

**Agency Response to Office of Inspector General
FY 2023 Top Management Challenges Report
October 28, 2022**

Below is the agency's response to the Office of Inspector General's FY 2023 Top Management Challenges report, which included issues related to the U.S. Environmental Protection Agency's mission to protect human health and the environment. The EPA agrees there are significant environmental and human health challenges, including but not limited to tackling the climate crisis, taking action to advance environmental justice and civil rights, ensuring safety of chemicals, ensuring scientific integrity and science-based decision making, and managing the agency's infrastructure resources and business operations. These and other priorities are communicated in the agency's FY 2022-2026 Strategic Plan, along with a detailed roadmap for achieving our mission. In addition, as mentioned in the management challenge descriptions, the EPA will request appropriations in the FY 2024 President's Budget to assist in expanding work in a number of these areas and other key priorities. The responses below provide a summary of the major topics.

Challenge 1: Mitigating the Causes and Adapting to the Impacts of Climate Change.

Agency Response: The EPA is working to drive greenhouse gas emission reductions through an integrated approach of regulations, partnerships, and technical assistance. The EPA is also working to strengthen the nation's adaptive capacity and resilience, with a particular focus on advancing environmental justice. The EPA will ensure its programs, policies, regulations, enforcement activities, and operations consider current and future impacts of climate change and how those impacts disproportionately affect certain communities. As directed in Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*, the EPA issued a Policy Statement on Climate Change Adaptation in May 2021 and published its 2021 Climate Adaptation Action Plan in October 2021. In FY 2022, the agency published program and regional office *Implementation Plans*, which reported progress to date and identified actions needed to address the agency-wide priorities identified in the Climate Adaptation Action Plan. Program and regional offices will continue to engage with states, tribes, territories, and local communities in implementing their plans.

Responsible Agency Official: Victoria Arroyo, EPA Senior Climate Adaptation Official; Betsy Shaw, Deputy Assistant Administrator, Office of Air and Radiation

Challenge 2: Integrating and Leading Environmental Justice Across the Agency and Government.

Agency Response: In FY 2022, the EPA took the historic step of creating a new national program Office of Environmental Justice and External Civil Rights incorporating the Office of Environmental Justice with the Office of General Counsel's External Civil Rights Compliance Office, along with OGC's Conflict Prevention and Resolution Center. This new national program will be led by a presidentially appointed Senate confirmed Assistant Administrator, significantly elevating the profile and authority of environmental justice and civil rights compliance across the EPA to a level on par with other programs, such as air, water, and land and emergency management. Together with the increased funding the EPA received in the FY 2022 annual appropriation for EJ and the investment received through the Inflation Reduction Act for the Environment and Climate Justice block grants, the OEJECR will provide an unprecedented level of support throughout the EPA to engage and support communities; work with and support external partners such as states, tribes, and local government; and bring a stronger structural and systemic ability to integrate EJ and comply with civil rights requirements throughout all of the EPA's policies, programs, and activities.

In the past year, the EPA also finalized its FY2022-2026 Strategic Plan. This plan, for the first time ever, contains a dedicated goal specifically focused on advancing environmental justice and external civil rights compliance throughout the agency. This inclusion not only signals to all parts of the EPA and its partners, such as states, tribes, and local government, the central importance of EJ and civil rights compliance within the EPA's mission, but also puts the new program office on level footing with other priority programs of the agency and its mission of environmental and public health protection.

Inclusion of this goal also enabled the new OEJECR to craft and publish an accompanying National Program Guidance (NPG) to help guide implementation of the strategic plan commitments. Both the strategic plan and the accompanying NPG have focused on tying together the EJ and external civil rights commitments of the strategic plan with the commitments and goals of EPA's Equity Action Plan, crafted and published in accordance with Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities through the Federal Government*. A highlight of these plans is the commitment to develop and publish a framework for the consideration and integration of cumulative impacts throughout the environmental public health regulatory system, the crafting of guidance and tools to support full compliance with civil rights laws and requirements, and the development of at least ten indicators of disparity reduction as the ultimate measures of achieving beneficial outcomes on the ground for overburdened and vulnerable communities as a result of the efforts of the EPA and its partners.

