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Blueprint for Reorganization: An Analysis of Federal Departments and Agencies

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Blueprint for Reorganization: An Analysis of Federal Departments and Agencies

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Introduction

Despite an ever-growing public debt—almost $20 trillion at the latest count1—federal policymakers have failed to think seriously about the size and scope of the executive branch. Today, there are 22 departments, agencies, and offices that rise to Cabinet level in the executive branch, with hundreds of subagencies underneath them. The fact that Americans are living under a federal government that knows no fiscal bounds, with bureaucratic decisions affecting nearly every aspect of their lives, clearly demonstrates that a major overhaul of the executive branch is long overdue.

Led by the Office of Management and Budget (OMB), President Donald Trump has called for a systematic restructuring of the executive branch. The President's Executive Order No. 13781 is "intended to improve the efficiency, effectiveness, and accountability of the executive branch."[2] Further, OMB is directed "to propose a plan to reorganize governmental functions and eliminate unnecessary agencies."[3]

Tinkering around the edges of the executive branch will not rein in the excessive growth of a federal government that has become bloated and lethargic. Instead, executive branch reorganization should encompass bold actions to terminate or significantly reform federal agencies and programs that function outside of the federal government's core constitutional responsibilities. The following section contains numerous bold and timely recommendations to downsize and reform the executive branch. However, the success of the President's executive order faces considerable obstacles.

Government Programs Never Die. While the old adage that death and taxes are the only two certainties in life, there is perhaps a second: Government programs never die.[4] The termination of government programs is such a rare phenomenon that its occurrence is hardly studied by social scientists.[5] As acknowledged decades ago, the rare elimination of government programs usually occurs "with either a bang or a very long whimper."[6] When government programs have been terminated, immediate elimination has been the most common strategy.[7] This appears to be the most successful method, since it does not give special interests the time to pressure Congress into reversing its decision.

Concentrated Benefits and Diffuse Costs. The congressional legislative process generally favors keeping failed or outdated government programs alive, often with growing budgets, due to the dilemma of concentrated benefits and diffuse costs. Because of this dilemma, appropriations legislation that continues an ineffective or outdated program is unlikely to raise the ire of taxpayers. Those who are receiving concentrated benefits through government programs are more likely to lobby Congress for continued and increased funding than are taxpayers who pay for the diffused costs of those programs.

The beneficiaries of government programs, as Princeton University Professor of Politics R. Douglas Arnold has demonstrated, "are often organized into groups and easily mobilized for action."[8] Further:

Even when these concentrated interests are not well organized, legislators know that the affected publics are both more attentive to Washington action

and more likely to show their appreciation at the polls than are those citizens who have less at stake and who are less attentive to what happens in Congress.[9]

Concentrated interests are highly organized and entrenched in Washington, D.C., which allows them to have access to and sway over policymakers. Any time Congress attempts to downsize or terminate ineffective or constitutionally questionable programs, special interests predictably rise to the defense of these programs. The all too frequent result is that fiscally and constitutionally responsible decisions are defeated and the fleecing of American taxpayers continues.

Due to the intense nature of special-interest coalitions that benefit from them, politicians tend to be reluctant to eliminate government programs, even if there is strong evidence that a particular department or agency wastes taxpayer dollars or has no constitutional authorization underpinning its existence. The current appropriations process makes it easier for Members of Congress to approve generous budget increases year in and year out instead of exercising wise stewardship of Congress' power of the purse. Rather than regularly authorizing or terminating agencies and programs, along with passing individual appropriations bills, Congress has practiced ineffectual oversight and allowed continuing resolutions and enormous omnibus spending bills to dominate the legislative process.

Because of this dilemma, Americans should welcome President Trump's call to rethink how the executive branch does business. If the following recommendations are adopted, Americans will see a leaner, more efficient federal government that is focused more on performing core constitutional missions and less on serving special interests.

—David B. Muhlhausen, PhD

ENDNOTES

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9. Ibid.

Department of Agriculture

Significantly Reduce the Size of the Farm Service Agency

RECOMMENDATION

The Farm Service Agency (FSA), which administers the farm commodity programs and some conservation programs,[1] should be significantly reduced. This action can be achieved by Congress eliminating many of the commodity subsidy programs that the FSA administers.

RATIONALE

Agricultural producers, and primarily the largest producers,[2] receive handouts that go beyond any reasonable concept of a safety net. Instead of assisting producers to get back on their feet after major crop losses, the current system tries to insulate farmers from managing even ordinary business risk. The current system deems large agribusinesses incapable of managing in a market economy, as other businesses do.

In the 2014 farm bill, Congress created two massive new handout programs for farmers: the Agricultural Risk Coverage (ARC) and Price Loss Coverage (PLC) programs. The ARC program helps to ensure that farmers meet expected revenue targets by providing payments if they incur "shallow losses," which simply means that revenue is a little lower than expected. The PLC program triggers payments when commodity prices fall below a set price in statute. Both of these programs, premised on central planning and anti-market philosophies, are now projected[3] to cost nearly double the original estimates[4] at the time of passage of the 2014 farm bill ($32 billion instead of $18 billion over the first five years of the program).[5]

Other programs that should be eliminated include the dairy and sugar programs. The U.S. sugar program takes central planning to a new level. The program uses price supports, marketing allotments that limit how much sugar processors can sell each year, and import restrictions that reduce the amount of imports. As a result of government attempts to limit the supply of sugar, the price of American sugar is consistently higher than world prices; domestic prices have been as high as double that of world prices.[6]

This big government policy may benefit the small number of sugar growers and harvesters, but it does so at the expense of sugar-using industries and consumers. An International Trade Administration report found that "[f]or each sugar-growing and harvesting job saved through high U.S. sugar prices, nearly three confectionery manufacturing jobs are lost."[7] The program is also a hidden tax on consumers. Recent studies have found that the program costs consumers as much as $3.7 billion a year.[8] Further, the program has a disproportionate impact on the poor because a greater share of their income goes to food purchases than it does for individuals at higher income levels.[9]

In the next farm bill, which is expected in 2018 when many programs are required to be reauthorized, Congress should eliminate these costly market-distorting handouts. In doing so, the role of the FSA will be significantly reduced, and its size and organization should reflect these policy changes.

ADDITIONAL READING

- Daren Bakst, ed., *Farms and Free Enterprise: A Blueprint for Agricultural Policy*, The Heritage Foundation, Mandate for Leadership Series, 2016.

Streamline the Risk Management Agency

RECOMMENDATION

Congress should streamline and simplify the operations of the Risk Management Agency (RMA).

RATIONALE

The RMA administers the federal crop insurance program. Congress should maintain the federal crop insurance program, but a specific type of policy known as revenue-based policies should be eliminated,[10] which would help streamline and simplify the RMA's operations. To the extent that there is any federal role in assisting agricultural producers in managing risk, it should be to help farmers when they experience a major crop loss. These revenue policies can provide farmers with indemnities even when farmers have record production and the weather is perfect; like most of the commodity programs, these policies are anti-market and assume that farmers are unable to operate in a capitalist system as other businesses do.

There are generally two types of federal crop insurance policies: yield-based and revenue-based. Yield-based policies assist farmers when there are crop losses, whereas revenue-based policies do not require any crop loss. Congress should eliminate these revenue-based policies and have yield-based policies only. It was not that long ago when there were only yield policies; revenue-based policies are relatively new, created in 1997,[11] and only became more popular than yield-based policies in 2003.[12]

The subsidies for yield policies should be limited to coverage levels that would require major crop losses before farmers receive the help of taxpayers. By simplifying the federal crop insurance system, the RMA should be able to streamline and simplify operations.

ADDITIONAL READING

- Daren Bakst, ed., *Farms and Free Enterprise: A Blueprint for Agricultural Policy*, The Heritage Foundation, Mandate for Leadership Series, 2016.

Eliminate the Center for Nutrition Policy and Promotion

RECOMMENDATION

Congress should eliminate the Center for Nutrition Policy and Promotion and get the federal government out of providing dietary and nutritional advice.

RATIONALE

The federal government should not be in the nutritional advice business.[13] The Dietary Guidelines for America that are developed by this agency (along with the Department of Health and Human Services (HHS)) are emblematic of nutritional advice in general. The most recent Dietary Guidelines Advisory Committee that made recommendations to both the U.S. Department of Agriculture (USDA) and HHS on the Guidelines veered away from its dietary and nutrition mission and considered environmental concerns when developing its recommendations. Diet, according to this committee, should not just focus on human health, but also on issues such as sustainability and global warming.[14]

Believing that the government can provide a definitive source of nutritional advice when such information is constantly changing requires a significant level of arrogance. Numerous sources of quality information on nutrition already exist, and the public can easily access them. Such services also do not have the imprimatur of the federal government providing unwarranted legitimacy.

Eliminate the Agricultural Marketing Service

RECOMMENDATION

Congress should eliminate the Agricultural Marketing Service (AMS).

RATIONALE

The AMS performs numerous tasks, including developing grade standards for food and running the national organic program. These tasks, and others, could be run by private entities if there is the requisite demand. Other programs, such as grant programs to help farmers market their food, and the Farmers Market Promotion Program, are inappropriate roles for government. The AMS also runs the infamous marketing orders that can trigger volume controls (supply restrictions) on the sale of fruits and vegetables.[15]

ADDITIONAL READING

- Daren Bakst, "The Federal Government Should Stop Limiting the Sale of Certain Fruits and Vegetables," Heritage Foundation *Issue Brief* No. 4466, September 29, 2015.

Eliminate the Rural Business Cooperative Service

RECOMMENDATION

Congress should eliminate the Rural Business Cooperative Service (RBCS).

RATIONALE

The RBCS is an agency of the U.S. Department of Agriculture that has a wide range of financial assistance programs for rural businesses. It also has a significant focus on renewable energy and global warming, including subsidizing biofuels. Rural businesses are fully capable of running themselves, investing, and seeking assistance through private means. The fact that these businesses are in rural areas does not change the fact that they can and should succeed on their own merits like any other business. Private capital will find its way to worthy investments. The government should not be in the business of picking winners and losers when it comes to private investments or energy sources.

Instead of handing taxpayer dollars to businesses, the federal government should identify and remove the obstacles that it has created for businesses in rural communities.

ADDITIONAL READING

- Daren Bakst, "Addressing Waste, Abuse, and Extremism in USDA Programs," Heritage Foundation *Backgrounder* No. 2916, May 30, 2014.

Move the Functions of the Food and Nutrition Service to the Department of Health and Human Services

RECOMMENDATION

Congress should move the work of the Food and Nutrition Service to the Department of Health and Human Services (HHS).

RATIONALE

The Food and Nutrition Service administers the food and nutrition programs, including the food stamp program. The work of this agency, including the food stamp program, should be moved to HHS, the primary welfare department of the federal government. Other programs, like the school meal programs, should also be moved to HHS.

Further, the USDA has veered off of its mission by working extensively on issues unrelated to agriculture. This is mostly due to the nutrition programs. By moving this welfare function to HHS, the USDA will be better able to work on agricultural issues impacting all Americans.

Eliminate the USDA Catfish Inspection Program

RECOMMENDATION

Congress should eliminate the USDA catfish inspection program.

RATIONALE

The USDA catfish inspection program, which is still in the process of being fully implemented,[16] is a textbook example of cronyism and trade protectionism.

The Food and Drug Administration (FDA) inspects seafood for safety. The 2008 farm bill, however, included a provision that would move catfish inspection from the FDA to the USDA. This move was not in response to a catfish-safety crisis. The FDA and Centers for Disease Control and Prevention consider commercially raised catfish to be a low-risk food.[17] The Government Accountability Office (GAO) has said that such a switch to the USDA will not improve safety.[18]

Moving catfish inspection to the USDA requires foreign countries to develop new catfish inspection schemes that are the regulatory equivalent[19] of the more burdensome USDA system. If they do not meet the USDA's requirements, foreign exporters from various countries that currently supply the United States with catfish will be blocked from selling their catfish in the U.S. Some countries may not even bother to go through the regulatory equivalence process. Domestic catfish producers might benefit as a result of less competition, but they would do so at the expense of consumers. The program risks trade retaliation from other countries since it is merely a non-tariff trade barrier;[20] such retaliation would likely focus on other agricultural interests, such as meat packers and soybean farmers.

The program is also duplicative. As a result of this program, the USDA inspects catfish, and the FDA inspects all other seafood. This creates duplication because seafood-processing facilities that process both catfish and any other seafood will have to deal with two different types of seafood regulatory schemes, instead of just one.[21]

The GAO has repeatedly been critical of the program.[22] President Obama called for eliminating the program in his FY 2014 budget.[23] President Trump called for eliminating the program in his FY 2018 budget.[24] In May 2016, the Senate, in a bipartisan manner, passed legislation that would have effectively eliminated the program.[25] In the House, a bipartisan group of 220 members went on record[26] asking House leadership to take up the Senate bill. (House leadership failed to do so.)

Congress needs to eliminate this program, and there is wide bipartisan agreement to do so.

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- Daren Bakst, "Addressing Waste, Abuse, and Extremism in USDA Programs," Heritage Foundation *Backgrounder* No. 2916, May 30, 2014.
- Daren Bakst, "House Leadership Should Allow a Vote Against Cronyism," Heritage Foundation *Commentary*, September 19, 2016.
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23. Office of Management and Budget, "Building a 21st Century Government by Cutting Duplication, Fragmentation, and Waste," April 9, 2013, https://obamawhitehouse.archives.gov/omb/Building_a_21st_Century_Government_by_Cutting_Duplication_Fragmentation_and_Waste (accessed February 6, 2017).

24. U.S. Department of Agriculture, "FY 2018 Budget Summary," p. 48, https://www.usda.gov/sites/default/files/documents/USDA-Budget-Summary-2018.pdf (accessed May 26, 2017).
25. "A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Secretary of Agriculture relating to inspection of fish of the order Siluriformes," 114th Congress, S.J.Res.28, https://www.congress.gov/bill/114thcongress/senate-joint-resolution/28 (accessed February 6, 2017).
26. News release, "Pallone Calls to Eliminate Duplicative USDA Catfish Program," Committee on Energy and Commerce, December 7, 2016, https://democrats-energycommerce.house.gov/newsroom/press-releases/pallone-calls-to-eliminate-duplicative-usda-catfish-program (accessed February 6, 2017). See also Casey Wooten, "Backers of Catfish Import Measure Say They Have House Majority," Bloomberg BNA, September 16, 2016, https://www.bna.com/backers-catfish-import-n57982077097/ (accessed February 6, 2017).

Department of Commerce

Eliminate the Hollings Manufacturing Extension Partnership

RECOMMENDATION

Eliminate the Hollings Manufacturing Extension Partnership.

RATIONALE

The Hollings Manufacturing Extension Partnership is a federally funded management consulting operation directed at manufacturers. It is managed by the National Institute of Standards and Technology (NIST). The Hollings Manufacturing Extension Partnership provides subsidies to consultants, manufacturers, and business advisers with the goal of improving the business practices of small and medium-size businesses. The government should not play a role in the development of business. Federal involvement distorts market outcomes and picks winners and losers among businesses—which is corporate welfare, pure and simple, and should end.

Eliminate the International Trade Administration

RECOMMENDATION

Eliminate the International Trade Administration (ITA).

RATIONALE

The ITA serves as a sales department for certain businesses, and promotes investment in the U.S., offering taxpayer-funded subsidies for businesses that promote their products overseas. Promoting U.S. exports is also a task carried out by the Department of Agriculture and the State Department, causing large areas of government overlap. One ITA program is the International Buyer Program (IBP) through which the ITA sets up a space "where foreign buyers can obtain assistance in identifying potential business partners, and meet with U.S. companies to negotiate and close deals." Private companies should facilitate their own business meetings or do so through voluntary trade associations—not on the taxpayers' dime.

Furthermore, the ITA's protectionist policies, including antidumping and countervailing duty laws, interfere with free trade and drive up costs for both consumers and businesses, and merit being eliminated. At the very least, if they are not fully repealed, the antidumping and countervailing duty statutes should be fully rewritten to eliminate their current protectionist orientation and align them with free-market principles. If that is done, authority to make dumping and countervailing duty findings based on market principles should be transferred to the U.S. International Trade Commission, a more neutral independent agency that is already charged with deciding whether domestic companies are being injured by foreign dumping or subsidies.

ADDITIONAL READING

- Michael Sargent, Romina Boccia, Emily J. Goff, David B. Muhlhausen, and Hans A. von Spakovsky, "Cutting the Commerce, Justice, and Science Spending Bill by $2.6 Billion: A Starting Point," Heritage Foundation *Issue Brief* No. 4220, May 12, 2014.
- Alden F. Abbott, "U.S. Antidumping Law Needs a Dose of Free-Market Competition," Heritage Foundation *Backgrounder* No. 3030, July 17, 2015.

Eliminate the Economic Development Administration

RECOMMENDATION

Eliminate the Economic Development Administration (EDA).

RATIONALE

The EDA provides taxpayer money and technical assistance to economically distressed areas in the form of "grants" and "investments" for local projects, including the private sector. The EDA uses taxpayer dollars to target local political pet projects with a very narrow benefit—in many cases for just one particular company or small segment of the population. The EDA is just one of about 180 federal economic development programs, including the Small Business Administration's disaster assistance loans, the Agriculture Department's rural development programs, and others that Congress should eliminate.

ADDITIONAL READING

- U.S. Government Accountability Office, "Economic Development Administration: Documentation of Award Selection Decisions Could Be Improved," GAO–14–131, February 6, 2014.

Eliminate the Minority Business Development Agency

RECOMMENDATION

Eliminate the Minority Business Development Agency.

RATIONALE

The Minority Business Development Agency hands out grants and runs federally funded management consulting operations, called business centers, in over 40 locations. Part of the Department of Commerce, the Minority Business Development Agency helps businesses identify and respond to federal procurement opportunities. By targeting certain racial and ethnic groups for special government assistance, the agency is one key component of the federal government's affirmative action approach. The federal government should not provide special assistance to businesses to procure federal contracts; neither should the federal government base such assistance on racial or ethnic considerations.

Eliminate the National Network for Manufacturing Innovation

RECOMMENDATION

Eliminate the National Network for Manufacturing Innovation (also called Manufacturing USA).

RATIONALE

Manufacturing USA is an interagency initiative made up of public-private partnerships that "bring together innovative manufacturers, university engineering schools, community colleges, federal agencies, non-profits, and regional and state organizations to invest in unique, but industrially relevant, manufacturing technologies with broad applications." The Manufacturing USA network is operated by the interagency Advanced Manufacturing National Program Office, which is headquartered in the National Institute of Standards and Technology, in the Department of Commerce. It doles out money to politically connected businesses and universities to undertake commercial research and development at taxpayer expense. The program should be terminated.

Eliminate Census Bureau Funding for the Annual Supplemental Poverty Measure Report

RECOMMENDATION

Eliminate U.S. Census Bureau funding for the annual supplemental poverty measure (SPM) report.

RATIONALE

The SPM is a relative poverty measure; rather than determining whether a household is poor based on its income, as the official U.S. poverty measure does, the SPM determines a household's poverty status by comparing its income to the income of other households. The SPM undergirds a "spread-the-wealth" agenda, and it should be eliminated.

ADDITIONAL READING

- Robert Rector and Rachel Sheffield, "Obama's New Poverty Measure 'Spreads the Wealth,'" Heritage Foundation *Commentary*, November 9, 2011.

Eliminate National Telecommunications and Information Administration Grant Programs

RECOMMENDATION

Eliminate the National Telecommunications and Information Administration's (NTIA's) grant programs. In addition, reconstitute the NTIA as an independent executive branch establishment outside the Commerce Department, and transfer the Federal Communication Commission's remaining regulatory functions (including private-sector-spectrum management as well as policy and Communications Act enforcement) to the newly independent NTIA.

RATIONALE

The NTIA oversees $4 billion in grant programs (many already fully funded under the American Recovery and Reinvestment Act of 2009) that support broadband deployment projects within individual states, as well as a $121.5 million program designed to assist regional, state, local, and tribal government entities as they plan for a nationwide public safety broadband network. Federal taxpayer funding of broadband projects is unjustifiable, as market-driven broadband deployment has proceeded rapidly in recent years. (If anything, government-sponsored broadband initiatives, many of which occur at the municipal level, may compete unfairly with private-sector projects, leading to reduced competition as well as the waste of taxpayer monies.)

The National Weather Service (NWS) provides information and services to news media, airlines, the merchant marine and others that have value. Recipients and beneficiaries of this information and these services would pay for them. Thus, the NWS could become self-sustaining. The Commerce Department should study the feasibility of privatizing the NWS.

Conduct a Comprehensive Review of NOAA's Grant-Making Programs

RECOMMENDATION

Conduct a comprehensive review of the National Oceanic and Atmospheric Administration's (NOAA's) extensive grant-making programs.

RATIONALE

NOAA is an umbrella agency for a number of smaller agencies, the most prominent of which is the National Weather Service. Others include the National Environmental Satellite, Data, and Information Service, the National Marine Fisheries Service, the National Ocean Service, the Office of Marine and Aviation Operations, and the Office of Oceanic and Atmospheric Research. NOAA accounts for over three-fifths of the Commerce Department budget.

NOAA conducts or funds research on climate, weather, oceans, and coasts. It regulates coastal and marine fisheries and seeks to protect endangered marine species and habitats. Some of these grant-making programs are warranted, but many are slush funds to conduct politically motivated research and to reward or fund political allies.

Department of Defense

Cut Non-Defense Programs from the Defense Budget

RECOMMENDATION

The Secretary of Defense should establish a team focused on improving the mission effectiveness of the Department of Defense (DOD). A small, high-caliber team should focus on reform as a means, not of saving money, but of improving how efficiently the DOD achieves its mission.[1] Priorities should be to identify excess infrastructure across DOD installations,[2] eliminate non-defense programs in the DOD budget, and focus funding on rebuilding U.S. military strength.[3]

RATIONALE

The size and strength of the U.S. military declined dramatically since the passage of the Budget Control Act of 2011 (BCA). In order to rebuild the military in a constrained fiscal environment, the Trump Administration should optimize spending decisions to minimize waste and ensure that limited funds are directed toward the DOD's highest priorities.

Military leaders have documented 22 percent excess infrastructure across DOD installations.[4] Maintaining this excess costs billions of dollars per year. This is funding that could be directly applied to DOD priority needs, including training and procurement of weapon systems.[5]

Congress and previous Administrations have used DOD funding to sponsor programs unrelated to military capabilities. These programs, including non-defense medical research, "civil-military programs," the Junior Reserve Officer's Training Corps, and Obama-era energy and environmental initiatives, do not benefit military service members, nor do they contribute to national security requirements.

The DOD should focus on providing a sufficiently large, modern, and combat-ready military force to protect the vital interests of the United States.[6] Improving efficiencies and decreasing waste can put some money back in DOD pockets, and those savings should be shifted to higher priority defense programs to help achieve a stronger national defense. However, savings alone will not be enough to rebuild the military.[7] In its review of executive branch departments and agencies, the Trump Administration should evaluate U.S. defense requirements, and submit a budget request that reflects those requirements.

ADDITIONAL READING

- Thomas Spoehr and Rachel Zissimos, "Preventing a Defense Crisis: The 2018 National Defense Authorization Act Must Begin to Restore U.S. Military Strength," Heritage Foundation *Backgrounder* No. 3205, March 29, 2017.

ENDNOTES

1. "Blueprint for a New Administration: Priorities for the President," The Heritage Foundation, November 1, 2016, http://www.heritage.org/conservatism/report/blueprint-new-administration-priorities-the-president.
2. Ibid.
3. Thomas Spoehr and Rachel Zissimos, "Preventing a Defense Crisis: The 2018 National Defense Authorization Act Must Begin to Restore U.S. Military Strength," Heritage Foundation *Backgrounder* No. 3205, March 29, 2017, http://www.heritage.org/defense/report/preventing-defense-crisis-the-2018-national-defense-authorization-act-must-begin.
4. U.S. Department of Defense, "Department of Defense Infrastructure Capacity," March 2016, http://defensecommunities.org/wp-content/uploads/2015/01/2016-4-Interim-Capacity-Report-for-Printing.pdf (accessed March 9, 2017).
5. Spoehr and Zissimos, "Preventing a Defense Crisis."
6. "Blueprint for a New Administration: Priorities for the President," The Heritage Foundation.
7. "A Blueprint for Balance: A Federal Budget for 2017," The Heritage Foundation, February 23, 2017, http://www.heritage.org/budget-and-spending/report/blueprint-balance-federal-budget-2017.

Department of Education

Streamline Department of Education Program Office Structure to Better Coordinate Services

RECOMMENDATION

In order to better coordinate services, the President and Congress should consolidate Department of Education agencies and White House initiatives that have similar missions:

1. Transition the Performance Improvement Office, Risk Management Service, and Office of Small and Disadvantaged Business Utilization into the Office of Management and into a public-private partnership;
2. Eliminate the Office of Educational Technology;
3. Scale back the Office for Civil Rights;
4. Consolidate the Office of Innovation and Improvement into the Office of Elementary and Secondary Education;
5. Transition the Office of English Language Acquisition and the International Affairs Office into a public-private partnership;
6. Consolidate the Office of Career, Technical, and Adult Education with the Office of Postsecondary Education;
7. Consolidate the White House Initiative on Educational Excellence for African Americans, the White House Initiative on Asian Americans and Pacific Islanders, the White House Initiative on Educational Excellence for Hispanics, the White House Initiative on Historically Black Colleges and Universities, the White House Initiative on American Indian and Alaskan Native Education, and the Center for Faith-Based and Neighborhood Partnerships into a single office of outreach.

RATIONALE

Consolidating offices can help better coordinate services while reducing duplication of services. Offices such as the Office of Technology are not the appropriate function of the federal government, and should be eliminated. Over the years, the federal Department of Education has grown in size and scope, interfering to a greater and greater extent with local school policy while failing to improve the educational outcomes of students. That growth has rendered state departments of education and local school districts mere compliance mechanisms to Washington. Streamlining the Department of Education by merging some program offices and eliminating others will help better serve students by focusing the department on core agency functions.

ADDITIONAL READING

- Lindsey M. Burke, "Reducing the Federal Footprint on Education and Empowering State and Local Leaders," Heritage Foundation *Backgrounder* No. 2565, June 2, 2011.

Eliminate Competitive and Project Grant Programs and Reduce Formula-Grant Spending

RECOMMENDATION

Congress should eliminate competitive and project grant programs that fall under the Every Student Succeeds Act (ESSA), and reduce spending on formula-grant programs managed by the Department of Education by 10 percent.

RATIONALE

If the federal government is to continue spending money on this quintessentially state and local function, federal policymakers should limit and better target education spending by streamlining the existing labyrinth of federal education programs. Federal competitive grant programs authorized under the Elementary and Secondary Education Act (ESEA), now known as ESSA, should be eliminated, as they are duplicative and ineffective, and federal spending should be reduced to reflect remaining formula programs authorized under Title I of ESSA and the handful of other programs that do not fall under the competitive or project grant category. Remaining programs managed by the Department of Education, such as large formula-grant programs for K–12 education, should be reduced by 10 percent.

Since the 1970s, inflation-adjusted per pupil federal education spending has nearly tripled. Spending increases reflect the number of federal education programs that have amassed over the decades. ESSA—just one federal education law—authorizes dozens of competitive and formula-grant programs, many of which are redundant and ineffective. The numerous federal education programs have not only failed to improve K–12 education nationally, but have levied a tremendous bureaucratic compliance burden on states and local school districts. In order to stop the federal education spending spree, and to ensure that state and local school leaders focus on meeting the needs of students and parents—not on satisfying federal bureaucrats—program count and associated federal spending should be curtailed.

ADDITIONAL READING

- Lindsey M. Burke, "How the A-PLUS Act Can Rein in the Government's Education Power Grab," Heritage Foundation *Backgrounder* No. 2858, November 14, 2013.
- Lindsey M. Burke, "Reducing the Federal Footprint on Education and Empowering State and Local Leaders," Heritage Foundation *Backgrounder* No. 2565, June 2, 2011.

Eliminate New ESSA Programs

RECOMMENDATION

Congress should eliminate new programs added under the Every Student Succeeds Act (ESSA).

RATIONALE

Although ESSA (the most recent reauthorization of the ESEA) eliminated roughly two dozen programs, most of those programs were shell programs that had not been funded since 2013 or earlier. When considering just those programs that actually had funding behind them, ESSA eliminated only two that had been funded under No Child Left Behind in recent years. It also added several new federal programs. Newly added programs increase federal intervention in K–12 education, including Preschool Development Grants (which will be managed by the Department of Health and Human Services) and Presidential and Congressional History Teaching Academies, and should be eliminated.

ADDITIONAL READING

- Lindsey M. Burke, The Every Student Succeeds Act: More Programs and Federal Intervention in Pre-K and K-12 Education, Heritage Foundation *Backgrounder* No. 3085, December 2, 2015.

Reduce Funding for the Department of Education Office for Civil Rights

RECOMMENDATION

Congress should reduce the Department of Education Office for Civil Rights (OCR) budget by 50 percent.

RATIONALE

The OCR is tasked with ensuring equal access to education and enforcing civil rights laws. In recent years, it has abused its power by interpreting "sex" to mean "gender identity" for purposes of enforcing Title IX, essentially rewriting the law to require access to intimate facilities, dorms, and sports programs to students based not on biology, but on self-declared gender identity. Furthermore, the OCR has violated the principles of due process by requiring an unfairly low burden of proof for adjudicating claims of sexual harassment or assault, and making it exceedingly difficult for the accused to defend themselves. Schools are threatened with the loss of federal funding if they do not cave to these one-size-fits-all policies. The OCR's actions undermine the rule of law and prevent Americans from being able to make policies that will best serve all members of their communities. Its budget should be significantly cut.

ADDITIONAL READING

- Ryan T. Anderson, "Obama Unilaterally Rewrites Law, Imposes Transgender Policy on Nation's Schools," The Daily Signal, May 13, 2016.
- Samantha Harris, "Campus Judiciaries on Trial: An Update from the Courts," Heritage Foundation *Legal Memorandum* No. 165, October 6, 2015.

Eliminate the Parent and Graduate PLUS Loan Programs

RECOMMENDATION

Congress should eliminate Parent and Graduate Parent Loan for Undergraduate Students (PLUS) loans.

RATIONALE

Parent PLUS loans are available to parents of undergraduate students; they are able to borrow up to the cost of attendance at a given college. The loans are available in addition to federal loans that are already available to the students themselves. The availability of Parent PLUS loans, created in 1980, has resulted in families incurring substantial debt, while failing to ease the cost of college over time. Similarly, the Graduate PLUS loan program, open to graduate students who choose loans to finance graduate school, enables students to borrow up to the full cost of attendance. These programs have fueled borrowing and debt among students and their parents, while incentivizing colleges to raise costs. As a considerable driver of higher education costs that also shifts the burden of paying for defaults to the American taxpayer, the PLUS loan programs should be eliminated.

ADDITIONAL READING

- Jamie Hall and Mary Clare Reim, "Time to Reform Higher Education Financing and Accreditation," Heritage Foundation *Issue Brief* No. 4668, March 28, 2017.

