



Report to the Ranking Member,
Subcommittee on Government
Operations, Committee on Oversight
and Reform, House of Representatives

March 2019

FEES, FINES, AND PENALTIES

Better Reporting of Government-wide Data Would Increase Transparency and Facilitate Oversight

GAO Highlights

Highlights of [GAO-19-221](#), a report to the Ranking Member of the Subcommittee on Government Operations, Committee on Oversight and Reform, House of Representatives

Why GAO Did This Study

Congress has authorized federal agencies to collect hundreds of billions of dollars annually in fees, fines, and penalties. These collections can fund a variety of programs, including programs related to national security, and the protection of natural resources. Data on collections are important for congressional oversight and to provide transparency in agencies' use of federal resources.

GAO was asked to review the availability of government-wide data on fees, fines, and penalties. This report examines (1) the extent to which data on collections of fees, fines, and penalties are publicly available and useful for the purpose of congressional oversight; and (2) the benefits and challenges to government-wide reporting of fees, fines, and penalties. GAO assessed government-wide fee, fine, and penalty data against criteria for availability and usefulness based on multiple sources, including prior GAO work and input from staff of selected congressional committees. GAO interviewed OMB staff, Treasury officials, and representatives of organizations with expertise in federal budget issues and reviewed prior GAO work to identify benefits and challenges of reporting these data.

What GAO Recommends

GAO is making four recommendations to enhance OMB reporting on fees, fines, and penalties, including making disaggregated data publicly available, updating instructions to federal agencies to review accounts designated as containing fees, and disclosing limitations in data reported. OMB did not provide comments.

View [GAO-19-221](#). For more information, contact Tranchau (Kris) T. Nguyen at (202) 512-6806 or nguyentt@gao.gov.

March 2019

FEES, FINES, AND PENALTIES

Better Reporting of Government-wide Data Would Increase Transparency and Facilitate Oversight

What GAO Found

There are no comprehensive, government-wide data at the level of detail that identifies specific fees, fines, or penalties. The Office of Management and Budget (OMB) and the Department of the Treasury (Treasury) report data that include these collections at the budget account level, which generally covers a set of agency activities or programs. OMB and Treasury also report some summary data for budgeting and financial management purposes. In the *Budget of the U.S. Government*, for example, OMB data showed government-wide fees totaled just over \$335 billion in fiscal year 2017. These reports, however, are not designed to inventory or analyze fee, fine, or penalty collections and have significant limitations for that purpose.

- Although OMB collects more disaggregated data on fees, fines, and penalties, it does not make the data publicly available. OMB uses the disaggregated data in its OMB MAX database—such as the agency and account—to compile reported totals, such as the government-wide fees total in the *Budget of the U.S. Government*. Until OMB makes more disaggregated data publicly available, Congress has limited information on collections by agency to inform oversight and decision-making.
- OMB's government-wide total of fees includes collections that are not fees and excludes some fee collections. The total includes all collections for accounts in which fees make up at least half of the account's collections and excludes all others. OMB does not direct agencies to regularly review and update the accounts included in the total. Therefore, if accounts' makeups change such that fee collections drop below, or rise above, the 50 percent threshold, accounts may have incorrect fee designations and the total may be inaccurate.
- Further, OMB does not disclose the limitation that the total may exclude some fees and include other collections that are not fees. As a result, some users of the data are likely unaware of the potential for the total fees to be overestimated or underestimated.

Further, no source of government-wide data consistently reports data elements on fees, fines, and penalties that could help inform congressional oversight. Generally, congressional staff told us that additional data, such as amounts of specific penalties, would increase transparency and facilitate oversight. These data could help Congress identify trends in collections and significant changes that could be an indication of an agency's performance. While reporting government-wide fee, fine, and penalty data provides benefits, there are trade-offs in terms of the time and federal resources it would take to develop and implement a process for agencies to report these data. The level of federal investment would vary depending on factors, such as the number of data elements included and the level of detail reported. Developing a comprehensive and accessible data source would provide greater benefits, but would likely be resource intensive. Alternatively, incorporating a small number of data elements that Congress identifies as most useful for oversight into ongoing government-wide reporting efforts could incrementally improve transparency and information for oversight and decision-making, with fewer resources.

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Abbreviations

APHIS	Animal and Plant Health Inspection Service
AQI	Agricultural Quarantine Inspection
CAA	Clean Air Act
CBO	Congressional Budget Office
CFO	Chief Financial Officer
<i>Combined Statement</i>	<i>Combined Statement of Receipts, Outlays, and Balances</i>
CRS	Congressional Research Service
CSV	comma separated values
CWA	Clean Water Act
DATA Act	Digital Accountability and Transparency Act of 2014
DTD	document type definition
ECHO	Enforcement and Compliance History Online
EPA	United States Environmental Protection Agency
Financial Report	Financial Report of the U.S. Government
FFATA	Federal Funding Accountability and Transparency Act of 2006
GPRAMA	GPRA Modernization Act of 2010
HTML	hypertext markup language
OMB	Office of Management and Budget
PDF	portable document format
Treasury	Department of the Treasury
USDA	U.S. Department of Agriculture

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March 7, 2019

The Honorable Mark Meadows
Ranking Member
Subcommittee on Government Operations
Committee on Oversight and Reform
House of Representatives

Dear Mr. Meadows:

Congress has authorized federal agencies to collect hundreds of billions of dollars annually in fees, fines, and penalties. These collections can fund a wide variety of programs, including programs integral to our nation's security, to the security of our financial system, and to the protection of our natural resources. Agencies are authorized to charge more than 3,600 different user fees, such as for visiting national parks, patent applications, and customs inspections.¹ Agency authority to assess and collect fines and penalties is a critical method for enforcing policies and deterring violations of laws and regulations. For example, the Office of Management and Budget (OMB) has identified more than 50 different agencies as having civil monetary penalty authority.² In fiscal year 2017, these federal agencies assessed millions of dollars in civil monetary penalties for violations of statutory requirements, such as phone calls that violated federal telemarketing law.

Given the nation's fiscal condition, it is critical Congress has full visibility over all federal resources. Federal collections of fees, fines, and penalties vary in the extent to which revenue collected is dedicated to the related program or agency and the extent to which the agency has authority to obligate and expend collections. Congress retains oversight over fees, fines, and penalties, regardless of agencies' authority to use these

¹GAO, 2012 *Annual Report: Opportunities to Reduce Duplication, Overlap and Fragmentation, Achieve Savings, and Enhance Revenue*, [GAO-12-342SP](#) (Washington, D.C.: Feb. 28, 2012). In 2011, we surveyed the 24 agencies covered by the Chief Financial Officers Act about their fees; 21 of the 23 agencies that responded reported charging more than 3,600 fees at that time. We noted significant limitations in the counts of fees agencies reported collecting.

²For more information, see GAO, *Civil Penalties: Certain Federal Agencies Need to Improve Inflation Adjustment Reporting*, [GAO-18-519](#) (Washington, D.C.: Jul. 18, 2018); and *Civil Penalties: Certain Federal Agencies Need to Improve Efforts to Comply with Inflation Adjustment Requirements*, [GAO-17-634](#) (Washington, D.C.: Aug. 31, 2017)

collections. As such, data that provide visibility on collections and how they are used are important for Congress to oversee agencies and programs, and provide transparency in agencies' use of federal resources.

OMB reports high-level, government-wide summary data on fee, fine, and penalty collections in the *Budget of the U.S. Government's Analytical Perspectives* and the Department of the Treasury (Treasury) reports data on agency receipts in the *Combined Statement of Receipts, Outlays, and Balances (Combined Statement)*.³ These reports are designed to serve specific purposes and audiences, and provide information targeted to meet those needs.

You asked us to review issues related to the availability of government-wide data on fees, fines, and penalties. This report examines: (1) the extent to which government-wide data on collections of fees, fines, and penalties are publicly available and useful for the purpose of congressional oversight; and (2) the benefits and challenges to government-wide reporting of specific fees, fines, and penalties including data elements that facilitate congressional oversight.

To address these objectives, we developed criteria for the availability and usefulness of data on collections of fees, fines, and penalties for the purpose of congressional oversight based on:

- our Standards for Internal Control,
- requirements found in the Digital Accountability and Transparency Act of 2014 (DATA Act),
- government-wide instructions from OMB on public access to data and open government,
- our prior work on user fees, fines, and penalties, and

³For the purpose of this report, we use the term "collections" to refer to revenues that federal agencies collect from user fees, fines, and penalties regardless of the agency's authority to use the funds.

- input from staff of congressional committees on appropriations, budget, and oversight (see table 1).⁴

Table 1: GAO Criteria for the Availability and Usefulness of Data on Fees, Fines, and Penalties for the Purpose of Congressional Oversight

Criteria	Description
Clear and Accessible Presentation	<ul style="list-style-type: none"> • User is able to aggregate or disaggregate reported data. • Data are provided in machine-readable and open formats and can be downloaded in bulk, to the extent practicable for automated processing. • Data are comparable across agencies. • Data are clearly described and presented with known limitations.
Accurate	<ul style="list-style-type: none"> • Data reported as collections of fees, fines, and penalties are correctly labeled and do not include other sources of funding.
Complete	<ul style="list-style-type: none"> • Source reports all collections of fees, fines, and penalties.
Useful for the Purpose of Congressional Oversight	<p>Data elements capturing the characteristics of fee, fine, or penalty collections that our prior work and cognizant committee staff identify as facilitating oversight:</p> <ul style="list-style-type: none"> • Descriptive title • Agency administering • Agency collecting • Annual dollar amount collected (for multiple years) • Account balance • Authorities to collect and obligate funds • Limitations on obligations • Categories of collections (i.e., budgetary collection type, budget function) • Specific review requirement • Specific reporting requirement • Fund type receiving collections (e.g., special fund, trust fund, etc.)

Source: GAO analysis of GAO's Standards for Internal Control, requirements found in the DATA Act, OMB instructions, prior GAO work on user fees and permanent funding authorities, and input from staff of congressional committees on appropriations, budget, and oversight.

⁴The DATA Act amended the Federal Funding Accountability and Transparency Act of 2006. Pub. L. No. 109-282, 120 Stat. 1186 (Sept. 26, 2006)—amended by Pub. L. No. 113-101, 128 Stat. 1146 (May 9, 2014)—codified at 31 U.S.C. § 6101 note. Sources of government-wide instructions are: OMB Memorandum on Improving Public Access to and Dissemination of Government Information and Using the Federal Enterprise Architecture Data Reference Model (M-06-02), and on Open Government (M-10-06). For more information on our prior work used to develop criteria, see *GAO, Permanent Funding Authorities: Some Selected Entities Should Review Financial Management, Oversight, and Transparency Policies*, [GAO-17-59](#) (Washington, D.C.: Dec. 9, 2016); *Federal User Fees: Fee Design Options and Implications for Managing Revenue Instability*, [GAO-13-820](#) (Washington, D.C.: Sept. 30, 2013); and *Federal User Fees: A Design Guide*, [GAO-08-386SP](#) (Washington, D.C.: May 29, 2008).

We shared the criteria with OMB staff and Treasury officials, and they agreed the criteria are relevant and reasonable. See appendix I for more information on the data elements that are useful for congressional oversight.

To determine the extent and usefulness of publicly available data for our first objective, we first identified government-wide sources containing data on fees, fines, and penalties to include in our review. We reviewed our prior work, conducted background research, including reviewing Congressional Budget Office and Congressional Research Service reports, and interviewed Treasury officials and OMB staff. As a result, we identified the *Budget of the U.S. Government*—including *Analytical Perspectives*, the *Budget Appendix*, and the Public Budget Database—produced by OMB, and the *Combined Statement* produced by Treasury. We assessed these sources and related documents and processes using the applicable criteria we developed on availability and usefulness of data on fees, fines, and penalties for the purpose of congressional oversight and *Standards for Internal Control in the Federal Government*.⁵

We also analyzed OMB and Treasury data to identify and report government-wide totals for fees, fines, and penalties to the extent that they were reported. To assess the reliability of OMB's MAX database data related to the collections of fees, fines, and penalties, we reviewed related documentation, interviewed knowledgeable OMB staff, and conducted electronic data testing. To assess Treasury's Bureau of the Fiscal Service data related to the collections of fees, fines, and penalties, we reviewed related documentation and interviewed knowledgeable Treasury officials. In both cases, we found the data to be reliable for our purposes. We did not examine whether agencies accurately report collections as fees, fines, and penalties to OMB and Treasury.

