

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

before the

**Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
U.S. House of Representatives**

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Introduction

Good morning, Chairman Griffith, Ranking Member Castor, 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 Office of Inspector General's approach in overseeing the \$5 billion provided to the EPA through the Infrastructure Investment and Jobs Act to replace existing school buses with clean and zero-emission buses. I welcome this opportunity to highlight my office's important efforts. In March, I testified before this subcommittee to address how my office would provide oversight of EPA funding relating to the IIJA and described our overall work in this area.

Today I will discuss our ongoing and planned work specifically related to the EPA's Clean School Bus program, as well as associated fraud risks, considerations for managing rebate and grant funds, and the importance of quality data to guide programmatic decisions. But first, I will provide brief context regarding the health implications of school bus emissions and the EPA's program.

Health Implications of School Bus Emissions

According to the EPA, school buses in the U.S. travel more than 4 billion miles each year, providing transportation to and from school for more than 25 million children every day. While new buses meet the EPA's tighter emission standards, most existing school buses emit pollutants, including nitrogen oxides and particulate matter in diesel exhaust. These pollutants contribute to poor air quality and negatively impact human health. Because children have a faster breathing rate than adults and their lungs are not fully developed, they are particularly vulnerable to air pollution inside and near older diesel school buses. Bus drivers and school staff members are also exposed to the diesel exhaust and may suffer ill health effects.

Infrastructure Investment and Jobs Act Funding for the Clean School Bus Program

Over the last two years, the EPA has received historic funding for its programs and operations. Two pieces of legislation, the Inflation Reduction Act and the Infrastructure Investment and Jobs Act, provided the EPA a combined \$102 billion. To put the magnitude of this funding increase into perspective, the EPA's annual appropriation in fiscal year 2023 was just over \$10 billion, or about a tenth of the funds it received under the IRA and the IIJA. As the largest single investment in the EPA, the IIJA appropriates more than \$60 billion to the Agency over five years, with most of this money available until expended. The Act provides for significant investments in the nation's drinking water and wastewater infrastructure projects, environmental cleanups, clean school buses and other clean air projects, and an expanded EPA workforce. The EPA will award the vast majority of its IIJA funds in the form of loans, grants, and rebates to nonfederal entities through existing programs such as the state revolving funds or the Diesel

Emissions Reduction Act Program. While the funding mechanisms might be familiar, we are concerned about the capacity of these recipients, and their subrecipients, to handle this money efficiently and effectively.

One of the more prominent programs funded by the IIJA is the Clean School Bus program. Under the IIJA, the EPA will receive \$5 billion from FY 2022 through FY 2026 to provide grants and rebates to eligible recipients for the replacement of existing school buses. In awarding funds for clean school buses, the EPA may pay up to 100 percent of the costs for replacement of existing school buses with clean school buses and zero-emission school buses, as well as for charging or fueling infrastructure. The IIJA defines a zero-emission school bus as one that uses electricity and not an internal combustion engine and a clean school bus as one that runs on propane, compressed natural gas, or electricity. The Act also stipulates that one half of the money appropriated each year is for clean school buses and the other half is for zero-emission school buses.

The EPA has created a bifurcated method for distributing IIJA Clean School Bus program funds. In its first year, the EPA awarded IIJA funds through rebates. These are not rebates in the traditional sense where a customer spends money and subsequently receives a refund. Under the Clean School Bus program, the EPA determined that once a recipient provides a Payment Request Form with a copy of a purchase order, the EPA will issue the award to the recipient's bank account to subsidize the purchase of zero-emission or clean school buses. Rebate applicants submit their application online for funding to replace up to 25 buses, with the maximum rebate amount per bus dependent on the replacement bus fuel type, the replacement bus size, and the priority status of the school district as defined in the EPA's 2022 Clean School Bus rebates program guide. According to the EPA's second report to Congress on the program, the EPA approved nearly \$1 billion in rebates for 415 school districts to purchase 2,609 vehicles, which included 2,446 electric buses, 147 propane buses, and 16 compressed natural gas vehicles.¹ The Agency has indicated that it may use rebates again in 2024.

For 2023, the EPA will distribute IIJA funds for Clean School Buses through grants. Grants, unlike rebates, provide for additional controls over funds because money can be awarded on a reimbursable basis, after costs are incurred. Grant recipients are required to keep documentation of project progress and costs, and are subject to audit and improper payment testing, per federal requirements.

