



**COMMITTEE ON SCIENCE, SPACE, and TECHNOLOGY
HEARING CHARTER**

Protecting American Taxpayers:
Highlighting Efforts to Protect Against Federal Waste, Fraud, and Mismanagement

**Wednesday, April 19, 2023
10:00 a.m.
2318 Rayburn House Office Building**

Purpose:

On Wednesday, April 19, 2023, the Science, Space, and Technology Committee will hold a hearing to examine various Inspector General Offices at agencies within the jurisdiction of the Committee to discuss ongoing issues with added attention on grant and procurement fraud. The hearing will examine each the work and efforts of each Inspector General regarding these ongoing issues and review some of their major accomplishments, as well as shortfalls. Inspectors general are meant to be good government advocates embedded inside the executive branch to minimize the prevalence of waste, fraud, abuse, and mismanagement within their parent agencies. This hearing will serve as an opportunity to discuss and identify the good work the National Aeronautics and Space Administration (NASA), National Science Foundation (NSF), Department of Energy (DOE), Department of Transportation (DOT), and Environmental Protection Agency (EPA) Inspectors General are conducting.

Witnesses:

- **The Honorable Paul K. Martin**, Inspector General, National Aeronautics and Space Administration (NASA)
- **The Honorable Allison C. Lerner**, Inspector General, National Science Foundation (NSF)
- **The Honorable Teri L. Donaldson**, Inspector General, Department of Energy (DOE)
- **The Honorable Eric J. Soskin**, Inspector General, Department of Transportation (DOT)
- **The Honorable Sean W. O'Donnell**, Inspector General, Environmental Protection Agency (EPA)

Overarching Questions:

- Given the official end of the COVID-19 pandemic, what are the current work from home policies of the agency and plans to return to in-person or hybrid working?
- How many investigations and audits have each Office of Inspector General (OIG) conducted this year?
- How many arrests has each OIG made and what is the current working relationship maintained with the Department of Justice?
- What are the main areas of grant or procurement fraud, or general waste and abuse the OIGs have identified or plan to investigate?
- How much fraud has each IG uncovered?
- How many reports have they published?
- What additional tools may IGs need to better complete their jobs? Is legislation required?

Background:

After having his paperwork doctored by Benjamin Franklin to inflate his military rank, the first Inspector General (IG) of the Army, Von Steuben, was accepted by George Washington and later officially appointed to the post by the first Continental Congress in 1778.¹ Inspector General Von Steuben's duties, as outlined by Congress, were "to report all abuses, neglect and deficiencies to the Commander in Chief."² Congress chose to adapt its military specific creation and apply it across the federal government in order to better combat ineffectiveness. Congress codified many of these efforts in 1978, when it passed the Inspector General Act.³ This act designated federal, fully independent IGs to prevent and detect waste, fraud, and abuse within the specific agency's programs and operations to promote efficiency, economy, and effective practices.⁴

Currently, there are approximately seventy-four IGs, of which thirty-seven are appointed by the President and subject to Senate confirmation (PAS) with the remainder appointed by the agency head without Senate confirmation or designated federal entity (DFE). Regardless of their type, IGs are to be apolitical and not subject to term limits. This is generally because IGs find themselves at the junction between monolithic government bureaucracies and effective government. Since IGs are part of the agencies they investigate, they need to maintain working relationships with their parent agencies. At the same time their purpose is to point out an agency's internal flaws to Congress. For this reason, they require uniquely designed independence to operate and be effective.⁵ They are part of the agencies they oversee but, generally, outside of the authority of the head of that agency.

Council of the Inspector General on Integrity and Efficiency:

The IG at each agency is meant to operate as an oversight arm and provide accountability enforcement at the agency. Collectively they all form the Council of the Inspector General on Integrity and Efficiency (CIGIE). This is a statutorily-created body under The Inspector General Reform Act of 2008⁶ that independently operates within the executive branch. CIGIE was established by Congress to address integrity, economy, and effectiveness issues that transcend

¹ U.S. Military Academy, West Point, *History of the U.S. Army Inspector General*, 2023, <https://www.westpoint.edu/about/west-point-staff/inspector-general/history#:~:text=The%20first%20effective%20U.S.%20Army,bv%20Benjamin%20Franklin%20in%201777.>

² *Id.*

³ 5 U.S.C. § 401—424.

⁴ *Id.*

⁵ Council of the Inspectors General on Integrity and Efficiency (CIGIE), *The Inspectors General*, July 14, 2014, at 9, https://www.ignet.gov/sites/default/files/files/IG_Authorities_Paper_-_Final_6-11-14.pdf

⁶ P.L. 110—409.

individual Federal Government agencies. CIGIE helps to create a professional, well trained, and highly skilled workforce within the offices of the Inspectors General.⁷ CIGIE works to accomplish this mission through the continual identification, review, and discussion of areas of weakness and vulnerability; and the development of plans for coordinated governmentwide activities to address those weaknesses.

