



OFFICE OF INSPECTOR GENERAL
U.S. ENVIRONMENTAL PROTECTION AGENCY

**Protecting the American Taxpayer: Highlighting
Efforts to Protect Against Federal Waste, Fraud, and
Mismanagement**

**Statement of Sean W. O'Donnell, Inspector General,
U.S. Environmental Protection Agency**

**Committee on Science, Space, and Technology
U.S. House of Representatives**

April 19, 2023

Introduction

Good morning, Chairman Lucas, Ranking Member Lofgren, and members of the committee. I am Sean O'Donnell, the inspector general for the U.S. Environmental Protection Agency and the U.S. Chemical Safety and Hazard Investigation Board.

I would like to thank the committee for inviting me to testify about the EPA Office of Inspector General's efforts to protect the American taxpayer against federal waste, fraud, and mismanagement. Specifically, I will discuss our recent oversight work, the risks of improperly administered grants, our recent work pertaining to grant and contract fraud, the invaluable contributions of whistleblowers, anti-fraud provisions, OIG access, and our way forward for these priorities.

Summary of EPA OIG Oversight Work Over Past Year

The last two years have seen historic investments in the EPA's programs and operations. The Infrastructure Investment and Jobs Act provided the EPA with the largest single investment in its history, committing over \$60 billion for the nation's drinking water and wastewater infrastructure projects, clean school buses, and other cleanup projects, as well as an expanded EPA workforce. The EPA will award the vast majority of its IIJA funds as loans and grants to nonfederal entities. While the funding mechanisms might be familiar, such as the state revolving funds or the school bus programs, we are concerned about the capacity of these recipients to handle this money efficiently and effectively. For example, one state shared with us its apprehension that its SRFs will receive more money through the IIJA than they have in previous years combined. This is because, with the IIJA, the EPA will increase the size of the SRFs by approximately \$40 billion for a variety of water infrastructure projects. This money is on top of the nearly \$6.5 billion of American Rescue Plan Act funds that have been obligated for water infrastructure projects through the SRFs.

Separately, the Inflation Reduction Act appropriated a total of approximately \$41.5 billion to the EPA in fiscal year 2022, with approximately 85 percent of these funds available only through fiscal year 2026. This funding is expected to support 24 new and existing programs, representing a significant investment in climate change, air quality, and environmental justice. We anticipate that the IRA will result in awarding contracts and grants to new recipients, many of whom are unfamiliar with federal contract and grant requirements. To put the enormity of this undertaking in perspective, the EPA's annual appropriation in fiscal year 2021 was just over \$9 billion, or less than a tenth of the \$100 billion it received under the IIJA and the IRA.

During the past year, my office has risen to the challenge of overseeing significantly expanded EPA programs and operations. In November 2022, we issued a report focused on the security, both cyber and physical, of America's water systems, detailing how approximately 19 percent of water systems—the majority of which serve disadvantaged communities—did not certify completion of their risk and resilience assessments by the statutory deadline, meaning they may, unknown to the Agency, be vulnerable to cyberattacks and other malevolent acts, which could result in loss of service or unsafe drinking water. More fundamentally, we also found that the EPA did not have a system for maintaining and updating water system contact information for the purposes of communicating with the water systems about water security issues. In January 2023, we reported that the EPA was not on track to reach its national compliance initiative goals to stop aftermarket defeat devices and tampered vehicles. This is significant because the EPA estimates that between

2009 and 2020, emissions controls were removed from more than 550,000 diesel pickup trucks, resulting in the emission of an estimated 570,000 tons of excess oxides of nitrogen and 5,000 tons of particulate matter over their lifetimes. And in February 2023, we issued a report outlining how \$82 million for residential wood heater changeout programs may have been wasted because the EPA cannot ensure that the new wood heaters are actually cleaner than the ones they replaced.

