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PROTECTING AMERICAN TAXPAYERS: HIGHLIGHTING EFFORTS TO PROTECT AGAINST FEDERAL WASTE, FRAUD, AND MISMANAGEMENT

HEARING

BEFORE THE

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

OF THE

HOUSE OF REPRESENTATIVES

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PROTECTING AMERICAN TAXPAYERS: HIGHLIGHTING EFFORTS TO PROTECT AGAINST FEDERAL WASTE, FRAUD, AND MISMANAGEMENT

WEDNESDAY, APRIL 19, 2023

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY,
Washington, D.C.

The Committee met, pursuant to notice, at 10 a.m., in room 2318, Rayburn House Office Building, Hon. Jay Obernolte presiding.

COMMITTEE ON
SCIENCE, SPACE
AND TECHNOLOGY
CHAIRMAN FRANK LUCAS

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 2008[6] 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,by%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), S180370152211031546O (nasa.gov).
[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), S18037015221031546O (nasa.gov).
[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.

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[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, *FY 2022 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 statutorily 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 2018[30] 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 was 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.

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[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.

Mr. OBERNOLTE. The hour of 10 o'clock having arrived, this hearing of the Science, Space, and Technology Committee is hereby convened.

I'd like to begin today by thanking Chairman Lucas and Ranking Member Lofgren for allowing both myself and Mrs. Foushee to lead this Full Committee hearing. And I'm very excited about the topic we're going to be discussing today.

This hearing focuses on a topic of great importance both to me and to this Committee, which is to review the oversight and investigative efforts of the Inspectors General (IGs) within each agency within the jurisdiction of our Committee. The role of the OIG (Office of Inspector General) in these agencies is an essential one, which is to protect the American taxpayer by working to identify Federal waste, fraud, and mismanagement.

Inspectors General have a strong historical precedent in our Nation. IGs are meant to be the watchdogs for Congress and the American taxpayer. The independent oversight capability the IG wields to expose waste, fraud, abuse, and mismanagement is their core responsibility. It's critical to the independence of Inspectors General that this independence is maintained. IGs are meant to be in their parent agencies, but not of their parent agencies, or frankly, of any Administration. They're meant to be apolitical and set apart in order to do the hard task of publicly highlighting the flaws of their parent agencies, and I know that that is not an easy one. Helping to achieve transparency and accountability within an Administration is a difficult but a very necessary role that the IG leads.

Each agency has a very different mission and goal, which makes it challenging to have a single, all-encompassing metric to evaluate the effectiveness of each IG. I hope that this hearing will be an opportunity to discuss the potential metrics by which each Office of the Inspector General should be measured and where those offices currently stand.

This hearing is also a chance to highlight the important work done by each of the offices here before us today. I'd particularly like to highlight the oversight work surrounding the growing threat to our cybersecurity and research integrity standards. The COVID–19 pandemic has pushed technologies forward and implemented remote capabilities far sooner than any of us had anticipated. Hearing from each of you today on the oversight efforts your agencies have taken to enhance cybersecurity standards and promote research integrity is particularly important to me. I hope that this topic can be effectively discussed as it relates to the security of passwords and protective internal practices of each of the agencies that you represent. This is likely to be discussion for future hearings as well. I certainly hope it will be. But I encourage conversations on this topic today.

Several of the agencies here today before us have received millions if not billions of Federal dollars to advance research and development initiatives. Massive spending bills such as the *Infrastructure Investment and Jobs Act, CHIPS and Science Act,* and the *Inflation Reduction Act* have recently become law, and have provided agencies with new statutory mandates, as well as research and development funds to advance innovation in our country.

However, more spending also means more opportunities for mismanagement of those taxpayer funds, making the IGs' role more important than ever. I'd like to hear how each IG has already begun to provide oversight of these taxpayer funds, as well as future oversight plans in these areas. It's critical as new programs and funds are implemented that every proper measure is taken to safeguard them from fraud and abuse.

This hearing also serves as an opportunity for this Committee to emphasize the various findings the IGs have reported on in areas that have raised considerable concerns. Just a few issues we hope to address here include the law enforcement presence and mitigation efforts of sexual assault and harassment allegations in the Antarctic, the extent of work-from-home policies that are in place, and various award and procurement issues as we move closer to the congressional appropriations season.

At this time, I would like to welcome our esteemed witnesses and thank you all for joining us. I'm looking forward to a robust discussion with each of you. And I'm hopeful our conversation today will highlight the good work being done in accountability and transparency and hope it also strengthens your oversight and investigatory efforts. So I thank you very much for being here.

[The prepared statement of Mr. Obernolte follows:]

Good morning. I would like to begin today by thanking Chairman Lucas and Ranking Member Lofgren for allowing myself and Ms. Foushee to lead this full committee hearing.

Today's hearing focuses on a topic of great importance to this committee: protecting the American taxpayer by working to expose federal waste, fraud, and mismanagement. Essentially, the role of the Office of Inspectors General.

Inspectors General have a strong historical precedent in our nation. IGs are meant to be the watchdogs for Congress and the American taxpayer. The independent oversight capability the IG wields to expose waste, fraud, abuse, and mismanagement is their core responsibility.

It is critical that the independence of Inspectors General is maintained. IGs are meant to be IN their parent agencies, but not OF their parent agencies or any administration. They are meant to be apolitical and set apart in order to do the hard task of publicly highlighting the flaws of their parent agencies. Helping to advance transparency and accountability within an administration is a difficult but necessary role that the IG leads.

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At this time, I would like to welcome to our esteemed witnesses and thank you all for joining us. I am looking forward to a robust discussion with each of you. I am hopeful our conversation today will highlight the good work being done in accountability and transparency and help to strengthen your oversight and investigative efforts.

Mr. OBERNOLTE. And I'll now recognize my Ranking Member, the gentlewoman from North Carolina, for 5 minutes for her opening statement.

Mrs. FOUSHEE. Thank you, Chairman Obernolte, and thank you for leading today's hearing. I'm very pleased to serve beside you this Congress as the Ranking Member of Investigations and Oversight Subcommittee. Science Committee oversight of Federal scientific enterprise is crucial. I look forward to working with you in a bipartisan fashion to support the incredible work that scientists inside and outside of government are doing every day to confront the challenges of the 21 century and to maintain American leadership in science and innovation.

I am a strong supporter of Federal scientific research, and I believe the Federal Government is irreplaceable in its ability to deploy resources on a vast scale to fund breakthroughs in basic and applied science. But with that singular role comes a responsibility to use taxpayer dollars effectively. Through the work of their offices, the Inspectors General testifying here today are helpful to uphold core principles of good government that we all share. That is why I am proud to support their work and eager to hear their perspectives on strengthening the integrity of Federal scientific programs.

I am proud to represent North Carolina's 4th Congressional District, which is one of the Nation's leading hubs for scientific research, led by research universities such as Duke University, the University of North Carolina at Chapel Hill, and North Carolina Central University, as well as innovation centers like Research Triangle Park. My district understands the power of science to generate innovation, transform industry, and create jobs.

Federal science agencies such as NSF (National Science Foundation), DOE (Department of Energy), and EPA (Environmental Protection Agency) are important participants in this research ecosystem. North Carolina's 4th is home to the world-class EPA lab, where Federal researchers at EPA's Office of Research and Development provide the scientific underpinning for crucial health protective regulations. Agencies also fund programs and initiatives at local institutions in support of a wide range of cutting-edge scientific activities, such as DOE's Triangle University's Nuclear Laboratory Center of Excellence and NSF's Research Triangle Nanotechnology Network. So I have a keen interest in ensuring that Federal research programs are managed well and adhere to best practices in using the funds that are entrusted to them.

The researchers in my district are some of the most brilliant people you will ever meet, and they deserve to know that the Federal

agencies working to support them are upholding the same rigorous standards that they apply to their own work.

I also want to emphasize that support for rigorous oversight does not in any way signal a lack of support for investing in Federal research at the levels we need to maintain American preeminence in science and technology. Indeed, the two priorities go hand-in-hand.

The last Congress made critical investments in Federal science through landmark legislation like the *CHIPS and Science Act,* the *Infrastructure Investment and Jobs Act,* and *the Inflation Reduction Act.* These investments are a pillar of America's future, and I am committed to making sure that they endure. Careful oversight by Congress, OIGs, and others will help maximize their impact because when it comes to Federal research funding, good government is good policy.

I am grateful to the witnesses for testifying here today and for the work that you do.

Once again, Chairman Obernolte, it is my great hope that through our oversight efforts this Congress, we can find common ground in support of American science. I believe we can. And I will work with you to do so. I yield back.

[The prepared statement of Mrs. Foushee follows:]

Thank you, Chairman Obernolte, and thank you for leading today's hearing. I'm very pleased to serve beside you this Congress as the Ranking Member of the Investigations & Oversight Subcommittee.

Science Committee oversight of the federal scientific enterprise is crucial. I look forward to working with you in a bipartisan fashion to support the incredible work that scientists inside and outside of government are doing every day to confront the challenges of the 21st Century and to maintain American leadership in science and innovation.

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Once again, Chairman Obernolte, it is my great hope that through our oversight efforts this Congress, we can find common ground in support of American science. I believe we can, and I will work with you to do so.

I yield back.

Mr. OBERNOLTE. Thank you, Ranking Member Foushee. I completely agree with you, and I think we will follow—find that common ground.

Chairman Lucas' opening statement will be submitted for the record.

At this time, I'd like to recognize the Ranking Member of the Full Committee, Congresswoman Lofgren, for her opening statement.

Ms. LOFGREN. Thank you very much. I want to thank Chairman Lucas, Chairman Obernolte, for holding this hearing today. I'm a big fan of the Inspector General concept. You do good work helping us to find issues that need improvement. And given the large investments that we made in science in the last Congress, it's important that we take a look at how those programs are being administered.

The investments in Federal science agencies are going to bring about new discoveries on the shoulders of impressive accomplishments in the past. I'll just note that the Department of Energy will continue leading us into a clean energy future, building upon the incredible breakthroughs in fusion energy that we saw at the—in the last year and, frankly, the last years.

The—as I said, the Inspectors General play an important role. We've provided additional funding because with your additional responsibilities will come additional work. If—some challenges may be difficult because some of these agencies may be standing up completely new endeavors. It won't be the same old, same old. And I'm confident that the IGs will take that responsibility and that new challenge seriously and be successful.

Now, the fact that I support rigorous oversight does not mean that I am suspicious or unhappy about the investments that we made in the last Congress. It's important that we did that. And we did it on a bipartisan basis. But investments made in the *CHIPS and Science* program in particular, are—we need oversight. We need oversight to make sure that those substantial investments are making the best possible use of taxpayer dollars. I know that we will do this on a bipartisan basis. And I want to thank the witnesses for being here, as well as thanking our bipartisan science group for once again working together for science advancement.

I yield back, Mr. Chairman.

[The prepared statement of Ms. Lofgren follows:]

Good morning, and thank you to Chairman Lucas and Chairman Obernolte for holding this hearing today.

Inspectors General are a crucial part of a healthy, functioning government ecosystem. Congress entrusts federal agencies with taxpayer money to steward our national priorities. The 117th Congress, especially, saw the passage of a number of banner pieces of legislation. I'm proud that these bills—*CHIPS and Science* in particular—made heavy investments in our scientific enterprise. Congress charted a

path for American scientific leadership, and now agencies are implementing those ambitious plans.

The landmark investments will allow federal science agencies to bring about new discoveries on the shoulders of their impressive accomplishments. The Department of Energy will continue leading us into a clean energy future, building upon their incredible breakthroughs in fusion energy. The National Science Foundation will support a strong, diverse STEM workforce that will foster the talent we need to maintain global leadership. NASA will bring humans back to the Moon while keeping our eyes on Mars, advancing human exploration capabilities.

All the while, the Offices of Inspector General will play a critical role in ensuring the billions of dollars authorized last Congress are properly spent. The funding increases give our federal science agencies substantial resources to fulfill our national goals. OIGs' oversight of newly established programs will serve as necessary guideposts, offering decades of experience and lessons learned to initiatives still in their infancy. Recommendations from our panel's Officeswill ensure existing programs are able to scale up their activities to best utilize increased funds.

The 117th Congress's legislative efforts provided many IG offices with additional funding to ensure they have the resources to oversee their home agencies. I hope the Offices are carefully considering how to best use that money. Today, we'll hear from our witnesses about what challenges they face in ensuring their oversight efforts are top-notch. Meeting the increased oversight needs in part will require a larger workforce, which is easily addressed by additional funding. But some challenges may be more complicated. Perhaps a constituent agency is standing up a program unlike any it's had before, meaning there is minimal precedent for oversight within the agency's OIG. Maybe new initiatives involve inter-agency collaboration that will require more cooperation among IG offices. And maybe the cutting-edge priorities put forth by Congress will necessitate new metrics by which to judge federal science agencies.

As Ranking Member Foushee said in her opening statement, rigorous oversight goes hand in hand with supporting strong investments in federal research. I want to be clear that my emphasis on the need for robust and effective OIGs does not indicate a skepticism of increased funding for science agencies. Federal programs are strengthened by the recommendations of OIGs. In cases of waste, fraud, and abuse by recipients of grant money, taxpayer funds are recovered by the work of those appearing before our Committee today.

The investments made in *CHIPS & Science* enjoyed bipartisan support. Likewise, I believe all of us here today—on both sides of the aisle—support strong oversight that will facilitate the best use of taxpayer dollars. Thank you to the witnesses for your important work, and for appearing before us today to educate us on your efforts.

I yield back.

Mr. OBERNOLTE. Thank you very much, Ranking Member Lofgren.

We will now move to our witness panel. All of our witnesses here today are extremely accomplished and have participated in government oversight for years, so welcome to all of you, and thank you very much for being part of our panel today.

Our first witness today is Mr. Paul Martin, who is the current Inspector General for the National Aeronautics and Space Administration (NASA). Mr. Martin, you are recognized for 5 minutes.

TESTIMONY OF THE HONORABLE PAUL K. MARTIN, INSPECTOR GENERAL, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Mr. MARTIN. Thank you, Chairman Obernolte and Ranking Members Foushee and Lofgren and Committee Members.

While undoubtedly innovative and inspirational, NASA faces longstanding challenges with its contracting and project management that have led to substantial cost and schedule growth in many of its programs. This morning, I plan to highlight three challenges that NASA must address to achieve its ambitious aeronautics, science, and space exploration goals. The first, developing

comprehensive and accurate cost and schedule estimates. NASA has struggled for years to develop reliable lifecycle estimates for many of its multibillion dollar programs, including Artemis and the James Webb Space Telescope. For Artemis, NASA lacks a comprehensive cost estimate that accounts for all program costs, an omission that contributes to a lack of transparency into the funding required to sustain the program. Through our audit work, the OIG developed just such an estimate, and we project that NASA will spend $93 billion on Artemis from 2012 through 2025. In addition, we reported a cost of $4.1 billion per launch for at least the first four Artemis missions, an expense we found unsustainable. NASA must accelerate its efforts to make its Artemis-related programs more affordable. Otherwise, relying on such an expensive single-use rocket system will inhibit NASA's ability to sustain its exploration goals for the Moon and Mars.

The second challenge, project management. Our oversight work over the years has identified multiple examples of project management deficiencies. Specifically, our June 2022 report on development of Mobile Launcher 2 (ML2), the ground structure required to launch larger variants of the SLS (Space Launch System) Orion system, found that NASA is likely to spend over $1 billion dollars on ML2 or more than 2 1/2 times more than initially planned, with final delivery at least 2 1/2 years late. We determined that the project's substantial cost increases and schedule delays are attributable primarily to the poor performance of Bechtel, the project's contractor. However, NASA's management practices also contributed to cost increases and schedule delays.

And challenge three, choice of contracting vehicles and use of award fees. NASA has struggled over the years to make the most appropriate contracting decisions with its programs. Development contracts such as those for the SLS core stages, boosters, and engines, and the Orion capsule were sole-sourced, eliminating the potential benefits of competition, and competitive follow-on awards for the production contracts for these programs proved infeasible. Moreover, NASA has a history of paying overly generous award fees to contractors, fees that are often inconsistent with the quality of their performance. For example, in October 2018, we reported that issues driven mostly by Boeing's poor performance resulted in a 2 1/2 year schedule slip and $4 billion in cost increases for development of two SLS core stages. However, between 2012 and 2017, NASA paid Boeing $323 million in award, milestone, and incentive fees, of which we questioned nearly $64 million.

We had similar concerns with Lockheed's performance developing Orion. In July 2020, we reported that Lockheed received nearly all available award fees over a 9-year period, even though the program was experienced $90 million—$900 million in cost increases and schedule delays of more than 3 years. We calculated that NASA paid Lockheed at least $27.8 million in excess award fees.

To its credit, NASA is taking steps to improve management of its major programs. For example, the agency has decreased the use of award fee contracts from 42 percent in 2020 to 28 percent just 2 years later. In addition, NASA is exploring ways to make its lunar mission sustainable by transitioning several programs to fixed

price contracts and increasingly utilizing public-private partnerships.

We look forward to sharing the results of our oversight work with this Committee. Thank you, Mr. Chairman.

[The prepared statement of Mr. Martin follows:]

NASA
National Aeronautics and Space Administration

Office of Inspector General

Testimony before the House of Representatives
Committee on Science, Space, and Technology

PROTECTING THE AMERICAN TAXPAYER: HIGHLIGHTING EFFORTS TO PROTECT AGAINST FEDERAL WASTE, FRAUD, AND MISMANAGEMENT

Statement of Paul K. Martin
Inspector General
National Aeronautics and Space Administration



For Release on Delivery (expected at 10 a.m.)
April 19, 2023

Chairman Lucas, Ranking Member Lofgren, and Members of the Committee:

The Office of Inspector General (OIG) is committed to providing independent, comprehensive, and objective oversight of NASA programs and projects, and we welcome this opportunity to highlight our work to the Committee on Science, Space and Technology.

NASA stands at the forefront of aeronautics, science, and space exploration. Since its creation in 1958, NASA has made extraordinary achievements through missions including Apollo, the Space Shuttle Program, the International Space Station, and the James Webb Space Telescope (JWST). Looking forward, the Agency seeks to continue this legacy of exploration and innovation with the Artemis campaign, which intends to establish a long-term human presence on the Moon as a prelude to crewed missions to Mars.

To support every facet of its operations, the Agency uses contracts, grants, and cooperative agreements to fund research and development activities and to purchase services, supplies, and equipment. Over the past 3 years, NASA has spent over $58.8 billion on procurements with the Agency executing over 26,000 procurement actions in fiscal year (FY) 2022 alone. NASA primarily awarded these procurements to large and small businesses, educational institutions, and nonprofit organizations, with approximately 68 percent of the funds provided to these entities through competition. NASA's FY 2022 procurement portfolio was composed of 33 percent firm fixed-price contracts, 28 percent award-fee contracts, 27 percent cost-plus-fixed-fee contracts, and the remaining 12 percent incentive contracts and other award types.

The breadth and scale of these procurements underlie the significant challenges NASA faces to ensure the Agency receives good value for its investments, and that recipients spend NASA funds appropriately to accomplish agreed-upon goals on the agreed-upon timetable. Throughout its history, NASA has faced long-standing challenges with oversight of its contracts and grants. Relatedly, the Agency has often experienced substantial growth in the cost and schedule in many of its programs, including major human space flight missions like the Space Launch System (SLS) heavy lift rocket and Orion Multi-Purpose Crew Vehicle (Orion), as well as other science and exploratory programs and projects.

For the past 16 years, the OIG has highlighted NASA's acquisition practices as a top management challenge due to persistent cost growth and schedule delays in many of the Agency's major programs and projects. Our audit work over the past decade has focused on issues critical to NASA's effort to land humans on the Moon as a prelude to a crewed Mars mission. We assessed the SLS, Orion, next-generation spacesuit development, and ground systems including Mobile Launchers I and II. We also examined supporting science projects such as the Volatiles Investigating Polar Exploration Rover (VIPER) project—a mobile rover that will survey the Moon's South Pole. Because cooperation with International Space Agencies is critical to NASA's plans to achieve a robust and sustainable presence in space, we recently examined NASA's efforts to coordinate with its international partners on the Artemis campaign.

Since FY 2020, we have issued 108 audit products with 442 recommendations, questioned over $256 million, and identified $4 million in funds that could be put to better use. On the investigations side of the house, during this 3-year period our work related to procurement, grant fraud, and waste resulted in 24 indictments, 22 criminal convictions, and over 60 suspensions and debarments. In addition, more than $5.1 million in criminal restitution and over $29 million in civil settlement fines were paid to the U.S. Treasury as a result of OIG investigations.

Our work has repeatedly identified substantial cost increases and schedule delays with NASA's programs and projects due in part to the Agency's contract management practices. We have reported on challenges NASA has faced in the development of reliable cost and schedule estimates, contract and project management decisions that led to increased costs, and overly generous award fees the Agency provided to contractors even during periods of poor performance.

My testimony today focuses on the top challenges facing NASA and is informed by our comprehensive audit and investigations oversight work.

Development of Reliable Cost and Schedule Estimates

NASA has struggled for years to develop reliable life-cycle cost and schedule estimates for its multi-billion-dollar programs such as those supporting the Artemis missions, JWST, and other science missions.[1] NASA needs to better manage cost and schedule through the development of reliable and realistic estimates at both the outset of projects and during their development. For its most high-profile and costly space exploration campaign—Artemis—NASA lacks a comprehensive cost estimate that accounts for all program costs. Without an official estimate that includes all relevant costs, Congress, the public, and other stakeholders lack transparency into the funding required to sustain the Artemis campaign over the medium to long term.

Nevertheless, through a series of detailed audits examining individual parts of the overall Artemis campaign, the OIG developed such an estimate. In November 2021, we reported that NASA is projected to spend $93 billion on the Artemis effort from FY 2012 through FY 2025.[2] Moreover, we also reported a cost of $4.1 billion per launch of the SLS/Orion system for at least the first four Artemis missions, an expense we found unsustainable. Consequently, NASA must accelerate its efforts to identify ways to make its Artemis-related programs more affordable. Otherwise, relying on such an expensive single-use, heavy-lift rocket system will, in our judgment, inhibit if not derail NASA's ability to sustain its long-term human exploration goals for the Moon and Mars.

The Agency has also struggled to develop reliable estimates in many of its science missions. For example, after more than 20 years of development and testing, NASA successfully launched the James Webb Space Telescope—an infrared observatory designed to help us understand the origin of the universe and the creation and evolution of the first stars and galaxies—in December 2021 after years of schedule delays and a series of significant cost increases. From its inception in 1999 when early estimates ranged from $1 billion to $3.5 billion, the final cost of the telescope ballooned to close to $10 billion. The telescope is a technical and scientific marvel for sure, but also a science mission that experienced poor contract and project management at key junctures in its development.

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[1] 51 U.S. Code § 30104 defines life-cycle cost as the total of the direct, indirect, recurring, and nonrecurring costs, including construction of facilities and civil servant costs, and other related expenses incurred or estimated to be incurred in the design, development, verification, production, operation, maintenance, support, and retirement of a program over its planned lifespan.

[2] *NASA's Management of the Artemis Missions* (IG-22-003, November 15, 2021).

Choice of Contracting Vehicles

NASA has struggled over the years to make the most appropriate contracting decisions when managing its programs, resulting in choices that have led to increased costs. Development contracts—such as those for the SLS's core stages, boosters, and engines and the Orion capsule—were sole sourced, eliminating any potential cost benefits of competition. Moreover, competitive follow-on awards for production contracts for these items several years later were not feasible due to the high cost of a different contractor developing its own manufacturing processes and facilities. NASA continues to use a cost-plus contracting structure for the SLS, Orion, and Ground Systems even though the programs have experienced years of delays and billions of dollars in cost increases. Down the road, NASA officials intend to transition these programs to potentially less costly fixed-price contracts. For example, contracting officials are implementing a fixed-price arrangement for production of SLS boosters beginning with Artemis IV and for Orion contracts starting with Artemis IX. However, major production contracts for the SLS core stage and exploration upper stages, RS-25 engines, and Mobile Launcher-2 remain cost-plus contracts.

It should be noted that use of fixed-price contracts is not a one-size-fits-all solution to contain project cost. In a November 2020 report examining NASA's management of the Gateway Program for Artemis Missions—the outpost that will orbit the Moon and serve as a "way station" for lunar exploration—we noted cost increases associated with awarding fixed-price contracts on projects with still-evolving requirements.[3] In particular, NASA awarded a fixed-price contract to develop the power and propulsion element of the Gateway because the Agency anticipated few design and development changes. However, at the time of our report, the contract value had increased by $78.5 million since the award, with more increases expected to accommodate additional evolving requirements and technical challenges.

Project Management

Our work over the years has identified multiple examples of project management decisions that drove up costs and caused schedule delays. In March 2020, we reported on cost increases and schedule delays the Agency experienced developing its first mobile launcher (ML-1), the ground structure to assemble, process, transport, and launch the integrated SLS/Orion system. As of January 2020, the project cost $693 million—$308 million more than the Agency's initial budget estimate in March 2014—and was more than 3 years behind schedule.[4] We found NASA's acquisition approach for ML-1 lacked coordination with contractors, who failed to effectively integrate their individual design changes, and the Agency lacked a comprehensive process to incorporate work from the different contractors into a single master design. Moreover, instead of using a solicitation process to identify the most qualified contractor to handle the project's design phase, NASA used an in-house, prequalified engineering services contractor that performed a wide range of services for the Agency from laboratory maintenance to software development. These decisions, coupled with multiple other factors, resulted in design errors and integration challenges that drove the project's cost increases and schedule delays. Similarly, NASA's efforts to develop its Mobile Launcher 2 is also plagued by cost delays and schedule overruns, primarily due to poor contractor performance.

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[3] *NASA's Management of the Gateway Program for Artemis Missions*, (IG-21-004, November 10, 2020).

[4] *Audit of NASA's Development of Its Mobile Launchers*, (IG-20-013, March 17, 2020).

In July 2020, we reported that Orion was proceeding with production of crew capsules for future Artemis missions before completing key development activities, increasing the risk of cost growth beyond the $1.4 billion already expected through 2023 and causing additional schedule delays.[5] Specifically, NASA made the decision to conduct qualification testing—the process that formally verifies a design meets requirements—for the Orion capsule after development of the Artemis I spacecraft was completed. Traditionally, qualification testing is completed before the vehicle's first flight. The Orion Program plans to use the Artemis I flight vehicle and test articles to complete qualification, instead of having a dedicated test article. In addition, the Program began production of additional crew capsules before finishing development of the Artemis 1 capsule. Both decisions increase the risk of cost growth and schedule delays.

The troubled history of GeoCarb, an Earth System Science Pathfinder mission selected in 2016 to measure greenhouse gases and vegetation health from space, provides another example of a management challenge that project managers were unable to overcome. The Agency's original plan was to fly GeoCarb as a hosted payload on a commercial communications satellite with an initial launch readiness date of 2022. In February 2020, NASA announced that it was increasing the GeoCarb life-cycle cost to reflect new estimates for completing the instrument and obtaining a host spacecraft. However, by early 2022 launching GeoCarb as a hosted payload was no longer an option, and NASA made the decision to seek alternative launch solutions. However, in November 2022 NASA cancelled the GeoCarb mission due to technical concerns, cost performance, and the availability of new alternative data sources. At the time it was cancelled, NASA estimated that continuing the mission would cost over $600 million—about $430 million more than the original $170 million cost cap—a price tag that would have a detrimental impact on the rest of NASA's Earth Science portfolio, including causing delays of other Earth Science missions. We are currently evaluating NASA's management of the Earth System Science Pathfinder Program, including the Agency's decision to cancel GeoCarb.

Contractor Performance and Use of Award Fees

NASA has a history of paying overly generous award fees that we have found to be inconsistent with contractor performance. Award-fee contracts are designed to incentivize contractors and reward strong performance, and these fees are in addition to the amounts paid to reimburse them for actual costs incurred. We have reported on the inappropriate use of award fees during periods of poor contractor performance for multiple NASA programs, including the SLS contracts with The Boeing Company (Boeing), Orion contracts with Lockheed Martin Corporation (Lockheed), and NASA's contract with Bechtel National, Inc. to build a second mobile launcher (ML-2).

In October 2018, we reported that management, technical, and infrastructure issues driven mostly by Boeing's poor performance resulted in a 2½-year schedule slip and $4 billion in cost increases for the development of two SLS core stages.[6] We attributed these issues to the contractor consistently underestimating the scope of the work to be performed and thus the size and skills of its required contractor workforce, which led to delays in development of hardware and software. In addition to the contractor's poor performance, we also found flaws in NASA's evaluation of Boeing's performance on the contract—flaws that resulted in the Agency inflating the contractor's scores and providing overly

[5] *NASA's Management of the Orion Multi-Purpose Crew Vehicle Program* (IG-20-018, July 16, 2020).