To determine the benefits and challenges of government-wide reporting of fees, fines, and penalties for our second objective, we interviewed staff of congressional committees on appropriations, budget, and oversight, OMB staff and Treasury officials, and external organizations on the potential benefits and challenges of government-wide reporting of fees, fines, and penalties. In addition, we reviewed our prior reports on the DATA Act, federal program inventories, and federal fees to identify and

⁵See Principle 13 – Use Quality Information. For more information, see GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: September 2014).

assess issues to consider in government-wide reporting. See appendix I for additional details on our scope and methodology.

We conducted this performance audit from November 2017 to March 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The federal government receives funds from numerous sources in addition to tax revenues, including collections of user fees, fines, and penalties. According to the *Budget of the U.S. Government*, in fiscal year 2017, the U.S. government's total receipts were \$3.3 trillion and collections of fees, fines, penalties, and forfeitures were more than \$350 billion.⁶

- **User fees (fees):** Fees are charges assessed to users for goods or services provided by the federal government, such as fees to enter a national park, and charges assessed for regulatory services, such as fees charged by the Food and Drug Administration for prescription drug applications. Fees are an approach to financing federal programs or activities that, in general, are related to some voluntary transaction or request for government services above and beyond what is normally available to the public. By requiring identifiable beneficiaries to pay all or part of the cost of a good or service, fees can promote both equity and economic efficiency.⁷ Regularly

⁶Forfeitures are confiscations of money, assets, or property resulting from enforcement actions. OMB and Treasury data categorize fines, penalties, and forfeitures together, and cannot be disaggregated to fines and penalties only. The more than \$350 billion in collections of fees, fines, penalties, and forfeitures is not a subset of the \$3.3 trillion in receipts because some collections are offsets to spending, as defined by their statutory authority.

⁷[GAO-08-386SP](#).

reviewing fees help ensure that agencies, Congress, and stakeholders have complete information.⁸

- **Fines and penalties:** Criminal fines and penalty payments are imposed by courts as punishment for criminal violations. Civil monetary penalties are not a result of criminal proceedings but are employed by courts and federal agencies to enforce federal laws and regulations.⁹ For example, civil monetary penalty payments are collected from financial institutions by certain financial regulators, such as the Federal Deposit Insurance Corporation, from enforcement actions assessed against financial institutions for violations related to anti-money laundering requirements. Reviews and, as needed, adjustments to fines and penalties could help ensure they provide a meaningful incentive for compliance.¹⁰

The design and structure of statutory authorities for fees, fines, and penalties can vary widely. In prior work, we have identified key design decisions related to how fee, fine, and penalty collections are used that help Congress balance agency flexibility with congressional control and oversight.¹¹ Congress determines the availability of collections by defining the extent to which an agency may obligate and expend them, including the availability of the funds, the period of time the collections are available for obligation, the purposes for which they may be obligated, and the amount of the collections that are available to the agency. Fees, fines, and penalties may be categorized as one of three types of collections

⁸The CFO Act requires an agency's CFO to biennially review the fees, royalties, rents, and other charges imposed by the agency for services and things of value it provides and make recommendations on revising those charges to reflect costs incurred by the agency in providing those services and things of value. 31 U.S.C. § 902(a)(8). OMB Circular No. A-25 on user fees directs agencies to set fees to recover all direct and indirect costs to the federal government of a good or service, to review their fees biennially, and to recommend fee adjustments as appropriate. For more information, see [GAO-08-386SP](#).

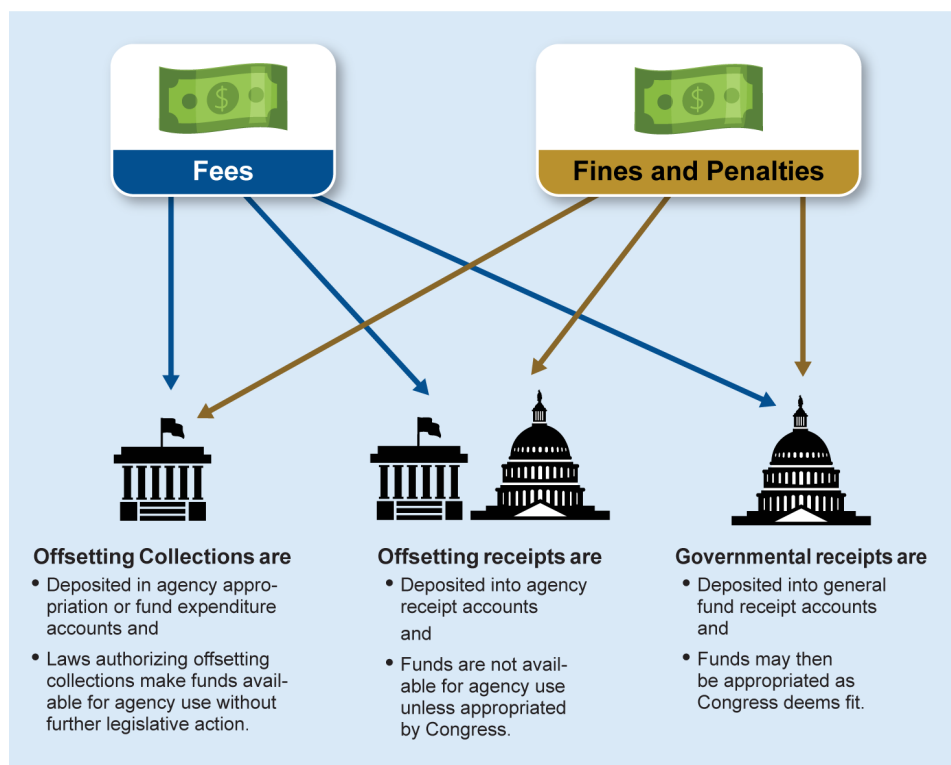
⁹GAO, *Federal Fees, Fines, and Penalties: Observations on Agency Spending Authorities*, [GAO-17-268T](#) (Washington, D.C.: Dec. 1, 2016).

¹⁰We previously reported that civil monetary penalties prescribed by statute that are timely adjusted for inflation allow agencies to punish violators appropriately and serve as a deterrent to future violations. In addition, without timely and complete reporting of their civil monetary penalties in agency financial reports, decision makers may not have the information needed to help ensure the effectiveness of civil monetary penalties in enforcing statutes and preventing violations. For more information, see [GAO-17-634](#).

¹¹[GAO-17-268T](#); *Department of Justice: Alternative Sources of Funding Are a Key Source of Budgetary Resources and Could Be Better Managed*, [GAO-15-48](#) (Washington, D.C.: Feb. 19, 2015); and [GAO-13-820](#).

based on the structure of their statutory authority: offsetting collections, offsetting receipts, or governmental receipts (see figure 1).¹²

Figure 1: Fees, Fines, and Penalties Can Be Any of Three Types of Collections



Source: GAO's Budget Glossary (GAO-05-734SP). | GAO-19-221

Note: Fees, fines, and penalties can be any of the three types of collections or a combination of types. For examples of each, see GAO, *Federal Fees, Fines, and Penalties: Observations on Agency Spending Authorities*, [GAO-17-268T](#) (Washington, D.C.: Dec. 1, 2016).

Offsetting collections can provide agencies with more flexibility because they are generally available for agency obligation without an additional annual appropriation. In contrast, offsetting receipts and governmental receipts involve greater congressional opportunities for control and

¹²The Budget Enforcement Act of 1990 defines offsetting collections and receipts as negative budget authority and the reductions to it as positive authority. Pub. L. No. 101-508. Title XIII, § 13211, 104 Stat. 1388-573, 1388-620 codified at 2 U.S.C. § 622. According to OMB staff, OMB assigns a collection type based on its analysis of the statutory authority, in consultation with Treasury.

oversight because, generally, additional congressional action is needed before the collections are available for agency obligation. For example, Congress must appropriate collections from offsetting receipts before agencies are authorized to obligate these funds.¹³

The type of collection also determines how OMB and Treasury report the collections. Offsetting collections and offsetting receipts result from businesslike transactions and are recorded as offsets to spending. Offsetting collections are authorized by law to be credited to appropriation or fund expenditure accounts, while offsetting receipts are deposited in receipt accounts. Because offsetting collections are offsets to spending, an account will generally show the net amount that was collected and spent at any point in time.

Congressional Actions to Make Government-wide Data Publicly Available

While there is no statutory requirement for government-wide reporting of data of specific fees, fines and penalties, Congress has enacted legislation to make other data on federal spending and federal programs publicly available:

- **The Digital Accountability and Transparency Act of 2014 (DATA Act).** The DATA Act built on previous transparency legislation by expanding what federal agencies are required to report regarding their spending.¹⁴ The act significantly increased the types of data that must be reported, and required the use of government-wide data standards and regular reviews of data quality to help improve the transparency and accountability of federal spending data. These data are reported on the USA Spending.gov website.¹⁵
- **The GPRA Modernization Act of 2010 (GPRAMA).** GPRAMA, in part, requires OMB to present a coherent picture of all federal programs by making information available about each federal program

¹³Receipts of select trust funds are permanently appropriated in statute and, therefore, can be used without subsequent annual appropriation legislation. 31 U.S.C. § 1321.

¹⁴Pub. L. No. 113-101, 128 Stat. 1146 (May 9, 2014). The DATA Act amended the Federal Funding Accountability and Transparency Act of 2006 (FFATA). Pub. L. No. 109-282, 120 Stat. 1186 (Sept. 26, 2006), codified at 31 U.S.C. § 6101 note.

¹⁵FFATA required OMB to establish a website to provide information on grant and contract awards, and subawards.

on a website, including related budget and performance information.¹⁶ Programs have been defined as an organized set of activities directed toward a common purpose or goal that an agency undertakes or proposes to carry out its responsibilities.¹⁷ A federal program inventory would consist of the individual programs identified by the agencies and OMB and information collected about each of them. OMB and agencies implemented the inventory once, in May 2013. In October 2014, we found several issues limited the usefulness of that inventory and made several recommendations to OMB to ensure the effective implementation of federal program inventory requirements and to make the inventories more useful.¹⁸ Further, in September 2017, we found that OMB continued to delay implementation of the program inventory. We recommended that OMB consider a systematic approach to developing the program inventory and issue instructions to provide time frames and milestones for its implementation.¹⁹ Although OMB updated its instruction in June 2018, it did not provide any time frames or milestones for implementing the inventory. OMB has yet to develop a systematic approach for resuming implementation of the inventory or specific time frames for doing so.

¹⁶Pub. L. No. 111-352, § 7, 124 Stat. 3866, 3876 (Jan. 4, 2011), codified at 31 U.S.C. §1122(a). GPRAMA updated the Government Performance and Results Act of 1993. Pub. L. No. 103-62, 107 Stat. 285 (Aug. 3, 1993).

¹⁷This definition acknowledges that because the term program has many uses in practice, it does not have a well-defined, standard meaning in the legislative process. It is used to describe an agency's mission, functions, activities, services, projects, and processes. See GAO, *A Glossary of Terms Used in the Federal Budget Process*, [GAO-05-734SP](#) (Washington, D.C.: September 2005).