We are also focused on providing oversight of how the EPA responds to and manages environmental emergencies. In May 2022, we published a follow-up report regarding the EPA's response to the water crisis in Flint, Michigan, detailing how the Agency did not fully address three of our original recommendations, which means public health is still at risk from lead in drinking water. In the coming months, my office will issue reports on a number of water emergencies, such as Jackson, Mississippi, where we are evaluating the EPA's response and oversight related to drinking water contamination and auditing state and local officials' decisions regarding the awarding of, and expenditures related to, nearly \$50 million in SRFs. We have already uncovered preliminary evidence that the EPA may have been instructing states such as Mississippi to ignore single audit findings for subrecipients like Jackson when making award decisions. These reports will be especially timely given that Mississippi's SRFs will reportedly receive nearly \$1 billion from the IIJA and ARPA and Jackson will receive nearly \$600 million in congressionally directed spending from the fiscal year 2023 appropriations. And over the past four months, we rapidly initiated inquiries into the EPA's response to the train derailment in East Palestine, Ohio, and the potential contamination of the Elm Point Wellfield drinking water source in St. Charles, Missouri.

During my tenure as inspector general, I have reoriented our investigative components toward fighting program fraud and protecting the integrity of the EPA and the Chemical Safety Board. Our Office of Investigations now works with federal and state law enforcement to prosecute criminal and civil fraud cases. As an example, an OIG investigation resulted in an EPA contractor's project manager pleading guilty last July to making false statements about the status of lead contamination at a city park near the Newton County Superfund Site in Granby, Missouri. Not only did our investigators play an integral part in identifying the criminal activity, they discovered further contamination that threatened the health of Granby residents. As a result, EPA Region 7 had to hire another contractor to perform an emergency remedial action. And as another example, during a False Claims Act investigation, our investigators identified an ongoing scheme to evade regulatory limitations on the participation of contractors in the proposal and bidding process, resulting in the cancelation of over \$10 million in grant funds. Our newly formed Administrative Investigations Directorate has also made noteworthy contributions to ensuring that tax dollars are used efficiently and effectively. For example, in September 2022, our administrative investigators alerted Congress and the CSB to significant impediments to the CSB's ability to fully and properly use the resources Congress had allocated to it.

Following enactment of the IIJA in November 2021, we immediately began laying the groundwork for oversight by, among other steps, releasing our inaugural *Infrastructure Investment and Jobs Act Oversight Plan* in April 2022. Since then, we have published several IIJA-related oversight products: the *Infrastructure Investment and Jobs Act—Overview of the EPA's Progress Since November 2021*, the *Compendium of Open and Unresolved Recommendations Related to Infrastructure Investment and Jobs Act-Funded Programs*, four "lessons learned" reports identifying past pitfalls the Agency should avoid as it completes its IIJA work, a number of management implication reports identifying issues related to grants management, and an IIJA oversight [webpage](#) with an interactive dashboard that allows users to see where and how the EPA

is disbursing IJIA funds. We currently have seven projects in progress that cover institutional controls at Superfund sites slated for IJIA cleanup funds, supply chain issues for funded projects, and capacity and management issues related to the state revolving funds. We also have at least six additional IJIA-funded oversight projects at the planning stage.

The IRA did not provide funding for oversight as the IJIA did. Furthermore, we have had to meet an increased demand for independent oversight with a dozen years of stagnant or declining appropriations. This has left us with insufficient capacity to properly oversee the EPA programs and operations created by the IRA. Still, we have one project related to the IRA underway, and our grant oversight work should help the EPA in preparing for the rapid distribution of IRA funds.

This sampling of recent work provides just an indication of the return on investment in oversight that the EPA OIG provides to the American taxpayer. Between fiscal years 2013 and 2022, this office's work yielded gains of over 300 percent. During the first half of fiscal year 2023, our workforce identified \$135 million in wasted spending, fraud avoidance, and other monetary benefits. Given historic levels of supplemental funding to the EPA through the IJIA and the IRA, the OIG has renewed its focus on grants management and fraud, which I will discuss in the sections below. Over the months and years ahead, we will only amplify the return on investment that Congress has entrusted to us.

Risk of Improperly Administered Grants and Contracts

According to the Agency's *Grants Management Plan 2021–2025*, the EPA awards approximately half of its annual budget in grants to states, local governments, federally recognized tribes, nonprofit organizations, educational institutions, and other eligible nonfederal entities to help the Agency achieve its mission of protecting human health and the environment. In any given fiscal year, the Agency typically manages approximately 6,000 active grants totaling approximately \$21 billion. However, with the influx of an unprecedented \$100 billion that the EPA is receiving in supplemental appropriations under the IJIA and the IRA, both the quantity and dollar amount of grants the EPA will award to nonfederal entities over the next few years have exponentially increased.

