



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

U.S. Chemical Safety Board

CSB Needs to Continue to Improve Agency Governance and Operations

Report No. 16-P-0179

May 23, 2016



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Abbreviations

| | |
|------|---|
| CFO | Chief Financial Officer |
| CFR | Code of Federal Regulations |
| CSB | U.S. Chemical Safety and Hazard Investigation Board |
| EEO | Equal Employment Opportunity |
| FAR | Federal Acquisition Regulation |
| FMR | Federal Management Regulation |
| FOIA | Freedom of Information Act |
| FY | Fiscal Year |
| GSA | General Services Administration |
| OIG | Office of Inspector General |
| OMB | Office of Management and Budget |
| USF | Usable Square Footage |

Cover photo: CSB-leased office building in Washington, D.C. (EPA OIG photo)

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At a Glance

Why We Did This Review

We initiated this audit to determine whether the U.S. Chemical Safety and Hazard Investigation Board (CSB) was following its internal controls through board governance over operational and management activities. Specifically, we reviewed administration and management of operations, which includes the budgeting process, office leasing, and consulting services.

CSB, which began operating in 1998, is an independent federal agency, authorized by the Clean Air Act Amendments of 1990. CSB's headquarters is in Washington, D.C., and CSB has an investigation office in Denver, Colorado. CSB has board orders that govern its operations and management activities. The orders define the policies and procedures for specific areas.

The U.S. Environmental Protection Agency Office of Inspector General is also the Inspector General for CSB.

This report addresses the following CSB goal:

- *Preserve the public trust by maintaining and improving organizational excellence.*

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Listing of [OIG reports](#).

CSB Needs to Continue to Improve Agency Governance and Operations

What We Found

CSB is not following federal or agency internal control guidance or required federal regulations. CSB did not:

- Prepare quorum session summaries on time (written summaries of briefings or informal discussions with three or fewer board members).
- Post four of nine public meeting transcripts in a timely fashion on the CSB website.
- Create internal guidance over its annual operating budget process.
- Have documentation supporting its decisions to award contracts (written agreements enforceable by law) for legal services after making micro-purchases (purchases with a government credit card), and to lease public building space.

The lack of internal guidance and implementation of controls puts CSB's \$11 million budget at risk.

Office of Management and Budget Circular A-123 holds federal agency management responsible for establishing and maintaining internal controls to achieve the objectives of effective and efficient operations, reliable financial reporting, and compliance with applicable laws and regulations. CSB's former Chairperson did not enforce federal guidance, which resulted in the need for improved internal controls governing CSB operations. The lack of internal controls made CSB's \$11 million budget vulnerable to mismanagement.

Recommendations and Planned Agency Corrective Actions

We recommended that the CSB Chairperson improve internal controls and governance. Specifically, the CSB Chairperson should:

- Prepare written quorum session summaries within the required 5 business days.
- Develop and implement internal procedures for posting documents to the CSB website.
- Establish internal guidance that documents the annual operating budget process.
- Document decisions in the acquisition file in accordance with the Federal Acquisition Regulation.

CSB indicated that it will implement the recommendations and provided corrective actions with planned completion dates.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

May 23, 2016

The Honorable Vanessa Allen Sutherland
Chairperson and Board Member
U.S. Chemical Safety and Hazard Investigation Board
1750 Pennsylvania Avenue NW, Suite 910
Washington, D.C. 20006

Dear Ms. Sutherland:

This is our report on the audit of the U.S. Chemical Safety and Hazard Investigation Board's (CSB's) compliance with federal and agency regulations over CSB governance and administrative operations. This report contains findings that describe the problems the Office of Inspector General (OIG) has identified and corrective actions the OIG recommends.

Because you agreed with our recommendations and provided planned corrective actions that meet the intent of the recommendations, along with completion dates, you are not required to provide a written response to this report. However, if you submit a response, it will be posted on the OIG's public website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at www.epa.gov/oig.

Sincerely,

A handwritten signature in black ink, appearing to read "Arthur A. Elkins Jr.", is written over a white background.

Arthur A. Elkins Jr.

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Chapter 1

Introduction

Purpose

The U.S. Environmental Protection Agency's Office of Inspector General (OIG) is also the Inspector General for the U.S. Chemical Safety and Hazard Investigation Board (CSB). Our objective was to determine whether CSB was following its internal controls through board actions. Specifically, we reviewed board actions over the administration and management of operations, which includes the budgeting process, office leasing and consulting services.

Background

Authorized by the Clean Air Act Amendments of 1990, CSB began operating in 1998 as an independent federal government organization. CSB's headquarters is in Washington, D.C., and CSB has a field office in Denver, Colorado. CSB's mission is to enhance the health and safety of the public, workers and environment by determining the root causes of accidental chemical releases, and use these findings to promote preventive actions by the private and public sectors. The agency does not issue fines or citations; rather, it makes recommendations to plants, industry organizations, labor groups, and regulatory agencies such as the Occupational Safety and Health Administration and the U.S. Environmental Protection Agency.

The President appoints, and the Senate confirms, CSB's board members. The board Chairperson serves as the Chief Executive Officer and is responsible for agency administration, while the full board is responsible for major budgeting decisions, strategic planning and direction, general agency oversight, and approval of investigation reports and studies. Although the CSB board is supposed to be composed of five members, including the Chairperson, during our audit the board consisted of four members, including the Chairperson.

CSB has board orders that govern its operations and board actions. The orders define the policies and procedures for specific subject areas and include effective dates indicating when each order is applicable. Orders are divided into several categories relative to the agency's operations. The categories are governance, human resources, ethics, equal employment opportunity, financial, information technology, recommendations and investigations.

Noteworthy Achievement

CSB has made an effort to improve its governance activities. In June 2015, the CSB board voted to amend Section 1600.5, Quorum Voting and Requirements, of the Code of Federal Regulations (CFR) in 40 CFR 1600, *Organization and*

Functions of the Chemical Safety and Hazard Investigation Board. According to CSB, that would improve CSB's public transparency and accountability.

Scope and Methodology

We conducted this audit from December 2014 through January 2016 in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We reviewed CSB's timeliness in preparing its fiscal year (FY) 2014 quorum session summaries (written summaries of briefings or informal discussions with three or fewer board members) and availability of public meeting transcripts for meetings posted to CSB's website from November 2013 through February 2015. We also chose specific operational areas of CSB to review that included budget, leases and consulting services. We reviewed federal guidance from the U.S. Code, Federal Acquisition Regulation (FAR), and Office of Management and Budget (OMB). We also reviewed CSB's internal guidance and documentation for its lease and selected consulting contracts. During the course of the audit, we interviewed CSB's administrative and financial staff as well as senior management and selected board members to obtain information and documents.

We selected two federal agencies to benchmark our audit areas—one similar in employee size to CSB and who has an overseeing OIG, and the other at the request of CSB. Specifically, we selected the Inter-American Foundation and the Defense Nuclear Facilities Safety Board, respectively. Questions and results of the benchmarking work conducted are shown in Appendix A of this report.

