

# Infrastructure Investment and Jobs Act Progress Report—Year Two

March 7, 2024 | Project No. 24-N-0026



To find out more about the U.S. Environmental Protection Agency  
Office of Inspector General activities related to the  
Infrastructure Investment and Jobs Act, visit our [website](#).

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## Abbreviations

|         |  |
|---------|--|
| EPA     | U.S. Environmental Protection Agency   |
| FY      | Fiscal Year                            |
| IJA     | Infrastructure Investment and Jobs Act |
| OIG     | Office of Inspector General            |
| Pub. L. | Public Law                             |
| SRF     | State Revolving Fund                   |

## Cover Image

Examples of different U.S. Environmental Protection Agency programs receiving Infrastructure Investment and Jobs Act funding. From top to bottom: Pollution Prevention, Water Infrastructure, and Clean School Buses. (EPA images)

**Are you aware of fraud, waste, or abuse in an EPA program?**

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## Foreword

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The Infrastructure Investment and Jobs Act, or IIJA, was signed into law on November 15, 2021, providing for significant investments in the nation’s drinking water and wastewater infrastructure projects, environmental cleanups, clean school buses, and other environmental projects. The IIJA appropriates over \$60 billion to the U.S. Environmental Protection Agency from fiscal year 2022 through 2026, the largest appropriation that the Agency has ever received. Since the IIJA was enacted, the EPA Office of Inspector General has been engaged in timely and relevant oversight [work](#). This second annual IIJA progress report provides updates on our oversight of the EPA’s execution of that funding through January 31, 2024.

As I said in my September 2023 [testimony](#) to Congress, our oversight work responds directly to risks associated with major supplemental appropriations like those of the IIJA. For example, we anticipate increased risks related to the Agency’s spending of IIJA funds, the vast majority of which will be awarded as loans, grants, or rebates to nonfederal entities under programs such as the State Revolving Fund and Clean School Bus Programs. While the funding mechanisms might be familiar, we are concerned about the capacity of these recipients and their subrecipients to handle this money efficiently and effectively.

Additionally, we assess the EPA as facing at least two significant management challenges related to the IIJA, as we noted in *The EPA’s Fiscal Year 2024 Top Management Challenges [report](#)*, issued November 2023. One management challenge, which is *managing grants, contracts, and data systems*, concerns the influx of about \$102 billion in supplemental appropriations to fund EPA programs under the IIJA and the Inflation Reduction Act. This increased funding brings greater risks of fraud, waste, abuse, and noncompliance with both federal and EPA funding requirements. Another challenge, *overseeing, protecting, and investing in water and wastewater systems*, addresses the EPA’s oversight responsibility for strengthening and securing the cyber and physical security at tens of thousands of public drinking water systems and publicly owned wastewater treatment systems.

Finally, we are working with the EPA and outside stakeholders to improve fraud awareness and strengthen internal controls on IIJA projects. Fraud briefings, coordination with other federal and state agencies, and other forms of outreach continue to be important in our efforts to prevent and detect fraud, waste, and abuse, and to ensure the Agency’s efficiency and effectiveness. We also continue to leverage our in-house data analytics capabilities to improve transparency surrounding the EPA’s IIJA spending and to help detect fraud risks or other threats to that spending.

Having spent these last two years focusing on preventing fraud, waste, and abuse in EPA programs receiving IIJA funds, it is now time for us to turn toward detecting fraud, waste, and abuse. This is why I declared 2024 our “Year of Fighting Fraud.” In the next year and beyond, we expect to dedicate significant effort to ensuring that the EPA uses its infrastructure funds efficiently and effectively.



