United States General Accounting Office

GAO

Report to Congressional Requesters

October 1994

BUDGET PROCESS

Issues Concerning the 1990 Reconciliation Act

GAO/AIMD-95-3

GAO

United States
General Accounting Office
Washington, D.C. 20548

Accounting and Information
Management Division

B-256700

October 7, 1994

The Honorable Robert H. Michel
Republican Leader
House of Representatives

The Honorable Newt Gingrich
Republican Whip
House of Representatives

The Honorable Bill Archer
Ranking Republican Member, Committee on Ways and Means
House of Representatives

The Honorable John R. Kasich
Ranking Republican Member, Committee on the Budget
House of Representatives

The Honorable James A. Leach
Ranking Republican Member, Committee on Banking, Finance and Urban Affairs
House of Representatives

This report responds to your request that we examine the reconciliation process as it affects deficit reduction. At the time of the Omnibus Budget Reconciliation Act of 1990 (OBRA 90) enactment, overall savings from the multiyear deficit reduction agreement were estimated to be about $500 billion. However, the deficit has not dropped to the levels expected at that time. For example, the Congressional Budget Office's (CBO) projections in December 1990 showed that the fiscal year 1993 deficit would be $170 billion, but the actual deficit was $255 billion.

The components of the almost $500 billion 5-year (fiscal years 1991 through 1995) deficit reduction agreement enacted as OBRA 90 were (1) mandatory spending program reductions and increases in user fee collections ($98.8 billion), (2) revenue increases ($137.2 billion), and (3) discretionary spending caps which lowered program spending ($182.4 billion). Additional deficit reduction was to come from increased Internal Revenue Service (IRS) enforcement ($9.4 billion) and from the interest savings that result from financing a lower debt ($68.4 billion).

You asked us to examine certain issues surrounding the first component: $98.8 billion in mandatory program spending reductions and increases in user fee collections. As agreed with your offices, this report (1) examines the reasons for the shortfall between deficits projected at the time of OBRA 90 and actual deficits experienced since then,[1] (2) ascertains, if possible, whether actual results of the 38 individual OBRA 90 provisions we examined were achieved, and (3) describes CBO and agency roles and responsibilities in the OBRA 90 reconciliation process as they affected OBRA 90's contribution to deficit reduction.

Results in Brief

Looking back at aggregate levels of spending and revenues for fiscal years 1991 through 1995, worse-than-anticipated economic conditions was the primary reason that deficits have been greater than projected at the time of OBRA 90's passage. In particular, slower-than-expected economic growth for fiscal years 1991 through 1993 caused federal revenues to decline and spending to increase by more than the savings projected from OBRA 90's policy changes.

OBRA 90's policies to reduce mandatory program spending and increase user fee collections contributed significantly to reducing the deficit below what it otherwise would have been. CBO did what reasonably could be expected to provide the Congress accurate estimates, and executive branch agencies implemented the provisions promptly. Moreover, agency officials' knowledge of their programs led them to conclude that 32 of 38 OBRA 90 provisions we examined—constituting 84 percent of the estimated savings of the programs we examined—did reduce the deficit. The remaining six provisions did not, according to agency officials, reduce the deficit below what it otherwise would have been.

In most cases, though, agencies could not determine the precise savings for individual reconciliation provisions. It is generally not possible to identify precise savings because isolating the budgetary impact of individual reconciliation provisions from the impacts on spending of related OBRA 90 provisions, subsequent legislation, administrative actions, and behavioral responses cannot be done accurately. Nevertheless, we agree that savings have resulted.

Despite OBRA 90's contributions to deficit reduction, deficits did not drop to the levels expected when OBRA 90 was enacted—an outcome that could

[1]These are actual deficits for fiscal years 1991 through 1993 and CBO projected deficits, as of August 1994, for fiscal years 1994 and 1995.

frustrate deficit reduction efforts if policymakers come to believe that the difficult choices they make do not matter. However, this does not mean that deficits greater than those originally anticipated must be accepted. Under the current process, the Congress can at any time enact changes in individual mandatory programs, either alone or as part of reconciliation, to reduce the deficit. There is, however, currently no procedure that automatically triggers a comparison of the current deficit path to that which was expected when action was taken. The Congress could adopt a requirement to look back periodically and compare the current deficit path to that projected at the time of a prior deficit reduction agreement and/or the most recent reconciliation legislation. If the deficit was greater than that projected, the Congress would decide explicitly—by voting—whether to accept the slippage or take action to bring the deficit path closer to the original goal by recouping some or all of the slippage.

Background

Reconciliation is a budget process tool that the Congress can use to reduce the deficit by requiring reductions in existing mandatory spending programs[2] or increases in revenues. Reconciliation bills have also been used to enact budget process changes. For example, the Budget Enforcement Act of 1990 (BEA) was included as Title XIII in OBRA 90. The pay-as-you-go (PAYGO) provisions of BEA limit the creation of new or the expansion of existing mandatory programs and reductions in revenues. However, PAYGO was not designed to restrain growth in mandatory programs driven by events other than legislative changes to those programs.

In reconciliation, the Congress directs authorizing committees to propose changes in mandatory programs and/or tax laws within the committees' respective legislative jurisdictions to meet aggregate spending and revenue targets established in the concurrent resolution on the budget (referred to as the budget resolution).[3] The budget resolution may call for reductions in mandatory spending or increases in revenues. However, the resolution does not specify the policy changes committees must make, but instead leaves substantive decisions on how to meet dollar targets to the committees of jurisdiction. Recommendations reported by each committee are packaged into individual reconciliation bills by the House and Senate

[2]Mandatory spending is also known as direct spending. The Budget Enforcement Act (BEA) defines direct spending as spending for entitlement authority, the Food Stamp program, and budget authority provided by law other than appropriations acts. See Budget Policy: Issues In Capping Mandatory Spending (GAO/AIMD-94-155, July 18, 1994).

[3]The budget resolution is not a law. It is not signed by the President.

budget committees and voted on in each chamber. After conference committee action to reconcile any differences, reconciliation bills are often passed by the Congress as single, omnibus deficit reduction measures and sent to the President. Since 1980, when reconciliation was first used in this way, 11 reconciliation bills have been enacted. OBRA 90 was one of the largest, with an estimated $496.2 billion in deficit reduction savings over 5 years. (See appendix I.)

To fulfill its responsibilities under the Congressional Budget and Impoundment Control Act of 1974 (the Budget Act), CBO must estimate the budgetary impact of all proposed legislation, including reconciliation bills. CBO starts with what is called a current policy baseline. This baseline assumes no changes in laws governing revenues and mandatory spending programs. Estimates for revenue and mandatory program spending are based on the economic assumptions of the baseline and reflect such technical factors as changes in the numbers of beneficiaries. Prior to OBRA 90, the baseline for discretionary program spending assumed spending increased at the rate of inflation assumed in the budget resolution. Since the enactment of BEA's caps on discretionary spending, the baseline for discretionary spending is set at the level of the caps.[4] CBO cost estimates, including those for reconciliation, show how proposed legislation would change projected outlays from the baseline.[5] These estimates are based on the same economic and technical assumptions as the baseline and as the budget resolution. The Budget Committees use these estimates to ensure that committees of jurisdiction have met their reconciliation targets. After the President signs a reconciliation bill, executive branch agencies must implement the prescribed policy changes.

Scope and Methodology

As agreed with your offices, we limited our examination of OBRA 90 provisions to the act's 11 spending titles, excluding the revenue titles. At the time of OBRA 90's enactment, these policy changes in mandatory spending programs and user fee collections were estimated to reduce the

[4]Since the discretionary spending caps expire after 1998, CBO assumes that the discretionary spending baseline increases at the rate of inflation thereafter. H.R. 4907, the Full Budget Disclosure Act, passed by the House on August 12, 1994, would eliminate the use of the inflation adjustment for discretionary spending and instead require the use of the most recent actual appropriations. This bill would not affect the current policy baseline for mandatory programs.

[5]Section 201 of the Budget Act requires CBO to use Joint Committee on Taxation estimates for the impact of changes in revenue legislation affecting income, estate and gift, excise, and payroll taxes.

deficit by almost $100 billion.[6] Appendix II summarizes the results for the 38 provisions that were part of this study and provides the provisions' section numbers in the public law, CBO 5-year savings estimates, and identifies executive branch agencies responsible for implementation. Initially, we used the text of OBRA 90 (Public Law 101-508), House and Senate Budget Committee documents, CBO documents, and the Congressional Quarterly Almanac to prepare an inventory of the 270 provisions contained in OBRA 90's 11 spending titles. Then, we eliminated 192 provisions that were not directed toward program spending reduction.[7] From the remaining 78, we selected the 8 highest dollar provisions, which together totaled about 50 percent of the estimated 5-year savings for mandatory programs/user fees, and a random sample of 30 more. Estimated savings for the 38 provisions totaled $78.9 billion—the 8 highest were estimated to save $55.8 billion and the 30 were estimated to save $23.1 billion.

To answer your question about the reasons for the shortfall between deficits projected at the time of OBRA 90 and subsequent deficits, we reviewed CBO publications on baseline projections of the federal budget and spoke with CBO officials.

To answer your question about actual savings from individual OBRA 90 reconciliation provisions, we reviewed literature on statistical methodology to understand the types of problems CBO and agencies would encounter in isolating the budgetary impact of OBRA 90 provisions on spending from that of other factors. We also developed a CBO and an agency interview questionnaire concerning roles and responsibilities in reconciliation processes and in OBRA 90. We used these questions to interview CBO analysts and agency officials regarding the 38 provisions.