We performed site visits to CSB's headquarters in Washington, D.C., and its field office in Denver, Colorado, to review CSB's office space.

Prior Audit Coverage

We issued four prior audit reports that discuss CSB governance issues. Details on each are in Appendix B.

Chapter 2

CSB Needs to Timely Prepare Its Quorum Summaries and Post Public Meeting Transcripts

CSB's summaries for its FY 2014 quorum sessions were not prepared on time. Also, four of nine CSB public meeting transcripts were not always posted promptly on CSB's website and are not located in one place on the CSB website, making them difficult to find. CSB staff were not familiar with the agency regulations governing the requirement to timely report sessions and post public meeting transcripts. CSB did not have any guidance on where to post public meeting transcripts on its website. CSB may impact its Freedom of Information Act (FOIA) inquiries by not preparing summaries of its quorum sessions in a timely fashion. Also, CSB limits transparency and access to its governmental actions by delaying public meeting transcript postings and not placing transcripts in an easily accessible central location.

CSB Does Not Prepare Its Quorum Sessions on Time

CSB quorum session summaries were not prepared on time and do not comply with federal requirements. Quorums are defined in 40 CFR 1600, *Organization and Functions of the Chemical Safety and Hazard Investigation Board*, Section 1600.5(a):

...[a] quorum of the Board for the transaction of business shall consist of three Members; provided, however, that if the number of Board Members in office is fewer than three, a quorum shall consist of the number of Members in Office;....

The regulation also states that "... [o]nce a quorum is constituted, a simple majority of voting Members is required to approve an item of the Board's business. A tie vote results in no action."

Sessions are generally a gathering of a quorum of board members to exchange information. According to 40 CFR Part 1603, *Rules Implementing the Government in the Sunshine Act*, Section 1603.3(c)(3), "...[a] session attended by at least a quorum of Members for the purpose of having the Board's staff or expert consultants to the Board brief or otherwise provide information to the Board...."

CSB has held quorum sessions for a variety of purposes, such as staff meetings or determining if an incident warrants an investigation. However, CSB did not always prepare a written summary of the minutes within 5 business days. Section 1603.5(c) states that:

[t]he reporter shall attend and prepare a written summary of each briefing(s) or informal discussions for which he/she has been designated. The reporter must prepare the summary of a particular briefing or informal discussion within five business days after the date of that briefing or discussion. The reporter must then submit the summary to the General Counsel or the designated attorney who attended the briefing or informal discussion that is the subject of the summary for review and approval as a fair and accurate summary of that briefing or discussion.

CSB held 16 quorum sessions in FY 2014; however, only two summaries were prepared within the required 5 business days. The remaining 14 summaries were prepared 2 to 234 business days beyond the allowed 5 business days. Further, 12 of the 14 summaries were prepared on the same day—September 30, 2014. Table 1 shows the timeliness of the summaries.

Table 1: Number of business days quorum summaries completed late

| Meeting date | Date of minutes write-up | Days completed after the allowed 5 business days |
|--------------|--------------------------|--|
| 10-17-2013 | 09-30-2014 | 234 |
| 01-10-2014 | 09-30-2014 | 177 |
| 02-24-2014 | 09-30-2014 | 148 |
| 04-17-2014 | 09-30-2014 | 110 |
| 06-23-2014 | 09-30-2014 | 64 |
| 06-30-2014 | 09-30-2014 | 59 |
| 07-10-2014 | 09-30-2014 | 52 |
| 07-14-2014 | 09-30-2014 | 50 |
| 07-31-2014 | 09-30-2014 | 37 |
| 12-04-2013 | 02-05-2014 | 37 |
| 12-09-2013 | 02-05-2014 | 34 |
| 09-05-2014 | 09-30-2014 | 12 |
| 01-22-2014 | 02-06-2014 | 6 |
| 09-21-2014 | 09-30-2014 | 2 |
| 02-04-2014 | 02-05-2014 | 0 |
| 09-29-2014 | 09-30-2014 | 0 |

Source: CSB-provided data and OIG analysis.

The CSB designated reporter of the quorum sessions for over 7 years was aware of the requirement to submit the summary to the General Counsel or designated attorney for review and approval. However, she was not knowledgeable about the requirement to prepare written summaries within 5 business days. Not preparing summaries of quorum sessions in a timely fashion could impact the ability to respond to FOIA requests and limit the transparency of CSB’s governmental actions.

CSB Public Meeting Transcripts Are Not Always Posted Promptly and the Transcripts Are Not Easily Accessible

CSB public meeting transcripts were not always posted promptly to its website and therefore do not comply with regulatory guidance. Also, transcripts are not centrally located on the CSB website, making them difficult to locate. CSB electronically records its public meetings and has the recordings transcribed by an outside firm.

CSB’s legal office reviews transcripts for accuracy. Once the review is complete, CSB staff determine where the final transcript will be located on CSB’s website.

According to 40 CFR Section 1603.12, *Availability of transcripts,*

recordings, and minutes, and applicable fees, “... [t]he CSB shall make promptly available to the public the transcript, electronic recording, or minutes of the discussion of any item on the agenda or of any testimony received at a meeting....” Even though a prior CSB board approved the regulation, they have not defined what time frame is intended by using the word “promptly.”

In addition, current CSB staff were unaware of the federal guidance requiring the prompt posting of public meeting transcripts. There were nine transcripts posted on CSB’s website from November 2013 through February 2015. Five of the nine transcripts were posted within 30 days. We found that it took CSB between 34 and 281 days after the public meeting to post four of the nine transcripts to the CSB website. Further, CSB did not post the May 1, 2014, public meeting transcript to its website until after our inquiry. Table 2 shows the number of days CSB took to post its transcripts.

Table 2: Number of days to post transcripts

| CSB public meeting date | Date posted | Days to post transcripts |
|-------------------------|-------------|--------------------------|
| 05-01-2014 | 02-06-2015 | 281 |
| 07-16-2014 | 09-24-2014 | 70 |
| 04-22-2014 | 06-13-2014 | 52 |
| 06-05-2014 | 07-09-2014 | 34 |
| 01-15-2014 | 02-03-2014 | 19 |
| 01-30-2014 | 02-18-2014 | 19 |
| 01-28-2015 | 02-12-2015 | 15 |
| 11-14-2013 | 11-26-2013 | 12 |
| 01-15-2015 | 01-24-2015 | 9 |

Source: CSB public meeting transcripts and OIG analysis of CSB data.

Figure 1: Photo capture of CSB Media Room webpage.



Source: CSB public website.

CSB does not have internal guidance that states where or when documents are to be posted to its website. Consequently, there is a lack of consistency in posting transcripts. CSB may post its public meeting transcripts into three different locations on its website. Transcripts may be posted on CSB's website under the related investigation, the event calendar or the business meeting section. The CSB staff determines where to post transcripts and other related documents, which results in inconsistencies of where documents are located. We inquired about a missing public meeting transcript on the CSB website that we were unable to locate. After several more inquiries, the meeting transcript was posted under an "investigation" discussed at the public meeting.