Direct the Department of Education to Rescind the "Gainful Employment" Regulations

RECOMMENDATION

The Secretary of Education should direct the Department of Education to rescind the "gainful employment" regulations placed on for-profit higher education institutions.

RATIONALE

The Higher Education Act stipulates that in order to be eligible for federal student aid, colleges must prepare students for "gainful employment in a recognized occupation." The U.S. Department of Education aggressively promulgated rules concerning gainful employment during the Obama Administration, and on July 1, 2015, gainful employment regulations primarily affecting for-profit institutions went into effect. The rule could limit opportunities for non-traditional students in particular, who may choose a for-profit institution because of its flexibility and affordability. The Trump Administration should enable private for-profit and vocational colleges to continue to serve students who have been historically underserved by traditional universities by repealing the gainful employment regulations that took effect on July 1, 2015.

ADDITIONAL READING

- Lindsey M. Burke, "Reauthorizing the Higher Education Act—Toward Policies that Increase Access and Lower Costs," Heritage Foundation *Backgrounder* No. 2941, August 19, 2014.

Eliminate the Department of Education's 24 Regional and Field Offices

RECOMMENDATION

Congress should eliminate the 13 field offices and the 11 regional offices maintained by the U.S. Department of Education.

RATIONALE

In addition to its Washington, DC, headquarters, the Department of Education maintains 13 field offices and 11 regional offices. The field office staff largely works on issues that fall under the Office for Civil Rights, Federal Student Aid, and the Office of the Inspector General. Such regional and field offices may have been necessary before the advent of the Internet, but make little sense today. These offices should be eliminated.

Move Federal Student Aid to the Treasury Department

RECOMMENDATION

Congress should authorize the transfer of the federal student aid program from the Department of Education to the Department of the Treasury.

RATIONALE

The federal government should not be the first place to which borrowers turn for student loans. Yet today, more than 90 percent of all student loans originate and are serviced by the U.S. Department of Education, crowding out private lending, raising higher-education costs, and leaving taxpayers on the hook for defaults and generous loan-forgiveness programs. The Department of Education lends to as many students as possible, increasing its intervention in the student loan market while failing to ensure protection for American taxpayers when borrowers default on those loans.

Additionally, the Department of Education has an uneven track record of effectively collecting student debt. Transferring this responsibility to the Treasury Department should ensure that student debt is treated as such, while considerably downsizing the Department of Education.

ADDITIONAL READING

- Mary Clare Reim, "Private Lending: The Way to Reduce Students' College Costs and Protect America's Taxpayers," Heritage Foundation *Backgrounder* No. 3203, April 27, 2017.

Transition Impact Aid Funding into Education Savings Accounts

RECOMMENDATION

Congress should repurpose the $1.3 billion Impact Aid Program in education savings accounts (ESAs) for federally connected children and shift oversight and management of the repurposed Impact Aid program to the Department of Defense Education Activity (DODEA).

RATIONALE

Instead of filtering the $1.3 billion in federal Impact Aid funding to district schools, and then assigning students to those schools based on where their parents are stationed, Impact Aid dollars should be directed to eligible students. All Impact Aid dollars for federally connected children (largely comprised of military-connected children) should go directly into a parent-controlled ESA, which the family could then use to pay for any education-related service, product, or provider that meets the specific needs of the child. Oversight and management of the repurposed Impact Aid Program should be transitioned to the DODEA.

The schooling options for military-connected children can play a role in whether a family accepts an assignment, even factoring into decisions to leave military service altogether. Yet as important as education is to military parents, more than half of all active-duty military families live in states with no school choice options at all. The $1.3 billion federal Impact Aid Program, which was designed largely with military-connected children in mind, should be repurposed into student-centered ESAs to allow military families to exercise school choice. Since it pertains to the U.S. military, Impact Aid represents one of those few cases where federal involvement in education has a clear constitutional warrant.

ADDITIONAL READING

- Lindsey M. Burke and Anne Ryland, "A GI Bill for Children of Military Families: Transforming Impact Aid into Education Savings Accounts," Heritage Foundation *Backgrounder* No. 3180, June 2, 2017.

Department of Energy

Reduce Bureaucracy at the Department of Energy's National Laboratories

RECOMMENDATION

Reduce bureaucracy at the Department of Energy's (DOE's) national laboratories.

RATIONALE

The DOE national labs house exceptional staff and research facilities. The operating culture and business model of the national labs need to be transformed to engage more with the private sector. Increased access through contract agreements would unlock valuable research and resources for the private sector to develop advances in human knowledge and innovative technologies. It would also leverage private-sector investments to help maintain lab infrastructure.

However, both private-sector access to the labs' assets and research and lab employees' ability to turn research into market applications are stifled by complex and overly restrictive conflict-of-interest and intellectual-property-rights regulations. For example, current contract structures between labs and the private sector are rigid and complex, effectively discouraging private-sector engagement. Draconian intellectual-property rules are still on the books in some labs, acting as a disincentive to individuals with patents from working in related fields at a national lab.[1]

In order to increase access to national lab resources, DOE Secretary Rick Perry should:

- Adopt reforms to increase lab autonomy;
- Engage in contractual work with the federal government, private sector, nonprofits, and universities;
- Implement alternative financing options;
- Explore ways to consolidate overhead spending; and
- Encourage a strong culture in the labs of active engagement with the private sector.

More independence and flexibility at the national labs will extend the value of research funding and infrastructure. Furthermore, additional managerial and financial authority to the lab contractors would empower them to effectively manage capabilities and create a quicker process for collaborative efforts with third parties, whether with another government agency, another lab, or the private sector. Although these activities are occurring now, such cooperation should become part of the culture of the national labs rather than the occasional exception.

ADDITIONAL READING

- James Jay Carafano, Jack Spencer, Bridget Mudd, and Katie Tubb, "Science Policy: Priorities and Reforms for the 45th President," Heritage Foundation *Backgrounder* No. 3128, June 13, 2016.
- Nicolas Loris, "INNOVATES Act Creates a More Effective National Lab System," Heritage Foundation *Issue Brief* No. 4141, January 30, 2014.
- Katie Tubb, Nicolas Loris, and Jack Spencer, "DOE Reset: Focus the Department of Energy on Core Missions and Decrease Distractions," Heritage Foundation *Backgrounder* No. 3196, March 2, 2017.

Prioritize Office of Science Spending

RECOMMENDATION

Prioritize Office of Science spending.

RATIONALE

The DOE manages one of the largest research and development (R&D) budgets in the federal government.[2] While much of the DOE's R&D infrastructure grew out of a mission to support World War II and Cold War efforts, it has since lost focus. The DOE has become notorious for spending R&D resources on commercial energy technologies that may be promising but are nevertheless well beyond the constitutional role of the federal government. To carry out its programs of basic and applied research, the DOE has a National Laboratory system. Seventeen labs around the country conduct research to advance understanding and discovery in a variety of fields, including basic energy sciences, high-energy physics, fusion power, biological and environmental research, nuclear physics, and advanced scientific computing research.

The DOE should engage in R&D only when meeting a clear government objective and when the private sector is not already involved. Government objectives could, for instance, include research, development, and demonstration of technology to meet national security needs, support nuclear stockpile cleanup efforts, or advance human knowledge through basic research where the private sector is not engaged.

No matter how diligent or transparent an Administration is, federal funding for R&D beyond these basic conditions will pick winners and losers among companies and technologies. Activities with the purpose of commercialization, regardless of where they lie on the technological development spectrum, are not legitimate functions of the federal government.

Secretary Perry can move forward confidently with reform, knowing that the private sector is more than capable of financing R&D. According to the National Science Foundation:

- Total research and development funding in the U.S. was $456.1 billion in 2013, 65 percent of which came from the business sector.
- The federal government came in a distant second with $127.3 billion in R&D funding.[3]

The perception of spending within the Office of Science is that the federal government is allocating money to research that is basic and far removed from increasing the technological readiness of certain energy sources. In some instances, this is true; research at the national laboratories focuses on scientific discovery. Infrastructure at the national labs, such as the photon light source or the synchrotron light source, enables scientists to study the basic elements of matter, explore new scientific frontiers, and cultivate new discoveries. In other instances, however, the funded research may be basic in nature but has an end goal of creating a cost-effective alternative energy source. In such cases, Congress should call even the basic research into question. For instance, Congress tasks scientists at the DOE with studying the basic elements of biological matter but with the objective of creating a cost-effective biofuel—a policy priority that should not exist in the first place. Congress should eliminate all Office of Science spending on activities that are aimed at promoting specific energy sources and technologies.

ADDITIONAL READING

- James Jay Carafano, Jack Spencer, Bridget Mudd, and Katie Tubb, "Science Policy: Priorities and Reforms for the 45th President," Heritage Foundation *Backgrounder* No. 3128, June 13, 2016.
- Nicolas Loris, "INNOVATES Act Creates a More Effective National Lab System," Heritage Foundation *Issue Brief* No. 4141, January 30, 2014.
- Katie Tubb, Nicolas Loris, and Jack Spencer, "DOE Reset: Focus the Department of Energy on Core Missions and Decrease Distractions," Heritage Foundation *Backgrounder* No. 3196, March 2, 2017.

Eliminate the Office of Nuclear Energy

RECOMMENDATION

Eliminate the DOE Office of Nuclear Energy and shift funding for some of its programs to the Office of Science's Office of Civilian Radioactive Waste Management (OCRWM).

RATIONALE

The Office of Nuclear Energy aims to advance nuclear power in the U.S. and address technical, cost, safety, security, and regulatory issues. As is the case with spending on conventional fuels and renewables, it is not an appropriate function of the federal government to spend tax money on nuclear projects that should be conducted by the private sector. For example, the Office of Nuclear Energy includes tens of millions of dollars for small modular reactor (SMR) licensing and support programs. While SMRs have great potential, commercialization must be shouldered by the private sector. Government funding should be redirected to the Nuclear Regulatory Commission for SMR-licensing preparation. Work that clearly falls under basic R&D should be moved to the OCRWM.

Congress should reprogram some of the funds to reconstitute the statutorily required OCRWM, and support the Nuclear Regulatory Commission's license review of Yucca Mountain. Before the Obama Administration eliminated the OCRWM, the office was responsible for overseeing the DOE's activities for storage of nuclear waste from commercial nuclear power plants. In particular, the OCRWM managed the permit application for a deep geologic repository at Yucca Mountain. Despite the Obama Administration's refusal to support the program, the 1982 Nuclear Waste Policy Act, as amended, legally mandates that the DOE carry out a licensing process for a repository at Yucca Mountain in Nevada. Regardless of the ultimate fate of Yucca Mountain, completing the review makes all of the information available for how to proceed with the geologic repository. Ultimately, the DOE should work with Congress to initiate market reforms for long-term waste management, establishing industry responsibility for managing waste, market pricing, and giving Nevadans more control over any nuclear waste facility there.

ADDITIONAL READING

- Katie Tubb, Nicolas Loris and Jack Spencer, "DOE Reset: Focus the Department of Energy on Core Missions and Decrease Distractions," Heritage Foundation *Backgrounder* No. 3196, March 2, 2017.

Eliminate the Office of Fossil Energy

RECOMMENDATION

Eliminate the Office of Fossil Energy (FE), eliminating DOE spending on all fossil-fuel-related activities and technologies.

RATIONALE

The federal government's involvement in fossil energy dates back more than a century. After the Department of Energy's creation in 1977, fossil energy programs fell under the Assistant Secretary for Energy Technology, and two years later, the fossil energy program was created with an Assistant Secretary of its own.[4] Through FE, the federal government has spent billions of dollars on fossil-fuel research and development, including funding for unconventional oil, gas, and coal exploration. FE spends money on a clean-coal power initiative, fuels and power systems to reduce fossil power plant emissions, innovations for existing plants, integrated-gasification-combined-cycle (IGCC) research, advanced turbines, carbon sequestration, and natural gas technologies. Part of the DOE's strategic plan is to bring down the cost and increase the scalability of carbon-and-capture sequestration. FE also authorizes imports and exports of natural gas and manages the government-controlled stockpile of oil, the Strategic Petroleum Reserve.

Coal, oil, and natural gas provide nearly 80 percent of America's energy needs and more than 80 percent of the world's energy needs. Each year, fossil fuel companies operating in the United States and Canada alone stand to make hundreds of billions of dollars in profits.[5] These companies can invest their own money to innovate and meet consumers' energy needs. The federal government has already wasted money attempting to commercialize carbon-capture-and-sequestration technology and should not throw good money after bad. Proponents of government funding for energy technologies argue that the DOE was integral in promoting the hydraulic fracturing (fracking) revolution in the United States.[6] Though the government assisted in the fracking boom and helped George Mitchell, the pioneer of fracking, it is a mistake to attribute the company's success to the DOE role. If anything, the money spent by the DOE was a subsidy to Mitchell Energy, a company destined for a large-scale success. As former vice president of Mitchell Energy, Dan Steward said, "George probably could have done it without the government. The government would not have done it without George."[7] No matter what role the federal government played in any company's success, it does not justify the legitimacy of the spending or future spending. The office should be eliminated.

ADDITIONAL READING

- James Jay Carafano, Jack Spencer, Bridget Mudd, and Katie Tubb, "Science Policy: Priorities and Reforms for the 45th President," Heritage Foundation *Backgrounder* No. 3128, June 13, 2016.
- Nicolas D. Loris, "Department of Energy Budget Cuts: Time to End the Hidden Green Stimuls," Heritage Foundation *Backgrounder* No. 2668, March 26, 2012.

Liquidate the Strategic Petroleum Reserve

RECOMMENDATION

Liquidate the Strategic Petroleum Reserve (SPR) and other petroleum reserves.

RATIONALE

As part of the U.S. commitment to the International Energy Agency, the federal government created the SPR through the Energy Policy and Conservation Act (EPCA) in 1975.[8] Congress initially authorized the SPR to store up to one billion barrels of petroleum products, and mandated a minimum of 150 million barrels of petroleum products.[9] The SPR, which opened in 1977, currently has the capacity for 727 million barrels of crude oil and currently holds 685 million barrels.[10]

Created in response to the Arab oil embargo and the creation of OPEC in the 1970s, the SPR has been a futile tool for responding to supply shocks. The free market is much more effective at responding to price signals. The United States is awash in natural resources and holds more crude and petroleum products in private inventory than it does under government control. Furthermore, prices play a critical role in the market by efficiently allocating resources to their highest valued use. Whether a shortage or a surplus exists, the federal government should not distort the role of price signals.

Congress should authorize the DOE to sell off the entire reserve, specifying that the revenues go solely toward deficit reduction. Congress should instruct the DOE to sell the oil held by the SPR by auctioning 10 percent of the country's previous month's total crude production until the reserve is completely depleted. The DOE should then decommission the storage space or sell it to private companies.

Similarly, Congress should also authorize the depletion of the Naval Petroleum & Oil Shale Reserves.

ADDITIONAL READING

- Nicolas D. Loris, "Why Congress Should Pull the Plug on the Strategic Petroleum Reserve," Heritage Foundation *Backgrounder* No. 3046, August 20, 2015.

Eliminate the Advanced Research Projects Agency-Energy

RECOMMENDATION

Eliminate the Advanced Research Projects Agency-Energy (ARPA-E).

RATIONALE

ARPA-E, which President George W. Bush created through the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science (COMPETES) Act in 2007,[11] spends money on high-risk, high-reward energy projects in which the private sector ostensibly would not invest on its own. ARPA-E's mission is to reduce energy imports, increase energy efficiency, or reduce energy-related emissions, including greenhouse gases. Congress allocated $400 million to ARPA-E in FY 2009 and the program has funded more than 400 projects since its initial funding. Some of the successes of the program that the DOE identifies are that it:

- Developed a 1 megawatt silicon carbide transistor the size of a fingernail;
- Engineered microbes that use hydrogen and carbon dioxide to make liquid transportation fuel; and
- Pioneered a near-isothermal compressed air energy storage system.[12]

ARPA-E has experience several problems. The purpose of ARPA-E is to fund technologies through the alleged investment valley of death where good ideas cannot secure private finance. However, the Government Accountability Office found that 18 projects previously received private-sector investment for a similar technology and 12 companies received private-sector funding prior to their ARPA-E award.[13] A DOE Inspector General (IG) report also found that taxpayer money spent under ARPA-E was used for "meetings with bankers to raise capital" and a "fee to appear on a local television show." The DOE IG noted in its report that ARPA-E cited the two tasks as allowable costs under its Technology Transfer and Outreach policy.[14]

More problematic than the flaws of the program, however, is the legitimacy of the program. ARPA-E is not a legitimate function of the federal government. The number of investment opportunities is broad and expansive, but the capital to finance them is not. This requires that choices be made among the different investments. Whether a technology ultimately fails or succeeds, it is not the role of the federal government to skew those decisions through programs like ARPA-E. Good investment ideas will overcome the investment valley of death through private financing. ARPA-E should be eliminated.

ADDITIONAL READING

- James Jay Carafano, Jack Spencer, Bridget Mudd, and Katie Tubb, "Science Policy: Priorities and Reforms for the 45th President," Heritage Foundation *Backgrounder* No. 3128, June 13, 2016.
- Nicolas D. Loris, "Department of Energy Budget Cuts: Time to End the Hidden Green Stimulus," Heritage Foundation *Backgrounder* No. 2668, March 26, 2012.

Eliminate the DOE Loan Programs Office

RECOMMENDATION

Eliminate the Loan Programs Office and transfer existing loan management and oversight to private banks.

RATIONALE

The DOE has a loan portfolio that includes Sections 1703 and 1705 of the Loan Guarantee Program[15] and the Advanced Technology Vehicles Manufacturing (ATVM) loan program. The 1703 loan guarantee, created under the Energy Policy Act of 2005, offers taxpayer-backed loans for politically preferred sources of energy, including "biomass, hydrogen, solar, wind/hydropower, nuclear, advanced fossil energy coal, carbon sequestration practices/technologies, electricity delivery and energy reliability, alternative fuel vehicles, industrial energy efficiency projects, and pollution control equipment."[16] The ATVM program, established in Section 136 of the Energy Independence and Security Act of 2007, provides direct loans for alternative-vehicle technologies and for manufacturers to retool their factories to produce qualifying vehicles.[17]

- Several patterns and problems stand out throughout the portfolio, which are discussed in more detail following the review of each project. When analyzing all of the projects, the following themes are pervasive:
- Failed companies that could not survive even with the federal government's help.
- Projects labeled as success stories but are still in the infancy of their operation. It is too early to tell if they will succeed in the long run.
- Projects that have the backing of companies with large market capitalizations and substantial private investors. These companies should have no trouble financing a project without government-backed loans if they believe it is worth the investment.
- Private investors hedging their bets and congregating toward public money. These projects appear on the surface to be financial losers, but government involvement entices companies to take a chance on them.
- Companies and projects that benefit from a plethora of federal, state, and local policies that push renewable energy.
- Government incompetence in administering and overseeing the loans.

Eliminating the Loan Programs Office would revoke any existing ability to administer government-backed loans or loan guarantees. Congress should empower the Secretary to auction the servicing rights of existing loans and loan guarantees to private banks.

ADDITIONAL READING

- Nicolas D. Loris, "Examining the Department of Energy's Loan Portfolio," testimony before the Subcommittee on Energy and Subcommittee on Oversight, Committee on Science, Space and Technology, U.S. House of Representatives, March 3, 2016.

Eliminate the Office of Electricity Deliverability and Reliable Energy

RECOMMENDATION

Eliminate the Office of Electricity Deliverability and Reliable Energy (OE).

RATIONALE

In 2003, the DOE created the Office of Electric Transmission and Distribution to advance and modernize America's power grid, and an Office of Energy Assurance to coordinate federal responses during energy emergencies.[18] In 2005, the DOE merged the offices and established the Office of Electricity Delivery and Energy Reliability. Under the Obama Administration, through the American Recovery and Reinvestment Act of 2009, OE spent $4.5 billion to promote electric vehicles, renewable energy, and grid modernization. OE focuses on advanced grid technology R&D, transmission permitting and assistance for states and tribes, infrastructure security, and cybersecurity R&D.

While upgrading the nation's electricity grid to enable more competition and innovation, investment should occur at private, local, state, and regional levels. OE's role is redundant with the Federal Energy Regulatory Commission (FERC), the North American Electric Reliability Corporation (NERC), regional independent system operators (ISOs), and the private sector. Rather than subsidizing advanced renewable energy resources or smart-grid technology, the federal government's role should be to reduce unnecessary regulatory burden on grid siting and upgrades. National security concerns, for example in cybersecurity or for a cooperative public–private role for grid protection, could very well fall under the Department of Homeland Security's purview. The office should be eliminated.

ADDITIONAL READING

- Steven P. Bucci, Paul Rosenzweig, and David Inserra, "A Congressional Guide: Seven Steps to U.S. Security, Prosperity, and Freedom in Cyberspace," Heritage Foundation *Backgrounder* No. 2785, April 1, 2013.
- Nicolas D. Loris, "Department of Energy Budget Cuts: Time to End the Hidden Green Stimulus," Heritage Foundation *Backgrounder* No. 2668, March 26, 2012.

Privatize the Power Marketing Administrations and the Tennessee Valley Authority

RECOMMENDATION

The federal government should not be in the business of managing and selling power. The Trump Administration should state that the missions of the four power marketing administrations (PMAs) and the Tennessee Valley Authority (TVA) have been completed, and propose legislation to Congress for the sale of PMA power-generation assets and the TVA to the private sector. It should also end appropriations to the PMAs and any new borrowing privileges from the Treasury Department.

The DOE should prepare legislation for transmittal to Congress to achieve the sale and begin collecting information on each PMA needed for prospective bidders.

RATIONALE

The four PMAs—(1) the Southeastern Power Administration, (2) the Southwestern Power Administration, (3) the Western Area Power Administration, and (4) the Bonneville Power Administration—and the TVA, a federal corporation, were intended to provide cheap electricity to rural areas, development in economically depressed regions, and to pay off federal irrigation and dam construction. They operate electricity generation, reservoirs, land, waterways, and locks. They sell deeply subsidized power to municipal utilities and cooperatives in their regions that include the Southeast and West.

Three of the four PMAs are funded annually by appropriations to the Department of Energy; the Bonneville Power Administration and TVA are self-financed. The PMAs use revenues generated from electricity sales to reimburse construction and operation costs financed and subsidized by taxpayers through DOE appropriations and Treasury loans at below-market interest rates. They also are exempt from federal and state taxes and many other federal regulations, including antitrust and labor regulations.

The four PMAs and TVA are outmoded forms of providing rural areas with electricity. First, their mission has more than been completed. The PMAs now supply power to areas like Los Angeles, Vail, and Las Vegas, and the region serviced by the TVA has long been economically competitive with neighboring states since the Great Depression when the TVA was conceived.

Second, electric power generation and distribution is a private-sector function and has been for decades. The federal government should not be in the business of generating and distributing electric power and in the process providing subsidized power to politically favored groups at the cost of U.S. taxpayers.

Third, political management has had unintended economic and environmental consequences. Subsidized loans from the Treasury Department, and tax exemption privileges, have interfered with market competition. The PMAs' funding mechanism also provides little or no incentive to innovate, as investments must be justified to and financed by the government. In the case of the TVA, lack of effective oversight from either the private sector or government has resulted in costly decisions, environmental damage, excessive expenses, high electricity rates, and growing liabilities for all U.S. taxpayers.[19] It has not reduced its taxpayer-backed debt despite three major debt-reduction efforts in recent history.

The Reagan and Clinton Administrations attempted to divest the PMAs, and the Clinton Administration was successful in privatizing the Alaska Power Administration. Its FY 1996 budget request recommended privatizing all but Bonneville, with expected proceeds of $3.7 billion,[20] and proposed legislation for privatizing Southeastern in FY 1997, and Southwestern and Western Area in FY 1998. A November 1997 Congressional Budget Office report valued them at $23 billion to $31 billion.[21]

ADDITIONAL READING

- Ken G. Glozer, "Time for the Sun to Set on the Tennessee Valley Authority," Heritage Foundation *Backgrounder* No. 2904, May 6, 2014.

Privatize the Energy Information Administration

RECOMMENDATION

Congress should privatize the Energy Information Administration (EIA).

RATIONALE

The EIA is a relic of policies responding to the 1970s energy crisis.[22] It collects and publishes data on energy sources and trends "to promote sound policymaking, efficient markets, and public understanding of energy and its interaction with the economy and the environment." The EIA provides information on the sources and uses of energy technologies, market trends and forecasts, short-term and annual energy outlooks, production and consumption trends, environmental data, state-level data, and international data.

The EIA provides quality data on energy markets, but that does not need to be a function of the federal government. Members of Congress do not need information on energy market trends to create sound policy. In fact, the federal government should have a minimal, if any, role in energy markets. Further, information has value. Investors who need this information can and do obtain it from private parties. Should the federal government need information on energy markets, it can pay for it as well.

ADDITIONAL READING

- The Heritage Foundation, *Blueprint for Reform: A Comprehensive Policy Agenda for a New Administration in 2017*, July 14, 2016, pp. 50 and 51.

End Executive Branch Use of the "Social Cost of Carbon" Metrics

RECOMMENDATION

To improve the accountability and accuracy of agency regulatory impact analyses, all executive branch departments and agencies should cease use of social cost of carbon (SCC) metrics and revisit existing regulations that employed them. This is consistent with the President's executive order dated January 27, 2017.

RATIONALE

In response to a 2008 federal court decision, agencies began incorporating the social cost of greenhouse gases in regulatory cost-benefit analyses.[23] So-called social costs of carbon dioxide, methane, and nitrous oxides attempt to assign a dollar value to emissions as an alleged cost to society, on the premise that emissions exacerbate dangerous amounts of global warming over the next 300 years.[24] These metrics amplify the benefits of regulations that decrease greenhouse gas (GHG) emissions and the costs of government actions that increase emissions. The DOE has used SCC in regulations more than any other federal agency, particularly in setting energy-efficiency regulations, but SCC and GHG metrics are also employed by the Environmental Protection Agency and the Departments of Agriculture, Housing and Urban Development, the Interior, and Transportation.[25]

Wildly different estimates for these metrics result from minor adjustments to the underlying models. For example, using the Office of Management and Budget recommended discount rate of 7 percent and more recent equilibrium climate-sensitivity distributions[26] can yield negative values for these metrics, indicating that emissions are a net *benefit* to society.[27] Because the underlying modeling assumptions of these metrics are arbitrary and employ outdated climate data, using these metrics miscommunicates projected costs and benefits of regulations and other government actions.

ADDITIONAL READING

- Kevin D. Dayaratna, "An Analysis of the Obama Administration's Social Cost of Carbon," testimony before the Committee on Natural Resources, U.S. House of Representatives, July 23, 2015.
- Kevin D. Dayaratna and Nicolas D. Loris, "Rolling the DICE on Environmental Regulations: A Close Look at the Social Cost of Methane and Nitrous Oxide," Heritage Foundation *Backgrounder* No. 3184, January 19, 2017.

Eliminate the Office of Energy Efficiency and Renewable Energy

RECOMMENDATION

Eliminate the Office of Energy Efficiency and Renewable Energy (EERE), considering the mission of all research, development, and demonstration programs to be completed. Until Congress reforms the Energy Conservation and Production Act, such as proposed in the Energy Efficiency Free Market Act,[28] the DOE should meet the minimum requirements of the law while refraining from tightening existing efficiency standards or creating testing procedures or standards for additional ones.

RATIONALE

The DOE's EERE houses research, development, and demonstration programs for hydrogen technology, wind energy, solar energy, biofuels and bio-refineries, geothermal power, advanced manufacturing, vehicle technology, and building and weatherization technologies. It further collaborates with the private sector to inform energy-efficiency provisions in building codes and implements the Energy Policy and Conservation Act of 1975.

These functions are redundant with activities by and information from the private sector and states. The federal government should have no role in energy efficiency outside the scope of improving the efficiency of federal facilities.[29] Efficiency regulations take away consumer choice by prioritizing the DOE's definition of energy efficiency over other preferences of customers and businesses, such as safety, size, convenience, and durability. They also ignore and undermine the natural incentive of customers and businesses to move toward efficiency. Thanks to advances in technology, Americans have become almost 60 percent more energy efficient over the past half century.[30]

Further, most of the technologies in which EERE is engaged have existed for decades, and market opportunities for clean-energy investments abound in the United States and abroad. DOE interference in renewable technology commercialization or energy markets directs private-sector investment toward politically preferred technologies, potentially narrowing the scope of innovation.[31] These programs also harm the long-term health of the very industries the government intends to help by propping up companies and technologies that are less competitive, and rewarding political connections rather than innovation.[32]

Government funding for commercial energy technology research, development, and demonstration was never appropriate and is now even less necessary. Many of the programs initiated under EERE were developed under the premise that the U.S. lacked domestic supplies of energy resources. The Solar Energy Research, Development, and Demonstration Act of 1974 was intended to address a perceived extreme shortage in domestic energy supplies and investment in solar technology with $1 billion from the federal government.[33] This work should be considered accomplished.

Regardless of any energy shortage in 1974, that certainly does not accurately describe energy markets today: America is experiencing an energy revolution in traditional fuels, there are over 9,000 solar companies in the U.S.,[34] and U.S. renewable energy infrastructure investments totaled $59 billion in 2016.[35] Adequate funding also exists for science and technology R&D. According to the National Science Foundation, the business sector funded $297.3 billion in research and development in science and technology, or 65 percent of the total $456.1 billion spent in 2013.[36]

Rather than a value statement on the merit of renewable energy technologies, closing out EERE activities is a recognition of the appropriate roles of the federal government, states, and the private sector. Doing so will also enable the DOE to better focus on what ought to be its central focus—maintaining the nuclear weapons complex and nuclear clean-up.[37]

ADDITIONAL READING

- James Jay Carafano, Jack Spencer, Bridget Mudd, and Katie Tubb, "Science Policy: Priorities and Reforms for the 45th President," Heritage Foundation *Backgrounder* No. 3128, June 13, 2016.
- Nicolas D. Loris, "Department of Energy Budget Cuts: Time to End the Hidden Green Stimulus," Heritage Foundation *Backgrounder* No. 2668, March 26, 2012.
- Nicolas D. Loris, "Examining the Department of Energy's Loan Portfolio," testimony before the Subcommittees on Energy and Oversight, Committee on Science, Space, and Technology, U.S. House of Representatives, March 3, 2016.

Focus National Nuclear Security Administration Spending on Weapons Programs

RECOMMENDATION

The Administration should halt growth in DOE National Nuclear Security Administration (NNSA) programs that do not directly contribute to advancing the country's nuclear weapons programs. The primary goal of the NNSA must be to prioritize funding that keeps the U.S. nuclear weapon stockpile safe, secure, and reliable.

RATIONALE

The DOE is responsible for the Navy's nuclear reactors program and the weapons activities program. Nuclear warheads themselves are operated by the Defense Department. Each year, the DOE is allotted roughly between $16 billion and $17 billion to fund defense-related activities. This figure, however, includes funding for activities that do not directly contribute to the maintenance of the U.S. nuclear weapon stockpile but rather advance nonproliferation and arms control objectives, thus inflating the true cost of U.S. nuclear warhead-related activities. Instead of prioritizing activities related to creating conditions for a world without nuclear weapons—the previous Administration's misguided priority—the Trump Administration ought to emphasize programs that are directly related to U.S. nuclear warheads and disentangle them from other activities.