[6] *NASA's Management of the Space Launch System Stages Contract* (IG-19-001, October 10, 2018).

generous award fees. Specifically, in the six evaluation periods between 2012 and 2017, NASA paid Boeing $323 million in award, milestone, and incentive fees, of which we questioned nearly $64 million given the SLS Program's cost overages and schedule delays.

With regards to Orion, in July 2020 we reported that Lockheed received nearly all available award fees over a 9-year period due to a variety of factors including the use of a contract clause that, in our judgement, disincentivizes performance by offering the contractor the opportunity to earn previously unearned award fees during the final award fee period.[7] We calculated that, at a minimum, NASA paid at least $27.8 million in excess award fees throughout Orion's development based on several "Excellent" performance ratings even though the Program was experiencing $900 million in cost increases and schedule delays of more than 3 years.

Finally, the ML-2 project has experienced extreme cost growth and schedule delays. Our June 2022 report found that NASA is estimated to spend approximately a billion dollars—or at least 2½ times more than initially planned—for the ML-2 contract with final delivery of the launcher to NASA expected at least 2½ years later than initially planned.[8] We determined that the ML-2's substantial cost increases and schedule delays can be attributed primarily to Bechtel's poor performance on the contract, with more than 70 percent ($421.1 million) of the contract's cost increases and over 1½ years of delays related to the company's poor performance. Bechtel's performance notwithstanding, NASA's management practices also contributed to the project's cost increases and schedule delays. While NASA withheld award fees for a 6-month performance period due to Bechtel's performance, from our perspective the Agency inappropriately paid the company award fees in the subsequent period despite the contractor's continued poor performance. Consequently, we questioned nearly $3 million in award fees NASA awarded to Bechtel. Subsequent to our audit, NASA decided not to issue Bechtel award fees for the following rating period.

Procurement and Grant Fraud

In addition to the mismanagement and waste we have identified in our audits, the NASA OIG's Office of Investigations examines allegations of fraud, waste, abuse, and misconduct affecting NASA programs, personnel, and resources. As of March 2023, over half of the office's ongoing investigations relate to procurement fraud. Additionally, multiple cases closed in the last 3 years have resulted in civil settlements, criminal convictions, and debarments of NASA contractors, grantees, and individuals. For example, in December 2021 as the result of a multi-year OIG investigation, an Arlington, Virginia, company entered into a civil settlement of $1.4 million, of which $578,591 was returned to NASA, to resolve allegations that it submitted inflated labor and indirect costs for information technology services contract at Goddard Space Flight Center.

Additionally, following a joint investigation with the Defense Criminal Investigative Service, a Florida company signed a $7.8-million civil settlement to resolve allegations that it fraudulently obtained contracts from NASA and other federal agencies. The company allegedly submitted materially false statements or omissions to obtain and maintain eligibility for federal contract awards under the U.S. Small Business Administration's 8(a) business development program.

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[7] IG-20-018.

[8] *NASA's Management of the Mobile Launcher 2 Contract* (IG-22-012, June 9, 2022).

In another joint investigation with the National Science Foundation and Department of Commerce, a NASA grant recipient paid a civil settlement for improper use of grant funds and retaining interest on funds that should not have been received. Principals of the entity also paid a civil settlement for receiving excessive monthly rent and improperly paying personal expenses with grant funds. Over $2.4 million was recovered from this case in October 2021, with approximately $450,000 returned to NASA.

Finally, in a joint investigation with the Federal Bureau of Investigation, Defense Criminal Investigative Service, Department of Transportation Office of Inspector General, and the Office of Export Enforcement, a parts supplier in Riverside, California, was arrested for violations of fraud involving aircraft or space vehicle parts. The individual engaged in fraudulent transactions resulting in suspect parts being supplied to both the North Atlantic Treaty Organization and NASA, among other entities. The subject pled guilty and was sentenced to 46 months' imprisonment and ordered to pay $1.5 million in restitution.

Other Management Issues

Project management issues at NASA extend beyond large undertakings such as JWST and the Artemis campaign with our oversight work identifying instances where Agency resources could have been used more effectively.

We reported in March of this year that NASA has not produced a viable new radioisotope power system technology since its program began in 2010 despite an average investment of $40 million per year.[9] Radioisotope power systems will be critical to future exploration as nuclear power enables missions in environments where solar panels are infeasible. Moreover, nuclear power can enhance mission capability by reducing spacecraft size and mass while providing constant power output.

In a January 2023 audit, we reported that NASA's lack of a centralized software asset management tool exposes the Agency to unnecessary operational, financial, and cybersecurity risks.[10] Currently, the Agency's management of its software life cycle is largely decentralized and ad hoc. Efforts to implement an enterprise-wide Software Asset Management program have been hindered by both budget and staffing issues and the complexity and volume of the Agency's software licensing agreements. We found that over the past 5 years the Agency has spent more than $20 million on software fines and penalties. Additionally, during this same period NASA procured $15 million worth of software licenses that ultimately were not used.

Finally, our oversight has found that NASA continues to face challenges in appropriately using its enhanced use lease authority to manage property it no longer needs. In our 2022 Ames Research Center's Lease Management Practices audit, we identified instances where NASA did not use its enhanced use lease authority in a manner that was in the best interest of the Agency.[11] Moreover, controls over Ames' lease process are inadequate to ensure accountability and compliance with federal laws and NASA policies. Our analysis determined that due to an inadequate application of fair market

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[9] *NASA's Management of Its Radioisotope Power Systems Program*, (IG-23-010, March 20, 2023).

[10] *NASA's Software Asset Management*, (IG-23-008, January 12, 2023).

[11] *Ames Research Center's Lease Management Practices*, (IG-22-015-R, August 4, 2022).

value principles, the Agency has forgone millions of dollars of revenue and bound the Agency to disadvantageous lease terms for up to 90 years.

Next Steps

NASA is making progress in its efforts to improve management of its major programs and projects. In fact, the Government Accountability Office's 2022 High-Risk Series report listed NASA's acquisition management as one of only six high-risk areas throughout the entire federal government that showed progress toward meeting criteria for removal from the list.[12] In August 2022, NASA updated its 2020 Corrective Action Plan to create initiatives that address the causes of cost and schedule overruns highlighted in OIG audits and GAO's High-Risk List.

To its credit, NASA has acknowledged the high costs of its lunar and Mars goals and is exploring ways to make the missions sustainable by transitioning several programs to fixed-price contracts. In addition, NASA is increasingly utilizing public-private partnerships and alternative acquisition approaches to achieve cost savings and accelerate development of new technologies, including several key systems for its Artemis missions. However, these alternative acquisition approaches do not diminish the Agency's long-standing challenge to develop more realistic cost and schedule estimates and practice more effective contract oversight.

NASA has also implemented modifications to its routine procurement and program management practices to reduce costs and accelerate mission schedule. For example, NASA is procuring the Gateway's space flight hardware and the Human Landing System transportation service using research and development contracts that leverage commercial capabilities and state-of-the-art innovation but require a Federal Acquisition Regulation deviation. Although these modified approaches have the potential to decrease costs and encourage innovation, they correspondingly raise schedule and performance risks on these critical human-rated systems.

Additionally, NASA has taken other steps to improve contract management practices. For example, the Agency has decreased the use of award-fee contracts over recent years from 42 percent in 2020 to 28 percent in 2022. Further, in alignment with the Federal Acquisition Regulation requirement for contracting officers to ensure prospective contractors have adequate financial resources to perform the contract, NASA has implemented a new policy requiring a comprehensive financial capability assessment during the procurement process for NASA's most significant contracts. Specifically, for design and development programs and projects with a life-cycle cost of $500 million or more, NASA now requires an evaluation of the financial health, stability, and outlook of the organizations under consideration prior to selection and contract award.

Finally, NASA has also made several enterprise-wide changes over the past 2 years to address acquisition and other management and oversight concerns. For example, the Agency has developed a Strategic Workforce Plan for Procurement to maintain a workforce capable of responding to current and future contracting needs and a team to assess all Agency contracts and identify redundant contracts managed at the Center level. In addition, NASA realigned it grant and cooperative agreement management, oversight, and execution functions under the Office of Procurement.

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[12] GAO first cited the Agency's acquisition management as a high-risk area in 1990. GAO, *High-Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas* (GAO-21-119SP, March 2, 2021).

We look forward to continuing to share the results of our oversight work of NASA's human exploration and science missions and contracting and grant activities with this Committee to ensure Agency funds are spent effectively and taxpayer dollars are protected from fraud, waste, abuse, and mismanagement.



NASA Inspector General
Paul K. Martin

Paul K. Martin was confirmed by the United States Senate as NASA Inspector General on Nov. 20, 2009.

Prior to his NASA appointment, Martin served as the Deputy Inspector General at the U.S. Department of Justice, Office of the Inspector General (OIG). In that capacity, he assisted the Inspector General in managing the audit, inspection and investigative activities of the office's 425 employees. From 2001 to 2003, he served as Counselor to the Inspector General, and from 1998 to 2001 he served as Special Counsel to the Inspector General.

Before joining the Department of Justice OIG, Martin spent 13 years at the U.S. Sentencing Commission in a variety of positions, including 6 years as the Commission's Deputy Staff Director. Martin was one of the Sentencing Commission's first employees when the agency was created in 1985, and helped develop the first set of federal sentencing guidelines.

Martin began his professional career as a reporter with The Greenville News, a daily newspaper in Greenville, S.C. He holds a B.A. in Journalism from The Pennsylvania State University and a Juris Doctor from The Georgetown University Law Center.

Martin is married to Rebekah Liu, an attorney working in Washington, D.C. A native of Pittsburgh, Pa., he and his wife have three daughters.

Mr. OBERNOLTE. Thank you very much, Mr. Martin.

Our second witness today is Ms. Allison Lerner, who is the current Inspector General for the National Science Foundation. Ms. Lerner, you are recognized for 5 minutes. The microphone, please.

TESTIMONY OF THE HONORABLE ALLISON C. LERNER, INSPECTOR GENERAL, NATIONAL SCIENCE FOUNDATION (NSF)

Ms. LERNER. There we go. Chairman Obernolte, Ranking Member Foushee, and distinguished Members of the Committee, thank you for having me here today. I appreciate this opportunity to discuss the National Science Foundation Office of Inspector General's efforts to combat fraud, waste, and mismanagement.

My testimony today will focus on three key areas: Our oversight, addressing the strength and integrity of NSF programs and internal controls, our efforts to hold people accountable for wrongdoing and to use insights from our investigations to strengthen internal controls, and our collaborative approaches to ensure stewardship of NSF funds and prevent wrongdoing.

On the first point, we use a robust risk assessment process to focus our work on programs and institutions that appear to be at highest risk. And we use flexible audit contracts and approaches to ensure maximum impact of our limited audit resources. We also seek ways to amplify the impact of our audits, including a recent report on promising practices from our external audits, which shares ways for all members of the NSF recipient community, not just those we audit, to improve their stewardship of Federal funds.

Recent examples of our work include our report summarizing key issues from our audits of recipients of the Established Program to Stimulate Competitive Research (EPSCoR), which is helping NSF build the award management capacity and capability of institutions that have historically received limited Federal research funds, and our recent summary of Federal OIG findings and recommendations relating to Other Transaction Agreements (OTAs), which identified risks inherent to OTAs for NSF to consider as it develops OTA policies and procedures for the new Technology, Innovation, and Partnership Directorate.

Moving to the second point, we use our in-depth experience fighting grant fraud to protect NSF funds and to hold wrongdoers accountable. We use multidisciplinary investigative teams to enhance the thoroughness and success of our cases, and we pursue criminal, civil, and administrative remedies, including governmentwide suspensions and debarments to hold individuals who misuse NSF funds to account. We also provide insights based on our cases to NSF so it can tighten controls to prevent fraud in the future.

Because awardees who misuse NSF funds are often misusing research funding from other Federal agencies, we lead two cross-government working groups focused on research security-related grant fraud and fraud in the Small Business Innovation Research (SBIR) and Small Business Technology Transfer Programs to strengthen the whole-of-government's ability to hold individuals who misuse research funds accountable.

Finally, we use collaborative approaches to ensure the effective stewardship of NSF funds and prevent and address wrongdoing.

Such actions include our robust outreach program, which helps NSF recipients identify ways to prevent fraud and improve their award management environments, and our deeply collaborative working relationship with NSF's Chief of Research Security, Strategy, and Policy, with whom we work to confront research security-related challenges.

As I close, I'd like to highlight two legislative initiatives that could strengthen our ability to hold individuals who misuse NSF funds accountable. The first reforms the *Program Fraud Civil Remedies Act* to make it a stronger tool to recover fraudulent expenditures and deter individuals from committing small-dollar fraud. And the second would protect Federal funds by creating a mandatory statutory exclusion for those convicted of violating certain felony fraud statutes, ensuring that they don't have access to government funds for the period of that exclusion.

My office will continue to use all our audit and investigative resources to protect taxpayer funds and safeguard the integrity of NSF's operations and its investments in science. We look forward to working with NSF management, the National Science Board, and Congress to achieve this goal.

This concludes my statement, and thank you.

[The prepared statement of Ms. Lerner follows:]

Statement of Allison C. Lerner
Inspector General, National Science Foundation

before the

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

concerning

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

April 19, 2023

Chairman Lucas, Ranking Member Lofgren, and distinguished members of the Committee:

I appreciate this opportunity to discuss the National Science Foundation (NSF) Office of Inspector General's (OIG) efforts to combat waste, fraud, and mismanagement. My office is committed to safeguarding the Foundation's programs and operations and to providing rigorous, independent oversight of NSF.

Background

The National Science Foundation (NSF)

With a budget of approximately $9.9 billion (FY 2023), NSF is the funding source for approximately 25 percent of all federally supported basic research conducted by America's colleges and universities. In many areas, such as mathematics and computer science, NSF is the major source of federal funding. Each year, NSF funds approximately 12,000 competitive awards for research, education, and training; supports about 2,000 colleges, universities, and other institutions; and supports about 350,000 researchers, entrepreneurs, students, and teachers. In 2022, NSF established the Directorate for Technology, Innovation and Partnerships (TIP) — its first new directorate in more than 30 years, which further expands funding for science, technology, engineering, and math (STEM)-related opportunities.

Proposals for funding are assessed by panels of experts as part of NSF's merit review process. Awards are made primarily as grants to institutions of higher education, as well as to research centers and facilities where scientists, engineers, and students undertake research projects. By law, the Foundation must devote a small percentage of its funding to research conducted by small businesses. The Foundation also uses cooperative

agreements and contracts to fund major research equipment such as telescopes, research vessels, Antarctic research sites, and high-end computer facilities.

NSF Office of Inspector General (OIG)

My office is independent from NSF and reports directly to Congress and the National Science Board (NSB). Our mission is to conduct independent and objective audits, inspections, reviews and investigations of NSF programs and operations, and to recommend policies and corrective actions to promote effectiveness and efficiency and prevent and detect waste, fraud, and abuse. Consistent with our statutory mandate, we have an oversight role and do not determine policy or engage in management activities involving the Foundation or program operations. Thus, my office is not responsible for managing any NSF programs, nor do we assess the scientific merit of research funded by the Foundation.

Our office has two main components: the Office of Audits and the Office of Investigations. The Office of Audits conducts audits of NSF's contracts, cooperative agreements, and grants to universities and other research institutions, as well as internal audits of NSF's programs. These audits help ensure that financial, administrative, and programmatic activities are conducted economically, effectively, and in compliance with applicable regulations. The Office of Investigations is responsible for investigating allegations of wrongdoing involving NSF programs and operations, agency personnel, and organizations that, or individuals who, submit proposals to, receive awards from, or conduct business with NSF. It also houses a team of investigative scientists responsible for investigating allegations of fabrication, falsification, and plagiarism in NSF-funded research. When appropriate, we refer the results of these investigations to the U.S. Department of Justice for possible criminal prosecution or civil litigation, or to NSF for administrative resolution.

Although our appropriation is a tiny fraction (0.24 percent in FY 2023) of NSF's appropriation, we have an outsized impact safeguarding against fraud, waste, and abuse. Our reports and investigations regularly contribute to significant recoveries and cost savings to taxpayers. Additionally, our robust outreach program — including publication in professional journals, presentations to large stakeholders, and capstone reports — provide valuable guidance and information to the broader research community, amplifying the impact of our work. In turn, these efforts reduce the risk of fraud, errors, and mismanagement by grant recipients.

Impacts of our audits

From FY 2017 through FY 2022, OIG audited approximately $9.6 billion in NSF funding in 37 states and the District of Columbia. These audits resulted in 131 engagement reports and 19 other products containing a total of $17.5 million in questioned costs and 1,204 recommendations to recover misspent funds and improve awardee and NSF operations. In

addition, OIG issued 537 desk reviews of federally required single audits for which NSF was the cognizant or oversight agency.

As a result of our audits, NSF recouped misspent funds and required award recipients to improve their management of NSF awards to prevent future misuse of taxpayer money. In addition, NSF took corrective actions in response to recent audits, such as improving guidance used for oversight of recipients and subrecipients within the Established Program to Stimulate Competitive Research, enhancing controls over government owned equipment, and automating the control environment to better identify errors and potentially fraudulent transactions. Additionally, we conducted work on NSF's controls over its use of the *Intergovernmental Personnel Act* (5 U.S.C. §§ 3371 – 3376) or IPAs. Our work led to improvement in coordination across NSF offices; better processes to ensure IPA candidates met all program eligibility requirements and to verify IPAs' salary and employment history prior to assignment; and stronger controls to identify potential risks associated with foreign influence.

Impacts of our investigations

From FY 2017 through FY 2022, OIG conducted nearly 700 investigations in 50 states and the District of Columbia, as well as Puerto Rico, Canada, and Antarctica. OIG investigations resulted in recoveries of more than $43 million and further helped protect NSF research funds through 57 debarments of individuals and entities, 16 voluntary exclusions of individuals, 26 award suspensions, and 17 award terminations. In addition, NSF took more than 250 other administrative actions based on our recommendations. OIG investigators also worked with NSF to improve numerous administrative practices and procedures to help prevent fraud and continued its leadership and outreach efforts on research security.

NSF OIG's Efforts to Combat Waste, Fraud, and Mismanagement

At NSF OIG, we use our audit and investigative expertise and our in-depth understanding of the Foundation's programs, operations, and policies to protect NSF funds and hold individuals who misuse those funds accountable. My testimony today will focus on three key areas:

1. Our oversight addressing the strength and integrity of NSF's programs and internal controls;
2. Our efforts to hold people accountable for wrongdoing and to use insights from such cases to strengthen internal controls; and
3. Our collaborative approaches to ensure effective stewardship of NSF funds and prevent wrongdoing.

Additionally, I will share our office's perspectives on the Council of the Inspectors General on Integrity and Efficiency's (CIGIE) legislative initiatives related to grant fraud, which aim to enhance oversight and strengthen enforcement.

I. Our oversight addressing the strength and integrity of NSF's programs and internal controls

We use a flexible, risk-based approach to ensure maximum impact of our limited audit resources

Our Office of Audits reviews NSF programs and operations to ensure that administrative, programmatic, and financial aspects of NSF operations are conducted effectively, efficiently, and economically. We also audit NSF-funded grants, contracts, and cooperative agreements. By providing independent and objective assessments of NSF's programmatic and financial performance, we help NSF improve its business policies and practices to better support its mission.

Assessing risks and planning audit work

We use risk assessments, data analytics, and other methodologies to help us determine the best way to deploy our limited audit resources.

Many of our audits are focused on NSF recipients' compliance with the terms and conditions of their funding. Roughly 93 percent of NSF's annual appropriation is awarded to the recipient community to conduct scientific research and strengthen the STEM education pipeline. NSF's active portfolio of research funding at any given time includes approximately 2,000 institutions, 45,000 awards, and $40 billion in grants, cooperative agreements, and contracts. To ensure we are conducting effective oversight over these award funds, we conduct an annual risk assessment. This assessment is conducted across NSF's entire recipient population and incorporates such risk factors as experience of the awardee, number of subrecipients receiving funding under the award, or institutions that have experienced a rapid increase in funding. We use the results of this analysis to apply our limited oversight resources to situations and institutions that appear to be at high risk.

To focus our audits of NSF operations on the most critical areas, we use continuous monitoring procedures to identify risks related to new programs, emerging trends, budgetary shifts, and changes to NSF's management and legislative priorities. We also review single audits[1] of NSF recipients to see if they reveal evidence of weaknesses in

[1] Uniform Guidance requires colleges, universities, and non-profit organizations that expend $750,000 or more a year in federal awards to obtain an annual independent financial audit, referred to as a "single audit." NSF relies on the results of single audit reports to plan its oversight efforts,

internal controls that make the organization more susceptible to fraud. We then assess the magnitude, probability, and overall impact to the Foundation of any risks identified. We use the results of this process to develop an audit plan that addresses the areas that represent the highest risk to the agency. Through these audits, we are able to help NSF recover funds that have been used inappropriately and strengthen its controls to prevent fraud, waste, and abuse.

Using flexible audit processes to obtain maximum impact

Most of our audits of NSF recipients are conducted by auditors working for us under a contract that gives us flexibility to focus on the highest risk areas and use our limited resources efficiently and effectively. These audits generally start with a survey phase where the auditors conduct procedures to evaluate the recipient's overall grant management environment. Based on the results of those procedures, we move forward with additional audit work that best responds to the risks identified. Our options include conducting an incurred cost audit,[2] an accounting system audit, an internal control audit, or a custom audit with unique objectives. We can also end the audit if the risks identified do not necessitate further audit work. Having the flexibility to pursue many different audit paths enables us to follow the biggest risks, wherever they take us, and to provide more effective oversight of NSF's funds.

In recent years, our audits of NSF programs have begun with a series of audits at recipients to verify whether they are properly using and accounting for award funds. We use the results of those audits to identify problems that are occurring at multiple recipients and other ways for NSF to improve its management of the program and provide that feedback to NSF in a capstone report. This two-pronged audit approach has made our program assessments richer, as we are able to focus not only on NSF's policies and procedures, but also how they are actually being implemented by awardees.

We seek ways to amplify the impact of our audits

In any given year, we can only audit a tiny fraction of NSF's programs and its over 2,000 recipients. To push the impact of our work further, we are constantly seeking new and creative ways to share our work with the broader recipient community.

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including site visits and other post-award monitoring. Overall, single audits are a useful tool in assisting federal funding agencies, pass-through entities, and the recipients themselves with deterrence and detection of fraud.

[2] An incurred cost audit is focused on evaluating the costs that an award recipient spent on the awards they received from NSF. We evaluate the costs against federal regulations (such as the Uniform Guidance), NSF requirements (such as award terms and conditions), and the recipient's own policies. Typically, the evaluation centers around four key questions: was it allowable, was it allocable, was it reasonable, and was it necessary?

Our recent report on promising practices identified in our external audit work is an example of how we strive to extend the impact of our audits. The recommendations in our audits of award recipients only apply to the institution being audited. To provide value beyond those individual organizations and increase the level of financial stewardship across NSF's recipient community, we developed a Promising Practices Report focused on identifying sharing such practices for NSF award management. Based on prior results of our audits of NSF's award recipients, we published a capstone report communicating the most common audit findings, suggestions for how to improve compliance in those areas, and promising award management practices implemented by audited institutions. This report helps members of the recipient community identify means to strengthen their award management practices and improve their overall stewardship of federal funds across the NSF award recipient population.

Our efforts to expand the impact of our work are enhanced by our robust outreach to the NSF recipient community, which are detailed later in this testimony.

Recent examples of how our work strengthens the integrity of NSF programs and operations

Capstone report offers suggestions to improve oversight of high-risk program

Our office of audits recently completed the OIG community's most extensive audit work on the Established Program to Stimulate Competitive Research (EPSCoR), which — through programs at five agencies, including NSF — seeks to enhance research competitiveness in states and territories that have historically received a small share of federal grant dollars by strengthening science, technology, engineering, and math capability and capacity. After conducting audit work at 10 awardees, resulting in 7 reports and a total of more than $2.7 million in questioned costs, we issued a capstone report summarizing 3 key issues identified at multiple EPSCoR recipients, with suggestions to help recipients address them. Specifically, we found that EPSCoR recipients need to strengthen internal controls and oversight related to assessing and monitoring subrecipient risk, charging costs to support summer research programs, and implementing new accounting systems.

In particular, regarding prime award recipients' use of subrecipients, we found a need for additional oversight for subrecipients who spent less than $750,000 annually in federal award funds as they may not have the accounting systems, policies, and procedures needed for adequate award administration. EPSCoR projects are expected to be inclusive and to broaden participation, so it is common — and encouraged — for awardees to include such subrecipients. These subrecipients may need training, on-site reviews, and other technical assistance to understand and follow the unique requirements of federal awards. As a result of our audit work, NSF is building the award management capacity and capability of institutions that have historically received less federal funding, an example

from which other agencies with active EPSCoR programs can draw. The audit work will continue to have an impact as the program grows: for FY 2022, Congress directed NSF to increase funding for its EPSCoR program by at least 8 percent — to $215 million — and the Administration requested a further 15 percent increase for FY 2023.

Proactive oversight during program development

The *CHIPS and Science Act of 2022* significantly impacted NSF. For example, the Act formally established NSF's Technology, Innovation, and Partnerships (TIP) directorate, and added several new requirements related to research security, broadening participation in the research enterprise, and strengthening STEM education. This has provided us with the opportunity to engage in preventative oversight, where we can provide appropriate feedback or input on a program while it's being developed. As part of our efforts in this area, we recently issued a report titled Summary of Federal OIG Findings and Recommendations Related to Other Transaction Agreements.

As described in the report, the Act provided NSF with the authority to use other transaction agreements (OTAs) to carry out the activities of the TIP directorate. OTAs are often used to advance new technologies and for research, development, and demonstration projects. Although OTAs are subject to federal fiscal law, they are not subject to the Uniform Guidance and the Federal Acquisition Regulation, which govern grants, cooperative agreements, and contracts. As such, agencies must develop a rigorous control environment with comprehensive policies, processes, and procedures to ensure proper oversight and accountability over the use of OTAs.

To inform NSF of potential risks inherent to OTAs as it develops its own OTA policies and procedures, we identified and summarized relevant information from 8 reports published by 4 federal OIGs over the past 5 years. These reports identified 19 findings concerning the management of OTAs, which resulted from agencies not having proper guidance or policies for overseeing OTA recipients, sufficient training for staff, or adequate systems to retain documents or track data.

NSF said it plans to use our report to help identify and mitigate potential risks related to the use of OTAs. To maintain our independence, we did not perform any management functions or make any management decisions while conducting this review.

II. Our efforts to hold people accountable for wrongdoing and to use insights from such cases to strengthen internal controls

We use our in-depth experience in fighting grant fraud to protect NSF funds

As the vast majority of NSF's funds are used to make grants to the research community, our office's primary investigative focus is on identifying and addressing grant fraud and

working to prevent its recurrence. We also investigate allegations of research misconduct,[3] whistleblower retaliation, and other administrative violations. We respond to allegations received from many sources and conduct proactive activities to identify wrongdoing and systemic weaknesses. We use multi-disciplinary teams consisting of criminal investigators, investigative attorneys, investigative scientists, and analysts to enhance the thoroughness and success of our cases and take them to logical and defensible conclusions.

The tools we use to fight grant fraud may include criminal or civil statues. Our criminal cases often involve violations of 18 USC 1001, False Statements, and 18 USC 1343, Wire Fraud. We may also charge violations of 18 USC 371, Conspiracy to Defraud the Government, or 18 USC 666, Theft of Program Funds. Our civil cases usually involve violations of 31 USC 3729, the False Claims Act. Some cases settle, while others go to trial. In some of our criminal cases subjects have been sentenced to jail time and restitution. Civil cases have resulted in subjects being required to pay treble damages, along with substantial fines and penalties.

We also use administrative remedies to protect NSF funds while criminal and civil investigations are ongoing. As soon as we have sufficient evidence, we make recommendations to NSF about actions it can take to protect its investment in research. For example, when appropriate, we can provide the Foundation with information that supports the suspension or termination of NSF awards involved in our investigations. We can also recommend to NSF that it suspend a researcher government-wide when evidence we gather raises questions about the present responsibility of the researcher. And at the end of a case, when appropriate, we provide NSF with evidence sufficient to support debarring a researcher for a set period. The latter two actions are extremely serious, as they prevent the researcher from receiving not just NSF funds but funds from any federal government agency during the period of suspension or debarment.

We spearhead cross-government efforts to hold individuals misusing federal research funds accountable

Experience has taught us that awardees who misuse NSF funding are often receiving and misusing research funding from other federal agencies. To ensure the strongest possible response to such wrongdoing, we created and continue to lead two cross-government investigative working groups.