Early Results and Future Oversight Plans

Since the IIJA was enacted in November 2021, my office has been engaged in timely and relevant oversight work, much of which directly relates to the Clean School Bus program. Starting in April 2022, we have published an annual IIJA oversight plan, which explains our strategic approach to IIJA oversight and outlines a year-by-year preview of our work. Our most

¹ [EPA Clean School Bus Program Second Report to Congress](#), Fiscal Year 2022, February 2023.

recent IJA oversight plan, issued in April 2023,² highlighted 18 ongoing or planned oversight projects, including an audit of the EPA’s Clean School Bus program.³ We have also issued a compendium of open or unresolved OIG recommendations that are related to the IJA. These 25 open or unresolved OIG recommendations indicate that the EPA does not have the internal controls necessary to effectively administer programs that will handle IJA funding.

Among our earliest IJA oversight reports were four “lessons learned” reports to help prepare the EPA to manage its increased funding and workload, including *American Recovery and Reinvestment Act Findings for Consideration in the Implementation of the Infrastructure Investment and Jobs Act*,⁴ which we issued in December 2022. Like the IJA, the American Recovery and Reinvestment Act of 2009 funded a number of existing EPA programs, including the Diesel Emissions Reduction Act program, which seeks to reduce diesel emissions from school buses and other sources. Our report identified three lessons from prior reports for reducing the likelihood of fraud, waste, and abuse of IJA funds—specifically, to ensure that federal requirements are met; provide clear and comprehensive guidance; and improve project management, monitoring, and data verification. With respect to the Diesel Emissions Reduction Act program, we identified findings related to recipients’ financial management systems not meeting federal requirements, not meeting job reporting and Buy American requirements, not meeting all grant award objectives, not finishing projects by the completion dates, and questioned costs totaling over 90 percent of DERA expenditures, or \$23.8 million of \$26.3 million.

We are currently conducting an audit of the Clean School Bus program to determine whether potential supply chain or production delays could impact the EPA’s efforts to disburse and manage the \$5 billion of IJA funding. Thus far, our auditors have interviewed representatives from the major bus manufacturers, suppliers, school districts purchasing large volumes of buses, charger companies, and utility companies. They have also obtained and analyzed data maintained by the EPA’s Office of Transportation and Air Quality.

While the results are preliminary, one noteworthy finding affecting the EPA’s ability to disburse and manage IJA funds is the potential delays related to the infrastructure needed to support the bus chargers, including the increased demand on utility companies responsible for constructing power lines and transformers needed to make electric buses fully operational. The EPA made a programmatic decision to limit funding to infrastructure between the electrical meter and the charging port, but not for any infrastructure costs associated with connecting to the utility company’s power supply. In addition, the EPA did not require 2022 Clean School Bus program applicants to coordinate with their utility companies before applying for rebates. Not surprisingly, approximately one-third of rebate recipients requested extensions and delayed

² [Infrastructure Investment and Jobs Act Oversight Plan - Year Two](#), April 27, 2023.

³ [Compendium of Open and Unresolved Recommendations Related to Infrastructure Investment and Jobs Act-Funded Programs](#), March 23, 2023.

⁴ [American Recovery and Reinvestment Act Findings for Consideration in the Implementation of the Infrastructure Investment and Jobs Act](#), December 7, 2022.

reimbursement requests because they needed more time to coordinate with their local utility companies. Our initial calculations, which will be subject to further verification, is that those seeking extensions represent 502 buses totaling nearly \$188 million in rebates. And our forthcoming report will likely stress, among other things, the need for the EPA to monitor the situation and ensure that school districts will be able to establish the infrastructure necessary to support clean bus and charging purchases in the expected timeframe of having buses fully operational by October 2024.

The OIG will conduct additional Clean School Bus program oversight in FY 2024. Yesterday my office announced an evaluation of the EPA's selection of recipients for IIJA funding under the Clean School Bus program. Our evaluators will determine whether the EPA followed requirements for selecting recipients for IIJA Clean School Bus program funds. We initiated this evaluation based on congressional concerns that the EPA's selection process for the FY 2022 funds, which was in the form of rebates, resulted in an imbalance in funded technologies. For example, in FY 2022, 94 percent of funded school buses were zero-emission while 6 percent comprised other clean school buses, including propane and compressed natural gas buses.

