID-19 pandemic has dramatically diminished passenger demand for air travel. In May 2020, the Department of Transportation (DOT) reported that 51 percent fewer passengers flew on scheduled flights with U.S. air carriers in March 2020 compared to March 2019.

The CARES Act authorized the Department of the Treasury (Treasury) to provide up to $78 billion in financial assistance to the aviation industry, including:

- **Payroll support program:** $32 billion in payroll support to passenger air carriers, cargo air carriers, and contractors to continue paying employee wages, salaries, and benefits; [448] and

[447]GAO, *Airport Infrastructure: Information on Funding and Financing for Planned Projects*, GAO-20-298, (Washington, D.C.: Feb. 13, 2020).

[448]Pub. L. No. 116-136, § 4112, 134 Stat. 281, 498 (2020).

- **Loan program:** Up to $46 billion in loans, loan guarantees, and other investments to provide liquidity to passenger and cargo air carriers, businesses certified to perform inspection, repair, replace, or overhaul services, ticket agents, and businesses critical to maintaining national security. [449]

Conditions of these two financial assistance programs include prohibitions against reductions in pay rates and benefits and involuntary layoffs or furloughs through September 30, 2020. [450] Recipients of payroll support must also refrain from stock share buybacks and dividend payments until September 30, 2021, and for the loan program, through the term of the loan or loan guarantee plus an additional 12 months. The CARES Act requires Treasury to receive a warrant or equity interest in recipients of loans or loan guarantees [451] for liquidity, but gives Treasury the discretion to require recipients of payroll support to issue financial instruments to Treasury as compensation [452] to protect the financial interests of the federal government, among other things. [453] Additionally, as authorized by the CARES Act, [454] DOT is requiring passenger air carriers receiving financial assistance to maintain minimum scheduled passenger service to points in the United States served by those carriers before March 1, 2020, with some exemptions. [455]

The CARES Act also provides $10 billion to support U.S. airports of all sizes experiencing severe economic disruption caused by the COVID-19 pandemic (see table). [456] This funding is being provided to airports to prevent, prepare for, and respond to the effects of the COVID-19 pandemic using aspects of the Federal Aviation Administration's (FAA) AIP program. Certain airport owners—also known as airport sponsors—accepting CARES Act grant funds must continue to employ, through December 31, 2020, at least 90 percent of the number of individuals employed as of March 27, 2020. However, nonhub and nonprimary airports are exempt from this workforce retention requirement. [457]

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[449]CARES Act, § 4003(b)(1)-(3), 134 Stat. at 470.

[450]Under the CARES Act, air carriers receiving payroll support must refrain from conducting involuntary furloughs or reducing pay rates and benefits until September 30, 2020. Air carriers receiving loans and loan guarantees are required, until September 30, 2020, to maintain employment levels as of March 24, 2020, to the extent practicable, and in any case shall not reduce their employment levels by more than 10 percent from the levels on such date.

[451]Pub. L. No. 116-136, § 4003(d), 134 Stat. at 474.

[452]CARES Act, § 4117, 134 Stat. at 500-501.

[453]Treasury is requiring passenger carriers that receive payroll support of more than $100 million, cargo air carriers receiving more than $50 million, and contractors receiving more than $37.5 million to provide financial instruments as appropriate compensation.

[454]Pub. L. No. 116-136, § 4114(b), 134 Stat. at 499.

[455]DOT has been exempting carriers from serving certain points where it is not reasonable or practicable to serve all points or all frequencies in their service obligations. The CARES Act also provided $56 million in for the Essential Air Service (EAS) program to maintain existing air service to rural communities. Pub. L. No. 116-136, 134 Stat. at 596. According to DOT, carrier obligations under EAS take primacy over their service obligations related to CARES Act financial assistance.

[456]Pub. L. No. 116-136, 134 Stat. at 596-597. The CARES Act gives the FAA the authority to retain up to 0.1 percent of the $10 billion (equaling up to $10 million) provided for Grants-in-Aid for Airports to fund the award and oversight by FAA of grants made under the CARES Act.

[457]According to FAA, this means that the 130 largest U.S. airports are subject to this requirement, each of which serves at least 0.05 percent of all passenger traffic in the United States.

CARES Act Airport Grants		
Funding groups	**Funds appropriated (in dollars)** [a]	**Formula applied**
Increase federal share for 2020 Airport Improvement Program (AIP) grants	At least 500 million	Increase the federal share to 100 percent for grants awarded for airport infrastructure projects under fiscal year 2020 AIP and supplemental discretionary grants. [b]
Commercial service airports (i.e., publicly owned airports with at least 2,500 passengers per year and scheduled air service)	At least 7.4 billion	The total allocation to an airport is determined by a formula that considers an airport's passenger boardings, the airport sponsor's debt service, and the sponsor's ratio of unrestricted reserves to debt service for 2018. [c]
Primary airports (i.e., large, medium, and small hub and non-hub airports with more than 10,000 passenger boardings per year)	Up to 2 billion	Allocated based upon statutory AIP entitlement formulas.
General aviation airports (i.e., airports with less than 2,500 passenger boardings per year and no scheduled air service)	At least 100 million	This funding is allocated based on the categories these airports are placed in given activity measures (e.g., volume and type of flights) and other factors in the most current National Plan of Integrated Airport Systems (NPIAS).

Source: GAO analysis of CARES Act. | GAO-20-265

[a]The CARES Act gives the Federal Aviation Administration (FAA) the authority to retain up to 0.1 percent of the $10 billion (equaling up to $10 million) provided for Grants-in-Aid for Airports to fund the award and oversight by FAA of grants made under the CARES Act.

[b]National system airports are eligible to receive federal funding from AIP grants for infrastructure development. The distribution of federal AIP grants is based on a combination of formula funds—also referred to as entitlement funds—that are available to national system airports, and discretionary funds that FAA awards for selected eligible projects. Entitlement funds are apportioned by formula to airports and may generally be used for any eligible airport improvement or planning project. Discretionary funds are approved by FAA based on FAA selection criteria and a priority system, which FAA uses to rank projects based on the extent to which they reflect FAA's nationally identified priorities. The federal share for AIP grants generally ranges from 75 percent to 95 percent.

[c]The Federal Aviation Administration used fiscal year 2018 Certification Activity Tracking System (CATS) data, reported as of March 14, 2020, to calculate allocations under the CARES Act formulas. More specifically, the total allocation to an airport is determined by a formula that considers an airport's passenger boardings for calendar year 2018 (50 percent), the airport sponsor's debt service (25 percent), and the sponsor's ratio of unrestricted reserves to debt service (25 percent), both for fiscal year 2018.

While AIP grants are used to fund infrastructure projects, airport sponsors may use CARES Act funds for any purpose for which airport revenues may be lawfully used, including airport operating expenses.

Overview of Key Issues

Treasury has awarded the majority of the $32 billion in payroll support authorized by the CARES Act and is in the process of reviewing applications for the loan program, while the FAA has finalized airport grant allocation amounts and obligated over $6.5 billion in CARES Act airport grant funds. As of June 1, 2020, Treasury has approved applications representing approximately $27 billion of the $32 billion in payroll support for 350 applicants—primarily to passenger carriers—and made some initial installment payments (see table). Treasury has required 13 passenger carriers to provide financial instruments to the U.S. government in the form of 10-year senior unsecured promissory notes equal to 30 percent of the payroll support provided that exceeds $100 million, and warrants for shares of common stock.

Approximate Number of Applications Received and Amounts Awarded for the Department of the Treasury's Payroll Support Program, as of June 1, 2020 a

Recipient type	Number of applications received [b]	Application versus authorized amount (in dollars)	Number of applicants approved	Approved prorated awards (in dollars)	Number of applicants paid	Amount disbursed in initial installments (in dollars)
Passenger Carriers						
Total	**511**	**32 billion / 25 billion**	**310**	**24 billion**	**258**	**17 billion**
Large Carriers	13	Not applicable.	13	23 billion	13	17 billion
Other Carriers	498	Not applicable.	297	950 million	245	300 million
Air Cargo Carriers	51	<1 billion / 4 billion	32	710 million	23	60 million
Aviation Contractors	451	4 billion / 3 billion	140	2 billion	69	120 million
Total	**1013**	**37 billion/ 32 billion**	**482**	**27 billion**	**350**	**17 billion**

Source: GAO analysis of U.S. Department of the Treasury data. | GAO-20-265

[a]The CARES Act authorizes Treasury to use $100 million of these funds for costs and administrative expenses associated with providing financial assistance.

[b]According to Treasury, the total number of applications received includes duplicates and fake applications.

Applicants that Treasury has not required to provide financial instruments to the U.S. government as appropriate compensation for the provision of financial assistance received assistance in installments. Applicants that are required to provide financial instruments could elect to receive assistance in a lump sum into a separate account or in installments. Treasury officials told us that most applicants required to provide financial instruments opted to receive assistance in installments because installments were preferable from a liquidity management perspective and a lump sum required executing a control agreement for the separate account.

According to Treasury officials, the main challenges in implementing the payroll support payments have been related to standing up a time-sensitive economic relief program while staff are working remotely, and processing applications from smaller aviation businesses. Officials noted that applications from the large passenger air carriers have been relatively easy to review and approve since the data on salaries and employment levels required for Treasury to approve the applications are the same data that these carriers regularly submit to DOT. However, the majority of applications are from smaller carriers and businesses—which do not report the same kind of employment information to DOT—and often feature incomplete or incorrect information on the applicant's corporate structure or employee workforce. Treasury staff have to seek additional information, which can delay approval of applications. Treasury officials said that they are continuing to work through applications and anticipate awarding the remaining funds in the coming months.

For the loan program, Treasury officials told us they received approximately 200 applications requesting more than $34 billion and are analyzing applicant financial data against the market to

establish the parameters of the program, such as loan terms. [458] Officials said that the terms of loans to large passenger air carriers will likely differ from those that apply to smaller applicants. According to officials, implementation of the loan program has followed that of the payroll support program because the CARES Act directs Treasury to prioritize implementation of the payroll support program, and because the loan program presents a number of complexities not found in the payroll support program. [459] For example, the statute requires a number of terms and conditions for loans, including regarding eligibility, commercial terms of the loans, and market conditions. Treasury's next steps in implementing the loan program include finalizing form loan documentation, determining appropriate commercial terms of the loans, and executing initial loans.

For airports, as of May 31, 2020, FAA finalized airport grant allocation amounts and has processed grant applications from 2,940 U.S. airports, totaling over $8.5 billion, according to FAA officials. Subsequently, FAA has obligated over $6.5 billion and reimbursed more than $288 million to airports for eligible airport costs. The grant formula in the CARES Act and available data for calculating the awards for commercial service airports (i.e., passenger boardings, debt service, and the ratio of unrestricted reserves to debt service) resulted in some small airports being allocated large amounts relative to their passenger activity or annual operating budgets. For example, some airports that reported unrestricted reserves but no debt service, and relatively few annual passenger boardings in 2018, were allocated nearly $17 million; amounts that greatly exceeded annual operating budgets. According to FAA, 31 of 3,283 total airports receiving funds had an initial grant allocation of over four times their annual operating expenses. Further, if airports did not report any debt service or unrestricted reserves in 2018, their allocation amounts could be affected. Airports were not allowed by FAA to amend their financial data filings that had been previously certified by airports as complete and correct, according to FAA. In other cases, the formula and available data resulted in some airports with large annual passenger boardings being awarded less funding than airports with fewer annual passenger boardings.

In response, FAA stated that, based on the CARES Act allocation formula for commercial service airports (i.e., 50 percent of the funds based on passenger boardings and the remaining funds allocated based on debt service and unrestricted reserves), it is expected that some airports may get allocated higher amounts despite handling fewer passengers, and vice versa. FAA officials also noted that they have limited each airport's initial CARES Act airport grant to no more than four times its annual operating expenses, unless the remaining amount would be less than $1 million. As such, according to FAA, the initial grants for 27 airports will not exceed four times the airport's annual operating expenses, unless the airport provides justification for accessing additional allocated funds and expending them within the 4-year performance period. According to FAA officials, FAA continues to process grant offers, obligate funds for those grants, and process invoices to reimburse airport sponsors. In addition, FAA is conducting stakeholder outreach and

[458]As of June 1, 2020, Treasury reported receiving 90 applications from passenger air carriers requesting $26.6 billion; 39 applications from eligible businesses certified under 14 C.F.R. part 145 requesting $1.5 billion; 48 applications from ticket agents requesting $5.8 billion; nine applications from cargo air carriers requesting $779 million; and 27 applications from businesses critical to maintaining national security requesting $750 million.

[459]Treasury is required to provide financial assistance and make initial payments to air carriers and contractors that submit approved requests within 10 days of enactment.

developing additional guidance, as needed, as well as developing audit policies and procedures to ensure lawful payment and use of CARES Act airport grant funds.

GAO Methodology and Agency Comments

To conduct this work, we reviewed passenger air carrier filings with the Securities and Exchange Commission, Treasury data on airline financial assistance, and FAA data on airport funding as of May 31, 2020; reviewed federal laws and agency guidance related to the CARES Act; and interviewed Treasury, DOT, and FAA officials. We provided a draft of this product to Treasury and DOT for comment. In its comments, reproduced in appendix IX, Treasury noted the speed with which it implemented the payroll support program. Treasury and DOT also provided technical comments, which we incorporated as appropriate.

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Related GAO Product

Air Travel and Communicable Diseases: Comprehensive Federal Plan Needed for U.S. Aviation System's Preparedness. GAO-16-127. Washington, D.C.: Dec. 16, 2015.

Agriculture Spending and Food Safety Inspections

The U.S. Department of Agriculture is providing $16 billion in direct payments to agricultural producers, as well as $3 billion in food purchases for redistribution to food banks, nonprofits, and other entities. Federal inspections of meat and poultry plants continue.

Entities Involved: U.S. Department of Agriculture: Agricultural Marketing Service, Farm Service Agency, and Food Safety and Inspection Service; Food and Drug Administration

Key Considerations and Future GAO Work

In future reports, we plan to discuss U.S. Department of Agriculture's (USDA) implementation and oversight of a range of CARES Act funds, including any implementation challenges. Specifically, we plan to address the department's

- self-certification process, verification of eligibility, and disbursement of direct payments to producers;
- contracting processes and decisions for the purchase and redistribution of food products; and
- capacity to ensure the continuity of food safety inspections.

We also plan to conduct work on the Food and Drug Administration's (FDA) response to COVID-19 in the areas of food safety inspections and other activities, although FDA did not receive CARES Act funding for inspections. [460]

Background

COVID-19 has caused disruptions in the U.S. food supply chain, from the farms where raw agricultural commodities are produced, to the food processing and distribution network that enables these commodities to be used by consumers. [461] As a result of COVID-19, prices for many major agricultural commodities, including livestock (cattle, hogs, poultry, and dairy), significantly decreased, which has meant a loss in income for many producers. In addition, the closure of institutions (schools, restaurants, hotels, for example) has made it difficult for agricultural

[460]Nearly 4,000 inspectors within the Food and Drug Administration also have a role in inspections of the food supply. In a March 18, 2020, statement, FDA stated that the agency would postpone (1) most foreign facility inspections through April 2020; and, (2) all domestic routine surveillance facility inspections the FDA traditionally conducts every few years based on a risk analysis. According to FDA, the Center for Food Safety and Applied Nutrition received $2.8 million in funding through the CARES Act and subsequent COVID-19 relief, which it will use to conduct research on virus response efforts and the impact on the food supply.

[461]COVID-19 has also affected consumer prices for food. In May 2020, the U.S. Bureau of Labor Statistics reported that April 2020 saw the sharpest increase in grocery store prices since 1974.

producers to market their commodities, leading to the spoilage of crops, dumping of milk, and euthanization of livestock. USDA referred us to the Food & Agricultural Policy Research Institute which estimated a decline of $20 billion in net farm income due to COVID-19, as of April 2020. [462]

An April 2020 Executive Order deemed meat and poultry processing plants as essential to the national defense during the COVID-19 pandemic and directed the Secretary of Agriculture to ensure their continuity of operations. This order not only has implications for the food supply chain, and the health and well-being of workers in these plants, but also for the federal government's role in ensuring food safety. [463]

About 7,850 inspectors and other staff from the USDA's Food Safety and Inspection Service work in 6,458 federally inspected meat and poultry plants, and other establishments. These inspectors help ensure the safety and wholesomeness of meat and poultry that enter interstate commerce. As we reported in April 2016, these inspectors are generally exposed to the same types of hazards as plant employees, such as respiratory irritation and injuries from working closely together. According to an April 2020 interim guidance from the Centers for Disease Control and Prevention and the Occupational Safety and Health Administration, close conditions may also contribute to potential exposures to COVID-19. According to USDA officials, USDA is tracking USDA inspectors' absences because of COVID-19 related illness or quarantine.

To address the effects of the COVID-19 pandemic on agricultural producers [464] and food safety inspectors, USDA received funding from the CARES Act and accessed funding generally available to the agency through its Commodity Credit Corporation Charter Act authorities, [465] as described below:

- The CARES Act included $9.5 billion to provide support for agricultural producers of specialty crops (such as fruits, vegetables, and tree nuts), producers that supply local food systems (such as farmers markets, restaurants, and schools), and livestock producers, including dairy

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[462]Food & Agricultural Policy Research Institute, University of Missouri, *Early Estimates of the Impacts of COVID-19 on U.S. Agricultural Commodity Markets, Farm Income and Government Outlays*, FAPRI-MU Report #02-20 (Columbia, MO :April 13, 2020).

[463]In May 2020, USDA and FDA established a Memorandum of Understanding creating a process for the two agencies to communicate and make determinations about circumstances in which USDA could exercise its authority under the Defense Production Act with regard to certain domestic food resource facilities that manufacture, process, pack, or hold foods, as well as to those that grow or harvest food, outside of USDA's exclusive jurisdiction.

[464]The CARES Act, as amended by the Paycheck Protection Program and Health Care Enhancement Act, also provided funds for the agriculture sector through the Small Business Administration's Economic Injury Disaster Loan (EIDL) and EIDL Advance programs, Pub. L. No. 116-136, div. A, tit. I, §1110(a), 134 Stat. 281, 306 (2020) *as amended by* Pub. L. No. 116-139, div. I §101(c), 134 Stat. 620, 621 (2020). For a limited time, applications were not accepted from agricultural businesses. However, following changes to the law, agricultural businesses with 500 or fewer employees engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries, were eligible).

[465]See Commodity Credit Corporation Charter Act, 15 U.S.C. §§ 714-714p. The Congressional Research Service provides a detailed description of the federal funding for the agriculture sector as a result of COVID-19. Congressional Research Service , *COVID-19, U.S. Agriculture, and USDA's Coronavirus Food Assistance Program (CFAP)*, R46347 (Washington, D.C.: May 8, 2020).

producers, to respond to COVID-19. [466] USDA added $6.5 billion from its Commodity Credit Corporation for a total of $16 billion in direct payments to producers. [467]

- In addition, USDA announced that it would purchase and distribute up to $3 billion in agricultural products using authorities outlined in the Commodity Credit Corporation Charter Act and the Families First Coronavirus Response Act to provide for families in need. [468]
- To address food safety inspections, the CARES Act provided USDA's Food Safety and Inspection Service with $33 million to, among other things, hire temporary and intermittent workers, relocate inspectors, and cover the costs of overtime. [469]

The CARES Act also provided USDA with $14 billion to reimburse the Commodity Credit Corporation fund for realized losses. [470] According to USDA, the funding gives the agency flexibility to extend repayment of certain farm loans, and funds to cover departmental operational costs such as the loss of user fees, salaries, and other expenses. [471]

USDA's new responsibilities under the CARES Act and COVID-19 focused activities it has taken may add to pre-existing federal oversight challenges in government-wide coordination. For more than 4 decades, we have reported on the fragmented federal food safety oversight system, which has caused inconsistent oversight, ineffective coordination, and inefficient use of resources. We added federal food safety oversight to the High-Risk List in 2007 because of risks to the economy, public health, and safety.

Overview of Key Issues

Direct payments and food purchases. USDA created a new program—Coronavirus Food Assistance Program (CFAP)—to encompass the agency's response to COVID-19. This program includes activities funded through the CARES Act and existing USDA authorities. The two primary components of this program are (1) direct payments to producers and (2) purchases of produce,

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[466]CARES Act, Pub. L. No. 116-136, div. B, tit. I, 134 Stat. at 505.

[467]The Commodity Credit Corporation is a government-owned and operated entity created to stabilize, support, and protect farm income and prices, among other things. It has no operating personnel, and its domestic agricultural and income price support programs are carried out primarily through the personnel and facilities of USDA's Farm Service Agency (FSA).

[468]Pub. L. No. 116-127, div. A, tit. I §1101(g), 134 Stat. 178, 179 (2020).

[469]Pub. L. No. 116-136, div. B, tit. I, 134 Stat. at 506.

[470]Pub. L. No. 116-136, div. B, tit. I, 134 Stat. at 509.

[471]In addition, the CARES Act provided individual agencies within USDA with appropriations for the purpose of preventing, preparing for, and responding to coronavirus. For example, the CARES Act provided $55 million for the Animal and Plant Health Inspection Service and $45 million for the Agricultural Marketing Service. Pub. L. No. 116-136, div. B, tit. I, 134 Stat. at 506.

meat, and dairy products for redistribution to food banks, nonprofits, and other entities. USDA has begun work to implement these components, as described below:

- In May 2020, USDA published a final rule in the *Federal Register* outlining eligibility, rates, and payment limits for direct payments to producers, among other things. [472] The rule indicates that the limit on the payment that producers can receive from the program is $250,000 per producer. [473] This represents an increase over the payment limits under the 2014 farm bill which is $125,000. According to the rule, the first payments cover 80 percent of each total payment to producers to ensure payments are distributed among all eligible producers. USDA will disburse the remaining funds after the initial payments. In June 2020, USDA announced that it had issued the first direct payments to producers.

  Because of the speed with which USDA intends to disburse payments, USDA officials said that they would ensure eligibility through producers' self-certification with certain documentation requirements (for example, submission of a farm operating plan and certification of adjusted gross income), followed by a review of a statistically representative sample of producer applications after funds are disbursed. USDA officials did not indicate when these reviews would begin.

- By May 8, 2020, USDA had approved $1.2 billion in contracts for the food purchase program, which it calls the "Farmers to Families Food Box" program. [474] According to USDA, contracted distributors will package the products USDA purchases into family-sized boxes and transport them to food banks, community and faith-based organizations, and other non-profits from May 15 through June 30, 2020. According to USDA, the program plans to purchase $461 million in fresh fruits and vegetables; $317 million in dairy products; $258 million in meat products; and $175 million for combination boxes of fresh produce, dairy, or meat products. According to USDA, as of June 10, 2020, the program had delivered over 11.4 billion food boxes throughout the country.

  USDA stated on its website that it would oversee the program throughout the contract period by conducting audits of, among other things, contractors' plans for ensuring that the food deliveries are safe for consumption.

Components of both programs include activities beyond the scope of those conducted under pre-existing USDA programs, according to USDA. For example:

- The direct payment program widens the eligibility of producers to those who may not have previously received financial assistance from USDA, such as specialty crop producers of fruits, vegetables, and tree nuts. As such, USDA will have to create new records for these producers in the department's electronic management system.

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[472]Coronavirus Food Assistance Program, 85 Fed. Reg. 30,825 (May 21, 2020).

[473]According to USDA, for a corporation with three shareholders (the maximum allowed under the program), total payments could be up to $750,000.

[474]According to USDA, contracts were awarded to almost 200 entities.

- USDA's food purchase program represents a completely different way of doing business for USDA, according to a USDA official on an April 29, 2020, webinar. Specifically, the Farmers to Families Food Box program is structured differently than USDA's existing food purchase program, in which distributors are pre-approved, the variety of products is defined, and the destination for the food is pre-determined and limited to certain nonprofits or other entities. The new Farmers to Families Food Box program, according to these officials, includes products that USDA may not normally purchase (for example, certain fresh fruits and vegetables) and works with distributors and nonprofits or other entities with which USDA did not have a prior relationship.
  After the first awards were announced, USDA terminated at least one contract after re-evaluating the contractor's ability to provide services. In addition, an organization representing the produce industry and members of Congress have raised questions about USDA's selection of contractors and contractors' ability to meet their award obligations.

Food safety inspections. USDA officials told us that, as of May 2020, they had used CARES Act funds to cover additional hours for part-time inspectors; costs to bring in additional inspectors from other USDA offices, and associated travel costs; and costs for nonreimbursable overtime that may increase during the response to COVID-19. USDA officials also anticipated spending additional funds for transportation, increased costs for mailing, and additional supplies. USDA officials said in May 2020 that they ordered and received about 1.4 million face masks and coverings for inspectors and other Food Safety and Inspection Service (FSIS) staff. USDA officials said that prior to receiving the masks (and in response to Centers for Disease Control and Prevention guidance), USDA provided a one-time reimbursement to inspectors of up to $50 each for the purchase of face coverings, such as masks or materials to make their own masks. USDA's reimbursement policy ended on May 31, 2020 and the agency reported spending about $12,000 on face coverings. According to FSIS, FSIS inspection personnel are required to wear face coverings or masks and face shields.

USDA officials said that absentee rates due to COVID-19 have not affected USDA's ability to conduct inspections because the agency already plans for a certain level of absenteeism due to annual leave, sick leave, training, and other absences by inspectors. In addition, USDA officials said that the agency identified additional qualified staff throughout USDA who would conduct inspection work, if necessary. According to FSIS, the agency is also working to prioritize inspections at establishments based on local conditions and resources available. As of May 1, 2020, 258 FSIS employees (including inspectors) had a COVID-19 diagnosis confirmed by test or medical professional and three employees had died, according to USDA documentation. USDA officials said that as of June 2020, there were no establishments that had to close because of a lack of available USDA inspectors.

GAO Methodology and Agency Comments

To conduct this work, we reviewed the most recent USDA data as of June 1, 2020; reviewed federal laws, agency policy and other guidance, and expenditure data; and interviewed USDA officials

in the Agricultural Marketing Service, Animal and Plant Health Inspection Service, Farm Service Agency, and Food Safety and Inspection Service.

We provided a draft of the report and this enclosure to USDA for review and comment. In technical comments, USDA generally concurred with the language presented in the draft report regarding the department's COVID-19 efforts to date. In addition, USDA acknowledged GAO's work to examine key actions the federal government has taken to address the COVID-19 pandemic and evolving lessons learned relevant to the nation's response to pandemics. The technical comments, according to USDA, were to provide additional context to both GAO and readers of the report; and, we incorporated them, as appropriate.

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Related GAO Products:

High-Risk Series: Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas. GAO-19-157SP. Washington, D.C.: March 6, 2019.

Workplace Safety and Health: Additional Data Needed to Address Continued Hazards in the Meat and Poultry Industry. GAO-16-337. Washington, D.C.: April 25, 2016.

U.S. Department of Agriculture Support for Rural America

CARES Act funding provides support for U.S. Department of Agriculture programs to help address the COVID-19 pandemic in rural America.

Entities involved: U.S. Department of Agriculture, Rural Utility Service, Rural Business-Cooperative Service

Key Considerations and Future GAO Work

In April 2017, we reviewed the extent to which the Rural Utility Service's (RUS) rural broadband loan and grant program procedures and activities were consistent with leading practices and how, if at all, its management practices could be improved. We found that RUS's procedures and activities were consistent with four leading practices and partially consistent with six leading practices.

We made five recommendations to the U.S. Department of Agriculture (USDA) to improve the management of the program. USDA agreed with the recommendations and has implemented two of them regarding risk assessment and program goals and measures. The remaining recommendations relate to evaluating project outcomes, implementing a data system for managing the program, and developing policies and procedures as a way to retain and communicate knowledge among agency staff. In May 2020, USDA officials said they are still working to implement the three open recommendations and plan to complete their efforts by the end of 2020. Having written policies and procedures could be even more important during a pandemic in which an organization's normal operating procedures may be disrupted.

We plan to continue monitoring RUS's use of CARES Act funding.

Background

USDA Rural Development agencies support economic development and essential services to help improve the economy and quality of life in rural America. These agencies include RUS, which works to address rural infrastructure needs, and the Rural Business-Cooperative Service (RBCS), which offers programs to support businesses and job training.

The CARES Act provided funding for three existing Rural Development programs: [475]

- RUS received $100 million to provide additional grants through ReConnect, its program that provides grants and loans to support broadband deployment in rural areas that lack access to broadband.

[475] Pub. L. No. 116-136, 134 Stat. 281, 507, 510 (2020).

- RUS also received $25 million for its Distance Learning and Telemedicine grants program. This program provides financial assistance to enable and improve distance learning and telemedicine services in rural areas.
- RBCS received $20.5 million for loans for rural business development programs authorized in section 310B of the Consolidated Farm and Rural Development Act.

Overview of Key Issues

USDA has begun work to implement the provisions of the CARES Act:

- Prior to the passage of the CARES Act, RUS issued a Funding Opportunity Announcement and solicitation of applications for the ReConnect program in the Federal Register on December 12, 2019. [476] RUS then published a notice informing the public of an additional $100 million for ReConnect grants from the CARES Act in the Federal Register on April 10, 2020. [477] RUS prioritized using the $100 million CARES Act funding for applicants that were previously unsuccessful in obtaining funds through the program. However, these applicants were required to reapply during the program's second round, which closed April 15, 2020. RUS staff said they expect to award funding by late summer 2020.
- Prior to receiving CARES Act funding, RUS also issued a funding notice for its Distance Learning and Telemedicine grants programs, with applications due April 10, 2020. With its $25 million in CARES Act funding for this program, RUS announced a second round of funding on April 3, 2020. Applications are due July 13, 2020. RUS staff said they expect to award funding toward the end of 2020.
- RBCS published a notice in the Federal Register on May 22, 2020, announcing the availability of funding through its Business and Industry (B&I) CARES Act Guaranteed Loan Program as part of its existing B&I Guaranteed Loan Program. [478] Under the program, RBCS plans to use the $20.5 million provided through the CARES Act to support approximately $951 million in guaranteed loans to rural businesses in response to economic conditions associated with COVID-19. It is the agency's stated intent that guaranteed loans will be directed toward working capital loan purposes to support business operations and facilities in rural areas including agricultural producers. The agency stated that funding amounts will be based on cash flow analysis and must be limited to the amount needed to cure problems caused by COVID–19. Additionally, according to the notice, RBCS will extend loan authority to support agricultural production (limited to 50 percent of program funding), simplify the application procedures for smaller loans, and adjust various program requirements.

[476] ReConnect Pilot Program, 84 Fed. Reg. 67913 (Dec. 12, 2019).

[477] Broadband Pilot (ReConnect) Program, 85 Fed. Reg. 20240 (Apr. 10, 2020).

[478] Notice of Funding Availability, 85 Fed. Reg. 31139 (May 22, 2020).

USDA staff reported few challenges with implementing these provisions of the CARES Act, in part because the funds were provided for existing programs. Where staff did identify challenges, they said they were similar to the challenges with the existing programs, such as validating that the proposed service area to be funded with a ReConnect grant is unserved by broadband.

GAO Methodology and Agency Comments

To conduct this work, we reviewed federal laws and agency documents, including program funding notices, and interviewed USDA officials about how their agencies would implement provisions of the CARES Act.

We provided a draft of this enclosure to USDA for review and comment. USDA did not provide comments on the enclosure.

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Related GAO Product

Rural Broadband Deployment: Improved Consistency with Leading Practices Could Enhance Management of Loan and Grant Programs, GAO-17-301 Washington, D.C.: April 13, 2017.

Temporary Financial Regulatory Changes

Federal agencies have issued rules or statements on financial regulatory changes and have not exercised certain emergency authorities under the CARES Act.

Entities involved: Consumer Financial Protection Bureau, Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, National Credit Union Administration, Department of the Treasury

Key Considerations and Future GAO Work

The CARES Act includes a provision to protect the credit of consumers who reach an agreement with their lender to delay or otherwise modify payments because of the COVID-19 pandemic.[479] On April 1, 2020, the Consumer Financial Protection Bureau (CFPB) issued a policy statement outlining the responsibilities of companies that furnish credit information under the CARES Act. This statement also informed furnishers and credit reporting agencies that CFPB will take a flexible approach during the pandemic regarding compliance with credit reporting laws, taking into account the challenges that entities face as a result of the pandemic and their efforts to comply.

In July 2019, we recommended that CFPB communicate its supervisory expectations to consumer reporting agencies (CRAs) regarding (1) reasonable procedures for assuring maximum possible accuracy of consumer report information, and (2) reasonable investigations of consumer disputes. CRAs—which include credit reporting companies—collect data from various sources, such as banks and mortgage lenders, to create consumer reports that they sell to third parties. In its written comments, while CFPB did not state that it disagreed with these recommendations, it described actions it had taken to provide information to CRAs. We maintained that providing additional guidance to CRAs would be beneficial. CFPB oversight and attention to compliance with the CARES Act requirements on credit reporting will be critical to help ensure that consumers do not suffer undue damage to their credit or experience difficulties trying to resolve disputed information with consumer reporting agencies.

We plan to continue following CFPB's oversight of credit reporting issues. Our findings from this work will appear in future reports.

Background

The goals of federal financial regulation include monitoring the safety and soundness of financial institutions, ensuring adequate consumer and investor protections, and acting to ensure the stability of the financial system, among others.

[479]Pub. L. No. 116-136, § 4021, 134 Stat. 281, 489 (2020).

The U.S. financial regulatory structure is complex, with responsibilities fragmented among multiple agencies that have overlapping authorities. For example, four federal prudential regulators—the Board of Governors of the Federal Reserve System (Federal Reserve), Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), and National Credit Union Administration (NCUA)—as well as state banking regulators oversee their respective depository institutions for safety and soundness. In addition, while the CFPB regulates the offering and provision of consumer financial products and services, the four prudential regulators retain supervisory responsibilities in this area for smaller depository institutions ($10 billion or less in assets). We have previously identified "Modernizing the U.S. Financial Regulatory System" as a high-risk area because this complex and fragmented regulatory structure presents challenges to efficient and effective oversight of financial institutions and activities.