Sean W. O'Donnell  
Inspector General

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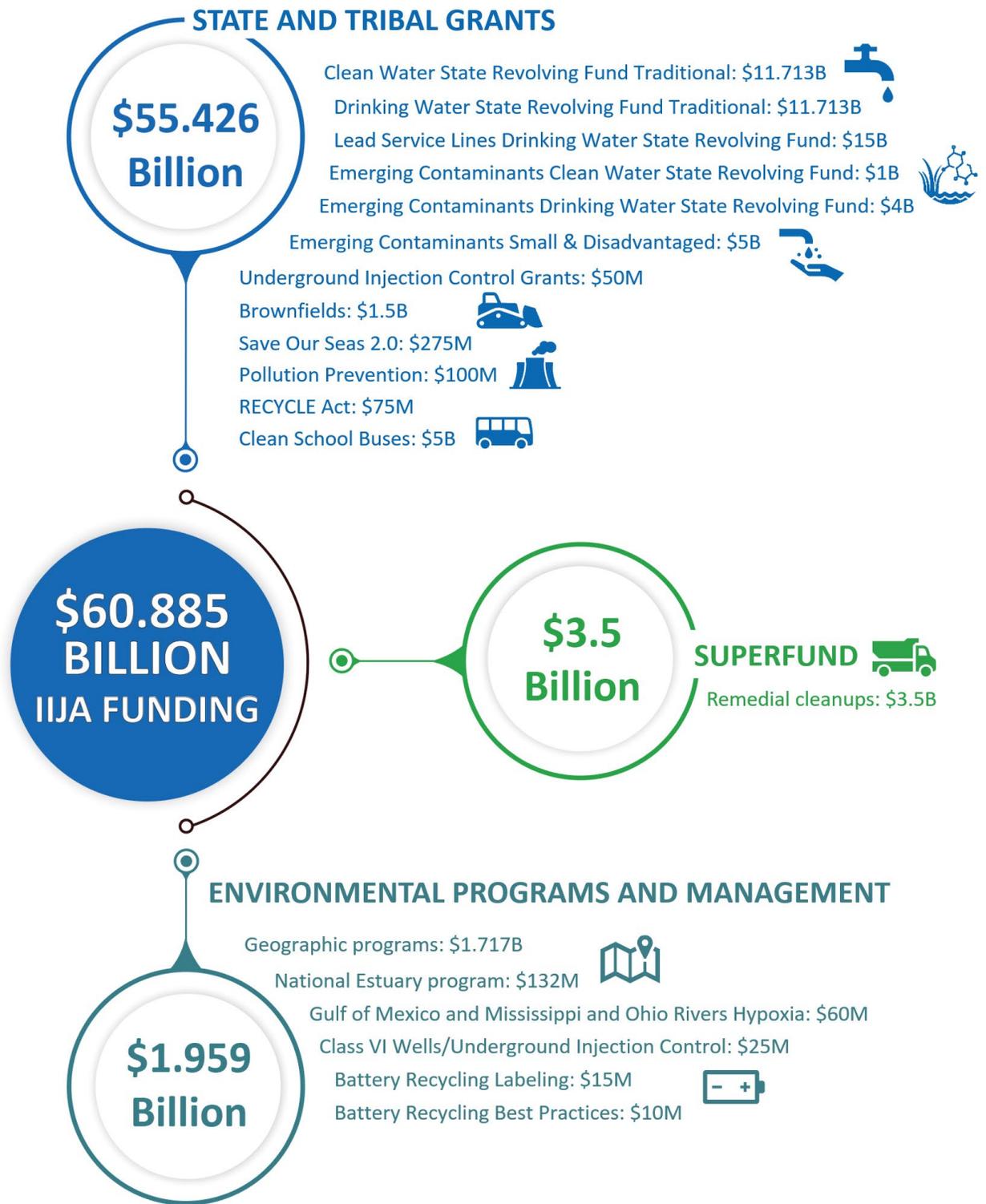
## The IIJA Provides the EPA with Over \$60 Billion

On November 15, 2021, President Joseph R. Biden signed the Infrastructure Investment and Jobs Act, or IIJA, Pub. L. 117-58. The purpose of the IIJA, as it applies to the U.S. Environmental Protection Agency, is to advance public health and safety by improving the nation's drinking water, wastewater, and stormwater infrastructure; cleaning up legacy pollution; investing in environmental and geographic programs; and enhancing the country's climate resilience. The Act appropriates over \$60 billion to the EPA from fiscal year 2022 through FY 2026, comprising 19 appropriations, largely to existing programs. For most programs, these funds are available until expended. The IIJA's supplemental appropriations represent a significant increase in funding for the EPA, whose annual appropriations ranged from about \$7.9 billion to \$10.14 billion from FY 2013 through FY 2023. On the next page, Figure 1 shows the EPA's expected IIJA appropriations by program.



