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OVERSIGHT OF THE ENVIRONMENTAL PROTECTION AGENCY'S PROGRESS IN
IMPLEMENTING INSPECTOR GENERAL AND GOVERNMENT ACCOUNTABILITY
OFFICE RECOMMENDATIONS

Tuesday, June 14, 2016

United States Senate

Committee on Environment and Public Works

Subcommittee on Superfund, Waste Management, and Regulatory
Oversight

Washington, D.C.

The committee met, pursuant to notice, at 3:05 p.m. in room
406, Dirksen Senate Office Building, the Honorable Mike Rounds
[chairman of the subcommittee] presiding.

Present: Senators Rounds, Markey, Crapo, Boozman and
Inhofe.

STATEMENT OF THE HONORABLE MIKE ROUNDS, A UNITED STATES SENATOR
FROM THE STATE OF SOUTH DAKOTA

Senator Rounds. The Environment and Public Works Subcommittee on Superfund, Waste Management, and Regulatory Oversight is meeting today to conduct a hearing entitled Oversight of the Environmental Protection Agency's Progress in Implementing Inspector General and Government Accountability Office Recommendations.

Approximately one year ago we held our first subcommittee hearing with Inspector General Arthur Elkins of the Environmental Protection Agency, who testified about his office's work in conducting audits and investigations related to EPA agency actions and programs. Since then we have held hearings conducting oversight on various aspects of the EPA rulemaking process to make certain the regulations the EPA implements are promulgated in an open, transparent process with adequate public participation.

Unfortunately, we have found this is often not the case. The GAO is an independent, non-partisan agency that prepares reports that are either mandated by public laws or committee reports, or at the request of Congress. They provide comprehensive audits examining the economy and the efficiency of government operations.

The Office of Inspector General reports to both the EPA and Congress regarding any problems and deficiencies relating to the administration of the Agency's programs and operations, and also serves as the investigative arm of the EPA, examining possible criminal or civil violations by the Agency. These offices conduct Agency oversight to determine whether Federal funds are being spent efficiently and effectively, the Agency is being managed properly, and to make certain that Government programs and policies are meeting their objectives in an open, transparent manner, and are complying with the applicable statutes when promulgating regulations.

In addition to conducting their own investigations, the GAO and OIG make recommendations to the EPA that, when successfully implemented in a timely fashion, can be effective at correcting mismanagement and holding the EPA accountable in properly fulfilling its mission and responsibly managing taxpayer dollars.

The GAO and the IG prepare regular reports detailing EPA's progress in implementing these recommendations. While both offices track the EPA's implementation of these corrective actions for several years after the recommendation is made, testimony today reveals that the EPA is slow to implement recommendations and there may be a need for these offices to do more to follow up on open recommendations.

When the EPA does not implement these recommendations or delays their implementation while continuing to conduct business as usual, the mismanagement at the Agency continues and taxpayer dollars are improperly managed. Most alarmingly, the EPA continues to promulgate regulations that impose huge costs on the U.S. economy and American families, while not using proper safeguards.

In the past year alone, the EPA has moved forward with its finalizing the Waters of the U.S. Rule, the Clean Power Plan, and tightening ozone NAAQS. These regulations will impose unprecedented costs on American families and the U.S. economy. Further, two of these regulations are on hold by the courts.

When the EPA finalizes regulations through an improper process without implementing recommendations that would make the process better, the result is bad regulations, and that is what we have seen from the EPA. Additionally, in the past year, the EPA has made headlines with the Gold King Mine spill and the Flint water crisis. Now, more than ever, we need the EPA to get back to its core functions rather than pursuing burdensome regulations based on shaky legal ground. The GAO and the OIG play an important role in this.

Our witnesses today will provide us with an update on the EPA's progress in implementing recommendations and help us

conduct oversight over the EPA's process for implementing corrective actions.

I am happy to have with us today Alan Larsen, the Counsel to the Inspector General of the Environmental Protection Agency, and Alfredo Gomez, the Director of the Natural Resources and Environmental Team of the Government Accountability Office.

I would like to thank our witnesses for being with us today, and I look forward to hearing from your testimony.