We asked agency officials with specific legal, programmatic, and/or budgetary expertise to assess savings in two ways. First, we asked agency officials if they were able to identify the specific savings achieved by individual OBRA 90 provisions and if those savings matched original CBO estimates. Second, we asked agency officials if each of the 38 provisions

[6]The components of the almost $500 billion 5-year deficit reduction agreement enacted as OBRA 90 were (1) mandatory spending program reductions and increases in user fee collections ($98.8 billion), (2) revenue increases ($137.2 billion), and (3) discretionary spending caps which lowered program spending ($182.4 billion). Additional deficit reduction was to come from increased IRS enforcement ($9.4 billion) and from the interest savings that result from financing a lower debt ($68.4 billion).

[7]The 192 provisions break down as follows: 1 was a revenue provision included in a spending title, 56 increased program spending, and 135 were changes such as conforming language, renumbering of law sections, or expressing a sense of the Congress.

produced some measure of savings through increased collections or reduced program spending since either would help to reduce the deficit.

We also used our interview questionnaire and information to answer your questions on what could reasonably be expected of CBO and executive branch agencies. At CBO, we spoke with analysts about CBO estimating practices, including the types of data and models used to prepare cost estimates. At agencies, we applied a two-tiered test of implementation. The first test, a threshold test, determined whether the agency issued a formal rule or binding guidance in lieu of a formal rule when required to do so. By formal rule, we mean the process by which an agency publishes regulations in the Federal Register. Examples of binding guidance in lieu of a formal rule include changing agency manuals or issuing agency directives. The second test was based upon the timeliness and scope of the formal rule or binding guidance in lieu of the rule. By timeliness, we mean whether an agency issued the formal rule or binding guidance in lieu of the rule within the first fiscal year of applicability. By scope, we mean whether the agency's implementation had obvious omissions from or additions to the OBRA 90 provision. For other fiscal years of applicability, we consulted with agencies to determine if revised rules or guidance were needed and if so, whether they were issued.

We did not attempt to reestimate or audit CBO data discussed in this report. Further, we did not attempt to audit in detail the thoroughness or effectiveness of agency implementation efforts and accuracy of savings measurements.

We did this work in Washington, D.C., from September 1993 through July 1994. We discussed with officials of the executive branch agencies the facts in the report that describe the OBRA 90 provisions implemented by their agencies. We discussed the facts, conclusions, and matter for congressional consideration with CBO staff, who generally concurred with our analysis. We also discussed these items with OMB staff. We have incorporated their views, along with those of the executive branch agencies, where appropriate.

Savings Anticipated Were Offset by Worse-Than-Anticipated Economic Conditions

Actual deficits for fiscal years 1991 through 1993 and projected deficits for fiscal years 1994 and 1995 are higher than those expected when OBRA 90 was enacted. CBO estimated that OBRA 90's policy changes had a cumulative 5-year deficit impact of $496 billion. However, other factors intervened, offsetting the estimated deficit reduction at the time of OBRA 90's enactment. For example, CBO's December 1990 deficit projections—which included the impact of OBRA 90—showed a fiscal year 1993 deficit of $170 billion, but the actual deficit was $255 billion.

To measure changes in the deficit, CBO divides factors that affect changes in aggregate outlays and revenues into three categories—economic factors, policy changes (new legislation), and technical factors.[8] Table 1 shows changes in CBO's deficit projections since July 1990.

[8]The technical category is a residual, including all discrepancies that are neither traceable to legislation nor rigorously linked to changes in the economy. These factors include new information about changes, such as program participants' behavior, projections about tax collections, or participation rates for entitlement programs. For example, unanticipated changes in Medicare utilization rates are classified as technical changes. Given the size and complexity of the budget, technical changes are inevitable.

Table 1: Changes in CBO Deficit Projections Since July 1990

Dollars in billions

	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
CBO's July 1990 deficit projections	232	238	196	145	138
CBO estimates of deficit reduction from OBRA 90 policy changes	–35	–73	–91	–134	–163
Economic changes (after 7/90)	41	55	60	62	64
Technical changes (after 7/90)	16	42	5	–17	–10
CBO December 1990 deficit projections	254	262	170	56	29
CBO estimates of changes subsequent to December 1990					
Policy[a]	–19	13	13	–18	–46
Economic	32	49	47	30	45
Technical					
Deposit insurance	–28	–108	–56	38	11
Medicare and Medicaid	7	19	24	30	46
Major benefit programs	8	18	25	25	29
Other technical	16	37	32	41	48
Actual deficits and CBO's August 1994 deficit projections	270	290	255	202	162

Notes: (1) Deficit projections reflect the combined or net effect of revenues and outlays.

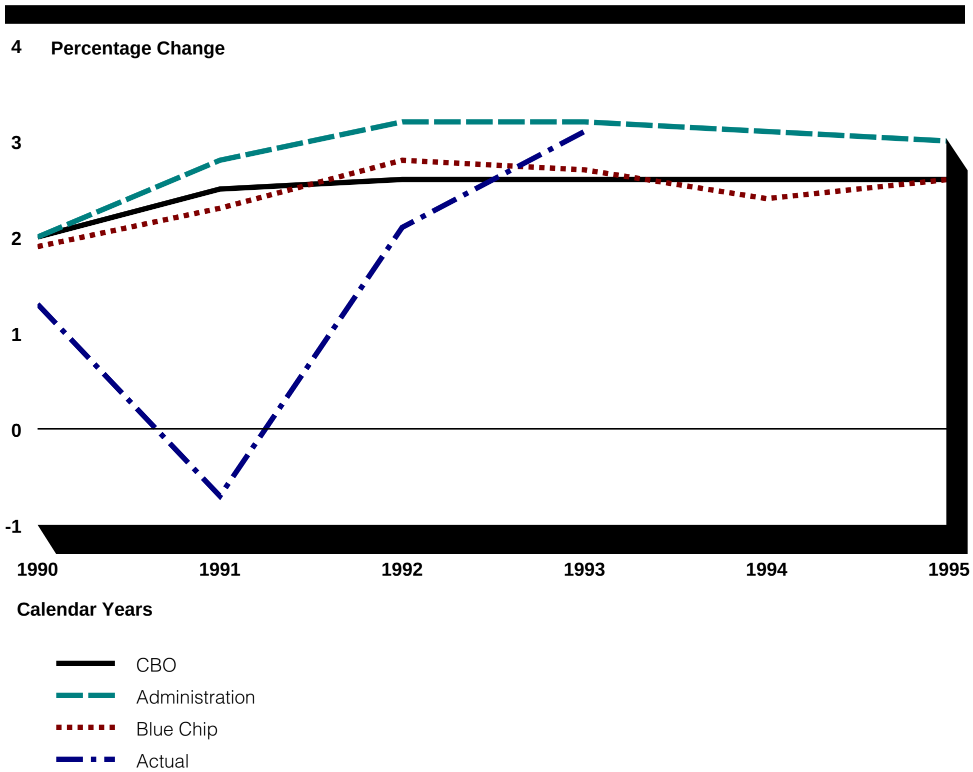
(2) Reestimates with a minus sign (-) decrease the deficit.

[a]This includes the estimated effects of the Omnibus Budget Reconciliation Act of 1993 (OBRA 93) for fiscal years 1994 and 1995.

Sources: CBO and GAO.

As the table shows, the single largest change—estimated to be $485 billion over 5 years—was due to the economy. Economic conditions—notably economic growth and unemployment—turned out to be significantly worse than forecast either just before OBRA 90's enactment or in CBO's December 1990 update. However, the CBO forecast underlying the OBRA 90 estimates was similar to that of the consensus of private forecasts and less optimistic than that of OMB. (Appendix III provides more details on these economic forecasts.) As figure 1 shows, CBO, OMB, and private forecasts were all overly optimistic.

Figure 1: Comparison of CBO, Administration, and Private Sector Forecasts of Real GNP Growth at the Time of OBRA 90



Note: Blue Chip forecasts are based on a survey of private sector forecasts.

Moreover, although CBO was aware that the economy was worsening during the fall of 1990, CBO's estimates of OBRA 90 policy changes were based on the economic assumptions underlying its July 1990 baseline. This is because CBO is required to score legislation—including reconciliation bills—on the economic assumptions in place at the time of the most recent budget resolution. CBO provided OBRA 90 savings estimates, but the next complete deficit update was made in December 1990. These deficit projections included both the effects of OBRA 90 and economic and technical changes since July 1990.

The federal budget deficit is very responsive to the economy, especially through the economy's effects on revenues. Differences between actual economic conditions and those forecast can increase or decrease the deficit compared to the expected level. CBO estimates that a 1 percentage point reduction in real economic growth adds approximately $30 billion to that fiscal year's deficit—about $26 billion in lower revenues and $4 billion in increased outlays.[9] Conversely, a 1 percentage point increase in real economic growth decreases the deficit by approximately $30 billion.

In the period following OBRA 90's passage, the lower-than-anticipated real economic growth shown in figure 1 (with its adverse impact on employment) reduced personal income, particularly wages and salaries, thereby reducing income and payroll tax revenues. Outlays for programs such as Unemployment Insurance, Food Stamps, and Medicaid were also affected because spending in these programs increases when unemployment rates rise.

In contrast, in the period since the passage of OBRA 93, greater-than-expected economic growth and lower unemployment have accelerated deficit reduction. For example, immediately following OBRA 93's enactment, CBO projected that the fiscal year 1995 deficit would be $196 billion. Currently however, CBO projects a 1995 deficit of $162 billion.

Technical factors also drove up spending during the period following OBRA 90's passage, as table 1 shows. For example, unanticipated changes in Medicaid spending resulted from greater-than-anticipated increases in payments to hospitals.

Nevertheless, had OBRA 90 not been enacted, deficits would have been higher. In each fiscal year from 1991 through 1995 shown in table 1, actual deficits or CBO deficit projections would have been higher than without OBRA 90's policy changes.