According to CSB, if a public meeting is not related to an investigation, it may be labeled an event or business meeting, and the related documents can be posted in either the event calendar or the business meeting section.

CSB's not promptly and centrally posting transcripts on its website limits transparency and access to CSB's governmental actions. This denies the public timely access to the transcript of board decisions on investigations, events or business meetings that may affect the environment and public health.

Conclusion

CSB quorum session summaries were not prepared on time and, therefore, did not comply with 40 CFR 1603.5(c). As a result, FOIA requests to CSB may be impacted and transparency of CSB's governmental actions may be limited. Further, four of nine CSB public meeting transcripts were not always posted promptly to its website and therefore did not comply with 40 CFR 1603.12. In addition, transcripts are not centrally located on the CSB website and thus were difficult to find, which limits transparency and access to CSB's governmental actions.

Recommendations

We recommend that the Chairperson, U.S. Chemical Safety and Hazard Investigation Board:

1. Prepare written quorum session summaries within the required 5 business days to ensure that CSB is in compliance with 40 CFR 1603.5(c).
2. Define "promptly" and make transcripts of CSB public meetings promptly available in accordance with 40 CFR 1603.12.
3. Develop and implement guidance and procedures for posting transcripts and other documents to the CSB website.

CSB Comments and OIG Evaluation

CSB plans to develop internal guidance on preparing written quorum session summaries and on posting transcripts and other documents to the CSB website. CSB stated that it takes numerous steps to ensure accuracy before placing its transcripts on its website. CSB plans to define “promptly” as 30 to 60 days from the date of the hearing or meeting (longer than 30 days in the case of full day and multi-day hearings). CSB indicated on February 23, 2016, that it will work to complete the corrective actions on the three recommendations by September 30, 2016.

We agree with CSB’s response to our recommendations. CSB’s complete response to our discussion document report is in Appendix C.

Chapter 3

CSB Needs to Formalize Its Operating Budget Process

CSB does not have internal guidance that documents its annual operating budget process and identifies roles and responsibilities for the financial staff and management. OMB Circular A-123 indicates that within the organizational structure, management must clearly define areas of authority and responsibility, appropriately delegate the authority and responsibility throughout the agency, and establish a suitable hierarchy for reporting. Without a formal documented budget process that assigns roles and responsibilities to staff and management, CSB increases its risk of mismanaging its \$11 million annual operating budget.

CSB Does Not Have Guidance That Governs Its Annual Operating Budget Process

CSB does not have documented internal guidance governing its annual operating budget process. CSB needs documented guidance that identifies the roles and responsibilities for the financial staff and management.

The CSB Finance Director stated its annual operating budget is based on its final budget request submitted to Congress, its annual appropriation amount, actual spending trends in recent years, and direction from the Managing Director.

Under the former Chairperson, CSB implemented an undocumented annual operating budget process that centralized authority over funds and provided the Managing Director with full oversight, including making budget-related decisions. The CSB's board and financial staff stated that the centralized budget process, with the Managing Director as the approver of funds, is acceptable to them and to administrative unit managers. According to the Managing Director, this budget process prevents funding lapses that occurred on an annual basis in prior years. However, CSB has not documented the annual operating budget process in its internal procedures.

OMB Circular A-123, Revised, *OMB Circular A-123-Management's Responsibility for Internal Control*, dated December 21, 2004, Section I, states that:

Management is responsible for developing and maintaining effective internal control. Effective internal control provides assurance that significant weaknesses in the design or operation of internal control, that could adversely affect the agency's ability to meet its objectives, would be prevented or detected in a timely manner. Internal Control – organization, policies, and procedures – are tools to help program and financial managers achieve results

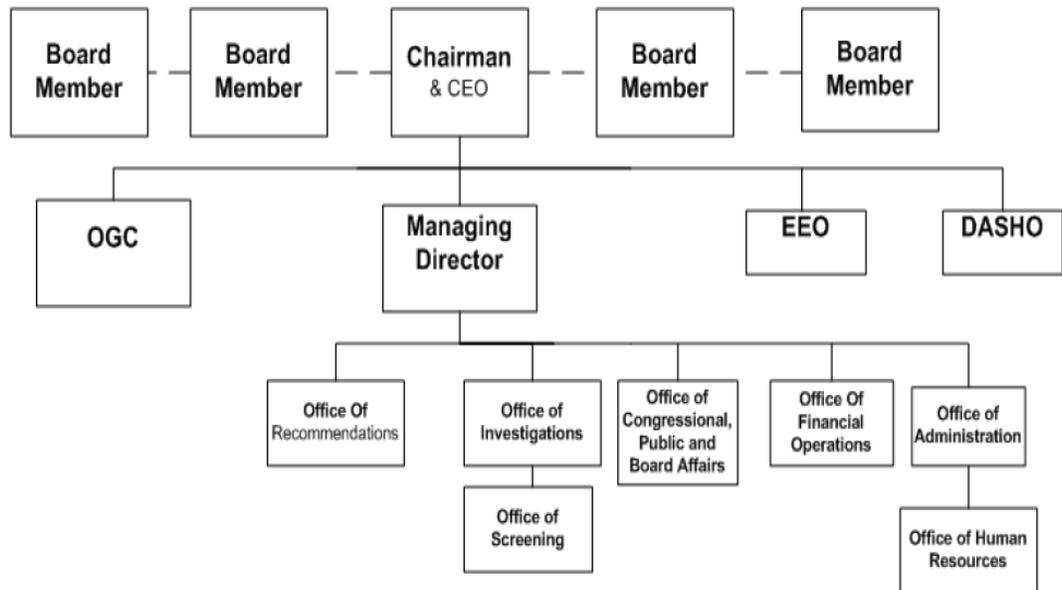
and safeguard the integrity of their programs. This Circular provides guidance on using the range of tools at the disposal of agency managers to achieve desired program results and meet the requirements of the Federal Managers' Financial Integrity Act (FMFIA) of 1982.

Without documenting the annual operating budget process, CSB may lack the accountability and transparency needed to lower the risk of mismanagement.

We also found that the role of the Chief Financial Officer (CFO) is not clearly designated at CSB. The Finance Director's position description indicates that she serves as the CFO and is responsible for overall planning, development and execution of all budget and fiscal support operations of the agency. The Finance Director reports to the Managing Director. The Managing Director's position description also indicates that the Managing Director functions as the CFO and has oversight over all financial management operations through the CSB financial staff. There is a conflict because both position descriptions designate the same CFO role.

The FY 2015 Performance and Accountability Report contains an organization chart (Figure 2 below), which illustrates the organizational structure of CSB.

Figure 2:¹ CSB organizational chart as of September 30, 2015



Source: FY 2015 CSB Performance and Accountability Report.

According to this chart, the Managing Director reports directly to the Chairperson, and all operational units, including the Office of Financial Operations, are to report to the Managing Director. The Finance Director reports to the Managing Director,

¹ Designated Agency Safety and Health Officer (DASHO) and Office of General Counsel (OGC)

although the Finance Director's position description includes serving as the CFO and advising the board on financial and budget matters.

