



Oversight of Department of Transportation Programs

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Before the Appropriations Transportation, Housing and Urban Development, and Related Agencies
Subcommittee
United States House of Representatives

Chairman Cole, Ranking Member Quigley, and Members of the Subcommittee:

Thank you for inviting me here today to discuss the Office of Inspector General's (OIG) oversight of Department of Transportation (DOT) programs and activities. The Department's mission is to deliver the world's leading transportation system, serving the American people and economy through the safe, efficient, sustainable, and equitable movement of people and goods. Our office supports that mission by conducting investigations and audits on behalf of the American public. Each year, as required by law, we report on DOT's top management challenges to help the Department effectively manage its programs and operations, while also advancing its strategic goals. These goals include improving safety, supporting economic strength and global competitiveness, promoting equity and sustainability, fostering transformation, and strengthening organizational excellence.

As you know, the Department is now embarking on a significant effort to improve our Nation's infrastructure through the Infrastructure Investment and Jobs Act (IIJA),¹ which authorizes \$660 billion in transportation funding through fiscal year 2026. The volume of IIJA funds, coupled with the creation of new programs and priorities, presents significant implementation and oversight challenges. Simultaneously, DOT faces a shifting macroeconomic landscape with regard to inflation, labor, and supply chain issues. The impacts of the COVID-19 pandemic on the transportation industry and the Department's workforce—including DOT's oversight of more than \$106 billion in COVID-19 relief funding—present other challenges.

Accordingly, my testimony today will incorporate a discussion of the IIJA implementation and COVID-19 impacts within three top management challenge areas: (1) safety improvements, (2) stewardship of large-scale infrastructure investments, and (3) new transportation and workforce challenges.

Summary

Fundamental to DOT's mission is its commitment to making the U.S. transportation system the safest in the world. To meet this objective, the Department must address a number of new and ongoing challenges—from improving its aircraft certification and air carrier operations oversight to reducing motor vehicle and rail accidents while enhancing surface transportation safety program monitoring and enforcement. At the same time, a large influx of funding for large-scale infrastructure projects from COVID-19 relief and IIJA appropriations will require the Department to bolster its stewardship of taxpayer

¹ Pub. L. No. 117-58 (November 15, 2021).

dollars, including identifying and mitigating the risk of fraud. Finally, the Department faces new transportation and workforce challenges. These include managing the efficiency of DOT's workforce, addressing complexities in the National Airspace System (NAS), supporting innovation while advancing the safe integration of new technologies, strengthening cybersecurity, and implementing priorities to combat climate change and advance equity. We remain committed to helping DOT meet these challenges and maintain public trust in the Nation's transportation systems.

Background

Congress provided over \$106 billion to aid DOT's efforts to respond to and mitigate COVID-19 across all modes of transportation. The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020² provided over \$36 billion, the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act of 2021³ provided over \$27 billion, and the American Rescue Plan (ARP) Act of 2021⁴ provided over \$43 billion.

Enacted in November 2021, IIJA authorized about \$660 billion in funding for new and existing DOT programs for fiscal years 2022 through 2026. These funds are supporting DOT's significant efforts to improve the Nation's transportation infrastructure.

