



# US DEPARTMENT OF VETERANS AFFAIRS OFFICE OF INSPECTOR GENERAL

Office of Audits and Evaluations

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## DEPARTMENT OF VETERANS AFFAIRS

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# VA's Compliance with the VA Transparency & Trust Act of 2021 Semiannual Report: March 2024

Review

22-00879-93

March 20, 2024

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## Executive Summary

As part of the federal government's response to the COVID-19 pandemic, Congress passed legislation to provide VA with supplemental funding to support its mission. Accordingly, the Families First Coronavirus Response Act (FFCRA); Coronavirus Aid, Relief, and Economic Security (CARES) Act; and American Rescue Plan (ARP) Act of 2021 were enacted to ensure uninterrupted care and benefits for veterans.<sup>1</sup> In November 2021, Congress passed the VA Transparency & Trust Act of 2021 (Transparency Act) to provide oversight of VA's spending of the emergency relief funding.<sup>2</sup> In accordance with the act, VA must provide a detailed plan to Congress outlining its intent for obligating and expending funds covered by the act, including a justification for each type of obligation, not later than 30 days after the act was signed into law on November 22, 2021.<sup>3</sup> When the Transparency Act was enacted, VA had obligated and spent nearly all of the FFCRA and CARES Act funds; therefore, the detailed plans VA submitted to Congress on December 22, 2021, were retroactive. That is, the detailed plans indicated what VA had already spent.<sup>4</sup> Additionally, the act requires VA to submit reports to Congress every 14 calendar days (biweekly) detailing its obligations, expenditures, and planned uses, as well as justification for any deviation from the plan.

The Transparency Act further requires the VA Office of Inspector General (OIG) to submit reports comparing how VA is obligating and expending covered funds to the planned obligations and expenditures. The initial OIG report was required within 120 days of enactment, and additional reports must be submitted semiannually for three years or until the VA Secretary has expended all covered funds, whichever comes first. The OIG must also address areas of waste, fraud, and abuse, as well as any other matters determined relevant.

### What the Review Found

In the inaugural report, the OIG focused on whether VA's plans provided to Congress on December 22, 2021, satisfied the requirements of the Transparency Act.<sup>5</sup> The OIG made two recommendations to the assistant secretary for management and chief financial officer.

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<sup>1</sup> FFCRA, Pub. L. No. 116-127, 134 Stat. 178 (2020); CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020); ARP Act, Pub. L. No. 117-2, 135 Stat. 4 (2021).

<sup>2</sup> Transparency Act, Pub. L. No. 117-63, 135 Stat. 1484 (2021).

<sup>3</sup> Covered funds are those funds under the FFCRA, CARES Act, and ARP Act. An obligation is a legal liability of the government for payment of goods or services immediately or in the future. An expenditure is the actual amount of the money spent.

<sup>4</sup> In contrast, the ARP Act funding was only about 4 percent obligated, so VA submitted its detailed plans to Congress on December 22, 2021, for how it would spend the remaining covered funds, referred to as its spend plan. For more background information, see appendix A.

<sup>5</sup> VA OIG, [VA's Compliance with the VA Transparency & Trust Act of 2021](#), Report No. 22-00879-118, March 22, 2022.

The first was to consult with appropriate VA financial and legal officials to determine whether the use of CARES Act funds for the Beaufort National Shrine project violates the Purpose Statute and, if a violation occurred, take the steps necessary to remedy the violation. Second, VA should determine the obligations to sustain essential information technology investments, update the obligation schedule as necessary, provide an updated spend plan to Congress, and include this information in future biweekly updates. The target completion date for both recommendations was June 2022, but both recommendations remained open until the OIG agreed to close them in April 2023 after receiving sufficient responses from VA.

In the semiannual reports for September 2022 and March 2023, the OIG looked at the ARP Act spend and FFCRA detailed plans and reporting, respectively.<sup>6</sup> There were no recommendations for the September 2022 report, but the OIG was unable to complete its analysis of the FFCRA funds in the March 2023 report because VA did not provide sufficient supporting documentation requested by the review team. In the semiannual report for September 2023, the OIG completed its review of FFCRA actual obligations and expenditures and found VA generally did not comply with its financial policies to process and authorize FFCRA expenditure transfers. The OIG made one recommendation to VA's under secretary for health to ensure that Veterans Health Administration fiscal staff are trained on the VA financial policy requirements for the preparation and approval of journal vouchers (including expenditure transfers). The target completion date is June 2024, but on January 30, 2024, the OIG received VA's official response that included a request to close the recommendation. However, because VA has yet to respond to the OIG's request for additional information, the recommendation remains open.

This March 2024 semiannual report provides the results of the OIG's review of VA's compliance with the Transparency Act for the ARP Act spend plan obligation schedule and biweekly reporting requirements.<sup>7</sup> The review team relied on VA's ARP Act reporting through the last biweekly report dated June 6, 2023, (referred to hereafter as the June 2023 biweekly report) and the most recent monthly ARP Act reporting through December 31, 2023, (referred to hereafter as the December 2023 monthly report). The team found that VA's last biweekly report was dated June 6, 2023. VA explained it deviated solely to monthly reporting, stating it received approval from Congress to deviate from the biweekly reporting requirement. That said, VA has been unable to provide documentation to support the approved deviation.

Additionally, as total reported obligations through the fourth quarter of fiscal year 2023 (the September 2023 monthly report) generally aligned with the ARP Act spend plan obligation schedule with few exceptions, the OIG found that deviations to the spend plan did not affect VA's compliance with the Transparency Act. However, the OIG found that VA's lack of

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<sup>6</sup> VA OIG, [VA's Compliance with the VA Transparency & Trust Act of 2021 Semiannual Report: September 2022](#), Report No. 22-00879-236, September 22, 2022; VA OIG, [VA's Compliance with the VA Transparency & Trust Act of 2021 Semiannual Report: March 2023](#), Report No. 22-00879-79, March 21, 2023.

<sup>7</sup> See appendix B for more information about the review's scope and methodology.

reporting does not provide sufficient documentation and precludes Congress and other external parties from determining if funds were properly obligated and expended as required.

### **What the OIG Recommended**

The OIG did not make recommendations in this semiannual report. However, the OIG has one open recommendation related to Transparency Act funds that, if not addressed, could interfere with VA's long-term compliance with the Transparency Act.

### **VA Management Comments**

The OIG provided VA with a draft of this report for review (comments were not required). On March 5, 2024, the Office of Management responded that it was not providing comments to the report.