The EPA also continues to provide direct support to the White House Council on Environmental Quality as it leads implementation of EO 14008. In particular, the EPA supports the management of the White House Environmental Justice Advisory Council and regularly engages and supports CEQ staff in leading the Interagency Council on Environmental Justice as well as providing advice based upon the agency's experience on specific elements such as development of the Climate and Economic Justice Screening Tool and the EJ Scorecard. The EPA is working directly with numerous federal agencies to coordinate and align efforts through the Bipartisan Infrastructure Law, the Inflation Reduction Act, and annual appropriations. This is especially critical as so many agencies, through the Justice40 initiative, look for ways from the top down to ensure the benefits of their programs and investments reach disadvantaged communities. The EPA complements these efforts by providing direct support to build the capacity of those communities to push from the bottom up.

The EPA's resources are essential to support the affected communities. These resources enable them to build the capacity to assess their needs, develop a vision and plan, and leverage collaborative partnerships across the federal government.

Responsible Agency Official: Marianne Engelman-Lado, Acting Principal Deputy Assistant Administrator, Office of Environmental Justice and External Civil Rights

Challenge 3: Providing for the Safe Use of Chemicals.

Agency Response: The prioritization of review of Pesticide Registration Improvement Act actions with statutory decision timeframes over non-PRIA actions without statutory due dates has led to a decrease in the number of non-PRIA completions in recent years, and the development of a backlog. During this same period of time, the EPA has seen an increase in new submissions for PRIA actions as well as renegotiation of PRIA-fee-for-service actions or the non-PRIA backlog. Currently, there are more than 11,000 non-PRIA pesticide actions from previous years that are still pending completion. Despite completing record numbers of PRIA actions in the past few years, the EPA's FY 2022 renegotiation rate

for PRIA actions rose to almost 52 percent for all PRIA applications and to over 70 percent for conventional pesticides. For comparison, 5 years ago in FY 2018 the PRIA renegotiation rate was 17 percent, and at the end of FY 2021 the renegotiation rate was 34 percent. In addition, the scientific and legal complexity of pesticide submissions has increased significantly while the Pesticide program has been losing seasoned and experienced staff and program resources have remained flat over the years. In fact, there are 25 percent fewer staff in the Pesticide program than 15 years ago. Decreased capacity in staffing requires longer time to complete pesticide actions and further contributes to a growing backlog.

The EPA recognizes that greater market predictability around the EPA decision review timeframes is one of the main objectives of PRIA and its reauthorizations. The agency is actively working with its stakeholders to identify process improvements and resource needs in the future to bring the EPA's decision review timeframes back in alignment with statutory timeframes in PRIA, to eliminate the existing backlog of non-PRIA actions, and to improve review timeframes for non-PRIA applications going forward so that a backlog does not again develop.

To address a decades-old challenge of protecting endangered species from pesticides while minimizing regulatory impacts to pesticide users, the first-ever comprehensive workplan, *Balancing Wildlife Protection and Responsible Pesticide Use*, was released to the public in April 2022. The workplan describes new and creative solutions for the EPA to come into compliance with the Endangered Species Act and establishes four overall strategies and dozens of actions to adopt those protections while providing farmers, public health authorities, and others with access to pesticides. The workplan also sets a new vision for a successful ESA-Federal Insecticide, Fungicide, and Rodenticide Act program that focuses on supporting the development of safer technologies to control pests, completing timely FIFRA decisions, and collaborating with other agencies and stakeholders on implementing the plan. The EPA released a workplan update in November 2022, explaining how it will adopt early mitigation for ESA species as part of registration review decisions. In addition to the ESA workplan, the agency requested, for the first time in the FY 2023 President's Budget, an additional \$4.9 million and 10 FTE to begin making incremental progress toward meeting ESA mandates and enable the Pesticide program to make progress toward better protection for federally threatened and endangered species from exposure to new active ingredients.