Construction work involving drinking water lead service line replacement. (EPA images)

Figure 1: IIJA funding by program



Note: B = billion; M = million.  
Source: IIJA. (EPA OIG image)

## The EPA Has Obligated About \$17.2 Billion in IIJA Funds

USAspending.gov, the federal government’s public website for tracking obligations and outlays, reports that, as of December 31, 2023, the EPA had obligated \$17.2 billion in IIJA funding. An **obligation** is a promise made by the government to spend money, whereas an **outlay** occurs when money is actually paid. As reflected in the [OIG dashboard](#) “EPA Infrastructure Investment and Jobs Act (IIJA) Spending,” about 84 percent of the obligated total was for state and tribal assistance grants, about 13 percent was for Superfund, and about 3 percent was for environmental programs and management.

The spending data show that, while the EPA had obligated about 28 percent of the over \$60 billion in IIJA funds, as of December 31, 2023, the Agency had only expended 6 percent of the total appropriated funds. Table 1 shows the EPA’s IIJA obligations and outlays as reported in USAspending.gov.

**Table 1: The EPA’s IIJA obligations and outlays**

| Description                                    | Amount         |
|--|----------------|
| EPA obligations                                | \$17.2 billion |
| Percent of obligations to total appropriations | 28%            |
| EPA outlays                                    | \$3.8 billion  |
| Percent of outlays to total appropriations     | 6%             |

Source: OIG analysis of USAspending.gov data. (EPA OIG table)

*Note:* Data were retrieved on February 5, 2024, and reflect obligations and outlays as of December 31, 2023.

## The IIJA Funds the OIG’s Mission to Conduct Oversight and Review

The OIG is an independent office of the EPA charged with promoting efficiency and economy in Agency operations and detecting and preventing fraud, waste, abuse, mismanagement, or misconduct related to the EPA’s programs and operations. For FYs 2022 through 2026, the IIJA provides us with funding, most of which is available until expended—commonly referred to as “no-year” funds—for oversight of the Agency’s IIJA-funded programs and operations.

As part of our oversight role, we will assess whether the EPA is using its IIJA funds in accordance with congressionally designated purposes. Our oversight will focus on the execution of IIJA funds; the efficiency and effectiveness of the programs receiving IIJA funds; and the detection and prevention of fraud, waste, and abuse. We will do this by continuing to leverage data analytics to develop proactive fraud-detection methodologies, allowing us to target our audits, evaluations, and investigations on high-risk programs and recipients.

## The OIG Notes Its IIJA-Related Spending and Hiring Efforts to Date

As of January 31, 2024, we had obligated over \$33.5 million and expended about \$33.0 million, or about 12 percent, of our \$269.3 million in appropriated IIJA funds. The no-year IIJA funds allow us the

flexibility to ramp up our resources and observe the EPA’s IJA implementation across several years to perform responsive, effective oversight.

We will continue to evaluate our staffing needs to effectively carry out and support our IJA oversight mission. Additionally, we will continuously review and assess our expenditures to ensure accurate accounting and appropriate use of funds received. As the EPA’s expenditure of IJA funds increase, and our IJA oversight activities and operation mature, we will regularly reiterate and refine guidance to our personnel to ensure the propriety of our IJA expenditures. Table 2 provides an overview of our full-time equivalents that charged to IJA funds as of December 16, 2023.

**Table 2: The OIG’s IJA full-time equivalents\* as of December 16, 2023**

| Office                                  | IJA FTEs*  |
|---|------------|
| Office of Audit                         | 32         |
| Office of Special Review and Evaluation | 20         |
| Office of Investigations                | 23         |
| Support offices†                        | 36         |
| <b>Total</b>                            | <b>111</b> |

Note: FTE = full-time equivalent.

Source: OIG data as of December 16, 2023. (EPA OIG table)

\*The numbers in this column were calculated by taking the total number of hours all EPA OIG personnel charged to the IJA from fiscal year 2023 pay period one to fiscal year 2024 pay period six, divided by the number of compensable hours in a pay period (80), divided by the number of completed pay periods.

†Support offices include the OIG Immediate Office, Office of Mission Support, Office of Strategic Analysis and Results, Office of Information Technology, Office of Counsel, Office of Congressional and Public Affairs, and the former Office of the Chief of Staff.