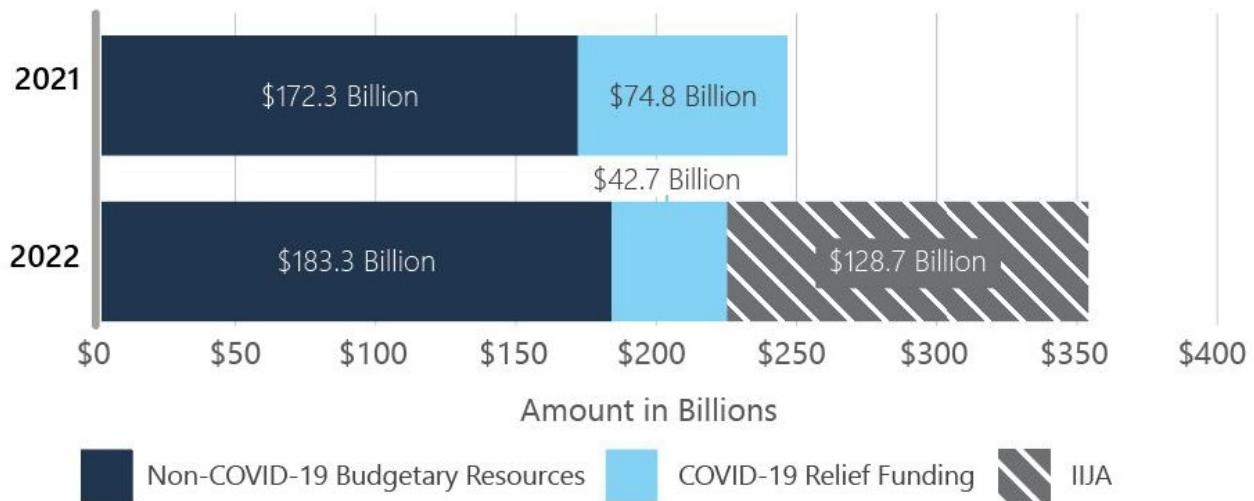
Together, these appropriations have significantly increased DOT's typical budgetary resources, as shown in the figure below.

² Pub. L. No. 116-136 (March 27, 2020).

³ Pub. L. No. 116-260 (December 27, 2020).

⁴ Pub. L. No. 117-2 (March 11, 2021).

Figure. Increase in DOT Budgetary Resources, 2021 vs. 2022



Note: Budgetary resources mean amounts available to incur obligations in a given year. Budgetary resources consist of new budget authority and unobligated balances of budget authority provided in previous years.

Source: DOT quarterly financial statements as of June 30, 2021, and June 30, 2022 (unaudited)

Maintaining a Strong Focus on Safety Improvements

Fundamental to DOT’s mission is its commitment to making the U.S. transportation system the safest in the world. This is an undertaking that requires continuous dedication across transportation modes. Thus, sustaining the Department’s attention on aviation safety remains a top priority, including strengthening DOT’s oversight of aircraft certification processes and air carrier safety programs. In addition, a rise in fatalities on our Nation’s roads in recent years calls for effective consideration of the causes and implementation of safety programs, whether focused on roadways alone or on the intersection of transportation modes, such as highway-rail grade crossings. At the same time, DOT will need to improve its oversight of surface transportation safety programs.

Improving Oversight of Aircraft Certification and Air Carrier Operations

Maintaining safety is the Federal Aviation Administration's (FAA) primary mission, and the Agency has historically maintained an excellent safety record. However, multiple reviews following two crashes involving Boeing 737 MAX 8 aircraft highlighted significant issues related to FAA's certification process and how it delegates authority to manufacturers operating in the United States.

For example, as permitted under Federal law, FAA delegated significant work to Boeing during the original 737 MAX certification, which, according to FAA managers, is typical as aircraft systems mature. During the recertification process to return the MAX to service, FAA retained responsibility for approving certification plans containing key flight control software. However, given the resources involved, Agency managers have indicated that this level of effort is not possible for all certification projects.

Further, as we have reported, FAA's certification guidance does not adequately address integrating new technologies into existing aircraft models. The Agency also lacks a risk-based approach to delegation oversight, and FAA engineers continue to face challenges in balancing certification and oversight responsibilities. FAA is working to address recommendations from multiple organizations, including our office. Continued management attention will be critical to maintaining confidence in the aircraft certification process.