Title IV of Division A of the CARES Act includes provisions designed to stabilize the U.S. economy in response to COVID-19. In addition to the measures described in the Enclosures on Federal Reserve Emergency Lending Programs and Aviation Industry Financial Assistance, the Act includes other measures that relate to the oversight responsibilities or authorities of the financial regulators and the Department of the Treasury (Treasury). These measures can be grouped into three categories:

- **Consumer credit protection.** As mentioned above, the CARES Act includes a provision (Section 4021) to protect the credit of consumers who reach an agreement with their lender to delay or otherwise modify payments because of the COVID-19 pandemic. Specifically, if a lender or other creditor agrees to defer payments, accept partial payments, or provide other relief to a consumer on a credit obligation or account, the creditor must report the obligation or account as current (or other status reported prior to the agreement) to credit reporting agencies, as long as the consumer abides by the relief agreement.

- **Temporary changes to regulatory and other requirements for regulated financial institutions.** These temporary changes generally support federal financial regulators' efforts to encourage financial institutions to provide credit and flexibility on loan repayment terms to borrowers facing disruptions because of COVID-19 (see Overview of Key Issues for additional details on these changes). [480] These temporary changes generally expire the earlier of December 31, 2020, or a date tied to the termination of the national emergency.

- **Emergency authorities for FDIC, NCUA, and Treasury.** The CARES Act authorizes FDIC and NCUA to temporarily guarantee or insure certain obligations of financial institutions (Section 4008), and authorizes Treasury to temporarily guarantee money market funds under Treasury's Economic Stabilization Fund (ESF) (Section 4015). Section 4008 provides FDIC with necessary Congressional approval to create an emergency debt guarantee program for insured depository institutions or their holding companies. However, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) requires additional steps, including a determination by FDIC and the Federal Reserve that market conditions warrant the creation of the program, and written consent from the Secretary of the Treasury. [481] Section

[480] CARES Act, Pub. L. No. 116-136, §§ 1102(a)(2)(O)(i), 4011-14, 4016, 134 Stat. at 292, 478-82.

[481] The Dodd-Frank Act also requires GAO to review and report to Congress on the basis for the determination and the likely effects of the actions taken. Pub. L. No. 111-203, §§ 1104-6, 124 Stat. at 2020-26 (codified at 12 U.S.C. § 5611-13).

4008 of the CARES Act also authorizes FDIC and NCUA to temporarily guarantee or insure certain uninsured deposits at the institutions they regulate. NCUA must coordinate with FDIC in exercising this temporary authority.

Overview of Key Issues

Status of implementation. On April 1, 2020, CFPB issued a policy statement outlining the responsibilities of furnishers of credit information under Section 4021 of the CARES Act. On April 6, 2020, CFPB updated an earlier blog post to help consumers understand this provision. [482] In addition, financial regulators' April 7, 2020, joint statement on loan modifications discussed consumer protection considerations for financial institutions and mortgage servicers. In a May 2020 statement, the CFPB Director said the CFPB has also developed a new, targeted supervisory approach to focus on those markets and institutions that pose the greatest risk of consumer harm as a result of pandemic-related issues.

Federal financial regulators have issued interim final rules related to the following three provisions under the CARES Act:

- **Reduced community bank leverage ratio:** Section 4012 requires the temporary lowering of the community bank leverage ratio from 9 percent to 8 percent. Interim final rules issued by banking regulators became effective on April 23, 2020.
- **NCUA's liquidity facility:** Section 4016 includes various changes to temporarily expand access to the facility and increase the amount the facility can borrow. The interim final rule to implement these changes became effective on April 29, 2020. NCUA also issued a letter to credit unions to explain the changes.
- **Regulatory capital treatment for Paycheck Protection Program loans:** Section 1102 includes a requirement that loans under this program carry a zero percent risk weight for purposes of regulatory capital requirements. An interim final rule issued by banking regulators became effective on April 13, 2020.

For other changes to requirements for financial institutions, agency officials said that a rulemaking was not necessary. For two of these three provisions, the responsible financial regulators issued a joint statement to supervised institutions to clarify their interpretation of the CARES Act provisions.

- **Troubled debt restructurings:** Section 4013 allows financial institutions to temporarily suspend certain accounting requirements for loan modifications related to the COVID-19 pandemic that would otherwise constitute troubled debt restructurings. [483] In April 2020,

[482] L. Fiano, "Protecting your credit during the coronavirus pandemic," *Consumer Financial Protection Bureau Blog.* https://www.consumerfinance.gov/about-us/blog/protecting-your-credit-during-coronavirus-pandemic/

[483] This provision does not apply to modifications of loans that were already delinquent as of December 31, 2019.

federal financial regulators issued a joint statement to clarify the interaction between relief under this CARES Act provision and an earlier joint statement they had issued on this topic on March 22, 2020.

- **Current expected credit losses:** Section 4014 provides temporary relief to insured depository institutions and bank holding companies from having to comply with an accounting requirement to record anticipated credit losses earlier than previously required. On March 31, 2020, banking regulators issued a joint statement to clarify the interaction between relief under this CARES Act provision and regulatory capital relief under an interim final rule they had issued on March 27, 2020.

- **National bank lending limits:** Section 4011 temporarily expands the OCC's authority to exempt loans and extensions of credit from statutory limits on the amount that a national bank can lend to a single person. In April 2020, OCC officials said they were consulting with OCC bank supervisors as they consider this temporary authority.

Outside of these CARES Act provisions, financial regulators have taken other actions to encourage financial institutions to provide credit to households and businesses affected by COVID-19. For example, on May 15, 2020, the Federal Reserve, FDIC, and OCC issued an interim final rule making temporary changes to the supplementary leverage ratio to provide additional flexibility to affected institutions to support credit provision.

As of June 3, 2020, Treasury, FDIC and NCUA had not announced any plans to exercise the emergency authorities under Sections 4015 and 4008 of the CARES Act. In May 2020, FDIC officials said that they had not yet seen evidence of a significant liquidity event—such as large deposit outflows or other liquidity strains on depository institutions—that would be needed to support a determination to use FDIC's emergency authority. In April 2020, NCUA officials noted that they must coordinate with FDIC on whether such a liquidity event exists before NCUA exercises its authority to temporarily increase its insurance coverage for certain credit union deposits. In May 2020, in written comments, Treasury noted that it will continue to evaluate whether a guarantee program would be appropriate for money market funds. [484]

Key oversight and implementation issues. Continued attention and coordination among federal financial regulators will be important in the following areas:

- **Overseeing compliance with CARES Act requirements:** Section 4021 contains new requirements for companies that furnish credit information. In April 2020, CFPB officials noted that CFPB plans to monitor compliance with these requirements as part of its supervisory process, which will prioritize activities that pose the greatest risks to consumers.

- **Monitoring the effectiveness of the CARES Act provisions:** For example, federal financial regulators have taken steps to encourage lenders to offer flexibility to borrowers, such as by issuing a statement to clarify the CARES Act provision related to accounting for loan modifications. OCC and Federal Reserve officials noted that agencies plan to collect data on

[484]In these comments, Treasury noted that other policy actions taken to date, such as Federal Reserve liquidity facilities, have helped to stabilized money markets.

the number and dollar amount of loan modifications that supervised financial institutions provide for borrowers under Section 4013 of the Act. These data could help agencies understand the extent to which supervised institutions are offering loan modifications, as appropriate, and could help to identify areas where agencies or Congress may need to take additional steps.

- **Balancing safety and soundness concerns with efforts to encourage credit provision:** Regulated banks generally entered the start of COVID-19 with substantially stronger capital and liquidity levels than a decade ago. Financial regulators have taken actions to encourage banks to use this strength to support households and businesses. As market conditions evolve, regulatory attention to safety and soundness will continue to be important to identify and respond to any emerging issues early.
- **Determining whether and how to exercise emergency authorities:** It will be important for FDIC, NCUA and Treasury to coordinate with other agencies as appropriate and to provide transparency to the public about any use of their emergency authorities under Sections 4008 and 4015 of the CARES Act.
- **Communicating with regulated institutions and the public** *:* External communication about financial regulatory matters related to COVID-19—including interagency coordination on these communications—will continue to be important, including to address any areas where additional guidance or clarification is needed and to manage issues around expiration of the temporary changes.

GAO Methodology and Agency Comments

To conduct this work, we reviewed relevant federal laws, regulations, and regulators' statements issued to supervised entities to clarify changes under the CARES Act. We also interviewed officials from federal financial regulators with responsibilities for the relevant CARES Act provisions. In addition, we obtained written responses to our questions from Treasury.

We provided a draft of this report section to the CFPB, Federal Reserve, FDIC, NCUA, OCC, and the Department of the Treasury for review and comment. NCUA and OCC did not provide any comments. The other agencies provided technical comments, which we incorporated, as appropriate.

Contact information: John Pendleton, (404) 679-1816, pendletonj@gao.gov

Related GAO Products

Consumer Reporting Agencies: CFPB Should Define Its Supervisory Expectations. GAO-19-459. Washington, D.C.: July 16, 2019.

Modernizing the U.S. Financial Regulatory System, High-Risk Series: Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas. GAO-19-157SP. Washington, D.C. March 6, 2019.

Financial Regulation: Complex and Fragmented Structure Could Be Streamlined to Improve Effectiveness. GAO-16-175. Washington, D.C.: February 25, 2016.

Bank Regulation: Lessons Learned and a Framework for Monitoring Emerging Risks and Regulatory Response. GAO-15-365. Washington, D.C.: June 25, 2015.

Department of Commerce Support for Industries and the Economy

The CARES Act provided additional appropriations for four Department of Commerce bureaus to aid the economy and industries affected by the COVID-19 pandemic.

Entities involved: Economic Development Administration, Minority Business Development Agency, National Institute of Standards and Technology, and National Oceanic and Atmospheric Administration

Key Considerations and Future GAO Work

The magnitude and breadth of CARES Act funding to the Department of Commerce (Commerce)—about $1.87 billion across multiple programs with widely varying purposes—has created challenges in distributing the funding. Many of these programs are in the early stages of implementation. Looking forward, the Commerce bureaus will need to ensure approaches to distribute funding in a timely and transparent way that allows oversight. We plan to conduct additional work on Commerce's implementation of selected CARES Act provisions.

Background

In an effort to mitigate the significant economic consequences of COVID-19 on industries and localities, the CARES Act appropriated additional funding for four bureaus within Commerce:

Economic Development Administration (EDA). EDA's primary focus is to help regions experiencing long-term economic distress or sudden economic dislocation (brought about by plant closure or natural disaster, for example) through public infrastructure investments, technical assistance and research, and the development and implementation of comprehensive economic development strategies. The CARES Act appropriated $1.5 billion to administer grants through EDA's Economic Adjustment Assistance program. [485]

Minority Business Development Agency (MBDA). MBDA is dedicated to supporting the development and expansion of the minority business community. Through a network of business centers, the agency delivers technical and management services to minority businesses, among other assistance. The CARES Act appropriated $10 million for MBDA's minority business centers to provide technical assistance to small businesses. [486]

[485] Pub. L. No. 116-136, 134 Stat. 281, 510-511 (2020).

[486] Pub L. No. 116-136, § 1107(a)(5), 134 Stat. at 302. MBDA understands this appropriation to allow for the administration of grants to business centers for activities pursuant to the authority provided in Section 1108 of the CARES Act (which we describe later).134 Stat. at 302-4.

National Institute of Standards and Technology (NIST). NIST's mission is to promote U.S. innovation and industrial competitiveness by advancing measurement science, standards, and technology in ways that enhance economic security and improve quality of life. The CARES Act appropriated $60 million for Industrial Technology Services, of which $50 million was for the Hollings Manufacturing Extension Partnership (MEP) program, [487] and $10 million was for the National Network for Manufacturing Innovation (Manufacturing USA).

National Oceanic and Atmospheric Administration (NOAA). NOAA oversees a variety of activities including weather forecasting, climate monitoring, coastal restoration, and fisheries management. NOAA's National Marine Fisheries Service (NMFS) is the lead federal agency responsible for managing commercial and recreational marine fisheries. The CARES Act appropriated $300 million to the Department of Commerce to assist fishery participants who have incurred, as a direct or indirect result of COVID-19, certain economic revenue losses or other negative impacts. [488]

The table below provides a more detailed explanation of the purpose of these appropriated funds.

[487] Pub. L. No. 116-136, 134 Stat. at 511. MEP utilizes a national network of MEP extension partnership centers (MEP Centers) to provide companies with services and access to public and private resources to enhance growth, improve productivity, reduce costs, and expand capacity.

[488] Pub. L. No. 116-136, § 12005(d), 134 Stat. at 518.

Department of Commerce Bureaus Providing CARES Act Assistance by Appropriation and Purpose		
Commerce Bureau	**Appropriation in dollars**	**Purpose of CARES Act Appropriation and Use of Funds**
Economic Development Administration (EDA)	1.5 billion	For grants under EDA's Economic Adjustment Assistance program to help communities prevent, prepare for, and respond to coronavirus. Up to 2 percent of these funds may be used for salaries and expenses for related administration and oversight activity, and $3 million will be transferred to the Office of the Inspector General to carry out investigations and audits related to appropriated funding. Commerce officials told us that as of May 31, 2020, EDA had awarded $5.2 million to Economic Development Districts.
National Oceanic and Atmospheric Administration (NOAA)	300 million	To assist fishery participants, which include tribes, persons, fishing communities, aquaculture businesses not otherwise eligible for certain assistance, processors, or other fishery-related businesses, who have incurred, as a direct or indirect result of COVID-19, certain specified economic revenue losses or other negative impacts. This funding will be awarded to three Interstate Marine Fisheries Commissions, which will work with states, tribes, and territories in their region to develop spend plans for NOAA approval and eventual implementation. Puerto Rico and the U.S. Virgin Islands will submit applications and spend plans directly to NOAA for their allocated funding. As of May 31, 2020, $300 million had been allocated to states, tribes, and territories, though funds have not yet been made available to fishery participants. Up to 2 percent of these funds may be used for administration and oversight activities.
National Institute of Standards and Technology (NIST)	60 million	For Industrial Technology Services to prevent, prepare for and respond to COVID-19 including $50 million for the Hollings Manufacturing Extension Partnership (MEP) (which provides companies with services and access to public and private

	resources to enhance growth, improve productivity, reduce costs, and expand capacity through MEP Centers), and $10 million for the National Network for Manufacturing Innovation (Manufacturing USA) (a network of manufacturing innovation centers established by the Department of Commerce and other federal agencies). The act eliminates the federal cost share requirements for CARES Act funding received by MEP Centers and federal cost share requirements for federal funding received by MEP Centers under the Consolidated Appropriations Act, 2020. Commerce officials told us that as of May 31, 2020, $19.51 million had been allocated via 16 awards to MEP Centers. Manufacturing USA has awarded $8.9 million. [a]
Minority Business Development Agency (MBDA)	10 million	For MBDA's minority business centers to provide technical assistance to small business concerns. The act also authorizes MBDA to provide grants to minority business centers and minority chambers of commerce for the purpose of providing minority-owned businesses with counseling, training, and education on accessing federal resources and business practices to mitigate the effects of COVID-19 or similar occurrences. MBDA plans to distribute non-competitive awards to minority business centers and minority chambers of commerce in an award period beginning June 1, 2020. Officials told us that these non-competitive awards are distributed in less time than the competitive process.

Source: GAO analysis of CARES Act and agency information. | GAO-20-625

[a]Officials told us that as of May 31 st, 2020 awards have been made to MEP Centers in AR, FL, HI, IA, ID, IL, IN, KY, MO, OH, OR, PA, SC, TN, WI and WV.

Overview of Key Issues

Status of implementation. Bureaus are responding to challenges and have either started distributing funds or have taken steps to distribute funds:

- EDA received $1.5 billion—which is almost 5 times its fiscal year 2020 annual appropriation—and officials told us that the national scope of the pandemic differs from their localized response to previous disasters. To address its CARES Act responsibilities, EDA officials said that they are increasing the number of staff to manage and oversee markedly increased grant volume. Officials also noted that they have made specific determinations in an effort to expedite funding to impacted communities and regions, including nationwide eligibility based on economic injury from COVID#19 and use of CARES Act funding to make supplemental awards to recipients of certain existing EDA awards. EDA began accepting applications from eligible grantees using funds authorized under the CARES Act in early May 2020 and officials told us they began awarding their first grants in late May 2020. [489]

- NOAA has allocated its $300 million to states, tribes, and territories with coastal and marine fishery participants and is now working with the Interstate Marine Fisheries Commissions, along with states, territories, and tribes, to develop applications and complete the award process that will be used to distribute the allocated funds to fishery participants. Grants to the Interstate Marine Fisheries Commissions are expected to be executed by July 1, 2020 **.**

- NIST officials told us they had awarded $28.41 million of its $60 million appropriation for manufacturing-related projects as of May 31, 2020, and have taken steps to begin awarding additional CARES Act funding by early June 2020.

- MBDA officials told us that they plan to issue non-competitive awards to minority chambers of commerce and minority business centers. According to MBDA officials, they have held preliminary calls with the minority business centers and minority chambers of commerce.

GAO Methodology and Agency Comments

To conduct this work, we reviewed federal laws and agency documents, including program funding notices, and interviewed Department of Commerce officials about how their agencies would implement CARES Act provisions.

We provided a draft of this report section to Commerce for review and comment. Commerce officials provided technical comments, which we incorporated as appropriate.

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[489]EDA can make grants to state and local governmental entities, institutions of higher education, non-profit entities, and federally recognized Indian tribes. Businesses may be eligible for various types of assistance provided by EDA grantees including loans from an EDA-funded Revolving Loan Fund (RLF). EDA has announced that RLF grant recipients may provide additional flexibilities to borrowers due to the effect of COVID-19 on small businesses, including waiving requirements to demonstrate that credit is not otherwise available and requirements to leverage additional capital, among others.

Related GAO Products

Advanced Manufacturing: Innovation Institutes Have Demonstrated Initial Accomplishments, but Challenges Remain in Measuring Performance and Ensuring Sustainability. GAO-19-409. Washington, D.C.: May 23, 2019.

Manufacturing Extension Partnership: Centers Cite Benefits from Funding Changes, but Impacts Hard to Distinguish from Other Factors. GAO-19-219. Washington, D.C.: March 7, 2019.

Department of Defense Working Capital Funds

COVID-19 could further impact the Department of Defense's working capital fund balances, even with additional appropriated amounts provided by the CARES Act.

Entities involved: Department of Defense

Key Considerations and Future GAO Work

In June 2017, we reported that monthly cash balances for the Defense-Wide Working Capital Fund had been outside the Financial Management Regulation-defined upper and lower cash requirements for 87 of 120 months during fiscal years 2007 through 2016. [490] We recommended that the Department of Defense (DOD) provide guidance in its regulation on when DOD managers should use available tools to help ensure that monthly cash balances remain within the upper and lower requirements. DOD concurred with, but has not implemented the recommendation. In light of the effect that COVID-19 is having on the military services' working capital fund monthly cash balances, this recommendation continues to have merit, particularly in light of the risks facing these working capital funds when cash balances fall below the lower cash requirements for long periods of time. Those risks may include (1) not paying bills on time, or (2) making a disbursement in excess of available budget authority, which could potentially result in an Antideficiency Act violation.
We plan to continue to monitor the effects of COVID-19 on the working capital funds and will examine the military depots' response to COVID-19.

Background

DOD uses working capital funds to provide various goods and services to its components. This includes, for example, acquisition of parts and supplies, equipment maintenance, transportation, and research and development.

DOD's working capital funds are a type of revolving fund that operates as a self-supporting entity that conducts businesslike activities on a regular cycle. [491] Ongoing working capital fund activities are financed through customer payments, such as from the military services, for goods or services provided. Unlike businesses, working capital funds operate on a break-even basis, neither incurring gains nor losses over time. DOD's current cash management policy requires the working capital funds to maintain a positive cash balance necessary to meet operating, capital

[490] GAO, *Defense-Wide Working Capital Fund: Action Needed to Maintain Cash Balances within Required Levels*. GAO-17-465 (Washington, D.C.: June 30, 2017).

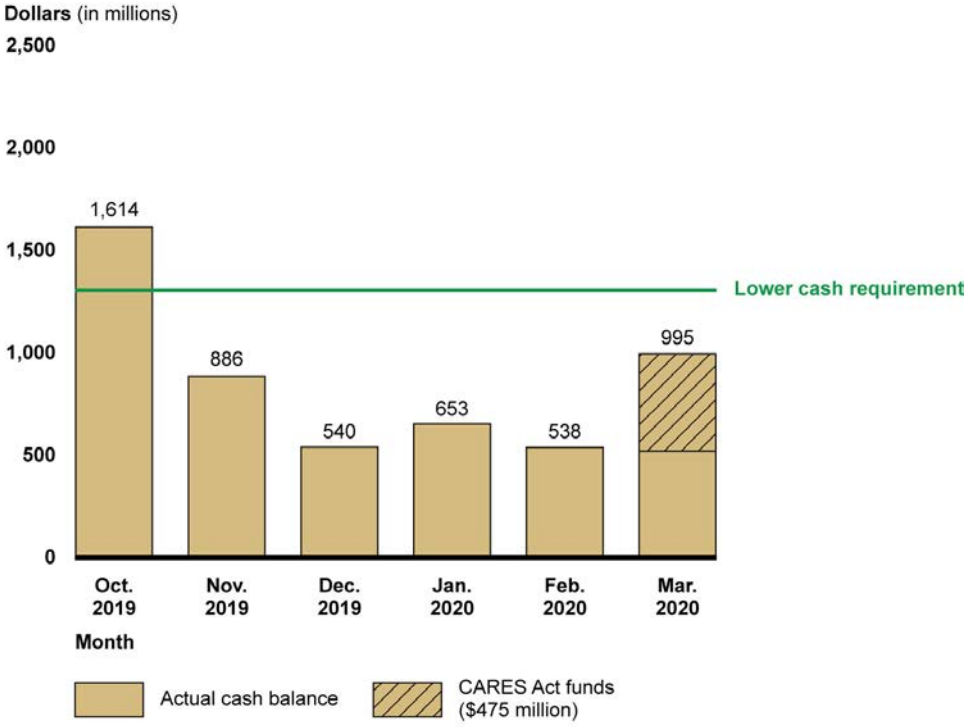
[491] DOD's working capital funds received their initial working capital through an appropriation or transfer of amounts from existing appropriations to finance the initial cost of products or services.

investment, and other justified requirements throughout the year and to support continuing requirements into the subsequent year. [492]

The CARES Act appropriated $1.45 billion to Defense Working Capital Funds to prevent, position, prepare for, and respond to the coronavirus, domestically or internationally. [493] More specifically, Congress appropriated $475 million to the Navy Working Capital Fund; $475 million to the Air Force Working Capital Fund; and $500 million to the Defense-Wide Working Capital Fund.

In the figures below, we show that for the October 2019 through February 2020 time frame—before the CARES Act was enacted in March 2020—none of the three funds had maintained a monthly cash balance that met their respective lower cash requirements. Upon receiving amounts appropriated by the CARES Act, all but the Navy's working capital fund met the lower monthly cash balance requirement.

Navy Working Capital Fund Monthly Cash Balances (Oct. 2019-March 2020)



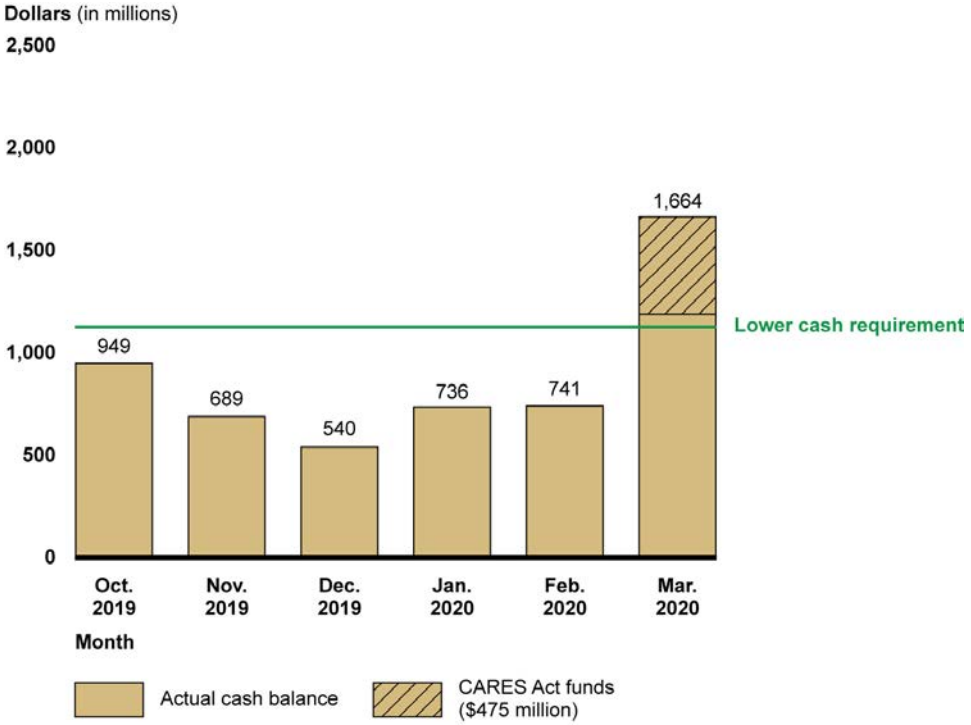
Source: GAO Analysis of Navy Working Capital Fund (NWCF) Cash Data. | GAO-20-625

Note: DOD 7000. 14-R, Financial Management Regulation, vol.2B, chapter 9, (July 2017 draft) defines the minimum cash balance—known as the lower cash requirement— as the balance necessary to meet operating, capital investment, and other justified requirements throughout the year and to support continuing requirements into the subsequent year.

[492] *See* DOD 7000. 14-R, *Financial Management Regulation*, vol. 2B, chap. 9, (July 2017 Draft). Although this updated guidance has not yet been officially published, DOD WCF fund managers are implementing the cash management policies in the draft regulation, as instructed by the Office of the Under Secretary of Defense (Comptroller).

[493] CARES Act, Pub. L. No. 116-136, div. B, title III, 134 Stat. 281, 520 (March 27, 2020).

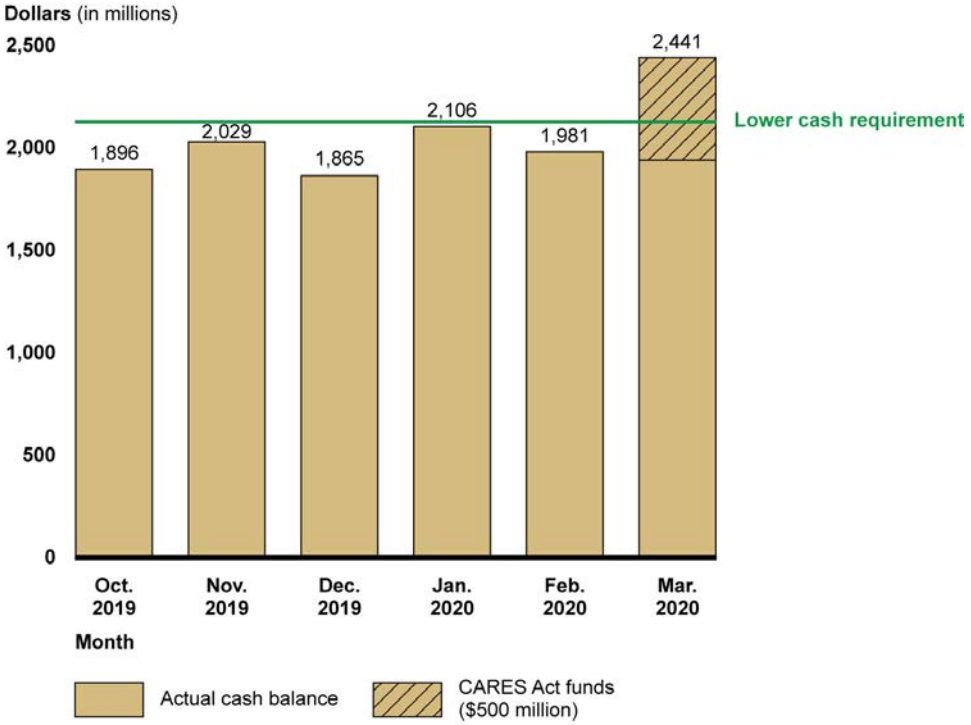
Air Force Working Capital Fund Monthly Cash Balances (Oct. 2019-March 2020)



Source: GAO Analysis of Air Force Working Capital Fund (AFWCF) Cash Data. | GAO-20-625

Note: DOD 7000. 14-R, Financial Management Regulation, vol.2B, chapter 9, (July 2017 draft) defines the minimum cash balance—known as the lower cash requirement—as the balance necessary to meet operating, capital investment, and other justified requirements throughout the year and to support continuing requirements into the subsequent year.

Defense-Wide Working Capital Fund Monthly Cash Balances (Oct. 2019-March 2020)



Source: GAO Analysis of Defense-Wide Working Capital Fund (DFWCF) Cash Data. | GAO-20-625

Note: DOD 7000. 14-R, Financial Management Regulation, vol.2B, chapter 9, (July 2017 draft) defines the minimum cash balance—known as the lower cash requirement— as the balance necessary to meet operating, capital investment, and other justified requirements throughout the year and to support continuing requirements into the subsequent year.

Overview of Key Issues

Officials from the Navy Working Capital Fund, the Air Force Working Capital Fund, and the Defense-Wide Working Capital Fund have expressed concern that the COVID-19 pandemic could put additional strain on their respective fund's cash balances. The officials told us that they expect to earn less-than-planned revenue in fiscal year 2020 because of issues related to the COVID-19 pandemic. See below for information specific to each fund.

- **Navy Working Capital Fund.** As of March 31, 2020, the fund's cash balance was below its lower cash requirement even after receiving $475 million from the CARES Act. Navy officials stated they plan to use the amounts provided by the CARES Act to help maintain the solvency of the fund. Officials stated, however, that they expect revenue-generating activities, such as repairs of aircraft and amphibious assault vehicle overhauls performed by Navy and Marine Corps depots supported through the Navy Working Capital fund, to decrease as a result of COVID-19 because reduced personnel levels will slow down or stop work. For example, reductions in operations at the Albany, Georgia and Barstow, California production plants—both Marine Corps depots—have decreased operating capacity to less than 20 percent, reducing revenue generated by the depots.

Further, officials stated that stay-at home requirements for DOD personnel who support and maintain weapon systems will reduce the amount of work and parts ordered. According to officials, the cash balance is expected to fall to $63 million by the end of fiscal year 2020. Officials told us that this amount is not sufficient to cover payroll expenses for one pay period for about 83,000 people working at Department of the Navy working capital fund depot activities in fiscal year 2020.

- **Air Force Working Capital Fund.** As of March 31, 2020, the fund's cash balance was above the lower cash requirement after receiving $475 million from the CARES Act. Air Force officials stated they will use the $475 million to maintain solvency in the account. Officials also stated that air logistics complexes are completing less maintenance because half the workforce is on leave due to COVID-19, reducing the ability to generate revenue through completed orders. In addition, Air Force officials expect working capital fund revenue to decrease because squadrons are reducing flying hours and are paying for fewer spare parts than planned. Furthermore, Air Force supply activities ordered items with long lead times to support pre-COVID-19 demand levels for these items. These items must be paid for by the working capital fund upon delivery. However, Air Force officials stated that they expect that the military services will order fewer items for maintenance operations and, as a result, the working capital fund supply activities are expected to generate less revenue through completed orders. .

- **Defense-Wide Working Capital Fund.** As of March 31, 2020, the fund's cash balance was above the lower cash requirement after receiving $500 million from the CARES Act. Officials stated that the $500 million will help address anticipated effects on the cash balance resulting from expected increases in customer transactions related to the prevention of, preparation for, and response to COVID-19.

GAO Methodology and Agency Comments

To conduct this work, we analyzed the most recent monthly cash balances from Treasury for the Navy, Air Force, and Defense-Wide Working Capital Funds; reviewed federal laws on the COVID-19 pandemic and DOD cash management policies; and obtained written responses to questions from Navy, Air Force, and Defense-Wide officials. We provided a draft of this report to DOD for review and comment. DOD provided technical comments on this enclosure, which we incorporated as appropriate.

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Related GAO Product

Defense-Wide Working Capital Fund: Action Needed to Maintain Cash Balances within Required Levels. GAO-17-465. Washington, D.C.: June 30, 2017.

Education Stabilization Fund

The Education Stabilization Fund provides emergency funding to address the effects of the COVID-19 pandemic on education. It is too early to know how states and school districts will spend these funds and the effect they may have, but the understandable desire to spend the money quickly may increase the risks of noncompliance with spending and accountability requirements.

Entities Involved: Department of Education

Key Considerations and Future GAO Work

Oversight and transparency will be critical to ensuring that Education Stabilization Fund (ESF) payments are used appropriately. Providing oversight and accountability of the ESF payments poses significant challenges because it is a large new program designed to provide funding quickly. Specifically,

- The Department of Education (Education) quickly had to establish procedures for allocating and disbursing ESF funds, as well as guidance to recipients, which included information about record-keeping and reporting; and
- Education has obligated approximately 89 percent of ESF payments for states and territories as of May 31, 2020. Recipients' understandable desire to spend the money quickly may increase the risks of noncompliance with spending and accountability requirements.