## The OIG’s Infrastructure Oversight Work

Since the first IJA progress report, we have focused on reporting on the EPA’s ability to execute available IJA funds; the efficiency and effectiveness of the programs receiving IJA funds; and the detection and prevention of fraud, waste, and abuse. Our internal IJA working group meets monthly and focuses on project coordination, overall IJA program management, outreach strategies, IJA spending trends, and reporting. Our year two IJA oversight work included the issuance of three audit reports and two management implication reports. The reports focused on grants management, clean school bus funding, and unspent obligations for programs receiving IJA funds.

A **management implication report** is a document that we issue to the Agency to detail our concerns about and measures for the improvement of a program. It is not an audit or evaluation.

## Completed Projects

The first of our year two IIJA-related reports, a management implication [report](#) issued in March 2023, informed the Agency of certain issues related to the awarding and disbursing of grants. We observed that grantees and subrecipients may not be fully aware of key fraud prevention and enforcement measures. As a result, we detailed three areas in which the Agency needs to strengthen its grant-funding mechanisms. First, the EPA should take stronger steps to clearly communicate the criminal, civil, and administrative consequences of fraudulent conduct throughout the life cycle of a grant. Second, the EPA needs to add OIG reporting requirements and whistleblower protection provisions to its standard terms and conditions. And third, the EPA must ensure that we have timely access to the records and personnel of grantees and subrecipients.

In September 2023, we issued a [report](#) on unliquidated obligations for programs receiving IIJA funding. We determined that from FY 2018 through 2023, the EPA had over \$1.55 billion in unliquidated obligations with inactivity of 180 days or more, including about \$429 million in IIJA funds in FYs 2022 and 2023. The EPA should review unliquidated obligations for programs that received a substantial increase through the IIJA to ensure that the funds are used for the intended programs or deobligated in a timely manner to fund other environmental projects, as appropriate. Rather than sitting idle, awarded funds could be put to better use by communities that are ready to proceed with environmental projects.



The four EPA programs with the highest unliquidated obligations and IIJA funding are the Clean Water State Revolving Fund, geographic programs, the Drinking Water State Revolving Fund, and Superfund. (EPA images)

In December 2023, we issued an audit and a management implication report on the EPA's Clean School Bus Program. The audit [report](#) sought to determine whether potential supply chain or production delays could impact the EPA's efforts to disburse and manage IIJA funding allocated for the EPA's Clean School Bus Program. Under the IIJA, this program will provide \$5 billion to replace existing school buses with zero- or low-emission school buses. The audit found that, while there were no significant supply chain issues or production delays that impacted the EPA's efforts to disburse funds through the first round of Clean School Bus Program funding, there could be delays in utilities constructing the needed charging stations to make the buses fully operational. Thus, the Agency may be unable to effectively achieve program goals unless it can ensure that school districts will be able to establish the infrastructure necessary to support the clean buses that they purchase.



Electric school bus. (EPA image)

The management implication [report](#) outlined our concerns that the EPA's lack of verification mechanisms within the Clean School Bus Program's rebate and grant application process increases risk for fraud, waste, and abuse. We reviewed the 2022 Clean School Bus rebate program and found that program data contained potentially inaccurate information. We also identified one instance in which an entity without any students applied for and received funding, jeopardizing the program's principle of equitable resource distribution. The failure to require a truthfulness attestation and the lack of a verification process places funds at risk. We outlined six measures for improvement that the EPA could take to help prevent potential fraud and establish a process for assessing applicant disclosures. These included requiring applicants to provide supporting documentation, establishing a validation regimen, requiring recipients to maintain a documentation archive, highlighting criminal penalties and requiring signed certifications, requiring notarized attestations and certifications, and increasing oversight of third-party vendors. By implementing these measures, the EPA will bolster the efficacy of federal award administration, enhance the authenticity of award applications, and elevate the integrity of the Clean School Bus Program.