LARRY M. REINKEMEYER  
Assistant Inspector General  
for Audits and Evaluations

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## Abbreviations

ARP	American Rescue Plan
CARES	Coronavirus Aid, Relief, and Economic Security
FFCRA	Families First Coronavirus Response Act
FY	fiscal year
OIG	Office of Inspector General



## Introduction

In response to the COVID-19 pandemic, Congress passed legislation to provide VA with funding to support uninterrupted care and benefits for veterans.<sup>8</sup> Congress passed the Families First Coronavirus Response Act (FFCRA) on March 18, 2020, and allocated \$60 million to VA for COVID-19–related items and services. In the Coronavirus Aid, Relief, and Economic Security (CARES) Act passed on March 27, 2020, Congress provided VA with about \$19.6 billion to prevent, prepare for, and respond to COVID-19 domestically and internationally, which included impacts on healthcare delivery. Congress passed the American Rescue Plan (ARP) Act of 2021 on March 11, 2021, which provided about \$17.1 billion to VA for veteran and VA medical and healthcare programs. In later legislation, Congress rescinded about \$76.1 million of ARP Act funds.<sup>9</sup>

To provide oversight of VA’s spending of pandemic-related emergency relief funding, Congress passed the VA Transparency & Trust Act of 2021 (Transparency Act).<sup>10</sup> The act requires VA to provide a detailed plan to Congress outlining its intent for covered fund obligations and expenditures, including a justification for each type of obligation, not later than 30 days after the act was signed into law on November 22, 2021.<sup>11</sup> When the Transparency Act was enacted in November 2021, VA had obligated and spent nearly all of the FFCRA and CARES Act funds. Therefore, the detailed plans VA submitted to Congress on December 22, 2021, were retroactive and indicated what VA had already spent.<sup>12</sup> Additionally, the act requires VA to submit reports to Congress every 14 calendar days (biweekly) detailing its obligations, expenditures, and planned uses of the funds, as well as justification for any deviation from the plan.

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<sup>8</sup> Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020); Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (2020); American Rescue Plan Act, Pub. L. No. 117-2, 135 Stat. 4 (2021).

<sup>9</sup> Consolidated Appropriations Act of 2022, Pub. L. No. 117-103, 136 Stat. 49 (2022). VA initially received \$17,080,000,000 in ARP Act funds; however, Congress passed the Consolidated Appropriations Act of 2022, which rescinded \$76,105,000 made available by section 8003 for supply chain modernization. A rescission cancels the availability of budget authority previously enacted before the authority would otherwise expire.

<sup>10</sup> Transparency Act, Pub. L. No. 117-63, 135 Stat. 1484 (2021).

<sup>11</sup> Covered funds are those funds under the FFCRA, CARES Act, and ARP Act. An obligation is a legal liability of the government for payment of goods or services immediately or in the future. An expenditure is the actual amount of money spent.

<sup>12</sup> In contrast, the ARP Act funds were only about 4 percent obligated, so VA submitted its detailed plans to Congress for how it would spend the remaining covered funds (its spend plan) on December 22, 2021.



The Transparency Act states the VA Office of Inspector General (OIG) is required to submit reports no later than 120 days after the act was enacted and semiannually thereafter for three years or until the VA Secretary has expended all covered funds, whichever occurs first. The act further states that the OIG reports shall include

- a comparison of how the funds are being obligated and expended to how the funds were planned to be obligated and expended in the plan;
- areas of waste, fraud, and abuse, if any; and
- any other matter the OIG determines relevant.

Table 1 shows the Transparency Act–related funds that VA received and how those funds were obligated and expended from enactment through December 31, 2023, which is the most recent reporting date provided by VA.

**Table 1. Overview of All Transparency Act–Covered Funds**

Covered fund	Allocated (\$ thousands)	Rescission* (\$ thousands)	Allocated (with rescissions) (\$ thousands)	Total obligations (\$ thousands)	Paid expenditures (\$ thousands)
FFCRA	60,000	0	60,000	60,000	60,000
CARES Act	19,569,500	0	19,569,500	19,238,491	18,994,639
ARP Act	17,080,000	–76,105	17,003,895	16,871,552	15,059,587
<b>Total</b>	<b>36,709,500</b>	<b>–76,105</b>	<b>36,633,395</b>	<b>36,170,043</b>	<b>34,114,226</b>

*Source: VA's monthly reports of allocations, obligations, and expenditures for FFCRA (through September 30, 2022, which was VA's last monthly report) and CARES Act and ARP Act (through December 31, 2023, which are VA's most recent monthly reports).*

*Note: Amounts are rounded. Paid expenditures represent 100 percent of FFCRA–covered funds, 97.1 percent of CARES Act–covered funds, and 88.6 percent of ARP Act–covered funds.*

*\* The Consolidated Appropriations Act of 2022, section 256, rescinded \$76,105,000 from the ARP Act effective March 15, 2022.*

The OIG published its inaugural report on March 22, 2022—120 days after the Transparency Act was enacted on November 22, 2021—and focused on whether VA's plans provided to Congress on December 22, 2021, satisfied the requirements of the act.<sup>13</sup>

The OIG made two recommendations to the assistant secretary for management and chief financial officer. The first was to consult with appropriate VA financial and legal officials to determine whether the use of CARES Act funds for the Beaufort National Shrine project violates

<sup>13</sup> VA OIG, [VA's Compliance with the VA Transparency & Trust Act of 2021](#), Report No. 22-00879-118, March 22, 2022.

the Purpose Statute and, if a violation occurred, take the steps necessary to remedy the violation. Second, VA should determine the obligations to sustain essential information technology investments, update the obligation schedule as necessary, provide an updated spend plan to Congress, and include this information in future biweekly updates. The target completion date for both recommendations was June 2022, but both recommendations remained open until the OIG agreed to close them in April 2023 after receiving sufficient responses from VA.

The semiannual report issued on September 22, 2022, focused on whether VA's ARP Act spend plan and biweekly reports satisfied the requirements of the Transparency Act with no recommendations.<sup>14</sup> The next semiannual report was issued on March 21, 2023, and focused on VA's FFCRA detailed plan and biweekly reports.<sup>15</sup> The OIG was unable to complete its analysis of the FFCRA funds in the March 2023 semiannual report because VA did not provide sufficient supporting documentation requested by the team. The most recent semiannual report was issued September 22, 2023, and the OIG completed its review of VA's FFCRA actual obligations and expenditures and VA's CARES Act detailed plan and biweekly reports.<sup>16</sup>

This March 2024 semiannual report compares VA's ARP Act spend plan obligation schedule and available monthly and biweekly reports to evaluate VA's compliance with Transparency Act reporting requirements through December 31, 2023. The review team relied on VA's last ARP Act biweekly report as of June 6, 2023, (referred to hereafter as the June 2023 biweekly report) and the most recent monthly report through December 31, 2023, (referred to hereafter as the December 2023 monthly report).