These challenges underscore the importance of internal controls in ensuring ESF payments are used appropriately. In April 2009, we reported that a robust system of internal control specifically designed to deal with these kinds of extraordinary funding increases are key to helping management of the states and localities achieve accountability. Internal controls include management and program policies, procedures, and guidance that help ensure effective and efficient use of resources; compliance with laws and regulations; prevention and detection of fraud, waste, and abuse; and the reliability of financial reporting.

We plan to continue following the Education's oversight of and recipients' use of ESF funds. Our findings on this work will appear in future reports.

Background

The CARES Act created the ESF in the wake of the COVID-19 pandemic. [494] The approximately $31 billion appropriated to the ESF is subdivided as follows:

[494]CARES Act, Pub. L. No. 116-136, § 18001, 134 Stat. 281, 564 (2020).

- Approximately $17 billion in aid to states, the District of Columbia, and Puerto Rico across two emergency relief funds, the Elementary and Secondary School Emergency Relief Fund (ESSER Fund) and the Governor's Emergency Education Relief Fund (GEER Fund), as well as allocations for ESF discretionary grants and for formula grants to other U.S. territories (see table below for detailed information about each component). [495]

- Approximately $14 billion in aid to institutions of higher education through the Higher Education Emergency Relief Fund. See "Emergency Financial Aid for College Students" in appendix III for further information on this component.

- Approximately $154 million allocated for programs operated or funded by the Bureau of Indian Education (BIE). See "Assistance for Tribal Entities" in appendix III for more information.

[495]Pub. L. No. 116-136, §§ 18001(a)(1) (formula grants to U.S. territories, referred to in the law as outlying areas), 18001(a)(3) (ESF discretionary grants), 18002 (GEER Fund), 18003 (ESSER Fund), 134 Stat. at 564-567.

Components of the Education Stabilization Fund that Provide Funds to States and Territories		
Component of Education Stabilization Fund	**Purpose and distribution**	**Appropriation amount (in dollars)**
Elementary and Secondary School Emergency Relief Fund (ESSER Fund)	**Purpose:** For states to allocate at least 90 percent for sub-grants to their local educational agencies, including charter schools that are local educational agencies, for a wide range of activities to support continuity of services in local educational agencies in response to COVID-19. Activities include purchasing educational technology and providing professional development and training for staff on sanitation and minimizing the spread of infectious diseases, and activities to address the unique needs of disadvantaged or at-risk students. States may reserve up to 10 percent of awards for emergency needs as determined by the state to address issues responding to COVID-19. **Allocation:** Awarded to states based on their proportion of funds received under Part A of Title I of the Elementary and Secondary Education Act for fiscal year 2019. Part A, Title I funds are allocated based primarily on U.S. Census Bureau poverty estimates and the cost of education in each state.	13.23 billion
Governor's Emergency Education Relief Fund (GEER Fund)	**Purpose:** To provide support through sub-grants to local educational agencies and institutions of higher education within each state that are most significantly impacted by COVID-19. Also, to provide support to any other institution of higher education, local education agency, or education related entity within the state that a state's governor deems essential for carrying out emergency educational services to students, such as for activities described in certain federal education legislation and providing social and emotional support. **Allocation:** 60 percent awarded to states based on each state's share of individuals between 5 and 24 years of age as of 2018; remaining 40 percent awarded to states based on the number of children counted for the purposes of making Title I, Part A formula grants to local educational	2.95 billion

	agencies, based on preliminary fiscal year 2020 allocations.	
Education Stabilization Fund Discretionary Grants	The Department of Education (Education) has sub-divided this fund into two grant programs: (1) Reimagining Workforce Preparation grants (127.5 million dollars) **Purpose:** To provide support to states to create new short-term educational opportunities and career pathways programs that help adults return to work. **Allocation:** To determine award recipients, Education will use highest COVID-19 burden as one criterion, with additional criteria to be announced, according to Education officials. Education has based highest COVID-19 burden on four equally-weighted key factors: (1) percent of population without broadband access as of 2018, (2) percent of students ages 5-17 in poverty as of 2018, (3) percent share of confirmed COVID-19 cases per capita as of April 25, 2020, and (4) percent of students in rural local educational agencies. (2) Rethink K-12 Education Models grants (180 million dollars) **Purpose:** To address specific educational needs of students, their parents, and teachers in public and non-public elementary and secondary schools. **Allocation:** To determine award recipients, Education will assess COVID-19 burden, the quality of proposed project services and project plan, and the quality of the management plan and adequacy of resources.	307.50 million
Formula Grants to U.S. Territories	**Purpose:** To assist with response to COVID-19 in the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa. **Allocation:** According to guidance from Education, 80 percent to a territory's state educational agencies based on the formula used for the ESSER Fund and 20 percent to a territory's governor based on the formula used for the GEER Fund.	153.75 million

Source: GAO analysis of federal law and Department of Education information. | GAO-20-625.

Note: For the purposes of the Education Stabilization Fund, the term "state" includes the 50 states, the District of Columbia, and Puerto Rico.

Overview of Key Issues

Allocations, obligations, and expenditures. A total of $15 billion had been obligated through the ESF for states and territories and $83 million had been expended, as of May 31, 2020. Per component of the fund,

- 97 percent of the ESSER Fund had been obligated and 1 percent had been expended;
- 67 percent of the GEER Fund had been obligated and less than 1 percent had been expended;
- No ESF discretionary grants had been awarded;
- 67 percent of formula grants to territories had been obligated and 3 percent had been expended.

See table below for a breakout by recipient states and territories of Education Stabilization Fund allocations, obligations, and expenditures.

Allocations, Obligations, and Expenditures for the Education Stabilization Fund			
State or Territory	Allocations ($ in millions)	Obligations, as of May 31, 2020 ($ in millions)	Expenditures, as of May 31, 2020 ($ in millions)
Alabama	266	266	0.05
Alaska	45	45	0
Arizona	347	277	0
Arkansas	159	129	0
California	2,003	2,003	0
Colorado	165	165	0
Connecticut	139	111	0
Delaware	51	51	0
District of Columbia	48	48	0
Florida	944	944	0
Georgia	563	457	0.62
Hawaii	53	53	0
Idaho	64	48	0
Illinois	678	678	0
Indiana	276	276	0
Iowa	98	72	64
Kansas	111	85	0.01
Kentucky	237	237	0
Louisiana	337	337	0
Maine	53	53	0.12
Maryland	253	253	0
Massachusetts	266	266	0
Michigan	479	479	0.07
Minnesota	184	184	0
Mississippi	205	170	0
Missouri	263	263	13
Montana	50	41	0
Nebraska	81	65	0
Nevada	144	144	0
New Hampshire	47	47	0
New Jersey	379	379	0
New Mexico	131	131	0
New York	1,201	1,201	0
North Carolina	492	492	0
North Dakota	39	33	0
Ohio	594	489	0
Oklahoma	201	201	0
Oregon	154	121	0
Pennsylvania	628	628	0
Puerto Rico	397	0	0

Rhode Island	55	55	0
South Carolina	265	265	0
South Dakota	49	49	0
Tennessee	323	323	0
Texas	1,593	1,286	0
Utah	97	97	0
Vermont	36	36	0
Virginia	305	239	0
Washington	274	274	0
West Virginia	103	103	0
Wisconsin	221	175	0
Wyoming	37	33	0
States Total [a]	**16,579**	**14,856**	**78**
American Samoa	46	38	0
Guam	54	42	0
Northern Mariana Islands	28	23	4
Virgin Islands	26	0	0
Territories Total	**154**	**103**	**4**

Source: GAO analysis of Department of Education data. | GAO-20-625.

Note: Education Stabilization Fund Discretionary Grants are not included in the table because no awards, obligations, or expenditure of those funds have been made as of May 31, 2020. Totals are rounded to the nearest million.

[a]The Education Stabilization Fund includes the District of Columbia and Puerto Rico as states for purposes of calculating assistance through the two emergency relief funds.

Reporting requirements. Education has established some initial reporting requirements for recipients under the ESF. For example, for the GEER Fund, governors must report within 45 days of receiving funds on their state's process for awarding funds to sub-grantees (e.g., local educational agencies, institutions of higher education, or other education-related entities) and the criteria used to determine which entities are eligible for the funds, as well as a description of the process and deliberations involved in formulating those criteria. According to Education officials, the agency is in the process of developing an approach to assess the extent to which grantees meet these initial reporting requirements to inform monitoring and technical assistance activities. Pursuant to requirements of the CARES Act, recipients of ESSER Fund and GEER Fund awards are generally required to submit quarterly reports to Education on the use of these funds. [496] Education has not yet announced how it plans to implement this provision.

Waivers and flexibilities. Although unrelated to the ESF, the CARES Act gives the Secretary of Education waiver authority to provide states and local educational agencies with flexibility in responding to the COVID-19 pandemic. This new waiver authority is in addition to waiver authority the Secretary already had under the Elementary and Secondary Education Act of 1965, as amended (ESEA). The Secretary has provided waivers of several ESEA requirements using these waiver authorities. For example:

[496]Pub. L. No. 116-136, § 15011(b)(2), 134 Stat. at 541.

- Under the existing ESEA waiver authority, the Secretary provided waivers for requirements under Title I, Part A of the ESEA regarding statewide assessments, accountability and school identification, and some reporting requirements for the 2019-2020 school year. All 50 states, the District of Columbia (D.C.), Puerto Rico, and BIE submitted requests and received approval for these waivers from Education.
- Under the new CARES Act waiver authority, the Secretary provided waivers to requirements related to ESEA funding—for example, waiving carryover limitations and spending restrictions on technology infrastructure. According to Education officials, all 50 states, the District of Columbia, Puerto Rico, and BIE generally submitted requests for all waivers for which they were eligible and Education approved all requests. [497]

The CARES Act did not grant the Secretary any waiver authority with respect to the Individuals with Disabilities Education Act (IDEA), but it directs the Secretary to provide Congress, within 30 days of enactment, with recommendations of any waivers under the IDEA necessary to provide flexibility to meet the needs of students during the public health emergency. [498] Under the IDEA, states must ensure that school districts make a free appropriate public education available to all children with disabilities who qualify for special education services. [499] In its required report to Congress on April 27, 2020, Education indicated that it had decided not to request waiver authority for any of the core tenets of the IDEA, including the right to a free appropriate public education, but did request waiver authority for several requirements, including provisions regarding early childhood transition timelines. [500]

GAO Methodology and Agency Comments

To conduct this work, we reviewed federal laws and Education guidance. We also analyzed Education spending data and interviewed Education officials regarding program implementation, challenges, and recipient reporting. We provided a draft of this report to Education for review and comment. In its written comments, Education noted that it published notices of funding availability for the ESF within 30 days of enactment of the CARES Act and made almost all awards, in terms of number of awards, for the ESSER and GEER Funds as of May 30, 2020. We are reporting agency data on dollars obligated for these funds, which differs from awards made, and therefore we made no change to the draft. Education also provided technical comments, which we incorporated as appropriate.

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[497] In one exception, Vermont chose to request some but not all available waivers from Education. States, the District of Columbia, Puerto Rico, and BIE were not eligible for certain waivers if they were not eligible to receive funds or did not receive funds under relevant portions of the ESEA.

[498] Pub. L. No. 116-136, § 3511(d)(4), 134 Stat. at 403.

[499] 20 U.S.C. § 1412(a)(1).

[500] See, *Report to Congress of U.S. Secretary of Education Betsy DeVos : Recommended Waiver Authority Under Section 3511(d) (4) of Division A of the Coronavirus Aid, Relief, and Economic Security ('CARES Act')*. April 27, 2020.

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Transit Industry

The Federal Transit Administration has begun to distribute CARES Act funding, with most grants going to operating expenses.

Entities involved: U.S. Department of Transportation, Federal Transit Administration

Key Considerations and Future GAO Work

In our January 2020 review of rural transit services, we recommended that the Federal Transit Administration (FTA) develop a communication plan that will effectively share information with state transportation agencies and rural and tribal transit providers on coordination opportunities and leading coordination practices in an accessible and informative way. The Department of Transportation (DOT) partially concurred with the recommendation and provided examples of its communication efforts with stakeholders on coordination opportunities, including its plans to reorganize technical assistance center web pages to centralize information and best practices. We continue to believe that a comprehensive communication plan is needed to ensure that DOT is reaching all intended stakeholders and informing them of opportunities to enhance rural transit services. Given FTA's statement that CARES Act funds may be distributed to public transportation systems, including those in rural areas that have not previously received FTA funds, communication between agencies is needed for effective coordination.

In our November 2019 review of emergency relief program funding, we recommended that FTA and the Federal Emergency Management Agency (FEMA) identify and develop controls to address the risk of duplicate funding, such as methods to more easily identify transit expenses in applications submitted to FEMA by larger entities like cities and counties. DOT and FEMA agreed with our recommendation and noted that both agencies plan to have improved controls in place by the fall of 2020. During this public health emergency, FEMA disaster assistance may be available to transit agencies to purchase personal protective equipment for operations personnel, to sanitize public and certain private non-profit facilities, and to assist with grocery and meal delivery.[501] Given that COVID-19 may continue to affect the transit industry after CARES Act funds have been exhausted, it is possible that transit agencies may apply for additional funding from multiple FTA and agency programs in the future.

We will continue to monitor these issues and the status of these recommendations.

[501]The Disaster Relief Fund is the primary source of federal funding to provide disaster assistance to state, local, tribal, and territorial governments following major disasters and emergencies declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended. *See* 42 U.S.C. §§ 5170, 5191. On March 13, 2020, the President declared a nationwide emergency for COVID-19 under the Stafford Act and later approved major disaster declarations for all 50 states, the District of Columbia, and four territories.

Background

Millions of Americans rely on public transportation systems for mobility and access to jobs, education, and essential services, such as medical care and grocery shopping. Within DOT, the FTA provides grants to state Departments of Transportation, local public transit systems, and tribes to support and expand services. These services may include buses, subways, light rail, commuter rail, trolleys and ferries in urban, rural, and tribal areas.

The CARES Act appropriates $25 billion to the FTA to support the transit industry through its Urbanized Area and Rural Area formula programs. [502]

- Funding to large and small urban areas ($22.7 billion) and rural areas ($2.2 billion) is provided, with no required local funding. [503]
- Funds issued may be used to cover all costs normally eligible within the formula programs as well as operating costs to maintain service, including administrative leave for employees due to service reductions and the COVID-19 pandemic.
- There is no limit on the amount of funds recipients may use for operating expenses.
- Any expenses incurred related to COVID-19 on or after January 20, 2020, are eligible for CARES Act funds, and there is no deadline by which funds must be used.

All normal Urbanized Area and Rural Area program requirements apply to CARES Act funds, with the exception that operating and certain capital expenses do not need to be included in a transportation improvement program, long-range transportation, statewide transportation plan, or a statewide transportation improvement program. [504] According to FTA, recipients may distribute funds to public transportation systems that may not previously have received FTA formula funding, provided the operator meets the eligibility criteria for the Urban Area or Rural Area formula programs.

Overview of Key Issues

FTA has begun to implement the transit assistance provisions of the CARES Act:

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[502]Pub. L. No. 116-136, 134 Stat. 281, 599 (2020).

[503]Within the funds appropriated to the Rural Area formula program, $30 million is set aside for tribal transit programs. An additional $75 million is set aside for administration and oversight of the funds.

[504]Each metropolitan planning organization is required by federal law to develop a transportation improvement program (TIP) listing upcoming transportation projects over at least 4 years, in consultation with the state and public transit providers. Each TIP should include all regionally significant projects receiving Federal Highway Administration or FTA funds. Similarly, each state is required to develop a statewide transportation improvement plan that is consistent with its TIPs and other planning processes.

- FTA allocated the $25 billion dollars in CARES Act funding on April 2, 2020. Funding is available to recipients of Urbanized Area and Rural Area formula funds, including tribal transit recipients. FTA posted information on allocation amounts to its website.
- As of May 31, 2020, FTA had awarded 291 grants, and obligated about 58 percent of CARES Act transit funding (see table). In addition, the agency has disbursed $3.2 billion to transit agencies for 80 project awards. Of the $30 million allocated to tribal transit funding, about $8 million has been obligated and about $100,000 disbursed. FTA officials reported that an additional 288 grants were in progress. Officials said that the majority of funds have gone to operating expenses, though capital and planning expenses are also eligible.

FTA Allocations, Obligations and Expenditures for CARES Act Transit Industry Funding a			
State or Territory [b]	Allocations ($ in millions)	Obligations as of May 31, 2020 ($ in millions)	Expenditures [c] as of May 31, 2020 ($ in millions)
Alabama	131	80	0
Alaska	145	0	0
Arizona	314	286	17
Arkansas	83	24	2
California	3,738	861	85
Colorado	325	243	73
Connecticut	489	18	0
Delaware	67	6	0
District of Columbia	536	877	113
Florida	959	35	15
Georgia	522	139	0
Hawaii	108	91	18
Idaho	62	55	0
Illinois	1,618	1,337	8
Indiana	238	86	0
Iowa	107	49	2
Kansas	92	7	1
Kentucky	139	84	0
Louisiana	163	78	2
Maine	85	20	2
Maryland	696	0	0
Massachusetts	1,044	988	171
Michigan	353	238	3
Minnesota	310	290	0
Mississippi	75	50	0
Missouri	256	219	0
Montana	52	0	0
Nebraska	63	25	0
Nevada	162	159	10
New Hampshire	39	24	0
New Jersey	1,752	1,424	200
New Mexico	134	39	0
New York	4,151	4,208	2,139
North Carolina	320	41	1
North Dakota	34	18	0
Ohio	478	382	86
Oklahoma	114	29	0
Oregon	286	268	0
Pennsylvania	1,140	115	13
Rhode Island	104	0	0

South Carolina	124	37	1
South Dakota	37	4	0
Tennessee	230	54	1
Texas	1,180	855	201
Utah	220	5	0
Vermont	21	6	0
Virginia	456	87	0
Washington	699	343	10
West Virginia	59	49	2
Wisconsin	210	60	0
Wyoming	29	12	0
States Total [b]	**24,747**	**14,402**	**3,175**
American Samoa	1	0	0
Guam	3	0	0
Northern Mariana Islands	1	0	0
Puerto Rico	169	0	0
Virgin Islands	4	0	0
Territories Total	**178**	**0**	**0**
TOTAL [d]	**24,925 [e]**	**14,402**	**3,175**

Source: GAO analysis of data from the Federal Transit Administration | GAO-20-625.

[a]FTA's CARES Act funds for operating costs are on a reimbursable basis, therefore for several states, no funds have been obligated or expended.

[b]Funding to localities or lower-level government entities within each state is included in that state's total. [if applicable]

[c]FTA allocates funding to urbanized areas greater than 200,000 in population directly to urbanized areas, not states. As some urbanized areas cross state boundaries, the amounts identified by state are the amount of the formula funds attributable to transit service within the state. These funds are awarded directly to transit agencies and obligations are recorded where the transit agency is headquartered. Therefore obligations in a state may exceed the amount allocated to a state.

[d]Numbers may not add up due to rounding.

[e]Of the total $25 billion appropriated to FTA for responding to coronavirus, up to $75 million is set aside in the CARES Act for administration and oversight of the funds.

- FTA has provided grantee and stakeholder support by holding webinars, establishing and updating the agency's COVID-19 web page, and posting frequently asked questions as they are raised. FTA's next steps include further outreach and ongoing grant assistance.
- FTA is working with the Centers for Disease Control and Prevention and other federal partners to provide guidance to the public transportation industry in response to the COVID-19 pandemic.

FTA staff reported few challenges with implementing these provisions of the CARES Act, in part because the funds were provided for existing programs. Officials noted they have experienced the normal challenges of executing a large project quickly and correctly. FTA officials said they had all the tools they needed in place already to oversee the distribution of these funds.

GAO Methodology and Agency Comments

To conduct this work, we reviewed federal laws and agency documents, including program funding notices, and interviewed DOT and FTA officials about how they are implementing provisions of the CARES Act. DOT and FEMA provided technical comments to this enclosure, which we incorporated as appropriate.

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Related GAO Products

Public Transportation: Enhanced Federal Information Sharing on Coordination Could Improve Rural Transit Services. GAO-20-205. Washington, D.C.: January 7, 2020.

Emergency Transportation Relief: Federal Transit Administration and FEMA Took Actions to Coordinate, but Steps Are Needed to Address Risk of Duplicate Funding. GAO-20-85. Washington D.C.: November 13, 2019.

DOT Discretionary Grants: Problems with Hurricane Sandy Transit Grant Selection Process Highlight the Need for Additional Accountability. GAO-17-20. Washington, D.C.: December 14, 2016.

Coronavirus Relief Fund

Almost the entire $150 billion fund has been disbursed to states, localities, tribal governments, the District of Columbia, and U.S. territories to help cover the costs of responding to the COVID-19 pandemic.

Entities Involved: Department of the Treasury

Key Considerations and Future GAO Work

As of May 31, 2020, the Department of the Treasury (Treasury) had disbursed almost $147 billion of the $150 billion appropriated to the Coronavirus Relief Fund (CRF). [505] Oversight and transparency will be critical to ensuring that CRF payments are used appropriately. Providing oversight and accountability of the CRF payments poses significant challenges because it is a large new program designed to provide funding quickly. Specifically,

- Treasury quickly had to establish methods and procedures for allocating and disbursing the CRF payments, as well as guidance to recipients, including record-keeping and reporting requirements, which are not yet finalized.
- Recipients of the CRF payments may have to revise their management controls and accounting systems to help ensure that funds are distributed and used in accordance with CRF requirements; and
- The requirement for recipients to spend CRF funds on relevant costs incurred no later than December 30, 2020, may increase the risks of noncompliance with spending and accountability requirements.

These challenges underscore the importance of internal controls in ensuring CRF payments are used appropriately. In April 2009, we reported that a robust system of internal controls specifically designed to deal with these kinds of extraordinary federal funding increases is key to helping management of the states and localities achieve accountability. Internal controls include management and program policies, procedures, and guidance that help ensure effective and efficient use of resources; compliance with laws and regulations; prevention and detection of fraud, waste, and abuse; and the reliability of financial reporting. Treasury distributed CRF payments to recipients while the agency was still developing recipient accountability measures, which may increase the risk of noncompliance with spending and accountability requirements.

We plan to continue following the use of the CRF payments. Our findings on this work will appear in future reports.

[505]Treasury made obligations and expenditures from the CRF concurrently and in the same amounts. Obligations and expenditures from the CRF as of May 31, 2020 were both almost $147 billion.

Background

The CRF, created by the CARES Act, provides funding to states, localities, tribal governments, the District of Columbia, and five U.S. territories to help cover costs of responding to the COVID-19 pandemic. [506] As required by the act, CRF payments may only be used to offset costs that

- are necessary expenditures incurred due to the COVID-19 pandemic;
- were not accounted for in the budget most recently approved for the states or other eligible governments prior to enactment of the CARES Act on March 27, 2020; and
- were incurred from March 1, 2020 to December 30, 2020.

The CARES Act allocates CRF payments as follows:

- $139 billion for the 50 states and eligible localities, based on their populations, with no state receiving less than $1.25 billion; [507]
- $8 billion for tribal governments, with the payment to each tribal government based on increases in its expenditures relative to expenditures in fiscal year 2019, as determined by the Secretary of the Treasury, in consultation with the Secretary of the Interior; [508] and
- $3 billion for the District of Columbia, Puerto Rico, U.S. Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa, with each entity receiving an amount based on its share of the total population across all six entities, as determined by the Secretary of the Treasury.

[506] CARES Act, Pub. L. No. 116-136, § 5001, 134 Stat. 281, 501 (2020).

[507] Populations as measured by the U.S. Census Bureau in 2019. Localities with populations of at least 500,000 may opt to receive disbursements directly from Treasury. These direct disbursements are then deducted from the state's allocation, and are equal to the product of (1) the state or territory allocation amount, (2) the share of the state or territory population served by the local government, and (3) 45 percent.

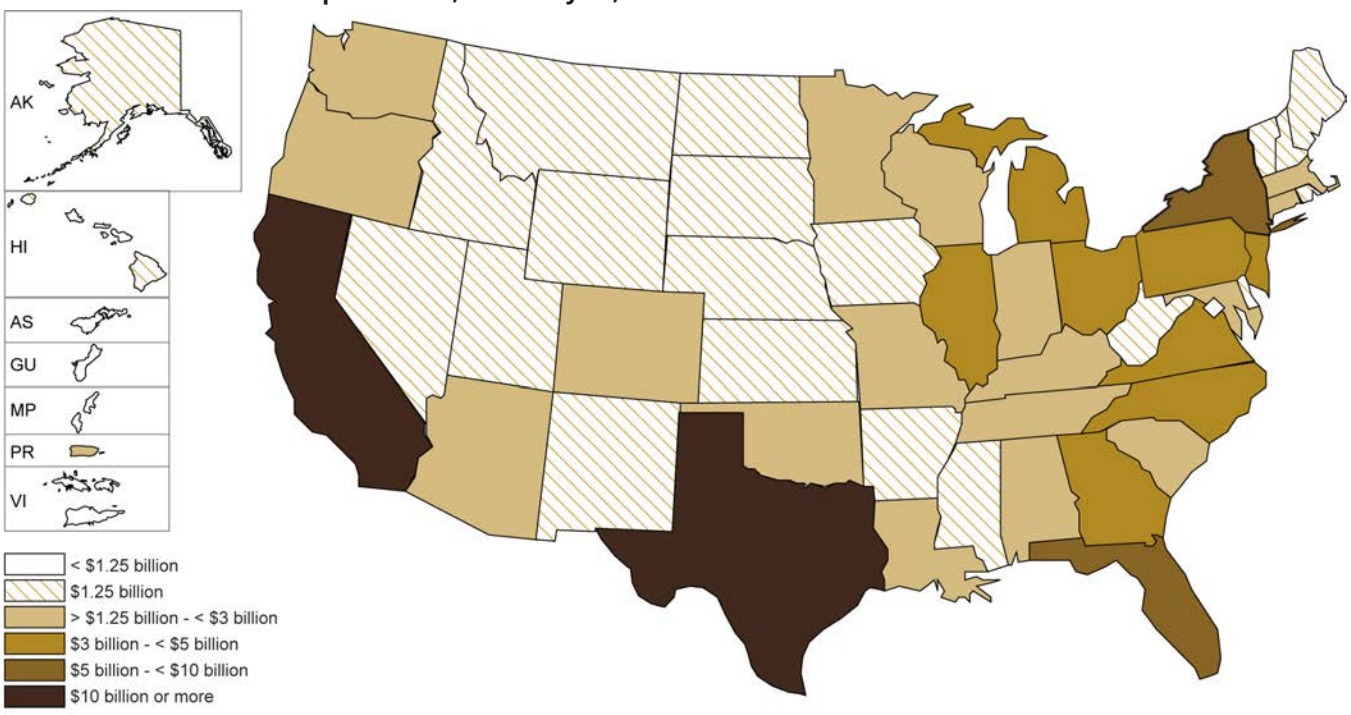
[508] Pub. L. No. 116-136, § 5001, 134 Stat. at 502-03. Payments may be made to eligible tribal governments or to tribally owned entities of the tribal governments. On May 5, 2020, the Secretary of the Treasury and the Secretary of the Interior issued a joint statement in which they stated how the funds would be distributed to the tribal governments.

Overview of Key Issues

Distribution of funds. The CARES Act required that Treasury distribute the funds no later than 30 days after its enactment, or April 26, 2020.[509] In April and May 2020, Treasury issued implementing guidance defining the eligibility requirements for localities and tribal governments and its methodology for calculating CRF payment amounts.

As of May 31, 2020, Treasury had disbursed 98 percent, or almost $147 billion, of the total $150 billion in the CRF, as illustrated below.

Coronavirus Relief Fund Expenditures, as of May 31, 2020



Source: GAO analysis of Department of the Treasury data. | GAO-20-625

Note: Funding to the 50 states and eligible localities is based on their populations, with a minimum of $1.25 billion to each state. In this map, funding, if any, to eligible localities within each state is included in that state's total. As of May 31, 2020, the Department of the Treasury had also disbursed $4.6 billion of the $8 billion of Coronavirus Relief Fund payments set aside for tribal governments.

By the statutory deadline, Treasury initiated payment of the $142 billion allocated to states, the District of Columbia, territories, and eligible units of local governments.

In May, after the statutory deadline, Treasury distributed $4.6 billion of the $8 billion set aside for tribal governments. On June 12, 2020, Treasury began distributing the remaining portion of the CRF set aside for tribal governments. As of June 17, 2020, Treasury announced that all

[509]Pub. L. No. 116-136, § 5001, 134 Stat. at 502.

such payments, other than payment of amounts allocated to Alaska Native regional and village corporations, had been made.[510]

Guidance on use of CRF payments. In April, Treasury published guidance on its interpretation of the permissible use of CRF payments. Eligible costs must be for actions taken to respond to the pandemic, including both direct effects—such as addressing public health needs—and secondary effects—such as providing economic support to individuals or businesses hurt by COVID-19-related business closures. According to Treasury, CRF payments can be used to meet payroll expenses for public safety, public health, health care, human services, and employees whose services are substantially dedicated to mitigating or responding to the COVID-19 pandemic, among other things. Treasury explained that states may also transfer CRF payments to a local government, as long as the locality uses the funds for eligible expenses.

The Treasury guidance emphasized that recipients may not use the funds to fill shortfalls in government revenue, and included examples of ineligible expenses, such as payroll or benefits for employees whose work duties are not substantially dedicated to COVID-19 mitigation or response.[511] Organizations representing state and local governments expressed concern to Congress that the economic contraction resulting from the pandemic and related closures of non-essential businesses is substantially affecting their revenues and, without more flexible federal funding, state and local governments will be forced to drastically cut services, which could prolong the economic downturn.[512]

Treasury oversight and monitoring of CRF funds. Treasury is working with Treasury OIG on accountability measures for CRF payments. The CARES Act directs the Treasury's Office of Inspector General (Treasury OIG) to monitor and conduct oversight of the receipt, disbursement, and use of funds made available to CRF recipients.[513]

On May 28, 2020, Treasury posted guidance explaining that CRF payments are considered federal financial assistance subject to the Single Audit Act (SAA) and the related provisions of OMB's

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[510]Several tribes sued Treasury over its interpretation of the CARES Act definitions of tribal government and Indian tribe as including Alaska Native regional and village corporations (ANC) and thus eligible for CRF Tribal Set-Aside payments. On April 27, 2020, the presiding judge granted a preliminary injunction against Treasury disbursing CRF payments to ANCs. For more information, see "Assistance for Tribal Entities" in appendix III.

[511]CARES Act, Pub L. No. 116-136, § 5001, 134 Stat. at 503, which sets out a three-part test for eligible expenses. The CARES Act also provided other sources of funding for states and localities that allow greater flexibilities in the purposes for which funds can be used. In particular, the CARES Act appropriated additional funding for the Exchange Stabilization Fund established under 31 U.S.C. § 5302. Pub. L. No. 116-136, § 4027, 134 Stat. at 496-97. In response, and with Treasury approval, the Federal Reserve established the Municipal Liquidity Facility to support lending to U.S. states and the District of Columbia, U.S. cities with a population exceeding 250,000 residents, counties with a population exceeding 500,000 residents, and multistate entities. These entities may use the loans to help manage the cash flow effect of income tax deferrals resulting from an extension of an income tax filing deadline; deferrals or reductions of tax and other revenues or increases in expenses related to or resulting from the COVID-19 pandemic; and requirements for the payment of principal and interest on obligations of its political subdivisions or other governmental entities. For more information, see "Federal Reserve Emergency Loan Programs" in appendix III.

[512]These organizations included the National Governors Association, Council of State Governments, National Conference of State Legislatures, National Association of Counties, and the U.S. Conference of Mayors.

[513]Pub. L. No. 116-136, § 5001, 134 Stat. at 503.

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance).[514] The applicable Uniform Guidance requirements relate to internal controls, subrecipient monitoring and management, and audit requirements.[515] Further, the Treasury guidance states that Treasury and OMB determined that the CRF payments are not subject to other provisions of the Uniform Guidance that apply to federal grants, because Treasury determined the CRF payments are not grants.

As of late May, Treasury and the Office of Management and Budget (OMB) had not issued guidance on a number of key implementation issues.

- The CARES Act requires Treasury to recoup CRF payments if Treasury OIG determines that recipients did not use them in accordance with the CARES Act.[516] Treasury issued guidance stating that recipients that do not use CRF payments by December 30, 2020, as required by the act, must return them to the Treasury of the U.S. government. However, the Treasury guidance has not yet clarified whether recipients must expend the CRF payments by the deadline, or merely obligate them. Treasury officials told us that Treasury plans to clarify this issue in upcoming guidance.
- Treasury officials told us they are currently working with the Treasury OIG to determine recipient record-keeping and reporting requirements for the CRF payments. They said they expect to publish additional guidance on the Treasury website but do not have a timeframe for when they will publish the guidance.
- OMB expects to issue supplementary implementing guidance on Single Audit Act requirements for COVID-19 funding later in 2020, according to OMB officials.

Public reporting of CRF payments. The CARES Act requires each agency administering COVID-relief funds to report monthly to OMB and others on the use of those funds. OMB guidance specifies that the information agencies and recipients of COVID-19 relief funds are required to report should be available on USAspending.gov. According to Treasury officials, Treasury will report CRF payments through USAspending.gov, but recipients of CRF payments will not report on their use of the CRF payments through USAspending.gov. According to Treasury officials, CRF payments are not subject to recipient reporting because the payments are not grants, and therefore, Treasury did not establish grant agreements containing recipient reporting requirements with CRF recipients.

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[514]The Single Audit Act, *codified, as amended, at* 31 U.S.C. §§ 7501-7506, establishes oversight requirements for federal agencies that make federal awards to nonfederal entities (state, local, or tribal government entities or private, nonprofit organizations) and audit requirements for nonfederal entities receiving federal awards. The Uniform Guidance establishes requirements that apply to federal agencies that make federal awards to non-federal entities. Some requirements, apply only to certain types of awards, including grants. Other requirements, including the requirement for the non-federal entity to establish and maintain effective internal controls of the federal award, apply to all types of awards. 2 C.F.R. § 200.