The Majority of OBRA 90's New Policies Reduced the Deficit

The deficit is smaller today than it would have been without the changes enacted in OBRA 90. As reported by agency officials, 32 of the 38 provisions we reviewed helped to reduce the deficit either by reducing program outlays or increasing user fee collections. However, as discussed later, officials could not identify the specific savings for individual provisions.

[9] Rules of thumb for estimating the effect on the deficit of changes in various macroeconomic variables are given in CBO, The Economic and Budget Outlook: Fiscal Years 1995-1999 (January 1994), pp.75-78.

Specifically, agency officials' knowledge of their programs led them to conclude that these 32 provisions (1) directly reduced payments to program providers, (2) directly eliminated program benefits, (3) directly reduced payments to beneficiaries, (4) reduced the costs of programs through efficiencies, (5) increased or levied new fees for government services, or (6) increased premium rates or penalty fees paid by program participants. Two examples follow.

- Office of Personnel Management (OPM) officials reported that the Federal Employee Health Benefits (FEHB) reforms provision[10] (OBRA 90, section 7002) reduced the deficit because OBRA 90's policy reduced the costs of providing health benefits to federal employees. Two components of the provision required health care carriers to implement cash management controls in the administration of FEHB funds and cost-containment measures to lower program costs. For example, carriers must verify the medical necessity of treatments or surgeries, substitute outpatient for inpatient services when possible, determine the appropriate length of stay for inpatient treatment, and establish incentives to encourage compliance.
- Officials at the Department of Labor's Mine Safety and Health Administration reported that the Mine Safety and Health provision (OBRA 90, section 3102) reduced the deficit because assessments for civil penalties were increased. Before OBRA 90, the Federal Mine Safety and Health Act of 1977 imposed maximum fines of $10,000 per violation and an additional fine of $1,000 per violation per day if the violation was not corrected. OBRA 90 increased these five-fold. Officials pointed out that, while not all fines were increased by the maximum amount, all categories of penalties were increased over what they had been prior to OBRA 90's passage.

Some OBRA 90 Provisions Did Not Reduce the Deficit

Agency officials reported that six provisions, accounting for $12.5 billion, or 16 percent of estimated savings in our sample, would not reduce the deficit. These new policies did not reduce outlays or increase user fee or premium collections. One provision was inconsistent with an international air agreement (OBRA 90, section 10301) and was not implemented. Agency officials stated that other provisions (1) mandated actions that the Federal Deposit Insurance Corporation (FDIC) and Department of Agriculture had already taken or were about to take under existing authorities (OBRA 90, sections 2002-2004 and 1103), (2) extended expiring authority for the

[10]Each OBRA 90 provision described in this report is identified by its public law section number. In referring to each provision we used abbreviated titles. The full title can be found by referring to the section number.

Flood[11] and Crime Insurance Programs without otherwise changing them (OBRA 90, sections 2302 and 2301), or (3) required payments from an off-budget entity (Postal Service) to an on-budget entity (Civil Service Retirement and Disability Fund) (OBRA 90, section 7101).[12] We discuss these six provisions in greater detail in appendix IV, including (1) the reasons why agency officials believed that the provisions would not reduce the deficit and (2) the rationale for scoring these provisions as savings.

Each of the five provisions implemented was scored appropriately as savings according to scoring conventions and baseline estimates of federal outlays in effect at the time. The baseline provides a neutral and necessary starting point that CBO uses to hold constant economic assumptions and technical factors, for example, demography and behavior. Without the baseline, the Congress would not have a way to fairly compare the budgetary impacts of legislative proposals—including reconciliation provisions—throughout the fiscal year.

Changes can and have been made in baseline conventions and scoring practices. For example, in OBRA 90 the Congress directed that mandatory programs with outlays greater than $50 million should be assumed to continue indefinitely. This change in baseline conventions means that future reauthorizations of the flood insurance program (which typically generates net revenues) will not be scored as producing savings.[13]

The Specific Savings From Individual OBRA 90 Provisions Could Not Be Determined

While OBRA 90's policies helped reduce the deficit, it is not possible to determine the specific savings from each provision. CBO and executive branch agencies cannot isolate the budgetary impact of these provisions from that of other influences—related OBRA 90 provisions, subsequent legislation, administrative actions, and behavioral variables—on spending or collections. However, because agencies monitor program spending or user fee collections from year to year, they can determine changes in spending or increases in collections in the period since OBRA 90. These changes represent the net effect of all legislation, administrative action,

[11]The Flood Insurance provision has two components: reauthorization and premium increase. CBO estimated their savings at $594 million and $224 million, respectively. Agency officials reported that the reauthorization component did not reduce the deficit.

[12]Current law requires that the Social Security trust funds and the Postal Service be off-budget—excluded from the totals of the President's budget and the Congress' budget resolutions—even though these funds are part of total government transactions. Currently, the Social Security trust funds and Postal Service are the only off-budget entities; all other federal and trust funds are on-budget. Off-budget totals are added to on-budget totals to produce the unified budget totals.

[13]It also means that extensions of expiring mandatory programs will not be scored as increases in spending.

and other intervening variables on programs and therefore cannot be compared to OBRA 90 savings estimates.

Specific Savings Could Not Be Determined in the Majority of Cases

For 33 of the 38 provisions, accounting for almost $74.6 billion of the estimated savings in our sample, agency officials could not determine the specific savings resulting from OBRA 90 provisions. Agency officials cannot accurately isolate OBRA 90's discrete budgetary impact from that of other factors affecting spending. They pointed out that outlays and user fee collections in their programs are continually affected by factors such as legislation and behavioral responses. Agency officials told us that any effort to isolate the budgetary impact of specific provisions would be demanding, time-consuming, and subject to challenge. The following examples illustrate these problems.

- The Prospective Payment System (PPS) Changes provision (OBRA 90, section 4002) reduced payment rates to hospitals for Medicare beneficiaries. The Health Care Financing Administration (HCFA) administers the program under the Department of Health and Human Services. HCFA officials told us that legislated and administrative changes occur too frequently to isolate the budgetary impact of a single change from others. Also, HCFA officials we spoke with pointed out that Medicare outlays are affected by changes in behavior on the part of hospital administrators, physicians, and program participants, and are not necessarily the result of OBRA 90's new policies.[14] For example, lowering the payment rates for Medicare inpatient services would widen the gap between the actual cost of those services and what hospitals may bill for them. In such a situation, hospitals might try to reduce associated financial losses by charging multiple or more expensive codes for their Medicare patients—for reasons unrelated to these patients' medical conditions. Any resulting increase in Medicare spending from such code creep would reduce the amount of savings actually achieved from the PPS provision. Moreover, the budgetary impact of such actions to increase hospital revenues cannot be sorted out from increased spending due to legitimate changes in medical practice such as those based on new information about successful techniques. Both types of increased spending show up as increases in utilization.[15] Accordingly, attributing any particular dollar effect to OBRA 90 is impossible to do.

[14]Of the 38 provisions in our sample, 9 provisions made changes in the Medicare program.

[15]As described later in this report, CBO included behavioral assumptions about hospital responses in its estimate of the PPS provision. However, the fact that CBO could estimate this impact does not alter agency difficulties in measuring the actual budgetary impact of hospital behavior on Medicare outlays.

- The Determination of Pension for Certain Veterans provision (OBRA 90, section 8002) eliminates the total disability presumption for veterans turning 65. Prior to OBRA 90, any veteran 65 or older and meeting an income eligibility requirement was considered permanently and totally disabled for pension purposes. Now these veterans may be considered employable. Only proven disabilities—not age alone—qualify veterans for these benefits. Department of Veterans Affairs (VA) officials reported that this change is likely to have affected the number of beneficiaries in two ways. Some veterans apply and are turned down due to the policy change. Other veterans are discouraged from applying for this benefit due to the policy change. The number of veterans in the first group can be determined while the number in the second group cannot. Both would be needed to determine savings resulting from this provision. Interactive effects from other OBRA 90 provisions also made it impossible to isolate how much of the decline in the numbers of pensioners is due exclusively to this provision. For example, the Income Verification Match provision (OBRA 90, section 8051) mandated that VA use IRS and Social Security Administration (SSA) data to verify eligibility for means-tested programs, including VA's health program. According to VA officials, veterans might not have applied for pensions because of the income verification program. Because of these interactions, identifying and assigning specific savings to both provisions is problematic.
- OBRA 90, section 2005 authorized the FDIC to borrow working capital from the Federal Financing Bank. The estimated savings from this provision were based on assumptions about interest rates and the amount that FDIC would need to borrow. FDIC officials believed that this provision produced savings by allowing borrowing at a lower interest rate. Two factors make it impossible to determine the specific savings. First, there is uncertainty about how much higher the rate would have been if FDIC had borrowed from the private sector. Second, improved bank profitability due to lower interest rates decreased FDIC's borrowing needs.

Notwithstanding the inability to isolate the budgetary impact of OBRA 90 provisions, all agency officials we spoke with noted that they monitored program spending from one fiscal year to the next to determine how program costs and user fee collections change. Thus, agencies could identify changes in the period since OBRA 90. However, the results represented the net effect of all legislation, administrative actions, and other intervening variables that affected programs. For this reason, the results cannot be compared with OBRA 90 estimates of individual provisions. The following example provides another illustration.

