



U.S. ENVIRONMENTAL PROTECTION AGENCY

## OFFICE OF INSPECTOR GENERAL

# **Unimplemented OIG Recommendations at the U.S. Environmental Protection Agency and the U.S. Chemical Safety and Hazard Investigation Board**

**Statement of Alan S. Larsen  
Counsel to the Inspector General  
U.S. Environmental Protection Agency**

**Before the Subcommittee on Superfund, Waste Management,  
and Regulatory Oversight  
Committee on Environment and Public Works  
United States Senate**

**June 14, 2016**

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Good morning Chairman Rounds, Ranking Member Markey, and members of the subcommittee. I am Alan Larsen, Counsel to the Inspector General (IG) for the U.S. Environmental Protection Agency (EPA) and the U.S. Chemical Safety and Hazard Investigation Board (CSB). I will provide you with an overview of the progress that the EPA and the CSB have made in implementing the Office of Inspector General's (OIG's) recommendations. As you know, making recommendations serves as a significant tool for the OIG to carry out its oversight mandate. If implemented by the agency, the recommendations can result in major improvements in the efficiency and effectiveness of agency programs. Further, Congress could also take legislative action or other measures to address the OIG's recommendations. I would like to thank the subcommittee for shining a spotlight on the issue of unimplemented OIG recommendations by the agencies.

In April 2015, IG Arthur A. Elkins Jr. appeared before this committee to describe how the OIG exercises oversight of the EPA and the CSB, including: the OIG's performance results; significant audits, evaluations and investigations of the EPA and the CSB; and EPA management challenges. He discussed not only the kinds of work we do, but also how we choose projects to undertake.

The outcome of those reviews is manifested as recommendations to the agency about what we found, to correct deficiencies and other findings we identified. During this hearing, I will discuss the next phases in the process. What becomes of those recommendations? Who is responsible for taking action? Who tracks whether the action is taken? When are the recommendations considered satisfied and can they be closed? Who makes the decision to close them? I will address these questions in my testimony.

**Background on the Unimplemented Recommendations**

The IG Act of 1978 provides for independent reviews of agency programs and operations. The EPA OIG's Office of Audit and Office of Program Evaluation perform most of their reviews in accordance with generally accepted government auditing standards (GAGAS). During those reviews, the OIG analyzes the data on a specific program, policy or procedure. Recommendations are developed after comprehensive research and review are completed. It is those recommendations that we issue in our GAGAS-compliant reports that are the subject of my testimony. As such, investigative reports, which do not have such recommendations, and non-

GAGAS projects performed by our Offices of Audit and Program Evaluation, will not be included in my presentation.

The impact of OIG recommendations may be direct cost savings for the EPA or the CSB, or improvements in program efficiency and/or effectiveness. While some of these improvements may not result in direct monetary recoveries, the improvements instead may ensure the integrity of EPA and CSB programs, or result in other benefits that are not readily translated into a dollar savings amount. The OIG provides summaries on the unimplemented recommendations in our Semiannual Report to Congress. That element of the semiannual report represents the OIG's response to a specific statutory reporting requirement found in Section 5(a)(3) of the IG Act of 1978, as amended. It identifies significant recommendations previously issued in our reports for which corrective actions have not been completed. Further, the semiannual report lends transparency to the recommendation resolution process.

The OIG's recently issued semiannual report for the period October 1, 2015, through March 31, 2016, cited 148 recommendations unimplemented by the EPA and 10 recommendations unimplemented by the CSB. The average number of unimplemented recommendations for each of the semiannual reporting periods between March 2013 and March 2016 was 133 recommendations unimplemented by the EPA and 11 recommendations unimplemented by the CSB, for a total of 144. Interestingly, the numbers for the first of those periods and the most recent period were virtually identical—159 in March 2013 and 158 in March 2016. 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 148 unimplemented recommendations reported for the EPA in the latest semiannual report, the number of days from report issuance to the date of the semiannual report ranged from 213 (less than 1 year) to 3,434 (more than 9 years). In particular:

- 89 were more than 1 year old.
- 59 were under 1 year old.