[515]2 C.F.R. § 200.303; 2 C.F.R. §§ 200.330-200.332; and 2 C.F.R. § 200.500.

[516]Pub. L. No. 116-136, § 5001, 134 Stat. at 504.

GAO Methodology and Agency Comments

To conduct this work, we reviewed federal laws; Department of the Treasury data, guidance, and documentation; Congressional Research Service memoranda and reports; Congressional Budget Office spending estimates; and our prior work related to emergency funding to states, localities, territories and tribes. We interviewed Treasury officials regarding program implementation, challenges, and monitoring and oversight plans for the CRF. We also interviewed officials from Treasury's Office of Inspector General regarding their monitoring and oversight responsibilities of the CRF.

We provided a draft of this enclosure to Treasury, OMB, and the Department of the Interior (Interior) for review and comments. Treasury provided technical comments, which we incorporated, as appropriate. OMB and Interior did not provide comments on this enclosure.

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Related GAO Product

Recovery Act: As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues is Essential. GAO-09-580. Washington, D.C.: Apr. 23, 2009.

Assistance for Tribal Entities

Federal programs for tribes and their members received at least $9 billion in supplemental funding to respond to the COVID-19 pandemic, and tribal entities may be eligible for funding from other programs; however, federal agencies have sometimes delayed disbursements to tribal governments or limited tribal businesses' eligibility.

Entities involved: Government-wide

Key Considerations and Future GAO Work

Challenges identified in our past work could impede the federal government's ability to effectively support tribes' COVID-19 response. For example:

- **Tribal consultation.** In March 2019, we reported on challenges that tribes and agencies believe hinder effective consultation on infrastructure projects, including tribes' concerns about delayed tribal consultation and inadequate consideration of their input. As of May 31, 2020, 19 recommendations to improve federal tribal consultation processes from this report remain unimplemented.
- **Infrastructure in tribal communities.** We have previously reported on infrastructure challenges faced by tribal communities, including challenges related to broadband internet and drinking water infrastructure. As of May 31, 2020, 16 recommendations to improve federal activities related to infrastructure on tribal lands from two reports issued in May and November 2018 remain unimplemented.

In future work, we plan to examine in greater depth the federal government's delivery of funding to tribal recipients in response to the COVID-19 pandemic and any challenges that tribes and tribal entities have faced in accessing funds.

Background

The COVID-19 pandemic is having a disproportionate economic effect on tribal communities. Tribal governments have many of the same responsibilities as state and local governments, but they generally cannot levy property taxes to the same extent as state and local governments and face challenges accessing capital markets. Further, many tribal governments depend heavily on funding from enterprises in sectors that have been adversely affected by COVID-19, such as gaming, leisure and hospitality, and energy. Closures of tribal casinos and hotels to prevent the spread of coronavirus, and a concurrent decline in oil prices, have reduced critical sources of revenue that tribal governments use to support health care, public safety, and other essential services. These circumstances have also limited tribes' ability to contribute to surrounding economies.

The Indian Trust Asset Reform Act states that "through treaties, statutes, and historical relations with Indian tribes, the United States has undertaken a unique trust responsibility to protect and support Indian tribes and Indians." [517] Excluding health care-related appropriations, which are covered elsewhere in this report (for example, see "Indian Health Service" in appendix III), our review of supplemental appropriations enacted in response to the COVID-19 pandemic found at least $9 billion in appropriations for federal programs that serve tribes and their members (see table).

[517]Pub. L. No. 114-178, § 101(3) (2016)(*c odified at* 25 U.S.C. § 5601(3)).

Examples of Supplemental Appropriations for Programs Serving Tribes and Their Members		
Department	**Appropriation**	**Amount (dollars in millions)**
Agriculture	Food Distribution Program on Indian Reservations	100
Education	Education Stabilization Fund allocation for Bureau of Indian Education programs	154
Health and Human Services	Family Violence Prevention and Services Grants for Indian tribes [a]	5
	Nutrition Services for Native Americans [b]	30
Housing and Urban Development	Native American Housing Block Grants program [c]	200
	Indian Community Development Block Grant program [c]	100
Interior	Bureau of Indian Affairs Operation of Indian Programs [d]	453
	Bureau of Indian Education Operation of Indian Education Programs	69
Treasury	Coronavirus Relief Fund Tribal Government Set-Aside	8,000
Total		**9,111**

Source: Pub. L. No. 116-123, 134 Stat. 146 (2020); Pub. L. No. 116-127, 134 Stat. 178 (2020). | GAO-20-625

Notes: Values have been rounded to the nearest million.

[a]The CARES Act has a $45 million line item appropriation for Family Violence Prevention and Services Formula Grants authorized by section 303(a) of the Family Violence and Prevention and Services Act. Section 303(a)(2)(B) of the Family Violence and Prevention and Services Act requires not less than 10% of the amount authorized for these formula grants to be used for grants to Indian tribes.

[b]The Families First Coronavirus Response Act appropriated $10 million for Nutrition Services for Native Americans, and the CARES Act appropriated $20 million for nutrition services under Title VI of the Older Americans Act of 1965. The Nutrition Services for Native Americans program, authorized by Title VI of the Older Americans Act of 1965 as amended, includes nutrition services for Native Hawaiians, who are not members of federally recognized tribes.

[c]Within a $300 million lump sum appropriation for HUD Native American Programs, the CARES Act appropriated not less than $200 million for the Native American Housing Block Grants program and up to $100 million for the Indian Community Development Block Grant program.

[d]Not less than $400 million of this appropriation is to be made available to meet the direct needs of tribes.

Two key sources of funding for tribal governments are as follows:

- The CARES Act created the Coronavirus Relief Fund (CRF), to be administered by the Department of the Treasury (Treasury), and set aside $8 billion of the fund for tribal governments, which may use these funds to cover certain costs incurred because of the COVID-19 pandemic.

- The Bureau of Indian Affairs (BIA) received a $453 million appropriation for "Operation of Indian Programs" to prevent, prepare for, and respond to COVID-19. Not less than $400 million of this appropriation is to be made available to meet the direct needs of tribes.

Congress also made appropriations for other federal programs that are not exclusively for tribal recipients, but through which tribes, tribal businesses, and organizations serving tribes may be eligible to apply for financial assistance to respond to the pandemic. Two key sources of funding are as follows:

- The CARES Act established the Paycheck Protection Program and appropriated $349 billion for the program's initial round of funding. Congress subsequently appropriated an additional $321 billion for the program, with $310 billion available for the Small Business Administration (SBA) to make loans to eligible small businesses and other entities, including tribal businesses. Recipients can use funds to cover costs including payroll, rent, and utilities.

- The CARES Act appropriated up to $454 billion and potentially certain other amounts for Treasury to support lending programs or facilities to be established by the Board of Governors of the Federal Reserve System (Federal Reserve) to help provide credit to eligible businesses, states, tribes, and municipalities. According to Treasury officials, as of June 3, 2020, two of the seven lending facilities supported with Treasury's CARES Act funding were operational, for which Treasury had disbursed $55 billion. According to officials from the Federal Reserve, the Federal Reserve is not currently isolating tribally owned businesses in its reporting. (For more information on federal facilities, see "Federal Reserve Emergency Lending Programs" in appendix III.)

Overview of Key Issues

Although complete data are not available on disbursements of funds to tribal governments and tribal-serving organizations to address COVID-19, as of mid-June 2020, tribal governments and businesses had received billions in federal assistance through the CRF Tribal Set-Aside and other sources. However, Treasury delayed disbursements to tribal governments from the Tribal Set-Aside, and SBA initially limited some tribal businesses' eligibility for the Paycheck Protection Program.

- **CRF Tribal Set-Aside.** To determine how to allocate the Tribal Set-Aside, Treasury initially requested that tribes submit data on population, land base, employees and expenditures by April 17, 2020. After consultations with Indian tribes and the Department of the Interior (Interior) and reviews of the data submitted by tribes, Treasury announced it would allocate 60 percent of the Tribal Set-Aside based on population data used for the Department of Housing and Urban Development's Indian Housing Block Grant program. Treasury also announced it would distribute the remaining 40 percent at a later time based on additional employment and expenditures data of tribes and tribally owned entities that were to be submitted to Treasury

by May 29, 2020. [518] Treasury officials we interviewed said that, in the absence of other reliable data, population size provides a reasonable approximation of tribal expenditures related to COVID-19. [519] These officials also said that using pre-existing population data would facilitate faster disbursement of the initial 60 percent of funding.

Additionally, in consultation with officials from Interior's Office of the Solicitor, Treasury interpreted the CARES Act definitions of tribal government and Indian tribe as including Alaska Native regional and village corporations (ANCs), so they were eligible to receive payments from the CRF Tribal Set-Aside. [520] Several tribes sued Treasury over this interpretation, and on April 27, 2020, the presiding judge granted a preliminary injunction against such disbursements. [521] As of June 17, 2020, the lawsuit is still pending.

Treasury began distributions based on population on May 5, 2020—9 days after the statutory April 26, 2020 deadline for making payments from the CRF and 20 days after Treasury began making payments to nontribal governments. [522] According to Treasury officials, as of May 31, 2020, Treasury had distributed approximately $4.6 billion of the CRF Tribal Set-Aside to tribal governments. On June 12, 2020, Treasury began distributing the remaining portion of the CRF Tribal Set-Aside based on employment and expenditure data, and as of June 17, 2020, Treasury announced that all such payments, other than payment of amounts allocated to ANCs, had been made. [523]

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[518]On June 12, 2020, Treasury announced that it would distribute 30 percent of the CRF Tribal Set-Aside based on employment data of tribes and tribally owned entities and 10 percent based on fiscal year 2019 tribal government expenditures.

[519]The CARES Act requires the amount of disbursements to tribal governments from the CRF Tribal Set-Aside to be determined by the Secretary of the Treasury, in consultation with the Secretary of the Interior and Indian tribes, based on increased expenditures of each tribal government or tribally owned entity relative to its aggregate expenditures in fiscal year 2019. In contrast, the amount of CRF disbursements to states is to be based on relative population proportion, as defined in the CARES Act.

[520]ANCs are for-profit corporations established pursuant to the Alaska Native Claims Settlement Act as vehicles for distributing the settlement's land and monetary benefits to Alaska Natives. See GAO-13-121 for more information about ANCs.

[521]The tribes challenged Treasury's interpretation of the statutory definitions of tribal government and Indian tribe including ANCs as contrary to the CARES Act. On April 27, 2020, the judge granted a preliminary injunction enjoining the Secretary of the Treasury from making disbursements to ANCs from the CRF Tribal Set-Aside but allowing Treasury to make allocations to the ANCs. *Confederated Tribes of the Chehalis Reservation v. Mnuchin* , Case No. 20-cv-01002 (D.D.C. April 27, 2020).

[522]On April 30, 2020, several Indian tribes sued the Secretary of the Treasury over the delay in payments. On May 1, 2020, the tribes asked the court to issue an order directing the Secretary to immediately disburse the CRF Tribal Set-Aside. On May 11, 2020, the judge declined to issue such an order but did not dismiss the lawsuit. *Agua Caliente Band of Cahuilla Indians v. Mnuchin*, Case No. 20cv-01136 (D.D.C.).

[523]Treasury withheld $679 million from the June 12, 2020, distribution because of a lawsuit challenging the Secretary of the Treasury's use of Department of Housing and Urban Development's Indian Housing Block Grant program data to determine the amount of the CRF Tribal Set-Aside allocated to each tribe based on population as arbitrary and capricious. *Prairie Band of Potawatomi Nation v. Mnuchin*, Case No. 20cv01491 (D.D.C.). However, on June 15, 2020, the judge presiding over all the lawsuits regarding the CRF Tribal Set-Aside ordered Treasury to disburse the $679 million no later than June 17, 2020, because the withholding to resolve any potentially adverse decision in the *Prairie Band* litigation "simply cannot be justified." *Agua Caliente Band of Cahuilla Indians v. Mnuchin*, Case No. 20cv-01136 (D.D.C. June 15, 2020).

During two April 2020 consultation sessions, several tribal leaders cited tribal governments' unique reliance on revenue from tribally owned enterprises to fund government services and asked Treasury officials to consider allowing tribes to use CRF funds to replace lost revenue for government services. However, according to Treasury officials, the CARES Act prohibits using CRF funds for revenue replacement, and Treasury subsequently issued guidance for state, local, and tribal governments clarifying permissible uses of CRF funds. (For more information on general CRF funds, see "Coronavirus Relief Fund" in appendix III.)

- **Paycheck Protection Program.** As of June 12, 2020, lenders had made approximately 4.6 million loans totaling about $512 billion, but information is not yet available on the portion of loans that went to tribally owned businesses. In conjunction with Treasury, SBA consulted with tribal leaders about this program on April 14, 2020. However, this was 11 days after the agency started accepting applications and 2 days before the first round of funding was exhausted, which limited tribal leaders' input on the first round of funding. In addition, tribal gaming businesses—an important source of employment and income for many tribes—were initially ineligible for paycheck protection loans because of restrictions in SBA's interim final rule. SBA updated its eligibility guidelines to allow legal gaming businesses to apply for paycheck protection loans beginning on April 28, 2020, for the second round of funding. (For more information on the Paycheck Protection Program, see "Paycheck Protection Program" in appendix III.)

- **Bureau of Indian Affairs (BIA)** "**Operation of Indian Programs.**" As of May 31, 2020, BIA had obligated approximately $390 million and expended approximately $316 million of the CARES Act appropriation for BIA "Operation of Indian Programs." According to BIA officials we interviewed, most of these expenditures were distributed to tribes as "Aid to Tribal Governments" because such aid is a relatively flexible source of funding that tribes can use to address their varied COVID-19 response needs. These officials said that the bureau is using data on tribal enrollment to determine allocations. In addition, some of the expenditures were distributed to tribes as welfare assistance. Furthermore, the bureau has held $20 million of this appropriation in reserve to address unexpected contingencies as conditions warrant additional support. BIA officials do not have a time frame for distribution of this reserve.

GAO Methodology and Agency Comments

To conduct this work, we reviewed federal laws, agency documents, documents filed in federal court, and summaries of appropriations provisions relevant to tribes and their members. We also reviewed guidance and interviewed officials from Treasury, BIA, SBA, and other agencies. Treasury, BIA, and SBA did not provide comments on this enclosure. The Federal Reserve provided technical comments, which we incorporated as appropriate.

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Related GAO Products

Tribal Consultation: Additional Federal Actions Needed for Infrastructure Projects. GAO-19-22. Washington, D.C.: March 20, 2019.

Tribal Broadband: FCC Should Undertake Efforts to Better Promote Tribal Access to Spectrum. GAO-19-75. Washington, D.C.: November 14, 2018.

Drinking Water and Wastewater Infrastructure: Opportunities Exist to Enhance Federal Agency Needs Assessment and Coordination on Tribal Projects. GAO-18-309. Washington, D.C.: May 15, 2018.

Disaster Relief Fund

The CARES Act appropriated $45 billion to the Disaster Relief Fund—the primary source of federal funding to provide disaster assistance to state, local, tribal, and territorial governments following major disasters and emergencies declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. [524]

Entities involved: Federal Emergency Management Agency, Department of Homeland Security

Key Considerations and Future GAO Work

The Federal Emergency Management Agency (FEMA) has yet to take action to fully implement recommendations that could help to manage the high costs associated with providing disaster assistance while also ensuring that disaster funding is achieving its intended results, including in responding to the COVID-19 pandemic. For example, in September 2012, we reported that FEMA primarily relied on a single criterion, the per capita damage indicator, to determine a jurisdiction's eligibility for Public Assistance program funding. [525] We recommended that FEMA update the methodology for assessing jurisdictions' capability to respond to and recover from a disaster without federal assistance. The Department of Homeland Security concurred, and in 2016, FEMA proposed establishing a disaster deductible, but it abandoned this effort in August 2018 in response to public comments.

FEMA is currently exploring alternative options to update its methodology, but it has not provided a timetable for their implementation. In June 2020, agency officials told us that FEMA had initiated a rulemaking to update the factors considered when evaluating requests for major disaster declarations, and that the agency plans to propose an increase in the per capita damage indicator. FEMA now faces the difficult task of effectively administering major disaster declarations for the same disaster in every state and territory while providing assistance for other disasters. To uphold its responsibly as good steward of taxpayer money, it will be even more important than ever for FEMA to have a sound basis for determining what kind of aid it administers. Updating its methodology is critical to helping ensure that FEMA has an accurate assessment of a jurisdiction's capability to respond and recover from disasters without federal assistance.

A further key issue to consider is FEMA's ability to deploy its workforce in response to other disasters in addition to COVID-19. In May 2020, we reported that FEMA faced staffing shortages during the 2017 and 2018 disaster seasons, 2 years that were particularly challenging due to the number and severity of disasters experienced. We further reported that FEMA's qualification and deployment processes did not provide reliable and complete staffing information to field officials

[524]CARES Act, Pub. L. No. 116-136, div. B, tit. VI, 134 Stat. 281, 543 (2020). The Disaster Relief Fund is appropriated no-year funding. Under the Stafford Act, the President may declare that a major disaster or emergency exists in response to a governor's or tribal chief executive's request if the disaster is of such severity and magnitude that effective response is beyond the capabilities of a state, tribe, or local government and federal assistance is necessary. See 42 U.S.C. §§ 5170, 5191.

[525]The Public Assistance program provides financial assistance to state, tribal, territorial, and local governments for activities including debris removal; emergency protective measures; and the repair, replacement, or restoration of disaster damaged, publicly owned facilities.

to ensure effective use of the deployed workforce. We made recommendations on this issue, among others, which FEMA agreed to implement.

The large number of declared disasters for the COVID-19 pandemic and the lack of disaster management experience in this area adds additional layers of complexity to FEMA's response. Therefore, it is critical that FEMA give leaders and managers in the field information to help them respond flexibly and effectively.

While the unprecedented nationwide use of the Disaster Relief Fund is applied to the COVID-19 response, FEMA and the federal government must also be prepared to respond when the next disaster inevitably strikes. We will continue to monitor federal efforts to respond to the pandemic—including FEMA's role in coordinating response and recovery efforts nationwide and federal efforts to prepare for large-scale biological events—as well as challenges FEMA and other federal agencies face in ensuring they are able to respond to major disasters and emergencies effectively and equitably.

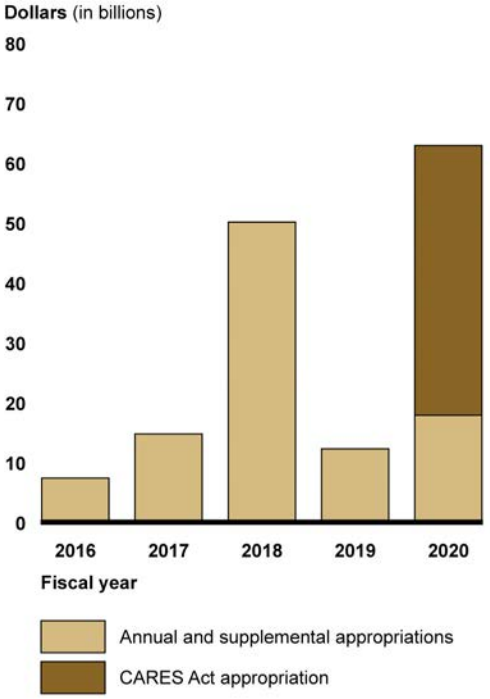
Background

Through the Disaster Relief Fund, FEMA funds, directs, coordinates, and manages preparedness, response, and recovery efforts associated with domestic major disasters and emergencies declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). For example, for the COVID-related declarations, states can use FEMA's Public Assistance program grant funding for actions that lessen the immediate threat to public health and safety, like standing up emergency medical facilities. In addition, FEMA's Individual Assistance program can also reinforce state and local services provided to help individuals cope with the pandemic, such as for crisis counseling. [526] Further, FEMA can also issue mission assignments directing another federal agency to utilize its authorities and the resources granted to it under federal law to provide direct assistance to state, local, tribal, and territorial governments. For example, FEMA issued a mission order to the Department of Defense to provide 10 million N95 respirators to FEMA to support critical equipment shortfalls during the COVID-19 response.

While the Stafford Act and Disaster Relief Fund have historically primarily been used to provide assistance following natural disasters, the President has issued major disaster declarations for the COVID-19 pandemic, and the CARES Act included an appropriation of $45 billion to the Disaster Relief Fund, which FEMA may use to support the federal government's public health response to the COVID-19 pandemic. The figure below provides information on appropriations to the Disaster Relief Fund during the last 5 fiscal years, including the CARES Act appropriation.

[526]The Individual Assistance program provides assistance to help individuals and households recover following a disaster.

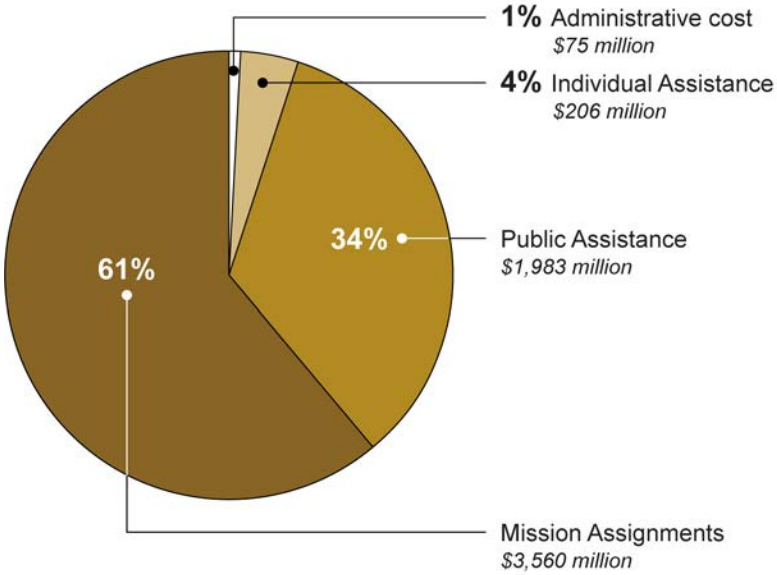
Disaster Relief Fund Appropriations, Fiscal Years 2016–2020



Source: GAO analysis of Federal Emergency Management Agency documentation. | GAO-20-625

FEMA had obligated about $5.8 billion for the COVID-19 response as of May 31, 2020 (see figure below).

Federal Emergency Management Agency's $5.8 Billion in Obligations to Respond to COVID-19 by Category, as of May 31, 2020



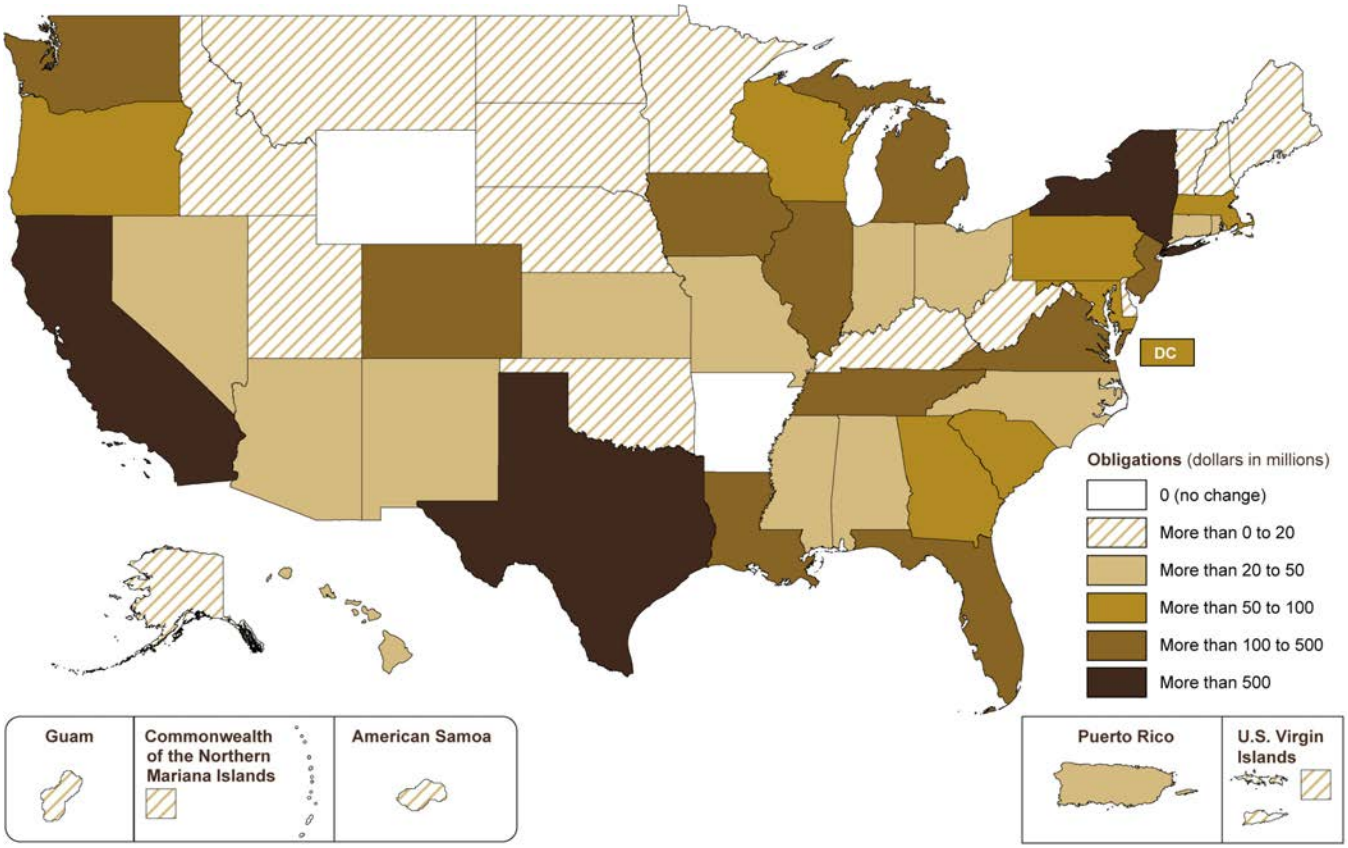
Source: GAO analysis of Federal Emergency Management Agency documentation. | GAO-20-625

Notes: Mission Assignments are work orders the Federal Emergency Management Agency (FEMA) issues that direct another federal agency to utilize its authorities and the resources granted to it under federal law to provide direct assistance to state,

local, tribal, and territorial governments. The Public Assistance program provides assistance to state, tribal, territorial, and local governments for activities including debris removal; emergency protective measures; and the repair, replacement, or restoration of disaster damaged, publicly owned facilities. The Individual Assistance program provides assistance to help individuals and households recover following a disaster. Administrative costs for FEMA's delivery of disaster assistance include salary and travel costs for the disaster workforce, rent and security expenses associated with field operation locations, and supplies and information technology for field operation staff, among other things.

Of the $5.8 billion FEMA had obligated for responding to the COVID-19 pandemic, the state of New York received the most—more than $1.1 billion—as of May 31, 2020. The figure below details FEMA obligations for all states and territories as of May 31, 2020.

Federal Emergency Management Agency Obligations for COVID-19 by State and Territory, as of May 31, 2020



Source: GAO analysis of Federal Emergency Management Agency documentation. | GAO-20-625

Notes: Funding to localities or lower-level government entities within each state is included in that state's total.

Overview of Key Issues

The Stafford Act and Disaster Relief Fund have never before been used to provide assistance in responding to a nationwide public health emergency on the scale required by the COVID-19

pandemic. Specifically, 57 major disaster declarations have been issued simultaneously for all U.S. states, the District of Columbia, and U.S. territories—the first time in history this has occurred. [527]

The scale and scope of federal efforts and funding required to address COVID-19 will continue to increase federal disaster spending for the foreseeable future and test FEMA's and other federal agencies' capacity to mount an equitable and effective nationwide response. In our prior work, we have made recommendations to FEMA and other federal agencies regarding the effective and efficient use of disaster assistance funding. In response, FEMA has taken steps to address some of these recommendations.

For example, in December 2014, we reported that while FEMA had taken steps to better control and reduce administrative costs that support the delivery of disaster assistance, the agency lacked an integrated plan to achieve its goals of reducing and more effectively controlling costs. FEMA took steps to implement our related recommendation, including developing an integrated plan to better control and reduce its administrative costs for major disasters and assessing the costs versus the benefits of different approaches to tracking administrative cost data. As of September 2019, FEMA was continuing to refine its ability to track administrative costs, which will continue to be important as FEMA obligates billions of dollars as part of the COVID-19 response.

However, as previously discussed, concerns persist in several key areas where FEMA could help to manage the high costs associated with providing disaster assistance while also ensuring that disaster funding is achieving its intended results, including in responding to the COVID-19 pandemic.

- **Understanding jurisdictions' capability to respond and recover from a disaster without federal assistance.** In September 2012, we reported that the per capita damage indicator—the criterion FEMA primarily relies on when determining a jurisdiction's eligibility for disaster assistance through the Public Assistance program—was artificially low. Further, we reported that FEMA's process to determine eligibility for federal assistance does not comprehensively assess a jurisdiction's capability to respond to and recover from a disaster on its own. Until FEMA takes steps to more comprehensively assess the capability of disaster-affected jurisdictions, it runs the risk of recommending that the President award federal disaster assistance to jurisdictions that have the capacity to respond and recover on their own.

- **FEMA's ability to deploy its workforce.** FEMA's ability to deploy its workforce in response to disasters is critical to achieving its mission. However, in May 2020, we reported that FEMA faced staffing shortages due to the number and severity of recent disasters experienced and that it was not able to provide field officials with accurate and complete information on the knowledge, skills, and abilities of agency personnel necessary to respond effectively. Without such information, FEMA officials faced challenges in efficiently providing disaster assistance, managing staff workload, and assigning responsibilities.

[527]Major disaster declarations include all 50 states, the District of Columbia, five territories, and the Seminole Tribe of Florida. In addition, 32 tribal entities are working directly with FEMA under the March 13, 2020, nationwide emergency declaration.

GAO Methodology and Agency Comments

To conduct this work, we reviewed FEMA documentation on its disaster assistance programs and relevant federal law, including the March 2020 CARES Act and the Stafford Act. We also analyzed the most recent data on congressional appropriations and FEMA obligations for federal activities in response to the COVID-19 pandemic. We interviewed FEMA officials regarding federal disaster assistance efforts and challenges the agency faced in effectively helping affected state and local governments to respond and recover from disasters. We provided a draft of this product to DHS for review and comment. In its comments, reproduced in appendix XII, DHS outlined the significant challenges facing the nation in responding to the COVID-19 pandemic and FEMA's lead role in addressing them. DHS also provided technical comments on this enclosure, which we incorporated as appropriate.

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Related GAO Products

FEMA Disaster Workforce: Actions Needed to Address Deployment and Staff Development Challenges. GAO-20-360. Washington, D.C.: May 4, 2020.

Priority Open Recommendations: Department of Homeland Security. GAO-20-355PR. Washington, D.C.: April 23, 2020.

Federal Emergency Management Agency: Opportunities Exist to Strengthen Oversight of Administrative Costs for Major Disasters. GAO-15-65. Washington, D.C.: December 17, 2014.

Hurricane Sandy Relief: Improved Guidance on Designing Internal Control Plans Could Enhance Oversight of Disaster Funding. GAO-14-58. Washington, D.C.: November 26, 2013.

Federal Disaster Assistance: Improved Criteria Needed to Assess a Jurisdiction's Capability to Respond and Recover on Its Own. GAO-12-838. Washington, D.C.: September 12, 2012.

International Trade

U.S. agencies have taken trade-related actions to address medical supply chain issues and support U.S. international businesses.

Entities involved: Office of the U.S. Trade Representative, Small Business Administration, U.S. International Trade Commission, General Services Administration, Federal Emergency Management Agency, Export-Import Bank of the United States

Key considerations and Future GAO Work

We plan to monitor the effect of COVID-19 on the medical supply chain and international trade.

Background

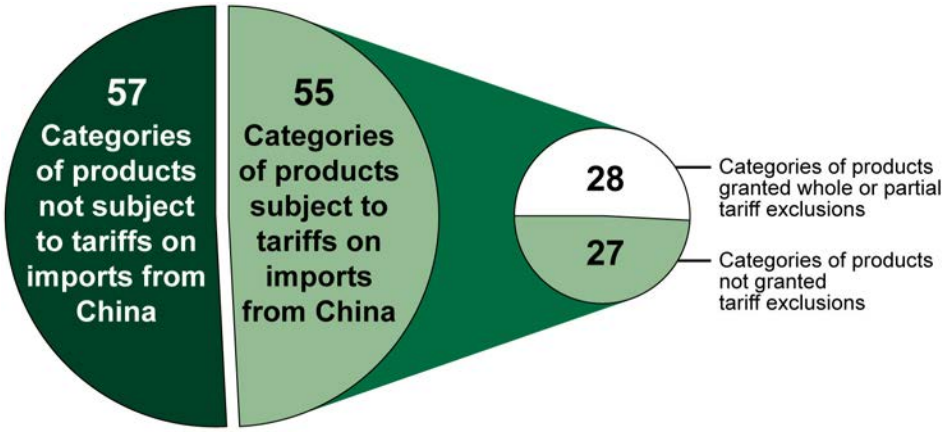
The World Trade Organization (WTO) warned on April 8, 2020, that global trade could drop as much as 32 percent in 2020 as the COVID-19 pandemic disrupts the world economy. The WTO also said that many countries are restricting exports of essential products such as face masks, ventilators, gloves, and hand sanitizers and are not reporting these restrictions to the WTO, making product procurement difficult.