OIG's investigative approach to cases involving foreign talent recruitment plans

Safeguarding the U.S. research enterprise from threats of inappropriate foreign influence is of critical importance. NSF, and other agencies that fund research, continue to face challenges from foreign government talent recruitment programs. Although membership

[3] Defined as fabrication, falsification or plagiarism in NSF-funded research.

in such programs is not illegal, it is important for NSF to know if a researcher is a member because some programs elicit unethical and possibly criminal behaviors. Members of these plans are often required to enter into contractual relationships with a foreign government, which strongly favor the foreign government's interests. The foreign government can also exert control over the researchers' intellectual property, the types of research they conduct and, in some cases, where the research is conducted and who works in the lab.

We have used our in-depth expertise in combating grant fraud to contribute to the government-wide response to research security issues. Grant fraud comes wrapped around all sorts of different bad acts, but, when stripped to its core, it is about false statements and false claims. We discovered that many talent plan members failed to disclose their affiliations with such plans when applying for NSF funding, as required by NSF's Proposal & Award Policies & Procedures Guide (PAPPG). Because the university certifies to the accuracy of those disclosures, the failure to disclose such membership is a potential false statement. NSF must understand potential conflicts of interest and commitment that can result from such membership to make informed decisions about which awards to fund. The failure to disclose is not simply a paperwork error — it can undermine the integrity of NSF's competitive award process, put limited grant funds at risk, and prevent deserving recipients from being funded.

We have encountered situations where researchers are meeting the requirements of their foreign talent contracts by using U.S. government funds to bring foreign students to this country; using federal funds to travel abroad to do work required by the foreign government; or receiving salary from federal awards while concurrently working and being paid a salary by their talent plan. Our investigations have also highlighted duplication of funding issues and time commitment concerns based on a talent recruit's failure to disclose. Situations like these can result in criminal, civil, and/or administrative action. An example of our response to such misconduct is found in our investigation of an NSF Small Business Innovation Research (SBIR) recipient. In that case. our investigative team (consisting of a criminal Investigator and an investigative attorney) identified an email from the subject in which he brazenly wrote to a fellow scientist, "If we get this FREE money from NSF we will use for a different project because the proposed work was already done in our lab in China." This case resulted in a criminal conviction for obstruction of justice.

In addition to trials, settlements, convictions, and recoveries, our research security work includes robust outreach efforts. Our investigators have been leaders of the IG community's response to this threat and have contributed to the development of practices and policies to prevent recurrence, as discussed later in this testimony.

OIG's investigative approach to cases involving the SBIR/STTR program

The mission of the SBIR and Small Business Technology Transfer (STTR) programs is to engage small business concerns to support scientific excellence and technological

innovation through investment of federal research and research and development (R/R&D) funding to build a strong national economy.

Because small businesses often do not have experience managing federal funds, oversight of NSF's more than $500 million portfolio of active SBIR/STTR awards has been a significant investigative priority of our office for decades. In 2009, NSF OIG and the U.S. Department of Energy OIG established an interagency working group focused on fraud in the SBIR/STTR programs. The SBIR Investigations Working Group currently consists of representatives from 25 investigative agencies, including OIGs for all 11 SBIR award issuing agencies, and is co-chaired by our office and the U.S. Department of Commerce OIG. The latest working group meeting in March 2023 had more than 50 participants. Recent Working Group meetings have focused on best practices in identifying fraud through proactive reviews.

We have recently taken a stronger proactive approach to identifying SBIR/STTR fraud by targeting violations of specific SBIR/STTR program requirements that are indicators of larger fraudulent schemes. Proactive reviews leveraging state wage payment records to identify principal investigators violating the primary employment requirement and IP address activity to identify companies performing work outside of the United States have resulted in several cases being accepted by Assistant United States Attorneys in various districts for civil or criminal investigation or prosecution.

An example of the positive results of our proactive work in this field is found in an investigation that began with a plagiarism allegation being handled by an investigative scientist. That matter subsequently intersected with a proactive review we were conducting to examine expenses charged to awards for facilities at which SBIR/STTR awardees claimed to be conducting research. Our investigative team found that the principal investigators (a husband and wife) were charging the award for leased facilities while actually conducting research in the master bathroom of their primary residence. A criminal trial resulted in jail sentences of 15 and 13 years for the principal investigators and a $10.6 million judgment.

Our investigators have worked closely with SBIR/STTR program officials for many years, sharing insights from our investigative efforts to support our suggestions for tighter controls, stronger certifications, and numerous improvements in policies and procedures to reduce the opportunity for fraud to occur. We have spoken at every SBIR/STTR Phase I grantees workshop for the past 20 years, providing guidance to awardees on how to follow the rules — and the consequences for mishandling their awards. If awardees are subsequently found to have misused NSF funds, their attendance at this training shows that they understood their obligations, enabling us to prove that their actions were intentional.

Since the SBIR/STTR program became part of the newly established NSF's Division of Translational Impacts in the newly formed Directorate of Technology, Innovation, and Partnerships (TIP/TI), we have maintained close contact with that office. We are currently

working with TIP/TI to translate the content of the SBIR/STTR Phase I grantee presentations into a video training presentation that all SBIR/STTR awardees will be required to view and certify to having seen before receiving an SBIR/STTR award from NSF. Our office has also provided written recommendations to TIP/TI on ways to improve program forms and processes, and TIP/TI has consistently worked with us when implementing changes. We are currently working closely with TIP/TI on how NSF can best implement the increased research security protections required of it in the *SBIR and STTR Extension Act*.

Our work in this area has resulted in programmatic improvements that tightened controls over this funding and in enhanced understanding by awardees of their obligations if they accept NSF funding. Our oversight has enabled us not only to hold wrongdoers accountable, but also to identify and remedy systemic weaknesses to protect taxpayer dollars into the future.

III. Our collaborative approaches to ensure effective stewardship of NSF funds and prevent and address wrongdoing

Our office excels in working with NSF, its awardees, and other federal partners to improve stewardship of federal funds and hold recipients who misuse such funds accountable. This portion of my testimony will focus on those efforts and will conclude with an example of a case reflecting our collaborative approach to fighting fraud.

We have a robust outreach program through which we share our work with recipient community

For decades, our office has had a robust outreach program intended to help us share the results of our work to the recipient community. This program acts as a force multiplier for our office and provides us with a platform to amplify our message about who we are, what we do, and what we commonly identify in audits of NSF's recipients. Our presentations to the research community at conferences, workshops, and webinars include ways to combat grant fraud, case studies, common audit findings, and emerging issues. These presentations help research administrators and principal investigators learn about problem areas they might not have known existed so they can take proactive steps to review and improve their own award management environments. Given the mission of the agency and our role in investigating allegations of research misconduct, we also promote research integrity and share with the community ways to prevent research misconduct.

Another pillar of our outreach program is developing relationships with award recipients and their representative organizations. For example, we developed a collaborative relationship with a professional society of research administration professionals. As part of our outreach efforts, we contribute articles for their bi-monthly trade magazine that is distributed to the organization's 7,500 members. Over the past several years we have published dozens of articles on topics such as *Detecting and Preventing Grant Fraud*,

Frequent Audit Findings, and *Why Investing in Research Compliance is a Good Bet: An Overview of Investigative Outcomes*.

We work closely with our NSF and law enforcement colleagues to respond to challenges and improve controls and audit outcomes

Research Security Collaboration

Our office's collaborative, well-established relationship with the Foundation has been an important aspect of our response to threats to NSF-funded research from foreign interference. We meet regularly with NSF principals to share issues we have identified in our work, and they have been very receptive to our concerns and recommendations. Most importantly, we have developed a deeply collaborative working relationship with NSF's Chief of Research Security Strategy and Policy, which has strengthened the efforts of both our offices in this area. As I noted earlier, our office does not only pursue criminal and civil actions in cases of grant fraud; when we have sufficient evidence, we also make recommendations for administrative action by NSF, as appropriate, over the lifecycle of our investigations, including for cases related to foreign funding. Based on recommendations by our office, NSF has taken a range of actions, including award suspensions and terminations and governmentwide suspensions and debarments, against individuals and entities associated with foreign talent programs or organizations receiving foreign funding.

We have also actively collaborated with other federal law enforcement agencies and served as a coordinating focal point within the OIG community to ensure this threat is addressed on a governmentwide basis. For example, in 2018 we stood up two substantive working groups: an effort led by my office and the U.S. Department of Health and Human Services OIG to educate and coordinate outreach to executives within the OIG community and an agent-level working group, which today has more than 200 members representing more than 30 investigative agencies.

The agent-level working group includes members from major funding agencies, such as the U.S. Departments of Health and Human Services, Energy, and Defense, and the National Aeronautics and Space Administration (NASA). Other members represent United States Attorney's Offices and the U.S. Department of Justice's National Security Division. This group, led by my office and NASA OIG, educates the investigative and grantee communities; identifies and shares best practices with investigative partners; serves as a hub for subject matter experts to navigate the varied proposal documents specific to different funding agencies and help with identifying material issues; and works to deconflict current investigations and leverage resources for existing cases. The latter actions are especially important, as foreign influence cases often involve researchers who are funded by multiple federal agencies.

NSF OIG and NSF Stewardship Collaborative

Our office also works to address and prevent wrongdoing through the Stewardship Collaborative, a group NSF and NSF OIG jointly established in 2010 to achieve our shared goal of ensuring proper stewardship of the taxpayer's investment in science, engineering, and education. The Collaborative includes members from various divisions within NSF and staff from our investigative and audit divisions and is chaired by Senior Executive leaders from NSF's Office of Budget, Finance and Award Management and NSF OIG's Office of Audits. This group meets monthly to discuss current issues and identify possible barriers to audit resolution — as well as potential solutions. For example, it recently developed a joint training effort to improve understanding of the audit resolution process, including members' responsibilities in the process.

Along with increasing positive communication between NSF and OIG staff, the Collaborative has been instrumental in resolving a number of critical audit recommendations. Most importantly, it has helped ensure that NSF addresses recommendations without impinging on NSF OIG's independence — and that management decisions are made by the right people within the Foundation.

A case illustrating the impact of our collaborative approach to protecting NSF funds

A prime example of the outcome of our collaborative approach to address wrongdoing is the multi-agency investigation and civil settlement involving the Center for Severe Weather Research, Inc. (CSWR).

CSWR, a nonprofit based in Boulder, Colorado, conducted scientific weather research popularly known as "storm chasing" with its "Doppler on Wheels" fleet. During a site visit to CSWR in March 2019, NSF's Advanced Monitoring team identified concerns regarding the company's financial management system and federal award management practices, and referred these concerns to our office.

Our Office of Investigations identified other agencies that funded the company and assembled a multi-agency investigative team. The team determined that from 2004 to 2020, CSWR improperly requested payments from federal grants from three federal agencies, including NSF, for expenses that CSWR had not incurred. In addition, CSWR had inadequate internal controls for the federal funds it received, including inadequate documentation and controls over large cash transactions. Ultimately, CSWR paid more than $2.4 million to resolve allegations that it engaged in fraud related to grants it received from three federal agencies, and its two founders paid more than $200,000 to the United States to resolve allegations of improperly obtaining payments to which they were not entitled.

In parallel to the investigation, our Office of Audits initiated a Quality Control Review (QCR) of the independent auditor who performed CSWR's FY 2017 single audit. The OIG auditors

determined that the audit report was not reliable for use by federal funding agencies to monitor CSWR's compliance with applicable federal requirements; the results of the review also called into question the reliability of three other single audits of CSWR that had been conducted by the same independent auditor. Our auditors referred their findings to the Colorado Board of Accountancy and the American Institute of Certified Public Accountants (AICPA).

The successful investigation and supplemental audit efforts illustrate how an initial referral from NSF to NSF OIG — and subsequent collaboration both among federal partner agencies and within NSF OIG — can produce meaningful results that serve to protect federal funds from fraud, waste, and abuse.

IV. Legislation to Strengthen Oversight

At the beginning of each new Congress, the Council of the Inspectors General on Integrity and Efficiency (CIGIE) proposes legislative initiatives to enhance government oversight and address legal challenges faced by the Inspector General community. There are two such initiatives related to grant fraud oversight that, if enacted, could strengthen our ability to hold individuals who misuse NSF funds accountable:

- Reforming the Program Fraud Civil Remedies Act (PFCRA). Often referred to as the "mini-*False Claims Act*," PFCRA is an underutilized tool to provide administrative civil remedies for false claims of $150,000 or less and for false statements. According to a 2012 U.S. Government Accountability Office report, many agencies were not using the PFCRA for reasons including: a lack of familiarity with the statute, insufficient resources, cumbersome and time-consuming procedures, availability of alternate remedies, and, in many agencies, the absence of administrative law judges to adjudicate PFCRA cases.

  Following that study, CIGIE recommended statutory changes to improve PFCRA usage and to enhance its effectiveness. The recommendations include updating the decades-old dollar threshold for claims subject to PFCRA, allowing PFCRA decisions to be delegated within the U.S. Department of Justice, allowing agencies to be made whole from PFCRA recoveries, better aligning PFCRA with the *False Claims Act*, and expanding who can serve as a hearing official. When taken together, these reforms could make PFCRA a significant tool to recover fraudulent expenditures for the benefit of taxpayers and deter individuals from committing small-dollar fraud.

- Statutory Exclusion for Felony Fraud Convicts to Protect Federal Funds. Many felony fraud convictions involving federal program funds do not result in government-wide suspension or debarment action against the felon. An analysis of 250 felony fraud convictions involving federal program funds over a 4-year period found that more than 70 percent of those convicted were not suspended or debarred from doing

business with the government, thus allowing them to remain eligible for more federal funding.

This initiative would enhance 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. Under current law, no *mandatory* exclusion exists for individuals convicted of, or who plead guilty to, felony fraud against the government. Instead, both the Federal Acquisition Regulation (FAR) 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.

Conclusion

Scientific research and discovery are the building blocks of the technological advances that are essential for our nation's economy to grow and meet the challenges of the future, and NSF has an essential role to play in promoting scientific discovery. For the agency to achieve its mission, it must spend its research funds in the most effective and efficient manner while maintaining the highest level of accountability over taxpayer dollars.

My office will continue to use the full range of our audit and investigative resources to protect taxpayer funds and safeguard the integrity of the Foundation's operations and investments in science. We look forward to working with NSF management, the National Science Board, and Congress to achieve this goal.

This concludes my statement. I would be happy to answer any questions.

Allison C. Lerner assumed the duties as Inspector General of the National Science Foundation (NSF) in April 2009, reporting to the National Science Board and the Congress. As head of the Office of Inspector General, she recommends policies for promoting economy, efficiency and effectiveness of NSF programs and operations. She leads efforts to prevent and detect fraud, waste, and abuse; improve the integrity of NSF programs and operations; and investigate allegations of misconduct in science.

Ms. Lerner was appointed in November 2005 as Counsel to the Inspector General at the Department of Commerce, a position through which she acted as the IG's principal legal advisor and managed the office's staff attorneys and provision of legal services.

Ms. Lerner began her federal career in 1991, joining the Office of Inspector General at Commerce as assistant counsel, and has been a member of the senior executive service since 2005. During her tenure at Commerce, she served as special assistant to the IG, Deputy Assistant Inspector General for Auditing, and Acting Assistant Inspector General for Auditing. Prior to joining the federal government, she was an associate at a law firm in San Antonio, Texas.

In June 2011, Ms. Lerner was designated by President Obama as a member of the Government Accountability and Transparency Board. She chaired the Council of the Inspectors General on Integrity and Efficiency from January 2021 through December 2022 and served as its vice chair from January 2015 through December 2020.

Ms. Lerner received her law degree from the University of Texas School of Law and a B.A. in liberal arts from the University of Texas. She is admitted to the bar in both Texas and the District of Columbia.

Mr. OBERNOLTE. Thank you very much, Ms. Lerner.

Our third witness will be Ms. Teri Donaldson, who is currently the Inspector General for the Department of Energy. Ms. Donaldson, you are recognized for 5 minutes. The microphone, please.

TESTIMONY OF THE HONORABLE TERI L. DONALDSON, INSPECTOR GENERAL, DEPARTMENT OF ENERGY (DOE)

Ms. DONALDSON. Good morning, Chairman Obernolte, Ranking Member Foushee. Thank you for having me here today.

I'd like to begin my comments by talking about some of the huge risk factors associated with the newer funds moving to the Department of Energy, which the Ranking Member alluded to earlier. So just by way of context, in Fiscal Year 2022, the Department of Energy's annual budget was $44.3 billion. When you combine the funds authorized or appropriated under *IIJA, IRA,* the *CHIPS Act,* and $1 billion dollars to support solar projects in Puerto Rico, that number goes from $44.3 to $478 billion now within the portfolio of the Department of Energy. These are historic and unprecedented numbers.

I'd also point out to the Committee that the money is moving quickly. So we already have $62 billion that is on the move. It is either out the door or the subject of funding opportunities and moving out the door. So where you have a huge amount of money that is moving quickly, there are immediately new risks. Associated with these statutes, we have 71 brand new programs. By definition, brand new programs are utilizing untested internal controls, creates enormous risk. Over 1/2 of these funds will move to State, local governments, and tribes. It is not yet clear whether those entities are ready to receive funds in these unprecedented volumes.

So a couple of other things to point out about the Department of Energy. Even prior to these three bills, the Department of Energy was the leanest Federal agency on the block with over 90 percent of its dollars moving through to its contractors, so something of a passthrough agency. So I noted when I took over this job a little over 4 years ago, the volume of reports all concluding that the Department of Energy lacked appropriate resources for oversight. And essentially, all of those included the Department acknowledging that it lacked appropriate resources for oversight. So it is against that landscape that all of this new money is now going to be distributed. The Department of Energy received in the *IIJA* a cap for most of the *IIJA* programs of only 3 percent for oversight, a little more flexibility in *IRA*, which is positive. But I would point out that those oversight numbers are largely utilized to move the money out the door because they're classified as administrative expenses, most of which are to help the programs get money out the door. Only a small percentage will actually be for oversight, which is making sure that the funds landed where Congress intended them to land. So the Department is arguably under-resourced for oversight even in connection with the new funds.

My shop is dramatically under-resourced to conduct oversight. So—and there's details in my written testimony, but when I came on board, my shop was already trailing the other *CFO Act (Chief Financial Officers Act)* agencies under-resourced historically. All these new funds came along, and now my shop is so dramatically

under-resourced that I feel compelled to mention this anytime that I'm on the Hill. So my shop received zero additional funding in connection with the *CHIPS Act,* zero additional funding in connection with the $1 billion for Puerto Rico, and we received only small numbers in connection with *IIJA* and *IRA*. So it's all detailed in my testimony, but it's something that will make it very difficult for us to conduct the audits, inspections, and investigations that are going to be so needed as we turn the corner into spending these massive amounts of money.

I always say that all of the coordination and planning in the world—and we are doing a lot of that right now. We've had over 27 meetings with the Department since *IIJA* passed. But all of the coordinating and the planning in the world is not a substitute for people. You have to have the money to conduct oversight, so that's probably my most important theme of the day.

The Department of Energy is also behind in the world of data analytics. Congress has been expressing its interest in that area since 2017. The General Accounting Office has made specific recommendations to the Department of Energy, that it be implementing data analytics, acquiring transaction-level detail. It has not yet done that. And that's unfortunate because now we have these big amounts of money that will be moving through, and data analytics is still only in its earliest stages at the Department of Energy.

And that concludes my comments. I look forward to your questions. Thank you.

[The prepared statement of Ms. Donaldson follows:]

U.S. Department of Energy
Office of Inspector General

Statement
of
The Honorable Teri L. Donaldson, Inspector General
U.S. Department of Energy

before the

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

April 19, 2023

Introduction

Chairman Lucas, Ranking Member Lofgren, and members of the committee:

Thank you for inviting me to testify about the risks of fraud, waste and abuse that arise from four recent pieces of legislation—the Infrastructure Investment and Jobs Act (IIJA), the Inflation Reduction Act (IRA), the CHIPS and Science Act (CHIPS Act), and the 2023 Consolidated Appropriations Act's Puerto Rico Energy Resilience Fund, which collectively authorized or appropriated over $128 billion to the Department, and increased the Department's loan authority to an estimated $385 billion. I will address both the more general risk factors arising from these four pieces of legislation, and the more specific risk factors associated with grant[1] fraud and procurement fraud. I will also address the preliminary steps that my office is taking to minimize fraud, waste and abuse, even while my office is waiting for additional funding to more appropriately address these issues.

Overview of Recent Legislation

- IIJA — appropriated more than $62 billion over five years to the Department and made most of those funds available through fiscal year (FY) 2031. The Department is required to stand up 60 new programs, including 16 demonstration and 32 deployment programs, and expanded funding for existing research, development, demonstration, and deployment programs. To lead these projects, the Secretary of Energy created a new Under Secretary for Infrastructure in February 2022.
- IRA — appropriated $35 billion for various Department programs, with funding available for various lengths of time—some funding expires between FY 2026 and FY 2031, while

[1] For purposes of the document, the term "grants" includes cooperative agreements. Both grants and cooperative agreements deliver federal funds to recipients. With cooperative agreements, the federal government may be more involved in guiding or participating in project activities.

other funds are available until expended. IRA resulted in the creation of 15 new programs, and significantly expanded the Department's loan authorities such that the total of all existing Department loan authorities, including those contained in IIJA and IRA, is now estimated at $370 billion.

- The CHIPS Act — authorized $67 billion in spending for the Department's Office of Science, and many other research and development projects at the Department's national laboratories. Of this $67 billion, $30.5 billion represents an expansion of their existing authorization.
- The 2023 Consolidated Appropriations Act — Congress added $1 billion to the Department's appropriations to provide grants to the Puerto Rico Energy Resilience Fund to build energy system resilience to major natural disasters. A new program was established under the Grid Deployment Office for this effort. Also, the Congress added $15 billion in loan authority.
- To put these numbers into context, the Department's FY 2022 budget was $44.3 billion. The four statutes referenced above authorized or appropriated over $128 billion to the Department and increased the Department's loan authority to approximately $385 billion. Combined with the Department's current balance of loan exposure of $17.4 billion, the Department's potential loan portfolio may rise to $402.4 billion.

Impact of Recent Legislation

Before addressing some of the risks associated with this unprecedented expansion in the Department's funding and mission, I note that the Department was already charged with a high-risk portfolio prior to the passage of these pieces of legislation. Approximately 90 percent of the Department's budget goes to contractors, and on average 30 percent of that is further

disseminated to subcontractors. Additionally, the Department is the only Federal agency utilizing Management and Operating Contractors, which creates another level of complexity for oversight. Furthermore, the Government Accountability Office's "High Risk List" includes two items pertaining to the Department: 1) "Contract and Project Management for the National Nuclear Security Administration and Office of Environmental Management," and 2) "U.S. Government's Environmental Liability."

Numerous reports issued over the years by the OIG and the Government Accountability Office have noted the Department's lack of oversight resources in particular areas. These reports typically include the Department's concurrence that it lacked the resources to accomplish the internal controls referenced in the particular reports. I'll discuss a few of these historic reports in a moment.

It is against this backdrop that the new funds, over $128 billion in authorizations and appropriations, and $385 billion in loan authority, will move through the Department. Inevitably, many program-specific risks will emerge and create enormous challenges for the Department. This will happen over time. Some of the immediate risks arise from:

- New programs. Between IIJA and IRA, there are $83.6 billion dollars going into 71 new programs for the Department. New programs raise immediate concerns such as acquiring and training expert staff and developing effective internal controls. New programs push funding through untested processes and newly designed and untested internal controls. While the tremendous expansion of existing programs may raise similar issues, at least the existing programs have some well of institutional knowledge to draw upon.
- Fast moving money. History has taught us that the Federal Government has often balanced the "need for speed" against the need for thoughtful internal controls in a manner that has resulted in the loss of billions of dollars to fraud, waste, and abuse. The

most recent examples come from Federal pandemic relief efforts. On March 23, 2023, the PRAC released its latest findings, which included over $3.6 billion paid from the Paycheck Protection Program to individuals listed with the Department of Treasury's "Do Not Pay" system. In addition, the PRAC noted over $3.5 billion in Economic Impact Payments were paid to individuals using the identities of deceased people. These staggering losses should give all of us pause. While the Department has stated that its new funding will not be released at the same speed that the pandemic funding was released, the Department has also publicly stated its sense of urgency to move these funds along to their intended purposes. The Department is therefore at risk that it may fall into a "pay and chase" model of oversight that may result in substantial losses.

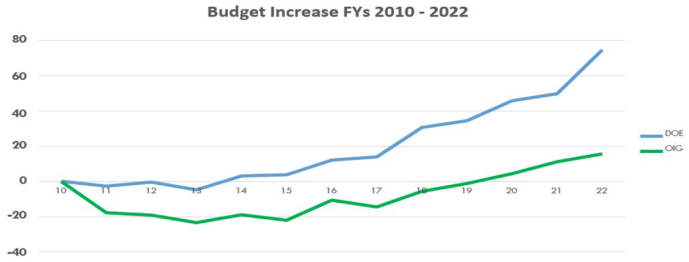
To date, the Department has:

- Made $37.8 billion available through Funding Opportunity Announcements from IIJA (availability of funds is subject to the funds received annually);
- Awarded or selected to negotiate $11 billion in funding from IIJA, this includes formula funding and negotiations in process;
- Made $7.1 billion available through Funding Opportunity Announcements from IRA; and
- Awarded or selected to negotiate $1.6 billion in funding from IRA, this includes formula funding and negotiations in process.

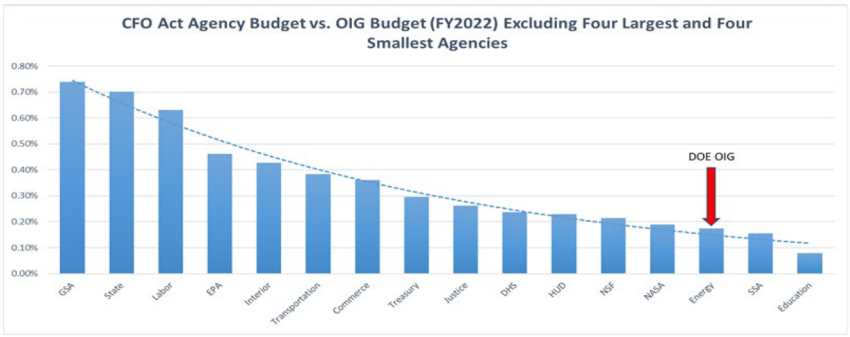
The Department is still in the early stages of formation of its FY 2024 budget; however, at this time, the Department estimates its consolidated obligation under the new legislation to be approximately $30 billion in FY 2024.

- Significant increase in grants, especially awards to states, local government, and tribes. As much as $52 billion of IIJA funding, or over 83 percent, will be disbursed via grants, much of which may be awarded to states, local governments, and tribes. This is particularly significant because in FY 2021 the Department disbursed only $3.9 billion via grants. As this money is awarded to these entities, it is then further dispersed to subrecipients. It is not yet clear whether the states, local governments, or tribes are equipped with sufficient staffing, are adequately trained, or have adequate internal control systems in place to protect these funds. It is also not apparent whether these entities may utilize an adequate amount of the awarded funds for local oversight efforts. In any case, the passing of these funds to others does not remove the Federal nature of the expenditure or excuse Federal oversight. It does increase risk.
- Compounded risks. Some of the Department's programs face all of these risks at the same time—new programs, fast money, and awards to entities that may be unprepared to oversee the funds.
- Lack of adequate funding for Department's oversight efforts. IIJA included a small reservation of 3 percent of funding for administrative costs for many of the Department's programs. IRA appears to have given the Department some additional flexibility on administrative expenses, but these matters have not yet been resolved by the Department. I note that "administrative" expense is a broad category that includes the funds needed to move the program specific dollars out the door, but it may leave little budget for the oversight needed to ensure that the funds arrived, as intended, by Congress. For this reason, I support any efforts by the Department to acquire or direct appropriate levels of funding to its oversight mission.
- Lack of adequate funding for the DOE OIG. Prior to the passing of the four pieces of

legislation discussed above, the DOE OIG was already significantly underfunded. The following chart demonstrates the decline of OIG funding with respect to the growth of the Department's budget prior to the passing of the recent legislation:



The next chart provides a glance of Inspector General funding for all the Chief Financial Officers Act agencies as of FY 2022:



*The agency budget numbers were derived from the FY2022 Conference Report, which references only the discretionary funds appropriated by Congress on an annual basis.

To further exacerbate the historic underfunding issue, the DOE OIG received only $62 million, or .10 percent of the funding provided to the Department, over a 5-year period under IIJA to provide oversight for these new infrastructure projects. When compared to other OIGs that received money under IIJA, we were again substantially underfunded as shown in the table below.