As I mentioned earlier, the IIJA appropriates 50 percent of Clean School Bus program funds for clean school buses and 50 percent for zero-emission school buses. For the clean school bus half of the funding, the EPA is required to consider the lowest overall cost of bus replacement; local conditions, including the length of bus routes and weather conditions; technologies that most reduce emissions; and whether funds will bring new technologies to scale or promote cost parity between old and new technology. Additionally, the EPA must, to the maximum extent practicable, achieve nationwide deployment of clean school buses and zero-emission school buses and ensure a broad geographic distribution of awards. The IIJA allows the EPA to prioritize applicants requesting funds for buses that will serve high-need school districts and low-income areas, rural school districts, or tribal school districts. The EPA used a lottery process to select applicants for funding in 2022. According to the EPA, this lottery system consisted of assigning a random number to each applicant, then ranking the applicants according to prioritization criteria outlined in the 2022 Clean School Bus rebates program guide.⁵

While the OIG's evaluation will provide feedback on the process for selecting recipients, it is also important that the EPA ensure money already in recipients' hands is properly safeguarded. To that end, my office also yesterday announced a new audit of the EPA's oversight of Clean School Bus program rebate recipients. Since 2022, the EPA has awarded over \$902 million to approximately 400 school districts across the United States. Once these school districts submit purchase orders, the EPA will provide up to \$375,000 per school bus. In other words, the EPA awards these funds before the school bus has been manufactured and delivered. Because of this, the Clean School Bus rebate money can sit idle, in a bank account, for up to a year. As a result, the EPA needs to have strong monitoring controls to ensure that funds are safeguarded and used for their intended purpose. Our audit team will determine the extent to which the EPA ensures

⁵ [2022 Clean School Bus \(CSB\) Rebates Program Guide](#), May 2022.

that the recipients of the FY 2023 rebates manage funding in accordance with program requirements.

In addition to oversight in the forms of audits, investigations, and evaluations, outreach is a key prong in the OIG's efforts to prevent fraud, waste, and abuse. As an organization, we continue to prioritize meeting with relevant stakeholders most affected by our oversight. My executive team meets regularly with senior leaders across the EPA to discuss planned and ongoing OIG work, as well as challenges to developing, implementing, and executing new or existing EPA programs. We continue to meet with state officials to discuss the OIG's oversight work and to offer our assistance in our shared fight against fraud, waste, and abuse. We have actively participated in industry-hosted conferences held across the country to discuss environmental interests, many of which focused on the applicability of IJA work to states, municipalities, and other grantees. Finally, our investigators, auditors, and evaluators have conducted over 300 joint IJA fraud briefings, reaching close to 6,000 attendees, including EPA staff members, potential grant recipients, and state environmental agencies, among other stakeholders.

While we will continue to plan and conduct oversight projects addressing key risks to the Clean School Bus program and other EPA programs, EPA management is ultimately responsible for establishing and integrating internal controls into its daily operations. As directed by the Office of Management and Budget in its April 2022 memo, *Advancing Effective Stewardship of Taxpayer Resources and Outcomes in the Implementation of the Infrastructure Investment and Jobs Act*,⁶ in addition to hiring the program staff and subject-matter experts needed to design and implement specific programs, agencies should build their financial management, grants management, and oversight capacity to steward expanded resources and strengthen program and payment integrity. One way to assist management in carrying out this responsibility is by using internal auditors to evaluate and improve the effectiveness of risk management, internal controls, and governance processes. According to the Government Accountability Office's Government Auditing Standards, internal auditing is an important part of overall governance, accountability, and internal control.⁷ To properly steward the billions of dollars in annual appropriations as well as IRA and IJA funding, the EPA should consider adding, where necessary, an effective internal audit function to its program management efforts.

Clean School Bus Program Fraud Risks

Our oversight work responds directly to the risks associated with budget multipliers such as the IRA and IJA. Clean School Bus program funding introduces unique challenges that the EPA will need to consider as it stewards billions of dollars in extra cash. While rebates and other aspects of the program make Clean School Bus particularly risky, I will focus my remarks on four fraud risks: (1) the way funds are provided to recipients, (2) the unique requirements for destroying replaced buses, (3) the increased risks presented by sub-programs, and (4) the

⁶ [Office of Management and Budget Memorandum 22-12, *Advancing Effective Stewardship of Taxpayer Resources and Outcomes in the Implementation*](#), April 29, 2022.

⁷ [GAO-21-368G, *Government Auditing Standards, 2018 Revision*](#), April 2021.

potential for overlapping funding from multiple federal agencies.

The EPA's method of directly wiring rebate awards to recipients creates elevated risks for fraud, waste, or abuse. For example, distributing funds to a recipient before a school bus has been delivered means that EPA funds may sit in a recipient's bank account for an extended period of time. The longer these funds reside in a recipient's bank account, the greater the risk that the funds will be used for an improper purpose, such as short-term funding of a secondary project or collateral on unassociated loans. Another example involves third-party contractors, who may be eligible for the rebate program regardless of whether they are for-profit, not-for-profit, or non-profit. These third-party contractors could simply not fund the school system for the correct amount, not provide the buses, upcharge the service, or illegally profit from the funding.