While the Agency is working to resolve these issues, it should not overlook opportunities to leverage air carrier safety management systems to ensure regulatory compliance and mitigate safety risks. FAA has taken positive steps to work more closely with air carriers to improve safety. However, weaknesses in the Agency's oversight have led to long-unresolved safety issues. For example, as we reported, FAA did not ensure that Allegiant Air, American Airlines, and Southwest Airlines identified and resolved root causes of noncompliance. We have also reported that a lack of comprehensive guidance, tools, and training for its inspectors limits FAA's oversight of carriers' safety management systems. In particular, FAA may not be effectively overseeing carriers' efforts related to assessing and mitigating safety risks and promoting an effective safety culture.

FAA has addressed or begun to address many of our 27 recommendations to improve its oversight of the safety programs at Allegiant Air, American Airlines, and Southwest Airlines. As it works to resolve our remaining recommendations, FAA also has an opportunity to assess its oversight of all air carrier safety programs and address any potential systemic issues.

Reducing Surface Transportation Fatalities and Improving Monitoring and Enforcement of Surface Transportation Safety Programs

The United States experienced a surge in fatalities on the Nation's roads during 2020 and 2021 and—based on our recent audit work—the Department continues to face oversight challenges as it strives to improve traffic safety. DOT must identify the root causes of highway-related fatalities and injuries through sustained research, data analysis, and careful coordination with DOT's Operating Administrations (OA), State and local governments, industry, and other stakeholders.

Of paramount importance is ensuring the safety of vehicles on the road. To that end, the National Highway Traffic Safety Administration (NHTSA) has enhanced its requirements for notifying owners about vehicle safety defects and adopted a risk-based approach to review recalls for adequate scope and remedy. While these are positive steps, safety defects—such as faulty Takata airbags, which remain on the road due to ongoing recalls—remain a risk. In addition, NHTSA can reduce the risk of unsafe vehicles operating on U.S. roads by updating procedures for setting and revising Federal Motor Vehicle Safety Standards, reviewing compliance test reports, and training staff.

The increase in roadway fatalities includes those from crashes involving large trucks and buses, nationwide. Our recent audits have identified challenges in improving the quality and transparency of motor carrier safety data, safety measures, and carrier safety ranking assessments; commercial driver medical certification oversight; and commercial driver license disqualification requirements.

Regarding rail safety, the February 3, 2023, derailment of a Norfolk Southern train near East Palestine, OH, focused national attention on Federal safety regulations for freight trains carrying hazardous materials (hazmat). The Federal Railroad Administration (FRA) and Pipeline and Hazardous Materials Safety Administration (PHMSA) are supporting the National Transportation Safety Board's investigation into the cause of the derailment. PHMSA's implementation of the Protecting Our Infrastructure of Pipelines and Enhancing Safety Act of 2020 (PIPES Act)⁵ will go a long way toward advancing the safe transportation of hazmat. To comply with the PIPES Act requirements, PHMSA will need to recruit, train, and retain pipeline inspection and enforcement personnel; evaluate innovative technologies;

⁵ Pub. L. No. 116-260 (December 27, 2020).

complete rulemaking; maintain stewardship of safety funds; and take other required actions.

In addition, DOT is continuing to take action to improve railroad safety. For example, FRA's Automated Track Inspection Program (ATIP) aids track safety oversight by providing track geometry data on roughly 100,000 track miles or more each year to assess compliance with the Federal Track Safety Standards. However, until FRA improves its ATIP utilization goals and ATIP-related track inspection reporting, it cannot ensure its resources are optimally targeted to support the Agency's track oversight.

Although the Department's OAs are structured around individual transportation modes, overall transportation safety is influenced by the relationships among transportation modes, including the intersections of modes—in such places as highway-grade rail crossings—and the choices made by passengers and freight users. Recognizing this, the Department should emphasize safety technologies that may benefit multiple modes and assess safety effects where transportation modes interact or when safety actions related to one mode may impact another.