Also, CSB needs internal guidance that identifies the roles and responsibilities within the financial staff. CSB's financial staff consists of two employees—a director and a specialist—who are responsible for performing varied financial tasks. According to CSB's financial staff, they:

- Track and monitor CSB's budget using Microsoft Excel spreadsheets.
- Reconcile a shared service provider's accounting data to CSB's budget data on a monthly basis.
- Compile CSB's annual operating budget data and provide the data to senior management on a weekly basis.
- Compile a report of commitments and expenditures and provide it to the board on a quarterly basis.

When either the director or the specialist is absent, the other is the only backup. As a result, formal guidance is needed to document the specific roles and responsibilities for each employee's position on the financial staff. OMB Circular A-123, Section II (A), *Control Environment*, states that: "... [w]ithin the organizational structure, management must clearly: define areas of authority and responsibility;...." Without documented guidance that clearly identifies the roles, responsibilities and scope of authority over its annual operating budget, CSB's organizational objectives may be unmet.

Conclusion

CSB needs to develop internal guidance for its annual operating budget process. Guidance should clearly identify the roles and responsibilities relating to the budget for financial staff and management. CSB increases its risk of mismanaging its \$11 million operating budget by not having a formal documented budget process that assigns roles and responsibilities to staff and management.

Recent Agency Actions Prompted by OIG Work

CSB's Board Order 028 requires the board to approve the operating budget of appropriated funds. The prior board approved its last annual operating budget in FY 2010, but did not approve operating budgets for FYs 2011 through 2015. However, all new board members were appointed during FY 2015, and they approved an operating budget for FY 2016 during our audit period.

Recommendation

We recommend that the Chairperson, U.S. Chemical Safety and Hazard Investigation Board:

4. Document internal guidance that reflects CSB's annual operating budget process and defines the roles and responsibilities for financial staff and management.

CSB Comments and OIG Evaluation

CSB agreed with the recommendation and stated it will work to develop internal guidance regarding the operating budget process that defines roles and responsibilities. On February 23, 2016, CSB stated it plans to complete the corrective actions by September 30, 2016.

We adjusted our report based on CSB's comments to our discussion document. We agree with CSB's response to this recommendation. CSB's complete response to our discussion document report is in Appendix C.

Chapter 4

CSB Needs Documentation for Its Decision to Follow Micro-Purchases With Contracts

CSB did not document its decision to follow its micro-purchases with contracts for the same legal services from two legal consultants. A micro-purchase is a purchase of government services with a government credit card, while a contract is a written agreement enforceable by law. Federal rules require contract files to document a basis for informed decisions at each step in the acquisition process. The agency did not have documentation to support the justification for using micro-purchases followed by contracts for the same services. Without documentation for its decisions to follow micro-purchases with contracts, CSB's decisions are not transparent, and it could circumvent FAR contract requirements.

CSB Used Micro-Purchases and Contracts for Legal Consulting Services

CSB used micro-purchases and contracts to acquire legal services between February 2012 and June 2015. CSB's Contracting Officer stated that outside legal consultants were needed because the services were "related to a highly sensitive internal personnel matter that requires an objective third party," and that CSB's internal counsel did not have the expertise to conduct these functions. The matters related to an Inspector General investigation, Equal Employment Opportunity (EEO) complaints, Office of Special Counsel complaints, and federal government employment law. Since February 2012, the agency spent over \$10,000 in micro-purchases and contracted for over \$350,000 in legal services.

Two Legal Consultant Micro-Purchases Were Followed With Contracts

CSB made micro-purchases with two legal consultants that were followed by contracts for the same legal services, and it did not have documentation on file to support these decisions. On February 18, 2014, CSB completed a \$3,000 micro-purchase as a retainer for legal consultant services, which CSB told us was related to an EEO complaint. The next week, on February 25, 2014, CSB contracted with the same consultant for legal services on the same EEO complaint. The original contract amount was \$12,000, but modifications increased the contract amount to \$187,000.

In another instance, on February 14, 2012, CSB completed a \$3,000 micro-purchase as a retainer to a legal consultant for services, which CSB told us was related to an Office of Special Counsel complaint against its employees. Two months later, on April 26, 2012, CSB contracted for legal services on the same Office of Special Counsel complaint. The original amount of the contract was \$15,000, but modifications increased the amount to \$55,000.

CSB did not have documentation in the purchase card or contract file to justify the necessity to use the purchase card for a micro-purchase prior to issuing a contract for the same services. FAR Subpart 4.8, *Government Contract Files*, Section 4.801(b), states that:

The documentation in the files (see 4.803) shall be sufficient to constitute a complete history of the transaction for the purpose of –
(1) Providing a complete background as a basis for informed decisions at each step in the acquisition process;

The legal services for the EEO complaint were contracted through September 24, 2015, and the contract work on the Office of Special Counsel complaint was through August 31, 2015. CSB stated that its prior General Counsel and the Managing Director were responsible for the contract award decisions related to legal consultants. Also, the agency's Contracting Officer explained the need for both services were urgent and each required a micro-purchase while waiting on the contractor's System for Award Management registration to finalize to be able to award a contract.

By combining micro-purchases with contracts for the same services without documentation to support its decision, CSB's decisions are not transparent and it could circumvent federal controls that are in place for contracts. Internal controls over contracting include documentation requirements. The FAR requires contract file documentation to include a complete history of the transaction to support decisions at each step in the process. Avoiding controls opens the agency to fraud, waste, abuse, overspending, and not getting the best value for the taxpayer dollars it spends.

Conclusion

CSB did not document its decision to follow its micro-purchases with contracts. CSB used micro-purchases to pay retainers for legal consulting services while it was in the process of writing a contract. CSB then contracted with the same consultant for the same services. CSB explained it needed to do this because it urgently needed the legal services. Without documentation for its decisions to follow micro-purchases with contracts, CSB's decisions are not transparent and it could circumvent FAR contract requirements.

Recommendation

We recommend that the Chairperson, U.S. Chemical Safety and Hazard Investigation Board:

5. Document decisions in the acquisition file in accordance with FAR Subpart 4.801(b) to maintain a complete history of the transactions.

CSB Comments and OIG Evaluation

The CSB agreed with this recommendation and stated it plans to work to document decisions in its files as recommended. On February 23, 2016, CSB stated it plans to complete the corrective actions by September 30, 2016.

We agree with CSB's response to this recommendation. CSB's complete response to our discussion document report is in Appendix C.

Chapter 5

CSB Needs to Better Document Its Government Buildings Search and Not Exceed GSA Space Benchmarks

CSB's documentation for its search of government-owned or government-leased buildings in Washington, D.C., needs improvement to show that it followed Federal Management Regulation (FMR) guidance. The General Services Administration (GSA) benchmark for federal office space is 190 Usable Square Footage (USF) per person. CSB exceeded the GSA benchmark for space by at least 148 USF per person in its new Washington office, and by 293 USF per person in its Denver, Colorado, office. In addition, the FMR requires federal agencies to search government property first. CSB did not contact GSA in its search for its Washington office. If CSB had leased space at the GSA benchmark at its Washington and Denver offices, it could have saved at least \$313,256 in FY 2016. CSB could have used the additional funds for other purposes such as hiring additional investigators.