¹⁸OMB agreed with five of the recommendations and neither agreed nor disagreed with three of the recommendations. As of November 2018, OMB had not implemented these recommendations. For more information, see GAO, *Government Efficiency and Effectiveness: Inconsistent Definitions and Information Limit the Usefulness of Federal Program Inventories*, [GAO-15-83](#) (Washington, D.C.: Oct. 31, 2014).

¹⁹GAO, *Managing for Results: Further Progress Made in Implementing the GPRAMA Modernization Act, but Additional Actions Needed to Address Pressing Governance Challenges*, [GAO-17-775](#) (Washington, D.C.: Sept. 29, 2017).

OMB, Treasury, and Agencies Publicly Report Some Data on Fees, Fines, and Penalties, but the Data Have Significant Limitations

OMB, Treasury, and Agencies Report Broad Financial Information, but Not All Collections from Specific Fees, Fines, and Penalties

There is no source of data that lists all collections of specific fees, fines, and penalties at a government-wide or agency level. Both OMB and Treasury report government-wide budgetary and financial data, including some information on collections of fees, fines, and penalties; however, none of the reports identifies all specific fees, fines, and penalties, and their associated collection amounts at a government-wide level. OMB reports budgetary and financial data in various parts of the *Budget of the U.S. Government*, including *Analytical Perspectives*, the *Budget Appendix*, and the Public Budget Database.²⁰ Treasury reports financial data in the *Combined Statement*. Each source provides information for a broader purpose than reporting on collections of fees, fines, and penalties. OMB and Treasury provide specific instructions for agency submission of the underlying data, as described in table 2.

²⁰To access the Public Budget Database, see: <https://www.govinfo.gov/app/details/BUDGET-2019-DB/summary>.

Table 2: Purpose of Government-wide Sources of Data on Fees, Fines, and Penalties

Source	Agency Responsible	Instructions for Agency Data Submissions	Report Format	Purpose
<i>Analytical Perspectives</i>	Office of Management and Budget (OMB)	OMB Circular No. A-11, <i>Preparation, Submission, and Execution of the Budget</i>	Available for download as portable document format (PDF) document and some supplemental tables available as Excel spreadsheets	Annual presentation of budget data, including analyses that place the <i>Budget of the U.S. Government</i> in context, focusing on analyses of government-wide collections and spending, among others.
<i>Budget Appendix</i>	OMB	OMB Circular No. A-11, <i>Preparation, Submission, and Execution of the Budget</i>	Available for download as PDF document and document type definition (DTD), and hypertext markup language (HTML) files.	Annual presentation of budget schedules for each appropriation account and other detailed information on various appropriations and funds that constitute the budget, focusing on more detailed budgetary information for individual programs and accounts than other budget documents, such as objectives of the program.
Public Budget Database	OMB	OMB Circular No. A-11, <i>Preparation, Submission, and Execution of the Budget</i>	Available as download as Excel and comma separated values (.CSV) spreadsheets.	Annual presentation of an extract of the OMB's budget database focusing on receipts, budget authority, and outlays by account, that may be used to reproduce many of the totals published in the <i>Budget of the U.S. Government</i> .
<i>Combined Statement of Receipts, Outlays and Balances</i>	Department of the Treasury (Treasury)	Treasury Financial Manual	Available for download as PDF document or Excel spreadsheet.	Annual presentation of budgetary results based on reporting of Treasury account balances of the Federal Reserve banks, focusing on consolidated financial data by account.

Source: GAO analysis of OMB and Treasury reports. | GAO-19-221

OMB's reports include budgetary and financial information on federal collections at different levels of detail—from aggregated government-wide data to agency account-level data—depending on the source and its purpose.²¹ *Analytical Perspectives* identifies collections as fees and as fines, penalties, and forfeitures and reports government-wide summary information on these collections. For example, in a table summarizing

²¹A budget account generally covers an organized set of activities, programs, or services directed toward a common purpose or goal for which Congress has provided budget authority.

government-wide governmental receipts in *Analytical Perspectives*, OMB reported fines, penalties, and forfeitures in federal funds as \$20.98 billion and in trust funds as \$1.17 billion for fiscal year 2017.²² These summary data do not provide a government-wide total of all federal collections from fines, penalties, and forfeitures because they do not include those that are categorized as offsetting collections or offsetting receipts, according to OMB staff. OMB staff said that OMB does not publish a government-wide total of fines, penalties, and forfeitures. OMB data on governmental receipts include source codes—including a code that identifies fines, penalties, and forfeitures—but data on offsetting collections and offsetting receipts do not include a comparable source code. In the *Budget Appendix* and the Public Budget Database, OMB reports account-level information by agency, identified by types of collections, such as offsetting collections, offsetting receipts, and governmental receipts. The *Budget Appendix* and the Public Budget Database do not label collections as fees, fines, or penalties and therefore, cannot be used to calculate government-wide totals for fees, fines, or penalties.

To assemble *Analytical Perspectives*, the *Budget Appendix*, and the Public Budget Database, OMB compiles data from federal agencies into OMB MAX.²³ OMB MAX, which is not publicly available, contains government-wide data at the account level and captures information such as the type of collection and the type of fund to which collections are deposited. While the data in OMB MAX help drive reporting in the Budget, not all data compiled in OMB MAX appear in the Budget. For example, OMB MAX includes an indicator for accounts that contain fees, but that information is not made available in the *Budget of the U.S. Government*. According to congressional staff we spoke with, they do not have open access to OMB MAX, but OMB provides excerpts of OMB MAX data to staff upon request.

Treasury's *Combined Statement* reports both government-wide totals and agency account-level data for collections classified as receipts, by various

²²Federal fund accounts are budgetary accounts composed of moneys collected and spent by the federal government other than those designated as trust funds.

²³OMB instructs agencies on how to report data for OMB MAX in OMB Circular No. A-11, *Preparation, Submission, and Execution of the Budget*.

source categories—such as proprietary receipts from the public, miscellaneous receipts, and fines, penalties, and forfeitures.²⁴

- **Fees.** Fees may fall within several source categories. Therefore, Treasury does not have a single government-wide total for fees. It does present government-wide totals for various source categories, including, Sale of Products and Fees for Permits and Regulatory and Judicial Services, for example. Treasury also reports some fees under non-fee categories, such as Miscellaneous Taxes and Excise Taxes.
- **Fines, Penalties, and Forfeitures.** Treasury reports a government-wide total of receipts of fines, penalties, and forfeitures, which in fiscal year 2017 was \$22.2 billion. Treasury's *Combined Statement* presents these data, disaggregated by account, in the tables Receipts by Source Categories and Receipts by Department. For example, it identifies total Internal Revenue Service receipts in the category Fines, Penalties, and Forfeitures of about \$6.8 million in fiscal year 2017. Treasury also reports some fines, penalties, and forfeitures receipts under other categories; these receipts are not included in its total of fines, penalties, and forfeitures. For example, Department of Homeland Security breached bond penalties are reported in two categories labeled as fees: Miscellaneous Receipts – Fees for Permits and Regulatory and Judicial Services and Offsetting Governmental Receipts – Regulatory Fees (see figure 2).

²⁴The *Combined Statement* does not identify offsetting collections, including offsetting collections of fees, fines, and penalties.

Figure 2: Examples of Penalties Not Categorized as Fines, Penalties, and Forfeitures in the Department of the Treasury's Combined Statement of Receipts, Outlays, and Balances

The Department of the Treasury reports most fines and penalties under the category Fines, Penalties, and Forfeitures, but some are reported under other source categories.

Receipts by Source Categories Fiscal Year 2017 (in dollars)

Regulatory Fees		Receipts
Breached Bond Penalties Greater Than \$8m, Breached Bond Detention Fund, Border and Transportation Security, Homeland Security		53,980,139.32
Total, Regulatory Fees		11,754,811,564.05

Source Category	010	X	5126	001	Receipts
Land Model Inspection Fees, Homeland Security	070	X	5106	001	25,000,000.00
H-1B Nonimmigrant Petitioner Account, Homeland Security	070	X	5106	001	352,670,764.13
Breached Bond Penalties Greater Than \$8m, Breached Bond Detention Fund, Border and Transportation Security, Homeland Security	070	X	5126	001	53,980,139.32
Division of Oil and Gas Regulation, Department of the Interior	069	X	5172	000	61,115,265.24
Pipeline Safety User Fees, Research and Special Programs Administration	069	X	5172	000	127,604,570.61
Underground Natural Gas Storage Facility Safety	069	X	5172	004	7,691,236.76
Nuclear Facilities Fees Fund, Nuclear Regulatory Commission	031	X	5280	001	789,648,428.76
Environmental Services, Environmental Protection Agency	068	X	5295	000	23,222,014.80
Student and Exchange Visitor Fee, Border and Transportation Security, Homeland Security	070	X	5378	001	129,992,871.33
Fees, Aviation Security Capital Fund, Transportation Security Administration, Homeland Security	070	X	5385	001	250,000,000.00
Immigration Enforcement Account, Border and Transportation Security, Homeland Security	070	X	5451	001	653,881.27
Detention and Removal Operations Fees, U.S. Immigration and Customs Enforcement, Homeland Security	070	X	5542	001	1,608,263.00
International Registered Traveler Program Fund, U.S. Customs and Border Protection, Department of Homeland Security	070	X	5543	001	155,096,532.36
Customs Conveyance, Passenger, and Other Fees, USCS, Homeland Security	070	X	5695	000	806,404,218.32
Customs Merchandise Processing Fee, USCS, Homeland Security	070	X	5695	030	2,412,765,915.48
Mobile Home Inspection and Monitoring Fees, Manufactured Housing Fees Trust Fund, Housing and Urban Development	086	X	8119	001	13,911,200.00
Total, Regulatory Fees					11,754,811,564.05

Fees for Permits and Regulatory and Judicial Services

Breached Bond Penalties, Immigration and Customs Enforcement, Department of Homeland Security		Receipts
Breached Bond Penalties, Immigration and Customs Enforcement, Department of Homeland Security		8,000,000.00
Total, Fees for Permits and Regulatory and Judicial Services		23,201,625,772.32

Source Category	019	0830	000	Receipts
Immigration, Passport, and Consular Fees	019	0830	000	652,777,967.24
Breached Bond Penalties, Immigration and Customs Enforcement, Department of Homeland Security	070	0834	000	8,000,000.00
Immigration Fees, Border Security Act	070	0834	000	8,000,000.00
Registration and Filing Fees	010	0850	000	1,017,932.88
Registration and Filing Fees	014	0850	000	37,381.00
Registration and Filing Fees	030	0850	000	96,172.00
Registration, Filing and Transaction Fees, Securities and Exchange Commission	050	0850	150	494,805,543.42
Registration and Filing Fees	070	0850	000	1,508,141.09

Fees for Permits and Regulatory and Judicial Services

Breached Bond Penalties, Immigration and Customs Enforcement, Department of Homeland Security		Receipts
Breached Bond Penalties, Immigration and Customs Enforcement, Department of Homeland Security		8,000,000.00
Total, Fees for Permits and Regulatory and Judicial Services		23,201,625,772.32