Medicare is a secondary payor under specified circumstances when Medicare beneficiaries are covered by other third party payors, that is, automobile, medical, no-fault, and liability insurance. The Medicare Secondary Payor provision (OBRA 90, section 4203) produced savings by (1) lengthening by 6 months the period during which an employer sponsored health plan is the primary payor for end-stage renal disease beneficiaries, (2) extending by 3 years the section that makes Medicare a secondary payor for disabled beneficiaries, and (3) extending the authorized period when tax data that improves the identification and collection of Medicare secondary payor cases can be shared with HCFA. A HCFA agency official pointed out that the Medicare Secondary Payor program was affected by multiple legislation, for example, the Deficit Reduction Act of 1984, Consolidated Omnibus Budget Reconciliation Act of 1985, Omnibus Budget Reconciliation Act of 1989, and OBRA 90. While it might appear that OBRA 90 effects could be separated from those of earlier laws, this is not the case. HCFA regulations and guidance implementing these laws as well as OBRA 90 are intermingled, so that isolating the budgetary impact of one legislative change from another is virtually impossible. HCFA's savings measure the net budgetary impact of all legislation and any other factors that affect savings, not just the OBRA 90 savings.

Specific Savings Could Be Determined in a Few Cases

For 5 of the 38 provisions, accounting for $4.3 billion of the estimated savings, agencies could determine the specific savings because the budgetary impact of OBRA 90 could be isolated from other factors. These provisions involved new user fees or identified amounts to be deposited in budget or Treasury accounts. The following two cases illustrate how agencies determined savings.

- The Railroad Safety User Fee provision (OBRA 90, section 10501) requires the Federal Railroad Administration, under the Department of Transportation, to cover costs of the railroad safety program by assessing a fee on railroads. Because OBRA 90 created the new user fee and subsequent legislation and administrative action did not supersede OBRA 90, isolating the budgetary impact is possible. Agency officials pointed out that billing and accounting systems showed that for fiscal years 1991 through 1993, fees collected were $14 million, $32 million, and $34 million, respectively. The OBRA 90 savings estimates as prepared by CBO were $20 million, $35 million, and $36 million for fiscal years 1991 through 1993.

- The Patent and Trademark Office (PTO) surcharge provision (OBRA 90, section 10101) requires that PTO impose a surcharge on certain patent fees and sets in statute the amounts of money that PTO should deposit in a U.S. Treasury account. Isolating the budgetary impact is possible because OBRA 90 set in statute the amounts of money that PTO deposits. PTO imposed a surcharge on the patent statutory fees and tracked the amounts collected and deposited through a financial reporting system. In fiscal years 1992 and 1993, PTO collected fees sufficient to deposit an amount equal to the savings estimates ($95 million and $99 million, respectively). However, in fiscal year 1991, sufficient fees failed to materialize because of customer reaction to the additional surcharge, the Persian Gulf War, the recession, and a decline in patent applications from Germany. Thus, in fiscal year 1991 PTO deposited $99.3 million (the total amount collected) as compared to the OBRA 90 target deposit of $109.8 million for that year.

CBO and Executive Branch Agencies Did What Reasonably Could Be Expected

CBO and executive branch agencies had reasonable processes to ensure that estimates were as accurate as possible and that reconciliation provisions were implemented promptly. CBO used the best available data, appropriate mathematical models, and supervisory review in its efforts to provide accurate savings estimates as described below. The 14 executive branch agencies carried out OBRA 90's policy changes on time and implemented all but one provision.

CBO Practices Were Designed to Minimize Error in Estimates

CBO analysts used the best available information and professional techniques to prepare and review the estimates for each of the 38 provisions we selected and reviewed.[16] While we did not assess the accuracy of individual estimates, we believe that these practices helped to produce the best estimates possible, within the constraints CBO faced. We also found that CBO's semiannual baseline updates have a useful, if indirect effect, on the quality of estimates.

Analysts Used the Best Available Information in Their Estimates

The accuracy of estimates for individual provisions depends heavily on the quality of the information CBO uses. While information was in some cases limited, we believe that analysts used the best available in the provisions we examined. For eight provisions, CBO used multiple information sources. The type of information from these sources ranged from raw data to preliminary estimates.

[16]We were unable to interview the analyst who prepared the OBRA 90 estimate for 12 provisions. In these cases, we interviewed the relevant unit chief or the analyst's successor. All but one of the estimates in our sample were prepared by analysts in CBO's Budget Analysis Division. The remaining estimate, the Mine Safety and Health provision (OBRA 90, section 3102) was prepared by an analyst in the Tax Analysis Division.

For 30 provisions, CBO used data from executive branch agencies. Because federal agencies routinely collect data to fulfill their program monitoring and oversight responsibilities, they are CBO's primary source of up-to-date information. For a majority of provisions, analysts stated that federal agencies were the only such sources of data to develop estimated program costs. For example, the Portability of Benefits provision (OBRA 90, section 7202) protects the pay and benefits of certain Department of Defense (DOD) and Coast Guard employees who converted to the civil service system. CBO relied on DOD's and Coast Guard's data to determine the number of employees affected by this provision because DOD and the Coast Guard are apt to be the best sources of data about their own employees. In two cases, CBO's estimates relied on preliminary estimates provided by relevant federal agencies. This seemed reasonable because these agencies maintained large, complex databases which were the sole sources of the necessary information.

For eight provisions, CBO used data from nonfederal sources. Sometimes private sector companies and other entities affected by changes in federal policy have precise or detailed information related to program costs. If CBO is satisfied with the quality of this information, analysts may use it to supplement agency-provided data. For example, one part of the Durable Medical Equipment provision (OBRA 90, section 4152) limited Medicare payments for seat-lift chairs to cover only the seat-lift mechanism. Previously, Medicare covered the cost of the entire chair. To prepare the Durable Medical Equipment estimate, CBO examined many manufacturers' data on the percentage of total chair costs attributable to the mechanism.

For eleven provisions, CBO used account-level information from CBO's baseline because it was the best source of total program costs for future fiscal years. To illustrate, the Nuclear Regulatory Commission (NRC) user fees provision (OBRA 90, section 6101) requires NRC to recoup 100 percent of its annual budget authority, less payments received from the Nuclear Waste Fund. The analyst used baseline projections of the NRC's budget authority and payments from the nuclear waste fund for fiscal years 1991 through 1995 to calculate the amounts NRC needed to recoup.

Estimates Were Prepared Using Mathematical Formulas

Because many factors affect program costs, CBO analysts used mathematical formulas to prepare estimates for 34 of the 38 provisions. Some formulas we examined relied entirely on common arithmetic functions. Others were sophisticated, interrelated sets of equations.

However simple or complex the underlying methodology, CBO considered and included as appropriate the following factors:

Program Parameters

All of the CBO models included variables to account for existing program costs and changes in costs resulting from the OBRA 90 provision. For example, CBO's estimate for the Cost-of-Living Increases in Veteran Compensation Rates provision (OBRA 90, section 8005)[17] included variables to track the number of veterans and survivors receiving compensation payments, the mortality rates of veterans, the average costs per veteran, and the amount of the cost-of-living increase.

Behavioral Effects

CBO factored behavioral changes by program participants into 19 estimates. This was done to avoid overestimating savings. These behavioral adjustments generally reflected an assumption—based on observed responses to prior program changes—that program participants would try to minimize negative economic effects of policies on themselves. CBO reduced savings for the PPS Changes provision (OBRA 90, section 4002) by 10 percent based on historical data that documented health care providers' efforts to recoup lost income from previous reductions in payment rates.

Interactive Effects

CBO included interactive effects in 14 estimates. Again, this was done in an effort to avoid overestimating savings. Two types of interactions are important. First, provisions affecting the same program may interact and produce lower savings than the sum of the separate estimates. Second, program reductions in one area may be offset by increased spending in another. The Triple Base provision[18] (OBRA 90, section 1101) and the Calculation of Deficiency Payments on a 12-Month Average Price provision (OBRA 90, section 1102), which lowered outlays in agriculture commodity programs, are examples of intraprogram interactions. If CBO had not included the lower production levels resulting from the Triple Base provision in its calculation of the savings from the deficiency payment provision, estimated savings would have been overstated. An example of interprogram interaction is the Medicare Part B Premium provision (OBRA 90, section 4301) and the Medicaid program. Since Medicaid pays the Medicare Part B premium for poor participants, the

[17]This provision established the amount of the calendar year 1991 cost-of-living adjustment (COLA) and shifted the effective date of the increase by 1 month. In addition, it requires that COLAs be rounded down to the nearest dollar.

[18]The term Triple Base refers to the three components of base acreage: the excluded flexible acreage, acreage idled due to acreage reduction programs, and the remaining eligible base.

savings from increasing the premium are partially offset by higher Medicaid payments.

As discussed earlier, for two provisions, CBO used preliminary estimates prepared by agencies. For another two provisions—Postal Service Funding of COLAS (OBRA 90, section 7101) and Patent and Trademark Office User Fees (OBRA 90, section 10101)—OBRA 90 identified amounts that agencies should pay or collect for each fiscal year from 1991 through 1995. In such cases, CBO's general rule is to assume that required actions are taken and, therefore, that savings equal the legislatively identified payment or collection.

CBO's Review Processes

The assumptions and methodologies used to prepare each of the OBRA 90 estimates we examined received supervisory review before being sent to the Congress. The appropriate unit chief[19] initially reviewed all estimates. These estimates were then reviewed by the Assistant Director or Deputy Assistant Director of the Budget Analysis Division. Finally, the CBO Director or his deputy personally reviewed these estimates before signing the transmittal letters. Moreover, the unit chief's review of reconciliation estimates is generally an on-going process.

Both the more complex and sensitive estimates and those showing larger savings, received more review. For example, the FmHA provision (OBRA 90, section 1202) was sensitive due to shared jurisdiction between authorizing and appropriations committees. The analyst told us that the unit chief and appropriate assistant director held a series of meetings to discuss this $2 billion provision. Another analyst noted that she often involves the CBO Director because the estimates she prepares are large, complex, and often controversial.