CSB Leases Offices in Washington and Denver

CSB leases office space in Washington and Denver. The former Chairperson approved the Denver lease and the board approved the Washington lease. The lease for the Denver office is for 60 months and started on December 1, 2014. CSB acquired a new 10-year lease for office space on Pennsylvania Avenue in Washington that began October 1, 2015.

GSA stated in its benchmark report that organizations measure workspace by USF or as the sum of retail areas, office space and common areas. Previously, CSB leased 17,093 USF for its offices on K Street, and reduced its footprint to 11,480 USF for its offices on Pennsylvania Avenue. CSB leases 5,317 USF for its Denver office. CSB has 25 staff² in Washington, 11 staff in Denver, and an additional six staff who work out of their personal homes with no space needs. CSB plans to hire additional staff for its Washington location and used 34 staff when determining its leased office space needs for the current location.

² During our audit, CSB had 24 actual staff onboard. CSB's space in Washington includes space for five board members even though only four are onboard.

CSB Needs to Better Document Its Search for Government-Owned or Leased Buildings

FMR, Subchapter C, Real Property, Part 102-79, *Assignment and Utilization of Space*, explains the hierarchy of consideration agencies must follow in the utilization of space. FMR at Section 102-79.55 states:

Federal agencies must— (a) First utilize space in Government-owned and Government-leased buildings; and (b) If there is no suitable space in Government-owned and Government-leased buildings, utilize space in buildings under the custody and control of the U.S. Postal Service; and (c) If there is no suitable space in buildings under the custody and control of the U.S. Postal Service, agencies may acquire real estate by lease, purchase, or construction, as specified in part 102-73 of this chapter.

CSB leased office space on Pennsylvania Avenue to replace its office on K Street. CSB's documentation for its search of government-owned or government-leased buildings in Washington needs improvement to support that it followed FMR guidance. CSB maintained a document in its contract file stating it performed a search for real estate in Washington by querying the "Inventory of Owned and Leased Property" GSA government property website and the "USPS Properties for Lease" U.S. Postal Service property website. The document stated that the queries were performed and both resulted in no available properties within the search area in which CSB wanted to obtain office space. CSB provided screen shots of two websites as examples of how it searched the websites, but no information was provided documenting the actual queries, the search areas or the results.

CSB did not contact GSA during its search for office space in Washington because of its experience working with GSA to find office space in Denver. Prior to the lease being signed in Denver, CSB had worked with GSA for a year and a half, including a failed attempt to lease space, which resulted in doubling up staff in offices for much longer than desired. CSB stated it could not afford a similar issue in Washington since that office houses the board of directors and its administrative operations. CSB held internal meetings with senior officials and decided to contract with a broker experienced in government leasing to find and lease office space in Washington.

CSB needs to improve its documentation that it followed federal government requirements to seek office space in government-owned or government-leased property. In addition, GSA, if contacted, may have been able to provide a lower cost alternative for CSB's Washington office that could have saved agency funds over the course of the lease.

CSB Exceeded the GSA Space Benchmark in Its Headquarters and Denver Locations

The GSA’s Office of Government-wide Policy, Office of Real Property Management, Performance Measurement Division, document, *Workspace Utilization and Allocation Benchmark*, effective July 2012, states in the “Research Analysis” chapter that 190 USF is the federal benchmark for office space. This document states on page 10:

Neither RSF [Rentable Square Footage] nor USF standards simply measure an associate’s office or cubicle area, but also include a portion of shared space—such as conference rooms and hall space—for each associate in a space use measurement....

Based on public sector data information of office workspace use trends, organizations were allocating a prevailing standard workspace average of 190 Usable Square Feet (218 Rentable Square Feet) as the optimum workspace per person. Organizations can most efficiently and effectively minimize their square foot usage by implementing innovative workspace strategy, such as hoteling and teleworking.

CSB exceeded the GSA benchmark for its Washington (Pennsylvania Avenue) and Denver offices. At its Pennsylvania Avenue office, CSB leases 148 USF over the GSA benchmark using the CSB projection of 34 staff. When using 25 staff, CSB occupies 269 USF over the GSA benchmark. In Denver, CSB office leases 293 USF over the GSA benchmark for its 11 staff. Table 3 outlines the leased office space per person for each of CSB’s office locations and FY 2016 cost of excess space.

Table 3: CSB leased office space

| Location | Lease | | Usable square footage | | | FY 2016 excess lease cost by location* |
|---|------------|------------|-----------------------|------------|--|--|
| | Begin | End | Total | Per person | Square feet in excess of GSA 190 USF benchmark | |
| Penn Ave. - 34 staff (projection) | 10/01/2015 | 09/30/2025 | 11,480 | 338 | 148 | \$259,899 |
| Penn Ave. - 25 staff | 10/01/2015 | 09/30/2025 | 11,480 | 459 | 269 | \$348,443 |
| Denver | 12/01/2014 | 11/30/2019 | 5,317 | 483 | 293 | \$53,357 |
| Range of Annual Excess Cost of Lease | | | | | | \$313,256 to \$401,800 |

* The FY 2016 lease payments include a one-time \$60,799 broker commission credit.

Source: OIG analysis of CSB data.

At the Pennsylvania Avenue location, we observed areas where CSB may have exceeded the GSA benchmark. We noticed that for this location, most staff were assigned offices and there were four or five large conference rooms depending on the configuration, a large reception area, a telephone room, and four empty offices for planned new hires.

CSB explained it did not think its Pennsylvania Avenue office had excess space and actually reduced its space 33 percent from the K Street office. However, if CSB had followed the GSA space benchmark using its projection of 34 staff, it could have reduced its Pennsylvania Avenue office to 6,460 USF—a 62 percent reduction. CSB would have further reduced its Pennsylvania Avenue office to 4,750 USF—a 72 percent reduction—based on calculations using 25 staff.

The K Street lease cost was \$1,120,158 in FY 2015. CSB pays a lease cost in FY 2016 of \$594,398 for the Pennsylvania Avenue office, a 47 percent reduction. However, if CSB were able to lease space using the GSA benchmark and the same annual cost per USF it has in the Pennsylvania Avenue office, using its projection of 34 staff, its FY 2016 lease costs would have been reduced to \$334,499, or a savings of 70 percent. CSB could have achieved even greater savings by calculating savings using a staff of 25. FY 2016 lease costs would have been \$245,939, or a savings of 78 percent. Further, if CSB used GSA for locating government office space, it could have potentially saved CSB additional space.

The Denver office's FY 2016 lease cost was \$87,905. We visited the Denver office in August 2015 and observed two empty offices and large staff offices. We discussed the office space in Denver with staff, who explained that CSB worked with GSA to find office space. To save money, CSB did not want to spend funds on construction with a large build-out. However, it



An empty, large CSB office in Denver. (EPA OIG photo)

wanted its entire Denver staff to be located in one building. GSA told us that it provided CSB with excess office space, but it does not regulate space for other agencies. CSB stated that it agreed to the excess space because it had to make a quick decision based on available inventory to hold all of the Denver staff and the GSA-imposed requirement to vacate its previous space.