Now I would like to recognize my friend, Senator Markey, for a five minute opening statement.

[The prepared statement of Senator Rounds follows:]

STATEMENT OF THE HONORABLE EDWARD J. MARKEY, A UNITED STATES
SENATOR FROM THE STATE OF MASSACHUSETTS

Senator Markey. Thank you, Mr. Chairman, and thank you for scheduling today's hearing.

The Government Accountability Office and the Environmental Protection Agency's Office of the Inspector General are a vital component of governmental integrity. These watchdogs must be independent, non-partisan, and maintain the highest ethical standards. In addition to fighting fraud, waste, and abuse of power, they ensure that Government works the way Congress intended, and in a manner that the public deserves.

From its work uncovering nearly \$100 million in wasted refundable airline tickets, to probing weaknesses in aviation security, to protecting our water supply from damage caused by oil and gas production, GAO has provided an invaluable service to the American public.

Inspectors general play an equally important role. The Securities and Exchange Commission inspector general uncovered the mishandling of whistleblower tips in the Madoff Ponzi scheme. In response, Congress passed the Dodd-Frank Act, bringing the most significant changes in financial regulation since the Great Depression.

At the EPA, the inspector general has raised concerns ranging from how the EPA oversees States' implementation and

enforcement of programs designed to protect the public from bacteria-contaminated beaches to how the EPA conducts proper long-term monitoring of Superfund sites and ensuring that they are safe for reuse, to how the EPA can improve the review process for potentially harmful chemicals.

EPA has implemented 174 GAO recommendations of the 325 made during the last 10 years. When one factors in the four-year average time it takes to implement a GAO recommendation, the Agency has a 77 percent implementation rate. This rate is on par with other Federal agencies and with the 80 percent implementation target for recommendations that GAO has set for all agencies.

The EPA has also worked hard to close out recommendations from the inspector general. Over the past seven years, the inspector general has made over 1,700 recommendations to the EPA. At the time of the last annual report, only 158 remained unimplemented. The EPA is battling diminished resources, a lack of authority, and program updates that are underway but incomplete. Those struggles are compounded by a 20 percent decrease in appropriated funds and a 15 percent loss to its workforce since 2010.

If we are going to expect more rapid and complete agency responses to GAO and the inspector general recommendations, then we must ensure that EPA has access to the resources that are

necessary to achieve its mission. Just look at Flint, Michigan and our Nation's failing water infrastructure, or hazardous air water pollutants with health risks that have yet to be assessed, or even the harmful pesticides that threaten bee populations that are vital to our ecosystem.

We must recognize that our responsibility in creating those problems due to the prevailing dissidence between required funding levels and actions that should be taken by EPA are necessary to keep Americans safe. We must also combat other obstacles that hinder agency oversight. Both GAO and the inspectors general provide a crucial public service, and it is imperative that you are provided with all the tools you need to do your job effectively.

Now, I have been made aware of the possibility that a Department of Energy contractor who cooperated with the GAO investigation that I requested may have been fired in retaliation for their cooperation. We should be doing everything possible to enhance GAO's ability to obtain the information it needs to undertake its mission of ensuring "the accountability of the Federal Government for the benefit of the American people and protect those who help in such efforts."

Inspectors general's investigations can also be slowed without a review of all the critical materials. Preventing investigators from timely access to all records, documents, and

other materials is contrary to the fundamental idea of transparency that Congress intended when establishing the inspector general.

I thank each of you in advance for your testimony and I thank you again, Mr. Chairman, for holding this hearing.

[The prepared statement of Senator Markey follows:]

Senator Rounds. Thank you, Senator Markey.

Our witnesses joining us for today's hearing are Mr. Al Larsen, Counsel to the Inspector General, Office of Inspector General, U.S. Environmental Protection Agency and U.S. Chemical Safety and Hazard Investigation Safety Board; Mr. Alfredo Gomez, Director, Natural Resources and Environment Team, U.S. Government Accountability Office.

Gentlemen, your written statements will be made a part of the record without objection and at this time we will turn to both of you. Mr. Larsen, if you would like to begin, for your five-minute opening statements.