Audits and Investigations.

Each OIG has a broad statutory mandate to “conduct...audits and investigations relating to the programs and operations” of the agency and to “recommend policies” for the purpose of “promot[ing] economy, efficiency, and effectiveness in the administration of ...” the agency.⁸ The auditing process is conducted in accordance with the Government Auditing Standards established by the Comptroller General, who is also consulted to avoid duplication. OIGs help to establish criteria for using non-Federal auditors and ensure compliance with the Government Auditing Standards. With specific variations to make the process work smoothly at each agency, many audits conducted generally are based on agency research and assessments of major challenges, at the request of Congress, committees, or other agency officials and in accordance with government audit standards and any internal work plans developed.

The Office of Investigations serves the purpose of providing oversight and exposing occurrences of fraud, waste, and abuse; identifying vulnerabilities; and recommending programmatic changes to help strengthen, control, or mitigate risks. Investigations can also involve allegations of mismanagement.⁹ All investigations are conducted in accordance with the CIGIE Quality Standards for Investigations and Federal law. In the instance that the IG has “reasonable ground to believe there has been a violation of Federal criminal law,” the IG must report the matter directly to the Department of Justice. This reporting does not require prior clearance by agency officials outside the OIG.¹⁰ The IG Act designates Law Enforcement Authorities to the IG as criminal investigators which includes the broad authority to subpoena all information necessary to perform the functions under the IG Act. Within this same authority, IGs are authorized to receive complaints from agency employees relating to potential impropriety in connection with agency programs and operations.¹¹

⁷ Oversight.Gov, *About Oversight.gov*, press release, 2023,

<https://www.oversight.gov/about#:~:text=What%20are%20Inspectors%20General%3F,the%20agency's%20operations%20and%20programs>.

⁸ 5 U.S.C. § 402(b); The IG Act, at section 8, sets out unique authorities or responsibilities for certain OIGs. Other statutes may also enlarge or change an IG’s authorities within a particular agency. For information on these OIG-specific authorities, it may be helpful to consult the website for the particular OIG. These may be accessed via the CIGIE website at

<https://www.ignet.gov/content/about-igs>.

⁹ CIGIE, The Inspectors General, July 14, 2014, at 9, https://www.ignet.gov/sites/default/files/files/IG_Authorities_Paper_-_Final_6-11-14.pdf

¹⁰ *Id.*, at 10.

¹¹ *Id.*, at 12.

OIG Legislative Efforts:

[Testimonial Subpoena Authority \(TSA\)](#): In addition to their existing documentary subpoena authority, some IGs have TSA which allows them to compel individuals to sit for testimonial interviews. IGs, through CIGIE, have been advocating to extend testimonial subpoena authority to all IGs. CIGIE has stated that those offices without TSA are hampered in their investigations. This is because when an investigation is nearing its end, bad actors simply leave the IGs purview by retiring from government service or leaving the employ of a contractor.

[Administrative False Claims Act \(AFCA\)](#): S. 659, a bill sponsored by Senator Grassley and supported by a bipartisan group of Senators, passed the Senate by unanimous consent on March 30th and is currently being held at the desk in the House. AFCA is an effort to fight and deter smaller, and potentially more frequent, instances of fraud. AFCA updates the Program Fraud Civil Remedies Act (PFCRA) to further empower agencies and their IGs to utilize their authorities to combat fraud in a manner more akin to the False Claims Act (FCA). Congress instituted the PFCRA in 1986 to parallel and supplement the FCA, but it has been found to be underutilized due to its lack of clarity and low statutory ceiling – the law currently provides administrative civil remedies for false claims of \$150,000 or less. Unfortunately, this underutilization leaves substantial potential recoveries on the table. The AFCA rebrands and streamlines the program in an effort to make it a more useful tool for agencies to fight false claims or statements. The Department of Justice’s Civil Division provided technical assistance during the drafting of the legislation.

Application of Automatic Exclusion from Federal Procurement for Fraud Convicts: Under current law, there is no mandatory exclusion for individuals convicted of, or who plead guilty to felony fraud against the government. Instead, both the Federal Acquisition Regulation and the Non-Procurement Common Rule allow agencies to take discretionary, time-limited actions to exclude felony fraud convicts from receiving federal grants and contracts through government-wide suspensions or debarments. Many felony fraud convictions involving Federal program funds do not result in suspension or debarment action against the felon. CIGIE proposes enhancing existing law by making exclusion actions automatic for those convicted of violating certain felony fraud statutes involving any agency contract, grant, cooperative agreement, loan, or other financial assistance.