Leasing space at 190 USF per person over the GSA benchmark may have resulted in CSB paying more than it needed for its office space. If CSB had leased at the

GSA benchmark, it could have saved at least \$259,899 and up to \$348,443 for Washington, and an additional \$53,357 for Denver in FY 2016. With the combined potential savings in FY 2016, we calculated that CSB could have hired at least three additional GS-14, step 1 level investigators at the Washington office.

Conclusion

CSB needs to improve its documentation for its search of government-owned or government-leased buildings to support that it followed FMR guidance. CSB did not contact GSA in its search for its Pennsylvania Avenue office in Washington. CSB leased space that exceeded the GSA benchmark. As a result, in FY 2016, CSB could potentially pay up to \$348,443 in Washington and \$53,357 in Denver for excess space. CSB could have used the funds for other purposes such as hiring additional investigative staff.

Recommendation

We recommend that the Chairperson, U.S. Chemical Safety and Hazard Investigation Board:

6. Include GSA in any future office leasing plans and revisit office space needs for a potential adjustment or supplement to the Washington, D.C., and Denver office leases to reduce space within the GSA benchmarks.

CSB Comments and OIG Evaluation

The CSB agreed to contact GSA and consult with them on future Washington lease needs and review possible space adjustments as their hiring plans and mission needs change. On February 23, 2016, CSB stated it plans to complete corrective actions by October 20, 2022, for the Washington office, and November 30, 2019, for the Denver office, in response to this recommendation.

We adjusted our report based on CSB's comments. Specifically, we updated the report to show achieved savings in rental costs and projected potential savings for FY 2016. We also noted in the chart the brokerage credits, and removed the statement concerning "...the best value for the taxpayer dollars..." from the report because we agree with CSB's selection process once CSB decided to use a public lease in a delineated area. We also added a statement from GSA's 2012 benchmark report that clarified the use of space, including a portion of shared space.

We agree with CSB's response to this recommendation. CSB's complete response to our discussion document report is in Appendix C.

Status of Recommendations and Potential Monetary Benefits

| RECOMMENDATIONS | | | | | | POTENTIAL MONETARY BENEFITS (in \$000s) | |
|-----------------|-------------|---|---------------------|---|-------------------------------|--|---------------------|
| Rec. No. | Page No. | Subject | Status ¹ | Action Official | Planned Completion Date | Claimed Amount | Agreed-To Amount |
| 1 | 6 | Prepare written quorum session summaries within the required 5 business days to ensure that CSB is in compliance with 40 CFR 1603.5(c). | O | Chairperson, U.S. Chemical Safety and Hazard Investigation Board | 9/30/16 | | |
| 2 | 6 | Define "promptly" and make transcripts of CSB public meetings promptly available in accordance with 40 CFR 1603.12. | O | Chairperson, U.S. Chemical Safety and Hazard Investigation Board | 9/30/16 | | |
| 3 | 6 | Develop and implement guidance and procedures for posting transcripts and other documents to the CSB website. | O | Chairperson, U.S. Chemical Safety and Hazard Investigation Board | 9/30/16 | | |
| 4 | 11 | Document internal guidance that reflects CSB's annual operating budget process and defines the roles and responsibilities for financial staff and management. | O | Chairperson, U.S. Chemical Safety and Hazard Investigation Board | 9/30/16 | | |
| 5 | 13 | Document decisions in the acquisition file in accordance with FAR Subpart 4.801(b) to maintain a complete history of the transactions. | O | Chairperson, U.S. Chemical Safety and Hazard Investigation Board | 9/30/16 | | |
| 6 | 19 | Include GSA in any future office leasing plans and revisit office space needs for a potential adjustment or supplement to the Washington, D.C., and Denver office leases to reduce space within the GSA benchmarks. | O | Chairperson, U.S. Chemical Safety and Hazard Investigation Board | 10/20/22 | \$402 | |

O = Recommendation is open with agreed-to corrective actions pending.
 C = Recommendation is closed with all agreed-to actions completed.
 U = Recommendation is unresolved with resolution efforts in progress.

Benchmarking of Similar Agencies

| Areas reviewed | Response by agency | | |
|--|---|---|--|
| | Chemical Safety Board (CSB) Office of Inspector General- Environmental Protection Agency | Inter-American Foundation (IAF) Office of Inspector General-United States Agency for International Development | Defense Nuclear Facilities Safety Board (DNFSB) Office of Inspector General- Nuclear Regulatory Commission |
| 1. Number of employees and office locations | 41 employees Headquarters, Washington DC office Denver, CO office | 39 employees in one office facility (Washington, DC) | 105 employees Headquarters, Washington, DC Defense Nuclear Facilities Sites (Hanford, Los Alamos National Laboratory, Lawrence Livermore National Laboratory, Oak Ridge National Laboratory, Pantex, and Savannah River Site) |
| 2. Number of Board Members and Number Authorized as of Audit Period | 4 5 Authorized | 6 9 Authorized | 3 5 Authorized |
| 3. Head of Organization and who Appoints them as of Audit Period | Chairperson Vanessa Allen Sutherland, appointed by President and confirmed by Senate | Chief Executive Officer/President Robert N. Kaplan, selected by the Board through a competitive hiring process | Acting Chairperson, Jessie Hill Roberson, appointed by President |
| 4. Internal Governing Criteria | Board Orders | Agency policies and procedures | Directives and Implementing Procedures Board govern using operating Procedures |

| Areas reviewed | Response by agency | | |
|--|--|--|--|
| | Chemical Safety Board (CSB) Office of Inspector General- Environmental Protection Agency | Inter-American Foundation (IAF) Office of Inspector General-United States Agency for International Development | Defense Nuclear Facilities Safety Board (DNFSB) Office of Inspector General- Nuclear Regulatory Commission |
| 5. Items available publicly (see items a through e below): | | | |
| a. Public hearings on Board initiatives, recommendations, or news. | a. Yes | a. Yes | a. Yes |
| b. Budget justifications | b. Yes | b. Yes | b. Yes |
| c. Board Votes | c. Yes | c. N/A | c. Yes |
| d. Laws and regulations governing your organization | d. Yes | d. N/A | d. Yes |
| e. Business Meetings minutes | e. Yes | e. Not at this time | e. Yes |
| 6. Board's role in the preparation and submission of the budget justification to Congress | The Board reviews and votes on the final request before it is sent to Congress | The Board approves annual budget justification before submission | It is reviewed and voted upon by all Board Members |
| 7. Organization has an annual operating budget and Board's role | Yes CSB has an annual operating budget. The Board does have an approval role | Yes IAF has an annual operating budget, submitted to OMB. Board has delegated approval role re: operations to the IAF President | Yes DNFSB has an annual financial plan, i.e., operating budget. The Board does not have an approval role, but they are briefed upon its development, and on a quarterly basis for actual versus planned results |

