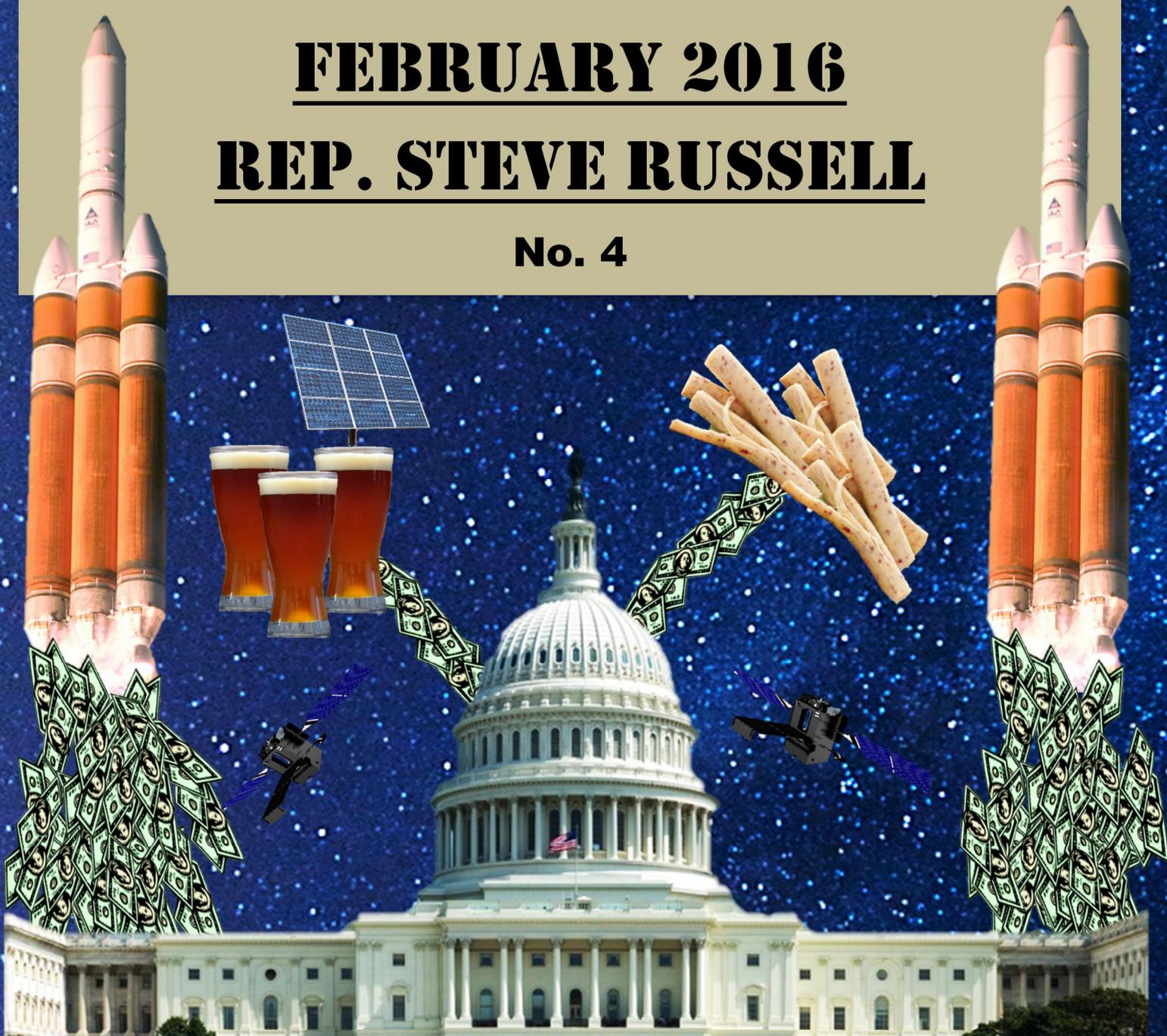


# WASTE WATCH

**FEBRUARY 2016**

**REP. STEVE RUSSELL**

**No. 4**





CONGRESSMAN  
**STEVE RUSSELL**  
REPRESENTING OKLAHOMA'S 5TH DISTRICT



February 2016

To the Citizens of the United States:

As the 114<sup>th</sup> Congress begins its second session, I am proud to announce *Waste Watch No. 4*, continuing my ongoing effort to document and publicize examples of misspending from throughout the federal government. The new report documents nearly **\$75 billion** worth of waste, cost overruns, and other misspending.

To put the size of this number into context, if this spending had been prevented, the DOD could have used the money to replace half the current aircraft carrier fleet with five advanced new Ford-class nuclear supercarriers, each with 18 brand-new F-35C Lightning II fighters.<sup>1</sup> These are not trivial amounts.

In its most recent budget update, the Congressional Budget Office made a sobering announcement: the annual federal deficit, which has been steadily falling since its peak in the 2009 recession, is on the rise again. Just a few months ago, CBO estimated the FY 2016 deficit would be \$414 billion; now, it puts the number for this year at \$544 billion. We have long known that deficits were expected to rise, but the new estimate indicates this will happen faster than anticipated. Previously, we were expected to reach trillion-dollar deficits again by FY 2025; now, we are expected to reach that point in FY 2022, just six years from now.<sup>2</sup>

About half of the new deficit spending is due to a weaker economic outlook. The other half is due to Congress' decision to increase spending caps and extend tax breaks at the end of 2015.

I voted against raising spending caps in the Bipartisan Budget Act of 2015 (BBA 15) in October 2015. However, I voted in favor of the "omnibus" in December, as it had no effect on the spending caps. The purpose of the omnibus was to decide how to spend the money, not how much to spend. I was impressed with the many strong provisions in the omnibus that, for the first time in years, asserted Congress' "power of the purse" to meaningfully shape the behavior of the federal government on issues ranging from abortion to gun rights to government mismanagement. I also believe it is important to reduce deficits by creating growth in the economy. The landmark provision in the omnibus that lifted the 40-year ban on petroleum exports will do just that in the long term.

The funding sections in the omnibus were what real appropriations acts should look like. The appropriations process is far more effective than the "continuing resolutions" of the past few years at correcting problems in the government like those featured in *Waste Watch*. For example, my office was alerted to allegations that the Department of Energy planned to build an unnecessary new \$37 million dollar "consolidated emergency operations center," even though the department already has several facilities for this purpose. My office conveyed the issue to the relevant appropriations subcommittee. I was pleased to see language subsequently added to the instructions accompanying the omnibus, clarifying that the act provided no funding for the proposed center, and shifting responsibility for the facility proposal to a different office.<sup>3</sup> The appropriations process is what makes detailed instructions like these possible.

I was disappointed the omnibus lacked provisions to reverse BBA 15 or defund objectionable government programs. I chose to vote based on what the agreement included, however, rather than what it was missing. The bill included significant, real conservative victories that moved the ball in the right direction, so I chose to vote for it.

