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Office of the Comptroller General  
of the United States

United States Government Accountability Office  
Washington, DC 20548

July 26, 2010

The Honorable Joseph I. Lieberman  
Chairman

The Honorable Susan M. Collins  
Ranking Member

Committee on Homeland Security and Governmental Affairs  
United States Senate

The Honorable Claire McCaskill  
Committee on Homeland Security and Governmental Affairs  
United States Senate

Subject: *Proposed Substitute Amendment to S. 2991*

The purpose of this letter is to express strong support for S. 2991, the Government Accountability Office Improvement Act of 2010. We believe that the bill would enhance GAO's ability to provide the Congress with critical and timely information needed for it to conduct meaningful oversight of federal programs and activities. In particular, we appreciate your efforts to address concerns raised about the bill as introduced and support the proposed substitute amendment, which we understand is scheduled for mark-up on July 28, 2010.

The proposed substitute amendment to S. 2991 would improve GAO's authorities in several ways. Perhaps most notably, the bill would confirm GAO's existing right to obtain important records to which it has been denied access based on interpretations of the Department of Health and Human Services, the Food and Drug Administration, the Federal Trade Commission, and the Department of Justice, and explicitly reaffirm that Congress has authorized GAO to pursue civil actions when these or other agencies improperly withhold records. In this respect, the bill would provide a legislative remedy for the federal district court's decision in *Walker v. Cheney*, 230 F. Supp. 2d 51 (D.D.C. 2002), a case that misconstrued the language of GAO's statute as well as congressional intent regarding the role of the Comptroller General. The bill would also codify GAO's current practices by making explicit its authority to copy agency records consistent with court precedents that have established that a right to inspect records carries with it the right to make a copy. Finally, the bill would modernize the Comptroller General's authority to administer oaths to witnesses in specific types of situations and allow agencies more flexibility in their reports to Congress on GAO's recommendations.

We understand that concerns were raised after S. 2991 was introduced about GAO obtaining confidential information, including proprietary and trade secrets information, and that concerns may remain under the proposed substitute amendment. These concerns are unfounded. GAO exercises its access authority judiciously, tailoring requests for information to the specific objectives of our audits, evaluations, and investigations for the Congress. We would expect no change in approach should the proposed substitute amendment be enacted, as the legislation would not fundamentally change GAO's longstanding authority, but rather confirm it in several specific respects. Moreover, GAO routinely obtains the most sensitive information—ranging from drug pricing information to classified national security information—from federal agencies and others, and GAO has an unblemished record of protecting that information consistent with governing statutes, regulations, and policies. For example, consistent with standards applicable across the federal government, GAO maintains secure facilities and systems for sensitive information obtained during the course of our work. In addition, we direct public requests for information obtained from federal agencies and other entities to the agency or entity at which it originated, to avoid serving as conduit of information to those who may not be entitled to receive it. In sum, GAO takes seriously its responsibility to appropriately safeguard all information obtained from any source, regardless of the underlying authority; we will be no less rigorous in protecting information obtained as a result of this legislation than GAO has been with respect to equally sensitive information in the past.

We look forward to continuing our work in support of the Congress. We are very grateful for your efforts to enhance GAO's ability to make important contributions to congressional oversight. Please let me know if we can be of any further assistance.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Gene L. Dodaro", written in a cursive style.

Gene L. Dodaro  
Acting Comptroller General  
of the United States