In the explanatory statement accompanying the FY 2022 omnibus appropriations act, Congress encouraged the EPA "to properly consider full costs [of implementing the Toxic Substances Control Act] in its deliberations, in line with the Lautenberg Act's intent." To that end, in November 2022 the agency published a supplemental notice of proposed rulemaking on fees for administering TSCA. Though the Lautenberg Act was enacted in 2016, EPA's first fees rule was not finalized until 2018, and no fees were collected until FY 2019. Under the 2018 rule, the costs of the first 10 risk evaluations were exempted from the fees, and the last Administration did not conduct a budget analysis to calculate the actual costs of implementing the new law to use as its baseline. As a result, only about 13 percent of the artificially low baseline cost estimate for the program were collected under the 2018 fees rule. In addition, the 2021 fees rule proposal excluded the costs of risk management activities for the first 10 chemicals and 20 high-priority substances and the additional resources needed to implement TSCA as Congress intended. The EPA is further working to ensure that the TSCA program is adequately funded by incorporating the Office of Pollutant Prevention and Toxic's most recent workforce analysis to inform its proposals in the FY 2023 President's Budget request. The OPPT is also investing in recruitment and hiring of additional scientists with specialized expertise in various human health risk assessment disciplines to provide internal senior level review (outside of the management chain) of chemical risk assessment products, which are the foundation of sound risk management.

The Office of Chemical Safety and Pollution Prevention is also developing a multi-year collaborative research program in partnership with the agency's Office of Research and Development and other federal entities to improve existing approaches and develop and implement New Approach Methodologies and to ensure the best available science is used in TSCA new chemical evaluations. In addition, the EPA reviewed its risk determinations for the first 10 existing chemical substances evaluated under the Lautenberg Act to assess whether the previous Administration's policy decision to exclude certain exposure pathways (i.e., air, water) from the risk evaluations may have led to failures in identifying potential unreasonable risks from these exposure pathways and appropriately addressing the statutory requirement to evaluate potential exposures to potentially exposed or susceptible subpopulations, including fenceline communities (i.e., communities near industrial facilities).

In October 2021, OCSPP announced several actions to enhance the scientific integrity of its programs, including forming a new internal advisory group to provide advisory support and recommendations on science policy and scientific integrity issues that arise within OCSPP, establishing a new science policy advisor position that provides guidance to the Assistant Administrator for OCSPP on emerging science policy and scientific integrity, and adopting a range of policies, practices, and procedures to ensure sound science and consistent approaches for chemical reviews.

Responsible Agency Official: Rick Keigwin, Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention

Challenge 4: Safeguarding Scientific Integrity Principles.

Agency Response: The EPA's Scientific Integrity Policy has been in effect since February 2012 and is one of the longest standing scientific integrity policies in the federal government. Scientific Integrity at the EPA will be further strengthened by updating the Scientific Integrity Policy to meet the Office of Science and Technology Policy's requirements for policy content, implementation, and evaluation. In recognition of EPA's leadership in scientific integrity, OSTP appointed our Scientific Integrity Official as a co-chair of three related White House initiatives that implement the January 2021 Executive Memorandum on scientific integrity and drive scientific integrity policy across federal executive branch agencies.

The EPA is unwavering in its commitment to promptly address scientific integrity concerns and investigate and adjudicate allegations. The EPA will continue to strengthen its robust mechanisms to protect and maintain a culture of scientific integrity and is on target to develop and implement procedures to address allegations, including violations involving high-profile issues or senior officials. The EPA's steadfast commitment to implementing the Scientific Integrity Policy in support of a culture of scientific integrity, enhanced transparency, and the protection of scientists is evidenced by agencywide training and outreach activities that engage employees on scientific integrity. The Agency has recognized the important role of leaders in enhancing a culture of scientific integrity and accordingly added strong language about scientific integrity into the performance plan requirements for its SES, ST, and SL leaders in FY22 and going forward. This language requires these leaders to be responsible for exemplifying firm commitment to principles of scientific integrity in all relevant situations and complying with and advocating for the EPA Scientific Integrity Policy when doing any of the following: conducting, managing, using the results, and communicating about science and scientific activities.

The EPA will continue to maintain scientific integrity's high visibility throughout the agency through regular outreach, including hosting an annual meeting with EPA employees and launching updated training for new employees, to build upon 10 years of the Scientific Integrity Program at EPA.