Grant money does not belong to the EPA, specifically, or the federal government, in general. It also does not belong to grant recipients. No matter how many hands the money passes through, it remains a trust held on behalf of the American taxpayer. By disbursing grants and contracts, the EPA empowers nonfederal entities—who have a “boots on the ground” knowledge of the land, water, and air issues impacting each U.S. citizen—to protect human health and the environment at the most local levels. However, the Agency remains responsible for, first, properly managing the passthrough funds and, second, ensuring that recipients use the funds as intended and in accordance with all applicable laws and regulations.

In testimony before the House Committee on Energy and Commerce, Subcommittee on Oversight and Investigations last month, I outlined weaknesses and gaps in the EPA's implementation of its IJIA and IRA work, particularly in regard to the sheer amount of money that the EPA will award in the form of grants and other assistance. For example, we anticipate that the EPA will award many IJIA and IRA grants and contracts to first-time recipients that are unfamiliar with federal contract and grant requirements. SRFs, which serve as banks for infrastructure projects, will receive an additional \$50 billion on top of their normal funds via the IJIA and other appropriations, and we

are reviewing whether the SRFs have the capacity to manage such an influx of funds effectively and efficiently. Also, our body of oversight work has shown the need for the EPA to institute three types of best-practice provisions: anti-fraud, fraud reporting and whistleblower protection, and OIG access. If the EPA does not address these issues now, risks of waste, fraud, and abuse become dramatically greater as the Agency attempts to not only execute its IJA and IRA work but also continue its everyday work.

In our experience, an improperly administered grants management program is a warning light that, once uncovered, is often bright red and blinking. First and foremost, it signals the absence of either capacity or care to be faithful stewards of taxpayer dollars. Second, it presages a lack of adequate internal controls, both financial and programmatic, that jeopardizes the Agency's progress toward human-health and environmental goals. So serious is our estimation of this issue that we have, for three years in a row now, identified it as a top management challenge facing the EPA: *Managing Business Operations and Resources*. Our body of work has shown that, even with regard to annual appropriations, the EPA is tested to create and maintain effective business operations for distributing billions of dollars in grants and contracts to states, tribes, and nongovernmental organizations. This challenge has been radically compounded by the unprecedented IJA and IRA funds flowing through the EPA to nonfederal entities to conduct infrastructure- and climate change-related work.

We recognize that the American taxpayers have been generous, and that this generosity places a duty on the EPA to act with integrity. As an organization, integrity is one of the OIG's most important values. For us, it is not enough that the EPA act with integrity, but that the American people *know* that it is acting with integrity. Our role, then, is to protect that integrity and the integrity of the programs that the American taxpayers fund. And the American taxpayers know the OIG is acting with integrity when our oversight is done independently and objectively, without interference from the Agency. I will discuss how we are rising to the challenge by identifying fraud vulnerabilities and educating stakeholders on fraud awareness. I will also discuss what the EPA needs to do to support our shared mission of preventing and detecting fraud, waste, and abuse. And finally, I will discuss outstanding issues with the EPA's grants management system that, if unaddressed, will significantly increase the possibility that the EPA will not be able to meet its mission of protecting human health and the environment.

Whistleblowers

Whistleblowers are the fulcrum of good governance and oversight, with prevention on one side and detection on the other. We want to prevent waste, fraud, and abuse from happening in the first place, but if prevention measures and internal controls fail, we want to detect wrongdoing as soon as possible so that we can take appropriate recoupment and other counter measures. And the key to the entire balancing act is the potential whistleblower, who may be an EPA employee, or an EPA grant recipient or contractor, or a member of the public—anyone who provides, consumes, or otherwise has knowledge of EPA services.