That being said, the hard reality is we remain on a very serious, unsustainable fiscal path. The omnibus finally put Congress in a position of control over the budget; it is vitally important now that we strengthen that position, and use it to carefully prioritize spending to prepare for the extraordinary budget pressures our nation will face in the coming years. A good first step would be to address government waste like that outlined in *Waste Watch No. 4*.

Sincerely,

Congressman Steve Russell  
Lt. Colonel, U.S. Army (Ret.)

## **USDA Helps Sell Appalachian Moonshine**



Davis Distillery's "Appalachian Moon" line of moonshines

**In November of 2015, the United States Department of Agriculture (USDA) awarded the Davis Distillery a grant of \$250,000 “to process and market value-added spirits” and “expand the customer base.” The distillery opened its doors in 2000. Located in Rural Retreat, Virginia, the company produces legal moonshines, vodka, bourbon and brandy. In 2013 the Distillery began producing its “Virginia Frost” Vodka and “Appalachian Moon” moonshine.<sup>4</sup>**

**“This here is the real thing. Just like Pappy used to make,” the distillery’s website says of its 90-proof original moonshine. “It might whiff a little dangerous and it may taste a mite sinful but the taxes are paid on this jar.”<sup>5</sup> The distillery also offers strawberry, apple, cherry, and peach varieties.<sup>6</sup>**

The grant to the Davis Distillery is not the only one of its kind awarded to alcoholic beverage producers. The USDA awarded a total of 258 “value-added producer grants” to agriculture-related businesses in 2015. Out of the 258 grants, 41 of them—about one in six—were awarded to breweries, wineries, and distilleries. A total of \$4,699,944 was given to these businesses to expand their businesses and markets.<sup>7</sup>

Interestingly, the USDA’s own *Dietary Guidelines*, while acknowledging that alcoholic beverages can be included in a healthy diet in moderation, “does not recommend that individuals who do not drink alcohol start drinking for any reason.”<sup>8</sup> New drinkers, of course, would be important for alcohol producers to expand their customer base.

Although many Americans responsibly enjoy the products of breweries, wineries, and distilleries, there is no compelling public interest reason to use taxpayer money to promote these products. Nevertheless, every year the USDA and other agencies award dozens of grants directly to breweries, wineries, distilleries, bars, and other businesses in the alcoholic beverage industry.

Rather than picking and choosing which businesses to subsidize with targeted grants, the federal government should lower overall spending, taxes, and debt so that all businesses can thrive in the free market.

## **Diplomacy, Expert-Level: State Department-Funded Artists** **“Sell” Bags of Air and Blank CDs in Mongolia**



The artists attempt to “sell” bags of air and blank CDs to bemused locals at a black market in Ulaanbaatar

**In the summer of 2015, a State Department program sought to make a point about pollution in Ulaanbaatar, the capital city of Mongolia, by funding an “interactive art installation and mobile cart that ‘sells’ three items throughout Ulaanbaatar—fresh air collected from the countryside and packaged in plastic bags, the sound of silence provided on CDs, and livestock bones.”<sup>9</sup> The project was entitled “Everything for Sale, Art for Sale,” and was carried out in Narantuul, a black market in the capital city.<sup>10</sup>**

**The project is one of many funded by the American Arts Incubator program, which uses “new media” in communities throughout Asia to engage youth, artists, and the underserved. The purpose of these projects is to “advance U.S. foreign policy by addressing a local community issue.”<sup>11</sup> The State Department gave the program \$300,000 in FY 2015. The program has received a total of \$800,000 since FY 2013.<sup>12</sup>**

Other projects in Mongolia involved hanging bright curtains in Ulaanbaatar’s poor neighborhoods to create temporary social spaces, documenting the physical gestures of rural herders, such as milking cows and shoveling dung; and setting up a stand in poor areas to craft “boortsog” biscuits in shapes requested by passers-by.<sup>13</sup> The artists filmed their interactions in the poor areas and then screened the footage in the city center to highlight Ulaanbaatar’s poverty problems to the city’s middle and upper class residents.

The locals did not always respond quite as envisioned to being made into art projects. For the biscuit-making artists, “interactions varied—from grateful kids in poor ger districts requesting heart-shaped boortsog to alcoholics repeatedly

requesting lewd shapes.”<sup>14</sup> The nonprofit organization ZERO1, which currently implements the Incubator program, has also sponsored art projects in the Philippines, China, Vietnam, Indonesia, Laos, and Papua New Guinea.<sup>15</sup>

Although cultural exchanges have played a valuable role in advancing U.S. diplomacy—from the “jazz diplomacy” of the Cold War to the “ping pong diplomacy” with China—it is unclear how using oddball art projects to critique other nations’ social problems will help improve diplomatic relations. The State Department would perhaps be better advised to showcase American artists that are likely to appeal to the nations they visit.

## **Solar-Powered Beer [\$35,164]**



Short's Brewing Company celebrates the installation of the solar panels in a ribbon-cutting ceremony in August 2015

**The U.S. Department of Agriculture's (USDA) Rural Energy for America Program awarded a \$35,164 grant in 2015 to install a solar array at Short's Brewing Company in Elk Rapids, Michigan. The brewery advertises over 300 ales, lagers, IPAs, spiced beers, and others.<sup>16</sup> The business touts its brewers' "strong technical knowledge of how to incorporate unusual ingredients into traditional beer styles," boasting that it is "open minded to all beer possibilities."<sup>17</sup> The brewery says the solar panels will supply approximately 7 percent of the energy it uses annually.<sup>18</sup>**

A ribbon-cutting ceremony for the brewery's new solar array was attended by the USDA Rural Development State Director, who hailed the grant as an example of the agency "helping a value-added rural business become more environmentally sustainable," and U.S. Senator Debbie Stabenow, who stated, "Short's Brewing Company is helping to fuel Michigan's rapidly expanding beer industry that supports thousands of jobs across our state. With new solar panels to power production, Short's is also supporting Michigan clean energy manufacturers committed to reducing our nation's dependence on foreign oil."<sup>19</sup>

The push toward renewable energy is one of the most fragmented, uncoordinated efforts of the federal government. The Government Accountability Office found

an incredible 679 federal initiatives in FY 2010 related to renewable energy, spread across 23 agencies and 130 subagencies. A total of 345 of these initiatives were related to solar energy, with 31 solar-related initiatives in the USDA alone.<sup>20</sup>

With so many programs, there is high risk that multiple offices are spending time and resources on the same activities, wasting taxpayer money on redundant bureaucracies and causing confusion among beneficiaries.<sup>21</sup> If the federal government intends to continue promoting renewable energy, it must ensure programs like Rural Energy for America are not duplicating the work of other federal programs.

## **DOD Plans to Destroy Half a Million Tons of Ammunition and Explosives—Worth Up to \$16 billion**

Every year, the DOD transfers tens of thousands of tons of bullets, grenades, rockets, mortars, artillery, demolition equipment, missiles, and other ammunition to storage depots throughout the country to await destruction.<sup>22</sup> As of February 2015, the stockpile of excess, obsolete, or unusable munitions held over half a million tons of material, worth as much as \$16 billion.<sup>23</sup> Most of this stockpile is slated to be “demilitarized,” or destroyed.