The ARP Act spend plan was developed to justify the intended activities for each section and included accomplishments to date, expected results, risk mitigation efforts, and an obligation schedule for remaining funds. Table 2 provides an overview of the act's spend plan sections discussed in this report and how funds were obligated and expended for each section according to the December 2023 monthly report.<sup>17</sup>

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<sup>14</sup> VA OIG, [VA's Compliance with the VA Transparency & Trust Act of 2021 Semiannual Report: September 2022](#), Report No. 22-00879-236, September 22, 2022.

<sup>15</sup> VA OIG, [VA's Compliance with the VA Transparency & Trust Act of 2021 Semiannual Report: March 2023](#), Report No. 22-00879-79, March 21, 2023.

<sup>16</sup> VA OIG, [VA's Compliance with the VA Transparency & Trust Act of 2021 Semiannual Report: September 2023](#), Report No. 22-00879-196, September 22, 2023.

<sup>17</sup> Tables A.1 and A.2 in appendix A provide detailed descriptions for each office covered by the ARP Act spend plan and explanations of each section of the ARP Act spend plan, respectively.

**Table 2. Overview of December 2023 Monthly Report for ARP Act Sections**

Section	Section description	Allocated (with rescissions) (\$ millions)	Total obligations (\$ millions)	Paid expenditures (\$ millions)
8001	Funding for claims and appeals processing expired 9/30/2023	272	270	188
8002	Funding availability for medical care and health needs expired 9/30/2023	14,482	14,465	13,161
8003	Funding for supply chain modernization expired 9/30/2022	24	24	21
8004	Funding for state homes is available until expended or expired 9/30/2022	750	749	400
8005	Funding for the OIG is available until expended*	10	10	9
8006	COVID-19 Veteran Rapid Retraining Assistance Program is available until expended	386	348	274
8007	Prohibition on copayments and cost sharing for veterans during emergency relating to COVID-19 is available until expended	1,000	980	980
8008	Emergency VA Employee Leave Fund expired 9/20/2022	80	26	26
<b>Total</b>		<b>17,004</b>	<b>16,872</b>	<b>15,060</b>

Source: VA reports of allocations according to the ARP Act spend plan as of December 22, 2021, VA's December 2023 monthly report on total obligation, paid expenditures, and ARP Act expirations.

Note: Amounts are rounded and may not sum.

\* ARP Act section 8005 funds provided to the OIG are included in this report for the purposes of identifying all funds VA received. Because the review team cannot make an independent assessment of the OIG's use of funds, the team did not review how the OIG used the provided funds.

## Results

### **Finding: VA Generally Complied with the Transparency Act but Failed to Submit All Required Reports**

The Transparency Act requires VA to produce a spend plan for obligating and spending covered funds (including a detailed justification) and to report on any deviations from that plan. In the September 2022 semiannual report, the OIG found that VA was generally not meeting its planned schedule of obligations but did not consider the matter a significant issue due to funds not expiring for at least one year. Additionally, although the OIG determined VA's ARP Act spend plan and biweekly reports could be improved, VA's biweekly reporting to Congress was not affected.<sup>18</sup> In the September 2023 semiannual report, the OIG made one recommendation with a target completion date of June 2024.<sup>19</sup>

In this March 2024 semiannual review, the OIG found that VA failed to submit biweekly ARP Act reports after June 2023. Additionally, although VA has generally continued monthly reporting, it failed to provide an ARP Act report for October 2023. VA explained that it deviated to monthly reporting based on Standard Form 133; however, the OIG noted that if the form is not published for the month of October, VA's compliance with the Transparency Act is at risk.<sup>20</sup> The OIG determined VA's reported obligations generally aligned with the spend plan obligation schedule with few deviations that were not significant. However, the team identified issues with VA's reported obligations and expenditures after fiscal year (FY) 2023, which spanned from October 1, 2022, through September 30, 2023.

The finding is based on the following determinations:

- VA's compliance with the Transparency Act biweekly reporting requirement could be improved.
- ARP Act spend plan obligation schedule deviations do not affect VA's compliance with the Transparency Act.
- VA's ARP Act obligations that were near expiration fluctuated widely, which diminished transparency.

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<sup>18</sup> VA OIG, [VA's Compliance with the VA Transparency & Trust Act of 2021 Semiannual Report: September 2022](#).

<sup>19</sup> VA OIG, [VA's Compliance with the VA Transparency & Trust Act of 2021 Semiannual Report: September 2023](#).

<sup>20</sup> VA Financial Policy, "VA's Budget Cycle and Fund Symbols," in vol. 2, *Appropriations Funds and Related Information* (March 2023), chap. 2. Standard Form 133 is a quarterly report that contains information on the sources of budget authority and the status of budgetary resources by individual fund or appropriation.

- The OIG's Transparency Act September 2023 semiannual report recommendation remains open.

## What the OIG Did

To determine VA's compliance with Transparency Act requirements, the team reviewed relevant laws, regulations, and VA policy. The team also referred to prior OIG reports related to the Transparency Act or its covered funds to provide contextual references for any other matters the team determined relevant. To compare VA's ARP Act spend plan and obligation schedule to its reported obligations and expenditures, the review team

- evaluated biweekly ARP Act reporting through the last report dated June 6, 2023, and the most recent monthly ARP Act reporting through December 31, 2023, for compliance with VA reporting requirements;
- compared reported ARP Act obligations and expenditures to VA's spend plan obligation schedule to identify potential deviations from the spend plan; and
- analyzed reported ARP Act obligations prior to, and after, expirations of section funds.<sup>21</sup>

## VA's Compliance with the Transparency Act Biweekly Reporting Requirement Could Be Improved

The Transparency Act section 2(a)(2) states

Every 14 days during the period beginning on the date on which the plan under paragraph (1) is submitted and ending seven days after the date on which the Secretary has expended all covered funds, the Secretary shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report detailing the obligation and expenditure of, and the planned uses for, such funds during the period covered by the report, including a written justification for any deviation in such obligations, expenditures, or planned uses from such plan.<sup>22</sup>

In other words, the act requires VA to submit biweekly reports to Congress on its obligations, expenditures, and planned uses of funds beginning 14 days after the plan is submitted to Congress (or January 5, 2022) and ending seven days after VA has expended all covered funds.