From my first day as the EPA's inspector general, I have underscored the importance of whistleblowers and whistleblower protections through OIG outreach. Annually, we commemorate National Whistleblower Appreciation Day by hosting a panel that draws more than 1,000 attendees and producing a video, available on our website and YouTube channel, about whistleblower protections. I also send out an agencywide message highlighting our role in encouraging whistleblowers and informing them of their rights. This slate of activities has garnered accolades

for the Agency. So strongly do I believe in the valuable role of whistleblowers that, as the concurrent acting inspector general at the U.S. Department of Defense, I reinvigorated an award program for whistleblowers under 5 U.S.C. § 4512, and, in the same vein, initiated a forthcoming program at the EPA OIG that will financially reward EPA employees who blow the whistle on waste, fraud, and abuse.

Our commitment to whistleblowers and whistleblower protection is reflected in our very structure. Early in my tenure at the EPA, I created an Administrative Investigations Directorate, consisting of attorneys and investigators dedicated to, among other things, encouraging whistleblowers and protecting whistleblowers through investigation. This directorate investigates allegations of whistleblower reprisal by contractors and grantees under 41 U.S.C. § 4712, as well as allegations of senior official misconduct by EPA and CSB leadership. In addition, over the last several months, I have met with state environmental officials and state auditors to discuss the OIG's oversight work and to stress the protections that federal law affords their subrecipients' employees.

Our audits and evaluations have also worked to vindicate whistleblowers. For example, last month, the OIG published a report outlining how the EPA deviated from its typical process when developing its perfluorobutane sulfonate, or PFBS, toxicity assessment, which ultimately resulted in the assessment being less protective of human health and the environment. In this report, we detail how the Agency did not heed staff who sounded the alarm that scientific integrity was being disregarded. Among our recommendations in the PFBS report is a call for the deputy administrator to strengthen the EPA's culture of scientific integrity, transparency, and accountability of political leadership actions when changes occur as a result of policy decisions. As the EPA does not agree with that recommendation, it remains unresolved.

We are also working with the EPA to ensure that it is meeting its responsibility to promote the reporting of suspected wrongdoing and to vindicate whistleblower rights. Last month, we issued a report identifying provisions that the EPA could add to its terms and conditions for grants and subawards. Chief among these were provisions specifically addressing contractors', grantees', and subrecipients' roles and responsibilities with respect to whistleblowers. To give an example of what this best practice might entail, the DoD's Research and Development General Terms and Conditions includes provisions that explicitly require the contractor or grantee to comply with the DoD's equivalent of 41 U.S.C. § 4712 and to inform its employees of their legal rights and protections. The DoD's terms and conditions also prohibit recipients from restricting the reporting of fraud, waste, or abuse. The EPA does not have any analogous provision in its terms and conditions for grants. We are also working on ensuring that recipients and subrecipients are aware of their duty to post the OIG Hotline poster.

Of course, whistleblower protection starts at the Agency, with EPA employees. While the EPA has a Whistleblower Protection webpage that refers visitors to the OIG's hotline and whistleblower protection coordinator, and disseminates an annual "whistleblower" notice to its employees, the only [internal whistleblower policy](#) is an interim order from 2000 that expired in 2001. We will work with the EPA to ensure that it has a policy that accounts for developments in whistleblower protection since the expiration of its interim order, including the Whistleblower Protection Enhancement Act of 2012 and the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017. We will also work with the EPA to ensure that it has a policy for protecting recipient or subrecipient whistleblowers and for implementing 41 U.S.C. § 4712.

One area of concern for us has been in the reporting of violations of the EPA's scientific integrity policies. Because the EPA relies on science to conduct its work, it devotes substantial funds to the work of employees, contractors, and grantees. The EPA's orders, manuals, and policies require that EPA employees immediately report allegations of scientific and research misconduct to the OIG, recognizing that only the OIG is authorized to conduct independent investigations and protect whistleblower confidentiality. Furthermore, the EPA's current Scientific Integrity Policy acknowledges that whistleblower protections are extended "to all EPA employees who uncover or report allegations of scientific and research misconduct, or who express a differing scientific opinion." These requirements apply to contractors, grantees, and other recipients through regulation and the EPA's terms and conditions for grants.