| Areas reviewed | Response by agency | | |
|--|--|--|--|
| | Chemical Safety Board (CSB) Office of Inspector General- Environmental Protection Agency | Inter-American Foundation (IAF) Office of Inspector General-United States Agency for International Development | Defense Nuclear Facilities Safety Board (DNFSB) Office of Inspector General- Nuclear Regulatory Commission |
| 8. Software used for budget data | CSB uses Microsoft Excel to maintain budget information | IAF uses Discoverer, an Oracle-based financial management system, to maintain budget, via an inter-agency agreement with Bureau of the Fiscal Service (Department of Treasury) | Uses a web-based system they developed 7 years ago |
| 9. Chief Financial Officer (CFO) position | Yes Finance Director signs as CFO Reports to Managing Director (who is also designated as the CFO per his position description) | Yes IAF's Chief Operating Officer also acts as the CFO. Chief Operating Officer reports to the IAF President | Yes The General Manager, who provides the Board's administrative support operations, serves as the CFO. The General Manager reports to the Chairperson, but generally provides information to all Board members via briefings |
| 10. Number of Employees in Accounting and Budget Departments | 2 financial staff (Finance Director & Financial Specialist) | One (Budget and Financial Specialist,) on staff | The equivalent of approximately 2 full-time staff |
| 11. Use of shared service provider for accounting services and oversight of their operations | Use Bureau of the Fiscal Service for accounting function 2 financial staff (Finance Director & Financial Specialist) oversee their operations | Use Inter-Agency Agreement with Bureau of the Fiscal Service, Department of Treasury Chief Operating Officer has oversight of these functions for IAF | Accounting services are provided by a federal shared services provider The Board's Director of Acquisition and Finance, a GS-15 position, has oversight of their operations |

| Areas reviewed | Response by agency | | |
|--|--|--|---|
| | Chemical Safety Board (CSB) Office of Inspector General- Environmental Protection Agency | Inter-American Foundation (IAF) Office of Inspector General-United States Agency for International Development | Defense Nuclear Facilities Safety Board (DNFSB) Office of Inspector General- Nuclear Regulatory Commission |
| 12. Organization reconciliation processes for budget and accounting data | Financial Specialist downloads a Bureau of the Fiscal Service file that is a cost pool report. Each cost pool relates to line items, and compare that to the budget file by line item on a monthly basis | Financial Specialist reviews, using Bureau of the Fiscal Service-provided Oracle-based financial systems | Finance Division independently records budget and accounting data in an internal system, and reconciles that data on a monthly basis with reports from accounting services provider A monthly report of reconciled obligations is provided to the GM |
| 13. GSA or privately owned building, and GSA involvement in determining the location of your facilities | Denver - GSA owned GSA involved Washington, DC – Privately owned GSA not involved | GSA not involved IAF procures realty broker service for assistance with leasing, etc. | Privately owned GSA determined the location and awarded the lease |
| 14. Federal Authority providing independent leasing authority | CSB has independent leasing authority through Clean Air Act Amendment of 1990 | IAF's enabling legislation, Title 22 of United States Code, § 290f (e) (6), gives them independent leasing authority | Not applicable |
| 15. Employs the use of consulting services to help with legal or organizational issues, -Reason(s) for use, -Contract or Interagency Agreement (IAA) | Yes EEO, Employee misconduct Contract | Yes IAF has used contract consulting services for a variety of functions (Training, Human Resource, litigation assistance, temporary clerks, etc.), some through IAA and/or via a procurement process | Yes Examples include a workforce and organizational alignment evaluation, and an evaluation of the Board's workplace culture On occasion, through both contracting and inter-agency agreements |

Prior Audit Coverage

On March 24, 2016, the OIG issued Report No. [16-P-0112](#), CSB Did Not Follow Federal Guidance While Managing the Vantage Contract. Our review of concerns cited in a hotline complaint determined that the original contracting officer's representative and his advisor did not violate the FAR by misusing contractor resources or federal funds. In addition, Vantage did not misrepresent the delivered work product it provided to the CSB board. However, we did determine that the CSB's Managing Director acted inappropriately. In addition, the contracting officer's representative did not, in line with FAR requirements, provide critical information to the contracting officer so that the contracting officer could exercise adequate oversight. The contracting officer was unaware that the contracting officer's representative made a verbal request to the Managing Director to add a human resource advisor to the contract. This report contained two recommendations. CSB provided a planned corrective action and completion date of September 30, 2016. On February 29, 2016, CSB updated Board Order 024 to address the roles and responsibilities of contracting officers, contracting officer's representatives and the Managing Director. Therefore, we closed this recommendation after we issued the report.

On September 30, 2015, the OIG issued Report No. [15-P-0304](#), CSB's Public Meeting Announcement Violated The Government in the Sunshine Act. CSB's public meeting announcement for its January 28, 2015, meeting, posted in the Federal Register, was not compliant with the Sunshine Act. The announcement included a description of what CSB would present and discuss prior to the possible board vote on the final report of CSB's investigation into the Chevron Richmond Refinery Fire. However, at the public meeting, CSB also presented a motion that terminated five investigations on which CSB had already spent over \$800,000, consolidated the former Chairperson's authority over the agency, and rescinded 18 of 46 board orders. By not announcing this motion, CSB kept the public uninformed of its planned actions to end the investigations, in violation of the Sunshine Act. This report contained two recommendations. CSB acknowledged it was not compliant with the Sunshine Act and completed the actions for this report in October 2015.

On July 31, 2015, the OIG issued Report No. [15-P-0245](#), CSB Needs to Improve Its Acquisition Approvals and Other Processes to Ensure Best Value for Taxpayers. CSB did not have in its contract files the proper approvals to allocate funds for 13 contracts and interagency agreements totaling over \$1.9 million. In October 2014, CSB issued instructions for managing acquisitions that were inconsistent with then-existing board orders that governed acquisitions. In January 2015, the board rescinded those board orders. CSB did not have a method that controlled or explained the updating of policies and procedures or the distinction between board orders and management directives. CSB had not followed its internal controls and had not implemented the OIG's February 2011 audit recommendation to develop and implement a management control plan. This report contained five recommendations. CSB stated it plans to fully address our recommendations and provided corrective actions with planned completion dates. CSB has approved new Board Order 024, thus addressing corrective actions for Recommendations 1, 3 and 4, and stated that the corrective actions for Recommendation 5 will be complete by

June 2016. For Recommendation 2, CSB provided us with a draft of its management control plan in December 2015 and a final is expected by June 30, 2016.

On June 29, 2015, the OIG issued Report No. [15-N-0171](#), CSB's Fiscal Year 2014 Purchase Card Program Assessed as High Risk. Our risk assessment determined that CSB's FY 2014 purchase card program was at high risk for illegal, improper or erroneous purchases and payments. The program did not meet federal requirements. This report did not contain any recommendations. We have a FY 2016 audit of CSB's purchase card program and we will note any updates since the issuance of our assessment report.