Small arms ammunition

This enormous quantity is over and above the large reserves the DOD keeps on hand for wars and other contingencies. In total, the DOD manages about \$70 billion of conventional ammunition.<sup>24</sup> Funding for demilitarizing the unneeded ammunition is consistently inadequate, so the stockpile continues to grow.<sup>25</sup>

Little is known about how much of this stockpile is usable. Some may be appropriate for resale to civilians or foreign allies, but the DOD simply does not have adequate data about the condition of most of the stockpile to determine how much can be used. The DOD should do its best to fill this data gap to prevent unnecessary destruction of ammunition.

**At minimum, the DOD should make civilian-appropriate small arms ammunition available for sale to the general public. In many cases, even if the ammunition does not meet rigorous military standards, it would be more than suitable for target ammunition. It is far better to sell off this inventory than to let it spend years or decades taking up expensive storage space at additional cost, only to ultimately be destroyed.**

When the DOD determines that ammunition is beyond the department’s needs, obsolete, or unusable, it is transferred to U.S. Army facilities to await destruction, or “demilitarization.” The simplest demilitarization technique is open burning or detonation in a clear area. Smaller munitions may be fed into a closed incinerator, where they burn or detonate. Explosives with white phosphorous can be burned, the smoke collected, and then recycled into phosphoric acid for commercial sale. Explosive material

may also be mixed into a slurry to produce blasting charges for mining, or may be melted and drained from its shell, washed out with hot water, or rendered chemically inert with sodium hydroxide. The metal shells can then be recycled.<sup>26</sup>

Much of this ammunition is considered unsafe to use, but some is in good condition. The DOD does attempt to avoid destroying usable ammunition. Each of the service



“Bunker buster” bombs at McAlester Army Ammunition Plant in Oklahoma. The McAlester facility holds 123,000 tons, or almost a quarter, of the CAD stockpile.

branches, such as the Marines or Air Force, keeps substantial reserves of ammunition in their own stocks for a wide variety of contingencies.<sup>27</sup> When a service branch determines that ammunition is beyond its needs, however, it is made available to the other services. Since 1997, the service branches have saved \$1.3 billion by claiming surplus from other branches. Some ammunition may also be sold to foreign governments.<sup>28</sup> Ammunition that goes unclaimed, however, is transferred to the Army’s “conventional ammunition awaiting demilitarization and disposal” (CAD) stockpile, which is split among seven Army ammunition depots throughout the country.<sup>29</sup>

Prior to 2014, once ammunition entered the CAD stockpile, it was generally never used again. That year, however, the DOD committed to improving its ammunition-sharing systems, and directed the service branches to start checking the CAD stockpile for usable ammunition.<sup>30</sup> In 2015, DOD promised to develop a system to make small arms ammunition in the CAD stockpile more easily accessible to other government agencies, such as the Department of Homeland Security and U.S. Marshalls.<sup>31</sup>

Despite these initiatives, the CAD stockpile is enormous and growing, and most of it will eventually be destroyed. As of February 2015, the stockpile held 529,000 tons of conventional ammunition, which would cost roughly \$1 billion to store and dispose of.<sup>32</sup> An additional 583,000 tons will be added to the stockpile through FY 2020. The Army probably will not be able to destroy enough of the stockpile to offset the incoming material. For FY 2015, the Army planned to destroy only 68,000 tons of ammunition and 142,000 missiles and components, at a cost of \$114 million. Without policy changes, the stockpile could continue to grow every year indefinitely.<sup>33</sup>

One major obstacle to sharing from the CAD stockpile is the Army simply does not know which ammunition is usable. It is assumed that much of the material in the stockpile is there because something is wrong with it. Some ammunition may have been damaged, some may have exceeded its shelf life, and some may even be banned by current U.S. policy, such

as cluster munition. But some may simply be excess inventory that is perfectly serviceable.

Historically, once an item was in the stockpile, there was no reason to spend resources tracking its condition because it was slated to be destroyed. Now that DOD is working to share from the CAD stockpile inventory, however, it should start tracking the condition of new incoming stock.

The stockpile also continues to grow because DOD considers it a low funding priority. DOD estimated it would cost \$185 million annually just to destroy enough ammunition to offset all incoming material and reduce the stockpile by 3 percent. Yet, it only requested \$114 million for demilitarization for FY 2015. One reason the DOD is in no rush to destroy the stockpile is it is much cheaper to store ammunition for another year than to destroy it. DOD estimates average storage costs at about \$42 a ton, but average demilitarization costs at about \$2,000 per ton.<sup>34</sup> That means DOD could hold ammunition for decades for less than the cost of destroying it. Nevertheless, DOD destroys as much of the stockpile as possible every year with the funding available.

DOD is expected to share primarily with the Department of Homeland Security. DOD should also work to make low-caliber sidearm ammunition available to state and local law enforcement. It should be much more cautious about donating ammunition that is rarely needed outside a military context, such as 50-caliber, high-explosive, and armor-piercing rounds. The over-militarization of police departments is a legitimate concern, and DOD should not exacerbate it. However, the DOD could explore selling this material to foreign allies.

If there is no legitimate law enforcement or military need for material in the CAD stockpile, and it cannot be sold to a trusted ally, it should be destroyed as soon as possible. Taxpayers are wasting tens of millions of dollars every year to store material that is unlikely to ever be used. The Army



Ordnance being demilitarized in Iraq using controlled open detonations.

also points out the CAD stockpile consumes valuable storage space, noting that “for every ton of conventional ammunition demilitarized, approximately 7 to 9 square feet of covered storage space can be opened to store ammunition required by the warfighter.”<sup>35</sup>

Accurate data on the condition and age of the ammunition is important so unusable ammunition can be destroyed first, and usable ammunition can be shared or saved for future use. It may not be worth the cost to determine the condition of the entire CAD stockpile, but the Army should collect as much data as practicable. DOD should also explore faster, lower-cost demilitarization strategies.

Finally, DOD must answer the obvious question: why is the military buying so much ammunition that it ends up not needing? As any soldier knows, a generous reserve of ammunition is generally a good idea. When the military ends every year with thousands of tons of excess bombs and bullets, however—over and above the large contingency reserves held by the service branches—it may be a sign our acquisition strategy needs to be improved. The Army alone, which has direct control of the CAD stockpile, requested over \$1 billion to procure new ammunition for FY 2016.<sup>36</sup> The DOD should do its best to reduce this sum through better estimates of future needs.