Over the past few years, we have learned that the EPA has been aware of several allegations involving scientific integrity policy violations. We learned of these allegations not directly from EPA personnel, but coincidentally through our audits and evaluations. For example, in the previously mentioned PFBS report we issued last month, we found that two Agency employees expressed scientific integrity concerns related to the January 2021 PFBS toxicity assessment to scientific integrity program staff in January 2021, but these were not relayed to the OIG before the first toxicity assessment was published on January 19, 2021. EPA Order 3120.5 and coordination procedures between the EPA's scientific integrity official and the OIG require the scientific integrity official, within seven days of learning about possible research misconduct involving, among other things, a risk to public health or safety, to report the allegation to the OIG. The scientific integrity official said that these allegations were not shared with the OIG because there was uncertainty about whether this concern fit the definition of "research misconduct."

The EPA is in the process of revising its Scientific Integrity Policy. A failure to bring misconduct allegations to the OIG has raised concerns for us regarding the reporting of misconduct to the OIG and the protections for those who report misconduct. Specifically, we have raised concerns that the new policy will not continue to recognize the OIG's independent role in investigating allegations of misconduct, mismanagement, censorship, retaliation, retribution, and reprisal, as well as identifying potential systemic scientific integrity issues through OIG audits or evaluations. And we have raised concerns that the new policy does not explicitly recognize whistleblower laws and the protections those laws offer, making clear that, among other things, the disclosure of censorship relating to scientific research or analysis is a protected activity. We will continue to work with the EPA to ensure that its scientific integrity policies protect the Agency from fraud, waste, and abuse and those who report fraud, waste, and abuse.

Finally, we have identified vulnerabilities to the EPA's systems that could threaten whistleblower protection. For example, in March 2023, we reported discovering, entirely by happenstance, that the EPA had granted an EPA employee access to the email box for our whistleblower protection coordinator. We also discovered that the EPA was aware of this unauthorized access and did not report it to us. To protect whistleblowers, we promptly addressed these vulnerabilities and implemented processes to prevent unauthorized access to sensitive information.

Anti-Fraud Provisions

Between the IIJA and the IRA, the EPA has been entrusted with \$100 billion to implement the most ambitious set of programs in its history. The IIJA will present capacity issues in the EPA's

and its recipients' ability to distribute and monitor \$60 billion. But in the OIG's estimation, the IRA and the \$40 billion it appropriated to the EPA carries more risk of fraud, waste, and abuse than the IIJA for two main reasons. First, the IRA creates more new programs than the IIJA, and new programs are inherently more prone to inefficiencies and errors than existing programs. Second, whereas most of the EPA's IIJA appropriations are no-year funds, the IRA appropriations have expiration dates ranging from the end of fiscal year 2024 to the end of fiscal year 2031. Specifically, \$27 billion of the EPA's \$41 billion in IRA funding, or 65 percent, must be spent by the end of fiscal year 2024, and another \$7.93 billion, or 19 percent, must be spent by the end of fiscal year 2026. The pace of this spending, when conducted by newly created programs and received by new recipients, significantly increases the vulnerability of all parties to fraud and creates a potential for errors or inefficiencies in execution.

An example of a new EPA program established under the auspices of the IRA is the Office of Environmental Justice and External Civil Rights. The programs and offices that were brought together to form the OEJECR previously had a combined budget of approximately \$12 million. It will now manage approximately \$3 billion for environmental and climate justice block grants to fund community-based nonprofit organizations. We are concerned that, in seeking to reach new recipients, the OEJECR will eschew or elide important internal controls and anti-fraud protections. To help ensure the integrity of these programs, our investigators and auditors have conducted 168 joint fraud briefings, reaching more than 3,700 attendees, including EPA staff members, potential grant recipients, and state environmental agencies, among other stakeholders. We are also meeting regularly with state and local environmental leaders to discuss fraud awareness and protection of water sector security. In fact, just last week, I spoke to over 200 state and local officials at the Council of Infrastructure Finance Agencies, describing how our investigators can assist them in ensuring that their agencies and their agencies' subrecipients act with integrity in executing. I also reminded them that the Federal Acquisition Regulation and the Uniform Grant Guidance require that they and their subrecipients must disclose credible evidence of wrongdoing.

The OIG has worked to improve awareness and facilitate compliance with federal laws, rules, and regulations. We recently made our redesigned hotline poster available on our website so that recipients can easily obtain and display it at job sites. And we are working to translate that poster into languages other than English, so that limited-English proficient individuals understand their rights and responsibilities. We have also developed a web-based portal for contractors, grantees, and subrecipients to disclose credible evidence of wrongdoing to the OIG.