Source Category	069	0891	000	Receipts	
Miscellaneous Fees for Regulatory and Judicial Services, Not Otherwise Classified	069	0891	000	493,507.92	
Miscellaneous Fees for Regulatory and Judicial Services, Not Otherwise Classified	031	0891	000	8,136.27	
Miscellaneous Fees for Regulatory and Judicial Services, Not Otherwise Classified	057	0891	000	4,840.00	
Miscellaneous Fees for Regulatory and Judicial Services, Not Otherwise Classified	059	0891	000	69	
Miscellaneous Fees for Regulatory and Judicial Services, Not Otherwise Classified	086	0891	000	3,126,725.24	
Hazardous Waste Permits, PMN, and Other Services, Environmental Protection Agency	068	0895	000	632,000.00	
Users Fees for IRS Ruling and Determination	020	2411	000	19,175,965.34	
Temporary L-1 Visa Fee Increase, U.S. Citizenship and Immigration Services, Homeland Security	070	2428	000	19,181,219.15	
Temporary H-1B Visa Fee Increase, U.S. Citizenship and Immigration Services, Homeland Security	070	2427	000	43,347,500.00	
Coal Mining Reclamation Fees, Office of Surface Mining Reclamation and Enforcement	014	X	5015	006	159,373,390.09
Fees for Independent Counsel, United States Tax Court	023	X	5023	001	8,890.00
Regulatory Fees, Appraisal Subcommittee	362	X	5026	001	2,156,400.00
Incremental Regulatory Fees (Dodd-Frank Act), Appraisal Subcommittee	362	X	5026	003	1,293,840.00
Deposits, Perishable Agricultural Commodities Act Fund	012	X	5070	001	11,542,391.24
Filing Fees, The Judiciary	010	X	5100	001	229,144,318.41
Regulatory Administration Account, The Judiciary	010	X	5101	001	3,723,321.49
Licenses Under Federal Power Act from Public Lands and National Forests, Payment to States	089	X	5105	000	4,337,437.73
Practice Registration Fees, United States Court of Appeals for Veterans Claims	345	X	5113	001	25,350.00
Earnings on Investments, Fishermen's Contingency Fund	013	X	5120	002	6,533.00
Earnings on Investments, Foreign Fishing Observer Fund	013	X	5122	002	5,886.05
Licenses Under Federal Power Act, Improvement of Navigable Waters, Maintenance and Operation of Dams, Etc.	096	X	5125	000	8,442,509.79
Migratory Bird Hunting Stamps	014	X	5137	001	39,048,951.32
Agricultural Quarantine Inspection User Fee Account, Animal and Plant Health Inspection Service	012	X	5161	001	767,882,133.71
Fees from JSCT (Jukebox, Satellite, and Cable Television) for Operating Costs, Copyright Office, Library of Congress	003	X	5175	001	4,206,476.32
Universal Service Fund, Federal Communications Commission	027	X	5183	001	9,154,213,022.72
Permit Title Registration Fee, Limited Access System Administration Fund, National Oceanic and Atmospheric Administration	013	X	5284	001	13,809,471.82
Enrolled Agent Fees Increase, Internal Revenue Service, Miscellaneous Retained Fees, Treasury	020	X	5432	004	7,473,253.03
Tax Preparer Registration Fees, IRS Miscellaneous Retained Fees, Internal Revenue Service, Treasury	020	X	5432	006	24,373,574.25
Access Fees, Western Pacific Sustainable Fisheries Fund, National Oceanic and Atmospheric Administration	013	X	5439	001	250,000.00
Fees on GSEs for Administrative Expenses, Federal Housing Finance Agency	537	X	5532	001	254,163,396.00
Registration Fees, Securities and Exchange Commission Reserve Fund	050	X	5566	001	50,000,000.00
Interstate Land Sales, Bureau of Consumer Financial Protection	581	X	5577	003	97,800.00
GSE Assessments, HOPE Reserve Fund, Bureau of the Fiscal Service, Treasury	020	X	5581	001	113,728,969.60
Fees, Travel Promotion Fund, Corporation for Travel Promotion	027	X	5595	001	148,176,660.00
Fees and Assessments, Financial Research Fund, Departmental Offices, Treasury	020	X	5599	001	88,196,519.00
Electronic System for Travel Authorization (ESTA) Fees, U.S. Customs and Border Protection, Homeland Security	070	X	5595	001	59,764,388.00
Fees, North Pacific Fishery Observer Fund, National Oceanic and Atmospheric Administration, Commerce	019	X	5598	001	3,877,810.92
Fees for Regulatory and Judicial Services, United States Tax Court	023	X	5633	001	1,399,606.61
Receipts, Risk Adjustment Program, Centers for Medicare and Medicaid Services	075	X	5733	001	5,227,887,125.93
Contributions, Transitional Reinsurance Program, Centers for Medicare and Medicaid Services	075	X	5735	001	4,546,065,985.11
Total, Fees for Permits and Regulatory and Judicial Services					23,201,625,772.32

Source: GAO analysis of Department of the Treasury's Combined Statement of Receipts, Outlays and Balances. | GAO-19-221

In addition to the government-wide data sources, agencies report some data on their collections of specific fees, fines, and penalties in their

annual financial reports, congressional budget justifications, and on agency websites. These data are dispersed by agency, are not comprehensive, and cannot be aggregated to create government-wide data because they vary in format and in the level of detail presented. For example:

- The Environmental Protection Agency (EPA) has an online, searchable database of enforcement and compliance information that includes data on individual fine and penalty assessments for violations of certain, but not all, statutes.²⁵
- The Department of Labor also makes selected enforcement data accessible in an online database collected by the Employee Benefits Security Administration, the Mine Safety and Health Administration, the Occupational Safety and Health Administration, and the Wage and Hour Division without Department of Labor-wide data standards on individual fine and penalty assessments.²⁶
- USDA's Animal and Plant Health Inspection Service's 2019 Congressional Budget Justification, on the other hand, is a PDF document that provides annual collection totals for Agriculture Quarantine Inspection Fees, Import-Export User Fees, Phytosanitary Certificate User Fees, Veterinary Diagnostics User Fees, and Other User Fees, rather than disaggregated to individual fee assessments.

²⁵According to EPA, its Enforcement and Compliance History Online (ECHO) website contains enforcement actions from violations of specific statutes at: (1) Clean Air Act (CAA) stationary source facilities, (2) Clean Water Act (CWA) major direct discharge facilities, (3) Resource Conservation and Recovery Act hazardous waste handlers, and (4) systems violations of the Safe Drinking Water Act. EPA regulates facilities under many other programs and statutes that are not shown in the ECHO site. Data not generally available within ECHO include: (1) most violations at CWA minor direct discharge facilities, (2) CAA mobile source and asbestos violations, and (3) Superfund violations. See EPA's ECHO website for more information: <https://echo.epa.gov/>.

²⁶For more information, see: <https://enforcedata.dol.gov>.

OMB Reports
Government-wide Totals
that Cannot Be
Disaggregated and Does
Not Disclose Limitations or
Regularly Review Its
Designation of Fees

OMB Reports Government-
wide Data that Cannot Be
Disaggregated

The government-wide totals for fees that OMB reports in *Analytical Perspectives* are not presented at a more disaggregated level, such as by agency or program, except for some major fee collections identified by OMB.²⁷ For example, in *Analytical Perspectives* for fiscal year 2017, OMB reported \$335.4 billion as a government-wide total of fee collections.²⁸ OMB also reported some disaggregated data for the subset of fees that were offsetting collections and offsetting receipts. Specifically, it listed 11 fees totaling \$258.4 billion collected by specific agencies and listed the remaining \$72.3 billion as “all other user charges” without identifying the agency or program. As described in table 1 above, clear and accessible data can be aggregated or disaggregated by the user. OMB has more detailed data on collections in OMB MAX, including the agency, account, type of collection, and fund type, which it uses to compile reported totals of fees as well as fines, penalties, and forfeitures.

OMB does not publicly report these data disaggregated below the government-wide level, such as at the agency level. OMB staff said that they do not report the disaggregated data because the purpose of *Analytical Perspectives* is to develop or support the President’s policies and more detailed tables may not be included if they are not considered necessary for that purpose. However, *Analytical Perspectives* also serves to provide other significant data that place the President’s Budget in context and assist the public and policymakers in better understanding the budget proposals. For example, *Analytical Perspectives* includes a chapter on aid to state and local governments that presents the

²⁷Major collections include, for example, proceeds from Postal Service sales, electrical power sales, proceeds from military assistance program sales, and rents and royalties from Outer Continental Shelf oil extraction.

²⁸OMB uses the term user charges for user fees in its annual budget documents. We define these terms interchangeably (see [GAO-05-734SP](#)) and use the term fee for the purposes of this report.

OMB Does Not Disclose
Limitations or Regularly
Review Its Designation of Fees

President's budget proposals for grant programs along with crosscutting information on federal grants to state and local governments, including government-wide grant spending, by agency and program. *Analytical Perspectives* also presents a summary of fee proposals but does not provide comparable crosscutting information about current fees. For fines and penalties, neither proposals nor crosscutting information is presented by agency. Until OMB makes more disaggregated data on fees, fines, and penalties maintained in its OMB MAX database—such as collections by agency—publicly available, Congress has limited information on such collections to inform oversight and decision-making.

Analytical Perspectives' government-wide totals of fees may include inaccurately labeled collections—other collections that are not fees—and may exclude some fee collections. Data that are clear and accessible are presented with known limitations, as shown in table 1. OMB Circular No. A-11 states that all accounts in which more than half of collections are from fees will be designated as containing fees. OMB staff said that the entire account is designated as containing fees because account-level data are the most disaggregated data OMB collects from agencies. OMB calculates its government-wide total for fees by adding collections in all accounts designated in OMB MAX as containing user fees. However, agency accounts can include multiple sources of budget authority. For example, Treasury's U.S. Mint's account "United States Mint Public Enterprise Fund" includes offsetting collections from Mint operations and programs; these include the production and sale of commemorative coins and medals, the production and sale of circulating coinage, the protection of government assets, as well as gifts and bequests of property.²⁹ The United States Mint Public Enterprise Fund is designated as containing fees in OMB MAX. Therefore, budget authority that is not derived from the collection of fees but is still included in this account will be designated as fees as well when calculating a government-wide total.

Conversely, accounts in which fees contribute to less than half of collections are not designated as containing fees amounts, and those fees will not be included in the government-wide total OMB calculates. OMB Circular No. A-11 describes the designation of fee accounts, but the data presented in *Analytical Perspectives* as totals for fees do not disclose OMB's designation criteria, including the limitations to the

²⁹Our 2013 review of fee-funded agencies examined unobligated balances in the U.S. Mint account. [GAO-13-820](#).

accuracy of the data. OMB staff said they do not report this limitation because they consider OMB Circular No. A-11 a more appropriate document for providing technical information like the designation of accounts containing user fees. However, the section on fees in *Analytical Perspectives* does not direct the reader to OMB Circular No. A-11 for key information related to the data presented on fees. For other topics, including lease-purchase agreements, *Analytical Perspectives* directs the reader to OMB Circular No. A-11 for further details. Furthermore, for other topics, OMB provided explanatory information along with the data in *Analytical Perspectives*. For example, OMB explained a recent change to definitions in the research and development section of *Analytical Perspectives* and the effect of the change on budget authority. Until OMB provides a description of data limitations regarding the criteria used to identify accounts with fees for compiling government-wide totals in *Analytical Perspectives*, or directs users to the relevant section of OMB Circular No. A-11, some users are likely to be unaware of the potential for the total user fees to be overestimated or underestimated.

In addition, OMB does not regularly review and update implementation of its criteria for designating fees. *Standards for Internal Control in the Federal Government* state that agency management should use quality information to achieve the objectives, such as processing data into quality information that is current and accurate.³⁰ OMB Circular No. A-11 states that the fee designation is applied at the time the account is established. OMB staff told us that when establishing a new account, OMB collaborates with Treasury to determine the legal attributes of the account, including any fee authorities, and whether to designate the account as containing fees. OMB staff further explained they review the designation when new legislation is enacted that would change the attributes of the account, or if an agency informs OMB that the makeup of an account has changed because of programmatic changes. However, OMB Circular No. A-11 does not instruct agencies to regularly review or update this designation and report changes to OMB. Therefore, if the makeup of collections in an account changes so that fees go from being more than half of the collections to less than half, or vice versa, the account's fee designation may not be updated accordingly. Until OMB instructs agencies to regularly review the fee designation in OMB MAX and update the designation, as needed, OMB cannot provide reasonable assurance that accounts are designated correctly, and that the

³⁰[GAO-14-704G](#).

government-wide totals of fees reported in *Analytical Perspectives* are accurate.