Technical and Data Constraints Mean That Estimates Will Rarely Be Error Free

For most provisions, actual results are likely to differ from CBO estimates due to methodological constraints and data limitations. In addition, even with good data, predicting the future is difficult and requires making assumptions about the behavior of others.[20] The OBRA 90 savings estimates we examined, like all CBO estimates, are point-in-time measurements which are based on policies and economic forecasts in effect at the time of

[19]CBO's Budget Analysis Division prepares all cost estimates for spending provisions. Within this division, there are three cost estimate units (the defense and international affairs, human resources, and natural and physical resources) a projections unit, a scorekeeping unit, and two technical support units. Each of the units is headed by a unit chief.

[20]For a further discussion of how this problem can affect actual savings see Budget Policy: Issues In Capping Mandatory Spending (GAO/AIMD-94-155, July 18, 1994), chapter 4.

the budget resolution. However, policies are affected by subsequent legislation and administrative actions. The economy and technical factors, too, may turn out to differ from those assumed. Together, these factors can push spending higher or lower than originally predicted. For example, as we stated earlier in this report, changes in economic conditions, the single largest change, pushed deficit projections $485 billion higher. As listed in table 1, the changes in technical assumptions—especially in areas of Medicare and Medicaid—pushed the deficit $298 billion higher.

While CBO relies on the best available data to prepare estimates, these data may not account for all factors that could affect the estimates. For 4 of the 38 provisions, analysts noted that data limitations may have decreased the accuracy of the estimates. In the absence of data, CBO analysts must make assumptions about the factors that affect estimated savings from the provision. For example, the Payment of Group Health Premiums and Cost Sharing Where Cost-Effective provision (OBRA 90, section 4402) requires states to pay group health premiums for eligible Medicaid beneficiaries. The analyst noted that a national database of the characteristics of the Medicaid population did not exist. Thus, CBO was unable to determine exactly how many beneficiaries might be affected by this provision. Accordingly, the analyst relied on other data sources to make a series of assumptions about the number of affected beneficiaries.

The experience of CBO analysts helps to compensate for data limitations and methodological difficulties. This is because program knowledge and experience in preparing estimates improve the quality of assumptions which, in turn, increases the accuracy of estimates. The analysts who prepared the OBRA 90 estimates in our sample had an average of 10 years of CBO or other experience in the relevant program area and had prepared many cost estimates. For example, preparing the estimate for the Copayments for Veterans Medication provision (OBRA 90, section 8012), which established a copayment for each 30-day supply of medication on an outpatient basis, required CBO to make assumptions about the number of veterans receiving prescriptions and the number of prescriptions written annually. The analyst who prepared this estimate had 14 years of CBO experience and 7 additional years of experience with veterans programs.

CBO Updates Its Baseline

CBO's semiannual updates of its baseline indirectly improve the quality of its estimates for individual provisions. The purpose of these updates is to increase the accuracy of the baseline by ensuring that baseline assumptions accurately reflect current policies, economic conditions, and other technical assumptions, such as numbers of program participants or behavioral responses to program changes. Since the assumptions used in the baseline are used to prepare other estimates, the update process improves the quality of CBO estimates for legislative proposals. To update the baseline, analysts examine developments in policy, the economy, and other variables affecting program costs that occurred since the previous baseline was prepared. Based on this analysis, analysts propose and make changes to the baseline. A baseline review panel consisting of the appropriate unit chiefs and the Budget Analysis Division Director and his deputy, approves major changes.

Agencies Implemented OBRA 90 Provisions

Executive branch agencies executed the changes required by OBRA 90. As measured by the first part of our two-tiered implementation test, we found that agencies issued formal rules or binding guidance in lieu of the rules when required to do so for all 38 provisions. As measured by the second part of our test (timeliness and scope), we found that agencies:

- Implemented all 38 reconciliation provisions within the first fiscal year of applicability.
- Implemented 37 of the 38 reconciliation provisions without narrowing or broadening the scope of the OBRA 90 provision. In the one exception, OBRA 90, section 10301, we found that the United States Travel and Tourism Administration (USTTA) narrowed the scope of the United States Travel and Tourism Facilitation Fee provision. As stated in a final rule published in the Federal Register on February 4, 1992, the Under Secretary (of Commerce) for Travel and Tourism determined that since collections from airlines were suspended for legal reasons, charging and collecting fees from passenger cruise ship lines would not serve the legislative intent expressed in the statute. OBRA 90 required that the fee be paid on a pro-rata basis by commercial airlines and passenger cruise ship lines transporting passengers into the United States.[21]

Implementation procedures differed for the 38 provisions. As described in more detail in appendix V, agencies implemented these provisions in different ways.

Conclusions

We share the concern about the gap between expected and actual deficits experienced subsequent to reconciliation legislation. As you have noted,

[21]The Under Secretary for Travel and Tourism suspended action to charge or collect the fees from commercial passenger airlines because this action was inconsistent with Article 15 of the Chicago Convention of the International Civil Aviation Organization. All collected fees were returned.

these concerns could frustrate deficit reduction efforts if policymakers come to believe that the difficult choices they make do not matter.

Looking back, the economy was the single largest factor driving deficits higher than anticipated at the time of OBRA 90's passage. In contrast, OBRA 90's policy changes helped reduce the deficit. While it is not possible to identify precisely the specific savings from individual provisions, our findings—that CBO had reasonable processes to ensure that estimates were as accurate as possible and that executive branch agencies implemented reconciliation provisions—and our discussions with knowledgeable budget/program officials lead us to conclude that, overall, OBRA 90 contributed significantly to reducing the deficit below what it otherwise would have been.

Although it is impossible to determine the specific savings for individual reconciliation provisions, a deficit vastly greater than originally forecast need not be accepted. The Congress can, under current procedures, at any time enact changes in individual mandatory programs—either alone or as part of reconciliation—to reduce the deficit. Currently, however, there is no procedure that automatically triggers a comparison between the current and the expected deficit paths.

A new process that prompts the Congress periodically to look back and compare the actual deficit to the deficit projected at the time of a prior deficit reduction agreement and/or the most recent reconciliation legislation could be added to current budgetary controls. Such a process differs from current budget processes because—if the deficit were greater than projected—the Congress would decide explicitly—by voting—whether to accept the slippage and affirm a higher deficit path or to act to bring the deficit path closer to the original goal by recouping some or all of this slippage. Thus, the new requirement would provide members who make difficult choices in reconciliation an additional opportunity to ensure that the deficit path they voted for will, in fact, materialize.

This process would be broader than the one we identified to increase budgetary control of mandatory spending. In Budget Policy: Issues in Capping Mandatory Spending we identified an approach to increase budgetary control of mandatory spending programs. Using this approach, the Congress periodically would vote on whether to make program changes when mandatory spending exceeds certain targets. Under this process, the Congress would consider changes in the structure and/or benefits in mandatory programs to achieve reductions in spending if it deemed appropriate. The process we are suggesting for consideration in this report would be broader. It would look back at the deficit's path—not one component of spending—compared to that predicted under deficit reduction legislation.

Matter for Congressional Consideration

The Congress may wish to consider a new process under which it is periodically prompted to look back at progress in reducing the deficit. Such a lookback would compare the current CBO deficit projections to those projected at the time of a prior deficit reduction agreement and/or the most recent reconciliation legislation and analyze the reasons for differences. For differences exceeding a predetermined amount, the Congress would decide explicitly—by voting—whether to accept the slippage or act to bring the deficit path closer to the original goal by recouping some or all of this slippage.

We are sending copies of this report to the Speaker of the House; House Majority Leader and Majority Whip; Chairmen of the House Committee on Ways and Means, House Committee on the Budget, and House Committee on Banking, Finance and Urban Affairs; other interested congressional committees and Members of Congress; the Directors of the Congressional Budget Office and the Office of Management and Budget; appropriate executive branch agencies; and other interested parties. We will also make copies available to others upon request.

Please contact me at (202) 512-9573 if you or your staff have any questions concerning the report. Other major contributors are listed in appendix VI.

Paul L. Posner

Paul L. Posner
Director, Budget Issues

Contents

Tables

Figure

Abbreviations

ARP	Acreage Reduction Program
ASCS	Agricultural Stabilization and Conservation Service
BEA	Budget Enforcement Act of 1990
BIF	Bank Insurance Fund
CBO	Congressional Budget Office
COLA	cost-of-living adjustment
CSRS	Civil Service Retirement System
DOD	Department of Defense
FCIP	Federal Crime Insurance Program
FDIC	Federal Deposit Insurance Corporation
FEHB	Federal Employee Health Benefits
FEMA	Federal Emergency Management Agency
FIA	Federal Insurance Administration
FIRREA	Financial Institutions Reform, Recovery, and Enforcement Act of 1989
FmHA	Farmers Home Administration
FY	fiscal year
GDP	gross domestic product
GNP	gross national product
HCFA	Health Care Financing Administration
IRS	Internal Revenue Service
NFIP	National Flood Insurance Program
NRC	Nuclear Regulatory Commission
OBRA 90	Omnibus Budget Reconciliation Act of 1990
OBRA 93	Omnibus Budget Reconciliation Act of 1993
OMB	Office of Management and Budget
OPM	Office of Personnel Management
PAYGO	pay-as-you-go
PPS	Prospective Payment System
PTO	Patent and Trademark Office
SSA	Social Security Administration
TEFRA	Tax Equity and Fiscal Responsibility Act of 1982
USTTA	United States Travel and Tourism Administration
VA	Department of Veterans Affairs

Reconciliation Acts

Dollars in billions

Congress and session	Bill	Public law	Conference report no.	Anticipated fiscal year (FY) savings[a]
96th, 1979-80, 2nd session	H.R. 7765	96-499	96-1479	$8.2 over FY 1981
97th, 1981-82, 1st & 2nd sessions	H.R. 3982 H.R. 6955 H.R. 4961 (TEFRA)	97-35 97-253 97-248	97-208 97-759 97-760	$130.6 over FYs 1982-84 $129.1[b] over FYs 1983-85
98th, 1983-84, 2nd session	H.R. 4169	98-270	None[c]	$8.2 over FYs 1984-87
99th, 1985-86, 2nd session	H.R. 3128[d] H.R. 5300	99-272 99-509	99-453 99-1012	$18.2 over FYs 1986-88 $11.7 over FYs 1987-89
100th, 1987-88, 1st session	H.R. 3545	100-203	100-495	$76 over FYs 1988-89
101st, 1989-90, 1st & 2nd sessions	H.R. 3299 H.R. 5835 (OBRA 90)	101-239 101-508	101-386 101-964	$14.7 over FY 1990 $496.2 over FYs 1991-95
103rd, 1993-94, 1st session	H.R. 2264 (OBRA 93)	103-66	103-213	$496 over FYs 1994-98

[a]The savings estimates reported in this table were taken from Congressional Quarterly reports which cited conference reports or other congressional documents.