Enhancing Stewardship Amid Large-Scale Infrastructure Investments

As a result of COVID-19 relief and IIJA appropriations, the Nation has seen a significant increase in funds invested in roads, bridges, rail, transit, and port infrastructure projects. DOT agencies face significant challenges in effectively identifying and managing risks, as well as enhancing agency contract and grant award, administration, and oversight processes to achieve legislative and departmental priorities and goals. In addition, improving grant monitoring procedures with consistent oversight and maintaining controls to detect, prevent, and reduce improper payments is critical to help the Department safeguard assets. Another key challenge will be identifying and assessing fraud in high-risk areas, such as bid rigging and materials fraud.

Managing Risks and Capacity Challenges To Implement IIJA-Funded Projects

IIJA's significant funding increase has magnified the need for agencies to focus oversight and resources to best address risk areas in pursuit of program goals. The Department and its OAs have committed to conducting organizational assessments to identify these risks, as well as the internal controls for addressing

them. As these programs operate in a dynamic environment, the Department must retain its focus on monitoring outcomes and managing risks throughout the IIJA implementation effort.

IIJA may exacerbate DOT's oversight challenges if the Department does not address existing OIG and Government Accountability Office recommendations to enhance its oversight policies, procedures, and guidance. For example, the Federal Highway Administration (FHWA) has not yet improved staff and external stakeholder guidance on overseeing public-private partnership projects—a particular challenge considering that IIJA calls for an increase in these types of projects.

DOT will also need to remain cognizant of the challenges that non-Federal partners face and develop strategies to coordinate with those partners to mitigate risks. For example, State and local governments—often the primary recipients of Federal infrastructure investments—are facing historic shortages of skilled workers. Ensuring that DOT's grantees prioritize, plan, and budget IIJA funds for transportation projects to reflect such conditions and in accordance with States' Transportation Improvement Program processes is a key initial step to promoting the efficient and effective use of such funds.

Furthermore, obtaining and maintaining accurate data on infrastructure-related risks is an essential part of DOT's work. For example, we recently reported that FHWA's tunnel inventory contains inaccurate and incomplete inspection data, affecting the Agency's ability to identify and track tunnel deficiencies and States' repairs.

Establishing Sound Pricing for Contract and Grant Awards

To efficiently and effectively achieve its missions while realizing the best value for taxpayers, DOT must verify sound pricing prior to awarding any agency-funded contract or grant. Key requirements of sound pricing include developing reasonable cost estimates and, specific to contracts, promoting competition to the extent practical.

Our reviews, however, have identified deficiencies in these areas for DOT-funded awards. For example, DOT noncompetitively and repeatedly extended four information technology (IT) shared service contracts for 12 years beyond their priced base and option periods without proper justification, contrary to the contract terms and despite prolonged contractor performance issues.

Compounding DOT's pricing challenges is the need to consider the current volatile economy. Congress has raised concerns that inflation, disruptions in the

supply chain, and labor shortages would cause States to exceed their transportation budgets. These factors also make accurately estimating increasing project costs difficult and reduce the number of firms that are able to bid on jobs—essentially limiting competition and potentially diminishing the value that taxpayers receive from IJJA-funded projects. As such, States and the Department will be challenged to maximize IJJA’s intended benefits to the Nation’s transportation system.

Verifying Contract and Grant Expenditures Are Supported, and Reducing Improper Payments

As DOT obligates its significant influx of funds over the next several years, the Department must also adhere to distinct requirements regarding their use and availability. A significant challenge is ensuring contract and grant expenditures are reasonable, allowable, and in compliance with contract and grant terms. However, our recent work found that FAA had modified its policy to lessen supporting documentation requirements for CARES Act funds, which expedited reviews but adversely impacted the Agency’s ability to assess eligibility and validity.

Adding to this challenge is the rigor with which DOT will need to ensure that applicable purchased products and materials comply with Made in America laws. This will be especially critical given the Build America, Buy America Act’s expansion of domestic preference coverage and application in Federal financial assistance programs for infrastructure, effective May 2022, as well as gradual planned increases to the domestic content threshold for Federal contracts beginning in October 2022. Since the May 2022 expansion, DOT has had waivers in place for the Buy America requirements for construction materials. This includes a new limited waiver, effective earlier this year, that is intended to help DOT and its financial assistance recipients transition to the expanded requirements for U.S.-manufactured construction materials without delaying projects that are well underway.