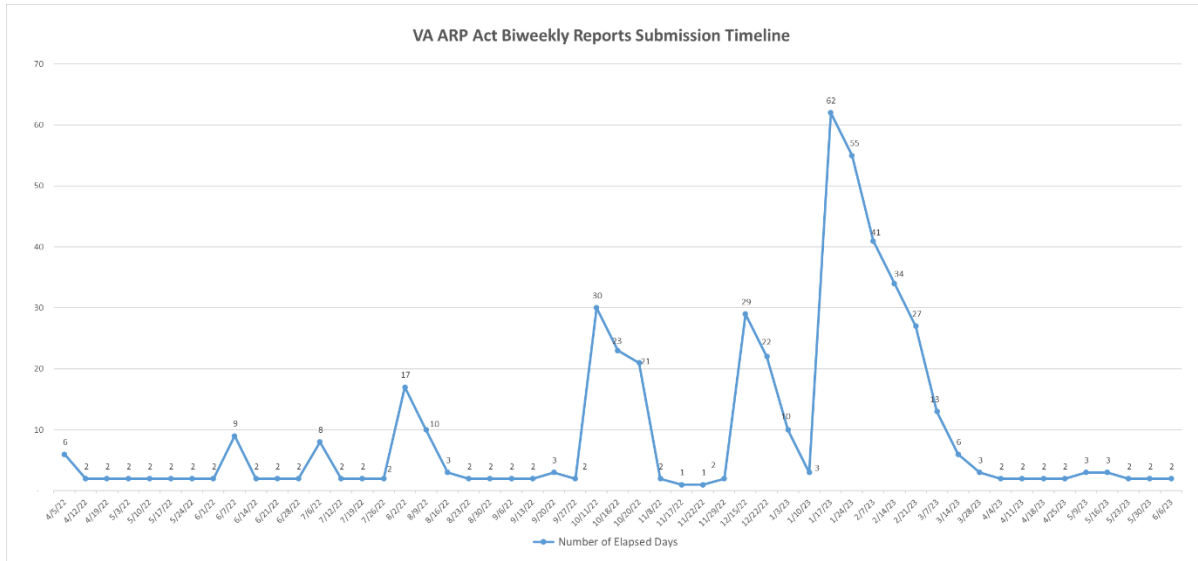
The team reviewed VA's reporting and identified periods without consistent ARP Act reporting. Additionally, the team analyzed VA's submissions of biweekly ARP Act reports between April 5, 2022, and June 6, 2023, and found that VA generally submitted its reports within

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<sup>21</sup> For more information about the review's scope and methodology, see appendix B.

<sup>22</sup> VA Transparency & Trust Act of 2021 § 2(a)(2).

three days after the end of the reporting period with some exceptions. Although VA communicated delays in reporting and ultimately ensured all biweekly reports due to Congress were provided through the June 2023 biweekly report, several reports were delayed for more than 30 days, as shown in figure 1.



**Figure 1.** Number of elapsed days between the end of the reporting period and the submission of each report for VA’s biweekly ARP Act reports from April 5, 2022, until June 6, 2023.

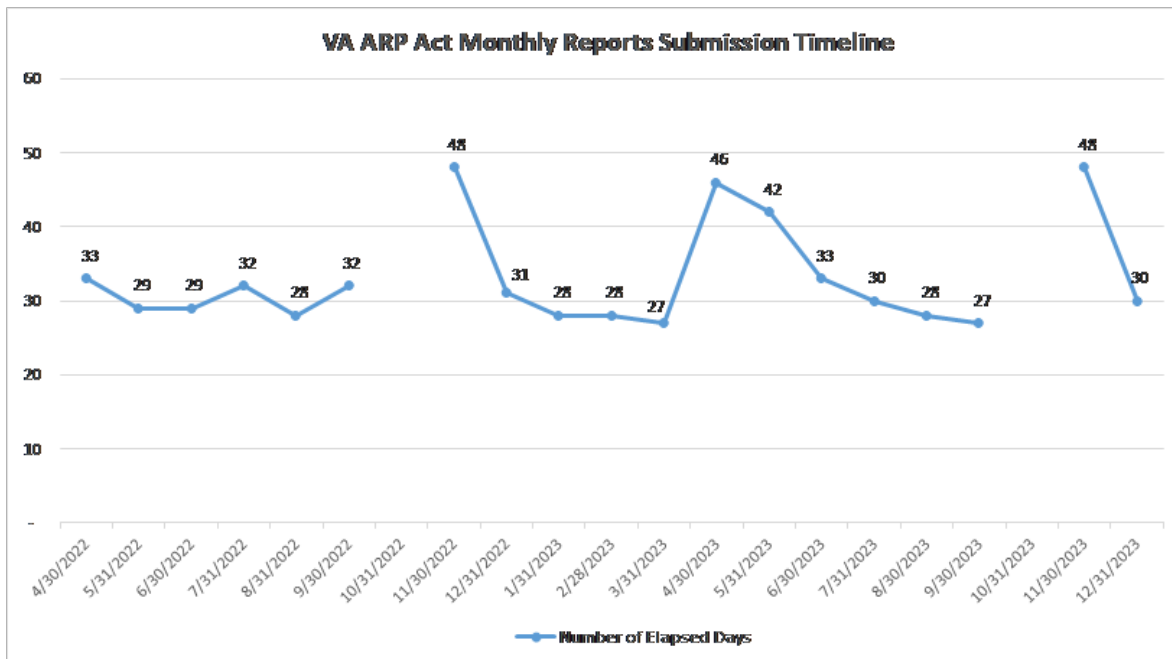
Source: VA OIG analysis of VA’s ARP Act biweekly reports submissions.

Since the June 2023 biweekly report, VA has not provided biweekly ARP Act reports to Congress. However, the team found VA generally provided monthly ARP Act reports through the December 2023 monthly report and that—with minor differences due to timing of the week’s or month’s end—the monthly reports were similar to biweekly reports. Though VA was not required to submit monthly ARP Act reports, the information could be used concurrently with the biweekly reports to further review VA’s obligations and expenditures. The OIG identified a similar occurrence in its September 2023 semiannual report regarding VA’s CARES Act reporting.<sup>23</sup> The OIG had found that although VA stopped providing biweekly CARES Act reports to Congress after September 13, 2022, it generally continued to provide monthly CARES Act reports (the most recent being December 31, 2023).<sup>24</sup> The OIG did not consider this a significant deviation, as VA’s monthly CARES Act reports were similar to the biweekly reports with minor differences due to timing of the week’s or month’s end.