STATEMENT OF ALAN LARSEN, COUNSEL TO THE INSPECTOR GENERAL,
OFFICE OF INSPECTOR GENERAL, U.S. ENVIRONMENTAL PROTECTION
AGENCY AND U.S. CHEMICAL SAFETY AND HAZARD INVESTIGATION SAFETY
BOARD

Mr. Larsen. Good afternoon, Chairman Rounds, Ranking Member Markey and members. I am Alan Larsen, counsel to the Inspector General for the Environmental Protection Agency and the U.S. Chemical Safety and Hazard Investigation Board. I would like to thank the Subcommittee for shining a spotlight on unimplemented OIG recommendations. I will provide an overview of what happens after OIG makes a recommendation and progress to date by both agencies with regard to implementation.

Most of our audit and program evaluation work is performed in accordance with generally-accepted Government auditing standards. Findings and recommendations for correcting any deficiencies are issued to agency officials as part of the final report, and that is also made public.

The impact of a recommendation may be direct cost savings or an improvement in program efficiency or effectiveness. A recommendation may ensure the integrity of a program or result in other benefits.

Once OIG issues a report, it is up to the agency to implement recommendations. However, OIG staff tracks each

recommendation until it is fully implemented, which is a significant part of our oversight work.

OIG lists unimplemented recommendations in our semiannual reports to Congress. Our most recent report cited 148 recommendations unimplemented by EPA and 10 recommendations unimplemented by CSB. The average number of unimplemented recommendations for the last seven semiannual reporting periods was 144, or 133 for EPA and 11 for CSB. The numbers for the first and the most recent of those periods were virtually identical: 159 and 158. In other words, overall, the agencies have been implementing recommendations at the same pace that new ones are being added to the list.

Of the pending unimplemented recommendations reported for EPA, the time elapsed since report issuance ranges from less than one year to more than nine years. The age of CSB's unimplemented recommendations ranges from nearly three years to more than five years.

Government auditing standards require that OIG obtains the agency's views regarding proposed recommendations. If the agency agrees with the recommendations, it must provide intended corrective actions and estimated completion dates. OIG's project team assesses the agency's proposal and determines if it sufficiently meets the intent of our recommendations.

When the agency does not fully agree with OIG's findings or recommendations, we note that disagreement in our report. OMB requires an audit resolution process; EPA fulfills this requirement via its Manual 2750, which establishes that the agency is responsible for ensuring that management decisions on OIG recommendations are implemented.

In most cases, OIG and the agency agree on final report recommendations. When there is a disagreement, we follow an escalating resolution process with three tiers as needed. OIG would not remove a recommendation from our unimplemented list based on agency refusal to act or because too much time has passed.

The EPA chief financial officer and OMB managing director are responsible for assessing and reporting to OIG on each agency's progress. In turn, the OIG monitors, reviews, and verifies that progress. In addition, OIG conducts follow-up audits. These assignments are based on size, complexity, and significance of the issues and recommendations in the original report.

In conclusion, accomplishing the tasks I have discussed requires sufficient appropriated funds from Congress. During the past year, we have returned \$16 for every dollar given to us. When OIG is unable to carry out its responsibilities because of inadequate funding, it is a net loss to the Federal

Government and the American taxpayers. While I am aware that this Subcommittee is not an appropriations committee, I respectfully ask for any help that you can provide us in this regard, and we certainly appreciate your support for our work.

Mr. Chairman, this concludes my prepared statement. I will be pleased to answer any questions you or the members have.

[The prepared statement of Mr. Larsen follows:]

Senator Rounds. Mr. Larsen, thank you for your testimony.

We will now hear from Mr. Alfredo Gomez. Mr. Gomez, you
may begin.

STATEMENT OF ALFREDO GOMEZ, DIRECTOR, NATURAL RESOURCES AND ENVIRONMENT TEAM, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. Gomez. Chairman Rounds, Ranking Member Markey, and members of the Subcommittee, good afternoon. I am pleased to be here today to discuss the status of recommendations GAO has made to the U.S. Environmental Protection Agency.