The Department also has a responsibility to help ensure that grantees meet Federal requirements by establishing internal controls to detect and prevent improper payments. DOT programs’ potential susceptibility to improper payments is likely to increase given the drastic growth in disbursements and volume of transactions related to IJJA and COVID-19 relief. For example, our recent review of FAA’s oversight of CARES Act funding identified \$3 million in improper payments.

Further, DOT has an opportunity to enhance its policies and procedures for monitoring and reporting grantee spending. For example, we have communicated concerns to the Department about the OAs' untimely followup on single audit findings, counter to the Office of Management and Budget's (OMB) Uniform Guidance requirements. If the issues we identified are not corrected, future awards may be susceptible to the same weaknesses, thus increasing the risk of misuse of Federal funds. To ensure funds are put to their best use, DOT must also monitor grantee spending to identify when funds are no longer needed or are not expended in a timely manner.

Identifying and Managing Fraud Risks

Given the rapid distribution of, and increase in, funding, DOT has communicated to its OAs and Congress the importance of internal controls to protect departmental resources from the risks of fraud, waste, and abuse. Nonetheless, our October 2022 report on the Federal Transit Administration's COVID-19 relief funding oversight found that the Agency did not thoroughly identify these risks. Strong fraud risk assessment processes will be critical to better safeguard IJJA-funded surface transportation programs. To that end, in its fiscal year 2023 budget submission, DOT described plans to require every program that received IJJA funding to complete a fraud risk assessment by the end of the year.

Our audit and investigative work has identified particularly high-risk fraud areas that will present challenges for DOT, including:

- *Procurement fraud, collusion, and bid rigging*—where two or more firms plan the bidding on projects in order to influence pricing or the project award. A North Carolina engineering firm was recently sentenced to \$7 million in fines and more than \$1.5 million in restitution for rigging bids for aluminum structure projects that facilitate drainage underneath or around paved roads, bridges, and overpasses.
- *Disadvantaged Business Enterprise (DBE) fraud*. IJJA mandates that at least 10 percent of funds should be paid to small businesses owned and controlled by socially and economically disadvantaged individuals. DBE fraud can diminish opportunities for legitimate DBEs, increase the resources spent on fraud investigations, and divert Federal funds from intended purposes.
- *Materials fraud*—the delivery of products that are substandard or that fail to comply with domestic content requirements. For example, a Guam firm and its president pleaded guilty and received criminal sentences for substituting Korean-made reinforcement steel bars for the U.S.-manufactured steel bars required by law.

Identifying red flags will be key to detecting and mitigating such fraud. As such, effective outreach to OAs, State DOTs, and grantees is especially critical. Such outreach can help ensure those responsible for overseeing and administering funds are aware of red flag indicators of potential fraud. While our Office of Investigations conducts a number of outreach activities to increase awareness, the Department and its grantees must do their part to inform contractors about their responsibilities for preventing, detecting, and reporting fraud.

Proactive data analytics may also play a vital role in preventing and detecting fraud, particularly where DOT obtains State and subrecipient level data. By using data analytics tools to examine grant management and financial databases, DOT may be able to enhance its oversight, and OIG may be able to further target its investigative and audit activities towards high-risk areas, activities, and transactions.

Rising To Meet New Transportation and Workforce Challenges

As DOT works to enhance safety and bolster our transportation infrastructure, it faces a number of additional new and crosscutting challenges. These include managing the efficiency of the DOT workforce, addressing challenges in the NAS, supporting innovation while advancing the safe integration of new transportation technologies, enhancing cybersecurity, and implementing executive priorities such as combating climate change and advancing equity.