[b]This reflects $13.3 billion in spending reductions due to H.R. 6955. In addition, the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) contained $98.3 billion in revenue increases and $17.5 billion in spending reductions.

[c]No conference was held.

[d]H.R. 3128, the Deficit Reduction Amendments of 1985, failed to clear the first session of Congress before adjournment. It was enacted in the second session as a reconciliation bill.

Source: Congressional Quarterly Almanac, 1979 through 1993.

Sample of Omnibus Budget Reconciliation Act of 1990 Provisions

Table II.1: 8 Highest Dollar Provisions

Dollars in millions

Section	Title	CBO 5-year savings estimate	Agency responsible for implementation	Met implementation test	Agency says produced savings	Agency able to track specific dollar savings
1101	Triple Base for Deficiency Payments	9,085	Department of Agriculture	yes	yes	no
2002-2004	Bank Insurance Fund (BIF) Provisions	[a]	Federal Deposit Insurance Corporation	yes	no	no
4002	PPS Changes	8,890	Department of Health and Human Services	yes	yes	no
7001	Elimination of Lump-Sum Credit With Payment Shift	7,600	Office of Personnel Management	yes	yes	no
4301	Part B Premium	7,455	Department of Health and Human Services	yes	yes	no
4203	Extension of Secondary Payor Provisions	6,085	Department of Health and Human Services	yes	yes	no
4001	Payments for Capital Related Costs of Inpatient Hospital Care	4,050	Department of Health and Human Services	yes	yes	no
7002	FEHB Reforms	3,646	Office of Personnel Management	yes	yes	no
Estimated Savings		55,811[b]				

[a]CBO scored this provision as having no budgetary impact. However, in its official letter CBO also indicated that agency administrative actions could produce $9 billion in savings. The Budget Committees included the $9 billion as part of the $496 billion in total savings. Thus, we included this provision in our sample.

[b]Includes $9 billion in BIF savings (sections 2002-2004).

Table II.2: 30 Randomly Selected OBRA 90 Provisions

Dollars in millions

Section	Title	CBO 5-year savings estimate	Agency responsible for implementation	Met implementation test	Agency says produced savings	Agency able to track specific dollar savings
4104	Pathology Services	60	Department of Health and Human Services	yes	yes	no
10101	Patent and Trademark User Fees	495	Department of Commerce	yes	yes	yes
2005	Allow FDIC to Borrow From Federal Financing Bank	12	Federal Deposit Insurance Corporation	yes	yes	no
8051	Use of IRS and SSA Data for Income Verification	743	Department of Veterans Affairs	yes	yes	no
2302	Extension of the Federal Flood Insurance Program	818	Federal Emergency Management Agency	yes	no	no[a]
8005	Cost of Living Increases in Compensation Rates	44	Department of Veterans Affairs	yes	yes	no
8002	Elimination of Presumption of Total Disability	313	Department of Veterans Affairs	yes	yes	no
5116	Repeal of Retroactive Benefits for Certain Beneficiaries	713	Department of Health and Human Services	yes	yes	no
7101	Postal Service Funding of COLAs	1,946	Postal Service	yes	no	yes
6101	NRC User Fees and Annual Charges	1,554	Nuclear Regulatory Commission	yes	yes	yes
10001	Customs User Fees	2,292	Department of the Treasury	yes	yes	no
4401	Prescription Drug Discounts for State Medicaid Programs	1,930	Department of Health and Human Services	yes	yes	no
7202	Portability of Benefits	149	Office of Personnel Management	yes	yes	no
10501	Railroad Safety User Fees	169	Department of Transportation	yes	yes	yes

(continued)

Dollars in millions

Section	Title	CBO 5-year savings estimate	Agency responsible for implementation	Met implementation test	Agency says produced savings	Agency able to track specific dollar savings
10201	NOAA User Fees	12	Department of Commerce	yes	yes	no
4103	Anesthesia Services	220	Department of Health and Human Services	yes	yes	no
2301	Extension of the Federal Crime Insurance Program	14	Federal Emergency Management Agency	yes	no	no
7201	Computer Matching and Privacy Protection	270	Office of Management and Budget	yes	yes	no
2201	Auction of Insured Mortgages	1,010	Department of Housing and Urban Development	yes	yes	no
4102	Radiology Services	1,240	Department of Health and Human Services	yes	yes	no
1105	Loan Origination Fees and Other Savings	1,151	Department of Agriculture	yes	yes	no
4106	New Health Care Practitioners	580	Department of Health and Human Services	yes	yes	no
1102	Calculation of Deficiency Payments Based on 12-Month Average	755	Department of Agriculture	yes	yes	no
4152	Durable Medical Equipment	2,140	Department of Health and Human Services	yes	yes	no
1103	Acreage Reduction Program for 1991 Crop	905	Department of Agriculture	yes	no	no
4402	Group Health Premium and Cost Sharing Payment Where Cost-Effective	1,005	Department of Health and Human Services	yes	yes	no
10301	Travel and Tourism Fees	78	Department of Commerce	yes[b]	no	yes[c]
1202	Authorization Levels for FmHA Loans	2,114	Department of Agriculture	yes	yes	no
8012	Copayment for Medications	85	Department of Veterans Affairs	yes	yes	no

(continued)

Dollars in millions

Section	Title	CBO 5-year savings estimate	Agency responsible for implementation	Met implementation test	Agency says produced savings	Agency able to track specific dollar savings
3102	Mine Safety and Health Penalties	247	Department of Labor	yes	yes	no
Estimated Savings		23,064				

[a]This provision has two components—reauthorization ($594 million) and premium surcharge ($224 million). Surcharge savings can be tracked.

[b]This provision was implemented within the first fiscal year of applicability, but the USTTA narrowed the provision's scope.

[c]If action on the provision had not been suspended for legal reasons, savings would have been tracked.

Comparison of CBO, Administration, and Private Sector Economic Assumptions to Actuals and Current Projections

		1991	1992	1993	1994	1995
Real Gross National Product[a] (annual percentage change)						
	CBO, 7/90	2.5	2.6	2.6	2.6	2.6
	Administration, 6/90	2.8	3.2	3.2	3.1	3.0
	Blue Chip[b]	2.3	2.8	2.7	2.4	2.6
Real Gross Domestic Product[a] (annual percentage change)						
	Actual	–0.7	2.6	3.0		
	CBO, 8/94				4.0	3.0
Consumer Price Index[c] (annual percentage change)						
	CBO, 7/90	4.2	4.2	4.0	4.0	4.0
	Administration, 6/90	4.1	4.0	3.7	3.4	3.0
	Blue Chip[b]	4.3	4.0	4.1	4.0	4.0
	Actual	4.2	3.0	3.0		
	CBO, 8/94				2.6	3.1
Unemployment rate[d] (percent)						
	CBO, 7/90	5.4	5.4	5.5	5.5	5.5
	Administration, 6/90	5.6	5.5	5.4	5.3	5.2
	Blue Chip[b]	5.5	5.6	5.5	5.4	5.3
	Actual	6.7	7.4	6.8		
	CBO, 8/94				6.2	5.8
Long-term interest rates (10-year Treasury notes)						
	CBO, 7/90	7.8	7.4	7.2	6.9	6.8
	Administration, 6/90	7.9	7.0	6.1	5.8	5.4
	Blue Chip[b,e]	8.3	8.0	7.8	7.8	7.8
	Actual	7.9	7.0	5.9		
	CBO, 8/94				6.8	6.8
Short-term interest rates (3-month Treasury bills)						
	CBO, 7/90	6.9	6.7	6.2	5.6	5.4
	Administration, 6/90	6.8	5.8	5.1	4.8	4.4
	Blue Chip[b]	7.5	7.0	7.0	6.9	6.7
	Actual	5.4	3.5	3.0		
	CBO, 8/94				4.1	5.5

(Table notes on next page)

Note: Calendar year assumptions.

[a]Beginning in January 1992, CBO's economic assumptions are based on gross domestic product (GDP) instead of gross national product (GNP). Between 1979 through 1991, real GDP growth was about 0.1 percent higher than real GNP growth. Real GDP is calculated using base year 1987 dollars.

[b]Blue Chip forecasts for 1991 were based on a survey of private forecasters published by Eggert Economic Enterprises, Inc. published on June 11, 1990. Blue Chip forecasts for 1992 through 1995 were based on a survey of private forecasters published by Eggert Economic Enterprises, Inc. on March 10, 1990.