Responsible Agency Official: Maureen Gwinn, Principal Deputy Assistant Administrator, Office of Research and Development

Challenge 5: Ensuring Agency Systems and Other Critical Infrastructure Are Protected Against Cyberthreats.

Agency Response: The agency recognizes the importance of enhancing information technology security to combat cyber threats. In addition to addressing recommendations identified in audit reports, the agency continues to make progress towards complying with Executive Order 14028, *Improving the Nation's Cybersecurity*, improving its Federal Information Security Management Act report rating, and improving security at water facilities at a nationwide scale. The agency developed processes to improve compliance with federal requirements and agency policy and metrics to monitor progress towards cybersecurity improvements and has improved internal procedures and roles towards oversight and review of agency cybersecurity initiatives and processes. The agency has been able to improve its cybersecurity posture in part by deploying Continuous Diagnostics and Mitigation software, Privilege Access User Management tools, Endpoint Detection and Response tools, and a next generation Security Incident and Event Management system. The EPA will also continue to work with states, tribes, and territories to improve their cybersecurity surrounding water systems by providing technical assistance, publishing guidance, and work with the Department of Homeland Security to develop sector-specific infrastructure cybersecurity goals.

Responsible Agency Official: Tonya Manning, Acting Director, Office of Information Security & Privacy, Office of Mission Support; Benita Best-Wong, Deputy Assistant Administrator, Office of Water

Challenge 6: Managing Business Operations and Resources.

Agency Response: Workforce planning and management is a priority for the agency and is integrated into the FY 2022-2026 EPA Strategic Plan and as a part of the EPA's Evidence Act Learning Agenda. The agency is implementing workforce planning and knowledge transfer strategies to support succession planning across the agency and adopting new workforce and workplace innovations to support the future of work. In response to increases in workload resulting from the Infrastructure Investment and Jobs Act and the Inflation Reduction Act, the agency is working to leverage all available hiring authorities to expedite the hiring of new employees followed by timely onboarding and training. The agency has well established internal controls to provide effective oversight for programs and has developed additional training, technical assistance, and internal control plans to ensure that funds directed toward infrastructure improvements through the use of grants, loans, and contracts are utilized as intended. The EPA acknowledges that increases in funding require appropriate oversight and is committed to safeguarding its resources against waste, fraud, abuse, and mismanagement.

In FY 2023, the EPA identified New Grantees of Annual and Supplemental Funds as an Enterprise Risk. Significant new grant funding through legislation such as the Bipartisan Infrastructure Law, the IRA, and Congressionally Directed Spending will result in an increase in the number of new grant applicants, including from underserved communities and those that are first-time applicants. Therefore, grants management is a key focus of the EPA's implementation of IJA and IRA, with the agency mapping out grants processes to identify potential opportunities to improve the process and tracking the announcements of grants and the awarding of funds internally through our Continuous Improvement process. Without extensive outreach, training, and technical assistance, these new recipients are at risk of not having the capacity to comply with all federal grants management requirements throughout the

grant lifecycle. In FY 2023, the agency is developing best practices for grants management and is collaborating with the OIG on providing training to potential grant recipients. This focus as an enterprise risk will allow the agency to implement a coordinated approach to engage with new recipients and provide a suite of tools to help new recipients reduce noncompliance risks and meet federal programmatic, financial, and reporting requirements. These tools include live and recorded training, direct programmatic support and technical assistance, and publishing new policy and guidance to strengthen compliance where needed.

Additionally, the EPA continues to refine and enhance its risk, internal control, fraud, and improper payment management activities, which enable smooth business operations and protection against fraud, waste, and abuse. In FY 2022, the agency engaged in a robust effort to boost its risk and internal control programs by instituting the Enterprise Risk Management Application. Through this tool, risks and associated mitigation strategies were collected and analyzed to allow for a more corporate view of vulnerabilities that could impact the agency's mission. As the inaugural year of this application has ended, the agency is working to leverage the momentum gained and build a more prominent and free-standing fraud detection program.

Responsible Agency Official: Kimberly Patrick, Principal Deputy Assistant Administrator, Office of Mission Support; David Bloom, Deputy Chief Financial Officer, Office of the Chief Financial Officer

Challenge 7: Enforcing Compliance and Environmental Laws and Regulations.