Managing the Efficiency of the DOT Workforce

DOT is facing immediate and long-term pressures to evolve its operations and hire and retain a right-sized workforce to meet its mission. These pressures include effective coordination to address DOT and stakeholder needs to enhance capacity and secure a skilled workforce to successfully deliver IJA programs.

In particular, according to Department officials, DOT must hire more than 1,000 employees to implement IJA in the near term and has a goal of 1,760 new hires by fiscal year 2024 and beyond. The Department reports it has had early success, hiring 348 employees and exceeding its 310-employee goal through June 2022.

Nonetheless, a key challenge will be securing sufficient resources to manage and oversee IJA's contracts and grants, as well as improving the qualifications and

training of oversight staff. For example, in 2021, we reported that FAA may be putting Federal funds at risk by allowing its acquisition workforce to manage complex, costly, and mission-critical contracts without the required training and certifications.

At the same time, DOT must take steps to maximize the benefits of workforce flexibilities and the hybrid work environment in order to enhance efficiency, effectiveness, and engagement. In spring 2022, DOT implemented new policies expanding hybrid workplace arrangements as part of its reentry into the office following nearly 2 years of COVID-19 restrictions. DOT must assess and, as needed, adapt processes for training, knowledge retention, collaboration and problem-solving, and the management of physical space.

Addressing Challenges in the National Airspace System

As travelers return to the skies in the wake of the COVID-19 pandemic, DOT faces challenges in managing the NAS, including addressing a rising number of delayed and canceled flights. In June 2022, air carriers scheduled more than 600,000 flights that included more than 100,000 delayed flights and over 18,000 canceled flights. According to DOT, over 30,000 of the delayed and canceled flights were attributable to factors related to the NAS, such as air traffic control. In light of these challenges, we recently initiated a review of the reported causes of flight delays and DOT's actions to address them. Meanwhile the number of complaints to DOT about airline service has also risen. Developing processes to resolve customer complaints and finalize rulemaking that addresses customer protections will be key to executing this part of the Department's mission.

These challenges of flight delays and cancellations may be exacerbated by air traffic controller and pilot staffing issues. As our work has shown, FAA has faced longstanding difficulties in ensuring adequate controller staffing and training to maintain the safety of the NAS. In addition, according to FAA, the COVID-19 pandemic led to a decline in the number of certificated airline pilots, which contributed to airline scheduling challenges, including service cuts to smaller airports. To maintain continuity of air traffic operations across the Nation, FAA must enhance its attention to these staffing and training issues.

In addition, although FAA's Next Generation Air Transportation System (NextGen) programs are intended to improve efficiency and reduce congestion in the NAS, they have achieved only a small percentage of their expected benefits. As we reported in 2021, FAA expects to invest \$36 billion in NextGen programs in anticipation of benefits such as reduced airspace congestion and more fuel-

efficient routes. However, these NextGen benefits depend on reducing passenger delays as air traffic increases. Moreover, FAA still needs to fully implement some NextGen technologies, such as Terminal Flight Data Manager and the Automatic Dependent Surveillance–Broadcast system. To justify its investment and convince air carriers to invest in these costly avionics, FAA should continue to develop metrics and enhance transparency regarding NextGen’s progress.

Supporting Innovation While Advancing Safe Integration of New Transportation Technologies

The adoption of new technologies is proceeding apace in ways that affect nearly all transportation modes and OAs. As such, DOT must proactively address legislative and technological changes in the transportation environment that significantly affect our Nation’s future economic prosperity, industry competitiveness, and security. A fundamental challenge will be to execute the Department’s safety mission, as well as deliver on its principles for transportation innovation.

This challenge is particularly embodied in DOT’s efforts to advance the safe integration of autonomous and electric vehicles on our Nation’s roads. The Department must develop standards, test new tools, and assess the impact of automated technologies on surface transportation, as well as manage the public’s understanding of these rapidly evolving technologies. At the same time, DOT has to identify data sources and collect and evaluate safety data to inform its policymaking. In this way, DOT will be better positioned to identify and respond to safety concerns and keep unsafe automated vehicles off public roads.