We are collaborating with other law enforcement agencies and OIGs to protect taxpayer-funded projects receiving supplemental funds. For example, our investigators participate in the Procurement Collusion Strike Force, an interagency partnership that strives to deter antitrust violations and related crimes at the federal, state, and local levels. More than 50 agencies have reached out seeking training, assistance, and other opportunities to work with the Strike Force. As another example, within the Council of the Inspectors General on Integrity and Efficiency, we are part of a Grant Fraud Working Group and an IIJA Working Group, which share best practices for investigative approaches.

The EPA has an important role in our shared fight against fraud, waste, and abuse. In a report we released last month, we identified two areas where the EPA could improve its fight against fraud, waste, and abuse. The first area relates to how the EPA can help grant applicants better understand the criminal, civil, and administrative consequences of fraudulent conduct. While all applicants and grantees must attest and certify as to the accuracy of their applications, reports, and payment

requests, these attestations and certifications are currently simply “boxes to be checked” in the multitude of forms and questions that must be submitted during the life cycle of a grant. Best practices we have seen at other cabinet-level agencies, like the U.S. Department of Justice, state explicitly in their terms and conditions that making false, fictitious, or fraudulent statements may result in criminal prosecution and the imposition of civil penalties and administrative remedies.

The second anti-fraud provision identified in our recent report was requiring the reporting of credible evidence of violations of criminal and civil law to the OIG. Currently, the EPA’s terms and conditions only generally reference the regulatory requirements with which grantees must comply, including mandatory disclosure of credible evidence of wrongdoing. As with admonitions regarding violations of criminal and civil law in the terms and conditions, best practices observed at other cabinet-level agencies explicitly mandate disclosure of this evidence to their OIGs.

Just a few days ago, on April 13, we issued another report related to the EPA’s role in fighting fraud, waste, and abuse. This report shares our concerns regarding the risks that foreign gifts pose to EPA-funded grants and research. By way of background, after the U.S. Department of Education identified six universities that did not report more than \$1.3 billion from foreign sources, including China, Qatar, and Russia, the EPA OIG’s Office of Investigations collaborated with the National Science Foundation OIG and other federal law enforcement agencies to determine whether unreported foreign gifts could be linked to the EPA’s and the NSF’s federally funded awards. We found that the EPA only requires grant *applicants* to report foreign support. There is not a mechanism or requirement that grantees report any foreign support received after the EPA issues the award. In addition, while many federal agencies, like the EPA, have previously focused on avoiding financial conflicts, they have not given similar attention to guarding against scientific discoveries being passed to foreign adversaries.

We believe that the EPA should address these lapses in grants management to ensure full transparency from grant recipients. Separately, the Agency should require that our fraud awareness briefings be mandatory for all its grant and contract specialists, and that they attend a briefing every year. The Agency should also assist us in ensuring that contractors, grantees, and subrecipients post our hotline poster and that they are aware of their duty to disclose credible evidence of wrongdoing to the OIG.

OIG Access Authority

Timely, unabridged OIG access to people and materials is essential to independent and effective oversight. OIG access rights are enshrined in the Inspector General Act of 1978, as amended, which authorizes the OIG to have timely access to personnel and all materials necessary to complete our objectives. Similarly, EPA Manual 6500, *Functions and Activities of the Office of Inspector General* (1994), requires that each EPA employee cooperate with and fully disclose information to the OIG. Also, Administrator Michael S. Regan, in an April 28, 2021 email message to EPA employees, conveyed his “expectation that EPA personnel provide OIG timely access to records or other information” and observed that “full cooperation with the OIG is in the best interest of the public we serve.” And last year, at a meeting with my fellow inspectors general, President Biden made clear that the independence of IGs was to be respected and that the IGs would be allowed to investigate whatever those we deem necessary without interference.

To ensure that the \$100 billion entrusted to the EPA is distributed appropriately and monitored

successfully, the OIG will need to audit the performance of these awards and investigate allegations of wrongdoing. The Federal Acquisition Regulation and the Uniform Grant Guidance augment our subpoena authority by allowing us access to contractors, grantees, or subrecipients and their records pertaining to or involving an award. Other cabinet-level agencies, such as the DoD, enshrine this access right in their terms and conditions. In a report we issued last month, the OIG recommended that the EPA add this provision to its terms and conditions. Doing so will not only align the EPA with best practices but also ensure the timely accountability of funds being squandered or purloined.