In January 2024, we issued an audit [report](#) to determine whether the EPA's reporting of FY 2022 IJJA obligations and outlays in USAspending.gov was complete and accurate. We found that the EPA's FY 2022 award-level obligations were underreported by \$1.2 billion, and its FY 2022 award-level outlays were underreported by \$5.8 billion. This occurred because the EPA's Office of the Chief Financial Officer did not follow its information technology configuration management procedures. We made five recommendations that included updating relevant standard operating procedures, conducting periodic configuration audits, training staff on the content of updated procedures, and streamlining the manual process used to transfer data to USAspending.gov. Complete and accurate reporting in USAspending.gov is critical, as it informs the public of the purpose and destination of the funds that the EPA has awarded to nonfederal entities.

### ***Emerging Projects***

We have ten IJJA projects in the planning phase and 19 are ongoing. However, our planning efforts are not static, and we will modify or add projects in response to challenges, crises, and stakeholder concerns that arise throughout the year. We call these ***emerging projects***. For example, though it was not originally part of our year two oversight plan, we initiated an [evaluation](#) based on congressional concerns that the EPA's selection process for the FY 2022 Clean School Bus Program funds, which were

awarded in the form of rebates, resulted in an imbalance in funded technologies. We expect to initiate another evaluation on awardee satisfaction with the FY 2022 Clean School Bus rebate program. In response to stakeholder concerns, we also initiated one [evaluation](#) and one [audit](#) of the Agency's implementation of the Build America Buy America Act, which requires that certain materials used in federally funded infrastructure projects be produced in the United States. We also initiated several emerging water infrastructure audits and evaluations on lead service line [replacements](#), the Underground Injection Control [Program](#), state revolving funds' annual [financial statement](#) requirement compliance for FY 2022, and water infrastructure [set-aside grants](#) for tribes. Water infrastructure continues to be a priority since over 70 percent of IIJA appropriations are dedicated to SRFs, and nearly all SRF funding is distributed to states as grants.

## The OIG Embarks on the “Year of Fighting Fraud”

With the release of our [Fiscal Year 2024 Oversight Plan](#) and a report detailing our [investigative priorities](#), we have dubbed 2024 as the “Year of Fighting Fraud.” Congress has entrusted the EPA with an unprecedented \$102 billion in combined funding under the IIJA and the Inflation Reduction Act. The influx of funding from the IIJA alone can reveal capacity issues in the EPA's ability to dispense and oversee over \$60 billion and in the ability of recipients and subrecipients to effectively use the funding. History shows that such appropriations can also attract bad actors seeking to exploit capacity issues and defraud the government.

Therefore, in addition to conducting our ongoing and planned projects under the IIJA, we will investigate allegations of criminal, civil, and administrative misconduct related to fraud, waste, and abuse. To help detect and prevent fraud, we will proactively review awards for suspicious activity. Inspector General Sean W. O'Donnell has [stated](#) that “partnering this year's oversight plan with a set of robust and focused investigative priorities sets the stage for the EPA OIG to be the premier fraud-fighting organization in the environmental space.”

In year two of IIJA oversight, the OIG Office of Investigations opened two preliminary inquiries and three cases involving IIJA-related issues. We initiated one of these cases proactively because we saw a vulnerability and the potential for fraud related to the Clean School Bus Program. Additionally, we issued two management implication reports related to mitigating grant fraud vulnerabilities and the Clean School Bus Rebate Program. As new risks to American taxpayer dollars emerge and evolve, the Office of Investigations will innovate its approaches, using data to fight fraud.

## The OIG Conducts Outreach to Help Deter Fraud and Improve Efficiency

In year two of IJJA oversight, we have continued our outreach efforts with external stakeholders. Most notably, the inspector general gave three [congressional briefings](#) in 2023. In a September [hearing](#) before the U.S. House of Representatives Energy and Commerce Committee’s Subcommittee on Oversight and Investigations, the inspector general testified about our oversight of the Clean School Bus Program. He provided context for two OIG projects that we had announced the day before, and he outlined the program’s fraud vulnerabilities. The inspector general also presented at conferences and met with several state officials to discuss concerns and challenges they face in light of the IJJA funding.