As you have both noted, the mission of EPA is to protect human health and the environment. We have conducted reviews focused on various aspects of EPA's programs and operations, and through these reviews we have made numerous recommendations to improve EPA's performance and the efficiency and effectiveness of its programs and operations.

My statement today focuses on two main areas: first, the status of EPA's implementation of GAO's recommendations from fiscal years 2006 through 2015, and how these recommendations relate to EPA programs and operations; and, number two, benefits realized by EPA based on our work.

As part of our process, we follow up on recommendations we have made and report their status to Congress. Agencies have a responsibility to monitor and maintain accurate records on the status of our recommendations. We then follow up with EPA at least once a year to determine the extent to which our recommendations have been implemented and the benefits that have been realized. We consider a recommendation implemented when

EPA has taken actions that address the issue or deficiency we have identified.

With regard to the first area on the status of GAO recommendations, we found that of the 325 recommendations we made EPA had implemented 174. The remaining 151 recommendations remain open or not implemented. For recommendations that we made over a four-year period, that is, from fiscal year 2006 to 2011, EPA had implemented 77 percent. For recommendations made within the last four years, that is, from fiscal year 2012 to 2015, EPA had implemented 17 percent.

Experience has shown that it takes time for some recommendations to be implemented. It is for this reason that we actively track unaddressed or open recommendations for four years.

The 325 recommendations fall into six categories, such as EPA management and operations, water-related issues, and environmental contamination and cleanup. With regard to the 151 recommendations that EPA has not yet implemented, 70 percent of these recs we made in the last four years and mainly concern EPA management and operations and water-related issues.

For example, in 2014, we reported on EPA's Regulatory Impact Analyses, or RIAs, which are analyses of the benefits and costs of proposed regulations. We found that the information that EPA included and presented in the RIAs was not always

clear. We recommended that EPA enhance the Agency's review process for RIAs to ensure that information for selected elements is transparent and clear, such as when discussing regulatory alternatives. While EPA agreed with this recommendation, the recommendation remains open until we see evidence that EPA has taken action to enhance its review process.

We have also identified many benefits, such as programmatic and process improvements based on EPA taking actions on our recommendations. For example, we issued several reports on drinking water and wastewater infrastructure issues. In particular, we reported on the drinking water and wastewater infrastructure needs of rural and small communities.

We found that these communities face potentially duplicative application requirements when applying to multiple State and Federal programs, making it more costly and time-consuming to complete the application process. We recommended that EPA work with the U.S. Department of Agriculture to develop a uniform preliminary engineering report template, a key step in the application process, and they have done so.

In summary, our recommendations provide a good opportunity to improve the Government's fiscal position, better serve the public, and make Government programs more efficient and effective. EPA's implementation of our recommendations will

help the Agency continue to improve its performance and the efficiency and effectiveness of its operations.

We will continue to work with Congress to monitor and draw attention to this important issue.

Chairman Rounds, Ranking Member Markey, and members of the Subcommittee, that completes my statement. I would be happy to answer any questions.

[The prepared statement of Mr. Gomez follows:]

Senator Rounds. Thank you for your testimony, Mr. Gomez.

Senators will now have five minutes each for questions. I will begin.

Mr. Larsen, the OIG's most recent semiannual report to Congress cited 148 unimplemented EPA recommendations. Your testimony mentions annual follow-up audits, but how else does the OIG work with EPA to ensure these recommendations are thoroughly implemented in a timely manner?

Mr. Larsen. The Agency has the official and ultimate responsibility to track and implement these recommendations, and they do that. We keep track, ourselves, of their progress, and at the end of each semiannual reporting period we compare with the Agency's tracking and we make sure that we agree on what are open recommendations and what are unimplemented recommendations. At that point we sometimes check back and say you promised progress as of a certain date and you haven't done it; why is that not happening. We also will do follow-up audits. In addition to tracking the existing recommendations, we may launch a new project to find out what is going on, why things aren't progressing.

Senator Rounds. Do you report your progress back to Congress as well, on the implementations and the follow-up? Is there a follow-up on a regulation-by-regulation basis that Congress receives as well?