Of course, recognizing OIG access to information starts at the EPA, and our struggles with access have been well-documented. For example, four years ago, this OIG issued a “Seven-Day Letter” to the EPA administrator, identifying a senior Agency official’s refusal to participate in investigation and audit interviews as interference with OIG independence. The administrator at the time sent the Seven-Day Letter to Congress, along with a memorandum from the EPA general counsel, adopting an unacceptably narrow interpretation of the OIG’s authority to access information and interview Agency personnel. Three committee chairs in the House of Representatives subsequently urged the Agency to withdraw the general counsel’s memorandum, observing that, “if accepted, [it] would eviscerate the authority of the Inspector General and undermine the ability of EPA to function in a transparent manner.” If left in place, this memorandum would have signaled to EPA employees that they do not need to fully cooperate with the OIG in the pursuit of its mission to detect and prevent fraud, waste, and abuse. The Agency withdrew the general counsel’s memorandum two years later, in April 2021.

To avoid another situation like what happened in 2019, Agency leadership must provide clear direction to EPA employees on their duty to ensure timely reporting of misconduct allegations to the OIG. Agency staff must also be clear on their responsibilities to cooperate with the OIG and to provide timely and complete responses to OIG requests for information. If the Agency does not innately hold the IG’s statutory access authority in high esteem, then it is not likely to hold its grantees and contractors accountable in that regard, either.

Grants and Contracts Management

Another area of concern that we have raised with the EPA is its management of grants and contracts. The scope of the EPA’s grants and contracts cannot be overstated. For example, through its SRFs and its Water Infrastructure Finance and Innovation Act lending, the EPA has funded over \$230 billion in water infrastructure projects. The IIJA and the American Rescue Plan Act will add nearly \$50 billion to the SRFs on top of their normal appropriations. This is a staggering large amount of money for a relatively small agency.

Over the past few years, the EPA OIG has issued several reports that, either by design or incidentally, touched upon grants and contract management issues. Often, our findings related to specific contracts, programs, and personnel, and in some areas, the Agency has successfully met its obligations. For example, in June 2022, we determined that the EPA’s Office of Wastewater Management could provide reasonable assurance that its loans under the Water Infrastructure Finance and Innovation Act were awarded and monitored in accordance with federal and EPA requirements. We also determined that those loans were used as intended to improve America’s public water infrastructure.

However, our oversight work, as well as the work of others, has identified a number of systemic issues related to the EPA's management and oversight of grants and contracts. For example, in 2020, in response to an OIG Hotline complaint, we conducted an audit of a specific contract administered by the Office of Water that revealed several issues, including that contracting and program staff did not follow established policies, procedures, and guidance for tracking funding decisions, reviewing and approving invoices, and inspecting records. Ultimately, neither the Agency nor the OIG could determine how the Agency allocated over \$10 million for that contract. Additionally, we uncovered that the contract-level contracting officer representative used over \$1.1 million to interchangeably pay invoices for the States of California and Hawaii. We conducted a follow-up audit to specifically focus on region-specific funding and invoice irregularities, discovering once again that the Agency did not follow established policy or obtain proper approvals when paying invoices. Because staff did not follow policy, we found that there was an increased risk that they could expend appropriated funds in ways that were inconsistent with their purposes and beyond the amounts available.

Part of oversight is identifying recurring or systemic issues, and we recently conducted work that provides a bird's-eye view of the Agency's management of grants and contracts. To help prepare the EPA to implement its IIJA work, we combed through past OIG, Government Accountability Office, and single audit work to identify recurring pitfalls for the Agency. We issued a series of "lessons learned" reports based on our analyses, with one specifically addressing how the EPA administers and oversees grant awards. In that report, issued last August, we identified three broad areas for improvement that repeatedly surfaced in oversight work conducted over a five-year period. First, the EPA should enhance its grants oversight workforce, as well as strengthen its monitoring and reporting of grants. Second, the Agency needs to establish clear guidance to monitor grants appropriately, including developing detailed work plans that identify how and when the recipient will use program funds to produce specific outputs and clearly communicating with grantees. And third, the EPA needs to implement additional or clarified controls for to ensure that grant recipients submit adequate documentation to support costs incurred under their grants.