## **USDA Subsidizes “Meat-Infused String Cheese” \$250,000!**



Burnett Dairy's meat-blended string cheese

**The U.S. Department of Agriculture awarded a quarter-million dollar grant to a Wisconsin cheese manufacturer in 2015 to “help expand the sales of meat infused string cheese.”<sup>37</sup> Burnett Dairy Cooperative is a well-established business which touts its employees’ “Master Cheesemaker” certifications in “Mozzarella, Colby, Monterey Jack, Fancy Jac and Cheddar cheeses.”<sup>38</sup>**

**The dairy advertises several flavors of string cheese with “natural meat blended in,” including “zesty teriyaki,” “pepperoni pizza,” and “hot pepper beef.”<sup>39</sup> According to one press report, the dairy will also be collaborating with Jack Links to create a “string cheese product with a beef stick in the center.”<sup>40</sup>**

There are at least 89 different cheese manufacturers in Wisconsin alone.<sup>41</sup> There is no logical reason to give a quarter-million dollar federal subsidy to one while leaving the others out. Doing so simply rewards the businesses that can write the best-looking federal grant applications and best appeal to federal bureaucrats.

While Burnett Dairy deserves credit for trying out a new entrepreneurial innovation, the USDA should not be

risking taxpayer dollars on this venture. Meat-stuffed string cheese may very well be the next big thing in cheesy snacks, but it is the role of private industry to assess the likelihood that consumers will want this new product, and to determine the appropriate amount to invest in it. Federal agencies simply do not have the market expertise to make this call, nor is it their constitutional role.

# **DOD is Cutting Back on Oversight of \$59.7 Billion Military Space Launch Program**

The Evolved Expendable Launch Vehicle (EELV) is the military and intelligence services' primary program for launching navigation, reconnaissance, weather, and military communications satellites into orbit.<sup>42</sup> The Air Force, which runs the program, can choose from a variety of rockets to deliver EELV payloads, including three versions of Boeing's Delta IV, two varieties of Lockheed Martin's Atlas V,<sup>43</sup> and SpaceX's Falcon 9.<sup>44</sup>



An Atlas V rocket launches from Cape Canaveral Air Force Station

When the EELV program began in 1996, its primary goal was to reduce the cost of launching satellites into orbit.<sup>45</sup> Since that time, however, the cost of the program has escalated dramatically. Originally projected to cost \$18.4 billion over its lifetime, the program is now expected to cost \$59.7 billion through 2030, more than three times that amount. The number of launches planned for the program, meanwhile, has dropped from 181 to 165.<sup>46</sup>

Innovation is not easy, especially with space technology. The Air Force has struggled for years to control the EELV program's cost escalation, but complete control over costs and schedules is often simply not possible. Nevertheless, there are some risks that are avoidable. This year, the Air Force introduced competition into the program with the certification of SpaceX to compete for satellite launches, which is a positive step. However, the new competitive approach also greatly reduces the government's ability to monitor and oversee contractors' work, potentially exposing taxpayers to new risks of technical mistakes and cost escalation.<sup>47</sup> The Air Force should ensure it has adequate oversight over contractors' work to minimize these risks.

A major reason for the cost escalation since 1996 was that key assumptions in the original cost estimate simply turned out to be untrue. The Air Force expected strong private-sector demand for Boeing's and Lockheed's rockets to emerge in the 2000s, allowing the contractors to develop economies of scale and bringing the price of launches down for the government. No significant private market ever materialized, however.<sup>48</sup> The Air Force also expected competition between Lockheed and Boeing to control costs. In the early 2000s, however, DOD discovered Boeing had

illegally obtained thousands of Lockheed documents related to its EELV program. Boeing was fined \$615 million, lost \$1 billion worth of launch contracts, and could have been liable for billions more in damages from Lockheed. Lockheed said it would drop its charges, however, if a proposed merger between Boeing's and Lockheed's launch operations was approved. The DOD favored the merger, believing it would save taxpayer money due to shared infrastructure, and the Federal Trade Commission approved it in 2006. The two companies' launch operations were

consolidated into a new joint venture, the United Launch Alliance (ULA).<sup>49</sup> The ULA continued to build both the Delta IV and Atlas V families of rockets because the DOD required two lines of launch vehicles in case there was a problem with one of them. The two companies no longer competed, however. From 2006 to 2015, ULA held a monopoly on the EELV program.<sup>50</sup>

The current ULA contract is not only sole-source, it has no firm dollar limit. Many parts of the contract are considered “cost-reimbursement,” meaning DOD essentially reimburses the contractor for all appropriate expenses. To ensure expenses are in fact appropriate, DOD continually collects detailed data about ULA’s operations through six DOD-compliant business systems. The systems also help ensure ULA stays on schedule and maintains quality standards. Implementing the systems was extremely difficult; all six were not fully approved until July 2014, eight years after ULA’s creation. The systems hold ULA accountable to its government overseers, but they can only make ULA as efficient as the government itself. The EELV program’s continually-escalating costs made clear that was not enough.

To harness the power of private-sector efficiency, competition was required. In May 2015, after a nearly two-year process, SpaceX was certified to compete for EELV launches.<sup>51</sup> The first competitive launch contracts will be awarded early next year. The cost-reimbursement contract with ULA, which pays for the capability to launch eight missions per year through 2019, remains in effect, but the Air Force intends to award all new contracts competitively.

These competitive contracts will be “firm-fixed-price,” meaning the price of the contract generally will not change, regardless of the contractors’ expenses. Detailed monitoring of contractors’ expenses is therefore no longer considered necessary. It is assumed the government will receive a fair price as long as adequate price competition exists. SpaceX and other potential competitors will therefore not need to undergo the arduous process of implementing DOD-approved business systems. Contractors will still submit some data, but it will not be the same level of detail as before.

The Government Accountability Office (GAO) has raised several concerns about the loss of detailed data. GAO points out that only two competitors for the program currently exist, and it is by no means certain that the market for space launches can sustain even those two.<sup>52</sup> The government may remain the only significant customer for launch providers in the foreseeable future, and government demand is not expected to grow. Air Force officials have said DOD launch requirements in the long term will either remain steady or potentially decrease. The Air Force is currently researching the launch industry and how best to support it. In the event one of the competitors is unable to bid on a contract, however, DOD should be prepared to return to the rigorous oversight required for sole-source providers.

The new approach also poses a challenge for ensuring mission success and safety, known as “mission assurance.” Under the sole-source ULA contract, the Air Force plays a large role in mission assurance, using the DOD-approved business systems to review hardware, software, and procedures. Under the new approach, the Air Force reviews the contractor’s mission assurance policies during certification, but for the actual launches, the contractor is responsible for performing mission assurance on its own. The contractor will forfeit one-fifth of its contract payment if the launch fails—other than that, the Air Force has little ability to ensure the quality of the contractor’s work.



An unmanned SpaceX Falcon 9 rocket explodes during a June 2015 launch.

Despite an otherwise-solid safety record, SpaceX did have one catastrophic launch failure during a resupply mission to the International Space Station (ISS). Previously, SpaceX’s Falcon 9 had successfully completed seven unmanned resupply missions to the ISS. The accident showed, however, that space launches remains a difficult and unpredictable business. Another potential future competitor for the EELV program, Orbital ATK Inc., also suffered a rocket explosion in 2014 during an ISS mission.<sup>53</sup> The EELV program is responsible for billion-dollar national defense satellites that are impossible to insure. The Air Force should do everything possible to protect these payloads.