Mr. Larsen. The primary reporting back is in the semiannual report, and in that we have an appendix that report-by-report, recommendation-by-recommendation indicates the status of the unimplemented recommendations; how far behind they are and what the Agency's reason for not having made the progress is.

Senator Rounds. Thank you.

Mr. Gomez, the EPA has implemented 77 percent of recommendations that the GAO made from 2006 to 2011, as you indicated, and only 17 percent of the recommendations were made from 2012 to 2015. These figures also reveal that for older recommendations, from 2006 to 2011, nearly 30 percent remain unimplemented. What is the average amount of time the EPA takes to implement GAO's recommendations and why does it take years to implement your recommendations?

Mr. Gomez. So, in most cases, our experience has shown that it takes agencies, EPA among them, about four years to implement our recs. So we make a variety of recommendations. Some of them do require a little bit more time, for example, if the recommendation is where EPA has to work with stakeholders, whether they be other Federal agencies, State agencies, to put together different memorandums or strategies. In other cases, though, where we make a recommendation, for example, that EPA use existing web tools that it has to provide information to the

public to clarify information, in those cases we think that the Agency could actually do those a lot faster than a couple of years.

As I mentioned in my statement, we also track them for four years very carefully. We have a website where you can see for each report the status of each recommendation, similar to what the IG does. So anyone can see what the status is. We do encourage the agency to implement the recommendations as quickly as possible.

Senator Rounds. Thank you, Mr. Gomez.

Mr. Larsen, you indicated there was a cost-savings for the amount of money that we spend in OIG activities versus the return. Can you elaborate on the amount of cost-savings your office finds at the EPA and how you find these cost-savings and how you make the recommendation?

Mr. Larsen. Yes. What I can't do, and I am sorry to say I won't be able to do, is to take an individual recommendation and say that one will end up saving \$1 million. So we can't do that. There are any number of recommendations we make that we don't attempt to and are unable to assign a dollar figure to.

So those \$16 per dollar comes from the projects we do where there is an identifiable dollar savings; and, as I say, many of the other projects may have, I don't know, a more intangible benefit, whether it is health benefits or a process savings. So

we don't try to establish a cost-savings where it would be a fanciful number.

Senator Rounds. I understand. Thank you. My time has expired.

Senator Markey?

Senator Markey. Thank you very much, Mr. Chairman.

Director Gomez, for the EPA to properly evaluate and regulate toxic substances, it is essential that they have the most up-to-date chemical and toxicity data available. One key recommendation you have made is that EPA needs to improve its efforts to test and evaluate chemicals. To what extent will the recently passed TSCA reform legislation assist EPA in addressing GAO's open chemical safety recommendations?

Mr. Gomez. So we believe that some of the provisions in the new TSCA law would help EPA address some of the open recommendations that we have. For example, one of the recommendations we made was that EPA should take steps to obtain more chemical toxicity and exposure information; and the new TSCA legislation does enhance EPA's authority to obtain such information from chemical manufacturers and processors. So once EPA takes action on those measures, we will then reevaluate to see if we can close those recommendations.

Senator Markey. Thank you so much, because when we were working together on a bipartisan basis on that legislation, it

was important, as we negotiated TSCA, that we remove the catch-22 that forced EPA to know a chemical was dangerous before it could require safety testing to be done on that chemical. And I am also that EPA's new authority will help with that as well.

Again, Director Gomez, in your testimony you stated that the EPA has implemented 174 out of 325 recommendations made in the last 10 years. However, GAO recognizes that recommendations cannot be implemented overnight and takes an average of four years to implement.

When you look at recommendations made four or more years ago, EPA has an implementation record that is just about equal to the 80 percent Government-wide average. Do you agree, Director Gomez, that EPA is putting a concerted effort towards implementing GAO recommendations in a manner that is similar to other Federal agencies?

Mr. Gomez. So, right, EPA's average is similar to the agency-wide average. What we have done with EPA most recently was we decided to do outreach and update twice a year because we wanted to get more current information from EPA so that perhaps we could close more of the recommendations, or at least just work with them in terms of if there are some recommendations where they disagree with us, so we agree to disagree.