Several U.S. agencies, including the Office of the U.S. Trade Representative (USTR), have taken steps to address trade-related issues that affect the U.S. supply of such essential products and trade in general. Agencies' actions include easing import restrictions, such as tariffs on COVID-19 related products from China (see figure below); imposing export restrictions on essential products; and providing financing assistance to facilitate trade.

The CARES Act changed the allowed uses of the Small Business Administration's (SBA) State Trade Expansion Program (STEP) funds and provided relief for specified SBA 7(a) loans, including those to help small businesses export. [528]

[528]CARES Act, Pub. L. No. 116-136, §§ 1104, 1112, 134 Stat. 281, 297 and 286 (2020).

The Office of the U.S. Trade Representative Has Removed Import Tariffs from Some Products from China Related to the COVID-19 Response, as of April 2020



Source: U.S. International Trade Commission data. | GAO-20-625

Note: Categories in this figure refer to statistical reporting numbers the U.S. International Trade Commission (USITC) identified based on the Harmonized Tariff Schedule (HTS). USITC identified 112 statistical reporting numbers in total for products that are related to the COVID-19 response. The HTS comprises a hierarchical structure for describing all goods in trade for duty, quota, and statistical purposes; the 10-digit level is referred to as the statistical reporting number. Some HTS numbers represent basket categories that cover more than one product. For example, HTS 6307.90.9889 includes single-use face masks made of textile fabrics, as well as products not related to the COVID-19 response, according to USITC. The product exclusions granted by the U.S. Trade Representative (USTR) are temporary. For example, USTR stated that the product exclusions announced in a December 17, 2019, Federal Register notice will apply as of September 24, 2018, to August 7, 2020. See 84 Fed. Reg. 69,012 at 69,013 (Dec. 17, 2019). Pursuant to USTR guidance, interested parties can submit comments on whether USTR should extend these exclusions for up to 12 months. See, for example, 85 Fed. Reg. 27011 (May 6, 2020).

Overview of Key Issues

- **Easing import restrictions to increase the supply of COVID-19 related products**
  - **Easing tariffs on medical-care products from China**. USTR—in response to the threat of COVID-19, and in consultation with the Department of Health and Human Services—is taking a two-fold approach to minimize the effect tariffs on imports from China have on the public-health response to the pandemic. [529] First, USTR has prioritized the review of existing product exclusion requests that address medical-care products related to the U.S. response to COVID-19. [530] Second, it has opened a

[529]Starting in July 2018, the United States levied tariffs, currently at 7.5 and 25 percent, on an eventual total of $550 billion worth of imports from China, covering a wide variety of products, as part of an ongoing trade action under Section 301 of the Trade Act of 1974. Under Section 301, USTR found that certain acts, policies, and practices of the government of China related to technology transfer, intellectual property, and innovation are unreasonable or discriminatory, and burden or restrict U.S. commerce.

[530]USTR has a process for U.S. importers to obtain tariff relief on specific products from China—known as product exclusions—if the request meets certain criteria. If granted, these product exclusions are temporary. For example, USTR stated that the product exclusions announced in a December 17, 2019, Federal Register notice will apply as of September 24, 2018, to August 7, 2020. See 84 Fed. Reg. 69,012 at 69,013 (Dec. 17, 2019). Pursuant to USTR guidance, interested parties can submit comments on whether to extend these exclusions for up to 12 months. See, for example, 85 Fed. Reg. 27011 (May 6, 2020).

new regulations.gov docket to receive public comments at least until June 25, 2020, on possible further modifications to remove the section 301 tariffs from additional medical-care products. [531] In March 2020, USTR granted approximately 200 exclusion requests for medical-care products related to the COVID-19 response, including personal protective equipment (PPE) such as certain disposable gloves and masks and other medical-care-related products. Unless extended, these exclusions are scheduled to expire between August and September 2020. The U.S. International Trade Commission (USITC) identified 112 statistical reporting numbers representing categories of products related to COVID-19 response based on the Harmonized Tariff Schedule (HTS) at the 10-digit level. [532] According to a USITC report, 55 of the 112 were subject to the section 301 tariffs on imports from China; of the 55, 28 were either wholly or partially excluded from the tariff, and the other 27 were still entirely subject to 301 tariffs, as of April 2020. (See figure). Eliminating these tariffs may reduce the price of imports.

- **Waiving restrictions on government purchases of certain foreign products**. On April 3, 2020, the General Services Administration's (GSA) Senior Procurement Executive determined that certain supplies to combat COVID-19 may be acquired by U.S. government agencies without regard to the domestic preference restrictions imposed by the Trade Agreements Act of 1979 (TAA) and the Buy American Act of 1933, as amended (BAA). The BAA prohibits U.S government agencies from buying foreign products unless certain exceptions apply. There are a number of U.S. trade agreements with foreign countries that waive the BAA restrictions for certain products. In addition, as a matter of U.S. trade policy under the TAA, certain procurements are restricted to U.S.-made or designated country products and services. The restrictions imposed by the TAA and BAA are implemented in the Federal Acquisition Regulation. GSA concluded that waivers of these domestic preference restrictions were warranted based on the scarcity of domestic supply of N95 masks; sodium hypochlorite (i.e., bleach); disinfectants, including cleaners, sprays, and wipes; cleaners including sanitizing surface and floor cleaners; hand sanitizers; soaps; and dispensers.

- **Imposing export restrictions to maintain U.S. supply of key medical goods**. On April 10, 2020, the Federal Emergency Management Agency (FEMA) issued a temporary rule restricting the U.S. export of certain medical equipment through August 10, 2020, without the agency's explicit approval. The restrictions apply to scarce or threatened medical supplies critical to COVID-19 response efforts such as certain facepiece respirators, surgical masks, and gloves. Under the rule, U.S. Customs and Border Protection will temporarily detain shipments of these items while FEMA determines

[531] According to USTR, certain critical medical products—such as ventilators, oxygen masks, and nebulizers—were never subject to Section 301 tariffs on products from China. For those health-related products that were subject to Section 301 tariffs on products from China, USTR stated that it has assessed medical necessity in reviewing product exclusion requests.

[532] The HTS is a hierarchical structure for describing all goods in trade for duty, quota, and statistical purposes. The U.S. government tracks goods being imported into the country at the HTS 10-digit level, also referred to as statistical reporting numbers. Some HTS numbers represent basket categories that cover more than one product. See United States International Trade Commission, *COVID-19 Related Goods: U.S. imports and Tariffs*, Investigation No. 332-576, USITC Publication 5047 (Washington, D.C.: April 2020).

whether to allow the shipment, return the items for domestic use, or purchase the items for the U.S. government. According to the rule, FEMA will consider various factors in its decision-making, including the need to ensure the appropriate allocation of scarce or threatened items for domestic use, minimize supply chain disruptions, and consider humanitarian and diplomatic concerns. On April 21, 2020, FEMA announced a number of exemptions to the export restrictions, including shipments to certain destinations, intracompany transfers, and merchandise transiting the United States.

- **Financing assistance to maintain international trade**
  - **Easing Export-Import Bank of the United States (EXIM) funding**. As part of the government's response to the COVID-19 pandemic and to help American businesses facilitate international sales and compete in the global marketplace, EXIM has taken temporary measures to provide relief to exporters and financial institutions, as well as restrict its export support for certain scarce medical supplies. [533] In March 2020, EXIM announced several new or expanded financing initiatives, effective through April 2021, to support U.S. exporters by addressing temporary liquidity problems caused by the pandemic. These initiatives include new short-term bridge financing for foreign customers of U.S. exporters, expanded pre-export financing to support progress payments on manufactured capital goods, expanded supply chain financing for suppliers, and increased flexibility in EXIM's working capital guarantees. Both the supply chain and working capital programs are primarily used by small businesses. Additionally, for certain loan guarantee and insurance programs, EXIM has waived reporting requirements, extended certain reporting and payment deadlines, and streamlined insurance policy renewal processing, among other flexibilities, through the end of August 2020. EXIM has also temporarily restricted export support for U.S. medical supplies and equipment, such as PPE, that the government has designated as being in short supply and required for the domestic response to the pandemic. These temporary exclusions of COVID-19 related medical supplies from EXIM's loan, loan guarantee, and insurance programs will remain in place through September 30, 2020, unless the EXIM Board of Directors votes to lift them earlier.

  - **Changes in allowed uses of SBA's STEP grant funds.** The CARES Act allows for grants made with funding available in fiscal years 2018 and 2019 to continue until the end of fiscal year 2021. [534] The act also directs SBA to reimburse recipients of STEP funds for financial losses due to the cancellation of foreign trade missions or trade show exhibitions solely due to a public health emergency declared due to COVID-19, as long as the reimbursement does not exceed the recipient's grant funding. [535] The STEP program provides grants to states to help develop local small businesses' export capacity. In fiscal years 2018 and 2019, SBA announced that the program awarded $18

[533]EXIM's mission is to support the export of U.S. goods and services overseas through loans, loan guarantees, and insurance, thereby supporting U.S. jobs.

[534]Pub. L. No. 116-136, § 1104, 134 Stat. at 297.

[535] *Id*.

million each year in grants to state grantees, and reported providing grants to 47 and 41 states, respectively.

- **Providing SBA Export loan relief.** The CARES Act provides temporary relief related to SBA's 7(a) loans, which include loans intended to help small businesses export. [536] The act requires SBA to pay the principal, interest, and any associated fees that are owed on certain 7(a) loans for a 6-month period. [537]

GAO Methodology and Agency Comments

To conduct this work, we reviewed the most recent agency data as of May 2020; reviewed agency announcements and guidance from the USTR, USITC, GSA, FEMA, EXIM, and SBA; and reviewed applicable federal laws and regulations and our related past work. We incorporated technical comments from agencies as appropriate.

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Related GAO Products

International Trade: Foreign Sourcing in Government Procurement. GAO-19-414. Washington, D.C.: May 30, 2019.

Small Business Administration: Export Promotion Grant Program Should Better Ensure Compliance with Law and Help States Make Full Use of Funds. GAO-19-276. Washington, D.C.: March 12, 2019.

Buy American Act: Actions Needed to Improve Exception and Waiver Reporting and Selected Agency Guidance. GAO-19-17. Washington, D.C.: December 18, 2018.

[536]Pub. L. No. 116-136, § 1112(c), 134 Stat. at 309. The 7(a) loan program is SBA's primary program for providing financial assistance to small businesses. The terms and conditions, like the guaranty percentage and loan amount, may vary by the type of loan. SBA's 7(a) programs that support international trade include the Export Express program, the Export Working Capital program, and the International Loan program. These loans are available to U.S. small businesses that export directly overseas, or those that export indirectly by selling to a customer that then exports their products.

[537]Pub. L. No. 116-136, § 1112(c), 134 Stat. at 309.

Response Efforts Abroad

In response to supplemental appropriations of about $3 billion to respond to COVID-19 abroad, the Department of State, the U.S. Agency for International Development, and the Centers for Disease Control and Prevention developed strategies and began to allocate these new funds.

Entities involved: Department of State, U.S. Agency for International Development, Centers for Disease Control and Prevention.

Key Considerations and Future GAO Work

We have ongoing work reviewing U.S. agencies' pre-COVID-19 efforts to build other countries' capacity to prevent, detect, and respond to infectious disease threats. We also have ongoing work reviewing the services and support that the Department of State (State) provides to American citizens abroad, including repatriation during the recent COVID-19 crisis.

Background

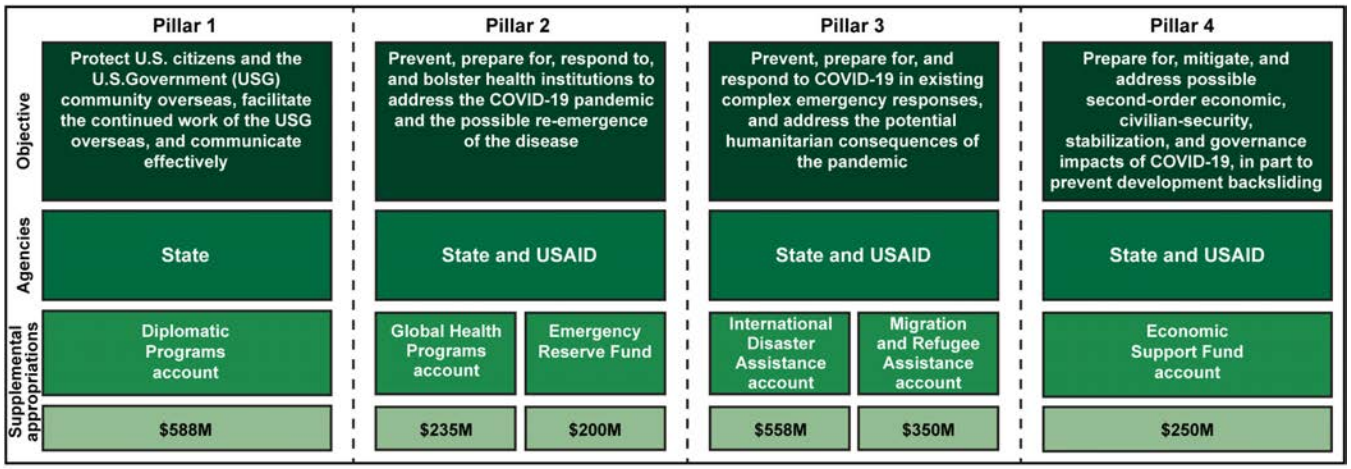
COVID-19 has reached every country around the globe. The United Nations reported that although the peak of the disease in the world's poorest countries is not expected until the late summer or fall of 2020, there is already evidence of severe economic and public health impacts. State and the U.S. Agency for International Development (USAID) warn that COVID-19 is expected to cause significant economic and social disruption, and could overwhelm health care institutions and lead to a multisector emergency. Longer-term impacts could reverse valuable economic and development gains made over many years.

The Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, and the CARES Act provided about $2.2 billion in supplemental funding to accounts for diplomatic and foreign assistance programs, administered by State and USAID, to respond to COVID-19 abroad.[538] Through the same two acts, Congress also designated at least $800 million of the Centers for Disease Control and Prevention's (CDC) COVID-19 supplemental appropriations for CDC's global

[538]See Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123, 134 Stat. 146 (2020); and CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020). The Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, and the CARES Act also granted State and USAID additional authorities, including the authority to transfer certain funds and to provide additional paid leave to address employee hardships resulting from COVID-19. See e.g. Pub. L. No. 116-123, § 402, 134 Stat. at 153; and Pub. L. No. 116-136, § 21007, 134 Stat. at 592. In addition, the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, increased the amount of certain previously appropriated Diplomatic Programs funds that State can transfer for emergency evacuations and rewards. Pub. L. No. 116-123, § 403, 134 Stat. at 154. The supplemental funding also provided $95 million to USAID for operating expenses and $1 million to the USAID Office of Inspector General for COVID-19 related work. Pub. L. No. 116-123, tit. IV, 134 Stat. at 152; Pub. L. No. 116-136, div. B, tit. XI, 134 Stat. at 590. We did not include these funds in the $2.2 billion total of supplemental funding for State and USAID for diplomatic and foreign assistance programs.

disease detection and emergency response. [539] State and USAID developed a strategy for the use of the $2.2 billion, which is organized under four pillars (see figure below). Similarly, CDC developed a strategy for its global response to COVID-19 that will focus on supporting priority countries, multilateral institutions, and vulnerable populations to mitigate the global impact of the pandemic. As discussed earlier in this report, all three agencies also undertook COVID-19 response activities prior to receiving supplemental funds, including State efforts to repatriate U.S. citizens and USAID and CDC efforts to help other countries respond to the pandemic.

March 2020 State and USAID Strategy for Using Supplemental Funding to Respond to COVID-19 Abroad



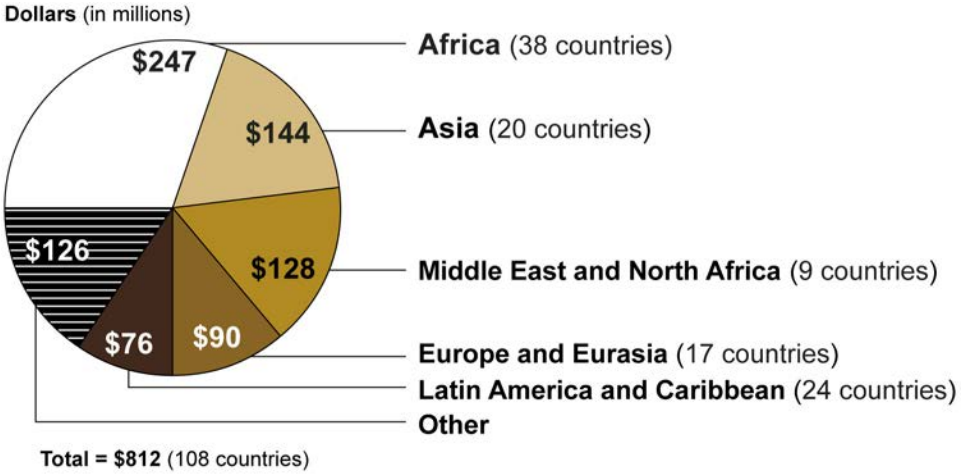
Source: Department of State (State) and U.S. Agency for International Development (USAID) Strategy for Supplemental Funding to Prevent, Prepare for, and Respond to Coronavirus Abroad. | GAO-20-625

Overview of Key Issues

State and USAID reported allocating about $1.2 billion in supplemental funding, as of May 20, 2020, to respond to COVID-19 across the four pillars in their strategy including both diplomatic and foreign assistance programs. Pillar 1 focuses on U.S. citizens and operations, whereas Pillars 2 to 4 focus on helping other countries respond to the COVID-19 pandemic. Of the $1.2 billion allocated, State and USAID allocated about $800 million in foreign assistance for more than 100 countries, as of May 20, 2020. (See figure below.)

[539]Pub. L. No. 116-123, tit. III, 134 Stat. at 147; Pub. L. No. 116-136, div. B, tit. VIII, 134 Stat. at 554.

Department of State and U.S. Agency for International Development Allocations of Supplemental Funding for COVID-19-Related International Assistance, as of May 20, 2020, by Geographic Region



Source: GAO analysis of Department of State and U.S. Agency for International Development data. | GAO-20-625

Note: "Other" funding includes global assistance, central operating units, and monitoring and evaluation. Total may not add up due to rounding.

- **Pillar 1: Protecting U.S. Citizens and Maintaining U.S. Operations.** State reported allocating $398 million of $588 million in supplemental funding under Pillar 1 as of May 6, 2020. Among other things, this included
  - approximately $141 million to maintain consular operations, which faced lost revenues from a drop in visa and passport applications;
  - approximately $54 million to increase the department's domestic and overseas telework capacity; and
  - almost $106 million for the Bureau of Medical Services, for multiple efforts to continue effectively and safely achieving State's mission overseas. Such efforts included purchasing personal protective and testing equipment, targeted hiring, and adding capacity for medical evacuation travel to the United States.

- **Pillar 2: Global Health Assistance.** USAID reported allocating $200 million in supplemental funding to provide health assistance for 83 countries, as of May 20, 2020. [540] Planned interventions in countries affected by and at risk of COVID-19 include preventing and controlling infections in health facilities; conducting contact tracing; improving readiness to rapidly identify and treat cases; raising awareness in populations through risk-communication; screening people at points of entry and exit; and purchasing key commodities.

- **Pillar 3: Humanitarian Assistance.** State and USAID reported allocations of nearly $460 million in supplemental funding for humanitarian assistance, as of May 2020. This included $300 million in International Disaster Assistance (IDA) account funds, managed by USAID,

[540]USAID also provided health assistance in response to COVID-19 to additional countries with nonsupplemental emergency funds.

for 29 countries and nearly $160 million in Migration and Refugee Assistance (MRA) account funds, managed by State, for 52 countries.

- **IDA.** IDA allocations will focus on mitigating widespread transmission of COVID-19; addressing public health consequences; and maintaining essential health services for crisis-affected populations, particularly displaced people. To accomplish this, USAID aims to augment ongoing health; water, sanitation, and hygiene; and protection interventions in existing humanitarian contexts. Future allocations will aim to address emergency food assistance needs and the economic impact of COVID-19 in humanitarian settings in order to prevent further deterioration of pre-existing crises, according to USAID officials.

- **MRA.** MRA allocations will aid international organizations and nongovernmental organization partners in addressing challenges posed by the pandemic. Of the nearly $160 million allocated, as of May 20, 2020, State reported obligating $64 million to the United Nations High Commissioner for Refugees for its multisectoral COVID-19 response in 30 countries worldwide. Activities funded with MRA funds are similar to those funded with IDA funds, but focus on the needs of specific populations of concern, including refugees, victims of conflict, internally displaced persons, and stateless persons. [541]

- **Pillar 4: Economic and Development Assistance.** According to USAID, State and USAID have allocated about $150 million in supplemental funding under Pillar 4 for 18 countries, as of May 20, 2020. [542] While the Pillar 4 objective includes addressing second-order economic, civilian-security, stabilization, and governance effects of COVID-19, State officials told us that the initial focus is on emergency and short-term needs. Examples of initial activities identified by USAID and State for the allocation include distance and alternative education while schools are closed, cash assistance to vulnerable families, job skills training, and child protection services. The allocations under Pillar 4 included $50 million for Italy to mitigate the social, economic, and community effects of the pandemic there; procure health supplies; and support Italian businesses that are engaged in the research, development, or manufacture of therapeutics, vaccines, and medical equipment and supplies for COVID-19.

With respect to CDC, the agency had developed plans for $300 million of its $800 million in supplemental funding designated for global efforts and, as of May 19, 2020, had obligated nearly $37 million, according to CDC officials. CDC's plans encompass several technical areas, including laboratory, surveillance, and epidemiology; border health and community mitigation; infection prevention, control, and preparedness in health care facilities; and pandemic and vaccine preparedness planning. CDC officials noted that the agency has also identified nearly 60 priority countries to which to target this assistance and that the list of priority countries will continue to

[541] USAID and State have a memorandum of understanding to share and concur on funding plans in contexts where both provide humanitarian assistance to help ensure that assistance is not duplicative, according to State officials.

[542] The total of 18 countries supported under Pillar 4 does not include additional countries that may have received assistance through regional allocations.

grow. As of June 1, 2020, CDC stated that it was still developing plans for the use of its remaining $500 million in supplemental funding.

GAO Methodology and Agency Comments

To conduct this work, we reviewed the agencies' strategy and guidance documents on the use of supplemental funding; interviewed State, USAID, and CDC officials; and reviewed congressional notifications and agency fact sheets related to COVID-19 response efforts.

We provided a draft of this enclosure to State, USAID, and CDC for their review and comments. USAID provided written comments, reproduced in appendix XI, highlighting the agency's use of supplemental funding to date to respond to COVID-19 abroad. In addition, State and USAID provided technical comments, which we incorporated as appropriate. CDC did not provide comments.

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Related GAO Products

Emergency Assistance for Zika: USAID Supported Activities Overseas but Could Improve Funds Tracking and Response Planning. GAO-19-356. Washington, D.C.: May 13, 2019.

Ebola Recovery: USAID Has Initiated or Completed Most Projects, but a Complete Project Inventory Is Still Needed for Evaluating Its Efforts. GAO-18-350. Washington, D.C.: March 28, 2018.

Embassy Evacuations: State Department Should Take Steps to Improve Emergency Preparedness. GAO-17-714. Washington, D.C.: July 17, 2017.

State Department: Wide Range of Emergency Services Provided to American Citizens Overseas, but Improved Monitoring Is Needed. GAO-09-989. Washington, D.C.: September 24, 2009.

Appendix IV: GAO Indicators for Monitoring Areas of the Economy and Health Care System Supported by the Federal Pandemic Response

This appendix provides additional information on the economic indicators on which we plan to report going forward. The indicators are intended to facilitate ongoing and consistent monitoring of areas of the economy and health care system supported by the federal pandemic response, including (1) labor markets, (2) households, (3) small business credit markets, (4) corporate credit markets, and (5) markets related to state and local government finances, and (6) the financial condition of the health care sector.

Indicators of Labor Market Stress

We plan to monitor and report on various indicators related to labor market stress and employment conditions. A number of factors will likely influence trends in these indicators over time, requiring more rigorous methods to assess the role of any one factor.

- **Initial unemployment insurance claims.** Initial unemployment insurance claims are a measure of emerging unemployment. An initial claim is a claim filed by an unemployed individual after a separation from an employer.[543] Initial unemployment insurance claims data are produced weekly by the Department of Labor's Employment and Training Administration. Changes in the initial unemployment insurance claims over time provide a general indication of stress in labor markets, particularly as workers not typically covered by unemployment insurance, including self-employed workers, have been granted potential unemployment insurance eligibility under the CARES Act.

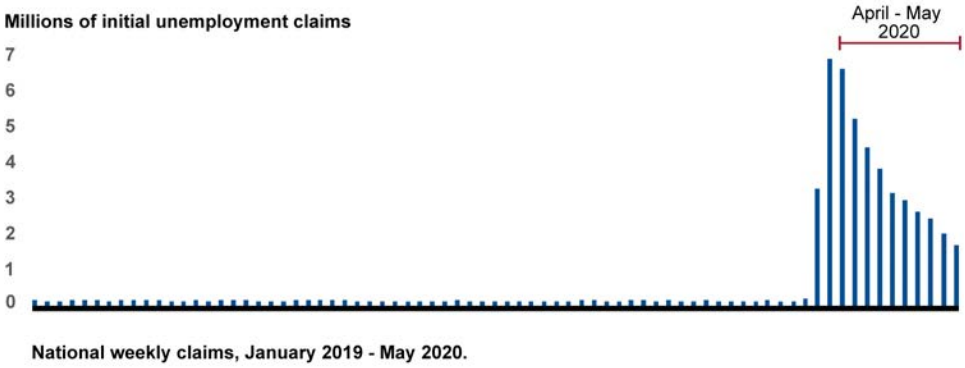
- Two key aspects of the federal pandemic response may influence initial unemployment insurance claims. One provision enhances unemployment insurance benefits by expanding eligibility for unemployment compensation benefits, increasing weekly benefit amounts by $600, and extending the number of weeks of benefit eligibility. The second, the Paycheck Protection Program (PPP), is aimed at small businesses and provides funding to guarantee loans to small businesses and other eligible entities, which may be forgiven up to the amount borrowed if recipients meet criteria such as maintaining employee and compensation levels during the loan's covered period. Both of these programs aim to financially support workers and the economy, but businesses may have varied reactions when weighing the decision to lay off their workers. While some businesses may receive a PPP loan and keep employees on

[543]Pub. L. No. 116-136, 124 Stat. 281 (2020). The individual claiming unemployment insurance requests a determination of basic eligibility for the program. When an initial claim is filed with a state, each state generates counts of initial claims. According to the Department of Labor, each state sets its own unemployment insurance benefits eligibility guidelines, but generally an individual qualifies if the individual is unemployed through no fault of his or her own. In most states, this means an individual has to have separated from his or her last job due to a lack of available work.

their payrolls, others may be inclined to lay off employees, making them potentially eligible for enhanced unemployment benefits.

- To the extent that these programs influence businesses' decisions to remain in operation and maintain employment, trends over time in initial unemployment insurance claims could to some degree reflect the effect of these programs. In the last two weeks of March, before the enactment of the CARES Act, over 10 million individuals filed initial unemployment insurance claims, indicating significant emerging labor market stress. Since the enhanced unemployment insurance and other provisions of the CARES Act and related legislation have been implemented, over 32 million additional initial unemployment insurance claims have been filed (see fig. 16).[544]

Figure 16: National Weekly Initial Unemployment Claims, January 5, 2019 to May 30, 2020



Source: GAO, Department of Labor Employment and Training Administration. | GAO-20-625

Notes: National initial unemployment insurance claims data include the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands. Figure includes data retrieved on June 6, 2020, and covers weekly claims from January 5, 2019 through May 30, 2020. Recent initial unemployment insurance claims totals may understate emerging unemployment due to capacity issues that may have limited or delayed successful claim filing in many states. Initial unemployment claim totals may also understate emerging unemployment of workers who qualify for the Pandemic Unemployment Assistance (PUA) program, as states have different processes for processing claims under this program since its implementation in May 2020. According to Department of Labor, in some states, workers eligible for PUA may first submit an unemployment insurance claim, but in other states, these workers can apply directly for the PUA program, which are not counted as initial unemployment claims.

- **Employment-to-population ratio**. The employment-to-population ratio measures the share of the civilian labor force currently employed relative to the civilian noninstitutional population over 16 years old. This ratio provides information on the ability of the economy to provide employment, making it a particularly useful indicator of labor market stress during the pandemic. This indicator may have advantages in the current economic environment compared to the official unemployment rate, which excludes unemployed individuals who are not actively searching for work.[545] The employment-to-population ratio is produced monthly

[544]Recent initial unemployment insurance claims totals may understate emerging unemployment due to capacity issues that may have limited or delayed successful claim filing in many states.

[545] Given health concerns related to the pandemic and widespread state-level policies that limit certain economic activity, work search requirements have largely been relaxed resulting in a significant segment of the workforce not actively searching for employment. As a result, traditional measures of unemployment will be less reliable

by the Bureau of Labor Statistics (BLS), including demographic breakdowns by age, sex, race and ethnicity, education, as well as geographic breakdowns by region and state.[546] BLS also produces monthly data on total employment by industry.[547] To the extent that the federal response to the pandemic influences the likelihood that businesses maintain their levels of employment, trends in the employment-to-population ratio could be useful in assessing the effect of the federal response to some degree. In May 2020, the employment-to-population ratio was 52.8 percent meaning that 52.8 percent of the civilian noninstitutional population was employed, an increase of 1.5 percentage points from April when the series hit an all-time low. Percent declines in the employment-to-population ratios from March to May were larger for African-American and Hispanic workers compared to white workers, and were also larger for those without a bachelor's degree. Leisure and hospitality had the largest decreases in employment between March and May 2020.

Indicators of Household Financial Stress

We plan to monitor and report on a number of indicators related to household financial stress. A number of factors will likely influence trends in these indicators over time, requiring more rigorous methods to assess the role of any one factor.

- **S&P/Experian Consumer Credit Default Composite Index.** The S&P/Experian Consumer Credit Default Composite Index measures the proportion of consumer credit account balances that enter default across auto loans, first and second mortgages and bank cards each month.[548] This index is a timely measure of households' ability to make scheduled payments and tends to fluctuate over time based on economic activity. It previously spiked in 2009 during the Great Recession.
  We plan to monitor and report on this index, as well as its sub-indices that independently track auto loans, mortgages, and bank cards. Changes in these indices over time should provide a general indication of changes in the financial condition of households. To the extent enhanced unemployment insurance and other programs influence households' ability to

indicators of labor market stress. While both the employment-to-population ratio and the unemployment rate will be sensitive to how BLS measures the number of employed individuals, calculating the employment-to-population ratio requires fewer assumptions and will be more stable to fluctuating measures of who is in the labor force.

[546] BLS produces state-level estimates of employment-to-population ratios, as a part of its Local Area Unemployment Statistics program. While the national employment-to-population ratio is based on the household survey, the state-level employment-to-populations ratios are synthetic estimates using modeling to estimate unemployment at smaller geographic areas than the household survey.

[547] BLS employment statistics are primarily based on two monthly surveys. A survey of households is used to measure labor force status, including unemployment, by demographic characteristics. A survey of establishments is used to measure nonfarm employment, hours, and earnings by industry.

[548]Default is defined as 90 days past due or worse for auto loans, first and second mortgages, and 180 days past due or worse for bank cards. Bankruptcy, repossession, and write-offs also constitute default. This index is calculated based on data extracted from a representative sample of 14 million loan-level payment data sourced directly from lenders included in Experian's consumer credit database.

make scheduled payments, trends over time in these indices could, to some degree, reflect the effect of these programs. In recent years, the proportion of consumer credit account balances that enter default across auto loans, first and second mortgages and bank cards have been relatively stable. However, as of April 2020, bank card defaults are rising and are currently at their highest level since 2012.

- **Supplemental Nutrition Assistance Program (SNAP) Household Participation.** U.S. Department of Agriculture's Food and Nutrition Service reports the number of low-income families who participate in SNAP (formerly the Food Stamp program), the largest food assistance program and one of the largest safety net programs in the United States. The program serves a wide range of low-income households, including families with children, the elderly, and individuals with disabilities. While the SNAP program is intended to reduce food insecurity, the number of households participating in SNAP can be interpreted as a measure of the demand for food assistance. Historically, the number of households that participate in SNAP has tended to decrease as household financial conditions improve.
  We plan to monitor and report the number of households participating in SNAP based on monthly data, including differences across states. Changes in the number of households participating in SNAP over time should provide a general indication of changes in the financial condition of households. To the extent that enhanced unemployment insurance, recovery rebates, and other programs provide financial support to households, trends over time in SNAP participation could to some degree reflect the effect of these programs. Available data on the number of households participating in SNAP do not yet cover a time period that would include the effect of Coronavirus Disease 2019 (COVID-19) or federal responses to the pandemic, in particular actions taken under the four COVID-19 relief laws enacted at the time of our review. [549] However, since 2012, SNAP participation has declined, which suggests an increase in food security in recent years. [550]

Indicators of Small Business Credit Market Conditions

We plan to monitor and report on a number of indicators related to small businesses and their ability to access credit markets. A number of factors will likely influence trends in these indicators over time, requiring more rigorous methods to assess the role of any one factor.

- **Small Business Health Index.** The Small Business Health Index (SBHI), produced by Dun & Bradstreet, combines information on the timeliness of payments, failure rates, and utilization

[549]The four COVID-19 relief laws enacted at the time of our review include the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123, 134 Stat. 146; the Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020); the CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020); and the Paycheck Protection Program and Health Care Enhancement Act, Pub. L. No. 116-139, 134 Stat. 620 (2020). In this report, we refer to these four laws as "COVID-19 relief laws."