ADDITIONAL READING

- Michaela Dodge, "The Trump Administration's Nuclear Weapons Policy: First Steps," Heritage Foundation *Issue Brief* No. 4634, November 30, 2016.
- Michaela Dodge and Baker Spring, "Bait and Switch on Nuclear Modernization Must Stop," Heritage Foundation *Backgrounder* No. 2755, January 4, 2013.

ENDNOTES

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Environmental Protection Agency

Initiate Reorganization of the Environmental Protection Agency

RECOMMENDATION

The budget of the Environmental Protection Agency (EPA) is small relative to total federal spending, but its regulatory actions have enormous consequences, including the erosion of individual liberty and tremendous costs to the economy. Extensive reforms are needed to return the agency to a proper limited role. The following changes would constitute incremental progress toward that goal:

- Eliminate the Office of Public Engagement and Environmental Education, which is largely focused on generating agency propaganda;
- End the EPA's control of state funds for implementing regulatory dictates and to support environmental advocacy groups;
- Defund all agency activities related to the Renewable Fuel Standard, which constitutes a subsidy for the production and consumption of ethanol and other biofuels;[1]
- Close the EPA's 10 regional offices that micromanage states' environmental policies;
- Devolve to states all authority to manage Superfund cleanups; and
- Devolve to states all authority for implementation and enforcement of the Safe Drinking Water Act.

RATIONALE

The environment shows vast improvement by nearly every objective measure,[2] making the environmental statutes crafted 40 years ago largely obsolete. Reforms are needed that reflect today's cleaner conditions and technological innovations, and that account for the regulatory experience of the past four decades.

A major part of the problem with current policy is the centralization of regulatory power in Washington. But federal bureaucrats hardly possess sufficient information and expertise to impose controls on hundreds, if not thousands, of dissimilar locations across the 50 states.

Regulatory goals are often based on politics, not empiricism. Moreover, the EPA often fails to properly perform scientific analyses before imposing rules, and many of the analyses that are conducted are biased toward regulation. The agency has been thoroughly captured by environmental activists, politicians, and corporate interests.

OPEE. The EPA's Office of Public Engagement and Environmental Education (OPEE) produces curriculum and training materials that are highly politicized and contradict scientific principles. The Government Accountability Office determined that the agency engaged in covert propaganda and violated federal anti-lobbying prohibitions with respect to its "waters of the United States" rulemaking.[3]

The office is also mismanaged: A report by the agency's Office of Inspector General concluded that the "OEE is significantly impaired in its ability to provide evidence of program results and benefits, manage the program to achieve results, or spot waste and abuse."[4]

Categorical Grants and Regional Offices. Many of America's environmental statutes were based on the principle of cooperative federalism, that is, shared responsibility between the federal government and the states. Over time, however, an excess of judicial deference and congressional delegation of lawmaking powers has turned the EPA from collaborator to dictator—including its control of billions of dollars in "categorical grants" doled out to states and special interests to carry out the agency's bidding.

The extent to which the EPA has abandoned any pretext of federalism is evident in its deep reach into local affairs, such as school curricula, and programs to "enhance the livability and economic vitality of neighborhoods" and "promote more sustainable, healthier communities."[5]

States are better equipped to customize policies for local conditions, and land owners have greater incentives than the government to protect private property. Both groups can act regionally when there are cross-border components to environmental issues. There is no need for the EPA's 10 regional offices, which interfere with state conservation activities and expose citizens to regulatory redundancy.

A less-centralized regime would mean more direct accountability—taxpayers would have an easier time identifying the officials responsible for environmental policies, and the people making those regulatory decisions would have to live with the consequences. Property owners would be held accountable through common law.

Renewable Fuel Standard. Congress created the Renewable Fuel Standard to force refiners to blend gasoline with corn-based ethanol. Because of the artificial demand for corn and other biofuel "feedstocks," farmers devoted evermore acres to biofuel crops. The consequent reduction in U.S. supplies of soybeans and other displaced crops propelled commodity prices.

Biofuel mania is hardly environmentally benign. Researchers have documented the fact that the cultivation of corn for ethanol and other biofuel feed stocks substantially increases emissions of the greenhouse gases that are supposedly causing climate change. (The excess emissions result from land conversions that are driven by demand for corn and other crops used to produce "renewable" fuels.) The National Academy of Sciences has reported that ethanol production is draining water supplies, while the boom in corn and other feed-stock production fosters soil erosion and fertilizer runoff.[6]

The EPA has not complied with the requirement to report to Congress every three years on the impacts of biofuels.[7] Nor has the agency fulfilled anti-backsliding requirements to analyze and address any negative air-quality impacts of the RFS.[8]

Superfund. The Superfund program for cleaning and redeveloping contaminated and hazardous waste sites is inefficient and ineffective.[9] Funds are consumed by environmental studies, compliance with handbooks, regulations and guidance, and lawsuits. From FY 1999 through FY 2013, the total number of nonfederal sites on the National Priorities List remained relatively constant, while the number of completions declined. Funding for the programs should be eliminated, and responsibility for program functions should be shifted to the states. The EPA has had more than 35 years to perfect the program, and it has failed.

Safe Drinking Water Act. The EPA has failed to keep America's drinking water safe—one of its primary functions. For example, the agency had the authority, and sufficient information, to issue an emergency order to protect residents in Flint, Michigan, from lead-contaminated water a full year before the agency took action.[10] The EPA's Office of Inspector General also documented inconsistencies in the agency's adherence to enforcement policies; only three of 20 enforcement orders reviewed by the Inspector General met the timeliness standard, and few cases were escalated by the EPA or state when noncompliance persisted.[11]

ADDITIONAL READING

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- The Heritage Foundation, *Blueprint for Reform: A Comprehensive Policy Agenda for a New Administration in 2017*, July 14, 2016.
- Diane Katz, "An Environmental Policy Primer for the Next President," Heritage Foundation *Backgrounder* No. 3079, December 14, 2015.

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1. Nicholas Loris, "Examining the Renewable Fuel Standard," testimony before the Subcommittee on the Interior and the Subcommittee on Healthcare, Benefits, and Administrative Rules, Committee on Oversight and Government Reform, U.S. House of Representatives, March 16, 2016, http://www.heritage.org/testimony/examining-the-renewable-fuel-standard.
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3. Government Accountability Office, "Environmental Protection Agency—Application of Publicity or Propaganda and Anti-Lobbying Provisions," December 14, 2015, http://www.gao.gov/assets/680/674163.pdf (accessed May 31, 2017).
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6. National Academies of Sciences, "Increase in Ethanol Production from Corn Could Significantly Impact Water Quality and Availability If New Practices and Techniques Are Not Employed," October 10, 2007, http://www8.nationalacademies.org/onpinews/newsitem.aspx?RecordID=12039 (accessed May 31, 2017).
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9. Environmental Protection Agency Office of Inspector General, "EPA's Financial Oversight of Superfund State Contracts Needs Improvement," June 27, 2016, https://www.epa.gov/sites/production/files/2016-06/documents/20160627-16-p-0217_glance.pdf (accessed May 31, 2017).
10. Environmental Protection Agency Office of Inspector General, "FY 2017 EPA Management Challenges, May 18, 2016," https://www.eenews.net/assets/2017/05/18/document_gw_07.pdf (accessed May 31, 2017).
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Department of Health and Human Services

Sunset Head Start to Make Way for State, Local, and Private Alternatives

RECOMMENDATION

Congress should reduce funding for Head Start by 10 percent in fiscal year (FY) 2019, and by an additional 10 percent every year thereafter until the program is sunset in 2028.

RATIONALE

In addition to its questionable status as a function of the federal government under the Constitution, the federal Head Start program has failed to live up to its stated mission of improving kindergarten readiness for children from low-income families. In December 2012, the Department of Health and Human Services (HHS), the agency that administers Head Start, released a scientifically rigorous evaluation of more than 5,000 children participating in the program. It found that Head Start had little to no impact on the cognitive skills, social-emotional well-being, health, or parenting practices of participants. Low-income families should not have to depend on distant, ineffective federal preschool programs.

As such, Congress should sunset the federal Head Start program over a period of 10 years. The sunset provision will provide states with adequate time to determine whether they need to provide additional state funding to subsidize day care for low-income families. To begin phasing out the program, Congress should reduce Head Start funding by 10 percent in FY 2019, completely restoring revenue responsibility for the program to the states within 10 years.

ADDITIONAL READING

- Lindsey M. Burke and David B. Muhlhausen, "Head Start Impact Evaluation Report Finally Released," Heritage Foundation *Issue Brief* No. 3823, January 10, 2013
- David B. Muhlhausen, "The Head Start CARES Demonstration: Another Failed Federal Early Childhood Education Program," Heritage Foundation *Backgrounder* No. 3040, August 6, 2015.
- David B. Muhlhausen, "Head Start Program: Fraudulent and Ineffective," Heritage Foundation *WebMemo* No. 2919, May 28, 2010.

Medicare Reform: Slow Down the Rate of Spending and Preserve the Program for Future Retirees

RECOMMENDATION

Undertaking a comprehensive reform of Medicare is a major policy challenge. Meeting that challenge is a national necessity. It will require the President, working with Congress, to adopt and carefully implement several inter-related policy recommendations:

- **Unify Medicare Part A and Part B.** The Medicare program is divided into four programs: Part A (hospitalization); Part B (physician services); Part C (comprehensive private Medicare plans); and Part D (prescription drug coverage). Congress should combine Medicare Part A and Part B into a single plan and streamline Medicare's cost sharing with one premium, one deductible, uniform cost sharing, and add a catastrophic limit. This would remove Medicare's outdated silo structure and provide seniors with a more coherent program that integrates both hospital and physician services, reduces its array of confusing cost-sharing requirements, and secures protection against the financial devastation of catastrophic illness.
- **Gradually raise the standard age of Medicare eligibility.** The average life expectancy has increased greatly since Medicare was created in 1965, but the program's age of eligibility (age 65) has remained the same. Congress should gradually increase the age of eligibility to 68 years of age and then index it to life expectancy. This change better reflects today's life expectancy, and better aligns Medicare eligibility with Social Security eligibility.
- **Gradually increase Medicare enrollee premiums based on income.** Medicare Parts B and D are voluntary programs, and they are financed by beneficiary premiums and taxpayer subsidies drawn from the Treasury. For the vast majority of Medicare enrollees, these taxpayer subsidies for Parts B and D premiums amount to 75 percent of their total Part B and Part D premiums. Under current law, wealthy Medicare recipients are required to pay more for these Medicare benefits: Single individuals with an annual income of $85,000 and couples with an annual income of $170,000 are thus required to pay higher premiums for physician and outpatient services and drugs.[1] About 6 percent of the total Medicare population thus receives fewer taxpayer subsidies for their Parts B and D benefits. Congress should expand the income thresholds for these premium subsidies so that approximately 10 percent of the total Medicare population would pay higher income- related premiums. Medicare premiums should increase gradually with incremental increases in annual income. This would ensure that limited taxpayer resources are distributed more evenly based on income, and would target subsidies to those who need them most.
- **Allow private contracting in Medicare.** In 1997, Congress, working with the Clinton Administration, imposed an unprecedented restriction on the right of doctors and patients to privately contract for medical services outside the Medicare program. Congress should eliminate the statutory and regulatory restrictions or penalties on the right and ability of Medicare enrollees and their physicians to contract privately outside the Medicare program for Medicare-covered services. Restoration of this freedom would improve seniors' access to medical care.
- **Allow specialty hospitals to participate in Medicare.** Under the Affordable Care Act of 2010, Congress restricted payment to emerging specialty hospitals, even though they had an outstanding record of performance in delivering highly specialized quality care. Congress should eliminate statutory restrictions on Medicare payment to specialty hospitals, including physician-owned hospitals. Eliminating these barriers would intensify much-needed competition in the hospital sector and stimulate innovation in the delivery of high-quality care to seniors.

RATIONALE

All Americans ages 65 and older who have paid into Social Security, as well as some Americans classified as disabled, are entitled to enroll in Medicare, the giant government health program for senior and disabled citizens. Medicare spending will rise from an estimated $716.8 billion in 2017 to almost $1.3 trillion by 2025.[2] Yet its long-term unfunded obligations—the benefits promised but not paid for out of dedicated revenues over the next 75 years—range from $32.4 trillion to $43.5 trillion, depending upon the assumptions used; in other words, an enormous programmatic debt.[3]

Meanwhile, Medicare spending growth will outpace that of all other health care programs, as well as inflation and the general economy. At the same time, a rapidly aging population will require more intensive medical services, and the quality and efficiency of care delivery will be of paramount concern.

The rapid aging of the American population is the main driver of rising Medicare spending. Members of the baby boom generation—the 77 million Americans born between 1946 and 1964— are retiring at the rate of roughly 10,000 per day. While there are roughly 58 million persons enrolled in Medicare today, by 2030, approximately 81 million will be enrolled in the program.[4] The President and Congress must cope with Medicare's rising spending, which threatens the fiscal welfare of the country, as well as preserve the program for current and future generations. To accomplish these goals, Congress, working with the President, should take the steps detailed above to change federal law.

Medicare Advantage Reform: Expand Premium Support Financing

RECOMMENDATION

Replace the Medicare Advantage payment system with a new market-based payment system. Congress should replace the current Medicare Advantage (Part C) payment system with a new benchmark based on regional market-based bids from competing private health plans to provide traditional Medicare benefits.

Extend the new Medicare Advantage payment system to all of Medicare. Under this new defined contribution ("premium support") system, a beneficiary who chose a plan that was more expensive than the market-based benchmark would pay the difference. If a beneficiary chose a less expensive plan, he or she would receive the difference in a cash rebate that could be used to offset other health costs.

RATIONALE

Medicare Advantage (Medicare Part C) is a large and growing system of competing private health plans, with comprehensive benefits and protection from catastrophic illness. Financed on a defined contribution basis, it is an alternative to enrollment in traditional Medicare, sometimes called Medicare Fee for Service (FFS). Between 2006 and 2016, enrollment in these private Medicare plans jumped from 6.9 million to 17.2 million beneficiaries, 31 percent of all Medicare enrollees.[5] Both the Congressional Budget Office and the Medicare Trustees project Medicare Advantage to continue to grow. Nonetheless, the program's payment system is not as economically as efficient as it could be. The reason: Government payment to these plans is still tied to the relatively inflexible administrative payment system of traditional Medicare instead of being based on pure market competition among these plans. Extending a defined contribution payment system to all of Medicare would intensify competition among plans and providers, spur innovation in care delivery, and control costs.

ADDITIONAL READING

- Walton Francis, *Putting Medicare Consumers in Charge: Lessons from the FEHBP* (Washington, DC: AEI Press, 2009).
- Robert E. Moffit, "Medicare's Next 50 Years; Preserving the Program for Future Retirees," Heritage Foundation *Special Report* No. 185, July 29, 2016.

Eliminate the Teen Pregnancy Prevention Grants

RECOMMENDATION

Congress should eliminate funding for the Teen Pregnancy Prevention (TPP) grants.

RATIONALE

HHS's Office of Adolescent Health operates Teen Pregnancy Prevention (TPP) grants. TPP is an "evidence-based" grant program that rigorously evaluates the effectiveness of the programs it funds.

TPP has two funding streams: Tier I and Tier II grants. According to HHS, Tier I grants are awarded to grantees replicating programs that "have been shown, in at least one program evaluation, to have a positive impact on preventing teen pregnancies, sexually transmitted infections, or sexual risk behaviors."[6] Thus, Tier I grants are supposed to be evidence-based. The belief is that these grants will be effective because they are replicating programs labeled evidence-based. Is this assumption correct?

Each of the Tier I grantees is supposed to evaluate the impact of the evidence-based model it is replicating. So far, from 2015 to May 2017, 13 experimental evaluations of nine evidence-based models have been published by HHS or in the *American Journal of Public Health*.[7] Overwhelmingly, these evaluations demonstrated that replicating evidence-based models failed to affect the sexual behavior of participants. Clearly, replicating an evidenced-based program model does not guarantee similar results.

The reason for this failure may be the inconsistent evidence used to label the program models as evidence-based. For example, HHS used contradictory evidence of the effectiveness of the Becoming a Responsible Teen (BART) program to label this model evidence-based. Of the three randomized experiments that were classified with a "high ranking" for scientific rigor, two of the studies found the model to be ineffective.[8] How can the body of research on BART that leans strongly toward the program being ineffective be used to promote it as an evidence-based model?

Just because an evidence-based program appears to have worked in one location, does not mean that the program can be effectively implemented on a larger scale or in a different location. Proponents of evidence-based policymaking should not automatically assume that pumping taxpayer dollars toward programs attempting to replicate previously successful findings will yield the same results.

The other set of TPP grants (Tier II) fund demonstration programs that do not meet HHS's evidence-based definition, but are considered by HHS to be innovative programs worthy of funding. The majority of experimental evaluations of the Tier II grants find more failures than benefits.

ADDITIONAL READING

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- David B. Muhlhausen, "Evidence-Based Fiscal Discipline: The Case for PART 2.0," Heritage Foundation *Backgrounder* No. 3158, September 27, 2016.
- U.S. Department of Health and Human Services, Office of Adolescent Health, "Grantees FY 2010–2014."

Transfer Low-Income Housing Assistance to the States and Relevant Departments

RECOMMENDATION

In order to better coordinate services, the President and Congress should eliminate the major functions or transfer responsibility of the major subsidized-housing assistance programs from the Department of Housing and Urban Development (HUD) to the state governments and the Departments of Health and Human Services (HHS), Veterans Affairs (VA), and the Interior. Specifically:

1. **Transfer financial responsibility to the states for subsidized housing programs that support the non-elderly:** the Housing Choice Voucher Program ("Section 8 vouchers"); the Project-Based Voucher Program; the Public Housing Capital Fund; the Public Housing Operating Fund; Choice Neighborhoods; HOPE VI; the Family Self-Sufficiency Program; Homeownership Voucher Program; Public Housing Homeownership (Section 32); the Section 8 Moderate Rehabilitation Program; the Public Housing/ Section 8 Moving to Work Demonstration Program; the Neighborhood Networks Program; the Resident Opportunity and Self-Sufficiency program; and the HOME Investment Partnerships program;
2. **Eliminate or transfer to the Department of the Interior Native American housing programs:** the Tribal Housing Activities Loan Guarantee program (Title VI); the Indian Community Development Block Grant program; the Indian Housing Block Grant program; Loan Guarantees for Indian Housing (Section 184); Loan Guarantees for Native Hawaiian Housing (Section 184A); and the Native Hawaiian Housing Block Grant program;
3. **Transfer to HHS programs for homeless assistance and Housing Opportunities for Persons with AIDS;** and
4. **Transfer to the VA the HUD-Veterans Affairs Supportive Housing Vouchers,** a veteran's assistance program that operates in conjunction with the Housing Choice Voucher program.

RATIONALE

Transferring programs and functions to the appropriate responsible agency can help people who need housing by better coordinating services while reducing duplication of services.

Eliminating offices such as the Federal Housing Authority is appropriate because they have had minimal impact on homeownership rates in return for substantial costs to the taxpayer.

Returning financial responsibility for subsidized housing programs to the states is appropriate because housing needs, availability, and costs vary significantly across states and localities, as do the levels of needed and available assistance. Instead of primarily federally funded programs that often provide substantial benefits for some while leaving others in similar circumstances with nothing, the federal government should begin transferring the responsibility for both the administration and costs of low-income housing programs to the states. States are better equipped to assess and meet the needs of their populations, given their unique economic climates and housing situations. With the fiscal responsibility of paying for their housing programs, states will have the incentive to run them much more efficiently and effectively.

Eliminate the Community Development Block Grant

RECOMMENDATION

Congress should eliminate the Community Development Block Grant (CDBG), which provides money to state and local governments for low-income housing, infrastructure development, public services, and other activities.

RATIONALE

This program has been in place since 1974 and has cost taxpayers more than $100 billion during the course of its lifetime. The CDBG is not well-targeted to low-income communities, and due to a lack of transparency in the data, it is difficult to assess whether the program is meeting its stated goals of, among others, creating jobs for low-income individuals and eliminating "slums and blight."

ENDNOTES

1. For a more detailed description of this proposal, see Robert E. Moffit, "Medicare's Next 50 Years: Preserving the Program for Future Retirees," Heritage Foundation *Special Report* No. 185, July 29, 2016, p. 22, http://www.heritage.org/health-care-reform/report/medicares-next-50-years-preserving-the-program-future-retirees.
2. Centers for Medicare and Medicaid Services, *2016 Annual Report of the Boards of Trustees of the Federal Hospital Insurance and Federal Supplementary Medicare Insurance Trust Funds*, June 22, 2016, https://www.cms.goviresearch-statistics-data-and-systems/statistics-trends-and-rgportstreportstrustfundgdownloadsitr2016.pdf (accessed May 31, 2017).
3. For a discussion of Medicare's long-term obligations over the years, see Moffit, "Medicare's Next 50 Years," p. 11.
4. Ibid., p. 3.
5. Medicare Payment Advisory Committee, *A Data Book: Health Care Spending and the Medicare Program* (Washington, DC: MedPac, June 2016), p. 131, http://www.medpac.govidocsidefault-source/data-bookhune-2016-data-book-health-care-spending-and-the-medicare-program.pdf (accessed May 31, 2017).
6. U.S. Department of Health and Human Services, Office of Adolescent Health, "Evidence-Based TPP Programs," http://www.hhs.gov/ash/oah/oah-initiatives/tpp_program/db/ (accessed July 22, 2016).
7. U.S. Department of Health and Human Services, Office of Adolescent Health, "Grantees FY 2010–2014," http://www.hhs.gov/ash/oah/oah-initiatives/evaluation/grantee-led-evaluation/grantees-2010-2014.html (accessed September 26, 2016), and "Building the Evidence to Prevent Adolescent Pregnancy: Office of Adolescent Health Impact Studies (2010–2014)," *American Journal of Public Health*, Vol. 106, No. S1 (September 2016).
8. The two studies that found BART to be ineffective are Angela R. Robertson et al., "The Healthy Teen Girls Project: Comparison of Health Education and STD Risk Reduction Intervention for Incarcerated Adolescents Females," *Health Education & Behavior*, Vol. 38, No. 3 (2011), pp. 241–250, and Janet S. St. Lawrence et al., "Sexual Risk Reduction and Anger Management Interventions for Incarcerated Male Adolescents: A Randomized Controlled Trial of Two Interventions," *Journal of Sex Education and Therapy*, Vol. 24, No. 1–2 (1999), pp. 9–17. The study that found at least one beneficial effect is Janet S. St. Lawrence et al., "Cognitive-Behavioral Intervention to Reduce African American Adolescents' Risks for HIV Infection," *Journal of Consulting and Clinical Psychology*, Vol. 63, No. 2 (1995), pp. 221–237.

Department of Homeland Security

Empower Department of Homeland Security Management and Streamline Congressional Oversight

RECOMMENDATION

Empower Department of Homeland Security (DHS) Management. DHS managers should be empowered to ensure that department-level directives and unity of action are accomplished. Secretary John Kelly should provide more authority to centralized service components, such as the General Counsel, the Chief Financial Officer, the Chief Procurement Officer, the Office of Policy, and International Affairs, over their respective component offices. Re-organization is not enough—the Secretary must give his personal support to these offices.

Streamline Congressional Oversight of DHS. Oversight of DHS should resemble that of the Departments of Justice and Defense, being comprised of one primary homeland security committee in the House, and one in the Senate, with some additional oversight by the Intelligence Committees and a homeland security appropriations subcommittee in both chambers.

RATIONALE

DHS's organizational cohesiveness and central leadership continue to face serious challenges that include financial management, acquisitions, information technology, planning, and budgeting. The Obama Administration attempted to remedy some of these problems through its Unity of Effort initiative to make the department work as a more cohesive whole, but much more remains to be done. For DHS to become a cohesive organization, core functions such as international affairs, financial management, information and technology policies, and legal counsel must be primarily handled by DHS headquarters rather than by each DHS component. Such reorganization should not exclude component heads from exercising their authority, but rather should ensure that department-level directives and procedures are followed. Another good step would be completing the headquarters campus in Washington, DC, a project for which President Obama requested and Congress provided additional funding in FY 2016. With a history of cost overruns, DHS should ensure that this and future funding is well spent.

Beyond this, additional measures need to be taken by Congress to improve the authority of DHS's central leadership. This includes reforming congressional oversight of DHS. Labyrinthine layers of congressional oversight are consuming the department's time and resources, and there is bipartisan agreement among former and current DHS officials, think tanks, and the 9/11 Commission that this system of congressional oversight is harming security. It is time for parochial interests and battles over jurisdiction to give way to commonsense oversight and security.

ADDITIONAL READING

- David Inserra, "Congress Must Re-Set Department of Homeland Security Priorities: American Lives Depend on It," Heritage Foundation *Special Report* No. 175, January 3, 2017.
- Paul Rosenzweig, Steven Bucci, and David Inserra, "Reforming DHS: Missed Opportunity Calls for Congress to Intervene," Heritage Foundation *Issue Brief* No. 4336, January 26, 2015.
- Jessica Zuckerman, "Politics Over Security: Homeland Security Congressional Oversight in Dire Need of Reform," Heritage Foundation *Issue Brief* No. 3722, September 10, 2012.

Streamline Federal Emergency Management Agency Disaster Management

RECOMMENDATION

Return More Responsibility for Disasters to State and Local Governments. The Federal Emergency Management Agency (FEMA) has the authority to reduce FMEA's involvement in small disasters by increasing the threshold for federal aid to $3 per capita in damages with a $5 million minimum threshold (under which a federal disaster is never declared) and a $50 million maximum threshold (over which a disaster declaration is always issued). Alternatively, a deductible idea currently being considered by FEMA could accomplish a similar outcome.

Reduce the Disaster Cost Share for Smaller Disasters. Congress should change the cost-share arrangement so that the federal government would only cover 25 percent of the costs for small disasters, with the cost share rising up to 75 percent for truly catastrophic disasters.

RATIONALE

FEMA is the lead federal agency in preparing for and responding to disasters. It provides critical resources and expertise during disasters, but is overtasked and crowding out state and local preparedness. After passage of the Stafford Act in 1988, the number of declared federal disasters changed dramatically, rising steadily from an average of 28 per year under President Ronald Reagan to an average of 130 per year under Presidents George W. Bush and Barack Obama.

The Stafford Act shifted most of the costs of a federalized disaster away from states and local governments to the federal government, and FEMA regulations made it relatively easy to qualify as a federal disaster. This combination has put FEMA in high demand, leaving it unprepared—in terms of both readiness and money—for truly catastrophic disasters in which its services are most needed. Reform of FEMA requires a greater emphasis on federalism and state and local preparedness, leaving FEMA to focus on large, widespread disasters.

ADDITIONAL READING

- David Inserra, "Congress Must Re-Set Department of Homeland Security Priorities: American Lives Depend on It," Heritage Foundation *Special Report* No. 175, January 3, 2017.
- David Inserra, "FEMA Reform Needed: Congress Must Act," Heritage Foundation *Issue Brief* No. 4342, February 4, 2015.

Consolidate FEMA Grant Programs

RECOMMENDATION

Consolidate Homeland Security and Emergency Preparedness Grant Programs and Allocate Funds in a Risk-Based Manner. Rather than being treated as federal dollars that should be spread around, federal grants should be focused on the highest-risk areas and issues. As part of this consolidation, grant programs should be evaluated, and ineffective ones, such as Staffing for Adequate Fire and Safety (SAFER), Fire Prevention and Safety (FP&S), and Assistance to Firefighter Grants (AFG), should be cancelled. Congress has prohibited such consolidation in the past and should reverse course.

RATIONALE

FEMA also administers most of DHS's grant programs, and not all of these programs are effective or the best use of limited homeland security dollars. Grants should be allocated in a risk-based manner and must be effective. For example, Heritage Foundation research has found that a variety of firefighter and emergency personnel grants—including SAFER, FP&S, and AFG—are not effective in reducing fire casualties. Given that there are other areas in DHS, and even other grant programs, where this funding could be used more effectively, Congress should require the consolidation of the grant programs and elimination of ineffective grants.

ADDITIONAL READING

- David Inserra, "Congress Must Re-Set Department of Homeland Security Priorities: American Lives Depend on It," Heritage Foundation *Special Report* No. 175, January 3, 2017.
- David B. Mulhausen, "Fire Grants: Do Not Reauthorize an Ineffective Program," Heritage Foundation *Issue Brief* No. 3788, November, 29 2012.

Refocus the Transportation Security Administration

RECOMMENDATION

Refocus the Transportation Security Administration (TSA) on Security Regulations and Oversight. The TSA should focus on ensuring that security standards are being met and heading off the next generation of threats.

Replace TSA Screeners with Private Screeners in One of Two Ways:

1. **Mandate that the Screening Partnership Program (SPP) cover all airports.** The TSA will turn screening operations over to airports, which will hire security contractors that meet TSA regulations.
2. **Adopt a Canadian-like system.** The TSA will turn over screening operations to a new government corporation that contracts out screening service to private contractors. Contractors would bid on providing their services to a set of airports in a region, likely around 10 regions in the U.S.

RATIONALE

The U.S. holds the dubious honor of being one of only a handful of Western nations that use government employees as airport screeners. Created after 9/11, the TSA assumed the important role of providing security at airports, but this is not the best way to accomplish this goal. Most European countries and Canada allow airports to provide their own screening force or hire their own contractors. In the U.S., the limited SPP provides private screeners, with TSA oversight, in place of TSA screeners. The SPP has resulted in reductions in cost, as well as increased customer satisfaction and productivity, while performing no worse than government screeners in terms of security. While this would seem like an easy decision for most airports, the regulations and past TSA decisions regarding SPP have made it difficult to implement, as it can take as long as four years to join or renew an SPP contract that is micromanaged by the TSA.

Alternatively, the U.S. could look to the Canadian model. Transport Canada (TC) acts as the security regulator; a government corporation, CATSA, is responsible for technology and equipment and hiring private contractors for screening services. Rather than bidding on one airport at a time, contractors bid to provide screening services within one of four regions. This provides some economies of scale and provides contractors with additional flexibility in managing their workforce. Within the bounds of TC-set security regulations, CATSA sets standard operating procedures and efficiency standards for the private screening force at airport security checkpoints. This model is more effective and less costly than the one in the U.S. Researchers in Canada found that from 2005 through 2014, Canada spent around 50 percent less per capita on aviation security than did the United States. Over the same period, Canada spent approximately 20 percent less per traveler than the U.S.

The U.S. would realize significant benefits by switching to private screeners through an expansion of the SPP or a move to a Canadian-like system.

ADDITIONAL READING

- David Inserra, "Congress Must Re-Set Department of Homeland Security Priorities: American Lives Depend on It," Heritage Foundation *Special Report* No. 175, January 3, 2017.

Eliminate Fire Grants

RECOMMENDATION

Congress should eliminate the fire grant program administered by the Federal Emergency Management Agency (FEMA).