General IG Issues:

Work From Home Policies: Congress has recently focused on work from home policies utilized by executive branch agencies. Debates continue regarding how remote work capabilities should be permanently implemented after COVID as well as the process utilized in determining which federal positions should be afforded which capability – work from home, hybrid, or in person. For example, multiple news articles have recently highlighted delays and cost overrun issues at NASA that have been directly linked to NASA’s work from home policies. Note however, that agencies are not alone in this issue as many OIGs are also on max telework policies and may not be physically in the office often.

[Cybersecurity](#): In January, the Department of Interior (DOI) OIG published a report regarding DOI-specific cybersecurity vulnerabilities. The IG found that, “[o]ver the course of [their] inspection, [they were able to] crack[] 18,174 of 85,944—or 21 percent of active user passwords, including 288 accounts with elevated privileges and 362 accounts of senior U.S. Government employees.” Many of these accounts were accessed within the first few hours. Further, the 288 accounts with “elevated privileges” could potentially grant potential hackers access to high level and department wide IT privileges. Experts believe that the findings of the DOI OIG are likely common across the federal

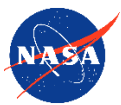
government.

Return On Investments: The ability of an OIG to find quantifiable fraud or waste allows IGs to show how their work is valuable. For instance, if an IG spends \$200,000 to find \$15 million in procurement fraud, then the IG completed work with a high ROI. If, however, the IG conducts an investigation or audit that uncovers little to no fraud, then they have completed work with a low ROI. There is no IG wide ROI goal, as each parent agency has a unique government mission and goal, but by discussing a single IGs ROI over time, it can show trends of IG success or inactivity.

False Claims Act: The False Claims Act (FCA) is the government's primary tool for fighting fraud and deterring fraudsters.¹² Signed by President Abraham Lincoln in 1863, the False Claims Act allows the government to recover triple damages, plus fines, for every instance of fraud. Additionally, the FCA allows whistleblowers to file lawsuits, known as *qui tam*, on behalf of the government. Whistleblowers who file *qui tam* suits that lead to a successful settlement will receive between 15-30% of the award. By providing whistleblowers with a monetary incentive, the FCA has been extremely successful at catching fraudsters and recovering billions of dollars that would have otherwise been lost. Since 1986, the FCA has recovered over \$72 billion.¹³ Inspectors General routinely investigate potential violations of the FCA and work closely with local Assistant United States Attorney's to prosecute these cases.

CHIPS and Science Act of 2022 (P.L. 117-167): The CHIPS and Science Act of 2022 was signed into law by President Biden in August. The bill provided \$54.2 billion in mandatory funding to the Department of Commerce to implement the CHIPS for America program to support semiconductor manufacturing in the United States. The research portion of the bill—Division B—authorizes substantial investments in NSF, DOE, NIST, and NASA, as well as provisions to protect these investments from theft and interference by adversaries, especially China. Title III provides the NSF OIG with additional resources and new authorities to use analytical tools to detect and combat foreign influence, theft, and grant fraud.

IG Specific Issues:



National Aeronautical and Space Administration (NASA) OIG Specific Issues:

Work From Home Policy: The IG recently informed Committee staff that in-person attendance at NASA HQ was 31% for the month of January. As a result, the Committee sent a letter to NASA asking for in-person statistics for all other facilities. While the IG has in-person attendance information for NASA HQ, they don't have those figures for NASA's other facilities.

While remote work can be beneficial for certain NASA employees, it has been shown that it is not a good model for many employees. For example, according to an independent report, delays in the Psyche Asteroid mission were caused by remote working conditions in which supervisors were

¹² U.S., Department of Justice (DOJ), The False Claims Act, Fraud Section, March 23, 2023, <https://www.justice.gov/civil/false-claims-act>

¹³ US, DOJ, *Fraud Statistics – Overview*, Civil Division, October 1, 1986 – September 30, 2022, <https://www.justice.gov/opa/press-release/file/1567691/download>

unable to communicate instructions clearly to employees.¹⁴ The report stated that, “[r]emote work conditions exacerbated the isolation of various teams, impeding team integration.”¹⁵ It further stated that in the past, personnel, “...relied on senior members of projects and technical line organizations ‘walking the floor,’ dropping in for conversations at office doorways, or chatting in the cafeteria.”¹⁶ And, “[w]ithout these informal communication mechanisms, contextual cues and situational awareness were lost. Team members working the floor found it difficult to report problems up the chain over Webex, especially when attendees kept their cameras off.”¹⁷ NASA concurred with these findings, writing that, “[t]he completion of Psyche requires increased simultaneous on-site presence to facilitate informal communications and mission success.”¹⁸

Radioisotope Power Systems Program: According to an IG report released on March 20, 2023, NASA has not produced a viable new Radioisotope Power System (RPS) technology since the program began in 2010 despite an average investment of \$40 million per year. RPS technology was designed to power electrical systems in space flight by using nuclear power instead of traditional solar panels. Nuclear power systems use heat generated from the decay or fission of radioactive materials to generate electricity.¹⁹ According to the IG, NASA’s failure to produce a viable RPS is due to several factors including a lack of clear resource allocation strategy, as well as communication challenges with the Department of Energy, who is responsible for providing the nuclear material.