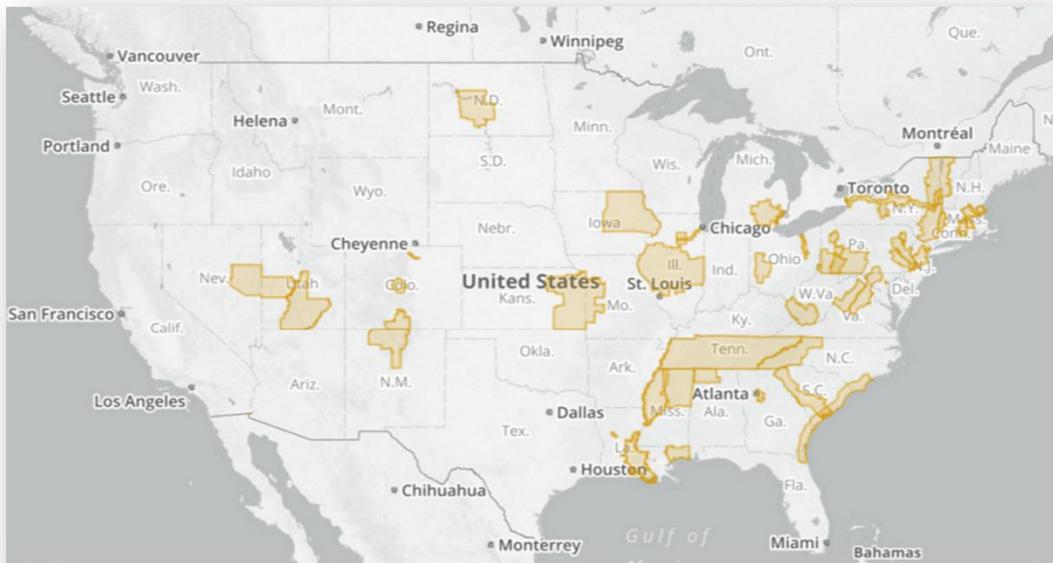
Even with competition, other factors could influence both competitors to increase their prices. Firm-fixed-price contracts are “usually only appropriate for acquiring goods or services with reasonably definite requirements and minimal performance uncertainty,” according to GAO. “If requirements are vague, the contractor bears a greater amount of risk, and its proposed price in its contract offer will likely be inflated to account for this risk.”<sup>54</sup> The Air Force is confident it has made its requirements very precise. Rocket launches are highly complex, however. If the contractors see risks for unplanned expenses on the horizon, both bidders may inflate their prices to account for the risk. Taking into consideration the limited competition in the launch industry, the high cost of mission failure, and the risk that bidders will inflate their bids, the Air Force should be cautious about treating the EELV program like an ordinary competitive program. Market competition alone may not be sufficient to deliver reliable launches at a fair price. More

robust oversight is important to ensure the success of the competitive approach.

Requiring all competitors to use the full-fledged DOD-approved business systems, however, is not an ideal solution. ULA took eight years to fully implement the systems; if other companies were required to do the same, it would be very difficult for competitors to enter the market.

It will be a challenge to develop balanced oversight mechanisms that do not unduly discourage new competitors. In light of the EELV program's history of explosive cost growth, however, strong oversight is necessary to ensure the sustainability and success of the space launch program in the coming decades.

## **Congress Preserves History—by Hanging onto a Relic of the Earmarking Era (\$71.5 million)**



Picking winners and losers: Heritage Partnership Program grants are only available for projects in one of the 49 congressionally-designated “Heritage Areas.”

**Over the past three years, the National Parks Service (NPS) has doled out nearly \$52 million in grants for 49 “National Heritage Areas” (NHAs) throughout the country.<sup>55</sup> The grants support a variety of local projects within the NHAs, such as visitors’ centers, hiking and biking trails, forest conservation, or historic building restoration.<sup>56</sup> The federal government generally does not own the land within a heritage area. Most of the areas include multiple counties, covering large swaths of the state they occupy. Congressional appropriators have allocated another \$19.8 million for NHAs in FY 2016 alone.<sup>57</sup>**

**There is no particular logic, historical or otherwise, to selecting areas for “National Heritage Area” status. Mississippi and Utah each have two NHAs, while the neighboring states of Arkansas and Arizona have none. New Jersey has one; Delaware has none. Pennsylvania has *seven* NHAs, two of which overlap and one of which is shared with three other states. North Dakota has the “Northern Plains National Heritage Area,” while South Dakota, Montana, and Wyoming have no NHA. One NHA covers the *entire state of Tennessee*. The state of Kentucky, meanwhile, though no less historically important than its southern neighbor, does not have a single county within an NHA.<sup>58</sup>**

Many NHAs make sub-grants to other organizations, making their spending particularly difficult for federal officials to monitor. North Carolina's Blue Ridge NHA, for example, awarded \$170,000 in grants in 2015, including \$7,000 for a "historical archive and a self-guided driving tour of old barns;" \$5,000 for a "documentary film about Madison County master fiddler Roger Howell;" \$6,500 to "support the development of a traveling exhibit on dulcimer makers;" and \$10,000 for "renovations to two historic barns to create an indoor stage and dance hall for traditional music events."<sup>59</sup> NHAs are essentially arbitrary designations of Congress, created piecemeal over the past three decades by an assortment of standalone bills and provisions tucked into spending and omnibus lands bills.<sup>60</sup> Every NHA has its own enacting statute, its own rules, and its own rationales for existence. The Mississippi Hills NHA, for example, which covers about a third of the state, boasts of its sweet potatoes and dairy cows, a major siege the occurred in the area during the Civil War, and various notable personalities with ties to the region, such as Elvis, John Grisham, Ida B. Wells, and Oprah.<sup>61</sup> This is not to be confused with the Mississippi Delta NHA, an "agricultural region where cotton was once king" and "the land where the Blues began, where Rock and Roll was created and where Gospel remains a vibrant art."<sup>62</sup> While the contributions of these regions are not to be discounted, there are many other states and regions that are no less important, yet lack NHA status.

As a result of the arbitrary standards for becoming an NHA, NPS is exceedingly vague in its descriptions of the areas; the agency says NHAs are "designated by Congress as places where natural, cultural, and historic resources combine to form a cohesive, nationally important landscape."<sup>63</sup>

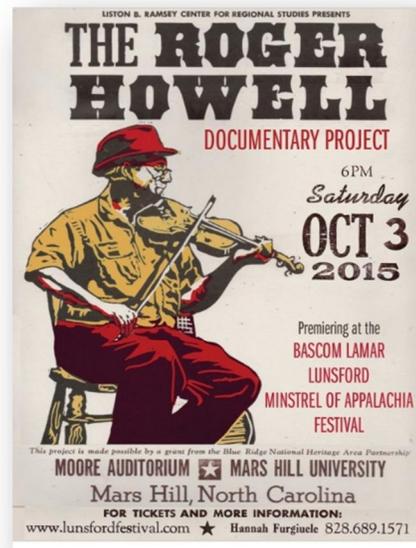
Clearly, Tennessee is not more "nationally important" than Kentucky, nor does North Dakota have significantly greater "natural, cultural, and historic resources" than South Dakota. The areas that have won NHA status are not necessarily those with the most historical merit, but those with the best-organized local supporters and advocates in Congress. In other words, NHAs are a classic example of the old congressional "earmark" culture. While both the House and Senate have banned official earmarks, relics from the heyday of pork barrel spending still persist in the form of these congressionally-designated areas.