OMB and Treasury Sources Do Not Completely Identify Fees, Fines, and Penalties

Users Cannot Disaggregate the Agency Account-Level Data to Specific Fee, Fine, and Penalty Collections

While *Analytical Perspectives* reports government-wide data labeled as fees, fines, and penalties, the other three sources we reviewed—the *Budget Appendix*, the Public Budget Database, and the *Combined Statement*—report account-level information by agency. Users cannot further disaggregate the data presented to specific fee, fine, and penalty collections. For example, USDA’s Animal and Plant Health Inspection Service (APHIS) is funded in part by six fees: (1) Agricultural Quarantine Inspection (AQI) fee, (2) Phytosanitary Export Certification fee, (3) Veterinary Services Import Export fee, (4) Veterinary Diagnostics fee, (5) Reimbursable Overtime, and (6) Trust Funds and Reimbursable Funds.³¹ However, a user cannot identify collections from each of these APHIS fees in the *Budget Appendix*. The *Budget Appendix* specifically identifies AQI fee collections—\$768 million in fiscal year 2017—because they are receipts deposited to a trust fund. The other five fees are combined within the total for offsetting collections—\$152 million (see figure 3).

³¹We reported on the APHIS fees in our 2016 report on permanent funding authorities. See [GAO-17-59](#).

Figure 3: The Budget Appendix Reporting of Fee Collections by the Animal and Plant Health Inspection Service

The Animal and Plant Health Inspection Service collects six user fees, but only one—the Agricultural Quarantine Inspection (AQI) User Fee—is identifiable in the Budget Appendix data.

Special and Trust Fund Receipts (in millions of dollars)

	2017 Actual
Balance, start of year	28
Reconciliation adjustment	17
Balance, start of year	45
Receipts:	
Current law:	
1990 Food, Agricultural Quarantine Inspection Fees	768

The Budget Appendix reports under Special and Trust Fund Receipts \$768 million in collections from the AQI fee in Fiscal Year 2017.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE
Federal Funds
SALARIES AND EXPENSES

ANIMAL AND PLANT HEALTH INSPECTION SERVICE
Federal Funds
SALARIES AND EXPENSES

Agency and account title

Special and Trust Fund Receipts (in millions of dollars)

	2017 Actual	2018 est.	2019 est.
0100 Balance, start of year	28	52	51
0198 Reconciliation adjustment	17		
0199 Balance, start of year	45	52	51
Receipts:			
Current law:			
1990 Food, Agricultural Quarantine Inspection Fees	768	765	765
Total Balances and receipts	813	817	816
Appropriations:			
Current law:			
Salaries and Expenses	-767	-765	-765
Salaries and Expenses	-45	-51	
Salaries and Expenses	51	50	

Special and Trust Fund Receipts (in millions of dollars)

Position code 012-1600-0-1-352

SALARIES AND EXPENSES—Continued
Program and Financing—Continued

	2017 actual	2018 est.	2019 est.
1232 Appropriations and/or unobligated balance of appropriations temporarily reduced	-51		
1260 Appropriations, mandatory (total)	285		
1700 Collecting (AQI fee)	189		
1701 Change in uncollected payments, Federal sources	13		
1750 Spending from offsetting collections, disc (total)	202		
1900 Budget authority (total)	1,463		
1930 Total budgetary resources available	1,979		
1940 Unobligated balance, end of year	-8		
1941 Unobligated balance, end of year	523		
Change in obligated balance:			
Unpaid obligations:			
3000 Unpaid obligations, brought forward, Oct 1	478		
3010 New obligations, unexpired accounts	1,448		
3011 Obligations ("upward adjustments"), expired accounts	17		
3020 Outlays (gross)	-1,454		
3040 Recoveries of prior year unpaid obligations, unexpired	-39		
3041 Recoveries of prior year unpaid obligations, expired	-24		
3050 Unpaid obligations, end of year	446		
Uncollected payments:			
3060 Uncollected payments, Fed sources, brought forward, Oct 1	-233		
3070 Change in uncollected payments, Fed sources, unexpired	-13		
3071 Change in uncollected payments, Fed sources, expired	9		
3090 Uncollected payments, Fed sources, end of year	-237		
Memorandum (non-add) entries:			
3100 Obligated balance, start of year	245		
3200 Obligations, end of year	209		
Budget authority and outlays, net:			
Discretionary:			
4000 Budget authority, gross	1,178	1,134	957
Outlays, gross:			
4010 Outlays from new discretionary authority	809	992	846
4011 Outlays from discretionary balances	343	321	142
4020 Outlays, gross (total)	1,152	1,313	988
Offsets against gross budget authority and outlays:			
Offsetting collections (collected) from:			
4030 Federal sources	-52	-48	-48
4033 Non-Federal sources	-152	-141	-170
4040 Offsets against gross budget authority and outlays (total)	-204	-189	-218

Program and Financing—Continued

2017 Actual

Budget authority and outlays, net:

Discretionary:

Budget authority, gross 1,178

Outlays, gross:

Outlays from new discretionary authority 809

Outlays from discretionary balances 343

Outlays, gross (total) 1,152

Offsets against gross budget authority and outlays:

Offsetting collections (collected) from:

Federal sources -52

Non-Federal sources -152

The Budget Appendix also reports budget authority of \$152 million from offsetting collections from non-federal sources, which includes collections from five user fees. However, these specific fees are not identified.

Source: GAO analysis of the Budget Appendix. | GAO-19-221

OMB Data Sources Label Data More Broadly than Fees, Fines, and Penalties

The *Budget Appendix*, the Public Budget Database, and the *Combined Statement* report data at the account level because the purposes of these reports are broader than fees, fines, and penalties, and OMB and Treasury instruct agencies to report data at that level. Treasury's Financial Manual states that agencies post appropriations and spending authorizations by Congress to accounts established by Treasury. OMB's Circular No. A-11 instructs agencies to report data at the budget account level in OMB MAX, which supports the data in the *Budget Appendix* and the Public Budget Database. Because OMB and Treasury do not collect data that can be disaggregated to the level of fee, fine, or penalty, the collections for specific fees, fines, and penalties within accounts are not identifiable within account totals.

Both the *Budget Appendix* and Public Budget Database label and present data within each account by collection type: offsetting collections, offsetting receipts, and governmental receipts. These collection types include fees, fines, and penalties, as well as other sources of collections, as shown in the text box below.

Budgetary Collections as Labeled by the *Budget of the U.S. Government* Include More than Fees, Fines, and Penalties

- **Offsetting Collections and Offsetting Receipts** include user fees as well as reimbursements for damages, intragovernmental transactions, and voluntary gifts and donations to the government.
- **Governmental Receipts** include collections that result from the government's exercise of its sovereign power to tax or otherwise compel payment, and include taxes, compulsory user fees, regulatory fees, customs duties, court fines, certain license fees, and deposits of earnings by the Federal Reserve System.

Source: Fiscal Year 2019 *Analytical Perspectives*. | GAO-19-221

As a result, the user cannot separate fees, fines, and penalties from other collections. For example, offsetting collections may include fees, reimbursements for damages, gifts or donations of money to the

government, and intragovernmental transactions with other government accounts.³²

Analytical Perspectives explains that amounts collected by government agencies are recorded in two ways that broadly affect the formulation of the government-wide budget, but may not provide detail on specific agency collections: (1) governmental receipts, which are compared to total outlays in calculating the surplus or deficit; and (2) offsetting collections or offsetting receipts, which are deducted from gross outlays to calculate net outlay figures. These collections are presented together for budgeting purposes, but cannot be separated to specific fees, fines, or penalties. Therefore, it is not clear what percentage of the reported collections are fees, fines, and penalties as opposed to other collections.

OMB Does Not Clearly Describe How the Public Budget Database Reports Certain Fee, Fine, and Penalty Collections

Treasury's *Combined Statement* and OMB's Public Budget Database do not identify offsetting collections, including collections of fees, fines, and penalties. Instead, the *Combined Statement* reports net outlays, which include any offsetting collections as deductions from outlays. Similarly, the Public Budget Database reports budget authority net of any offsetting collections. Treasury clearly describes this presentation of the data in the *Combined Statement*, but OMB does not in the Public Budget Database. In the "Explanation of Transactions and Basis of Figures" section of the *Combined Statement*, Treasury describes that outlays are stated net of collections representing reimbursements as authorized by law, which include offsetting collections. With the description provided in the *Combined Statement*, the user can understand that fees, fines, and penalties that are offsetting collections are not identifiable in the data.

Offsetting Collections are Offsets to Spending in the Budget

According to Fiscal Year 2019, *Analytical Perspectives*, offsetting collections are recorded as offsets to spending so that the budget totals for receipts and (net) outlays reflect the amount of resources allocated by the government through collective political choice, rather than through the marketplace. Fees, fines, or penalties can be offsetting collections.

Source: Fiscal Year 2019 *Analytical Perspectives*. | GAO-19-221

OMB reports receipts and budget authority—which include collections from fees, fines, and penalties—in separate spreadsheets of the Public Budget Database. Similar to outlays reported in Treasury's *Combined Statement*, the Budget Authority spreadsheet reports the net budget authority of accounts after agencies have credited offsetting collections from fees, fines, penalties, or other collections. For example, the National Park Service reported net budget authority of \$2.425 billion for the

³²We have reported on budget authority that Congress has either provided in laws other than annual appropriations acts, or through permanent appropriations that permit the agency to obligate budget authority without further congressional action. This report includes fees, fines, and penalties that have offsetting collections authority. See GAO, *Federal Budget: Government-Wide Inventory of Accounts with Spending Authority and Permanent Appropriations, 1995 to 2015*, [GAO-19-36](#) (Washington, D.C.: Nov. 29, 2018).

Operation of the National Park System account in fiscal year 2017 in both the *Budget Appendix* and the Public Budget Database, both of which present data compiled in OMB MAX. The *Budget Appendix* presents additional information, reporting offsetting collections that are at least partially derived from fees of \$35 million, and gross budget authority of \$2.46 billion, as shown in figure 4. The Public Budget Database, on the other hand, does not identify the amount of offsetting collections in the account or gross budget authority.

Figure 4: Offsetting Collections Are Not Identifiable in the Public Budget Database

The Public Budget Database identifies net budget authority, while the *Budget Appendix* identifies gross budget authority, offsetting collections, and net budget authority.

Appendix, Budget of the U.S. Government (in millions of dollars)

NATIONAL PARK SERVICE			
<i>Federal Funds</i>			
OPERATION OF THE NATIONAL PARK SYSTEM			
	2017 Actual	2018 est.	2019 est.
Budget authority and outlays, net:			
Discretionary:			
Budget authority, gross	2,460	2,456	2,189
Outlays, gross:			
Outlays from new discretionary authority	1,920	1,867	1,665
Outlays from discretionary balances	449	516	743
Outlays, gross (total)	2,369	2,383	2,408
Offsets against gross budget authority and outlays:			
Offsetting collections (collected) from:			
Non-Federal sources	-35	-35	-35
Budget authority, net (total)	2,425	2,421	2,154
Outlays, net (total)	2,334	2,348	2,373

Public Budget Database- Budget Authority Spreadsheet (in thousands of dollars)

Agency Name	Bureau Name	Account Name	Subfunction Title	Budget Enforcement Act Category	2017
Department of the Interior	National Park Service	Operation of the National Park System	Recreational resources	Discretionary	2,425,000

Source: GAO analysis of the *Budget Appendix* and the Public Budget Database. | GAO-19-221

OMB does not describe this presentation of the data in the Public Budget Database User's Guide. As shown in table 1, data that are clear and accessible are presented with descriptions of the data. The User's Guide directs users who may not be familiar with federal budget concepts to *Analytical Perspectives* and OMB Circular No. A-11. However, OMB does not describe, either in the User's Guide or in the Budget Authority

spreadsheet of the Public Budget Database, that this source reports budget authority net of offsetting collections, such as collections of fees, fines, and penalties. OMB staff said they do not describe the presentation because it is explained in *Analytical Perspectives*. However, the Public Budget Database is available for download separate from *Analytical Perspectives*, and the User's Guide specific to the Public Budget Database includes other information describing the data in the spreadsheets.³³ Describing the presentation of the data in the User's Guide would help ensure that users of the Public Budget Database can correctly interpret the information and not underestimate agencies' fee, fine, or penalty collections.