Software Asset Management Audit: According to an IG report released on January 12, 2023, NASA software asset management practices expose the agency to operational, financial, and cybersecurity risks. This is due to the largely decentralized and ad hoc management of the various software licenses. For example, NASA has not implemented a centralized software management tool to catalog and track license data as required by federal policy. This has resulted in the unnecessary spending of approximately \$15 million over the past five years on unused licenses. The IG also found that NASA paid more than \$20 million in fines to vendors such as Oracle for their failure to track licenses.

Procurement fraud: The OIG utilizes a team of investigators to routinely investigate allegations of procurement fraud and other forms of criminal fraud. Additionally, the OIG pays for the services of a Special Assistant United States Attorney to prosecute False Claims Act violations. Examples of recent investigations in this area include:

- Ohio State University agreed to pay over \$875,000 to resolve allegations that it failed to disclose a professor’s foreign government ties and support.²⁰ This settlement is in connection with grant funding received by the university from both NASA and the National Science Foundation (NSF). Grant applications require the disclosure of foreign government support received by a recipient. The findings of the investigation concluded that Ohio State

¹⁴ Psyche Independent Review Board, Psyche Independent Review Board Report (Nov. 4, 2022), [S1803701522110315460 \(nasa.gov\)](https://www.nasa.gov/links/1803701522110315460).

¹⁵ *Id.* at 24.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Letter from Thomas H. Zurbuchen, Associate Administrator, Science Mission Directorate, and Laurie A. Leshin, Director, Jet Propulsion Laboratory, to Science Mission Directorate (Nov. 4, 2022), [S1803701522110315460 \(nasa.gov\)](https://www.nasa.gov/links/1803701522110315460).

¹⁹ National Aeronautics and Space Administration (NASA), Office of Inspector General (OIG), *NASA’s Management of Its Radioisotope Power Systems Program*, IG-23-010, March 20, 2023, <https://oig.nasa.gov/docs/IG-23-010.pdf>

²⁰ US, DOJ, Office of Public Affairs, *Ohio State University Pays Over \$875,000 to Resolve Allegations that it Failed to Disclose Professor’s Foreign Government Support*, press release, November 10, 2022, <https://www.justice.gov/opa/pr/ohio-state-university-pays-over-875000-resolve-allegations-it-failed-disclose-professor-s>

University failed to disclose a professor who received grant funds was also participating in a foreign talent program, employed by a foreign university, and receiving a grant from the foreign country's science foundation. The Investigation was conducted jointly by NASA OIG, the Department of Justice, FBI, the U.S. Army, and National Science Foundation.

- A Texas company, Anahuac Transport Inc., was convicted of supplying tainted rocket fuel to NASA.²¹ According to court documents, Anahuac was contracted to transport fuel to various launch sites. To prevent contamination, Anahuac was required to ensure that the tanker trailers did not previously contain certain chemicals that may have an adverse reaction to the fuel. Anahuac intentionally falsified documents claiming it had not previously hauled incompatible chemicals with its tanker trailers. The investigation was conducted by the NASA OIG and Department of Defense OIG.



National Science Foundation (NSF) OIG Specific Issues:

[Sexual Harassment and Law Enforcement Issues at Antarctic Facilities](#): On March 7th of this year, NSF OIG published a white paper regarding multiple unaddressed allegations of sexual assault, harassment, and stalking that occurred at facilities in the Antarctic. This white paper follows a previous report from the fall of 2022 and a Science Committee hearing that was held in December.²² The white paper discusses other underlying law enforcement issues at the facilities, primarily that there is no standing law enforcement presence beyond a relatively untrained Special Deputy Marshal who is also the head of the NSF facility.

[Promising Practices for NSF Award Management](#): NSF OIG published a capstone audit that reviewed 18 grant performance audits to find commonalities and catalogue strengths as well as opportunities for improvement. The final document has helped participating colleges and universities to better administer their grants and avoid grant administrative missteps. The most common audit findings related to unallowable expenses, inappropriately applied indirect costs, inadequately supported expenses and general non-compliance with policies and procedures. The report suggests the awardees perform prescribed activities to improve stewardship of federal funds.