	IIJA Agency Funding	IIJA OIG Funding	OIG Percent of Agency Funding
EPA	$61billion	$269 million	0.44%
HHS	$4 billion	$17 million	0.44%
DOI	$28 billion	$99 million	0.35%
USDA	$8 billion	$27 million	0.34%
DHS	$8 billion	$20 million	0.25%
DOE	$64 billion[1]	$62 million	0.10%

[1] The DOE amount of $64 billion includes $62.5 billion plus 3.2% of $46.6 billion in loans and loan guarantees authorized in IIJA. This 3.2% must be re-visited in the second installment of funding needed for the OIG.

Also, IRA appropriated only $20 million to the OIG, or .05 percent of the funding provided to the Department, to oversee those programs. Notably, there was no provision for the DOE OIG in the CHIPS Act, or for the OIG in the Puerto Rico Energy Resilience Fund. The chart below shows the OIG-estimated immediate oversight funding shortfall related to IIJA, IRA, and the Puerto Rico Energy Resilience Fund.

Bills	DOE	OIG	Percent OIG to DOE	OIG Estimated Requirements 0.35%	OIG Funding Shortfall
IIJA[1]	$64B	$62.5M	0.10%	$224.8M	$162.3M
IRA[2]	$44B	$20.0M	0.05%	$155.6M	$135.6M
PR-ERF	$ 1B	$ 0.0M	0.00%	$ 3.5M	$ 3.5M
Total	**$109B**	**$82.5M**	**0.08%**	**$384.0M**	**$301.4M**

[1] The DOE amount of $64 billion includes $62.5 billion plus 3.2% of $46.6 billion in loan and loan guarantee authorized in IIJA. This 3.2% must be re-visited in the second installment of funding needed for the OIG.

[2] The DOE amount of $44 billion includes $35 billion plus 3.2% of $290 billion in loan and loan guarantee authorized in IRA. This 3.2% must be re-visited in the second installment of funding needed for the OIG.

You will note that this estimated shortfall of $301.4 million is a first installment. For example, it does not include the CHIPS Act. As the $30.5 billion in new CHIPS Act funding is

appropriated to the Department, I will be seeking .35 percent of those funds to conduct appropriate oversight.

I arrived at .35 percent by examining FY 2022 funding levels for the OIGs of the Chief Financial Officers Act agencies, and by examining the more current funding of the OIGs impacted by IIJA, the CHIPS Act, and IRA. The .35 percent falls into the mid-range. Given the significant risks for the Department, this percentage may be too low. However, it is a starting point, and much needed.

As you may know, I am currently working with both Congress and the Office of Management and Budget to correct this funding shortfall problem for the OIG. We have cautioned that the continued and compounded dilution of OIG funding will result in insufficient oversight of both existing programs and the many newly established infrastructure and energy programs. Without additional funding, critical pre-existing areas such as research security, contracting and payment integrity, stockpile stewardship, environmental cleanup, and pit production—to name a few—will not receive appropriate OIG oversight. Moreover, with regard to the new funding, the OIG will not be able to provide the near-term audit and inspection assistance that the President has specifically requested to minimize the longer-term impacts from the large-scale frauds that often plague Federal programs providing such funding on an expediated timeline.

We are making some progress. The President's FY 2024 Budget includes $165.2 million for the DOE OIG to be used until expended. If the President's Budget is enacted as is, it would leave a remaining shortfall of $16.8 million in our base budget, and a remaining shortfall of $301.4 million dollars to oversee IIJA, IRA, and the Puerto Rico Energy Resilience Fund.

The President has also issued a statement identifying $150 million in funding to assist under-resourced Inspectors General and named my office as one of those OIGs. The

Administration, however, has not yet announced the amount of this funding that might be allocated to the DOE OIG, if the funds are authorized by Congress.

Given the longevity of the programs established and expanded under these four pieces of legislation, it is critical that the DOE OIG receive appropriations in the form of no-year funds. No-year funding would allow the DOE OIG to adequately plan our resources over the entire period that the funds will be expended by the Department and continue to investigate the fraud matters that will be discovered and prosecuted for many years to come.

OIG Efforts to Date

Since the passage of IIJA, the OIG has conducted 180 fraud awareness briefings reaching more than 5,700 Federal employees, contractors, grantees, external auditors, law enforcement, as well as state, local government, and tribal representatives. We have also worked closely with other OIGs who have received funding under these pieces of legislation to identify risks and best practices. I am currently serving as the co-chair of the Council of the Inspectors General on Integrity and Efficiency's IIJA Working Group.

Since early 2022, my office has held more than 27 meetings with senior Department leadership to pose questions to them regarding the new programs, and to identify risks the OIG has reported during the performance of prior work. In this way, we have safeguarded our independence, while helping the Department to identify areas of potential risk. We have also used these meetings to reemphasize the importance of Departmental oversight to help prevent and detect fraud, waste, and abuse. In January 2022, the OIG identified pertinent historic reports and discussed those with the Department. These reports provided analyses of "lessons learned" and suggested approaches for reducing the risks associated with the extraordinary level of new funding. These reports are listed below:

- *The IG Community's Joint Efforts To Protect Federal Grants From Fraud, Waste, and Abuse*, CIGIE, January 2021. This report provided a broad overview of steps to prevent grant fraud.

- Special Report on *The American Recovery and Reinvestment Act at the Department of Energy* (OAS-RA-09-01, March 2009). Drawing from similarities to the Recovery Act era, this report provides insights into early steps that leadership can take for a new or major expansion of Federal programs.

- *Special Report: Lessons Learned/Best Practices during the Department of Energy Implementation of the American Recovery and Reinvestment Act of 2009* (OAS-RA-12-03, January 2013). This report served as a capstone for issues identified during the Recovery Act era that we concluded has broad applicability to today's context.

Additionally, between April and August 2022, the OIG issued four capstone reports summarizing previous work. These reports targeted specific programmatic areas that will receive substantial funding under the new legislation. The recurring themes in these reports include insufficient Federal staffing, inadequate oversight of projects, and a lack of accountability and transparency. Below are the four reports:

- *Special Report: Prospective Considerations for the Infrastructure Law-Funded Weatherization Assistance Program* (DOE-OIG-22-30, April 29, 2022).
- *Special Report: Prospective Considerations for the Loan Authority Supported Under the Loan Programs Office to Improve Internal Controls and Prevent Fraud, Waste, and Abuse (*June 10, 2022; DOE-OIG-22-34).

- *Special Report on Prospective Considerations for Clean Energy Demonstration Projects* (August 17, 2022; DOE-OIG-22-39).
- *Special Report on Prospective Considerations for Projects Awarded Through Financial Assistance Awards* (August 17, 2022; DOE-OIG-22-40).

The last of these reports focused on grants and identified six major risk areas based on prior audits, inspections, and investigations that warrant immediate attention and consideration from Department leadership to prevent similar problems from recurring. The issues include recipient fraud; insufficient Federal staffing; inadequate oversight of projects; circumvention of project controls; inadequate internal controls; and lack of recipient-level controls.

The OIG has also launched a data collection and monitoring project to begin to collect and analyze oversight information from the Department related to the following five major programs:

1. Office of Clean Energy Demonstrations (OCED) – The scope of oversight for OCED will cover the major projects including Advanced Reactors; Carbon Capture projects; Regional Clean Hydrogen Hubs; and other major projects.
2. Loan Program Office (LPO) – The scope of oversight for LPO will cover loan authorities, as authorized in IIJA and IRA, in areas to include Innovative Clean Energy loan guarantees for both fossil and nuclear energy; Advanced Technology Vehicle Manufacturing loans; Energy Infrastructure; Tribal Energy; and others.
3. Grid Deployment Office (GDO) – The scope of oversight for GDO will cover programs including Enhancing the Resilience of the Electric Grid; Innovative Grid Resilience Program; Transmission Facilitation Program; Smart Grid Grants; Modeling and Assessing Energy Infrastructure Risk; Civil Nuclear Credit Program; Hydroelectric Production Incentives; and other major projects.

4. Office of State and Community Energy Programs (SCEP) – The scope of oversight for SCEP will cover programs including the State Energy Program; Weatherization Assistance Program; Energy Efficiency and Conservation Block Grant Program; Training programs; and Energy Efficiency programs.
5. Office of Manufacturing and Energy Supply Chains (MESC) – The scope of oversight for MESC will cover programs to include: Advanced Energy Manufacturing and Recycling Grant; Battery and Battery Recycling programs; Rebate programs for Energy Efficient Transformers and Extended Product Systems; Industrial Research and Assessment Centers; Rare Earth Elements Demonstration Facility; and State Manufacturing Leadership.

As additional funding becomes available to the OIG, the data collection and monitoring project will be expanded to include additional programs. The data collection and monitoring project is designed to produce leads for audits, inspections, evaluations, and investigations. However, the OIG's ability to actually conduct these audits, inspections, evaluations, and investigations will be determined by the amount of funding it receives to do so. There is no amount of planning or coordinating that will replace having the resources (i.e., the people and technology) to conduct these projects.

Data Analytics

Data analytics is a crucial oversight tool to help detect fraud and waste, and its particularly effective to detect procurement and grant fraud schemes. For example, data related to contract claims may be examined to identify anomalies related to the frequency or amount of claims or pricing that appear inconsistent with expected norms. We are building innovative automated tools that identify and pursue anomalies and will serve to focus the resources of our

human elements on those matters most likely to achieve the greatest results. We are analyzing high-risk areas such as labor, pay, grants, subcontracts, and contracts to validate risk models and identify specific high-risk anomalies. We are taking steps to integrate financial, operational, and performance data to assess and identify risks. We are working closely with the PRAC to borrow from its successful and data driven oversight activities. Our data analytics team has already had much success, but more needs to be done.

I hope to continue to expand and develop the data analytics capability of the OIG by making investments in information technology and innovations. Now more than ever, the OIG needs efficient and economical tools to better identify, prioritize, and develop issues that support risk-based prioritization for our audits, inspections, evaluations, and investigations. Strengthening our data analytics capabilities and gaining access to required authoritative Federal and contractor data remains a key priority, especially as we perform oversight of the four pieces of legislation discussed today.

Grant Fraud

IIJA and IRA provide up to $52 billion in potential new grants on top of the normal FY 2021 annual appropriations of $4.1 billion for these types of awards. The Government relies too heavily on the honesty and due diligence of individuals and entities when they apply for the grant funding, certify that they have followed the terms and conditions, make requests for grant payments, and submit narrative progress and final reports to the granting agency. Grant fraud, waste, and abuse most commonly occur at the recipient or sub-recipient levels and often include some form of lying, cheating, or stealing. Recipients may make false statements in their applications and may make false claims for funds. Recipients may also have conflicts of interest resulting from undisclosed “related party” transactions. Theft or other forms of corruption by an

employee of a grantee is one of the most common occurrences. Since 2019, the DOE OIG has opened 55 grant fraud investigations, which have already resulted in ten indictments. Below are some recent examples of grant fraud schemes involving the Department:

Sentencing and Administrative Actions in Grant Fraud Investigation. In September 2022, the owner of a scientific research company, a former Department grantee, was sentenced to 42 months in prison, restitution in the amount of $1,548,255, an assessment fee of $300, and 3 years of supervised release. The U.S. District Court Judge also ordered the forfeiture of 11 seized accounts, real property, and a money judgement of $1,548,000. Additionally, a co-owner of the scientific research company, which had received approximately $1.2 billion in Department Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) grant awards, and three other scientific research companies, were debarred from any Federal contracts, subcontracts, assistance agreements, or subcontracts requiring Government approval for a period of 3 years. The investigation determined that the owner received approximately $500,000 in Kentucky State matching funds, in addition to Department SBIR/STTR funding, and the company provided false information in their Department proposals and subsequent close-out documents. The owner was found guilty by a jury in the U.S. District Court for the Eastern District of Kentucky on one count of Conspiracy to Commit Wire Fraud, one count of Wire Fraud, and one count of Money Laundering. This is an ongoing joint investigation with the Environmental Protection Agency OIG and the Defense Criminal Investigative Service. The DOJ press release for the owner's sentencing can be found here.

Settlement Agreement in Qui Tam Investigation. In November 2022, a Department SBIR/STTR grant recipient entered into a Settlement Agreement in which the company agreed to pay $411,050 to the Department in restitution. At the time of the settlement, the grantee had been awarded four SBIR/STTR awards from the Department worth nearly $5 million. The

investigation stemmed from a Qui Tam action filed by a former employee at the grant recipient company, which alleged that the grantee submitted false claims on Department awards to obtain funds for labor costs of employees for time they spent working on private commercial projects. The investigation determined that the president of the grantee company directed employees to charge time worked on private projects against Department awards and draw down remaining funds from those awards. The Department also issued an Administrative Compliance Agreement to the company requiring the company to implement a Contractor Responsibility Program.

Suspension in Grant Fraud Investigation. In October 2022, in response to an OIG investigation, the U.S. Army suspended a Department grantee and company from receiving Federal funds or contracts. The District Attorney's Office for Salt Lake County, Utah, filed a six-count Information charging a Department STTR grant recipient with one count each of: Misuse of Public Money, Unlawful Dealing of Property by a Fiduciary, Communications Fraud, Theft, Theft by Deception, and Pattern of Unlawful Activity. The OIG investigation determined the grantee billed the Department and the U.S. Army for fringe benefits that were never paid to employees. The loss to the Government was approximately $367,805. This is an ongoing joint investigation with the U.S. Army Criminal Investigations Command Major Procurement Fraud Unit.

Grant Fraud Safeguards

Some of the safeguards that help ensure that grant dollars are used as intended include:

- Grantor and recipient internal controls. Perhaps the Achilles heel of the Federal grants process is the lack of robust internal controls at both the grantor and the recipient level. Recipients must have properly designed, implemented, tested, and updated key internal controls related to payroll, credit card use, claims submitted to a grantor agency, and other high-risk processes.

- Pre-award due diligence. Grantors must conduct appropriate due diligence to verify the information contained in grant applications. Another challenge here is coordinating with other Federal agencies that might fund similar or overlapping projects to the same applicant.

- Audits, including "Single Audits." 2 CFR 200 requires that recipients spending more than $750,000 in Federal funds must undergo an annual audit by an independent auditor. Commonly called "Single Audits" or "A-133 Audits," these efforts are designed to help ensure that recipients have, and are maintaining, adequate accounting systems and effective internal controls. It is critical that these independent audits are conducted. It is also critical that the granting agency monitor such compliance and follow up on the issues identified by these, and other audits.

This oversight framework is only effective if it is implemented and overseen appropriately by granting agencies. We have identified instances in which the Department could improve its oversight in this area. For example, a March 13, 2023, Department OIG audit found that the Department's Office of Science failed to ensure that required annual audits of for-profit recipients of Small Business Innovation Research grants had been completed. Award expenditures totaling $56,835,650 that were not audited as required, exposed the Department to an increased risk of fraud, waste, and abuse. Additionally, many grantees spend large amounts of funds procuring goods and services, which raises procurement fraud risks, which I will discuss below.

Procurement Fraud

Aside from the new funding, the Department was already at risk for procurement related fraud. The Department is the largest civilian contracting entity in the U.S. Government. The

Department is also the leanest contracting Federal agency, with approximately 90 percent of its budget "passing through" to its contractors and grantees. The use of Management and Operating contractors and the overall disbursed nature of the Department's procurement process increases the risk of procurement related fraud and waste because the Department is relying heavily on third parties to properly award and oversee a sizable portion of the Department's budget.

Procurement actions present a wide range of fraud and waste challenges such as:

- Poorly defined requirements. Every procurement action should begin with clearly defined and objective requirements to ensure that the goods or services are indeed necessary, and to promote full and open competition.
- Corruption. Department and contractor employees have access to sensitive procurement data, that if improperly shared may result in fraud and waste as the Department spends more than necessary for goods or services.
- Inadequate contract oversight. Once a contract is awarded, the party taking the procurement action, whether it be the government or a contractor, must dedicate appropriate resources to ensure compliance with all contract terms and conditions.
- False invoices. There is always a risk that invoices submitted to the Government might be false, misleading, or incorrectly calculated.
- Product substitution. The Department procures raw materials, parts, and equipment that must meet exacting specifications—counterfeit or other substandard items may impact national security, create safety risks, or result in fraud.

Below are some recent examples of the types of schemes uncovered by the DOE OIG:

Trial Conviction for Subcontractor's Theft of Pricing Data. In May 2022, a former Department subcontractor at the Strategic Petroleum Reserve was convicted in Federal court of

engaging in a 14-year scheme to corruptly win contracts totaling approximately $9 million. In order to receive these awards, the individual conspired with others to obtain non-public Government pricing information in advance of submitting its proposals.

Prison Sentence in Employee Corruption Scheme. In June 2022, a former Western Area Power Administration contractor was sentenced to 55 months in Federal prison for his involvement in a $879,392 corruption scheme. An OIG investigation found that the contractor enlisted the assistance of friends and family members to create various shell companies which were in turn used to submit fraudulent invoices to the Western Area Power Administration for goods which were never provided to the Government.

Settlement for Undelivered Goods. In March 2022, MOX Services LLC, a Department contractor at the Savannah River Site, entered into a $10 million Civil Settlement with the United States Department of Justice (DOJ) to resolve a Federal False Claims Act lawsuit. The OIG investigation determined that MOX Services LLC allowed Wise Services Inc., a subcontractor, to process and receive payment for thousands of invoices, totaling more than $6.4 million, for materials that were neither necessary nor delivered to NNSA.

Research Security

"Research security" threats are broadly defined as a wide range of efforts by foreign governments to obtain U.S. Government-funded research data and results, which drive innovation. Research security may impact national security and may result in substantial losses of federal resources. Research security is a great concern for all Department and NNSA laboratories, and it may impact the entire portfolio of Department grants. The OIG has conducted a number of investigations related to the theft of intellectual property, violations of

grant terms and conditions, and other violations. In fact, 35 percent of the grant fraud cases currently open are related to research security. Below is one example:

Failure to Disclose Affiliation with Chinese University. A recent investigation conducted jointly by the DOE OIG and the National Science Foundation OIG found that a principal investigator at the University of Kansas created a scheme to defraud the Government by failing to disclose on grant proposals to the Department an existing affiliation with, and contractual obligations to, a Chinese university. The grant recipient also failed to disclose this conflict of interest to the University of Kansas. A DOJ press release from the conviction can be found here.

Another challenge in the research security arena are instances in which a foreign company—with or without the direct support of a foreign government—steals U.S. taxpayer-funded research or intellectual property and illegally exports it overseas. This activity harms U.S. innovation efforts, damages our economy, and violates the intent of these programs. This is an especially concerning risk as IIJA is funding significant numbers of clean energy and other innovations that foreign companies might seek for their own benefit.

Just last month, in March 2023, the Department announced that it is creating a new "Research Technology and Economic Security Vetting Center" to assist with, and streamline, implementation of required security-related considerations.

Procurement Collusion Strike Force

In November 2022, I joined the U.S. Department of Justice Antitrust Division's "Procurement Collusion Strike Force" as a national law enforcement partner to combat antitrust crimes and related schemes in Government procurement, grant, and program funding at all levels

of government—Federal, state, and local. The Strike Force brings together the DOJ Antitrust Division; state Attorneys General; Federal, state and local offices of inspectors general; and other Federal agencies such as the Department of Defense and the Federal Trade Commission.

As the largest civilian contracting entity in the Federal Government, the Department faces substantial risks of bid-rigging, price fixing, and other similar illegal activities. Many of the Department's procurements involve a limited field of competitors, highly specialized items, cyclical or repetitive contracts, or facilities located in remote areas, all of which are high risk indicators for collusion and antitrust violations.

The OIG is also staffing two new attorney positions to serve as Special Assistant U.S. Attorneys in U.S. District Courts across the country to improve our nationwide coverage of a broad range of criminal matters.

Closing Remarks

I would like to recognize the key role that bipartisan efforts of Congressional oversight Committees have played over the years in advancing Government transparency and program integrity. We are all aware of the important work that congressional committees have done with Inspectors General over the years. Thank you for your continued support for the independent oversight work performed by my office and by the Inspector General community. We look forward to continuing to work on behalf of the taxpayers to ensure that Federal infrastructure and energy programs are operating effectively and efficiently, and to prevent and detect fraud, waste, and abuse. I appreciate the opportunity to testify here today, and I look forward to answering your questions.

Teri L. Donaldson



Teri L. Donaldson was sworn in as the fifth Inspector General of the United States Department of Energy on January 23, 2019. Ms. Donaldson began her career as an Assistant United States Attorney for the Middle District of Florida, and received numerous commendations from federal investigatory agencies, as well as Special Commendations from the U.S. Attorney General and the Director of the FBI. She then served as General Counsel for the Florida Department of Environmental Protection, representing the State of Florida on a broad range of environmental and energy matters. Ms. Donaldson joined the private sector in 2004, where she assisted clients with complex investigations, litigation, and corporate compliance matters. Most recently, Ms. Donaldson was a partner in the Houston office of DLA Piper, LP (US), where her clients included a variety of major American and international corporations. Ms. Donaldson returned to public service in September of 2017 serving as the General Counsel for the Environment and Public Works Committee of the United States Senate before becoming Inspector General. Ms. Donaldson is the first female to the hold the position of Inspector General at the Department of Energy.

Mr. OBERNOLTE. Thank you very much, Ms. Donaldson.

Our fourth witness this morning will be Eric Soskin, who is the current Inspector General for the Department of Transportation (DOT). Mr. Soskin, you are recognized for 5 minutes.

TESTIMONY OF THE HONORABLE ERIC J. SOSKIN,
INSPECTOR GENERAL,
DEPARTMENT OF TRANSPORTATION (DOT)

Mr. SOSKIN. Chairman Obernolte, Ranking Member Foushee, and Members of the Committee, thank you for inviting me to testify on preventing waste, fraud, and mismanagement at the Department of Transportation. I'm pleased to be joining IGs Martin, Lerner, Donaldson, and O'Donnell today to discuss how our work helps safeguard taxpayer dollars while improving the efficiency and effectiveness of government programs. In our oversight activities, we routinely collaborate with partners across the Federal Government, including with the other OIGs represented here today, as well as with the Department of Justice (DOJ).

For Fiscal Year 2022, DOT's budget authority included approximately $355 billion to fund programs and operations through grants, contracts, and other means, including just a small portion, about $1.5 billion dollars, dedicated to research and development. Congress has also authorized $660 billion for DOT through the *Infrastructure Investment and Jobs Act,* or *IIJA,* along with $106 billion in COVID–19 relief funding. As such, as IG Donaldson was referencing, the Department now manages and must oversee much higher fund totals than ever before. This in turn increases the risk of fraud and mismanagement.

To help prevent the loss of Federal dollars, our office investigates allegations of fraud, waste, and abuse affecting DOT programs, contractors, grantees, and regulated entities. In Fiscal Year 2022, procurement and grant fraud investigations represented about 36 percent of our caseload. High-risk categories of fraud included bribery and corruption, overcharges for labor and materials, fraud related to Disadvantaged Business Enterprises, or DBEs, and bid-rigging. For example, as an outcome of a recent investigation by our office, a North Carolina engineering firm was sentenced to $8.5 million dollars in fines and restitution. The firm was convicted of rigging bids related to DOT-funded projects that facilitate drainage around highways, roads, bridges, and overpasses.

Strong internal controls and oversight are what's required to prevent such fraud, including effective procedures to identify and assess risks. In response to the *Fraud Reduction and Data Analytics Act of 2015,* DOT developed a fraud risk management implementation plan. This plan formalized the structure of DOT's fraud risk management processes and included fraud in the Department's assessments of improper payment risks.

However, DOT must also consider risks beyond improper payments, both financial and nonfinancial. For example, some fraud can have safety consequences and other consequences such as limited competition. We are currently evaluating DOT's fraud risk assessments for its surface transportation programs, including those funded by *IIJA* in an audit we announced last year.

A number of strategies can help mitigate the risks posed by fraud to DOT programs. It is critical to educate staff, grantees, and contractors on how to recognize, prevent, and report potential procurement and grant fraud. This is particularly important because of the extent to which DOT, like the Department of Energy, has its grant funding flow from States to subrecipients and contractors who have less direct contact with the agency, as well as to new recipients and subrecipients who may have less experience managing Federal funds.

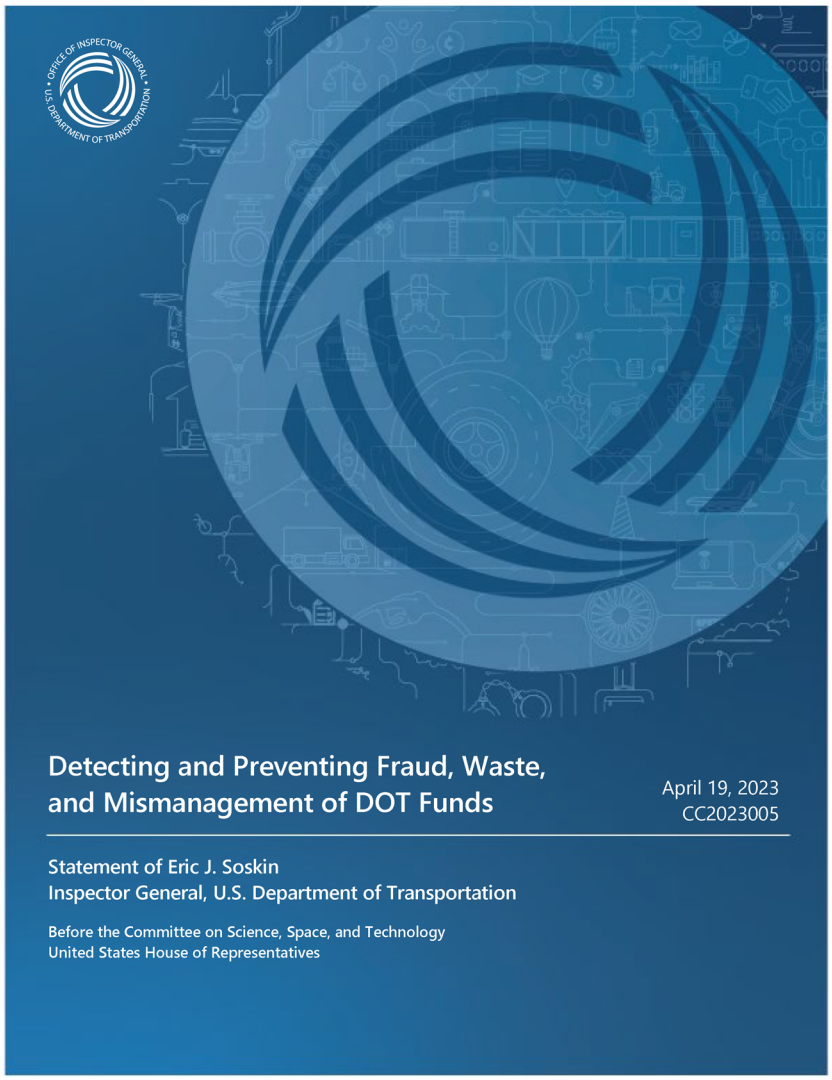
Our Office of Investigations conducts outreach to increase such awareness, but this outreach does not reach all stakeholders who may be knowledgeable about fraud-related activities. For example, prime contractors play essential roles in obtaining DBE participation and overseeing it. DOT and its grantees must do their parts to ensure contractors know their responsibilities to recognize and report suspected fraud. And such outreach is just one step in ensuring that each recipient of Federal funds commits in its culture and structure to preventing fraud.

Strengthening oversight is also vital to detecting and preventing fraud, waste, and mismanagement. Oversight at the DOT operating administration level and program level is the focus of much of our audit work, and we have found that DOT faces challenges in monitoring grantees' documentation to ensure they use funds as intended. An example of that was in our recent oversight and audit report of FAA's (Federal Aviation Administration's) *Cares Act* grants. And to its credit, DOT has already taken steps to address the recommendations we made in that report.

Nevertheless, opportunities remain to enhance DOT's oversight and safeguard Federal funds. Our office is committed to supporting DOT and meeting its mission while strengthening its processes to prevent fraud, waste, and mismanagement on behalf of the American taxpayer.

This concludes my prepared statement, and I'm happy to answer any questions you may have.

[The prepared statement of Mr. Soskin follows:]



Detecting and Preventing Fraud, Waste, and Mismanagement of DOT Funds

April 19, 2023
CC2023005

Statement of Eric J. Soskin
Inspector General, U.S. Department of Transportation

Before the Committee on Science, Space, and Technology
United States House of Representatives

Chairman Lucas, Ranking Member Lofgren, and Members of the Committee:

Thank you for inviting me to testify today on preventing procurement and grant fraud, waste, and mismanagement in the Department of Transportation's (DOT) programs. Since DOT-OIG was established in 1979, we have been dedicated to providing independent and objective reviews of the economy, efficiency, and effectiveness of DOT programs and operations. A critical component of our work relates to detecting and preventing fraud, waste, abuse, and criminal violations of laws affecting the Department.