Finally, our recent oversight work has identified systemic issues related to grants management that require technical solutions. We have found that the EPA did not have an electronic storage system for grant files. Instead, program offices and regions stored grant files in disparate ways—such as on local computer hard drives, in the Agency's email system, on shared drives, and even as hard copies. These disparate storage locations for documentation related to contracts and grants are part of a larger challenge the EPA has relating to data reporting. It is not surprising then, that in January, an EPA working group found that the Agency uses 55 different databases to store data about approximately 100 grant programs. From a data analytics standpoint, that many databases make it nearly impossible to consistently and comprehensively manage and report on grants and contracts. And from our perspective, it hinders effective oversight, limiting our ability to analyze historical bid data or identify suspicious transactions, among other things.

Conclusions

From our daily oversight work of Agency operations and programs to our redoubled focus on grants management in light of the IIJA and IRA, from whistleblower outreach to ensuring timely OIG access to all Agency materials, as well as proper oversight of scientific integrity misconduct issues, I am extremely proud of all my office has accomplished, has planned, and will continue to achieve on behalf of the American public.

As I have demonstrated in my testimony today, the EPA OIG is leading the fight against fraud, waste, and abuse. Moreover, we are doing so despite a decade of flat and declining budgets. Congress, recognizing the need for IIJA-focused oversight, provided us with dedicated funding under the IIJA, to be allocated across five years. We are grateful for this provision, and we are putting the money to good use. However, unlike other offices of inspector general, the EPA OIG did not receive supplemental funding under the IRA to carry out its oversight mandate. There is no question that oversight must be a critical arm in ensuring the integrity of expenditures by the EPA of an approximately \$41.5 billion allocation. Yet, comprehensive oversight of the IRA, under existing circumstances, will literally decimate our resources. On a positive note, the Agency supports a reprogramming of funds appropriated to the EPA for the OIG to do its work properly. converting some existing IRA dollars to provide dedicated oversight funding. I am hopeful that Congress will recognize the value in doing so and take timely action.

Biography: Inspector General Sean W. O'Donnell

Sean W. O'Donnell was sworn in as the Inspector General of the U.S. Environmental Protection Agency on January 27, 2020. The mission of the Office of Inspector General is to promote economy and efficiency at the EPA and the U.S. Chemical Safety and Hazard Investigation Board, as well as detect and prevent waste, fraud, and abuse related to the programs and operations of those two agencies. To this end, Mr. O'Donnell oversees a nationwide workforce of attorneys, auditors, special agents, and support personnel who support the Office's mission by providing evidence-based reports to the agencies, the public, and to Congress. For nearly three years, Mr. O'Donnell also served as the acting Inspector General of the U.S. Department of Defense, leading a work force of over 1,800 oversight professionals charged with providing independent and objective oversight of the world's largest organization.



Prior to becoming the Inspector General, Mr. O'Donnell spent 15 years at the U.S. Department of Justice, most recently as a prosecutor in the Criminal Division's Money Laundering and Asset Recovery Section. Over his career at the DOJ, he handled a wide range of criminal and civil matters, such as commercial and governmental fraud, corruption, and national security matters. In total, Mr. O'Donnell's work in fighting fraud helped return billions to the U.S. Treasury and brought numerous individuals and corporations to justice. Mr. O'Donnell received numerous awards and honors from across the U.S. Government, including the Department of Defense Medal for Distinguished Public Service and Attorney General's Award for Distinguished Service.

Early in his career, Mr. O'Donnell clerked on both the federal court of appeals and the federal district court. He also spent time in private practice, working on intellectual property and antitrust litigation, among other matters. Mr. O'Donnell is active in his community, having served on his city's redistricting and ethics commissions. His contribution to youth sports in his community has been recognized through awards and other accolades.

Mr. O'Donnell has a bachelor's degree in economics from Texas A&M University, a bachelor's degree in mathematics from the University of Washington, and a master's degree in economics and a law degree from the University of Texas at Austin.