[Boulder Weather Research Organization and Officers Pay Over \\$2 Million to Resolve Investigation into Improper Use of Federal Grants for Scientific Research](#): NSF OIG assisted in a DOJ investigation in which, the Center for Severe Weather Research (CSWR), a nonprofit organization in Boulder, Colorado, settled with the federal government over allegations that they had fraudulently requested payments from federal grants for expenses that they did not incur. As part of the settlement, CSWR paid over \$2.4 million. Agencies that were defrauded include NSF, NASA, and NOAA.

²¹ U.S. Attorney's Office, Southern District of Texas, *Texas Company Convicted for Supplying Potentially Tainted Rocket Fuel to NASA*, press release, February 23, 2022, <https://www.justice.gov/usao-sdtx/pr/texas-company-convicted-supplying-potentially-tainted-rocket-fuel-nasa>

²² FEDERAL CONSULTING GROUP, NATIONAL SCIENCE FOUNDATION, OFFICE OF POLAR PROGRAMS (OPP) UNITED STATES ANTARCTIC PROGRAM, SEXUAL ASSAULT/HARASSMENT PREVENTION AND RESPONSE (SAHPR) (2022), <https://www.nsf.gov/geo/opp/documents/USAP%20SAHPR%20Report.pdf>; Building a Safer Antarctic Research Environment. Before the House Committee on Science, Space, and Technology, 118th Cong. (2022), <https://science.house.gov/2022/12/full-committee-hearing-building-a-safer-antarctic-research-environment>

Balancing Open Science and Security in the Research Enterprise: The Committee has been focusing on trying to balance the national security and research security needs to protect our investments from theft while also supporting the U.S. research enterprise's culture of open science and collaboration. Last Congress, IG Lerner was a witness for a SST Subcommittee hearing on this topic, specifically focusing on foreign government talent recruitment programs and NSF's response to them.



Department of Energy (DOE) OIG Specific Issues:

Standing DOE Employee Conflicts of Interest: A Wall Street Journal article alleges that hundreds of DOE employees, including one third of senior employees, held stocks and other assets in companies related to their government work. According to the Wall Street Journal, these employees continue to hold stocks in these companies despite receiving notice from ethics officials within the agency about potential violations. To comply with federal law, DOE employees may not work on matters in which they have a conflict of interest.

Enterprise Associates: The OIG does not conduct organic oversight of some of DOE's classified components, including cybersecurity. Instead, an internal DOE entity, Enterprise Associates, conducts oversight of classified cybersecurity related issues. DOE OIG limits themselves to reviews of the audits and investigations conducted by Enterprise Associates.

Foreign Companies Receiving Infrastructure Investment and Jobs Act Funds: DOE recently announced grant awards to companies with known ties to the Chinese Communist Party (CCP) and provided funds from the Infrastructure Investment and Jobs Act (IIJA) to Microvast, a largely Chinese held company which was included on a Securities and Exchange Commission watchlist at the time of this award.

Procurement fraud: The OIG utilizes a team of investigators in ten field offices across nine states, to pursue criminal and civil fraud violations. They also operate a whistleblower hotline where, among other things, employees of DOE can report instances of fraud. In 2022, the OIG recovered \$23 million through their investigative actions.²³ The OIG is also seeking to hire two Special Assistant U.S. Attorneys to prosecute fraud cases.

Science Grants: A recent audit by the OIG found that the Office of Science failed to properly audit grants totaling over \$56 million. The DOE's Office of Science provides scientific research grants to colleges, universities, non-profit, and for-profit research organizations as well as all 17 of DOE's national laboratories. According to the IG's findings, DOE failed to audit for-profit grant recipients as required by federal regulations and potentially exposed the Department to an increased risk of fraud, waste, and abuse.

CHIPS and Science Act: The Department of Energy's Office of Science is projected to receive approximately \$50.3 billion over the next five years which is a \$12.9 billion increase over baseline

²³ US, Department of Energy, Office of Inspector General, *FY2022 Performance Report*, April 2023, https://www.energy.gov/sites/default/files/2022-11/FY%202022%20DOE%20OIG%20Performance%20Report-Final_0.pdf

under the CHIPS and Science Act. Additionally, the CHIPS and Science Act provided an additional \$17.6 billion for Science and Innovation spending.²⁴

Increased funding from the IIJA. Over the next five years, the IIJA will stand up 60 new DOE programs, including 16 demonstration and 32 deployment programs, as well as expand funding for 12 existing research, development, demonstration, and deployment programs.²⁵