But the recommendations for us is a pretty high bar. I mean, it is a recommendation that is made based on having good

understanding of what is happening on the ground, what the requirements are that the Agency is supposed to be doing, what the reasons are as to why they are not doing that or why there is a deficiency. So our recommendations are fairly well supported and articulated, so we want the Agency to implement our recommendations.

Senator Markey. Mr. Larsen, let me come over to you. In the last seven years EPA has received over 1,700 recommendations from the inspector general. Since, in the last annual report, only 148 of those 1,700 remained unimplemented, would you agree, Mr. Larsen, that EPA generally does act on your recommendations in about four years, similar to EPA's record in implementing GAO recommendations?

Mr. Larsen. Yes, Senator Markey. We don't track them exactly that way, but in preparation for this hearing I asked our staff to try to come up with that number and we came up with 3.7 years on average for implementing the recommendations by the Agency.

Senator Markey. So, in general, what you are saying is that GAO and the inspector general at the department at the EPA have a very similar view of the speed with which EPA does respond.

Mr. Larsen. That is correct, Senator.

Senator Markey. And that it is in line with all other agencies in the Federal Government.

Mr. Larsen. That one I can't answer. We don't know where the other agencies stand, but for us it appears we are in line with the GAO.

Senator Markey. I guess the fact that we were having a hearing, had you had to compile that information wouldn't give you enough time to then compare it to the rest of the whole Government.

But do you agree with that, Mr. Gomez, that in general it is in the ballpark?

Mr. Gomez. So that has been our experience, that Government-wide it generally takes agencies a little longer, and that is why we track it each year closely.

Senator Markey. Okay, beautiful. Thank you.

Thank you, Mr. Chairman.

Senator Rounds. Thank you.

Chairman Inhofe.

Senator Inhofe. Mr. Gomez, in response to a request that I submitted, the GAO issued a legal opinion on December 14th of 2015 concerning the EPA's use of social media to promote its WOTUS rule. Because GAO found EPA had violated the Anti-Deficiency Act, the EPA was required to submit a report to the

President and Congress and GAO. Now, the first thing I would ask is, what is the status of that request?

Mr. Gomez. So we have not received the Anti-Deficiency Act report from EPA.

Senator Inhofe. Are they making any statement that they deny that this was a violation of the Anti-Deficiency Act?

Mr. Gomez. Based on our finding, as you noted, the agencies are required to submit a report to Congress, to the President through OMB, and at the same time submit that report to the comptroller general, who is my boss.

Senator Inhofe. Now, do you have any idea of any kind of discussion or response to that particular one that has taken place since 2015?

Mr. Gomez. I do not, but what we can do is we can inquire with EPA through our general counsel's office and get back to you.

Senator Inhofe. Okay, so it would be in line for me or any member of Congress to request that you get a status report on that and anything that we want to release for public consumption would be acceptable?

Mr. Gomez. Yes, I can take that back.

Senator Inhofe. All right.

Mr. Gomez. Thank you.

Senator Inhofe. All right, I think we should do that, because in this case this is a statute that is on the books. It is one that we knew this was going on at the time. It is on an issue, the WOTUS issue is arguably the most significant issue of all the over-regulations that we have, at least in my State of Oklahoma, and I think it is really incumbent to do that.

Mr. Larsen, as you know, I have been a frequent requester of the IG investigations reviews. For instance, in response to a request I submitted in 2011, the IG made several recommendations for EPA to update its conflict of interest policies and peer review process in the 2013 report. This is something that Senator Boozman has called to our attention in these meetings; it is something that is significant.

Now, I understand the EPA has reported the recommendations are complete, but the OIG has not conducted any formal follow-up review to assess the adequacy of EPA actions. Does the IG plan to follow up on EPA's actions per this report?

Mr. Larsen. As I mentioned, we do do follow-up reports. We are entering into, as we head into summer, the work plan planning process, and out of that comes our discretionary projects. I don't know if that is on tap for next year for follow-up. I will check with our entities that do those reports and get back to your staff.

Senator Inhofe. What concerns me is if it is a case of a corporation, corporations or an individual could own stock in a corporation, the corporation could own two or 300 or many, many more. So that could fall as a conflict of interest. When it is an environmentalist group of some kind, you don't have that, you don't have the reams and reams.