The 10 unimplemented recommendations reported for the CSB ranged from 1,005 days (nearly 3 years) to 1,901 days (more than 5 years).

### **Tracking and Resolving OIG Recommendations to the Agency**

Implementation of the OIG's recommendations is vital to the effectiveness and efficiency of agency programs and operations. The OIG definitely shares this subcommittee's interest in seeing that the agency is held accountable for addressing the recommendations. Office of Management and Budget (OMB) Circular A-123 specifically defines management's responsibility for internal control in federal agencies:

“Agency managers are responsible for taking timely and effective action to correct deficiencies identified by the variety of sources discussed in Section IV, Assessing Internal Control. Correcting deficiencies is an integral part of management accountability and must be considered a priority by the agency.”

To address how the EPA implements recommendations made by the OIG, in March 2016, we issued a report titled *EPA Needs to Improve Its Information Technology Audit Follow-Up Processes* (Report No. 16-P-0100). We revisited the information technology-related audit recommendations issued between FYs 2010 and 2012, and those recommendations associated with the FY 2013 management challenges document, to see whether the EPA implemented those recommendations to correct significant information security deficiencies. In that report, we determined that the oversight of the EPA's follow-up for the offices reviewed did not ensure that agreed-to corrective actions were fully implemented, carried out timely, or accurately recorded and managed effectively in the agency's Management Audit Tracking System (MATS). In addition, corrective actions were not always verified, even though they were recorded as completed in MATS. The high rate of unreliable data in MATS, and a lack of management follow-through to verify that corrective actions actually addressed weaknesses, raised significant doubts and questions about the effectiveness of the EPA's information security program.

Before an OIG GAGAS-compliant report is finalized, the OIG is required by those standards to obtain the views of the responsible agency official regarding the findings, conclusions and recommendations. If the agency agrees with the recommendations, it must provide intended corrective actions and estimated completion dates that will address the deficiencies identified in the OIG's report. The OIG project team assesses the agency's proposed corrective actions and determines if the proposed actions sufficiently meet the intent of OIG recommendations.

When the agency does not fully agree with the OIG report findings or recommendations, a report will be issued without agreement. OMB Circular A-50 requires an audit resolution process to address these situations. The EPA addresses this requirement via its EPA Manual 2750. That manual establishes that the agency is responsible for, among other things, ensuring that management decisions on OIG recommendations are implemented. Under EPA Manual 2750, the OIG and the agency share the responsibility set forth by OMB Circular A-50 for "reviewing the adequacy of the action taken by the agency to correct reported problems and deficiencies." In addition, the OIG conducts select follow-up reviews to assess the agency's progress toward and/or implementation of agreed-to corrective actions.

In most cases, the OIG and agency agree on final report recommendations. However, when there are disagreements, we follow the three-tiered EPA Manual 2750 resolution process. The first step in the resolution process is discussion between the appropriate OIG Assistant Inspector General and the EPA's action official for the given recommendation. If the OIG and agency are able to reach agreement at that stage, resolution is achieved, and the agreement reached would be documented in the agency's recommendation tracking system.

If agreement cannot be reached, as a second step, the action official for that recommendation submits a "dispute resolution request" to the EPA Chief Financial Officer—the Agency Follow-Up Official. The Chief Financial Officer then meets with the IG to try to resolve the issues.

If this second-level elevation cannot reach agreement, the last and third step is to present the EPA Deputy Administrator with the dispute resolution request. The Deputy Administrator reviews the matter; meets with the Chief Financial Officer, IG and involved staff and managers; and then issues a final decision memorandum (per the IG Act).

The maximum time for the entire resolution process is 180 days. In the last 5 years, the OIG has brought two matters for resolution to the Deputy Administrator. In both cases, the agency decided not to accept the OIG recommendation. When the agency rejects the OIG recommendation, under the EPA Manual 2750 process, the recommendation remains part of the original OIG report but it is not listed as “unimplemented.” OIG rebuts the decision as part of the semiannual report to comply with Section 5(a)(12) of the IG Act.