NHAs receive federal funding through the Heritage Partnership Program. Most Heritage Areas may receive up to half of their funding from the federal government; the rest is provided by the local partner organization responsible for managing the NHA.<sup>64</sup> The federal

contribution was originally intended as "seed money" to help these local organizations get started,<sup>65</sup> but today, NHAs created as long as 30 years ago still depend on federal funding.<sup>66</sup>

Every single year since releasing its FY 2011 budget justification, the National Park Service has called for cutting federal funding for NHAs by at least half, explaining the reduction is needed to let the agency "focus on those park activities that most closely align with its core mission" and warning that the local partner organizations "continue to rely heavily on Federal funding, even though the program was not intended as a pathway to long-term Federal funding."<sup>67</sup> The Congressional Budget Office (CBO), meanwhile, has suggested eliminating funding for NHAs entirely.<sup>68</sup> Despite the Park Service's protests, Congress has continued to provide federal money for the program. NPS is now restructuring the program to reward NHAs that perform well and can sustain themselves on their own,<sup>69</sup> but NHAs will most likely continue to rely on federal funding until Congress stops providing it.

The House Appropriations Committee acknowledged in 2015 that "Heritage areas were never intended to receive Federal funding in perpetuity,"<sup>70</sup> but the "omnibus" spending bill nevertheless provided \$19,821,000 for NHAs in FY 2016.<sup>71</sup> The bill even lengthened the authorization and raised the spending cap for several NHAs.<sup>72</sup> Congress should instead refocus on transitioning NHAs toward self-sufficiency, as was originally intended.



One NHA spent \$5,000 of its federally-subsidized budget for a documentary about "master fiddler" Roger Howell.

# **Rushed Schedules and Lowball Cost Estimates Lead to Delays and Cost Escalation in \$18.9 Billion Air Force Surveillance Satellite Program**

The U.S. Air Force's Space Based Infrared System (SBIRS), when complete, will consist of six satellites designed to detect launches of short, medium, and long-range ballistic missiles. Developed primarily by Lockheed Martin, the satellites' infrared sensors detect and track the heat from the missile's hot exhaust. The system will provide data to help bring down threats like intercontinental ballistic missiles (ICBMs) before they strike their target, and will also provide intelligence to conventional battlefield commanders to quickly detect short-range missile launches so that missiles can be intercepted and mobile missile launchers destroyed before they relocate.<sup>73</sup>



A Space Based Infrared System (SBIRS) satellite

Unfortunately, the system is years behind its initial timetable and billions over its original budget. Originally, the system was intended to consist of five satellites costing \$5.2 billion, the first of which was to launch in 2002. A total of six satellites are now planned for the system, but the cost has more than tripled to \$18.9 billion. In addition, the first satellite did not launch until 2011, and the final satellite will not be ready for launch until 2021.<sup>74</sup>

Sadly, many of the delays and overruns actually resulted from attempts to save time and money. The pressure to reduce costs undoubtedly originated from Congress. These setbacks should remind Congress and the Air Force that when it comes to space technology, quality must remain paramount. Cost cannot be ignored, but mission success must be the top priority. This has traditionally been America's approach toward space exploration, and it should remain as a guiding principle as the military plays an increasingly significant role in U.S. space efforts.

The Government Accountability Office (GAO) details the many reasons for the dramatic delays and cost escalation of the SBIRS program since it began in 1996.<sup>75</sup> To begin with, satellite design and development began too soon. The Air Force had not adequately developed its requirements for what it wanted Lockheed Martin and other contractors to do, resulting in costly changes after design and development had started. The contractors, meanwhile, underestimated

the complexity of the job and were too optimistic about their own productivity, resulting in unrealistic cost and schedule estimates.

In addition, in 1998, the Air Force decided to delay satellite launches by two years to fund other DOD priorities. As the planned schedule unraveled, both the government and contractor were overwhelmed, resulting in a breakdown of

management. It later emerged that for one of the satellite designs, the program “tried to achieve efficiencies by cutting back on detailed design analyses and component testing,” resulting in design problems that had to be reworked.<sup>76</sup> For another satellite design, a major battery had to be replaced at a cost of \$15 million, and the solar cell panel had to be modified.

Software development was one of the largest underlying problems in the program. Management did not understand the complexity of software programming, and put developers on an overly aggressive schedule. The rushed schedule increased costs due to overtime expenses, and ultimately only caused more delays because developers did not have enough time to test and analyze software.<sup>77</sup> In 2007, the flight software for the first satellite failed, resulting in \$414 million in new costs and 15 months in additional delays.<sup>78</sup>

There have also been significant delays in developing the ground control system for SBIRS. Although the first satellite has been in orbit since 2011, as a result of the delays on the ground, the military will not be able to collect usable data from a critical sensor on the satellite until 2016, over five years after its launch. The SBIRS satellites will not be fully operational until 2018, when the final segment of the ground system is complete.<sup>79</sup>

In addition, because the system has been in development for over 18 years, some of its technology is already obsolete. By the time the final satellite is launched, this technology will be decades old. Unfortunately, because the Air Force did not design the satellites to be easily adaptable to new technology, attempting to upgrade the parts in the new satellites would add hundreds of millions in costs and years

in delays to the project, so the Air Force plans to keep the outdated parts in place.<sup>80</sup>

Ironically, the emphasis in recent decades on cost cutting and efficiency has actually contributed to cost overruns and delays. “Space is unforgiving,” explains a report by two DOD science boards. “Thousands of good decisions can be undone by a single engineering flaw or workmanship error, and these flaws and errors can result in catastrophe. Mission success in the space program has historically been based upon unrelenting emphasis on quality. The change of emphasis from mission success to cost has resulted in excessive technical and schedule risk as well as a failure to make responsible investments to enhance quality and ensure mission success.”<sup>81</sup>

The report also cites the strong bias among contractors to produce unrealistically low cost estimates. The lowball bids offered by overly-optimistic competitors “seriously distort management decisions and program content, increase risks to mission success, and virtually guarantee program delays,” according to the report.<sup>82</sup>

Cost considerations cannot be ignored in today’s fiscal environment. All programs, including the Air Force’s space programs, should constantly be exploring ways to accomplish their mission at a lower cost. Congress, agency leaders, and contractors should not allow cost-cutting efforts to undermine quality, however. Doing so could end up costing more in the long term, contributing to egregious cost overruns and delays like those that have plagued in the SBIRS program. It is far better to determine the true cost of the program up-front and pay what is necessary to do the job right the first time.