**Government-wide Sources
Do Not Consistently
Report Data that Would
Facilitate Oversight**

No source of government-wide data consistently reports data elements related to fees, fines, and penalties that could help inform congressional oversight of agencies and programs, such as the amount collected annually, account balances, and whether the collection is a fee, fine, or penalty. See figure 5 for the extent to which data elements are included in the *Budget Appendix*, Public Budget Database, and *Combined Statement*.³⁴ See appendix I for more detailed information on the data elements that are useful for congressional oversight.

³³The Public Budget Database User's Guide describes the spreadsheets that make up the Public Budget Database, including information on data sources and limitations. This information includes details such as the unit of measure used in the spreadsheets; the inclusion of budget estimates with historical data; information not included, such as object classes, which are categories that present obligations by the items or services purchased by the federal government; and, instances in which the data do not present account-level data.

³⁴We reviewed *Analytical Perspectives* but did not include it in our analysis for useful for congressional oversight because the data it reports on fees, fines, and penalties are presented in aggregate government-wide totals, and are not designed to report account-level or more detailed information.

Figure 5: Extent to Which Government-wide Reports Include Data Elements Useful for the Purpose of Congressional Oversight of Fees, Fines, and Penalties

	Budget Appendix	Public Budget Database	Combined Statement of Receipts, Outlays, and Balances
Descriptive title	⚠	⚠	⚠
Agency administering	⚠	⚠	⚠
Agency collecting	⚠	X	X
Annual dollar amount collected for multiple years	X	⚠	X
Account balance	⚠	X	⚠
Authorities to collect and obligate funds	⚠	X	X
Limitations on obligations	⚠	X	X
Categories of collections (i.e. budget collection type, budget function)	⚠	⚠	⚠
Review requirement	X	X	X
Reporting requirement	X	X	X
Fund type receiving collection	⚠	⚠	⚠

- ✓ Data element included
- ⚠ Data element included to a limited extent (i.e., element included for some, but not all, fees, fines, and penalties)
- X Data element not included

Source: GAO analysis of Office of Management and Budget and Department of the Treasury reports. | GAO-19-221

Note: We identified data elements useful for congressional oversight based on our prior work on fees, fines, and penalties as well as input from staff of congressional committees on appropriations, budget, and oversight.

To a limited extent there are some cases where government-wide reports included data elements useful for the purpose of congressional oversight of fees, fines, and penalties. In some cases the *Budget Appendix* includes information on the fund type receiving collections and the extent to which the collections from fees may be appropriated to the agency collecting the fee. The *Budget Appendix*, for example, reports that collections for the Agricultural Quarantine Inspection (AQI) fee are recorded under “Special and Trust Fund Receipts,” as shown previously in figure 3. The user can also identify the appropriation of collections from the AQI fee under “Program and Financing, Budgetary resources,” as shown below in figure 6. As discussed previously, the other five fees the Animal and Plant Health Inspection Service (APHIS) collects are not individually identifiable in the *Budget Appendix*, but fall under offsetting collections.

Figure 6: The Budget Appendix Reports Some Information on Fee Collections that is Useful for Congressional Oversight



OMB and Treasury reports, and the systems that support them, are designed for budget and financial information and not for an inventory of fees, fines, and penalties that includes the data elements that Congress may use in oversight. OMB staff said the agency does not have a requirement to prioritize reporting fee, fine, and penalty data over more detailed information on other types of funds. OMB staff said while they generally agree that additional data elements would be useful for oversight, there are trade-offs between transparency and the burden of collecting and reporting additional information.

Better Reporting of Government-wide Data on Fees, Fines, and Penalties Would Increase Transparency and Data Available for Oversight, but Would Require an Investment of Federal Resources

Benefits Include Increased Transparency and Better Information for Oversight and Decision-Making

According to OMB staff and officials from Treasury, the Congressional Research Service, and external organizations with expertise in federal budget issues and data transparency, there are two primary benefits to government-wide reporting of fee, fine, and penalty data: increased transparency and better information for congressional oversight and decision-making. Generally, all congressional staff we spoke with said making additional government-wide data on fees, fines, and penalties, such as those data elements described previously, without additional outreach to agencies, would be useful and increase transparency. While some congressional staff said such data elements are available through direct outreach to agencies, other congressional staff told us they could not always obtain the information they wanted. For example, staff from a congressional committee said that one of the most critical data elements for the purpose of congressional oversight is information on agency

reporting of obligations and expenditures because, in their view, currently many agencies do not adequately report this information and some agencies do not report this information at all. These data would provide Congress a more complete picture of individual agencies' activities and any potential overlap or duplication in multiple agencies' activities. Congressional staff also said having government-wide data on collections of fees could inform efforts that are crosscutting in nature. For example, APHIS and Customs and Border Protection jointly implement the AQI program to help prevent the introduction of harmful agricultural pests and diseases into the United States, and AQI fee collections are divided between the two agencies.

Publicly available data on government-wide collections of fines and penalties could inform the public on agency enforcement activities and compliance of regulated parties, such as those related to health or safety. Some officials from external organizations and congressional staff said that it would be useful to have government-wide data on individual fines and penalties levied by agencies. For example, the Environmental Protection Agency publishes an online database on its compliance and enforcement actions, *Enforcement and Compliance History Online* (ECHO).³⁵ According to the website, the data available on ECHO allows the public to monitor environmental compliance in communities, corporations to monitor compliance across facilities they own, and investors to more easily factor environmental performance into decisions. Further, an official from an external organization with expertise in data transparency stated that, ideally, a user would be able to link fine and penalty data to spending data on [USAspending.gov](https://www.usaspending.gov) to increase transparency in instances where an organization receiving a federal grant or contract has also had a fine or penalty levied against it.

Last, publicly available government-wide data on collections could inform the public, specifically payers of fees, fines, and penalties, and facilitate their participation in public comment opportunities. For example, OMB staff said government-wide data could provide the public with clear, transparent information across agencies on fee collections and allow the public to analyze differences in fee programs among agencies. Payers of fees may be able to make more informed comments on proposed changes to a fee program if they had information on how it relates to other fee programs across the federal government.

³⁵For more information on ECHO, see: <https://echo.epa.gov/>.

Government-wide fee, fine, and penalty data would provide more information to facilitate congressional oversight. These data could help Congress identify trends in collections and significant changes that could be an indication of an agency's performance. For example, staff of a Congressional committee stated that fine and penalty data can be used to examine enforcement actions on a particular issue or to identify potential trends over time as an indicator of stronger or weaker enforcement actions by an agency. Congress could also use these data to identify variations in enforcement action among geographic regions or as an indicator of the frequency of violations.

Additionally, data on review and reporting requirements can inform congressional oversight of fees, fines, and penalties. We previously reported that regular comprehensive reviews of fees provide opportunities for agencies and Congress to make improvements to a fee's design which, if left unaddressed, could contribute to inefficient use of government resources.³⁶ For example, fee reviews could help ensure that fees are properly set to cover the total costs of those activities which are intended to be fully fee-funded. Fee reviews may also allow agencies and Congress to identify where similar activities are funded differently; for example, one by fees and one by appropriations. One such example is the export control system, in which the State Department charges fees for the export of items on the U.S. Munitions List, while the Commerce Department does not charge fees for those items exported under its jurisdiction.

Government-wide reporting of fee, fine, and penalty data could also inform Congress's funding decisions by providing a clearer picture of agencies' total resources. Congressional staff stated that knowing the statutory authority to collect and obligate funding from fees, fines, and penalties—along with any appropriation an agency may have received from an annual appropriation act, which are currently available to congressional staff—would provide a more complete picture of an agency's total annual funding, including the portion attributed to the taxpayer and the portion attributed to payers of specific fees, fines, and penalties. For example, staff from congressional committees we spoke with said it would be useful to have data to show programs that receive appropriations from both offsetting collections and appropriations not derived from offsetting collections to inform decisions on how the program

³⁶[GAO-12-342SP](#).

is funded. Congressional staff also said this would provide more opportunities to track the flow of money in and out of the government. Overall funding decisions may be affected if an agency has an increase in fee collections, for example. Congressional committee staff also said it would be useful to have government-wide data on specific fees, fines, and penalties that are offsetting collections because these collections are available for obligation without going through the annual appropriations process. Our prior work has shown that it is important to consider how the agencies and entities with this authority facilitate oversight to ensure effective management, transparency, and public accountability.³⁷ Some committee staff said they can request data directly from agencies when they need more disaggregated information on fees, fines, and penalties, and reported different levels of responsiveness from agencies. Publicly available data could reduce potentially overlapping or duplicative requests from staff to agencies.

Potential Challenges Exist for Standardizing Definitions of Fees, Fines, and Penalties

According to officials from agencies and external organizations, there are potential challenges to defining the government-wide data standard or definition of fee, fine, and penalty programs by which agencies could report. Because there is no statutory requirement for government-wide reporting of fee, fine, and penalty data, agencies collect and use these data for their own purposes, and are not using government-wide data elements and standards that are consistent and comparable between agencies. First, an agency may define a fee program as a single fee or a set of related fees. For example, the U.S. Citizenship and Immigration Services charges more than 40 immigration and naturalization fees to applicants and petitioners that could be grouped together as related fees or split into up to 40 different fee programs. Second, officials from external organizations said there are also challenges in defining data standards the level of detail to report.³⁸ For example, an official from an external organization said, for large financial penalties, it may be useful for oversight for the data to identify each instance of the penalty, including the fined party. However, that level of detail could raise privacy

³⁷ [GAO-17-59](#).

³⁸ In December 2018, we found that, while providing users with detailed and disaggregated data is a key action for transparently reporting open government data, in some cases, aggregation may be necessary to protect sensitive information so that the dataset can be released to the public. See GAO, *Open Data: Treasury Could Better Align USAspending.gov with Key Practices and Legal Requirements*, [GAO-19-72](#) (Washington, D.C.: Dec. 13, 2018).

sensitivities. For example, reporting every individual that paid an entrance fee at a national park could present privacy concerns. Finally, for elements that are useful for congressional oversight, one challenge could be the timing of when funds are collected compared to when they are available for obligation. The amount of funds collected in a year does not necessarily equal the amount available to the agency that year. For example, collections of Harbor Maintenance Fees are deposited to the Harbor Maintenance Trust Fund and are not available for obligation without appropriation. Funds collected in one year may not be necessarily appropriated and obligated until a subsequent year.

Our prior work on the Digital Accountability and Transparency Act of 2014 (DATA Act) implementation underscores the importance of standardized and clearly defined data elements. We found inconsistent and potentially confusing instructions from OMB regarding the *Primary Place of Performance* data elements that resulted in inconsistent reporting among agencies.³⁹ The standard established by OMB and Treasury defines *Primary Place of Performance* as “where the predominant performance of the award will be accomplished” while other instructions define it as “the location of the principal plant or place of business where the items will be produced, supplied from stock, or where the service will be performed.”⁴⁰ We found some agencies used the first definition and some used the second. In one case, the Departments of Labor and Health and Human Services issued contracts to the same company for similar office printers, but one reported the primary place of performance as California, the location of the office where the printers were delivered and used. The other agency reported the primary place of performance as New Jersey, the location of the company that supplied the printers. As a result, the data were not comparable between agencies or across the federal government, limiting the usefulness for congressional oversight. We previously recommended that OMB and Treasury provide additional instruction to agencies on how to report Primary Place of Performance to

³⁹GAO, *DATA Act: OMB, Treasury, and Agencies Need to Improve Completeness and Accuracy of Spending Data and Disclose Limitations*, [GAO-18-138](#) (Washington, D.C.: Nov. 8, 2017).