So I assume when you are looking at the reform of a conflict of interest, you are taking things like that into consideration, and they are looking at it now, is that correct?

Mr. Larsen. What I don't know is if we have a new project planned in that area, and I will get back to you on whether we do.

Senator Inhofe. Okay, I appreciate that.

Mr. Gomez, July of 2014, the GAO report found, among other things, that the EPA does not properly consider the impact of its regulations on employment. The GAO recommended EPA update its approach to estimating employment impacts, but the EPA has not done so. You have heard, if you watch what goes on in this Committee, on three different occasions we have quoted Administrator McCarthy when she said that there is no evidence that EPA regulations have a negative impact on jobs.

Senator Capito is sitting over here and her eyes started rolling around. There are some things that are so obvious it doesn't take that type of a report out there.

Now, how can McCarthy make such claims when EPA's process for evaluating employment impacts remains broken?

Mr. Gomez. So that was one of our recommendations in the report also, for EPA to look closely at the information they were using in calculating employment of facts, and to really find more current --

Senator Inhofe. Let me ask both of you a question. I know my time has expired, but it is significant to me.

I agree with Senator Markey when he said that both GAO and IG have to be independent. Now, GAO, in my eyes, is independent because there is not a relationship in that line. That isn't quite true with the IG because isn't the IG actually a part of EPA?

Mr. Larsen. Senator, we are a part administratively, but the IG and the OIG do not take direction from the administrator; we report results to --

Senator Inhofe. So you think your level of independence is not impaired by that relationship?

Mr. Larsen. That is correct.

Senator Inhofe. Thank you, Mr. Chairman.

Senator Rounds. Thank you.

Senator Boozman.

Senator Boozman. Thank you, Mr. Chairman, and thank you and Senator Markey for having this hearing today.

Mr. Gomez, last year you appeared before this Committee at a hearing examining S. 543, the Science Advisory Board Reform Act, which I introduced with Senator Manchin and Inhofe. At the time you testified that EPA's procedures for processing congressional requests to the Science Advisory Board did not comply with the law. GAO subsequently issued a report with four specific recommendations to ensure EPA compliance.

Your written testimony for today's hearing indicates that EPA has not implemented the recommendations. The question is how can EPA go a year without adopting these common sense recommendations to ensure compliance with the law?

Mr. Gomez. So, right, we made four recommendations in that report and the recommendations were focused on helping to improve the procedures that EPA has in place for processing congressional committee requests for scientific advice from the Science Advisory Board; and as we understand it, as of March of this year, EPA is developing a written process that would address our recommendations.

We are waiting for that process to be completed so that we can then assess it and look to see if it addresses the intent of our recommendations. And our recommendations were very specific about the process that we believe EPA should have in place as it processes requests from Congress for scientific advice.

Senator Boozman. So is this a budget issue, as to why they have not come forward?

Mr. Gomez. We have not been told that that is a budget issue. Our recommendations were about improving the process that they have in place. In some cases it wasn't well documented, so we don't see that it is a resource issue and they haven't said it is a resource issue there.

Senator Boozman. And I guess that is an irritant of mine. We hear a lot about budgets and budgets are tight, but some of these things just don't get done; and, again, a year is a long time.

On the topic of the EPA Science Advisory Board, I want to ask you about a requirement of the fiscal year 2016 omnibus that EPA develop a policy statement on Science Advisory Board membership that would incorporate the goals of increasing State and Tribal representation on the Science Advisory Board, as well as update its conflict of interest policy similar to what Senator Inhofe was asking Mr. Larsen.

Per the omnibus, EPA was to develop the policy and submit to the GAO again for review in March. Has EPA submitted the statement to GAO?

Mr. Gomez. EPA has not submitted that conflict of interest statement to us yet. The last we had heard was that they were

reviewing it internally and it was due to us the end of April, but we have not received it yet.

Senator Boozman. Okay. So do they say the reason for the delay, then?

Mr. Gomez. Only that it is currently being reviewed by the EPA Office of Congressional and Intergovernmental Relations.