## **Oklahoma Gas Station Owner Receives Surprise Six-Figure Windfall from Federal Government**



The Compressed Natural Gas station in Moore, OK

**The owner of more than a hundred 7-Eleven stores in Oklahoma was surprised to receive a payment for “well over \$100,000” from the U.S. Treasury in December. Mr. Jim Brown owns one Compressed Natural Gas (CNG) filling station at a 7-Eleven location in Moore, OK, and received the payment because of an IRS tax credit program to subsidize sellers of the alternative fuel. Although the credit is technically a tax provision, it often results in actual payments from the Treasury. The credit is worth 50 cents per gasoline gallon equivalent (GGE) sold, enough to zero out the 18.3-cent federal excise tax on CNG and provide an income tax credit or direct payment for the remaining amount.<sup>83</sup> The payment was for the CNG sold at the 7-Eleven location in 2015.**

**The reason for Brown's surprise? The credit for CNG was not part of the tax code for most of 2015. The program had expired at the end of 2014. Brown had therefore made his business plans with no expectation of receiving the credit. Congress, however, renewed the credit in December 2015, making it retroactive to tax year 2015. The IRS therefore sent Brown a payment for his station's CNG sales as if the program had never expired. Brown notified the office of Congressman Russell of the payment, pointing out this financial incentive could not possibly have motivated him to sell more CNG, since he did not know he would be receiving it when the sales took place. Feeling the money should be returned to taxpayers, Brown directed the station to lower its price by 50 cents until the funds from the payment were expended.**

"We don't need a government handout to run our business," Brown said in a statement to the office of Congressman Russell. "Somebody or some corporation was able to slide language into the omnibus tax measure that would pay people like us retroactively for gallons (gges) we had already sold in 2015. This kind of lunacy doesn't happen by accident. It's no wonder people have zero trust in government. We don't want to be part of that. It's not in our DNA."

The credit was one of numerous tax incentives that originally expired on December 31, 2014. The responsibility for the retroactive extension of these provisions in 2015 lies with the 113<sup>th</sup> Congress in 2014, which failed to address the expiring policies before the end of the year. Instead, Congress waited to renew the policies as part of the December 2015 "omnibus," making them retroactive to tax year 2015. The omnibus renewed these tax incentives at least through 2016, which will prevent another retroactive extension this coming December.

Brown deserves credit for his candor. Numerous businesses routinely claim lucrative tax breaks for activities they would have happily done without a tax break, such as research and development, renewable energy investment, and investing in underprivileged areas. These situations are sometimes called tax "windfalls." Industries rarely admit when these expensive provisions are not actually having much influence on their behavior, because Congress might respond by eliminating the tax break. The various corporate tax expenditures added up to \$131 billion in 2015,<sup>84</sup> but it is unknown how much of this amount is actually influencing business' decisions, and how much is essentially a giveaway for activities they would have done anyway.

The credit for CNG and other alternative fuels was initially created by a 2005 transportation bill, but has lapsed and been renewed three separate times since then. The Consolidated Appropriations Act, 2016, signed into law in December, renewed the credit for tax years 2015 and 2016.<sup>85</sup>



Brown posted a sign on the CNG station ridiculing Congress for the retroactive subsidy.

The CNG credit was not necessarily wasteful for all CNG stations. Every time the credit expired in the past, it was renewed well *after* the tax year was underway, and then made retroactive to that year. Many CNG owners likely expected the same to occur in 2015, and made their business plans accordingly. For these businesses, the *expectation* that the credit would be renewed may have influenced the amount of CNG they sold, and the price for which they offered it. When the payouts did occur, they would not necessarily be considered "windfalls."

Others, however, like Brown, made their 2015 plans with no expectation of receiving a payout, since the credit was not actually part of the tax code. The payments to these businesses was a pure windfall to them, and a complete waste to taxpayers, because it had no influence on their business decisions. It is impossible to know how many CNG station owners ignored the potential 50-cent credit when they made their business plans, but Brown's case proves that some did.

There are over 900 publically-accessible CNG stations in the United States,<sup>86</sup> and over 35,000 million cubic feet

(MMcf) of natural gas was consumed for vehicle use in 2014.<sup>87</sup> At 50 cents per GGE, total tax cuts and payouts for natural gas sales likely exceeded \$100 million in 2015.<sup>88</sup> A significant portion of this sum was likely wasted rewarding sales that would have taken place regardless of tax policy. Such waste occurs every year through the corporate tax code, through both permanent and expiring tax incentives.

The waste becomes particularly evident, however, when Congress retroactively extends tax incentives and sends unexpected payments to businesses like Brown's. The best way to prevent this waste is to overhaul the corporate tax code, eliminating as many special-interest tax incentives as possible and lowering the standard corporate tax rates for all businesses.

## **USDA Hands out Billions a Year to New Farmers and Ranchers—but After Three Decades, the Agency Still Does Not Know What the Money is Accomplishing**

**At least six different agencies within the U.S. Department of Agriculture (USDA) provide subsidies to “beginning” farmers and ranchers. Farmers who have operated a property for ten years or less can receive up to 90 percent of the cost of conservation projects, get federally-backed credit they would not be able to obtain in the private sector, and obtain grants to assist with production, training, marketing, and financial management. In FY 2014 alone, the USDA dedicated over \$2.5 billion to beginning farmers.<sup>89</sup>**



**As far back as 1982, however, the Government Accountability Office (GAO) pointed out that little was known about the effect this spending was having.<sup>90</sup> The USDA never fully addressed the problem, continuing to dole out assistance year after year with no clear idea how successful the money was in helping new farmers get their farms established. A USDA Inspector General (IG) report in 2015 concluded that “USDA cannot ensure that the \$3.9 billion of beginning farmers’ assistance in FYs 2012 and 2013 has achieved effective and measurable outcomes.”<sup>91</sup>**

A USDA advisory board flagged the same issue in 1999, 2004, and 2005. In 2007, GAO again cited USDA’s lack of performance measurements.<sup>92</sup> USDA promised reforms—but never finished implementing them. The 2008 farm bill even created a special new office with a budget of over \$1 million which, among other things, was intended to coordinate efforts to measure outcomes for the beginning farmers programs. USDA did not give the office the authority necessary to fulfill its mission, however.

Although the Office of Advocacy and Outreach (OAO) was intended to coordinate USDA’s various agencies, it had so little control that the agencies began sending low-level employees and even interns to OAO meetings rather than officials with authority to make commitments. Five years after OAO opened, it had done little to advance its mission.

The 2015 USDA IG report summed up the problem: USDA had no way of knowing whether “three decades of beginning farmers assistance has resulted in sustainable farming operations.” USDA kept some data, but it was often focused on outputs such as money spent, rather than results achieved. The IG pressed the agency to commit to firm deadlines to start measuring results, and the agency agreed to do so.<sup>93</sup>

In response to inquiries from the office of Congressman Russell, agency officials stated the IG’s recommendation had been “closed,” presumably meaning the agency has developed a plan to start measuring results. It now remains to be seen whether the agency will execute this plan, or continue to spend billions with no clear idea what it is accomplishing.