<sup>23</sup> VA OIG, [VA’s Compliance with the VA Transparency & Trust Act of 2021 Semiannual Report: September 2023](#).

<sup>24</sup> Under the Transparency Act, VA was not required to provide monthly reporting. However, section 20002 of the CARES Act (enacted March 27, 2020) required VA to submit monthly reports for all covered funds appropriated in the CARES Act to Congress and to detail obligations, expenditures, and planned activities until September 30, 2021. VA has generally continued to submit monthly reports through December 31, 2023, with the exception of monthly reports for October and November 2023.

The team reviewed VA's monthly reporting and found VA generally provided reports within 33 days after the end of the reporting period as shown in figure 2, but some monthly reports were delayed as long as 48 days or were not provided.



**Figure 2.** Number of elapsed days between the end of the reporting period and the submission of each report for VA's monthly ARP Act reports from April 30, 2022, until December 31, 2023.

Source: VA OIG analysis of VA's ARP Act monthly reports submissions.

The team found that monthly reports were not consistently available, as VA did not provide reports for October 2022 and October 2023. Although VA did not provide the October 2022 monthly report, biweekly reports for that time frame met the Transparency Act requirement. However, as VA has not provided biweekly reports (since June 2023) or the October 2023 monthly report, Congress has limited awareness of ARP Act obligations and expenditures.

VA stated that it received approval from Congress to deviate from the biweekly reporting requirement but, as of February 22, 2024, has been unable to provide documentation to support the deviation. Further, VA explained that it deviated to monthly reporting based on Standard Form 133, as the form provides more accurate execution data.<sup>25</sup> The OIG noted that VA's use of the form to provide monthly reporting is consistent with historic ARP Act monthly reporting. VA also explained that October reports were not produced as Standard Form 133 is not published for the month of October. The OIG considers VA's exclusion of October reporting due to the form's publication schedule a deviation from compliance with the Transparency Act reporting requirements. Specifically, as VA deviated to monthly reporting—rather than biweekly

<sup>25</sup> VA Financial Policy, "VA's Budget Cycle and Fund Symbols."



reporting as required by the Transparency Act—VA’s reporting should be consistent throughout the reporting period. In other words, if the form is not published for October, then VA’s Transparency Act compliance is at risk. Without consistent biweekly or monthly reports, the OIG and other external parties may not be able to continue to conduct reviews of reported and actual obligations and expenditures.

### ARP Act Spend Plan Obligation Schedule Deviations Do Not Affect VA’s Compliance with the Transparency Act

VA’s ARP Act spend plan provides an obligation schedule for each section detailing what funds were obligated as of FY 2021 and were planned to be obligated for each quarter of the fiscal years for which those funds were available through FY 2023. In this semiannual report, the review team continued its spend plan and report comparison through September 30, 2023, the last quarter identified in VA’s ARP Act spend plan obligation schedule. Table 3 illustrates the obligation schedule that VA reported to Congress through FY 2023 compared to actual obligations from VA’s September 2023 monthly report to Congress.<sup>26</sup>

**Table 3. ARP Act Spend Plan Obligation Schedule and September 2023 Monthly Report Obligations**

Section	FY, quarter	Planned obligation totals (\$ millions)	Reported obligation totals (\$ millions)	Reported-to-planned obligation (%)
8001	2022, 3	84	37	44.2
	2022, 4	191	146	76.7
	2023, 1–4	272	270	99.4
8002	2022, 3	6,854	6,552	95.6
	2022, 4	10,290	9,687	94.1
	2023, 1–4	14,482	14,482	100.0
8003*	2022, 3	0	7	0
	2022, 4	0	24	0
	2023, 1–4	0	24	0
8004	2022, 3	732	745	101.9
	2022, 4	750	749	99.9
	2023, 1–4	750	749	99.9
8005†	2022, 3	7	4	59.6

<sup>26</sup> As previously discussed, VA has not submitted biweekly reports to Congress for ARP Act funds since June 6, 2023.



Section	FY, quarter	Planned obligation totals (\$ millions)	Reported obligation totals (\$ millions)	Reported-to-planned obligation (%)
	2022, 4	10	9	95.0
	2023, 1–4	10	10	100.0
8006	2022, 3	298	151	50.7
	2022, 4	351	203	57.8
	2023, 1–4	386	349	90.5
8007	2022, 3	724	248	34.3
	2022, 4	963	980	101.8
	2023, 1–4	1,000	980	98.0
8008	2022, 3	18	26	143.3
	2022, 4	18	26	143.3
	2023, 1–4	18	26	143.3
<b>Total</b>	<b>2023, 1–4</b>	<b>16,918</b>	<b>16,890</b>	<b>99.8</b>

Source: ARP Act spend plan obligation schedules and monthly reports of allocations according to the spend plan as of December 22, 2021, and reported obligations through September 30, 2023 (since enactment).

Note: Amounts are rounded. Total obligations do not match table 2 (which was based on VA's December 2023 monthly report) as table 3 is a comparison between the ARP Act spend plan obligation schedule and reported ARP Act obligations as of September 30, 2023 (the fourth quarter of FY 2023).

\* Though the spend plan obligation schedule did not provide information for section 8003, VA did report obligations through September 30, 2023.

† As previously discussed, the team cannot make an independent assessment of section 8005 funds to the OIG; therefore, the information in table 3 is for informational purposes only.

The review team found that VA's total obligations of about \$16.9 billion represented almost 100 percent of the planned obligations as of the last quarter of FY 2023. Of those reported obligation totals, all sections except 8003 had reported obligations representing at least 90 percent of planned obligations, thereby indicating VA was generally adhering to its obligation schedule.

Although it appears some section funds were overobligated—in other words, these section funds were over 100 percent during the FYs and quarters, as shown in table 3—this is only due to a comparison of reported obligations against the ARP Act spend plan obligation schedule. For example, section 8008 was seemingly overobligated at 143.3 percent as of September 2023 (representing about \$26 million) when reported obligations were compared to the obligation schedule. However, as the total allocated funds for this section are \$80 million (shown in table 2), the OIG does not consider this a significant deviation because the section funds at expiration were not fully obligated.