And as a third example, school districts, particularly those without sufficient employee or technical resources, may be potential targets for unscrupulous contractors.

Another aspect of the Clean School Bus program that has heightened fraud risk is the unique requirements for retiring or destroying replaced school buses. School districts that receive funding for clean buses must scrap, sell, or donate replaced school buses manufactured in 2011 or later and must scrap or destroy replaced buses that are from 2010 or older. One concern is with the destruction protocol for older buses. A potential fraudster might sell older buses to neighboring school systems or manufacturers. Or a recipient might choose to keep buses in its fleet to increase its total number of buses.

The use of eligible sub-program groups creates another potential fraud vulnerability. For the FY 2023 grant process, the EPA included funding opportunities for two sub-programs, the School District Sub-Program for school district and tribal applicants and the Third-Party Sub-Program for nonprofits and eligible contractors serving school districts. The latter sub-program enables third-party applicants to apply in partnership with school districts, particularly small, rural, tribal, or low-income districts that may benefit from third-party technical support, grant administration, and coordination. The School District Sub-Program requires a minimum purchase of 15 buses and a maximum purchase of 50 buses, while the Third-Party Sub-Program increases the minimum purchase to 25 buses and the maximum to 100 buses. The Third-Party Sub-Program participants include "eligible contractors," which can be for-profit, not-for-profit, or nonprofit entities. These entities must have the capacity to sell, lease, license, or contract for service clean school buses, zero-emission school buses, charging or fueling infrastructure, or other equipment needed to charge, fuel, or maintain clean school buses or zero-emission school buses. Eligible contractors include school bus dealers, manufacturers, school bus service providers, and private school bus fleets that provide student transportation services. The Third-Party Sub-Program opens the door for a multitude of organizations that may not be able to offer effective service by providing buses or charging stations to school systems and could be looking to simply take federal funding fraudulently.

Finally, the potential overlapping of funding from multiple federal agencies increases the risk of fraud, waste, or abuse. Currently, a school system could be receiving funding from the EPA, the

Department of Transportation, and the Department of Energy for material and labor associated with the Clean School Bus program. There is a high potential for, among other things, falsely substituting or duplicating requests from multiple federal agencies for the same or very similar materials and associated labor.

Additional Considerations for Managing Clean School Bus Program Funds

To reduce the risk of fraud, waste, or abuse, the EPA must effectively oversee and administer its programs. As previously mentioned, while the Clean School Bus program's first round of funding was in the form of rebates, the second round, announced on April 24, 2023, will be in the form of grants. One of the lessons-learned reports my office issued during 2022 to help the EPA prepare for its increased funding was titled *Considerations for the EPA's Implementation of Grants Awarded Pursuant to the Infrastructure Investment and Jobs Act*.⁸ Highlighting findings from prior EPA and Government Accountability Office audit reports relevant to EPA's administration and oversight of grant awards, this report underscored three themes: enhancing the grants oversight workforce, establishing and implementing comprehensive guidance, and requiring adequate documentation to support grant payments.

Lessons learned that can help guide the EPA's management of current funding include a need to enhance workforce planning for grants management staff and strengthen controls over grants in areas such as monitoring recipients and accurately reporting grant data. Past weaknesses also include not closing out expired grants and recording attributes for financial assistance transactions in the Agency's reporting of data from its grants management system. The EPA has historically faced challenges in enforcing the requirement for grant recipients to submit adequate documentation to support costs incurred under their grants, and the EPA's processes for reviewing grant payments were not always effective in detecting disallowed or improper costs. Our report emphasized the need to establish clear guidance to monitor grants and to develop detailed work plans to identify how and when the recipient will use program funds to produce specific outputs. Additionally, the EPA needs to ensure oversight processes provide assurance that grant recipients are reporting accurately and timely, procuring costs and grant activities that are allowable, and conducting proper recipient monitoring.

Many of the same considerations for grant oversight are applicable to rebate oversight. In fact, rebates can be even riskier funding mechanisms because, unlike grants, they do not include the same award documentation requirements. Specifically, for this rebate program, the EPA provided limited guidance to recipients on management of the funds once awarded through the time of bus purchase. Many recipients receiving federal funding for the first time or of an unprecedented quantity poses risk that funds designated for the bus purchase may be used for other purposes. To ensure proper oversight, the EPA should carefully consider its past grant

⁸ [*Considerations for the EPA's Implementation of Grants Awarded Pursuant to the Infrastructure Investment and Jobs Act*](#), August 11, 2022.

administration and oversight deficiencies to mitigate risks and reduce the likelihood of fraud, waste, and abuse.