For fiscal year 2022, DOT's budget authority included approximately $355 billion to fund programs and other operations through grants, contracts, and other means. Moreover, following Congress's addition of more than $660 billion from the Infrastructure, Investment and Jobs Act (IIJA) and $106 billion in COVID-19 relief multi-year funding, DOT now monitors significantly more contract and grant funds. The significant growth in the number of grants and total disbursement dollars increases the risk of misuse and calls for strong internal controls and oversight.

Of DOT's total appropriations, funds for research and development (R&D) play a relatively small role. In fiscal year 2023, DOT is managing a Research, Engineering, and Development budget of $1.54 billion across seven Operating Administrations and the Office of Secretary of Transportation. For example, DOT's budget includes approximately $552 million for Federal Aviation Administration's (FAA) R&D efforts, such as aeromedical and Next Generation Air Transportation System environmental research.

While not unique to R&D funding, our audit and investigative work has identified opportunities to improve DOT's overall oversight of procurement and grants to prevent mismanagement and fraud. My testimony today will focus on (1) OIG's process for investigating procurement and grant fraud, (2) DOT's processes for assessing fraud risks to target oversight, and (3) opportunities to enhance DOT's oversight and outreach to detect and prevent mismanagement and fraud.

Summary

Each year, DOT manages hundreds of billions of dollars to meet its mission—and its oversight responsibilities have increased dramatically following the influx of IIJA and COVID-19 relief funds. To help prevent the loss of these Federal dollars, a significant portion of our office's investigative portfolio pertains to investigating high-risk areas of procurement and grant-related fraud by DOT grant recipients and contractors. DOT has developed a Fraud Risk Management Implementation Plan and incorporated a fraud risk assessment into its improper payment risk

assessment process. However, detecting and preventing mismanagement and fraud also requires increasing fraud awareness outreach efforts and strengthening DOT's oversight of the use of Federal funds, particularly the collection and monitoring of documentation supporting grant expenditures. These and other steps will help the Department better safeguard taxpayer dollars across all its procurement and grant programs, including those related to R&D efforts.

Detecting and Investigating Procurement and Grant Fraud

Our Office of Investigations conducts criminal, civil, and administrative investigations of fraud and other allegations affecting DOT Operating Administrations, programs, contractors, grantees, and regulated entities. We receive allegations of fraud, waste, abuse, and other irregularities concerning DOT programs and operations from various sources, including complaints to the OIG Hotline, referrals from Government entities, and investigative analyses. Based on our review of the allegations, we determine whether our investigative attention is warranted.

A significant portion of our investigative work pertains to procurement and grant fraud. The goal of these investigations is to prevent the loss of Federal transportation dollars by investigating fraud by DOT grant recipients and contractors. Our investigations also help ensure a level economic playing field for American workers and disadvantaged business enterprises (DBE) in the distribution of Federal transportation funds. Further, in November, our OIG joined the Department of Justice's Procurement Collusion Strike Force, partnering with other agencies and offices committed to deterring, detecting, investigating, and prosecuting antitrust crimes and related schemes that target Government procurement, grants, and program funding.

In fiscal year 2022, procurement and grant fraud investigations represented 36 percent of our Office of Investigations' total case inventory. That year, 34 procurement and grant fraud investigations were accepted for criminal prosecution, 2 investigations were accepted for civil prosecution; 12 search warrants were executed; and 12 investigations resulted in suspension and debarment referrals to DOT Operating Administrations. Since fiscal year 2017, our procurement and grant fraud investigations have led to a financial impact of over $100.9 million in restitution, $30.7 million in forfeitures, $29 million in recoveries, and $10.2 million in fines. For example, 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.

Based on this and other work, we have identified high-risk areas related to procurement and grant fraud that present challenges for DOT, including bribery and corruption, bid rigging, false claims, labor and materials overcharging, DBE fraud, and product substitution. We have also identified a number of red flags that may indicate such fraud. For example, a major risk area involves bid rigging—collusion between two or more firms to plan the bidding on projects in order to influence pricing and/or project awards. Indicators of such fraud can be unusual bid patterns, such as bids that are too close, too high, round numbers or identical winning margins, or persistently high prices by all bidders.

Assessing Fraud Risks To Target Oversight

Strong processes to assess and identify fraud risks are critical components of safeguarding Federal funds. The Fraud Reduction and Data Analytics Act of 2015 (Fraud Act) required Federal agencies to establish financial and administrative controls to identify and assess fraud risks. In 2015, the Government Accountability Office (GAO) issued *A Framework for Managing Fraud Risks in Federal Programs* (Framework) to aid Federal program managers in combating fraud through a strategic, risk-based application of leading practices. Regarding assessing fraud risks, GAO's Framework emphasizes two main activities: (1) planning regular fraud risk assessments that are tailored to the program and (2) identifying and assessing risks to determine the program's fraud risk profile. Pursuant to the Fraud Act, the Office of Management and Budget (OMB) issued guidelines to Federal agencies to incorporate, as relevant and appropriate, the leading practices from the GAO Framework into their programs.

Following the passage of the Fraud Act, DOT developed a Fraud Risk Management Implementation Plan to outline its processes for identifying and assessing fraud risks. In line with its Plan, the Department began formalizing the governance structure for its fraud risk management processes and incorporated a fraud risk assessment into its improper payment risk assessment process. We are conducting ongoing audit work to assess DOT's fraud risk assessment processes. Our audit has focused on comparing the DOT's processes to the leading practices for fraud risk assessment described in GAO's Framework. For example, the Framework states that agencies that effectively manage fraud risks should plan and tailor regular fraud risk assessments for each program. The Framework also emphasizes the importance of identifying nonfinancial fraud risks. While all activity to defraud the United States can have serious consequences for program integrity, not all acts of fraud result in improper payments by the Government—some fraud could have safety or other consequences. We recently issued a draft

report—with recommendations—on our work to the Department. After the Department has had the opportunity to review and respond, we will publish our findings and recommendations on our website.

DOT recognizes the increased risk of fraud associated with the influx of COVID-19 relief and IIJA funding. For example, in its fiscal year 2023 budget submission, DOT described plans to require every program that received IIJA funding to have completed a fraud risk assessment by the end of fiscal year 2023. However, as DOT moves to further develop fraud risk management policy and guidance, it will be critical for the Department to take a comprehensive approach to its programs; consider broader financial and non-financial risks—beyond improper payment risks; and translate assessments into useful information for managers. Successful implementation of these and other enhancements will be important for the Department to target its oversight and better position itself to prevent fraud before it occurs.

Enhancing Outreach and Oversight To Prevent Mismanagement and Fraud

As part of its fraud management efforts, DOT must take steps to mitigate identified fraud risks. A key mitigation strategy includes increasing outreach efforts to enhance understanding among staff, grantees, and their contractors on how to recognize, prevent, and report potential procurement and grant fraud.

DOT and its Operating Administrations have an obligation to report all potential criminal matters to OIG. OIG's Office of Investigations conducts outreach activities to increase awareness on how and when to report suspected fraud, but this outreach does not usually reach the contractors who perform the work and may be knowledgeable about fraud-related activities. For example, in the case of DBE fraud, prime contractors play essential roles in obtaining DBE participation, monitoring change orders for impacts to DBEs, maintaining records, ensuring DBEs engage in commercially useful functions, and otherwise detecting fraud. As such, the Department and its grantees must do their parts to inform contractors of their responsibilities for preventing, detecting, and reporting fraud and help educate them in identifying fraud.

Strengthening oversight procedures is also necessary for detecting fraud, waste, and abuse. For example, grants carry an inherent risk of improper payments because grantees may intentionally or unintentionally use funds in ways that do not align with the program's purpose or guidelines. Collecting and monitoring documentation supporting grant expenditures is critical to detecting and

avoiding misused funds. However, our audit work has found that DOT faces challenges in this area. For example:

- In our recent work on FAA's Coronavirus Aid, Relief, and Economic Security (CARES) Act grants, we found that the Agency modified policy to expedite review and payments by reducing supporting documentation requirements. This change increased risk and adversely impacted FAA's ability to assess eligibility and validity.
- In 2020, we reported that the Federal Railroad Administration (FRA) could not reasonably assure that the California High Speed Rail Authority's requests for reimbursement complied with all Federal requirements. This was in part because the Agency did not have procedures for reviewing grantees' procedures for certifying expenditures, verifying whether billed costs in sampled invoices were reasonable or appropriate, or following up on findings and recommendations from oversight bodies.
- In a 2019 review, we found that the Office of the Assistant Secretary for Research and Technology did not routinely direct grantees to provide support showing that their cost reimbursement requests were reasonable or allowable.

Another challenge the Department faces is securing sufficient resources to manage and oversee 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.

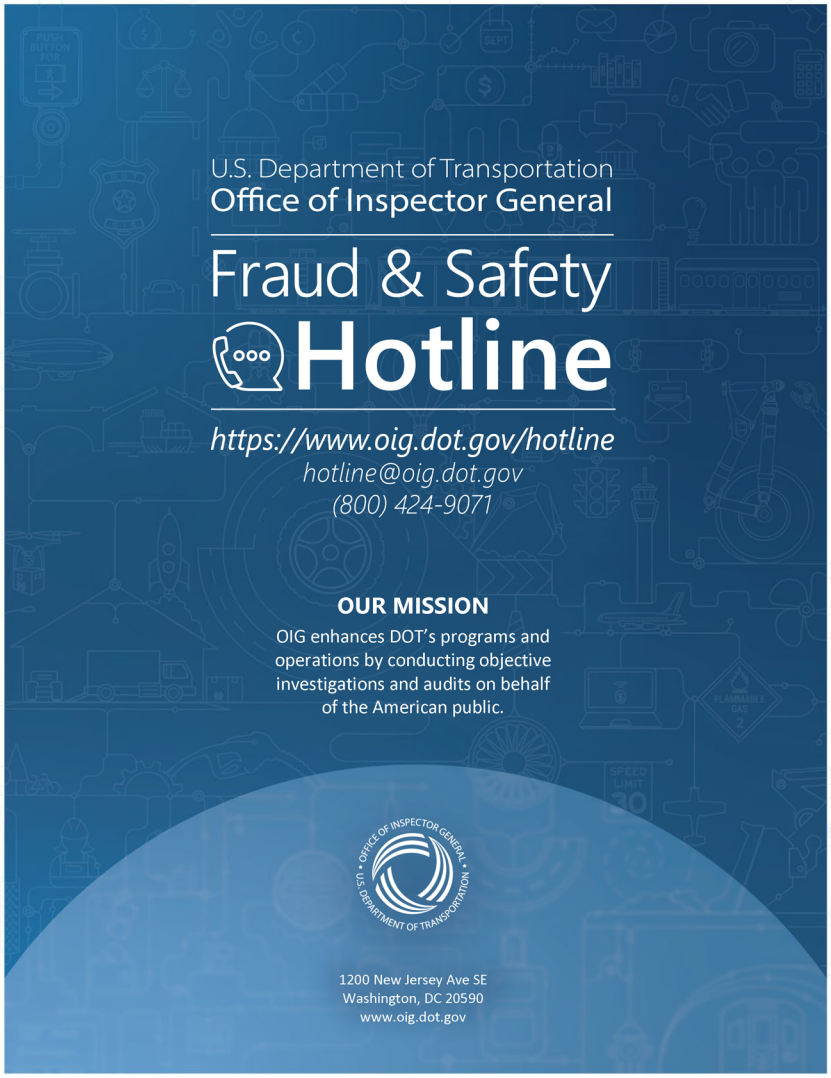
To its credit, DOT has taken steps to address our recommendations from these and other reports. For example, in response to our report on FAA's CARES Act oversight, FAA has revised its policy on supporting documentation requirements to account for risk level, among other actions. Nevertheless, opportunities remain to enhance the Department's oversight to safeguard Federal funds. On the whole, DOT will be better positioned to mitigate risks of unsupported and improper payments—and associated fraud risks—by establishing stronger internal controls, such as risk-based methodologies for closely reviewing grantees' procedures, reimbursement requests, supporting documents, and other recipient-reported information.

Conclusion

Detecting and deterring fraud, waste, abuse, and mismanagement of Federal funds is vital to effective stewardship of taxpayer dollars. Our office is committed

to supporting DOT in meeting its mission while enhancing its oversight of billions in procurement and grant funds, including those related to R&D efforts. Strengthening its fraud assessment, detection, outreach, and mitigation efforts will be important for the Department to better position itself to prevent fraud.

This concludes my prepared statement. I would be happy to address any questions from you or Members of the Committee at this time.


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Eric J. Soskin
Inspector General

AS INSPECTOR GENERAL, MR. SOSKIN leads OIG's independent and objective reviews of the efficiency and effectiveness of DOT's programs and operations as well as efforts to detect and prevent fraud, waste, abuse, and violations of law. Eric J. Soskin was sworn in as the Inspector General of the U.S. Department of Transportation on January 11, 2021. Mr. Soskin was nominated to the position by President Donald J. Trump and confirmed by the U.S. Senate on December 21, 2020.

Mr. Soskin's lifetime commitment to public service began at the U.S. Department of Justice (DOJ), where he worked for 14 years as a trial attorney, advancing to the title of Senior Trial Counsel. Mr. Soskin's time as a career civil servant with DOJ spanned three presidential administrations and numerous Attorneys General. As a litigator with the Federal Programs Branch, Mr. Soskin specialized in constitutional law, administrative law, and national security matters. In his work, he led cross-functional teams of attorneys and experts, representing Federal law enforcement and other agencies from across the executive branch on complex, sensitive, and high-profile cases. Mr. Soskin is a recipient of the Attorney General's Award for Distinguished Service.

Prior to his role at DOJ, Mr. Soskin clerked on the United States District Court for the Eastern District of Pennsylvania for the Honorable Paul S. Diamond.

Mr. Soskin graduated magna cum laude from Harvard Law School in 2005 and holds a B.A. in Mathematics and Political Economy from Williams College. He was the Submissions Editor for the Harvard Journal of Law and Technology and the Notes Editor for the Harvard Journal of Law and Public Policy. Mr. Soskin led the Williams and Harvard Law rowing teams as a coxswain and captain and continues to participate as a member of alumni crews and as a sculler.

[redacted]

Mr. OBERNOLTE. Thank you, Mr. Soskin.

Our final witness today will be Mr. Sean O'Donnell, who is the Inspector General at the Environmental Protection Agency. Mr. O'Donnell, you're recognized for 5 minutes.

TESTIMONY OF THE HONORABLE SEAN W. O'DONNELL,
INSPECTOR GENERAL,
ENVIRONMENTAL PROTECTION AGENCY (EPA)

Mr. O'DONNELL. Thank you. Good morning, Chairman Obernolte, Ranking Member Foushee, and Members of the Committee. I'm Sean O'Donnell. I am the Inspector General for the United States Environmental Protection Agency. I would like to thank the Committee for inviting me to testify about the EPA Office of Inspector General's efforts to protect American taxpayers from fraud, waste, and mismanagement.

Although relatively small, our office has averaged nearly 60 reports a year for the last 10 years, yielding a return on investment (ROI) of over 300 percent. And we are on pace to do even better this year. Indeed, during the last year, my office has risen to the challenge of overseeing critical EPA programs from identifying cyber vulnerabilities in America's water sector to reporting potential waste in the EPA's wood heater changeout programs, and there's more to come. For example, we are auditing the nearly $50 million that the city of Jackson received for Mississippi's Drinking Water State Revolving Fund (SRF). And we've already uncovered evidence that the EPA may have instructed States to ignore single audit findings such as those for the city of Jackson when making award decisions.

Following enactment of the *Infrastructure Investment and Jobs Act,* we immediately began conducting oversight, starting with our inaugural *IIJA* oversight plan released in April 2022. Since then, we have published nearly a dozen oversight products, as well as created an interactive webpage. And we have seven projects in progress and six more planned, covering such things as supply chain concerns and SRF capacity issues. Finally, our investigators are employing every tool available to us to fight fraud, from task forces to data analytics.

But we have our work cut out for us. For context, in any given year, the EPA manages around 6,000 grants, totaling approximately $21 billion. Furthermore, through various infrastructure programs, the EPA has funded over $230 billion in water projects, and now the EPA faces the task of managing $100 billion from the *IIJA* and the *Inflation Reduction Act.*

There are four areas where we can help the EPA meet these challenges. The first and arguably most important relates to whistleblowers. From my very first day as Inspector General, I have encouraged whistleblowers and worked to vindicate their rights. This includes holding annual National Whistleblower Appreciation Day panels that draw more than 1,000 attendees. But encouraging and protecting whistleblowers is a responsibility we share with the EPA. Last month, we identified the need for the EPA's terms and conditions to specifically address whistleblower responsibilities. And we are working to partner these new provisions with an offi-

cial policy implementing statutory protections for recipient whistleblowers.

Encouraging and protecting whistleblowers at the EPA starts with the EPA. We have recently reported on the EPA's failure to share whistleblower allegations of misconduct with us, particularly when related to science. We are working with the agency to ensure that we are promptly notified of these allegations, and we will continue to work with it to ensure that it has policies protecting its whistleblowers.

The second area we are focused on is raising fraud awareness among EPA staff and stakeholders. Since the enactment of the *IIJA*, our investigators and auditors have conducted around 170 fraud or cybersecurity briefings, reaching nearly 4,000 attendees. And we recently identified the need for the EPA to implement best practices in alerting grantees to the consequences of fraudulent conduct and in reporting such conduct to the OIG.

A third area of focus is ensuring the OIG access to agency and grantee information. To facilitate audits and investigations regulatory provisions augment our subpoena authority by allowing us access to recipients and their records. A best practice we have identified is adding OIG access provisions to the EPA's terms and conditions.

Finally, we are concerned about systemic issues related to the EPA's grant management. We found that the EPA's various offices stored grant files in disparate ways from electronic media to paper files, and an EPA working group found that the agency uses 55 data bases to store data from around 100 grant programs. From an oversight perspective, it hinders our ability to conduct effective oversight, limiting our ability to, for example, analyze historical data and suspicious trends. It also, from an administrative standpoint, hampers the EPA's ability to comprehensively and consistently manage grants.

The EPA OIG is leading the fight against fraud, waste, and abuse. Moreover, we are doing so despite a decade of flat and declining budgets. Recognizing the need for *IIJA*-focused oversight, Congress provided us with dedicated funding. We are grateful for this support, and we're putting it to good use. However, we did not receive *IRA* funding to carry out *IRA*-focused oversight. On a positive note, the agency supports a reprogramming of funds for the OIG, converting some existing *IRA* dollars to dedicated oversight funding. I'm hopeful that Congress will recognize the value in doing so and take timely action.

I thank you for your support and look forward to answering your questions.

[The prepared statement of Mr. O'Donnell follows:]



OFFICE OF INSPECTOR GENERAL
U.S. ENVIRONMENTAL PROTECTION AGENCY

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

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

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

April 19, 2023

Introduction

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

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

Summary of EPA OIG Oversight Work Over Past Year

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

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

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

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

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

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

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

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

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

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

Risk of Improperly Administered Grants and Contracts

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

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

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

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

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

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

Whistleblowers

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

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

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

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

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

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

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

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

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

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

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

Anti-Fraud Provisions

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

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

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

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

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

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

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

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

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

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

OIG Access Authority

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

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

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

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

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

Grants and Contracts Management

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

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

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

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

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

Conclusions

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

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

Biography: Inspector General Sean W. O'Donnell



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

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

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

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

Mr. OBERNOLTE. Well, thank you very much, Mr. O'Donnell, and thank you to all of you for your testimony.

We'll now move to the Member question-and-answers portion of our hearing. And I will go first by recognizing myself for 5 minutes.

I'm sure that everyone followed with increasingly distress and horror the shutdown of the Colonial Pipeline recently, where a loss and compromise of a single password resulted in a vital part of American infrastructure being shut down for several days, which disrupted oil supplies to the entire Eastern United States. It was interesting to see that that was caused by the compromise of a single password. So I was very alarmed when recently I read a report from the Department of the Interior (DOI) who conducted an investigation into their password security. And what they found was that over 20 percent of the passwords used in the DOI system were able to be easily hacked. They found that the most commonly used password was the word "password" followed by the numbers 123456. And in fact, almost 5 percent of the passwords in use by users on the DOI system were some variation of the word password. So, unfortunately, looking at our experience with consumers across the country, that behavior is not surprising. But in light of what happened at Colonial, I think it is very disturbing. I'm wondering if any of you have conducted similar investigations into password security at your agencies? I don't see any volunteers, so I'd like to ask you briefly if you'd be willing to undertake that task because I think it's one that, you know, would not be difficult to accomplish but could potentially be very important. And, Mr. Martin?

Mr. MARTIN. Be happy to take that——

Mr. OBERNOLTE. Thank you.

Mr. MARTIN [continuing]. Under consideration.

Mr. OBERNOLTE. Ms. Lerner?

Ms. LERNER. As would I.

Mr. OBERNOLTE. I appreciate that. And, Ms. Donaldson?

Ms. DONALDSON. Yes, in fact we already do——

Mr. OBERNOLTE. The microphone, please. Thank you.

Ms. DONALDSON. We actually do a lot of work in the area of cybersecurity. So in Fiscal Year 2021, we identified over 42,000 vulnerabilities across 12 sites at the Department of Energy. We still have 23 open—or 38 recommendations open from that work, and we will be issuing 35 new recommendations shortly, so we do a lot of work in that space. And some of that does cover the password-related issues. So there's a lot more work to go with the Department of Energy.

Mr. OBERNOLTE. Well, I'm glad you're focused on it. I know it's frustrating to have open recommendations but keep pushing because that's how we get them closed.

Mr. Soskin?

Mr. SOSKIN. Chairman Obernolte, our information technology and cybersecurity audits group, on a rotating basis, looks at, among other things, the cybersecurity of the Department's operating administrations. Our recent reports on the Federal Motor Carrier Safety Administration found similar security vulnerabilities to what you're describing with passwords. And our audit of the Federal Transit Administration's cybersecurity found shortcomings in

its use of multifactor authentication, which as you all probably know from your use of bank accounts and other things that you personally secure, is better than relying solely on a password. We continue to do that work, and we are heartened by the Department's efforts to address our open recommendations. And we look forward to continuing to work with the Department's new Chief Information Officer and relatively new Chief Information Security Officer as well.

Mr. OBERNOLTE. Well, thank you, Mr. Soskin. Thank you for the good work.

Mr. O'Donnell?

Mr. O'DONNELL. Thank you. For the last 2 years, we've identified cybersecurity and in particular cybersecurity of the critical water infrastructure as a top management challenge. We will continue to do so. And I'd be happy to have my staff come and meet with your staff to discuss the work we've done, including on passwords.

Mr. OBERNOLTE. OK. Well, that's good. I'm in particular interested in the issue of passwords for two reasons: One, because it is such an easily solved problem if we elevate awareness of the issue; and second, because the consequences of failure to solve it can be so severe.

The second thing I'd like to ask about is something I mentioned in my opening statement regarding the metrics for evaluating the success of the Office of the Inspector General. Your agencies represent such a wide variety of roles and responsibilities. I think it is very hard to come up with one universal metric for each of you to use to evaluate the performances of your office. So I'm wondering what metrics you either use or would suggest that we use to evaluate whether or not an IG is doing a good job in overseeing their agency. Anyone ever thought about that?

Mr. O'DONNELL. Yes, sir. So—and I'm sure my colleagues would tell you every type of oversight is different. For us, I have built into the performance metrics of my entire staff, timely and relevant work, high quality, timely work. But as an office, of course, we look at ROI. And as I said, for us, it's been, you know, around 300 percent for the last 10 years. We also look at the number of reports that we issue, but then there are those nonquantifiable ones. And as a former IG once shared as I was commiserating about some tough responses from the agency on some of our reports, he said, you know, when you're catching flak, you know you're over the target. And I kind of take that as a measure, too. When we're catching flak from the agency, we know we're doing good work.

Mr. OBERNOLTE. So you mentioned return on investment. How do you calculate that?

Mr. O'DONNELL. We do it through the various forms potential monetary benefit, questioned costs, identified waste, and then of course returns to the government through fines, restitution, and the like.

Mr. OBERNOLTE. And investment? Do you actually track the manpower on each one of those investigations and assign a monetary value to it?

Mr. O'DONNELL. We do. We do track the cost. In fact, I personally have a dashboard in my office where I get to see how many

hours are billed to every project so that I can make sure that they're done efficiently.

Mr. OBERNOLTE. Interesting. And you mentioned timeliness and relevance. How do you track those?

Mr. O'DONNELL. We do it—first of all, I think time and relevancy are hand-in-glove, also quality. For me it's quality and it's getting measured, and, again, how quickly we respond to emergencies. How quickly are we responding to environmental emergencies for which we need to do oversight. For example, we just noticed an inquiry into the fuel spill at East Palestine. That's an example of me seeing my staff being timely and relevant to the issues that are affecting the EPA.

Mr. OBERNOLTE. Sure. Well, I see I'm out of time. But I'd like to do some more thinking about this issue because it's difficult for us to do our oversight unless we have a metric by which we're evaluating you. And your roles are so diverse. I think that this is an important topic. So I thank you for your answers.

At this point, I will yield 5 minutes to my distinguished colleague from North Carolina, Mrs. Foushee, for her questions.

Mrs. FOUSHEE. Thank you, Mr. Chairman.

Inspector General Lerner, I'll direct these first questions to you. The National Science Foundation has a significant presence in my district. In the latest fiscal year, NSF awarded nearly $85 million to Duke University and the University of North Carolina at Chapel Hill alone. NSF also supports cutting-edge research initiatives in the district such as the Research Triangle, Nanotechnology Network, and the Athena Institute for Artificial Intelligence (AI) Research. I would like to learn more about how oversight from NSF OIG helps to strengthen the kind of research investments that are so important to districts like mine. So my first question is how does oversight by the OIG benefit major research institutions that receive awards from NSF on a regular basis for scientific research?

Ms. LERNER. Happy to answer that. One of the great things that our audit work does is dig into how people who receive NSF funds are using that money. And we take the results of what we find in our audits and we deal with not just with the issues and problems that we found at the institutions that we've audited, but we use our outreach program to share what we found with the research administration community and the research community so they can see what problems they might have and try to solve them in their agencies, even though we aren't there to audit them. So we try to get—to amplify the impact of our work by pushing it out and getting it to not just the people that we audit, but to the people that are in other agencies that can improve their programs based on what we found.

Mrs. FOUSHEE. Thank you. And how does the OIG approach its oversight of research initiatives that span multiple research institutions and public, private, and academic stakeholders? Are the important distinctions in how the OIG evaluates these kinds of investments?

Ms. LERNER. You know, I think we follow risk. And so when we—if we see a collaborative effort that has greater risk because of the nature of it, that will receive more attention from us. If it's an established program, it's less likely to. One of the areas that

we're focusing on, you know, right now is the development of new programs in the Technology, Innovation, and Partnership Directorate that are new to the agency, new to the academic community, and bring greater risks with them. So we are we are constantly trying to keep a finger on the risk environment and target our resources where appropriate.

Mrs. FOUSHEE. And finally, how do the relationships that you build with stakeholders in the research community improve your ability to conduct oversight of NSF? And what can you do to develop those relationships even further?

Ms. LERNER. One of the things that I've learned in 13 years in sitting in this role is that, you know, IGs can't make anyone do anything. We want to try to convince people through the strength of our work, but the strength of our relationships matter. And the—you know, the benefit of having strong relationships with our agency and with the community that we audit is we can learn from them, too. And they can come to us—especially when the pandemic hit and academic community—the academic community, like the Federal Government had to switch to a virtual environment, we were able to reach out to our network of people that we knew and get a sense of how they were responding to that change and how that might affect the risk environment. So we can learn from them, they can learn from us, and everyone has benefited.

Mrs. FOUSHEE. And thank you. With the rest of my time, would anybody else on the panel like to add your observations to these previous questions?

Well, Mr. Chairman, I yield back.

Mr. OBERNOLTE. The gentlewoman yields back.

Congressman Posey, you are recognized for 5 minutes.

Mr. POSEY. Thank you, Mr. Chairman.

Ms. Donaldson, has Department of Energy research grant funding and loans been used to generate actual commercial production by American companies?

Ms. DONALDSON. You know, I would point to the work being done at the national labs to say that much of their spectacular work has a commercial application, as well as the work that the NNSA (National Nuclear Security Administration) labs do. So I would say, yes. That's not the type of thing that is tracked by my office so I couldn't quantify that for you.

Mr. POSEY. OK. So do you think their office has a measure to—a system to measure research to commercial production?

Ms. DONALDSON. They probably have multiple systems because there's so many different programs, but I would imagine they're doing some tracking, at least in some of those programs.