Agency Response: Enforcement and compliance activities are critical parts of the agency's mission. Building on a historically strong program, under the current Administration, the EPA has increased its focus on traditional civil and criminal enforcement tools, with particular attention on environmental and public health threats to overburdened communities. This includes identifying strategies and actions to make environmental justice considerations a part of all aspects of the agency's enforcement program. In furtherance of the Administration's priorities, the agency has rescinded several policies that, in part, were responsible for a number of the concerns identified by the OIG. The agency put in place new policies that reflect the current Administration's emphasis on strong enforcement.

There are two challenges identified by the OIG where additional information from the EPA may help clarify the enforcement program's current posture. With respect to the OIG's reference to the challenges faced by the National Enforcement Investigations Center from high rates of attrition from 2014 to 2020, NEIC has been able to increase full-time equivalents to 2014 levels. In 2023, NEIC continues to hire additional full-time equivalents to bring NEIC to the highest staffing levels in over a decade (a 20 percent increase over 2014 levels). With respect to the FY 2023 \$42 million budget request to support compliance monitoring, these resources are not only intended to modernize our national enforcement and compliance data system, but the resources will also expand compliance monitoring efforts to address: environmental justice issues, including the Compliance Advisor Program; Smart Tools for inspectors; implementation of the Evidence Act; per- and poly-fluoroalkyl substances; and climate change concerns, including reduction in the use of hydrofluorocarbons. The EPA is approaching this challenge from multiple angles and contingent upon additional resources, is committed to getting back to high compliance monitoring levels, similar to the 2010 levels, as quickly as possible.

The agency remains actively engaged with the OIG in developing corrective actions that will respond to concerns raised in a recent report (Report Number: 21-P-0132 - *Resource Constraints, Leadership Decisions, and Workforce Culture Led to a Decline in Federal Enforcement*). The EPA's Office of Enforcement and Compliance Assurance looks forward to working with colleagues across the agency, as

well as state and tribal partners, stakeholders, and the OIG in addressing issues presented in the FY 2023 Top Management Challenges report.

Responsible Agency Official: Mark Badalamente, Director, Office of Administration and Policy, Office of Enforcement and Compliance

Challenge 8: Managing Increased Investment in Infrastructure.

Agency Response: The enactment of IJIA has greatly increased the amount of resources EPA is responsible for directing into infrastructure investments, and will also increase the number and types of grantees with whom EPA will be working. To provide effective oversight for programs that received infrastructure funding, the agency continues to promote efficiency and ensure compliance with the IJIA provisions. This oversight includes the establishment of a Program Integrity Framework to focus on the agencywide applications of risk management, payment integrity, and internal controls. Senior leadership uses the Program Integrity Framework to assist in prioritizing and mitigating risks, identifying the agency's enterprise risk, and making critical operations decisions. Additionally, those offices receiving funding received training on technical assistance and internal control plans to ensure that funds directed toward infrastructure improvements through the use of grants, loans, and contracts continue being used as intended. The EPA is continuously enhancing Program Integrity efforts and oversight over infrastructure investments and is committed to safeguarding its resources against waste, fraud, abuse, and mismanagement. Additional agency efforts include:

- Developed performance measures to monitor and report on progress, as outlined in the IJIA Program Implementation Plans.
- Launched several technical assistance programs / initiatives to help communities better access IJIA funding.
- Engaged stakeholders to hold quarterly fraud trainings for agency personnel.
- Implemented additional controls within the agency's financial systems to track infrastructure investments by appropriation, program, etc.
- Conducting OMB Circular A-123, Appendix C risk assessments in in FY2023 to ensure protection against fraud, waste, and abuse.
- Implementing a more robust fraud detection and prevention program.
- Employing an industrial engagement strategy for partners with IJIA funding.

Responsible Agency Official: Zealan Hoover, Senior Advisor to the Administrator; Kimberly Patrick, Principal Deputy Assistant Administrator, Office of Mission Support; David Bloom, Deputy Chief Financial Officer, Office of the Chief Financial Officer