Senator Boozman. And, again, this is another thing that doesn't seem to be driven by budget, but just simply not getting things done.

Mr. Gomez. Yes, it is not a budget issue, as we understand it; it is going through their process. And I know that you had a timeframe for when it was due to GAO, and it is over that timeframe.

Senator Boozman. Thank you.

Mr. Larsen, IG plays an important oversight role in helping Congress improve programs by leading efforts to cut waste, fraud, and abuse across Washington. In the EPA OIG semiannual report to Congress, more than \$6 billion was accounted for as insufficient or not documented as being provided to the EPA because EPA failed to have complete and accurate data. The report goes on to further describe the negative impact this has had on taxpayers, public health, and natural resources.

Can you address the findings and explain to us how the EPA could mismanage \$6 billion? Again, with us talking about the

problem of not having the resources that some of these basic functions need to get done.

Mr. Larsen. I understand the question and I am not going to pretend that I have the answer to each and every of the reports we have. I do have in the room our assistant inspector general for audit, or I can get back to you with a specific answer to that, but I don't have those facts at my fingertips.

Senator Boozman. My time is up.

Thank you, Mr. Chairman.

Senator Rounds. Thank you.

Senator Boozman. But I would appreciate it if you would get back to us.

Mr. Larsen. Yes, sir.

Senator Boozman. Thank you.

Senator Rounds. Just thinking and listening to the testimony here and your responses to the questions, first of all, I appreciate the candid way in which you have responded. Second of all, I sense the frustration that members of this Committee have offered, both Senator Markey and also Chairman Inhofe and Senator Boozman. In each case there has been a frustration suggested, and I am just going to try to paraphrase this and see if there isn't something that we need to do about it.

Three and a half to four years seems like an awfully long time in which to expect to have these things implemented as an average, regardless of whether it is with the EPA or with any other Federal agency. And at the same time, as Senator Inhofe had suggested, there was clearly a wrongdoing, one that you have pointed out and that you have asked for a response on, none of which has been forthcoming at this time.

If there was one thing that would frustrate anybody who is concerned with appropriate application of law, protections, as Senator Markey has shared or as Senator Inhofe has indicated, a violation of a law in terms of how the money was spent, justice that takes that long to come through seems to me to be, as they would suggest, justice denied.

I am just going to ask this, and, Senator Markey, I understand that you have another meeting that you have to be at, but I would give you, as Ranking Member, the opportunity to respond as well.

Gentlemen, is there something that we should be doing here in order to expedite responses? Is there something we can do to actually get a more expedited response from not just EPA, but from other agencies as well, when those recommendations are there and clearly there is a time delay?

Mr. Larsen. Senator, this is going to sound more bureaucratic than I intend it to be, but the structure that was

created for the IGs allows us to make recommendations. We cannot order an agency to do anything. And it is left to them to decide what to do. Part of the independence that I was discussing with Senator Inhofe is that we report to the agency. We also report to the Congress. If the agency chooses not to, or is unable to, act, Congress is also aware of the recommendations we have made; and the way the process works, then, if Congress has the ability, if it chooses, to waggle its finger or take more strong action.

Senator Rounds. Thank you.

Mr. Gomez?

Mr. Gomez. So our recommendations are exactly that, recommendations; they are not binding. I think what you are doing now is exactly what we would like, is to bring more attention to the recommendations. As I noted also, our reports are public. Anyone can go and look at the recommendations and look at the status.

And I have to tell you that we get a lot of inquiries from lots of people asking what is the status of recommendations, so EPA is well aware of that; and that is one of the reasons why we have agreed to update the recommendations twice a year, so that we can try and bring closure to them or at least articulate why there is disagreement in some cases.

Senator Rounds. Thank you.

Gentlemen, once again I want to thank you for your testimony and just for taking the time today to be with us and participate in this hearing.

I would also like to thank Senator Markey, my colleague, Senator Boozman, Senator Inhofe for being here.

The record will be open for two weeks, which brings us to Tuesday, June 28th, and, with that, this hearing is adjourned. Thank you.

[Whereupon, at 3:50 p.m. the subcommittee was adjourned.]