⁴⁰The four Primary Place of Performance data elements standardized by OMB and Treasury in 2015 are: (1) Primary Place of Performance Address; (2) Primary Place of Performance Congressional District; (3) Primary Place of Performance Country Code; and (4) Primary Place of Performance Country Name.

ensure the definitions are clear and the data standards are implemented consistently by agencies.⁴¹

Staff from one congressional committee cautioned that attempts to present information on budget authorities for fees, fines, and penalties in a simple and accessible database create an unacceptable risk of confusion and legislative error. The staff said an accurate description of the nature of the spending—including whether there is authority to obligate without further appropriation—would be labor intensive and require significant legal analysis and research.

Government-wide Reporting Would Require an Investment of Federal Resources

Government-wide reporting of fees, fines, and penalties could increase transparency and facilitate oversight and decision-making, but would require time and resources to develop given that there is currently no government-wide system or requirements for agencies to collect and report detailed fee, fine, and penalty data. The level of federal investment would vary depending on factors, such as the number of data elements included and the level of detail reported. Developing a comprehensive and accessible data source would provide greater benefits, but would likely be resource intensive. We have reported on other federal transparency efforts that could provide strategies for reporting government-wide fee, fine, and penalty data. For example, to create a clear and accessible government-wide data source that includes the data elements we identified that would be useful for congressional oversight, Treasury officials said the process would be similar to the implementation of the DATA Act for spending data. To implement the DATA Act, OMB and Treasury led an intensive effort starting in May 2014 through May 2017 when the first government-wide data were reported under the DATA Act's new standards.

- **Data Standards:** OMB, in coordination with Treasury, established 57 standardized data element definitions and approximately 400 associated sub-elements for reporting federal spending information. OMB and Treasury created opportunities for non-federal stakeholders to provide input into the development of data standards, including

⁴¹See GAO, *DATA Act: Data Standards Established, but More Complete and Timely Guidance Is Needed to Ensure Effective Implementation*. [GAO-16-261](#) (Washington, D.C.: Jan. 29, 2016). While OMB generally concurred with our recommendation, as of November 2018, OMB had not implemented our recommendation on Primary Place of Performance.

publishing a *Federal Register* notice seeking public comment on the establishment of financial data standards; presenting periodic updates on the status of DATA Act implementation to federal and non-federal stakeholders at meetings and conferences; soliciting public comment on data standards using an online collaboration space; and collaborating with federal agencies on the development of data standards and the technical schema through MAX.gov, an OMB-supported website.

- **Technical Process for Reporting:** Treasury developed the initial DATA Act Information Model Schema, which provided information on how to standardize the way financial assistance awards, contracts, and other financial and nonfinancial data would be collected and reported under the DATA Act.
- **System to Collect and Validate Data:** Treasury developed a system that collects and validates agency data (the DATA Act Broker), which operationalizes the reporting framework laid out in the schema. In addition, Treasury employed online software development tools to provide responses to stakeholder questions and comments related to the development and revision of the broker.
- **Public Reporting:** Treasury created and updated the new USAspending.gov website to display certified agency data submitted under the DATA Act.⁴²

Agencies also took steps to prepare to report spending data. They reviewed data elements OMB identified, participated in standardizing the definitions, performed an inventory of their existing data and associated business processes, and updated their systems and processes to report data to Treasury.⁴³ OMB and Treasury issued policy directions to help

⁴²While USAspending.gov was first released in 2007, Treasury recently developed a new version of the website to report information submitted under the DATA Act. For more information on the new USAspending.gov, see [GAO-19-72](#).

⁴³Consistent with our mandate under the DATA Act, we reviewed the quality of the data collected under the act that agencies reported beginning in May 2017 and made available through Beta.USAspending.gov. We found that a total of 78 federal agencies, including all 24 CFO Act agencies, submitted data by May 2017, as required by the act. However, we identified issues and challenges with the completeness and accuracy of the data submitted, use of data elements, and presentation of the data on Beta.USAspending.gov. We made two recommendations to OMB regarding technical assistance and clarifying directions to help ensure agencies fully comply with DATA Act requirements and report data completely and accurately; and four recommendations to Treasury, including disclosing known data quality issues on its website. While OMB and Treasury generally agreed with our recommendations as of November 2018, five of these recommendations remained open. For more information, see [GAO-18-138](#).

agencies meet their reporting requirements under the act. They also conducted a series of meetings with participating agencies to obtain information on any challenges that could impede effective implementation and assess agencies' readiness to report required spending data.

Although the steps to developing comprehensive, detailed reporting on government-wide collections of fees, fines, and penalties might be similar to the DATA Act efforts, the dollar amounts of collections would be smaller than those of federal spending. In fiscal year 2017, federal spending was \$3.98 trillion compared to about \$350 billion in collections of fees, fines, penalties, and forfeitures reported by OMB.⁴⁴ On the other hand, defining data elements and standards for fee, fine, and penalty data could be more resource intensive than developing data standards for DATA Act implementation because the DATA Act built on earlier reporting requirements. The DATA Act amended the Federal Funding Accountability and Transparency Act of 2006 (FFATA), which required OMB to establish the website USAspending.gov to report data on federal awards, including contracts, grants, and loans. The DATA Act required OMB and Treasury to standardize data required to be reported by FFATA. For fee, fine, and penalty data, OMB and Treasury would be starting without the benefit of some data elements already defined. Further, we have previously reported that effective implementation of provisions to make federal data publicly available, including the DATA Act and GPRAMA's program inventory, especially the ability to crosswalk spending data to individual programs, could provide vital information to assist federal decision makers in addressing significant challenges the government faces.⁴⁵

Incorporating a small number of data elements that Congress identifies as most useful for oversight into ongoing government-wide agency reporting efforts could incrementally improve transparency and information for oversight and decision-making, with fewer resources. For example, Congress required agencies to add selected data elements to their annual financial reports on civil monetary penalties. Specifically, the Federal Civil Penalties Adjustment Act Improvements Act of 2015 requires agencies to include information about the civil monetary penalties within the agencies' jurisdiction, including catch-up inflation

⁴⁴As previously discussed, OMB's figure could be overstated or understated.

⁴⁵GAO, *DATA Act: Progress Made in Initial Implementation but Challenges Must be Addressed as Efforts Proceed*, [GAO-15-752T](#) (Washington, D.C.: July 29, 2015).

adjustment of the civil monetary penalty amounts, in annual agency financial reports or performance and accountability reports.⁴⁶ As shown in figure 7, to facilitate agencies' reporting, OMB provided a table to define the data elements required in the act in its annual instructions, OMB Circular No. A-136, *Financial Reporting Requirements*.⁴⁷

Figure 7: Office of Management and Budget (OMB) Instructions to Agencies on Reporting Data on Civil Monetary Penalties

OMB Circular No. A-136: Financial Reporting Requirements

II.4.9. Civil Monetary Penalty Adjustment for Inflation

Under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, agencies must make annual inflation adjustments to civil monetary penalties and report on the adjustments in their AFR or PAR.

Agencies must include, as OI, information about civil monetary penalties within their jurisdiction and the adjustments made under the Act and are encouraged to include a table providing this information. The following is an illustrative example from the Department of Labor's FY 2017 Financial Report.

Statutory Authority	Penalty Name & Description	Year Enacted	Latest year of adjustment (via statute or regulation)	Current Penalty (Dollar Amount or Range)	Bureau Name	Location for Penalty Update Details
29 U.S.C. 211 (d); 29 CFR 530.302 (a), (b)	Fair Labor Standards Act (FLSA) Homeworker: Violation of recordkeeping, monetary, certificate or other statutes, regulations or employer assurances.	1938	2017	Minimum: \$20. Maximum: \$1,005.	WHD	https://www.ecfr.gov/ 82 FR 5386 (January 18, 2017)

Source: Office of Management and Budget. | GAO-19-221

Note: In the figure above, AFR refers to agency financial report and PAR refers to performance and accountability report. OI refers to other information.

Agencies started reporting these data in their agency financial reports in fiscal year 2016. In July 2018, we reported that 40 of 45 required agencies reported in their fiscal year 2017 agency financial report information on civil monetary penalties as directed by the OMB instructions.⁴⁸ Similarly, if Congress sought additional fine and penalty data elements, such as amounts collected and authority to spend

⁴⁶Pub. L. No. 114-74, title VII, § 701, 129 Stat. 584, 599-601 (Nov. 2, 2015), codified at 29 U.S.C. § 2461 note.

⁴⁷For information on agencies' compliance with the act, see [GAO-17-634](#).

⁴⁸[GAO-18-519](#).

collections, OMB could expand this table in Circular No. A-136 to include those data elements. Circular No. A-136 also outlines that agencies may include the results of biennial reviews of fees and other collections in their agency financial reports. OMB could also update this portion of the circular to require agencies to report specific data elements that are useful for oversight, such as review and reporting requirements. While this information reported in agency financial reports would be disaggregated in portable document format, or PDF, documents, it would provide some transparency on agencies' activities that Congress could use to prioritize its oversight efforts.

In another example, if OMB implements the federal program inventory as required by GPRAMA, it could include a data element on whether a program has a fee, fine, or penalty. We previously reported that the principles and practices of information architecture—a discipline focused on organizing and structuring information—offer an approach for developing such an inventory to support a variety of uses, including increased transparency for federal programs.⁴⁹ A program inventory creates the potential to aggregate, disaggregate, sort, and filter information across multiple program facets. For example, from a user's perspective, a program could be tagged to highlight whether it includes activities to collect fees, fines, or penalties. Then, a user interested in this data facet could select a tag (e.g., fees) that could generate a list of programs that also have fees, fines, or penalties. While the program inventory is broader than agency collections of fees, fines, and penalties and would include programmatic descriptions, it would increase transparency by enabling Congress and the public to identify and isolate all programs that include, as a source of funding or a key data element, a fee, fine, or penalty to inform oversight and target additional requests for information to agencies.

Conclusions

Federal agencies are authorized to collect hundreds of billions of dollars from fees, fines, and penalties each year that fund a wide variety of programs, but Congress and the American public do not have government-wide data on these collections that would provide increased transparency and facilitate oversight. OMB's MAX database contains some disaggregated data labeled as fees, fines, and penalties, but OMB

⁴⁹GAO, *Federal Programs: Information Architecture Offers a Potential Approach for Development of an Inventory*, [GAO-17-739](#) (Washington, D.C.: Sept. 28, 2017).

does not make these data publicly available. Without more disaggregated, government-wide, accessible data on collections of fees, fines, and penalties, such as by agency, Congress and the public do not have a complete and accurate picture of federal finances, the sources of federal funds, and the resources available to fund federal programs.

In addition, improving the data OMB currently reports related to fees, fines, and penalties could help the user better understand the data and the potential limitations. First, until OMB describes how it identifies accounts with fees including that the government-wide totals of fees it reports in *Analytical Perspectives* may include collections that are not fees and exclude some fee collections, some users will likely be unaware that reported totals could be over- or under-estimates. Second, without OMB instruction to agencies to regularly review and update implementation of the criteria for designating accounts that contain fees, accounts could be designated incorrectly if the makeup of the collections changes. Therefore, OMB cannot provide reasonable assurance that the total amount of fees it reports is accurate. Third, until OMB describes in the User's Guide that its Public Budget Database reports budget authority net of offsetting collections, including collections of fees, fines, and penalties, users could misinterpret the information and underestimate collections in some cases.