[550] Changes in SNAP flexibilities could also influence SNAP participation.

of credit of a large sample of active small businesses with fewer than 100 employees.[551] The index is a timely measure of the financial condition of small businesses. The index tends to increase as economic conditions improve. We plan to monitor and report on changes in the SBHI based on Dun and Bradstreet's monthly index for the United States as a whole.[552] Changes in this index over time should provide a general indication of changes in the financial condition of small businesses.
To the extent that the PPP and other aspects of the federal pandemic response influence the financial condition and credit available to small businesses, trends over time in this index could to some degree reflect the effect of these programs. The SBHI has been falling gradually over the last year, and in April 2020, the index fell at a faster rate than any time over the last year.[553]

- **Spreads on small business loans.** Spreads on small business loans relative to benchmark interest rates (e.g., Treasury interest rates) measure the premium small business borrowers must pay to compensate lenders for taking a number of risks. For example, the risk of loss due to default (risk premium) and the risk that investors will be unable to exit their investments in a timely manner or at low cost (liquidity premium). These spreads are a key measure of the cost and availability of credit and tend to fluctuate over time based on economic conditions. That is, spreads tend to increase as perceived economic risk increases—lenders demand greater returns to compensate for increased risk—and spreads tend to shrink as perceived economic risk falls. We plan to calculate these spreads based on survey data collected by the Federal Reserve Bank of Kansas City via its quarterly Small Business Lending Survey.[554] Changes in these spreads over time should provide a general indication of changes in credit conditions facing small business borrowers. Spreads on small business loans have increased substantially in the first quarter of 2020, which signals an increase in perceived risk associated with making those loans.

- **Underwriting standards on small business loans.** Underwriting standards on small business loans measure the selectivity of lenders in determining to which small business borrowers they should extend credit. Given that lenders may ration credit, changing the composition of borrowers as economic conditions change, interest rate spreads may not provide a complete picture of the availability of credit. Loan underwriting standards therefore provide additional information on the availability of credit. Underwriting standards tighten as perceived economic risk increases—lenders focus on higher quality borrowers as the economy weakens—and underwriting standards loosen as perceived economic risk falls. We plan to report changes in loan underwriting standards on bank loans to small businesses based on

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[551] The SBHI is calculated based on a sample of 10 million business with fewer than 100 employees, based on an average of four components: failure rates, credit card utilization, and the percentage of credit card and other outstanding balances that are past due. The index level is set relative to 2004 as the base year with a level of 100.

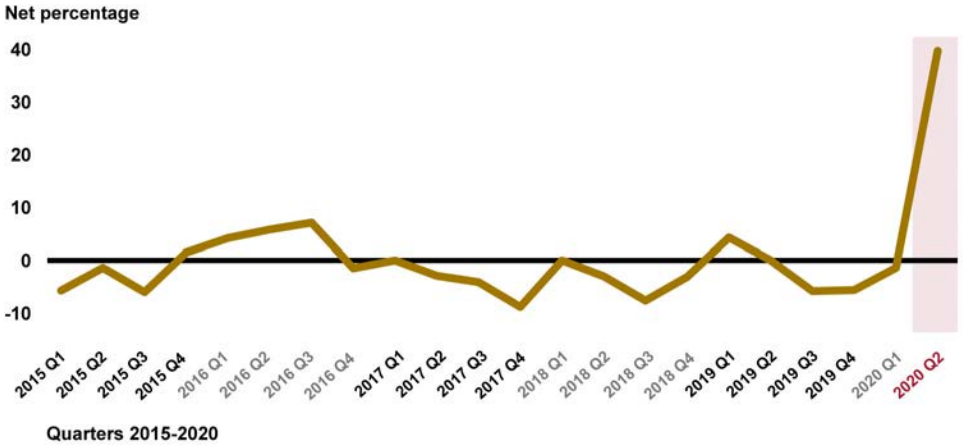
[552] Additional information from the index is available for different Metropolitan Statistical Areas and industries. The major industry groups are manufacturing, transportation, retail, real estate, business services, personal services, construction and automotive.

[553] GAO is reporting these data under license and permission from Dun & Bradstreet and no commercial use can be made of these data.

[554] In this survey, small businesses are defined as those with $5 million or less in annual gross revenue.

survey data collected by the Board of Governors of the Federal Reserve System via its Senior Loan Officer Opinion Survey and by the Federal Reserve Bank of Kansas City via its quarterly Small Business Lending Survey.[555]
Changes in these underwriting standards over time should provide a general indication of changes in credit conditions facing small business borrowers. Between 2017 and 2019, underwriting standards on small business loans made by banks were relatively stable, with relatively few banks making significant changes to standards. However, substantially more banks tightened loan standards in the first quarter of 2020 (see fig. 17).

Figure 17: Net Percentage of Banks Tightening Standards for Small Business Loans, First Quarter of 2015-Second Quarter of 2020



Source: GAO, Board of Governers of the Federal Reserve System. | GAO-20-625

Note: We report results from the Board of Governors of the Federal Reserve System's Senior Loan Officer Opinion Survey, which summarizes changes in underwriting by the "net percentage" of banks tightening underwriting standards on various classes of loans—that is, the percentage of banks reporting that they have tightened standards minus the percentage of banks reporting that they have loosened standards. A positive number indicates that more banks are tightening than loosening standards. Based on the timing of survey completion, each quarter of the survey generally corresponds to the past quarter. For example, the second quarter of 2020 of the survey corresponds to the first quarter of 2020.

- **Other indicators.** We also plan to monitor other measures of small business financial conditions, including proprietor's income from the Bureau of Economic Analysis and monthly measures of small business sentiment and credit availability from the National Federation of Independent Business.

Indicators of Corporate Credit Market Conditions

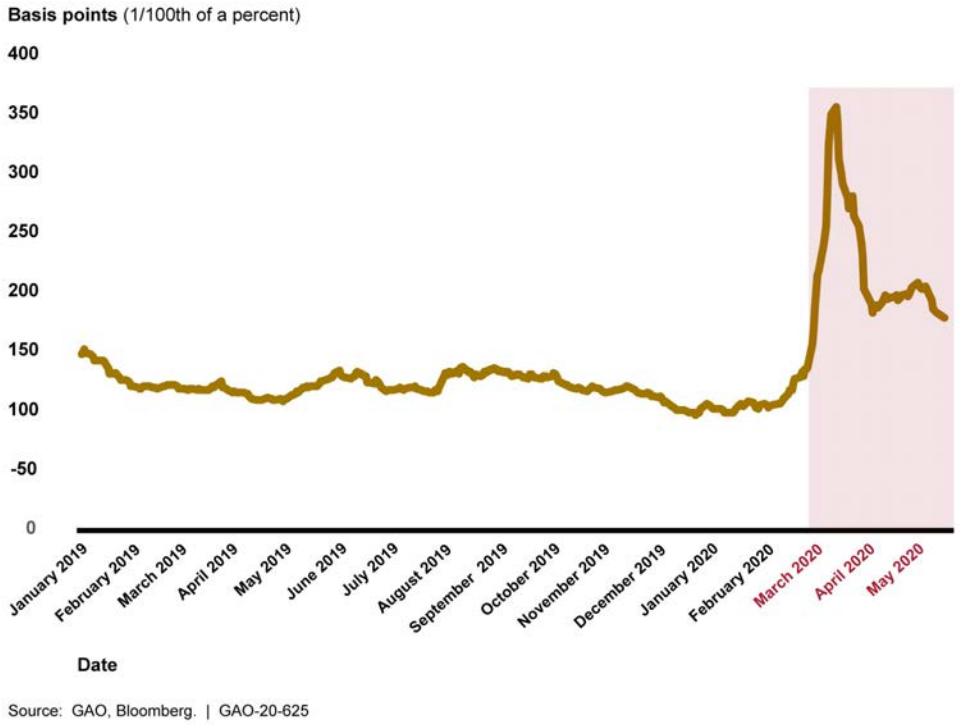
We plan to monitor and report on a number of indicators related to corporations and their ability to access credit markets. A number of factors will likely influence trends in these indicators over time, requiring more rigorous methods to assess the role of any one factor.

[555] In this survey, small business are defined as those with $50 million or less in annual sales.

- **Spreads on corporate bonds.** Spreads on corporate bonds relative to benchmark interest rates (e.g., Treasury interest rates) measure the premium corporate borrowers must pay to compensate lenders for taking on the risk of loss due to default (risk premium) and for foregoing investments in more liquid assets (liquidity premium). These spreads are a key measure of the cost and availability of credit and tend to fluctuate over time based on economic conditions. That is, spreads tend to increase as perceived economic risk increases—lenders demand greater returns to compensate for increased risk—and spreads tend to shrink as perceived economic risk falls.
  We plan to monitor and report spreads on aggregations of dollar-denominated investment grade corporate bonds available via Bloomberg, including differences in spreads across various industries.[556] Changes in these spreads over time provide a general indication of changes in credit conditions facing corporations in those various industries. To the extent that the Federal Reserve's lending facilities—some supported by funds appropriated under the CARES Act to the Treasury's Exchange Stabilization Fund—and other aspects of the federal pandemic response, influence the cost and availability of credit to corporations, trends over time in these spreads could to some degree reflect the effect of these programs.
  Investment grade corporate bonds spreads increased substantially from late February until March 23, 2020, falling significantly after the Federal Reserve announced facilities principally to purchase investment grade corporate bonds and lend directly to corporations with investment grade credit ratings (see fig. 18).

[556] We will also monitor changes in spreads on high yield or so-called "junk" bonds, including relative to changes in spreads on investment grade bonds.

Figure 18: Spreads on Investment Grade Corporate Bonds, January 2019 to May 2020



Note: Corporate bond spreads are measured in basis points or 1/100 th of a percentage point.

Indicators of State and Local Government Finances

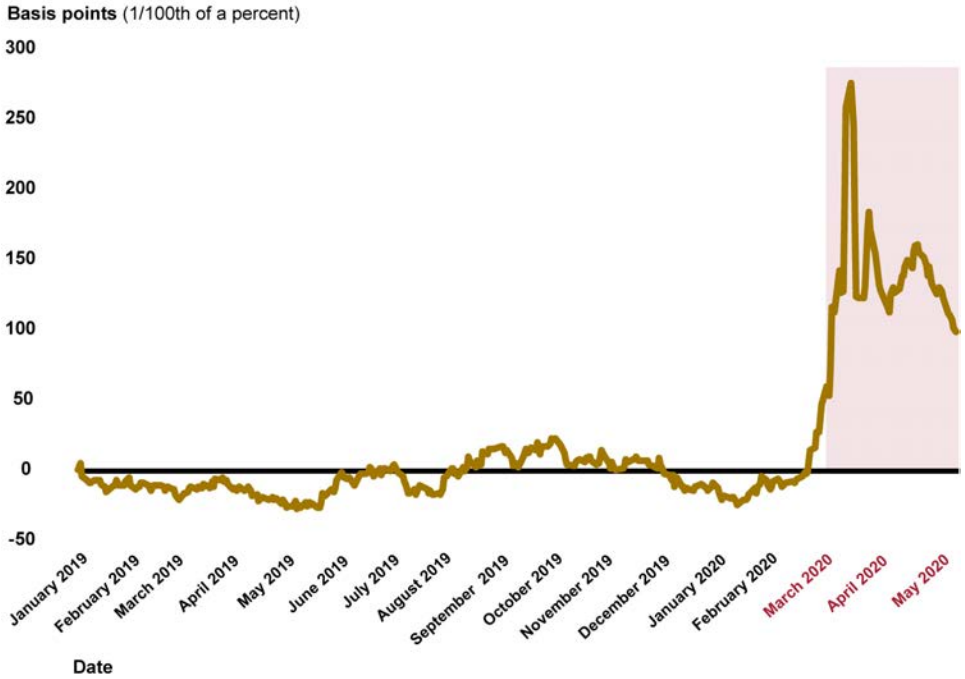
We plan to monitor and report on a number of indicators related to the fiscal health of state and local governments. A number of factors will likely influence trends in these indicators over time, requiring more rigorous methods to assess the role of any one factor.

- **Spreads on municipal bonds.** Spreads on municipal bonds relative to benchmark interest rates (e.g., Treasury interest rates) incorporate the favorable tax treatment received by municipal debt and may also reflect any premium state and local borrowers pay to compensate lenders for taking on the risk of loss due to default (risk premium) and for tying up their investment funds for a period of time (liquidity premium). These spreads are a timely measure of the cost and availability of credit to state and local governments and previously spiked in late 2008 at the height of the 2007-2009 financial crisis. We plan to monitor and report spreads calculated based on the Bloomberg Barclays Municipal Bond Index. [557]

[557]Municipal bond spreads are calculated using yield to worst on the Bloomberg Barclays Municipal Bond Index which results in a conservative—that is, lower—estimate of potential returns on callable bonds.

Changes in these spreads over time should provide a general indication of changes in fiscal stress facing many state and local governments. To the extent that the Federal Reserve's lending facilities—some supported by funds appropriated under the CARES Act to the Treasury's Exchange Stabilization Fund—and grants to state and local governments influence the cost and availability of credit to state and local governments, spreads could to some degree reflect the effect of the federal pandemic response.[558] Municipal bonds spreads increased substantially from late February until March 23, 2020, falling moderately after the Federal Reserve expanded two of its lending facilities to include municipal securities (see fig. 19).

Figure 19: Spreads on Municipal Bonds, January 2019 to May 2020



Source: GAO analysis of data from Bloomberg and the Board of Governors of the Federal Reserve System. | GAO-20-625

Note: Municipal bond spreads are measured in basis points or 1/100th of a percentage point. Spreads are calculated using yield to worst on the Bloomberg Barclays Municipal Bond Index which results in a conservative—that is, lower—estimate of potential returns on callable bonds.

- **State and local government employment.** State and local government employment, measured monthly by BLS, is a timely measure of fiscal stress facing state and local governments as well as an indicator of the capacity of state and local governments to provide services to the public. States and localities experiencing large declines in revenues may layoff government employees to reduce expenditures and help close budget gaps, or cut non-essential public services due to the pandemic. Changes in state and local government employment over time should provide a general indication of changes in fiscal stress facing

[558]State and local economic conditions that drive tax revenues will be among the myriad of other important factors influencing trends in these spreads.

many state and local governments. During and after the Great Recession, state and local governments substantially reduced employment. In May 2020, state and local government employment fell by 571,000, following the largest single-month decline in April since data have been collected.

- **Other indicators.** We also plan to monitor measures of state and local economic conditions, including gross state product, state and local tax revenues, and measures related to the leisure and hospitality sector, a key industry and source of revenue for tribal governments.

Indicators of Financial Condition of the Health Care Sector

We plan to monitor and report on various indicators related to the economic condition of the health care sector. A number of factors will likely influence trends in these indicators over time, requiring more rigorous methods to assess the role of any one factor.

- **Monthly change in health care employment.** As the COVID-19 pandemic spread throughout the United States, it took a severe toll on the health care sector, not only in terms of the sharp rise in demand for services to care for COVID-19 patients, but also the disruption of care and services for non-COVID-19 patients due to social distancing guidelines. As a result, many health care establishments such as private physician offices curtailed their services, and in the process laid off a considerable number of people. As the United States recovers, the employment changes will be positive and trend upward. This measure describes the net seasonally-adjusted total health care sector (ambulatory health care services, hospitals, and nursing and residential care facilities) employment change from one month to the next reported by BLS' Current Employment Surveys of establishments, most recently released on May 8, 2020. Data reported for the months of March and April 2020 are preliminary estimates.

- **Change in volume of elective procedures across settings.** As the influx of COVID-19 patients begins to level off across geographic locations, there will be less need for providers to prioritize treatment of COVID-19 infections over other health care services. Elective procedures such as hip and knee replacements can be tracked, as well as procedures for more emergent conditions, such as coronary artery bypass grafting to treat patients suffering from heart attacks due to coronary artery disease. As the rates of these procedures approaches pre-COVID levels, this will indicate that the pandemic's disruption of patient access to care across the health care system as a whole will have eased. Preliminary data on these procedures may be available from the Medicare fee-for-service claims or from clinical data registries.

- **Median monthly change in hospital operating margin.** Since hospitals across the country first encountered the COVID-19 pandemic, income has dropped due to sharp volume declines, while expenses have largely remained flat or increased (largely due to treatment of COVID-19 patients), leading many hospitals, a portion of whom were just above the breakeven line prior to the pandemic, to post negative operating margins. Two months into the pandemic, the financial distress of some hospitals is becoming more acute, prompting some hospitals to lay off staff, consider merging with larger health care systems, and to apply for funds provided by

the CARES Act. In spite of these measures, financially weak hospitals may not survive, leading to a significant change in hospital market structure. Median monthly change in hospital operating margin is currently collected by a private entity.

- **Quarterly change in the health care services portion of personal consumption expenditures, one component of Gross Domestic Product.** Due to the COVID-19 pandemic and immediate state and local responses (shelter-in-place mandates), provision of consumer health care services has declined since health care establishments rely on patient visits and hospital/facility stays for non-COVID-19 related medical conditions or impairments. As recovery gains momentum, the personal consumer health care services is likely to improve and, barring any significant changes in health care service delivery, prospectively be restored to pre-pandemic levels. This measure is the seasonally adjusted percent change from preceding quarter in real (inflation-adjusted) Gross Domestic Product from the Bureau of Economic Analysis, most recently released on May 28, 2020.

Appendix V: Internal Control Standards and Fraud Risk Management

Federal Standards for Internal Control

While some level of risk may be acceptable in an emergency environment, strong internal control helps ensure that emergency relief funds are appropriately safeguarded. An effective internal control system improves accountability and transparency, provides feedback on how effectively an entity is operating, and helps reduce risks affecting the achievement of the entity's objectives. Our *Standards for Internal Control in the Federal Government* (the Green Book) sets the standards for an effective internal control system for federal agencies and provides managers with criteria for designing, implementing, and operating an effective internal control system. [559] The Green Book defines the standards through components and principles and explains why they are integral to an entity's internal control system as depicted in figure 20 below. Management's ongoing monitoring of the internal control system is essential in helping internal control remain aligned with changing objectives, environments, laws, resources, and risks.

Figure 20: The Five Components and 17 Principles of Internal Control

Control Environment

1. The oversight body and management should demonstrate a commitment to integrity and ethical values.

2. The oversight body should oversee the entity's internal control system.

3. Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives.

4. Management should demonstrate a commitment to recruit, develop, and retain competent individuals.

5. Management should evaluate performance and hold individuals accountable for their internal control responsibilities.

Risk Assessment

6. Management should define objectives clearly to enable the identification of risks and define risk tolerances.

7. Management should identify, analyze, and respond to risks related to achieving the defined objectives.

8. Management should consider the potential for fraud when identifying, analyzing, and responding to risks.

9. Management should identify, analyze, and respond to significant changes that could impact the internal control system.

Control Activities

10. Management should design control activities to achieve objectives and respond to risks.

11. Management should design the entity's information system and related control activities to achieve objectives and respond to risks.

12. Management should implement control activities through policies.

Information and Communication

13. Management should use quality information to achieve the entity's objectives.

14. Management should internally communicate the necessary quality information to achieve the entity's objectives.

15. Management should externally communicate the necessary quality information to achieve the entity's objectives.

Monitoring

16. Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.

17. Management should remediate identified internal control deficiencies on a timely basis.

Source: GAO. | GAO-20-625

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

We are in the process of reviewing relevant internal controls of agencies that are receiving significant COVID-19 funding. We will inform agencies about any identified control deficiencies that need to be remediated from our reviews.

Fraud Risk Management

The public health crisis, economic instability, and increased flow of federal funds associated with the COVID-19 pandemic present increased pressures and opportunities for fraud. [560] Recognizing fraud risks, and thoughtfully and deliberately managing them in an emergency environment, can help federal managers safeguard public resources while providing needed relief. [561] Managers may perceive a conflict between their priorities to fulfill the program's mission—such as efficiently disbursing funds or providing services to beneficiaries, particularly during emergencies—and taking actions to safeguard taxpayer dollars from improper use. However, the purpose of proactively managing fraud risks, even during emergencies, is to facilitate, not hinder, the program's mission and strategic goals by ensuring that taxpayer dollars and government services serve their intended purposes. The effects of not addressing fraud risks can be financial as well as nonfinancial, such as harm to human health from fraudulent COVID-19 treatments. Fraud can also undermine public trust in government.

To help federal program managers combat fraud and preserve integrity in government agencies and programs, in 2015 GAO published *A Framework for Managing Fraud Risks in Federal Programs* (Fraud Risk Framework), which provides a comprehensive set of leading practices for agency managers to develop or enhance efforts to combat fraud in a strategic, risk-based manner. [562] (See fig. 21 below.) The Fraud Risk Framework helps managers meet their responsibilities to assess and manage fraud risks, as required by federal internal control standards. [563] In its Circular A-123 guidelines, the Office of Management and Budget (OMB) has directed agencies to adhere to the Fraud Risk Framework's leading practices as part of their efforts to effectively design, implement, and operate an internal control system that addresses fraud risks. [564] The leading practices of the Fraud Risk Framework are also required to have been incorporated into OMB guidelines and agency controls under the Fraud Reduction and Data Analytics Act of 2015 and its successor provisions in the Payment Integrity Information Act of 2019. [565]

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[560]Fraud involves obtaining something of value through willful misrepresentation. Whether an act is fraudulent is determined through the judicial or other adjudicative system.

[561]Fraud risk exists when individuals have an opportunity to engage in fraudulent activity, have an incentive or are under pressure to commit fraud, or are able to rationalize committing fraud. When fraud risks can be identified and mitigated, fraud may be less likely to occur.

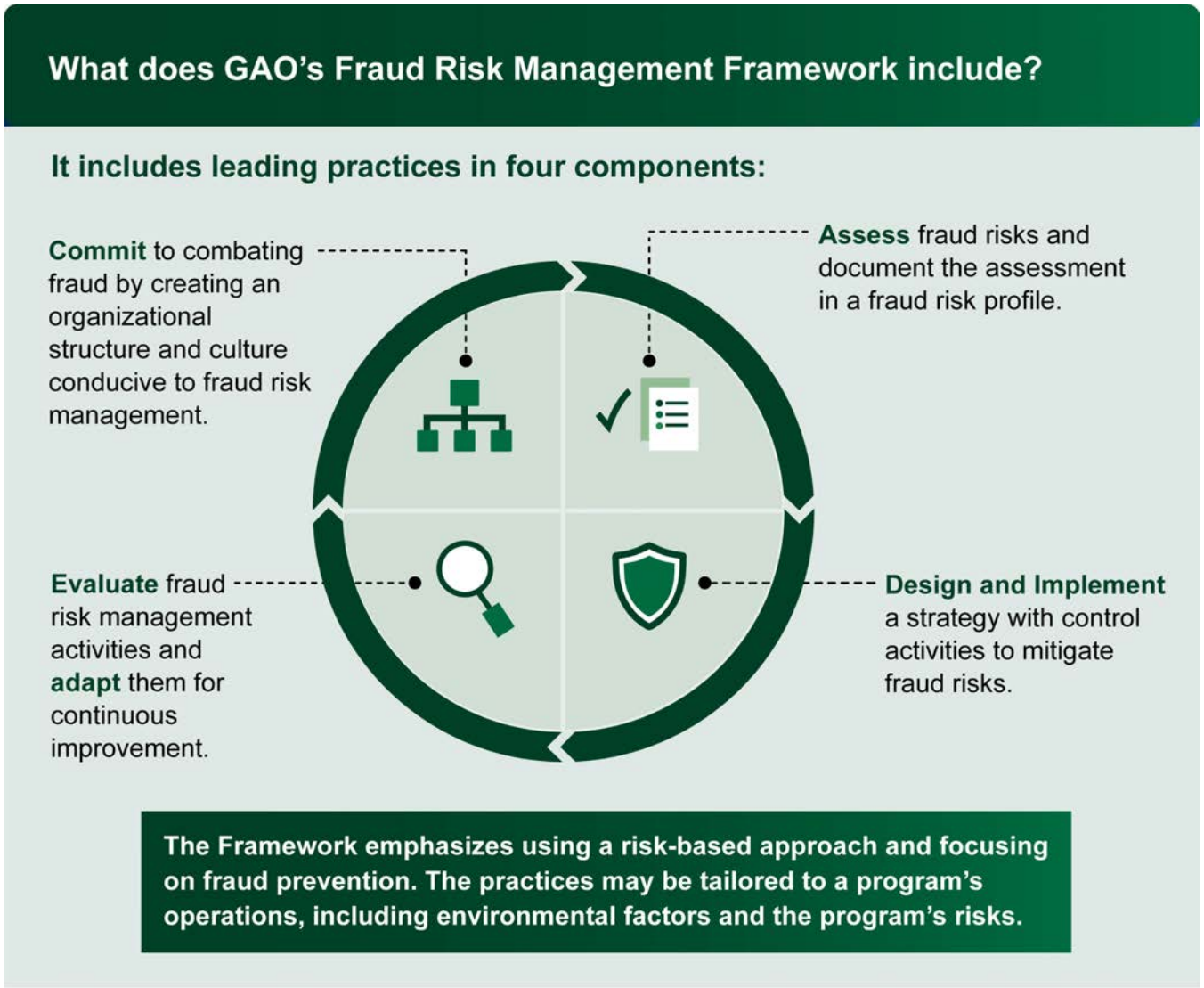
[562]GAO, *A Framework for Managing Fraud Risks in Federal Programs,* GAO-15-593SP (Washington, D.C.: July 28, 2015).

[563] GAO-14-704G.

[564]Office of Management and Budget , *Management's Responsibility for Enterprise Risk Management and Internal Control*, OMB Circular A-123 (Washington, D.C.: July 15, 2016).

[565]The Fraud Reduction and Data Analytics Act of 2015 (FRDAA), enacted in June 2016, required OMB to establish guidelines for federal agencies to create controls to identify and assess fraud risks and to design and implement antifraud control activities. Pub. L. No. 114-186, 130 Stat. 546 (2016). The act further required OMB to incorporate the

Figure 21: Components of the Fraud Risk Framework



Source: GAO. | GAO-20-625

The Fraud Risk Framework's leading practices apply during the "steady state" of operations, as well as during emergencies. [566] Emergency-related considerations and adjustments, as described below, facilitate fraud risk management in an emergency environment.

Heightened fraud risk in an emergency environment. Due to the very nature of the government's need to quickly provide funds and other assistance to those affected by COVID-19 and its economic effects, federal relief programs are vulnerable to significant risk of fraudulent activities. The schemes used to defraud government, as well as private businesses and individuals,

leading practices from the Fraud Risk Framework in the guidelines. Although FRDAA was repealed in March 2020, the Payment Integrity Information Act of 2019 requires these guidelines to remain in effect, subject to modification by OMB as necessary and in consultation with GAO. Pub. L. No. 116-117, 134 Stat. 113 (2020).

[566]"Steady state" is a broad term referring to nonemergency conditions.

are endless, and many have already emerged during the COVID-19 pandemic. However, whether in times of emergency or during the steady state, fraud risks and schemes generally originate from, and target, certain groups. Illustrative examples of fraud risks and schemes applicable to an emergency environment are shown in figure 22.

Figure 22: Examples of Fraud Risks and Possible Schemes Targeting Government and Private Businesses and Individuals

	Fraud committed by	Examples
Fraud against Government	Business or individual beneficiaries through false statements	▸ Small business inflates claimed payroll expense to qualify for a larger Small Business Administration (SBA) loan ▸ Large business misreports the number of employees to appear eligible for an SBA loan ▸ Business owner certifies SBA loan will be used to pay employees, but diverts funds for personal use ▸ Individual inappropriately files unemployment insurance claims in multiple states during the same time frame using the same personal information ▸ Self-employed individual overstates earnings in unemployment insurance claim
	Parties providing goods or services	▸ Vendor bills for nonexistent personal protective equipment (PPE) ▸ Vendor substitutes noncompliant, substandard PPE and certifies it satisfied contract specifications ▸ Vendor creates false appearance of competition and inflates prices by disguising ownership in multiple fake companies submitting false bids or by disguising availability of services from actual competitors ▸ Health care provider bills Medicare or Medicaid for COVID-related testing that was never administered
	Government employees	▸ Employee reports government property as stolen and takes it for personal use ▸ Contracting officer receives kickbacks during contract award or administration ▸ Employee inflates time and attendance records
	Criminal organizations[a]	▸ Criminals use synthetic identities (combining real and fictitious information) to apply for unemployment insurance ▸ Hackers send emails to government employees to access government-held data
Fraud against Private businesses and individuals	Criminal organizations	**Criminal organizations engaging in:** ▸ Online scams offering COVID-19 testing or treatment ▸ Sale of counterfeit PPE ▸ Identity theft to claim Economic Impact Payments to individuals ▸ Robocalls or emails with payment instructions or malware to steal personal information ▸ False representation as a government employee demanding payments to expedite receipt of government assistance

Source: GAO analysis. | GAO-20-625

Note: These fraud risks and variations on the schemes may also be present during non-emergency conditions. Some categories and examples may overlap.

[a]While fraud is by definition a criminal act, fraud by criminal organizations refers to nefarious activities associated with deliberate, organized, and sometimes large-scale schemes to liquidate credit accounts, launder money, or fraudulently obtain government benefits. Criminals use these large-scale schemes to fund organized crime, terrorism, and other illicit activities.

Need to assess fraud risks and adjust risk tolerance. Managing fraud risks in an emergency or a steady state requires a fraud risk assessment—one of the leading practices identified in the Fraud Risk Framework—which details how the program could be defrauded, what existing controls

address risks based on likelihood and effect of fraud, and what risks remain, documented in a fraud risk profile. Changes in operating environment, such as government response to a pandemic and associated funds, are important to consider when planning fraud risk assessments. In an emergency situation, environmental or structural program changes necessitate conducting a new or revised fraud risk assessment.

Federal managers administering emergency response should be aware of the threat posed by fraud and make informed decisions about which risks can be tolerated. Fraud risk tolerance does not mean that managers tolerate fraud. Rather, it means that managers accept a certain degree of risk, based on an assessment of the likelihood and effect of fraud. Determining a fraud risk tolerance can help federal managers establish appropriate and cost-effective controls that are commensurate with fraud risk.

During times of emergency, guided by an understanding and assessment of how a program is likely to be defrauded, program managers can and likely would need to adjust fraud risk tolerance and related controls. Once the immediate emergency response has passed, program managers should reassess fraud risk tolerance, particularly for programs with significant expenditures. If managers maintain limited preventive fraud countermeasures that had been appropriate during the initial emergency response, fraudsters are likely to take advantage of them going forward.

Fraud Risk Management Activities and Controls in Emergency Response. GAO's Fraud Risk Framework, our prior work, and reports by the International Public Sector Fraud Forum, offer examples of fraud risk management activities relevant in an emergency environment. [567] For example, actively using data analytics can help prevent and detect fraud. For agencies, predictive analytic technologies can be used to identify potential fraud and errors before payments are made. Other techniques can identify fraud or improper payments that have already been disbursed, thus assisting agencies in recovering these dollars. Table 14 presents examples of activities in fraud risk management that are particularly relevant in an emergency environment.

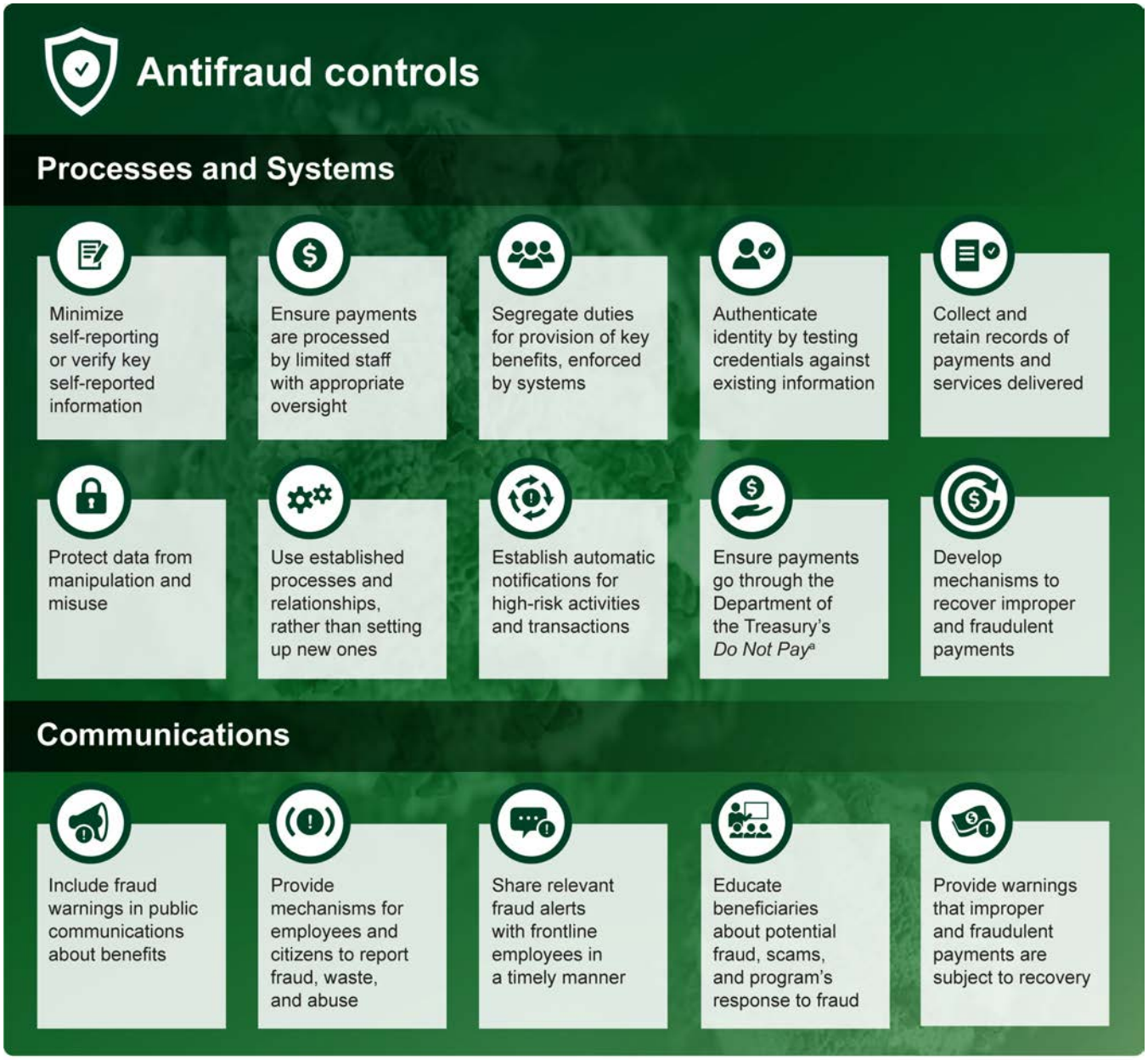
[567]International Public Sector Fraud Forum, *Fraud in Emergency Management and Recovery: Principles for Effective Fraud Control*, February 2020. The Forum was established in 2017 by government officials from Australia, Canada, New Zealand, the United Kingdom, and the United States. The goal of the forum is to use shared knowledge to reduce the risk and harm of fraud and corruption in the public sector across the world. For examples of prior GAO work, see *2017 Hurricanes and Wildfires: Initial Observations on the Federal Response and Key Recovery Challenges*, GAO-18-472 (Washington, D.C.: Sep 4, 2018); *Medicare and Medicaid: CMS Needs to Fully Align Its Antifraud Efforts with the Fraud Risk Framework*, GAO-18-88 (Washington, D.C.: Dec. 5, 2017).

