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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

June 6, 2022

The Honorable Gene Dodaro
Comptroller General
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20226

Dear Comptroller Dodaro:

Section 9901 of the American Rescue Plan Act (ARPA; Public Law No. 117-2) appropriated \$350 billion of COVID relief funds to governments of states, localities, territories and tribes. Clarity and oversight of how these funds are being expended, obligated, and administered by the Department of the Treasury is important and a responsibility of the Senate Finance Committee, on which we serve. Unfortunately, ARPA, unlike the Coronavirus Aid, Relief, and Economic Security (CARES) Act, has no meaningful built-in nonpartisan oversight mechanism that allows for necessary Congressional oversight and there is lack of transparency on uses of the funds provided to various governments.

Based on several discussions with officials at the Department of the Treasury (Treasury) regarding obligations, expenditures, and uses of Coronavirus State and Local Fiscal Recovery Funds (SLFRFs) provided for in ARPA, there remains insufficient information on details, and reporting that is publicly available to date, which Treasury appears to take with casual indifference. Because of the lack of information and transparency on uses of and accounting for these federal funds, we request that the Government Accountability Office (GAO) help to ensure there is proper oversight of at least \$350 billion of ARPA funding and necessary accountability to Congress and the American people.

We request that GAO promptly engage in review and assessment of administration of the SLFRFs at the Treasury and address the following:

- What oversight is Treasury performing on ARPA state and local funds, if any, and how can taxpayers learn of any possible Treasury oversight actions?

- What federal control standards apply, or should be applied, to administration of SLFRFs by Treasury, and is Treasury applying such controls, properly designing such controls, and monitoring of control activities?
- Are risk assessments and monitoring components of internal controls significant to the objective of the efficient and transparent use of taxpayer resources, and are there any means by which Congress and the American people can verify that monitoring components and internal controls at Treasury meet standards.
- Do standards and internal controls related to the SLFRFs adhere to those set by the Comptroller General (as in the *Standards for Internal Control in the Federal Government*; the “Green Book”) issued in compliance with Sec. 3512 (c) and (d) of Title 31 of the United States Code, and with any associated Office of Management and Budget Circular (e.g., OMB Circular No. A-123)?
- Noting that Treasury has released its initial “Interim Reports and Recovery Plan Performance Reports – 2021” and that several reports seem to indicate zero obligations or expenditures, are reporting requirements established by Treasury, especially for small localities, creating undue burdens and inefficiencies?
- Given that ARPA mistakenly sought to have the Executive Branch of the federal government prevent states from using SLFRF funds to provide tax cuts deemed by states to be beneficial to their citizens, does Treasury’s requirement to have states report on whether they have satisfied Treasury’s loose approximation of how state tax policies may or may not constitute a “tax cut” serve any useful purpose toward the objective of the efficient use of federal taxpayer resources?
- In Treasury’s Interim Reports and Recovery Performance Reports—2021, there are instances where reporting errors are apparent, including cases where a reporting government identifies fund uses for which it claims that amounts expended exceed amounts obligated. Treasury officials have indicated no desire to request corrections of known reporting errors in the Interim Reports, and Treasury’s position appears to be, with respect to the errors, to treat errors as bygones to ignore. Would such a practice adhere to principles of sound federal financial management and establishment of principled internal controls?
- In light of reports of SLFRF funds being used in states and localities for things seemingly unrelated that have nothing to do with responding to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) or with making necessary investments in water, sewer, or broadband infrastructure, what controls in Treasury have been established to ensure that reported expenditures by states and localities abide by the restrictions on uses put in place in ARPA?¹

¹ For an example of reported questionable uses of SLFRF funds, see “State lawmakers used coronavirus relief money to fund new hotels, ballparks and ski slopes,” March 23, 2022, Fortune magazine, available at <https://fortune.com/2022/03/23/coronavirus-relief-money-lawmakers-fund-projects/>. Examples of questionable uses include: \$12 million for renovations of a minor league baseball stadium; \$5 million for paying off debts of the Edward M. Kennedy Institute for the U.S. Senate; \$400 million for building new prisons; \$70 million for tourism marketing in Puerto Rico, \$8 million in Washington, D.C.; \$6.6 million to replace irrigation systems at two golf courses; \$2.5 million to hire new parking enforcement officers in Washington, D.C.; and, \$2 million for a county to help purchase a privately owned ski area.

- Money is fungible across budget categories in state, local, territorial, and tribal governments, and some SLFRF funds have accrued to general funds (e.g., the general fund of a state). ARPA restricts uses of SLFRF funding by stating that no recipient of such funds may use such funds “for deposit into any pension fund.” Given that funds are fungible across budget categories, that some SLFRF funds may accrue to general funds of a government, and that general funds may be used by governments to fund pensions, how is it feasible for Treasury to enforce a legal restriction against a government, in effect, using SLFRF funds for deposit into pension funds? How is Treasury enforcing such a restriction in its administration of SLFRF usage?
- Noting that ARPA does not restrict SLFRF funds from being used by a state or local or territorial government for funding of “other post-employment benefits” (OPEBs), and that, in addition to massive underfunding of pension obligations in many states and localities, state and local governments have, according to some reports, more than \$1 trillion of net liabilities for OPEBs, how much of ARPAs \$350 billion of funding for governments of states, localities, and territories could flow to bailing out OPEB liabilities of those governments?
- Noting that ARPA grants Treasury the authority to recoup SLFRF funds from state, local, territorial, or tribal governments when funds are used in violation of allowable uses, how much of the \$350 billion allocated by Treasury to those governments has been recouped to date, and how can Congress and the American people monitor any such recoupments?

Thank you for your prompt attention to these matters.

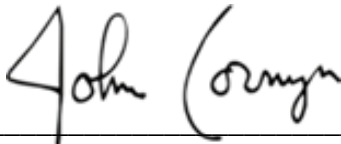
Sincerely,



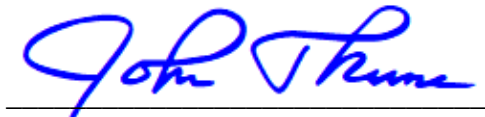
Mike Crapo
U.S. Senator



Charles E. Grassley
U.S. Senator



John Cornyn
U.S. Senator



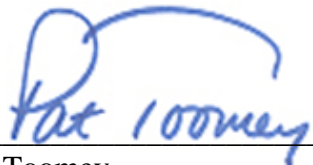
John Thune
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Richard Burr
U.S. Senator



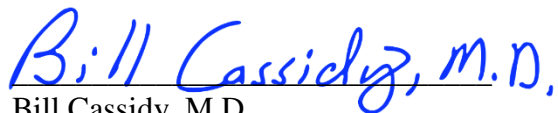
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U.S. Senator



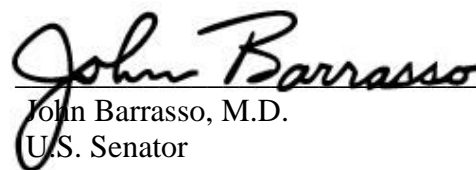
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