## **Office Upgrades for Head of Federal Shipping Regulator Sail Past Spending Limits [\$7,084]**



The Chairman of the Federal Maritime Commission spent \$3,100 for the commissioned artwork above.

**The Chairman’s spending included \$3,100 for a painting commissioned to recognize the agency’s 50<sup>th</sup> anniversary, more than \$1,700 for frames and mats for other pictures and paintings, \$1,260 for special recessed lighting for the artwork, and over \$6,000 for furniture for the Chairman’s office, conference room, and reception space.<sup>94</sup> In total, the former Chairman exceeded the spending limit by more than \$7,000.**

In his response to the IG, the former Chairman explained that when he took the position, the chairman’s office “had been vacant for nearly 2.5 years, with virtually no furniture or wall hangings, and needed a general update as it was the primary point of contact between visitors and the FMC.” He stated his understanding was the only items that counted toward the limit were the commissioned painting, the frames and mats, and a \$1,000 chair he purchased for his desk. The IG recommended FMC’s budget office improve its recordkeeping and communications related to the \$5,000 limit in order to avoid future problems. The budget office argued it was unclear how many of the expenses identified by the IG were legally subject to the limit, but concurred with the recommendations.

Since 2009, federal officials appointed by the president have been prohibited by law from spending more than \$5,000 during their tenure to “furnish or redecorate” their office, unless they notify Congress in advance. The Federal Maritime Commission (FMC), however, a small agency that regulates U.S. international ocean transportation, failed to adopt policies detailing the expenses that counted toward the limit.

As a result, an FMC Chairman who served from 2009 to 2013 unwittingly blew past the limit, spending over \$12,000 redecorating his office suite.

This expenditure is by far the smallest in *Waste Watch No. 4*. It is nevertheless important. Agency heads should lead by example. The proper management of money directly under the control of agency heads, such as personal office funds, can send a positive signal to budget managers throughout the agency to carefully steward the far larger sums of money under their control. Agency leaders, members of Congress, and the President himself should all take care to set a strong example for the federal workforce by using taxpayer money under their control appropriately.

## Appendix: Breakdown of \$75 Billion Total

Article Title	Description of Amount	Amount
USDA Helps Sell Appalachian Moonshine	Total value of the 41 Value-Added Producer Grants to wineries, distilleries, and breweries in FY 2015.	\$4,699,944
Diplomacy, Expert-Level: State Department-Funded Artists “Sell” Bags of Air and Blank CDs in Mongolia	Total value of three grants to ZERO1 from FY 2013 – FY 2015.	\$800,000
Solar-Powered Beer	Total value of federal grant to Short’s Brewing Company.	\$35,164
DOD Plans to Destroy Half a Million Tons of Ammunition and Explosives	Approximate value of all material in the CAD stockpile, if it is usable. The figure comes from an internal March 2015 report provided by Joint Munitions Command, U.S. Army, to Zina Merritt, Government Accountability Office. This number represents the total potential waste if all of the material is destroyed without knowing whether it is usable.	\$16,000,000,000
USDA Subsidizes “Meat-Infused String Cheese”	Total value of federal grant to Burnett Dairy Cooperative.	\$250,000
DOD is Cutting Back on Oversight of \$59.7 Billion Military Space Launch Program	The amount by which the total cost projections for the EELV program has increased.	\$41,300,000,000
Congress Preserves History—by Hanging onto a Relic of the Earmarking Era	Total value of actual National Heritage Area grants from FY 2013 – FY 2015, plus the total FY 2016 appropriation for the National Heritage Partnership Program.	\$71,334,393
Rushed Schedules and Lowball Cost Estimates Lead to Delays and Cost Escalation in \$18.9 Billion Air Force Surveillance Satellite Program	The amount by which the total cost projections for the SBIRS program has increased.	\$13,700,000,000
Oklahoma Gas Station Owner Receives Surprise Six-Figure Windfall from Federal Government	Minimum value of payment received by Mr. Jim Brown.	\$100,000
USDA Hands out Billions a Year to New Farmers and Ranchers—but After Three Decades, the Agency Still Does Not Know What the Money is Accomplishing	The amount which the USDA spent on beginning farmers and ranchers in FY 2012 and 2013, but could not show effective and measurable outcomes, according to the USDA IG.	\$3,900,000,000
Office Upgrades for Head of Federal Shipping Regulator Sail Past Spending Limits	The amount by which the FMC chairman exceeded the legal limit on personal office expenses.	\$7,084
<b>Total</b>		<b>\$74,977,226,585</b>

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- <sup>3</sup> “Division D-Energy and Water Development and Related Agencies Appropriations Act, 2016,” U.S. House Committee on Appropriations, <http://docs.house.gov/meetings/RU/RU00/20151216/104298/HMTG-114-RU00-20151216-SD005.pdf>
- <sup>4</sup> “Welcome to Davis Valley Distillery,” Appalachian Moon Corn Whiskey Moonshine, <http://www.appalachianmoon.com/distillery.html>
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- <sup>6</sup> “Shines,” Appalachian Moon Corn Whiskey Moonshine, <http://www.appalachianmoon.com/shines.html>
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- <sup>10</sup> “Everything for Sale,” Xiaowei Wang, YouTube, Published July 23, 2015, <https://www.youtube.com/watch?v=wMw7oDQHMu8>
- <sup>11</sup> “American Arts Incubator,” Bureau of Educational and Cultural Affairs, U.S. Department of State, <http://exchanges.state.gov/us/program/american-arts-incubator>
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- “Art Boortsog,” ZERO1, American Arts Incubator, <http://americanartsincubator.org/exchanges/mongolia/art-boortsog>
- <sup>14</sup> “Art Boortsog,” ZERO1, American Arts Incubator, <http://americanartsincubator.org/exchanges/mongolia/art-boortsog>
- <sup>15</sup> “Exchanges,” ZERO1, American Arts Incubator, <http://americanartsincubator.org/>
- <sup>16</sup> “Beer Portfolio,” Short’s Brewing Company, <https://www.shortsbrewing.com/beer/portfolio/>
- <sup>17</sup> “How We Make It,” Short’s Brewing Company, <https://www.shortsbrewing.com/beer/how-we-make-it/>
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- <sup>26</sup> Ibid.
- <sup>27</sup> See footnote 21. Ibid.
- <sup>28</sup> “Defense Logistics: Actions Needed to Improve Department-Wide Management of Conventional Ammunition Inventory,” Government Accountability Office, March 2014, <http://www.gao.gov/assets/670/662161.pdf>
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<sup>39</sup> “Everyday Artisan, Your Dairy Case Solution,” Burnett Dairy Cooperative, <https://www.burnettdairy.com/sites/default/files/assets/files/37-630-burnett-dairy-2015-product-catalog.pdf>

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<sup>41</sup> “Wisconsin Cheese Factories and Tours,” Wisconline, <http://www.wisconline.com/attractions/cheese.html>

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