RATIONALE

Fire grants encompass a number of programs. The Assistance to Firefighters Grant (AFG) program subsidizes the routine activities of local fire departments and emergency management organizations. The Fire Prevention and Safety (FP&S) grants fund projects to improve the safety of firefighters and protect the public from fire and related hazards, while the Staffing for Adequate Fire and Emergency Response (SAFER) grants are intended to increase staffing levels by funding the salaries of career firefighters and paying for recruitment activities for volunteer fire departments.

The Heritage Foundation's Center for Data Analysis (CDA) evaluated the effectiveness of fire grants by matching fire grant award data to the National Fire Incident Reporting System, an incident-based database of fire-related emergencies reported by fire departments. Using panel data from 1999 to 2006 for more than 10,000 fire departments, the CDA assessed the impact of fire grants on four different measures of fire casualties: (1) firefighter deaths, (2) firefighter injuries, (3) civilian deaths, and (4) civilian injuries. The CDA compared fire departments that received grants to fire departments that did not receive grants. In addition, the CDA compared the impact of the grants before and after grant-funded fire departments received federal assistance.

The evaluation showed that AFG, FP&S, and SAFER grants failed to reduce firefighter deaths, firefighter injuries, civilian deaths, and civilian injuries. Without receiving fire grants, comparison fire departments were just as successful at preventing fire casualties as grant-funded fire departments.

ADDITIONAL READING

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- David B. Muhlhausen, "Fire Grants: Do Not Reauthorize an Ineffective Program," Heritage Foundation *Issue Brief* No. 3788, November 29, 2012.

Streamline Science and Technology R&D at DHS

RECOMMENDATION

Streamline and Focus DHS Research and Development (R&D). DHS should consider folding the Domestic Nuclear Detection Office (DNDO) and the Office of Health Affairs (OHA) into the Science and Technology Directorate (S&T). This reorganization must be accompanied by significant policy reforms that focus S&T on delivering helpful products to DHS operational components.

RATIONALE

Within DHS, multiple organizations, including the DNDO, the OHA, the Coast Guard, the TSA, and the Customs and Border Protection, conduct research that is to be coordinated by S&T. The case for reorganization can best be made for combining OHA and DNDO with S&T, as both OHA and DNDO are fairly small offices with research functions. Past reorganization efforts have considered moving the DNDO and the OHA into S&T to benefit from greater efficiencies of a single R&D organization while reducing the sheer number of direct reports to the DHS Secretary. The nuclear-detection, health, biological, and chemical research conducted by these organizations can and should continue within S&T, but should take place within a more holistic view of research and the needs of the department.

This reorganization, while potentially helpful from an organizational efficiency perspective, is not enough. Indeed, one significant problem with S&T research is that it does not adequately meet mission needs or benefit national security. According to the Government Accountability Office, DHS components that were surveyed "consistently said they were aware of few or no products that S&T had transitioned from one of S&T's R&D projects to their respective components." As a result, S&T customers are likely to view S&T as not meeting end-user needs.

Toward the end of the Obama Administration, DHS Under Secretary for Science and Technology Reginald Brothers tried to better focus S&T's efforts by reducing the overall number of research programs in order to ensure more attention for the remaining programs. S&T also started a pilot program that assigns S&T researchers to components' laboratories in order to give researchers a better understanding of what is occurring at, and what is needed by, that component. Similarly, S&T has begun focusing on what it calls "technology foraging," which seeks out existing or emerging technologies that could be adapted to meet DHS's needs. These efforts are good first steps but must be expanded in order to help DHS components field useful and innovative technology. While DHS should continue to conduct some longer-term research, the pendulum must swing toward meeting operational needs of components.

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- Brian Finch and David Inserra, "Expand the SAFETY Act to Make the U.S. More Secure," Heritage Foundation *Issue Brief* No. 4662, March 9, 2017.
- David Inserra, "Congress Must Re-Set Department of Homeland Security Priorities: American Lives Depend on It," Heritage Foundation *Special Report* No. 175, January 3, 2017.

End the National Flood Insurance Program

RECOMMENDATION

The National Flood Insurance Program (NFIP) should be phased out to allow private insurers to assume the disaster risks now borne by taxpayers. Toward that end, Congress must eliminate a variety of barriers to entry, including taxpayer subsidies for NFIP coverage. Other necessary actions for transition include:

- **Require FEMA to share with private insurers** its aggregate premium and claims data, and supply property-specific data at the request of a property owner.
- **Confirm that private insurance policies will satisfy mortgage requirements** for mandatory coverage. This could prompt private insurers to market new insurance products.
- **Allow state insurance regulators to oversee** solvency and capital requirements for insurance companies in their jurisdictions. This would increase accountability and reduce insurer uncertainty related to federal agencies issuing conflicting rules.
- **Allow policyholders to submit premium payments in monthly installments,** which could make unsubsidized coverage more manageable.

RATIONALE

Virtually all flood insurance is issued by the federal government under the National Flood Insurance Act of 1968. By providing coverage at rates that do not reflect flood risk, the program subsidizes development in flood zones. More development in flood zones worsens the devastation of disasters. And because the subsidized insurance premiums are actuarially unsound, FEMA requires taxpayer bailouts.

The NFIP currently owes taxpayers $24 billion. With direct access to the Treasury, FEMA has little budgetary discipline. For example, the fees paid to private insurers to sell and service the policies on behalf of the government consume more than a third of all premiums.[1]

Other structural elements render the program fatally flawed, including:

- **Wealth redistribution.** The NFIP charges the same rates for vacation homes and owner-occupied structures. However, a significant proportion of homes built on coastal barrier islands are expensive vacation homes. The use of taxpayer funds to subsidize the lifestyle preferences of a select few is inherently unjust.
- **Dysfunctional pricing.** A large proportion of the FEMA risk maps are obsolete. For example, they assume that levies and dikes will protect the properties near them regardless of whether they are adequate and in good repair.
- **Moral hazard.** Property owners expect the government to provide disaster assistance regardless of their insurance status. Consequently, NFIP enrollment is skewed to the most flood-prone properties.
- **Repetitive claims.** A small percentage of properties experiencing repeated flood damage comprise a large proportion of total claims.
- **Incomplete coverage.** Many NFIP policies only cover the remaining balance on a structure's mortgage, not the cost of actually replacing it. This protects the lender but can leave homeowners with a ruined property that they cannot afford to rebuild.

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- Diane Katz, "No Retreat on Flood Insurance Reform," Heritage Foundation *Issue Brief* No. 4153, February 21, 2014.

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Department of Housing and Urban Development

Eliminate the Federal Housing Administration

RECOMMENDATION

Federal lawmakers should eliminate the Federal Housing Administration (FHA). In so doing, Congress should preclude the transfer of any functions carried out by the FHA to a separate federal government agency, government-sponsored institution, or government-owned corporation.

Until Congress dissolves the FHA, the Secretary of Housing and Urban Development should instruct the FHA to implement the following reforms.

- Increase the initial collateral requirements, interest rates, and premiums to properly account for borrower risk within the mutual mortgage insurance program;
- Decrease the loan limits for program eligibility;
- Cease all new refinance activity; and
- Cease all new activity within its multifamily and health-care-facility mortgage insurance and guarantee programs.

RATIONALE

Congress created the FHA in 1934 in response to the distressed housing market conditions of the early 1930s. There is often confusion, though, about the early mission of the FHA single-family mortgage program in the mistaken belief that the federal government created the FHA to offer access to mortgages to underserved groups of individuals. In fact, the National Housing Act of 1934 authorized the FHA to cover most of the housing market at that time, where the maximum loan amount was approximately three times the then-current median home prices,[1] which underscores the notion that a main goal of the FHA was to stimulate construction jobs, not to assist low-income individuals.

While the focus of the FHA's single-family home loan program extended to high-cost homes in the early years, the FHA did, however, begin with relatively strict underwriting standards compared with those required of most loans today. Indeed, the FHA's history exhibits a long-term drift in underwriting standards and the quality of loans insured under the program. Starting in the mid-1950s, the FHA began to reduce the level of up-front collateral—the down payment—required to take on a home loan through its single-family mortgage program. By 1961, the maximum loan-to-value ratio allowed for new and existing homes was 97 percent (in other words, a 3 percent down payment). More broadly, annual loan data from 1990 to 2014 shows that fewer than 10 percent of FHA-insured loans during those years would have qualified for eligibility during the first two decades the FHA's existence.[2]

Consequently, despite various reform initiatives since the 1930s, the FHA has had trouble meeting safety and soundness guidelines, has undermined the stability of the housing market, and in recent years has needed several billion dollars to cover its losses. In fact, in recent years the FHA required several billion in appropriated funds to cover deficits in the Mutual Mortgage Insurance Fund and the lack of loss reserves in the capital reserve account.[3] In return for the substantial costs to taxpayers, the FHA's mortgage insurance programs have had minimal impact on homeownership rates—indeed, the U.S. homeownership rate is at the same today as it was in the mid-1960s. Research has shown that the FHA's single-family mortgage insurance portfolio has had little effect on increasing total homeownership, and the FHA's home loan program at best accelerated the take up of a mortgage by only a few years.[4]

Moreover, the FHA has expanded the scope of its insurance and guarantee portfolio to include mortgages used in the financing of multifamily (rental) housing and health care facility structures. The FHA explicitly claims that it has a unique market advantage in providing "long-term loan amortization [up to 40 years in some cases] not found with conventional lending sources" regarding the financing of various commercial-based development initiatives in the construction of multifamily and health care facility structures.[5] Yet all of these projects together comprise a small share of the overall FHA mortgage portfolio. These programs have also had the most problems with corruption and waste, and they have a longer history of needing

appropriated capital transfers to cover financial shortfalls. Even though the FHA has made recent efforts to increase efficiency in managing these mortgage programs, they are not necessary to maintain robust financing within the housing-finance system.

Overall, in return for the substantial costs to taxpayers, the FHA's mortgage insurance programs have had minimal impact on homeownership rates. This suggests that additional FHA reforms would provide merely temporary financial improvements without adding appreciable benefits to the housing market. Congress should take the steps necessary to shut down the FHA and get the federal government out of the home-financing business.

ADDITIONAL READING

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- John L. Ligon and Norbert J. Michel, "The Federal Housing Administration: What Record of Success?" Heritage Foundation *Backgrounder* No. 3006, May 11, 2015.
- Norbert J. Michel and John L. Ligon, "Five Guiding Principles for Housing Finance Policy: A Free-Market Vision," Heritage Foundation *Backgrounder* No. 4259, August 11, 2014.

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Department of the Interior

Initiate Reorganization of the Department of the Interior

RECOMMENDATION

The budget of the Department of the Interior (DOI) is small relative to total federal spending, but the DOI's management of a vast portion of federal lands and regulatory actions, particularly under the Endangered Species Act (ESA), have enormous consequences, including the erosion of property rights and impediments to development of energy and other natural resources, as well as tremendous economic costs. Extensive reforms are needed to return the agency to a proper limited role. The following changes would constitute incremental progress toward that goal:

- Correct abusive national monument designations;
- Use performance standards or consolidation to address chronic maintenance backlogs;
- Dispose of excess Bureau of Land Management (BLM) lands;
- Eliminate the unnecessary National Landscape Conservation System;
- Make DOI landholdings and federal regulatory reach transparent;
- Make proposed settlement agreements transparent;
- Require agency science-based decisions to comport with the Information Quality Act;
- Control grants directly through the office of the Secretary of the Interior;
- Aggressively implement Executive Order 13777; and
- Improve implementation of the Endangered Species Act at the administrative level.

RATIONALE

Among its many and expanding missions, the DOI is responsible for the stewardship of the majority of federal lands. In order of size, these include lands under the BLM, the U.S. Fish and Wildlife Service (USFWS), and the National Park Service (NPS), as well as the Outer Continental Shelf. All told this is over 480 million acres[1]—almost the size of Mexico[2]—excluding some 1.7 billion acres of the Outer Continental Shelf.[3]

While these lands occur disproportionally in the western U.S., the long-term management trend has been to centralize control in Washington. The federal estate suffers from chronic maintenance backlogs, overregulation, bureaucratization, politicization, and other forms of mismanagement. Over the long run, the size of the federal estate needs to be reduced to those lands that uniquely merit federal ownership. For example, more than 85 percent of Nevada cannot be so special as to justify federal ownership.[4] Many federal lands are a result of historical legacy rather than a rational choice that was driven by some larger policy objective. As a first step, the Interior Secretary should not initiate actions that increase the total acreage held by any DOI agency. With a no-net-growth policy in place, potential avenues for responsible devolution of management and ownership of excess lands should be explored. A number of other initial steps can be taken to more responsibly manage DOI lands; address wasteful grants, stifling regulations, lawsuit abuse, and poor scientific standards; and improve implementation of the Endangered Species Act at the administrative level, although correcting the law's more fundamental flaws will require substantial legislative change.

Correct Abusive National Monument Designations. The Interior Secretary should rescind some national monument designations and reduce others in size. Opponents of rescinding or revising past designations have relied on a 1938 Attorney General's opinion that asserts that such changes cannot be made under the Antiquities Act. This assertion is baseless, as numerous national monuments have been reduced substantially.[5] Additionally, a thorough legal analysis has discredited the arguments put forth in the 1938 opinion[6] and provoked only ineffectual rebuttals.[7]

National monuments are to be designated on "lands owned or controlled" by the federal government, yet several of the largest monuments are ocean areas including two jointly administered by the USFWS and National Oceanic and Atmospheric Administration.[8] One, Northeast Canyons and Seamounts Marine National Monument, is 4,913 square miles[9] and the

subject of a lawsuit brought by a coalition of New England fishermen because of the harm the designation poses to commercial fishing.[10] This monument should be rescinded. National monuments are also supposed to "be confined to the smallest area compatible with the proper care and management of the objects to be protected."[11] Numerous Administrations have abused the act, essentially establishing large parks by fiat rather than through Congress. Bears Ears National Monument is one whose size should be substantially reduced.

The White House should work with Congress to correct the shortcomings of the Antiquities Act. At a minimum, no designations should be made over the objection of the governor of the state in which a national monument would be established. Additionally, national monument designations should be provisional, requiring ratification by Congress within a year to remain in effect.

USE PERFORMANCE STANDARDS OR CONSOLIDATION TO ADDRESS CHRONIC MAINTENANCE BACKLOGS.

Deferred maintenance of federal land and assets is a chronic problem. The NPS reported $11.3 billion in deferred maintenance in 2016.[12] The USWS and BLM also have substantial backlogs.[13] The Secretary should aggressively address backlogs by incorporating appropriate performance measures into consideration for bonuses, step increases, or promotions for appropriate decision makers. Alternatively, the Secretary could remove the maintenance budget from all or specific management units with particularly large or chronic maintenance issues and administer maintenance directly through the Secretary's office.

Dispose of Excess BLM Lands. The BLM incorporates into land management plans lists of land that may be suitable for disposal.[14] Given the age and accuracy of plans varies—lands so identified should be reviewed and to the maximum extent possible those lands that can be sold, transferred, or otherwise removed from BLM's roles should be. A reauthorized Federal Lands Transaction Facilitation Act should provide that funds generated from land sales are available to address maintenance backlogs.

Eliminate the National Landscape Conservation System (NCLS). The NLCS is an unnecessary program through which the BLM bundles lands for promotional purposes, and which nudges the agency into becoming another version of the NPS. All NLCS lands already have special designations and management regimes, including national monuments, wilderness areas, wild and scenic rivers, and national scenic and historic trails.[15] The White House should seek elimination of this program.

Make DOI Landholdings and Regulatory Reach Transparent. The DOI's geographic information systems (GIS) data on federal landholdings, including easements, land management, and special designations that are both regulatory and non-regulatory, should be aggregated and presented prominently in a way that the non-specialist can access this data and get an accurate picture through an online searchable map.[16] A number of different online mapping tools are available on DOI websites, such as the U.S. Geological Survey's map of ownership patterns,[17] the USFWS's designated critical habitat map[18] and National Wetlands Inventory,[19] and the NPS's national heritage area map.[20] Some designations (critical habitat and wetlands) include lands not owned by the federal government but show areas that are subject to federal environmental regulation.

Make Proposed Settlement Agreements Transparent. The USFWS has a history of entering into settlement agreements with extreme environmental groups. For example, more than half of the ESA lawsuits involving statutory timelines were brought by just two organizations—Wild Earth Guardians and the Center for Biological Diversity.[21] Respectively, 83 percent and 93 percent of these suits were settled by the DOI. Such settlements can have broad legal and regulatory consequences. The Secretary should make it departmental practice that no settlement agreement is signed until the proposed agreement has been published, either in the *Federal Register* or prominently posted on the department's website, after the public has had 60 days to comment.

Require Agency Science-Based Decisions to Comport with the Information Quality Act. The Secretary should ensure that the best science is being used by requiring as a matter of policy that all decisions ostensibly based on science comply with the Information Quality Act (IQA). This would ensure that data underlying agency actions are generally available to the public, and that failure to comply with IQA guidelines would be arbitrary and capricious. DOI agencies have a history of making purportedly scientific decisions for which the underlying data are essentially secret, making substantial reproduction by qualified third parties impossible.[22]

Control Grants Directly Through the Office of the Secretary. A large and wide variety of grants are administered by the many DOI bureaus.[23] Determining the nature and extent of the DOI's grants will

be both complicated and time consuming. As a first step, to the degree allowed by law, secretarial approval should be required before any grant is issued, and unnecessary grant programs should be terminated.

National heritage areas (NHAs) were originally anticipated to receive seed money only and no further federal funding. In practice, once designated by Congress, appropriations to NHAs continue to flow after the initial authorizations expire. Administrations that favored the program and Administrations that opposed the program have proposed eliminating funding, knowing that Congress will restore it. The NPS has furthered perpetual funding with implausible analysis of NHA economic benefits. For example, advocates for funding of five Pennsylvania NHAs assert that NPS studies show that funding has resulted in nearly $1 billion in economic activity, more than 11,000 jobs, and nearly $70 million in local tax revenues.[24] This would be an amazing rate of return given that the FY 2016 appropriation to nearly 50 NHAs was $19.8 million.[25] If NHAs were truly this valuable, the NPS should be able to raise substantial revenues from agreements for use of its logo and consultation reimbursements. As if to provide an illustration of how unnecessary this program is, the entirety of Tennessee was designated the Tennessee Civil War National Heritage Area.

The NPS should focus on its core mission of managing some 59 national parks and 358 other units, as well as its massive maintenance backlog.[26] This program is essentially tourism promotion, and the White House should seek elimination of federal funding for NHAs, if not the program itself.

Climate research programs have spread throughout the federal bureaucracy, and the DOI is no exception. The DOI's Cooperative Landscape Conservation and Tribal Climate Resilience programs are unnecessary and should be eliminated.

Aggressively Implement Executive Order 13777. Executive Order 13777 requires the appointment of regulatory reform officers and regulatory reform task forces within each federal agency to advance a deregulatory agenda.[27] Regulatory reform officers should establish and maintain regular contact with counterparts at agencies with overlapping or coinciding regulatory programs. For the DOI, regulatory reform officers and task forces should have regular lines of communication and cooperate with their counterparts at the Department of Agriculture and the U.S. Forest Service, the Environmental Protection Agency, the Department of Defense and the U.S. Army Corps of Engineers, the Department of Commerce and the National Marine Fisheries Service, and the Department of Transportation. Regular exchange of information will improve the likelihood of successful deregulatory efforts.

Improve the Endangered Species Act at the Administrative Level. Under the ESA, the Secretary of the Interior is vested with authorities to conserve endangered and threatened species. One such responsibility is to ensure that federal agencies' discretionary actions do not jeopardize endangered or threatened species or adversely modify their critical habitat.[28] Rather than delegate the authority for these often-significant decisions to low-level field biologists, the determinations should be made by the Secretary with the advice of the Director of the U.S. Fish and Wildlife Service as necessary. Additionally, rather than depending on USWFS staff to assess the impact of agency actions in biological assessments or biological opinions, the Secretary could require the agencies undertaking the actions to provide these reviews, upon which the Secretary's determination would then be based.

By a blanket regulation,[29] the USFWS applied the more stringent protections provided for endangered species to all threatened species, directly subverting the system established by the ESA. The Secretary should replace this regulation with one that ensures that a prohibition against the "take"[30] of threatened species is applied to individual species by promulgation of a unique 4(d) rule for the species. Such rules should only be promulgated when clearly needed and supported with data.

As a matter of policy, prior to reintroducing endangered or threatened species into any state, the Secretary should require the approval of the governor of the affected state.

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Department of Justice

Eliminate the Federal Equitable Sharing Program and the Assets Forfeiture Fund

RECOMMENDATION

First, the President should instruct the Attorney General and the Secretary of the Treasury to eliminate the federal "equitable sharing" programs they administer. Federal law allows, but does not require, the sharing of proceeds derived from successful civil forfeiture cases with state and local law enforcement agencies that "participated directly" in the case.[1]

Second, the President should direct federal agencies to improve the administrative forfeiture process, to ensure that property owners are fully apprised of their right to contest a forfeiture action, and to provide transparency in administrative forfeitures. The President should also order new reporting requirements in all civil forfeiture cases, to track whether property seizures are tied to criminal investigations, and whether said investigations result in convictions.

Third, Congress should adopt comprehensive civil forfeiture reforms. In addition to codifying the above presidential actions, such legislation should eliminate the forfeiture financial incentive by terminating the Justice Department's Assets Forfeiture Fund, as well as its Treasury Department counterpart, the Treasury Forfeiture Fund. Congress should permanently rescind the funds contained in these accounts and deposit them—along with all future forfeiture proceeds—into the General Fund. Legislation should also adopt improved procedural protections for property owners in civil-forfeiture cases, including a heightened evidentiary requirement and guaranteed indigent defense.

RATIONALE

In 1984, Congress ramped up federal forfeiture activities with the Comprehensive Crime Control Act, empowering federal law enforcement agencies with the ability to seize the property and ill-gotten gains of the worst categories of offenders—drug kingpins, criminal organizations, and money launderers. It also granted agencies the novel authority to retain and spend forfeited assets. This financial incentive has, in some cases, warped law enforcement priorities, encouraging cash seizures at the expense of traditional law enforcement activities. Some agencies have become dependent on the funds generated by asset forfeiture, and the lack of accountability has resulted in high-profile instances of abuse or misuse of forfeiture-derived funds. Additionally, forfeiture activities are no longer concentrated on the most serious offenders; today, federal civil-forfeiture law is commonly used to seize relatively small amounts of cash. Seizures require little or no evidence of criminal misconduct, and insufficient due-process protections exist to ensure that innocent property owners do not suffer confiscation of their assets or property.

In addition to seizing and forfeiting assets directly, federal officials coordinate with state and local law enforcement authorities, and divide proceeds with these agencies. Equitable sharing funds must be spent by the receiving agency for law enforcement purposes, regardless of state law. The program has been criticized as providing state and local agencies with a means of circumventing state laws that, relative to federal forfeiture law, are more restrictive in how forfeiture funds may be spent, or are more protective of property owners. In recent years, 20 states have reformed their civil forfeiture laws, and federal law should not provide a means to bypass state law.

The Justice Department does not track the percentage of civil forfeiture cases tied to criminal prosecutions or convictions. However, it is estimated that nearly 90 percent of federal cases end in administrative forfeiture, meaning there is no judicial involvement in the case.[2] A recent report by the Department of Justice Inspector General concluded that, of a representative sampling of Drug Enforcement Administration seizures, officials could only demonstrate that 44 percent of seizures furthered a criminal investigation.[3]

The policy changes outlined above will provide greater transparency, eliminate the financial incentive for federal agencies to employ dubious or abusive practices to seize and forfeit property, and afford

property owners greater legal protections. These actions will also end the ability of state and local law enforcement agencies to circumvent more restrictive state forfeiture laws, and return oversight and budgetary authority to elected lawmakers, at all levels, who are accountable to the public for their appropriations.

ADDITIONAL READING

- John Malcolm, "Civil Asset Forfeiture: Good Intentions Gone Awry and the Need for Reform," Heritage Foundation *Legal Memorandum* No. 151, April 20, 2015.
- Jason Snead, "Instead of Raiding the Assets Forfeiture Fund, Congress Should Simply Discontinue It," Heritage Foundation *Issue Brief* No. 4469, November 20, 2015.

Eliminate the Community Relations Service

RECOMMENDATION

Eliminate the Department of Justice's Community Relations Service (CRS).

RATIONALE

The CRS budget should be entirely eliminated. Rather than fulfilling its mandate of trying to be the peacemaker in community conflicts, the CRS has raised tensions in local communities in recent incidents. In the Zimmerman case in Florida, the CRS helped organize and manage rallies and protests against George Zimmerman, who was found "not guilty" of murder for shooting Trayvon Martin, thereby interfering with the objective administration of the justice system.[4] Other employees inside the CRS have cited a culture of incompetence, political decision making, and gross mismanagement, leading the employees to send a complaint letter to the Attorney General.[5]

ADDITIONAL READING

- J. Christian Adams, *Injustice: Exposing the Racial Agenda of the Obama Justice Department* (Washington, DC: Regnery Publishing, 2011).
- John Fund and Hans von Spakovsky, *Obama's Enforcer: Eric Holder's Justice Department* (New York: HarperCollins/Broadside, 2014).
- U.S. Department of Justice Office of the Inspector General, "Review of the Operations of the Voting Section of the Civil Rights Division," March 2013.

Eliminate the Legal Services Corporation

RECOMMENDATION

Eliminate the Legal Services Corporation (LSC). This proposal saves $484 million in FY 2018.

RATIONALE

The LSC was created by the Legal Services Act of 1974 as a means to provide civil legal assistance to indigent clients. It does so by distributing federal grant funds in one-year to three-year increments to service areas throughout the United States and its territories. The annual appropriations legislation specifies the types of activities for which the funds may be used, and also restricts certain uses, such as for political activities, advocacy, demonstrations, strikes, class-action lawsuits, and cases involving abortion, partisan redistricting, and welfare reform.

LSC grants do help provide high-quality civil legal assistance to some low-income Americans. Nevertheless, the Congressional Budget Office (CBO) has repeatedly listed LSC elimination among its deficit-reduction options, citing that many programs receiving LSC grants already receive resources from state and local governments and private entities.

LSC also should be abolished because state and local governments, supplemented by donations from other outside sources, already provide funding for indigent legal assistance in civil cases and are better equipped to address the needs of those in their communities who rely on these free services. By giving local entities sole responsibility for these activities, funds can be targeted in the most efficient manner, and the burden can be removed from the federal deficit. Access to justice is an important issue, and the responsibility for providing such assistance should lie with state and local governments, not the federal government.

ADDITIONAL READING

- Kenneth F. Boehm and Peter T. Flaherty, "Why the Legal Services Corporation Must Be Abolished," Heritage Foundation *Backgrounder* No. 1057, October 19, 1995.
- Congressional Budget Office, *Budget Options*, Volume 2, August 2009.
- National Legal and Policy Center, "What the Legal Services Corporation Doesn't Want Congress to Know," March 22, 2012.

Eliminate the Office of Community Oriented Policing Services

RECOMMENDATION

All grants provided by the Office of Community Oriented Policing Services (COPS) should be eliminated.

First, President Trump should consolidate COPS grants into the Office of Justice Programs. Grants for subsidizing the hiring of state and local police officers were authorized by Congress with the passage of the Violent Crime Control and Law Enforcement Act of 1994. While the act only authorized the grant funding, it did not establish the COPS office as an official agency within the Department of Justice. Then-Attorney General Janet Reno established COPS as an official agency within the Department of Justice with its own leadership and staffing. However, COPS does not actually perform the crucial task of managing the grants that it doles out. Instead, the Office of Justice Programs (OJP) manages the awarded grants. In order to decrease unnecessary duplication, Attorney General Jeff Sessions should consolidate COPS grants into the OJP, thus reducing administrative costs.

Second, Congress should eliminate all funding for COPS. The authority for the Attorney General to award specific grants for police officer salaries expired on September 13, 2000.[6] Further, congressional authority for COPS grants expired in FY 2009.[7]

RATIONALE

Created in 1994, COPS promised to add 100,000 new state and local law enforcement officers to the streets by 2000. COPS not only failed to add 100,000 additional officers, it was also failed at reducing crime.

State and local officials, not the federal government, are responsible for funding the staffing levels of local police departments. By paying for the salaries of police officers, COPS funds the routine, day-to-day functions of police and fire departments. In *Federalist* No. 45, James Madison wrote:

> The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.

When Congress subsidizes local police departments in this manner, it effectively reassigns to the federal government the powers and responsibilities that fall squarely within the expertise, historical control, and constitutional authority of state and local governments. The responsibility to combat ordinary crime at the local level belongs almost wholly, if not exclusively, to state and local governments.

The COPS program has an extensive track record of poor performance and should be eliminated. COPS grants also unnecessarily fund functions that are the responsibility of state and local governments.

ADDITIONAL READING

- David B. Muhlhausen, "Byrne JAG and COPS Grant Funding Will Not Stimulate the Economy," statement before the Judiciary Committee, U.S. Senate, May 12, 2009.
- David B. Muhlhausen, "Impact Evaluation of COPS Grants in Large Cities," Heritage Foundation *Center for Data Analysis Report* No. 06-03, May 26, 2006.

Eliminate Violence Against Women Act Grants

RECOMMENDATION

Congress should eliminate Violence Against Women Act (VAWA) grants.

RATIONALE

VAWA grants should be terminated because these services should be funded and implemented locally. Using federal agencies to fund the routine operations of domestic violence programs that state and local governments could provide is a misuse of federal resources and a distraction from concerns that are truly the province of the federal government.

The principal reasons for the existence of the VAWA programs are to mitigate, reduce, or prevent the effects and occurrence of domestic violence. Despite being created in 1994, grant programs under the VAWA have not undergone nationally representative, scientifically rigorous experimental evaluations of effectiveness.

The Government Accountability Office concluded that previous evaluations of VAWA programs "demonstrated a variety of methodological limitations, raising concerns as to whether the evaluations will produce definitive results." Thus, the evaluations could not be used to credibly assess the performance of the evaluated programs.

ADDITIONAL READING

- Paul J. Larkin Jr., "Send in the Lawyers: The House Passes the Senate's Violence Against Women Act," The Daily Signal, March 1, 2013.
- David B. Muhlhausen, "Violence Against Women Act Gives Grant Money to Misleading Organizations," The Daily Signal, February 13, 2013.
- David B. Muhlhausen and Christina Villegas, "Violence Against Women Act: Reauthorization Fundamentally Flawed," Heritage Foundation *Backgrounder* No. 2673, March 29, 2012.
- U.S. General Accounting Office, "Justice Impact Evaluations: One Byrne Evaluation was Rigorous; All Reviewed Violence Against Women Office Evaluations Were Problematic," March 2002.

Transfer the Special Litigation Section to the Office of the Deputy Attorney General

RECOMMENDATION

Transfer the Special Litigation Section of the Civil Rights Division to the Office of the Deputy Attorney General. The Special Litigation Section handles extremely sensitive matters involving state and local law enforcement and should be under the supervision of a top Justice official whose duty is to ensure the proper administration of the criminal justice system.