DOT

The Infrastructure Investment and Jobs Act: The Department of Transportation recently received \$1.7 billion in federal funding with the passage of the Infrastructure Investment and Jobs Act (IIJA).²⁶ The IIJA reauthorized various aspects of the Fixing America's Surface Transportation (FAST) Act,²⁷ but also created several new programs specifically for research and development, including the Advanced Research Projects Agency – Infrastructure (ARPA-I) program and the Strengthening Mobility and Revolutionizing Transportation (SMART) grants. Given that this bill has surpassed its one-year anniversary and is rapidly approaching the second year of implementation, the IG office of DOT is responsible for overseeing the effective implementation of federal funds in accordance with the statutory requirements. The OIG at DOT has not conducted oversight in all the areas of research within the Committee's jurisdiction. However, the DOT OIG has recently begun an audit of the Federal Highways Administration (FHWA) State Transportation Improvement Program (STIP).²⁸ The IIJA provided \$350 billion to the FHWA's highway programs over the next 5 years. The STIP includes all projects planned for implementation in the State. The IG plans to assess the FHWA's oversight of each State's use of the STIP including IIJA funded projects. Additionally, the IG initiated an Audit in May 2022 of DOT's Fraud Risk Assessment Processes for Surface Transportation Programs to assist in carrying out DOT responsibilities in IIJA. A report on the findings has not yet been released.²⁹

Federal Aviation Administration (FAA): The Federal Aviation Administration is a vital aspect of DOT and maintains various research programs. The IG has released numerous reports providing oversight into various issues within FAA's jurisdiction. Considering the upcoming reauthorization, the reports can provide insight and suggestions for issues to be addressed during this process.

- *NextGen Implementation:* Next Generation Air Transportation System (NextGen) is a multi-billion-dollar, multi-year complex infrastructure effort aimed at modernizing our nation's

²⁴ P.L. 117-80

²⁵ P.L. 117-58

²⁶ P.L. 117-58.

²⁷ P.L. 114-94.

²⁸ US. DOT, OIG, *Assessment of FHWA's Oversight of States' Use of STIPs That Include IIJA-Funded Projects*, Audit Announcement, 22B3001S000, June 22, 2022,

<https://www.oig.dot.gov/sites/default/files/FHWA%27s%20Oversight%20of%20STIPs%20-%20Announcement%20Letter%206-22-22.pdf>

²⁹ DOT, OIG, *Audit Initiated on DOT's Fraud Risk Assessment Processes for Surface Transportation Programs*, 22B3002S000, May 18, 2022, <https://www.oig.dot.gov/library-item/38964>

aging air traffic system. Section 502 of the FAA Reauthorization 2018³⁰ mandated that FAA report on the agency's progress in implementation of NextGen programs. The DOT OIG is required under this section to review FAA's report for accuracy, summarizing the prior concerns regarding NextGen implementation and reporting on the status of DOT-OIG recommendations. The report was received in December 2021. Ensuring these recommendations are implemented and accuracy is maintained will help prevent waste and mismanagement as these projects are completed.

- [*NextGen TFDM*](#): Terminal Flight Data Manager (TFDM) modernization effort through the NextGen System will address top FAA and industry priorities to improve surface operations. With an estimated budget of \$1 billion, this program aims to automate manual flight data processes, and provided enhanced traffic flow management data. The agency originally planned to deploy TFDM at 89 air traffic control towers by 2028, but in August of 2022 the FAA decreased the number to 49 and extended the timeline to 2031. This raises concerns with the deployment cost and schedule of these federal funds.
- [*Airport Improvement Program \(AIP\) and Noise Compatibility*](#): The IG conducted an audit to assess FAA's oversight of land that airport sponsors acquire with AIP grants for noise compatibility, processes for determining whether airport sponsors identify land they no longer need for noise compatibility, and oversight of airport sponsor's disposal of noise land. The IG found \$32 million in grants identified that were erroneously omitted from the list of grants retrieved from the System of Airports Reporting (SOAR) database mostly due to incorrect coding or unique circumstances when reported. For 2 of the 5 airports in the sample the FAA did not follow proper policy when approving reimbursements totaling \$2.1 million. This poses oversight issues regarding the effectiveness that FAA has issued and reimbursed these projects leaving room for mismanagement and waste.
- [*Investigative Practice Standards and Operating Procedures*](#): The FAA's Office of Audit and Evaluation (AAE) investigates alleged lapses in aviation safety and/or oversight, violations of FAA regulations, orders, standards, or policies, and other whistleblower disclosures. In a recently published report, the IG found that while the FAA AAE complied with CIGIE quality standards for investigative practices they lacked comprehensive written procedures to reinforce compliance. This puts the AAE at risk of not being able to ensure its work meets CIGIE standards. The AAE also lacked a method for readily tracking the number of "sufficiency reviews" it completed, nor do they have a means of tracking whistleblower requests from its hotline. This raises major concerns with compliance of safety standards established by CIGIE and effective tracking and processing of whistleblower requests and investigations by the AAE.
- [*Counter-UAS: Testing Detection and Mitigation Systems*](#). On March 30, 2022, the IG issued a report to assess the FAA C-UAS coordination efforts. The report found that while the coordination with other agencies has been successful the program is developing to accommodate future growth and the detection and mitigation systems could impact aviation safety. The IG issued three recommendations to improve the effectiveness of C-UAS coordination and testing programs and provided appropriate actions and completion dates.