Importance of Quality Data

Part and parcel to the EPA's effective program oversight is the availability of high quality, timely data on which to base informed decisions. The Agency faces several challenges that limit the usefulness of its data. Two that are particularly applicable to the Clean School Bus program include the EPA's high volume of disparate grant management systems and the prevalence of unstructured data formats.

First, based on a 2021 survey conducted by the EPA's Grant Commitments Met Workgroup,⁹ EPA staff reported using over 50 disparate systems to manage about 100 grant programs. Relying on these many independently operating systems makes it difficult to retrieve, standardize, or report data across programs and to perform quality control activities across databases.

Second, the EPA's vast use of unstructured formats to collect text-based data from grantees creates difficulties for conducting advanced analytics and automated fraud, risk, and abuse monitoring. Ninety-one percent of Grant Commitments Met Workgroup survey respondents indicated that they receive information from grantees in word processing documents and over 50 percent of respondents indicated that they receive information in PDF documents or as text in the body of an email. In addition, the OIG has found that the EPA's program and regional offices store 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.

The usefulness of data can be amplified by the work of skilled data analytics professionals. However, an effective data analytics process requires the use of quality data from reliable sources—the proverbial chicken and egg situation. That is why it is critical for the EPA both to address its data quality issues and to empower talented professionals who can leverage the data and generate meaningful reports that allow the Agency to make data-driven, informed decisions. The multitude of disparate sources and incompatible data formats tend to lengthen the time required to gather the data, necessitate repetitive work to create reports on different aspects of the same program areas, and result in an inability to track program performance over time.

My office's Data Analytics Directorate has been on the forefront of leveraging data to analyze, display, and illuminate beneficial trends. For example, we were able to use publicly available data to create a geographical IJA spending dashboard, providing the public transparency on how the EPA is utilizing its funding, along with current OIG oversight projects.¹⁰ Our team has also created internal dashboards providing insights on the status of the OIG's ongoing work, outstanding recommendations, and the status of Agency corrective actions. However, our analytical efforts can only be as good as the data available to us. The full potential of such

⁹ [Grant Commitments Met - Year 1 Final Report](#), January 24, 2022.

¹⁰ [U.S. EPA Infrastructure Investment and Jobs Act \(IIJA\) Spending Dashboard](#).

oversight will continue to be hindered until the EPA takes action to address its data quality issues.

Conclusions

Again, thank you to the committee for inviting me to speak with you today. Congress has provided a historic level of funding to the EPA and my office takes the responsibility to protect taxpayer dollars seriously. To that end, over the last two years we have taken significant action to remind the EPA of previous pitfalls, to strategically plan and move out on impactful oversight work, to engage with stakeholders on how to protect this investment, and to multiply our impact by leveraging data analytics in performing our work.

The OIG's planned and ongoing efforts are laser-focused on the EPA's stewardship of core appropriations and the \$102 billion provided under the IIJA and the IRA. We are deeply committed to safeguarding the \$5 billion provided for attention to the Clean School Bus program. As I noted in my March 29, 2023 testimony before this subcommittee, my office is executing determined oversight despite a decade of flat and declining budgets.

We are grateful that Congress dedicated funding for EPA OIG oversight under the IIJA. However, unlike other offices of inspector general, the EPA OIG did not receive supplemental funding under the IRA to carry out its oversight mandate. H.R. 4821, the House version of the Department of the Interior, Environment, and Related Agencies Appropriations Act for FY 2024, includes a provision that would transfer to the EPA OIG two-tenths of one percent of unexpended EPA IRA funding for such oversight. I am hopeful that this provision will be passed in conference to enable my office to provide meaningful oversight over the EPA's \$41.5 billion IRA appropriation.

In closing, the title of today's hearing poses the question as to whether the EPA's Clean School Bus program is "making the grade." I believe that it is too early to tell. If I had to give a grade today, it would be an "incomplete."

Biography: Inspector General Sean W. O'Donnell

Sean W. O'Donnell is the inspector general of the U.S. Environmental Protection Agency and the U.S. Chemical Safety and Hazard Investigation Board. The mission of the Office of Inspector General is to promote economy and efficiency in, and detect and prevent fraud and waste related to, the programs and operations of the EPA and the CSB, as well as to help ensure ethical conduct and program integrity. To this end, Mr. O'Donnell oversees a nationwide workforce of auditors, evaluators, investigators, and other oversight professionals who support the OIG's mission by providing evidence-based reports to the Agency, the Board, the public, and Congress. For nearly three years, Mr. O'Donnell also served as the acting inspector general of the U.S. Department of Defense, leading a workforce 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 the 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.