RATIONALE

The Special Litigation Section is responsible for enforcing federal laws governing the behavior of prison officials and law enforcement agencies. This is the section that sues such state and local agencies when they engage in a "pattern and practice" of unlawful or unconstitutional behavior. In other words, the section polices the standards and practices of police and correctional departments all over the country. Yet none of the lawyers inside the section have any law enforcement or corrections experience, or even any experience as criminal prosecutors enforcing criminal laws and evaluating the behavior of law enforcement personnel. The section has often been criticized for going far beyond what the law requires and trying to impose its own idea of what national standards should apply, even though that is neither its role nor its responsibility. It has imposed enormous costs on local police departments with draconian consent decrees that have restricted the ability of law enforcement to protect the safety of the public.

It would be more efficient and effective for the Special Litigation Section to report directly to the Office of the Deputy Attorney General, which can draw on the experience of the Civil Rights Division as needed, but also the Criminal Division and its professional criminal prosecutors who understand the workings of the criminal justice system and the standards and requirements that should govern the behavior of law enforcement and corrections officers. Given the vital importance to the safety and security of the public of well-functioning, professional law enforcement, this section should be under the direct supervision of the Deputy Attorney General, the number two position at the Justice Department.

ADDITIONAL READING

- John Fund and Hans von Spakovsky, *Obama's Enforcer: Eric Holder's Justice Department* (New York: HarperCollins/Broadside, 2014), chapter 4.
- Heather MacDonald, "Targeting the Police: The Holder Justice Department Declares Open Season on Big City Police Departments," *The Weekly Standard*, January 31, 2011.
- Hans von Spakovsky, "*Every Single One*: The Politicized Hiring of Eric Holder's Special Litigation Section," PJ Media, August 16, 2011.
- Hans von Spakovsky, "What the Ferguson Report Really Exposed," *The National Interest*, March 13, 2015.
- Hans von Spakovsky and Brad Schlozman, "The 'Ferguson Effect': Restricting Law Enforcement's Ability to Protect Americans," The Heritage Foundation *Legal Memorandum* No. 184, June 23, 2016.

Transfer the Criminal Section of the Civil Rights Division and All Other Criminal Sections of All Divisions within the Justice Department to the Criminal Division

RECOMMENDATION

Transfer the Criminal Section of the Civil Rights Division, the Criminal Section of the Antitrust Division, the Criminal Enforcement Section of the Tax Division, and the Environmental Crimes Section of the Environment & Natural Resources Division to the Criminal Division of the Department of Justice.

RATIONALE

These criminal sections are responsible for prosecuting criminal civil rights, antitrust, tax, and environmental laws in contrast to the civil enforcement that predominates these divisions. The investigation and prosecution of criminal violations of the law is very different both substantively and procedurally from the civil enforcement of federal laws.

It would be more efficient and effective for all of the sections in different divisions that are responsible for criminal law enforcement to be consolidated inside the Criminal Division of the Justice Department. That division is staffed by experienced law enforcement personnel and professional criminal prosecutors who have a much better grasp of the requirements of the criminal justice system and the standards that govern the administration of criminal justice.

ADDITIONAL READING

- John Fund and Hans von Spakovsky, *Obama's Enforcer: Eric Holder's Justice Department* (New York: HarperCollins/Broadside, 2014), chapter 4.
- Hans von Spakovsky, "*Every Single One*: The Politicized Hiring of Eric Holder's Criminal Section," PJ Media, September 14, 2011.

Transfer the Immigrant and Employee Rights Section of the Civil Rights Division to the Executive Office of Immigration Review

RECOMMENDATION

Transfer the Immigrant and Employee Rights Section of the Civil Rights Division to the Executive Office of Immigration Review. This will place the Immigrant and Employee Rights Section in the Justice Department office whose personnel have actual experience in the enforcement of federal immigration law, unlike the Civil Rights Division.

RATIONALE

The Immigrant and Employee Rights Section is responsible for enforcing the anti-discrimination provisions of the Immigration and Nationality Act. No other sections inside the Civil Rights Division have anything to do with federal immigration law. In contrast, the Executive Office for Immigration Review is the office within the Justice Department that is responsible for fairly, expeditiously, and uniformly interpreting and administering all federal immigration laws. That includes conducting immigration court proceedings, appellate reviews, and administrative hearings.

It would be more efficient and effective for the Immigrant and Employee Rights Section to be housed in the Executive Office of Immigration Review with experienced immigration lawyers who have a much better grasp of the workings of the federal immigration enforcement system and of the standards and requirements that should govern such enforcement. Given the vital importance of a well-functioning federal immigration process, this section should be under the direct supervision of the office within the Justice Department that specializes in, and is responsible for, administering the immigration court system.

ADDITIONAL READING

- Richard Pollock, "*Every Single One*: The Politicized Hiring of Eric Holder's Immigration Office," PJ Media, August 12, 2011.
- Hans von Spakovsky, "Department of Justice Fines Sheriff Department for Hiring Only US Citizens," The Daily Signal, Nov. 23, 2016.]

Transfer Authority to Investigate Attorney Wrongdoing to the Inspector General of the Justice Department

RECOMMENDATION

Transfer the authority of the Office of Professional Responsibility (OPR) to investigate and punish professional malpractices and ethical violations by Justice Department lawyers, paralegal, legal assistants, and other staff to the Office of the Inspector General (OIG) of the Justice Department.

RATIONALE

The OPR has sole authority to investigate and punish unprofessional behavior by Justice Department personnel. It has been repeatedly criticized for its bias, failure to take action, and the incompetence of its personnel. Other Justice Department lawyers generally view the office with contempt because they believe it lacks the level of professional competence found elsewhere in the frontline divisions within Justice. It has demonstrated on numerous occasions that it is incapable of handling politically charged issues in an even-handed manner, particularly because the Attorney General appoints the head of the OPR, which is supposed to be the DOJ's internal policeman. As just one example, former Attorney General Michael Mukasey and Deputy Attorney General Mark Filip scathingly criticized the OPR for its erroneous, biased, and error-filled report in 2009 on John Yoo and Jay Bybee, the Bush Administration lawyers who wrote the memos analyzing the legality of enhanced interrogation techniques.

These problems with OPR lawyers and the conflict of interest inherent in having the OPR's director report directly to the Attorney General prompted the Inspector General of the Justice Department, Michael Horowitz, in 2013 to ask that his office be given authority to investigate the misconduct of Justice lawyers. He pointed out that the "institutional independence of the OIG…is crucial to the effectiveness of our misconduct investigations." Unlike the IG, "OPR does not have that statutory independence" since the "Attorney General appoints and can remove OPR's leader."

ADDITIONAL READING

- John Fund and Hans von Spakovsky, *Obama's Enforcer: Eric Holder's Justice Department* (New York: HarperCollins/Broadside, 2014), pp. 202–209.
- "Top Management and Performance Challenges Facing the Department of Justice-2013," Memorandum to the Attorney General, the Deputy Attorney General, from Michael E. Horowitz, Inspector General, U.S. Department of Justice, December 11, 2013 (re-issued December 20, 2013).
- "Vindicating John Yoo," *The Wall Street Journal*, February 22, 2010.
- Hans von Spakovsky, "Revenge of the Liberal Bureaucrats," *The Weekly Standard*, January 2, 2009.

ENDNOTES

1. 18 U.S. Code 981(e)(2).
2. Marian R. Williams et al., "Policing for Profit: The Abuse of Civil Asset Forfeiture," Institute for Justice, March 2010, http://www.ij.org/images/pdf_folder/other_pubs/assetforfeituretoemail.pdf (accessed May 3, 2017).
3. U.S. Department of Justice, Office of Inspector General, "Review of the Department's Oversight of Cash Seizure and Forfeiture Activities," March 2017, https://oig.justice.gov/reports/2017/e1702.pdf (accessed May 3, 2017).
4. Hans von Spakovsky, "Zimmerman Trial: The Holder Justice Department's Latest Abuse of Power," The Daily Signal, July 10, 2013, http://dailysignal.com/2013/07/10/zimmerman-trial-the-holder-justice-departments-latest-abuse-of-power/.
5. Hans von Spakovsky, "Corruption, Incompetence Scandal at DOJ's Ferguson Unit Widens," PJ Media, April 18, 2016.
6. [Name redacted], "Community Oriented Policing Services (COPS): In Brief," Congressional Research Service, *CRS Report*, February 2, 2016, p. 1, footnote 4.
7. Ibid., p. 1.

Department of Labor

Eliminate the Office of Federal Contract Compliance Programs

RECOMMENDATION

Congress should eliminate the Office of Federal Contract Compliance Programs (OFCCP).

RATIONALE

In 1965, President Lyndon Johnson signed Executive Order No. 11246, prohibiting federal contractors from engaging in racial discrimination. The OFCCP enforces these requirements. At the time Johnson promulgated this executive order, the Civil Rights Act provided only weak enforcement powers. Since then, Congress has given the Equal Employment Opportunity Commission (EEOC) strong enforcement powers. Federal employees frequently appeal allegedly discriminatory actions to the EEOC. The OFCCP has become redundant. Taxpayers should not fund two separate and duplicative anti-discrimination agencies, one for federal contractors and one for all employers.

Eliminate the Women's Bureau in the Department of Labor

RECOMMENDATION

Congress should eliminate the Labor Department's Women's Bureau.

RATIONALE

The Women's Bureau examines challenges facing women in the workforce. It was created in 1920 when few women worked outside the home. Today, women make up half of the workforce. The challenges facing female employees are the challenges facing workers as a whole. The Women's Bureau has become obsolete. Issues surrounding gender discrimination are handled by other offices and agencies, such as the Equal Employment Opportunity Commission.

Eliminate Funding for the International Labor Affairs Bureau

RECOMMENDATION

Congress should eliminate funding for the International Labor Affairs Bureau (ILAB).

RATIONALE

The ILAB monitors foreign compliance with labor obligations under trade treaties. It also hands out grants to unions and aid organizations to promote the welfare of foreign workers. The effectiveness of these grants is unclear and a poor use of U.S. taxpayer dollars in times of tight budgets. Congress should eliminate ILAB funding for grant making and restore it to its core purpose of monitoring treaty compliance.

Eliminate Susan Harwood Training Grants

RECOMMENDATION

Congress should eliminate Susan Harwood Training Grants.

RATIONALE

The Department of Labor has a history of operating ineffective job-training programs. The evidence from every multi-site experimental evaluation of federal job-training programs published since 1990 strongly indicates that these programs are ineffective. Based on these scientifically rigorous evaluations using the "gold standard" of random assignment, these studies consistently find failure.

Since 1978, the Occupational Safety and Health Administration (OSHA) has provided Harwood grants to nonprofit organizations to provide safety training to workers. Despite existing for decades, OSHA does not have any credible evidence that these training grants are effective. Case in point is the FY 2015 Department of Labor performance report that relies solely on the number of people trained to assess performance of the grant program.[1] The number of people trained does nothing to determine whether trainees learned anything to make workplaces safer.

Measuring the number of people trained does not measure program "impact," it measures an output. The number of people trained is not a measure of effectiveness. It would be like a drug company claiming a new drug is successful simply because the drug was provided to a large number of people. Whether the drug cured or treated a disease is unknown.

Instead, the effectiveness of the Harwood grants should be assessed by the program's actual impact on participants. Program impact is assessed by comparing outcomes for program participants with estimates of what the outcomes would have been had the participants not partaken in the program. Did participation is the training increase earnings and employment? Without a valid comparison, performance monitoring based on "outputs," such as number of people trained, cannot provide valid estimates of program effectiveness.

Eliminate the Workforce Innovation and Opportunity Act's Job-Training Grants

RECOMMENDATION

Congress should eliminate the Workforce Innovation and Opportunity Act's (WIOA's) adult, dislocated worker, and youth job-training grants.

RATIONALE

The Department of Labor has a history of operating ineffective job-training programs. The evidence from every multi-site experimental evaluation of federal job-training programs published since 1990 strongly indicates that these programs are ineffective. Based on these scientifically rigorous evaluations using the "gold standard" of random assignment, these studies consistently find failure.

On Election Day November 8, 2016, while Americans were focused on who was going to move into the White House, the U.S. Department of Labor publicly released 15-month findings of the Workforce Investment Act (WIA) Gold Standard Evaluation. However, the report had already been finalized in May 2016. The peculiar timing and months-long delay occurred despite the Labor Department's official policy of releasing reports within two months of a report's completion.[2]

The WIA Gold Standard Evaluation assessed the effectiveness of WIA Adult and Dislocated Worker programs. The 15-month findings continue a decades-long trend of dismal results. The findings are highly relevant to policymakers today, because the authorization of the WIOA did not substantially alter the types of employment services offered by the Adult and Dislocated Worker programs.

The most important test of the WIA's effectiveness is the comparison of full-WIA services—intensive services (skills assessments, workshops, and job-search assistance) plus job training—to core services that offered mostly information and online tools for participants to plot their careers and find employment. During the five quarters of the follow-up period, members of the full-WIA group failed to have statistically different earnings than the core group members. In the fifth quarter, the earnings of the full-WIA group, on average, were indistinguishable from the earnings of the core group. Despite being more likely to enroll in training, and receive one-on-one assistance and other employment services, participation in full-WIA had no effect on earnings.

Full-WIA participants did not believe that the services provided to them resulted in finding jobs in any occupation. A solid majority of 57 percent of full-WIA participants believed that the services provided to them was unrelated to finding employment. Perhaps more important, participants in the WIA were largely unable to find employment in occupations related to their training. Only 32 percent of full-WIA participants found occupations in the area of their training. Thus, 68 percent were unable to find employment in their intended occupations. Full-WIA participants were no more or less likely to find employment in their planned occupation than the other groups.

Federal job-training programs targeting youth and young adults have been found to be extraordinarily ineffective. According to a 2009 report by the Government Accountability Office:

> [L]ittle is known about what the workforce system is achieving. Labor has not made such research a priority and, consequently, is not well positioned to help workers or policymakers understand which employment and training approaches work best. Knowing what works and for whom is key to making the system work effectively and efficiently. Moreover, in failing to adequately evaluate its discretionary grant programs, Labor missed an opportunity to understand how the current structure of the workforce system could be modified to enhance services for growing sectors, to encourage strategic partnerships, and to encourage regional strategies.[3]

There is abundant evidence suggesting that federal job-training programs do not work.

ADDITIONAL READING

- David B. Muhlhausen, "Do Federal Social Programs Work?" Heritage Foundation *Backgrounder* No. 2884, March 19, 2014.
- David B. Muhlhausen, "Federal Job Training Fails Again," Heritage Foundation *Backgrounder* No. 3198, March 10, 2017.
- Sheena McConnell et al., *Providing Public Workforce Services to Job Seekers: 15-Month Impact Findings on the WIA Adult and Dislocated Worker Programs* (Washington, DC: Mathematica Policy Research, May 2016).
- U.S. Government Accountability Office, "Workforce Investment Act: Labor Has Made Progress in Addressing Areas of Concern, But More Focus Needed on Understanding What Works and What Doesn't," February 26, 2009.

Let Trade Adjustment Assistance Expire

RECOMMENDATION

Congress should eliminate the entire Trade Adjustment Assistance (TAA) program by letting its authorization law expire.

RATIONALE

TAA provides overly generous government benefits to American workers who lose their jobs when foreign companies prove more competitive than their American employers. The program encourages recipients to participate in job training. As a result, they spend considerable time in job training that could have been spent looking for work or working. Most participants never recover this lost income, and their federal subsidies only partially offset these financial losses. Participating in TAA costs the average participant approximately $25,000 in lost income over four years. Congress should not spend taxpayer dollars actively hurting unemployed workers' job prospects.

Program evaluations of TAA find no evidence that this assistance and training improves earnings based on newly acquired job skills. This finding should not be surprising, because scientifically rigorous evaluations of federal job-training programs have consistently found these programs to be highly ineffective.

A 2012 quasi-experimental impact evaluation of TAA by Mathematica Policy Research and Social Policy Research Associates builds on the consensus of three previous quasi-experimental impact evaluations that have found TAA ineffective at improving the employment outcomes of participants.[4]

Overall, there is little empirical support for the notion that TAA improves the employment outcomes of displaced workers. In fact, TAA participants are more likely to earn *less* after participating in the program. TAA failed a straightforward test of determining whether the program produces more benefits than costs.

Furthermore, TAA benefits often go to politically connected unions and firms that did not experience layoffs caused by foreign competition. The Labor Department only requires showing a correlation between increasing foreign imports and a firm's loss of sales. These correlations are often coincidental, or unrelated to the firm's financial woes. This allowed the Obama Administration to award TAA benefits to Solyndra and Hostess despite foreign competition having little to do with the bankruptcies of these companies.

ADDITIONAL READING

- David B. Muhlhausen, James Sherk, and John Gray, "Trade Adjustment Assistance Enhancement Act: Budget Gimmicks and Expanding an Ineffective and Wasteful 'Job-Training' Program," Heritage Foundation *Issue Brief* No. 4396, April 28, 2015.

Eliminate Job Corps

RECOMMENDATION

Congress should eliminate Job Corps.

RATIONALE

The National Job Corps Study, a randomized experiment—the "gold standard" of scientific research—assessed the impact of Job Corps on participants compared to similar individuals who did not participate in the program. For a federal taxpayer investment of $25,000 per Job Corps participant, the study found:

Compared to non-participants, Job Corps participants were less likely to earn a high school diploma (7.5 percent versus 5.3 percent);

Compared to non-participants, Job Corps participants were no more likely to attend or complete college;

Four years after participating in the evaluation, the average weekly earnings of Job Corps participants were a mere $22 higher than the average weekly earnings of the control group; and

Employed Job Corps participants earned only $0.22 more in hourly wages compared to employed control group members.

If Job Corps actually improved the skills of its participants, it should have substantially raised their hourly wages. A paltry $0.22 increase in hourly wages suggests that Job Corps does little to boost the job skills of participants.

A cost-benefit analysis based on the National Job Corps Study found that the benefits of Job Corps do not outweigh the cost of the program. Job Corps does not provide the skills and training to substantially raise the wages of participants. Costing $25,000 per participant over an average participation period of eight months, the program is a waste of taxpayers' dollars.

ADDITIONAL READING

- David B. Muhlhausen, "Do Federal Social Programs Work?" Heritage Foundation *Backgrounder* No. 2884, March 19, 2014.
- David B. Muhlhausen, "Job Corps: An Unfailing Record of Failure," Heritage Foundation *WebMemo* No. 2423, May 5, 2009.

ENDNOTES

1. U.S. Department of Labor, *U.S. Department of Labor FY 2015 Annual Performance Report*, https://www.dol.gov/sites/default/files/documents/general/budget/CBJ-2017-V1-01.pdf (accessed January 3, 2017).
2. U.S. Department of Labor, "U.S. Department of Labor Evaluation Policy," November 2013, https://www.dol.gov/asp/evaluation/EvaluationPolicy.htm (accessed January 3, 2017).
3. Statement by George A. Scott, "Workforce Investment Act: Labor Has Made Progress in Addressing Areas of Concern, But More Focus Needed on Understanding What Works and What Doesn't," U.S. Government Accountability Office, February 26, 2009, http://www.gao.gov/new.items/d09396t.pdf (accessed May 25, 2017).
4. Peter Z. Schochet et al., "Estimated Impacts for Participants in the Trade Adjustment Assistance (TAA) Program Under the 2002 Amendments," Social Policy Research Associates and Mathematica Policy Research, August 2012, http://wdr.doleta.gov/research/FullText_Documents/ETAOP%5F2013%5F10%5FParticipant%5FImpact%5FReport%2Epdf (accessed January 8, 2016).

Small Business Administration

Eliminate the Small Business Administration Disaster Loans Program

RECOMMENDATION

Congress should eliminate the Small Business Administration's (SBA's) Disaster Loans Program (DLP).

RATIONALE

After federally declared disasters, SBA disaster loans offer taxpayer-funded direct loans to assist businesses, nonprofit organizations, homeowners, and renters in repairing damaged and replacing destroyed property. Unfortunately, the generous federal disaster relief offered by the DLP creates a "moral hazard" by discouraging individuals and businesses from purchasing insurance for natural catastrophes. Currently, SBA disaster loans are awarded regardless of whether the beneficiaries previously took steps to reduce their exposure to losses from natural disasters.

While SBA disaster loans are intended to help applicants return their property to the same condition as before the disaster, the unintended consequence of this requirement is that borrowers are forced to rebuild in disaster-prone locations. For example, instead of moving from a town located in a major flood zone, applicants are required to rebuild in the exact same location. Thus, applicants are still located in a high-risk area. In many cases, the loans fail to offer a long-term solution.

ADDITIONAL READING

- David B. Muhlhausen, "Business Disaster Reform Act of 2013: Review of Impact and Effectiveness," testimony before the Committee on Small Business and Entrepreneurship, U.S. Senate, March 14, 2013.

Department of State

Department of State, Foreign Operations, and Related Programs

RECOMMENDATION

The Department of State, foreign assistance programs, and contributions to international organizations are the primary vehicles for advancing U.S. interests and policies through diplomacy, communications, and economic engagement, as well as initiatives and policies that contribute to those interests by encouraging market reforms, good governance, and the rule of law in developing countries. While America remains a global superpower, there is a clear sense that U.S. influence falls short of what it should wield, and that some of the blame is due to inefficiencies and structural problems in the Department of State and America's foreign-assistance programs. As a matter of due diligence, Congress and the Administration should evaluate these programs to determine which changes should be made to address those failings.

In this vein, the Trump Administration has proposed a number of reforms in its FY 2018 budget proposal. Congress should work with the Administration on crafting changes to:

- Restructure the Department of State;
- Clarify and, to the extent possible, codify the treaty process;
- Place U.S. economic and development assistance more directly under the control of the State Department to better coordinate its activities with U.S. policy priorities;
- Conduct an independent evaluation of all U.S. assistance programs;
- Replace or comprehensively update the 1961 Foreign Assistance Act;
- Reform America's food assistance programs;
- Establish a dedicated unit for international organizations in the Office of Inspector General for the Department of State;
- Conduct a periodic cost-benefit analysis of U.S. participation in all international organizations; and
- Enforce the 25 percent cap on America's peacekeeping assessment.

RATIONALE

The perception that U.S. influence falls short of what it should wield is not new. Fifteen years ago, the U.S. Commission on National Security/21st Century (the Hart–Rudman Commission) described the State Department as a "crippled institution" suffering from "an ineffective organizational structure in which regional and functional policies do not serve integrated goals, and in which sound management, accountability, and leadership are lacking."[1] As it further observed:

> Foreign assistance is a valuable instrument of U.S. foreign policy, but its present organizational structure, too, is a bureaucratic morass. Congress has larded the Foreign Assistance Act with so many earmarks and tasks for the U.S. Agency for International Development ([US]AID) that it lacks a coherent purpose. Responsibility today for crisis prevention and responses is dispersed in multiple [US]AID and State bureaus, and among State's Under Secretaries and the [US]AID Administrator. In practice, therefore, *no one is in charge.*

Neither the Secretary of State nor the [US]AID Administrator is able to coordinate these foreign assistance activities or avoid duplication among them. More important, no one is responsible for integrating these programs into broader preventive strategies or for redeploying them quickly in response to crises.[2]

Similarly, despite generally being the largest financial contributor, the ability of the U.S. to guide policy decisions and reform international organizations has proven to be limited. Efforts by multiple Administrations and Congress to convince international organizations to improve efficiency, exercise budgetary restraint, and enhance accountability have made only sporadic progress—often later reversed—despite repeated examples and reports of poor management,

limited impact, and even reprehensible behavior like ongoing revelations of sexual exploitation and abuse by United Nations civilian personnel and peacekeepers.[3] A complicating factor is that U.S. policy priorities must pass muster with other U.N. member states that often have countervailing interests, which leads to dilution of those policies or prevents their implementation entirely.

The Hart–Rudman Commission called for a significant restructuring of the State Department and America's foreign-assistance programs stating that funding increases could only be justified if there was greater confidence that those institutions would use its funding more effectively. The opposite has occurred—with increased funding provided while reforms to improve focus and effectiveness and to establish clearer lines of authority and responsibility have languished.

The bureaucratic and institutional structure has become even more complex. For instance, in addition to the old foreign-assistance programs, new initiatives have been established, including the President's Emergency Plan for AIDS Relief (PEPFAR) in 2003, the Millennium Challenge Corporation in 2004, and the President's Malaria Initiative in 2005. Meanwhile, the Department of State has created new bureaus and offices absent explicit congressional authorization.

According to the Congressional Budget Justification for the Department of State, Foreign Operations, and Related Programs, the FY 2016 total budget estimate for International Affairs (150 Account), which provides funding to the State Department and USAID, was $55.2 billion.[4] Between FY 2000 and FY 2016, the International Affairs budget increased by nearly 135 percent in nominal terms from $23.5 billion.[5] The number of full-time permanent State Department employees in FY 2000 was 25,239, which included 9,023 Foreign Service members, 6,590 Civil Service members, and 9,852 Foreign Service Nationals.[6] An apples-to-apples comparison with current employment was not possible because the State Department would provide that data only through a FOIA request. However, State did report that Foreign Service employment in 2015 totaled 13,760 and Civil Service employees totaled 10,964. Thus, growth in these two categories was, respectively, 52.5 percent and 66.4 percent between 2000 and 2015.

Over the years, too much focus on reforming the State Deaprtment and assistance programs has concerned funding levels. While this is important, as demonstrated by the increases in staff and budgets over the past 16 years, insufficient resources have not been the cause of of the problems in these institutions. In terms of personnel and funding, Congress and the Trump Administration should work together to implement reforms targeted to address more fundamental structural and legislative problems by:

- **Restructuring the Department of State.** This restructuring should strengthen U.S. bilateral and multilateral diplomacy over thematic bureaus and offices to ensure that the State Department's focus is first on foremost on the interests and foreign policy priorities of the United States. State should work with Congress to eliminate unnecessary bureaus and offices, merge complementary bureaus and offices, and trim the use of special envoys to reduce costs and clarify lines of authority.[7]
- **Clarifying and, to the extent possible, codifying the treaty process.** The matter of which international agreements constitute treaties requiring Senate advice and consent in accordance with Article II of the Constitution is often subject to dispute. This ambiguity ill-serves the constitutional process and America's negotiating partners who cannot be certain of the status, permanence, and legality of an agreement with the U.S.
- **Placing U.S. economic and development assistance directly under the control of the State Department to better coordinate its activities with U.S. policy priorities.** As noted by the Hart–Rudman Commission, "Development aid is not an end in itself, nor can it be successful if pursued independently of other U.S. programs and activities.... Only a coordinated diplomatic and assistance effort will advance the nation's goals abroad, whether they be economic growth and stability, democracy, human rights, or environmental protection."[8] The President's FY 2018 budget proposal to merge several economic and development assistance programs into the Economic Support and Development Fund is a reasonable approach in addressing this problem.
- **Conducting an independent evaluation of all U.S. assistance programs to eliminate unnecessary U.S. assistance agencies and programs and merge duplicative ones.** As stewards of American taxpayer dollars, Congress and the Administration have a responsibility to ensure that assistance is effectively and

efficiently achieving its intended purpose—whether it is augmenting economic development, alleviating suffering during a crisis, or supporting America's national interests. As a matter of due diligence, Congress and the Administration should evaluate all U.S. assistance programs to determine whether they are doing what America needs them to do and, if not, implement changes to address those failings.

- **Replacing or comprehensively updating the 1961 Foreign Assistance Act.** This act, which is the legislative foundation of America's foreign-assistance programs, is antiquated and burdened with 50 years of various instructions, reporting requirements, mandates, and tweaks added over time. Congressional earmarks (mandates that certain funds be spent in certain countries or on specific purposes) can exceed total available funds, can be contradictory, and undermine effective use of U.S. assistance.
- **Reforming America's food assistance programs.** As the President's FY 2018 budget proposes, the U.S. should make U.S. foreign-assistance programs more efficient—reaching more people with less money—by eliminating costly legal requirements for the use of U.S. food and shipping, or making use of the International Disaster Assistance program, which is not burdened by those requirements, instead of Public Law 480 food assistance programs, which are subject to those restrictions.
- **Establishing a dedicated unit for international organizations in the Office of Inspector General for the Department of State.** The U.S. remains dependent on the internal U.N. oversight mechanisms, many of which lack independence, have inadequate resources, or face problems with competence, corruption, or bias.
- **Conducting a periodic cost-benefit analysis of U.S. participation in all international organizations.** Although a number of U.N. organizations provide important contributions to U.S. diplomatic, economic, and security interests, not all do. The U.S. lacks a comprehensive analysis of whether these contributions are advancing or undermining U.S. interests, or being used to maximum effect.[9] The last time the U.S. conducted a similar exercise, albeit in a far less rigorous manner, was under the Clinton Administration in 1995, which led directly to the U.S. decision to withdraw from the United Nations Industrial Development Organization. High on the list of international organizations from which the U.S. should withdraw are the United Nations Educational, Scientific, and Cultural Organization (UNESCO) and the United Nations Framework Convention on Climate Change (UNFCCC), to which the U.S. can no longer legally provide funding, due to their decision to grant full membership to the Palestinians.
- **Enforcing the 25 percent cap on America's peacekeeping assessment.** As passed in the FY 2017 omnibus and recommended in the President's FY 2018 budget proposal, the U.S. should resume pressure on the U.N. to fulfill its commitment to lower the U.S. peacekeeping assessment to 25 percent by enforcing the 25 percent cap enacted in 1994.[10]

ADDITIONAL READING

- The Heritage Foundation, "Solutions 2016: Foreign Assistance."
- Brett D. Schaefer, "How to Make the State Department More Effective at Implementing U.S. Foreign Policy," Heritage Foundation *Backgrounder* No. 3115, April 20, 2016.
- Brett D. Schaefer, "Key Issues of U.S. Concern at the United Nations," testimony before Subcommittee on Multilateral International Development, Multilateral Institutions, and International Economic, Energy, and Environmental Policy, Committee on Foreign Relations, U.S. Senate, May 6, 2015.
- Brett D. Schaefer, "United Nations Peacekeeping Flaws and Abuses: The U.S. Must Demand Reform," Heritage Foundation *Backgrounder* No. 3131, August 3, 2016.
- The United States Commission on National Security/21st Century, "Road Map for National Security: Imperative for Change," Phase III Report, February 15, 2001, p. xi.

Eliminate the Overseas Private Investment Corporation

RECOMMENDATION

The Administration should work with Congress to eliminate the Overseas Private Investment Corporation (OPIC) by amending the statute to prohibit new financing, insurance, and reinsurance operations, and limiting its authority to managing its current portfolio. OPIC should be instructed to divest current activities where possible with the goal of winding down OPIC as quickly as practicable.

RATIONALE

OPIC was created in 1969 at the request of the Nixon Administration to promote investment in developing countries. OPIC provides loans and loan guarantees; subsidizes risk insurance against losses resulting from political disruption, such as coups and terrorism; and capitalizes investment funds.

While there may have been legitimate need for government services of this kind in 1969, in today's global economy, many private firms in the developed and developing world offer investment loans and political-risk insurance. OPIC displaces these private options by offering lower-cost services using the faith and credit of the U.S. government (that is, the taxpayers). Indeed, OPIC products may actually undermine development by accepting customers who might otherwise use financial institutions in middle-income countries, such as Brazil and India, which have reasonably sound domestic financial institutions. Moreover, OPIC's subsidized prices do not fully account for risk. By putting the taxpayer on the hook for this exposure, OPIC puts the profits in private hands but places the ultimate risk on the taxpayer.