[*Federal Railroad Administration \(FRA\) Automated Track Inspections Program \(ATIP\)*](#): The DOT

³⁰ P.L. 115-254.

OIG issued a report to evaluate FRA's use of automated inspections to aid track safety oversight. The audit showed that while FRA's use of the ATIP vehicles for survey data and performance of data-driven evaluation of railroad track testing programs and improvement of data inventories, the program is outdated and in need of update. The fleet fell short of performance with an 80 percent utilization report between 2016 and 2021. Given the recent events in East Palestine, Ohio the rail sector has gained attention specifically on issues regarding track caused accidents, wayside detection, and tank car integrity, this report provides an opportunity for oversight of the efforts the IG has taken to review these issues in the aftermath.

FHWA Oversight of Contract Change Orders Under the Federal-aid Highway Program: The IG issued a report on July 20, 2022, to assess the Federal Highway Administration's oversight of contract change orders. FHWA oversees \$52 billion in Federal-aid Highway Program funds for fiscal year 2022. Most of the funding is for highway infrastructure projects. The IG found that data limitations could impact the FHWA's ability to monitor and oversee change orders. The Agency also lack a consistent definition of change orders as well as clear guidance on what constitutes a major change. This is important for oversight contract authority at the FHWA.

IT and Cybersecurity: Information Technology and cybersecurity have become increasingly more important as our world becomes increasingly more interconnected. The rapid advancement of technology and the influx of work from home policies following the pandemic have increased the awareness of the potential of cyber-attacks. In 2021, President Biden issued an E.O. on Improving the Nation's Cybersecurity.³¹ This was the administration's attempt to focus agencies on the importance of fortifying their critical infrastructure. The IG at DOT has launched reports following the issuance of this administration priority.

- *FMCSA's IT Infrastructure:* The Federal Motor Carrier Safety Administration regulates and oversees the safety of commercial motor vehicles partnering with other agencies and industry. Many of their system contain sensitive data including personally identifiable information (PII). The IG issued a report on October 20, 2021, regarding an audit of FMCSA's information technology infrastructure to determine if it contained security weaknesses that could compromise the Agency's systems and data. The IG found vulnerabilities in several web servers that allowed unauthorized access to FMCSA's network. During the audit the IG gained access to 13.6 million unencrypted PII records, a breach that would have cost the agency up to \$570 million in credit monitoring fees.
- *Mobile Device Security:* On February 28, 2023, the IG initiated a report to review the use of more than 22,000 mobile devices at DOT as reported in 2020. The report will analyze whether DOT has established and implemented effective controls to manage and secure its mobile devices. This provides an effective oversight angle to discuss the pandemic support the agency received, how the IG has managed oversight of those funds, and questions regarding their return to the office.

³¹ Biden Administration, *Executive Order on Improving the Nation's Cybersecurity*, Executive Order 14028, May 12, 2021, press release, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/05/12/executive-order-on-improving-the-nations-cybersecurity/>.

Buy America:³² At the request of Congress, the IG launched an audit to assess FTA’s oversight of Southeastern Pennsylvania Transit Authority (SEPTA)’s certification of China Railway Rolling Stock Corporation (CRRC) MA’s adherence to the FTA’s Buy America requirements for rolling stock and SEPTA’s calculation of the total value of foreign components.³³ This audit is not yet complete; we would like the IG to provide an update.

CPARS Reporting Guidance. The IG conducted a report that found several agencies were late in submitting their Contractor Performance Assessment Reporting System (CPARS). The FAA was 1,246 days late registering a 7-year, \$52 million contract for maintenance on security systems at about 615 FAA facilities. The Federal Transit Administration (FTA) was 1,717 days late registering a 5-year, \$9.6 million contract seeking technical support. Additionally, the Great Lakes St. Lawrence Seaway Development Corporation (GLS) was 1,202 days late registering a 2-year, \$6.3 million contract for concrete demolition. These delays raise considerable concern because they prevent the IG from conducting effective oversight and can lead to massive abuses being unreported.