For section 8003, VA did not provide obligation details in its December 2021 spend plan schedule. Specifically, no allocation plans were disclosed for FY 2021, and plans for FY 2022 stated that the VA's chief acquisition officer would conduct an enterprise-wide strategic analysis of VA's supply chain to include an assessment of the Defense Medical Logistics Standard Support/LogiCole system. However, before VA's strategic analysis of its supply chain modernization efforts was completed, the Consolidated Appropriations Act of 2022, section 256, rescinded \$76,105,000 from the ARP Act effective March 15, 2022.<sup>27</sup> Therefore, VA's remaining funds of \$23,895,000 could be obligated by September 30, 2022 (the expiration of this fund as shown in table A.2, appendix A). The team found VA obligated 100 percent of section 8003; therefore, the OIG does not consider this a significant deviation from the spend plan.

The team determined VA was generally meeting its planned schedule of obligations because most sections reported obligations representing at least 90 percent of planned obligations. Though the team identified deviations from the spend plan for sections 8003 and 8008, the OIG does not consider these significant deviations as VA's reported obligations complied with either the rescission of ARP Act funds (section 8003) or did not exceed the total allocated funds under the ARP Act as of expiration (section 8008).

## **VA's ARP Act Obligations That Were Near Expiration Fluctuated Widely, Which Diminished Transparency**

As previously discussed, VA's ARP Act reporting has not been fully compliant with the Transparency Act since the June 2023 biweekly report. Although VA's monthly reports provide additional information, the reports have not been submitted consistently. The reports provide updates on VA's use of ARP Act funds and inform Congress and other external parties of remaining obligations and expenditures. Further, reports may be used to identify areas of concern for expired funds and funds that are available until expended.

### **VA's Obligation Financial Policy**

VA's obligation financial policy informs VA staff how to establish, maintain, and reconcile obligations.<sup>28</sup> According to the policy, there are three phases of an appropriation life cycle:

- **Current.** The appropriation is available for obligation.
- **Expired.** The period of availability for new obligations has ended. Only liquidations or certain adjustments to previously incurred obligations are permitted.

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<sup>27</sup> Consolidated Appropriations Act of 2022, Pub. L. No. 117-103, 136 Stat. 49 (2022).

<sup>28</sup> VA Financial Policy, "Obligation," in vol. 2, *Appropriations Funds and Related Information* (May 2023), chap. 5.

- **Cancelled.** The funds are closed and may not be used for any purpose (five years after the end of its period of availability).

The period of availability is the period of time for which appropriations are available for obligation. Further, as confirmed by VA's Office of Management, "Once the funds period of availability is closed [VA] cannot obligate them and can only expend those funds." In other words, VA can only expend up to the obligated amounts as of fund expiration.

## **VA's Reporting of Expired and Expiring ARP Act Obligations**

The biweekly and monthly reports provide insight into VA's obligation and expenditure history. In the September 2022 semiannual report, the OIG found VA had underobligated funding for sections 8001, 8002, 8006, and 8007. The OIG did not consider this a significant deviation at the time but noted that as VA approaches fund expiration dates, it may rush to obligate the remaining funds, which could increase the risk of wasteful spending. As such, the team reviewed VA's reported obligations for all ARP Act sections to determine if VA rushed to obligate funds as it approached fund expirations.<sup>29</sup>

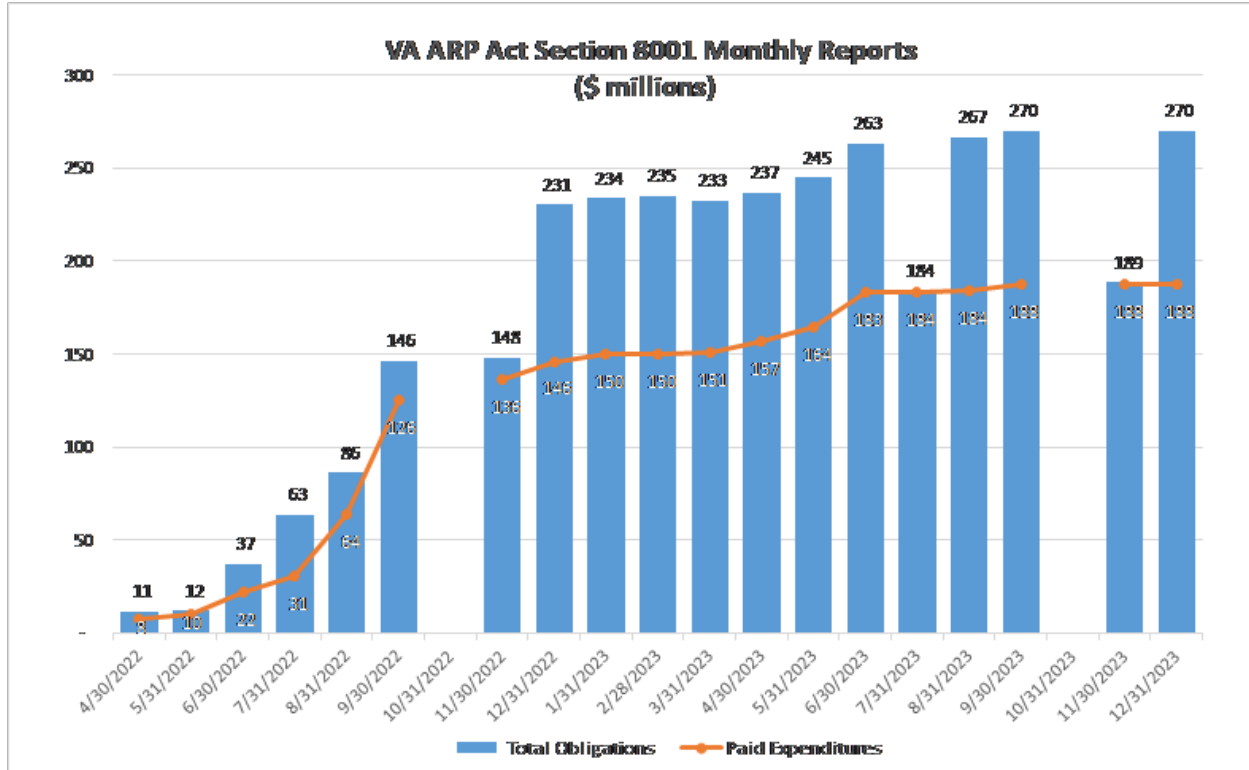
Section 8008 and 8004 funds expired on September 20, 2022, and September 30, 2022, (respectively) but were generally obligated by June 2022 (as shown in table 3) with incremental increases through expiration in September 2022. Therefore, the team determined VA generally did not rush to obligate its funds prior to expiration. Similarly, though section 8002 reported obligations increased by 22.2 percent in March 2023 and 13.2 percent in May 2023, there were only incremental changes prior to expiration in September 2023. As such, the OIG did not identify areas of concern regarding VA's reported obligations in advance of expiration for sections 8002, 8004, or 8008.