Once a final OIG report is issued, OIG staff tracks each recommendation until fully implemented. Following up on the recommendations is a significant part of the OIG’s oversight work. By appropriately doing so, we hold the agency accountable for implementing these important recommendations.

The OIG would not remove a recommendation based on “refusal to act” or because “too much time has passed.” There are few OIG recommendations where the agency proposes it could take 3 or more years to complete. However, in these situations, as time passes, a number of conditions can change. For example, agency resources can change, new legislation or regulations may be implemented, an unexpected crisis may occur (e.g., Flint water crisis, Gold King Mine incident, British Petroleum oil spill), or other external events may occur to which the agency must respond (e.g., hurricanes). If conditions change notably from when the OIG originally issued a recommendation and these changes have implications for a prior OIG recommendation, this may plausibly call for a reassessment of the recommendation and any actions the agency agreed to take. This scenario is not “giving up”; rather, it is a fair and reasonable reassessment of changed conditions that we ask the agency to justify.

### **Revisiting a Topic With Another Audit or Evaluation**

An integral part of effective management for the OIG is to promptly reach agreement on actions to resolve OIG recommendations to the EPA and the CSB and, subsequently, assess progress on those agreed-to actions. The OIG and the EPA Chief Financial Officer or CSB Managing Director assess and report on the agency’s progress in resolving OIG recommendations. Monitoring, reviewing and verifying an agency’s progress in completing corrective actions in response to OIG findings and recommendations is an essential control for promoting economy, efficiency and effectiveness within the agency’s operations. Having an effective post-resolution follow-up process encourages an agency to take needed actions to improve business practices and accountability, and enhance protection of public health and the environment.

The EPA Assistant Inspectors General for the Offices of Audit and Program Evaluation annually conduct follow-up audits. The assignments are based on the size, complexity and significance of the issues and recommendations in the original report. Generally, any recommendation included in a prior Semiannual Report to Congress will be considered significant for follow-up audit.

## **Conclusion**

The OIG appreciates the subcommittee's interest in our work and ensuring that the EPA and the CSB take the necessary steps to address recommendations that the OIG and both agencies have agreed will remediate identified programs. We will continue to work actively with both agencies to ensure that the OIG's recommendations are implemented, and to keep Congress fully advised on the status of those recommendations.

Accomplishing the tasks that we have discussed at this hearing requires sufficient appropriated funds from Congress. We returned \$16 for every dollar given to us in the past year. When the OIG is unable to carry out its responsibilities because of inadequate funding, it is a net loss to the federal government and American taxpayers. While I am aware this is not an appropriations subcommittee, I respectfully ask for any help you can provide us in this regard.

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

## Biography of Counsel to the Inspector General Alan S. Larsen



Alan S. Larsen became Counsel to the Inspector General of the U.S. Environmental Protection Agency (EPA) in August of 2012. In 2013 he took on the additional role of Assistant Inspector General for Congressional and Public Affairs, and currently holds both positions. Before his appointment, Mr. Larsen served as Counsel to the Inspector General for the National Reconnaissance Office, and before that, Deputy Counsel and then acting Counsel to the Inspector General at the Central Intelligence Agency.

Previously, Mr. Larsen was Senior Vice President and Deputy General Counsel for a wind energy development company, doing domestic and international projects. Prior to that, he was a partner in private law practice, in Portland, Oregon, later becoming Managing Partner of the firm's Washington, D.C., office.

Mr. Larsen earned a Bachelor of Science in Business Administration from Bucknell University. He earned his Juris Doctor degree from Northwestern School of Law of the Lewis & Clark College.

He is a member of the bar of the state of Oregon and the District of Columbia, and multiple U.S. District Courts and Circuit Courts of Appeal.

Mr. Larsen is the recipient of the Council of Inspectors General on Integrity and Efficiency (CIGIE) Leadership Award, CIGIE awards for Excellence in Law and Legislation, and Excellence in Investigations, and the Intelligence Community Inspector General Leadership Award. He was United States Delegate to International Intelligence Review Agencies in 2002, 2004 and 2006.