Worse, OPIC rewards bad economic policies. Countries with the best investment climates are most likely to attract foreign investors. When OPIC guarantees investments in risky foreign environments, those countries have less reason to adopt policies that are friendly to foreign investors. Companies that want to invest in emerging markets should be free to do so, but they are not entitled to taxpayer support. Investors should base their decisions not on whether a U.S. government agency will cover the risks, but on whether investment in a country makes economic sense.

OPIC directs only a small share of its portfolio to least-developed countries, even though OPIC was established to "contribute to the economic and social progress of developing nations" that lack access to private investment, which today are overwhelmingly the least-developed countries. Further undermining the basis for OPIC's continuation, the need for OPIC even in least-developed countries is decreasing, as private capital investment has been increasing in those countries.

Finally, it is far from clear that OPIC projects support U.S. economic security or interests. OPIC claims of support for U.S. jobs are dubious and, even if valid, cost hundreds of thousands of dollars per job "supported." Thus, even if OPIC supports U.S. jobs, it is massively inefficient. Specific examples of projects that OPIC supports that should raise questions in Congress are:

- $67 million to finance 13 projects in the Palestinian territories while a unity government was formed with Hamas;
- Financing for Papa John's pizza franchises in Russia; and
- $50 million of financing for a Ritz-Carlton hotel in Istanbul, Turkey; and

In 1996, Milton Friedman concluded: "I cannot see any redeeming aspect in the existence of OPIC. It is special interest legislation of the worst kind, legislation that makes the problem it is intended to deal with worse rather than better.... OPIC has no business existing."

The Trump Administration's budget for FY 2018 "proposes to eliminate funding for several independent agencies, as well as funding to support new loans and guarantees at the Overseas Private Investment Corporation."[11] In pursuit of this goal, the budget requests sufficient funds for managing OPIC's portfolio and to "initiate orderly wind-down activities in FY 2018." Congress should support this request.[12]

ADDITIONAL READING

- Bryan Riley and Brett D. Schaefer, "Time to Privatize OPIC," Heritage Foundation *Issue Brief* No. 4224, May 19, 2014.
- Brett D. Schaefer and Bryan Riley, "8 Reasons Congress Should End Taxpayer Support for the Overseas Private Investment Corporation," The Daily Signal, September 30, 2015.
- Ryan Young, "The Case Against the Overseas Private Investment Corporation: OPIC Is Obsolete, Ineffective, and Harms the Poor," Competitive Enterprise Institute *On Point* No. 208, September 24, 2015.

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1. The United States Commission on National Security/21st Century, "Road Map for National Security: Imperative for Change," Phase III Report, February 15, 2001, p. x, http://govinfo.library.unt.edu/nssg/PhaseIIIFR.pdf (accessed June 12, 2017).
2. Ibid., p. 53.
3. Brett D. Schaefer, "Key Issues of U.S. Concern at the United Nations," testimony before Subcommittee on Multilateral International Development, Multilateral Institutions, and International Economic, Energy, and Environmental Policy, Committee on Foreign Relations, U.S. Senate, May 6, 2015, http://www.heritage.org/research/testimony/2015/key-issues-of-us-concern-at-the-united-nations.
4. U.S. Department of State, "Congressional Budget Justification Department of State, Foreign Operations, and Related Programs: Fiscal Year 2018," Table: Diplomatic Engagement and Foreign Assistance Request FY 2016–FY 2018, pp. 2–4, http://www.state.gov/documents/organization/252179.pdf (accessed June 12, 2017).
5. U.S. Department of State, "Budget Tables: FY 2002 International Affairs Summary," http://www.state.gov/s/d/rm/rls/iab/2002/2104.htm (accessed June 12, 2017).
6. U.S. Department of State, "Accountability Report: Fiscal Year 2001," Table: Summary of Full-time Permanent Employees, p. 9, http://www.state.gov/documents/organization/9373.pdf (accessed June 12, 2017).
7. For more details, see Brett D. Schaefer, "How to Make the State Department More Effective at Implementing U.S. Foreign Policy," Heritage Foundation *Backgrounder* No. 3115, April 20, 2016, http://www.heritage.org/research/reports/2016/04/how-to-make-the-state-department-more-effective-at-implementing-us-foreign-policy.
8. The United States Commission on National Security/21st Century, "Road Map for National Security: Imperative for Change," p. xi.
9. An example of what the U.S. should do is the Multilateral Aid Review conducted by the United Kingdom's Department for International Development that assessed the relative value for U.K. aid money disbursed through multilateral organizations. This review identified those U.N. agencies providing poor value for money and led to the decision to zero-out funding for four U.N. agencies. United Kingdom Department for International Development, "Multilateral Aid Review," https://www.gov.uk/government/publications/multilateral-aid-review (accessed Jun 12, 2017). The original review cited was released in 2011. The review was updated in 2013 and followed by the "Multilateral Development Review" in 2016, https://www.gov.uk/government/publications/raising-the-standard-the-multilateral-development-review-2016 (accessed June 12, 2017).
10. Brett D. Schaefer, "U.S. Must Enforce Peacekeeping Cap to Lower America's U.N. Assessment," Heritage Foundation *Backgrounder* No. 2762, January 25, 2013, http://www.heritage.org/research/reports/2013/01/us-must-enforce-peacekeeping-cap-to-lower-americas-un-assessment.
11. U.S. Department of State, "Congressional Budget Justification: Department of State, Foreign Operations, and Related Programs, Fiscal Year 2018," p. 390, http://www.heritage.org/budget-and-spending/report/blueprint-reform-comprehensive-policy-agenda-new-administration-2017 (accessed June 5, 2017).
12. Ibid.

Department of Transportation

Evaluate and Consolidate Transportation Safety Programs

RECOMMENDATION

The Secretary of Transportation should undertake a comprehensive evaluation of all transportation safety programs for effectiveness, redundancy, and suitability in respect to the proper federal role of overseeing strictly interstate aspects of transportation. Following review, the Secretary should recommend the elimination of any ineffective or harmful safety activities—acting unilaterally when the case permits—and consulting the states to relinquish those activities more appropriately handled at the state level. Congress should then eliminate the identified ineffective activities and compile appropriate safety responsibilities under a new agency, the Interstate Transportation Safety Administration, which would encompass all federal transportation safety programs.

RATIONALE

As with other federal regulatory agencies, the Department of Transportation's (DOT's) sub-agencies are given broad authority to regulate a vast and growing array of activities related to transportation. While the federal government properly maintains jurisdiction over regulating interstate activities, many of these regulations—such as spurious commercial aviation regulations promulgated under the guise of consumer protection—are burdensome, inappropriate, or could be handled more accountably by local governments. Indeed, the DOT has layered on roughly $20 billion in new regulatory costs from major rules since 2009, the second most of any department over that time.[1] Reviewing and consolidating these regulatory functions would save money for the transportation sector, its users, and taxpayers.

ADDITIONAL READING

- James L. Gattuso and Diane Katz, "Red Tape Rising 2016: Obama Regs Top $100 Billion Annually," Heritage Foundation *Backgrounder* No. 3127, May 23, 2016.
- Michael Sargent, "Senate's FAA Authorization Perpetuates Big-Government Intrusion into Aviation Industry," Heritage Foundation *Issue Brief* No. 4546, April 11, 2016.

Privatize or Devolve Federal Management of Transportation Services

RECOMMENDATION

The DOT and its sub-agencies own and operate a limited but diverse number of transportation services. Where viable, these assets should be transferred to private-sector management or returned to the states to own and operate. These include the National Passenger Railroad Corporation (Amtrak), Air Traffic Control, and the Saint Lawrence Seaway Development Corporation.

RATIONALE

The federal government's ownership of various transportation services has delivered poor performance for users and taxpayers alike. These failures derive from a lack of proper incentives, excessive bureaucracy, an uncertain budget process, and micromanagement by members of Congress and other politicians.

Amtrak. Almost all of Amtrak's lines provide poor service and require heavy taxpayer subsidies, largely due to its monopoly status and government mismanagement.[2] Ideally, Congress and the Administration should eliminate federal subsidies for Amtrak, privatize any viable lines (chiefly the Northeast corridor), and open up intercity passenger rail to competition. Management of current state-supported routes could be turned over to the states, which would then have the option to cover the full cost of providing passenger rail service.

If complete overhaul is not politically possible, an alternative approach would be to lower federal subsidies for the long-haul and state-supported routes, allowing states to replace the subsidy difference if desired and Amtrak to shutter underperforming routes. The Northeast corridor could also be entered into a public-private partnership by bidding out the right to operate and maintain the Northeast corridor for a set period to a private firm, under the condition that the operator maintains a certain level of service and infrastructure condition.[3]

Allowing firms to compete to provide service would not only decrease costs to taxpayers and improve service for customers, but would also add an additional element of accountability currently non-existent for the railway in its current monopoly form.

Air Traffic Control. The Federal Aviation Administration's (FAA's) Air Traffic Organization (ATO) is responsible for providing air-traffic-control services. Worldwide, it is one of the last air navigation service providers that is housed within an aviation safety regulatory agency, and indeed, there is bipartisan agreement that air traffic control is not inherently a government function.[4] Government bureaucracy has led to an ATO that is slow to react, mired in red tape, and managed by Congress when it should be run like an advanced business. Billions of dollars have been spent on sluggish technology modernization efforts, and the ATO struggles with basic business functions, such as hiring employees, investing in capital improvements, and improving efficiency in its current structure.[5] Full privatization of air traffic control would bring private-sector flexibility and efficiency to the essential service and allow it to innovate outside the realm of federal bureaucracy.

Saint Lawrence Seaway Development Corporation. Congress and the Administration should privatize the Saint Lawrence Seaway Development Corporation (SLSDC), which maintains and operates the U.S. portion of the Saint Lawrence Seaway under 33 U.S. Code § 981 and 49 U.S. Code § 110. The privatization would end taxpayer contributions to maintenance and operating activities, mirroring the SLSDC's Canadian counterpart, which was privatized in 1998.

ADDITIONAL READING

- The Heritage Foundation, *Blueprint for Balance: A Federal Budget for 2018*, Mandate for Leadership Series, March 28, 2017.
- Robert Poole, "The Urgent Need to Reform the FAA's Air Traffic Control System," Heritage Foundation *Backgrounder* No. 2007, February 20, 2007.

Downsize the Federal Role in Highway Funding

RECOMMENDATION

Congress and the Administration should transfer the bulk of transportation funding responsibility to states and localities while focusing the federal government on the National Highway System (NHS), with an emphasis on the Interstate system. This rebalancing would be achieved by phasing down the federal gas tax from its current 18.4 cents per gallon to 5 cents per gallon or less over a period of five years. Other taxes would be reduced correspondingly or eliminated. The limited revenue is reserved exclusively for the core NHS programs, thus eliminating all other programs funded by the Highway Trust Fund, including funds provided to the Appalachian Regional Commission.

RATIONALE

Federal involvement in highway spending since the completion of the Interstate Highway System in the early 1990s has been marked by irresponsible fiscal management, misallocation of resources, and continuous overreach into projects beyond the proper scope of government. Congress has overspent from the Highway Trust Fund, requiring more than $140 billion in general fund transfers since 2008. The Fixing America's Surface Transportation (FAST) Act (Public Law 114–94) diverts nearly 30 percent of authorized spending allocations to programs unrelated to highway construction or rehabilitation.[6] In FY 2013, less than 50 percent of spending went toward road construction, and only 6 percent went to major (at least $500 million) construction, reconstruction, or rehabilitation projects.[7] Revenue drawn from federal taxes on motorists is likewise diverted to activities that are strictly local in nature, such as bike paths, sidewalks, and historical restoration projects. Reforming these shortcomings by downsizing the bloated highway program would bring much-needed efficiency, affordability, and accountability to surface transportation spending.

ADDITIONAL READING

- Michael Sargent and Nicolas Loris, "Driving Investment, Fueling Growth: How Strategic Reforms Can Generate $1.1 Trillion in Infrastructure Investment," Heritage Foundation *Backgrounder* No. 3209, May 8, 2017.
- Ronald Utt, "'Turn Back' Transportation to the States," Heritage Foundation *Backgrounder* No. 2651, February 6, 2012.

Eliminate Unnecessary and Improper Federal Transportation Agencies

RECOMMENDATION

Following the consolidation of the DOT's safety regulatory functions, privatization of transportation services, and rightsizing of the highway program, the rest of the department and its activities should be eliminated.

RATIONALE

Federal Transit Administration (49 U.S. Code § 107). The Federal Transit Administration (FTA) improperly funds local projects that fall outside the appropriate role of the federal government. The agency's spending has also proven ineffective: Despite billions of dollars in federal subsidies, mass transit's share of commuter trips is lower than it was in 1980.[8] Worse, federal grants for mass transit introduce perverse incentives that encourage localities to build new, expensive transit systems that rarely meet ridership projections and leave localities on the hook for exorbitant future operating and maintenance costs.[9] These federally induced projects end up crowding out maintenance on existing infrastructure. The Administration should aim to eliminate the FTA, including its formula and discretionary grant programs. States and localities would then be responsible for crafting and funding their own local mass transit agendas, bringing greater accountability to both riders and taxpayers.

Federal Railroad Administration (49 U.S. Code § 103). The Administration and Congress should prepare a proposal to eliminate the Federal Railroad Administration (FRA) and the various grant programs it administers. Most federal rail funding is directed to subsidize Amtrak, which receives over a billion dollars in federal subsidies each year. Other grants and subsidized loans, such as safety grants, subsidies for Class II and III Railroads, and the Railroad Rehabilitation and Improvement Financing Program, should also be eliminated. Finally, the FRA's research and development facilities should be sold to the private sector. Following the transfer or elimination of any safety duties, the FRA should be dissolved.

Federal Aviation Administration (49 U.S. Code § 106). In addition to privatizing air traffic control, the Administration should eliminate all federal grants to airports, including the Airport Improvement Program and Essential Air Service (which the DOT Secretary could initially curtail by enforcing the $200 per passenger subsidy limit).[10] Following the elimination of federal aviation grants, the privatization of the ATO, and the relocation of safety programs, the FAA should be disbanded and its aviation taxes wound down.[11]

Maritime Administration (49 U.S. Code § 109). New legislation should shutter the Maritime Administration (MARAD) and transfer any programs that have a vital security component to the Department of Defense, the Coast Guard, or another security agency. This elimination includes the preferential Maritime Guaranteed Loan Program (Title XI) as well as improper activities including the Maritime Heritage Education and Preservation Projects.

ADDITIONAL READING

- Wendell Cox, "America Needs a Rational Transit Policy," Heritage Foundation *Issue Brief* No. 4368, March 24, 2015.
- The Heritage Foundation, *Blueprint for Balance: A Federal Budget for 2018*, Mandate for Leadership Series, March 28, 2017.
- Ronald Utt and Wendell Cox, "How to Close Down the Department of Transportation," Heritage Foundation *Backgrounder* No. 1048, August 17, 1995.

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1. James L. Gattuso and Diane Katz, "Red Tape Rising 2016: Obama Regs Top $100 Billion Annually," Heritage Foundation *Backgrounder* No. 3127, May 23, 2016, http://www.heritage.org/research/reports/2016/05/ red-tape-rising-2016-obama-regs-top-100-billion-annually.
2. The Heritage Foundation, *Blueprint for Balance: A Federal Budget for 2018*, Mandate for Leadership Series, March 28, 2017, http://www.heritage.org/budget-and-spending/report/blueprint-balance-federal-budget-fiscal-year-2018.
3. For one proposal, see R. Richard Geddes, "Making Amtrak Compete Would Benefit All," American Enterprise Institute, June 8, 2015, https://www.aei.org/publication/making-amtrak-compete-would-benefit-all/ (accessed June 2, 2017).
4. Dorothy Robyn, "It's Time to Corporatize Air Traffic Control (the Right Way)," Brookings Institution, Monday, September 28, 2015, https://www.brookings.edu/blog/fixgov/2015/09/28/its-time-to-corporatize-air-traffic-control-the-right-way/ (accessed June 2, 2017).
5. U.S. Department of Transportation, Office of the Inspector General, "FAA Continues to Face Challenges in Ensuring Enough Fully Trained Controllers at Critical Facilities," *Report* No. AV-2016-014, January 11, 2016, https://www.oig.dot.gov/sites/default/files/FAA%20Controller%20Stafng%20at%20Critical%20Facilities%5E1-11-16.pdf (accessed June 2, 2017), and U.S. Department of Transportation, Office of the Inspector General, "FAA Reforms Have Not Achieved Expected Cost, Efficiency, and Modernization Outcomes," *Report* No. AV-2016-015, January 15, 2016, https://www.oig.dot.gov/sites/default/files/FAA%20Organizational%20Structure_Final%20Report%5E1-15-16.pdf (accessed June 2, 2017).
6. Michael Sargent and Nicolas Loris, "Driving Investment, Fueling Growth: How Strategic Reforms Can Generate $1.1 Trillion in Infrastructure Investment," Heritage Foundation *Backgrounder* No. 3209, May 8, 2017, http://www.heritage.org/sites/default/files/2017-05/BG3209_0.pdf.
7. Government Accountability Office, "Highway Trust Fund: DOT Has Opportunities to Improve Tracking and Reporting of Highway Spending," GAO–15–33, October 2014, http://www.gao.gov/assets/670/666442.pdf (accessed June 2, 2017), and Bob Poole Jr., "Rethinking the Highway Trust Fund," testimony before the Committee on Ways and Means, U.S. House of Representatives, June 17, 2015, http://waysandmeans.house.gov/wp-content/uploads/2015/06/Poole-Testimony.pdf (accessed June 2, 2017).
8. Wendell Cox, "America Needs a Rational Transit Policy," Heritage Foundation *Issue Brief* No. 4368, March 24, 2015, http://www.heritage.org/research/reports/2015/03/america-needs-a-rational-transit-policy.
9. Randal O'Toole, "'Paint Is Cheaper than Rails': Why Congress Should Abolish New Starts," Cato Institute *Policy Analysis* No. 727, June 19, 2013, https://www.cato.org/publications/policy-analysis/paint-cheaper-rails-why-congress-should-abolish-new-starts (accessed June 2, 2017).
10. Michael Sargent, "Senate's FAA Authorization Perpetuates Big-Government Intrusion into Aviation Industry," Heritage Foundation *Issue Brief* No. 4546, April 11, 2016, http://www.heritage.org/research/reports/2016/04/senates-faa-authorization-perpetuates-big-governmentintrusion-into-aviation-industry.
11. Correspondingly, the Administration's plan should localize airport funding by reducing or removing restrictions on allowing airports to collect revenue (by repealing the Anti-Head Tax Act of 1973), thus giving states, localities, and the airports themselves greater ability to provide funding for airport improvements. Given government ownership and the market power of many airports, legal precautions should be taken to ensure that government-owned airports do not abuse their monopoly power in order to generate revenue for local coffers or unrelated local projects.

Department of the Treasury

Make Tax Regulations Subject to Meaningful Review

RECOMMENDATION

Internal Revenue Service (IRS) and Treasury Department tax regulations should be subject to review by the Office of Management and Budget's (OMB's) Office of Information and Regulatory Analysis (OIRA) to the same extent as other agency regulations.

RATIONALE

Under Executive Order 12866 (relating to Regulatory Planning and Review, as amended) and various other OIRA guidance, agency rules are subject to cost-benefit analysis and other review.

IRS regulations have been largely exempt from review by OIRA since an April 29, 1983, Memorandum of Understanding (MOU) between the Treasury and the OMB regarding Implementation of Executive Order 12291. This MOU was reconfirmed by the two agencies in 1993 with additional exemptions in an addendum. IRS rules are deemed "interpretive" and largely exempt from OIRA review. Few other agencies enjoy such an exemption.

IRS rules impose an estimated $400 billion annually in costs on the economy, which is more than 2 percent of gross domestic product. The IRS and Treasury have significant discretion in how they draft tax rules. Serious review of existing and proposed regulation should be undertaken to reduce compliance costs. The MOU should be terminated, and OIRA should commence review of IRS and Treasury Department tax regulations.

ADDITIONAL READING

- Scott A. Hodge, "The Compliance Costs of IRS Regulations," Tax Foundation *Fiscal Fact* No. 512, June 2016.

Make the Internal Revenue Service Publicly Accountable

RECOMMENDATION

Increase the number of presidentially appointed Senate-confirmed positions in the IRS to make the agency more accountable to the public.

RATIONALE

Of the roughly 78,000 IRS employees (in 2016), only two are political appointees—the Commissioner and the Chief Counsel. They are appointed by the President with the advice and consent of the Senate. In addition, the independent Treasury Inspector General for Tax Administration is a presidential appointee subject to Senate confirmation.

It is unrealistic to expect two people to exercise meaningful administrative and policy control over an agency the size of the IRS. The bureaucracy has proven it is unaccountable and unresponsive to the public. An agency as enormous as the IRS, with a function as important and subject to abuse as tax collection, has to be subject to greater public accountability.

At the very least, the Deputy Commissioner for Services and Enforcement and the

Deputy Commissioner for Operations Support should be presidential appointees subject to Senate confirmation. In addition, the Division Commissioners should probably be presidential appointees subject to Senate confirmation. Those divisions are the Wage and Investment Division, the Large Business and International Division, the Small Business/Self Employed Division, and the Tax Exempt and Government Entities Division.

ADDITIONAL READING

- David R. Burton, "IRS Politicization Is Inappropriate in a Democratic Republic," The Daily Signal, May 12, 2014.
- Hans A. von Spakovsky, "The IRS Just Admitted They Could Resume Targeting Conservatives," *Conservative Review*, August 9, 2016.
- Hans A. von Spakovsky, "Protecting the First Amendment from the IRS," Heritage Foundation *Legal Memorandum* No. 104, October 2, 2013.

Make FinCEN Regulations Subject to Cost-Benefit Analysis

RECOMMENDATION

Financial Crimes Enforcement Network (FinCEN) regulations should be subject to meaningful cost-benefit analysis.

RATIONALE

The current anti-money laundering/know your customer (AML/KYC) regime administered by FinCEN costs the American economy an estimated $4.8 billion to $8 billion annually. Yet, this AML/KYC system results in fewer than 700 convictions annually, a large proportion of which are simply additional counts against persons charged with other predicate crimes. Thus, each conviction costs at least $7 million, and potentially much more. Each year the rules grow more onerous and affect more people and more businesses. Yet FinCEN has never conducted a meaningful cost-benefit analysis of these rules, nor sought less-costly ways of achieving their objectives. Congress should require FinCEN to do so. In addition, outside analysts, such as from the Government Accountability Office or OIRA should review FinCEN's analysis.

ADDITIONAL READING

- David R. Burton and Norbert J. Michel, "Financial Privacy in a Free Society," Heritage Foundation *Backgrounder* No. 3157, September 23, 2016.

Department of Veterans Affairs

Eliminate Department of Veterans Affairs Offices that Block Integrated Responses to Veterans

RECOMMENDATION

The Department of Veterans Affairs (VA) has retained many offices that were created to address single issues. These same offices become barriers to timely, effective, and integrated responses to veterans. In name, each office sounds valuable, but in practice they are adding to the bureaucratization of veteran services. The effectiveness of the VA is increased as it relies on the expertise of employees and dynamic teams, rather than the lengthy, unnecessary transactions between organizational units.

RATIONALE

Many of the VA's expert employees are unable to fully apply their skills because they are trapped in organizational units that require their ongoing attention to justify the budgets of contracts and staff. An effective alternative is to actively register the expertise among employees, and make such staff readily available through work details, consultations, dynamic teaming, and the widespread reuse of their insights and respective artifacts through an enterprise-level Learning Integrated Network, as has been tested by the VA in the past.[1]

At least 42 offices should be eliminated to allow barrier-free access to expert employees, including the

- Offices of Business Compliance;
- Commission on Care;
- Compliance Improvement;
- Connected Health;
- Cooperative Studies;
- Diversity and Inclusion;
- Ethics in Healthcare;
- Faith-Based and Neighborhood Partnerships;
- Geriatric Research Education Clinical Center;
- Health Equity;
- Health for Integrity;
- Health for Organizational Excellence;
- Health Informatics;
- Health Promotion and Disease Prevention;
- Healthcare Transformation;
- Healthcare Value;
- Hepatitis C/HIV;
- High Reliability Systems and Consultation;
- HIV, Hepatitis and Public Health Pathogens;
- Homelessness;
- ISO 9001 Consultation;
- Joint Incentive Fund;
- Lesbian, Gay, Bisexual and Transgender;
- Minority Veterans;
- Mission Ready Consultation Strategy;
- MyVA;
- National Center for Organizational Development;
- Navigation, Advocacy, and Community Engagement;
- OEF/OIF Outreach;
- Overarching Integrated Process Team;
- Population Health Services;
- Post Deployment Health Services;
- Program for Research Integrity Development and Education (PRIDE);
- Program Management Office;
- Public Health;
- Smoking;
- Strategic Integration;
- T- New Models of Care;
- VA Center for Innovation;
- Web Communications; and
- Women Veterans.

In addition, the work of the Office of Construction and Facility Management should be transferred to the General Services Administration, which ultimately manage these. An integrated servicing office should operate under the Deputy Secretary.[2]

ADDITIONAL READING

- David M. Paschane, "A Theoretical Framework for the Medical Geography of Health Service Politics," dissertation, University of Washington, June 1, 2003.

Consolidate VA Employee Investments for Cross-Operational Capability

RECOMMENDATION

The public investment in keeping 340,000 professionally diverse employees qualified and effective across 2,100 locations is high. The estimated annual cost for the VA is more than $2 billion. At least nine VA offices should be consolidated to allow the VA to make cost-effective investments in training employees in cross-operational capabilities.

RATIONALE

VA employees experience inconsistent development for cross-operational capability. The training services that are provided tend to be misaligned to work operations, lack consistent up-skilling for career advancement, and are easily abused as means of avoiding work responsibilities. A single VA office, responsible for measurably increasing the value of employees within their mix of operational requirements, could create an engaged and devoted workforce, uniformly qualified to provide services to veterans.

Among the VA training offices, there are notable strengths that can be combined to prescribe and manage training investments in a consolidated and effective operation. One example is the Employee Management Analytic Platform.[3]

At least nine offices should be consolidated to enable the VA to make cost-effective investments in training employees in cross-operational capabilities:

- Corporate Senior Executive Management Office;
- Corporate Travel and Reporting;
- Credentialing and Privileging;
- Employee Education Service;
- Healthcare Leadership Talent Institute;
- Human Resources Management;
- National Center for Ethics in Health Care;
- VA Learning University; and
- Workforce Management and Consulting.

A consolidation of employee investments would provide an analytic foundation for examining and responding to the emerging cross-operational gaps across the VA. Likewise, measurable capability allows operational offices to more easily acquire staff for projects, as they can identify the experts within the larger pool of employees. An integrated employee investment office should operate under the Deputy Secretary.[4]

ADDITIONAL READING

- David M. Paschane, "Performance Leadership," paper presented at the European Institute for Advanced Studies in Management, March 9, 2012.

Consolidate Analyses of Performance and Accountability Across the VA

RECOMMENDATION

With more than 400 internal organizations, the VA has significant differences and disconnections among the methods it uses to analyze its operational capability and performance. The analytic differences undermine employees' leadership in performance improvement, complicate reporting to stakeholders, and weaken operational and outcome accountability. Consolidation of analyses will enable the methodological standards and completeness to support employees and stakeholders, such as veteran service organizations and Members of Congress.

RATIONALE

Analytic rigor requires accuracy and completeness, and such is not possible if disparate offices develop limited analyses. The VA has demonstrated that Management Analytic Platforms, with unadulterated data, are effective,[5] but require integrated measurement across operations and organizations to result in improved capability, performance, and accountability.

At least 31 additional offices should be consolidated to improve analyses of performance and accountability across the VA. Twenty-one of these offices are in the Veterans Health Administration:

- Office of Academic Affiliations;
- Analytics and Business Intelligence;
- Chief Improvement Officer;
- Compliance and Business Integrity;
- Data Quality and Analysis;
- Enterprise Data Intelligence and Governance;
- External Accreditation Services and Programs;
- Health Information Governance;
- Health Services Research and Development Service;
- Healthcare Value;
- Informatics and Analytics;
- Policy Analysis and Forecasting;
- Quality Standards and Programs;
- Quality, Safety and Value;
- Rural Health Operations;
- Safety and Risk Awareness;
- Standards and Regulatory Governance;
- Strategic Investment Management;
- Systems Redesign and Improvement;
- Utilization and Efficiency Management; and
- Value Measurement and Results.

The other 10 offices are:

- Offices of Business Process Integration;
- Field Operations;
- Interagency Collaboration and Integration;
- Management, Planning and Analysis;
- Performance Analysis and Integrity;
- Performance Management;
- Programming, Analysis and Evaluation;
- Quality, Performance and Oversight;
- Regulation Policy Management; and
- Data Governance and Analysis.

The integrated analytic office should operate under the Deputy Secretary.[6]

ADDITIONAL READING

- David M. Paschane, "Performance Leadership," paper presented at the European Institute for Advanced Studies in Management, March 9, 2012.

ENDNOTES

1. VA cases using efficient, integrated Learning Integrated Networks are reported in *ComputerWorld*, June 3, 2013.
2. Under the GPRA Modernization Act of 2010, the Deputy Secretary is the Department's Chief Operating Officer, responsible for performance improvement.
3. VA cases using the Events Management Analytic Platform are reported in *ComputerWorld*, June 3, 2013.
4. Under the GPRA Modernization Act of 2010, the Deputy Secretary is the Department's Chief Operating Officer, responsible for performance improvement.
5. VA cases using efficient, integrated Management Analytic Platforms are reported in *ComputerWorld*, June 3, 2013.
6. Under the GPRA Modernization Act of 2010, the Deputy Secretary is the Department's Chief Operating Officer, responsible for performance improvement.

Consumer Financial Protection Bureau

Eliminate the Consumer Financial Protection Bureau

RECOMMENDATION

The Consumer Financial Protection Bureau (CFPB) is likely the most powerful and unaccountable regulatory agency in existence. It unduly restricts access to credit without oversight from either Congress or the executive branch.

Congress should eliminate the CFPB and transfer enforcement authority for consumer protection statutes to the Federal Trade Commission, which has a long history of promoting consumer welfare and market competition. Americans would be just as protected against unfair, deceptive, and fraudulent practices as they are today—without the harmful constraints imposed by the CFPB.

RATIONALE

The CFPB was established in the wake of the 2008 financial crisis to "regulate the offering and provision of consumer financial products or services under the Federal consumer financial laws."[1] Before its creation, authority for some 50 rules and orders stemming from 22 consumer protection statutes[2] was divided among seven agencies.[3]

The Dodd–Frank Act granted the new agency unparalleled rulemaking, supervisory, and enforcement powers over virtually every consumer financial product and service. It was designed to evade the checks and balances that apply to most other regulatory agencies.

The CFPB has restructured the mortgage market by broadening lenders' fiduciary responsibilities and standardizing home loans. There are new restrictions on credit cards, ATM services, auto lending and leasing, electronic funds transfers, and student loans. More rules are in the pipeline for credit reporting, overdraft coverage, arbitration, debt collection, and general-purpose reloadable cards.