Mr. POSEY. Yes, can you get back to me on what they're doing and kind of——

Ms. DONALDSON. I certainly can.

Mr. POSEY. Thank you. Mr. Martin, when the space shuttle was winding down, NASA ramped up the number of firefighters that they had at Kennedy Space Center. Now with a launch cadence increasing from 57 last year to 97 this year, NASA is decreasing firefighters at the Kennedy Space Center. Can you tell me why? I mean, I was told there was a study on it. Then I was told there was no study.

Mr. MARTIN. Yes, Congressman, I was unaware of that situation until staff brought it to my attention yesterday. I'd be happy to look into it.

Mr. POSEY. OK. I have that commitment?

Mr. MARTIN. Yes, sir.

Mr. POSEY. You'll get back to me. Thank you.

Mr. MARTIN. I will.

Mr. POSEY. Now this question is for each of you from left to right. I will start with Mr. Martin. How many investigations and audits has your office conducted within the last year, No. 1? How many of those by percentage involve China? Just roughly swag it. And did any of the China-related investigations require coordination of activities across other agencies or other inspectors general? And were any of these cases referred to the DOJ?

Mr. MARTIN. Sir, I will start. Investigations ongoing during the past year, 482 for the Office of Inspector General at NASA. How many of those by percentage involve China? Approximately 10 percent. And does any of the China investigations require coordination? I coordinated with several my colleagues here at the table, including NSF and DOE. And a goodly number of our cases were referred to the Department of Justice and are under prosecutorial consideration right now.

Mr. POSEY. Thank you.

Mr. MARTIN. Yes, sir.

Ms. LERNER. The statistics that I have are for 5 years, so I can get back to you on the 1 year other than I can say we worked 175 investigations in the past year, many of those related to China. I can—about 45 percent of our investigative portfolio right now, our research security-related matters, many of which relate to China. And we, as I noted in my opening remarks, lead a cross-government working group that's focused on these sorts of research security investigations with the goal of improving the government's efforts, especially in situations where there are multiple agencies affected by a particular researcher's failure to disclose their relationships. So we are deeply involved in that and will provide further information for you for the record.

Mr. POSEY. Thank you.

Ms. DONALDSON. Mic is on so there's that. In Fiscal Year 2022, the Office of Investigations worked on 320 ongoing matters. Thirty-four were grant fraud cases, over one-third of those were research security matters related to countries of concern. And all of those pertain to China.

Mr. POSEY. How many were referred to DOJ?

Ms. DONALDSON. The bulk of our cases do eventually get referred to DOJ. We made a total of 61 referrals in this timeframe, not all research security-related.

Mr. POSEY. OK.

Ms. DONALDSON. But over half of what we work on goes to the Department of Justice.

Mr. POSEY. Thank you.

Mr. SOSKIN. In this fiscal year, we have 447 complaints plus investigations in our inventory. As I mentioned, only a small fraction of the Department of Transportation's funding pertains to research and development, and consequently, a smaller share of our inves-

tigations relate to China. I do not have numbers on that for you, but we could get back to you with that.

As with the Energy OIG, most of our investigations ultimately end up in consultation and referral to the Department of Justice. And I don't have a specific number on referrals either.

Mr. POSEY. Thank you. Mr. O'Donnell?

Mr. O'DONNELL. Yes, thank you. And I'll give you as good of numbers as I can but of course offer to come back and give clarity. We had in the last Fiscal Year 176 cases opened. The majority of those I would say, the bread and butter, were either lab fraud or grant fraud. Some small number involves China. And I must say that for IG Lerner, her office is really the leader for us in helping us identify China-related cases. But our work has recently resulted in a report we just issued encouraging the EPA to include grant terms and conditions provisions that require grantees to disclose any foreign sources that they get after they've received a grant. And of course, like my colleagues, most of our cases get referred to the Department of Justice.

Mr. POSEY. Thank you. Thank you, Mr. Chairman. My time has expired.

Mr. OBERNOLTE. Thank you, Mr. Posey.

I now recognize the Ranking Member of the Full Committee, Ms. Lofgren, for 5 minutes. Oh, then we'll go to Ms. Bonamici.

Ms. BONAMICI. Thank you so much, Chair Obernolte and also Ranking Member Foushee. Thank you to the witnesses as well.

I appreciate the Office of Inspectors General and the goal of promoting transparency and accountability and protecting public trust. Ambitious funding for science policy, including research and development, is intended to lead to evidence-based decisionmaking and informed agency practices and with strong oversight by your offices. We know when taxpayer dollars are used efficiently and effectively, and, importantly, when policies are implemented as intended.

I have a two-part question for you, Ms. Lerner. Your office published a white paper last month about the complexities of investigating and adjudicating sexual assault and stalking in the United States Antarctic Program. And I have worked a lot with NOAA (National Oceanic and Atmospheric Administration) on this issue, so I appreciate the careful consideration of both a complicated legal environment and also the imperative that responders and investigators be properly trained in a trauma-informed approach. And I hope that NSF, the prime contractor, and other stakeholders use this document as they work to address sexual assault, which is a criminal matter. But some of the issues raised in your white paper should also be considered in noncriminal matters such as sexual harassment, which is treated as a violation of the code of conduct. So what are the takeaways from the white paper that are also applicable in noncriminal contexts?

Ms. LERNER. I think that ensuring that there is trust in the environment and there is not a fear of retaliation so that people can come forward with concerns is essential, whether you're dealing with a criminal violation or sexual harassment. And it's imperative that NSF and—take action and ensure that the contractors and subcontractors down there are creating an environment where peo-

ple feel that they can bring these matters forward. So that's first and foremost, one, what has to happen there.

There also needs to be clarity about what rights people have. We are in the process of conducting an inspection of what's happening in McMurdo and Antarctica. And what we're seeing is there—that there—you know, people don't understand where they can go when they've been assaulted or harassed, and we are going to produce products to help improve that because it's essential to create a workplace that the people deserve.

Ms. BONAMICI. Thank you. And the second part of the question is that it's likely that in many cases of sexual assault in Antarctica and other remote places, there may be sexual harassment, as well as sexual assault. So one of those is a crime and another is a violation of the code of conduct. Some of the survivors of assault may choose not to file a criminal charge, but they still deserve a remedy and a safe environment. So when instituting better systems for intaking and adjudicating sexual assault, how can the institutions such as NSF guarantee that allegations of sexual harassment are treated with the same support and investigation that someone—and resources that someone who alleges a crime may have?

Ms. LERNER. One of the things that we think is critical right now is that complaints go to an independent, trusted third party for assessment, and then that victims, if they choose to pursue criminal redress are able to pursue that. If not, that there are strong and trusted mechanisms for handling matters administratively, and we are going to be providing input——

Ms. BONAMICI. Thank you. We have a lot of conversations on this Committee about diversifying——

Ms. LERNER. Yes.

Ms. BONAMICI [continuing]. The workforce, so we need to make sure that employees are safe.

Ms. LERNER. Yes.

Ms. BONAMICI. Mr. O'Donnell, I have a question for you as well. The EPA website states, quote, "The Portland Harbor Superfund site was added to EPA's national priorities list in December 2000." Well, that was 23 years ago. So there has been some progress made, but sections of the Willamette River remain contaminated by heavy metals and industrial chemicals, posing risks to human health and the environment and affecting economic growth in the area. So what role does the EPA Office of Inspector General play in ensuring the successful execution of superfund site cleanups? And how does maintaining rigorous oversight contribute to the effectiveness and accountability of this important environmental restoration project, which has been going on for decades?

Mr. O'DONNELL. Thank you. I appreciate that. And I don't have my eye specifically on the Portland superfund site, but it's one that I will definitely look at and get back to you on.

Ms. BONAMICI. I appreciate that.

Mr. O'DONNELL. Since I have been at the OIG, I have begun the process of instituting inspections of superfund sites and brownfield sites because, for me, it is very important that we have boots on the ground looking at what's going on. So it's one thing to do accountability from afar. It's another thing to be right there, see what's happening, talk to the people who are there. We are doing

that now down in Alabama. We are doing it in Missouri as well. And this is a portfolio we intend to expand.

Ms. BONAMICI. Thank you. I know your Region 10 folks have been involved, but 23 years, that's from the time that it was actually listed and added to the priorities list, 23 years ago. And needless to say, the costs of cleanup are not getting any lower. I'm sure they're significantly more as time goes on. So I appreciate your willingness to follow up on that.

And I yield back. Thank you, Mr. Chairman.

Mr. OBERNOLTE. Thank you, Ms. Bonamici.

Congressman Babin, you are recognized for 5 minutes.

Mr. BABIN. Thank you, Mr. Chairman. And thank you, all of you IGs, for your expert testimony. It's very, very helpful.

Many of the more controversial problems facing research agencies can be mitigated by ensuring agencies conduct their own due diligence and compliance audits. And two that come to mind are the duplicative Small Business Innovation Research grants, SBIR; and two, grantee connections to entities with known foreign economic espionage interests.

Ms. Lerner, when you testified before this Committee in 2009, you indicated that duplicative funding in which companies obtained payments from multiple SBIR agencies for the same work is the most frequent violation that we have found in SS-in NSF's SBIR program.

Mr. Martin, a NASA IG report from 2009 also found that, in analyzing investigations conducted by NASA OIG and others, we found that SBIR award recipients received multiple SBIR contracts for essentially the same research and provided duplicate deliverables or questionable research products.

I understand a task force was established at the Council of Inspectors General on Integrity and Efficiency to address this issue over 10 years ago. However, under the *Federal Managers Financial Integrity Act* and Office of Management and Budget requirements, agency managers are required to establish effective internal controls themselves.

So to the panel as a whole, what is the status of interagency SBIR duplication oversight? Is this taskforce still active? If not, why is it not? Has the problem gone away or are the agencies doing a better job of conducting these compliance audits themselves? Do you have data to support either of these conclusions? And can you provide historical trend data related to SBIR grant duplication, audits, and findings for the record?

So, Mr. Martin, if you would respond first, I would appreciate it.

Mr. MARTIN. Sure. Actually, if I could kick it to Allison first.

Mr. BABIN. OK.

Mr. MARTIN. She's the chair of the group, and then I'll supplement her.

Mr. BABIN. OK. Thank you.

Ms. LERNER. Thank you. And what I can say is that the group that we started after the hearing in 2009 is alive and well and had its most recent meeting just last month. It brings together agents from across government to—who are working these sorts of cases to highlight opportunities to work together, but also to figure out how to work better. And, you know—and to pursue—when we pur-

sue cases, use the best set of facts and have the strongest possible outcome as a result of that. I'm happy to provide you with more detail about the specifics of what that group has accomplished. I'm really, really proud of it.

Mr. BABIN. Thank you very much. And if y'all could keep it just as brief as you can, I may not have time to do my other questions.

Mr. MARTIN. Sure. I would just say there's tremendous coordination and cooperation within the IG community to address these cases, but I still don't think there's a singular source that would indicate duplication of effort by a grantee that they're going to DOE for funding to NASA. We don't have that solution yet.

Mr. BABIN. Yes. OK. Thank you.

Ms. DONALDSON. Yes, sir. It is definitely——

Mr. BABIN. Ms. Donaldson.

Ms. DONALDSON [continuing]. Still a problem for the Department of Energy. We still see those cases coming through. I think the answer lies in acquiring that transactional-level, recipient-level data and having a robust data analytics approach to the problem, much like what track has done on the pandemic spending. And I think a lot of the agencies are excited about that prospect but not yet far enough along to be able to do it and share that information, have a data-driven approach.

Mr. BABIN. Thank you. Mr. Soskin?

Mr. SOSKIN. In our handful of research and development-related cases, we too have seen the need to coordinate with our OIG partners because they frequently involve cases where a grantee is seeking funds from multiple sources for the same work.

Mr. BABIN. Mr. O'Donnell?

Mr. O'DONNELL. Thank you. Our SBIR cases are worked here, many of them with my colleagues here in their offices. With respect to the EPA, I've already spoken to our concerns with respect to its grant management practices generally. I think those concerns extend to their ability to conduct audits inside of their programs.

Mr. BABIN. I knew—I know that you're all familiar with the Wolf amendment named after Frank Wolf. Mr. Martin, does the Wolf amendment prohibit NASA from issuing research grants to individuals with connections to Chinese universities, especially institutions with known connections to the PLA (People's Liberation Army) or malign foreign talent recruitment programs?

Mr. MARTIN. Yes, sir. That is my understanding.

Mr. BABIN. OK. Several high profile cases involving NASA researchers with connections to China were unsuccessfully prosecuted in recent years, and some of them because of the confusion over the existing law. And I was just wondering if a separate provision in the *CHIPS and Science Act* passed last summer requires all grant applicants to certify that they are not a party to malign foreign talent recruitment programs? Very, very quickly.

Mr. MARTIN. Yes, that has proved helpful, the certification.

Mr. BABIN. Yes. OK.

Mr. MARTIN. Yes, sir.

Mr. BABIN. All right. Thank you very much. And I'm out of time. Thank you.

Mr. OBERNOLTE. Thank you, Mr. Babin.

I will now yield 5 minutes to the distinguished Congresswoman from Colorado, Ms. Caraveo.

Ms. CARAVEO. Thank you, sir. And thank you for—to the witnesses today for being here. Americans certainly deserve full transparency and accountability of our science agencies, so I appreciate and support the work that you all do.

I wanted to briefly highlight a program that I recently learned about, the National Science Foundation AI Institute for Student AI Teaming, which is being led by the University of Colorado at Boulder. The institute is dedicated to transforming classrooms into more effective, engaging, and equitable learning environments to help realize the grand challenge of education for all by leading the Nation toward a future where all students, especially those with identities that are underrepresented in STEM (science, technology, engineering, and mathematics), routinely participate in rich and rewarding collaborative learning experiences.

As a Latina in STEM and as the aunt of a young STEM enthusiast, learning about programs like these serve as a reminder of how critical funding and oversight for our science agencies is now and for generations to come.

So for Inspector General Lerner, has your office learned—has your office recently assessed NSF's efforts to enhance inclusivity amongst agency grant recipients and research initiatives? And if so, can you please share some of your findings?

Ms. LERNER. At this point, we don't have any recent work on that topic, but it is an area that we have included in our management challenges. And as we formulate our audit plan for the upcoming year, we will hope to focus some resources on that.

Ms. CARAVEO. I appreciate that plan, and I'm looking forward to what you find there.

As a follow up for the rest of the panel, do your offices have any plans to conduct any further audits related to inclusivity in any portion of NSF's research agenda?

Mr. O'DONNELL. I will——

Mr. MARTIN. Go ahead, Sean.

Mr. O'DONNELL. I pushed it first.

Mr. MARTIN. Did you win? Go ahead.

Mr. O'DONNELL. Yes. So for us for the last 3 years, environmental justice—and that's what matters at the EPA. Environmental justice has been a challenge that we've identified. And I will tell you, I have personally spoken with the head of the Office of Environmental Justice and External Civil Rights to make the point that the $3 billion that they have to give through the *IRA* is not about who the recipient is. It's about who the beneficiaries are. Environmental justice is about the beneficiaries, and we need to make sure that we have the internal controls that are protecting the funds that achieve the goals of those programs.

Mr. MARTIN. Congresswoman——

Ms. CARAVEO. Mr. Martin, yes?

Mr. MARTIN [continuing]. Just to note that the Office of Inspector General at NASA just recently opened an audit looking at the effectiveness of the agency's STEM efforts. They invest about $108—excuse me, $108—$108 million per year in STEM, and so we're going to assess the effectiveness of their efforts.

Ms. CARAVEO. That's great, in particular, given that my niece is Latina, and she is interested in a future at NASA, I'm glad to hear about those plans.

And speaking of NASA, I did have a kind of separate question for you, Inspector General Martin. Based on your office's work, do you believe NASA's management of contractor performance has improved in—over time? Colorado has a big aerospace industry with several NASA contractors based out of the State, and so this interests me.

Mr. MARTIN. I think it ebbs and flows. It's program-specific, the effectiveness of their contract oversight and project management.

Ms. CARAVEO. And what are kind of future plans for oversight of it?

Mr. MARTIN. Well, the IG's Office, we're involved in all the major programs, particularly the high-profile programs involved in the Artemis missions——

Ms. CARAVEO. Perfect.

Mr. MARTIN [continuing]. The rocket, the capsule, the ground infrastructure. We're keeping tabs on all of those.

Ms. CARAVEO. Wonderful. I appreciate that, and I yield back my time.

Mr. OBERNOLTE. Thank you, Ms. Caraveo.

We'll go next to the gentlewoman from Oklahoma, Mrs. Bice. You're recognized for 5 minutes.

Mrs. BICE. Thank you, Mr. Chairman. And thank you for the witnesses for being here.

First, Ms. Donaldson, you shocked me with your numbers that you stated earlier that Fiscal Year 2022 DOE spend was $44 billion, and because of the programs that were passed last year, you're looking at a $400 billion budget for the Department of Energy. And not as frightening, given that a lot of those dollars are grant dollars.

And my first question is for any of the panelists, and that is do you believe that there is an issue with the grant awarding process, given that we have so many instances of grant fraud that have been identified through your through agencies? And the reason I bring this up is an important one. I'm extremely excited to be a Member of this Committee for my second term, but I'm also a new Committee Member on the Appropriations Committee. And as I recall, Congress has the power of the purse. And I believe that we have abdicated that responsibility to agencies through this grant awarding program, you know, across the board. And we're finding fraud, taxpayer fraud across the board. So I'd love maybe a little bit of insight about those grant programs that you all are overseeing. Open to anyone.

Mr. MARTIN. Do you want to run down the line?

Mrs. BICE. Quickly, sure.

Mr. MARTIN. Yes, I think what—yes, I think we've seen historically that the grant oversight capacity at our individual agencies is way underfunded, and so they don't conduct—because of the bandwidth issue, the contracting officers at the agency don't have enough hours in the day. They're pushing the money out they annually appropriated each year.

And second, we've seen that some universities don't conduct appropriate due diligence over the grants that are coming to the faculty and the researchers at their universities.

Ms. LERNER. I think there's no one-size-fits-all answer, so I'll just give you the perspective from NSF. In the 13 years that I've been there, I've seen real improvements in the amount and sophistication of the oversight the agency provides to its—of its recipients outside of my office, but they are still, you know, hard-pressed because of the limitations on funding that they have for that to touch as many things as would be ideal. But real progress has been made, but progress remains.

Mrs. BICE. Anyone additional wanted to comment on that, or I can move forward? Because I do have another question.

Mr. O'DONNELL. I would just briefly add, and I want to amplify some concerns, the *IIJA* gave the EPA $60 billion. Most of that is going through familiar funding mechanisms like State Revolving Funds. And so what we see are capacity issues at both the distribution and the recipients. But the *IRA* gave the EPA over $40 billion for entirely new programs that are going to entirely new recipients. And unfortunately for us, I think the biggest risk is Congress didn't fund oversight of this. And I gave one example recently of the Environmental Justice Office, which went from 12 components of about $12 million to now one component with $3 billion, and that's——

Mrs. BICE. And no oversight.

Mr. O'DONNELL. I'm going to steal a term from Teri Donaldson. That's faster money to newer recipients and we are very concerned about that and the ability to do effective oversight of it.

Mrs. BICE. Thank you for that, appreciate it.

To pivot for a moment, this is going to be directed at Ms. Donaldson. Secretary Granholm was a former board member of Proterra, which was an electric bus company before joining the Department. It is listed on her ethics agreement as a covered relationship for the first year under the Federal regulations and 2 years under the Biden ethics pledge. She was required to divest her stock within 6 months of becoming Secretary. The obligations require Secretary Granholm to be recused from matters involving Proterra or those that could directly and predictably benefit them. Yet she was personally involved in the DOE's SuperTruck 3 program that ultimately saw the Department hand out $80 million under the program. At least three of these recipients of SuperTruck 3 grants announced personally by her at a public event with the words of $80 million are companies with ties to Proterra. Were you aware of this?

Ms. DONALDSON. I was aware of part of that. I'm not sure that all of what you just said was familiar to me.

Mrs. BICE. OK. Daimler, for instance, received $25 million in SuperTruck—in a SuperTruck 3 grant. The company has made multiple large investments in Proterra and created exclusive partner partnerships between Daimler Commercial Vehicle divisions and Proterra. While announcing its deal to go public, which involved in investment of more than $400 million from a group led by Daimler Trucks, Proterra described the company as a strategic partner. Do you think there's a conflict of interest there, Ms. Donaldson?

Ms. DONALDSON. I think whether or not there's a conflict would depend on applying the law to it. So depending on the timing of that—so if you divest and then participate, there may not be a conflict. So we do occasionally get items like that in the door. We lay out the legal framework. And then the answer emerges on the other side, sometimes based on timing.

Mrs. BICE. But this was—some of this information, admittedly, you are not aware of. Is that correct?

Ms. DONALDSON. That's—I—part of that. I was not aware of the detail of it.

Mrs. BICE. OK. My time has expired. Mr. Chairman, I yield back.

Mr. OBERNOLTE. Thank you, Congresswoman Bice.

We'll go next to the gentlewoman from Pennsylvania, Ms. Lee. You're recognized for 5 minutes.

Ms. LEE. Thank you, Mr. Chairman.

Western Pennsylvania, where I serve, has a rich history of relying heavily on the hard work and dedication of its workforce. Every dollar we spend is hard earned. So it feels silly that we're here trying to scrutinize funding that will support further American leadership in scientific innovation and deployment when last time I checked, the Department of Defense has consistently failed its annual audits. I want to address how strong worker protections through the IGs at agencies like the ones you represent will support further American leadership in scientific innovation and deployment.

So my first question is directed to Mr. O'Donnell. With the investments of the *IRA*, how does your office help to ensure that your agency is operating efficiently and effectively, while also upholding their commitment to worker protections?

Mr. O'DONNELL. So, as I mentioned, we did not get any funding to oversight *IRA* spending. I can tell you that with respect to *IIJA* spending, we already have planned a project on the agency's decisionmaking with respect to *Build America, Buy America (BABA)* provisions. And when we start doing inspections of project sites, it will include *BABA* checklists, Davis Bacon protections, and the like. These are, I think, critical when the government is paying for something. The government wants to get what it's paid for, and we believe that, too.

Ms. LEE. Thank you. Can you discuss more about the success of your agency's human resources policies and practices that financially reward whistleblowers and support of the protection of scientific energy—or integrity? Excuse me.

Mr. O'DONNELL. Thank you. Scientific integrity is always an issue at the EPA because I think, unlike a lot of agencies, it does science and it makes decisions based on science. In a series of reports, we've raised concerns about the agency's scientific integrity policy and I think, more importantly, its practice of not reporting allegations of scientific integrity or loss of scientific integrity to us. We have to find these sort of coincidentally.

And so we are working with the agency to—as it's revising its scientific integrity policy, to make sure that it recognizes the unique, independent, and objective role of the EPA OIG in investigating those allegations. So that for us is very important.

And then with respect to whistleblowing, I can tell you that I am instituting a policy, a program at the EPA OIG under 5 USC (United States Code)—I want to say 4712, but please don't quote me, where we will reward EPA whistleblowers, employees who come to us with identifiable cost savings of fraud, waste, and abuse.

Ms. LEE. Thank you. Finally, for you, Mr. O'Donnell, can you discuss how existing protocols supported and strengthened the investigations by your office of the Newton County superfund site?

Mr. O'DONNELL. Can I get back to you on the Newton superfund site? We have looked at a number of superfund sites. For us, a big thrust of that is in communicating to stakeholders in the community on the risks. And in fact, I can tell you, we are releasing a report. It's on the 35th Avenue site in Alabama, but it really speaks to the EPA's ability or lack of ability to speak to the cumulative risks that are involved in a superfund site, air, water, land.

Ms. LEE. Thank you. Ms. Lerner, how do you ensure that agency leaders are held accountable to make directorates like the new Directorate for Technology, Innovation, and Partnerships more efficient in their formulation and implementation?

Ms. LERNER. We engage early and often, especially when word of the new directorate, you know, came through. We watch the agency's efforts. We—and we ensure that the thoughts of efficiency and effectiveness and actions that can help prevent fraud are at the front of their minds as they plan. And we provide proactive advice as we can, like the Other Transactions Authority report I mentioned earlier. So we engage early and often with them, as appropriate, while maintaining our independence.

Ms. LEE. OK. In fact, very quickly for Mr. Soskin, from the financial impact of procurement and grant fraud investigations since 2017, how can oversight be improved to ensure as much funding as possible reaches our communities through the various programs and grant opportunities like the EPA's Clean School Bus program, and what steps are you taking to address any areas for improvement?

Mr. SOSKIN. One of the findings in our recent audits of the Department's oversight of its procurement and contracts is the need for the Department to hire and retain and effectively train contracting officers and contracting officer representatives so that they have enough to pay attention to each of their procurement initiatives and so that they have the training required to provide oversight of those initiatives. And so in connection with their procurement that's an important element for the Department to pay attention to.

Ms. LEE. Thank you. Thank you to the panel. And thank you, Mr. Chairman. I yield back.

Mr. OBERNOLTE. Thank you, Congresswoman Lee.

We'll go next to the gentleman from New York, Mr. Williams. You are recognized for 5 minutes.

Mr. WILLIAMS. Thank you, Mr. Chairman.

On April 5, Mr. Obernolte and I sent a letter to the Secretary of Energy, and we're requesting more information about the rampant culture of stock trading and total disregard for the conflict-of-interest laws. As I look over our letter, just to quote that hundreds

of Department of Energy employees, including one-third of the Department's senior employees, continue to hold stocks and other assets related to their official work, despite receiving notices from ethics officials, and there are literally hundreds of violations and thousands and thousands of transactions.

Inspector General Donaldson, I'd like to acknowledge your testimony before the House Oversight Committee this week. And you mentioned the size and scale of the increased funding to the DOE also in your opening comments today. I'm interested in how that may have played a role here. Specifically, this expanded budget, how exactly in your opinion has this contributed to this increase in conflict-of-interest trades and potential ethics violations?

Ms. DONALDSON. Well, first, I would point out that the conduct that you're describing may not constitute an ethical violation. So the Department of Energy's regulations of these activities focus on a specific matter. So if you're employed at the Department of Energy, you can in fact hold stock for a particular company, as long as you don't work on a matter that impacts that company directly. So it's focused on the matter, not on the holding of the stock itself. And then there's a recusal mechanism. In the event something comes in front of you, you recuse and step away from it.

Mr. WILLIAMS. My understanding from the reports—and thank you for that clarification. But my understanding from the reports is that there do appear to be a number of cases where matters before specific even leaders and employees of the Department of Energy did hold stocks that would put them in a pretty clear conflict. Could you comment about your investigation and maybe your response to Mr. Obernolte and I's letter?

Ms. DONALDSON. Yes, we do work on investigations that look like this, but the way this process works is that those notices—these were mentioned in *The Wall Street Journal* articles—are sent out prophylactically. So if you hold stock in Exxon, you may get—and you're employed at the Department of Energy, you will get a notice that says, make sure you're not working on anything impacting Exxon. It's not a notice that you violated the law. It's sort of a prophylactic, be careful sort of notice. So I think there's some confusion in what those notices actually mean——

Mr. WILLIAMS. So——

Ms. DONALDSON [continuing]. Which is inflating those numbers a bit.

Mr. WILLIAMS. OK. So when I was a junior banker very briefly, the SEC (Securities and Exchange Commission) certainly regulated our ability to make trades or to hold stocks related to any of the transactions that we might be working on. And this was just part of that—I guess part of the banking charter, and there's a whole compliance organization around that to ensure that kind of compliance. And so literally, I could not even buy or sell stocks as an employee of the bank without prior approval. It seems in this case that, you know, either the rules and laws need to be clarified or strengthened or perhaps there's room for additional investigation. Which direction is your office going with these—with this news report and with the letter and information that we've requested?

Ms. DONALDSON. Yes, we are in fact launching a project looking at conflict-of-interest protections across Federal agencies because

different agencies have different regulations with different impacts. So it is possible that there are—well, there are, you know, different sorts of ways of approaching it, and some are more layered and some do focus on the holding of the stock if your agency participates in regulating that entity. So there's different ways to come at it. We don't have a project that I can tell you what the results are yet because we're just launching that, but it is an area that interests me.

Mr. WILLIAMS. Any comment about Mr. Obernolte and I's letter, its receipt, and actions being taken in your office?

Ms. DONALDSON. It's an—again, it's an area that interests me. I am not aware of sort of a specific volume of cases that violate these rules. We have a pretty steady flow of allegations coming in. Some of them turn out to be a problem, and some turn out to be notices that were innocently sent and aren't a problem.

Mr. WILLIAMS. There's—and I know my time's up. There's various degrees of smiles on your colleagues' faces, which indicates that perhaps the information that I need is—you're not able to really comment on at this time, so I will—my time's up. Thank you.