Table 14: Examples of Fraud Risk Management Activities in the Context of Emergency Response	
Fraud risk management activity	**Description**
Integrate antifraud control specialists into the policy and process design to build awareness of fraud risks	When program managers develop emergency management policies and processes, skilled antifraud specialists should participate. The antifraud specialists' role is to identify how the system could be defrauded (by carrying out a fraud risk assessment), to record this information, and to communicate it to the key managers.
Establish formal and informal mechanisms and information sharing with relevant stakeholders to facilitate flow of fraud information	Formal and informal mechanisms for sharing and receiving information from key stakeholders, such as partnerships with law enforcement agencies or task forces with state government officials, can provide relevant and timely information related to fraud risks.
Use data-analytic tools and techniques to prevent and detect fraud	Data mining and data matching techniques can enable programs to identify potential fraud or improper payments that are about to be or have already been awarded—for example, mining beneficiary data for fraud indicators or matching new program data to existing data to verify eligibility for emergency relief benefits.
Program and antifraud controls should work together to implement low-friction countermeasures to prevent fraud risk where possible	The preferred response is to include some up-front controls that significantly reduce fraud risk without delaying payments or services. Where it is not feasible to implement controls to mitigate established vulnerabilities, the fraud control specialist should record the risks that result so they can be considered later.
Collect and analyze data from reporting mechanisms for real-time monitoring of fraud trends and identification of potential control deficiencies.	Reporting mechanisms include hotlines, whistleblower policies, and other mechanisms for receiving tips. These mechanisms help managers detect instances of potential fraud and can also deter individuals from engaging in fraudulent behavior.
Carry out targeted post-event assurance to look for fraud, ensuring access to fraud investigation resources	Post-event assurance consists of considering the fraud risk assessment and reviewing a sample of payments and services, in light of the risks, to see if any instances of fraud can be identified. The focus should be on actively looking for fraud in the system.
Use the results of monitoring, evaluations, and investigations to improve fraud prevention, detection, and response in post-emergency steady state	Analysis of identified instances of fraud and fraud trends can help adapt and improve fraud risk management activities after the emergency. The results of monitoring and evaluations should be communicated to stakeholders.

Source: GAO analysis based on GAO and International Public Sector Fraud Forum fraud risk management publications. | GAO-20-625

Effective fraud risk management emphasizes fraud prevention rather than a more costly "pay-and-chase" approach whereby resources are spent detecting and responding to instances of fraud after the funds or benefits have been provided. In emergency response situations, when preventive controls may be limited, detective controls, such as through data collection and analysis, can be introduced to help identify potential fraud more easily and to assist response and recovery. Antifraud controls for agency processes and systems, as well as antifraud communications, can help mitigate and manage fraud risks during emergency situations, as shown in the examples in figure 23.

Figure 23: Examples of Antifraud Controls in an Emergency Environment



Source: GAO analysis. | GAO-20-625

[a]Department of the Treasury's Do Not Pay is an analytics tool that helps federal agencies detect and prevent improper payments made to vendors, grantees, loan recipients, and beneficiaries. Agencies can check multiple data sources in order to make payment eligibility decisions.

Fraud-related communications in an emergency environment can be achieved through a variety of reporting mechanisms for frontline employees, program beneficiaries, and the public at large. For example, GAO's FraudNet offers reporting mechanisms for allegations of fraud, waste, and abuse, including those related to COVID-19. Additionally, the Pandemic Response Accountability Committee, established by the CARES Act to conduct oversight of the federal government's pandemic response and recovery effort, provides online reporting mechanisms (see text box).

Report Fraud, Waste, and Abuse

GAO's FraudNet supports accountability across the federal government. Allegations of fraud, waste, or abuse can be submitted via the FraudNet portal or by calling the hotline at 1-800-424-5454.

Allegations of fraud, waste, abuse, or whistleblower reprisal can also be reported to the Pandemic Response Accountability Committee's (PRAC) Hotline website.

We are currently reviewing the fraud risk management efforts of the federal programs involved in COVID-19 response to identify areas for further inquiry.

Appendix VI: List of Ongoing GAO Work Related to COVID-19, as of June 17, 2020

Repatriation Program COVID-19 Response

Oversight of Unemployment Insurance During COVID-19

Higher Education Aid and Student Loan Flexibilities in Response to COVID-19

Early Care and Education and the Coronavirus Pandemic Response

Agency IT Preparedness in Response to Coronavirus Pandemic

Nursing Home Infection Control

Tracking Funds and Associated Activities Related to Federal Response to COVID-19

Diagnostic Testing

Strategic National Stockpile

Worker Safety in the Pandemic

Distance Learning for Students with Disabilities and English Learners

Contract Obligations

Business/Employer Tax Provisions

Assessment of Nutrition Assistance Programs during the Pandemic

Agencies' Telework Readiness and Use of Telework for Employees

IRS Administration of Economic Impact Payments

Housing Finance System in the Pandemic

Military Health System COVID Response

OMB Guidance on COVID-19 Grant Flexibilities

Prisons' Preparedness & Response to Natural Disasters and COVID-19

Transportation Security Officer Health and Safety

Biodefense Preparedness and Response for COVID-19

Agencies' Use of Continuity of Operations Plans in Response to Coronavirus Pandemic

Agencies' Human Capital Flexibilities in Response to Coronavirus Pandemic

Immigration Detention Facilities and Operations

Federal Emergency Management Agency Operational Response to COVID-19

VA's COVID-19 Procurements

Elections and COVID-19

Defense Production Act

Effects of COVID-19 on Dedicated Fees

School Meals During Pandemic

COVID-19 Section 3610 Paid Leave Contractor Reimbursement Implementation

Data and Modeling for COVID-19

VA's Fourth Mission and COVID-19 Pandemic

CARES Act Homeowner and Renter Protections

Bureau of Indian Education COVID Response

Child Welfare During the COVID-19 Pandemic

Department of the Interior and Treasury's Actions for Tribal Governments in Response to the Pandemic

State Department Repatriation

SBA's Implementation of the Paycheck Protection Program

IHS Response to COVID-19

Vaccine Development

Nurse Loan Repayment Programs

Science and Tech Spotlight: Herd Immunity

Science and Tech Spotlight: Contact Tracing

Coronavirus Economic Stabilization Act Loans and Investments Programs

Coast Guard COVID-19 Response Efforts

Human Pandemic Preparedness Plan for Food Safety Inspections

Farmer Food Purchases and Redistribution Program

CARES Act assistance to farmers

Customs and Border Patrol

Appendix VII: Comments from the Department of Labor

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210

June 12, 2020

Mr. Gene Dodaro
Comptroller General
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Dodaro:

Thank you for the opportunity to review and comment on the Government Accountability Office's (GAO) draft report titled, COVID-19: Opportunities to Improve Federal Response and Recovery Efforts (GAO-20-625).

The Department of Labor's (Department) Employment and Training Administration (ETA) understands that GAO has oversight responsibilities under the Coronavirus Aid, Relief, and Economic Security (CARES) Act and that the CARES Act requires GAO to offer monthly briefings to Congress and to submit reports on the results of its work. To that end, ETA has provided timely, comprehensive, and accurate information to ensure GAO is able to meet its statutory responsibilities.

At the same time, ETA has been hard at work implementing the CARES Act programs and activities, including the Federal Pandemic Unemployment Compensation, Pandemic Unemployment Assistance, and Pandemic Emergency Unemployment Compensation programs. ETA also oversees the $345 million Congress appropriated for National Dislocated Worker Grants in the CARES Act, and the Families First Coronavirus Response Act (FFCRA), which provides emergency administrative grant opportunities and additional flexibilities for state unemployment insurance agencies to respond to the COVID-19 pandemic. GAO's report makes the following recommendation for the Department:

> "The Secretary of Labor should, in consultation with the Small Business Administration and the Department of the Treasury, immediately provide information to state unemployment agencies that specifically addresses the Small Business Administration's Paycheck Protection Program loans, and the risk of improper payments associated with these loans."

As ETA noted in previous responses to GAO, ETA is preparing questions and answers regarding individuals collecting unemployment compensation while simultaneously receiving payment from the Paycheck Protection Program. ETA has already reached out to the Small Business Administration to help inform this guidance. ETA anticipates releasing this information as guidance to state unemployment insurance agencies in Unemployment Insurance Program Letter (UIPL) No. 14-20, Change 1, within the next month.

Since March 12, ETA has issued 18 substantive pieces of guidance in response to the pandemic, including operational, financial, and reporting requirements for the new unemployment insurance-related CARES Act programs, conducted 14 webinars, and provided other information, resources, and technical assistance to the nation's workforce system. In addition, ETA is monitoring States' implementation and will continue to monitor their operations and reporting concerning the CARES Act programs. ETA will continue to work with the Department's Office of the Inspector General to address improper payments in the unemployment insurance programs.

We look forward to future engagement with GAO as it conducts its ongoing review of these programs.

Sincerely,

John Pallasch

2

Appendix VIII: Comments from the Internal Revenue Service

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

June 12, 2020

Mr. James R. McTigue, Jr.
Director, Tax Issues, Strategic Issues Team
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. McTigue:

On behalf of the Commissioner and Senior Leadership Team at the Internal Revenue Service, I want to thank you for providing the IRS with an opportunity to comment on the draft *GAO Report to Congress: Opportunities to Improve Federal Response and Recovery Efforts*. We recognize the importance of GAO's work and the short timelines for delivering the report.

Given the unique times we are in with a worldwide global pandemic presenting unprecedented challenges, the IRS has taken extraordinary steps to help the nation. The entire agency has been completely focused on implementing important relief legislation and on providing as much help as we can as soon as we can for taxpayers.

IRS employees worked around the clock since mid-March to develop new tools and new guidance while at the same time successfully delivering tens of millions of special Economic Impact Payments in record time and still keeping the annual filing season on track. As noted in your report, more than 159 million Economic Impact Payments worth more than $268 billion have been delivered so far.

Our work is not done yet as we focus on further actions to fully implement all provisions of the CARES Act, including those intended to help small businesses which have been particularly hard hit. We appreciate and agree with your recommendation that we consider cost effective options for notifying ineligible recipients on how to return payments. We are currently considering options in that regard.

We are also providing specific comments to statements in the draft report related to decedents, improper payments and fraud threats for your consideration. A number of additional technical comments are also included.

As stated at the outset, we appreciate GAO's work in this area. If you have any questions, please contact me at Thomas.A.Brandt@IRS.gov.

Thank you.

Sincerely,

Thomas A. Brandt
IRS Chief Risk Officer

Attachments

cc: Brian James, GAO

Appendix IX: Comments from the Department of the Treasury

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

June 17, 2020

Jessica Lucas-Judy
Director, Tax Issues
Government Accountability Office
441 G St., NW
Washington, DC 20548

Dear Ms. Lucas-Judy:

I write in response to your draft report entitled *COVID-19: Opportunities to Improve Federal Response and Recovery Efforts* (Draft Report). The Department of the Treasury appreciates GAO's efforts and has provided technical comments under separate cover.

The CARES Act was enacted to provide emergency economic relief in response to the unprecedented challenges presented by the COVID-19 public health emergency. Since the President signed the Act into law on March 27, Treasury has played a major role in implementing many of its core provisions, in order to provide emergency financial assistance to American workers and families and liquidity to businesses and governmental entities. Economic Impact Payments are providing relief to millions of families and workers experiencing distress. The announcement and implementation of Federal Reserve lending facilities, supported by Treasury investments, are enhancing the flow of credit for industries across the economy. The Payroll Support Program for air carriers and related businesses is helping preserve jobs in the aviation industry, which has been acutely affected by the pandemic, and Treasury is working to provide additional support in the form of direct loans. The Coronavirus Relief Fund (CRF) has provided critical funding to states, local governments, and tribal governments for necessary expenditures to address the public health emergency. Finally, Treasury has worked closely with the Small Business Administration (SBA) on the Paycheck Protection Program (PPP), which is keeping tens of millions of employees connected to their jobs. In less than three months since the CARES Act became law, the economy is rebounding due in large part to the successful implementation of this bipartisan economic rescue package.

Following are additional comments regarding specific topics discussed in the Draft Report.

Economic Impact Payments

Treasury and the Internal Revenue Service (IRS) have worked with unprecedented speed to issue Economic Impact Payments to American families. Through a partnership between the IRS and Treasury's Bureau of the Fiscal Service, Treasury has issued nearly 159 million payments through direct deposit, paper checks, and debit cards. The last time a similar stimulus payment effort was undertaken, it took over two months to make 800,000 payments. The IRS will address its observations on the Draft Report in a separate response.

Air Carriers, Contractors, and Businesses Critical to National Security

Treasury acted with extraordinary swiftness to implement the Payroll Support Program to preserve aviation jobs and support the nation's air carriers and contractors and their employees. Just three days after the enactment of the CARES Act, Treasury published procedures that allowed air carriers and contractors to apply for assistance. As the Draft Report notes, Treasury approved $27 billion of awards to eligible companies—more than 95 percent of available funds for which companies applied—in only two months. Treasury continues to work expeditiously to process the remaining applications for assistance under this program. Treasury also published application procedures and program guidelines for businesses requesting loans under section 4003 of the CARES Act and is reviewing the applications that have been submitted.

Coronavirus Relief Fund (CRF)

As the Draft Report notes, Treasury has disbursed nearly all of the $150 billion appropriated in the CARES Act for state, local, and tribal governments. Treasury began disbursing CRF assistance to states on April 15, 2020 and to local governments on April 19, and all payments for states and local governments were initiated by April 24—ahead of the April 26 statutory deadline. In developing guidance on the use of CRF funds, Treasury has sought to ensure proper use of federal support by state, local, and tribal recipients, while ensuring appropriate flexibility to support their efforts in combatting the effects of the COVID-19 public health emergency.

Federal Reserve Programs and Facilities

Treasury and the Board of Governors of the Federal Reserve System (Federal Reserve) acted swiftly to address the financial market disruptions caused by the coronavirus pandemic. Pursuant to section 13(3) of the Federal Reserve Act, Treasury and the Federal Reserve announced facilities and programs collectively designed to reach, and support the flow of credit to, a wide variety of businesses, states, and municipalities. The CARES Act included substantial additional appropriations to support these ongoing activities. Treasury and the Federal Reserve continue to work closely together to operationalize all the facilities that have been approved and to monitor a variety of economic sectors should we need to create or expand programs.

Paycheck Protection Program (PPP)

In partnership with Treasury, SBA launched the PPP six days after the CARES Act was enacted—at the height of a historic economic emergency that required swift, decisive action. Small businesses across the country urgently needed immediate access to funds to stay afloat and pay their employees. The rapid implementation of the PPP delivered that emergency economic relief. The PPP has supported the employment of approximately 50 million American workers and over 75 percent of the small business payroll in all 50 states, the District of Columbia, and U.S. territories. Moreover, we are proud that more than 400 Community Development Financial Institutions and Minority Depository Institutions, as well as many more small and non-bank lenders, are participating in this program.

When the President signed the CARES Act into law on March 27, a record 3.3 million people had applied for unemployment insurance the previous week. On the day SBA issued the first rulemaking implementing the PPP, the Department of Labor announced that unemployment insurance claims had doubled from the previous week's record to 6.7 million. Over the course of two weeks, nearly 10 million Americans had lost their jobs.

The country faced unprecedented economic challenges in late March and early April, and that emergency drove the implementation timeline for the PPP. SBA processed $343 billion in loans in just the first two weeks of the program—more than SBA had processed in the previous 14 years. At that critical juncture, there was widespread consensus among policymakers in Washington, DC, and small businesses nationwide that delaying the launch of the PPP until all procedural and policy questions had been identified, considered, and addressed would have caused substantial economic stress for businesses and their employees and would have significantly hampered their ability to recover from the crisis. The iterative process SBA and Treasury used to release rules and guidance appropriately addressed the urgent need to make funds available, requirements under applicable law, the evolving needs of lenders and borrowers for further guidance, and our desire for continuous improvement of the program in a compressed time period. The agencies took care to introduce safeguards to prevent fraud and misuse of funds, including through program requirements related to the Bank Secrecy Act. The agencies' work to address issues on a rolling basis demonstrates their responsiveness to the needs of lenders and borrowers; wherever possible, the additional guidance increased the program's flexibility for borrowers and lenders.

While the Draft Report notes that some of the loan forgiveness regulations were not issued until May, the statute itself contained detailed loan forgiveness provisions, and the SBA rules released on April 2 and April 14 further addressed the fundamental elements of loan forgiveness. The loan forgiveness application and loan forgiveness rule provided as much flexibility to borrowers as the statutory provisions allow, and SBA has worked swiftly to provide greater flexibility made possible by the recently enacted PPP Flexibility Act.

* * *

Thank you again for the opportunity to review the Draft Report and for your consideration of our comments.

Sincerely,

Frederick W. Vaughan
Principal Deputy Assistant Secretary
Office of Legislative Affairs

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Appendix X: Comments from the Small Business Administration

U.S. Small Business Administration
Washington, D.C. 20416

June 12th, 2020
Gene Dodaro
Comptroller General
US Government Accountability Office
Washington DC, 20548

Dear Comptroller General Dodaro,

Thank you for providing the U.S. Small Business Administration (SBA) with a draft copy of the U.S. Government Accountability Office (GAO) report, titled "COVID-19 Opportunities to Improve Federal Response and Recovery Efforts." SBA appreciates the opportunity to provide comments on the draft. Please find SBA's comments in the enclosed document.

Sincerely,

William Manger, Chief of Staff

SBA Comments On Draft GAO Report
June 12, 2020

Overarching Comment: GAO singles out SBA and claims difficulty in getting information from SBA. GAO asserts that "SBA to date has failed to provide information critical to our review, including a detailed description of data on loans made. The agency provided primarily publicly available information in response to our inquiries. SBA officials met with GAO in the beginning of June to discuss questions we had provided about six weeks earlier."

Contrary to GAO's claims, SBA produced 420 pages of documents to GAO in May. The documents included, among other things, information on loan numbers and loan volume, the number and type of lenders participating in PPP, loan numbers and loan volume for each type of lender, loan numbers and volume by industry and state, efforts SBA made to encourage lenders to participate in PPP, borrower outreach, and regulations and guidance that SBA issued. As detailed in a May 20, 2020 letter to GAO, the documents produced either were specifically requested by GAO or directly answered questions GAO had posed.

GAO then requested interviews of SBA employees, and SBA made available to GAO the following individuals: the agency's Acting Chief Operating Officer and two Deputy Associate Administrators from the Office of Capital Access. Not only were these individuals senior SBA officials, they were knowledgeable about SBA's efforts to implement the CARES Act. Despite these individuals' extraordinary workloads, they sat for more than three-and-a-half hours of interviews with GAO, fielding questions on dozens of topics from multiple GAO directors. Notably, GAO concluded the interview by thanking the SBA officials for being so responsive to GAO's questions.

In addition, SBA has been engaging with GAO on its request for additional data on loans beyond what already has been produced. To be clear, SBA has never refused to provide data to GAO. Rather, GAO's initial request for a "data dictionary" caused some confusion, because SBA's technical staff understands a "data dictionary" to be a set of data definitions used to migrate a database. So SBA engaged with GAO to attempt to understand what GAO meant by a "data dictionary." In the June 1 interviews, GAO indicated for the first time that the data that GAO is seeking is individual loan data that SBA has provided in the past on its public FOIA website for traditional 7(a) loans. But, as SBA indicated in the interview, PPP differs markedly from SBA's traditional 7(a) program, so the data that can be made available for the two programs are not the same. SBA cannot simply take a spreadsheet used on a public FOIA website for traditional loan programs and populate it with PPP loan information. PPP loans implicate concerns about borrowers' personal privacy and confidential, proprietary, or commercially sensitive business information. SBA left the interviews under the impression that GAO understood this and that SBA and GAO would continue to engage on the data request.

SBA remains committed to working with GAO to accommodate GAO's data needs. SBA appreciates GAO's vital role in the CARES Act. SBA looks forward to engaging with GAO further to help GAO carry out its important work.

Appendix XI: Comments from the U.S. Agency for International Development

USAID
FROM THE AMERICAN PEOPLE

June 12, 2020

The Office of the Administrator

David Gootnick
Director, International Affairs and Trade Team
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20226

Re: *COVID-19: Opportunities to Improve Federal Response and Recovery Efforts* (GAO-20-625)

Dear Mr. Gootnick:

I am pleased to provide the formal response of the U.S. Agency for International Development (USAID) to the draft 90-day report produced by the U.S. Government Accountability Office (GAO) titled, *COVID-19: Opportunities to Improve Federal Response and Recovery Efforts* (GAO-20-625).

USAID places a premium on transparency and accountability, and we are committed to safeguarding taxpayer dollars and maximizing the impact of our assistance around the world. While the Agency has no formal comments on GAO-20-625, and the draft report had no recommendations for our action, we appreciate that the GAO incorporated into the document our previously provided input.

The United States has mobilized as a nation to launch an impressive global effort against the pandemic of COVID-19. Since February 2020, the U.S. Government has announced more than $1 billion in emergency health, humanitarian, economic, and development assistance through the U.S. Department of State and USAID specifically aimed at helping governments, international organizations, and non-governmental groups fight the pandemic. As of June 10, 2020, USAID has obligated $174 million in supplemental funds to respond to COVID-19 from the Global Health Programs account, $91 million from the Economic Support Fund, $24 million from the Emergency Reserve Fund for Infectious-Disease Outbreaks, and nearly $77 million from the International Disaster Assistance (IDA) account. In addition, the Agency has committed an additional $136 million in supplemental IDA funding to implementing partners so they may begin work under Pre-Award Letters from USAID or internal bridge-funding arrangements in advance of obligation.

This funding appropriated by Congress will save lives in more than 120 countries through the prevention and control of infections in health facilities; the rapid identification, diagnosis, and treatment of cases of COVID-19; the follow-up of contacts of infected patients; awareness-raising through risk-communications and community-engagement; logistics and

U.S. Agency for International Development
1300 Pennsylvania Avenue, NW
Washington, DC 20523
www.usaid.gov

supply-chain management; global and regional coordination; country-level readiness and response; and laboratory and disease-surveillance capacity. Working with American private companies, we are fulfilling President Trump's commitment to provide ventilators to our partners and allies in Africa, Asia, Europe, and Latin America. We expect to make additional purchases and shipments of ventilators and related supplies over the next few months.

USAID remains committed to protecting the health and safety of our staff, while continuing the appropriate oversight of our programs to ensure the accountable and effective use of U.S. taxpayer funds. As part of our effort to maintain our continuity of operations during COVID-19, USAID has issued guidance on innovative monitoring strategies; established a webpage and resource center on COVID-19 for our implementing partners; and made additional tools and authorities available to our Missions that expand the telework, procurement, and supervisory capabilities of our Foreign Service National workforce. The Agency's effort to manage risks, fulfill our monitoring responsibilities, maximize coordination with stakeholders, and improve our controls in our core functions remains ongoing during our response to COVID-19.

I am transmitting this letter from USAID for inclusion in the final version of GAO-20-625. Thank you for the opportunity to review and respond to the draft report, and for the courtesies extended by your staff while conducting this engagement. We appreciate the opportunity to participate in the report.

Sincerely,

John Barsa

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Appendix XII: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

June 12, 2020

Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Management Response to Draft Report GAO-20-625, "COVID-19: Opportunities to Improve Federal Response and Recovery Efforts"

Dear Mr. Dodaro:

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

The Federal Emergency Management Agency (FEMA) mission is to help people before, during, and after disasters. The coronavirus (COVID-19) pandemic is a historic global challenge and test of federal response capabilities. For the first time in our Nation's history, all 55 states and territories, as well as District of Columbia and one tribe were declared under the same nationwide Emergency Declaration issued on March 13, 2020. On March 19, 2020, FEMA was designated to lead federal response operations. Vice President of the United States Michael R. Pence noted this decision would bring the full weight of the federal government to bear to support states, tribal, and local communities. Additionally, the Vice President noted that every governor in the country was already familiar with FEMA emergency management processes, policies, procedures, and systems.

FEMA has led a collaborative interagency effort necessitated by the scale and scope of this pandemic, including embedding more than 46,000 personnel from over 40 agencies — such as the Department of Defense, Department of Health and Human Services (HHS), Centers for Disease Control and Prevention, Department of Veterans Affairs, U.S. Army Corps of Engineers, and Defense Logistics Agency — within FEMA's

National Response Coordination Center and ten Regional Response Coordination Centers to coordinate response and recovery efforts at both the national and local levels.

As of June 4, 2020, FEMA has obligated $6.6 billion in support of COVID-19 response efforts. Additionally, FEMA, HHS, and the private sector coordinated the delivery, or are currently shipping: 94.7 million N95 respirators, 149.2 million surgical masks, 14.3 million face shields, 43 million surgical gowns, over 1 billion gloves, 10,709 ventilators, and 8,450 federal medical station beds.

FEMA also supports HHS efforts to drastically expand testing capabilities. To support the Administration's Testing Blueprint and, at the direction of the White House Coronavirus Task Force, for example, FEMA is sourcing and procuring testing material, such as testing swabs and transport media. In early May 2020, large quantities of testing swabs and transport media began shipping in support of individualized state, territorial, and tribal testing plans. As of June 11, 2020, FEMA had procured and delivered 19.8 million swabs and 15 million units of media.

COVID-19 is a global crisis, and more than 150 countries are competing for the same medical supplies. The United States alone began consuming a year's worth of personal protective equipment in a matter of weeks after the pandemic began. FEMA, under direction of the White House Coronavirus Task Force, and in collaboration with its interagency partners, rapidly devised and orchestrated a comprehensive four-pronged strategy to 1) preserve medical supplies, 2) accelerate industrial manufacturing and distribution, 3) expand industry, and 4) allocate resources to the right place at the right time. This strategy enabled FEMA to continuously shift globally scarce resources, such as ventilators, within 72-hours to hotspots where they could immediately be put to use saving lives. The health and safety of the American people always remains their top priority.

While COVID-19 affects all of the Agency's operations, the men and women of FEMA never lost sight of ongoing recovery efforts or posture for future incidents. Since March 13, 2020, there have been 11 non-COVID major disaster declarations across 8 states, ranging from severe weather and flooding to tornado damage. FEMA has deployed more than 4,500 staff to these and other non-COVID active disasters who are operating out of physical and virtual Joint Field Offices, Joint Recovery Offices, and Regional Offices across the nation. Furthermore, FEMA continues to ensure sustained resilience of its operations, and has enhanced facility redundancy, increased robust staffing options, deepened its interagency partnerships, and drafted new guidance to ensure prioritization of life safety, life sustainment, and workforce protection while maintaining delivery of FEMA programs to the highest level possible.

The draft report contained 3 recommendations, none of which were directed to DHS. DHS previously submitted technical comments under a separate cover for GAO's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,

JIM H CRUMPACKER Digitally signed by JIM H CRUMPACKER Date: 2020.06.12 14:08:35 -04'00'

JIM H. CRUMPACKER, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

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Appendix XIII: Comments from the Department of Veterans Affairs

DEPARTMENT OF VETERANS AFFAIRS
WASHINGTON

June 12, 2020

Ms. A. Nicole Clowers
Managing Director
Health Care Team
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Clowers:

The Department of Veterans Affairs (VA) has reviewed the Government Accountability Office (GAO) draft report: ***COVID-19: Opportunities to Improve Federal Response and Recovery Efforts (20-625).***

The enclosure contains our general and technical comments. VA appreciates the opportunity to comment on your draft report.

Sincerely,

Brooks D. Tucker
Acting Chief of Staff

Enclosure

Enclosure

Department of Veterans Affairs (VA) Comments on
Government Accountability Office (GAO) Draft Report
COVID-19: Opportunities to Improve Federal Response and Recovery Efforts
(GAO-20-625)

General Comments:

The Department of Veterans Affairs (VA) is unified with our Federal partners in leading the medical response to combat the COVID-19 pandemic. Within days of the first confirmed COVID-19 case in the United States, the Veterans Health Administration (VHA) began comprehensive response and operations planning to protect our Veterans, their families and the workforce.

In this unprecedented and historic National Emergency, VA is meeting enrolled Veterans' needs with excellence and providing extensive Fourth Mission support to the Nation.

VA IS DELIVERING EXCELLENCE FOR VETERANS DURING COVID-19

- VA performed extensive preparations for COVID-19 including releasing a Strategic Response Plan to provide guidance to our medical centers about creating a safe environment in our health care facilities. The plan was used in conjunction with a series of preparatory exercises at our medical centers to ensure our facilities were able to effectively activate emergency operations plans, address surveillance, conduct screening and triage, implement infection control and prevention, prepare for patient surge and impacts on staffing, optimize logistics, create alternate care sites and optimize health care at VA facilities.

- VA took early, proactive actions to ensure the safety of patients and staff against COVID-19 by initiating screening measures and limiting visitation. VA has also maintained Centers for Disease Control and Prevention (CDC) guidelines for testing, physical distancing, and using protective gear such as masks, eye protection, gowns and gloves. Particular attention has been made to ensure the safety of our most vulnerable populations in all Community Living Centers and Spinal Cord Injury units where every patient and staff person have been and will continue to be tested for COVID-19.

- VA has been open, throughout the pandemic, for all care where clinical urgency outweighs the risk of COVID-19.

- To date, over 13,000 Veterans nationwide have been diagnosed with COVID-19. Among those Veterans, 80% are convalescent (14 days post-positive test).

- VA increased inpatient and critical care capacity by more than 3,000 beds and ensured available resources and expertise for all patients who required

ventilation by maintaining and cross-leveling more than 4,000 ventilators and anesthesia machines throughout the system.

- VA has hired more than 19,000 new employees, including more than 3,700 Registered Nurses and almost 1,000 doctors, nurse practitioners and physician assistants.

- Since the onset of the pandemic, VA has rapidly expanded access to virtual care in order to protect Veterans and ensure continued access to medical care. VA saw a >1,000% increase in video telehealth usage and provided more than 4 million additional telephone appointments compared to the prior year. To achieve this level of access, VA vastly expanded the information technology infrastructure to better support virtual care.

VA IS BUILDING TRUST AND LEADING THE WAY FORWARD

- Veterans' trust in VA has reached a record high of 90% during this national emergency.

- Trust scores among female Veterans rose 10 percentage points, and female Veterans are now choosing to enroll in VA at nearly the same rate as male Veterans.

- In alignment with White House and CDC guidance, VA began expanding services on May 18th at 20 sites, implementing a phased approach centered on Veteran safety.

- VA has also announced it has resumed in-person compensation and pension exams in select locations across the county as part of the effort to expand operations.

- VA has resumed committal and memorial services that were discontinued during the pandemic at all but two sites, with services resuming at the two cemeteries in New York starting June 22.

- VA is also continuing its work with strategic partners to enhance Veterans' access to care, including partnerships with cellular carriers to make video telehealth visits free of data costs. VA is also engaging industry partners to identify opportunities to enhance connectivity and access in rural and underserved areas.

Enclosure

Department of Veterans Affairs (VA) Comments on
Government Accountability Office (GAO) Draft Report
COVID-19: Opportunities to Improve Federal Response and Recovery Efforts
(GAO-20-625)

VA IS SUPPORTING STATES AND COMMUNITY ENTITIES DURING COVID-19

- VA has assisted 46 states and the District of Columbia with the COVID-19 response, working closely with the Federal Emergency Management Agency and the Department of Health and Human Services to fulfill a wide range of external Fourth Mission assignments.

- VA's geriatrics expertise and best-in-class long term care model is widely recognized, and VA's early actions to protect Veteran safety have proven effective. States and community partners have been eager to learn from VA.

Appendix XIV: Comments from the Department of Education

UNITED STATES DEPARTMENT OF EDUCATION

THE DEPUTY SECRETARY

June 12, 2020

Via Email: emreyarrasm@gao.gov
nowickij@gao.gov

Honorable Gene Dodaro
Comptroller General
U.S. Government Accountability Office
441 G Street, Northwest
Washington, DC 20548

Re: Draft Report "COVID-19: Opportunities to Improve Federal Response and Recovery Efforts" (GAO-20-625)

Dear Mr. Dodaro:

Thank you for the email of June 8, 2020, to Secretary DeVos providing an opportunity to review and comment on the draft report of the Government Accountability Office ("GAO") titled "COVID-19: Opportunities to Improve Federal Response and Recovery Efforts" (GAO-20-625) and the three related appendices:

1. Education Stabilization Fund,
2. Emergency Financial Aid for College Students, and
3. Federal Student Loans.

I am pleased to respond on behalf of the Secretary and the Department of Education ("Department" or "ED").