EPA

Management Implication Report: Mitigation of Grant Fraud Vulnerabilities: In a report issued on March 30, 2023, the EPA OIG observed that grantees and subrecipients may not be fully aware of key fraud prevention and enforcement measures. The report concluded that the EPA should take stronger steps to clearly communicate the consequences of fraud and that it needs to add OIG reporting requirements and whistleblower protection provisions to its standard terms and conditions.

Management Implication Report: Disclosure of Foreign Support for EPA Research Grants: The EPA currently only requires grant applicants to disclose active or pending research support before receiving an award from the Agency. In an April 13, 2023, report, the EPA Office of Inspector General identified a concern regarding the lack of a requirement for research grant recipients to report foreign support after receiving an EPA grant award. This lack of requirements or practices subject EPA’s federally funded research to the influence of foreign adversaries.

The EPA’s January 2021 PFBS Toxicity Assessment Did Not Uphold the Agency’s Commitments to Scientific Integrity and Information Quality: This report, issued March 7, 2023, regarding scientific integrity, found that the EPA did not follow the typical intra-agency review and clearance process during the development and publication of the January 2021 perfluorobutane sulfonic acid, or PFBS, toxicity assessment.

³² The Federal Transit Administration implemented Buy America requirements which prevent FTA from obligating appropriated funds to carry out projects unless “the steel, iron, and manufactured goods used in the project are produced in the United States.” These requirements apply to third-party procurements by FTA grant recipients and grantees must include specific procurement bids for steel, iron, or manufactured goods. Since 2021, there have been various waivers issued. U.S., DOT, Federal Transit Administration, *Buy America: What’s New – Requirements for Construction Materials*, April 2023, <https://www.transit.dot.gov/buyamerica>.

³³ U.S., DOT, IG, *Audit Initiated of FTA’s Oversight of SEPTA’s Compliance with Buy America Requirements for Rolling Stock*, 23Z3001Z000, February 24, 2023, <https://www.oig.dot.gov/library-item/39367>.

EPA Should Consistently Track Coronavirus Pandemic-Related Grant Flexibilities and Implement Plan for Electronic Grant File Storage: This report, issued February 22, 2022, found that the EPA Office of Grants and Debarment did not know the full extent to which program offices and regions had implemented grant flexibilities and exceptions permitted by the Office of Management and Budget due to the coronavirus pandemic. The Office of Grants and Debarment tracked grants that received flexibilities through its issued class waivers and regulatory exceptions, but it did not track grants that received flexibilities and exceptions approved by program offices and regions. The lack of agencywide tracking of grant flexibilities and exceptions hindered the Agency's ability to assess how the coronavirus pandemic impacted the grant process.

Lessons learned reports addressing grants management:

- *Considerations for the EPA's Implementation of Grants Awarded Pursuant to the Infrastructure Investment and Jobs Act:* This report was issued on August 11, 2022, and the OIG found three areas for improvement for EPA to consider as it prepared to administer and oversee IIJA grants. These areas included: (1) enhancement of the grants oversight workforce and strengthening monitoring and reporting; (2) establishment and implementation of comprehensive guidance and detailed work plans, as well as improvement of communications; and (3) required adequate documentation supporting grant payments.
- *Considerations from Single Audit Reports for the EPA's Administration of Infrastructure Investment and Jobs Act Funds:* The IG issued this report on September 14, 2022, which reviewed single audit findings from fiscal years 2019 through 2021. The IG identified 364 instances of noncompliance with applicable federal laws, regulations, and program requirements by nonfederal entities expending EPA grant dollars. These instances of noncompliance spanned nine EPA programs that are expected to receive IIJA funds: Clean Water State Revolving Fund (CWSRF), Drinking Water State Revolving Fund (DWSRF), Brownfields, Chesapeake Bay, Puget Sound, Great Lakes, Superfund, National Estuary, and Southeast New England Coastal. A majority of the instances of noncompliance with applicable federal laws, regulations, and program requirements fell into seven areas: (1) procurement and suspension and debarment; (2) reporting; (3) allowable costs/cost principles; (4) cash management; (5) activities allowable or unallowable; (6) special tests and provisions; and (7) subrecipient monitoring. The IG found that most instances of noncompliance were associated with two programs: the CWSRF and SWSRF programs.
- *American Recovery and Reinvestment Act Findings for Consideration in the Implementation of the Infrastructure Investment and Jobs Act.* The IG issued this report on December 7, 2022, which analyzed and developed three lessons that the EPA should consider in order to mitigate risks and reduce the likelihood of fraud, waste, and abuse of IIJA funds. First, ensure that federal requirements are met. Second, provide clear and comprehensive guidance to applicants. Third, and final, improve project management, monitoring, and data verification.