Mr. OBERNOLTE. Thank you, Congressman Williams.

Next, we'll go to the gentleman also from New York, Mr. Bowman. You are recognized for 5 minutes.

Mr. BOWMAN. Thank you so much, Mr. Chairman. Good morning, everyone. Thank you so much for being here, and thank you for your testimony.

I would love to see Science, Technology, and Innovation Centers built all over this country, particularly in historically marginalized rural and urban communities. And I believe that the *CHIPS and Science Act* gives us the opportunity to do that. However, there's a lack of infrastructure in place for some of the historically marginalized communities to identify, track, and then go after the resources that are available as part of the *CHIPS and Science Act.*

My question is for everyone, and we can start to my left and go all the way down the line. Do your offices intend to assess how well agencies ensure equitable access to Federal funding opportunities? And what do previous audits tell us about how agencies can be better at this?

Mr. MARTIN. So specifically, NASA did not receive any *CHIPS Act* funding on that. But you know, NASA has its 10 centers across the country, Huntsville, Alabama; Johnson Space Center, et cetera, where the bulk of their, you know, civilian workforce and many of their contractors are. So I'll pass to the folks who actually got *CHIPS* funding.

Mr. BOWMAN. All right. Thanks.

Mr. MARTIN. Thank you.

Ms. LERNER. NSF did receive *CHIPS* funding, and it has many projects underway to address the issues that you raised. And I know that those will be the focus of our audit oversight in the future.

The work that I can point to right now that we're—we've done that's trying to improve people's ability where—in—the ability of institutions that have received limited funds from Federal research agencies is our work looking at the EPSCoR program and trying to help NSF help its recipients do a better job of managing their

money and managing their subrecipients, some of whom have even less experience than they do in managing Federal funds.

Mr. BOWMAN. Thank you.

Ms. DONALDSON. Yes, sir. So the Department of Energy has been authorized to receive funds under *CHIPS*, but it has not yet been appropriated. They're going to be getting it in smaller allotments through the appropriations process. So I am situated more similarly to the first IG who answered this question.

Mr. SOSKIN. DOT, like NASA, did not receive any *CHIPS Act* funding. We are aware of our department's ongoing efforts to expand its grants to University Transportation Centers and include more UTCs in those programs. I anticipate that's one activity by the Department that will result in greater geographical reach. I would also note that the statutory requirements in many of the Department's grant programs include both a rural and an urban breakdown, as was referenced in your question.

Mr. BOWMAN. OK.

Mr. O'DONNELL. While EPA did not receive *CHIPS Act* money, it obviously received money across the board, *IIJA* and *IRA*. And of course the issue of environmental justice animates almost every aspect of what the EPA does. And I think if you looked at our reports, you'll see that many of them, even when they're not directed toward environmental justice, like, for example, our cybersecurity report, we still do touch on what are the consequences to communities like you say. So, for example, in cybersecurity, we found that it was a smaller, rural type of ones in disadvantaged communities that have not made it. And, you know, our portfolio on this issue on the EPA's ability and its subrecipients to make sure that disadvantaged communities participate is quite vast. And, you know, I'd be happy to have my staff meet with yours to share with you our great work in this subject.

Mr. BOWMAN. Absolutely. I appreciate that. Thank you.

My next question is for Inspector General Lerner. Last year, your office highlighted the need to address barriers and growing research capacity for emerging research institutions as a top management challenge. This is especially important for artificial intelligence. When large language models have shifted the landscape of cutting-edge research from universities to private labs backed by cloud giants, the National AI Research Resource (NAIRR), which NSF and OSTP (Office of Science and Technology Policy) are collaborating on, is an opportunity for us to level the playing field and democratize who can conduct cutting-edge AI research. How do you think public institutions like the NAIRR or other programs that were created or expanded as part of the *CHIPS and Science Act* could help NSF address disparities in research capacity?

Ms. LERNER. I believe that there are many things that those institutions could do sharing their real life experience of trying to bring new people into this immediate and growing conversation will help NSF do a better job at dispensing its funds. So I think that the strong connections that NSF has with institutions will make both entities' response to this new, you know, growing area of interest stronger.

Mr. BOWMAN. Thank you, Mr. Chairman. I yield back.

Mr. OBERNOLTE. Thank you, Congressman Bowman.

We'll go next to the gentleman from Tennessee. Mr. Fleischmann, you're recognized for 5 minutes.

Mr. FLEISCHMANN. Thank you, Mr. Chairman. And I wish to thank all of the panel. I know your job as Inspectors General is extremely, extremely difficult and important, so thanks to each and every one of you.

Well, as you may or may not be aware, I am the Chairman of the Energy and Water Subcommittee on Appropriations. I've been privileged to ask to come back to the Science Committee by the Chairman, so glad to serve here. I just have one question. And I do believe, General Donaldson, you've—may have already touched on this, but—in your previous answers, but in your testimony, you stated that Congress has authorized $67 billion for the Department of Energy through the *CHIPS and Science Act,* as well as appropriated $62 billion in the *Infrastructure Investment and Jobs Act.* Please describe, if you will, the actions your office is taking to prevent fraud and waste in these programs. Thank you.

Ms. DONALDSON. So one of the actions we're taking is to be over here and talking to appropriators so that we can be more appropriately funded to do the work. But while that is going on, we've launched a large-scale data acquisition and monitoring project which will generate leads for audits and inspections. We've had approximately 30 meetings with the Department. We're not allowed to consult or advise, but we ask a ton of questions, a lot of them about the 71 new programs. So we're actively in the coordinating and planning. Mr. Soskin and I chair the group of Inspectors General that received funding under *IIJA*, so we meet every month with the other Inspectors General, share best practices. So we're doing everything that we can, given our underfunded status.

Mr. FLEISCHMANN. Thank you for your answer, and I'll yield back.

Mr. OBERNOLTE. Thank you, Mr. Fleischmann.

We'll go next to the gentleman from Florida, Mr. Frost. You are recognized for 5 minutes.

Mr. FROST. Thank you, Mr. Chairman. We're a nation recovering from a pandemic, facing threats abroad, and managing an existential climate crisis. Such big problems require big solutions and solutions that can't just be left up to the States. Our Federal agencies can take on these challenges, and I want to thank you all for your dedication to ensuring that the billions of dollars flowing through these agencies move as efficiently and effectively as possible to the important projects they fund.

For example, in—Ms. Lerner, in your testimony, you mentioned that NSF funds over 12,000 grants involving over 350,000 researchers. I'd like to know what steps does—what steps do your office take to ensure the legitimacy of those researchers?

Ms. LERNER. NSF has a first-class process for reviewing proposals that come in, for investigative—for merit. They have two principles, intellectual merit and broader impacts that they focus on. And so their focus is on the quality of the research presented. There are vetting rules, you know, that relate to NSF's own internal employees. But the focus of the awards that NSF makes is on the research that's proposed.

Mr. FROST. Got you. Thank you. You know, my State of Florida has received over 1,700 of those grants, which include almost 200 alone for the University of Central Florida (UCF) in my district. Go Knights. One grantee in my district, Dr. Mindy Shoss, who my office recently connected with, Professor Shoss is an industrial psychologist, teacher, and researcher at UCF-go Knights—where—when the FBI (Federal Bureau of Investigation) reported a 400 percent increase in cyber attacks in 2020, Professor Shoss actually used this grant from NSF to analyze employee behaviors for weak spots. And this was research that could secure an incredible amount of personal and commercial data. All of that came from a $170,000 NSF grant.

Cybersecurity also means America working toward technological independence. And we can thank that *CHIPS and Science Act* for addressing the semiconductor shortage while creating 44,000 jobs in just 6 months. That includes 200 semiconductor jobs just south of my district in Kissimmee at a really cool place I recently just visited called NeoCity, which is a growing technical hub in central Florida. Sensitive research and technology has to be safeguarded.

And so, Ms. Lerner, in your testimony you mentioned working with NSF's Chief of Research Security. Could you elaborate on how your office works to protect sensitive scientific information?

Ms. LERNER. Absolutely. We work closely with the CRSSP (Chief Research Officer for Research Security, Strategy, and Policy) as she's referred to, to address issues, allegations relating to foreign affiliations that were undisclosed in NSF-funded research and other research security matters. And the CRSSP handles the management aspects of those. Our office is there to look at potentially criminal behavior. And so—because sometimes complaints come to us that need to go to her. Sometimes things come to us that need to come to her that need to go to us, so that's why we work really carefully together.

Mr. FROST. Thank you. Mr. Martin, I've made multiple trips to Cape Canaveral. I was born and raised in Orlando. I grew up standing in my backyard seeing shuttles and tons of different, you know, things go into space. And I also grew up seeing the Cape's transformation through the success of NASA's successful public-private partnerships, partnerships that have revitalized Florida's Space Coast, while delivering benefits for Americans across the country from better weather forecasting to rural internet access. I actually just saw the TEMPO (Tropospheric Emissions: Monitoring Pollution) launch, which was really exciting.

Mr. Martin, how does your office work to make sure that sensitive, valuable aerospace technologies move securely within these partnerships and also within partnerships with other international space agencies?

Mr. MARTIN. So first off, go NASA. No, we have excellent cooperation with NASA's security force. And we do—as you pointed out, we do a lot of work and increasingly with our international partners. And so we are key on security for both the Kennedy Space Center itself and also vetting any international visitors to NASA facilities.

Mr. FROST. Got you. Thank you so much, Mr. Martin. Yes, go NASA. If you want to send a Member to space, let me know. And, you know, I'll say—it was a program.

President Biden's Fiscal Year 2024 budget includes millions for underfunded IG offices. And, you know, I'm sure we could all agree with the President that we need more funding for our IG offices to ensure that this money is being spent correctly and efficiently, and that's the work y'all have been doing. I appreciate you coming in today. You've saved the taxpayers hundreds of millions of dollars and insured that the money's going toward the big solutions that we need with the big problems we're facing. Thank you so much. I yield back.

Mr. OBERNOLTE. Thank you, Congressman Frost.

We will go next to the gentlewoman from New York, Ms. Tenney. You're recognized for 5 minutes.

Ms. TENNEY. Thank you, Mr. Chairman and Ranking Member, for having this hearing. And thank you to the witnesses for coming in today and for what you do to try to provide some oversight for spending.

And this is—the inflation that is being felt by Americans in my district is very real. I—upstate New York, we have—are the highest taxed State in the Nation now. We've taken over the Chairman's State as No. 1. We have huge costs. We're facing catastrophic energy policy in my opinion that's coming to the State, and that's being felt by our farmers in the largest agricultural district in the Northeast, the largest dairy district in the Northeast, and only three nuclear power plants left in the entire State with emission-free baseload power to try to sustain us when we go to a zero fossil fuel-based system in New York very soon.

But we are facing $31 trillion in debt. The Federal Government has lost hundreds of billions of taxpayer dollars, as you noted, to fraud, abuse and waste. And I was looking through some of your reports here. While most of this, I understand, doesn't come under this Committee's jurisdiction, we have the unemployment payroll protection plan. Those are under the COVID-administrated funds and SBA (Small Business Administration), $7 billion in military equipment left to the Taliban, among many of these other things.

But as was recently discovered in the Department of Energy's Office of Science failed to—that they failed to report $56 million in awards to for-profit research organizations. Further, hundreds of Department of Energy employees, including a third of senior employees, hold stock in companies directly under their jurisdiction, leading to potentially conflicts of interests. In addition, the Environmental Protection Agency recently noted that its PFBS—and I know those are their perfluorobutane sulfonic—I can't put the word out there—acidity—toxicity assessment did not follow scientific integrity standards, rendering the report's contents unusable. And then, to top it all off, the EPA has been unable to track the impact of its pandemic grants, calling into question its ability to conduct basic due diligence and track the fraud, abuse, and waste with those funds.

With the *Inflation Reduction Act,* which Mr. Fleischmann—and you indicated it was $62 billion, the $67 billion infrastructure bill, and all of these moneys going into in a—de facto in a sense, a slush

fund for the Biden Administration to implement the Green New Deal. And let me be clear, the *IRA* was touted as the Green New Deal, the biggest climate—the biggest green energy bill ever in the history of the United States before they talked about the *Inflation Reduction Act.* Apparently, inflation is tough to get rid of when you keep spending.

But it is more important now that Congress does something about stopping this wasteful spending. And there's no greater obligation on our part to look to you as our Inspectors General to say we have to control and figure out what's going on with taxpayer dollars, especially where we have such high taxes and such high inflation.

So I have a number of questions. I want to open this up to, I guess, some—maybe Ms. Donaldson on this teleworking policies that have impacted the prevalence of fraud, abuse, and waste, have they impacted waste, fraud, and abuse of taxpayer dollars? And has it changed your oversight capacity by not having people in the office to actually see and touch and be there to make accountability?

Mr. OBERNOLTE. Could you turn your mic on?

Ms. TENNEY. Your mic on, yes, thanks.

Ms. DONALDSON. Yes, thank you. Sorry. The Department of Energy has just initiated a study of the impacts on teleworking, so we don't have any published materials to talk about.

Ms. TENNEY. Well, let me ask you, what's your personal opinion on that? I mean, do you think people should be coming back to work, or do you think that we need to continue this telecommuting now that the pandemic has been declared over by our President some time ago?

Ms. DONALDSON. Well, I can tell you what's going on in my shop, and I think it's working well. So we do allow maximum teleworking but encourage people to come in more often than those requirements. And we have a lot of people coming in 3, 4, and even 5 days a week. So we're seeing—even though it's not a forced march, we're seeing a migration back to the office, which I think is very valuable.

Ms. TENNEY. But has this impacted your ability to do oversight? Because in your documents here, you've outlined there's a number of issues we need help with.

Ms. DONALDSON. Yes, I would say the greater impact is that I don't have the funds to hire people. My existing staff are working very hard in a maximum teleworking capacity.

Ms. TENNEY. Thank you. Mr. Martin, I just wanted to ask on NASA, and thank you for the work that you do and for putting this out, but we have seen the methodologies and some failures in project management, which were indicated in one of the reports. For example, the James Webb telescope took 20 years to build, it was supposed to be $1 billion, ended up being $10 billion. How do we solve this issue? And I think I'm running out of time, but if you may answer. Is there a methodology we could change or use to make NASA more efficient, more effective, and accountable to the taxpayers? And we love what you do, but I'm just—this is a huge issue.

Mr. MARTIN. It is a huge issue. And NASA has been struggling, frankly, for decades. I think they need to do best—better cost estimation at the front end. You mentioned the James Webb Space Telescope, pitched as a $1 billion, 10-year project, morphed into a $10 billion, 20-year project. And let me make a point. The fact is $10 billion worth of Webb Space Telescope, it may be worth $10 billion, but when you pitch it as a $1 billion project and manage it and it balloons $9 billion, you've pushed out other science that could be undertaken, other opportunities for space exploration, so NASA contract management and project management.

Ms. TENNEY. My time has expired. But maybe offline you could just give me an answer of what—how we can improve the methodologies of NASA to make it more efficient and to meet some of the targets that we have. Thanks. Thank you very much. Thank you to everyone.

Mr. OBERNOLTE. Thank you, Congresswoman Tenney.

We'll go next to the gentleman also from New York. Mr. Tonko, you are recognized for 5 minutes.

Mr. TONKO. Thank you. And I thank Chair Obernolte and Ranking Member Lofgren for hosting the hearing today and certainly to our witnesses for your appearance.

I believe that big problems absolutely require big solutions, from the climate crisis that was ignored for about 4 years and crumbling infrastructure to our global competitiveness in advanced manufacturing, the American people need for us to lead. And so in the 117th Congress, that is exactly what we did, lofty investments for lofty challenges, monumental pieces of legislation, once-in-a-generation investments that were signed into law by President Biden. And now we have passed the baton to our distinguished panelists to finish the job on behalf of all Americans. My colleagues and I in Congress will be watching and doing our part to make certain your agencies have the necessary support to make the most of these landmark pieces of legislation.

Let me begin with scientific integrity. I believe that it's a cornerstone of Federal scientific activities and something that I've made a priority during my time in Congress by authorizing the *Scientific Integrity Act.* What do you all believe is the appropriate role for OIGs in defending scientific integrity in Federal agencies and responding to alleged violations of agency scientific integrity policies? And this is a question for each and every one of you. Who would like to start? Mr. O'Donnell?

Mr. O'DONNELL. I will start. As I said earlier, EPA is an agency that relies on science in making its decisions. It does science internally, and I think that its struggles with allegations of loss of scientific integrity, which are well documented in part by us.

One of the hurdles that we experienced at the EPA is that we are not finding out about allegations of loss of scientific integrity except by coincidence. During our review of the PFBS toxicity assessment, we find out that senior officials in the agency know that there were allegations of misconduct, but we were not told about it. They saw this with respect to dicamba, ethylene oxide. It is a recurring problem.

We have been working for the last 2 years with the agency to try and make clear our role. And I believe agency policy speaks to this,

that we are the only independent agency or a unit in the agency that can guarantee the confidentiality of witnesses and whistleblowers that come to us, and that the agency needs to remember to bring us those allegations as quickly as possible because—I say this to them all the time. The American people need to believe you're acting with integrity, not just that you are, but they believe it. And they believe it because we act independently to show that you're acting with integrity.

Mr. TONKO. Mr. Soskin, do you have any comments in that regard?

Mr. SOSKIN. Yes, we are dedicated to pursuing any and all allegations that are brought to us and fall within our jurisdiction, particularly related to fraud or of criminal activity. And while the Department of Transportation is not principally a science agency, we did highlight in our top management challenges report this year the important need for the Department to make its decisions related to its safety mission, and promotion of innovation in our transportation system, based on good data and to be robust in its processes to identify and acquire the data that it needs to make sure its decisionmaking is data-driven.

Mr. TONKO. Thank you. Ms. Donaldson, please?

Ms. DONALDSON. Yes, so the Office of Inspector General primarily is in a responsive mode, so we respond to specific allegations. I don't have any ongoing projects that look at scientific integrity writ large. So an allegation comes in, we'll look at it, decide what's happened, criminal, civil, whatever it may be.

Mr. TONKO. Thank you. And Ms. Lerner?

Ms. LERNER. So NSF funds research, but none of our employees actually conduct science, so we don't have specific scientific integrity responsibilities. But we do conduct oversight of people who receive NSF funding. We conduct research misconduct investigations when there are allegations of fabrication, falsification, or plagiarism in NSF-funded research. And that's how we promote research integrity.

Mr. TONKO. And thank you. And, Mr. Martin, please?

Mr. MARTIN. Right. I think we're much more similar to Ms. Donaldson, IG Donaldson. We're in a reactive mode. When allegations are raised at the Office of Inspector General, we coordinate closely with the Department itself.

Mr. TONKO. OK. And perhaps since Mr. O'Donnell had the most to say on this topic, how can the OIG coordinate with scientific integrity officials and other agency leaders to preserve scientific integrity and enhance scientific integrity best practices?

Mr. O'DONNELL. Thank you. As I said, for the last 2 years, we've been working with the Scientific Integrity Office to try and institute coordination procedures exactly like you are speaking to, to ensure that we're notified of these. And I understand for my colleagues, for them, it's mostly reactive, but for us, we are proactive. We hold whistleblower events. We speak to scientific integrity issues to the agency, and we remind employees that we can help them if there are allegations of misconduct. And in fact, I stood up an administrative investigations directorate that is absolutely full in its docket with scientific integrity allegation issues. And so when

we speak on those issues, we really are being, I think, proactive in the future.

Mr. TONKO. And have they been longstanding?

Mr. O'DONNELL. The complaints?

Mr. TONKO. Or the concerns that you expressed today, have they been longstanding?

Mr. O'DONNELL. Oh, those concerns are very longstanding.

Mr. TONKO. OK. Thank you. I yield back.

Mr. OBERNOLTE. Thank you, Mr. Tonko.

We will go next to the gentleman from Indiana. Mr. Baird, you are recognized for 5 minutes.

Mr. BAIRD. Thank you, Mr. Chairman. And I appreciate all the witnesses being here today, appreciate your testimony.

And so the questions I have deal with the office—Ms. Donaldson, I'm going to direct this to you—conduct oversight on classified programs at the Department of Energy. But instead, the oversight of classified programs at the Department of Energy is conducted by an internal unit known as the Enterprise Associates. And so your office conducts oversight of Enterprise Associates, essentially, to grade their work. So can you please explain to us how your office does not conduct oversight if you believe that this should be changed?

Mr. OBERNOLTE. Microphone, please.

Ms. DONALDSON. Sorry about that. So at the Department of Energy, we do split this work. But—so my shop does the cybersecurity reviews on the non-class system. And then the Office of Enterprise Assessments does very similar work in connection with the classified systems. The way that we interact, we do conduct oversight of the Office of Enterprise Assessments, so there's a series of meetings reviewing the work. So it's more tightly woven than you might think.

Others have asked me whether or not my shop should take over the cybersecurity reviews for the classified system. Right now, as underfunded as we are, that would be a challenge, but that's certainly possible in the future.

Mr. BAIRD. Can you give me some idea how often you do that? Is this an annual review? Is it an annual review or periodic or whatever?

Ms. DONALDSON. So it works in two ways. There is a required annual review, and then there are whatever other projects we do along the way that are designed and done in parallel to the annual review.

Mr. BAIRD. Thank you.

Ms. DONALDSON. You're welcome.

Mr. BAIRD. So, Ms. Lerner, I'm going to move to you next. You know, the Antarctic is not claimed as a territory by any nation. Therefore, international implications exist in the implementation and enforcement of laws. Can you provide the Committee with the main international challenges that have arisen surrounding this issue?

Ms. LERNER. At this point, I think the two that I'm aware of deal with, you know, if a criminal act occurs in Antarctica, you know, who has jurisdiction over the investigation of that, whether—if it occurs in a U.S.-funded research base, is that the United States' re-

sponsibility, or are there other nations that could exert responsive—you know, over—responsibility for that investigation?

And the second issue is if someone is found to have committed a crime and needs to be removed from Antarctica, typically they're—they leave Antarctica and travel out through New Zealand. And there are challenges of moving a prisoner through New Zealand that need to be worked out.

Mr. BAIRD. So could you elaborate a little bit on your relationship with the United Nations in that regard?

Ms. LERNER. I have none. I'm happy to talk to anyone about these matters, but this would be, I think, more NSF's responsibility as the manager of the program to engage with, you know, all the Department of State, the United—you know, and the Government of New Zealand and sort these issues out.

Mr. BAIRD. Thank you. Let's take a different approach. The main law enforcement officer is deputized through the special deputy marshals?

Ms. LERNER. Yes.

Mr. BAIRD. Has the IG coordinated with the Deputy Marshals Service? And can you provide the Committee with more details on the relationship of NSF and OIG and how that maintains a relationship with the Marshals Service?

Ms. LERNER. We have a strong relationship with NSF, and in fact, NSF supported our sending a team of three, one auditor and two investigators, down to Antarctica in February. And, among other people, they met with the station manager, who is a Special Deputy U.S. Marshal. So he is responsive to us when we have questions. He does not work for us. His responsibility in investigating crimes is to coordinate with the Marshals Office and the U.S. Attorney's Office in Hawaii.

Mr. BAIRD. One last quick question, does—is there a U.S. Marshal in the area all the time in Antarctica or——

Ms. LERNER. The only person with a connection to the Marshals Service on a regular basis is the deputy—is the station manager. There are no other U.S. Marshals folks on a regular basis in Antarctica.

Mr. BAIRD. Thank you all very much. My time is up, and I yield back.

Mr. OBERNOLTE. Thank you, Congressman Baird.

We will go next to the gentlewoman from Michigan. Ms. Stevens, you are recognized for 5 minutes.

Ms. STEVENS. Thank you, Mr. Chair.

Sexual harassment and assault creates a hostile environment for women in science and affects their ability to achieve their full potential. Ms. Lerner, this Committee held a hearing in December of last year about sexual harassment and assault in the United States Antarctic Program (USAP). An NSF-commissioned report described harrowing stories about what scientists and contractors have endured and the failure of the agency and of Leidos, the prime contractor to hold perpetrators accountable.

I'm glad to see the OIG is engaged. Last month, your office released a white paper describing the law enforcement-related difficulties in Antarctica. Can you briefly summarize why Antarctica

poses unique challenges when dealing with crimes committed to the continent?

Ms. LERNER. Absolutely. I mean, let's start with just its general isolation. It's more like being on the Moon than being anywhere else on the planet. And it's about as challenging to get there, although not as expensive. Not as expensive, I'll give you that. Beyond that, the mass of people with folks down there complicates who's in charge when it's a noncriminal matter. From a criminal perspective, having a deputy—a station manager who's deputized as a U.S. Marshal, is, you know, we think, not the most effective way to provide criminal avenues to victims of crime.

For anything that's not criminal, the fact that you have some NSF employees down there, some contractor employees, some subcontractor employees, and then scientific researchers from the United States, and then a whole passel of people that come through McMurdo in particular from other nations, you know, brings great complexity——

Ms. STEVENS. Yes.

Ms. LERNER [continuing]. To the process.

Ms. STEVENS. So in NSF's testimony at the December hearing indicated that the agency is considering significant changes to the structure of the USAP contract to address the findings of the SAHPR ("Sexual Assault/Harassment Prevention and Response") report. So how do you think the OIG might be able to play a part in investigations in a revamped U.S. Antarctic Program? And do you think the OIG should have a presence on the ice?

Ms. LERNER. We are open to doing that. After reading the SAHPR report, I sat down with my head of investigations and said I think we have—we've never done this, but we've got to look at this. And we are absolutely open to doing that. In fact, my head of investigations is down at the Federal Law Enforcement Training Center right now taking training on investigating sexual assaults.

Ms. STEVENS. Excellent. And so this Committee has and will continue to engage in active oversight over sexual assault and harassment in the Antarctica, and we're eager to review future work from your office. Any preview that you can give us of forthcoming work that will come from your office on this topic?

Ms. LERNER. Absolutely. We have an inspection that we're working on that'll focus on reporting and investigating sexual assault in what we've learned about that. And I think our next area of focus is going to be on reporting and investigating sexual harassment. And we're also looking at safety and health issues that came to our attention during our time onsite. So we will have, you know, ongoing work in this area for some time.

Ms. STEVENS. Thank you. And, Mr. O'Donnell, under the prior Administration, our Federal science agencies faced a crisis of scientific integrity. This was a topic of conversation before we headed into COVID–19 and certainly after in your office has certainly done some very significant work in confronting attacks on science, and you've issued reports. This is something that Mr. Tonko and I have also worked on together. What lessons did you learn from the recent 4-year crisis of scientific integrity? And what steps can you and other OIGs take to ensure that you are equipped to deal with similar problems in the future?

Mr. O'DONNELL. Of course, this is generalized, but I think some of the lessons we learned were that it was important to communicate to EPA staff, EPA scientific staff, that there is a mechanism for reporting allegations of misconduct, and that by reporting to the OIG, their confidentiality can be protected. I know that if we go back to the time period of which you speak, our scientific integrity office would often express their frustration and the inability to protect confidentiality. And of course, I'm always reminding them that we are by law the only entity in the EPA that can protect confidentiality.

Ms. STEVENS. Do you have the resources you need?

Mr. O'DONNELL. As I said, I created an Administrative Investigations Directorate of about six lawyers and two investigators. Their docket is so incredibly full right now with complaints that, I promise you, for every new investigator we could get, we would take on four more cases.

Ms. STEVENS. It's the investigation of the investigations.

Mr. O'DONNELL. Yes.

Ms. STEVENS. Thank you all so much for your testimony today and your time.

With that, Mr. Chair, I yield back.

Mr. OBERNOLTE. Thank you, Congresswoman Stevens.

We'll go next to the gentleman from Georgia. Mr. McCormick, you are recognized for 5 minutes.

Mr. MCCORMICK. Thank you, Mr. Chair.

Mr. O'Donnell, in a report in April 13 of this year, the EPA OIG discussed their concerns on whether foreign gifts could be linked to federally funded awards as there is no post-grant award reporting requirements for the EPA research grant recipients to disclose foreign support. Thank you for bringing this issue to light. I think it's important. Are there any other concerns similar to this that you could identify today? And have you seen any instances where foreign adversaries such as China, Russia, Iran, or anybody else benefited from grant money awarded by the EPA?

Mr. O'DONNELL. So I think I spoke to this earlier. Our Office of Investigation prioritizes these issues, and we wanted to bring to light to the EPA the fact that it doesn't memorialize a requirement to identify post-award support from foreign actors. And that report speaks to some of the issues that we had seen where we had seen support from foreign actors, but I think we were unable to prosecute those cases. And again, those are ones we worked collaboratively. I believe those came from the Department of Education, working with NSF OIG. And so we will continue to work with the agency to make sure that they institute that. As far as the technology loss, we haven't yet assessed that.