However, sections 8001 and 8002 reported increases and decreases in obligations prior to or after expiration on September 30, 2023. Section 8001 reported significant increases and decreases in obligations from July 2023 through December 2023 as shown in figure 3. VA explained that the fluctuations were due to "a scanning contract for approximately \$81 million that was deobligated and subsequently reobligated as part of a bid protest." Further, VA received guidance from the Office of General Counsel that, even though the appropriations had expired, VA had 100 days after the protest was resolved and the contract awarded to obligate the funds. The guidance indicated VA could do so as long as the contract requirements remained the same; therefore, because the bid protest has not yet been resolved, VA may deobligate and reobligate the contract funds under section 8001 according to the guidance. Similarly, for section 8002 funds, VA obligated almost 100 percent of its funds at expiration, but the next report (November 2023) shows that obligations decreased by about \$20 million, and the most recent report

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<sup>29</sup> Of the \$750 million appropriated funds for section 8004, \$250 million remained available until September 30, 2022, and \$500 million remains available until expended.

(December 2023) indicates an incremental increase of about \$1.9 million. VA stated the monthly fluctuations in its reporting of section 8002 obligations were due to its deobligation of funds following expiration. Further, to date, VA has not reported overobligations for these expired covered funds.



**Figure 3.** VA's obligations and expenditures (in millions) of ARP Act monthly reports from April 30, 2022, until December 31, 2023.

Source: VA OIG analysis of VA's ARP Act monthly reported obligations and expenditures.

Section 8008 expired September 20, 2022 (\$25,954,000 obligated), and VA reported cumulative obligations and expenditures of \$26,018,000 and \$26,071,000 in its October and November 2022 biweekly reports.<sup>30</sup> In other words, the obligations and expenditures reported in these biweekly reports exceeded the obligations at expiration. VA stated the discrepancy was caused by a fund code that was incorrectly included but took action to correct the fund amounts. Specifically, VA's reported obligations and expenditures reverted to \$25,954,000 beginning in its November 29, 2022, biweekly report (and November 2022 monthly report) through the most recent December 2023 monthly report. As such, the risk exists that VA may overobligate its funds and only through VA's reporting could Congress and other external parties be made aware of the risk.

<sup>30</sup> As early as November 8, 2022, VA reported section 8008 obligations at \$26,071,000.

Additionally, as there are funds that are available until expended (sections 8004, 8006, and 8007), VA's continued ARP Act reporting informs Congress of the status of remaining funds. For example, VA explained that obligations for sections 8004 and 8007 were complete but noted that section 8006 funding would be used for enrolled veteran housing allowance payments, tuition and fee payments, and equitable relief payments until the enrolled veteran gained employment.<sup>31</sup>

Overall, although VA has generally complied with the Transparency Act and its ARP Act spend plan, VA's failure to provide all required reports diminishes transparency and affects Congress's awareness of VA's use of expired, and expiring, covered funds.

## **The OIG's Transparency Act September 2023 Semiannual Report Recommendation Remains Open**

The September 2023 semiannual OIG report for the Transparency Act (issued on September 22, 2023,) provided the results of the OIG's comparison between planned and actual FFCRA obligations and expenditures. The OIG found that VA generally did not comply with its financial policies to process and authorize FFCRA expenditure transfers. Therefore, its execution and completion of expenditure transfers did not always provide an adequate audit trail to validate the transferred amounts. The availability of fully executed and complete supporting documentation is necessary to mitigate the risks associated with VA's reliance on manual transfer processes. Without that documentation, VA's financial reporting transparency is diminished.

The OIG made one recommendation to VA's under secretary for health to ensure that Veterans Health Administration fiscal staff are trained on the VA financial policy requirements for the preparation and approval of journal vouchers (including expenditure transfers). According to the assistant secretary for management and chief financial officer's action plan, the target completion date is June 2024.<sup>32</sup> On January 30, 2024, the OIG received the official response to close the recommendation; however, the OIG requested additional information based on VA's response to the recommendation. Therefore, the recommendation remains open.

## **Conclusion**

The review team found that VA's reporting of ARP Act obligations and expenditures could be improved as VA's last ARP Act biweekly report was submitted in June 2023. Although VA has provided ARP Act monthly reports, submissions have not been consistent through the present. Therefore, certain periods of ARP Act reporting are not available for review. The team found VA generally complied with the Transparency Act, as reported ARP Act obligations aligned to

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<sup>31</sup> For the ARP Act spend plan description of section 8006, see table A.2 in appendix A.

<sup>32</sup> VA OIG, [VA's Compliance with the VA Transparency & Trust Act of 2021 Semiannual Report: September 2023](#).

the spend plan obligation schedule as of FY 2023 with few deviations. The OIG determined the deviations were not significant, as VA's reported obligations complied with either the rescission of ARP Act funds (section 8003) or did not exceed the total allocated funds under the ARP Act as of expiration (section 8008).

As VA obligates ARP Act section funds that are currently available until expended, and spends section funds that have previously expired, the Transparency Act requires VA to continue providing reports to Congress for awareness. However, because VA has not consistently reported its ARP Act obligations and expenditures since June 2023, its accuracy and transparency in reporting has diminished and could be improved.

### **VA Management Comments**

The OIG provided VA with a draft of this report for review (comments were not required). On March 5, 2024, the Office of Management responded that it was not providing comments to the report.

## Appendix A: American Rescue Plan Act Spend Plan

### VA Entities

Table A.1 details the entities covered by the American Rescue Plan (ARP) Act of 2021 spend plan and those that are discussed in this report.