The CFPB is also amassing the largest government database of consumer data ever compiled to monitor virtually every credit card transaction.[4] And, it is aggressively soliciting unverified complaints from consumers with which to impugn the reputations of lenders and creditors.[5]

CFPB advocates claim that the agency is vital for protecting consumers against "vulture capitalism."[6] But if Congress reforms the CFPB or even eliminates it altogether, consumers will be just as protected against unfair, deceptive, and fraudulent practices as they are today.[7] In addition to the 22 federal statutes, consumers are protected under state laws and regulations and local ordinances too numerous to count.[8]

Prior to the 2008 financial crisis, there certainly was a need to modernize the federal consumer protection regime. But a lack of consumer protection was not a major factor in the 2008 financial crisis.[9] Now, however, the structural flaws of the CFPB are contributing to a different crisis: an ever-expanding administrative state that is suffocating free enterprise and individual liberty.

ADDITIONAL READING

- Alden F. Abbott and Todd J. Zywicki, "How Congress Should Protect Consumers' Finances," chap. 19, in Norbert J. Michel, ed., *Prosperity Unleased: Smarter Financial Regulation* (Washington, DC: The Heritage Foundation, 2017).
- Diane Katz, "Consumer Financial Protection Bureau: Limiting Americans' Credit Choices," Heritage Foundation *Backgrounder* No. 3102, April 28, 2016.
- Diane Katz and Norbert J. Michel, "Consumer Protection Predates the Consumer Financial Protection Bureau," Heritage Foundation *Backgrounder* No. 3214, May 11, 2017.
- Norbert J. Michel, "Opportunities to Reform the Federal Financial Regulatory System," testimony before the Financial Institutions and Consumer Credit Subcommittee, Committee on Financial Services, U.S. House of Representatives, April 6, 2017.

ENDNOTES

1. H.R. 4173, Dodd–Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 111th Cong., July 21, 2010, 124 Stat. 1376, 12 U.S. Code § 5301, Title X, Section 1011(a).
2. Including the Truth in Lending Act, the Fair Credit Reporting Act, the Fair Debt Collection Practices Act, the Equal Credit Opportunity Act, and the Electronic Funds Transfer Act, among others.
3. (1) The Board of Governors of the Federal Reserve; (2) the Federal Deposit Insurance Corporation; (3) the Office of the Comptroller of the Currency; (4) the Office of Thrift Supervision; (5) the National Credit Union Administration; (6) the Federal Trade Commission; and (7) the Department of Housing and Urban Development.
4. News release, "CFPB's Mass Data Collection Threatens Consumers' Financial Safety," House Financial Services Committee, December 16, 2015, http://financialservices.house.gov/news/documentsingle.aspx?DocumentID=400102 (accessed May 30, 2017).
5. Jonathan Thessin, "Request for Information Regarding Consumer Complaint Database," American Bankers Association, August 31, 2015, http://www.aba.com/Advocacy/commentletters/Documents/cl-ConsumerComplaintDB-Aug2015.pdf#_ga=1.88021978.353812757.1444751158 (accessed May 30, 2017).
6. K. Sabeel Rahman, "The Return of Vulture Capitalism," *The Boston Review*, April 25, 2017, http://bostonreview.net/class-inequality/k-sabeel-rahman-return-vulture-capitalism (accessed May 31, 2017).
7. Diane Katz and Norbert J. Michel, "Consumer Protection Predates the Consumer Financial Protection Bureau," Heritage Foundation *Backgrounder* No. 3214, May 11, 2017, http://www.heritage.org/government-regulation/report/consumer-protection-predates-the-consumer-financial-protection-bureau.
8. Thomas A. Durkin, Gregory Elliehausen, Michael E. Staten, and Todd J. Zywicki, *Consumer Credit and the American Economy* (New York: Oxford University Press, 2014), p. 417.
9. Norbert J. Michel, "The Myth of Financial Market Deregulation," Heritage Foundation *Backgrounder* No. 3094, April 28, 2016, http://www.heritage.org/research/reports/2016/04/the-myth-of-financial-market-deregulation.

Corporation for National and Community Service

Eliminate the Corporation for National and Community Service

RECOMMENDATION

Congress should eliminate the Corporation for National and Community Service (CNCS).

RATIONALE

The CNCS is a federal agency that aims to promote public service and support civil society institutions. The CNCS operates four main programs—(1) AmeriCorps, (2) Senior Corps, (3) the Social Innovation Fund, and the (4) Volunteer Generation Fund—as well as other public-service-oriented programs. These programs are funded by federal dollars, in-kind donations, and public-private partnerships. Civil society is critical to a strong and prosperous United States. Yet, it is outside the proper scope of the federal government to fund activities in this sector.

Americans give to charity and volunteer their time, generously. According to the Charities Aid Foundation *World Giving Index*, in 2016, 63 percent of Americans donated money to charity, and 44 percent spent time volunteering.[1] It is neither necessary nor prudent for the federal government to "mobilize Americans into service."[2]

Volunteering time and donating money to moral causes is a long and well-established tradition in America. Most Americans, when given the choice, give time and money to causes they support. The CNCS uses taxpayer dollars to subsidize particular charities, chosen by the government. Participants in national community service programs receive compensation in the form of wages, stipends for living expenses, training, and subsidies for health insurance and child care.[3] Using taxpayer dollars for what are fundamentally voluntary contributions in civil society warps the value and meaning of service and charity, and can undermine the powerful forces that enable the genuine building of character that comes with showing generosity to others.[4]

Funding for the CNCS should be eliminated. If the hand-picked charities included in the CNCS provide valuable charitable services that Americans deem worthy of their time and money, those charities will have the opportunity to maintain their operations through private donations—the same way that other charitable organizations receive their funds.

ADDITIONAL READING

- Arthur Milikh, "Should We Compel Volunteerism?" Heritage Foundation *Commentary*, October 8, 2015.

ENDNOTES

1. Charities Aid Foundation, *2016 Annual Report*, https://www.cafonline.org/about-us/publications/2016-publications/caf-world-giving-index-2016 (accessed May 9, 2017).
2. Corporation for National and Community Service, "Legislation," https://www.nationalservice.gov/about/legislation (accessed on May 9, 2017).
3. Congressional Budget Office, "Options for Reducing the Deficit: 2017 to 2026—Option 19. Eliminate Federal Funding for National Community Service," December 8, 2016, https://www.cbo.gov/budget-options/2016/52216 (accessed May 9, 2017).

Corporation for Public Broadcasting

Eliminate the Corporation for Public Broadcasting

RECOMMENDATION

Congress should eliminate the Corporation for Public Broadcasting (CPB).

RATIONALE

It is outside the proper scope of the federal government to fund broadcasting and news sources. Congress should eliminate the CPB.

The CPB was created at a time when U.S. households faced very limited broadcasting options. As technology has grown since the corporation's inception, media sources for accessing the news and broadcasting have greatly increased.

Without federal funding from the CPB, services such as the Public Broadcasting Service (PBS) and National Public Radio (NPR) would operate like any other news or broadcasting source in the private sector. Both organizations could make up the lost funding by increasing revenues from corporate sponsors, foundations, and members.

ADDITIONAL READING

- Emily Goff, "Why Big Bird's Federal Subsides Need to Go," The Daily Signal, October 14, 2012.
- Mike Gonzalez, "Trump Should End Government Funding of NPR's Biased News," The Daily Signal, January 21, 2017.

Export–Import Bank

Eliminate the Export–Import Bank

RECOMMENDATION

The Export–Import Bank (Ex–Im) provides loans and loan guarantees as well as capital and credit insurance to "facilitate" U.S. exports. The financing is backed by the "full faith and credit" of the U.S. government, which means that taxpayers are on the hook for losses that bank reserves fail to cover.

Lawmakers should repeal the bank charter and focus on reducing tax and regulatory barriers to exports. For example, the flood of Dodd–Frank regulations is constraining private-sector credit, while the costs of Obamacare weigh heavily on U.S. firms.

RATIONALE

The Export–Import Bank primarily benefits multinational corporations—primarily Boeing, the world's largest aerospace company (with a market capitalization exceeding $108 billion). Proponents claim that such taxpayer bankrolling creates jobs and fills "gaps" in private financing.[1] In fact, the bank is a conduit for corporate welfare beset by unreliable risk management, inefficiency, and cronyism.

There is no shortage of private export financing: U.S. exports totaled $2.2 trillion in fiscal year 2016, with Ex–Im supporting just 0.22 percent ($5 billion).[2]

Bank officials and advocates emphasize that Ex–Im financing creates jobs. In fact, the bank does not count actual jobs related to its projects but simply extrapolates numbers based on national data. This formula does not distinguish among full-time, part-time, and seasonal jobs. It also assumes that average employment trends apply to Ex–Im clients (who may not be typical).

In some cases, Ex–Im financing even puts U.S. workers at a disadvantage by providing overseas competitors, including governments, with billions of dollars in discounted financing.

Ex–Im proponents also claim that small business is the bank's "core mission." That simply is not the case. In most years, just 20 percent or less of total financing has gone to small businesses. Even that number is artificially inflated by the bank's expansive definition of "small," which includes firms with as many as 1,500 workers, as well as companies with revenues of up to $21.5 million annually.

In the event that a small business cannot access private capital, it can seek to export through wholesalers or associate its business operations with larger firms or with global supply chains.

Ex–Im benefits just 2 percent of exports. And, to claim that the entire 2 percent would vanish without Ex–Im subsidies is preposterous. Finance costs are only one among a variety of factors that affect a purchaser's choice of supplier. Availability, reliability, and stability all play significant parts in purchase decisions. There should be no question that U.S. firms are capable of competing successfully without corporate welfare.

Export subsidies create economic distortions that harm the U.S. economy and consumers more than they help. As noted by the Congressional Research Service, "Ex–Im Bank's credit and insurance programs…draw from the capital and labor resources within the economy that would be available for other uses, such as alternative exports and employment."[3]

ADDITIONAL READING

- Diane Katz, "U.S. Export–Import Bank: Corporate Welfare on the Backs of Taxpayers," Heritage Foundation *Issue Brief* No. 4198, April 11, 2014.

ENDNOTES

1. Export–Import Bank of the United States, "About Us," http://www.exim.gov/about (accessed May 25, 2017).
2. U.S. Department of Commerce, International Trade Administration, "December 2016 Export Statistics," *U.S. Export Fact Sheet*, February 7, 2017, https://ibc-static.broad.msu.edu/sites/DEC/images/resources/1159b5b1-8a59-47a1-b988-4bb1836c9904us-exports-factsheet.pdf (accessed May 25, 2017).
3. Shayerah Ilias Akhtar et al., "Export–Import Bank Reauthorization: Frequently Asked Questions," Congressional Research Service, April 13, 2016, http://fas.org/sgp/crs/misc/R43671.pdf (accessed May 25, 2017).

Federal Communications Commission

End Redundant Review of Telecom Mergers by the Federal Communications Commission

RECOMMENDATION

Eliminate the Federal Communications Commission's (FCC's) merger review authority.

RATIONALE

Mergers and acquisitions among communications firms today typically undergo a double review process. First, they must be approved by the relevant antitrust authority (either the Antitrust Division of the Department of Justice or the Federal Trade Commission). Then, they undergo scrutiny by the FCC.

The Communications Act does not mandate that the FCC review mergers. The merger review is an outgrowth of the FCC's authority to approve license transfers that the merging firms may hold. These licenses, however, may represent a minimal part of the merger and present no issues in themselves. Instead, they are a hook for the FCC to embark on its own lengthy review of such transactions.

For the most part, the FCC review is redundant, covering much of the same ground as the antitrust agencies, but the "public interest" standard used by the FCC is broader than the competition-based standard used under antitrust law. This has provided the FCC with virtually unlimited discretion to examine any issue or demand any concession from the merging firms, even if it has little or nothing to do with the economic effect of the merger on the marketplace.

The FCC's merger review process is unnecessary and harmful, and should be eliminated, leaving merge review with the antitrust authorities.

ADDITIONAL READING

- Harold Furchtgott-Roth, "The FCC and Kafkaesque Merger Reviews," *Forbes*, April 19, 2016.
- Harold Furchtgott-Roth, "The FCC Racket," *The Wall Street Journal*, November 5, 1999.
- James Gattuso, "AT&T and T-Mobile: Good Deal, Bad Process," Heritage Foundation *WebMemo* No. 3252, May 13, 2011.
- James L. Gattuso, "AT&T-Bell South Merger: Regulation Through the Backdoor," American.com, January 6, 2007.

Transfer Broadband Competition Authority to the Federal Trade Commission

RECOMMENDATION

Return broadband competition policy enforcement from the FCC to the Federal Trade Commission (FTC).

RATIONALE

In 2015, the FCC imposed new "open-Internet" (or "net-neutrality") rules on broadband Internet service providers (ISPs). These rules prohibit these ISPs from engaging in any conduct that would favor one type of Internet content over another. Among these rules are a ban on blocking content; "throttling" or slowing down the delivery of content; and "paid prioritization," under which content providers pay a fee to have their content delivered on an expedited basis.

These rules are misguided. The banned activities present little danger to consumers, and in fact are a feature of most well-functioning markets. Premium pricing (and discounting) adds to consumer choice and provides a way for challengers in an industry to differentiate themselves and compete with bigger, more established firms. Because of this, the FCC has already proposed repealing the rules.

This is not to say that ISPs could never successfully abuse their market power. However, eliminating FCC network-neutrality rules need not leave consumers without recourse. Broadband consumers could still be protected from harm by the competition laws, which have applied to most other areas of the economy for over a century. (The competition laws also applied to the ISPs until the 2015 net-neutrality rules were adopted.)

Competition laws generally require evidence that a company is abusing its dominant role in the marketplace rather than imposing arbitrary bans on categories of activity. While not without flaws, these laws are ultimately based on economic analysis applied on a case-by-case basis, rather than sweeping prohibitions of the FCC's rules.

The agency best suited to administer competition law is the FTC, which has focused on such policy issues for over a hundred years—and in fact had responsibility for broadband-competition policy before 2015.

Institutionally, the FCC is less suited to this job. Not only does it have a history of politicized decision making, but—because its purview is limited to communications—it focuses disproportionately on that sector, rather than on other marketplace problems. The FTC, while not immune from politics, has by contrast, relied more on economic analyses. And, because of the broad scope of jurisdiction, it is better able to assess the relative need for intervention.

The FCC should return broadband oversight responsibilities to the FTC.

ADDITIONAL READING

- Alden F. Abbott, "Time to Repeal the FTC's Common Carrier Jurisdictional Exemption (Among Other Things)?" Heritage Foundation *Commentary*, October 18, 2016.
- Alden F. Abbott, "You Don't Need the FCC: How the FTC Can Successfully Police Broadband-Related Internet Abuses," Heritage Foundation *Legal Backgrounder* No. 154, May 20, 2013.
- James L. Gattuso and Michael Sargent, "Eight Myths About FCC Regulation of the Internet," Heritage Foundation *Backgrounder* No. 2982, December 17, 2014.
- Maureen K. Ohlhausen, "Antitrust Over Net Neutrality: Why We Should Take Competition in Broadband Seriously," *Colorado Technology Law Journal*, Vol. 15 (2016), p. 119.

Federal Deposit Insurance Corporation

Eliminate the Need for the Federal Deposit Insurance Corporation

RECOMMENDATION

The private market, not a government-backed insurance system, should control deposit insurance. If customers truly value deposit insurance, private financial companies will provide it.

The Trump Administration should work with Congress to develop the best transition plan to a private system. Important intermediate steps include: (1) reducing the Federal Deposit Insurance Corporation (FDIC) coverage limit; (2) applying FDIC coverage on a per account holder basis; and (3) applying FDIC coverage only to retail accounts.

At the very least, the FDIC limit should be reduced to the pre-Dodd–Frank limit of $100,000. Even reverting to the pre-1980 limit of $40,000 would more than adequately cover the vast majority of U.S. households. Other important reforms include eliminating the FDIC's systemic-risk exception, and prohibiting the FDIC from providing any type of loan guarantees. Finally, once FDIC coverage is significantly reduced, the role of the FDIC in bank resolution can also be reduced. Again, at a minimum, the FDIC's role in the resolution of non-bank financial institutions should return to the role it had prior to the Dodd–Frank Act.

RATIONALE

The FDIC provides federally backed deposit insurance for bank accounts of up to $250,000. The FDIC also serves as banking regulator for all non-Federal Reserve member state-chartered banks, and is responsible for resolving insolvent commercial banks. In addition to its main deposit insurance program, the FDIC has emergency authority to guarantee other types of bank accounts and even loans. The FDIC provided hundreds of billions in loan guarantees in the wake of the 2008 crisis—mainly by invoking its systemic-risk exception in Section 13(G) of the Federal Deposit Insurance Act.

Government provision of financial guarantees harms competitiveness and stability in financial markets. It reduces people's incentive to monitor both personal and institutional financial risks. Shifting to a private system would bring much-needed market discipline to the financial sector. If customers truly value deposit insurance, private financial companies will provide it.

The fear that a bank failure could freeze a large amount of customer deposits, resulting in economic disruption, has been a main contributing factor to the existing FDIC bank-resolution process. Many options from around the world could replace the FDIC process and bring much-needed market discipline to the banking industry. Banks, just as other failed companies, should be allowed to go through the bankruptcy process. Imposing more market discipline in the banking sector requires major changes to the FDIC bank-resolution process, the FDIC deposit-insurance scheme, and the FDIC's authority to grant emergency guarantees.

ADDITIONAL READING

- David R. Burton and Norbert J. Michel, "Financial Institutions: Necessary for Prosperity," Heritage Foundation *Backgrounder* No. 3108, April 14, 2016.
- Mark Calabria, "Deposit Insurance, Bank Resolution, and Market Discipline," in Norbert J. Michel, ed., *Prosperity Unleashed: Smarter Financial Regulation* (Washington, DC: The Heritage Foundation, 2017).

Federal Housing Finance Agency

Eliminate the Federal Housing Finance Agency

RECOMMENDATION

Congress should eliminate the Federal Housing Finance Agency (FHFA) upon the dissolution of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac).

Until Congress eliminates it, the FHFA should maintain a limited role as regulator of the Federal Home Loan Banks (FHLBs) and the FHLB Office of Finance, as well as conservator and regulator of Fannie Mae and Freddie Mac.

Specifically, the FHFA should cease any policies that expand the scope of the institutions under its purview. These reforms should include the following changes to the operations of Fannie Mae and Freddie Mac during conservatorship:

- Decrease, annually, the loan limits for conforming mortgages that Fannie Mae and Freddie Mac are eligible to acquire;
- Increase the guarantee fees charged by both Fannie Mae and Freddie Mac in their respective mortgage-backed securities portfolios;
- Maintain the covenant of the third amendment to the preferred stock purchase agreements (PSPAs) that deplete the capital reserves for both Fannie Mae and Freddie Mac by January 1, 2018;
- Cease the implementation of the Common Securitization Platform currently under development by Fannie Mae and Freddie Mac;
- Close the Housing Trust Fund and the Capital Magnet Fund that use revenue from both institutions as finance mechanism; and
- Cease the implementation of the Duty to Serve Underserved Markets regulatory regime, which the FHFA submitted as a final rule to the *Federal Register* in December of 2016.

RATIONALE

In 2008, Congress established the FHFA as the federal agency authorized to regulate the government-sponsored enterprises (GSEs) dealing with housing; specifically, charged with regulating the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the FHLBs, and the Federal Home loan Bank Office of Finance. Congress created the FHFA as part of the Housing and Economic Recovery Act (HERA) of 2008, replacing the Office of Federal Housing Enterprise Oversight (OFHEO) as regulator of Fannie Mae and Freddie Mac, and the Federal Housing Finance Board as regulator of the FHLBs and the FHLB Office of Finance.[1] In addition to providing the FHFA with regulatory authority over these GSEs, HERA provided the statutory authority for the FHFA to decide whether to place the financially insolvent Fannie Mae and Freddie Mac into a federal conservatorship, or to structure a liquidation of the GSEs under a federal receivership.

Acting on its statutory authority, the FHFA decided after the 2008 passage of HERA to place both Fannie Mae and Freddie Mac into a federal conservatorship, and the two GSEs have remained under this oversight status. Also in 2008, the FHFA coordinated with the U.S. Department of the Treasury a PSPA structure with Fannie Mae and Freddie Mac.[2] The PSPAs have since been amended three separate times, and under the terms of the third amendment, the Treasury retains exclusive rights to dividend payments as the senior preferred shareholder of both Fannie Mae and Freddie Mac. The PSPAs included a forcing mechanism of sorts to structural reform of both Fannie Mae and Freddie Mac in that the capital reserve accounts for both GSEs must net to zero by January 1, 2018. Fannie Mae and Freddie Mac still retain a separate line of credit with the Treasury to cover instances of financial loss, though this covenant of the PSPA will effectively deplete their ability to retain any earnings year to year after January 1, 2018.

HERA carried over statutory authority and created expanded duties for the FHFA as the regulator of Fannie Mae and Freddie Mac. Carryover authority for the FHFA includes, for example, the oversight of housing goals required of both GSEs; HERA also outlined expanded duties for the FHFA, including broader oversight of the management and governance of the GSEs, as well as an expansion of the mandatory obligation of the GSEs to provide affordable housing credit to underserved markets.[3] Beyond these statutory powers outlined of the agency in HERA, the FHFA has also decided to design not only a strategic direction for itself as a regulatory agency, but also to build out parameters for the securitization market.[4] Specifically, the FHFA concretely established in its strategic plan the creation of a common securitization platform (CSP), an undertaking that will, if fully enacted, provide the structure for the dissemination of a standard, uniform mortgage-backed security. The development of the CSP is a critical element of the FHFA's vision for the U.S. mortgage securitization market. The FHFA should cease, however, the development of this securitization platform; the federal government should neither fund nor direct the development of any particular product in the secondary mortgage market.[5]

Federal reforms of all three GSEs are crucial for the creation of a stable and resilient housing-finance system. The GSEs' institutional design is fundamentally flawed, and the public-private nature of their charters has created enormous, and highly unfortunate, opportunities for federal politicians to advance nebulous housing policies. Moreover, the GSE institutional model has effectively cost taxpayers during normal housing markets, in addition to the substantial costs during episodes of financial failure. Certainly prior to the 2008 FHFA conservatorship and Treasury bailout, the GSEs benefited from funding advantages not conferred to other financial institutions, allowing them to borrow at below market-interest rates to cover their business operations.

Other privileges bestowed on the GSEs, providing financial benefits (costing taxpayers) across market cycles, include exemptions from regulatory and compliance filings, as well as various tax exemptions. Ideally, Congress will enact legislation that shuts down Fannie Mae and Freddie Mac, and enact reforms that eliminate all federal subsidies and mandates that govern the 11 FHLBs, the Office of Finance that issues debt to the FHLBs, and all financial member institutions.[6]

After reforming the housing-finance GSEs, Congress should eliminate the FHFA. The FHFA would have no continuing role as a federal property manager (conservator) once Congress dissolves Fannie Mae and Freddie Mac, in addition to transferring any ongoing regulatory functions of the reformed (private, non-GSE) FHLB system to a separate federal department or agency.

ADDITIONAL READING

- John L. Ligon, "A Pathway to Shutting Down the Federal Housing Finance Enterprises," Heritage Foundation *Backgrounder* No. 3171, December 21, 2016.
- Norbert J. Michel and John L. Ligon, "Five Guiding Principles for Housing-Finance Policy: A Free-Market Vision," Heritage Foundation *Issue Brief* No. 4259, August 11, 2014.

ENDNOTES

1. Housing and Economic Recovery Act of 2008, Public Law 110–89 § 1101 and 1204, https://www.gpo.gov/fdsys/pkg/PLAW-110publ289/html/PLAW-110publ289.htm (accessed October 11, 2016).
2. Federal Housing Finance Agency, "Senior Preferred Stock Purchase Agreements," https://www.fhfa.gov/Conservatorship/Pages/Senior-Preferred-Stock-Purchase-Agreements.aspx (accessed May 11, 2017).
3. John L. Ligon, "Mortgage Principal Forgiveness Is a Bad Idea," Heritage Foundation *Issue Brief* No. 4598, August 1, 2016, http://www.heritage.org/housing/report/mortgage-principal-forgiveness-policy-bad-idea; Norbert J. Michel, John L. Ligon, and Filip Jolevski, "GSE Reform: FHFA Should Not Pursue Principal Reduction Alternatives," Heritage Foundation *Issue Brief* No. 4108, December 17, 2013, http://www.heritage.org/housing/report/gse-reform-fhfa-should-not-pursue-mortgage-principal-reduction-alternatives; and Norbert J. Michel and John L. Ligon, "GSE Reform: Trust Funds or Slush Funds?" Heritage Foundation *Issue Brief* No. 4080, November 7, 2013, http://www.heritage.org/housing/report/gse-reform-trust-funds-or-slush-funds.
4. Federal Housing Finance Agency, "FHFA Sends Congress Strategic Plan for Fannie Mae and Freddie Mac Conservatorships," February 21, 2012, https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/20120221_StrategicPlanConservatorships_508.pdf (accessed May 11, 2017).
5. John L. Ligon and Norbert J. Michel, "Why Is Federal Housing Policy Fixated on 30-Year Fixed-Rate Mortgages?" Heritage *Backgrounder* No. 2917, June 18, 2014, http://www.heritage.org/housing/report/why-federal-housing-policy-fixated-30-year-fixed-rate-mortgages, and Norbert J. Michel and John L. Ligon, "Five Guiding Principles for Housing-Finance Policy: A Free-Market Vision," Heritage Foundation *Issue Brief* No. 4259, August 11, 2014, pp. 2 and 3, http://www.heritage.org/housing/report/five-guiding-principles-housing-finance-policy-free-market-vision.
6. Michel and Ligon, "Five Guiding Principles for Housing-Finance Policy," pp. 1–3.

National Foundation on the Arts and the Humanities

Eliminate the National Foundation on the Arts and the Humanities

RECOMMENDATION

Congress should eliminate the National Foundation on the Arts and Humanities, including all of its sub-agencies.

RATIONALE

The National Foundation on the Arts and the Humanities consists of the National Endowment for the Arts, the National Endowment for the Humanities, the Federal Council on the Arts and the Humanities, and the Institute of Museum and Library Services. The foundation was created as an independent agency by the National Foundation on the Arts and the Humanities Act of 1965.[1] Congress should eliminate the foundation and all its parts to reflect that federal funding and involvement in the arts, culture, and humanities is outside the proper scope of the federal government. Such activities and support are reserved for civil society and state and local government.

Federal funding for the arts and humanities is neither necessary nor prudent. According to USA Giving's latest report, charitable giving to the arts, culture, and humanities reached $17.07 billion in 2015.[2] In comparison, federal funding in the hundreds of millions is a mere rounding error.

Private individuals and organizations are donating to the arts and humanities at their own discretion. Advocating the elimination of federal funding should not be conflated with lack of support for the arts, culture, and humanities. There is no compelling public policy reason for the federal government to use its coercive power of taxation to compel taxpayers to support cultural organizations and activities. Such powers should be properly limited to constitutional federal causes while the arts, culture, and humanities should be allowed to flourish without federal support or interference.

ADDITIONAL READING

- Laurence Jarvik, "Ten Good Reasons to Eliminate Funding for the National Endowment for the Arts," Heritage Foundation *Backgrounder* No. 1110, April 29, 1997.

ENDNOTES

1. 20 U.S. Code § 951 (2010), https://www.arts.gov/sites/default/files/Legislation.pdf (accessed May 8, 2017).
2. Jean O'Brien, "Charitable Donations Hit Record for Second Year in a Row, at Estimated $373.25 Billion," Giving USA, June 13, 2016, https://givingusa.org/giving-usa-2016/ (accessed May 8, 2017).

Office of Management and Budget

Institute Evidence-Based Policymaking within the Office of Management and Budget

RECOMMENDATION

President Trump and Office of Management and Budget (OMB) Director Mick Mulvaney should formally institute evidence-based policymaking within the OMB. First, the Administration should reorganize existing offices within the OMB into the Division of Evidence-Based Policy to improve the use of evidence in policymaking. Second, the Administration should re-establish a modified and improved Program Assessment Rating Tool (PART) along with a fiscally disciplined evidence-based spring review within the OMB.

RATIONALE

The current use of evidence in policymaking in the OMB is disjointed, with relevant offices often working at cross-purposes with each other. In order to fully integrate and coordinate the use of evidence within the OMB, the Administration should create the Division of Evidence-Based Policy. This division would be composed of renamed offices that currently exist. The units of the division would be:

- Economic Analysis (formerly the Economic Policy Division);
- Information Policy (formerly the Statistical and Science Policy Branch within the Office of Information and Regulatory Affairs); and
- Performance Management and Evaluation (formerly the Evidence Team within the Economic Policy Division and the Performance Team within Performance and Personnel Management)

The new division would be situated under the Deputy Director and headed by the Associate Director for Evidence-Based Policy with a Deputy Associate Director serving as the career senior position. This organizational improvement should fix the fragmentation that is hindering the OMB's capacity to drive improvements in how the federal government uses and builds evidence, harnesses high-quality data for performance measurement and evaluation, and identifies which performance data that is now collected could be eliminated because it is burdensome, not reliable, or not useful.

Next, the Administration should re-establish a modified and improved PART along with a fiscally disciplined evidence-based spring review within the OMB. PART was an attempt by the Bush Administration to assess every federal program's purpose, management, and results to determine its overall effectiveness. The extremely ambitious PART was a first-of-its-kind attempt to link federal budgetary decisions to performance. Unfortunately, President Obama terminated PART. A revitalized spring review would require federal agencies to present the OMB with credible evidence on their performance. Budget requests from agencies should be based on their performance, not just desired levels of funding.

As an opening maneuver in the budget process, the President can encourage Congress to be more fiscally disciplined by incorporating rigorous evidence into budget recommendations. Instituting an improved PART and an evidence-based spring review would help the Administration focus Congress on eliminating wasteful and ineffective programs, and on making remaining federal programs operate as efficiently as possible to save money for taxpayers. PART required all programs to be reviewed over five-year intervals, therefore, placing pressure on agencies to continually collect performance information throughout their programs' existence.

When practiced correctly, evidence-based policymaking is a tool that would allow policymakers, especially at the OMB, to base funding decisions on scientifically rigorous impact evaluations of programs. Given scarce federal resources, federal policymakers should fund only those programs that have been proven to work, and defund programs that do not work. In addition to assessments of effectiveness, the constitutionality of programs should heavily influence decision making in the budget process.

Leadership is crucial to setting an evidence-based agenda. First, the President needs to send a clear message to the OMB and the entire federal bureaucracy that the West Wing believes evidence-based policymaking should influence budget decisions. Second, Director Mulvaney needs to develop clear expectations that program associate directors and program examiners are to concentrate on rigorous evidence for justifying agency budgets.