Inspector General Sean W. O'Donnell testifying before Congress on April 19, 2023. (Photo: Committee on Science, Space, and Technology, U.S. House of Representatives)

OIG components have also conducted outreach with stakeholders regarding IJJA oversight. For example, in 2023, the Office of Audit and Office of Special Review and Evaluation engaged in more than 75 outreach activities with the Agency, the Council of the Inspectors General on Integrity and Efficiency, the U.S. Government Accountability Office, and the public. Outreach activities include involvement in IJJA working groups, briefings, interviews, Gold Standard meetings,<sup>1</sup> and conferences.

As of January 31, 2024, the Office of Investigations had hosted 212 IJJA-related fraud briefings, reaching more than 6,000 attendees. It had coordinated and engaged with several grant fund recipients and law enforcement partners, such as state environmental agencies and programmatic departments, including Brownfields programs, SRFs, state water development boards, state offices of attorney general, and state OIGs. The office also coordinated and engaged with several task forces and working groups, including the U.S. Department of Justice’s Procurement Collusion Strike Force, a multiagency task force dedicated to identifying, deterring, investigating, and prosecuting antitrust crimes related procurement and grant fraud.

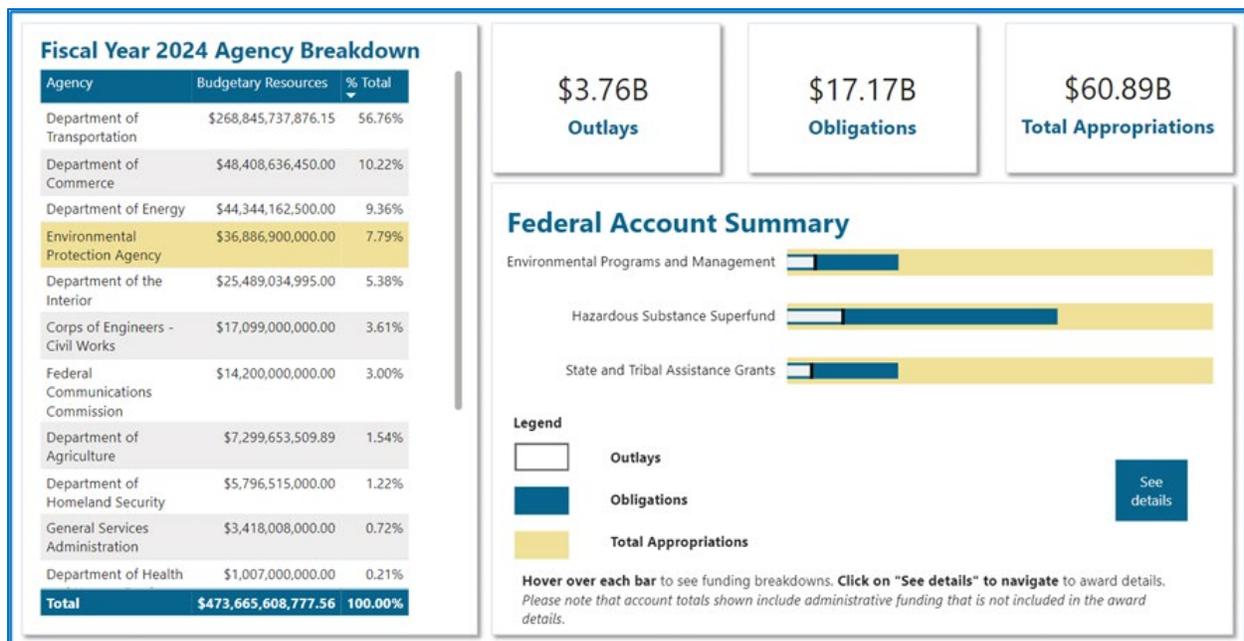
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<sup>1</sup> “Gold Standard meetings” refers to the joint program review meetings discussed in Office of Management and Budget Memorandum [M-22-12](#), *Advancing Effective Stewardship of Taxpayer Resources and Outcomes in the Implementation of the Infrastructure Investment and Jobs Act*, dated April 29, 2022. This memorandum requires agencies to engage with the Office of Management and Budget and the agency’s inspector general to discuss program design, risk mitigation, financial controls, data, tracking, and reporting for implementing the IJJA.

## The OIG Continues to Leverage Data Analysis to Detect Grant and Contract Fraud and Provide Oversight Transparency

Our Data Analytics Directorate provides an important supporting role to our audits, evaluations, and investigations by assisting in the collection, analysis, and reporting of data for IIJA oversight projects. The directorate’s work also includes creating data visualizations that the public can use to track the EPA’s IIJA spending and the progress of our IIJA oversight projects.