CSB Response to Discussion Document

U.S. Chemical Safety and Hazard Investigation Board

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Vanessa Allen Sutherland
Chairperson and Member

Manny Ehrlich, Jr.
Board Member

Rick Engler
Board Member

Kristen M. Kulinowski, Ph.D.
Board Member



February 3, 2016

Mr. Kevin Christensen
Assistant Inspector General for Audits
Office of Inspector General
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W., (2410T)
Washington, DC 20460

Dear Mr. Christensen:

Thank you for providing the CSB a copy of the discussion document, *CSB Needs to Continue to Improve Agency Governance and Operations* for our review and comment. We welcome your insights as we strive to improve the CSB this year and going forward.

In order to ensure effectiveness going forward, the CSB will work to adhere to the recommendations provided in the discussion document, but has noted below if some actions have already been taken.

Chapter 2 – CSB Needs to Timely Prepare Its Quorum Summaries and Post its Public Meeting Transcripts

Recommendations:

1. Prepare written quorum session summaries within the required 5 business days to ensure that CSB is in compliance with 40 CFR §1603.5(c).

The CSB will develop internal guidance on preparing written quorum session summaries. We will work to complete the guidance by June 30, 2016. A copy will be provided to you upon completion.

2. Define “promptly” and make transcripts of CSB public meetings promptly available in accordance with 40 CFR §1603.12.

The CSB takes numerous steps to ensure accuracy before placing its transcripts on its website to include:

- The contractor accesses the Digital Voice Files (DVF) from the email transmittal or the secure FTP site.
- The contractor transcribes the interview(s)/public event recorded in each DVF.

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- The contractor sends the completed electronic transcript to the CSB via email or FTP. The contract states that standard turnaround from the contractor back to the CSB is five (5) business days from the date the contractor received the corresponding DVF from the CSB.
- Once received from the contractor, CSB Public Affairs Office reviews the transcript for accuracy.
- The CSB Public Affairs Office then provides a copy of the transcript to its Office of General Counsel for review.
- If errors or inaccuracies are found during the review, the transcribed document is returned to the contractor for correction. The current contract states that the government (CSB) will not accept a transcription containing more than a 2% error rate in terms of word spelling and general correctness.

Given this lengthy review process that has sometimes had to compete with other important mission work, public transcript posting on our website typically requires at least 30 business days. We will define “promptly” as 30-60 days from the date of the hearing or meeting (longer than 30 days in the case of full day and multi-day hearings).

3. Develop and implement guidance and procedures for posting transcripts and other documents to the CSB website.

The CSB will work to develop internal guidance and procedures for posting transcripts and other documents to the CSB website by June 30, 2016.

Chapter 3 – CSB Needs to Formalize its Operating Budget Process and the Board needs to Vote on the Operating Budget

Recommendations:

4. Document internal guidance that reflects CSB’s annual operating budget process and defines the roles and responsibilities for financial staff and management.

The CSB agrees with this recommendation and will work to develop internal guidance regarding the operating budget process and defines roles and responsibilities. As the CSB conducts its organizational assessment, roles and responsibilities will also address this issue.

5. Require the board to vote on an annual operating budget in accordance with Board Order 028.

This recommendation seems to have been overtaken by events that the OIG may not be aware of given that the audit period ran through January 2016. During this audit period, the Board has in fact voted on both Continuing Resolution and operating budgets for FY 2016 (see enclosed). The CSB has clearly worked to improve Board oversight of financial operations during this audit period. It would be duplicative to create a new requirement for the Board to follow its existing

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policies, particularly Board Orders. The CSB respectfully recommends that this recommendation be rescinded, or reviewed for prompt closure if still issued. The Board commits to continue to adhere to Board Order 028 for approval of operating budgets.

Chapter 4 – CSB Needs Documentation for Its Decision to Follow Micro-Purchases with Contracts

Recommendations:

6. Document decisions in the acquisition file in accordance with FAR Subpart 4.801(b) to maintain a complete history of the transactions.

The CSB agrees with this recommendation and will work to document decisions in its files as recommended.

Chapter 5 – CSB Needs to Better Document Its Government Buildings Search and Not Exceed GSA Space Benchmarks

Recommendations:

7. Include GSA in any future office leasing plans and revisit office space needs for a potential adjustment or supplement to the Washington, DC and Denver Office leases to reduce space within the GSA benchmarks.

Response:

The CSB agrees to contact GSA and consult with them on future DC lease needs. We will certainly review possible space adjustments as our hiring plans and mission needs change.

The CSB does take notable exception to the report's understatement of the agency's achieved savings in rental costs. The report states:

The K Street annual lease cost was \$997,473. CSB pays an annual lease cost of \$654,360 for the Pennsylvania Avenue office, which saves it \$342,276 per year, or a 34 percent reduction.

In FY 2015, the CSB spent \$1,120,157.99 in lease payments for its DC office, inclusive of operating cost and real estate taxes. In FY 2016 and following the move into new space, this cost has been reduced to \$594,398.36 inclusive of operating costs and real estate taxes, or a savings of ***\$525,759.63 or a 47 percent reduction for the government.***

Moreover, the annual lease costs for the Pennsylvania Avenue office average \$572,677.39 (not \$654,360), which is detailed in the payment chart we sent on 8/10/15. It appears that the numbers put in the report did not include any of the free rent or brokerage credits we received as part of the lease agreement (detailed in this chart) and significantly discount the annual costs in years four through ten specifically.

**U.S. Chemical Safety and
Hazard Investigation Board**

Next, the CSB believes the following statement is overstated:

As a result, the agency cannot prove that it followed the FMR requirements and may not have received the best value for the taxpayer dollars it spent.

In its over 1,500-page lease file, the CSB has included documents such as the delineated area memo, which specifically documents the steps and processes outlined in the Federal Management Regulation (FMR). The CSB used a National Broker Contract broker, which is also used by GSA to do federal competitive leases, and then followed the competitive process as required under the FMR. The competitive process was then documented in detail through the Price Negotiation Memorandum included in the lease file, which among other things shows a competitive process that resulted in the receipt of eight (8) offers. The discussion document attempts to compare an inadequately-documented review of USPS and federal government space to imply that the CSB “may not have received the best value for the taxpayer.”

Lastly, we noted in the OIG’s 2013 report on EPA’s use of space that the OIG used a different benchmark, specifically:

GSA staff stated that, in determining the benchmark, they included only office or cubicle areas and a portion of shared space such as conference rooms and hall space.

We believe a similar, important caveat is warranted in the review of CSB office space as these benchmarks do not accommodate for the CSB's mission-related needs, such as a public meeting area for the Board’s Sunshine Act meetings, storage space for its investigators’ field equipment, or adequate space for a five member Board regardless of whether the agency has a full complement.

If you or your staff have any questions about this response, please feel free to contact me or Anna Brown, Audit Liaison, at 202-261-7639.

Sincerely,



Vanessa Allen Sutherland
Chairperson and Board Member

Enclosures

Distribution

Chairperson and Board Member, U.S. Chemical Safety and Hazard Investigation Board

Board Members, U.S. Chemical Safety and Hazard Investigation Board

Director of Administration and Audit Liaison, U.S. Chemical Safety and Hazard
Investigation Board

General Counsel, U.S. Chemical Safety and Hazard Investigation Board