ADDITIONAL READING

- David B. Muhlhausen, *Do Federal Social Programs Work?* (Santa Barbara, CA: Praeger, 2013).
- David B. Muhlhausen, "Evaluating Federal Social Programs: Finding Out What Works and What Does Not," testimony before the Subcommittee on Human Resources, Committee on Ways and Means, U.S. House of Representatives, July 17, 2013.
- David B. Muhlhausen, "Evidence-Based Fiscal Discipline: The Case for PART 2.0," Heritage Foundation *Backgrounder* No. 33158, September 27, 2016.
- David B. Muhlhausen, "Evidence-Based Policymaking: A Primer," Heritage Foundation *Backgrounder* No. 3063, October 15, 2015.

Office of Personnel Management

Eliminate Funding for the Office of Personnel Management's Multi-State Plan Program

RECOMMENDATION

Congress, working with the President, should eliminate funding for the Office of Personnel Management's (OPM's) Multi-State Plan (MSP) program established under the Affordable Care Act of 2010.

RATIONALE

Under Section 1334 of the Affordable Care Act, Congress created the MSP program to be administered by the OPM. The OPM was to contract with at least two insurance companies; at least one plan was to be a nonprofit insurer. The MSP plan was authorized to compete with private health plans in the health insurance exchanges throughout the United States. The Obama Administration and its congressional allies created the MSP as a substitute for the "robust public option" that was discarded by House and Senate Democratic leaders in the final stages of the 2010 congressional debate on the Affordable Care Act. The Administration and its congressional allies argued that the MSP program was necessary to enhance competition in the health insurance exchanges.[1] In fact, the MSPs have had a relatively poor showing, with unimpressive enrollment. In 2014, the OPM contracted with only one insurer; and in 2015, the OPM added the so-called co-op plans—another set of government-financed health plans—to the MSP program. Those plans have generally proven to be financially unstable, and most co-ops have left the markets.

In fact, there is no need for the government to sponsor special health plans to compete against other private plans in the individual markets. Competition in the exchanges and the individual markets has declined, and the MSP program has not measurably improved the situation. The MSP was supposed to have at least two plans in each state by 2017, but instead of increasing, the number of states with one or more MSP has declined. Currently, only 22 states have MSPs.[2] Meanwhile, OPM staff have major responsibilities for administering the Federal Employees Health Benefits Program (FEHBP), one of the government's most successful programs; and the elimination of the MSP program would enable them to concentrate their time, energy, and effort on FEHBP administration.[3]

ADDITIONAL READING

- Robert E. Moffit and Neal R. Meredith, "Multistate Health Plans: Agents for Competition or Consolidation?" Mercatus Center *Working Paper*, January 2015.

Eliminate Special Congressional Subsidies for Health Insurance

RECOMMENDATION

The President should order the OPM to stop funding congressionally unauthorized subsidies for the health insurance of Members of Congress and their staffs in the Affordable Care Act's health insurance exchange.

RATIONALE

The OPM is the central personnel management agency of the federal government. The OPM enforces all civil service laws, rules and regulations. It also administers federal pay and benefits and health and retirement programs. In that capacity, it administers the FEHBP, a system of competing private health plans available to federal workers and retirees and their families. The FEHBP is the largest group health insurance program in the world.

During the debate on the 2010 ACA, Congress created Section 1312 (d)(3)(D), which required that Members of Congress and their staff obtain their health coverage through the ACA's new health insurance exchange program instead of through the FEHBP.

When Members of Congress realized that, in enacting the ACA, they had voted themselves and their staffs out of their own health coverage, many urgently tried to find a way out of their predicament, preferably in the form of an administrative solution. That option would avoid the public embarrassment of a recorded vote on the floor of the House or the Senate.[4]

President Obama provided that administrative relief in 2013: He ordered the OPM to provide special taxpayer subsidies for Congress and staff to offset their higher insurance costs in the law's new health insurance exchange. On August 7, 2013, the OPM ruled that Members of Congress and staff—despite their exit from the FEHBP—would henceforth receive FEHBP subsidies for coverage outside the FEHBP in the exchanges. This was purely an administrative action outside the constraints of the Constitution or the laws. In other words, the Obama Administration took this regulatory action without statutory authority under either the ACA or Title 5 of the U.S. Code, the law that governs the FEHBP.[5]

It is impossible to recover the same coverage and health plans that prevailed in the past. In repealing and replacing the ACA, while promoting personal choice of health plans and benefits, Members of Congress, to the extent practicable, should allow Americans to try to get the kind of coverage they liked before the enactment of Obamacare. That would include the FEHBP plans that they and their staffs had before they mistakenly voted themselves out of their own program.

ADDITIONAL READING

- Robert E. Moffit, Edmund F. Haislmaier, and Joseph R. Morris, "Congress in the Obamacare Trap: No Easy Way Out," Heritage Foundation *Backgrounder* No 2831, August 2, 2013.

ENDNOTES

1. For a discussion of the MSP program, see Robert E. Moffit and Neal Meredith, "Multistate Health Plans: Agents for Competition or Consolidation?" Mercatus Center *Working Paper*, January 2015, https://www.mercatus.org/system/files/Moffit-Multistate-Health-Plans.pdf.
2. Office of Personnel Management, "Multi-State Plan Program and the Health Insurance Marketplace," https://www.opm.gov/healthcare-insurance/multi-state-plan-program/consumer/ (accessed May 26, 2017).
3. Concern over the allocation of OPM mission and staff responsibilities has been recurrent. See, for example, Hon. Linda Springer et al., "The Office of Personnel Management: A Power Player in America's Insurance Markets?" Heritage Foundation *Lecture* No. 1145, February 19, 2010, http://www.heritage.org/health-care-reform/report/the-office-personnel-management-power-player-americas-health-insurance.
4. For a detailed discussion of the legislative history behind the controversy, see Robert E. Moffit, Edmund Haislmaier, and Joseph R. Morris, "Congress in the Obamacare Trap: No Easy Way Out," Heritage Foundation *Backgrounder* No. 2831, August 2, 2013, http://www.heritage.org/health-care-reform/report/congress-the-obamacare-trap-no-easy-escape.
5. For a blow-by-blow description of the progression of events, see Robert E. Moffit, " How Congress Mysteriously Became a Small Business to Qualify for Obamacare Subsidies," The Daily Signal, May 11, 2016, http://dailysignal.com/2016/05/11/how-congress-mysteriously-became-a-small-business-to-qualify-for-obamacare-subsides/.

Securities and Exchange Commission

Reduce the Number of Securities and Exchange Commission Managers Who Report Directly to the Chairman

RECOMMENDATION

The number of Securities and Exchange Commission (SEC) managers directly reporting to the Chairman should be reduced.

RATIONALE

Under Reorganization Plan No. 10 of 1950, the Chairman has executive authority over the SEC staff and, in general, the structure of the SEC. Currently, 23 managers report directly to the Chairman (counting the newly created Advocate for Small Business Capital Formation). This is two to three times the number typically considered optimal (six to 10), and more than the vast majority of government agencies or private enterprises have.

The SEC should be restructured to reduce the number of direct reports to the Chairman. Specifically, the following offices should be merged with other offices and their managers made to report to an SEC official other than the Chairman:

1. Division of Investment Management;
2. Office of Compliance Inspections and Examinations;
3. Office of the Secretary;
4. Office of Administrative Law Judges;
5. Office of the Ethics Counsel;
6. Office of International Affairs;
7. Office of the Chief Accountant;
8. Office of Credit Ratings;
9. Office of Municipal Securities;
10. Office of Public Affairs;
11. Office of Equal Employment Opportunity;
12. Office of Minority and Women Inclusion; and
13. The Office of Investor Education and Advocacy

Some of these changes can be undertaken by the Chairman because of the authority granted by Reorganization Plan No. 10 of 1950. Others will require statutory changes.

Merge the Division of Investment Management with the Division of Trading and Markets. Both divisions regulate financial services providers, and regulated firms are often subject to regulation by both divisions. The Division of Trading and Markets regulates broker-dealers, stock exchanges, self-regulatory organizations, and other financial-market participants. The Division of Investment Management regulates investment companies, variable insurance products, and registered investment advisers.

Merge the Office of the Ethics Counsel, the Office of Administrative Law Judges, the Office of the Secretary, and the Office of International Affairs with the Office of the General Counsel. Alternatively, all or some functions of the Office of International Affairs could be moved to the Division of Corporate Finance.

Legal functions, such as providing ethics advice and enforcement, conducting administrative hearings, and providing legal advice to the Commission regarding Commission procedures, administrative law, and international comparative law and coordination should be unified under one chief legal officer, the General Counsel.

Merge the Office of the Chief Accountant, the Office of Credit Ratings, and the Office of Municipal Securities into the Division of Corporate Finance. The primary duty of Office of the Chief Accountant involves financial-accounting disclosures. That, combined with non-financial-accounting disclosure is also the core function of the Division of Corporate Finance. The Office of the Chief Accountant should become an office within the Division of Corporate Finance and their functions integrated. The Office of Credit Ratings also plays a key function in the disclosure process, particularly with respect to debt securities and in ensuring the integrity of the rating process by rating organizations. It should become an office within the Division of Corporate Finance.

Merge the Office of Compliance Inspections and Examinations with the Division of Trading and Markets. The Division of Trading and Markets provides oversight of financial services providers. The Office of Compliance Inspections and Examinations is an integral part of that oversight. The division and

office should be part of an integrated compliance program within one office.

Merge the Office of Public Affairs with the Office of Legislative and Intergovernmental Affairs. The Office of Public Affairs and the Office of Legislative and Intergovernmental Affairs discharge allied functions. They should be integrated as a single office. There is no need to have two separate directors reporting separately to the Chairman.

Merge the Office of Equal Employment Opportunity with the Office of Minority and Women Inclusion, and Have the New Office Report to the Chief Operating Officer. These two offices perform similar and materially overlapping functions. They should be merged. There is no need to have two separate directors reporting separately to the Chairman. In addition, the new office should report to the Chief Operating Officer.

Merge the Office of Investor Education and Advocacy with the Office of the Investor Advocate. The Office of Investor Education and Advocacy and the Office of the Investor Advocate perform similar and materially overlapping functions. There is no need to have two separate directors reporting separately to the Chairman.

Improve Data on Securities Markets for Policymakers

RECOMMENDATION

The SEC should substantially improve the collection and publication of data with respect to securities markets, securities offerings, securities market participants, and securities law enforcement.

RATIONALE

Data available to the SEC and congressional policymakers with respect to securities markets, securities offerings, securities market participants, and securities law enforcement is seriously deficient. The Division of Economic and Risk Analysis (DERA) should substantially improve the collection and regular publication of data on securities offerings, securities markets, and securities law enforcement and publish an annual data book of time series data on these matters.

DERA should consult with the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) and the Interagency Council on Statistical Policy, and secure advice from key statistic agencies, such as the Census Bureau and the Bureau of Economic Analysis. DERA should conduct surveys and collect information internally available and publish on a regular basis time series data in compliance with OMB's Standards and Guidelines for Statistical Surveys and the Paperwork Reduction Act.

Specifically, DERA should publish annual data on:

1. The number of offerings and offering amounts by type (including type of issuer, type of security, and exemption used);
2. Ongoing and offering compliance costs by size and type of firm and by exemption used or registered status (such as emerging growth company, smaller reporting company, and fully reporting company);
3. Enforcement, including the type and number of violations, the type and number of violators (such as private issuer, Regulation A issuer, crowdfunding issuer, reporting company, investment company, registered investor advisor, broker-dealer, and registered representative);
4. Basic market statistics, such as market capitalization by type of issuer; the number of reporting companies, Regulation A issuers, and the like; trading volumes by exchange or ATS; and
5. Market participants, including the number (and, if relevant, size) of broker-dealers, registered representatives, exchanges, alternative trading systems, investment companies, registered investment advisors, and other information.

Create a Complex Case Unit in the Enforcement Division

RECOMMENDATION

Create a Complex Case Unit with the Enforcement Division to handle cases involving large, complex, and well-financed investment banks, banks, investment companies, and similar market participants.

RATIONALE

Many large institutions have committed multibillion-dollar frauds. Shareholders of these firms have paid billions of dollars in settlements and fines. Yet almost no individual managers have been barred from the industry, had civil money penalties imposed, or been subject to criminal prosecution. The prevention of fraud is a central objective of the securities laws, yet the individuals who commit fraud in large institutions have been able to do so largely free of any individual consequences. This policy encourages fraud because those that profit from fraud in large institutions know that they are highly unlikely to personally bear any adverse legal consequences.

Enforcement officials, when criticized about the lack of pursuit of individual malefactors, usually cite the difficulty of determining which individuals actually perpetrated the fraud in the context of a large organization. They are also reluctant to devote the time and resources necessary to successfully pursue individual malefactors given the large resources available to defend culpable management of these large firms from individual legal responsibility for fraud. Enforcement officials are usually satisfied with headlines announcing the imposition of large fines on the corporation—even though these fines are borne by innocent shareholders rather than the individuals who committed the fraudulent acts. Officials may also be reluctant to pursue individuals for fear of damaging their future employment prospects at large firms or at the large law and accounting firms that perform services for large firms.

In the interest of justice and investor protection, there is a need to adequately pursue individual managers who commit fraud while employed by large firms. The creation of a Complex Case Unit within the Enforcement Division with the institutional expertise and mission of addressing large corporate fraud is warranted.

Allow Respondents to Choose the SEC's Administrative Law Court or an Article III Court

RECOMMENDATION

Allow respondents to elect between the SEC's administrative law courts and proceeding in an Article III court.

RATIONALE

Serious questions have been raised about the objectivity of SEC administrative law judges. Evidence strongly implies that the SEC's win rate is substantially higher in its administrative law courts than in ordinary federal courts. Similarly, serious questions have been raised about whether procedural due process is adequately provided in the SEC's in-house administrative law courts.

By allowing respondents to elect whether the adjudication occurs in the SEC's administrative law court or in an ordinary Article III federal court, respondents who are concerned about the fairness of the SEC proceedings can choose to proceed in a federal district court.

Study Regional Office Consolidation

RECOMMENDATION

The SEC, the Government Accountability Office (GAO), or both should study whether regional office consolidation is warranted.

RATIONALE

The SEC has 11 regional offices: in Atlanta, Boston, Chicago, Denver, Fort Worth, Los Angeles, Miami, New York, Philadelphia, Salt Lake, and San Francisco. Consolidation of those offices may save significant resources and streamline administration without endangering enforcement or inconveniencing the public. Whether this is the case is not clear. The issue should be studied.

Study Delegation to Staff and Consider Sunsetting Delegations

RECOMMENDATION

The SEC, the GAO, or both should study whether SEC delegation of authority to staff should be narrowed, and whether sunsetting of delegations should be standard practice to ensure review of various delegations' practical effects and efficacy.

RATIONALE

Concerns have been raised that too much authority has been delegated to staff and, specifically, whether SEC approval should be required to issue formal orders of investigation. The scope and duration of SEC delegation to SEC staff should be studied comprehensively.

Require SEC Approval for Market-Data Fee Increases

RECOMMENDATION

Require SEC approval of market-data fee increases.

RATIONALE

Exchanges charge broker-dealers for obtaining exchange data about exchange transactions and offers to buy and sell securities. Broker-dealers are required to purchase this data to comply with SEC best-execution requirements. Exchanges have been de-mutualized and are now independent for-profit companies rather than broker-dealer-controlled entities. There is concern that exchanges are able to charge unwarranted fees, and that broker-dealers are mandated nevertheless to purchase the data no matter the cost, due to the best-execution rules. Given the effective mandate to purchase the data, the SEC's approval of fee increases should be required, rather than the fee increases taking effect automatically. SEC approval should generally be based on whether there is an objective reason for the fees to increase, such as an increase in exchange costs.

Social Security Administration

Eliminate the Vocational Grids from the Disability Insurance Determination Process

RECOMMENDATION

The Secretary of Health and Human Services (HHS) should eliminate the non-medical vocational grids, as well as a person's ability to *adjust* to work, from Social Security Disability Insurance (SSDI) determinations.

Using his authority to determine what constitutes "disability" and to promulgate regulations, the Secretary should eliminate the non-medical grid factors from the disability determination process, and instead base determinations exclusively on physical and mental conditions that prevent workers from performing any job in the national economy (which is the Social Security Administration's definition of disability).[1] Moreover, because being *capable of adjusting to a job* is a precondition of *being able to perform that job,* the Secretary should eliminate consideration of the ability to adjust to work in the determination process.

RATIONALE

SSDI benefits are supposed to be for people who have physical or mental conditions that prevent them from working. Nevertheless, 40 percent of all SSDI benefit awards rely on non-medical vocational grids in the disability determination process.[2]

Under regulatory authority to consider the relevant disability factors,[3] the Secretary of HHS promulgated medical-vocational guidelines in 1978 that establish disability status on the basis of non-medical vocational (so-called "grid") factors including age, eligibility, and work experience.[4] Consequently, individuals can qualify for SSDI benefits based on factors that may have no role whatsoever in their disability claims. For example, individuals who are limited to sedentary work can be determined disabled if they are ages 45 or older and say they cannot speak English, or if they are 50 or older and lack transferable skills.

While age and disability are correlated, age itself does not cause disability any more than do grey hairs or extra pounds. Education and work experience, or lack thereof, cannot cause disability. Qualification for SSDI benefits based on a lack of education or skills discourages individuals from gaining education, skills, and literacy that would improve their job prospects and overall well-being.

The HHS Secretary should eliminate the broad-sweeping and discriminatory vocational standards from the disability determination process and base disability determinations exclusively on physical and mental factors that directly affect work capabilities.

ADDITIONAL READING

- Rachel Greszler, "Comments to SSA on Grid 2015," submission for comments on the Social Security Administration (SSA) Proposed Rule: Vocational Factors of Age, Education and Work Experience in the Adult Disability Determination Process, November 9, 2015.

Establish a Needs-Based Period for Disability Benefits

RECOMMENDATION

Congress should revise disability classifications and establish a needs-based period of disability benefit for newly eligible SSDI beneficiaries who qualify with conditions that are expected to improve.

RATIONALE

The current SSDI program sets no clear expectation that individuals with marginal and temporary disabilities should return to work with improvement and given applicable accommodations. The program makes no provisions for individual conditions and fails to acknowledge potential future work capacity.

The continuing disability review (CDR) process, responsible for reviewing whether disability insurance beneficiaries continue to be eligible, suffers from several flaws which undermine its effectiveness. One example is the medical review improvement standard. The Social Security Administration (SSA) must first find "substantial evidence of improvement in the individual's impairment(s) enabling [the individual] to engage in substantial employment." For individuals who initially qualified with marginal conditions or conditions that were insufficiently documented or inadequately supported by the evidence on file, demonstrating such substantial improvement can be an impossible task. The purpose of this standard is to make it more difficult for the SSA to terminate benefits than to continue them.

Congress should revise current disability classifications and period of disability to establish a needs-based period of disability benefit that aligns individual needs and abilities with benefit provisions to help reintegrate individuals with disabilities into labor markets upon the improvement of their condition and in considering applicable accommodations. Such a benefit would be time-limited based on the disability classification granted. Individuals could requalify prior to benefit cessation via an expedited determination process. Individuals whose conditions worsened after exiting the program could reapply using the current expedited reinstatement process that exists under the Ticket to Work and Work Incentives Improvement Act of 1999.

ADDITIONAL READING

- Romina Boccia, "A Pathway to Work for Social Security Disability Beneficiaries," Heritage Foundation *Commentary*, March 27, 2017.
- Jason Fichtner and Jason Seligman, "Beyond All or Nothing: Reforming Social Security Disability Insurance to Encourage Work and Wealth," in Jim McCrery and Early Pomery, eds., *SSDI Solutions: Ideas to Strengthen the Social Security Disability Insurance Program* (Infinity Publishing, 2016).

Strengthen and Enforce the Five-Day Rule to Close the Evidentiary Record for SSDI

RECOMMENDATION

The Commissioner of Social Security should chiefly communicate agency commitment to the five-day rule for closing the evidentiary record for the Social Security adjudication process, including through consistent messaging and enforcement of the rule among Administrative Law Judges (ALJs) and the Appeals Councils nationwide. Furthermore, the current regulation should be strengthened to allow evidence to be submitted within five days of the hearing *only* if Social Security's action demonstrably misled the applicant or severe, unexpected, and unavoidable circumstances beyond the applicant's control prevented timely submission. No more evidence shall be submitted after the hearing begins.

RATIONALE

The Commissioner of Social Security has broad discretion to issue regulations establishing the processes by which evidence is submitted and hearings are conducted. A key component of a well-functioning SSDI hearing process is the timely and complete submission of evidence that is to be considered by the ALJ in deciding the claimant's case. Evidence that is submitted late, especially if such evidence is voluminous, as is often the case, makes it impossible for the ALJ to fully consider it for the hearing. Allowing evidence to be submitted too close to, during, and even after the hearing, can unnecessarily delay hearing decisions, further contributing to unfair and inconsistent decision making and case backlogs.

Section 405.331 of the Code of Federal Regulations specifies that any written evidence must be submitted no later than five business days before the date of the scheduled hearing. Yet this rule is not enforced consistently. Moreover, current regulation is too loose, allowing applicants with a physical, mental, educational, or linguistic limitation(s) to submit evidence within five days of the hearing. Arguably, all eligible Social Security applicants have some physical, mental, educational, or linguistic limitation(s), rendering the current rule virtually unenforceable.

Furthermore, the Commissioner should *close* the record at the very latest at the moment at which the hearing begins. No more evidence should be accepted that is submitted during or after the hearing.

ADDITIONAL READING

- Office of the Chairman of the Administrative Conference of the United States, "SSA Disability Benefits Adjudication Process: Assessing the Impact of the Region I Pilot Program," December 23, 2013.
- Romina Boccia, "What Is Social Security Disability Insurance? An SSDI Primer," Heritage Foundation *Backgrounder* No. 2994, February 19, 2015.

Test an Optional Private Disability Insurance Component within the SSDI Program

RECOMMENDATION

The Social Security Administration should implement a demonstration project to test the viability of providing an optional, private disability insurance component within the current SSDI program.

RATIONALE

Aside from inefficiencies in the Social Security Administration's operations, SSDI's problems and unchecked growth boil down to two factors: Too many people get on the rolls and too few ever leave them. The private sector offers solutions to both of those problems. Private disability insurance (DI) does a significantly better job than SSDI of weeding out truly disabled individuals from those who have non-disabling conditions and would simply like to retire early. Private DI also helps about four times as many people return to work, it provides a more efficient and timely determination process (taking no more than 45 days for a determination, compared to more than a year for most SSDI applicants), and it provides about 33 percent more in benefits for about half the cost of SSDI.[5]

The Heritage Foundation has a proposal that would provide private companies and self-employed individuals with the option of receiving a reduction in their portion of the SSDI payroll tax in exchange for providing their employees (or purchasing, if self-employed) qualified, private long-term private DI that would cover at least the first three years of disability benefits.[6]

The SSA should use its authority under Section 234[7] to implement a demonstration program that would test the viability—including the budgetary impact for the SSDI system and the economic and physical well-being of potential SSDI beneficiaries—of an optional, private DI component by allowing a limited number of companies and workers to participate in an optional private DI system for their first three years of benefits.[8] If mutually beneficial to SSDI's finances and to individuals' well-being, Congress should make optional private DI available to all companies and workers.

ADDITIONAL READING

- Rachel Greszler, "Private Disability Insurance Option Could Help Save SSDI and Improve Individual Well-Being," Heritage Foundation *Backgrounder* No. 3037, July 20, 2015.

Eliminate the SSA as Middleman in Disability Insurance Representatives' Payments

RECOMMENDATION

Congress should eliminate the SSA's role in the payment of SSDI representatives, and replace the current mandatory criteria and fee structure for SSDI representatives with an optional certification for SSDI representatives who choose to follow the SSA's requirements.

RATIONALE

Currently, more than 90 percent of SSDI claimants are represented at hearings before ALJs.[9] Instead of contracting with representatives and paying them after the case is settled, the SSA withholds money from the claimants' benefits and pays SSDI representatives directly. By acting as representatives' bill collectors, the SSA's direct payment raises representatives' payments, which increases their supply and can lead some representatives to seek out and encourage potential SSDI beneficiaries to apply for benefits.

Direct payment also diminishes disability applicants' control over representatives' services and fees because representatives bill the SSA directly, and the SSA takes the money out of the claimants' benefit checks. Consequently, many SSDI representatives receive significant payments without providing much value to claimants. A 2014 report by the Office of the Inspector General (OIG) examined representation of SSDI claimants at the initial Disability Determination Service (DDS) level. Of the cases the OIG examined, only 37 percent of representatives assisted their clients throughout the claim process, 41 percent assisted only with filing the claim, and 22 percent appeared to have not assisted their clients at all.[10]

Direct payment for SSDI representatives also establishes a dangerous precedent for the government stepping in as bill collector if it determines there is a need to increase access to certain services. This precedent could be used to require all tax preparers to follow government standards and fee schedules, and to have the government take money out of individuals' tax returns to directly pay their tax preparers.

SSDI representatives provide services to individuals—not to the federal government—and it is an individual's right and responsibility to pay for the services that he contracts to receive. Claimants should be free to choose the types of services they want to purchase and should be in control of their own money so that they can ensure that they obtain what they contract to receive. If the SSA wants to establish a certain standard of services and schedule of allowable fees, it can provide SSDI representatives the option of receiving an SSA certification if they choose to abide by those standards.

ADDITIONAL READING

- Rachel Greszler, "Time to Cut out the SSA as Middleman in SSDI Representation," Heritage Foundation *Issue Brief* No. 4489, November 24, 2015.

Improve the SSDI Program's Continuing Disability Review Process

RECOMMENDATION

The SSA should enact a meaningful and timely continuing disability review (CDR) process that requires more than returning a check-the-box postcard to the SSA.

RATIONALE

Virtually all individuals who receive SSDI benefits are required to undergo a CDR process every three or seven years, depending on their disability. However, most of those (73 percent) CDRs involve nothing more than sending current SSDI beneficiaries a postcard in the mail that asks them to check a box if they are still disabled.[11] While 19 percent of full medical CDRs result in a cessation of benefits, only 5 percent of mailed CDRs result in cessation of benefits (and much of that appears to come from mailed CDRs that are followed up by full in-person medical CDRs).[12] As a whole, only about 0.5 percent of all SSDI beneficiaries return to work in any given year.[13]

Despite its statutory requirement to perform CDRs at least every three years except for individuals with permanent disabilities, the SSA has a backlog of more than 1 million CDRs, meaning many beneficiaries escape the CDRs or receive only a mailed CDR. This creates the impression—and, predominantly, the reality—that a positive SSDI determination equates to disability benefits for life.

While the SSA is required by law to prioritize certain CDRs, such as those for low-birth-weight children upon their first birthday, and it is supposed to conduct them for all non-permanent disabilities within three years, the SSA has wide discretion in how it prioritizes the CDRs it is able to conduct given limited resources. A 2016 GAO report found that the SSA could realize significant savings by prioritizing CDRs more efficiently.[14]

The SSA Commissioner should work with the Deputy Commissioner of Operations and the Deputy Commissioner of Budget, Finance, Quality, and Management to optimize the prioritization of CDRs and should establish a timeline and adequate resources to eliminate the current CDR backlog and ensure that all SSDI beneficiaries with non-permanent disability determinations receive a CDR within the statutorily required three-year period. Furthermore, the SSA should add a medical verification component to the mailed CDR process. This could be as simple as having the beneficiaries' medical providers confirm or deny continued disability status through a check-the-box online portal. If the provider indicates that the individual is no longer disabled (at least not to the same extent), this should trigger a prompt and full CDR.

ADDITIONAL READING

- Government Accountability Office, "Social Security Disability: SSA Could Increase Savings by Refining Its Selection of Cases for Disability Review," GAO-16-250, March 14, 2016.

ENDNOTES

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2. David R. Mann, David C. Stapleton, and Jeanette de Richemond, "Vocational Factors in the Social Security Disability Determination Process: A Literature Review," Mathematica Center for Studying Disability Policy *Working Paper* No. 2014-07, July 21, 2014, http://www.disabilitypolicyresearch.org/~/media/publications/pdfs/disability/drc_wp_2014-07_voc_factors_determinations.pdf (accessed June 5, 2017).
3. 461 42 U.S. Code § 423(d)(2)(A); 20 C.F.R. § 404.1520(f).
4. See 20 C.F.R. § Pt. 404, Subpt. P, App. 2 (1982). See also *Heckler v. Campbell*, 461 U.S. 458 (1983). Ibid.
5. Rachel Greszler, "Private Disability Insurance Option Could Help Save SSDI and Improve Individual Well-Being," Heritage Foundation *Backgrounder* No. 3037, July 20, 2015, http://www.heritage.org/research/reports/2015/07/private-disability-insurance-option-could-help-save-ssdi-and-improve-individual-well-being.
6. Ibid.
7. 42 U.S. Code 434 (a).
8. Social Security Administration, "Compilation of the Social Security Laws: Demonstration Project Authority," https://www.ssa.gov/OP_Home/ssact/title02/0234.htm (accessed May 20, 2017). Bipartisan Budget Act of 2015 extended the SSDI demonstration authority through 2021 (Section 281 of the act).
9. Government Accountability Office, "SSA Disability Representatives: Fee Payment Changes Show Promise, But Eligibility Criteria and Representative Overpayments Require Further Monitoring," *Report to Congressional Committees*, October 2007, p. 9, Figure 2: Percentage of Claimants with Representation at Their Hearing, Fiscal Years 2000–2006, http://www.gao.gov/new.items/d085.pdf (accessed September 30, 2015).
10. Office of the Inspector General, Social Security Administration, *Audit Report: Claimant Representatives at the Disability Determination Services Level*, February 2014.
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12. Ibid.
13. Greszler, "Private Disability Insurance Option Could Help Save SSDI and Improve Individual Well-Being."
14. Government Accountability Office, "Social Security Disability: SSA Could Increase Savings by Refining Its Selection of Cases for Disability Review."

U.S. Trade and Development Agency

Eliminate the U.S. Trade and Development Agency

RECOMMENDATION

Congress should eliminate the U.S. Trade and Development Agency (USTDA).

RATIONALE

The USTDA is intended to help companies create U.S. jobs through the export of U.S. goods and services for priority development projects in emerging economies. The USTDA links U.S. businesses to export opportunities by funding project planning activities, pilot projects, and reverse trade missions while creating sustainable infrastructure and economic growth in partner countries.[1]

These activities more properly belong to the private sector. The best way to promote trade and development is to reduce trade barriers. Another way is to reduce the federal budget deficit and thereby federal borrowing from abroad, freeing more foreign dollars to be spent on U.S. exports instead of federal treasury bonds. A dollar borrowed from abroad by the government is a dollar not available to buy U.S. exports or invest in the private sector of the U.S. economy.

ADDITIONAL READING

- Patrick Louis Knudsen, "$150 Billion in Spending Cuts to Offset Defense Sequestration," Heritage Foundation *Backgrounder* No. 2744, November 15, 2012.
- Brian M. Riedl, "How to Cut $343 Billion from the Federal Budget," Heritage Foundation *Backgrounder* No. 2483, October 28, 2010.
- Bryan Riley and Anthony B. Kim, "Freedom to Trade: A Policy Guide for Lawmakers," Heritage Foundation *Backgrounder* No. 3064, October 20, 2015.

ENDNOTES

1. U.S. Trade and Development Agency, "Our Mission," http://www.ustda.gov/about/mission (accessed May 11, 2017).



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