FAA faces similar challenges in its efforts to safely integrate commercial space operations, Advanced Air Mobility aircraft (including electric vertical take-off and landing, or eVTOL, aircraft), and unmanned aircraft systems (UAS), commonly referred to as “drones,” into the NAS. For example, FAA currently operates under a dual mandate of encouraging, facilitating, and promoting the commercial space industry while also regulating the safety of its operations. FAA licensed 74 commercial space launches in fiscal year 2022. As commercial space activities increase, FAA will also need to add technologies, determine the appropriate level of regulatory oversight, and coordinate with industry and other Federal agencies to ensure the safety of other airspace users and the public.

In addition, FAA is partnering with private and Government entities to safely integrate increasingly complex UAS operations and implement a UAS traffic management system. In September 2022, FAA granted the first commercial type certification to a UAS delivery provider after a 4-year process. However, FAA

needs to continue incorporating lessons learned from collaboration and experimentation efforts and ensure the availability of sufficient data to enable complex operations such as flying UAS beyond visual line of sight.

Enhancing Cybersecurity and Moving Toward a Zero Trust Architecture

DOT continues to face significant challenges related to securing the more than 400 IT systems used to carry out its mission. Our work has identified numerous weaknesses that may enable an attacker to launch a denial-of-service attack or gain unauthorized access to mission-critical systems and sensitive data. In particular, DOT's inconsistent enforcement of an enterprise information security program has made it difficult to address recurring security weaknesses. As of June 30, 2022, we have identified 9,817 open security weaknesses in departmental plans.

As DOT works to address challenges in its development of a mature and effective information security program, it must also resolve obstacles to meeting a Federal mandate to implement a Zero Trust Architecture (ZTA). ZTA is an enterprise cybersecurity architecture based on zero trust principles; it is designed to prevent data breaches and obstruct malicious actors using compromised credentials. Although DOT has created plans for adopting ZTA, it has not yet taken key steps for doing so, such as establishing a specific technical approach and schedule for implementation by OMB's fiscal year 2024 deadline.

Executing Federal Priorities Related to the Impact of Climate Change, Advancing Equity, and Promoting Resilience in Infrastructure

A primary challenge for the Department will be to balance Federal goals and priorities with the need to execute transportation projects timely, cost-effectively, and in a manner that provides value. For example, in November 2021, President Biden issued Executive Order 14052 to describe the Administration's goals for implementing IJJA. Among others, these goals included increasing the competitiveness of the U.S. economy; investing equitably, with support for disadvantaged communities; and building infrastructure that is resilient and helps address climate change.

However, DOT will be challenged to identify and select projects that benefit economic competitiveness, aid disadvantaged communities, and improve

resiliency, while factoring in the availability of labor resources to implement and oversee such projects. Recognizing this challenge, in June 2022, DOT issued interim guidance on incorporating newer or less established priorities and goals into selection criteria and other programs. Consistent implementation of this guidance, backed by transparent decision making and documentation, will be critical to achieving these goals.

Conclusion

The U.S. transportation system is at the heart of national prosperity, national security, and national identity and central to our daily lives. In recent years, DOT has made important progress to address its top priority of transportation safety and maximize its investments to maintain and modernize our transportation infrastructure. At the same time, the Department faces both new and longstanding management challenges that impact its efforts to meet its strategic goals and mission.

As such, we will continue to work closely with DOT officials to support the Department in improving safety, enhancing efficiency, protecting resources, and preparing for the future of transportation. We appreciate the Department's commitment to prompt action in response to the challenges we have identified.

This concludes my prepared statement. I appreciate this Committee's continued support and will be happy to answer any questions you or other Members of the Committee may have.

U.S. Department of Transportation
Office of Inspector General

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