OMB and Treasury do not collect many of the data elements on fees, fines, and penalties that would be useful for congressional oversight, such as review and reporting requirements. There are trade-offs between the potential costs and the potential benefits. While reporting government-wide data on specific fees, fines, and penalties would improve transparency and information for decision-making, more data elements would require greater investment of resources from OMB, Treasury, and agencies. Any new reporting of fee, fine, and penalty data would be most useful if it is designed to be compatible with other transparency efforts—the DATA Act reporting and the federal program inventory. Regardless of the approach taken, linkage of data on fees, fines, and penalties with other government-wide data reporting, such as USASpending.gov, would enhance transparency and facilitate congressional oversight.

Recommendations for Executive Action

We are making the following four recommendations to OMB:

The Director of OMB should make available more disaggregated data on fees, fines, and penalties that it maintains in its OMB MAX database. For example, OMB could report data on fee collections by agency in *Analytical Perspectives*. (Recommendation 1)

The Director of OMB should present, in *Analytical Perspectives*, the data limitations related to the government-wide fee totals by describing the 50-percent criteria OMB uses to identify accounts with fees or by directing users to the relevant sections of OMB Circular No. A-11. (Recommendation 2)

The Director of OMB should instruct agencies to regularly review the application of the user fee designation in the OMB MAX data and update the designation, as needed, to meet the criteria in OMB Circular No. A-11. (Recommendation 3)

The Director of OMB should describe in the Public Budget Database User's Guide that budget authority is reported net of any offsetting collections, such as collections of fees, fines, and penalties. (Recommendation 4)

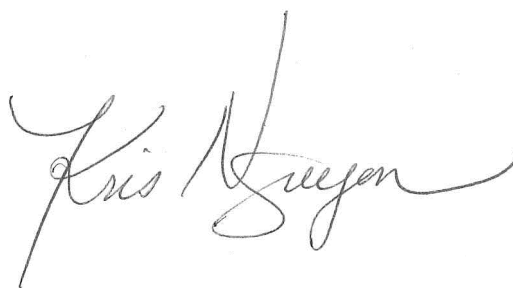
Agency Comments

We provided a draft of this report to Treasury and OMB for review and comment on December 10, 2018. Treasury informed us that they had no comments. As of March 4, 2019, OMB did not provide comments.

We are sending copies of this report to the appropriate congressional committees, the Secretary of the Department of the Treasury, and the Director of the Office of Management and Budget. In addition, the report is available at no charge on GAO's website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-6806 or nguyentt@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix II.

Sincerely yours,

A handwritten signature in black ink that reads "Kris Nguyen". The signature is written in a cursive style with a large, sweeping initial "K" and a long, horizontal flourish at the end.

Tranchau (Kris) T. Nguyen
Acting Director
Strategic Issues

Appendix I: Objectives, Scope and Methodology

This report examines: (1) the extent to which government-wide data on collections of fees, fines, and penalties are publicly available and useful for the purpose of congressional oversight, and (2) the benefits and challenges to government-wide reporting of specific fees, fines, and penalties including data elements that facilitate congressional oversight.

To assess the extent and usefulness of publicly available data, we developed criteria for the availability and usefulness for the purpose of congressional oversight of data on collections of fees, fines, and penalties reported in government-wide sources (see table 3).

Table 3: GAO Criteria for the Availability and Usefulness of Data on Fees, Fines, and Penalties for the Purpose of Congressional Oversight

Clear and Accessible Presentation

- User is able to aggregate or disaggregate reported data.
- Data are provided in machine-readable and open formats and can be downloaded in bulk, to the extent practicable for automated processing.
- Data are comparable across agencies.
- Data are clearly described and presented with known limitations.

Accurate

- Data reported as collections of fees, fines, and penalties are correctly labeled and do not include other sources of funding.

Complete

- Source reports all collections of fees, fines, and penalties.

Useful for the Purpose of Congressional Oversight

Data elements capturing the characteristics of fee, fine, or penalty collections that our prior work and cognizant committee staff identify as facilitating oversight:

- **Descriptive title:** A title for the fee, fine, or penalty that conveys information about the activity or program to which it is related.
 - **Agency administering:** Agency authorized to administer the collection. Administrative activities include setting rates, promulgating regulations, reviewing, and reporting.
 - **Agency collecting:** Agency that collects the funds. In some cases, the collecting agency differs from the administering agency.
 - **Annual dollar amount collected (for multiple years):** Total dollar amount collected, by fiscal year.
 - **Account balance:** For collections dedicated by law to a specific purpose or program, the fiscal year-end balance of the budgetary account to which the collection is credited.
 - **Authorities to collect and obligate funds:** Citation of the law(s) providing agency authority to collect the fee, fine, or penalty and, as applicable, authority to obligate the collections.
 - **Limitations on obligations:** Statutory limitations on the purpose, time, or amounts available for obligation.
-

-
- **Categories of collections (i.e., budgetary collection type, budget function):** Budgetary collection types describe the availability of collections set in statute as offsetting collections, offsetting receipts, and governmental receipts. Offsetting collections are deposited in agency appropriation or fund expenditure accounts and are available for agency use for the specified purpose without further legislative action. Offsetting receipts are deposited into agency receipt accounts and are not available for agency use unless appropriated by Congress. Governmental receipts are deposited into general fund receipt accounts and may then be appropriated as Congress deems fit. Budget function is a system of classifying budget authority, outlays, receipts, and tax expenditures according to the national needs being addressed. Budget functions include national defense and health, for example.
 - **Specific review requirement:** Any review requirement specific to the collection. For example, for fees, this would include any review requirement other than the general requirement for a biennial fee review established by Chief Financial Officers Act of 1990.
 - **Specific reporting requirement:** Any reporting requirement specific to the collection. For example, for fees, this would include any reporting requirement other than the general requirement in OMB Circular No. A-25 for reporting the results of the biennial fee review.
 - **Fund type receiving collections (e.g., special fund, trust fund, etc.):** Special funds are federal fund accounts earmarked by law for a specific purpose. Trust funds are accounts designated as “trust funds” by law, regardless of any other meaning of the term “trust fund.”
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Source: GAO analysis of GAO’s Standards for Internal Control, requirements found in the DATA Act, Office of Management and Budget instructions, prior GAO work on user fees, and permanent funding authorities, and input from staff of congressional committees on appropriations, budget, and oversight. | GAO-19-221

The first three criteria—clear and accessible presentation, complete, and accurate—address the availability of the data and the final criterion, useful for the purpose of congressional oversight, addresses content of the data specific to congressional oversight needs. These criteria are based on:

- *Standards for Internal Control in the Federal Government* related to data quality,¹
- Digital Accountability and Transparency Act of 2014 (DATA Act) requirements,
- government-wide instruction from the Office of Management and Budget (OMB) on public access to data and open government,²

¹GAO-14-704G

²Sources of government-wide instructions are: OMB, Memorandum on Improving Public Access to and Dissemination of Government Information and Using the Federal Enterprise Architecture Data Reference Model (M-06-02), and on Open Government (M-10-06).

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- our prior work on user fees, fines, and penalties,³ and
 - input from staff of congressional committees on appropriations, budget, and oversight.

Using a standard list of semistructured interview questions, we interviewed congressional staff that were available to meet with us on or before November 1, 2018. We shared the criteria with OMB staff and Department of the Treasury (Treasury) officials, and they agreed the criteria are relevant and reasonable.

To identify publicly available government-wide sources of data with information on collections of fees, fines, and penalties, we reviewed our prior work on user fees, fines, penalties, and permanent funding authorities, conducted general background research including reviewing Congressional Budget Office (CBO) and Congressional Research Service (CRS) reports, and interviewed staff from OMB, and officials from Treasury, CBO, and CRS. We identified the *Budget of the U.S. Government*—including *Analytical Perspectives*, the *Budget Appendix*, and the Public Budget Database—produced annually by OMB; the *Financial Report of the U.S. Government (Financial Report)*, the *Daily Treasury Statement*, the *Monthly Treasury Statement*, the *Combined Statement of Receipts, Outlays, and Balances*, and USAspending.gov produced by Treasury; and CBO products, such as its budget projections and historical budget tables as containing government-wide federal budget or financial data.

Of the sources we identified, we included *Analytical Perspectives*, the *Budget Appendix*, the Public Budget Database, and the *Combined Statement of Receipts, Outlays, and Balances* in our study because they contain government-wide information on collections of fees, fines, and penalties. We excluded the Treasury's *Daily Treasury Statement*, *Monthly Treasury Statement*, *Financial Report*, and USAspending.gov from this review because we determined that the information presented did not differentiate between types of collections in a way that would allow us to separately identify fees, fines, and penalties. For example, Treasury's *Financial Report* reports government-wide information in categories that

³For more information, see GAO, *Permanent Funding Authorities: Some Selected Entities Should Review Financial Management, Oversight, and Transparency Policies*, [GAO-17-59](#) (Washington, D.C.: Dec. 9, 2016); and *Federal User Fees: A Design Guide*, [GAO-08-386SP](#) (Washington, D.C.: May 29, 2008); *Federal User Fees: Fee Design Options and Implications for Managing Revenue Instability*, [GAO-13-820](#) (Washington, D.C.: Sept. 30, 2013).

are broader than fees, fines, and penalties. Specifically, it reports “earned revenue,” which includes collections of interest payments for federal loan programs. Such collections are not fees. The *Financial Report* also reports fines and penalties combined with interest and other revenues. We also reviewed and excluded CBO products because the data reported are not designed to differentiate between types of collections.

We assessed *Analytical Perspectives*, the *Budget Appendix*, the Public Budget Database, and the *Combined Statement of Receipts, Outlays, and Balances* using the criteria we developed for clear and accessible presentation, accurate, and complete. We also assessed the *Budget Appendix*, the Public Budget Database, and the *Combined Statement of Receipts, Outlays, and Balances* using the criteria for useful for the purpose of congressional oversight.⁴ Further, we assessed relevant portions of OMB and Treasury instructions using *Standards for Internal Control in the Federal Government*.⁵

We also used OMB and Treasury data to identify and report government-wide totals for fees, fines, and penalties to the extent that they were reported. To assess the reliability of OMB’s MAX database data related to the collections of fees, fines, and penalties, we reviewed related documentation, interviewed knowledgeable agency officials, and conducted electronic data testing. To assess Treasury’s Bureau of the Fiscal Service data related to the collections of fees, fines, and penalties, we reviewed related documentation and interviewed knowledgeable agency officials. In both cases, we found the data to be reliable for our purposes. We did not examine whether agencies accurately report collections as fees, fines, and penalties to OMB and Treasury.

In addition, we identified and reviewed other sources of data on fees, fines, and penalties that are specific to federal agencies, including annual financial reports and agency websites. We did not apply the criteria we developed for available and useful for the purpose of congressional oversight to these sources because they contain data for an individual agency rather than government-wide data.

⁴We did not include *Analytical Perspectives* in our analysis for useful for congressional oversight because the data are presented in aggregate government-wide totals.

⁵Specifically, Principle 13 – Use Quality Information. For more information, see GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

To determine the benefits and challenges to government-wide reporting of fees, fines, and penalties, we interviewed staff of congressional committees on appropriations, budget, and oversight, OMB staff and Treasury officials, staff of CBO, and external organizations, including the Committee for a Responsible Federal Budget, the Data Coalition, the Data Foundation, the Project on Government Oversight, the Peter G. Peterson Foundation, and the Sunlight Foundation, on the potential benefits and challenges of government-wide reporting of fees, fines, and penalties. In addition, we reviewed our prior work on the DATA Act, federal program inventories, and federal fees, to identify and assess issues to consider in government-wide reporting.

We conducted this performance audit from November 2017 to March 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: GAO Contact and Staff Acknowledgments

GAO Contact

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Staff Acknowledgments

In addition to the contact named above, Susan E. Murphy (Assistant Director), Barbara Lancaster (Analyst in Charge), Michael Bechetti, Jacqueline Chapin, Colleen Corcoran, Ann Marie Cortez, Lorraine Ettaro, John Mingus, and Rachel Stoiko made key contributions to this report.

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