Summary

The draft report is fundamentally flawed, inaccurate, incomplete, and unfair.

It fails to consider many relevant factors, some of which are summarized below. These include:

1. Implementation of the CARES Act was accomplished while the federal government was transitioning to remote work. This included not only the Department and the office of Federal Student Aid ("FSA"), but our partners at the Department of the Treasury and Federal Student Aid's more than 20,000 contractors. These were not *normal* times.

2. The CARES Act established 12 different grant programs, all with vague direction and different legislative language which needed to be interpreted and developed into detailed programs. This was a prodigious task.

3. Typical grant programs take six to 12 months to establish rules to assure accountability and transparency. These had to be applied to institutions of higher education, local education agencies, state education agencies, and state governments. Remarkably, these tasks were generally accomplished in two months.

4. Computer systems and software programs did not exist to accomplish many of the tasks directed by the CARES Act. These had to be developed on-the-fly, an enormous undertaking.

5. A requirement to administer and process more than 9,000 new grants, totaling around $29 billion, was imposed on a staff that was already administering 13,700 grants, totaling $45 billion. These 9,000+ new grants were issued within two months, in what can best be described as more than turbulent times—an amazing achievement.

6. By way of comparison, six months after the American Reinvestment and Recovery Act of 2009 ("ARRA") became law—a time when the national Capital Region was *not* closed due to a pandemic and when employees were *not* relegated to telework— the prior administration obligated 0% of the discretionary grant dollars and only 31% of total available funds.

Not only did the Department work diligently, tirelessly, and quickly in the face of unprecedented circumstances, as detailed above, it achieved great success in doing so. The Department delivered needed regulatory flexibility and significant resources with impressive speed, all while carefully guarding against waste, fraud, and abuse. In fact, the Secretary has spoken with every state school chief in America, nearly every governor, and countless other education leaders and political leaders across America, and she consistently hears praise for the Department's timely efforts and robust flexibility.

While the Department appreciates GAO's efforts, we believe strongly that GAO must spend more time on this report if it wants to paint a fair and accurate picture. As written, the report contains gaping holes that require additional work and analysis. The report greatly minimizes the effort the Department took to achieve the emergency mandate from Congress. To be frank, the report as it stands today is fundamentally flawed and misleading to Congress and the public.

In summary, the current GAO draft report is not only inaccurate, incomplete, and unfair, but is demeaning to the thousands of employees and contractors who worked nights and weekends from kitchen counters and dining room tables to disperse CARES Act dollars as quickly as possible to students and schools while maintaining appropriate accountability and transparency, and complying with existing statutes.

Background

In enacting the Coronavirus Aid, Relief, and Economic Security Act [("CARES Act" or "Act"), Pub. L. No. 116-136 (March 27, 2020)], Congress intended for the Department to distribute the Education Stabilization Fund ("ESF"), as quickly as possible. The Fund included

multiple separate allocations and grant recipients. These included, among others, the Governor's Emergency Education Relief Fund ("GEER Fund"), the Elementary and Secondary School Emergency Relief Fund ("ESSER Fund"), and the Higher Education Emergency Relief Fund ("HEER Fund").

Congress also intended that grantees have substantial flexibility in the use of these dollars. I proudly note that the Department has made—for both K-12 and higher education—about 9,253 CARES Act grants (totaling $28.9 billion of the $31 billion appropriated) in the 11 weeks since enactment. The Department also provided substantial flexibility to grantees. This achievement is separate and apart from the regular grant-making of the Department which has averaged about 13,700 grants (totaling $45 billion) per year over the last three years.

The scant mention of the Department's diligence in the draft report and appendices paints an unfair and incomplete picture.

What is missing from the GAO draft report and appendices is the reality that Congress, through the CARES Act, created a new set of grant programs, each with separate rules targeted at states, school districts, and institutions of higher education. Under ordinary circumstances, for a single new grant program, the Department would have from several months to a year to develop grant applications and qualifying requirements, formulas for fund distribution, tables and rationales requiring approvals from the Office of Management and Budget, and guidance documents reflecting policy judgments that Congress often leaves to the Department to develop and publish. However, implementation of the CARES Act was done under circumstances that were far from ordinary.

By way of further background, I note the federal student loan provisions of the CARES Act required FSA to put in place broad-based flexibilities to assist virtually every borrower across the entire federally held student loan portfolio. This was an extraordinary effort by FSA and its numerous contract servicers and collection agencies that required the reengineering of programs, systems, and processes, including the development of software subroutines to accomplish new tasks.

This necessitated portfolio-wide changes—something that was never envisioned nor intended—all while transitioning FSA's own workforce and more than 20,000 contact center employees from a primarily brick-and-mortar model to a remote environment.

Working with a complex network of systems, contact centers, loan servicers, and collection agencies, FSA was able to suspend involuntary payments and quickly issue refunds to approximately 1.4 million borrowers, stop voluntary payments, and eliminate interest accrual across its entire portfolio of federally held loans. In essence, FSA accomplished the enormous task of modifying payment and other requirements for more than 40 million borrowers in a matter of weeks.

In addition, FSA is in the process of providing relief (e.g., changes to the academic calendar, approved leaves of absence, enrollment status changes, approval to offer distance learning, and other things designed to provide assistance to students whose terms have been

interrupted by the pandemic) to 6.8 million student aid recipients in an in-school status, attending approximately 6,000 schools, whose terms were interrupted by this global pandemic.

I have provided our responses to the three appendices (Education Stabilization Fund, Emergency Financial Aid for College Students, and Federal Student Loans) below.

Education Stabilization Fund

As you are aware, our Office of Elementary and Secondary Education ("OESE") oversees five grant programs under the CARES Act. These program total approximately $17 billion. They are:

1. the GEER (Governors') Fund;
2. the ESSER (K-12) Fund;
3. the Education Stabilization Fund Rethink K-12 Education Models Grant ("ESF-REM");
4. the Education Stabilization Fund Program Outlying Areas – Governors; and
5. the Education Stabilization Fund Program Outlying Areas – State Education Agencies.

Prior to the passage of the CARES Act, the Department had already announced flexibility waivers to all states regarding the assessment, accountability, and certain reporting requirements under the Elementary and Secondary Education Act ("ESEA"). This decisive action substantially reduced the burdens for states unable to administer their statewide assessments to students this spring. The Department also proactively responded to state concerns about grant requirements by announcing additional waivers on K-12 fiscal flexibility.

All 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the Bureau of Indian Education ("BIE") received initial approval of their accountability, assessment, and reporting waivers within 24 hours of submitting a request to the Department. All formal approval letters for those waivers were issued by April 1, 2020. Similarly, the Department granted initial approval of fiscal waivers within 24 hours of receipt of the states' requests. All formal approval letters for those waivers were issued by April 21, 2020. All approval letters are published on OESE's website.

Furthermore, we leveraged lessons learned from managing funds under the American Recovery and Reinvestment Act of 2009 ("ARRA"). In anticipation of enactment of the CARES Act, and to assist with the administration of the five K-12 programs, the Department established a detailed governance structure led by OESE's Disaster Recovery Unit. A key goal was to ensure a simplified application process and quick disbursement of funds.

As a result, 100 percent of the Governors' (GEER) funds, and the K-12 (ESSER) funds, and discretionary program funds were made available within 30 days of enactment. In addition, the Department was usually able to obligate GEER and ESSER awards within 24 hours, or within three days of approving an entity's application for funding. As of May 30, 2020, 102 awards out of a possible 104 were made to states' governors and chief state school officers. Four out of eight awards were made to the Outlying Areas. The remaining awards have not been made

because the Department has not yet received applications or because of challenges with the applications, not because of any obstacles at the Department.

For the Governors' and K-12 funds, once awards were made, the Department repurposed OESE's State and Grantee Relations ("SGR") unit to provide technical assistance and oversight to the grantees. This unit maintains well-established databases for tracking data on grantee inquiries and issues. They have also established processes and protocols for communicating with grantees, including post-award monitoring.

In order to provide stakeholders with the latest information on the Department's administration of the CARES Act, we launched a broad-based webpage of resources (COVID-19 ("Coronavirus") Information and Resources for Schools and School Personnel). Included on this page is key guidance to help K-12 school leaders better meet their instructional obligations, and to help parents easily access the information they need to make the best decisions for their children.

We are also encouraging stakeholders and others to submit any questions they may have to a dedicated mailbox, COVID-19@ed.gov. As of May 29, the Department had received 4,054 inquiries and closed 2,980—74 percent of those inquiries. By centrally managing these inquiries, the Department has been able to identify areas of elevated risk (e.g., potential unallowable uses of funds) and provide timely technical assistance. For example, the following Fact Sheets were developed in response to grantee questions:

- Repurposing Federal Equipment and Supplies to Combat COVID-19
- Frequently Asked Questions document on 'Maintenance of Effort' requirements in the CARES Act
- Addressing the Risk of COVID-19 While Serving Migratory Children
- Transferring State-and Local-Level Funds (Section 5103 of the ESEA)
  Providing Services to English Learners During the COVID-19 Outbreak

Emergency Financial Aid for College Students

Our Office of Postsecondary Education staff of approximately 53 program specialists typically administers around 5,000 grants and continuation awards each year. In the aggregate, this represents an annual investment of approximately $2 billion. In the days that followed passage of the CARES Act, the same group of people—who were also at the peak of activity in their regular grant-making activities, including managing 227 peer review panels for six regular grant programs, reviewing 4,510 annual progress reports for 24 regular grant programs, and issuing 3,450 non-competing continuation awards for 24 regular grant programs—created 17 new grant programs authorized by the CARES Act, including 11 programs associated with Title III and Title V of the Higher Education Act. This was an extraordinary achievement.

Among other things, the staff developed new allocation methodologies, interpreted vaguely worded "uses of funds" provisions, created new grant profiles for each new program in our G5 grant-funding system, met with the community of Minority Serving Institutions to understand their priorities for grants designated for their institutions, reviewed and approved

almost 12,000 Certification and Agreement (C&A) documents of institutions, worked with applicants to resolve more than 400 incomplete or incorrect C&A documents, and provided intensive technical assistance to those receiving funds for the first time. This represents a prodigious amount of work in a remarkably short period.

With respect to the new postsecondary discretionary grants, I have provided a timeline of the announcements of allocation availability, including:

- Higher Education Emergency Relief Funds – emergency grants to students (18004(a)(1)) (Announced on April 9, 2020)
- Higher Education Emergency Relief Funds – institutional relief funds (18004(a)(1) (Announced on April 21, 2020)
- Higher Education Emergency Relief Funds – Minority Serving Institutions, including 11 different programs authorized under Titles III and V of the Higher Education Act that served 1,750 minority serving institutions (Announced on April 30, 2020)
- Fund for the Improvement of Post-Secondary Education – formula funding to assist institutions that received less than $500,000 from other programs authorized by the CARES Act (Announced on April 30, 3030)
- HBCU Capital Financing Loan Deferments (to be announced, in addition to loan deferments implemented from the FY 2020 appropriations law)
- Fund for the Improvement of Post-Secondary Education – competitive grant program to assist institutions with additional needs related to coronavirus (to be announced)
- Emergency Relief Fund – Reinventing Workforce Preparation, a competitive grant program serving states hardest hit by coronavirus (administered by the Office of Career, Technical, and Adult Education, to be announced in coming days)

Allocating funds under some of these grant programs proved extremely time consuming because Congress directed the Department to use data we do not collect. These data include enrollments calculated in Full Time Equivalents and the numbers of students enrolled in online programs. To determine these numbers, the Department had to figure out how to crosslink three different data sets to approximate the distribution formula dictated by Congress.

Further complicating our efforts to quickly disburse funds was the structure of main campuses and branch campuses that, in some cases, required us to collect additional information from branch campuses that qualify as a Minority Serving Institution (MSI), when the main campus does not. Collecting those data necessitated creating a new "information collection request" and then getting approval from the Office of Management and Budget. In addition, some institutions qualified under more than one MSI program because they serve large populations of students from different minority groups. Thus, we needed to calculate the allocations for those institutions under each program for which they were eligible.

Our staff went above and beyond the call of duty, working around the clock and through many weekends, to ensure funds could be disbursed to institutions, and most importantly to students, in less than two weeks from the date on which the CARES Act became law.

Compare this to the prior administration: six months after ARRA became law, at a time when the National Capital Region was not closed due to a pandemic, and employees were not relegated to telework, they had obligated 0% of discretionary grant programs authorized by that Act and only 31% of the total funds made available by the ARRA. This comparison provides critical context that was missing from GAO's review.

I would be remiss without noting the Department's concern about GAO's inappropriate reliance on interviews with unnamed higher education organizations, and the use of their subjective views to inform GAO's report. The Department believes it issued sufficient information at the time we announced the availability of each funding opportunity, including emergency grants to students. This was achieved through public teleconference calls, plus a cover letter, and the C&A that were sent to all 5,136 eligible institutions. Those documents and calls made it abundantly clear that emergency cash grants to students are just that—cash grants to help students manage the unexpected costs of COVID-19 related disruptions.

Also missing from GAO's review was mention of the work that the Department initiated immediately in coordination with the Department of the Treasury to determine if and how those grants could be disbursed as "emergency assistance," and therefore be exempt from taxation and not included in a student's future calculation of estimated financial need. Treasury issued subsequent guidance clarifying that emergency assistance, in the form of emergency grants to students, was exempt from federal taxation.

The Department did not wish to dictate to schools how to disburse funds in general, which is why we avoided doing so in the C&A documents and other materials. However, institutions of higher education and the associations that represent them should be well aware of the federal statute [section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. § 1611)] that prohibits the distribution of public benefits to most non-citizens, such as "undocumented students, including those with Deferred Action for Childhood Arrivals (DACA) status" highlighted by GAO. There should have been no need to issue guidance telling schools that they had to follow laws not specifically waived or changed by the CARES Act. Nor could the Department have legally given institutions license to ignore the statutory prohibitions of this law as they distribute grants to students from appropriated federal funds. We believe it is best to ignore criticism for carrying out the law as written from those who wish the law were different, and we encourage GAO to do the same.

Also, since the CARES Act specifically references Title IV and the Fund for the Improvement of Post-Secondary Education, both of which point to section 484 of the Higher Education Act to define student eligibility criteria for federal grants, there should have been no question about which students would be eligible for funds. Many of the distribution details, including the specifics of how much each individual should receive when schools distributed emergency grants, were up to them, but the law has been clear for more than 20 years which students can and cannot receive such funds. Nonetheless, in response to an increasing number of

questions from the field about student eligibility, we provided additional clarification on the Department's view through subsequent guidance, including in FAQ documents. Claims that schools did not know that they could not give emergency grants to international students or undocumented students, or students not enrolled in Title IV eligible programs, are specious.

Furthermore, setting aside the application of 8 U.S.C. § 1611, the Department's guidance makes clear that the Title IV eligibility standard only applies to emergency financial aid grants to students, not to the institutional portion of HEER funds. Thus, institutions can ignore an individual's Title IV eligibility when using their institutional portion to benefit an enrolled individual outside of the emergency financial aid grant context. The Department has been clear that such guidance is not legally binding in any event. Third-hand reports from institutions through associations (and then through GAO) claiming that the guidance on the Title IV eligibility standard required them to entirely scrap their distribution plan ignores these flexibilities. However, in order to formalize the legally binding nature of the Title IV eligibility standard and to address the continued claims of confusion regarding how to determine Title IV eligibility for those not yet verified as eligible, the Department has employed the rulemaking process to produce an interim final rule on the subject that was recently submitted to the Federal Register to be officially published in the coming days.

Given the number of programs created by the CARES Act, and the complexity of those programs that resulted from vague, but different, legislative language describing each, the Department has fielded more than 10,000 questions from institutions of higher education or their representatives. We also had to move an additional 69 employees to the G5 technical assistance center to help answer technical questions, especially from new users. Further, we continue to provide FAQs and guidance in response to those questions.

In response to questions that we received from the field, the Department also issued additional guidance and FAQs on the following dates:

- March 17, 2020
- March 20, 2020
- April 1, 2020
- April 3, 2020
- April 21, 2020
- May 15, 2020
- May 19, 2020
- June 8, 2020

Had the Department tried to anticipate every question and develop guidance in anticipation of those questions in advance of announcing the availability of funds, we would probably have delayed the obligation of discretionary grant funds almost as long as the prior administration did following passage of the ARRA. We found no need to hold up the disbursement of funds to all institutions simply because some would need additional explanation of what a cash grant is, or which students are eligible for federal grants.

Federal Student Loans

Regarding the Department's implementation of the federal student loan provisions under the CARES Act, our primary focus has been and will continue to be providing high quality service to the students we serve. The Department, including FSA, has worked tirelessly over the past two months—alongside our federal student loan servicers—to ensure that borrowers receive the benefits afforded them under the Secretary's initial directive of March 25, and later under the authority of the CARES Act, as discussed below.

At Secretary DeVos's direction, and prior to passage of the CARES Act, the Department initiated a variety of actions to support federal student loan borrowers. These efforts included:

1. waiving interest on all Department-held federal student loans;
2. placing all borrowers who were 31 days delinquent or greater into a special, non-capping administrative forbearance for 60 days; and
3. stopping all collection actions for defaulted student loan borrowers.

Many of those actions would later become major provisions of the Act.

CARES Act Implementation Efforts

Once the Act was signed into law, the Department acted quickly to implement its provisions. FSA issued extensive guidance, both formal and informal, to its loan servicers and Private Collection Agencies ("PCAs"). During this period, FSA has engaged with its servicers and PCAs daily—often multiple times each day—to ensure they are complying with the CARES Act and to answer any questions. FSA leadership participated in teleconferences with vendors' leadership and sent performance letters to vendors on April 13, 2020, detailing their specific progress on CARES Act implementation and reiterating expectations. Senior FSA leaders also visited the defaulted loan servicer, Maximus Federal Services ("Maximus"), in person, on May 11, 2020, to physically observe and confirm proper execution of our instructions.

It is worth noting that the significant programmatic and operational changes described above and expanded upon below were successfully implemented during a period of national emergency, when both internal Department operations and most of our loan servicing capacity were rapidly transitioning from traditional brick-and-mortar businesses to remote work environments. As the pandemic quickly unfolded in March, the Department took immediate action to assist its servicers in becoming telework ready.

Suspending Involuntary Collections - Treasury Offset Program (TOP)

A critical component of FSA's CARES Act implementation was to cease involuntary collection actions for borrowers with defaulted loans. To do so, FSA worked closely with its default servicer and PCAs to suspend collections and refund any money collected after March 13, 2020.

The Department strongly disagrees with GAO's characterization that the Department experienced "challenges" suspending Treasury offsets. On March 20, 2020, a week before the CARES Act became law, FSA requested that the Department of the Treasury suspend offsets on all federally held student loans and refund to borrowers all offsets as of March 13, 2020. At the time of the request, there were approximately $1.8 billion of offsets in process, representing more than 800,000 borrowers. All Treasury offset payments ceased soon thereafter.

As of June 8, 2020, FSA has transmitted requests to Treasury for refunds totaling more than $2.3 billion for more than one million unique borrowers, representing 99.8% of all outstanding Treasury offset refunds. FSA is working with Treasury to identify correct addresses for the remaining borrowers so their refunds can be mailed. Contrary to the implications of the draft report, more than 85% of the offset payments that were ultimately refunded were collected prior to passage of the CARES Act.

Suspending Involuntary Collections - Administrative Wage Garnishment (AWG)

FSA has also undertaken extensive efforts to stop employers from garnishing federal student loan borrowers' wages in violation of the CARES Act. It is important to note that employers outside of the Department garnish borrowers' wages, not FSA or the Department. FSA immediately notified all employers to stop garnishing wages and went further by providing multiple follow-up notices to those employers who failed to follow our initial instructions.

Specifically, on March 26, 2020, FSA instructed Maximus to begin notifying employers to stop wage garnishments for all federal student loan borrowers with federally held loans. Maximus was also directed to initiate refunds to borrowers of any garnishments received on or after March 13, 2020.

To meet the needs of the unprecedented nature of this national emergency and to comply with this directive, Maximus reengineered its processes and systems to facilitate the timely issuance of cancellation orders to approximately 115,000 employers. In compliance with FSA's directions, Maximus began making the necessary system and process changes that would allow it to automate the processes by which it notifies employers to stop wage garnishments and refund payments to affected borrowers. While completing the necessary system changes, Maximus also initiated an outbound calling campaign to those employers with the largest number of borrowers under wage garnishment orders to instruct them to cease all wage garnishments for FSA borrowers.

On April 18, 2020, Maximus began notifying employers by U.S. mail and email using the newly developed process. By April 23, 2020, less than 30 days after the Secretary ordered the Department to halt wage garnishments, Maximus had initiated notification, either by mail or telephone, to 98% of employers who had been actively garnishing wages, instructing them to stop garnishments for Department-held debt. The remaining 2% of employers either had invalid addresses in the system or borrowers who were associated with incorrect employers.

However, once Maximus issues a cancellation notice to a borrower's employer, the employer must take the final steps to implement the cancellation through its internal procedures

to stop withholding funds from the borrower's wages. Employers generally process the stop garnishment instruction using their normal payroll processes; thus, it can often take up to four weeks or even longer from the time the stop garnishment notice is transmitted to the employer until wages are no longer garnished.

Since April 23, FSA has instructed Maximus to take a variety of additional actions to reach employers who continue to improperly garnish borrowers' wages. In late April, Maximus began initiating calls to employers who continued to garnish borrowers' wages. Maximus continues to make those calls daily.

Because some employers had not immediately complied with the original stop garnishment notice, between May 9 and 11, 2020, Maximus sent a second round of stop garnishment notices to non-compliant employers. Also, between May 9 and 11, Maximus sent letters to borrowers who continued to have their wages garnished advising them that the Department had sent a stop garnishment order to their employer. This letter included a copy of the stop garnishment notice that borrowers could take to their employer to expedite the stopping of garnishment.

On May 15, 2020, Maximus sent a third round of stop garnishment notices to all employers who remained non-compliant. These notices were sent via certified mail, whereby the United States Postal Service confirms delivery.

While Maximus had contacted 98% of all employers by April 23, FSA's ongoing validation and verification efforts identified several employers who, due to discrepancies in Maximus' records, still needed to be contacted (e.g., employers who had invalid addresses in the system or borrowers who were associated with incorrect employers).

On May 16, 2020, Maximus sent stop garnishment notices to the remaining 2% of employers who had not previously received one. As of May 16, 2020, Maximus reported that it had notified, either by mail or telephone, 100% of employers who had been actively garnishing wages as of May 11, 2020, instructing them to stop garnishments for Department-held debt.

For the week ending on June 4, 2020, FSA received garnishment payments from approximately 2,500 employers, affecting only 1.5% percent of the total number of unique borrowers for which the Department has received an administrative wage garnishment payment since March 13, 2020.

Given the unprecedented volume of involuntary collections from the Treasury Offset Program and the administrative wage garnishment program (more than $2.4 billion) that required refunds during this period, on April 14, 2020, Maximus implemented an automated process that allowed FSA to expedite refunds for borrowers. This process has cut the time to complete a refund for borrowers with valid addresses on file from several weeks to about four to five business days from the date the garnishment is received at the Treasury Lockbox until the refund check can be mailed to the borrower by the Department of the Treasury.

In doing so, FSA has eliminated any backlog in refunds and is now processing refunds for borrowers with valid addresses in real time as they are received by FSA. As of June 8, 2020, FSA had issued more than $174 million in administrative wage garnishment refunds to borrowers whose wages were garnished. FSA and Maximus continue to daily monitor administrative wage garnishment payments to ensure all garnishments are stopped and refunds are issued.

Communicating with Borrowers

The Department also disagrees with GAO's conclusion that the Department faced challenges in providing borrowers with accurate and timely information during the initial weeks of implementation of the CARES Act. Within just 15 days of enactment, FSA successfully launched a portfolio-wide communications plan to reach out to more than 40 million student loan borrowers to inform them of the relief afforded to them under the Act.

Even prior to the passage of the CARES Act, FSA had developed a one-stop website (studentaid.gov/coronavirus) to answer borrower questions related to the COVID-19. From the time the website was launched on March 13, 2020—significantly, two weeks before enactment of the Act—this critical resource has been visited more than 3.5 million times by students, parents, schools, and key stakeholders. FSA continues to update the website on a regular basis as additional guidance becomes available.

As GAO correctly states, FSA "had to move quickly" after enactment to modify its contracts with the 11 loan servicers and other contact centers that handle student aid issues and develop messaging for the servicers to disseminate to all FSA borrowers.

To meet the aggressive notification deadlines of the Act, FSA promptly issued directives to its servicers requiring them to notify borrowers of the changes made to their accounts. These directives required all non-default loan servicers to apply a non-capping administrative forbearance to all borrower accounts and to notify borrowers when this action was completed. FSA provided the servicers with templates for these initial letter/email notifications to borrowers. Among other things, the notifications explained the actions the Department was taking to comply with the CARES Act, including placing borrowers' loans in administrative forbearance and changing their interest rates to 0%.

Similarly, FSA directed the default loan servicer to send notifications to all borrowers with defaulted loan balances and valid addresses on file. FSA also provided the default servicer with templates for these notifications. These notifications informed borrowers that all collections had been suspended. If applicable, the notices also informed borrowers that they were owed refunds.

FSA further required all servicers to update their websites and provided talking points and Questions & Answers to aid their customer service representatives' interactions with borrowers. In addition, FSA quickly developed and disseminated guidance for its various contact centers.

Unfortunately, GAO incorrectly implies that the need for servicers to update their systems and for FSA to modify servicers' contracts was due to some deficiency in service or oversight by FSA and thus resulted in borrowers receiving incorrect information. That is not true.

On the contrary, this is how all changes are made to FSA's servicing and contact center environments, even in the regular course of business. As to GAO's assertion that some borrowers initially received incorrect information, FSA moved as quickly as possible to stand-up new processes and ensure its servicers were prepared with clear and accurate information to provide to borrowers. Any quality issues identified through FSA's robust internal monitoring procedures were promptly identified and addressed.

FSA's Oversight and Quality Assurance Efforts

FSA had already begun developing its ability to respond effectively to the national emergency long before the CARES Act. FSA's existing oversight and quality assurance processes have allowed it to validate that federal student loan borrowers are receiving the full relief to which they were entitled under the CARES Act.

For example, in January of this year, FSA began a pilot designed to enhance servicer oversight and improve the customer experience for students and borrowers. FSA placed a team of liaisons onsite within four of its largest loan servicers, including its servicer who handles all defaulted loans. FSA has since assigned liaisons for the remaining loan servicers. These liaisons are continuously engaged with the servicers to share expectations and receive and provide feedback on COVID-19 activity.

In addition, FSA is building an enhanced quality assurance environment and internal control function within FSA. This team conducts independent assessments and validations of servicer compliance and performance through both planned and unplanned reviews. These efforts were in place prior to the COVID-19 emergency. They established a foundation that has enabled FSA to successfully implement the requirements of the CARES Act. As part of these efforts, FSA samples borrowers' accounts to ensure that servicers are properly implementing Department guidance.

FSA also conducts daily monitoring and oversight of all its servicers by, for example, monitoring their telephone interactions with borrowers. Through a "secret shopper" program, FSA staff place customer service calls to the servicers inquiring about the COVID-19 changes. If the response is inaccurate, FSA reports the error to the servicer for corrective action.

By March 23, 2020, FSA was monitoring key metrics and milestones daily. These metrics included operational reporting from each of its vendors, web analytics, and complaint, and social media tracking. These metrics cover areas such as vendor operations, customer listening, call volumes, answer times, number of calls dropped, and abandonment rates, among others.

These metrics have provided FSA leadership with insight into areas needing improvement and have informed decision-making on various operational issues. Reviewing these

data daily also allows FSA to identify larger trends, such as call volume spikes across all servicers, which can be compared to current events, such as the timing of program announcements. The reports can then be used to engage with our servicers and determine if there are general or servicer-specific issues that need to be addressed.

It is through these oversight efforts that FSA identified many of the opportunities for improvement that GAO referenced in its report. GAO fails to adequately acknowledge the improvements made to FSA's internal control environment in advance of this global pandemic.

Instead, GAO uses the findings of FSA's own internal oversight efforts to imply a slow response. These improvements and exhaustive oversight efforts are precisely what allowed FSA to react as quickly as it did, identify issues in real time, and implement improvements, all while ensuring appropriate stewardship of taxpayer resources.

Credit Reporting

For example, it was precisely these robust oversight and quality assurance efforts that recently allowed FSA to swiftly identify a negative change in the credit information that some federal student loan borrowers were experiencing, as displayed by a non-traditional third-party credit service company, Credit Karma.

Upon identifying this issue, FSA quickly partnered with the Consumer Financial Protection Bureau ("CFPB") to reach out to Credit Karma and to the provider of the underlying credit score displayed to the members, VantageScore. Immediately following those conversations with FSA and CFPB, VantageScore announced that it would change its treatment of deferments and forbearances.

FSA also directed the loan servicer, Great Lakes Educational Loan Services, Inc., to update its coding and send correction files to credit bureaus for all affected borrowers.

In addition, FSA proactively posted information on StudentAid.gov and used social media to inform customers that it was aware of the issue and taking steps to rectify the situation. FSA further assured customers the issue was not the result of some action FSA took and informed customers what action they could now take.

To date, FSA is not aware of any borrowers whose FICO® credit scores have been lowered because of implementation of the CARES Act mandatory administrative forbearance. (FICO® credit scores are used by the most financial institutions to underwrite credit, for example, mortgages, credit cards, and auto loans).

Loan Rehabilitation

Regarding loan rehabilitation, GAO stated that the Department "needed to clarify borrower communication and servicer procedures related to rehabilitating defaulted student loans during the period of student loan relief under the CARES Act and agency actions." This again

incorrectly implies that FSA somehow miscommunicated or failed to implement necessary programmatic procedures.

I note that the CARES Act changed the provisions of the loan rehabilitation program. After suspending payments in response to the CARES Act, FSA was required to implement changes to the loan rehabilitation program and communicate those changes to its customers.

FSA Next Steps

With much of the initial CARES Act implementation work completed, FSA will continue to monitor servicers' progress going forward to ensure they are meeting the needs of our customers.

In the meantime, FSA has also begun to turn attention to establishing a comprehensive communications' campaign to inform borrowers of their responsibilities and the resources available to assist them when they enter repayment on October 1, 2020. FSA will return borrowers to an appropriate repayment status and resume normal operations after September 30, 2020. We will use the same structured approach to implement these relief measures.

FSA has also begun reviewing its portfolio management and borrower repayment monitoring plan to ensure it is able to identify potential at-risk borrowers, closely monitor their repayment patterns, and intervene if they begin to fall behind in their repayment obligations.

Finally, I have enclosed technical comments for your consideration.

Thank you again for the opportunity to respond to the draft report and appendices. We remain happy to partner with GAO to help it have a more robust understanding of what has been done to date. If you have questions, please contact Kent Talbert at 202-403-4206.

Sincerely,

Mitchell M. Zais

Mitchell M. Zais, Ph.D.

Enclosure

Appendix XV: Comments from the Department of Housing and Urban Development

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-3000

CHIEF FINANCIAL OFFICER

June 12, 2020

Mr. Gene L. Dodaro, Comptroller General of the United States
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Mr. Dodaro,

Thank you for allowing HUD the opportunity to respond to the Government Accountability Office (GAO) Report GAO-20-625 – *COVID-19 Opportunities to Improve Federal Response and Recovery Efforts* (Report). While the effective management of $12.4 billion of CARES Act funding brings a series of challenges, HUD has taken appropriate steps to address the CARES Act requirements.

HUD continues to be committed to fulfilling its mission to create strong, sustainable, inclusive communities and quality affordable homes for American families and individuals while also responding to impact of COVID-19 on housing. HUD has sustained efforts to provide clear and accessible information regarding the CARES Act homeowner and renter protections to affected parties. The HUD CARES Act Compliance Response Team (HCCRT) was established by HUD to specifically focus on the impact of the CARES Act on HUD people, processes, and technology. The HCCRT is organized around workstreams that are focused on moving quickly in meeting the mission, communicating impact, and transforming the Department. There is strong sponsorship across the agency for compliance and reporting support for the CARES Act with the highest levels of HUD leadership providing oversight and governance through a Steering Committee.

Through facilitating working sessions with programs, the HCCRT has identified specific challenges implementing the CARES Act, specifically related to reporting. We are currently addressing the requirements of the CARES Act with respect to fulfilling housing needs related to COVID-19. The HCCRT developed and implemented an approach to integrate risk management as HUD works to identify, track and report ongoing risks specific to the CARES Act. We are actively working with the program offices to understand these challenges and to co-develop detailed solutions.

HUD will continue to respond to housing needs related to COVID-19. We acknowledge the importance of recognizing that there may be opportunities to improve Federal response and recovery efforts. Our focus will be on ensuring our compliance monitoring is effective to deliver on HUD's responsibilities with respect to the CARES Act. We will continue to make progress putting processes in place to overcome challenges, and HCCRT will continue to work to provide comprehensive and timely compliance monitoring.

Again, thank you for the opportunity to review the Report.

Sincerely,

Irving L. Dennis
Chief Financial Officer

cc:
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Andrew Hughes, Chief of Staff
John L. Garvin, General Deputy Assistant Acting General Deputy Assistant Secretary for Housing
Seth Appleton, Principal Executive Vice President for Ginnie Mae
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