[c]CBO and Blue Chip used consumer price index for urban consumers. The Administration used the consumer price index for all urban wage earners and clerical workers. The actual rate used the consumer price index for urban consumers.

[d]CBO, Blue Chip, and the actual rate used the average annual unemployment rate for the civilian labor force. The Administration used the total labor force, including armed forces residing in the United States.

[e]Blue Chip did not project a 10-year note rate. The Blue Chip estimates presented in the table were constructed by CBO based on an estimated relationship between rates on 10-year bonds and the Blue Chip projected Aaa bond rate.

Sources: Congressional Budget Office and Council of Economic Advisers.

Agency Views on Savings From Six OBRA 90 Provisions

As noted in the report, our conclusions about whether OBRA 90 provisions actually reduced the deficit are based on the judgments of agency experts with specific legal, programmatic, and/or budgetary expertise in the programs affected by the provisions in our sample. The experts we spoke with were unable to determine the specific savings achieved by individual provisions. However, they were able to judge whether provisions produced savings, that is whether provisions increased collections and/or reduced spending in the affected program. When experts reported that a provision did either, we concluded that the provision helped reduce the deficit.

All 38 provisions in our sample were scored appropriately as savings according to scoring conventions and baseline estimates of federal outlays in effect at the time. However, agency experts reported that enacting 6 of the 38 provisions had not directly reduced outlays or increased user fees or premium collections for their programs. One provision was inconsistent with an international air agreement (OBRA 90, section 10301) and was not implemented. Agency officials stated that two other provisions merely enacted steps the agency would have taken anyway and so should not be credited with the savings attributable to the action (OBRA 90, sections 2002-2004 and 1103). They also disagreed that savings should be attributed to provisions which (1) extended expiring authority for the Flood[1] and Crime Insurance Programs without otherwise changing them (OBRA 90, sections 2302 and 2301) or (2) required payments from an off-budget entity (Postal Service) to an on-budget entity (Civil Service Retirement and Disability Fund) (OBRA 90, section 7101).[2]

This appendix describes each of the six provisions in greater detail, the program affected, how OBRA 90 changed the program, why the provision was scored as savings, and why agency experts believed that enacting the provision did not reduce the deficit.

[1]The Flood Insurance provision has two components: reauthorization and premium increase. CBO estimated their savings at $594 million and $224 million, respectively. Agency officials reported that the reauthorization component did not reduce the deficit.

[2]Current law requires that the Social Security trust funds and the Postal Service be off-budget—excluded from the totals of the President's budget and the Congress' budget resolutions—even though these funds are part of total government transactions. Currently, the Social Security trust funds and Postal Service are the only off-budget entities; all other federal and trust funds are on-budget. Off-budget totals are added to on-budget totals to produce the unified budget totals.

Section 10301: U.S. Travel and Tourism Administration Facilitation Fee

USTTA in the Department of Commerce was established by the International Travel Act of 1961. The purpose of USTTA is to encourage foreign travel to the United States by providing assistance to private, state, and local tourism organizations.

OBRA 90 required, "to the extent not inconsistent with international treaties or agreements," the Secretary of Commerce to collect a fee from airlines and cruise ship lines for foreign passengers entering the United States. This fee would cover the expenses of USTTA. The provision set the fee for 1991 at $1 per passenger. For 1992 through 1995, the total amount of fees collected should equal USTTA appropriations. This provision was estimated to collect $78 million over 5 years.

In order to score the savings for 1991, CBO multiplied the anticipated number of foreign tourists by $1. Since the 1992 through 1995 collections should equal USTTA's appropriation, the analyst relied on CBO's baseline estimates of USTTA's budget authority to determine savings for each year.

Unlike the other 5 provisions, this provision was not implemented. The Secretary of Commerce delegated authority for collecting this fee to the Under Secretary for Travel and Tourism. The Under Secretary determined that the fee on airlines was inconsistent with Article 15 of the Chicago Convention of the International Civil Aviation Organization and, in accordance with OBRA 90, suspended actions to charge or collect this fee. Based on OBRA 90's intent to charge cruise ships and airlines on a pro-rata basis, the Under Secretary also suspended collection of the fee on cruise ships. In addition, USTTA returned all collected fees. Thus, this provision did not reduce the deficit because fees were not collected.

Section 1103: Acreage Reduction Program for the 1991 Crop

The Agricultural Stabilization and Conservation Service (ASCS) within the Department of Agriculture is responsible for administering agricultural commodity programs. Major agricultural commodities affected by federal programs include feed grains (corn, sorghum, oats, and barley), wheat, rice, upland cotton, soybeans, and dairy products. In 1990, agricultural price support programs were governed primarily by the Food Security Act of 1985.

Farmers who participate in federal support programs are paid a deficiency payment equal to the deficiency payment rate multiplied by the number of program acres and the program yield (that is, the historical amount of per acre production of a commodity). The deficiency payment rate is generally the difference between the market price and a target price established in law.

Farmers who choose to participate in the federal support programs must also participate in an Acreage Reduction Program (ARP). ARPs require program participants not to plant a crop on a percentage of their land. The Secretary of Agriculture annually announces the ARP percentages for each commodity. Increasing ARPs affects outlays primarily in two ways. First, higher ARPs reduce the number of payment acres, which decreases the total deficiency payments made to individual producers. Second, higher ARPs decrease production of a commodity, thus increasing the market price. Increasing the market price decreases the level of the federal deficiency payments. Thus, the higher the ARP, the lower the level of the deficiency payments.

OBRA 90 mandated a 1991 wheat ARP of not less than 15 percent. In addition, OBRA 90 required that the corn ARP be set at no less than 7.5 percent. Combined, these components were estimated to reduce outlays by $905 million.

CBO scored this provision using its baseline models for commodity programs. These econometric models are designed to consider the many factors that affect federal outlays for each commodity program. Among the factors included in these models are the program parameters under current law (such as target prices, acreage reduction requirements, and loan rates), and variables to determine the supply, demand, and market price for the commodity. Estimates from these models are dependent on assumptions about farm prices, income support mechanisms, international events, economic conditions, weather, and crop yields. The assumptions used to prepare this estimate were the same ones in effect at the time of the budget resolution.

CBO's baseline assumed that the wheat and feed grain (including corn) ARPs for 1991 would be 5 percent. Since the OBRA 90 provision increased the ARPs above these levels, it produced savings. To calculate the savings from increasing ARPs above the baseline levels, CBO adjusted variables in the models that would be affected, beginning with the ARP percentages themselves. CBO also incorporated offsets for behavioral effects by farmers—who CBO assumed would seek to avoid economic losses due to the provisions. The model was also modified to consider interactive effects related to certain other OBRA 90 provisions as well as some provisions of the 1990 farm bill. CBO's inclusion of interaction adjustments (offsets) reduced the savings estimate for the OBRA 90 commodity provisions.

ASCS officials agreed that higher ARPs saved money but believed that since this provision did not result in higher ARPs than the Secretary of Agriculture would have chosen anyway, the savings should not be attributed to OBRA 90. In their view, worsening conditions in the commodity markets meant that the Secretary would have chosen the ARP levels mandated by OBRA 90, even without the legislation. For example, in August 1990, the Secretary announced that the wheat ARP for 1991 would be between 10 and 20 percent, depending on the final provisions of the 1990 farm bill.

Sections 2002-2004: Banking Insurance Provisions

FDIC administers BIF. BIF was created by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). BIF's primary purposes are to (1) insure the deposits and protect the depositors of insured institutions and (2) finance the resolution of institutions, including managing and liquidating their assets. The primary funding source for the BIF is an assessment premium charged to member institutions. The assessment premiums charged to individual BIF members are a percentage of their deposit base. Under FIRREA, FDIC could increase assessment rates if the reserve ratio (that is, the ratio of the value of BIF to the estimated insured deposits held in BIF member banks) was less than 1.25 percent and the higher rate would bring the reserve ratio to 1.25 percent within a reasonable period. Also, the reserve ratio was capped at 1.50 percent. The amount of the annual increase was capped at 7.5 cents per $100 of deposits. However, FDIC could not raise the rate if the reserve ratio of the BIF was improving.

The three BIF provisions in OBRA 90 (1) authorized FDIC to increase the assessment rates as needed, (2) authorized FDIC to make midyear adjustments in assessment rates, and (3) removed the cap on the BIF reserve ratio established by FIRREA. Together these provisions had the effect of eliminating restrictions on the amount of annual assessment increases.

According to CBO's official cost estimate, this provision had no budgetary impact. This was because CBO's baseline in effect at the time of the budget resolution assumed that FDIC would not use its existing authority under FIRREA to increase assessments. Therefore, increasing FDIC's authority would not result in higher premiums.

However, in a footnote to this estimate, CBO noted that CBO's baseline assumed that the 1991 assessment rate would be 15 cents per $100 of assessable deposits and that FDIC had already increased the rate to 19.5 cents for 1991. CBO noted that if the rate were raised to 23 cents for 1992 (in fact, the rate was 23 cents in 1992), the net decrease in outlays due these administrative actions would be $9 billion over 5 years. The footnote states that these savings could be achieved under current law.

CBO calculated the estimated savings from these administrative actions by subtracting the baseline level of premium income from the estimated level resulting from higher assessment rates. The House and Senate Budget Committee OBRA 90 conference summary documents included savings from FDIC's administrative actions and reported that these provisions produced $9 billion in savings over 5 years.

According to FDIC officials, these provisions did increase their flexibility to manage BIF by allowing for more timely increases in assessments, and they agreed that higher premiums reduced the deficit. However, since premium increases were allowable under pre-OBRA 90 law, they did not believe that OBRA 90 had any direct impact on premiums—and thus did not reduce outlays and the deficit.