Mr. MCCORMICK. Thank you. Mr. Martin, according to your 2022 annual OIG report, the individual Artemis missions have estimated $4.1 billion-per-launch costs. According to your reports, this obviously having an impact on the lifetime—or lifeline for the Artemis program launches. The question I have for you is what can be done at NASA or by Congress to improve the efficiency and speed of the program and how we reduce cost per launch?

Mr. MARTIN. Yes, as I indicated, NASA is focusing on that. Again, part of what was the sole source contracting nature that

underlies the rocket known as the Space Launch System and the capsule known as Orion, in fact, Congress directed that NASA use the old contractors that were involved in what was known as the Constellation program. It was a previous Administration's return to the Moon. So that, I think, put NASA behind the 8-ball at the outset. And then as I've indicated, both contract management and project management have kind of gone off the rails at different times, and we've seen incredible substantial increases in the cost and in the schedule to these programs.

NASA compounds those with its use, we find inappropriate at times, of excess award fees to the contractors even when the programs are slipping years behind and hundreds of billions of dollars over cost. So——

Mr. MCCORMICK. So to drill down on that, that's actually a really interesting point that I wasn't aware of. Do you think that that's a NASA problem or a congressional oversight problem or a combination thereof?

Mr. MARTIN. I would assume it's a combination of both.

Mr. MCCORMICK. OK. That's good to know. What do you think we can do to improve the condition of the International Space Station? And this withdraw of Russia coming out of there in 2024, is that going to impact that also?

Mr. MARTIN. We've done a significant amount of audit review looking at the future, both the economy in low-Earth orbit that NASA is trying to promote, low-Earth economy. But it has a decided end of life. Right now, ISS operations have been extended until 2030 via the *CHIPS Act*. I think by 2030, you kick the tires, it's going to be ready to be deorbited, which is going to be a very expensive, very complicated activity to do itself, to deorbit that safely.

Mr. MCCORMICK. Is it a useful facility, though, from 2024 to 2030? If we extend it—and you just mentioned the decommission without really any discussion of replacement, which has to be the next piece of that also.

Mr. MARTIN. Right. It's an absolutely essential part of NASA space exploration efforts. NASA needs, the country needs a low-Earth orbit destination to conduct microgravity research, both on the health of human astronauts but also on technology demonstration, so it's critical. And what really concerns us the most, obviously, the safety of the occupants of the International Space Station at the current time, but what we're concerned about is when it is decommissioned in 2030 or whenever, that there's not a gap, that there is something to follow, that NASA has that ability to conduct this critical low-Earth orbit research.

Mr. MCCORMICK. And to your knowledge, do we have any plans to realistically have that replaced on time?

Mr. MARTIN. NASA has a plan. They're going commercial, which I think makes a lot of sense, but I am—we—our office is still concerned that there is going to be a gap, which I think is going to be highly detrimental.

Mr. MCCORMICK. OK. Thank you. I yield.

Mr. OBERNOLTE. Thank you, Congressman McCormick.

We'll go next to the gentleman from Illinois. Mr. Casten, you are recognized for 5 minutes.

Mr. CASTEN. Thank you, Mr. Chairman. And thanks to everybody for taking the time today.

Mr. O'Donnell, I'd like to start with you. A couple of weeks ago, your office issued a report called—the title was "The EPA's January 2021 PFBS toxicity assessment did not uphold the agency's commitments to scientific integrity and information quality." I see you nodding. You've read it thoroughly. In that report, it said, quote, "During final clearance, a political appointee from the previous Administration directed that a last-minute review be conducted of the uncertainty factors used to calculate toxicity values, resulting in scientific disagreement that caused delay, confusion, and significant changes to the near-final peer-reviewed work product." There was a recent *Guardian* analysis that went on—an investigative article that went on to say that the EPA career employees who, during the previous Administration, had meddled in agency science to weaken toxicity assessments had never been reprimanded, never been fired, and flagged that there was a continuing problem affecting EPA, specifically an unwillingness to address influence—industry influence on career staff.

I want to start just by asking if you agree with or want to add any color to what the *Guardian* reported based on your report about sort of the backward-looking analysis, is this an ongoing problem?

Mr. O'DONNELL. It is an ongoing problem. As I said, I have stood up a group devoted to investigating allegations of lost scientific integrity. It has been one of our top management challenges for the last 3 years. And that report speaks to the continuing issue. And I think what for me is most disheartening about that report is that the agency disagreed with every single one of our recommendations to try and improve the scientific integrity protections.

Mr. CASTEN. In your view, is there—and maybe this is the answer to that concern. Is there an ongoing problem with industry influence, and is there something we need to do about that?

Mr. O'DONNELL. Issues of industry influence? Well, that exists far beyond science. Remember, the EPA does a lot of science. It does a lot of rulemaking. And for us, this touches on it, not just on the conflicts of interest with respect to the science, but with respect to the rulemaking, and it's an issue that does lie for us now, even now.

Mr. CASTEN. Are there things you're watching for as a sign of improvement or that we can do to help you hold them accountable and make sure we do hold them accountable for the concerns you flagged from the past Administration?

Mr. O'DONNELL. My staff meets with the Scientific Integrity Office regularly. We are trying to improve that relationship. I will meet with the Deputy Administrator tomorrow to talk about this specific issue. And it's my hope, and I believe their commitment to improve things, but I'm happy to keep you posted——

Mr. CASTEN. OK.

Mr. O'DONNELL [continuing]. On how things are going for us.

Mr. CASTEN. OK. Thank you. Moving to Inspector General Donaldson, the DOE's Environmental Management (EM) Program, as you know, is responsible for all things nuclear waste, cleaning up contaminated sites, safe storage. No need to go on. You understand

all those issues. The GAO (Government Accountability Office) has fairly consistently had that DOE Environmental Management Program, which I think has about a $7.9 billion budget, on their high-risk list for some time. I wonder just in the—first question is just do you agree with GAO's assessment that the DOE's Environmental Management Program needs improvement?

Ms. DONALDSON. I do.

Mr. CASTEN. In 2020, there was a GAO report that said that 45 of their recommendations related to the high risk area remained open, including recommendations pertaining to things like ensuring that costs and schedule estimates met best practices, incorporating project management best practices. That was 2020. Has there been any improvement in your view since that time?

Ms. DONALDSON. I'm not sure I could comment on that comfortably without actually going back and looking at those specific recommendations and then getting an update from the Department.

Mr. CASTEN. OK.

Ms. DONALDSON. Nothing immediately comes to mind as an informed response.

Mr. CASTEN. OK. Well, in that case, then would you like to add any color to your initial response? I do. I recognize this is not a wedding. But——

Ms. DONALDSON. Right.

Mr. CASTEN [continuing]. I need more color.

Ms. DONALDSON. So we work very—we've worked very closely with the General Accounting Office, so we review all—we deconflict our work. We talk to them about what they're doing. They've done a lot of work in this space, and they have had the EM program on that list for a very long time. And it's due in part to that being the largest environmental liability known to man at this point in time, possibly even planet Earth-wise, so it's a tremendous amount of money. And it's managed in little snapshots called annual appropriations, which make it very hard to conduct efficient cleanups. And then across that complex, you also have consent agreements that are complicated, involve multiple parties, and so in order to improve your plan at a particular site, you have to go back in front of a district court judge and modify your consent agreement. So there's a lot of baked-in risk and turmoil managing this huge environmental portfolio.

Mr. CASTEN. And I don't know if you meant it this way. Are you suggesting that if we maybe did more than just 1 year appropriations, some of these problems would go away?

Ms. DONALDSON. That observation has been made by many folks, and there's a lot of common sense to that.

Mr. CASTEN. I've heard that in a few other of our programs as well every once in a while. Well, if there's anything—in my next election, I'm going to run for king, and I'll fix that. Barring that——

Ms. DONALDSON. Great, good.

Mr. CASTEN. Barring that, anything we can do to help, please let us know, and thank you all for your service.

Ms. DONALDSON. Appreciate that.

Mr. OBERNOLTE. Thank you, Congressman Casten.

We will go next to the gentleman from Georgia. Mr. Collins, you're recognized for 5 minutes.

Mr. COLLINS. Thank you, Mr. Chairman.

Inspector General Soskin, I think it's safe to say that the Department of Transportation is currently a mess because Pete Buttigieg is focused on his left-wing social agenda more than building and maintaining our Nation's critical infrastructure. There's a case in point. While Ohioans in East Palestine were fleeing their homes and worried about their health, Buttigieg refused to visit, but he found time to go on TV and say that there are too many White people working in the construction business. And a few days ago, he basically said that the roads and car accidents are racist. In your work reviewing the Department's decisionmaking about grants and procurement, has the Secretary's radicalism on social issues affected how the Department is making decisions?

Mr. SOSKIN. Our views of the Department's grantmaking and procurement have focused on a number of challenges that the Department faces, and many of those relate to DOT's efforts to administer the large volumes of pandemic oversight or pandemic-related and *Infrastructure Act* funds. GAO has done some reporting on the decisionmaking in discretionary grant programs, following up on work that we have done over time. Ultimately, the Department's success and failure in these programs is the responsibility of department leadership, and we're optimistic that if our recommendations are embraced, these funds will be administered to the benefit of the Nation's transportation system.

Mr. COLLINS. Right. But I think making a decision on how you appropriate those funds out, it should be based on the ability to do the work and not based on a social agenda. So that's what I was wondering, if you were looking into that side of it.

Mr. SOSKIN. We don't have any current work looking at the decisionmaking criteria in the discretionary grant programs.

Mr. COLLINS. I'd like to switch gears just a little bit then. I seem to remember a previous Cabinet Secretary during a previous Administration being forced to resign for taking private jets, just like Secretary Buttigieg is doing. Are you currently looking into Buttigieg's travel choices? And if so, is there any indication of any waste or abuse? Do you see a double standard with how Secretary Price was treated versus Buttigieg?

Mr. SOSKIN. Earlier this year, we announced an audit of the Office of the Secretary of Transportation's compliance with regulations and policies for executive travel on FAA's 40 aircraft, which are used for multiple purposes, including the Secretary's travel. At this time, that work is ongoing, and it's too soon to share any findings.

Mr. COLLINS. Do you have a estimation when you'll have that available?

Mr. SOSKIN. At this point, I don't have an estimate for you.

Mr. COLLINS. How long does it normally take to do something like that?

Mr. SOSKIN. We set as our goal for timely audit completion an 11-month time period. Frankly, we haven't been successful in always meeting that timetable. But one of our priorities and a pri-

ority of our new principal in overseeing our audits is to make progress on the timeliness of our audits.

Mr. COLLINS. All right. Thank you. Mr. Chairman, I yield back. That's all I got.

Mr. OBERNOLTE. All right. Thank you very much, Congressman Collins.

We are awaiting questions from one final Member, so out of a courtesy, we will give him a couple more minutes to get here. And rather than sitting here in silence, I will exercise the Chair's prerogative and ask an additional question of Mr. Martin. Chairman Lucas——

Mr. MARTIN. Or we could wait.

Mr. OBERNOLTE. That was a nice try.

Chairman Lucas and I sent a letter to NASA a few weeks ago expressing some concerns about the remote work policies at that agency. Specifically, we had been alarmed to discover that, in the first several months of this year, over 50 percent of NASA employees were apparently working remotely instead of working onsite. And to be clear, I'm not an opponent of remote work, and I know the Chairman is not either. However, it's undeniably true that there are many circumstances at NASA that either require or certainly would be much more productively accomplished by people that are there at the job. I understand that the agency responded to our inquiry this morning. And although we are still digesting that, it seems like they are verifying that the salient points that we raised in our letter are true.

I'm wondering, have you conducted any investigations related to remote work policies at NASA? And are you concerned, as we are, about the potential for reduced productivity as a result of those policies?

Mr. MARTIN. Sure. So no, we have not conducted any investigations regarding overall agency remote work policies. I will say that being part of the NASA conversation during COVID, NASA was coming out of COVID and was leaning pretty significantly into workplace flexibilities. Back then and now, they were pushing this down to the center-based decision or project-based decisions about what the proper cadence of onsite versus telework was. I think it needs—personally, and what we're trying to do at the OIG ourselves, is mission focus. There are certain occupations, certain roles, and certain times during certain projects where onsite work is absolutely critical and essential. We have a computer crimes laboratory that's staffed in person every day because of the equipment and because of the sensitivity of the information. That has to be onsite work. And certainly, if you're involved in a NASA flight project where you're bending metal in a cleanroom, you need to be onsite.

So I do have concerns. We're going to incorporate these types of questions and these types of issues into our ongoing audits that we do across the agency.

Mr. OBERNOLTE. All right. I appreciate that. We're going to continue our oversight as well. And again, this isn't out of any sense that we are anti-remote work. But certainly, there are disciplines that we have identified in our research, including, for example, space hardware mechanics where it's hard to understand how re-

mote work could be done effectively. So I appreciate you continuing to work with us on that.

And we're going to buy another minute or two here. Ms. Donaldson, I was really, really interested in the part of your testimony where you talked about the incredible increase in the research budget at DOE that's been placed on your agency by recent Federal legislation. In a way, it's an embarrassment of riches, right, because it's great that we've got these resources to do this research that we've long wanted to do, but I was not maybe sufficiently aware at how under-resourced the—your office was to deal with this influx of, you know, what is obviously an increased need for oversight. Can you go into a little bit of detail about what kind of resources you need and would think appropriate to be able to conduct the oversight that you think is necessary. Microphone, please, if you would.

Ms. DONALDSON. I can. So I can tell you how I approached it to determine, you know, what amount of resources would be sort of a first installment. So I looked first at how other Inspectors General were funded, just the *CFO Act* agencies. Independent of the new legislation, I found myself at the bottom or arguably second to the bottom on that list for historic underfunding. Then I looked at the new funding streams and I looked again to how other Inspectors General impacted by those funding streams had the—how they had fared. And again, my shop had fared at that point completely at the bottom of that list. So we did some additional benchmarking and discovered that .35 percent puts you sort of in the middle of the pack for Inspectors General, middle to low end——

Mr. OBERNOLTE. So, I'm sorry, .35 percent of——

Ms. DONALDSON. Of the agency's——

Mr. OBERNOLTE [continuing]. Grant funding——

Ms. DONALDSON. Correct.

Mr. OBERNOLTE [continuing]. Awarded to an agency being——

Ms. DONALDSON. That's right.

Mr. OBERNOLTE [continuing]. Steered to the OIG?

Ms. DONALDSON. Yes, that's right.

Mr. OBERNOLTE. OK.

Ms. DONALDSON. So there's a—it's a good way to do it because, if you think about it, it allows you to do those audits, inspections, and investigations so you're growing with the portfolio of the agency. So I think that's a common metric that IGs look at, you know, more money going out. And then I looked at all the risk factors at the Department of Energy, and there are a lot of risk factors, so much of the funding going to the States, those kinds of things. But I still kept that number pretty modest at the .35. And then in the materials I always caution that that does not include a huge number for the loan portfolio. So it's my intention——

Mr. OBERNOLTE. I'm sorry, the what portfolio?

Ms. DONALDSON. The loan portfolio——

Mr. OBERNOLTE. OK.

Ms. DONALDSON [continuing]. Which is about half of the money going to the Department of Energy, so we'll be coming back for a second installment. So as it is now, we're about $180 million short in our base budget and over $300 million short in connection with

IIJA, CHIPS Act, IRA, and the legislation for Puerto Rico, big numbers.

Mr. OBERNOLTE. Sure. Well, you know, a couple things I think become clear to me as a result of this discussion. You know, No. 1, perhaps there's an additional metric we ought to be looking at to figure out whether or not our Inspectors General are adequately funded based on the amount of activity that they have to oversee. And also, I think that we here in Congress need to be more mindful when we are awarding grant funding of making sure that we simultaneously award your offices the relatively modest in comparison amount of money that you need to conduct oversight of that funding.

But, I mean, let me ask you this just playing devil's advocate. I think it would be very difficult in your position when Congress really radically varies the amount of grant funding available to your agency from year to year. How would you staff up and down your agency in response to that? I think that would be very difficult to manage.

Ms. DONALDSON. It presents some challenges, but it is doable. So the Department of Energy is now quadrupling in size and faced with that exact same challenge. So one of the things we would do similar to what they're doing is hire more people. But we have another little tool in our tool bag, which is the use of accounting firms to do some of the audit and inspection work so you can retain those entities to do focused work on internal controls and other things and then do some good for the mission, and then just simply let those contracts expire or don't utilize those contracts, you know, later in the process. So we have some built-in flexibilities.

Mr. OBERNOLTE. All right. Well, that's good to hear. And hopefully, we'll be able to work together to make sure that you don't face a similar shortfall in the future.

Ms. DONALDSON. Thank you very much.

Mr. OBERNOLTE. I will yield now to my colleague, the gentleman from California, Mr. Issa. Sir, you are recognized for 5 minutes.

Mr. ISSA. Thank you, Mr. Chairman. And thank you so much for your indulgence with the other Committee's markup.

I'm going to start with a question that you wouldn't expect probably. Mr. O'Donnell, would you be aware if anyone at EPA currently worked for the CIA (Central Intelligence Agency) and was undercover at your agency?

Mr. O'DONNELL. I think because of things that happened about a decade ago, there was a time it seemed like we were looking for nothing else. I would be surprised at this point if there were.

Mr. ISSA. Well, I don't want you to be surprised. So I would say that in each of your agencies, knowing—since the agency head must be informed by statute of anyone who's embedded, I would ask each of you to go and find out whether erroneously, as happened a decade ago, they believed somebody's with the CIA when in fact they are not. And I only say that because, fool me once, he went to jail, but he's out now, and I would really appreciate that question not going by the wayside because it's—as esoteric as it is, it really happened, as you know.

On another note, Dr. Lerner, the—you're aware of an NSF award of about $130,000 in 2022 to the University of Virginia to conduct

climate change research with a Beijing-based company in Tsing Hua University?

Ms. LERNER. That's not ringing a bell off the top of my head, but I can certainly learn more and get back to you.

Mr. ISSA. I'd appreciate it since, hopefully, during the 2 years I left Congress, we stopped providing aid at the Trade Development Agency to China as a developing nation. And hopefully, we now are at a position where any funds which are directed toward research in China would be scrutinized for whether they're absolutely necessary.

Along that line, are you familiar with programs known as WiseDex?

Ms. LERNER. I've just recently become aware of them.

Mr. ISSA. And you're aware that its job is funding the fight against misinformation?

Ms. LERNER. That's what the articles I read indicated.

Mr. ISSA. And are you currently exploring that?

Ms. LERNER. I am happy that—you know, our office, because of the focus of our work, we don't have the scientific expertise to assess scientific determinations NSF makes, but we have a history of looking at situations like this to see if appropriate processes were followed in making the award and if any other concerns exist.

Mr. ISSA. So notwithstanding that—figuring out what misinformation, disinformation, and mal-information are since those are revolving terms, as you know, it's not about the science. The question that I would have for the IG is, on what basis did Congress allow for particularly the second one, which is this program—and I'll just read it to you—strategically corrects misinformation described by the NSF? Now, as it's defined or described, that's in the eye of the beholder, so the criteria for how they determine misinformation would seem to be within the expertise of your agency.

Ms. LERNER. We will certainly look at that situation.

Mr. ISSA. And then one of the questions is for each of the panelists, are you currently involved in an investigation or any investigations as to whether the agencies you oversee are in fact suppressing speech or in any way interfacing that would cause the promotion of or the reduction of certain information being available to the public?

Mr. O'DONNELL. As I mentioned earlier, we have an Administrative Investigations Directorate that deals with subjects like this with censorship and suppression. And while I won't speak on any particular investigation, I can assure you their docket is quite full.

Mr. SOSKIN. I'm not aware of any investigation work in this area, and it doesn't have an obvious link in my mind to the work of the Department of Transportation.

Ms. DONALDSON. Yes, we do have a volume of retaliation cases year in and year out, whistleblower retaliation cases. I don't have anything in the portfolio that suggests a link back to, you know, the most senior leadership.

Mr. ISSA. OK. And, Dr. Lerner, of course, you do have them, and we'll be looking at them.

Mr. MARTIN. We don't have NASA. In fact, we have more websites at NASA pushing on information than any other government agency.

Mr. ISSA. OK. And then in closing, hopefully—something I heard on CNBC not long ago after people became aware that Hunter Biden's laptop was real and not misinformation or disinformation, as it was originally marketed by our government to be, I heard them say, science is never settled. And hopefully, as your agencies explore science, they will take the same attitude that you should never eliminate somebody's contradictory view on any basis while, in fact, science is never settled. Thank you.

And thank you, Mr. Chairman. I yield back.

Mr. OBERNOLTE. Thank you, Congressman Issa.

That concludes our Member questions. I want to thank all of our panelists for bearing with us and for being so engaged in the discussion. I think you can judge by the amount of interest that we had from our Members and the number of quality questions that we got how interesting a topic we all found this to be, so I thank you very much. We'll have to do this again in the future.

The record will remain open for an additional 10 days for comments or written questions from Members. This hearing is adjourned.

[Whereupon, at 12:30 p.m., the Committee was adjourned.]

Appendix

Answers to Post-Hearing Questions

ANSWERS TO POST-HEARING QUESTIONS

Responses by the Honorable Paul K. Martin

NASA Office of Inspector General Responses to Questions for the Record
House Committee on Science, Space, and Technology hearing "Protecting the American Taxpayer: Highlighting Efforts to Protect against Federal Waste, Fraud, and Mismanagement."

1. How can contracting/procurement officers modify contracts that include award bonuses to ensure those bonuses are not paid in error?

Response: Contract and procurement officials can ensure award fees are not paid in error by measuring the contractor's performance against the established criteria and goals and evaluating the contractor accordingly. It is incumbent upon contract and procurement officials to establish explicit, quantifiable, and measurable award fee criteria and then only award fees when those criteria are satisfied. The award fee criteria should incentivize the desired performance to meet cost, schedule, and technical goals. Our prior work has identified flaws in NASA's evaluation of contractor performance resulting in inflated scores and leading to overly generous award fees.

Additionally, for the "end-item" award fee structure under which the fees earned by the contractor during award fee periods—known as interim award fee periods—are not final until completion of the contract, it is imperative that contracting officers not overlook cost and schedule overages or technical challenges that occurred during the contract. Our prior work has found that NASA's practice of including unearned funds from interim award fee periods in the final award pool promotes a philosophy that significant challenges throughout the contract period will be overlooked so long as the end product performs well.

2. Based on your experience, what can Congress do to support an efficient contracting process while ensuring that NASA continues to have the flexibility to support a dynamic ecosystem of contractors, sub-contractors, and suppliers all across the country, many of which are at the cutting edge of technologies of the future?

Response: Congress should continue to provide support for all types of contracts and acquisition approaches across the Agency—there is no one-size-fits-all approach. For example, NASA uses cost-plus contracts for key Artemis programs even though the programs have experienced years of delays and billions of dollars in cost increases. Down the road, NASA officials intend to transition these programs to potentially less costly fixed-price contracts. That said, while it may appear tempting to move towards more fixed-fee contracts, they are not appropriate in all situations and in fact, may harm small businesses on riskier work especially when requirements are not fully developed. For example, a business may make an aggressive bid for the work without a full understanding of the requirements and the requisite knowledge and skill needed to successfully fulfil the contract. Our prior work has shown that companies end up taking a larger than expected financial loss when development work is more complicated than expected.

The Agency is also looking to alternative acquisition approaches such as public-private partnerships to achieve cost savings and accelerate development of new technologies, including several key systems for its Artemis missions. Towards this end, we believe that Congress should be clear in its direction on NASA's use of an Other Transaction Authority, specifically funded Space Act Agreements. Space Act

Agreements offer flexibility and streamline processes for engaging with non-traditional contractors, startups, and innovative technologies, such as when NASA used these contracting vehicles during development of commercial transportation capabilities to the International Space Station. Finally, Congress can continue to work towards passing timely appropriation bills to ensure the Agency has the funding it needs to continue its mission without disruption and can plan appropriately for future contracting actions.

Responses by the Honorable Allison C. Lerner

House Committee on Science, Space, and Technology
"Protecting the American Taxpayer: Highlighting Efforts to Protect Against Federal Waste, Fraud, and Mismanagement"
April 19, 2023
Mrs. Allison Lerner, Inspector General, National Science Foundation

Questions submitted by Rep. Andrea Salinas, Committee on Science, Space, and Technology:

Inspector General Lerner (NSF), through the new Directorate on Technology, Innovation, and Partnerships, the National Science Foundation is charged with facilitating more partnerships with industry than ever before.

Back in Oregon, our colleges and universities are leaders in these efforts. A new NSF-funded program, Oregon Pathways to Industrial Research Careers, will see the University of Oregon partner with local community colleges to provide undergraduate STEM education to students who will then go on to gain an advanced degree and participate in UO's Knight Campus Graduate Internship Program, placing them in hands-on paid experiences with high-tech industry around the state. Programs like this are absolutely essential to meeting the workforce pipeline needs that our future economy will demand.

1. Do these new partnerships pose any new challenges to your oversight efforts?
2. Is there anything Congress can do to make sure we're supporting your office's mission, without creating too much red tape that might hinder the success of these vital initiatives?

IG Lerner's Response:

1. Public-private partnerships pose several unique challenges and risks to effective programmatic execution and fiscal stewardship. This is an emerging area that we've flagged as a high-risk. As a result, we have ongoing work in this area related to NSF's Industry-University Cooperative Research Centers (IUCRC) program. Based on the results of this ongoing work and the expanded use of public-private partnerships across NSF, we will continue to integrate this high-risk area into our oversight plans.

2. Our audit work is generally split between statutorily mandated audits, such as the audit of NSF's Financial Statements, and discretionary audits, which primarily focus on high-risk issues we identify through our risk assessment process. Once we allocate sufficient resources to the mandatory audits, we are able to dedicate our remaining resources to discretionary audits. Although oversight of public-private partnership programs is a high-priority, we must balance it against other

high-risk areas such as sexual assault/harassment in Antarctica, harassment across the US Research Enterprise, and research security. Our mission is best supported by ensuring we have the resources necessary to maintain and grow our staffing in response to current and emerging high-risk areas. Our discretionary audits provide crucial insights to NSF that it can use to strengthen programs like the one that funded the program in your district, and position recipients of NSF funding for success.

Responses by the Honorable Teri L. Donaldson

Question for the Record
The Honorable Teri L. Donaldson, Inspector General, Office of the Inspector General, U.S. Department of Energy

Response for the Record:

Question: How will your office effectively oversee the INCREDIBLE increase in appropriations to the DOE and the 71 new programs that have been created through the IIJA/IRA/CHIPS acts?

The OIG does not have sufficient resources to effectively oversee the massive increase in appropriations to the DOE and the 71 new programs created by the Department of Energy by IIJA, IRA, and the CHIPS Act.

Prior to the passing of these pieces of legislation, DOE OIG was already significantly underfunded, and the lack of adequate funding for DOE OIG in the recent legislation further exacerbated this issue.

DOE OIG received only $62 million, or .10 percent of the funding provided to the Department, over a 5-year period under IIJA to provide oversight for these new infrastructure projects. When compared to other OIGs that received money under IIJA, we were again substantially underfunded.

Further, IRA appropriated only $20 million to the OIG, or .05 percent of the funding provided to the Department, to oversee those programs. Notably, there was no provision for DOE OIG in the CHIPS Act, or for the OIG in the Puerto Rico Energy Resilience Fund.

I look forward to working with you, and the appropriations committee, to ensure DOE OIG has adequate resources to oversee all funding provided to the Department of Energy.

Responses by the Honorable Eric J. Soskin

Question Nos. 1 and 2 For the Record submitted by Representative Stephanie Bice
Committee on Science, Space, and Technology
April 19, 2023 Hearing

QUESTION:

In February, an internal Transportation Department watchdog said it will audit Secretary Pete Buttigieg's use of taxpayer-funded FAA private jets.

1. Does the IG have a timeline for the completion of the audit?

ANSWER:

Our office, which provides independent, objective oversight of the Department of Transportation, began an audit on March 14, 2023, of the Office of the Secretary's (OST) compliance with Federal travel regulations, policies, and procedures regarding executive travel on DOT aircraft. The audit is ongoing and we plan to complete it by the end of 2023.

QUESTION:

2. In his public statements on this issue, Sec. Buttigieg and FAA state that the "cost" for his use of those planes is only calculable as a per-seat rate – does the IG think this is an accurate way to calculate the cost of these planes?

ANSWER:

Given that our analysis is ongoing, it is too soon to report out on any findings or conclusions. We are continuing to evaluate OST's and FAA's processes, as well as review Office of Management and Budget and DOT guidance, to answer our audit objective and potentially make recommendations. Our completed work will address questions regarding cost calculations for use of Agency aircraft.

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