**Table A.1. Overview of VA Entities**

Entity	Description
Board of Veterans' Appeals	Considers and resolves decisions for appeals for veterans' benefits and services and conducts hearings and remands appeals for further development as required by law
National Cemetery Administration	Provides burial services to members of the armed forces, veterans, and eligible spouses and children
Office of General Counsel	Provides legal advice and services to VA
Office of Human Resources and Administration/Operations, Security, and Preparedness	Identifies access management, oversees law enforcement, and oversees emergency management and preparedness
Office of Information and Technology	Delivers available, adaptable, secure, and cost-effective technology services to VA and acts as a steward for VA's information technology assets and resources
Office of Management	Provides strategic and operational leadership in budget, asset enterprise management, financial management, financial management business transformation service, actuarial services, and business oversight and promotes public confidence through stewardship and oversight of business activities that are consistent with national policy, law, and regulations
Office of Management and Budget	Oversees and coordinates procurement, financial management, and information and regulatory policies to improve administrative management, develop better performance measures and coordinating mechanisms, and reduce any unnecessary burdens on the public
Office of Inspector General (OIG)	Conducts independent oversight of VA by conducting audits, inspections, investigations, and reviews that address fraud, waste, and abuse, as well as improve the efficiency, effectiveness, and integrity of VA programs and services
Veterans Benefits Administration	Provides various benefits and services to servicemembers, veterans, and their families, including compensation and pension, education, and loan guaranty
Veterans Health Administration	The nation's largest integrated healthcare system that serves over nine million enrolled veterans and provides contingency support during national emergencies

*Source: VA OIG analysis of information provided on VA websites and in the VA Functional Organization Manual.*



## ARP Act Sections

Table A.2 provides a brief overview of each ARP Act spend plan section.

**Table A.2. Overview of Sections**

Section	Section description according to the ARP Act spend plan	Fund expiration
8001	Claims and appeals processing funding is for improving hearing scheduling, supporting both short-term and long-term efforts to improve mail processing and intake, and providing support to manage appeals	9/30/2023
8002	Funding is for medical care, nonrecurring maintenance, equipment, veterans experiencing homelessness, readiness (including emergency management), Staff Sergeant Parker Gordon Fox Suicide Prevention grants, research, and information technology programs	9/30/2023
8003	Funding for supply chain modernization was not allocated or obligated for any program. VA explained it began an enterprise-wide strategic analysis of its supply chain to improve coordination and performance of its operations before obligating ARP Act funds	9/30/2022
8004	State home funding includes a one-time-only obligation and expenditure to existing state extended-care facilities for veterans in proportion to each state's share of total resident capacity and funds for construction	Available until expended or 9/30/2022
8005	Funding is for OIG audits, investigations, and other oversight of VA projects and activities using ARP Act funds	Available until expended
8006	Funding for the COVID-19 Veteran Rapid Retraining Assistance Program provides up to 12 months of retraining assistance to up to 17,250 eligible veterans for the pursuit of a covered program of education and shall be in addition to any other entitlement to educational assistance or benefits for which a veteran is, or has been, eligible <sup>33</sup>	Available until expended
8007	The prohibition on copayments and cost sharing for veterans during the COVID-19 pandemic reimburses any veteran who paid a copayment or other cost sharing during April 6, 2020, through September 30, 2021	Available until expended
8008	The Emergency VA Employee Leave Fund includes payments available to the VA for paid leave for any covered employee who is unable to work because the employee is subject to COVID-19 quarantine or isolation, caring for an individual experiencing COVID-19 symptoms and is seeking a medical diagnosis, obtaining immunization, or recovering from conditions related to COVID-19	9/20/2022

Source: VA OIG analysis of VA's ARP Act spend plan section titles and descriptions for general purpose information and fund expirations.

<sup>33</sup> To be eligible for this program, the veteran must be unemployed due to COVID-19, among other requirements.



## Appendix B: Scope and Methodology

### Scope

The review team conducted its work from September 2023 to February 2024. The review focused on all covered funds under the VA Transparency & Trust Act of 2021 (Transparency Act) for consideration of fraud, waste, abuse, or other matters, to include the Families First Coronavirus Response Act (FFCRA); Coronavirus Aid, Relief, and Economic Security (CARES) Act; and American Rescue Plan (ARP) Act of 2021. That said, the team limited its comparative analysis to VA's ARP Act spend plan and biweekly and monthly reports to determine whether VA complied with Transparency Act reporting requirements through December 31, 2023.

### Methodology

To assess VA's compliance with the Transparency Act, the team

- reviewed federal laws, regulations, VA policy, and supplemental information to policies to gain an understanding of what is required of VA regarding compliance with the act, the act's covered funds, and overall reporting requirements;
- reviewed VA's ARP Act biweekly reports to Congress, to ensure VA reasonably met all the basic requirements of section 2(a)(2) of the Transparency Act;
- examined VA's biweekly reports to Congress related to its use of ARP Act funds to determine whether VA presented any deviations from its spend plan and, if so, determine if justification was provided;
- made inquiries to VA and its administrations about their interpretations of the requirements of the Transparency Act, as well as about evidence that supports their assertions;
- conducted interviews with VA and its administrations' staff at multiple levels to understand the reliability of VA's assertions;
- leveraged existing and previous VA Office of Inspector General (OIG) work related to the ARP Act-covered funds and the OIG's reviews of VA's compliance with the Transparency Act to provide context for any other matters the review team determined were relevant; and
- collaborated and coordinated with other OIG teams within the Office of Audits and Evaluations and the Office of Investigations.

## Internal Controls

The team determined that internal controls were not significant to the review objective.<sup>34</sup>

## Fraud Assessment

In compliance with the Transparency Act, the team assessed the risk that fraud and noncompliance with provisions of law, regulations, contracts, and grant agreements, significant in the context of the review objectives, could occur during this review. The team exercised due diligence in staying alert to any fraud indicators by

- soliciting the OIG's Office of Investigations for indicators and
- reviewing the indictments and convictions that are published on the Pandemic Response Accountability Committee website.<sup>35</sup>

The OIG did not identify any instances of potential fraud during this semiannual review, but the team will stay alert to fraud indicators.

## Data Reliability

The team did not rely on computer-processed data to reach this report's conclusions.

## Government Standards

The OIG conducted this review in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*.

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<sup>34</sup> GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G, September 2014.

<sup>35</sup> As of September 2023, seven indictments or convictions were listed on the website of the Pandemic Response Accountability Committee—a committee of the Council of the Inspectors General on Integrity and Efficiency. "Reporting on Oversight" (web page), Pandemic Response Accountability Committee, accessed September 18, 2023, <https://www.pandemicoversight.gov>. The team exercised due diligence in staying alert to fraud indicators. Although the team identified potential risks associated with vendors charging for fraudulent COVID-19 or other medical testing, the team determined that the overall risk of fraud was low and did not require additional measures to test for fraud, waste, and abuse.

## OIG Contact and Staff Acknowledgments

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<b>Contact</b>	For more information about this report, please contact the Office of Inspector General at (202) 461-4720.
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<b>Review Team</b>	Gregory Gladhill, Director Danielle Aguilar Bobbie Duncan Jeffrey Lloyd Michael Reyes Preston Roland Mónica Vega Morales
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<b>Other Contributors</b>	Yvette Banker Jill Russell
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