Section 2302: Flood Insurance Provision

The National Flood Insurance Program (NFIP), operated by the Federal Insurance Administration (FIA) within the Federal Emergency Management Agency (FEMA), was created by the National Flood Insurance Act of 1968 (Public Law 90-448). The purposes of NFIP are to (1) make flood insurance available to property owners, (2) mitigate flood hazards, and (3) reduce total federal expenditures on disaster assistance. Policies are sold only to residents of communities that choose to join NFIP. While the federal government is the guarantor of coverage and bears the risk of loss for all NFIP polices, 85 percent of policies are offered by private insurance companies under agreements with FIA. Premium income from policyholders provides the primary funding source for NFIP.

OBRA 90 reauthorized NFIP for fiscal years 1992 through 1995. In addition, OBRA 90 mandated the creation of a policy service fee to cover NFIP's administrative costs (that is, salaries, expenses, mapping activities, flood studies, hazard reduction studies, and other controllable discretionary activities).

CBO scored the two components of this provision separately. CBO estimated that the policy fee would yield $224 million in savings over 5 years. CBO prepared this estimate by multiplying the number of policies by $25. CBO scored savings from reauthorization because reauthorization allowed FIA to continue to sell new policies. FIA uses the premium receipts from these policies to offset the costs of paying out claims. If the program had not been reauthorized, NFIP would have continued to pay claims for several years without receiving any offsetting receipts from new premiums. CBO estimated that reauthorizing NFIP would reduce net outlays by $594 million.

CBO's scoring of savings from reauthorization followed the baseline rules in effect at the time the estimates were prepared. However, BEA mandated that the baseline assume that all expiring programs with more than $50 million in outlays shall continue. Thus, under current baseline practices, CBO would not have scored savings for the reauthorization component of this provision.

FIA officials reported that the creation of the policy service fee did reduce the deficit. However, they did not believe that the reauthorization component of this provision reduced the deficit. Agency officials stated that it was unlikely that the program would have been allowed to expire. In addition, they asserted that if the federal government were under an accrual accounting system, premium revenues would be matched against a provision for losses from claims, and the savings would not exist. However, as a CBO official pointed out, the deficit is measured on a cash-flow basis and this provision did increase the government's cash flow.

Section 2301: Federal Crime Insurance Provision

The Federal Crime Insurance Program (FCIP), operated by FIA within FEMA, was created by Title VI of the Housing and Urban Development Act of 1970 (Public Law 91-609). The purpose of FCIP is to make crime insurance available at affordable rates in any state where there is a critical problem in the availability of crime insurance. In 1992, eight states, the District of Columbia, Puerto Rico, and the Virgin Islands participated in the program. The FIA uses a service agent to do processing for FCIP. Program participants purchase 1-year renewable residential and commercial policies to cover losses due to robbery and burglary. Crime insurance policies are sold either by licensed brokers in participating states or by the FCIP's service agent. Premium income from the sales of policies is the primary funding source for FCIP. Currently, claims payments and expenses exceed premium income and FCIP makes up the shortfall by borrowing from the Treasury.

OBRA 90 reauthorized FCIP through the end of fiscal year 1995. CBO estimated that reauthorizing FCIP through 1995 would reduce net outlays by $14 million. As with NFIP, reauthorization allows FCIP to continue to sell policies and use the income to offset the costs of paying claims. CBO also assumed that if the program were reauthorized, FCIP would continue to pay interest on past borrowing.

CBO's scoring of savings from reauthorization followed the baseline rules in effect when estimates were prepared. As noted earlier, BEA mandated that the baseline assume that all expiring programs with more than $50 million in outlays shall continue. Since NCIP falls beneath this threshold, CBO would still score savings from reauthorizing this program.

Agency officials did not believe that this provision reduced the deficit. In their view, reauthorizing FCIP did not produce any savings because claims and expenses exceed annual premium income. However, as a CBO official noted, by allowing FCIP to collect premiums, the annual losses are reduced.

Section 7101: Funding of COLAs for Postal Service Annuitants and Survivor Annuitants

The Postal Reorganization Act of 1970 (Public Law 91-375) created the U.S. Postal Service, which replaced the Post Office Department. The Postal Service began operations on July 1, 1971. It was intended to operate as self-sufficient, independent, business-type entity.

In 1989, the Postal Service was moved to the off-budget portion of the federal budget. Since it is an off-budget entity, the Postal Service's transactions are excluded from congressional budget resolutions and totals in the President's Budget. Currently, only the Postal Service and Social Security Trust Funds are off-budget. Off-budget totals are added to on-budget totals to produce the unified budget totals for the federal government.

The Civil Service Retirement System (CSRS), established in 1920, is a defined benefit plan for federal employees hired before 1984, including postal workers. OPM administers this on-budget program. Payments to CSRS retirees and their survivors are made by the Civil Service Retirement and Disability Fund.

OBRA 90 required the Postal Service to reimburse the Civil Service Retirement and Disability Fund for COLAS paid to all individuals who retired between the July 1, 1971, postal reorganization and September 30, 1986, or their survivors. The provision specified the amounts the Postal Service would be required to pay to fulfill this obligation for those fifteen years. In addition, the Postal Service must continue to pay COLAS occurring after October 1, 1990, for these individuals. The amount of the Postal Service's liability is prorated to reflect the percentage of an employee's service that occurred after reorganization. In essence, this provision directs an off-budget entity to make payments to an on-budget entity.

CBO scored this provision based on its general assumption that agencies will take required actions. Thus, CBO assumed that the Postal Service would annually pay the amounts specified in the statute. CBO added to these amounts the estimated costs of the CSRS COLAS for fiscal years 1992 through 1995 to arrive at the total estimated savings from this provision. CBO's official estimate for this provision showed a $1.946 billion decrease in on-budget outlays and a $1.946 billion increase in off-budget outlays.

As just noted, off-budget transactions are excluded from budget resolution totals. Under this rule, therefore, since this provision reduces on-budget outlays, it produces savings.

Postal Service officials did not believe that this provision reduced the deficit. Although the Postal Service is making the required payments, the on-budget savings are offset by increased off-budget costs. Thus, this provision has no net impact on the unified budget deficit. As a CBO analyst noted, however, the Postal Service is required to break even over time. Therefore, if stamp prices were increased enough to offset the increase in off-budget costs, the payments to the on-budget entity would reduce the deficit.

Agency Implementation of OBRA 90 Provisions

Implementation procedures differed for the 38 provisions. This appendix describes the different paths used by agency officials to implement the OBRA 90 provisions.

Agencies Issued a Formal Notice or Binding Guidance First and Then Followed a Formal Rulemaking Process

OBRA 90, section 3102, amended the Federal Mine Safety and Health Act of 1977 by increasing the maximum civil penalty for a violation from $10,000 to $50,000. In addition, the maximum penalty for failure to correct a violation was increased from $1,000 to $5,000 per day. The Department of Labor's Mine Safety and Health Administration issued binding guidance and a notice of proposed rulemaking concurrently in December 1990. The binding guidance announced that special assessments up to the new maximum of $50,000 for violations may be issued when circumstances warrant while proposed rulemaking was underway. The final rule was issued January 1992.

Agencies Followed a Formal Rulemaking Process

OBRA 90, section 4001(b), revises the Medicare payment methodology for hospital inpatient capital-related costs paid under the prospective payment system. During fiscal years 1992 through 1995, aggregate payments should be made that result in a 10 percent reduction of what would have otherwise been paid on a reasonable cost basis. HCFA administers the program under the Department of Health and Human Services. HCFA issued a proposed rule in February 1991 and a final rule August 1991, effective October 1, 1991.

Agencies Issued a Formal Notice or Binding Guidance in Lieu of a Formal Rulemaking Process

OBRA 90, section 8012, required VA to assess a $2 copayment for each 30-day supply of medication on an outpatient basis. The requirement applied to nonservice disabled veterans and service disabled veterans with less than 50 percent disability for the treatment of nonservice related conditions. VA issued an agency directive in April 1991 announcing the new requirement to all VA offices. According to a VA official, a formal notice in the Federal Register was not required. VA staff were notified of the new requirement through headquarters and regional meetings.

Agencies Implemented the Provision Without Issuing a Notice, Binding Guidance, or Formal Rule

OBRA 90, section 2302, reauthorized the sale of Flood Insurance Program policies through fiscal year 1995. It also gave FEMA the authority to place a surcharge on new and certain existing premiums to cover administrative costs. FEMA officials believed that there was no need to issue guidance because they could not exercise any discretion regarding implementation of the two components.

Major Contributors to This Report

Accounting and Information Management Division, Washington, D.C.

Margaret T. Wrightson, Assistant Director
Deborah A. Colantonio, Evaluator-in-Charge
John W. Mingus, Evaluator
Warren C. Underwood, Senior Evaluator
Jeffrey C. Blaylock, Intern
Andrew K. Reuter, Intern

Ordering Information

The first copy of each GAO report and testimony is free. Additional copies are $2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

Orders by mail:

U.S. General Accounting Office
P.O. Box 6015
Gaithersburg, MD 20884-6015

or visit:

Room 1100
700 4th St. NW (corner of 4th and G Sts. NW)
U.S. General Accounting Office
Washington, DC

Orders may also be placed by calling (202) 512-6000
or by using fax number (301) 258-4066.

Each day, GAO issues a list of newly available reports and testimony. To receive facsimile copies of the daily list or any list from the past 30 days, please call (301) 258-4097 using a touchtone phone. A recorded menu will provide information on how to obtain these lists.

PRINTED ON RECYCLED PAPER

United States
General Accounting Office
Washington, D.C. 20548-0001

Bulk Mail
Postage & Fees Paid
GAO
Permit No. G100

Official Business
Penalty for Private Use $300

Address Correction Requested