In March 2023, the Data Analytics Directorate launched an interactive dashboard on the OIG’s IIJA Oversight [webpage](#) to inform the public of current EPA obligations and outlays for IIJA projects, providing transparency on how and where the EPA is implementing its funding. In August 2023, we updated the dashboard with new information that allows users to view IIJA funding by program and pinpoint locations receiving the funds. It also lets users identify the congressional districts where the funds are received and whether a given location is in a census tract identified as being a disadvantaged community that may qualify for the [Justice40 Initiative](#) goals. We also added an option to review the status of our planned, ongoing, and completed IIJA oversight projects.



Screen image of IIJA spending dashboard as of February 5, 2024. (EPA OIG image)

The Data Analytics Directorate has been leading an effort to identify the data systems that clean and drinking water SRF programs use to store information. The EPA will be distributing over \$40 billion in IIJA grants to clean and drinking water SRFs that nonfederal entities, such as states, will loan to cities, counties, and other nonfederal subrecipients for water infrastructure projects. These nonfederal subrecipients then may hire contractors and subcontractors to perform the engineering and construction work. We are responsible for providing oversight of this process, from the EPA’s distribution of the grant money through the completion of the contractors’ engineering and construction work.

## The OIG Identifies Continuing Challenges for the Agency

*The EPA's Fiscal Year 2024 Top Management Challenges [report](#)*, our annual summary of the most serious management and performance challenges facing the EPA, brings to the forefront two challenges related to the IIJA. One challenge, which is managing grants, contracts, and data systems, highlights a range of issues relevant to the EPA's influx of approximately \$102 billion in supplemental funding appropriations. Another challenge, overseeing, protecting, and investing in water and wastewater systems, highlights the need for strengthening and securing cyber and physical infrastructure at tens of thousands of public drinking water systems and publicly owned wastewater treatment systems for which the EPA has oversight responsibility.

### ***Managing grants, contracts, and data systems***

Grant oversight is a significant concern, given that about half the EPA's annual budget is distributed through grants to states, local governments, federally recognized tribes, and others. One state shared with us its concern that its SRFs will receive more money through the IIJA than it has in previous years combined. In fact, the EPA will increase the size of the SRFs by about \$40 billion for a variety of water infrastructure projects under the IIJA. In August 2023, we issued a [report](#) that found that the EPA's Office of Water issued a policy memorandum that incorrectly advised states that they do not have to review single audits of nonfederal entities that borrow money from SRFs. This decision put billions of dollars at risk because reviewing the results of single audits is one oversight tool that states can use to minimize and prevent waste, fraud, and abuse of these EPA funds. In July 2023, the EPA sent an updated memorandum to the states clarifying the requirement for single audits, federal funds, and the responsibilities of recipients of SRF assistance and state programs. As this example shows, the EPA will need to improve its controls to effectively manage grants, contracts, and data systems to implement its programs and achieve its goals.

### ***Overseeing, protecting, and investing in water and wastewater systems***

The EPA has oversight responsibility for protecting water and wastewater infrastructure and improving the sector's security posture for approximately 153,000 public drinking water systems and 16,000 publicly owned wastewater treatment systems. The various cyber and physical threats facing these systems create challenges for the Agency in both securing them and protecting its investments in the sector. Cybersecurity remains a high risk governmentwide, given the increased threat from sophisticated cyberattacks targeting critical infrastructure. This risk has led the Government Accountability Office to list ensuring the cybersecurity of the nation in its 2023 High-Risk [List](#). Water and wastewater utilities have implemented a range of security and resilience measures, but many could take further protective actions to address security gaps. The Agency's efforts to strengthen the resilience of water and wastewater sector's systems against cyber and physical security threats and to improve oversight of its investments are, therefore, of paramount importance.



## Whistleblower Protection

U.S. Environmental Protection Agency

*The whistleblower protection coordinator's role is to educate Agency employees about prohibitions against retaliation for protected disclosures and the rights and remedies against retaliation. For more information, please visit the OIG's whistleblower protection [webpage](#).*

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